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Advisors in Export
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LATEST EXPORT CONTROLS AND COMPLIANCE UPDATE

May 2009

This newsletter is a listing of the latest changes in US export control regulations for the month of May 2009. It is provided to clients and associates of FD Associates as a complimentary service to assist in 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 your company's international trade and export compliance functions. 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 (attached) for update on companies and persons denied export privileges by the United States government

REGULATORY UPDATES

Canada

April 30, 2009: The Government of Canada amended and updated its Export Control List. The updated control list, an electronic version of "A Guide to Canada's Export Controls (2007)" and other export control materials are on Canada's official export control web site: http://www.international.gc.ca/controls-controles/about-a_propos/expor/guide.aspx.

The President

May 7, 2009 – 74 Fed. Reg. 21763: President Obama renewed the national emergency with respect to Syria, allowing current sanctions against Syria to continue for another year. These sanctions affect all exports to Syria except food and medicine.

Department of Commerce

May 6, 2009 – 74 Fed. Reg. 20870: The Bureau of Industry and Security (BIS) removed the T-37 jet trainer aircraft and its specially designed component parts from the Commerce Control List. The purpose of the change was to eliminate overlapping coverage, since these aircraft and parts are also reviewed for export by the U.S. Department of State's Directorate of Defense Trade Controls (DDTC).

May 22, 2009 – 74 Fed. Reg. 23941: In a complex rule, BIS made several regulatory changes affecting exports and re-exports of uncooled thermal imaging cameras and related software, including both introduction of new controls and removal of controls. The changes represent an attempt to streamline controls to friendly countries in recognition of the availability of foreign commercial cameras while still ensuring appropriate government oversight over commercial cameras used for military purposes. *Contact us for details if you might be affected by these changes.*

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Department of State

May 7, 2009: DDTC posted a notice of an asset transfer and name change: The assets of the Defense, Security, and Aerospace business unit of Bell Aliant Regional Communications, Ltd. Partnership's xwave division in Canada (formerly a division of Xwave Solutions Inc.) have been acquired by CAE Professional Services (Canada) Inc., and will hereafter operate under the CAE Professional Services (Canada) Inc. name. The DDTC notice is at

http://pmddtc.state.gov/licensing/documents/WebNotice_CAEPS.doc.

May 14, 2009: DDTC announced that effective May 16 all new license submissions must be made using the DTrade2 system. Information and tips for using DTrade2 are on the DDTC web site at

<http://www.pmddtc.state.gov/DTRADE/index.html>.

May 18, 2009 – 74 *Fed. Reg.* 23226: The Deputy Secretary of State determined and certified to Congress that Cuba, Eritrea, Iran, Democratic People's Republic of Korea, Syria, and Venezuela are not cooperating fully with U.S. antiterrorism efforts. As a result of this determination, exports of defense articles and defense services to these countries will continue to be prohibited.

May 26, 2009: DDTC posted a reminder on its website concerning license applications for products manufactured by the debarred parties Electro-Glass Products and ITT Night Vision Division. Applications for export of these products require extra documentation, as described on the DDTC web site at http://www.pmddtc.state.gov/licensing/guidelines_instructions.html.



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LATEST EXPORT VIOLATIONS FINES, AND PENALTIES & SANCTIONS!

*This section of our newsletter provides information on the latest fines, penalties and sanctions for export violations or matters or 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.*

April 29, 2009: Juwhan Yun of Short Hills, NJ was indicted on charges of attempting to broker a rocket propulsion system for South Korea without the required government authorization and failing to register as a broker with the State Department Directorate of Defense Trade Controls (DDTC). Yun was arrested after meeting with a former arms trafficker, now working as an informant, who had previously worked with Yun on deals involving Russian SU-27 fighter planes and surface-to-air missiles. Yun was previously convicted for a similar export control violation: In 1989-91, he served a 30-month prison sentence after being convicted of conspiracy in an effort to supply Iran with 500 quarter-ton bombs of sarin nerve gas.

May 12, 2009: Donald Wayne Hatch of Camas, WA was sentenced in Des Moines IA federal court to 2 years probation, a \$5,000 fine, and a \$100 contribution to a crime victim fund on his plea of guilty to making a false statement to a U.S. Department of Commerce official. (*See August 2008 Update.*) Hatch was the owner of Rigel Optics Inc. of Washougal, WA, which earlier was fined \$90,000 on its plea of guilty to violating the Arms Export Control Act (AECA) by exporting Generation 2 night vision goggles and rifle scopes without the required authorization.

May 13, 2009: Riad Skaff was sentenced to 2 years in prison for using his position as an Air France ground services coordinator at O'Hare Airport in Chicago, IL to help smuggle \$396,000 in cash without the required the U.S. Government declaration, and to export weapons scopes, military night vision goggles, and a cell phone jammer without the required authorization. Skaff was caught in a "sting" operation when he smuggled \$25,000 in cash past airport security so that an undercover agent of Immigration and Customs Enforcement (ICE) could take it aboard a plane to Paris.

May 14, 2009: Hassan Saied Keshari was sentenced to 17 months in prison plus 3 years of probation for conspiring to ship parts for the F-14 fighter jet, the AH-1 Cobra attack helicopter, and the CH-53 heavy-lift transport helicopter to Iran. Keshari, his company Kesh Air International of Novato, CA, and co-conspirators were charged with transshipping the aircraft parts to Iran via Dubai, United Arab Emirates (UAE) in response to e-mailed orders from Iran. (*See January 2009 and April 2009 Updates.*)

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May 15, 2009: Joseph Piquet of Port St. Lucie, FL was sentenced to 5 years in prison followed by 2 years of supervised release following a guilty verdict on 7 counts involving a conspiracy to purchase ITAR-controlled high-power amplifiers and EAR-controlled low noise amplifiers from Northrop Grumman Corporation and ship them to Hong Kong and China without the required authorizations. Piquet submitted false end use statements to the manufacturer to conceal the intended final destination. (*See March 2009 Update.*)

May 14, 2009: Micei International of Skopje, Macedonia was ordered to pay a \$126,000 civil penalty and placed on BIS' Denied Persons List for 5 years on charges that it knowingly participated in seven export transactions in which it used an individual already subject to a BIS Denial Order to negotiate for and/or purchase items in the U.S. for export to Macedonia.

On May 26, 2009 – *74 Fed. Reg. 24785*: BIS imposed a one-year denial of export privileges on Matthew Ayadpoor, 9700 Mayview Court, Oklahoma City, OK, effective May 15, 2009. Ayadpoor also agreed to pay a \$25,000 civil penalty to settle charges by BIS that he had ordered a freight forwarding company to export EAR99 piston-type differential pressure gauges to Iran via the UAE, and that he subsequently made a false statement to representatives of the BIS Office of Export Enforcement. The monetary fine will be suspended for one year and then waived if Ayadpoor commits no further export control violations during that period.

May 26, 2009 – *74 Fed. Reg. 24786*: Effective May 7, 2009. BIS entered a 180-day Temporary Denial Order (TDO) against Orion Air, S.L. of Madrid and Valencia, Spain and Syrian Pearl Airlines of Damascus, Syria based on evidence that Orion Air had re-exported a BAE 146-300 aircraft to Syria Pearl in Syria without the required U.S. government authorization. Prior to the re-export of the aircraft, the U.S. Government had directly informed Orion Air about the applicable export licensing requirements.

May 26, 2009: Philips Electronics North America Corporation of Andover, MA agreed to pay a civil penalty of \$9,000 to settle charges by BIS that it had exported two EAR99 medical devices to Cuba via the Netherlands without the required export authorization.

May 29, 2009: The Treasury Department Office of Foreign Assets Control (OFAC) announced that Volvo Construction Equipment North America, Inc. of Asheville, NC had remitted \$33,000 to settle alleged violations of the Sudanese Sanctions Regulations, including an allegation that Volvo Construction had facilitated the export of motor graders to Sudan from Dubai, UAE.