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Advisors in Export
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LATEST EXPORT CONTROLS AND COMPLIANCE UPDATE
January 2010

This newsletter is a listing of the latest changes in US export control regulations for the month of January 2010. 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 readers with their international trade and export compliance obligations. 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

The President

Dec. 21, 2009: President Obama signed a directive – “Presidential Study Directive 8” – directing his administration to recommend changes in military and dual-use export controls, including specific statutory and regulatory steps necessary to implement recommended changes. Deadline for agency responses was Jan. 29, 2010. The responses will be considered by a task force headed by White House National Security Advisor, James Jones and National Economic Council Director, Lawrence Summers. Defense Secretary Robert Gates, Commerce Secretary Gary Locke, and other senior officials reportedly met with congressional leaders to discuss changes in export controls on January 27 and on the same day President Obama mentioned the need for export control reform in his State of the Union address.

Department of Commerce

Jan. 6, 2010: The Bureau of Industry and Security (BIS) published an advisory opinion on the scope of the “second incorporation principle” – a rule of practice that generally states that U.S.-origin components, incorporated into a foreign-made discrete product, will not be counted in the *de minimis* calculations of second foreign-made discrete product. (The no “double-counting” principal.) The opinion describes various situations where second incorporation could be an issue. The opinion is available at www.bis.doc.gov/policiesandregulations/advisoryopinions/second_incorporation_rule_advisory.PDF.

Jan 7, 2010: BIS published extensive new guidance for freight forwarders on its website at www.bis.doc.gov/complianceand enforcement/freightforwarderguidance.htm.

Jan. 12, 2010: BIS published Offsets in Defense Trade, its congressionally mandated periodic analysis of the impact of offsets on the defense preparedness, industrial competitiveness, employment, and trade of the United States. See www.bis.doc.gov/news/2010/14th_offset_defense_trade_report.pdf for a copy of the report.

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Jan. 13, 2010 – 75 Fed. Reg. 1699: BIS added 15 entities to the Entity List (*Supplement No 4 to Part 744 of the EAR*). As a result, a BIS 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 general policy 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:

Armenia:

- Bold Bridge International, LLC, Yerevan,

China:

- Chitron Electronics Company Ltd, a.k.a. Chi-Chuang Electronics Company Ltd (Chitron-Shenzhen), Shenzhen, Mianyang, Beijing, Si'an, Chengdu, and Shanghai
- Wong Yung Fai, a.k.a. Tonny Wong, Shenzhen

Hong Kong:

- Centre Bright Electronics Company Limited, Kowloon and Shatin, New Territories
- Chitron Electronics Company Ltd, a.k.a. Chi-Chuang Electronics Company Ltd., Kowloon
- Exodus Microelectronics Company Limited, Kowloon, and Shatin, New Territories
- Hong Chun Tai, Ma On Shan New Territories, Kowloon, and Shatin, New Territories
- Victory Wave Holdings Limited, Kowloon
- Wong Wai Chung, a.k.a. David Wong, Ma On Shan, New Territories, Kowloon, and Shatin, New Territories
- Wong Yung Fai, a.k.a. Tonny Wong, Ma On Shan, New Territories, Kowloon, and Shatin, New Territories

Malaysia:

- Alex Ramzi, Kuala Lumpur
- Amir Ghasemi, Kuala Lumpur
- Evertop Services Sdn Bhd, Kuala Lumpur
- Majid Kakavand, Kuala Lumpur

Singapore:

- Microsun Electronics Pte., Ltd
- Opto Electronics Pte. Ltd

Jan. 15, 2010 – 75 Fed. Reg. 2435: Grace Semiconductor Manufacturing Corporation of Shanghai, China, was designated as a Validated End-User for specified items classified under Export Control Commodity Numbers (ECCNs) 1C350, 2B230, 2B350, 3B001, 3C002, 3C004, 5B002, and 5E002.

Department of State

January 6, 7, 11, 19, and 26: The Directorate of Defense Trade Controls (DDTC) posted notices of the following name changes and corporate acquisitions on its home page, www.pmddtc.state.gov. Each notice specifies the action that must be taken regarding pending and currently approved authorizations involving the particular renamed entities.

- Stork Fokker AESP B.V. to Fokker Aerostructures B.V.
- BVR Systems Ltd to R.V.B Holdings Ltd
- Allen-Vanguard Corporation of Canada acquired by Contego AV Luxembourg S.a.r.l.
- Macmet Technologies Private Limited to CAE India Private Limited
- Plexus Services Corporation to Plexus Corporation

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- Pulau Electronics Corporation to Pulau Corporation
- Tokimec Inc. to Tokyo Keiki Inc.
- Alliance Spacesystems, LLC and MDA Federal Inc., to MDA Information Systems, Inc.
- BVR Systems (1998) Ltd to Elbit Systems, Ltd.
- SELEX Sensors & Airborne Systems Limited to SELEX Galileo, Ltd.
- Galileo Avonica Societa Per Azioni (S.p.A.) to SELEX Galileo S.p.A.
- SELEX Sensors & Airborne Systems Infrared Limited to SELEX Galileo Infrared, Ltd.
- SELEX Sensors & Airborne Systems Electron Optics (Overseas) Limited to SELEX Galileo Electro Optics (Overseas), Ltd.
- SELEX Sensors & Airborne Systems (Projects) Limited to SELEX
- AgustaWestlandBell LLC to AgustaWestland America LLC
- BBN Technologies Holding Corporation to Raytheon Company
- Lockheed Martin Aircraft Argentina SA to Fábrica Argentina de Aviones "Brigadier San Martin" S.A.

Jan. 6, 2010: DDTC posted a notice on its website informing exporters that decisions on applications for exports of military items to Niger may be delayed. DDTC also advised applicants for licenses to export defense articles to Niger to provide detailed information about the end use and end user of the items. This advice reflects U.S. discontent with the refusal of Niger's president to relinquish his mandate. The DDTC announcement is at http://www.pmdtc.state.gov/licensing/documents/CI_Niger.pdf

Jan. 7, 2010: DDTC published a table showing average processing times for license applications for each month of 2009. Average times ranged from 13-17 days. The table does not distinguish among types of applications, and it does not include processing times for commodity jurisdiction requests. The table is at <http://pmdtc.state.gov/metrics/index.html>.

Jan. 7, 2010 – 75 Fed. Reg. 1009: DDTC terminated the statutory debarment of Earlene Christenson after finding that appropriate steps have been taken to mitigate any law enforcement concerns. The DDTC notice stated that Ms. Christenson will be ineligible to participate in any activities regulated under the ITAR without prior approval from the State Department.

Jan. 19, 2010: DDTC updated its guidelines on the export and temporary import of firearms and ammunition. The updates affect exports of firearms through foreign transit points and temporary imports of firearms for transit or transshipment to other members of the Organization of American States. see http://pmdtc.state.gov/licensing/documents/Guidelines_Firearms.pdf, for details.

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LATEST EXPORT VIOLATIONS, FINES, PENALTIES, AND SANCTIONS January 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 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.*

Jan. 5 and 6, 2010 –75 Fed. Reg. 337 and 842: BIS imposed 15-year denial orders on Ning Wen of Manitowoc, WI, currently resident in federal prison camp in Duluth, MN, and Hailin Lin of Manitowoc, WI under an agreement to settle 124 charges involving unauthorized exports of ECCN 3A001 and ECCN 3A002 components to China. (See December 2009 Update for more about this case.)

Jan. 7, 2010: Taipan Enterprises Ltd., a company in Arlington, VA, pleaded guilty in federal court in Alexandria, VA and was fined \$15,000 after its owner admitted that the company engaged in brokering of ITAR-controlled items without registering as a broker or obtaining the required brokering authorizations from DDTC. The charges involved unsuccessful attempts over a period of several years to broker military items, including night vision goggles, machine pistols, M4 rifles, and gas grenades, to Yemen, Chile, Libya, and Vietnam.

Jan. 26, 2010: Robert E. Quinn of Lexington, KY agreed to a civil penalty of \$11,000 to settle one count of giving false statements to a BIS special agent in the course of an investigation into suspected exports of truck parts to Iran. The penalty will be waived after one year if Quinn has not committed any violations during that period.