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U.S. and International Partners Adopt New Code of Conduct for Export Controls and Human Rights

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On March 30, 2023, the United States—along with over twenty international partners—adopted a nonbinding Code of Conduct outlining its commitment to use export control tools to address serious human rights concerns. Specifically, the Subscribing States[1] to the Code of Conduct will work together to target "the export of dual-use goods or technologies to end-users that could misuse them for the purposes of serious violations or abuses of human rights," with a particular focus on the misuse of surveillance tools.[2] For the United States, this effort includes amendments to the Export Administration Regulations ("EAR") that expressly make "protecting human rights worldwide" a basis for designation to the Entity List.[3]

As the Departments of State and Commerce have acknowledged, this Export Controls and Human Rights Initiative ("ECHRI") Code of Conduct is yet another example of the U.S.'s continued efforts "to put human rights at the center of [its] foreign policy."[4] In fact, although the Code of Conduct makes the United States' focus on the intersection of export controls and human rights more explicit, in reality it builds on existing agency practice in recent years.

Between these existing practices and the Code of Conduct's focus on collaboration with civil society, academia, and the international community, however, this may suggest even more robust enforcement and creative uses of regulatory authority in the coming years. To ensure continued compliance, companies engaged in the export of sensitive technologies will need to think creatively about integrating human rights evaluations into their existing trade due diligence processes.

I. ECHRI Code of Conduct's Key Commitments

This recent Code of Conduct is the result of more than a year of work by the Export Controls and Human Rights Initiative, a multilateral effort initially created by the United States, Australia, Denmark, and Norway in December 2021.[5] In addition to ECHRI's founding members, the following states committed to the Code of Conduct at the time of its publication: Albania, Bulgaria, Canada, Croatia, Czechia, Ecuador, Estonia, Finland, France, Germany, Japan, Kosovo, Latvia, The Netherlands, New Zealand, North Macedonia, Republic of Korea, Slovakia, Spain, and the United Kingdom.[6]

Although a non-binding document, the ECHRI Code of Conduct outlines a number of political commitments designed to ensure the effective application of export controls to protect human rights internationally. These include commitments of each Subscribing State to:

1. Make efforts to ensure that domestic legal, regulatory, policy and enforcement tools are updated to control the export of dual-use goods or technologies to end-users that could misuse them for the purposes of serious violations or abuses of

Related People

Christopher T. Timura

Anna Searcey

Stephenie Gosnell Handler

Adam M. Smith

Chris R. Mullen

Maria L. Banda

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human rights;

2. Engage with the private sector, academia, researchers, technologists, and members of civil society (including those from vulnerable groups) for consultations concerning these issues and concerning effective implementation of export control measures;
3. Share information regarding threats and risks associated with such tools and technologies with other Subscribing States on an ongoing basis;
4. Share, develop, and implement best practices among Subscribing States to control exports of dual-use goods and technologies to state and non-state actors that pose an unacceptable risk of human rights violations or abuses;
5. Consult with industry and promote non-state actors' implementation of human rights due diligence policies and procedures in line with the UN Guiding Principles on Business and Human Rights or other complementing international instruments, and share information with industry to facilitate due diligence practices;
6. Aim to improve the capacity of States that have not subscribed to the Code of Conduct, and encourage other States to join or act consistent with the Code of Conduct.

In addition to these substantive goals, the Code of Conduct establishes procedural commitments for Subscribing States. Most significantly, these include ongoing meetings of Subscribing States designed to further develop the Code of Conduct by sharing information and creating mechanisms for the resolution of policy questions.

Notably, these multilateral efforts to coordinate export control strategies follow the international community's unprecedented coordination on trade controls in response to the war in Ukraine, which we have discussed further in past client alerts. In fact, there is significant crossover between the current membership of the ECHRI Code of Conduct and those states that have worked in coordination on implementing Russia-related sanctions and export controls. For example, many states who have adopted the Code of Conduct are also members of the coalition that has adopted a price cap on the maritime transport of Russian-origin oil, as discussed further in our client alert on the subject. Similarly, most Code of Conduct states are exempted from the Department of Commerce's Russia/Belarus Foreign Direct Product Rules because they have implemented "substantially similar export controls on Russia and Belarus" as the U.S.[7] As coordination among these states on a wide range of trade issues continues to increase, we can expect robust collaboration on implementation of the Code of Conduct.

Moreover, the Code of Conduct emphasizes the goal of increased adoption by other states by highlighting that the Code "does not specifically mention any of the multilateral export control regimes, such as the Wassenaar Arrangement." Instead, the Code of Conduct is explicitly left open for any participant in the Summit for Democracy to join, regardless of their ratification of other multilateral regimes. Not only would broad future adoption increase the Code's efficacy, but by tying membership to participation in the Summit for Democracy, the Code of Conduct reinforces a shared commitment to the democratic values central to human rights.

II. U.S. Implementation: The Entity List

Since 1997, the U.S. Department of Commerce—specifically its Bureau of Industry & Security ("BIS")—has maintained an "Entity List" of foreign persons subject to heightened license requirements for the export, reexport, or in-country transfer of specified items. As the first step toward implementing the ECHRI Code of Conduct, BIS published a final rule on March 30 confirming human rights concerns as a valid basis for designation to the Entity List.[8]

Initially, inclusion on the Entity List was limited primarily to foreign persons presenting risk

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of involvement in the proliferation of weapons of mass destruction ("WMDs").[9] Over time, however, grounds for inclusion expanded to include any foreign persons "reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States."[10]

Despite this potentially broad language, designations to the Entity List, historically, were relatively infrequent and narrowly focused on issues such as the proliferation of conventional weapons and WMDs, support for terrorism, and violations of U.S. sanctions and export controls. Though not explicitly linked to human rights, even these narrow grounds for designation demonstrate a U.S. focus on serious humanitarian and human rights violations arising out of U.S. exports. This focus has only increased in recent years, as BIS has dramatically increased the rate of designations—including some designations explicitly based on involvement in human rights abuses.

For example, beginning in 2019, BIS began designating a number of Chinese entities "implicated in human rights violations and abuses" against the Uyghurs and other ethnic minorities in the Xinjiang Uyghur Autonomous Region (the "XUAR") of China.[11] Likewise, in 2021, BIS designated eight Burmese entities in response to human rights violations that occurred following the country's February 2021 military coup.[12]

In light of this enforcement history, BIS's recent final rule merely "*confirm[s]*" that the "protection of human rights worldwide" is a U.S. foreign policy objective sufficient to justify designation to the Entity List.[13] Although it does not represent a change in understanding, this amendment is likely to signal an increased use of export controls to target human rights violators, especially with respect to technologies involved in "enabling campaigns of repression and other human rights abuses."[14]

In a statement accompanying publication of this rule, Assistant Secretary of Commerce for Export Enforcement Matthew S. Axelrod warned that "Export Enforcement will continue to work vigorously to identify those who use U.S. technology to abuse human rights and will use all law enforcement tools at our disposal to hold them accountable."[15] This robust enforcement appears to already be in motion: concurrent with the publication of its amendment to the EAR, BIS designated eleven entities to its Entity List for their involvement in human rights abuses. These newly listed entities ranged from the Nicaraguan National Police and Burmese military contractors to Chinese companies implicated in surveillance and repression in the XUAR.[16]

III. The Continued Convergence of Human Rights & Export Controls

The Entity List is one of numerous trade control mechanisms the U.S. Government has used in recent years to address the intersection of international trade and human rights violations. Looking ahead, we can expect the Department of Commerce to deploy the following additional tools and sources of authority to implement the Code of Conduct.

a. Item-Based Controls

BIS most prominently introduced the concept of human rights into item-based crime control and detection ("CC") controls in 2020. Specifically, in July 2020, BIS requested public comments regarding potential additional or modified controls on several items that may be used to assist human rights violations abroad, including facial recognition devices and other biometric systems, non-lethal visual disruption lasers, and long-range acoustic devices.[17] In its request for comments, BIS noted that these items could be used in mass surveillance, censorship, privacy violations, or other human rights abuses.[18]

Although BIS has not yet implemented additional CC controls pursuant to the comments received, in October 2020, BIS amended its CC controls to reflect a human rights-focused

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licensing policy.[19] Pursuant to this amendment, for items controlled for CC reasons, license applications are generally treated favorably "unless there is civil disorder in the country or region or unless there is a risk that the items will be used to violate or abuse human rights," a restriction that is expressly designed "to deter human rights violations and abuses, distance the United States from such violations and abuses, and avoid contributing to civil disorder in a country or region."[20]

In light of the ECHRI Code of Conduct commitment to "control the export of dual-use goods or technologies to end-users that could misuse them for the purposes of serious violations or abuses of human rights," we may see additional controls on these surveillance systems and technologies.[21]

b. End-Use Based Controls

Another area with significant human rights implications is the end-use prohibitions of the EAR. Under Section 1754(d) of the Export Control Reform Act of 2018 ("ECRA"), the Department of Commerce is directed to require a license for U.S. persons to engage in specific "activities" in connection with nuclear explosive devices, missiles, chemical or biological weapons, whole plants for chemical weapons precursors, and foreign maritime nuclear projects—even without any export, reexport, or in-country transfer of items subject to the EAR.

BIS has increasingly used this specific export controls authority in recent years. In January 2021, BIS expanded this authority to control U.S. person activities in connection with military intelligence end-use, citing to a general authority provided in the ECRA.[22] "Military intelligence end-use" involves U.S. person support provided to the intelligence or reconnaissance organization of the armed services or national guard of Burma, China, Cuba, Iran, North Korea, Russia, Syria, or Venezuela. While this control is primarily focused on foreign military intelligence efforts, as such efforts are often inextricably intertwined with political repression and human rights issues, this control can be expected to take an increasingly important approach as a tool to uphold the U.S. position on human rights. Thus, as U.S. policies shift, we may also start seeing expansions to the list of foreign governments that are subject to the military intelligence end-use and end-user controls.

Further, in October 2022, BIS announced an unprecedented expansion of this authority in controlling U.S. person support for items used to produce certain advanced semiconductors and supercomputers in China.[23] According to BIS, because "China's military-civil fusion effort makes it more difficult to tell which items are made for restricted end uses," U.S. person support for advanced semiconductors and supercomputers "necessary for military programs of concern" would require a license even if the precise end-use could not be determined.[24] Similar types of controls with a human rights angle may be on the horizon—whether for additional items such as surveillance systems or for additional foreign governments other than China.

IV. Engagement with Civil Society, Academia, and the Private Sector

The ECHRI Code of Conduct emphasizes Subscribing States' commitment to engage with civil society, academia, and the private sector on various issues relating to the implementation of effective human rights-focused export controls. If other areas of trade controls focused on human rights are any indication, these sectors can be expected to play a large role in driving enforcement priorities at the intersection of human rights and export controls.

The Code of Conduct appears to envision a two-way relationship between the government and civil society, academia, and the private sector: On one hand, states commit to facilitate due diligence and work with industry groups to promote human rights compliance.

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On the other hand, these other sectors can provide consultations on issues of human rights and the effective implementation of export controls. In the latter scenario, civil society and academia, in particular, may play a critical role in fact-gathering and presenting allegations of human rights violations to the U.S. government.

In fact, civil society and academia already play this role in the context of other human rights-focused trade restrictions, from sanctions to customs law. For example, the U.S. nonprofit Human Rights First coordinates a coalition of over 300 civil society organizations to facilitate the production of dossiers to share with the U.S. Government to promote the designation of specific human rights violators pursuant to the Global Magnitsky Sanctions program.[25] And, in the realm of customs law, the U.S. government has been particularly responsive to reports from civil society and academia in enforcing the Uyghur Forced Labor Prevention Act ("UFLPA"), discussed in our previous client alerts. Just this past December, for example, the U.K.'s Sheffield Hallam University published a report alleging that major automotive manufacturers had used components made with forced labor in the XUAR.[26] Shortly thereafter, U.S. Customs and Border Protection began detaining shipments from numerous automotive manufacturers pursuant to the UFLPA.

In addition to human rights-focused organizations, technological organizations and industry groups may prove critical to the implementation of the Code of Conduct. The Code's commitments specifically envision engagement with "technologists" to advise on the effective implementation of export control measures. These specialists will be able to provide BIS with the information to determine which dual-use technologies pose risks of serious human rights abuses.

V. Effective Integration of Human Rights and Trade Compliance

With increasing overlap between human rights standards and trade compliance obligations—as evinced by the Code of Conduct—companies throughout the world must think critically about how to integrate human rights and trade practices to ensure compliance in this dynamic regulatory landscape. Companies should coordinate both internally and externally to identify opportunities to make their compliance programs more human rights-focused. Referring to existing U.S. guidance and international frameworks can also help them strengthen contractual relationships and due diligence practices to better protect human rights.

a. Internal Stakeholder Mapping

To integrate corporate efforts on human rights and trade compliance, a company should first identify the team of internal stakeholders who can provide visibility into the company's various activities. Open communication among these departments will be critical to maintaining compliance, especially as human rights concerns continue to converge with trade obligations. Accordingly, having a clear understanding of relevant stakeholders and their perspectives is an important first step.

For example, members of a company's logistics or legal team may have access to the most up-to-date information on a particular shipment and its end-users. A member of the environmental, social, and governance ("ESG") or public relations team, however, may be most up-to-date on human rights issues dominating the news cycle—and, therefore, government enforcement priorities. Likewise, engineering or product teams may be best equipped to assess whether any individual product—particularly in the technology sectors—may have an unintended dual use that could be exploited to violate human rights, such as integration into surveillance efforts by foreign governments. Regular communication across these groups will allow companies to foresee reputational and commercial risks posed by exporting dual-use products to entities at risk of designation.

b. Industry and Civil Society Coordination

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Just as the United States will coordinate with other Subscribing States to share information and strengthen programs, companies should prioritize opportunities to coordinate among industry groups and even with civil society to develop best practices.

Since advanced goods and technologies will be a primary target of the export controls the ECHRI Code of Conduct envisions, companies producing technology with the potential to be used for repression, surveillance, or other human rights abuses should collaborate to develop due diligence and risk assessment programs scoped to the specific concerns of their industry. For example, industry groups representing companies exporting facial recognition technology—which poses a high risk of use for surveillance—can develop technology-specific export due diligence best practices that can be implemented by all of their members.

Companies should also engage with civil society to learn about evolving human rights concerns. As discussed above, the U.S. government has indicated its intention to collaborate with civil society and academia in implementing human rights-focused export controls, and reports from these organizations are likely to drive U.S. enforcement priorities. By actively engaging with civil society, companies position themselves to stay ahead of the enforcement curve by developing early awareness and risk mitigation protocols before, for example, a counterparty is added to the Entity List.

c. Contracting for Human Rights Compliance

Even after determining it is permissible to export goods to a particular entity, companies should identify opportunities to obtain legal and reputational protections through their contracts.

Companies can use contractual provisions not only to obtain access to additional information about counterparties (and their business associates) but also to secure protection in the event a counterparty is later found to be involved in human rights violations. Such provisions are even more essential in the context of distributors or channels partners, where companies may be relying on the partner to conduct diligence on the ultimate end-users. With the potential decreased visibility into these sales, partner contracts should go beyond standard compliance representations to ensure companies have a strong legal basis to investigate and remediate any issues that may arise.

These contractual protections include provisions that allow companies to obtain information from their partners, such as audit rights, or that require partners to proactively disclose information regarding end-users. Effective contracting will also provide for consequences for non-compliance, including termination and indemnification. Companies may also incorporate structural mechanisms to mitigate risk, including by expressly limiting the territorial scope of its partners.

Companies can also streamline the contracting process by grouping third parties into categories based on a human rights risk profile or by the type of contractual relationship. This process allows for category-specific risk assessments and contract templates, while also allowing companies to consider what contracting incentives can be used to motivate categories of counterparties to support their human rights and trade compliance efforts.

d. Existing Guidance & Human Rights Frameworks

Although the ECHRI Code of Conduct reflects a strengthened commitment to use export controls to address human rights concerns, existing frameworks continue to provide helpful guidance on corporate due diligence and risk assessments. Indeed, the Code of Conduct expressly encourages the private sector to conduct due diligence in line with “the UN Guiding Principles on Business and Human Rights or other complementing international instruments.”[27]

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In the United States, the U.S. government has already provided specific guidance on how to implement the UN Guiding Principles for certain transactions covered by the ECHRI Code of Conduct. In September 2020, for example, the U.S. State Department published *Guidance on Implementing the* UN Guiding Principles *for Transactions Linked to Foreign Government End-Users for Products or Services with Surveillance Capabilities* in recognition of the fact that certain products or services with surveillance capabilities can be misused to violate or abuse human rights when exported to public or private end-users who do not respect basic freedoms and the rule of law.[28]

The State Department's guidance identifies due diligence concerns and potential red flags to consider at various steps when transacting with government end-users, along with suggested safeguards to detect and halt abuse. In fact, the guidance provides a number of recommended contractual safeguards, in line with our guidance above.[29] While this guidance is primarily focused on government end-users, it also covers transactions with non-state actors in high-risk jurisdictions where governmental or quasi-governmental entities may be undisclosed end-users. Lastly, the guidance's appendices provide helpful resources for further compliance guidance, from human rights frameworks and reports to examples of foreign laws suggesting the possible misuse of surveillance-related exports.[30]

The ECHRI Code of Conduct expresses a commitment to use export controls to address a wide range of entities—not just government end-users. However, given the Code of Conduct's focus on "surveillance tools and other technologies . . . that can lead to serious violations of human rights," the U.S. State Department's 2020 guidance provides a baseline understanding of the U.S. government's expectations for due diligence and risk mitigation when exporting goods or technologies with surveillance capabilities.[31]

Additionally, for exports destined for China—and especially the XUAR—companies should consult the Xinjiang Supply Chain Business Advisory issued by the Departments of State, Treasury, Commerce, and Homeland Security.[32] This advisory outlines specific risks and concerns about due diligence related to the export of goods or technology that could be used for surveillance in the XUAR.

While other governments will adopt their own guidance and related measures, we assess that many countries will look to the U.S. model as they develop their domestic authorities.

VI. Conclusion

The Biden administration has made clear that it will continue to use an aggressive, yet multilateral, approach to enforce human rights around the world, and the ECHRI Code of Conduct appears to be another example of this priority. By integrating their human rights and trade compliance efforts, however, companies can protect themselves from risk in this area.

As human rights concerns increasingly motivate export controls, open communication among internal stakeholders and with civil society will be key to preventing human rights-related export violations. Companies should think critically about every step of their contracting processes to maximize legal and reputational protection, particularly when working with distributors or channels partners. Existing U.S. guidance and international human rights instruments can help companies throughout the world address these and other due diligence issues as they update policies and procedures to ensure effective compliance.

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[1] At the time of the Code of Conduct's publication, the following countries comprise the Subscribing States: Albania, Australia, Bulgaria, Canada, Costa Rica, Croatia, Czechia, Denmark, Ecuador, Estonia, Finland, France, Germany, Japan, Kosovo, Latvia, The

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Netherlands, New Zealand, North Macedonia, Norway, Republic of Korea, Slovakia, Spain, the United Kingdom, and the United States.

[2] *Code of Conduct for Enhancing Export Controls of Goods and Technology That Could Be Misused and Lead to Serious Violations or Abuses of Human Rights*, U.S. Dep't of State, https://www.state.gov/wp-content/uploads/2023/03/230303-Updated-ECHRI-Code-of-Conduct-FINAL.pdf (hereafter "Code of Conduct").

[3] Additions to the Entity List; Amendment to Confirm Basis for Adding Certain Entities to the Entity List Includes Foreign Policy Interest of Protection of Human Rights Worldwide, 88 Fed. Reg. 18,983 (Mar. 30, 2023) (revising 15 C.F.R. § 744.11 to explicitly add involvement in activities that are contrary to the "foreign policy interest of the protection of human rights throughout the world" as a basis for designation to the Department of Commerce's Entity List)

[4] Press Release, Export Controls and Human Rights Initiative Code of Conduct Released at Summit for Democracy, U.S. Dep't of State (Mar. 30, 2023), https://www.state.gov/export-controls-and-human-rights-initiative-code-of-conduct-released-at-the-summit-for-democracy/; Press Release, Biden Administration and International Partners Release Export Controls and Human Rights Initiative Code of Conduct, U.S. Dep't of Commerce (Mar. 30, 2023), https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3257-2023-03-30-bis-press-release-echri-code-of-conduct/file.

[5] Joint Statement on the Export Controls and Human Rights Initiative, U.S. Dept. of State (Dec. 10, 2021), https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/10/joint-statement-on-the-export-controls-and-human-rights-initiative/.

[6] Press Release, Export Controls and Human Rights Initiative Code of Conduct Released at Summit for Democracy, U.S. DEP'T OF STATE (Mar. 30, 2023), https://www.state.gov/export-controls-and-human-rights-initiative-code-of-conduct-released-at-the-summit-for-democracy/.

[7] Additions to the List of Countries Excluded From Certain License Requirements Under the Export Administration Regulations (EAR), 87 Fed. Reg. 21,554 (Apr. 12, 2022); *see* 15 C.F.R. Part 746, Supplement No. 3.

[8] Press Release, Commerce Adds Eleven to Entity List for Human Rights Abuses and Reaffirms Protection of Human Rights as Critical U.S. Foreign Policy Objective, Bureau of Indus. and Sec'y (Mar. 30, 2023), https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3256-2023-03-30-bis-press-release-human-rights-entity-list-additions/file.

[9] Entity List, Bureau of Indus. and Sec'y (last accessed Apr. 2, 2023), https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/entity-list.

[10] 15 C.F.R. § 744.16 (2022).

[11] *See, e.g.*, Addition of Certain Entities to the Entity List, 84 Fed. Reg. 54,002 (Oct. 9, 2019).

[12] *See* Addition of Entities to the Entity List, 86 Fed. Reg. 13,179 (Mar. 8, 2021); *see also* Addition of Certain Entities to the Entity List; Correction of Existing Entry on the Entity List, 86 Fed. Reg. 35,389 (July 6, 2021).

[13] Additions to the Entity List; Amendment to Confirm Basis for Adding Certain Entities to the Entity List Includes Foreign Policy Interest of Protection of Human Rights Worldwide, 88 Fed. Reg. 18,983 (Mar. 30, 2023) (emphasis added).

[14] Press Release, Commerce Adds Eleven to Entity List for Human Rights Abuses and

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[15] *Id.*

[16] Additions to the Entity List, *supra* note 13.

[17] Advanced Surveillance Systems and Other Items of Human Rights Concern, 85 Fed. Reg. 43,532 (July 17, 2020).

[18] *Id*. at 43,533.

[19] Amendment to Licensing Policy for Items Controlled for Crime Control Reasons, 85 Fed. Reg. 63,007 (Oct. 6, 2022).

[20] *Id*. at 63,009.

[21] Code of Conduct, *supra* note 2.

[22] Expansion of Certain End-Use and End-User Controls and Controls on Specific Activities of U.S. Persons, 86 Fed. Reg. 4,865 (Jan. 15, 2021); *see* 15 C.F.R. § 744.22.

[23] Implementation of Additional Export Controls: Certain Advanced Computing and Semiconductor Manufacturing Items; Supercomputer and Semiconductor End Use; Entity List Modification, 87 Fed. Reg. 62,186 (Oct. 13, 2022); *see* 15 C.F.R. § 744.6.

[24] Implementation of Additional Export Controls: Certain Advanced Computing and Semiconductor Manufacturing Items; Supercomputer and Semiconductor End Use; Entity List Modification, 87 Fed. Reg. 62,186, 62,187 (Oct. 13, 2022)

[25] Global Magnitstky and Targeted Sanctions, Human Rights First (last accessed Apr. 2, 2023), https://humanrightsfirst.org/efforts/global-magnitsky-targeted-sanctions/.

[26] *Driving Force: Automotive Supply Chains and Forced Labor in the Uyghur Region*, Sheffield Hallam Univ. Helena Kennedy Centre for Int'l Justice (Dec. 2022), https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3Ascds%3AUS%3A69ce4867-d7e7-4a6a-a98b-6c8350ceb714&viewer%21megaVerb=group-discover.

[27] Code of Conduct, *supra* note 2.

[28] *Guidance on Implementing the* UN Guiding Principles *for Transactions Linked to Foreign Government End-Users for Products or Services with Surveillance Capabilities*, U.S. Dept. of State (Sep. 30, 2020), https://www.state.gov/wp-content/uploads/2020/10/DRL-Industry-Guidance-Project-FINAL-1-pager-508-1.pdf. As this document explains, these products and services can violate a host of fundamental rights that are protected by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, such as the right to be free from arbitrary or unlawful interference with privacy. See *id.* at 3.

[29] *Id.* at 11.

[30] *Id.* at 14–19.

[31] Code of Conduct, *supra* note 2.

[32] *Xinjiang Supply Chain Business Advisory* (Jul. 2, 2020, updated Jul. 13, 2021), U.S. Dept. of Treasury, https://www.state.gov/wp-content/uploads/2021/07/Xinjiang-Business-

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The following Gibson Dunn lawyers prepared this client alert: Sean Brennan*, Christopher Timura, Claire Yi, Anna Searcey, Stephenie Gosnell Handler, Adam M. Smith, Chris Mullen, Maria Banda, and Annie Motto.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or the following members and leaders of the firm's International Trade practice group:

United States Judith Alison Lee – Co-Chair, International Trade Practice, Washington, D.C. (+1 202-887-3591, jalee@gibsondunn.com) Ronald Kirk – Co-Chair, International Trade Practice, Dallas (+1 214-698-3295, rkirk@gibsondunn.com) Adam M. Smith – Washington, D.C. (+1 202-887-3547, asmith@gibsondunn.com) Stephenie Gosnell Handler – Washington, D.C. (+1 202-955-8510, shandler@gibsondunn.com) David P. Burns – Washington, D.C. (+1 202-887-3786, dburns@gibsondunn.com) Nicola T. Hanna – Los Angeles (+1 213-229-7269, nhanna@gibsondunn.com) Marcellus A. McRae – Los Angeles (+1 213-229-7675, mmcrae@gibsondunn.com) Courtney M. Brown – Washington, D.C. (+1 202-955-8685, cmbrown@gibsondunn.com) Christopher T. Timura – Washington, D.C. (+1 202-887-3690, ctimura@gibsondunn.com) Annie Motto – Washington, D.C. (+1 212-351-3803, amotto@gibsondunn.com) Chris R. Mullen – Washington, D.C. (+1 202-955-8250, cmullen@gibsondunn.com) Sarah L. Pongrace – New York (+1 212-351-3972, spongrace@gibsondunn.com) Anna Searcey – Washington, D.C. (+1 202-887-3655, asearcey@gibsondunn.com) Samantha Sewall – Washington, D.C. (+1 202-887-3509, ssewall@gibsondunn.com) Audi K. Syarief – Washington, D.C. (+1 202-955-8266, asyarief@gibsondunn.com) Scott R. Toussaint – Washington, D.C. (+1 202-887-3588, stoussaint@gibsondunn.com) Claire Yi – Washington, D.C. (+1 202-887-3644, cyi@gibsondunn.com) Shuo (Josh) Zhang – Washington, D.C. (+1 202-955-8270, szhang@gibsondunn.com)

Asia Kelly Austin – Hong Kong (+852 2214 3788, kaustin@gibsondunn.com) David A. Wolber – Hong Kong (+852 2214 3764, dwolber@gibsondunn.com) Qi Yue – Hong Kong – (+852 2214 3731, qyue@gibsondunn.com) Fang Xue – Beijing (+86 10 6502 8687, fxue@gibsondunn.com)

Europe Attila Borsos – Brussels (+32 2 554 72 10, aborsos@gibsondunn.com) Susy Bullock – London (+44 (0) 20 7071 4283, sbullock@gibsondunn.com) Patrick Doris – London (+44 (0) 207 071 4276, pdoris@gibsondunn.com) Sacha Harber-Kelly – London (+44 (0) 20 7071 4205, sharber-kelly@gibsondunn.com) Michelle M. Kirschner – London (+44 (0) 20 7071 4212, mkirschner@gibsondunn.com) Penny Madden – London (+44 (0) 20 7071 4226, pmadden@gibsondunn.com) Irene Polieri – London (+44 (0) 20 7071 4199, ipolieri@gibsondunn.com) Benno Schwarz – Munich (+49 89 189 33 110, bschwarz@gibsondunn.com) Nikita Malevanny – Munich (+49 89 189 33 160, nmalevanny@gibsondunn.com)

**Sean Brennan is an associate working in the firm's Washington, D.C. offices who currently is admitted to practice only in New York.*

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