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EXPORT CONTROLS UPDATE
June 2008

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

REGULATORY UPDATES

The President

June 27-July 1, 2008: Responding to North Korea's declaration of its nuclear programs, facilities and materials, President Bush took several formal steps regarding sanctions that the U.S. has long maintained against North Korea. These steps position North Korea for the eventual removal of its "terrorist" designation, but they have no immediate effect. Pending further action, all the existing export control restrictions on North Korea remain in effect.

Department of Commerce – Bureau of the Census

June 2, 2008 – 73 Fed. Reg. 31547: The Bureau of the Census published a final regulation replacing the Foreign Trade Statistics Regulations (FTSR, 15 CFR Part 30) with the new Foreign Trade Regulations (FTR). The new rules make mandatory the filing of "electronic export information" (EEI) through the Automated Export System (AES) for every export that previously would have required filing a paper Shipper's Export Declaration (SED). The new rules increase the penalties for criminal violations to a maximum of \$10,000 and/or up to 5 years of imprisonment per violation and include forfeiture penalties. The new rules also increase civil penalties to \$1,000/day for failure to file and delayed filing (up to a maximum of \$10,000 per violation) and include possible forfeitures. Among other changes, this announcement also introduces a voluntary disclosure procedure for violations of Census requirements. The new rule is effective July 2, 2008, but the Census Bureau will not implement it until September 30, 2008.

Department of Commerce – Bureau of Industry and Security

June 13, 2008 – 73 Fed. Reg. 33671: The Bureau of Industry and Security (BIS) amended the Gift Parcel and Humanitarian Donations exception (License Exception GFT, EAR Sec. 740.12) by expanding the scope of eligible items to include the export of mobile telephones and related software, batteries, etc. The amendment also raises the value limit on such gift parcels from \$200 to \$400. All other provisions of the exception remain unchanged.

June 16, 2008 – 73 Fed. Reg. 33882: BIS amended the EAR to conform to changes adopted by the Missile Technology Control Regime Plenary in November 2007. The amendment makes changes in Export Control Commodity Numbers (ECCNs) 1C111(b), 1C116, 2B116, and 9B106 and changes the technical notes in the definition of "payload" to clarify that payload for "other" unmanned aerial vehicles includes munitions supporting structures and deployment mechanisms.

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Department of Homeland Security

June 9, 2008 – *73 Fed. Reg. 32466*: U.S. Customs and Border Protection (CBP) announced that the compliance date for CBP regulations pertaining to use of the AES will be September 30, 2008. CBP had previously published its requirements for the advance electronic filing of export information by vessel, air, truck, and rail carriers in 19 CFR § 192.14, with the compliance date contingent on the publication of an implementation date for the Census Bureau’s AES regulations. (*See Census Bureau notice above.*)

Department of State

June 9, 2008: The Directorate of Defense Trade Controls (DDTC) posted its annual report for Fiscal 2007, reporting on the defense articles worth \$24.5 billion and defense services worth \$64.2 billion that DDTC licensed for permanent export during the year ending September 30, 2007. The report lists approved exports by country, quantity, value, and U.S. Munitions List category and subcategory. The 238-page report is at www.pmddtc.state.gov/docs/rpt655_FY07.pdf.

Department of the Treasury

June 6, 2008: The Office of Foreign Assets Control (OFAC) modified the Sudanese Sanctions Regulations (SSR) that had been issued in October 2007 (*72 Fed. Reg. 61513*). Trade and humanitarian assistance in the “Specified Areas” of Sudan – “Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, and the Mayo, El Salaam, Wad El Bashir, and Soba camps for internally displaced persons near Khartoum” – no longer require a specific license or registration and are permitted provided that they do not involve Sudan’s petroleum or petrochemical industries or any property or interests of the Government of Sudan. Further, the October 2007 notice specified a June 30, 2008, expiration date for licenses and registrations issued under the SSR without an expiration date. The June 6, 2008, notice provides that such licenses and registrations will be valid until November 30, 2008, if a renewal application is submitted by June 30, 2008, and provides instructions for applying for a renewal.

June 10, 2008 – *73 Fed. Reg. 32650*: OFAC increased the civil penalty provisions in its regulations to reflect amendments to the penalty provisions of the International Emergency Economic Powers Act (IEEPA) made by the International Emergency Economic Powers Enhancement Act signed by the President on October 16, 2007. The amount of the new maximum civil penalties is \$250,000 or twice the amount of the transaction that is the basis of the violation, whichever is higher.

SANCTIONS

Department of Commerce

June 3, 2008 – *73 Fed. Reg. 31675 and 31677*: BIS determined that Ana Belen Diaz Sanchez and Iberair Lines (a/k/a “Desarrollos Ind. Iberair, SL”), both of Madrid, Spain, are related parties to Winter Aircraft Products SA. Accordingly, BIS extended the 10-year denial order it imposed on Winter on May 24, 2007 (*72 Fed. Reg. 29965*) to Sanchez and Iberair Lines.

June 17, 2008 -- *73 Fed. Reg. 34249*: BIS issued a standard 180-day temporary denial order against Galaxy Aviation Trade Company, LTD and Hooshang Seddigh, both of London, U.K., and Hainid Shaikeri Ilendi, Hossein Jahan Peyma, and Iran Air, all of Tehran, Iran, as well as a non-standard 180-day denial order against Ankair of Istanbul, Turkey, in connection with Galaxy’s attempt to purchase a Boeing 747 airplane from Ankair in Istanbul for immediate re-export to Iran.

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Department of the Treasury

June 19, 2008: OFAC removed China Great Wall Industry Corporation (CGWIC) of Beijing, China; Moscow, Russia; and other locations worldwide, and its U.S. subsidiary, G.W. Aerospace (also Great Wall Aerospace) of Torrance, CA, from the list of Specially Designated Nationals. In a press release announcing this action, the Department of State noted that CGWIC had cooperated with U.S. sanctions, expanded its internal export control procedures, and “enhanced and strengthened its internal control processes, which include a policy emphasizing that the company will not be involved in any dealings with certain countries that have been identified by the international community as a proliferation risk.”

FINES & PENALTIES

June 5, 2008: Andes Chemical Corp. of Miami, FL agreed to pay a civil penalty of \$60,000 to settle charges by BIS that it exported sodium bifluoride to Jamaica without the required export license and that it failed to file Shipper’s Export Declarations as required for all exports that require an export license, regardless of value or destination. Sodium bifluoride is controlled under ECCN 1C350 for reasons of chemical and biological weapons proliferation.

June 6, 2008: WaveLab, Inc. of Reston, VA was sentenced in federal court for the Eastern District of Virginia to one year of supervised probation and a \$15,000 fine for exporting power amplifiers to China without the required export license. WaveLab previously agreed with BIS to forfeit \$85,000, an approximation of its profits from the unlicensed exports.

June 6, 2008: Khalid Ahmed of Alexandria, VA was sentenced in federal court for the Eastern District of Virginia to 5 months in prison followed by 5 months in community confinement and 3 years of supervised release, plus a fine of \$1,500, after pleading guilty to a charge of attempted export of firearms parts to Sudan without the required authorization. The parts were discovered in Ahmed’s wife’s checked baggage at Dulles Airport prior to her departure on a trip to Sudan. Ahmed, a Sudanese native holding a U.S. green card, was also ordered to cooperate with immigration officials in any removal proceedings.

June 9, 2008: CVC Services was sentenced in federal court for the Central District of California to a \$51,000 fine and \$800 special assessment for violating the Iranian Transactions Regulations (ITR) by selling oil and gas valve parts to Italy with knowledge that the parts were destined for Iran.

June 11, 2008: Brighton Equipment Corporation of Paramus, NJ agreed to pay a civil penalty of \$17,500 to settle charges by BIS that it exported software controlled under ECCN 2D002 to China without the required export license.

June 16, 2008: Parthasarathy Sudarshan of Simpsonville, SC was sentenced in District of Columbia federal court to 35 months in prison after pleading guilty to one count of conspiracy to violate the EAR and the ITAR by exporting electronic components, with applications in missile guidance and firing systems, to Indian government entities that are on the EAR Entity List and by exporting ITAR-controlled microprocessors to India, all without obtaining export licenses. Sudarshan and his company, Cirrus

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FD ASSOCIATES, INC. - EXPORT CONTROLS UPDATE

Electronics, provided U.S. companies with false end-use certificates and routed shipments through Singapore to disguise their intended destinations in India.

June 18, 2008: Xiaodong Sheldon Meng, a Chinese-born software engineer resident in Cupertino, CA, was sentenced in San Jose federal district court to 24 months in prison followed by 3 years of supervised release, a \$10,000 fine, and forfeiture of the computer equipment seized in the case. Meng pled guilty to one count each of violating the Economic Espionage Act of 1996 and violating the ITAR. Meng's conviction was the first conviction to involve military source code under the Arms Export Control Act. The source code was viXsen, a Quantum3D visual simulation software program used for training military fighter pilots to use night visual sensor equipment.

June 19, 2008: Jilani Humayun, a citizen of Pakistan, pleaded guilty in federal court in New York to three conspiracy counts, including one involving the shipment of ITAR-controlled parts for fighter jets to Malaysia. (Details are in Regulatory Update for July 2007, when Humayun was arrested.)

June 24, 2008: Hassan Saied Keshari, a U.S. citizen originally from Iran who ran an aviation parts company in Novato, CA, and Traian Bujduveanu, a U.S. citizen originally from Romania who ran an aviation company in Plantation, FL, were arrested, and charged with exporting aircraft parts to the United Arab Emirates for resale to Iran. Some of the parts were reportedly for the repair of Iran's fleet of F-14 jet fighters and the others were for military helicopters.

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