



BIS Enforcement Action Highlights Risks in De Minimis Calculations for Foreign-Made Items

In February 2026, BIS announced an enforcement action involving Teledyne FLIR LLC (“FLIR” or the “Company”) related to exports of thermal imaging technology incorporated into foreign-manufactured systems. The case demonstrates the growing compliance risks associated with exports to China and Hong Kong, as well as misapplying the EAR’s *de minimis* rule, particularly in complex, global supply chains.

The Enforcement Action

In this case, BIS determined that thermal imaging cameras (ECCN 6A003) were incorporated into foreign-manufactured drone camera systems exported to China and Hong Kong. The FLIR camera kits included uncooled focal plane arrays (UFPAs) classified under ECCN 6A002.a.3.f. The Company concluded the finished items were not subject to the EAR because the US-origin controlled content fell below the 25% *de minimis* threshold. BIS disagreed and stated that FLIR calculated the US-origin controlled content based on a single component rather than the full controlled system, excluded certain components from the overall valuation of the finished product, and used a “market collaboration fee” structure that inflated total product value and diluted the percentage of US-origin controlled content.

Notably, BIS characterized aspects of the conduct as potentially constituting evasion of export control requirements under 15 CFR § 764.2(h). The agency emphasized that companies cannot structure pricing or valuation mechanisms designed to artificially reduce the percentage of US-origin controlled content.

In its Proposed Charging Letter ("PCL"), BIS proposed charging FLIR with nineteen (19) violations in total, including nine (9) counts of causing a violation, one (1) count of evasion, one (1) count of failure to comply with recordkeeping requirements, and eight (8) counts of engaging in prohibited conduct. The result was a \$1 million penalty and findings that the products remained subject to the EAR and required authorization. See a copy of the final order [here](#).

Compliance Lessons for Industry

The important takeaways from the FLIR case are that:

- *De minimis* calculations must be based on the fair market value of the entire foreign-produced item;
- Companies must determine which US-origin items, software, and technologies are controlled under the Commerce Control List before calculating *de minimis* percentages;
- Organizations should maintain documented calculations and supporting valuation records; and
- Pricing arrangements intended to reduce controlled US content percentages may be viewed as evasion of the EAR.

This action follows the broader enforcement trend discussed by Associate, Pavit Arora, in her January presentation for the 2026 ACE Export Compliance Webinar, hosted by the US Commercial Service and the South Florida District Export Council. BIS is increasingly scrutinizing how companies perform jurisdiction and classification analyses, a focus on functionality and system-level integration (not just component-level assumptions) and identifying incorrect transaction valuation and US-origin controlled content analyses as potential evasion violations. Additionally, BIS and US Customs and Border Protection ("CBP") continue to closely scrutinize exports to China and Hong Kong, including detaining and seizing outbound shipments for possible violations, including suspected failures to obtain required export licenses.

Key Takeaway

The Teledyne FLIR enforcement action demonstrates that incorrect reliance on the EAR *de minimis* rule can expose companies to significant export control liability. Companies operating global supply chains should ensure that *de minimis* calculations, valuation methodologies, and export classifications are carefully documented and periodically reviewed as part of their export compliance programs.

For assistance in export controls, sanctions, and national security matters, please contact our Export Controls & National Security attorneys below or any member of our Firm:

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