Don't Let This HAPPEN TO YOU!

Actual Investigations *of* Export Control *and* Antiboycott Violations

May 2007 Edition

U.S. DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Export Enforcement

DON'T LET THIS HAPPEN TO YOU!

An Introduction to U.S. Export Control Law

Actual Investigations of Export Control and Antiboycott Violations

EXPORT ENFORCEMENT

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE

MAY 2007

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Dear Members of the Exporting Community:

The attacks of September 11 were deadlier than Pearl Harbor. World events since then demonstrate that the United States and its allies continue to face the threat of terrorist attacks. In August 2006, a plot to use a combination of chemicals and explosives on multiple transatlantic flights from the United Kingdom was disrupted by U.S. and British authorities. One of the chemicals, osmium tetroxide, has a legitimate use in scientific research, but is highly destructive to the eyes, lungs and skin.

Tragically, we are not always so fortunate. On July 7, 2005, a series of coordinated terrorist bombings targeted London's public transportation system, killing over 50 innocent people and injuring over 700. It was the deadliest attack on London since World War II. These and other events remind us that we must remain vigilant in the ongoing war against terror.

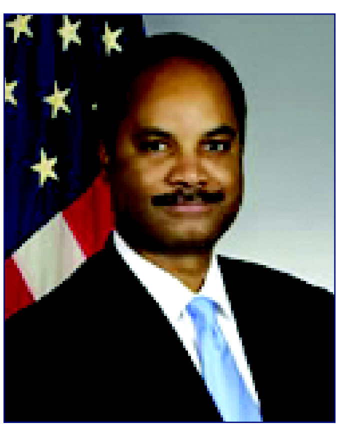
Many products exported from the United States are classified as dual-use. They are intended to be used for commercial purposes, but can also be used by terrorists, or in weapons of mass destruction or conventional weaponry. The U.S. export control laws help foster legitimate trade in dual-use items, while simultaneously keeping our most sensitive goods and technologies away from those who seek to cause us harm. Achieving both of these objectives is crucial.

Our economy depends on the development of high technology and legitimate trade in dual-use items. President Bush has said that, "The role of our government is to create an environment in which the entrepreneur can flourish, in which minds can expand, in which technologies can reach new frontiers." That is especially true when it comes to doing business in the global economy, which involves exports. To remain competitive in today's global business environment, we must continue to open more global business markets and maintain a business environment that encourages entrepreneurship and innovation.

Yet, in today's complex world, our innovation has become a tool that our enemies seek to use against us. As the President has stated, "The same technology and global openness that have transformed our lives also threaten our lives. The same innovations that make it easier to build cars and computers make it easier to build weapons of mass destruction." As we engage in legitimate trade, we must not allow that to happen. Denying weapons of mass destruction to countries of concern and their terrorist allies is a key component of the 2006 National Security Strategy.

By understanding and complying with our U.S. dual use export control system, you play a vital role in protecting our national security. This booklet is designed to help you do so. Herein are examples of the serious consequences of violating our export regulations. Each chapter contains actual closed criminal and administrative cases representing violations of particular controls set forth in the Export Administration Regulations (EAR). All parties involved in export transactions have responsibilities under the EAR, including exporters, freight forwarders, carriers and consignees. Serious sanctions are imposed on violators, including prison terms, substantial fines, and denials of export privileges. Such violations can also damage the reputations of companies and their executives.

The Bureau of Industry and Security (BIS) will continue working to keep the most sensitive goods out of the most dangerous hands. We will vigorously pursue enforcement actions against those who violate U.S. export and antiboycott laws. Our national security demands nothing less. But industry compliance is the first and best line of defense in protecting our national security. Indeed, by forging a partnership in compliance, government and industry can protect our national security and promote prosperity. We welcome you as our partners in that effort.



Sincerely,

Darryl W. Jackson
Assistant Secretary For Export Enforcement

Introduction to U.S. Export Controls

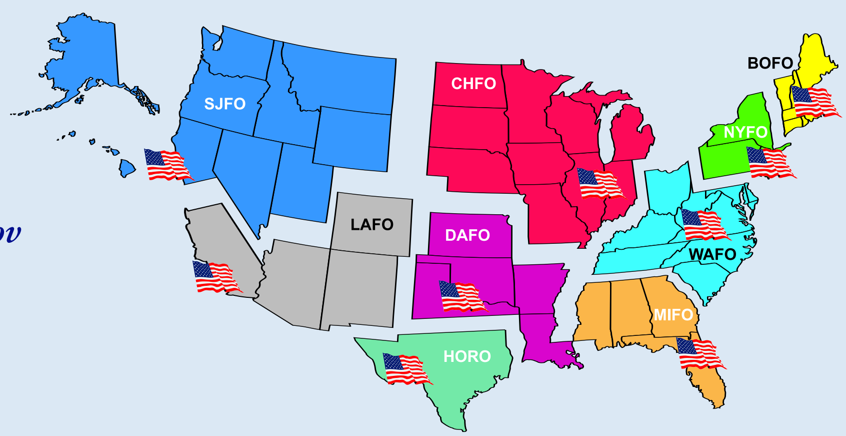
Export Enforcement: Introduction and Mission

The Bureau of Industry and Security (BIS) is a part of the U.S. Department of Commerce. The Export Enforcement arm of BIS protects U.S. national security, foreign policy, and economic interests by educating parties to export transactions on how to improve export compliance practices, interdicting illegal exports, investigating violations, and prosecuting violators of export control laws. At the same time, Export Enforcement works to avoid impeding legitimate trade. Export Enforcement has federal law enforcement authority and its special agents work with BIS licensing officials and policy staff to deter the export of items which, in the hands of unreliable users, can prove damaging to U.S. national security and foreign policy interests. Export Enforcement personnel work closely with Department of Commerce lawyers in the Office of Chief Counsel for Industry and Security and Department of Justice lawyers in U.S. Attorneys' Offices to bring enforcement actions against violators of U.S. export control laws.

WHERE ARE WE LOCATED?

In addition to our Headquarters at the Department of Commerce in Washington, D.C., Export Enforcement has nine offices that have areas of responsibilities covering the entire United States. They are located in: New York, Boston, Chicago, Dallas, Houston, Los Angeles, Miami, San Jose, and Washington, D.C.

www.bis.doc.gov



The Office of Export Enforcement also has Export Control Officers (ECOs) located in 5 overseas locations. ECOs are Office of Export Enforcement personnel on detail to the Foreign Commercial Service and report directly to the Embassies to which they are posted, with direction and oversight by the Office of Export Enforcement's Operations Division.

ECOs are posted in: Beijing, Hong Kong, New Delhi, Moscow, and Abu Dhabi.

Export Control Law

A number of executive branch agencies have responsibilities for regulating exports from the United States. The Department of Commerce is responsible for controlling goods and technology, which are capable of being used for commercial purposes but which also present foreign policy or national security concerns. BIS implements export controls for the Department of Commerce through the Export Administration Regulations (EAR). Other federal agencies with a role in export controls include the State Department, which controls arms exports and re-exports, the Department of Energy, which controls exports and re-exports of technology related to the production of special nuclear materials and the Department of Treasury, which administers certain embargoes.

Responsible Parties

The EAR place legal responsibility on persons who have information, authority or functions relevant to carrying out transactions subject to the EAR. This includes exporters, freight forwarders, carriers, consignees and any other relevant party. The EAR apply not only to parties in the United States, but also to persons in foreign countries who are involved in transactions subject to the EAR.

Consequences of Violating the EAR

Search of a Suspected Export Violator by Commerce Agents

Violations of the EAR are subject to both criminal and administrative penalties. In some cases, where there has been a willful violation of the EAR, violators may be subject to both criminal fines and administrative penalties. However, for most administrative violations, there is no intent requirement, which means that administrative cases can be brought in a much wider variety of circumstances than criminal cases. Fines for export violations can reach up to $1 million per violation in criminal cases, $50,000 per violation in administrative cases on or after March 9, 2006 (there have been no such cases that have reached a final order yet), and $120,000 per violation in certain administrative cases involving national security issues.[1] In addition, criminal violators may be sentenced to prison time and administrative penalties may include the denial of export privileges. A denial of export privileges basically prohibits a person from participating in any way in any transaction subject to the EAR. Furthermore, it is a violation of the EAR for anyone to participate in an export transaction subject to the EAR with a denied person.

[1] These violations are based on the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401- 2420 (2000)), and inflation adjustments made in 15 C.F.R. § 6.4 (2005). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 23, 2006 (71 Fed. Reg.44551, August 7, 2006), has continued the Regulations in effect under IEEPA. The USA PATRIOT Improvement and Reauthorization Act of 2005, signed into law on March 9, 2006 (Pub. L. No. 109-177, 120 Stat. 192 (2006)), increased the limit of civil penalties available under IEEPA to $50,000 per violation.

It should be noted that in most cases, BIS reaches negotiated settlements in its administrative cases prior to a formal administrative hearing. Those negotiated settlements are often reached as a result of voluntary self-disclosures (VSDs) of violations by companies and individuals. BIS considers VSDs to be a significant mitigating factor when negotiating settlements of administrative cases. VSDs reflect a company's or individual's acceptance of responsibility for EAR violations. To encourage VSDs, in appropriate cases, fines and other administrative penalties may be significantly reduced as a result of the fact that BIS became aware of the violations as a result of a VSD. Guidance regarding administrative penalties is provided in Supplement No. 1 of Part 766 of the EAR and in chapter five of this publication. In that guidance, some factors, including VSDs, are given "great weight" and are viewed as significantly mitigating violations. In the following cases, VSD credit is noted where it was given.

As a standard provision of BIS settlement agreements, the respondent involved neither admits nor denies the charges made against it. Therefore, the violations referenced in many of the summaries in this booklet have neither been proven in court nor been admitted to by the company or individual. Please also be aware that this letter and booklet are not intended to create, nor do they create, any right or benefit, procedural or substantive, enforceable by law against the Department of Commerce or any other part of the U.S. Government. Nor should the cases in this booklet be interpreted as precedent in any future actions involving the U.S. Government.

Chapter 1 - Export License Requirements

Introduction

Many exports of controlled items, including software and technology, require a license from BIS. It is the responsibility of the exporter to apply for a license when one is required under the EAR. License requirements for a particular transaction, as described in the EAR, are based on a number of factors, including technical characteristics of the item to be exported and the item's destination, end-user, and end-use. When determining whether a license is required for your transaction, you should be able to answer the following questions:

What is being exported?

Where is the item being exported?

Who will receive the item?

How will the item be used?

PREVENTIVE MEASURES YOU CAN TAKE

- Check exporters and customers
- Check end-users and end-uses
- Review Shipper's Export Declarations

If you need assistance to determine whether the item you want to export requires a license you should:

1. Check the BIS Website *http://www.bis.doc.gov*, or

2. Call one of our export counselors at 202-482-4811 (Washington, DC) or 949-660-0144 (California) for counseling assistance.

Please note that, whether you are the exporter, freight forwarder, consignee, or other party to the transaction, you must address any red flags that arise because taking part in an export transaction where a license is required but not obtained may subject you to criminal or administrative liability. The EAR discuss red flags in a section entitled "Know Your Customer," Supplement No. Three to Part 732, which is also available on the BIS website.

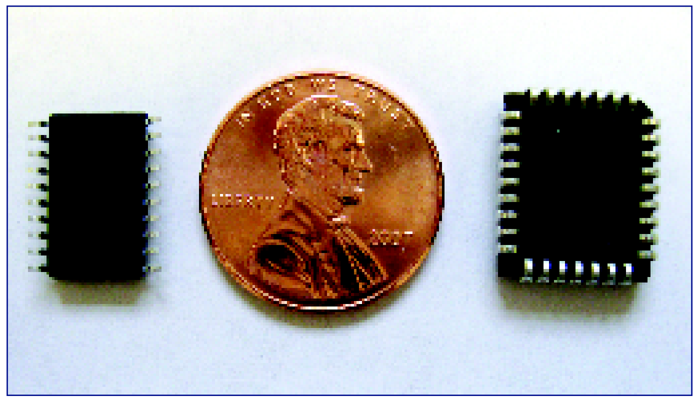
General Orders

Mayrow General Trading

The Violation: On June 5, 2006, BIS issued a General Order stating that it had come into possession of information giving reason to believe, based on specific and articulable facts, that Mayrow General Trading and related entities had acquired electronic components and devices, commodities subject to the EAR capable of being used to construct Improvised Explosive Devices (IEDs). The Order further stated that these commodities have been and may continue to be employed in IEDs or other explosive devices used against Coalition Forces in Iraq and Afghanistan.

The Remedy: To curtail such use of these commodities in order to protect Coalition Forces operating in Iraq and Afghanistan, BIS imposed a license requirement for exports and re-exports of all items subject to the EAR where the transaction involved Mayrow General Trading and specific listed entities related to Mayrow. This Order provided information to exporters about Mayrow's activities to help them ensure that any transactions with Mayrow were legitimate, and it also provided BIS the opportunity to review those transactions to ensure they are in the national interest. The Order was subsequently amended in September 2006 and June 5, 2007 to include specific additional persons related to Mayrow.

Humvee Explosion



Electronic Devices

Criminal and Administrative Case Examples

Hittite Microwave Corporation

The Violation: Hittite Microwave Corporation, Chelmsford, Massachusetts, on six occasions, exported microwave solid state amplifiers and related equipment, including downconverters, from the United States to Russia, China and Latvia, without obtaining licenses from the U.S. Department of Commerce. In addition, on one occasion, Hittite made a false statement to the U.S. Government on a Shipper's Export Declaration (SED).

The Penalty: Hittite agreed to a $221,250 administrative penalty.

Aviacsa Airlines

The Violation: Between February 2002 and May 2003, in conjunction with exports of aircraft parts to Mexico, Aviacsa Airlines on 75 occasions failed to file with the U.S. Government the SEDs required by the EAR.

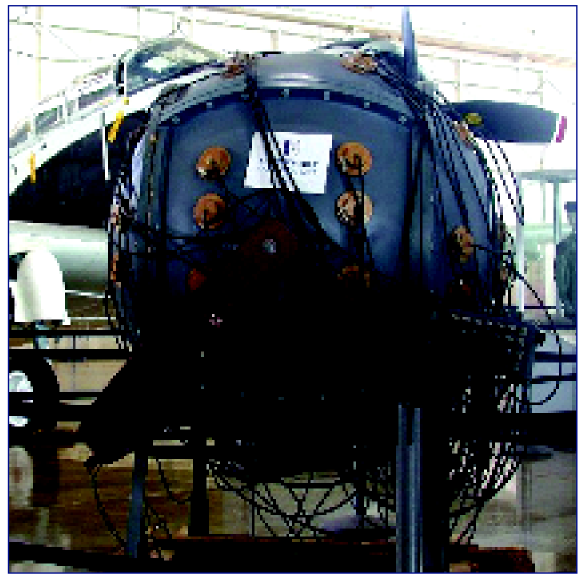
The Penalty: Aviacsa agreed to administrative penalties totaling $450,000, of which $225,000 was suspended.

Asher Karni

The Violation: Asher Karni, a South African businessman, conspired to violate and violated U.S. export restrictions arising out of unlawful exports to Pakistan and India of U.S.-origin goods controlled for nuclear nonproliferation reasons. Humayan Khan, of Islamabad, Pakistan was indicted for conspiring to violate and violating U.S. export restrictions on goods controlled for nuclear nonproliferation reasons. Khan arranged, through Karni, the purchase and export to Pakistan of U.S.-origin triggered spark gaps, which can be used as nuclear weapons detonators. Khan falsely indicated that the goods were intended for medical use.

The Penalty: On August 4, 2005, Karni was sentenced to three years' imprisonment. On April 8, 2005, Khan was indicted for his role in diverting the controlled goods. On August 1, 2006, BIS issued a 10-year denial of export privileges against Karni and related parties, Pakland PME Corporation and Khan.

Triggered Spark Gap


Atomic Weapon Using Triggered Spark Gaps

SCP Global Technologies, Inc.

The Violation: Between May 2003 and January 2005, SCP Global Technologies, Inc. ("SCP") made 45 exports of controlled pumps and valves to Taiwan, China, and Israel, without the required export licenses. The items are controlled for their potential use in chemical and biological weapons, and would have required a license for shipment to Taiwan, China, or Israel. SCP had previously received a Warning Letter for the unlicensed export of controlled pumps.

The Penalty: SCP agreed to a $264,000 administrative penalty.

Metric Equipment Sales

The Violation: On March 21, 2005, Metric Equipment Sales pled guilty in the Northern District of California to one felony count of exporting digital oscilloscopes controlled for nuclear nonproliferation reasons to Israel without a BIS license. The oscilloscopes, with sampling rates exceeding 1 GHz, are capable of being utilized in WMD development and missile delivery fields.

The Penalty: Metric was sentenced to a $50,000 criminal fine. Metric agreed to a $150,000 administrative penalty and a five-year suspended denial of export privileges.

Valtex International

The Violation: Vladimir Alexanyan and his company, Valtex International, committed export violations and made false statements in connection with the attempted export of satellite/missile insulation blankets to the Chinese Academy of Space Technology in Beijing. BIS had previously rejected Valtex's application for an export license for these items.

The Penalty: Alexanyan was sentenced to pay a $12,000 criminal fine, to serve three years' probation, and was barred from any international activities or trade for the term of his probation. Valtex was ordered to pay a $250,000 criminal fine. In addition, Alexanyan agreed to an $88,000 administrative penalty and Valtex agreed to pay a $77,000 administrative penalty. Alexanyan's and Valtex's export privileges to China were denied for five years. Valtex also agreed to implement an export management system.

Wilden Pump and Engineering

The Violation: Wilden Pump and Engineering Co., LLC (Wilden), a company based in Grand Terrace, California, violated the EAR in connection with unauthorized exports of diaphragm pumps from the United States to the Iran, Israel, the People's Republic of China, Syria, and the United Arab Emirates without the required Department of Commerce export licenses between 2000 and 2003. In some cases, Wilden transferred diaphragm pumps with knowledge that violations of the EAR would occur. Wilden also made false statements on export control documents related to these transactions.

The Penalty: Wilden agreed to a $700,000 administrative penalty. It also agreed to be subject to a three-year denial of export privileges for items on the CCL. The denial was suspended in its entirety for two years provided that Wilden did not commit any violations of the EAR during the suspension period.

John Carrington

The Violation: John Carrington, the former president of Sirchie Fingerprint Laboratories and a former North Carolina State Senator, illegally exported approximately $1.2 million dollars in crime control equipment to China through intermediaries in Italy and Hong Kong.

The Penalty: In the criminal case, Carrington was sentenced in March 2006 to 12 months' probation and agreed to pay an $850,000 criminal penalty. In the related administrative case, Carrington accepted a five-year denial of his export privileges. Sirchie also agreed to a $400,000 administrative penalty and accepted a five-year suspended denial.

BJ Services Company

The Violation: Between 1999 and 2002, BJ Services Company of Tomball, Texas committed 37 violations of the EAR in connection with 13 exports of items controlled for chemical and biological weapons reasons to various destinations without obtaining the required export licenses.

The Penalty: BJ Services agreed to a $142,450 administrative penalty and to perform an audit of its internal compliance program to be submitted to BIS.

Mitigating Circumstances: BJ Services voluntarily self-disclosed these violations and cooperated fully with the investigation.

Ning Wen

The Violation: Ning Wen and Hailin Lin used a business called "Wen Enterprises," which they operated from their home in Wisconsin, to ship semiconductors and other controlled electronic components with radar and satellite applications, both military and civilian, to Jian Guo Qu and Ruo Ling Wang at Beijing Rich Linscience Electronic Company in China. For most of these transactions, Lin obtained the restricted technology from a United States manufacturer or supplier based on a request from Wang or Qu; falsified shipping documents at the direction of Qu by concealing the true nature of the shipments and stating that a license was not required for the shipments; and then shipped the product to Wang and/or Qu in China, without obtaining the required export license.

The Penalty: In 2005, Qu was sentenced to 46 months' imprisonment (later reduced to 22 months based on his cooperation in the prosecution of the co-defendants), a $2,000 criminal fine, and two years' supervised release. Lin was also sentenced in 2005 to 42 months in prison and a $50,000 fine for her role in these unauthorized exports. In 2006, Wen was sentenced to five years in prison, a $50,000 fine and two years' supervised release. Additionally, the court ordered the forfeiture of the home of Wen and Lin and over $329,000 in cash.

Manten Electronics

The Violation: Four former employees of Manten Electronics, Weibu Xu, aka Xu Weibu, aka Kevin Wu, Hao Li Chen, aka Ali Chan, Xiu Ling Chen, aka Linda Chen, Kwan Chun Chan, aka Jenny Chan, illegally exported millions of dollars of sensitive national security controlled items, with applications in radar, electronic warfare and communications systems, to state-sponsored institutes in China. On September 13, 2005, Kevin Wu pled guilty to violating the Export Administration Act and the Arms Export Control Act. Wu and the other defendants also pled guilty to conspiracy charges.

The Penalty: On May 1, 2006, the four defendants were sentenced. Specifically, Kevin Xu was sentenced to 44 months in prison, and two years' probation; Ali Chan was sentenced to 30 months in prison and two years' probation; Linda Chen was sentenced to 18 months in prison and two years' probation; and Jenny Chan was sentenced to six months' home confinement and two years' probation. The defendants also agreed to forfeit $391,337, their profits from the illegal exports.

Elan Pharmaceuticals

The Violation: Between May 2000 and April 2002, Elan Pharmaceuticals, Inc. (Elan), of San Francisco, California, made four exports of a synthetic conopeptide MVIIA medical product, ziconotide (trade named PRIALT) to Belgium, without the required export licenses.

PRIALT is the synthetic equivalent of a nontoxic peptide that is a component of the venom produced by the marine cone snail. Elan was studying and developing PRIALT as a new therapy for pain management. PRIALT is controlled for chemical and biological chemical warfare, and anti-terrorism reasons.

The Penalty: Elan agreed to a $31,000 civil penalty, and to perform an internal audit of its export compliance program one year from the date of the agreement.

Mitigating Circumstances: Elan voluntarily self-disclosed these violations and cooperated fully with the investigation.

EMD Biosciences, Inc.

The Violation: EMD Biosciences, Inc. (EMD) of San Diego, California exported biological toxins to Canada in violation of the EAR. Between June 2002 and July 2003, EMD committed 134 violations of the EAR in connection with 67 exports of biological toxins to Canada that were made without obtaining required Department of Commerce export licenses.

The Penalty: EMD agreed to a $904,500 civil penalty and to a two-year suspended denial order.

Zhaoxin Zhu

The Violation: On May 6, 2004, Zhaoxin Zhu of Shenzhen, China pled guilty to conspiring to purchase controlled satellite and radar technology for illegal export to China. Zhu negotiated with undercover federal agents to purchase a variety of sensitive goods, including traveling wave tubes with satellite and radar applications, for export to China.

The Penalty: Zhu was sentenced to twenty-four months in prison and three years' supervised release.

Stoelting Company

The Violation: Stoelting Company, of Wood Dale, Illinois, and its president, LaVern Miller, illegally exported polygraph machines to China without required export licenses. These items are restricted to China for human rights reasons.

The Penalty: Stoelting was sentenced to two and a half years' corporate probation and a $20,000 criminal fine. Miller was sentenced to two and a half years' probation, including six months of electronically monitored home confinement, 500 hours community service and a criminal fine equivalent to the costs of his probation and monitoring, estimated to be $18,000. In addition, Stoelting and Miller each agreed to $44,000 in administrative penalties, and Stoelting agreed to a five-year suspended denial of export privileges.

Bass Pro, Inc.

The Violation: Bass Pro, Inc. exported gun sights to a variety of destinations without a license in violation of the EAR. Gun sights are controlled pursuant to U.S. treaty obligations, as well as for human rights and anti-terrorism reasons.

The Penalty: Bass Pro agreed to a $510,000 administrative penalty.

Dr. Thomas Butler

The Violation: On January 14, 2003, Dr. Thomas Campbell Butler, M.D., a professor at Texas Tech University in Lubbock, Texas reported to the FBI that thirty vials of a potentially deadly plague bacteria, *Yersinia pestis* (the causative agent of human plague), were missing and presumed stolen from his research lab. The report sparked a bio-terrorism alert in west Texas and President Bush was informed of the incident. However, investigation proved that Dr. Butler had illegally exported the *Yersinia pestis*, which is a controlled item under the EAR and cannot be exported without the required export licenses from BIS. On January 15, 2003, Dr. Butler was arrested.

Dr. Thomas C. Butler

Dr. Butler was found guilty of numerous charges at trial, two of which were export control-related: making false, fraudulent and fictitious statements regarding the exports to federal agents and making an unauthorized export to Tanzania.

The Penalty: Dr. Butler was convicted of forty-seven counts of a sixty-nine count indictment that stemmed from BIS's investigation. He was sentenced to two years in prison on March 10, 2004, and he resigned from Texas Tech. On October 24, 2005, the U.S. Court of Appeals for the Fifth Circuit affirmed his earlier conviction. In the administrative case, Dr. Butler agreed to a $37,400 administrative penalty and to accept a denial of his export privileges for a period of ten years.

Omega Engineering Inc.

The Violation: Omega Engineering Inc., of Stamford, Connecticut and its former Vice President, Ralph Michel, violated the EAR by exporting certain laboratory equipment to Pakistan in 1997 after BIS had denied a license for the same shipment earlier that year.

The Penalty: In the criminal cases, Michel was sentenced to ten months' imprisonment and fined $50,000, and Omega was sentenced to a $313,000 criminal penalty and five years' corporate probation. In the administrative cases, Omega agreed to a $187,000 penalty and to a five-year denial of export privileges to Pakistan. BIS also denied Michel's export privileges to Pakistan for five years.

Worldwide Sports & Recreation, Inc. / Bushnell Corporation

The Violation: Between September 1995 and December 1997, Worldwide Sports & Recreation, Inc., which does business as Bushnell Corporation, exported Night Ranger night vision devices to Japan and fourteen other countries, without the required BIS export licenses. Bushnell sold the cameras to a Japanese company but transferred them to a U.S. company in Florida knowing that they were going to be exported to Japan. The foreign company and the domestic intermediary pled guilty and cooperated.

The Penalty: In the criminal case, Bushnell was sentenced to a $650,000 criminal fine and five years' probation. In the related administrative case, Bushnell agreed to an administrative penalty of $223,000 and to a one-year suspended denial of export privileges.

Honeywell International Inc.

The Violation: Between December 2001 and February 2002, Honeywell exported hydrogen fluoride to Mexico from Louisiana without the required export licenses from BIS.

The Penalty: Honeywell agreed to a $36,000 administrative penalty.

Mitigating Circumstance: Honeywell voluntarily self-disclosed the violations and cooperated fully with the investigation.

Silicon Graphics, Inc. (SGI)

The Violation: In 1996, SGI knowingly exported Challenge L computer systems, upgrades, and peripheral equipment to the All-Russian Institute for Technical Physics (Chelyabinsk-70) without the required export license from BIS. Additionally, SGI re-exported computers from its facility in Switzerland to the United Arab Emirates without the required licenses and failed to notify BIS of certain computer exports as required by the EAR.

The Penalty: In the criminal case, SGI pled guilty to two felony charges and was sentenced to $1 million in criminal fines. In the related administrative case, SGI agreed to a $182,000 administrative penalty. SGI's exporting privileges to Russia were denied for a period of three years. The denial of export privileges was suspended. SGI also agreed, for a period of three years, not to exercise its eligibility to use License Exception CTP for exports and re-exports to Russia, or to engage in any activity such as the repair or maintenance of computers involving any military or nuclear end-user or end-use in Russia without the prior written consent of BIS. Finally, SGI agreed to report to BIS, within 45 days, all of its exports to certain countries of concern during the prior six months.

Morton International, Inc.

The Violation: Between 1999 and 2001 Morton International, Inc. exported and attempted to export thiodiglycol to Mexico and organo-inorganic compounds to Singapore and Taiwan without the required export licenses from BIS. Between 1997 and 2000, Morton International, Inc. affiliates, Morton International, S.A.S. and Rohm and Haas Japan re-exported organo-inorganic compounds to Israel, Poland, Tunisia, Taiwan and India without the required export licenses from BIS.

The Penalty: Morton and its affiliates agreed to a $647,500 administrative penalty.

Mitigating Circumstance: Morton International, Inc. voluntarily disclosed the violations relating to the shipments of organo-inorganic compounds to BIS and cooperated with the investigation.

Roper Scientific, Inc.

The Violation: Between March 13, 2000 and August 24, 2000, Roper Scientific, Inc. knowingly exported certain night vision cameras without the required export licenses from BIS. These cameras were exported to various destinations, including South Korea, Japan, and Italy. Roper also failed to retain certain export control documents and made false statements on a SED.

The Penalty: Roper agreed to a $422,000 administrative penalty.

Mitigating Circumstance: Roper voluntarily self-disclosed the violations and cooperated fully with the investigation.

PARTNERSHIP BETWEEN EXPORT ENFORCEMENT AND YOU

By employing best compliance practices and working together with Export Enforcement, your company can avoid illegal transactions, thereby helping you to:

- **avoid negative publicity**
- **avoid fines and imprisonment**
- **avoid costs for legal representation resulting from a criminal or administrative proceeding.**

STRENGTHENING OUR PARTNERSHIP MEANS WORKING TOGETHER TO ENHANCE OUR NATIONAL SECURITY

www.bis.doc.gov

Chapter 2 - License Conditions

Introduction

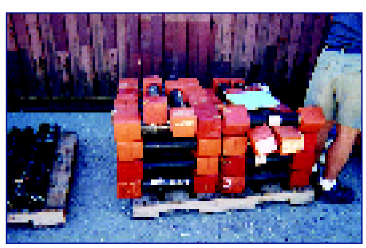
To minimize the potential diversion or misuse of licensed exports, BIS adds conditions to nearly all export licenses. License conditions may, among other things, restrict the way an item is used after export, or it may require certain reports to be made by the exporter. The conditions are created through an interagency process that includes BIS and agencies at the Departments of State and Defense, among others. The use of license conditions allows the Government to approve license applications that might otherwise be denied. Once a license is issued, BIS seeks to ensure compliance with the conditions.

Criminal and Administrative Case Examples

WesternGeco LLC/Western Geophysical

The Violation: From June through November 2000, Western Geophysical Company of America failed to abide by conditions on export licenses for underwater geophysical mapping equipment exported to the People's Republic of China (PRC). Between December 2000 and January 2001, WesternGeco took control of the equipment that was subject to the licenses at issue, and also failed to abide by the same license conditions. The license conditions required the equipment, which was controlled for national security reasons, to be monitored on a weekly basis while stored in the PRC.

The Penalty: On September 1, 2006, WesternGeco agreed to a civil penalty in the amount of $925,000, and Western Geophysical Company of America agreed to administrative penalties totaling $1,965,600.



Ocean Bottom Cables, Modules and Hydrophones

E.D Bullard

The Violation: E.D. Bullard, of Kentucky, exported and re-exported thermal imaging cameras to Austria, the Czech Republic, France, Germany, Israel, Spain, Switzerland, and Venezuela, in violation of the EAR. Bullard, with assistance from Bullard Gmbh of Bonn, Germany, caused the export, re-export, reselling and transferring of thermal imaging cameras from the United States to the aforementioned countries without the required export licenses, to intermediate consignees not authorized under a license, after a license had expired, in quantities exceeding those authorized by a license, and in violation of the terms and conditions of a license. In addition, Bullard made false statements on SEDs in connection with many of the shipments. Bullard Gmbh also resold, re-exported, and transferred thermal imaging cameras to Austria, France and Switzerland in violation of the EAR.

The Penalty: E.D. Bullard agreed to a $330,000 administrative penalty in June 2005. Bullard Gmbh agreed to a $36,000 administrative penalty.

Global Dynamics Corporation

The Violation: Between May 2001 and January 2002, Global Dynamics Corporation exported and attempted to export military truck parts to South Korea in violation of the terms of a BIS license. Most of these exports were in excess of the dollar limit on an export license previously issued to Global.

The Penalty: Global agreed to a $38,000 administrative penalty. A portion of the administrative penalty, $8,000, was suspended for one year.

Sun Microsystems, Inc.

The Violation: Sun Microsystems of Santa Clara, California (Sun) failed to comply with the terms and conditions of BIS licenses that were granted to Sun for the export of high performance computers by not filing copies of certain documents with BIS after the exports occurred. Additionally, Sun exported computers to military end-users in the PRC and Egypt without the required BIS licenses and altered a document responsive to a subpoena, among other violations.

The Penalty: Sun agreed to a $269,000 administrative penalty and to a one-year denial of its export privileges. The denial of export privileges was suspended.

Note: BIS also settled cases with two of Sun's subsidiaries for aiding and abetting the unlicensed export to the military end-user in China.

Chapter 3 - Deemed Exports

Introduction

Most people think of an export as the shipment of a commodity from inside the United States to a foreign country, but that is only one type of export. Under the EAR, the release of technology or source code to a foreign national, even if the foreign national is in the United States, is also "deemed" to be an export to the home country or countries of the foreign national and may require a license under the EAR. Technology can be released through visual inspection, oral exchanges of information, or the application to situations abroad of personal knowledge or technical experience acquired in the United States. For example, if a graduate student who is an alien with a valid visa reviews controlled technology pursuant to a grant from a private company that will not publicly release the study, an export license or license exception may be required because the review could be considered a "deemed export".

Criminal and Administrative Case Examples

Hexcel Corporation

The Violation: From October 2001 through October 2002, Hexcel Corporation (Hexcel) granted a Taiwanese national access to technology to produce bismaleimide resin without the required export license under the deemed export provisions of the EAR. Bismaleimide resin is controlled for national security reasons. In addition to the deemed export transaction, Hexcel exported 21 shipments of carbon fiber (AS4, AS4C, and Nextel 312) to various countries without the required export licenses. AS4 and AS4C carbon fiber and Nextel 312 are controlled for export based on national security and anti-terrorism policy reasons. Carbon fiber composite materials are used in a wide array of commercial and military products, ranging from manufacturing aircraft and aerospace components that are lighter and stronger than those made from metals, to production of better surf boards and golf clubs.

The Penalty: Hexcel agreed to a $203,400 administrative penalty covering the deemed export violation and the other export violations.

Mitigating Circumstances: Hexcel voluntarily self-disclosed the violations and cooperated fully in the investigation.

Suntek Microwave, Inc. and Charlie Kuan

The Violation: Suntek Microwave, Inc. of Newark, California (Suntek) and its former president, Charlie Kuan, failed to obtain required export licenses for shipments of detector log video amplifiers (DLVA). The items are controlled for national security reasons. Suntek shipped the items to Chengdu Jeway Microwave Telecommunications, a company controlled by the Chinese government. Suntek also failed to obtain export licenses under the deemed export provisions of the EAR for Chinese nationals who worked at Suntek and were trained in DLVA manufacturing technology controlled by the EAR.

The Penalty: Suntek agreed to a $339,000 criminal fine. Kuan was sentenced in July 2005 to imprisonment for twelve months and one day. BIS assessed Suntek a $275,000 administrative penalty (suspended) and Kuan a $187,000 administrative penalty (suspended) and issued orders denying both Suntek's and Kuan's export privileges for 20 years.

Fujitsu Network Communications, Inc.

The Violation: Between 1996 and 2000, Fujitsu Network Communications, Inc. failed to obtain the required BIS licenses for the release of controlled technology to foreign nationals from the PRC and Ukraine employed by the firm to conduct research on the development and manufacturing of commercial digital fiber-optic transmission and broadband switching equipment, software, and technology controlled for national security reasons.

The Penalty: Fujitsu agreed to a $125,000 administrative penalty.

Mitigating Circumstance: Fujitsu voluntarily self-disclosed the violations and cooperated fully with the investigation.

Pratt & Whitney

The Violations: Between August 1998 and September 1999, Pratt & Whitney failed to obtain the required BIS export licenses to release controlled technology relating to material coating and gas turbine engine components to foreign nationals from various countries, including Germany, the Netherlands, and Spain. Pratt also failed to obtain the required licenses for exports it made to China, Japan, and Singapore.

The Penalty: Pratt & Whitney agreed to a $150,000 administrative penalty.

Mitigating Circumstance: Pratt & Whitney voluntarily self-disclosed the violations and cooperated fully with the investigation.

New Focus, Inc.

The Violations: From 2000 to 2002, New Focus failed to obtain the export licenses required to transfer technology to two Iranian nationals and one Chinese national to whom, in the course of their employment in the United States, manufacturing technology controlled by the EAR was released. Also, between 1997 and 2001, New Focus failed to obtain the required export licenses for shipments of amplifiers to the Czech Republic, Singapore, and Chile.

The Penalty: New Focus agreed to a $200,000 administrative penalty.

Mitigating Circumstance: New Focus voluntarily self-disclosed the violations and fully cooperated with the investigation.

Lattice Semiconductor Corporation

The Violations: Between July 2000 and January 2002, Lattice Semiconductor Corporation (Lattice), without obtaining the required BIS licenses, released technical data to Chinese nationals who were brought to the United States from the PRC for technical training in the United States. Also, between April 2000 and July 2001, Lattice exported extended temperature range programmable logic devices to the PRC without the required export licenses and exported the related technical data to the PRC without the required export licenses.

The Penalty: Lattice agreed to a $560,000 administrative penalty.

Mitigating Circumstance: Lattice voluntarily self-disclosed the violations and fully cooperated with the investigation.

Chapter 4 - State Sponsors of Terrorism

Introduction

The United States maintains comprehensive export controls against countries that have been designated by the Secretary of State to be state sponsors of terrorism. In some cases, such countries are subject to partial or complete embargoes, maintained on a multilateral or unilateral basis. As a result, many exports to these countries, even of ordinary commercial items such as sunglasses or perfume that are not typically controlled to other countries, may require authorization from the U.S. Government. BIS or the Department of the Treasury's Office of Foreign Assets Control (OFAC)—or, in some cases, both agencies together—work to implement the licensing requirements and enforce these controls. Trade with these destinations should be undertaken with extra caution.

UNITED STATES DEPARTMENT OF THE TREASURY

What is OFAC and what does it do?

The Office of Foreign Assets Control administers and enforces economic sanctions programs against countries and groups of individuals, such as terrorists and narcotics traffickers. The sanctions can be either comprehensive or selective, using the blocking of assets and trade restrictions to accomplish foreign policy and national security goals.

Regional Considerations:

It is important to familiarize yourself with the restrictions that apply to the ultimate destination of your export. U.S. law in this area frequently changes in accordance with an evolving foreign policy. The following websites are good resources:

OFAC's website:
http://www.treas.gov/offices/enforcement/ofac/

BIS's website:
http://www.bis.doc.gov/PoliciesAndRegulations/regionalconsiderations.htm

Criminal and Administrative Case Examples

Naji Antoine Abi Khalil and Tomer Grinberg

The Violation: Naji Antoine Abi Khalil pled guilty to criminal charges, including a violation of the International Emergency Economic Powers Act ("IEEPA"), for attempting to export BIS and State Department controlled night vision equipment to Greece, knowing they would be shipped to the foreign terrorist organization Hezbollah in Beirut, Lebanon. Tomer Grinberg, a freight forwarder, conspired to export the equipment, and pled guilty to conspiracy to violate IEEPA. This case is one of the first significant BIS cases involving exports of EAR-controlled dual-use items to a terrorist group.

The Penalty: On February 13, 2006, Khalil was sentenced to two five-year prison terms and a fifty-seven month prison term, all to be served concurrently, and a $100,000 criminal fine. Grinberg was sentenced on April 12, 2006, to six months in prison. On January 4, 2007, Grinberg was deported from the United States. On November 14, 2006, BIS denied Khalil's and Grinberg's export privileges for ten years, pursuant to Section 11(h) of the Export Administration Act.

Continental Cable Company

The Violation: Continental Cable Company, of Hinsdale, New Hampshire, exported U.S.-origin equipment to Iran, without the required export licenses.

The Penalty: On March 14, 2006, Continental Cable Company was sentenced to a $5,000 criminal penalty.

GasTech Engineering Corporation

The Violation: Gastech Engineering Corporation (Gastech) committed violations of the Iranian Transactions Regulations relating to a $12 million contract with the National Iranian Gas Company. GasTech attempted to evade U.S. sanctions against Iran by subcontracting a large portion of the contract to a Calgary, Canada firm.

The Penalty: On March 10, 2006, GasTech was sentenced to five years' probation, a $50,000 criminal asset forfeiture penalty, a $33,000 regulatory penalty to be paid to OFAC and a $5,000 criminal fine.

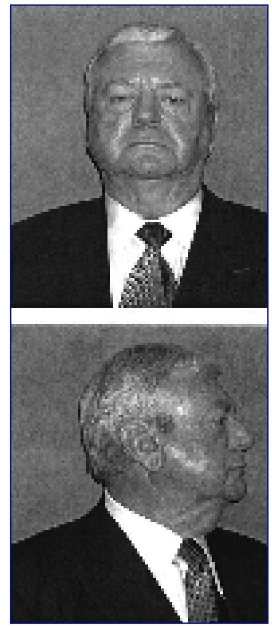
Khalid Mahmood and David Tatum

The Violation: In 2003, Khalid Mahmood, d/b/a Sharp Line Trading, of Dubai, U.A.E., committed export violations in connection with the sale to an Iranian company of forklift parts from a U.S. supplier, Clark Material Handling Company (Clark), in violation of the U.S. embargo. The transaction was structured through Mahmood/Sharp Line to conceal the ultimate destination of the goods. In November 2005, Mahmood pled guilty to one count of conspiracy. David Tatum, formerly a Vice President of Clark, pled guilty to making a false statement to federal agents in connection with the case.

The Penalty: On January 19, 2006, Mahmood was sentenced to time served (17 months). On August 4, 2006, Tatum was sentenced to one year probation, 50 hours of community service and a $5,000 fine.

Sepahan Lifter Company

Khalid Mahmood



David Tatum

PA Inc.

The Violation: PA Inc. of Houston, Texas attempted to make an illegal export of specialty nickel alloyed piping to Iran.

The Penalty: In 2005, PA Inc. was sentenced to three years' probation and a $50,000 criminal fine. PA Inc. also agreed to a $50,000 administrative penalty and to a five-year suspended denial of export privileges.

Erik Kyriacou

The Violation: Erik Kyriacou, a former NBC cameraman and resident of Long Island, New York, attempted to illegally export night vision lenses to Iran. The lenses had been stolen from NBC News in New York. Kyriacou attempted to sell the lenses on the Internet to undercover agents posing as international arms brokers. Kyriacou agreed to sell the lenses to the agents knowing that they were destined for shipment to Iran in violation of the U.S. embargo.

The Penalty: Kyriacou was sentenced to five years' probation and four months' home confinement.

Tesmec S.P.A.

The Violation: Tesmec S.P.A., an Italian company, aided and abetted the attempted unlicensed export of a trencher, valued in excess of $1 million, for ultimate delivery to the Western Libya Gas Project in Libya.

The Penalty: Tesmec was sentenced to a criminal fine of $85,000.

ExxonMobil Corporation

The Violation: ExxonMobil Corporation's predecessor, Mobil Oil Corporation, located in Texas, the United Kingdom, and Egypt, participated in or was otherwise liable for the unauthorized re-export of computers and related hardware to Sudan. On three occasions between June 1999 and February 2000, Mobil Services Company Ltd. and Mobil Oil Egypt caused the re-export of computer servers and laptop computers to a Mobil Oil subsidiary in Sudan without the required export licenses. The computer equipment was controlled for export to Sudan for anti-terrorism reasons and was restricted by the trade embargo against Sudan.

The Penalty: ExxonMobil agreed to administrative penalties totaling $49,500.

Dosmatic U.S.A., Inc.

The Violations: Between May and August of 2001, Dosmatic U.S.A, Inc. (Dosmatic) and its former Chief Financial Officer, Reza Pirasteh, violated U.S. export control laws by illegally shipping liquid injectors to Iran via Belgium.

The Penalty: In the criminal case, Dosmatic pled guilty to violating U.S. export control laws and was ordered to pay a criminal fine of $50,000 and placed on probation for three years. Pirasteh also pled guilty and was sentenced to a criminal fine of $2,000 and three years' probation for making a false statement to federal investigators about Dosmatic's export activities. In the related administrative cases, Dosmatic agreed to a $44,000 administrative penalty and to a thirty-month denial of its export privileges. The denial of export privileges was suspended. Pirasteh agreed to a $4,500 administrative penalty and to a seven-year denial of his export privileges.

State Sponsors of Terrorism:

- Cuba
- Iran
- North Korea
- Sudan
- Syria

Chapter 5 – Transshipment and Re-exports

Introduction

Parties to an export transaction cannot bypass the EAR by shipping items through a third country. The transshipment, re-export, or diversion of goods and technologies in international commerce may be a violation of U.S. law. For example, an exporter cannot bypass the U.S. embargo against Iran by shipping an item to a distributor in the United Kingdom and asking that distributor to transship the item to a customer in Iran. Under U.S. law, this would be considered an export to Iran, even though it does not go directly to that country, and both the U.S. exporter and the United Kingdom distributor could face liability.

Assistant Secretary for Export Enforcement Darryl W. Jackson (center) and Hong Kong Customs and Excise Department's Head of Trade Controls Raymond Y.M. Wong (far right) tour the container port of Hong Kong with Hong Kong port security officials.

Criminal and Administrative Case Examples

Ernest Koh

The Violation: Singapore businessman, Ernest Koh, doing business as Chong Tek, obtained U.S. aircraft parts, which can be used in C-130 military transport planes and P-3 Naval Aircraft and diverted them to Malaysia for transshipment to Iran, in violation of the U.S. embargo against Iran. Koh obtained the aircraft parts from his co-conspirator, an American aircraft parts supplier, without the required export licenses. In addition, Koh laundered millions of dollars from his bank accounts in Singapore through accounts in the U.S. to promote the ongoing illegal scheme.

The Penalty: Koh was sentenced to 52 months in prison.

Supermicro Computer Incorporated

The Violation: Between December 2001 and January 2002, Supermicro Computer Incorporated (Supermicro) exported 300 computer motherboards to Dubai, United Arab Emirates (UAE), for transshipment to Iran, without the required export license. Supermicro made the shipment to the UAE, knowing the ultimate destination was Iran. At the time of the export, the items were controlled for national security and anti-terrorism reasons and would have required a license for shipment to Iran.

The Penalty: In the criminal case, Supermicro was sentenced to a criminal fine of $150,000. Supermicro also agreed to $125,400 in civil penalties. As part of the plea agreement, Supermicro implemented a new export control program.

Dresser, Inc.

The Violation: Between June 2000 and April 2004, Dresser Inc. (Dresser) and 7 of its affiliate companies violated the EAR by exporting and reexporting various oil industry-related items and causing, aiding or abetting the export of such items through 141 transactions involving Iran, Iraq, Libya and Cuba that occurred without the required licenses from the Department of Commerce.

The Penalty: Dresser and its affiliates agreed to administrative penalties totaling $1.1 million.

Mitigating Circumstance: Dresser voluntarily self-disclosed the violations and cooperated fully with the investigation.

Ebara International Corporation

The Violation: Ebara International Corporation (EIC) and Everett Hylton, EIC's founder and former Chief Executive Officer, violated the EAR by conspiring with others to export cryogenic in-tank submersible pumps to Iran without the required export licenses and evading the requirements of the EAR by participating in actions to conceal the illegal exports. Specifically, EIC, Hylton and their co-conspirators devised and employed a scheme under which EIC sold the pumps to a co-conspirator in France, who then forwarded the pumps to Iran. In order to conceal the illegal exports, EIC and Hylton falsified documents to conceal that the pumps were destined for Iran, created documents stating the ultimate destination was France, and avoided marking parts for the pumps with EIC identification stamps.

The Penalty: In the criminal case, Ebara pled guilty to conspiring to violate U.S. export control laws and was sentenced to a $6.3 million criminal fine and three years' probation. In the related administrative case, Ebara agreed to a $121,000 administrative penalty and to a three-year denial of export privileges. The denial of export privileges was suspended. Also, in the criminal case, Hylton was sentenced to a $10,000 criminal fine and three years' probation. In the related administrative case, Hylton agreed to a $99,000 administrative penalty.

Lam Research Singapore Pte. Ltd.

The Violation: During November and December of 2000, Lam Research Singapore Pte. Ltd. (LRS) knowingly re-exported U.S.-origin pressure transducers from Singapore to Malaysia without the required BIS licenses.

The Penalty: LRS agreed to a $40,000 administrative penalty.

Mitigating Circumstance: LRS voluntarily self-disclosed the violations and cooperated fully in the investigation.

Compaq

The Violation: Between 1994 and 2000, Digital Equipment Corporation and its subsidiaries violated the EAR by exporting or re-exporting computers and computer equipment without the required export licenses from BIS. Exports of these commodities were destined for South Korea. Re-exports of these U.S.-origin goods were made from Hong Kong to the PRC and from Singapore to India. Digital Equipment Corporation has now merged with Compaq.

The Penalty: Compaq agreed to a $39,000 administrative penalty.

Mitigating Circumstances: Compaq voluntarily self-disclosed the violations and cooperated fully in the investigation.

INCREASING TRANSPARENCY THROUGH PENALTY GUIDANCE

BIS has issued guidance (found in Supplement No. 1 to Part 766 of the EAR) to provide the public with a comprehensive description of how BIS determines appropriate penalties in the settlement of administrative enforcement cases. It explains that BIS carefully considers each settlement offer in light of the facts and circumstances of the case, relevant precedent, and BIS's objective to achieve an appropriate level of penalty and deterrent effect.

The penalty guidance is available online at: *http://www.access.gpo.gov/bis/ear/pdf/766.pdf*

Several factors are taken into account when determining the appropriate administrative penalty. The penalty guidance encourages parties to provide information to BIS that would be helpful in the application of the guidance to their cases and discourages parties from proceeding in a manner that BIS would consider harmful to the resolution of their cases or that may cause interference.

Some factors are given "great weight" and are treated as considerably more significant than factors that are not so designated.

- General factors for consideration include:
  - Destination of the export
  - Degree of willfulness involved in violations
  - Number of violations
  - Criminal charges
- Mitigating factors include:
  - Voluntary self-disclosure of violations ("great weight")
  - Effective export compliance program ("great weight")
  - Exceptional cooperation with BIS investigation
  - Assistance to other BIS investigations
  - No previous record of violations
- Aggravating factors include:
  - Deliberate effort to hide or conceal violations ("great weight")
  - Serious disregard for export compliance responsibilities ("great weight")
  - Item is significant due to its sensitivity or reason for control ("great weight")
  - History of violations
  - High quantity or value of exports

Chapter 6 - Freight Forwarder

Introduction

Primary responsibility for compliance with the EAR generally falls on the "principal parties in interest" in a transaction, who are usually the U.S. seller and the foreign buyer. However, freight forwarders or other agents acting on behalf of the principal parties are responsible for their actions, including the representations they make by signing an export declaration or other export control document.

To help avoid liability in an export transaction, agents and exporters must decide whether any aspect of the transaction raises red flags, inquire about those red flags, and ensure that suspicious circumstances are not ignored. Both the agent and the principal party are responsible for the accuracy of each entry made on an export document. Good faith reliance on information provided by the exporter may excuse an agent's actions in some cases, but the careless use of pre-printed "No License Required" forms or unsupported entries can get an agent into trouble.

Criminal and Administrative Case Examples

Salinas International Freight Company, Inc.

The Violation: Salinas International Freight Company, Inc. (Salinas) exported computers and related equipment, in violation of Tetrabal Corporation's Temporary Denial Order. Salinas also made a misrepresentation of license authority on the SED. Salinas filed a SED stating that computers and related equipment qualified for export as NLR ("No License Required"), when, in fact, a license was required for the exports.

The Penalty: Salinas agreed to administrative penalties totaling $11,600.

DHL Holdings

The Violation: During late 2001, DHL Holdings USA, Inc. (DHL) violated the EAR by forwarding items subject to the EAR, including a strobe, networking equipment and printers, to Saudi Arabia on behalf of parties subject to a Temporary Denial Order.

The Penalty: DHL agreed to an $18,000 administrative penalty in October 2005.

DSV Samson Transport

The Violation: DSV Samson Transport, a freight-forwarding company based in New Jersey, pled guilty to forwarding shipments to India between 1999 and 2001 despite being warned by Special Agents from the BIS Office of Export Enforcement on at least three occasions that such shipments would be in violation of BIS export controls designed to prevent nuclear proliferation.

The Penalty: In the criminal case, DSV Samson Transport was sentenced to a $250,000 criminal fine and five years of probation. In the related administrative case, DSV Samson agreed to an administrative penalty of $399,000.

OSPECA Logistics Inc.

The Violation: Between December 2001 and February 2002, freight forwarder OSPECA Logistics of Brownsville, Texas, exported shipments of hydrogen fluoride to Mexico on behalf of a customer, without the required export licenses from BIS. In addition to the unlicensed export violations, OSPECA filed false SEDs in conjunction with the shipments.

The Penalty: OSPECA agreed to a $60,000 administrative penalty, of which $15,000 was suspended.

Federal Express

The Violation: In 2001, Federal Express exported items subject the EAR, in violation of Temporary Denial Orders imposed on Tetrabal Corporation and Yuri Montgomery. In 2004, Federal Express aided and abetted the export of a computer to Syria without the required export license. In addition, Federal Express filed an Automated Export System record stating that the export in question did not require an export license, when, in fact, it did.

The Penalty: Federal Express agreed to administrative penalties totaling $40,000 for settlement of the 2001 and 2004 charges.

Chapter 7 – "Catch-All" Controls

Introduction

As mentioned in Chapter One, BIS controls exports of items not only based on their technical specifications, but also based on their intended end-use and end-user. The EAR impose license requirements on exports of items subject to the EAR if the exporter knows or has reason to know that any of the items will be used in an end-use of particular concern to the U.S. Government, such as a missile or nuclear weapons program. These controls are often referred to as "catch-all" controls because they apply to any item subject to the EAR, even if the item would not ordinarily require a license based on its technical specifications.

The U.S. Government has officially notified the public, through the Entity List published in Supplement Four to Part 744 of the EAR, that exports to certain end-users present an unacceptable risk of being diverted to an end-use of concern and require a license. While this List assists businesses in determining whether an entity poses proliferation concerns, it is not comprehensive. It does not relieve parties to an export transaction of their responsibility to determine the nature and activities of potential customers who may not be on the Entity List (see BIS's "Know Your Customer" Guidance in Supplement No. Three to Part 732 of the EAR, available on the BIS website).

The Entity List is published in the *Federal Register*. The *Federal Register* is the official source of information about organizations on BIS's Entity List. The Federal Register from 1995 to the present is available on the Government Printing Office Access Web site. The current Entity List can also be found on the BIS website at ***http://www.bis.doc.gov/***.

Criminal and Administrative Case Examples

Interturbine Logistics/Top Line Express, Inc.

The Violation: Between February 2002 and March 2003, Interturbine Logistics (ITL) exported sealants for fuel tanks to Bharat Dynamics Ltd. of Hyderabad, India, an organization on BIS's Entity List, without the license required by the Department of Commerce. In addition, ITL exported oil filters and elements of oil filters to Mahan Airlines, an Iranian owned airline, located in the UAE for use on an Iranian controlled aircraft without the required export license. ITL filed a SED stating that the items qualified for export as "NLR," i.e., that no license was required, when, in fact, an export license was required. Top Line Express, Inc., the freight forwarder, aided and abetted the export of sealants and fuel tanks to Bharat Dynamics Ltd.

The Penalty: ITL agreed to administrative penalties totaling $30,800. Topline Express agreed to administrative penalties totaling $6,500 for assisting ITL.

Fiber Materials Inc.

The Violation: Fiber Materials Inc. of Maine, its wholly owned subsidiary, Materials International of Massachusetts, and the companies' two top officers, Walter Lachman and Maurice Subilia, violated and conspired to violate U.S. export restrictions in connection with the unlicensed export to India of equipment used to manufacture carbon-carbon components with applications in ballistic missiles. The equipment, a specially designed control panel for operation of a hot isostatic press used to produce carbon-carbon items, was exported to the Defense Research Development Laboratory in India and delivered to Agni, the defense laboratory developing India's principal nuclear-capable ballistic missile.

The Penalty: Lachman was sentenced to three years' probation, the first year of which was to be spent in home detention. Subilia was sentenced to three years' probation, the first six months of which were to be spent in community confinement to be followed by one year of home detention. Lachman, Subilia, and Fiber Materials were fined $250,000. No fine was imposed on Materials International because it is a wholly-owned subsidiary of Fiber Materials. On March 12, 2007, Lachman, Subilia, Fiber Materials and Materials International were denied export privileges under the EAR for ten years by BIS.

Becton, Dickinson & Co.

The Violation: Becton, Dickinson & Co.'s Singapore foreign branch office committed a total of thirty-six violations of the EAR by exporting various life sciences research products to the following Indian listed entities without the required licenses: Bhabha Atomic Research Center; Defence Institute of Physiology & Allied Sciences, Defense Research and Development Organization; Saha Institute of Nuclear Physics, Department of Atomic Energy; and Tata Institute of Fundamental Research, Department of Atomic Energy.

The Penalty: Becton, Dickinson & Co agreed to a $123,000 administrative penalty and to perform an audit of its internal compliance program within two years.

Mitigating Circumstance: Becton, Dickinson & Co. voluntarily self-disclosed the violations and cooperated fully with the investigation.

IBM East Europe/Asia Ltd.

The Violation: Between 1996 and 1997, IBM East Europe/Asia Ltd., a Russian subsidiary of International Business Machines Corporation, exported computers to a Russian nuclear weapons laboratory, Arzamas-16, having reason to know that the computers would be used "directly or indirectly" in research on, or development, design, manufacture, construction, testing or maintenance of nuclear explosive devices and without the required BIS license.

The Penalty: In the criminal case, IBM pled guilty to an export violation and was sentenced to an $8.5 million criminal fine. In the related administrative case, IBM agreed to a $171,000 administrative penalty and to a two-year denial of export privileges. The denial of export privileges was suspended.

Berkeley Nucleonics Corporation

The Violation: Between 1998 and 2000, Berkeley Nucleonics Corporation (BNC) exported and attempted to export shipments of nuclear pulse generators to the Department of Atomic Energy (DAE) and the Nuclear Power Corporation (NPC), in India, without the required licenses. At the time of the export, DAE and NPC were on BIS's Entity List and exports to DAE and NPC required prior authorization from BIS.


Pulse Generator

The Penalty: In the criminal case, BNC was sentenced to a $300,000 criminal fine and five years' probation. In the related administrative case, BNC agreed to a $55,000 administrative penalty and to a five-year denial of export privileges. The denial of export privileges penalty was suspended. Further, two former employees of BNC pled guilty to misrepresenting and concealing facts on an export document and making a false statement on an export control document. Both were sentenced to criminal fines of $1,000, two years' probation and 100 hours of community service, and were prohibited from engaging in or facilitating export transactions.

RLC Electronics, Inc.

The Violation: Between March 2002 and April 2003, RLC Electronics, Inc. exported power dividers and low pass filters without the required BIS licenses to the Indian Space Research Organization's (ISRO) Telemetry, Tracking and Command Network (ISTRAC). In January 2003, RLC exported position switches without the required BIS license to the ISRO Sriharikota Space Center (SHAR) in Bangalore, India. At the time of the export, ISTRAC and SHAR were on BIS's Entity List and exports to ISTRAC and SHAR required prior authorization from BIS. RLC also made false statements on a SED submitted to the U.S. Government in connection with an export to a listed entity.

The Penalty: RLC Electronics agreed to a $30,000 administrative penalty.

LISTS TO CHECK

- List of Persons Denied Export Privileges
- Unverified List
- Entity List
- Specially Designated Nationals and Terrorist Lists
- Debarred List

Chapter 8 - Denial of Export Privileges

Introduction

BIS has the authority and discretion to deny all export privileges under the EAR of a particular domestic or foreign person or company. BIS may impose a denial of export privileges as a sanction in an administrative case, or as a result of a person's criminal conviction of certain statutes (e.g. the Arms Export Control Act), and may also impose temporary denials to prevent an imminent violation of the EAR. The standard terms of a BIS denial order are published in Supplement Two to Part 764 of the EAR.

BIS publishes the names of persons who have had their export privileges denied in the *Federal Register*. The *Federal Register* is the official source of information about denied persons. The Federal Register from 1995 to present is available on the Government Printing Office Access Web site. A current list of persons denied export privileges can also be found on the BIS website at ***http://www.bis.doc.gov/***.

Criminal and Administrative Case Examples

BiB Industrie-Handel Dipl.Ing M. Mangelsen GMBH/Malte Mangelsen

The Violation: From September 2001 through June 2002, BiB Industrie-Handel Dipl.Ing M. Mangelsen (BiB) and owner Malte Mangelsen (Mangelsen), of Bremen, Germany, conspired with others (Jeffrey Woodbridge and Sigma Enterprises, both of the United Kingdom, and John Clements and Minequip Company, of Miami, Florida) to arrange for the export of spare parts for hydraulic shears to Libya without the required export authorization. During the 2002-2003 period, BiB also took actions to evade the EAR in connection with such unlicensed exports to Libya.

The Penalty: BiB and Manglesen were each ordered to pay a $77,000 administrative penalty and a 20-year denial of export privileges was imposed. In the criminal cases, Clements and Minequip were sentenced to 3 years' probation and fined a total of $5,500. Woodbridge was sentenced to time served plus 3 years' probation and fined $7,100; Sigma Enterprises was fined $21,000. In the related administrative cases, Clements and Minequip agreed to a total of $24,000 ($12,000 each) in administrative penalties; Woodbridge agreed to $15,000 in administrative penalties; and Sigma Enterprises agreed to $18,000 in administrative penalties.

Swiss Telecom/Teepad Electronics General Trading

The Violation: Between December 17, 2001 and March 7, 2002, Swiss Telecom, of Toronto, Canada, purchased telecommunication equipment from a U.S. company with knowledge that the equipment was destined for Iran. In connection with the same transaction, Teepad Electronics General Trading, of Dubai, United Arab Emirates, forwarded telecommunications equipment from a U.S. company to Iran. These transactions were conducted without authorization from the Department of the Treasury, Office of Foreign Assets Control.

The Penalty: A ten year denial of export privileges was imposed on both companies.

Ihsan Elashi

The Violation: During late 2001 and early 2002, Ihsan Elashi, a former corporate officer of InfoCom Corporation, violated a Temporary Denial Order (a 180-day denial of export privileges issued to prevent an imminent violation of the EAR) on numerous occasions both individually and through a new corporation, Tetrabal Corp. Moreover, InfoCom and four of its corporate officers, including Bayan, Ghassan, Basman, and Hazim Elashi, were convicted of dealing in the funds of a Specially Designated Terrorist, a high-ranking official of the terrorist organization Hamas, and, the four, along with Ihsan Elashi, conspired to file false SEDs, and conspired to export certain proscribed computer equipment to Libya and Syria (two then-designated state sponsors of terrorism). Libya is no longer designated a state sponsor of terrorism.

The Penalty: Ihsan Elashi was sentenced to four years in federal prison for violating the denial order and six years in prison and two years' probation for the export violations, conspiracy charges, and false statements. Hazim Elashi was sentenced to five years in prison and two years' parole. He has also been ordered to be deported from the United States at the end of his prison term. In October 2006, Basman and Ghassan Elashi were sentenced to 80 months in prison. Infocom was sentenced to two years' probation. In the related administrative case, the Under Secretary for Industry and Security issued an order requiring Ihsan Elashi to pay a $330,000 administrative penalty and imposed a 50-year denial of export privileges. Basman, Bayan, Hazim, and Ghassan, along with Fadwa Elafrangi, Majida Salem, Maysoon Al Kayali, Infocom Corp., Tetrabal Corp., Al Kayali Corp's Mynet.net Corp., and Synoptix.net were added to Ihsan's 50-year denial of export privileges as related persons.

Yaudat Mustafa Talyi

The Violation: In November and December 2002, Yaudat Mustafa Talyi violated a BIS Temporary Denial Order placed against him on September 30, 2002, by participating in an attempted export of items to the United Arab Emirates, and directing another exporter to handle one of his pending exports.

The Penalty: In the criminal case, in April 2004, Talyi was sentenced to a $25,000 criminal fine, five months' imprisonment, five months' home confinement and twelve months' supervised release. In the related administrative case, Talyi was ordered to pay a $121,000 administrative penalty and a twenty-year denial of export privileges was imposed.

"A Cautionary Tale"

Andrew Pietkiewicz

The Violation: Andrew Pietkiewicz failed to pay a portion of a $25,000 administrative penalty imposed on him by BIS (previously BXA) for the illegal export of computers and computer accessories.

The Penalty: Special Agents from BIS's Office of Export Enforcement obtained an arrest warrant for Pietkiewicz and, on March 5, 2000, they arrested him as he entered the U.S. from Poland. Pietkiewicz was remanded to custody and later pled guilty to a felony charge.

Chapter 9 - False Statement/Misrepresentation of Fact

Introduction

A party to an export transaction may be subject to criminal and/or administrative sanctions for making false statements to the U.S. Government in connection with an activity subject to the EAR. Most frequently, the false statements are made on an export document or to a federal law enforcement officer. Common types of false statements seen by BIS are statements on a Shipper's Export Declaration or Automated Export System filing that an export does not require a license (i.e., that it is "NLR") when in fact a license is required for the shipment, or statements that an export was shipped under a particular license number when in fact that license was for a different item. False statements that are made to the U.S. Government indirectly through another person, such as a freight forwarder, are still violations of the EAR.

Criminal and Administrative Case Examples

EPMedSystems, Inc.

The Violation: EPMedSystems, Inc. exported and re-exported cardiac equipment to Iran without the required U.S. government authorization. Subsequently, EPMedSystems filed a Voluntary Self-Disclosure (VSD) with BIS which contained false statements regarding EPMedSystem's records and actions taken regarding the unlicensed exports and reexports.

The Penalty: EPMedSystems, Inc. agreed to a $244,000 administrative penalty.

Univision

The Violation: Zheng Zheng and her company, Univision, made a false statement in connection with the export of low noise amplifiers controlled for national security reasons to China without obtaining the required license from the Department of Commerce.

The Penalty: Zheng Zheng was sentenced to a $1,000 criminal fine for the false statement. Univision was sentenced to a $1,000 criminal fine for its failure to file the required SED. In the related administrative cases, Zheng Zheng agreed to a $288,150 administrative penalty, of which $188,150 was suspended, and a ten year denial of export privileges. Univision also agreed to a ten year denial of export privileges.

Elatec Technology Corporation/William Kovacs/Stephen Midgley/Sunford Trading Ltd.

The Violation: William Kovacs, his company, Elatec Technology Corporation, Haverhill, Massachusetts, Stephen Midgley, former Production Manager for Elatec, and Sunford Trading Ltd., Hong Kong, China, committed export violations and made false statements relating to the illegal export of a vacuum hot press furnace from the United States to China.

The Penalty: On October 4, 2006, Kovacs was sentenced to one year and one day in prison and three hundred hours of community service after pleading guilty to criminal conspiracy. On January 10, 2005, Stephen Midgley was sentenced to a $1,500 criminal penalty and one year probation after pleading guilty to making a criminal false statement. Sentencing for Elatec Technology is still pending. In the related administrative cases, Kovacs was found in default and assessed a $66,000 administrative penalty and a five year denial of export privileges, based on several charges, including charges that Kovacs made false statements to federal agents in the course of an investigation. Midgley agreed to a $5,000 administrative penalty, of which $4,000 was suspended to settle a charge that he made a false statement on a SED. Sunford Trading agreed to pay a $33,000 administrative penalty and accept a three year denial of export privileges based on several charges related to the unlawful export.

Spector International, Inc.

The Violation: Spector International, Inc., d/b/a Norsal Export, provided false information on a SED in connection with the unlicensed export of microwave amplifiers controlled for national security reasons, to China.

The Penalty: Norsal was sentenced in February 2005 to a $57,000 criminal fine.

Azure Systems

The Violation: On July 16, 2004, Ting-Ih Hsu and Hai Lin Nee of Azure Systems, Inc., of Florida, pled guilty to submitting a document to the U.S. Government which gave false information regarding the export of 25 low noise amplifier chips to a company in the PRC, falsely describing the goods as "transistors" in the export documents.

The Penalty: On October 6, 2004, Hsu and Nee were sentenced to three years' probation.

Emcore Corporation

The Violation: Between 2000 and 2003, Emcore Corporation made false statements to the U.S. Government and violated conditions on export licenses that it had received for exports of Metal Organic Vapor Disposition (MOCVD) tools to the PRC. Further, between 1998 and 2003, Emcore knowingly exported MOCVD tools to Taiwan without the required export licenses, illegally serviced the tools, failed to file SEDs, and failed to retain certain export control documents.

The Penalty: Emcore agreed to a $400,000 administrative penalty.

Mitigating Circumstances: Emcore voluntarily self-disclosed the violations and cooperated fully in the investigation.

Kennametal Inc.

The Violation: Between August 1998 and April 2003, Kennametal Inc. (Kennametal), in connection with making unlicensed exports of nickel powder to Chile, Peru, Taiwan, and Israel, made false or misleading representations on SEDs that were filed with the U.S. Government. Kennametal also failed to comply with reporting and record-keeping requirements.

The Penalty: Kennametal agreed to a $262,500 administrative penalty.

Chapter 10 - Antiboycott Violations

Introduction

The antiboycott provisions of the EAR prohibit U.S. persons from complying with certain requirements of unsanctioned foreign boycotts, including requirements that the exporter provide information about business relationships with a boycotted country or refuse to do business with persons on certain boycott lists. In addition, the EAR requires that U.S. persons report their receipt of certain boycott requests to BIS. Failure to report receipt of covered boycott requests to BIS can be a violation of the EAR. Under the antiboycott provisions of the EAR, certain foreign subsidiaries of domestic U.S. companies are considered to be U.S. persons.

An Overview of the Antiboycott Laws

History

During the mid-1970's, the United States adopted two laws to counteract the participation of U.S. citizens in other nations' economic boycotts of countries friendly to the United States. These "antiboycott" laws were the 1977 amendments to the Export Administration Act (EAA) (as carried over into the Export Administration Act of 1979) and the Ribicoff Amendment to the 1976 Tax Reform Act (TRA).

Objectives

The antiboycott laws were adopted to encourage, and in specified cases, require U.S. persons to refuse to participate in foreign boycotts that the United States does not sanction. They have the effect of preventing U.S. persons from being used to implement foreign policies of other nations which run counter to U.S. policy.

Primary Impact

The Arab League boycott of Israel is the principal foreign economic boycott that U.S. persons must be concerned with today. The antiboycott laws, however, apply to all boycotts of countries that are friendly to the United States imposed by foreign countries.

Who Is Covered by the Laws?

The antiboycott provisions of the EAR apply to all "U.S. persons," defined to include individuals and companies located in the United States and their foreign affiliates. These persons are subject to the law when their activities relate to the sale, purchase, or transfer of goods or services (including information) within the U.S. or between the U.S. and a foreign country. This covers U.S. exports, forwarding and shipping, financing, and certain other transactions by U.S. persons not in the U.S.

For questions about boycott-related matters please contact the BIS Office of Antiboycott advice line at (202) 482-2381 or send an e-mail as indicated in the antiboycott compliance section of the BIS website.

Criminal and Administrative Case Examples

Hyundai Engineering and Construction Co., Ltd.

The Violation: Hyundai Engineering and Construction Company Ltd. (Hyundai) of Englewood Cliffs, New Jersey agreed to settle allegations that it committed two violations of the EAR when, in connection with transactions involving Kuwait, it furnished two items of prohibited information about another person's business relationships with Israel. Additionally, Hyundai agreed to resolve allegations that it failed to report a request from Saudi Arabia and a request from Kuwait to provide prohibited boycott-related information.

The Penalty: Hyundai agreed to an administrative penalty of $12,000 to resolve these allegations.

Maine Biological Labs

The Violation: Maine Biological Labs (MBL) and its employees committed anti-boycott offenses in connection with MBL's unlicensed export of avian vaccine containing Newcastle virus to Syria. MBL provided two shipping documents indicating "that the goods were not of Israeli origin." Additionally, MBL failed to report the receipt of the buyer's shipping instruction which was in support of an unsanctioned foreign boycott.

The Penalty: Three individuals, two former employees of MBL and a consultant, were sentenced to two years' probation; five others were sentenced to terms of imprisonment ranging from nine months to twelve months and one day. The former employees were also fined in amounts ranging from $5,000 to $30,000. MBL received a criminal fine of $500,000 and was placed on five years' probation. MBL also agreed to a $20,000 administrative penalty for the antiboycott violation, and a $100,000 administrative penalty for the illegal export violations.

Johns Hopkins Health System Corporation

The Violation: Johns Hopkins Health System violated the antiboycott provisions of the EAR when it discriminated against a U.S. person in support of the Arab League boycott of Israel. The person had been seeking a position in the company's International Services Department, which markets medical services around the world, including the Middle East. The discriminatory conduct, BIS believes, was motivated by the company's concern about having a Jewish person in that position because of the Arab League boycott of Israel.

The Penalty: Johns Hopkins agreed to a $10,000 administrative penalty.

Mitigating Circumstance: Johns Hopkins Health System voluntarily self-disclosed the violation and cooperated fully with the investigation.

Alison Transport

The Violation: On three occasions, in connection with transactions involving the sale and transfer of goods from the United States to Oman, Kuwait, and Saudi Arabia, Alison Transport (Alison) furnished prohibited information about another company's business relationships in violation of the EAR. Alison also failed to report its receipt of a request from Oman to provide a certificate that the aircraft used in the transactions were not blacklisted by the Arab League Boycott Committee.

The Penalty: Alison agreed to a $22,500 administrative penalty.

St. Jude Medical Export GmbH

The Violation: St. Jude violated the EAR when it failed to report in a timely manner its receipt of three requests from an Iraqi government agency to adhere to the rules of the Arab League boycott of Israel during the 2000-2001 reporting period. On four occasions, St. Jude also violated the antiboycott provisions of the EAR by agreeing to refuse to do business with blacklisted persons.

The Penalty: St. Jude agreed to a $30,000 administrative penalty.

Mitigating Circumstance: St. Jude voluntarily self-disclosed the violations and cooperated fully with the investigation.

Input/Output Exploration Products, Inc.

The Violation: In 1999 Input/Output Exploration Products (UK), Inc., violated the antiboycott provisions of the EAR when it provided answers to questions from a customer about its business with or in Israel and the business relationships of its parent company with or in Israel. Input/Output also unlawfully agreed to refuse to do business with companies on lists maintained by Arab League countries that boycott Israel, and failed to report its receipt of boycott requests.

The Penalty: Input/Output agreed to a $24,500 administrative penalty.

Serfilco, Ltd.

The Violation: Serfilco violated the terms of a denial order imposed by BIS in 1996 by negotiating the sale of goods to companies in the United Arab Emirates and Saudi Arabia in 1996 and 1997.

The 1996 denial order was imposed after Serfilco violated the antiboycott provisions of the EAR by giving information about its business relationship with Israel when it responded to a boycott questionnaire from an Iraqi distributor and by failing to report to BIS its receipt of boycott-related requests.

The Penalty: Serfilco agreed to a $65,000 administrative penalty. In addition, Serfilco agreed to a three-year denial of export privileges to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, and the Republic of Yemen.

McMaster-Carr Supply Company

The Violation: McMaster-Carr Supply Company (McMaster-Carr) failed to report its receipt of boycott-related requests within the time period required by the antiboycott provisions of the EAR. The transactions involved sales of goods from the United States to Oman, the United Arab Emirates, Kuwait, Qatar, and Saudi Arabia.

The Penalty: McMaster-Carr agreed to an $8,000 administrative penalty.

Chapter 11 - Successor Liability

Introduction

Recent administrative cases have made clear that businesses can be held liable for violations of the EAR committed by companies that they acquire. Businesses should be aware that the principles of successor liability may apply to them and perform "due diligence" in scrutinizing the export control practices of any companies that they plan to acquire.

A properly structured due diligence review can determine whether an acquired company has violated any export laws. This review should examine the company's export history and compliance practices, including commodity classifications, technology exchanges, export licenses and authorizations, end-users, end-uses, international contracts, the status of certain foreign employees who have access to controlled technologies, and the target company's export policies, procedures and compliance manuals. Failure to scrutinize properly a company's export practices can lead to liability being imposed on the acquiring company.

Criminal and Administrative Case Examples

Cerac, Inc.

The Violation: Between October 1, 1999 and March 26, 2001, Cerac, Inc., of Milwaukee, Wisconsin, both in its own capacity, and as successor to a prior company that was also named Cerac, Inc., exported inorganic materials controlled for nuclear nonproliferation reasons to India, Israel, the People's Republic of China, Taiwan and Thailand without the required export licenses. In addition, Cerac exported quantities of Iron and Selenium, specialty inorganic materials, to the Inter University Consortium in India, which was then on the Entity List, without the required export licenses. Finally, Cerac made false statements on SEDs in connection with some of these transactions, stating that no license was required, when, in fact, a license was required.

The Penalty: Cerac, Inc., as successor to a prior company also named Cerac, Inc., agreed to an administrative penalty of $297,000.

UGS Corporation as the successor to Structural Dynamics Research Corporation (SDRC)

The Violation: Between July 2000 and July 2001, SDRC committed 15 violations by exporting software to companies on the U.S. Department of Commerce Entity List without the required licenses.

The Penalty: UGS, as successor to SRDC, agreed to administrative penalties totaling $57,750.

Mitigating Circumstance: UGS Corporation voluntarily self-disclosed the violations and cooperated fully with the investigation.

ProChem (Proprietary) Ltd. as the successor to Protea Chemicals (Pty) Ltd.

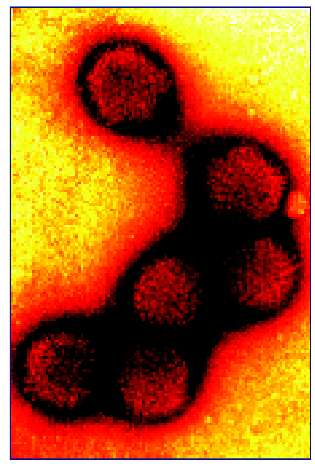
The Violation: South African company Protea Chemicals (Proprietary), Ltd. made unauthorized resales of U.S.-origin sodium cyanide and potassium cyanide to end-users in South Africa. On 110 occasions between November 1999 and December 2003, Protea resold U.S.-origin sodium cyanide and potassium cyanide to various unauthorized business entities in South Africa in violation of conditions set forth in Commerce Department licenses issued to Protea. Protea committed an additional 110 violations of the EAR by reselling these controlled commodities with knowledge that conditions on its licenses did not authorize resale to the end users.

The Penalty: ProChem (Proprietary), Ltd., as successor corporation to Protea, agreed to a $1.54 million administrative penalty.

Sigma-Aldrich Corporation

The Violation: A company that Sigma-Aldrich had acquired in 1997 made unauthorized exports of controlled biological toxins to Europe and Asia on numerous occasions prior to being acquired. A Sigma-Aldrich company continued making unlicensed exports for more than a year after the acquisition. In denying Sigma-Aldrich's Motion for Summary Decision, an administrative law judge held that companies can be held liable for export control violations that have been committed by firms that they acquire.

The Penalty: Sigma-Aldrich agreed to a $1,760,000 administrative penalty.



A Bio Toxin

U.S. DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Export Enforcement