

BIS agrees \$1.75m settlement with Ericsson de Panama S.A. for alleged Cuba violations

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On 25 May 2012, the U.S. Department of Commerce, Bureau of Industry and Security ('BIS') announced a \$1.753 million settlement with Ericsson de Panama S.A. of Panama City, Panama for 262 alleged violations of the Export Administration Regulations ('EAR'). According to the announcement, the company knowingly implemented a scheme to route items subject to the EAR from Cuba to the United States via Panama between 2004 and 2007. As part of the alleged scheme, Ericsson de Panama repackaged the items to conceal their Cuban markings, forwarded the items

to the United States for repair and replacement, and then returned the items to Cuba. As part of the settlement, the company must undergo an independent export control compliance audit of all Cuba transactions. According to a BIS official, although the alleged violations were egregious, the company avoided criminal prosecution by voluntarily

disclosing them and cooperating in the agency's investigation.

http://www.bis.doc.gov/news/2012/bis_press05252012.htm



U.S. Department of Treasury settles with Genesis Asset Managers, LLP for alleged Iran violations

On 21 May 2012, OFAC announced a \$112,500 settlement with U.S. asset manager Genesis Asset Managers, LLP ('GAM') relating to the company's alleged violations of the Iranian Transaction Regulations ('ITR'). According to the announcement, GAM served as the investment manager for Genesis Emerging Markets Fund ('GEMF'), a Guernsey-organized investment fund. GAM's London-based subsidiary, Genesis Investment Management LLP ('GIM'), furnished advice and transaction services to GAM relating to GEMF in return for a fee. In 2007, on behalf of GEMF, GIM allegedly purchased approximately \$3 million worth of shares in the First Persian Equity Fund, a Cayman Island company that invests exclusively in Iranian securities. OFAC considered a number of aggravating and mitigating factors in resolving the case, the latter of which included GAM's apparent failure to fully understand its obligations under the ITR.

http://www.treasury.gov/resource-center/sanctions/CivPen/Documents/05212012_genesis_notice.pdf

OFAC designates Syria International Islamic Bank

On 30 May 2012, OFAC designated Syria International Islamic Bank ('SIIB') pursuant to executive order 13,382, which allows the blocking of property of weapons of mass destruction proliferators. According to a press release announcing the designation, SIIB has been acting as a front for the Commercial Bank of Syria and providing services for the Syrian Lebanese Commercial Bank, allowing the two financial institutions to circumvent applicable sanctions.

According to a government official, the designation 'will add to the economic pressure on the Assad regime by closing off a key evasion route'. Designation adds SIIB to OFAC's Specially Designated Nationals ('SDN') list, thereby prohibiting any person subject to U.S. jurisdiction from engaging in dealings with that financial institution.

<http://www.treasury.gov/press-center/press-releases/Pages/tg1596.aspx>

OFAC changes to the SDN list

OFAC has made numerous changes to its SDN list pursuant to the Global Terrorism Sanctions Regulations, Narcotics Trafficking Sanctions Regulations, Foreign Narcotics Kingpin Sanctions Regulations, and Foreign Terrorist Organizations Sanctions Regulations. Persons subject to U.S. jurisdiction are prohibited from engaging in dealings with anyone identified on the SDN list.

http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20120612_33.aspx

<http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20120524.aspx>

<http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20120517.aspx>

<http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20120515.aspx>

<http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20120508.aspx>

U.S. President signs executive order on Yemen

On 16 May 2012, the U.S. President signed an executive order titled 'Blocking Property of Persons Threatening the Peace, Security, or Stability of Yemen.' The EO blocks the property and interests in property of any person determined by the U.S. Secretary of Treasury to 'have engaged in acts that directly or indirectly threaten the peace, security, or stability of Yemen,' including 'acts that obstruct the implementation of the agreement of November 23, 2011' between the Yemeni government and opposition forces for the peaceful transition of power. The order also blocks the property and interests in property of: 1) political or military leaders of entities engaged in the above-described activities, and 2) persons who 'have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of,' the above-described activities or for any person blocked under the order.

http://www.treasury.gov/resource-center/sanctions/Programs/Documents/yemen_eo.pdf

U.S. President announces easing of restrictions against Burma

Citing recent economic and political reforms, the U.S. President announced on 17 May 2012 the easing of U.S. sanctions against Burma (Myanmar) by allowing the export of financial services and new investment in Burma. The President also emphasized the United States' commitment to 'help ensure further reform' and its 'ability to reinstate selected sanctions if there is backsliding'. Delays in implementing the President's announcement have

reportedly been caused by inter-agency vetting, the complexity of the Burma sanctions, and the future treatment of certain SDNs in Burma.

<http://www.whitehouse.gov/the-press-office/2012/05/17/statement-president-burma>

BIS settles with Akrion Systems, LLC for unlawful pump exports

On 4 June 2012, BIS entered an agreement with Akrion Systems, LLC to settle charges that the company exported valves, pumps, and components valued at \$853,230 and classified under ECCN 2B350 to Taiwan, Singapore, Malaysia, and China without the required licences. According to the agreement, Akrion Systems engaged in such prohibited conduct on 144 occasions, leading to a civil penalty of \$900,000. The company voluntarily disclosed the violations. Under the agreement, \$800,000 of the penalty is waived provided that Akrion Systems pays \$100,000 in a timely manner and does not commit any export violations during a two-year probationary period.

<http://efoia.bis.doc.gov/exportcontrolviolations/e2269.pdf>

BIS and other agencies foil illegal firearms export ring

On 24 May 2012, BIS and the U.S. Department of Justice announced the arrest of three individuals for their role in smuggling firearms from the United States to China. According to the announcement, BIS and other agencies arrested Joseph Debose, a U.S. national and a member of the U.S. military, and Zhifu Lin and Lilan Li, both Chinese nationals, for multiple exports of firearms controlled under the U.S. Munitions List, in violation of the Arms Export Control Act and the International Traffic in Arms Regulations (ITAR). As part of the scheme, the serial numbers of the firearms were allegedly altered and the firearms were then hidden in packages exported to China. The scheme, which took

place between December 2010 and April 2012, was discovered after the firearms were found by Chinese authorities. The individuals remain in custody and each faces up to 20 years in prison if convicted.

<http://www.bis.doc.gov/news/2012/doj05242012.htm>

Chinese national arrested for unlawful exports to China

On 23 May 2012, BIS announced the arrest of Qiang Hu, a Chinese national, for alleged violations of the EAR. According to the announcement, Hu caused the illegal export of thousands of pressure transducers manufactured by MKS Instruments, Inc., a U.S. company, in his role as sales manager for the company's Shanghai, China office. To do so, he allegedly relied upon real licences to export the transducers to China and, once in China, diverted them to unlicensed end-users. In other cases, Hu allegedly obtained export licences for the transducers in the name of a front company. If convicted, he faces 20 years' imprisonment and a \$1 million fine.

<http://www.bis.doc.gov/news/2012/doj05232012.htm>

President of U.S.-based company arrested for unlawful exports to Iran

On 22 May 2012, BIS announced the arrest of Markos Baghdasarian, the president of a U.S.-based and Russian-owned manufacturer of synthetic oils. According to the announcement, Baghdasarian exported aviation engine oils and a polymer, together valued at \$850,000, between 2010 and 2011 to customers in Iran without the necessary authorizations. In doing so, he falsely claimed a United Arab Emirates ('UAE') company as the ultimate consignee of the goods. Charged with unlawful exports and false statements, Baghdasarian faces 20 years in prison if convicted. Both he and his company, Delfin Group USA LLC also now face a BIS-imposed temporary denial order ('TDO') against exporting.

<http://www.bis.doc.gov/news/2012/doj05222012.htm>

<http://efoia.bis.doc.gov/exportcontrolviolations/e2252.pdf>

U.S.-based company and officers sentenced for unlawful export conspiracy involving Iran

On 16 May 2012, BIS announced the sentencing of Online Micro LLC and two of the company's officers, Massoud Habibion and Mohsen Motamedian, for illegally exporting computer goods valued over \$5 million to Iran via the UAE between 2007 and 2010. According to the announcement, Online Micro and Habibion conspired with a company in the UAE and Iran to procure U.S.-origin computers and export them to Iran through Dubai without necessary authorizations from OFAC. In doing so, Online Micro also allegedly caused the filing of false information and told a government cooperator to lie to U.S. government investigators. The court sentenced Habibion to 13 months' imprisonment and Motamedian to three years' supervised release. Habibion and Online Micro also agreed to forfeit \$1.9 million. The two parties are also denied export privileges for ten years, although that denial is suspended provided, among other things, neither commits an export control violation during the ten-year period.

<http://www.bis.doc.gov/news/2012/doj05162012.htm>

Former manager of Netherlands-based freight forwarder sentenced

On 15 May 2012, BIS announced the sentencing of a former manager of a Netherlands-based freight forwarder and Dutch national, Ulrich Davis, for his role in a conspiracy to export U.S.-origin aircraft-related commodities to Iran without the required authorizations. The sentence follows Davis' guilty plea for violating the ITR, EAR, and a then-existing TDO against him by arranging the shipment of goods to Iran, making false statements in furtherance of the scheme, and instructing others to make false statements. The court sentenced Davis to six months in prison.

<http://www.bis.doc.gov/news/2012/doj02062012.htm>

<http://www.bis.doc.gov/news/2011/doj08092011.htm>

BIS denies export privileges for Zhen Zhou Wu, Yufeng Wei, and Chitron Electronics, Inc.

On 4 June 2012, BIS denied export privileges for Zhen Zhou Wu, Yufeng Wei, and Chitron Electronics, Inc. The denial



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follows criminal convictions for those companies in January 2011 for unlawful exports of electronic components and other items to China that were subject to the EAR and ITAR. <http://efoia.bis.doc.gov/exportcontrolviolations/e2268.pdf>
<http://efoia.bis.doc.gov/exportcontrolviolations/e2267.pdf>
<http://efoia.bis.doc.gov/exportcontrolviolations/e2266.pdf>

BIS denies export privileges for Mohammad Reza Vaghari

On 6 June 2012, BIS denied export privileges for Mohammad Reza Vaghari following a previous criminal conviction of Vaghari on two counts of aiding and abetting the illegal export of ultrasonic liquid processors, stimulus isolators, and laboratory equipment to Iran via the UAE without the required authorizations from OFAC. <http://efoia.bis.doc.gov/exportcontrolviolations/e2270.pdf>

Proposed removal of items from the ITAR

BIS and the U.S. Department of State, Directorate of Defense Trade Controls ('DDTC') recently published proposed rules for the removal of certain items from U.S. Munitions List of the ITAR. The rules relate to items and related technology currently controlled under the following categories of the Munitions List: Category XIII (auxiliary and miscellaneous items), Category X (personal protective equipment, shelters, and related items), and Category IX (military training equipment). The proposed removal is part of the U.S. government's effort to reform the U.S. export control regime and follows similar proposed rules for other categories. Under the proposed rules, items removed from the Munitions List would be shifted to the Commerce Control List ('CCL'), including proposed '600 series' classifications within that list. Comments to the proposed rules are due in July.

http://www.bis.doc.gov/federal_register/rules/2012/77fr29564.pdf
<http://www.pmdtcc.state.gov/FR/2012/77FR29575.pdf>
http://www.bis.doc.gov/federal_register/rules/2012/77fr33688.pdf
<http://www.pmdtcc.state.gov/FR/2012/77FR33698.pdf>
http://www.bis.doc.gov/federal_register/rules/2012/77fr35310.pdf
<http://www.pmdtcc.state.gov/FR/2012/77FR35317.pdf>

DDTC releases 'Blue Lantern' report

On 24 May 2012, DDTC released its fiscal year 2011 report for its 'Blue Lantern' end-use monitoring programme. The report, which is issued annually and summarizes the agency's findings for end-use checks, shows a slight decrease in the overall number of inquiries undertaken from previous years. It also shows that 27% of the checks led to findings of inconsistency with information in a transaction's application or authorization, and the highest rate of inconsistency

occurring for exports to the Middle East. The agency also found 34 instances of potential diversion. A finding of inconsistency may result in the rejection, denial, or revocation of a licence application, removal of a party from an application or authorization, addition of a party to DDTC's Watch List, and/or referral to the agency's enforcement division.

http://www.pmdtcc.state.gov/reports/documents/End_Use_FY2011.pdf

DDTC posts guidelines for material change notifications

On 2 May 2012, DDTC posted new guidelines for submitting notifications of a material change in information for parties registered with the agency, as required by the ITAR. Material changes include: 1) ineligibility changes; 2) changes to name, address, or senior officers; 3) establishment, acquisition or divestment of a U.S. or foreign parent, subsidiary, or affiliate, or merger; or 4) addition or deletion of USML categories applicable to the party. http://www.pmdtcc.state.gov/registration/notification_chreg.html

DDTC amends ITAR to exempt temporary exports of chemical agent protective gear

On 2 May 2012, DDTC published a final rule that, among other things, amends the ITAR to exempt the licence requirement for temporary exports of chemical agent protective gear for personal use and classified under Category XIV(f)(4). The rule amends 22 C.F.R. § 123.17(f) to allow use of that exemption where the protective gear: 1) is for the U.S. person's exclusive use, and 2) is eventually returned to the United States. In addition, under the rule, the U.S. person may not: 1) re-export the protective gear to a foreign person or otherwise transfer ownership, or 2) export the gear to any country where the importation would be in violation of that country's laws. The rule also clarifies existing exemptions for exports of body armour, firearms, and ammunition.

<http://www.gpo.gov/fdsys/pkg/FR-2012-05-02/html/2012-10599.htm>

House passes satellite export amendment

On 17 May 2012, the U.S. House of Representatives passed an amendment to the National Defense Authorization Act for Fiscal Year 2013 (HR 4310) that would allow the U.S. President to move certain satellites and related items from the U.S. Munitions List to the CCL, thereby shifting those items from DDTC jurisdiction to BIS jurisdiction. The amendment simultaneously imposes numerous requirements for any transfer, such as retaining the broad prohibition on the export of satellites and related items to arms-embargoed countries, quarterly reports on



Germany: encryption

Germany: encryption

Regulations governing the export of encryption items from Germany



Holger Schmitz reviews the framework of EU and national controls that regulates the export of encryption items from Germany, detailing the various licence and authorizations available to the exporter.

A part from the export of weapons and military equipment, export control in or modified to use "cryptography" employing digital techniques performing any cryptographic 2. part 2 'does not control products when accompanying their user for [the] user's personal use'.

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authorizations for exports of such items, and an enumeration of each item, 'to the extent practicable,' that the President intends to shift to the CCL.

Senate passes new Iran sanctions

On the eve of negotiations between world powers and Iran, the U.S. Senate on 21 May 2012 passed a new bill intended to expand existing sanctions against that country (S 2101). Inserted as an amendment into a related bill previously approved by the U.S. House of Representatives (HR 1905), the combined bill expands the Iran Sanctions Act of 1996 by adding penalties for individuals and entities doing business with Iran, including penalties for entities engaged in joint ventures with Iran and for U.S. companies whose foreign subsidiaries engage in a prohibited activity. The bill also requires public companies to disclose their Iran dealings to the U.S. Securities and Exchange Commission. The Senate amendment includes language



stating that all options, including military action, are on the table to prevent Iran from obtaining nuclear weapons and that the bill does not authorize military action. The language of the final bill is subject to negotiation in a conference committee composed of House and Senate members.

BIS settles charges of anti-boycott violations

BIS recently announced settlements with SteelSummit International Inc. and Samuel Shapiro & Company, Inc. for their alleged violations of U.S. antiboycott regulations. SteelSummit agreed to pay \$14,400 to settle four charges associated with furnishing information to persons in Saudi Arabia about the company's business relationships with boycotted countries or blacklisted persons. Samuel Shapiro & Company agreed to pay \$10,000 to settle five charges associated with failing to report the receipt of a request from persons in the UAE to engage in a restrictive trade practice or foreign boycott against a country friendly to the United States.

<http://efoia.bis.doc.gov/antiboycott/violations/a725.pdf>

<http://efoia.bis.doc.gov/antiboycott/violations/a724.pdf>

Japan's METI streamlines procedures for export licences

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On 1 April 2012, the Ministry of Economy, Trade and Industry of Japan ('METI') issued a notification introducing changes in application procedures for individual and general bulk export licences for dual-use goods. The notification includes changes to:

- Single-use licence

The notification introduces a new format for the end-user certificate ('EUC'). The EUC is a document signed by the foreign importer or ultimate end-user which is required for single-use export licence applications. The notification requires applicants to submit the revised EUC as supporting documents when applying for a single-use licence. The new EUC format takes effect on 1 April 2012; the previous EUC format will be valid until 1 July 2012. An English version of the new EUC format is

available on the METI web site.

- General bulk licence

The notification splits the existing general bulk licence

(locally called 'Ippan Houkatsu' export licence) into two categories:

White country bulk licence

Traders looking to export certain non-sensitive dual-use items to white countries can apply for white country bulk licences. Requirements for this licence are less stringent – only registration of responsible executives and staff involved in classification are required; an internal compliance programme ('ICP') is not required. Application for the licence can only be done through the NACCS online system.

Special general bulk licence (locally called 'Tokuichi Houkatsu')

This licence allows export of certain non-sensitive dual-use items to various countries except high-risk countries such as Iran, North Korea, Iraq, and United Nations-embargoed countries. The details of eligible items and destinations is contained in a matrix chart included in the notification. Existing holders of general bulk licences will have their licences converted to special general bulk licences automatically. New applicants for the special general bulk licence are required to undergo an on-site pre-audit by METI in addition to the existing requirement to implement ICP and registration with METI.

The new bulk licence scheme takes effect on 1 July 2012.



Links and notes

White Countries: Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Republic of Korea, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom, and the United States of America.