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## EXPORT CONTROLS UPDATE March 2009

*This newsletter is a summary of changes to US export control regulations or other regulatory matters of interest for the month of March 2009.*

### REGULATORY UPDATES

#### Department of Commerce

March 5, 2009 – The Bureau of Industry and Security (BIS) posted a Commodity Classification Information Table containing classification information from 17 companies. The table is at <http://www.bis.doc.gov/commodityclassificationpage.htm>. Companies wishing to place material about the classification of their products to this table should send any of the following information to [CommodityClassifications@bis.doc.gov](mailto:CommodityClassifications@bis.doc.gov): Company name; general description of products/services; commodity classification information website address; export control point of contact.

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March 20, 2009 – *74 Fed. Reg. 11908*: After discovering that nearly half the export licenses issued in calendar year 2005 remained completely unused at the end of calendar year 2007, BIS requested public comments on the reasons for non-use and under-use of export licenses. BIS is especially interested in learning whether characteristics of the export licensing process contribute to the practice of not using or under-using export licenses. Comments should be sent to [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov), with “Utilization Rate of Export Licenses Issued” in the subject line. Deadline for comments is May 4, 2009.

#### Department of State

March 2, 2009: The Directorate of Defense Trade Controls (DDTC) posted updated guidance on its website about the licensing requirements relating to the employment of foreign persons by a U.S. person. Much of the guidance, including Q&As, consolidates existing practices. New items include the recommendation that only one DSP-5 be obtained for each foreign person employee to cover all his/her activities, where formerly both a DSP-5 and a technical assistance agreement had often been required. The updated guidance is at:

[http://www.pmddtc.state.gov/licensing/documents/WebNotice\\_LicensingForeign.doc](http://www.pmddtc.state.gov/licensing/documents/WebNotice_LicensingForeign.doc).

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March 5, 2009: DDTC announced that although Sec. 123.22(b)(3) of the International Traffic in Arms Regulations (ITAR) requires exporters to provide DDTC with electronic notification of the initial export of technical data and/or defense services under a DDTC authorization (e.g., technical data license, agreement or a technical data exemption), the electronic mechanism for this notice is not available at this time. Therefore, this notification must instead be made on paper. The announcement is at [http://www.pmddtc.state.gov/licensing/documents/WebNotice\\_DS4071.doc](http://www.pmddtc.state.gov/licensing/documents/WebNotice_DS4071.doc).

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March 20, 2009: DDTC issued a reminder that Agreements and Amendments must be executed by all parties before any exports can be made under their authority. This requirement had recently been removed from DDTC's approval letter for agreements/amendments, because the requirement already existed in the regulations (*see December 2008 Update*). However, since the ITAR does not clearly describe this requirement, its removal from agreement/amendment approvals letter has caused confusion. Consequently, approval letters for agreements/amendments will now contain this requirement.

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March 30, 2009: The Draft Aircraft Guidelines that DDTC had posted in February 2009 with an invitation for comment (*see February 2009 Update*) have been removed from the DDTC website. DDTC is now reviewing the comments received and preparing revised guidelines.

### Department of the Treasury

March 19, 2009: The Office of Foreign Assets Control (OFAC) published extensive new guidance on the Cuba Assets Control Regulations on its website at:

<http://www.treas.gov/offices/enforcement/ofac/programs/cuba/cuba.shtml>.

## SANCTIONS

### Department of Commerce

March 18, 2009 – *74 Fed. Reg. 11472*: BIS removed two persons from the Entity List (Export Administration Regulations (EAR) Part 744, Supplement No. 4) and deleted one of two addresses for each person during the annual review of the Entity List by the End-User Review Committee. These two persons were identified under addresses in more than one country. The persons removed from the list are Bazaar Trading Co. of Dubai, U.A.E., and Elmstone Trading L.L.C. of Sharjah, U.A.E. Addresses in the U.A.E. were deleted for Akbar Ashraf Vaghefi and Antony Emmanuel.

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March 25, 2009 – *74 Fed. Reg. 12836*: BIS renewed for an additional 180 days the Temporary Denial Order (TDO) against Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., and Blue Sky Three Ltd., all of London, U.K.; Blue Airways of Yerevan, Armenia; Mahan Airways of Tehran, Iran; and Blue Airways FZE and Blue Airways of Dubai, U.A.E. However, in the same action BIS lifted TDOs against Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd.

## FINES & PENALTIES

March 6, 2009: A federal jury in Fort Pierce, FL convicted Joseph Piquet of violations of the Arms Export Control Act (AECA) and the International Emergency Economic Powers Act (IEEPA, the current authority for the EAR) involving a conspiracy to purchase ITAR-controlled high-power amplifiers and EAR-controlled low noise amplifiers from Northrop Grumman Corporation and then ship them to Hong Kong and the People's Republic of China (PRC) without the required export licenses. Piquet submitted false End Use Certificates in support of his purchases.

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March 10, 2009: Analytical Methods, Inc., of Redmond, WA agreed to a \$500,000 penalty for ITAR violations including making unauthorized exports to the PRC; causing unauthorized exports to the PRC; failing to notify DDTC of unauthorized exports; unauthorized provision of defense services to Israel, Singapore, Turkey, and the United Kingdom; an unauthorized export to Turkey; manufacturing and exporting defense articles without being registered with DDTC; and misrepresentation and omission of

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facts. Analytical Methods continued exporting a software module without authorization even after it received a commodity jurisdiction (CJ) determination that the module was controlled under the ITAR. \$100,000 of the fine is to be paid to the Government, while \$400,000 is to be spent on compliance measures.

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March 11, 2009: Infineon Technologies Industrial Power, Inc. of Lebanon, NJ agreed to pay a civil penalty of \$70,000 to settle charges by BIS that on three occasions it had exported certain dual-use switching devices to Chile without the required export licenses.

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March 16, 2009: Laura Wang-Woodford pled guilty in Brooklyn, NY federal court to conspiring to export controlled aircraft components to Iran. Wang-Woodford, a U.S. citizen, was a director of Monarch Aviation Pte, Ltd., a Singapore importer and exporter of military and civilian aircraft components. Her husband, a citizen of the U.K. who was chairman of Monarch, was also charged in the case, but remains a fugitive. The Woodfords falsely listed Monarch and another Singapore company as the ultimate recipients of various aircraft parts, but then illegally exported the items to Iran. They were also charged with arranging the illegal export of Chinook military helicopter parts to Monarch in Singapore. Wang-Woodford, who had been incarcerated since her arrest on December 23, 2007 upon arrival at San Francisco International Airport on a flight from Hong Kong, agreed to forfeit \$500,000 to the U.S. Treasury Department and still faces a maximum sentence of five years in prison and a fine up to \$250,000.

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March 17, 2009: Hossein Ali Khoshnevisrad of Tehran, Iran faced charges in San Francisco Federal Court following his arrest on March 14 upon his arrival at San Francisco International Airport. Khoshnevisrad and his Iranian company, Ariasa, AG were charged with unlawful exports of U.S. goods to Iran and conspiracy to unlawfully export U.S. goods to Iran. They allegedly instructed Mac Aviation Group, a trading company in Ireland (*see item about Mac below*), to purchase 17 Rolls-Royce helicopter engines, falsely identifying the intended end users. The engines were then transhipped via Malaysia to Iran. They were also charged with a similar arrangement to transship military aerial panorama cameras via the Netherlands to Iran.

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March 23, 2009: Jian Wei Ding of Singapore pleaded guilty in Minneapolis Federal Court to conspiracy to violate the EAR. His co-conspirators, Ping Cheng of Manhasset, NY and Kok Tong Lim of Singapore, earlier entered guilty pleas in the same conspiracy, which involved exports and attempted exports of Commerce-controlled, high-modulus carbon fiber material to Singapore, Hong Kong, and PRC without the required export licenses. Each of the defendants faces a maximum of 20 years in prison and a \$1 million fine.

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March 24, 2009: Mac Aviation Group, an Irish aircraft broker, and three of its officers, Thomas McGuinn, Sean McGuinn, and Sean Byrne, were charged with conspiracy, violations of the IEEPA and the Iranian Transactions Regulations, and false statements arising from their purchase of U.S.-origin aircraft engines and parts on behalf of Iranian end users while concealing the ultimate end-use and end-users from the U.S. sellers. Among other transactions, the parties purchased 17 Rolls-Royce helicopter engines on behalf of an Iranian trading company (*see item about Hossein Ali Khoshnevisrad and Ariasa, AG above*). The McGuinns and Byrne are in Ireland, outside U.S. custody. Thomas McGuinn is already on DDTC's debarred parties list as a result of a 1996 conviction for violating the AECA.