

**BUREAU OF INDUSTRY AND SECURITY
FREQUENTLY ASKED QUESTIONS
“NO RUSSIA” CONTRACT CLAUSES
CURRENT AS OF AUGUST 23, 2024**

Q1: The European Union (EU) requires sales contract clauses that prohibit certain reexports to Russia and reexports for use in Russia. The contract must include adequate remedies in the event of breach, and the government must be informed upon breach. Does the United States have a similar requirement?

A1:

- *For details of EU requirements for a ["No re-export to Russia" clause](#), see Article 12g and 13 of [Council Regulation \(EU\) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine](#).*
- The terms of a sales contract to buy or sell items have no bearing on the application of U.S. export control restrictions under the EAR. Items that are subject to the EAR and that require authorization under the EAR for reexport or export from abroad to Russia must be authorized under a BIS license or license exception, regardless of whether you purchased the items under a contract with a “No re-export to Russia” clause. Note also that the EAR restricts in-country transfers within Russia of items that are subject to the EAR, again regardless of any terms of a sales contract.
- While the United States does not require contractual clauses prohibiting the reexport or export from abroad of items subject to the EAR to Russia, including such clauses or other statements in your export documents can help protect you as a seller and ensure your customer does not involve you in a violation of the EAR. It is particularly important for your foreign customers to understand that the licensing requirements for reexports and exports from abroad in the EAR continue to apply to transactions that take place after the initial export, reexport, or transfer (in-country) outside of the territory of the United States.
- For example, while a destination control statement (DCS) is required in certain circumstances as set forth in [Section 758.6 of the EAR](#), exporters can include a DCS in a commercial invoice or elsewhere in their export documentation even if not required to do so under the EAR. The addition to sales or export contracts of these statements or other provisions designed to notify the buyer that items in the contract may be subject to the EAR and may require further authorization for reexport, export from abroad, or transfer (in-country) may protect you from liability should there be a failure to obtain required EAR authorization. Including contractual clauses committing the importer in third countries not to reexport (or export from abroad) the items to, or transfer them within, Russia or Belarus, and not to resell the items to any third-party business partner unless that partner agrees not to reexport the items to Russia or Belarus, demonstrates the

seller's commitment to minimizing the risk of unlawful diversion of the seller's items. Contractual requirements to monitor for post-sale diversion and provide notice of diversion to the seller, or contractual penalties for breach of these terms may further demonstrate the exporter's intent. Furthermore, if a contract clause prohibiting reexport (or export from abroad) to Russia is proposed and rejected, that should be considered a red flag that must be resolved before further engaging in the transaction.

- It should be noted that the EAR license requirements on reexports and exports from abroad to Russia apply to any items subject to the EAR, which includes items on the [Common High Priority List](#) (whether produced in the United States or overseas subject to the foreign direct product rule) and firearms. To review the categories of items that require a license for export, reexport, or transfer (in-country) to Russia and Belarus under the EAR, *see* [Section 746.8 of the EAR](#).
- The United States does not mandate that exporters notify the U.S. Government if they discover that an item they have exported from abroad or reexported is later diverted to Russia without the appropriate EAR authorization. However, if you discover that this has occurred, you may wish to voluntarily disclose any potential or actual involvement in this export control violation. BIS encourages the submission of such a disclosure even when the violation occurred after the initial sale. *See* [Section 764.5 of the EAR](#). Anyone can inform BIS of a potential EAR violation anonymously by completing the confidential enforcement tip/lead [form](#) on the [BIS website](#) or calling the Enforcement Hotline at 800-424-2980.