

Non-Paper on Temporary General License for Huawei Technologies

- On May 16, 2019, at 4:15 p.m. EDT, the U.S. Department of Commerce (DOC) implemented a final rule that added Huawei Technologies and 68 non-U.S. affiliates to the Entity List. The entities are located in 26 foreign jurisdictions. As a result of this rule, the export, re-export and transfer (in-country) of all items subject to the Export Administration Regulations require a license when destined to Huawei or any of the 68 affiliates; the U.S. Government will review applications for such transactions under a presumption of denial.
- On May 20, 2019, the U.S. Government issued a temporary general license that will allow exports, re-export and transfers (in-country) for 90 days for a narrow set of activities to prevent the interruption of existing and currently fully operational network operations and equipment, allow time for companies and persons to maintain the reliability of their communications networks and equipment, or shift to other sources of equipment, software, and technology, as well as engagement as necessary to continue to develop 5G standards within recognized standard bodies. Transactions with Huawei and its non-U.S. affiliates beyond the maintenance of the functionality of existing equipment, software, or technologies and development of 5G standards will remain subject to the Entity List licensing requirement and presumption of denial.
- The temporary general license applies to four types of activities for which export, re-export, and transfer (in-country) transactions will be exempt from the Entity List's license requirement and presumption of denial for 90 days. Specifically, when required for such activities, items whose export, re-export, or transfer (in-country) to Huawei or one of the listed 68 affiliates did not require a license prior May 16, 2019, at 4:15 p.m., regain their "no license required" status for the 90-day period. Additionally, when required for such activities, items whose export, re-export, or transfer (in-country) to Huawei or one of the listed 68 affiliates required a license prior to the Entity List action continue to require a license but will be reviewed under a standard more favorable than the Entity List's presumption of denial.
- The four activities permitted by the temporary general license are as follows. (1) Continued Operation of Existing Networks and Equipment; (2) Support to Existing Handsets; (3) Cybersecurity Research and Vulnerability Disclosure; and (4) Engagement as Necessary for Development of 5G Standards by a Duly Recognized Standards Body.
- As noted this temporary general license is a limited scope general license. It is designed to allow only for the maintenance and support of existing and currently fully operational networks and equipment and the continued development of 5G standards. It does not cover upgrades to networks or equipment, and it does not cover networks or equipment that are not yet fully operational commercially. Additionally, it is restricted to prevent the abuse of the TGL through stockpiling of U.S. components during the 90-day period for purposes other than maintenance of existing and currently fully operation networks. Cases outside the scope of this TGL will require a license and will be reviewed under the terms of the Entity List designation.
- Persons seeking to utilize this temporary general license must retain a certification statement, made prior to the export, re-export, or transfer (in-country), that the transfer meets the scope of the temporary general license and is therefore exempt from the Entity List's license requirements specific to

Huawei and the 68 affiliates. Persons utilizing the temporary general license will be required to provide the certification statement to DOC upon request.