



FD ASSOCIATES, INC.

1950 Old Gallows Road
Suite 350
Vienna, VA 22182
Phone 703-847-5801
Fax 703-847-1523

Advisors in Export
Compliance and Licensing

LATEST EXPORT CONTROLS AND COMPLIANCE UPDATE
December 2009

This newsletter is a listing of the latest changes in US export control regulations for the month of December 2009. The newsletter is provided as a complimentary service to assist readers with their ITAR and EAR export compliance responsibilities. It provides a summary of recent changes to US export control regulations or other regulatory matters of interest that may impact your company's international trade and export compliance functions. Call us at 703-847-5801 or email info@fdassociates.net with questions or comments.

See also our "Latest Export Violations, Fines, Penalties & Sanctions Newsletter" (below) for an update on companies and persons denied export privileges by the United States Government.

REGULATORY UPDATES

United Nations

Dec. 23, 2009: The United Nations Security Council approved an arms embargo and other sanctions against Eritrea. The resolution bans the import and export of weapons to Eritrea and calls on U.N. member states to inspect all suspect air and sea cargo between Eritrea and Somalia. The U.S. has not taken specific action to implement these sanctions. However, Eritrea is listed among the countries that are subject to a general policy of denial for exports of defense articles and defense services under Sec. 126.1(a) of the International Traffic in Arms Regulations (ITAR).

Department of Commerce

Dec. 3, 2009: The Bureau of Industry and Security (BIS) posted the video and slide presentations from the Update 2009 Conference held in Washington on September 30-October 30, 2009. The web portal for these presentations is at <http://bisecp.videohostpro.com/>.

Dec. 4, 2009 – 74 Fed. Reg. 63685: BIS proposed a rule that would eliminate hard-copy export and reexport licenses, notices of denial of license applications, notices of return of a license application without action, classification results, License Exception AGR notification results, and encryption review request results. The proposed rule would also modify several related recordkeeping requirements. The rule would apply only to documents that are currently issued in both paper and electronic versions. Paper documents would continue to be used for special comprehensive licenses and special Iraq reconstruction licenses, and in situations in which BIS had authorized a paper submission or had reopened a matter previously considered to be completed. Deadline for comments on this proposed rule is Feb. 2, 2010.

Dec. 10, 2009 – 74 Fed. Reg. 65661: BIS issued a 16-page rule making editorial changes in 73 Export Control Classification Numbers (ECCNs). The changes implement changes in the Wassenaar List that were made in 2007 and 2008 by a Wassenaar Arrangement task force that was charged with making editorial, non-substantive changes, corrections, and clarifications in the list. Although these changes are

This newsletter is provided as a service to our clients and is not intended to replace the ITAR or EAR as a reference source. If you have questions concerning the correct interpretation of the regulations please call us at (703) 847-5801 or email us at info@fdassociates.net.

FD ASSOCIATES, INC. - EXPORT CONTROLS & COMPLIANCE UPDATE

non-substantive, they serve as a reminder to always check the most recent version of the Export Administration Regulations (EAR) and the Commerce Control List (CCL), both available at http://www.access.gpo.gov/bis/ear/ear_data.html. You can also call us to see whether your ECCNs have been affected.

Dec. 11, 2009 – *74 Fed. Reg. 65999*: BIS amended the EAR and CCL to implement changes that had been made by the December 2008 Wassenaar Plenary. These changes – which are substantive – include adding one new ECCN, changing 39 ECCNs, adding and amending definitions, and adding or expanding U.S. unilateral and national security controls to take the Wassenaar changes into account. At the same time, BIS announced that Wassenaar changes affecting and related to ECCNs 6A002 (optical sensors) and 6A003 (cameras) will be implemented by a separate rule, owing to their complexity and sensitivity. Check the Federal Register notice or contact us to learn how these changes may affect your exports.

Dec. 23, 2009 – *74 Fed. Reg. 68136*: BIS published a final rule updating and clarifying the information that U.S. firms are required to report to BIS each year on offsets agreements in sales of weapon systems or defense-related items to foreign countries or foreign firms. These reporting rules are complex. BIS has published guidance at <http://www.bis.doc.gov/offsetguidance.htm> including FAQs at http://www.bis.doc.gov/offset_faqs.htm

Dec. 23, 2009 – *74 Fed. Reg. 68142* (corrected Jan. 8, 2010 – *75 Fed. Reg. 1020*): BIS amended several sections of the EAR to reflect the accession of Albania and Croatia to the North Atlantic Treaty Organization (NATO), which occurred on April 1, 2009. The following changes were made in the Commerce Country Chart (EAR Part 738, Supplement No. 1): Albania and Croatia are no longer included on RS Column 2 (both still remain in RS Column 1), and Croatia is no longer in NS Column 2. (Albania remains an NS Column 2 country, and both Croatia and Albania are in NS Column 1.) Further, in the Country Groups Chart (EAR Part 740, Supplement No. 1), Albania has been shifted from Country Group D to Country Group B. (Croatia was already included in Group B.) Many additional changes were also made in the rules affecting Croatia and Albania. If you are exporting dual-use items to or through one of these countries, check a current version of the EAR very carefully or call us to learn whether the requirements applicable to your shipment have changed. *Note: The ITAR has not been amended to reflect the new NATO status of Albania and Croatia.*

Dec. 23, 2009 – *74 Fed. Reg. 68146*: BIS announced the removal of Neda Kargar of Dubai, UAE from the Entity List (EAR Part 744, Supplement No. 4). The removal was the result of a review by BIS' End-User Review Committee (ERC) that was made at the request of Neda Kargar, under the request-for-removal procedure outlined in EAR Sec. 744.16 and Supplement No. 5 to EAR Part 744.

Dec. 23, 2009 – *74 Fed. Reg. 68147*: BIS amended the EAR to suspend the Validated End-User (VEU) status of Aviza Technology China in China and GE Fanuc Systems PVT Ltd in India. The announcement noted that the status change was due to material changes at the two companies, was not the result of prohibited activities, and did not create a new licensing requirement or adversely affect the licensing policy for exports, reexports, or transfers to them.

FD ASSOCIATES, INC. - EXPORT CONTROLS & COMPLIANCE UPDATE

Department of State

Dec. 3, 2009 – *74 Fed. Reg. 63497*: In January 2008, President Bush directed the State Department to complete action on most export license applications within 60 days of receipt, unless “national security exceptions” apply. In April 2008, the Directorate for Defense Trade Controls (DDTC) announced 5 such exceptions (April 15, 2008 – *73 Fed. Reg. 20357*):

- 1) when Congressional Notification is required;
- 2) when required government end-use assurances have not been received;
- 3) when end-use checks have not been completed;
- 4) when the Department of Defense has notified State that an overriding national security exception exists; and
- 5) when the license application requires a waiver of existing restrictions (e.g., a sanctions waiver).

DDTC has now added a sixth exception:

- 6) “When a related export policy is under active review and pending final determination by the Department of State.”

Importantly, the Dec. 3, 2009 notice has restated the fourth exception, which now reads:

- “4) The Department of Defense has not yet completed its review.”

Dec. 16, 2009: DDTC submitted a notification to Congress indicating that it has recommended that the Treasury Department Office of Foreign Assets Control (OFAC) issue a general license authorizing the free download in Iran of free mass-market software necessary for Internet personal communications such as email, chat, instant messaging, and social networking. Specifics will be identified when OFAC issues the license.

Dec. 22, 2009: DDTC posted the following name changes on its website:

- Northrop Grumman Space & Mission Systems Corporation (NGS&MSC) to Northrop Grumman Systems Corporation
- Northrop Grumman Information Technology Inc. (NGIT) to Northrop Grumman Systems Corporation

See http://www.pmdtdc.state.gov/licensing/documents/WebNotice_NGSMSC-NGIT.pdf for the effect of these changes on licenses and agreements.

Dec. 22, 2009: DDTC posted notice on its website pertaining to the acquisition by Goodrich Corporation of AIS Global Holdings LLC and its subsidiaries Atlantic Inertial Systems Inc. of the US and Atlantic Inertial Systems Limited of the UK. No name changes resulted from the acquisition, and no amendments to currently approved DDTC authorizations will be required. However, any U.S. applicant holding a DDTC authorization identifying either the U.S. or the U.K. subsidiary must maintain, with the authorization See http://www.pmdtdc.state.gov/licensing/documents/WebNotice_Goodrich-AIS.pdf. for more details on the notice.

FD ASSOCIATES, INC. - EXPORT CONTROLS & COMPLIANCE UPDATE



FD ASSOCIATES, INC.

1950 Old Gallows Road
Suite 350
Vienna, VA 22182
Phone 703-847-5801
Fax 703-847-1523

Advisors in Export
Compliance and Licensing

LATEST EXPORT VIOLATIONS, FINES, PENALTIES, AND SANCTIONS December 2009

*This section of our newsletter provides information on the latest fines, penalties and sanctions for export violations or matters of non-compliance with the ITAR or EAR issued by the US government enforcement agencies. It is provided as a service to clients and associates of FD Associates to remind them of the importance of extreme due diligence in all international trade and export compliance matters particularly those involving exports subject to the ITAR or the EAR. **Don't let this happen to you or your company!** Call us with questions or concerns at 703-847-5801 or email info@fdassociates.net.*

Dec. 7, 2009: Dani Nemar Tarraf, a Lebanese native resident in Slovakia, pleaded not guilty to charges involving attempted violation of the Arms Export Control Act and making false statements to government officials and was ordered detained in federal custody by a federal magistrate in Philadelphia, PA pending trial. The charges involved a plot to supply shoulder-fired antiaircraft missiles and 10,000 machine guns to Iran or Syria. Tarraf's arrest, the result of a two-year FBI sting, occurred when he arrived in the U.S. to inspect the FIM-92 Stinger anti-aircraft missiles and Colt M4 carbines after having made a \$20,000 down payment during the summer.

Dec. 9, 2009: Keithly Instruments Int'l Corp. of Bangalore, India agreed to a civil penalty of \$125,000 to settle charges that it had assisted the export of articles to a recipient that was listed on the Entity List (EAR Part 744, Supplement No. 4) without the required authorization from BIS. Keithly did not voluntarily disclose the violation.

Dec. 9, 2009: Tara Technologies Corp. of Daytona Beach, FL agreed to a civil penalty of \$27,000 to settle charges by BIS related to three exports of metal bellows classified under ECCN 3B001.e to China without the required export authorization. Tara voluntarily disclosed the violations.

Dec. 14, 2009: Amir Hossein Ardebili of Sharaz, Iraq was sentenced in U.S. District Court in Wilmington, DE to five years in prison after pleading guilty to conspiracy and other charges involving attempts to purchase radar and avionics technology for the Iranian military. Ardebili had reportedly been targeted by U.S. Homeland Security agents in an undercover sting in Eastern Europe. He was arrested in Tbilisi, Georgia in October 2007 and extradited to the U.S. in May 2008. However, the case remained sealed while U.S. agents pursued leads found in his laptop computer, which was seized following his arrest. In a statement in court before the sentence was imposed, Ardebili pointed out that his actions that violated U.S. law took place in Iran, where they were not illegal.

FD ASSOCIATES, INC. - EXPORT CONTROLS & COMPLIANCE UPDATE

Dec. 17, 2009: James Larrison of Avondale, AZ pleaded guilty in U.S. District Court in Wilmington, DE to violating the International Emergency Economic Powers Act (IEEPA) by attempting to export a camera control box and an 8-port multiple television camera control delegation switch to Iran without the required authorization from OFAC. Federal agents discovered communications with Larrison in the computer seized from Amir Hossein Ardebili. (See item above.)

Dec. 19, 2009: Ugur "Mike" Yildiz of Park Ridge, IL was sentenced in U.S. District Court in Chicago, IL to 7-1/2 years in federal prison for illegally exporting more than 200 firearms to Canada. Several of the guns were later found to have been involved in violent crimes in Canada. Yildiz had owned a gun store in Franklin Park, IL until 2003, when his license was revoked by federal authorities for violation of U.S. gun-control laws.

Dec. 22, 2009: Thralow, Inc. of Proctor, MN agreed to pay a civil fine of \$110,000 to settle 445 charges by BIS involving unauthorized exports of rifle scopes classified under ECCN 0A987. Thralow did not voluntarily disclose the violations.

Dec. 29, 2009: Hailin Lin of Manitowoc, WI and Ning Wen of Manitowoc, WI, currently resident in federal prison camp in Duluth, MN, each agreed to a suspended civil fine of \$1,364,000 and a 15-year denial of export privileges to settle 124 charges of conspiracy, illegal exports, acting with knowledge of a violation, and taking action with intent to evade the EAR. The violations involved exports of electronic components classified under ECCN 3A001 and ECCN 3A002 to China.