

Export Screening & Compliance

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[\[OFAC F.R.\] Notice of May](#)

USPS Proposes to Give OFAC Information on Mail to Iran

19:35, 2009-May-12



The United States Postal Service published in today's Federal Register a **notice** of a proposed modification to its privacy regulations. One of the modifications relates to customs declarations that postal customers supply to the USPS in connection with exports made by those customers using the USPS. According to the notice, the USPS is

proposing to give those declarations for "certain mailpieces" to the Office of Foreign Assets Control ("OFAC"), apparently pursuant to a specific request from OFAC.

Needless to say, the notice doesn't explicitly describe those "certain mailpieces" for which OFAC has requested the Customs Declaration. But a tantalizing clue suggests that only mail to Iran is involved. The notice references three executive orders imposing sanctions: [E.O. 12957](#), [E.O. 12959](#), and [E.O. 13059](#). Each of these orders promulgates sanctions on Iran. Beyond that, we have little indication of which postal shipments to Iran are subject to this disclosure proposal.

Two minor things are of additional interest regarding the USPS notice. First, the USPS refers to OFAC throughout as "the OFAC," which, however quaint, suggests that "the" USPS doesn't have much dealing with OFAC which, for whatever reason, normally doesn't have the definite article prepended to its acronym in the same way it precedes USPS. Also the contact point for the notice is a USPS employee with a literary name: Jane Eyre. That's pretty cool, but a contact named [Clarissa Harlowe](#) would have been even cooler on a USPS notice.

[Link](#)

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Obama Extends Syria Emergency, Sanctions

19:47, 2009-May-11

Last Friday President Obama **renewed** the national emergency with respect to Syria. This action allows the current sanctions against Syria to continue for another year. The previous declaration of emergency was scheduled to expire on Sunday. Current sanctions, among other things, prohibit all exports to Syria other than food and medicine.

During Friday's [daily press briefing](#) at the Department of State, acting spokesman Robert Wood explained the President's logic in renewing the sanctions:



[T]he President felt it was necessary to take these measures. These are not new sanctions, and there is still

Lists To Check

The following lists may be relevant to your export or reexport transaction.

Denied Persons List

A list of individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of its denial order is prohibited.

Unverified List

A list of parties where BIS has been unable to verify the end use in prior transactions. The presence of a party on this list in a transaction is a "red flag" that should be resolved before proceeding with the transaction.

Entity List

A list of parties whose presence in a transaction can trigger a license requirement under the Export Administration Regulations. The list specifies the license requirements that apply to each listed party. These license requirements are in addition to any license requirements imposed on the transaction by other provisions of the Export Administration Regulations.

Specially Designated Nationals List

A list compiled by the Treasury Department, Office of Foreign Assets Control (OFAC). OFAC's regulations may prohibit a transaction if a party on this list is involved. In addition, the Export Administration Regulations require a license for exports or reexports to any party in any entry on this list that contains any of the suffixes "SDGT", "SDT", "FTO" or "IRAQ2".

Debarred List

A list compiled by the State Department of parties who are barred by §127.7 of the International Traffic in Arms Regulations (ITAR) (22 CFR §127.7) from participating directly or indirectly in the export of defense articles, including technical data or in the furnishing of defense services for which a license or approval is required by the ITAR.

Nonproliferation Sanctions

7, 2009--Continuation of the National Emergency with Respect to the Actions of the Government of Syria

Old Hard Drives Never Die (or Even Fade Away)

To Arm or Not to Arm?

<%SHOW_LINKS%>

» Links

DDTC

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??" I think this shows you that we still have some very serious concerns about Syrian behavior and activity in the world. We??™ve said to you before our concerns about what Syria is doing in Iraq, its support for terrorist groups.

When questioned about how to square the extension of the emergency and the attendant sanctions with talks between White House envoy Jeffrey Feltman and the Syrian government **currently taking place**, Wood had this to say:

We have very serious concerns about Syrian behavior. I think you all understand that very clearly, and those haven??™t gone away. But what we??™re saying is instead of isolating Syria, we??™re willing to engage them.

Syria, for its part, declined to read any special significance into the renewal of the sanctions, **describing** it as "routine."

[Link](#)

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[OFAC F.R.] Notice of May 7, 2009--Continuation of the National Emergency with Respect to the Actions of the Government of Syria

09:35, 2009-May-8

[Presidential Document] "... Because the actions and policies of the Government of Syria continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on May 11, 2004, and the measures adopted on that date, on April 25, 2006, in Executive Order 13399, and on February 13, 2008, in Executive Order 13460, to deal with that emergency must continue in effect beyond May 11, 2009. Therefore, in accordance with section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), I am continuing for 1 year the national emergency declared with respect to certain actions of the Government of Syria."

74 FR 21763-66

Published 05-08-2009

Visual Compliance-- www.visualcompliance.com

[Link](#)

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Old Hard Drives Never Die (or Even Fade Away)

08:43, 2009-May-8



According to an [article](#) that appeared yesterday in the *Daily Mail*, a London daily, test launch procedures for Lockheed Martin's Terminal High Altitude Area Defense (THAAD) ground-to-air missile defense system were found on a hard drive purchased on eBay. The disk also contained security policies, blueprints of facilities and social security numbers for individual employees

The disk was purchased by British researchers as part of a research project which scrutinized 300 hard drives purchased from public sources such as computer auctions and eBay. The researchers found that

Several lists compiled by the State Department of parties that have been sanctioned under various statutes. The Federal Register notice imposing sanctions on a party states the sanctions that apply to that party. Some of these sanctioned parties are subject to BIS's license application denial policy described in §744.19 of the EAR (15 CFR §744.19).

General Order 3 to Part 736 (page 9)

This general order imposes a license requirement for exports and reexports of all items subject to the EAR where the transaction involves a party named in the order. This order also prohibits the use of License Exceptions to export or reexport to these parties. These parties are currently located in: Dubai, United Arab Emirates; Germany; Syria; Lebanon; Malaysia; Iran; and Hong Kong.

June 8, 2007 - BIS Publishes Federal Register Notice: Amendment to General Order No. 3: Expansion of the General Order and Addition of Certain Persons, [Federal Register Notice](#)

Lockheed Martin may not have been alone in disposing of insufficiently sanitized hard drives. Thirty-four percent of the 300 hard drives examined had identifiable personal or company data. Among the discoveries was a hard-drive with security logs from the German Embassy in Paris.

The article cited a spokesman from Lockheed Martin who stated:

Lockheed Martin is not aware of any compromise of data related to the Terminal High Altitude Area Defense program. Until Lockheed Martin can evaluate the hard drive in question, it is not possible to comment further on its potential contents or source.

A good point and, it should be remembered, it's possible that the hard drive was not one disposed of by Lockheed Martin but rather was a hard-drive from an employee's home computer, although that would raise a different set of issues.

But the point here is not really whether THAAD program details were or were not on hard disk drives, or even what steps the researchers took to recover data, but rather to ask this question: "What does your compliance program say about disposal of hard-drives that may have ITAR-controlled or ECCN-controlled data? And what steps does your company take when disposing of hard-drives? Most companies probably contract those responsibilities to third-party contractors who promise to wipe or destroy the drives, a promise that, as this case may illustrate, may not always be kept.

The National Industrial Security Procedures Operating Manual, [DoD 5220.22-M](#) ("NISPOM"), which contains DoD procedures for protection of classified data, requires that disks with such data be "sanitized" prior to disposal, but the NISPOM doesn't provide a description of satisfactory sanitization techniques. Vendors who sell disk-wiping programs, such as [this one](#), describe the NISPOM procedure as requiring multiple overwrites of all sectors of the drive with random data, but this appears to be a reference to a 1997 version of a separate DoD document entitled "Cleaning and Sanitization Matrix." The January 2007 edition of that matrix [stated](#): "Overwriting is no longer acceptable for sanitization of magnetic media; only degaussing or physical destruction." (The matrix appears to have [disappeared](#) from the Internet; if anyone has a current link, please let me know.)

There are no standard procedures mandated by DDTC or BIS for pre-disposal sanitization of hard disks containing non-classified, but ITAR-controlled or ECCN-controlled, technical data. However, a good resource for developing these procedures is a document released by the Department of Commerce's National Institute of Standards and Technology entitled "[Guidelines for Media Sanitization](#)." The document indicates that encryption is not a sufficient sanitization technique and recommends various other methods, including multiple overwrites, degaussing and physical destruction.

This gives companies a variety of options. Companies that would rather be safe than sorry can destroy magnetic media, and companies that would rather be green can degauss such media. And, *at a very minimum*, there is no excuse for not downloading a disk-wiping program and overwriting magnetic media prior to disposal or sale if the company is not going to destroy or degauss it. My personal favorite method for destroying hard drives is [blowing them up with thermite](#), but that might not be feasible in most corporate settings.

[Link](#)

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To Arm or Not to Arm?

19:34, 2009-May-7

Earlier this week Philip Shapiro, the CEO of Liberty Maritime, [testified](#) before the Senate subcommittee with oversight over merchant marine infrastructure and argued that



Congress should take action to permit merchant ships to arm themselves either by arming their crews or by hiring armed security guards for the voyage. Currently the only effective countermeasure that merchant marine ships can use against pirate attacks is the U.S. of high pressure hoses to prevent boarding.



Indeed, Shapiro described in his testimony how such hoses helped defeat a recent pirate attack on one of his companies ships. A crew member captured video of the thwarted attack.

Even so, Shapiro called for arming merchant ships and described existing barriers to doing so:

Today's U.S. legal framework actually prevents ship owners from arming their vessels for self-defense. While the maritime right of self defense is enshrined in U.S. law in a statute dating from 1817, more recently enacted State Department arms export regulations effectively prohibit the arming of vessels.

Although the International Traffic in Arms Regulations do not prohibit the arming of merchant marine ships, an export license would be required permitting the temporary export of the weapons to each port that the ship will visit prior to its return to the United States. This would not only be time consuming but would, for example, not permit weapons on ships destined for Chinese parts due to the arms embargo against China in [section 126.1](#).

The narrow exemption in [section 123.17\(c\)](#) for crew members to temporarily export non-automatic firearms and 1,000 rounds of ammunition without a license is probably insufficient to arm properly a merchant ship against pirates with RPG launchers and AK-47s. And it entails an additional burden of a declaration by each crew member to a Customs officer prior to each departure by the crew with non-automatic firearms

Beyond the hurdles imposed by the ITAR, the bond requirement imposed by [22 U.S.C. ?§ 463](#) is also a practical barrier to arming merchant ships. That statute requires that the owners of armed ships post a bond prior to leaving a U.S. port in an amount equal to double the value of the ship and its cargo

Additional Congressional action may not be required, however, to permit the arming of merchant ships. Under [10 U.S.C. ?§ 351](#), the President may authorize the arming of merchant ships upon determination that the national security is threatened by the application of physical violence by foreign governments or agencies against U.S. commercial interests. Presumably, foreign pirates would fit within the definition of agencies. Ships armed under this provision are exempted from the double-bond requirement.

Even if U.S. barriers to arming merchant ships can be overcome, that's not the end of the story. The governments of any ports visited by the merchant ship in question may forbid that the vessel be armed. Or, as in the case of [Germany](#) and other countries that have signed the [U.N. Firearms Protocol](#), the port countries may require that a "transit permit" for the weapons be granted prior to the arrival of the ship.

It appears likely that merchant marine ships are going to have to continue to rely on high pressure water hoses for the immediate future to rebuff pirate attacks.

[Link](#)

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New Jersey Man Arrested on ITAR Brokering Charges

16:03, 2009-May-6



A 68-year-old New Jersey man, Juwhan Yun, was [arrested](#) last month and pleaded not guilty



to charges that he illegally brokered the sales of rocket engines and related technology from Russia to South Korea in violation of [Part 129](#) of the International Traffic in Arms Regulations. Under Part 129, a license from the Department of State is required before any U.S. person can broker the sale

of Category I Missile Technology Control Regime Annex items regardless of value and regardless of destination. (License requirements for other defense articles and defense services depend upon, among other things, the value of the brokered items and the destination of those items). The defendant, who had previously been convicted for attempting to export sarin nerve gas to Iran, had not obtained such a license.

I've reviewed the [criminal complaint](#) filed against Juwhan Yun and can only say that the government doesn't appear to have a slam-dunk case here. The complaint details a number of emails and face-to-face meetings between Yun and a confidential government informant which explored the possibility of the informant obtaining [RD-180 rocket engines](#) and technology from Russia for the South Korean government. Since the engines and technology were to be transported from Russia, and not the United States, to South Korea, no illegal export would be involved and the only possible charges would be under the brokering regulations in Part 129.

The prosecutors, however, appear to have completely misunderstood the definition of brokering set forth in Part 129. Section 129.2(a) defines brokering as acting as an agent for others in the transfer of defense articles or services in exchange for a commission or other consideration. Allegations from the criminal complaint indicate that Yun wasn't acting as an agent for the South Korean government in exchange for a commission or other consideration from the government. Rather he was acting in an individual capacity and was intending to purchase the items for his own account for later resale to South Korean government.

Here's the relevant passage from the criminal complaint:

On February 25, 2009, JW Yun sent an email to the [Confidential Informant] and asked the [Confidential Informant] how much commission the [Confidential Informant] and the people in Moscow wanted **as he would include that in the sale price to Korea.**

If Part 129 is read to cover Yun's activities, then every person or company that distributes defense articles is a broker and required to register under Part 129, a position that the DDTC has so far not taken.

The criminal complaint also reveals that the Confidential Informant requested that Yun provide him with a letter from the South Korean government indicating that Yun was authorized to act on their behalf. Yun responded by stating that he didn't have such a letter and that the South Koreans would never give him such a letter.

Even supposing that a person selling defense items that he owns can ever be considered a broker under the definition set forth in Part 129, a questionable proposition at best, the prosecution still has to prove a scienter element, i.e., present some evidence that Yun knew that his actions were unlawful. Leaving aside the issue that a reasonable person might not read the definition of brokering to cover what Yun was doing, Yun went to considerable pains to stress to the Confidential Informant that everything in the transaction must be legal because he wanted this to be a long-term relationship, not simply a one-shot sale of rocket engines.

On February 11, 2009, JW Yun sent an email . . . advising the [Confidential Informant] that "all of our business should be legitimate and lawful because our business should be continued one after another in the future."

Nor is there any indication in the criminal complaint that Yun tried to conceal his activities or otherwise indicated that he thought they were illegal. Yun discussed the proposed sale of the rocket engines with the Confidential Informant in front of third parties that Yun did not know. He

indicated that he was seeking to enlist the services of a rocket engineer from the University of Central Florida to assist him in the transaction. He even sent the confidential informant a ***signed and notarized written agreement*** authorizing the informant to act on Yun's behalf in obtaining the engines and technology from Russia for export to South Korea. That certainly doesn't seem to be something that would be done by someone who thought that he was breaking U.S. law by attempting to buy Russian rocket engines for resale to South Korea.

[Link](#)

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[OFAC] Alphabetical master list of Specially Designated Nationals and Blocked Persons

08:26, 2009-May-6

Published 05-06-2009

Visual Compliance -- www.visualcompliance.com

[Link](#)

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[OFAC] Recent changes to master list of Specially Designated Nationals and Blocked Persons

08:26, 2009-May-6

The following deletions have been made to OFAC's SDN list:

COLLAZOS TELLO, Jairo Camilo, c/o DIMABE LTDA., Bogota, Colombia; c/o AGROPECUARIA LINDARAJA S.A., Cali, Colombia; c/o INVERSIONES BRASILAR S.A., Bogota, Colombia; DOB 09 Dec 1953; POB Cali, Colombia; Cedula No. 14998261 (Colombia); Passport AH690431 (Colombia) (individual) [SDNT]

DURAN ABDELNUR, Jorge Eduardo, c/o DURATEX S.A., Bogota, Colombia; c/o COMERCIALIZADORA MORDUR S.A., Quito, Ecuador; DOB 21 Nov 1955; POB Colombia; Cedula No. 19309441 (Colombia) (individual) [SDNT]

GONZALEZ LIZALDA, Maria Lorena, c/o INVERSIONES Y CONSTRUCCIONES ATLAS LTDA., Cali, Colombia; DOB 20 Jul 1969; Cedula No. 31992548 (Colombia) (individual) [SDNT]

RODRIGUEZ BALANTA, Jorge Enrique, c/o DISTRIBUCIONES GLOMIL LTDA., Cali, Colombia; c/o DISTRIBUIDORA MIGIL CALI S.A., Cali, Colombia; c/o DISMERCOOP, Cali, Colombia; DOB 24 Jun 1956; Cedula No. 16602232 (Colombia); Passport 16602232 (Colombia) (individual) [SDNT]

Revised 05-06-2009

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[BIS/EAR F.R.] Removal of T 37 Jet Trainer Aircraft and Parts From the Commerce Control List

08:24, 2009-May-6

"This rule removes the T 37 jet trainer aircraft and specially designed component parts from under the Department of Commerce's licensing

jurisdiction on the Commerce Control List. T 37 jet trainer aircraft appear on the CCL administered by the Department of Commerce, Bureau of Industry and Security. However, the Department of State, Directorate of Defense Trade Controls reviews license applications for these aircraft and parts. BIS is removing these aircraft and parts from the CCL to avoid potentially overlapping coverage and reduce the possibility of confusion by the public."
74 FR 20870-71

Published 05-06-2009

Visual Compliance -- www.visualcompliance.com

[Link](#)

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Will Burma Sanctions Get Shaved?

19:50, 2009-May-5

With all the talk of relaxing Cuba sanctions and possible talks with Iran, it's not surprising that Burma is showing up at the "me too" table asking for service. Today at Bloomberg, Frank Smithius, Burma country director for M?@decins Sans Fronti??res, is [quoted](#) saying this:



Because of sanctions there is a lot of suffering, and we see that particularly in the humanitarian-aid field. There??™s definitely hope in the aid community that the policy will be reconsidered. The Myanmar people are victims of a humanitarian boycott. There is enormous pressure on politicians in the West to look politically correct, and they get human rights brownie points by being very strict on aid.

In the same article, Bloomberg provides a [chart](#) showing that Burma ranked dead last in foreign aid per capita in 2007, receiving \$4.07 per capita, which compares to the \$52.32 per capita aid received by Sudan. Indeed, in February, Secretary Clinton [stated](#) that the Obama administration's policy toward Burma's military junta was undergoing a "major review."

The EU at the end of April [renewed](#) its sanctions against Burma for another year. The EU foreign ministers voting to extend the sanctions indicated that they were nonetheless willing to hold consultations with the junta during the Asia-Europe Meeting (ASEM) in Hanoi, Vietnam, in May.

The current EU sanctions involve visa restrictions, asset blocking and an arms embargo. U.S. [sanctions](#) are broader and include, in addition to asset blocking and an arms embargo, a ban on imports, a ban on new investment, and a ban on exports of "financial services" which are broadly defined to include funds transfers, insurance services and investment and brokerage services. The U.S. regulations provide for a general license permitting exports of financial services in support of NGO activity in Burma.

[Link](#)

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Update to Web Publication of the Addendum to Circular 2006

13:00, 2009-May-5

OFAC has updated its web publication of the Addendum to Circular 2006

[Link](#)[.. 0 comments](#)

Different Month, Same Sanctions

19:43, 2009-Apr-30

OFAC released today its monthly civil penalties [report](#) and it is, as is usually the case, all Cuba all the time. EFX Trade, LLC, a company that provides both [management consulting](#) and [massage therapy services](#), paid \$2,000 for unlicensed remittance forwarding to Cuba. The fine paid is, of course, much less interesting than EFX's unusually diverse business model. Please feel free to suggest possible synergies between the company's two lines of business in the comments section.



In addition, Texas-based [Varel Holding](#), a manufacturer of drill bits, agreed to pay \$110,000 for exports made by one of its foreign subsidiaries to Cuba between June 2005 and June 2006. Varel voluntarily disclosed the exports. The OFAC notice indicated that the case was handled under [prior enforcement guidelines](#) which provided for a maximum penalty of \$11,000 per violation. It's hard to understand then why the penalty ultimately imposed was only slightly less than the maximum penalty (\$121,000) notwithstanding the company's voluntary disclosure.

[Link](#)[.. 0 comments](#)

CIVPEN WEB DISCLOSURE

10:00, 2009-Apr-30

| New OFAC enforcement information was released on: 4/30/2009

[Link](#)[.. 0 comments](#)

Three Brits Prosecuted in U.K. for Illegal Exports of Aircraft Parts to Iran

19:24, 2009-Apr-29



Today's edition of London's *The Guardian* [reports](#) on a trial in London of three men accused of shipping military aircraft parts to Iran. These parts are used to maintain its aging fleet of U.S. military aircraft sold by the U.S. to the Shah prior to the revolution. The scheme was uncovered when oxygen cylinders used by fighter pilots to breathe at high altitudes were intercepted at Heathrow with bogus paperwork claiming that the oxygen cylinders were for medical use. According to the prosecution,

the three men had engaged in parts trade with Iran well in excess of ??1.2 million (or almost US\$ 1.8 million)

According to the article, the three men maintained U.S. business addresses so that they could acquire the aircraft parts from U.S. suppliers without having to obtain export licenses. The parts were then shipped by the trio back to London using misleading and innocent descriptions of the parts in the export documents.

This once again underscores that U.S. suppliers need to exercise caution

even with respect to domestic shipments of export-controlled goods. The Iranian supply network is utilizing every available technique to disguise the ultimate destination of the military parts that it acquires, including setting-up front companies and front addresses in the United States, hoping to diminish scrutiny of the transactions in military-related goods. Although no penalty proceedings have yet been instituted against domestic parts suppliers for ignoring red flags that suggest that a domestic sale might in reality be intended for export, that day may not be far off. Sooner or later, a U.S. parts dealer who supplies a Tomcat part to a U.S. customer without any due diligence on the customer or that customer's need for the product may find itself looking at the same fines as it would have confronted if it had simply shipped the parts directly to Iran.

[Link](#)

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[OFAC F.R.] Additional Designation of Persons and Identification of New Aliases Pursuant to Executive Order 13382

10:43, 2009-Apr-29

"The Treasury Department's Office of Foreign Assets Control is publishing the names of six newly-designated entities, one newly-designated person, and eight additional aliases for a previously-designated entity whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, 'Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.'"

74 FR 19635-36

Published 04-29-2009

Visual Compliance-- www.visualcompliance.com

[Link](#)

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[BIS/EAR F.R.] Additions and Revisions to the List of Approved End-Users and Respective Eligible Items for the People's Republic of China Under Authorization Validated End-User

10:42, 2009-Apr-29

"In this final rule, the Bureau of Industry and Security amends the Export Administration Regulations to add a name to the list of end-users for the People's Republic of China approved to receive exports, reexports and transfers of certain items under Authorization Validated End-User. This rule also amends the EAR to add and revise eligible items and destinations for existing VEU authorizations. Specifically, this rule amends the EAR to authorize one additional VEU and identify its respective eligible items for export and reexport to the PRC. This rule also amends the authorizations of two pre-existing VEUs in the PRC. Finally, this rule makes a modification to the listed name of an existing VEU in the PRC. In a final rule published in the Federal Register on June 19, 2007, BIS revised and clarified U.S. export control policy for the PRC, establishing Authorization VEU and identifying the PRC as the initial eligible destination. In a final rule published in the Federal Register on October 19, 2007, BIS published the names of the first five validated end-users in the PRC that were approved to receive certain specified items under Authorization VEU."

74 FR 19382-85

Published 04-29-2009

Visual Compliance -- www.visualcompliance.com

[Link](#)

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[BIS/EAR F.R.] Reporting of Offsets Agreements in Sales of Weapon Systems or Defense-Related Items to Foreign Countries or Foreign Firms

10:41, 2009-Apr-29

"The Bureau of Industry and Security is proposing to amend the Reporting of Offsets Agreements in Sales of Weapon Systems or Defense-Related Items to Foreign Countries or Foreign Firms regulation (15 CFR part 701) to update and provide clarification with regard to the information U.S. companies are required to submit each year to BIS to support the preparation of the annual report to Congress on offsets in defense trade."

74 FR 19466-71

Published 04-29-2009

Visual Compliance -- www.visualcompliance.com[Link](#)

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[BIS/EAR] Supplement No. 2 to Part 764 - Denied Persons List

08:53, 2009-Apr-29

Revised: 04-29-2009

Visual Compliance -- www.visualcompliance.com[Link](#)

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Valve Exports Lead To Massive Fine

19:09, 2009-Apr-28

BJ Services, the Houston-based oil and gas field service provider, recently **agreed** to pay \$800,000 to settle charges that it illegally exported certain valves without the requisite licenses from the Bureau of Industry and Security ("BIS"). The BIS investigation, and the subsequent fine, arose from a voluntary disclosure by BJ Services and serves as a potent reminder that a voluntary disclosure to BIS may well result in a substantial civil penalty.



The valves in issue were controlled by [ECCN 2B350.g](#). Under that ECCN, a valve is controlled if the valve has a nominal size of more than 1.0 centimeter and is composed of nickel, titanium, zirconium or other specified metals, alloys or substances. (Nominal size is the size a pipe or valve is sold under; it may vary from actual size.) It can be safely said that this is an ECCN which doesn't pose significant technical challenges in determining the appropriate classification, which might have been a factor in the hefty fine that BIS insisted on to settle the matter.

Prior to BIS's April 14, 2005 [amendment](#) to the Export Administration Regulations, valves covered by ECCN 2B350 required licenses only for the 34 countries listed on column CB3 of the Country Chart. By the 2005

Amendment, the ECCN increased its controls to CB2 on the Country Chart, meaning that a license would be required to every country other than the [41 members](#) of the Australia Group.

The first 33 counts in the charging letter relate to periods prior to the 2005 amendment and allege that exports to Kuwait, Kazakhstan, Libya, Saudi Arabia, and the U.A.E, all CB3-controlled destinations violate [section 764.2\(a\)](#) of the Export Administration Regulations. The remaining counts 34 to 67 related to exports after the amendment to ECCN 2B350 to such non-Australia Group countries such as Colombia, Mauritania, Mexico, Nigeria and Venezuela. These exports were alleged to violate [section 764.2\(e\)](#) which penalizes knowing export violations.

The allegations of knowing violations under 764.2(e) charged under counts 34 to 67 appear to be separate exports from those charged under counts 1-33, and, thus, don't appear to be instances of "piling on" multiple charges for the same count in order to increase the possible penalties to be imposed. BIS's penchant for such piling on appears to have been diminished by the statutory increase in available penalties from \$11,000 to \$250,000 per violation.

The settlement documents also describe the basis for BIS's allegations that charges 34-67 represented knowing violations. According to the charging documents, the supplier of the valves had informed BJ Services that they were classified under ECCN 2B350. It is probably this factor that led the BIS to seek such a large fine even after a voluntary disclosure of the exports in question.

UPDATE: My former colleague Dan Fisher-Owens points out in the comments that BJ Services [settled](#) charges in 2005 for \$142,500 arising from alleged unlicensed exports of ammonium bifluoride and a mixture containing triethanolamine. This was no doubt also a factor considered by BIS in determining settlement amount.

[Link](#)

.. 0 comments

[\[OFAC F.R.\] Additional Designation of an Individual Pursuant to Executive Order 13224](#)

10:41, 2009-Apr-27

"The Treasury Department's Office of Foreign Assets Control is publishing the name of one newly-designated individual whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism."

74 FR 19123-24

Published 04-27-2009

Visual Compliance-- www.visualcompliance.com

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