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

REGULATORY UPDATES

The President

May 9, 2008 – *73 Fed. Reg. 26937*: President Bush continued the national emergency that provides the authority for blocking property of certain Syrian persons and prohibiting certain exports and re-exports to Syria. The sanctions were extended for one year.

Department of Commerce

May 8, 2007 – *73 Fed. Reg. 26000*: BIS corrected an error in the technical corrections to the Export Administration Regulations (EAR) that had been published on April 18, 2008 (*73 Fed. Reg. 21035*). The new correction amends ECCN 9A004 by restoring the previous “Related Controls” paragraph that the April notice had inadvertently deleted.

May 19, 2008 – *73 Fed. Reg. 28795*: BIS invited comments on two recommendations that were made by the Deemed Export Advisory Committee (DEAC): 1) whether the scope of technologies on the Commerce Control List (CCL) that are subject to deemed export license requirements should be narrowed, and if so, which technologies should remain subject to deemed export license requirements, and 2) whether a more comprehensive set of criteria should be used to assess country affiliation for foreign nationals with respect to deemed exports. Comments must be received by August 18, 2008. (The original DEAC report is at <http://tac.bis.doc.gov/2007/deacreport.pdf>.)

May 19, 2008: BIS initiated a “systematic industry” study of the 5-axis simultaneous control machine tool industry. The study will evaluate the health and competitiveness of the 5-axis machine tool industrial base, account for the impact of export control practices and foreign availability on the industry, and examine the capabilities of U.S. and foreign manufacturers to reliably meet U.S. national security needs. BIS expects to issue a report by the fall of 2008, after input by the Commerce Department National Institute of Standards and Technology and International Trade Administration, the Office of the Under Secretary of Defense (Industrial Policy), and the Department of Energy National Nuclear Security Administration.

May 23, 2008 – *73 Fed. Reg. 30048*: BIS announced the creation of the Emerging Technology and Research Advisory Committee (ETRAC), a new Technical Advisory Committee (TAC) that will advise the Commerce Department on “i) identifying emerging technologies and research and development activities that may be of interest from a dual-use perspective; (ii) prioritizing new and existing controls to determine which are of greatest consequence to national security from a deemed export perspective; and (iii) addressing the implications of dual-use export control requirements on research activities.” Persons interested in being members of ETRAC should submit their resumes by June 24, 2008.

Department of State

May 9, 2008: The Directorate of Defense Trade Controls (DDTC) posted a list of defense articles that will be excluded from the proposed defense trade cooperation treaties with Australia and the United Kingdom. The list is on the DDTC website at <http://pmdtdc.state.gov/treaties.htm>. The treaties and implementing agreements are on the same web page.

May 12, 2008: DDTC updated the answers to Frequently Asked Questions (FAQs) on Commodity Jurisdiction. See them at http://pmdtdc.state.gov/docs/FAQs_CJ.pdf.

May 16, 2008 – *73 Fed. Reg. 28545*: The Deputy Secretary of State issued a determination permitting the provision of non-lethal military assistance, military education and training, and defense services controlled under the International Traffic in Arms Regulations (ITAR) to the Government of Southern Sudan.

May 19, 2008 – *73 Fed. Reg. 28863*: DDTC amended the rule proposed April 11, 2008 at *73 Fed. Reg. 19778* that clarified the jurisdiction over certain civil aircraft parts and components (*see* April Update). The amendment corrected the April notice by adding an asterisk (*) before Subparagraph (b) of U.S. Munitions List (USML) Category VIII. The effect of this correction is to designate the following items as Significant Military Equipment:

“ (b) Military aircraft engines, except reciprocating engines, specifically designed or modified for the aircraft in paragraph (a) of this category, and all specifically designed military hot section components (i.e., combustion chambers and liners; high pressure turbine blades, vanes, disks and related cooled structure; cooled low pressure turbine blades, vanes, disks and related cooled structure; cooled augmenters; and cooled nozzles) and digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC))”.

May 19, 2008: DDTC published guidelines it will follow for granting transaction exceptions to the debarment of Electro-Glass Products, Inc. The guidelines are at www.pmdtdc.state.gov/electro-glass_products_guidelines.htm.

May 20, 2008 – *73 Fed. Reg. 29172*: The Deputy Secretary of State determined that Cuba, Eritrea, Iran, North Korea, Syria, and Venezuela are not cooperating fully with U.S. antiterrorism efforts. As a result, defense services and defense articles may not be sold or licensed for export to these countries.

May 22, 2008: DDTC posted the public comments that had been submitted concerning the rule it proposed on April 11, 2008 (*73 Fed. Reg. 19778*; see article above and April Update) clarifying jurisdiction over certain civil aircraft parts and components with reference to Section 17(c) of the Export Administration Act of 1979. The comments are at http://pmdtdc.state.gov/proposed_rules.htm.

FINES & PENALTIES

Department of Commerce

May 7, 2008 – *73 Fed. Reg. 25648*: BIS imposed a 3-year denial of export privileges and a \$6,000 fine on Kabba & Amir Investments, Inc., d.b.a. International Freight Forwarders, of Toronto, ON, Canada, for aiding and abetting an attempted unauthorized export when it accepted X-ray film processors that were to be shipped from the U.S. to Canada for export to Cuba. The denial of export privileges will be suspended in its entirety if IFF pays the fine within 30 days and commits no further violations during the suspension period.

May 7, 2008: A federal jury in Madison, WI convicted Doli Sharief Pulungan, an Indonesian national, of conspiracy to violate the Arms Export Control Act (AECA) for attempting to export 100 rifle scopes to Indonesia without the required export license. The scopes were designed to be attached to M-16 and AR-15 assault rifles. Pulungan will be sentenced on July 28.

May 13, 2008: BIS fined Aviall Pte. Ltd. of Singapore \$3,600 for agreeing to refuse to do business with a boycotted country and failing to report the receipt of a boycott request.

May 20, 2008: In a further development in the deemed export case involving a Chinese graduate student at the University of Tennessee (see April Update), a federal grand jury in the Eastern District of Tennessee indicted UT Professor Emeritus J. Reece Roth and Atmospheric Glow Technologies Inc. of Knoxville, TN on charges of violations of the AECA, conspiracy to defraud the U.S. Air Force, and conspiracy to violate the AECA. The unauthorized exports were controlled technical data related to a U.S. Air Force contract to develop plasma actuators for a military Unmanned Aerial Vehicle. Roth and AGT were accused of involving the Chinese graduate student in the project without the required export license, and Roth – who reportedly brought his laptop on a trip to China to teach a course at a Chinese university -- was also accused of additional direct exports to China of controlled technical data related to the UAV project. Professor Roth pleaded Not Guilty on May 27, and his trial date was set for August 4, 2008.

May 20, 2008: TFC Manufacturing Inc. of Lakewood, CA agreed to pay a \$31,500 civil penalty for violating the EAR deemed export rule by releasing technology for the production of aircraft parts classified under ECCN 9E991 to an employee who was an Iranian national.

May 28, 2008: In a further development in the case of Engineering Dynamics, which conspired to transship software to Iran via a Brazilian distributor (see April 2008 Update), Nelson S. Galgoul, the

Brazilian distributor, was sentenced to 13 months in jail, a fine of \$100,000, and a forfeiture of \$109,291 for his role in the transactions, which violated the International Emergency Economic Powers Act (IEEPA) and the Iranian Transaction Regulations. Mr. Galgoul had apparently traveled to the U.S., as he was arrested by Immigration and Customs Enforcement (ICE) on U.S. soil.

May 29, 2008: The Treasury Department Office of Foreign Assets Control (OFAC) announced three recent export-related cases:

- York International Corporation remitted \$669,507 to settle violations of the Iranian Transactions Regulations, the Sudanese Sanctions Regulations, and the Iraqi Sanctions Regulations. The alleged export violations involved sales of air conditioning and refrigeration equipment to Iran and Sudan by foreign national employees of a foreign branch of York. The violation of the Iraqi Sanctions Regulations involved improper payments to the Government of Iraq in connection with licensed sales of refrigeration equipment under the United Nations Oil-for-Food Program. York was subsequently acquired by Johnson Controls, Inc., which voluntarily disclosed the violations to OFAC.
- Knight Industries and Associates, Inc. of Auburn Hills, MI, remitted \$17,469.63 to settle allegations that over a period of almost four years, it sent material-handling systems to Iran without the required authorization. Knight voluntarily disclosed these violations and has instituted a comprehensive U.S. sanctions compliance program in order to avoid future violations.
- The Newman Group Computer Services Corp. of Dexter, MI was assessed a civil penalty of \$2,414.10 for attempting to export computer equipment to an entity in Khartoum, Sudan, without the required license.