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Advisors in Export  
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## EXPORT CONTROLS AND COMPLIANCE UPDATE

February 2010

*This newsletter is a listing of changes in US export control regulations for the month of February 2010. The newsletter is provided as a complimentary service to clients and friends of FD Associates, Inc. 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](mailto:info@fdassociates.net) with questions or comments.*

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

### REGULATORY UPDATES

#### Department of Commerce

Feb. 9, 2010 – 75 Fed. Reg. 6301: The Bureau of Industry and Security (BIS) amended Sec. 740.11 of the Export Administration Regulations (EAR) to expand License Exception GOV to authorize exports and reexports to foreign launch stations of commodities classified under Export Control Classification Number (ECCN) 9A004 that are intended to be used on the International Space Station. Exports under the new provision are limited to certain, narrowly defined, circumstances.

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Feb. 19, 2010 – 75 Fed. Reg. 7358: BIS added 10 entities in Hong Kong and Taiwan to the Entity List (EAR Part 744, Supplement No. 4). As a result, a license is now required for the export, reexport, or in-country transfer of any item subject to the EAR to any of these persons, or in any transaction in which any of these persons will be a purchaser, intermediate or ultimate consignee, or end-user of the item. A presumption of denial will apply to such license requests, and no license exceptions will be available for shipments to these entities. The newly listed entities are:

#### Hong Kong:

- ACTeam Logistics Ltd., Tsuen Wan, N.T.
- Dick Kuo, Kowloon
- Dick Leung, Kowloon
- Joe Shih, Kowloon
- Signet Express Co., Ltd., Kowloon
- Tex-Co Logistics Ltd., Kowloon, Causeway Bay, and Tokwawan, Kowloon

#### Taiwan:

- Christine Sun, Taipei
- In-Tech Company, a.k.a., In-Tech Telecom, Sinjihuang City, Taipei and Xinzhuang City, Taipei
- Landstar Tech Company Ltd., Sijhih City, Taipei,
- Yi-Lan Chen, a.k.a., Kevin Chen, Sijhih City, Taipei, and Xinzhuang City, Taipei

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*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](mailto:info@fdassociates.net).*

## FD ASSOCIATES, INC. - EXPORT CONTROLS & COMPLIANCE UPDATE

Feb. 22, 2010 – 75 Fed. Reg. 7548: BIS amended ECCN 1C360 to harmonize the list of controlled items within the Plant Protection and Quarantine Programs (PPQ) list of select agents and toxins, following changes in the PPQ list that the U.S. Department of Agriculture Animal Plant and Health Inspection Service made in 2008. BIS also amended ECCN 1E998 to remove controls on technology for the “development” or “production” of materials controlled by ECCN 1C995. The technology being decontrolled by this amendment had been inadvertently added to ECCN 1E998 in 2006.

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### Department of State

February 2, 3, 12, 16, and 22: The Directorate of Defense Trade Controls (DDTC) posted notices of the following name changes and corporate acquisitions on its home page, [www.pmdtcc.state.gov](http://www.pmdtcc.state.gov). Each notice specifies the action that must be taken regarding pending and currently approved authorizations involving the particular renamed entities.

- Muirhead Aerospace Limited to AMETEK Airtechnology Group Limited
- DRS Data & Imaging Systems, Inc. to DRS C3 & Aviation Company
- DRS C3 Systems, Inc. to DRS C3 & Aviation Company
- DRS C3 Systems, LLC to DRS C3 & Aviation Company
- MMSC Company to DAR Radar Systems, LLC
- DRS Technical Services Inc. to DRS C3 & Aviation Company
- Saab Technologies, Inc. to Saab North America, Inc.
- Saab AB (publ), Saab Systems to Saab AB (publ), Security and Defence Solutions
- Saab AB (publ), Saab Surveillance Systems to Saab AB (publ), Surveillance Systems
- Saab AB (publ), Saab Security to Saab AB (publ), Security Solutions
- Saab AB (publ), Saab Aerotech to Saab AB (publ), Support and Services
- Saab AB (publ), Saab Aerosystems to Saab AB (publ), Aerosystems
- Saab AB (publ), Saab Aerostructures to Saab AB (publ), Aerostructures
- Saab AB (publ), Saab Avitronics to Saab AB (publ), Electronic Defence Systems
- Saab AB (publ), Saab Microwave Systems to Saab AB (publ), Electronic Defence Systems
- i-Logistics USA Corporation to Itochu Logistics USA Corporation
- G4S Security Services (Canada) Ltd. to G4S Secure Solutions (Canada) Ltd.
- GE Fanuc Intelligent Platforms of the U.S. to GE Intelligent Platforms
- GE Fanuc Intelligent Platforms (Bracknell) Limited of the United Kingdom to GE Intelligent Platforms (Bracknell) Limited
- GE Fanuc Intelligent Platforms Limited of the United Kingdom to GE Intelligent Platforms Limited.
- Sartomer Company, Inc. to Cray Valley USA, LLC.

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Feb. 18, 2010: DDTC announced that effective immediately and until further notice, all commodity jurisdiction (CJ) requests must be mailed (FedEx, DRL, UPS, USPS, etc.) to DDTC. Also, requests must include eight complete copies of a fully executed DS-4076 CJ Form and all supporting documentation. This announcement does not prohibit the hand delivery of a CJ request per DDTC guidelines.

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## FD ASSOCIATES, INC. - EXPORT CONTROLS & COMPLIANCE UPDATE

Feb. 25, 2010: DDTC announced its intention to publish a final rule modifying the existing policy regarding the arms embargo against the Democratic Republic of the Congo. In accordance with the most recent United Nations resolution on the embargo, it will be U.S. policy to deny licenses for exports or imports of defense articles and defense services destined for or originating in the DRC, with narrow exceptions in compliance with the U.N. embargo.

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### RECENT EXPORT VIOLATIONS, FINES, PENALTIES, AND SANCTIONS February 2010

*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 friends 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](mailto:info@fdassociates.net).*

#### FINES, PENALTIES AND SANCTIONS

Jan. 4, 2010: Interurbine Aviation Logistics GmbH of Kaltenkirchen, Germany and its Grand Prairie, TX branch office, Interurbine Aviation Logistics GmbH, LLC, entered into an agreement with the Department of State, Directorate of Defense Trade Controls (DDTC), to resolve charges of several violations of the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR). The charges relate to the export of 400 kg of a heat-resistant protective coating controlled under U.S. Military List (USML) Category IV(f) to Germany without the required export authorization. The proposed charges against Interurbine included exporting a controlled item without a license, misrepresentation and omission of facts, willfully causing an unauthorized export, exporting a defense article without being registered with DDTC, failure to obtain a DSP-83 Non-transfer and Use Certificate, and making an unauthorized transfer. Interurbine agreed to pay a civil penalty of \$1,000,000, of which \$500,000 will be suspended because Interurbine had already spent that amount on self-initiated, pre-agreement remedial compliance measures, and an additional \$400,000 will be suspended on the condition that Interurbine maintains its two-year self-initiated exclusion from all ITAR-regulated activities. If Interurbine decides to become involved in ITAR-related activities during the two-year term of the agreement, it will use the suspended \$400,000 for additional remedial compliance activities agreed to by DDTC.

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Jan. 8, 2010: GM Daewoo Auto & Technology Company (Korea), a subsidiary of General Motors Company, agreed to pay a penalty of \$88,500 to settle charges that on 59 occasions, it violated EAR Sec. 760.2(d), by providing information to Libya regarding business relationships with or in a boycotted country, or with another person known or believed to be restricted from having any business relationship with or in a boycotting country. The penalty will be waived if the company commits no further export violations in the next 6 months.

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## FD ASSOCIATES, INC. - EXPORT CONTROLS & COMPLIANCE UPDATE

Jan. 8, 2010: JP Morgan Chase Bank NA agreed to pay a civil penalty of \$19,125 to settle charges that on three occasions involving transactions with Dubai and Qatar, it furnished information on its or another person's business relationships with Israel with intent to comply with an unsanctioned boycott.

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Jan. 27, 2010: Nectron International of Sugar Land, TX agreed to pay a civil penalty of \$8,000 to settle a charge of violating the antiboycott regulations by failing to report a boycott request, and a separate charge of violating the antiboycott regulations by stating on an invoice in a transaction with Syria, that the goods described in the invoice were not of "Israeli" origin.

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Jan. 27, 2010: Fortessa Inc. of Sterling, VA agreed to pay a civil penalty of \$8,000 to settle charges of failing to report a boycott request and furnishing information about business relationships with boycotted countries or blacklisted persons. The charges involved a 2004 transaction with Oman. Oman is no longer on the U.S. Treasury Department list of boycotting countries.

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Feb. 5, 2010: Balli Aviation Ltd., a subsidiary of United Kingdom-based Balli Group PLC, pleaded guilty in U.S. District Court for the District of Columbia to the unauthorized export of a Boeing 747 aircraft to Iran, and to conspiring to export three 747s to Iran via a foreign subsidiary. According to the criminal information, the purchase of the 747 was financed by Mahan Airlines, a private Iranian airline. The criminal charges also included violation of a Temporary Denial Order (TDO) issued by BIS in 2008 that prohibited the company from conducting any transactions involving an item subject to the EAR. Under the plea agreement, Balli agreed to pay a criminal fine of \$2 million and to be placed on probation for 5 years.

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Feb. 5, 2010: In a civil settlement with OFAC and BIS related to the criminal case reported above, Balli Aviation Ltd. agreed to pay a \$15 million penalty (with \$2 million waived if Balli complies with the EAR for two years) to settle charges that it had violated the Iranian Transactions Regulations by exporting three commercial airliners to Mahan Airlines in Iran and attempting to export three additional airliners to Mahan, and that it had violated the EAR by conspiring with Mahan to export the airliners to Iran. Balli was also charged with violating the terms of the TDO that had been entered by BIS. BIS also suspended Balli's export privileges for 5 years, but suspended the denial order as long as the penalty is timely paid and the company remains compliant with the EAR. The civil settlement requires Balli to hire an unrelated expert export control consultant to do annual audits of its export control and sanctions compliance for the next 5 years, and to submit the audit results to BIS and OFAC.

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Feb. 11, 2010: Dongfan "Greg" Chung of Orange, CA was sentenced to 15 years and 8 months in federal prison following his conviction on charges of conspiring to violate, and actually violating, the Economic Espionage Act of 1996, and making a false statement to the U.S. Federal Bureau of Investigation. Charges against Chung also include acting as an agent of the People's Republic of China. Chung was an aerospace engineer formerly employed by Rockwell International and Boeing. The case against him arose during the investigation of Chi Mak, who is currently serving a prison term for conspiracy and violation of export control laws. (*See additional information about this case in our July 2009 Update.*)

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## FD ASSOCIATES, INC. - EXPORT CONTROLS & COMPLIANCE UPDATE

Feb. 12, 2010: Sirchie Acquisition Company, LLC, of Youngsville, NC entered into a deferred prosecution agreement in U.S. District Court for the Eastern District of North Carolina in which it agreed to pay a fine of \$12.5 million, engage an export control monitor, and take other actions to assure export control compliance. The case against Sirchie involved violations of a BIS denial order by the former president, CEO, and majority shareholder of a company that Sirchie had purchased. The Government did not allege any wrongdoing by purchasing company. \$2.5 million of the \$12.5 million criminal fine will go to BIS.

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Feb. 22, 2010: DDTC announced the termination of the statutory debarment of ITT Corporation's Night Vision Division. The action was based on the determination that ITT had taken appropriate steps to address the causes of the violations that led to the debarment and to mitigate any law enforcement concerns.

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Feb. 25, 2010: Tirso A. Aguayo and Mike Cabatingan of Carson, CA were arrested by federal agents following their indictment on charges involving conspiracy and unauthorized exports to the Philippines of ITAR-controlled forgings used to make components for AR-15 assault rifles and EAR-controlled holographic rifle sights. A third defendant, Romulo Reclusado, was also named in the indictment, but remains at large and is believed to be in the Philippines. The controlled items were exported in three shipments, two of which were intercepted by Philippine customs officials.

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Feb. 26, 2010 – *75 Fed. Reg. 8917*: BIS denied the export privileges of Afshin Rezaei of Atlanta, GA until May 15, 2018. Rezaei had pleaded guilty in U.S. District Court for the Northern District of Georgia to violating the International Emergency Economic Powers Act (IEEPA) by making unauthorized exports of laptop computers from the U.S. to Iran and sentenced to time served followed by three years of supervised release. He did not contest the denial order.