

<p style="text-align: center;">EXPORT CONTROLS UPDATE January 2008</p>
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This newsletter is a summary of changes to US export control regulations or other regulatory matters of interest during the month of January 2008.

REGULATORY UPDATES

The President

Jan. 22, 2008: President Bush issued an Export Control Directive aimed primarily at streamlining license processing by the Department of State. Major provisions of the Directive:

- Additional financial resources and intelligence support for timely adjudication of defense trade licenses
- Guidelines requiring decisions on defense trade license applications within 60 days, unless there are strong extenuating circumstances
- Updating and expansion of the electronic licensing system, including enabling all agencies to access the same electronic information
- Updating of controls on exports involving nationals of NATO and other allied countries
- Creation of a formal interagency dispute mechanism for the Commodity Jurisdiction (CJ) process
- Review of the CJ process by the National Security Council to assure efficiency and timeliness
- Establishment of a multi-agency working group to improve export enforcement investigation procedures

The Directive did not include information on implementation of these measures, but stated that the Administration “is committed to working closely with U.S. industry to implement these reforms.”

According to a Commerce Department fact sheet, the President also directed the following changes applying to licensing of dual-use items:

- Focus on foreign end users, including the Validated End User (VEU) program for reliable foreign users and expansion of the Entity List for foreign parties with negative records
- Developing a regular process for systematic review of the Commerce Control List
- Revised controls on intra-company transfers
- Revised controls on encryption products
- Review of U.S. re-export controls
- Publication of advisory opinions on the Commerce Department website
- Publication of lists of foreign parties that warrant higher scrutiny

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Department of Commerce

Jan. 2, 2008 – *73 Fed. Reg. 32*: The Bureau of Industry and Security (BIS) amended the Export Administration Regulations (EAR) by making many technical amendments and also –

- removing a reference to Libya as an embargoed destination in Sec. 746.1(a)(1)
- clarifying the requirements for obtaining an Import Certificate or an End-User Statement for exports to China (PRC) by adding a new Sec. 748.10(b)(3)
- eliminating a Validated End User (VEU) reporting requirement in Sec. 748.15(f)(1)(i) (but leaving intact the requirement for an annual report)
- amending the contact information for the PRC Ministry of Commerce in Part 748, Supp. No. 4

Jan. 11, 2008: BIS released the final report of the Deemed Export Advisory Committee, including the committee's recommendations for changes in the Deemed Export rules. The report is at <http://tac.bis.doc.gov/2007/deacreport.pdf>.

Jan. 21, 2008: BIS released its 2008 Report on Foreign Policy-Based Export Controls. See the report at www.bis.doc.gov/news/2008/2008-fpr.pdf. In publishing the report, BIS also extended all the foreign policy controls for an additional year, to January 20, 2009. (Foreign policy controls expire after one year unless they are extended.)

Department of Defense

Jan. 3, 2008: The Defense Security Cooperation Agency (DSCA) notified Congress of possible foreign military sales to Kuwait (TOW-2A/B Radio Frequency Missiles valued at \$328 million), the United Arab Emirates (various missiles and weapons systems valued at \$326 million), and the United Kingdom (Unmanned Aerial Vehicles and related items and services valued at \$123 million.)

Jan. 14, 2008: DSCA notified Congress of a possible foreign military sale to Saudi Arabia of Joint Direct Attack Munitions and associated equipment and services. Total value of the sale will be up to \$123 million.

Department of State

Jan. 4, 2008: DDTC issued further guidance on the new rules governing provisions in Technical Assistance Agreements (TAAs) and Manufacturing License Agreements (MLAs) on transfers to foreign parties' employees. (See the December 2007 Export Control Update for a description of the new rule and guidance for its implementation in existing TAAs/MLAs.) The newest guidance details requirements for provisions to be included in new TAAs/MLAs, amended TAAs/MLAs, and their transmittal letters.. The new rules will streamline some agreements, but they also require Non-Disclosure Agreements in some situations where none was required before.

Call us for help in assuring that your new and existing TAAs and MLAs are compliant. Beginning Feb. 1, 2008, DDTC may refuse to accept submissions that do not meet the new requirements.

January 2008: During January, DDTC made several important non-regulatory announcements on its website, www.pmdtdc.state.gov:

- The website was redesigned in an effort to facilitate research and make it easier to navigate.
- "Getting Started With Defense Trade," a basic summary of the rules governing exports of military items, was added

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- Detailed organization charts were provided for the Office of Defense Trade Controls Policy, Office of Defense Trade Controls Compliance, and Office of Defense Trade Controls Licensing.
- Kevin Maloney was appointed to the position of Director, Office of Defense Trade Controls Licensing. Mr. Maloney was formerly Chief, Munitions Division, Licensing, Defense Technology Security Administration (DTSA), U.S. Department of Defense.
- The rollout of D-Trade2 is now expected to occur by the end of March 2008. An exact date will be announced later.

SANCTIONS

Department of Commerce

Jan. 25, 2008 – *73 Fed. Reg. 4519*: BIS denied the export privileges of Juan Sevilla of Gardena, CA and related companies, JS Engineering and Cientec, S.A. de C.V. for 5 years from December 5, 2006. Sevilla had been found guilty on that date of knowingly and willfully attempting to export an EAR 99 testing machine to Iran without obtaining the required authorization from the Treasury Department Office of Foreign Assets Control (OFAC).

FINES & PENALTIES

Dec. 21, 2007: Quality Penn Products, Inc. of Philadelphia, PA agreed to pay \$6,000 to settle charges of engaging in conduct prohibited by the EAR and acting with knowledge that a violation of the EAR would occur by ordering the export of 1000 EAR 99 wood pallets to Cuba. Quality Penn was aware of the license requirement, since it had previously applied for and received a license to export wood pallets to Cuba.

Jan. 4, 2008: James Angehr and John Fowler of Kenner, LA were indicted in federal district court in New Orleans for conspiracy and attempt to violate the EAR and the Iran Sanctions Regulations by making exports to Iran without the required license from OFAC. The charges are based on their alleged involvement in sales to Iran of certain computer-assisted design software by their company's Brazilian distributor.

Jan. 10, 2008: Thirunavukarasu Varatharasa of Sri Lanka was sentenced in Baltimore, MD federal court to 57 months in prison followed by three years of supervised release for attempted exports of military items without authorization and conspiracy to provide material support to a designated foreign terrorist organization. Varatharasa contacted an undercover business in Maryland in an effort to export state-of-the-art firearms, machine guns and ammunition, surface to air missiles, night vision goggles, and other military weapons to the Tamil Tigers in Sri Lanka. He was arrested on Guam, where U.S. undercover agents had lured him to come to inspect the weapons.

Jan. 11, 2008: OFAC reported that Zimmer Dental Inc. had paid \$82,850 on behalf of itself and a predecessor company to settle allegations of violations of the Iranian Transactions Regulations. In September 2007, Zimmer agreed to pay \$175,000 to settle charges by BIS of 52 unauthorized exports of dental equipment to Iran via the United Arab Emirates. OFAC reported that Zimmer had voluntarily disclosed the violations and had instituted a comprehensive sanctions compliance program.

Jan. 11, 2008: OFAC reported that Medcraft Industries, Inc. had remitted \$3,000 to settle allegations that it violated the Iranian Transactions Regulations by engaging in "a trade-related transaction" involving the exportation of goods to Iran without an OFAC license.

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Jan. 11, 2008: OFAC announced that Millipore Corporation, Inc. had paid \$1,000 to settle charges that it had violated the Iranian Transactions Regulations by exporting scientific samples to Iran without an OFAC license. Millipore voluntarily disclosed the violations and instituted a comprehensive sanctions compliance program.

Jan. 11, 2008: OFAC announced that Diversified Business Communications of Portland, ME had been assessed a penalty of \$5,500 for violating the Iranian Transactions Regulations by the unauthorized export of services to an Iranian exporter of caviar in the form of booking arrangements for booth space at a European seafood exposition.

Jan. 23, 2008: Northrop Grumman Corporation of Los Angeles, CA agreed to pay a \$400,000 civil penalty to settle charges of 131 violations of the EAR by Northrop and by Litton Industries, Inc., which Northrop acquired in 2001. The violations were primarily unlicensed exports of specially designed components for navigation equipment and module manufacturing data to Philippines, Singapore, Malaysia, Italy, and the United Kingdom. Northrop voluntarily self-disclosed the violations and cooperated fully in the investigation.

Jan. 23, 2008: Elite International Transportation, Inc., a freight forwarder of Houston, TX, agreed to pay \$156,000 to settle 55 charges by BIS of misrepresentation and concealment of facts. Elite had represented on export control documents that a chemical it exported to Mexico was "NLR" (no license required), when in fact it was controlled under ECCN 1C350.c.9.

Jan. 29, 2008: Ding Zhengxing and Su Yang, both of China, were arrested in Saipan, Northern Mariana Islands, on charges of conspiracy and aiding and abetting unauthorized exports to China of ITAR-controlled amplifiers. Zhengxing and Yang allegedly had sent e-mails and held telephone conversations with U.S. Immigration and Customs Enforcement (ICE) undercover agents to arrange the purchase and had wire transferred funds to an ICE undercover company to pay for the amplifiers. They were arrested when they came to the Northern Mariana Islands to take possession of the amplifiers. A third person was also indicted, but did not come to the Northern Marianas and remains at large.

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