



In case you interact with Huawei or any of its subsidiaries (especially mentioned [Huawei Technologies Switzerland AG](#), [Liebefeld](#) or [Huawei Cloud Switzerland](#)) please carefully read the following information.

## US Regulations against Huawei

In 2019, Huawei was sanctioned by the United States for national security concerns and placed on the Entity List generally prohibiting exports, re-exports and transfers to Huawei for all items subject to the EAR.

Due concerns that certain products – [chips in particular](#) - made outside the U.S. remained beyond the scope of EAR, the US declared certain foreign produced items ("Foreign Direct Products" or FDP), that at first glance may not appear to fall under US Law are also subject to the EAR. This "Entity List FDP Rule" prohibits shipment of FDP's to Huawei and is called "Huawei Rule" because so far it only applies to Huawei. Therefore:


**Any delivery or exchange of Items of US origin (i.e. US technology, US software or US goods) subject to EAR<sup>2</sup> to any Huawei company in any country** requires the (prior) approval (license) of the US government. However, the US government has indicated that such licenses will be "presumably denied".

In addition to above regulation, delivery or exchange of certain foreign produced items, that at first glance may not appear to fall under US Law also require an US approval ("Huawei Rule") therefore:

A license of the US government is required for **any foreign produced Item that**

i) **is a Direct Product** <sup>1</sup> (=Output) of **US origin technology and/or software** (= Input) and its **ECCN is listed here:** <sup>2</sup>                      OR

ii) **is produced from a plant or "Major Component"**<sup>3</sup> **of a plant** (= Output) when the complete plant **whether made in the U.S. or a foreign country**, or **'major component' of a plant is a "direct product" of US origin "technology" or "software"**(=Input) and its **ECCN is listed here** <sup>2</sup> .



i) **will be incorporated into, or will be used** in the "production" or "development" of any "part," "component," or "equipment" produced, purchased, or ordered **by Huawei** OR

ii) **Huawei is involved in the transaction** eg as "purchaser," "intermediate consignee," "ultimate consignee," or "enduser."

Please continue reading next page: What to pay attention to when interacting with Huawei.

<sup>1</sup> Direct Product: The immediate product (including processes and services) produced directly by the use of technology or software listed under Footnote 3 below.

<sup>2</sup> 3D001, 3D991, 3E001, 3E002, 3E003, 3E991, 4D001, 4D090, 4D993, 4D994, 4E001, 4E992, 4E993, 5D001, 5D002, 5D991, 5E001, 5E991, or 5E002. You can look up above numbers in the Dual Use Item listed under "[Critical Items](#)" of Empa Export control homepage.

<sup>3</sup> Major component: A major component of a plant located outside the United States means "equipment" that is essential to the "production" of an item, including testing "equipment."

**What do you have to pay attention for in interactions with Huawei?**

- Do not provide any technology, software or goods that have a US origin or fall under above Huawei Rule to any person from Huawei. This applies irrespective of whether you interact with Huawei under a contractually regulated project or informally e.g. via e-mail or screen sharing in a meeting. Please verify the Huawei entity via US Sanction list check [here](#).
- US origin: If you are not sure about the origin of goods and or if a product falls und US Huawei Rule, please ask the supplier and request the respective information from Supplier in writing
- Services: In your interactions with Huawei, do not use any services from US companies or companies owned by persons that are identified as a US person.
- Technology such as information, research results, knowhow: Do not provide to Huawei: any US technology<sup>4</sup> or any technology to which the Huawei rule applies (neither by phone, e-mail or any other kind of communication). The exchange of technology to Huawei shall be limited to research technology exclusively developed at Empa (= Swiss origin) without support of US technology<sup>4</sup>.
- Software: Do not use any source code of US software<sup>4</sup> or software subject to Huawei Rule in projects with Huawei.
- Empa-Employees with US-passport (including double citizens) shall not be involved in any project with Huawei. They could potentially be exposed if going back to their home country.
- Use only Empa approved solutions for meetings (eg Teams or Zoom) and stick to Empa Directive on Information Security (MHB-2.3.9) and consult [Empa Information Security homepage](#)
- For meetings: Agenda and list of participants should be determined in advance and principally be binding. Add participants on your side if you deem necessary to avoid imbalances.
- Involve Empa Ethics Committee at an early stage (Huawei is a Swiss Affiliate of a Chinese Company and Empa Directive should apply accordingly) You can find all documents [here](#).

This information remains valid until the US sanctions against Huawei have been lifted. We will inform you accordingly.

If you are uncertain or need more assistance, do not hesitate to contact Karin Reitermayr from Empa Legal ([karin.reitermayr@empa.ch](mailto:karin.reitermayr@empa.ch)).

Empa Legal, Marlen Müller and Karin Reitermayr, Dübendorf, June 11th, 2024

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<sup>4</sup> Not considered as "US technology" or "US software" according US export law is:

- technology which is identified to be fundamental research;
- technology which is publically available in journals, books, etc.;
- all kind of publically available open source software;

all kind of software that are classified to be mass market products like Microsoft office, PDF, Matlab and AutoCAD