

<p style="text-align: center;">EXPORT CONTROLS UPDATE February 2008</p>

This newsletter is a summary of changes to US export control regulations or other regulatory matters of interest for the month of February 2008.

REGULATORY UPDATES

Department of Commerce

Feb. 4, 2008: The Bureau of Industry and Security (BIS) announced that effective April 28, 2008, the Automated Export System (AES) will require an Export Control Classification Number (ECCN) whenever an exporter seeks to export items under license exceptions TSR, RPL, GOV, GFT, TSU, BAG, AVS, APR, KMI, TAPS, and ENC. Currently, the AES requires the ECCN only for exports under license exceptions LVS, GBS, CIV, AGR, and APP.

Feb.5, 2008 – 73 Fed. Reg. 6603: BIS published a rule correcting errors in its announcement of Nov. 5, 2007 (72 Fed. Reg. 62524), amending the Export Administration Regulations (EAR) to implement agreements reached in the December 2006 plenary meeting of the Wassenaar Arrangement. The errors occurred in amendments to EAR Sec. 742.6 and Section 744.17 and ECCNs 1A002, 3A001, 6A004, 6A005, 6A995, 6E201, 7A101, 7D001, 7D003, 7E001, and 7E002 and in the list of items eligible for export under the Validated End-User provisions of EAR Part 748, Supplement No. 7.

Feb. 28, 2008 – 73 Fed. Reg. 10668: BIS amended Sec. 740.9(a)(2)(i)(B) (License Exception TMP, Temporary Imports, Exports, and Reexports, tools of trade to Sudan) to expand the availability of the tools of trade provisions of License Exception TMP for humanitarian and relief efforts in Sudan. The numbers of eligible commodities and permissible end uses are expanded, and the exception has been broadened to include reexports as well as exports.

Department of State

Feb. 14, 2008: The U.S. and United Kingdom signed the Implementing Arrangement for the U.S.-U.K. Defense Trade Cooperation Treaty.

The Treaty was signed by President Bush and former Prime Minister Blair on June 26, 2007, and sent to the Senate for ratification on September 21, 2007. The stated aims of the treaty were to improve the interoperability of equipment and systems between the U.S. and the U.K., and to remove barriers to communication and collaboration between our armed forces and our defense industries. The Treaty called for an approved community of the two governments and a carefully screened group of defense companies. Within this community, most defense articles and technology could be exported without prior government authorization, if the exports were in support of

- Combined U.S.-U.K. military or counterterrorism operations;
- Cooperative research, development production, and support programs;
- End use by the U.S. Government; or
- Specific security and defense projects for end use by the U.K. Government.

The Implementing Arrangement for the treaty was ultimately signed on February 14, 2008. It covered many aspects of the relationship, but did not include critical details such as a list of approved operations, programs, and projects and a list of particularly sensitive defense articles that will remain outside the Treaty and subject to current export licensing requirements.

As of this writing, the U.S. Senate Foreign Relations Committee has not scheduled hearings on the Treaty, and it appears that no other steps toward ratification have been made. Thus it is unlikely that ratification will occur in the current session of Congress. The dream of license-free defense exports to the United Kingdom remains unfulfilled for the near future.

Feb. 25, 2008: The Directorate of Defense Trade Controls (DDTC) posted guidance on information to be provided with an application for firearms exports totaling \$1 million or more. Such exports of firearms must be reported to Congress, and the information requested by DDTC will be used to respond to questions commonly asked by Congressional staffers. The new guidance is at http://www.pmdtc.state.gov/firearms_guidelines_notice.htm.

SANCTIONS

Department of Commerce

Feb. 8, 2008 – *73 Fed. Reg. 7525 and 7526*: BIS issued identical non-standard denial orders against AR-AM Medical Services LLC and DMA Med-Chem Corporation, both of Great Neck, NY. Both denial orders prohibit participation in exports to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, and the Republic of Yemen for 2 years. In addition, a civil penalty of \$7,200 was assessed against AR-AM, and a civil penalty of \$2,400 was assessed against DMA pursuant to settlement agreements with both companies. Both penalties were suspended for two years and will be waived if the company commits no violations during that period. AR-AM was charged with three violations of the antiboycott regulations for furnishing information about business relationships with a boycotted country, and DMA was charged with one violation of the same rule.

Feb. 25, 2008 – *73 Fed. Reg. 9989*: BIS corrected the address of Mohammad Fazeli that it had provided in its denial order of September 12, 2007 (*72 Fed. Reg. 54427*) against Mr. Fazeli. All other provisions of the original denial order remain in effect.

Department of State

Feb. 4, 2008 – *73 Fed. Reg. 6548*: The Directorate of Defense Trade Controls (DDTC) announced the termination of the statutory debarment of Peter Appelbaum, effective January 24, 2008.

FINES & PENALTIES

Feb. 1, 2008: Laura Wang-Woodford of Ft. Worth, TX, a director of Monarch Aviation Pte, Ltd, a Singapore company that imports and exports aircraft components, was arraigned in federal court in Brooklyn, NY following her arrest at San Francisco International Airport upon her arrival from Hong Kong in December 2007. Wang-Woodford's husband, Brian Woodford, the chairman and managing

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director of Monarch, remained a fugitive outside the U.S. The couple allegedly transshipped components of Chinook helicopters and other aircraft from the U.S. to Singapore and then to Iran after identifying them as commercial aviation components. They were indicted on 20 counts of conspiracy, unauthorized exports of aircraft parts to Iran, exporting and attempting to export defense articles without a license, false statements on export documents, and conspiring to launder the proceeds of the unlawful exports.

Feb. 5, 2008: Protective Products International of Sunrise, FL agreed to pay a civil fine of \$65,000 to settle charges by BIS that it had exported ballistic helmets to Kuwait, Chile, Oman, Trinidad and Tobago, and Saudi Arabia without the required authorization and failed to comply with recordkeeping requirements regarding the exports of the ballistic helmets.

Feb. 5, 2008: SELEX Sistemi Integrati of Overland Park, KS agreed to pay a civil fine of \$12,300 to settle charges by BIS of exporting an instrument landing system through Italy to Iran without the required authorization and making a false statement of ultimate destination on a Shipper's Export Declaration.

Feb. 11, 2008: In an export-related espionage case, Gregg William Bergersen of Alexandria, VA, a U.S. Defense Security Cooperation Agency weapons policy analyst, was arrested on charges of conspiracy to disclose national defense information to persons not entitled to receive it. The case involved the passage of classified U.S. government documents and information to the Government of the People's Republic of China (PRC). Tai She Kuo, a U.S. citizen of New Orleans, LA and Yu Xin Kang, a citizen of the PRC and U.S. green card holder of New Orleans, LA were also arrested. Kuo and Kang were charged with conspiracy to disclose national defense information to a foreign government. Kuo allegedly obtained information and documents from Bergersen in exchange for cash, and Kang allegedly was the conduit from Kuo to an unnamed PRC official.

Feb. 11, 2008: In an export-related economic espionage case, Dongfan "Greg" Chung of Orange, CA, a former Rockwell and Boeing engineer, was arrested on an indictment charging economic espionage, conspiracy to commit economic espionage, acting as an unregistered foreign agent of the PRC, obstruction of justice, and making false statements to FBI investigators. Chung allegedly stole trade secrets related to the Space Shuttle, the C-17 military transport aircraft, and the Delta IV rocket.

Feb. 22, 2008: The Treasury Department Office of Foreign Assets Control (OFAC) reported that Buehler Ltd. of Lake Bluff, IL had remitted \$20,000 to settle allegations that it had exported technological equipment to entities in Iran without an OFAC license or outside the scope of its license. Buehler did not voluntarily disclose the violation, but did cooperate in the OFAC investigation. In October 2007 Buehler and its United Kingdom affiliate, Buehler United Kingdom of Coventry, U.K. agreed to pay a civil fines totaling \$56,000 to settle charges by BIS of violating the EAR by making unauthorized exports to Iran and to an Indian company on the Entity List.