



# Don't Let This **HAPPEN** **TO YOU!**



Actual Investigations of  
Export Control *and*  
Antiboycott Violations

JULY 2022



U.S. DEPARTMENT OF COMMERCE  
Bureau of Industry and Security  
Export Enforcement

**DON'T LET THIS HAPPEN TO YOU!!!**

**An Introduction to the Consequences of  
Violating U.S. Export Control Law**

*Actual Investigations of Export Control and Antiboycott Violations*



JULY 2022

**EXPORT ENFORCEMENT**

BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE

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# CELEBRATING 40 YEARS

**OFFICE OF EXPORT ENFORCEMENT  
BUREAU OF INDUSTRY AND SECURITY**

Protecting and Defending U.S National  
Security by Securing America's Trade



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## Dear Members of the Exporting Community,

This year marks the 40<sup>th</sup> anniversary of the Office of Export Enforcement, which – thanks to President Biden, Secretary Raimondo, and the United States Senate – I now have the honor to oversee as the Assistant Secretary for Export Enforcement. Since my first day on the job, I have been continuously impressed by the work that our enforcement agents and analysts do every day to keep the American people safe by preventing sensitive American goods and technology from going to people and places that they shouldn't. Our current national security challenges, particularly those posed by nation-state actors like China and Russia, are significant. But, as this past year has demonstrated, export controls have never been a better fit for addressing those challenges than they are today.

For example, after February 24, 2022, we quickly responded, in concert with our coalition partners, to prevent Russia from receiving dual-use technologies to support its brutal and unprovoked military invasion of Ukraine. Our enforcement efforts, designed to ensure that violations of our controls are punished, are robust and ongoing. We hope that the exporting community will continue to act responsibly and partner with Export Enforcement to identify suspicious inquiries and prevent unauthorized exports to Russia and Belarus.

We are also implementing policy changes designed to maximize the effectiveness of our enforcement tools. For example, it used to be that when we brought administrative charges against someone for violating our rules, the exporting community and public didn't hear about it until the matter was resolved, often years later. Because charging letters were not made public until resolution, there was not sufficient incentive for companies to try to resolve matters quickly. And because other companies remained unaware of the conduct that had landed a similarly-situated company in trouble, they sometimes didn't have the information that would have sparked urgency to upgrade their compliance program or to submit a voluntary disclosure. To address those dynamics, we changed the regulation. Now, charging letters are public when filed with the Administrative Law Judge. And after they're filed, we place them on our website for public viewing and awareness.

By making adjustments to ensure our enforcement efforts are as effective as possible, our goal is twofold. First, we want to make sure we are doing everything in our power to safeguard American technology and ingenuity in order to help protect our national security. While we are always prepared to enforce against those who break our rules, our strong preference is for companies to invest in compliance upfront. That way, the national security harm that results when our rules are broken can be avoided. And, second, we want to ensure a level playing field for industry. If those who break our rules are not held to account, it is unfair to the vast majority of companies that abide by them. By enforcing consistently and aggressively, we hope both to protect our national security by deterring violations and to incentivize companies to invest in compliance.

This publication, aptly titled "Don't Let This Happen to You," is intended to highlight the seriousness of our administrative and criminal enforcement results as a way to remind the exporting community of what can happen when there's a failure to comply with our rules.

You don't want to become one of the case examples listed here – and we don't want you to become one either. We encourage you to work with your local Office of Export Enforcement offices to avoid problems. We have special agents responsible for every U.S. state and territory, and our Export Control Officers cover an expanding international portfolio; no matter where you are located, we have someone available to help you understand our rules and how to comply with them.

Preventing sensitive goods and technologies from falling into the wrong hands is a shared endeavor. We look forward to continuing to partner with you in that critically important effort.



Sincerely,

A handwritten signature in blue ink that reads "M. S. Axelrod".

Matthew S. Axelrod  
Assistant Secretary for Export Enforcement



# Introduction to Enforcement of U.S. Export Controls

## Mission and Organization

The U.S. Department of Commerce's Bureau of Industry and Security (BIS) administers and enforces export controls on dual-use and certain munitions items for the Department of Commerce through the Export Administration Regulations (EAR) under the authority of the Export Control Reform Act of 2018 (ECRA)<sup>1</sup>. Dual-use items are commodities, software, or technology that have both commercial and military or proliferation applications. Some examples of dual-use items may include things such as: rocket fuels, space launch vehicles, radiation-hardened integrated circuits, turbines for use in nuclear reactors, integrated navigation systems designed or modified for use in missiles, chemical warfare precursors, biological containment facilities, radio frequency modules, triggered spark gaps, carbon fiber, and smoke bombs, spiked batons, certain shotguns, shotgun shells and buckshot. Controlled items listed under 600 series Export Control Classification Numbers (ECCNs) are enumerated on the Commerce Control List (CCL) because they are items on the Wassenaar Arrangement Munitions List (WAML) or were formerly on the U.S. Munitions List (USML). Likewise, certain satellite-related items formerly listed on the USML are now enumerated on the CCL in the 9x515 ECCNs, while certain firearms and ammunition transferred to the CCL from the USML are listed under the 0x5zz series ECCNs.

Other federal agencies with a role in administering U.S. export controls include the Department of State, which controls the export of defense articles and defense services subject to the International Traffic in Arms Regulations (ITAR), the Department of Energy, which controls exports and reexports of technology related to the production of special nuclear materials, the Nuclear Regulatory Commission, which controls the export of certain nuclear materials and equipment, and the Department of the Treasury, which administers economic sanctions programs.

BIS Export Enforcement protects and promotes U.S. national security, foreign policy, and economic interests by investigating violations, interdicting illegal exports, conducting end-use checks, helping companies to improve export compliance practices and to identify suspicious inquiries, supporting the licensing process by evaluating the bona fides of transaction parties, aggressively pursuing violators of export control regulations and initiating criminal prosecution or administrative enforcement actions, promoting U.S. strategic technology leadership, and partnering with counterparts throughout the U.S. government and internationally. By prioritizing its enforcement mission, BIS Export Enforcement has evolved over the past nearly 40 years into a sophisticated law enforcement agency with criminal investigators and enforcement analysts who are singularly focused on export enforcement and work closely together with licensing officers within a single bureau of the government.

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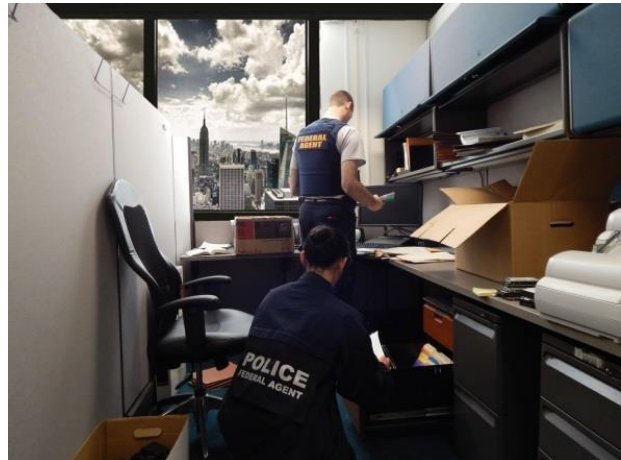
<sup>1</sup>The Export Administration Regulations originally issued pursuant to the Export Administration Act (50 U.S.C. §§ 4601- 4623 (Supp. III 2015)) (EAA). On August 21, 2001, the EAA lapsed and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which was extended by successive Presidential Notices, the most recent being that of August 13, 2020 (85 Fed. Reg. 49,939 (Aug. 14, 2020)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2012)) (IEEPA). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. §§ 4801-4852 (ECRA). Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

BIS's jurisdiction has expanded to cover tens of thousands of munitions items transferred from the ITAR to the EAR (see below for additional information on the Export Control Reform (ECR) initiative). As of June 1, 2021, following the vacatur of the U.S. District Court for the Western District of Washington's order preliminarily enjoining the transfer from the USML to the CCL of technical data and software directly related to the production of firearms or firearm parts using a 3D-printer or similar equipment, all of the USML categories have been reviewed and corresponding transfers of items to the CCL completed.<sup>2</sup> These transfers will enhance U.S. Government oversight on such munitions exports because the specialized resources and authorities of Export Enforcement will augment the existing enforcement resources of other federal agencies dedicated to protecting U.S. national security. ECR has also created interagency information sharing and coordination mechanisms to leverage U.S. Government export enforcement and compliance resources more effectively.

Export Enforcement has three program offices: the Office of Export Enforcement (OEE), the Office of Enforcement Analysis (OEA), and the Office of Antiboycott Compliance (OAC). Export Enforcement blends the unique talents of its program offices to channel enforcement efforts against current and emerging threats to U.S. national security and foreign policy. Those unique talents are described in the following paragraphs.

### ***Office of Export Enforcement***

The Office of Export Enforcement (OEE) maintains Special Agents at offices across the United States, including its headquarters in Washington, DC, nine field offices located in Boston, Chicago, Dallas, Los Angeles, Miami, New York, Northern Virginia, Phoenix, and San Jose, and resident offices in Atlanta, Houston and Portland. In addition, OEE Special Agents have been deployed to FBI field offices in Charlotte, Cincinnati, Detroit, Huntsville, Las Vegas, Memphis, Minneapolis, New Haven, Pittsburgh, Sacramento, Salt Lake City, San Diego, Seattle, Tampa, and Savannah, as well as to Defense Criminal Investigative Service (DCIS) offices in Denver and San Antonio, and the Homeland Security Investigations (HSI) Field Office in Baltimore to provide enhanced coverage for investigating export violations.



OEE Special Agents are sworn federal law enforcement officers with authority to bear firearms, make arrests, execute search warrants, serve subpoenas, search, inspect, detain, seize, and administratively forfeit items about to be illegally exported, reexported, or transferred (in-country), as well as conveyances involved in such exports, reexports, and transfers (in-country), and order the redelivery to the United States of items exported in violation of U.S. law. OEE is the only federal law enforcement agency exclusively dedicated to the enforcement of export control laws, and that singular focus allows for the development of the requisite subject matter expertise to be able to effectively enforce a complex regulatory regime. Some cases may require years of thorough investigation to bring a matter to a successful completion. OEE investigations are initiated on information and intelligence obtained from a variety of

<sup>2</sup>See: 85 FR 4136 (January 23, 2020); 86 FR 29189 (June 1, 2021); and related frequently-asked questions available on the BIS website at: <https://www.bis.doc.gov/index.php/documents/policy-guidance/2572-faqs-for-the-commerce-category-i-iii-firearms-rule-posted-on-bis-website-7-7-20/file>.

sources, including routine review of export documentation, overseas end-use monitoring, and industry information. OEE investigates both export violations by U.S. persons and the unauthorized reexport or transfer (in-country) by foreign persons of items subject to the EAR to prohibited end uses, end users, or destinations. OEE also has the authority to enforce restrictions on specific activities of U.S. persons, including those unrelated to shipments of items subject to the EAR, such as brokering, servicing, financing, or freight forwarding in connection with certain foreign weapons of mass destruction and military-intelligence end uses and end users. OEE works closely with other federal law enforcement agencies to identify and act on export violations and with industry to raise awareness of compliance best practices and “red flag” indicators of potential illicit activities.<sup>3</sup> For example, OEE works with U.S. Customs and Border Protection to train outbound officers on EAR requirements to identify suspicious cargoes for detention.

Based on information gathered during the course of an investigation, OEE works closely with attorneys from the Department of Justice to prosecute violators criminally, as well as with the Office of Chief Counsel for Industry and Security to bring administrative charges. Export Enforcement also takes action where appropriate to place parties on the BIS Entity List, Unverified List, Denied Persons List, and Military End-User List. Export Enforcement is co-located in the same Department of Commerce bureau as Export Administration, allowing for close cooperation in the administration and enforcement of export controls. Export Enforcement provides advice and comments on the enforceability of new policies and regulations, and works closely with Export Administration to routinely review export transactions to ensure compliance with the EAR. Such review includes:

- Confirming whether exported items were properly classified;
- Verifying required export authorizations, if applicable (e.g., the required export license was obtained prior to the shipment and the transaction complies with the license conditions, a license exception was available and properly used, or the item did not require a license for export to the end user and destination); and
- Determining whether the transaction involved any apparent violations of the EAR (e.g., related to the ten General Prohibitions, end-use-based or end-user-based controls or proscribed parties).<sup>4</sup>





*OEE Director John Sonderman (upper right) briefs Deputy Secretary Don Graves*

<sup>3</sup> An illustrative list of indicators of possible unlawful diversion is found in Supplement No. 3 to Part 732 of the Export Administration Regulations (EAR), 15 C.F.R. Parts 730 – 774.

<sup>4</sup> See Part 736 of the EAR for details on the ten General Prohibitions.

In fiscal year 2021, BIS investigations led to the criminal conviction of 50 individuals and businesses for export violations with penalties of \$2,798,000 in criminal fines, \$2,368,452 in forfeitures, \$3,149,782 in restitution, and 1,118 months of imprisonment. In addition, OEE and BIS's Office of Chief Counsel completed 55 administrative export matters, resulting in \$9,727,903 in civil penalties.

In addition to our Headquarters at the Department of Commerce in Washington, DC, OEE has eight field offices located in Boston, Chicago, Dallas, Los Angeles, New York, Miami, Northern Virginia, Phoenix and San Jose, as well as three resident offices located in Atlanta, Houston and Portland.

 = Field Office  
 = Resident Office  
 = Forward Assigned Special Agents

OEE also has Special Agents co-located with the FBI in Charlotte, Cincinnati, Detroit, Huntsville, Las Vegas, Memphis, Minneapolis, New Haven, Pittsburgh, Sacramento, Salt Lake City, San Diego, Savannah, Seattle and Tampa, as well as with DCIS in Denver and San Antonio and HSI in Baltimore. Export Enforcement also has regional Export Control Officers (ECOs) in Beijing, China; Hong Kong, China; New Delhi, India; Istanbul, Turkey; Dubai, UAE; Frankfurt, Germany; and Singapore.

## Office of Enforcement Analysis

The Office of Enforcement Analysis (OEA) supports the identification, prevention and investigation of illegal exports, reexports and transfers (in-country) of items subject to the EAR, as well as certain activities of U.S. persons related to the proliferation of weapons of mass destruction (WMD) or support to certain military-intelligence end uses and end users, and supports the prosecution of the parties responsible by: 1) analyzing the *bona fides* of foreign transaction parties to license applications (i.e., their reliability as recipients of U.S.-origin items); 2) monitoring end uses and end users of U.S.-origin exports; 3) identifying suspicious inquiries to alert U.S. companies; 4) developing investigative leads; 5) providing analytical case support; and 6) engaging with key trading partners. OEA accomplishes this mission through its Strategic Intelligence Division, International Operations Division, Export Control Officer Program, and Investigative Analysis Division.

OEA's Strategic Intelligence Division serves as the executive agent for the interagency Information Triage Unit, or "ITU," and vets the *bona fides* of foreign parties to license applications. The Strategic Intelligence Division is responsible for assembling and disseminating relevant all-source information from which to base informed decisions on proposed exports requiring a U.S. Government license.

OEA's International Operations Division screens BIS license applications and reviews export documentation to select candidates for pre-license checks (PLCs) and post-shipment verifications (PSVs), collectively referred to as end-use checks (EUCs). PLCs validate information on BIS export license applications, including end-user reliability. PSVs strengthen assurances that exporters, consignees, end users, and other transaction parties comply with the terms of export licenses and the EAR. This end-use monitoring program supports the export licensing process by confirming the end uses and end users of items subject to the EAR through on-site verification and generates information about potential export violations. This division, working with regional

Export Control Officers (ECOs) stationed abroad, supports Export Enforcement's role in bilateral discussions on export control cooperation and coordination to increase capacity to prevent the diversion of U.S. -origin items.

OEA's ECO Program assigns OEE Special Agents under limited-term Foreign Service appointments under the Department of Commerce's Foreign Commercial Service in seven strategic overseas locations critical to BIS's mission: Beijing, China; Hong Kong, China; Dubai, United Arab Emirates; New Delhi, India; Frankfurt, Germany; Istanbul, Turkey; and Singapore. It also deploys an analyst as an Export Control Attache to Ottawa, Canada. ECO positions have regional responsibilities that extend their reach to more than 60 additional countries. As BIS's representatives overseas, ECOs leverage their law enforcement, commercial, and diplomatic skills to expand the U.S. government's export control activities beyond its borders and into key overseas trade centers. ECOs focus on export control enforcement and compliance by conducting end-use checks, establishing the *bona fides* of foreign parties to transactions subject to the EAR, and coordinating with U.S. and foreign government agencies to ensure effective export controls and secure trade. BIS end-use checks are also conducted by domestically-based OEE Special Agents under the Sentinel Program, and occasionally by U.S. Embassy personnel. In FY2021, BIS completed 1,030 end-use checks in 49 countries.

Finally, OEA's Investigative Analysis Division is responsible for producing investigative leads relating to potential export violations for outreach and investigation by OEE Special Agents. Investigative leads are developed from multiple sources of information, including industry, government partners, and extensive reviews of export and license data, and classified and open sources of information. In addition, OEA's Investigative Analysis Division provides research and analytical case support to OEE investigations.

### ***Office of Antiboycott Compliance***

The Office of Antiboycott Compliance (OAC) administers and enforces the antiboycott provisions of the EAR. OAC carries out its mandate through a threefold approach: monitoring boycott requests received by U.S. businesses; bringing enforcement actions when necessary; and guiding U.S. businesses on the application of the EAR to particular transactions. In addition to these traditional compliance tools, OAC liaises with foreign governments to eliminate boycott requests at their points of origin. By working with U.S. Government partners in the Office of the U.S. Trade Representative and at the Department of State, OAC has met with officials of boycotting countries issuing boycott-related requests. By pointing out the barrier to trade that boycott requests impose, OAC often is able to ensure the removal of prohibited language, thereby enabling U.S. businesses to compete on an equal footing in various markets.

## **Authorities and Remedies**

### ***Criminal and Civil Penalties***

In cases involving a willful violation of the EAR, violators may be subject to both criminal fines and administrative penalties. Administrative penalties may also be imposed when there is no willful intent, which means that administrative cases can be brought in a much wider variety of circumstances than criminal cases. BIS has a unique range and combination of administrative enforcement authorities including the imposition of civil penalties, denial of export privileges, and placement of individuals and entities on lists that restrict or prohibit their involvement in export and reexport transactions.

Under ECRA, criminal penalties can reach 20 years imprisonment and \$1 million per violation.

Administrative monetary penalties can reach \$330,562 per violation (subject to adjustment in accordance with U.S. law, e.g., the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114 -74, sec. 701)) or twice the value of the transaction, whichever is greater.

The EAR provide that in appropriate cases the payment of a civil penalty may be suspended or deferred in whole or in part during a probationary period. The suspended or deferred penalty is subject to activation and collection if the probationary conditions are not fulfilled. Penalty suspensions may occur, for example, when the respondent has demonstrated, typically through the submission of financial statements and tax returns, that it is unable to pay some or all of the penalty that would be appropriate for the violations at issue. Penalties may also be suspended in whole or in part as a result of exceptional cooperation with the investigation where the agency nonetheless decides that a suspended penalty should be imposed for its deterrent effect.

One of the most significant enforcement tools in the BIS arsenal is our administrative enforcement authorities. The Guidelines, set forth in Supplement No. 1 to Part 766, capture OEE's administrative enforcement policies and procedures in several ways. First, the Guidelines outline the following four categories of Factors affecting administrative sanctions: 1) Aggravating Factors; 2) General Factors that could be considered either aggravating or mitigating depending upon the circumstances; 3) Mitigating Factors; and 4) other Relevant Factors on a case-by-case basis, such as related violations or other enforcement action.



*Export Enforcement Assistant Secretary Matthew S. Axelrod at the May 2022 OEE Special Agent In-Service Training, Huntsville, Alabama*

Additionally, the Guidelines formally account for the substantial increase in the maximum penalties for violations of the EAR and distinguish between egregious and non-egregious civil monetary penalty cases. Finally, reference in the Guidelines to “transaction value” provides sufficient flexibility to allow for the determination of an appropriate transaction value in a wide variety of circumstances. Amounts set forth in a schedule provide for a graduated series of penalties based on the underlying transaction values, reflecting appropriate starting points for penalty calculations in non-egregious cases not voluntarily disclosed to OEE. The base penalty amount for a non-egregious case involving a VSD equals one-half of the transaction value, capped at the statutory maximum per violation of the EAR. The base penalty amount for cases deemed to be egregious brought to OEE's attention by means other than a VSD shall be an amount up to the statutory maximum. For those egregious cases involving a VSD, the base penalty amount shall be an amount up to half the statutory maximum.

## INCREASING TRANSPARENCY THROUGH PENALTY GUIDANCE

BIS provides guidance (found in Supplement No. 1 to Part 766 of the EAR) to provide the public with a comprehensive description of how BIS determines appropriate penalties in the settlement of administrative export control enforcement cases. It explains that BIS carefully considers each settlement in light of the facts and circumstances of the case, relevant precedent, and BIS's objective to achieve an appropriate level of penalty and deterrent effect.

The penalty guidance can be found online at <https://www.bis.doc.gov/index.php/documents/pdfs/1567-administrative-enforcement-guidelines/file>

Several factors are taken into account when determining the appropriate administrative penalty. The penalty guidance encourages parties to provide information to BIS that would be helpful in the application of the guidance to their cases. Some factors are given up to a specific percentage of mitigation and are treated as considerably more significant than factors that are not so designated. The Factors set forth in the Guidelines are reconstituted into the following:

### **Aggravating Factors**

- A. Willful or Reckless Violation of Law
- B. Awareness of Conduct at Issue
- C. Harm to Regulatory Program Objectives

### **General Factors**

- D. Individual Characteristics
- E. Compliance Program

### **Mitigating Factors**

- F. Remedial Response
- G. Exceptional Cooperation with OEE
- H. License Was Likely To Be Approved

### **Other Relevant Factors Considered on a Case-by-Case Basis**

- I. Related Violations
- J. Multiple Unrelated Violations
- K. Other Enforcement Action
- L. Future Compliance/Deterrence Effect
- M. Other Factors that OEE Deems Relevant

## ***Voluntary Self-Disclosures***

Export Enforcement at BIS encourages the submission of voluntary self-disclosures (VSDs) by parties who believe they may have violated the EAR. BIS encourages parties that believe they may have violated export controls or economic sanctions administered by other U.S. government agencies, or failed to file complete and accurate electronic export information (EEI) as required by the Foreign Trade Regulations (FTR) (15 CFR part 30), to file disclosures concurrently with BIS and all other relevant federal agencies. VSDs are a compelling indicator of a party's intent to comply with U.S. export control requirements. Parties can submit an initial disclosure when the violations are first uncovered and follow-up with a complete narrative within 180 days.<sup>5</sup> OEE carefully reviews VSDs received from disclosing parties to determine if violations of the EAR have occurred and to determine the appropriate corrective action when violations have taken place.

VSDs are a compelling indicator of a party's intent to comply with U.S. export control requirements in the present and the future. Warning letters will generally be issued in cases involving inadvertent violations and cases involving minor or isolated compliance deficiencies, absent the presence of aggravating factors.

### ***Denial of Export Privileges***

BIS has the authority and discretion to deny all export privileges under the EAR of a domestic or foreign individual or company. Consider the potentially catastrophic impact upon a person or organization of not being able to export, reexport, transfer (in-country), or receive any item – including an EAR99 item – that is subject to the EAR. BIS may impose a denial of export privileges as a sanction in an administrative case, or as a result of a person's criminal conviction under certain statutes. A denial of export privileges prohibits a person from participating in any transactions subject to the EAR. Furthermore, it is unlawful for other businesses and individuals to participate in an export, reexport, or transfer (in-country) subject to the EAR with a denied person.

Denial of export privileges may be imposed as part of an administrative penalty. Under 50 U.S.C. 4819(e), a denial of export privileges may be imposed for up to ten years from the date of a person's conviction under ECRA (or any regulation, license, or order issued thereunder), IEEPA, or Section 38 of the Arms Export Control Act, or one of the several espionage, conspiracy, smuggling, and false statement-related statutes. In cases where no administrative charges are brought, there is no limit to the period of export denial. The standard terms of a BIS denial order are described in Supplement No. 1 to Part 764 of the EAR. (Note: 50 U.S.C. 4819(e) does not apply to convictions that arise out of antiboycott violations.)

In addition, the Assistant Secretary for Export Enforcement may issue a Temporary Denial Order (TDO) denying any, or (typically) all, of the export privileges of a company or individual to prevent an imminent or ongoing export control violation. These orders are issued ex parte for a renewable 180-day period and deny not only the right to export from the United States, but also the right to receive or participate in exports from the United States. TDOs are also described in Section 766.24 of the EAR.

### ***BIS-Administered Lists***

The Department of Commerce maintains four screening lists, which advise the exporting public that listed persons are subject to specific restrictions. In the event an entity, company, or individual on one of the following lists appears to match a potential party in a transaction subject to the EAR, additional due diligence is required before proceeding to ensure the transaction does not violate the EAR. These lists are available on the BIS website at <http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>. They are also included in the U.S. Government Consolidated Screening List, a comprehensive screening system containing export-related lists managed by the Departments of State, Treasury and Commerce, available at <https://www.export.gov/article?id=Consolidated-Screening-List>. In addition, Section 744.22 identifies a non-exhaustive list of 'military intelligence end users.'

### **Denied Persons List**

The Denied Persons List contains the names and addresses of individuals and entities located in the United States and overseas subject to a denial of export privileges. Any dealings with a person or entity on this list that would violate the terms of the denial order are prohibited. See Section 764.3(a)(2) of the EAR.

<sup>5</sup> See Section 764.5 of the EAR for details on how to submit a VSD.



## Entity List

The BIS Entity List has evolved into a formidable administrative enforcement tool that imposes a license requirement for exports, reexports, or transfers of some or all items subject to the EAR to listed foreign entities. Those on the Entity List were placed there because there is reasonable cause to believe they have been involved, are involved, or pose a significant risk of being or becoming involved, in activities contrary to U.S. national security or foreign policy, such as WMD programs, destabilizing accumulations of conventional weapons, or terrorism. These license requirements are in addition to any license requirements imposed on the transaction by other provisions of the EAR. As a general rule, BIS generally applies a presumption of denial for license applications involving listed entities. The Entity List thereby serves as an incentive for listed foreign parties to implement effective export management compliance programs to stop the diversion of U.S.-origin items to unauthorized destinations, uses, or users, thereby providing a basis for removal. General Orders also may restrict exports to named individuals or entities. For General Orders, see Supplement No. 1 of Part 736 of the EAR.

For guidance concerning the license application review policy applicable to a particular entity, please review that individual or organization's entry on the list. Listed entities may request removal from the Entity List by submitting a petition pursuant to Section 744.16 and Supplement 5 to Part 744 of the EAR.

## Unverified List

The Unverified List (UVL) contains the names and addresses of foreign persons that have been parties or intended parties to transactions subject to the EAR whose *bona fides* could not be confirmed as a result of an end-use check, including the U.S. Government's inability to conduct such an end-use check. The presence of a person listed on the Unverified List in a proposed export transaction creates three consequences: all export transactions must be reported in the Automated Export System (AES) (see Section 758.1(b)(8) of the EAR); license exception-eligibility is suspended (see Section 740.2(a)(17) of the EAR); and for all other EAR transactions not subject to a license requirement, the exporter must obtain a statement from the UVL party agreeing to abide by the EAR, including to permit an end-use check prior to export (see Section 744.15 of the EAR). Once BIS confirms the *bona fides* of the foreign party, including through completion of an end-use check, a party may be removed from the UVL. Similar to the Entity List, the UVL provides an incentive for foreign parties to comply with the EAR, including its end-use check requirements.

## Military End-User List

Established on December 23, 2020,<sup>5</sup> the Military End-User (MEU) List identifies foreign parties that are prohibited from receiving items described in Supplement No. 2 to part 744 of the EAR, unless the exporter secures a license. These parties have been determined by the U.S. Government to be 'military end users,' as defined in Section 744.21(g) of the EAR, and represent an unacceptable risk of use in or diversion to a 'military end use' or 'military end user' in Belarus, Burma, Cambodia, China, Russia, or Venezuela. The MEU List is not exhaustive and exporters must conduct their own due diligence to identify any license requirements described in Section 744.21 of the EAR that may apply to entities not listed on the MEU List. The list supplemented existing BIS authorities that imposed licensing requirements on certain exports, reexports, or transfers (in-country) for 'military end-uses' and 'military end users,' including BIS's authority to inform the public of a license requirement for any item subject to the Regulations due to an unacceptable risk of use in or diversion to a 'military end use' or 'military end user' in Belarus, Burma, Cambodia, China, Russia, or Venezuela.

## ***Asset Forfeiture***

Asset forfeitures target the financial motivation underlying many illicit export activities. The forfeiture of assets obtained in the conduct of unlawful activity may be imposed in connection with a criminal conviction for export violations or in a civil forfeiture action. Asset forfeitures prevent export violators from benefiting from the fruits of their crimes and the value of forfeited assets can greatly exceed criminal fines or administrative penalties. As described in Section 758.7(b)(7) of the EAR, OEE is authorized to initiate administrative forfeiture (nonjudicial civil forfeiture or summary forfeiture) proceedings and forfeit property.

## ***False Statements***

A party to an export transaction may be subject to criminal and/or administrative sanctions for making false statements to the U.S. Government in connection with an activity subject to the EAR. Most frequently, the false statements are made on an export document or to a federal law enforcement officer. Common types of false statements seen by OEE are: 1) statements on Electronic Export Information or EEI (information now filed through the Automated Export System (AES), but formerly filed as a paper Shipper's Export Declarations (SED)) that an export is destined for one country when it is really destined for a sanctioned destination; 2) SED or AES filing statements that the export does not require a license (i.e., it is "NLR") when in fact a license is required for the shipment; 3) false item valuations; and 4) statements that an export was shipped under a particular license number when in fact that license was for a different item. False statements that are made to the U.S. Government, whether directly or indirectly through another person, such as a freight forwarder, may constitute violations of the EAR and may serve as the basis for the issuance of a denial order.

The FLIR Systems, Inc. investigation is a good example of the potential outcome of making false statements. In April 2021, FLIR Systems, Inc. of Wilsonville, Oregon agreed to pay a \$307,992 civil penalty to settle charges that the company made incomplete or inaccurate representations, statements, or certifications to BIS and other U.S. Government agencies regarding a certain anti-tamper protection mechanism for a FLIR Uncooled Focal Plane Array (UFPA) while seeking and obtaining an official classification identifying the UFPA on the EAR's CCL for export control purpose. FLIR Systems, Inc. also made incomplete or inaccurate representations, statements or certifications concerning the end uses of the UFPA. While FLIR Systems, Inc. voluntarily disclosed the violations and cooperated fully with the investigation, the seriousness of the charges resulted in an egregious penalty determination.

## **Export Compliance**

### ***Responsible Parties***

All parties that participate in transactions subject to the EAR must comply with the EAR. These persons may include exporters, freight forwarders, carriers, consignees, and other participants in an export transaction. The EAR apply not only to parties in the United States, but also to persons in foreign countries who are involved in transactions subject to the EAR.

### ***Due Diligence: Eight Principles for an Effective Compliance Program***

Many exports of controlled items, including software and technology, require a license from BIS. It is the responsibility of the exporter to obtain a license when one is required under the EAR. License requirements for a particular transaction, as described in the EAR, are based on a number of factors, including technical

characteristics of the item to be exported and the item's destination, end user, and end use. When determining whether a license is required for your transaction, you should be able to answer the following questions:

- What is being exported?**
- Where is the item being exported?**
- Who will receive the item?**
- How will the item be used?**

#### PREVENTIVE MEASURES YOU CAN TAKE

- Check exporters and customers
- Check end users and end uses
- Review Electronic Export Information
- Educate relevant personnel

BIS weighs a variety of aggravating and mitigating factors in deciding the level of penalties to assess in administrative cases. As set forth in Supplement Nos. 1 and 2 to Part 766 of the EAR, an effective compliance program may be entitled to significant mitigation. BIS's Export Management Compliance Program (EMCP) guidelines can be accessed through BIS's website at [www.bis.doc.gov](http://www.bis.doc.gov) under the Compliance and Training tab.

BIS employs the following eight guiding principles when assessing the effectiveness of a company's export compliance program:

- 1. Have strong and continuous management commitment. In order to build and maintain an effective program senior management must:
  - Publicly support compliance policies and procedures
  - Provide sufficient resources
  - Support export compliance training and training sessions
- 2. Identify and mitigate your organization's potential vulnerabilities by conducting frequent risk assessments.
- 3. Write and implement export authorization procedures on jurisdiction, classification, licensing and screening. This is vital for preventing your organization from exporting unauthorized items and possibly facing export penalties.
- 4. Assign individual roles in recordkeeping and ensure procedures meet the requirements in § 762.4 of the EAR.
- 5. Require training for all employees, including support staff, whose responsibilities relate to exports in order to keep up with changing regulations and to network with other export compliance practitioners.
- 6. Perform regular audits to gauge how well procedures are implemented and how elements need to be augmented.
- 7. Implement a program to handle compliance issues, including how to prevent export violations and how to complete corrective actions when a violation is found.
- 8. Whether writing an ECP for the first time or maintaining an ECP, make sure to keep the manual current and relevant to the members of your organization.

Developing an effective company compliance program is essential not only for preventing export violations, but also for enabling BIS to differentiate violations by individual employees from larger patterns of corporate noncompliance. Export Enforcement may afford significant mitigation to companies with effective compliance programs and will emphasize individual responsibility when seeking penalties against willful violations by employees.

If you need assistance to determine whether the item you want to export requires a license you should:

1. Check the BIS website <http://www.bis.doc.gov>, or
2. Call one of our export counselors at 202-482-4811 (Washington, DC), 949-660-0144 (Western Regional Office) or 408-998-8806 (Northern California Branch) for counseling assistance.

Please note that, whether you are the exporter, freight forwarder, consignee, or other party to the transaction, you must address any red flags that arise. Taking part in an export transaction where a license is required but not obtained may subject you to criminal and/or administrative liability. The EAR discusses red flags in Supplement No. 3 to Part 732, which is available on the BIS website.

A key in determining whether an export license is required from the Department of Commerce involves knowing whether the item for export has a specific ECCN, an alpha-numeric code that describes a particular item or type of item, and shows the controls placed on that item. All ECCNs are listed on the CCL. Once an item has been classified, the next step is to determine whether an export license is required based on the “reasons for control” of the item and the country of ultimate destination. Reasons for control include national security, chemical and biological weapons controls, nuclear nonproliferation, missile technology, regional stability, anti-terrorism, and crime control. Please visit <https://www.bis.doc.gov/index.php/licensing/commerce-control-list-classification> for more information on how to classify items.

### ***Transshipments & Reexports***

Parties to an export transaction cannot bypass the EAR by shipping items through a third country. The transshipment or reexport of items in international commerce may be a violation of U.S. law. For example, an exporter cannot bypass the U.S. embargo against Iran by shipping an item to a distributor in the United Kingdom and asking the distributor to transship the item to a customer in Iran. Under U.S. law, this would be considered an export to Iran, even though it does not go directly to that country, and both the U.S. exporter and the United Kingdom distributor could be liable for violating U.S. law.

Parties to exports or reexports of items subject to the EAR should be alert to the red flag indicators of possible unlawful diversion found in Supplement No. 3 to Part 732 of the EAR, and should consult BIS’s guidance on reexports at: [http://www.bis.doc.gov/index.php/licensing/reexports-and-offshore-transactions,as-well-as-“Best-Practices”-to-Guard-Against-Unlawful-Diversion-through-Transshipment-Trade-at-https://www.bis.doc.gov/index.php/documents/pdfs/625-best-practices/file](http://www.bis.doc.gov/index.php/licensing/reexports-and-offshore-transactions,as-well-as-Best-Practices-to-Guard-Against-Unlawful-Diversion-through-Transshipment-Trade-at-https://www.bis.doc.gov/index.php/documents/pdfs/625-best-practices/file).

In addition, exporters should be knowledgeable about the export control requirements of their customers and are strongly encouraged to obtain copies of any relevant import licenses (permits) prior to export. For example, Hong Kong requires all importers to receive a license prior to receipt of multilaterally-controlled items from abroad. The EAR requires exporters or reexporters to Hong Kong of any item subject to the EAR and controlled on the CCL for NS, MT, NP Column 1, or CB reasons to obtain a copy of the Hong Kong import license or a written statement that no such license is necessary. (See Section 740.2(a)(19), (20) of the EAR.) Similarly, exporters are required to notify their customers of export license conditions (e.g., requirement for BIS authorization for subsequent transfer (in-country) or reexport) and should make their customers aware that a license (permit) may be required for subsequent reexport from their own government in addition to BIS. BIS published guidance on its website to assist exporters in this regard: <https://www.bis.doc.gov/index.php/licensing/9-bis/carousel/689-foreign-import-export-license-requirements-hong-kong-singapore-united-arab-emirates>.

## ***Catch-All Controls***

BIS controls exports of items not only based on their technical specifications, but also based on their intended end use and end user. The EAR impose license requirements on exports of items subject to the EAR if the exporter knows or has reason to know that any of the items will be used in an end use of particular concern to the U.S. Government, such as a missile or nuclear weapons program, for a military-intelligence end use or end user, or in certain circumstances a military end use or by a military end user. These controls are often referred to as “catch-all” controls because they apply to a broad set of items, or in the case of WMD and military-intelligence activities, to any support to such activities, even if not involving an item not subject to the EAR.

Export restrictions based on the end use and end user are specified in Part 744 of the EAR and include restrictions on certain nuclear, missile, chemical and biological, and military/military-intelligence end uses, as well as restrictions on certain end users. BIS maintains restrictions on end users listed on the Denied Persons List, the Entity List, the UVL, and the MEU List, as well as the illustrative list of military-intelligence end users in Section 744.22. BIS uses these lists to notify the public of end users of concern, including entities engaged in illicit export activity or other activities contrary to U.S. national security or foreign policy, entities that could not be confirmed as reliable recipients of U.S.-origin commodities, software, or technology, and certain entities subject to military end-user controls.

The EAR also incorporate by reference certain entities sanctioned by the Department of the Treasury, including certain Specially Designated Terrorists, Specially Designated Global Terrorists, Foreign Terrorist Organizations, and Weapons of Mass Destruction Proliferators and their Supporters.

These lists are not comprehensive and do not relieve parties to an export transaction of their responsibility to determine the nature and activities of potential customers who may not be listed (see BIS’s “Know Your Customer” Guidance in Supplement No. 3 to Part 732 of the EAR, available on the BIS website).

## ***Sanctions Programs***

The United States maintains broad export controls on certain countries for foreign policy reasons. It has imposed such controls unilaterally or multilaterally pursuant to United Nations Security Council Resolutions. Countries may be subject to partial or comprehensive embargoes, in some cases as a consequence of their designation by the Secretary of State as state sponsors of terrorism. As of the date of publication of this document, Syria, Iran, Cuba, and North Korea remain designated as state sponsors of terrorism. BIS implements stringent export controls on these four countries under the EAR<sup>6</sup>.

As a practical matter, many exports of ordinary commercial items not typically controlled to other destinations may require authorization from BIS and other federal agencies, including the Department of the Treasury’s Office of Foreign Assets Control (OFAC). For these four countries, BIS or OFAC – and in some cases both agencies together – administer the licensing requirements and enforce the controls.

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<sup>6</sup> <https://www.bis.doc.gov/index.php/documents/regulation-docs/420-part-746-embargoes-and-other-special-controls/file>



### What is OFAC and what does it do?

The Office of Foreign Assets Control (OFAC) administers and enforces economic sanctions programs against countries, entities, and individuals, including terrorists and narcotics traffickers. The sanctions may be either partial or comprehensive, requiring the blocking of assets of designated persons in some situations or the imposition of broad trade restrictions on regions and sectors to accomplish foreign policy and national security goals.

BIS and OFAC work together to administer and enforce the sanctions against Iran and both maintain license requirements for Iran. To reduce duplication with respect to these licensing requirements, exporters or reexporters are not required to seek separate authorization from BIS for an export or reexport subject both to the EAR and to the Iranian Transactions and Sanctions Regulations (ITSR). If OFAC authorizes an export or reexport, such authorization is considered authorization for purposes of the EAR as well. It is important to note that transactions that are not subject to OFAC regulatory authority may require BIS authorization. No person may export or reexport any item that is subject to the EAR if such transaction is prohibited by the ITSR and not authorized by OFAC. This prohibition applies whether or not the EAR independently require a license for export or reexport. Please see section 746.7 of the EAR or visit <https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations/iran> for more information.

It is important to familiarize yourself with the restrictions that apply to the ultimate destination of your export. U.S. law in this area frequently changes in accordance with an evolving foreign policy. The following websites are good resources:

**OFAC's website:**

<http://www.treasury.gov/ofac>

**BIS's website:**

<http://www.bis.doc.gov>

**Consolidated Screening List website:**

<http://www.trade.gov/data-visualization/csl-search>

### ***Successor Liability***

Businesses can be held liable for violations of the EAR committed by companies that they acquire. Businesses should be aware that the principles of successor liability may apply to them and should perform “due diligence” in scrutinizing the export control practices of any companies that they plan to acquire. A properly structured due diligence review can determine whether an acquired company has violated any export laws. This review should examine the company’s export history and compliance practices, including commodity classifications, technology exchanges, export licenses and authorizations, end users, end uses, international contracts, the status of certain foreign employees who have access to controlled technologies,

and the company's export policies, procedures, and compliance manuals. Voluntary self-disclosures should be submitted outlining any violations that this review uncovers, if not by the company responsible, then by the company seeking to acquire it. Failure to scrutinize properly an acquired company's export practices can lead to liability being imposed on the acquiring company.

### ***Educational Outreach***

To raise awareness of export control requirements and prevent potential violations of the EAR, Export Enforcement conducts educational outreach to U.S. exporters and foreign trade groups. In addition to participating in BIS export control seminars and conferences, Export Enforcement conducts outreach to individual exporters to inform them of their responsibilities under the EAR, review compliance best practices, and alert them if appropriate to offshore illicit procurement activities of which they may be a target. Export Enforcement also engages American business communities overseas and foreign trade and industry associations to promote awareness of U.S. export and reexport controls, including in cooperation with foreign government partners.

During FY2021, OEE conducted more than 1,600 outreaches. Industry's knowledge and compliance with the EAR establishes a built-in warning system for Export Enforcement to be aware of suspicious actors. Coupled with this general outreach, Export Enforcement has expanded its Guardian outreach program to industry, alerting companies of suspicious parties that may be seeking to obtain sensitive items. In FY2021, BIS initiated over 50 Project Guardian leads (i.e., alerts to Special Agents about a suspicious transaction). OEE fully appreciates the reputational risk associated with your items being involved in illicit activities, and this advance warning system is meant to help you identify otherwise unforeseen risks in potential transactions.

### ***Cyber-Intrusions and Data Exfiltration***

One of the newer areas of focus in our outreach efforts relates to cyber-intrusions and data exfiltration that result in your controlled technology being exported. It is becoming almost a daily occurrence to read about a cyber-intrusion or attack. The perpetrators of cyber-crime are varied; they include independent hackers and criminal organizations, as well as state actors. The theft of export-controlled information from your computer systems as a result of foreign cyber actors is a threat to U.S. national security interests and your company's competitive lifeblood: intellectual property.

The U.S. Government is attempting to address this theft through a whole-of-government approach. On February 12, 2014, the National Institute of Standards and Technology, a sister agency at the Department of Commerce, published the first National Cybersecurity Framework, which can be found at [www.nist.gov/cyberframework](http://www.nist.gov/cyberframework). An updated version was released in April 2018. Regardless of the type of business sector or an organization's size, an entity can use the framework to determine its current level of cybersecurity, set goals for cybersecurity that are in sync with its business environment, and establish a plan for improving or maintaining its cybersecurity. This Framework also offers a methodology to protect privacy and civil liberties to help organizations incorporate those protections into a comprehensive cybersecurity program. The Framework is part of a larger initiative to combat the ever-evolving cyber threat. Both the FBI and the Department of Homeland Security's Office of Infrastructure Protection are developing programs and initiatives to help the private sector protect, identify, mitigate, and report malicious cyber activity and actors. For our part, BIS has leveraged the Entity List to impose export restrictions on certain foreign entities involved in thefts of intellectual property.

Companies need to evaluate whether to incorporate cybersecurity into your EMCP as well as report cyber incidents. Reporting the exfiltration of controlled technology is separate and distinct from submitting a VSD. The latter involves your discovery of a violation of the EAR. By reporting cyber thefts, you are giving us critical information that can allow BIS, working with our interagency partners, to identify these

cyber-actors and bring our unique BIS tools to bear against them. Cybersecurity, like effective export controls, can only be achieved with your support and partnership.



*OEE Special Agents conducting an inspection*

## Enforcement Priorities

For 40 years, the Department's Office of Export Enforcement (OEE) has been on the front line of protecting U.S. national security, ensuring that EAR items are not falling into the hands of our adversaries. OEE's efforts, and their results, have been consistent for those forty years, but the nature of the threat and the items, end users, and end uses of concern have evolved during that time span.

Forty years ago, our export control system was narrower, focused singularly on traditional dual-use items related to conventional military applications, and were aimed at a single adversary. The coordinating Committee for Multilateral Export Controls, or CoCom, was established by the U.S. and our allies after World War II as an informal mechanism to coordinate an embargo policy on the export of sensitive technology and goods to the communist bloc. In 1982, when OEE began, its job was to enforce U.S. export controls in a CoCom world.

From these narrow post-World War II beginnings, the global export control system evolved in the mid-1990s with the simultaneous fall of the Soviet Union and rise of the proliferation of weapons of mass destruction. New multiple export control regimes were developed that focused on a broader array of items, not only dual-use items, tied to conventional weapons, but also items related to missiles, chemical and biological weapons, and nuclear weapons.

Fast-forward to the aftermath of September 11, 2001, and the focus of our country's national security efforts pivoted to face a new and pressing threat of the terrorist attacks on our homeland by non-state actors like al-Qaeda. The changing nature of the threat meant OEE, in addition to investigating proliferation of WMD and destabilizing military activities, also worked more closely with the Department of Defense to prevent U.S. components from getting into the hands of terrorists for use in improvised explosive devices. In parallel, we expanded the use of our Entity List to allow for the



designation of parties when supporting any activity contrary to U.S. national security or foreign policy interests.

Today, a little more than twenty years since 9/11, the national security landscape has changed again. While non-state actor threats remain, nation-state actors are once again the paramount threat. Each year, the Office of the Director of National Intelligence (DNI) publishes the Intelligence Community's Annual Threat Assessment, which details the DNI's view of the gravest national security threats faced by the United States. The first four sections of its 2022 assessment each focus on a different nation-state actor—China, Russia, Iran, and North Korea. As the assessment notes, “Beijing, Moscow, Tehran, and Pyongyang have demonstrated the capability and intent to advance their interests at the expense of the United States and its allies.” The assessment later goes on to point out that “China will continue pursuing its goal of building a world-class military that will enable it to secure what it views as its sovereign territory, establish its preeminence in regional affairs, and project power globally while offsetting perceived U.S. military superiority... will continue the largest ever nuclear force expansion and arsenal diversification in its history... [and] is working to match or exceed U.S. capabilities in space to gain the military, economic, and prestige benefits that Washington has accrued from space leadership. Of course, Russia's unprovoked invasion of Ukraine in February 2022 lays bare the Kremlin's callous disregard for democratic ideals, norms and values, and respect for the rule of law.

Accordingly, Export Enforcement's highest priority is to prevent nation-state actors that pose the gravest threat to U.S. national security from illicitly acquiring EAR items. “Don't Let This Happen to You” chapters have been reorganized to reflect this reprioritization of threats by nation-state actors, with the reason or basis for control for items found to be exported in violation of the EAR – i.e., *National Security, Military* (including catch-all), *WMD* (including catch-all), and *Other* such as firearms and sanctioned items like oilfield equipment – identified by subsection within each chapter.

## End-Use and End-User Controls

In addition to the controls set forth on the CCL based on the technical parameters (ECCN) of the items and the destination country, the EAR control the export of items, which may include items listed in an ECCN on the CCL, as well as items designated EAR99, when destined to certain end uses or end users. These end-use and end-user controls, found in Part 744 of the EAR, and certain special controls found in part 746 of the EAR, are intended to prevent items subject to the EAR from contributing to activities contrary to U.S. national security and foreign policy interests, including certain:

- Nuclear explosive activities and safeguarded and unsafeguarded nuclear activities, as described in Section 744.2 of the EAR.
- Rocket systems and unmanned aerial vehicles, as described in Section 744.3 of the EAR.
- Chemical and biological weapons, as described in Section 744.4 of the EAR.
- Maritime nuclear propulsion end uses, as described in Section 744.5 of the EAR.
- Military end uses and end users, as described in Sections 744.17 and 744.21 of the EAR.
- Military-intelligence end uses and end users, as described in Section 744.22 of the EAR.
- Russian deepwater, Arctic offshore, or shale oil or gas exploration or production activities, as described in Section 746.5 of the EAR.

Foreign parties have also been listed on the Entity List based on their involvement in certain of the foregoing activities. Restrictions on parties listed on the Entity List (Sections 744.11 and 744.16 of the EAR and Supplement No. 4 to part 744), the Denied Persons List, the UVL (Section 744.15 of the EAR and Supplement No. 6 to part 744), and the MEU List (Section 744.21 of the EAR and Supplement No. 7 to part 744) are described above. In addition to screening your customers against the Consolidated Screening List, you should also exercise due diligence, in accordance with the “Know Your Customer” Guidance in Supplement No. 3 to part 732 of the EAR, to determine whether any “red flags” indicate your customer may be planning an unlawful diversion to one of the foregoing end uses or end users.

The U.S. Government maintains controls on exports of certain items based on its participation in multilateral export control regimes as well as for unilateral foreign policy reasons. These items are identified on the Commerce Control List and controlled pursuant to Part 742 of the EAR.

EAR controls based on multilateral export control regimes include:

- NP (nuclear nonproliferation) controls implemented pursuant to the Nuclear Suppliers Group. The EAR control items that could be of significance for nuclear explosive purposes.
- CB (chemical-biological weapons) controls implemented pursuant to the Australia Group. The EAR control items, including entire chemical plants, toxic chemicals and precursors, and certain microorganisms, that could be used for chemical or biological weapons programs;
- MT (missile technology) controls implemented pursuant to the Missile Technology Control Regime. The EAR control unmanned delivery systems, including unmanned aerial vehicles, capable of delivering weapons of mass destruction;
- NS (national security) controls implemented pursuant to the Wassenaar Arrangement; and
- FC (Firearms Convention) controls implemented pursuant to the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA). The EAR control certain firearms and ammunition, shotguns, shells, optical sights, and other related CIFTA items that could contribute to such activities as drug trafficking, terrorism, and transnational organized crime within the Organization of American States.



*Gas centrifuges can be used to enrich uranium and are subject to nuclear nonproliferation (NP) controls*

BIS also imposes unilateral controls on items in the following categories: significant items (SI), encryption (EI), anti-terrorism (AT), communication intercept/surreptitious listening (SL), regional stability (RS) and crime control and other items for human rights (CC) reasons.

## Freight Forwarder Responsibilities

Primary responsibility for compliance with the EAR generally falls on the “principal parties in interest” in a transaction, who are usually the U.S. seller and the foreign buyer. However, freight forwarders or other agents acting on behalf of the principal parties are also responsible for their actions, including the representations they make filing EEI or other export control documents.

To help avoid liability in an export transaction, agents and exporters must decide whether any aspect of the transaction raises red flags, inquire about those red flags, and ensure that suspicious circumstances are not ignored. Both the agent and the principal party are responsible for the accuracy of each entry made on an export document. Good faith reliance on information provided by the exporter may excuse an agent’s actions in some cases, but the careless use of pre-printed “No License Required” forms or unsupported entries can get an agent into trouble.

# Chapter 1 – China

## Criminal and Administrative Case Examples

### *National Security Controls*

#### **Avnet Asia Pte. Ltd / Cheng Bo**

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**The Violation:** Avnet Asia Pte. Ltd is a Singapore company and global distributor of electronic components and related software. Former Avnet Asia Sales Account Manager Cheng Bo, aka Joe Cheng, participated in a criminal conspiracy from 2012-2015 to violate U.S. export laws by shipping power amplifiers classified under ECCN 3A001 and controlled for National Security and Anti-Terrorism reasons to China. Cheng, having established Globe Communication Limited as a false front company and end user in Hong Kong, submitted paperwork on behalf of the customer to purchase export-controlled items, including the power amplifiers. Cheng caused false statements to be made to the U.S. manufacturer of the power amplifiers stating that his customer would use them in Hong Kong when, in fact, Cheng knew the goods would be illegally shipped to China to a party linked to the Chinese military. Another former Avnet Asia employee caused U.S. goods to be shipped to China and Iran without a license in violation of the IEEPA, to include ECCN 3A001 electronic components. Avnet Asia cooperated with the U.S. government in this investigation and terminated Cheng and the other former employee because of their participation in the illegal schemes. An indictment charging Cheng with conspiracy to violate IEEPA and money laundering was unsealed in January 2021. Cheng remains at-large. This case resulted from a joint investigation conducted by OEE's Chicago Field Office, the Federal Bureau of Investigation (FBI), and U.S. Immigration and Customs Enforcement (ICE).

**The Penalty:** Avnet Asia Pte. Ltd agreed in January 2021 to a global settlement with BIS and the U.S. Department of Justice (DOJ). Avnet Asia agreed to a Non-Prosecution Agreement with DOJ that included a \$1.5 million fine to settle criminal liability for both the Cheng transshipments described above and the illegal export of electronic components to Iran and China through Singapore by other employees. Avnet Asia also agreed to a BIS administrative settlement of \$3.2 million (with \$1.5 million suspended) for the aforementioned and additional violations, including unauthorized shipments to a company appearing on the BIS Entity List.

#### **CBM International / Uka Uche / Qui Bo / Samuel Ogoe / Shan Shi**

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**The Violation:** On July 29, 2019, Shan Shi was found guilty of conspiracy to steal trade secrets at the end of a three-week jury trial. On October 17, 2018, Samuel Ogoe pled guilty related to charges of conspiracy to commit theft of trade secrets. On April 26, 2018, Shi, Gang Liu, and Chinese companies CBM International Inc. (CBMI) and CBM Future New Material Science and Technology Co. Ltd (CBMF) were charged, in a superseding indictment, with economic espionage, and Shi was also charged with money laundering. On April 16, 2018, Uka Uche and Kui Bo pled guilty to charges of conspiracy to commit theft of trade secrets. On May 23, 2017, Shi, Uche, Ogoe, Johnny Wayne Randall, Bo, and Liu were arrested and charged with conspiracy to commit theft of trade secrets. Additionally, charges were filed against one Chinese national living in China, Hui Huang.

The trade secrets were stolen in order to benefit CBM Future New Material Science and Technology Co. Ltd. (CBMF) in China. Shi was contracted in March 2014 by CBMF to bring in experts, set up a design team, and market marine buoyancy technology. CBMF intended to sell syntactic foam, a strong, light material that can be tailored for commercial and military uses, such as oil exploration; aerospace; underwater vehicles, such as submarines; and stealth technology to both military and civilian, state-owned enterprises in China. Shi incorporated CBMI, International Inc. (CBMI), which was owned by CBMF, in Houston, Texas as part of a systematic campaign to steal the trade secrets of a global engineering firm (the Firm) that was a leader in marine technology. Shi and CBMI employee Kui Bo systematically targeted U.S. employees with experience in the production of syntactic foam. Between late 2014 and early 2015, CBMI hired Samuel Ogoe and Gang Liu who were former employees of the Firm. Johnny Wayne Randall and Uka Uche, who were at the time employees of the Firm, provided trade secrets to Ogoe. Ogoe and Liu provided these trade secrets to

CBMI shortly after being hired. Some of these trade secrets were sent by Shi and Bo to defendant Hui Huang, a Chinese national living in China and an employee of the CBMF. The technology for the syntactic foam was classified under ECCN 8E001 and was controlled for reasons of national security. This case resulted from a joint investigation conducted by OEE's Houston Resident Office, the FBI, and the Internal Revenue Service-Criminal Investigation (IRS CI).

**The Penalty:** On February 10, 2020, Shi was sentenced in U.S. District Court for the District of Columbia to 16 months in prison and a forfeiture of over \$330,000.

## **Glen Viau / Oceanworks International Corporation**

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**The Violation:** Glen Viau, Canadian citizen and President of Oceanworks International Corporation of Houston, Texas, exported submarine rescue system technology classified under ECCN 8E620 and controlled for reasons of National Security and Regional Stability to China without the required export license. Additionally, Oceanworks International Corporation submitted a voluntary self-disclosure letter which contained multiple false statements concerning the number and nature of export violations committed by the company. Viau was arrested in January 2019 at the George Bush Intercontinental Airport in Houston, Texas. Viau pled guilty to these charges in December 2019. This case resulted from a joint investigation conducted by OEE's Houston Resident Office and the FBI.

**The Penalty:** On December 2, 2019, Viau was sentenced in U.S. District Court for the District of Columbia to a \$25,000 criminal fine.

## **Odusseus Technologies**

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**The Violation:** On two occasions, Odusseus Technologies, aka "United Force Corporation" of Northville, Michigan, exported computer simulation software classified under ECCN 1D002 to China. As part of the export of the computer simulation software, the company filed Electronic Export Information knowingly and falsely describing the software as "unrecorded magnetic media, tapes." The company pled guilty to these charges in U.S. District Court for the Eastern District of Michigan. This case resulted from a joint investigation conducted by OEE's Chicago Field Office, the FBI and ICE.

**The Penalty:** On May 22, 2019, Odusseus Technologies was sentenced to a \$147,819 criminal fine.

## **Si Chen / Archangel Systems Space**

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**The Violation:** From March 2013 through the end of 2015, Chinese national Si Chen purchased and smuggled sensitive U.S.-origin items classified under ECCN 3A001 to China without obtaining the required BIS licenses. Those items included integrated circuits and other components used in radar and military jamming equipment. Additionally, Chen smuggled communications devices worth more than \$100,000 that are commonly used in space communications applications. Chen falsely under-valued the items on the shipping paperwork to avoid arousing suspicion. Chen received payments for the illegally exported products through an account held at a bank in China by a family member. In addition to participating in the scheme to violate IEEPA, Chen used several aliases and a forged Chinese passport to conceal her smuggling activities. Chen used a Chinese passport bearing her photo and a false name to rent an office in Pomona, California, where she took delivery of the export-controlled items. After receiving the goods, Chen shipped the devices to Hong Kong, and from there the items were transshipped to China. The parcels shipped to Hong Kong bore her false name, along with false product descriptions and monetary values. On July 9, 2018, Chen pled guilty in connection with the procurement scheme; Chen also pled guilty to money laundering and using a forged passport with her photo but a different name that appeared to have been issued. This case resulted from a joint investigation conducted by OEE's Los Angeles Field Office, ICE and DCIS.

**The Penalty:** On October 1, 2018, Si Chen was sentenced to 46 months in prison, three years of probation, and a \$300 special assessment. On August 5, 2019, BIS issued an order denying Si Chen's export privileges for ten years (until October 10, 2028).

## Zhongxing Telecommunications Equipment Corporation (ZTE) and ZTE Kangxun Telecommunications Equipment

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**The Violation:** On March 22, 2017, Chinese companies Zhongxing Telecommunications Equipment Corporation and ZTE Kangxun Telecommunications Ltd., known collectively as ZTE, pled guilty in U.S. District Court in the Northern District of Texas in connection with the illegal shipment of telecommunications equipment to Iran and North Korea in violation of the EAR and the ITSR. ZTE conspired to evade the U.S. embargo against Iran in order to obtain contracts with and related sales from Iranian entities, including entities affiliated with the Iranian Government, to supply, build, operate, and/or service large-scale telecommunications networks in Iran, the backbone of which would be U.S.-origin equipment and software. As a result of the conspiracy, ZTE was able to obtain hundreds of millions of dollars in contracts with and sales from such Iranian entities. ZTE also undertook other actions involving 283 shipments of controlled items to North Korea with knowledge that such shipments violated the EAR. Shipped items included routers, microprocessors, and servers controlled under the EAR for national security, encryption, regional security, and/or anti-terrorism reasons. In addition, ZTE engaged in evasive conduct designed to prevent the U.S. Government from detecting its violations. OEE learned that in November 2013, following a meeting of senior managers chaired by its then-CEO, ZTE made plans to resume transshipments to Iran that would continue during the course of the investigation. On March 7, 2016, BIS sanctioned ZTE by adding it to the BIS Entity List, which created a license requirement to export, reexport, or transfer (in-country) to ZTE any items subject to the EAR. During the course of the investigation, ZTE made knowingly false and misleading representations and statements to OEE or other U.S. law enforcement agencies, including that the company had previously stopped shipments to Iran as of March 2012, and was no longer violating U.S. export control laws. ZTE also engaged in an elaborate scheme to prevent disclosure to and affirmatively mislead the U.S. Government, by deleting and concealing documents and information from the outside counsel and forensic accounting firm that ZTE had retained with regard to the investigation. Following the 2017 settlement, ZTE admitted that it had falsely informed the U.S. Government that the company would or had discipline numerous employees responsible for the violations that led to the March 2017 settlement agreement. ZTE instead rewarded that illegal activity with bonuses. This case resulted from a joint investigation conducted by OEE's Dallas Field Office, ICE, and the FBI.

**The Penalty:** On March 22, 2017, ZTE agreed to a combined civil and criminal penalty of \$1.19 billion, the largest fine and forfeiture ever levied by the U.S. Government in an export control case. ZTE agreed to pay a penalty of \$661 million to BIS, with \$300 million suspended during a seven-year probationary period. ZTE also agreed to pay the Department of the Treasury's Office of Foreign Assets Control \$100,871,266 pursuant to a settlement agreement. In addition to these monetary penalties, ZTE agreed to active audit and compliance requirements designed to prevent and detect future violations and a seven-year suspended denial of export privileges. On April 15, 2018, BIS activated the suspended denial order against ZTE in response to the company's admission that it had made false statements to the U.S. Government. On June 8, 2018, BIS and ZTE agreed to a superseding settlement agreement including a civil penalty of \$1.4 billion, of which ZTE paid \$1 billion out-of-pocket and deposited \$400 million into an escrow account in a U.S. bank, where it would remain for ten years unless the company violated U.S. export controls. ZTE also agreed to a ten-year suspended denial order and the retention of a Special Compliance Coordinator, selected by BIS, and paid by ZTE.

## Daofu Zhang / Jian Guangzhou Yan / Xianfeng Zuo

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**The Violation:** Daofu Zhang, Jian Guangzhou Yan and Xianfeng Zuo, all Chinese nationals, each operated businesses in China that bought and sold electronic components, including integrated circuits. In 2015, Zuo requested that Yan locate and purchase several advanced integrated circuits classified under ECCN 9A515 which had military applications, including radiation tolerance for uses in space. Yan then asked a U.S. individual to locate the items and sell them to Yan. The U.S. individual explained that the items cannot be shipped outside the United States without an export license, but Yan still wished to make the purchase. When the U.S. individual expressed concern that the desired integrated circuits would have to be stolen from military inventory, Yan proposed to supply the U.S. individual with fake integrated circuits to replace the ones to be stolen from the military. In November 2015, Zhang shipped from China to the U.S. individual, two packages containing

counterfeit integrated circuits, each bearing a counterfeit brand label. After further discussions between Yan and the U.S. individual, Yan, Zhang, and Zuo flew together from China to the U.S. in early December 2015 to complete the purchase of the integrated circuits. On December 10, 2015, Yan, Zhang, and Zuo drove to a location in Connecticut, where they planned to meet the U.S. individual, make payment, and take custody of the items. Yan, Zhang, and Zuo were arrested at the meeting location. On April 15, 2016, Zhang pled guilty to charges related to the sale of counterfeit parts intended for the U.S. military in connection with the attempted export of computer chips to China without the required export license. On March 7 and March 16, 2016, respectively, Yan and Zuo pled guilty in connection with the conspiracy. This case resulted from a joint investigation conducted by OEE's Boston Field Office, ICE, DCIS, the FBI, and the U.S. Air Force Office of Special Investigations (AFOSI).

**The Penalty:** On July 8, 2016, Zhang was sentenced to 15 months in prison. On November 4, 2016, Zuo was sentenced to 15 months in prison. On December 20, 2016, Yan was sentenced to 12 months in prison. In addition, all three defendants' sentences included a \$63,000 forfeiture.

## Fulfill Your Packages

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**The Violation:** Fulfill Your Packages (FYP) of Gresham, Oregon, allowed its foreign customers in China to use its U.S. domestic address for the purchase and delivery of items from U.S. companies that FYP later repackaged and/or relabeled for export to China. In about June 2014, FYP engaged in a transaction or took other actions with intent to evade the EAR in connection with the intended export of a FLIR thermal imaging camera classified as ECCN 6A003 and controlled for national security and regional stability reasons. Specifically, a FYP customer purchased the camera from a U.S. distributor located in Florida for delivery to FYP's offices in Oregon and for ultimate export to China. The FYP customer provided FYP's address as his own and did not disclose to the U.S. distributor that the thermal imaging camera was to be exported to China. The shipment from the distributor to FYP included an invoice that warned that the product was export-controlled and that was a violation of U.S. law to export the product to certain countries without the required export license. In addition, a label affixed to the item noted that the item was subject to U.S. Department of Commerce export control regulations and must not be exported outside the United States or Canada without a U.S. export license. In preparing to export the thermal imaging camera to China, FYP prepared a U.S. Postal Service shipping label falsely describing the item as "metal parts" valued at \$255, even though FYP's order system described the items as an infrared webcam/surveillance camera installation kit, and even though the distributor's invoice described the items as a thermal imaging camera valued at \$2,617. This case resulted from a joint investigation conducted by OEE's San Jose Field Office and Portland Resident Office, the FBI and ICE.

**The Penalty:** On June 17, 2016, FYP agreed to pay a \$250,000 civil penalty with \$190,000 suspended provided no violations occur during a two-year probationary period.

## Ming Suan Zhang

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**The Violation:** In 2012, Ming Suan Zhang, a citizen of China, came to the attention of federal authorities after two accomplices attempted to locate large quantities of aerospace-grade carbon fiber via remote Internet contacts. Zhang told an undercover law enforcement agent that he had an urgent need for the specialized carbon fiber in connection with the scheduled test flight of a Chinese fighter plane. Zhang then arranged a meeting in the United States with an undercover agent to take possession of a carbon fiber sample, which was supposed to be shipped to China and analyzed to verify its authenticity. Zhang was placed under arrest after he arrived for the meeting. The scheme was aimed at obtaining thousands of pounds of the high -grade fiber classified under ECCN 1C010. In August 2013, Zhang pled guilty to violating the IEEPA. This case resulted from a joint investigation conducted by OEE's New York Field Office and ICE.

**The Penalty:** On December 10, 2013, Zhang was sentenced in the U.S. District Court for the Eastern District of New York to 57 months in prison, \$1,000 forfeiture, and a \$100 special assessment. On September 15, 2014, BIS issued an order denying Zhang's export privileges for a period of ten years (until December 10, 2023).

## *Military Controls*

### **Zheng Yan / Yang Yang / Ge Song Tao / Shanghai Breeze Technology Co. Ltd.**

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**The Violation:** Yang Yang, a dual Chinese and U.S. Citizen and owner of BQ Tree Consulting in Jacksonville, Florida; Ge Song Tao, a Chinese Citizen and President of the Chinese Company Shanghai Breeze; and Zheng Yan, a Chinese Citizen and Manager of the Chinese Company Shanghai Breeze were indicted in the Middle District of Florida for export violations. These individuals and others conspired to illegally export military-grade combat rubber raiding craft (CCRC) classified under ECCN 8A992, used by the U.S. Special Operations community to China. These CCRCs and accompanying multi-fuel engines are used in austere missions due to their ability to be deployed from submarines and dropped from aircraft. The scheme involved providing a U.S. Company false end-use and end-user information for a front company in Hong Kong, which was used to complete the transaction valued over \$266,000 and ultimately destined for China. The investigation revealed the intention was to reverse engineer the CCRC and engines to mass produce them for the Chinese People's Liberation Army (PLA) Navy. Items controlled under ECCN 8A992 are currently subject to an EAR license requirement for export to military end users in China, such as the PLA Navy. This is a joint investigation with OEE's Atlanta Resident Office, the FBI, Naval Criminal Investigative Service (NCIS), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).



**The Penalty:** On March 31, 2021, Zheng Yan was sentenced in U.S. District Court for the Middle District of Florida to 17 months in prison, one year of supervised release pending deportation, a prohibition on employment with any company that deals with the military, and a \$100 special assessment. On December 9, 2020, Yang Yang was sentenced in U.S. District Court for the Middle District of Florida to 16 months in prison, two years of supervised release, mandatory mental health screening, and a \$200 special assessment. On July 14, 2021, Ge Song Tao was sentenced in the Middle District of Florida to 42 months confinement, 3 years supervised probation upon release from confinement, a \$50,000 criminal fine, and a \$200 special assessment. Tao received an upward enhancement for leading the conspiracy and an additional upward variance for obstruction of justice by falsifying evidence and causing a false proffer in a court proceeding.

### **Tianjin University / Hao Zhang / Wei Pang / Huisui Zhang / Jinping Chen / Zhou Gang / Chong Zhou**

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**The Violation:** Between 2006 and 2015, Hao Zhang, Wei Pang, Huisui Zhang, Jinping Chen, Zhou Gang and Chong Zhou (hereinafter referred to as "the team"), conspired to commit economic espionage and theft of trade secrets by stealing trade secrets owned and controlled by U.S. corporations Avago Technologies and Skyworks Solutions. The team, with the assistance of Tianjin University in Tianjin, China, transferred the secrets to China to benefit the PRC government and its foreign instrumentalities; Tianjin MicroNano Manufacturing Tech (MNMT) and ROFS Microsystems (ROFS). The stolen trade secrets consisted of Surface Acoustic Wave (SAW), Bulk Acoustic Wave (BAW) and Film Bulk Acoustic Resonators (FBAR) technology designated EAR99. SAW and BAW filters are used in wireless devices to remove interference and improve wireless device performance. These filters are commonly used as radio frequency ("RF") filters for mobile phones and other devices for consumer and military applications. The investigation revealed a pattern of concerted and directed theft of valuable trade secrets/technology guided by two of the team who were, at the time, Avago and Skyworks employees; Hao Zhang and Wei Pang. Evidence showed that TJU was directly involved in assisting the team with a scheme to disguise the origin and sources of the stolen technology and provide funding, equipment and the creation of a shell company to be the legitimate source of the stolen trade secrets. Dating back to 2006, Pang, Zhang and other co-conspirators began soliciting PRC universities and others, seeking opportunities to manufacture FBAR technology in China. Pang, Zhang and the others established relationships with officials from TJU, a PRC



Ministry of Education University located in the PRC. For several years, Zhang and Pang shared trade secrets with each other and with co-conspirators in China while they worked for the U.S. companies. In 2009, Zhang and Pang obtained professorships at TJU where TJU guided the defendants in filing patent requests and creating a shell company in the Cayman Islands. Subsequently, the shell company and TJU's MNMT created a new company, ROFS, as a joint venture to manufacture products utilizing the stolen trade secrets. Zhang was arrested in the U.S. in May 2015 and in June 2020, was found guilty of twelve counts of Economic Espionage, twelve counts of Theft of Trade Secrets, one count of Conspiracy to commit Economic Espionage and one count of Conspiracy to commit Theft of Trade Secrets. This case resulted from a joint investigation conducted by OEE's San Jose Field Office and the FBI.

**The Penalty:** On August 31, 2020, Hao Zhang was sentenced in U.S. District Court for the Northern District of California to 18 months in prison, three years of supervised release, \$476,834.81 in restitution, and forfeiture of property (patents). In December 2020, BIS added Pang, Zhang, Chen, Gang, Zhou, Huisui Zhang, ROFS Microsystems, MNMT and TJU to the Entity List.

## Ron Hansen / H-11 Digital Forensics

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**The Violation:** Ron Rockwell Hansen, a retired U.S. Army Warrant Officer and former Defense Intelligence Agency Officer, was arrested in June 2018 on his way to the Seattle-Tacoma International Airport in Seattle, Washington as he was preparing to board a flight to China. At the time of his arrest, Hansen was in possession of classified national defense information that he planned to provide to Chinese intelligence services. In early 2014, agents of a Chinese intelligence service targeted Hansen for recruitment and he began meeting with them regularly in China, ultimately making hundreds of thousands of dollars in compensation for the information he provided them. Hansen subsequently admitted knowing that the information was to be used to the injury of the United States and to the advantage of a foreign nation. The investigation of Hansen resulted in charges of attempt to gather or deliver defense information, acting as an agent of a foreign government, bulk cash smuggling, structuring monetary transactions, and smuggling goods from the United States. At the time of recruitment, Hansen had business interests in and relationships with Utah-based companies Nuvestack Inc. and H-11 Digital Forensics Company LLC. The commodities Hansen smuggled from the United States to China included forensic hardware and software with cryptographic capability classified under ECCN 5D992 and controlled for export for anti-terrorism. Using these companies, Hansen conspired with his Chinese counterparts to cause the export of these commodities without the requisite U.S. Government authorization. This case resulted from a joint investigation with OEE's San Jose Field Office, the FBI, and the IRS.

**The Penalty:** On September 24, 2019, Ron Rockwell Hansen was sentenced to 10 years in federal prison for attempting to communicate, deliver, or transmit information involving the national defense of the United States to China. As part of the plea agreement, Hansen agreed to forfeit property acquired from or traceable to his offense, including property used to facilitate the crime.

## Liu "Willow" Yang

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**The Violation:** Liu "Willow" Yang, a Chinese national located in China, began procuring electronic components for an Iranian she met while she was employed as a sales representative of a Chinese digital audio player company. The Iranian approached Yang while at a meeting in China and requested if she could obtain electronic components for him from the U.S. as a side business. Yang agreed to obtain the products for a small commission. Yang registered her business in Hong Kong in 2009 to avoid scrutiny from U.S. suppliers and began purchasing products from the U.S. for her Iranian customer as a side business that she ran in the evening from her home in China. The Iranian customer would provide Yang with a list of products being sought and instructions on which U.S. supplier she should contact for the items. Yang would negotiate with the U.S. supplier for the best price and would purchase the items when her customer approved the purchase price. From 2011 to 2018, Yang procured over 300 exports of U.S.-origin electronic components and sensors from a single U.S. supplier, classified under ECCN 3A991 and designated EAR99, for her Iranian customer while concealing the ultimate end-user in Iran from U.S. companies, shippers, and freight forwarders. When asked about the end-use or end-user for a purchase by a U.S. supplier, Yang would provide false information to the U.S. supplier that was furnished to her from her Iranian customer. Yang was also instructed to route the shipments

through logistics companies/freight forwarders in Hong Kong where the shipments would be de-valued and rerouted to Iran. Upon receipt in Hong Kong, Yang was further instructed by her Iranian customer to remove the shipping invoices that showed U.S.-origin references and replace them with false invoices that indicated the products originated in Hong Kong or China. Yang was also instructed to devalue the items and alter their descriptions to avoid scrutiny. When U.S. suppliers began to ask more frequently for end-use and end-user information, Yang was instructed by the Iranian customer to change the name of her business, which she did several times. Yang was arrested in California, while on vacation, in October 2018. This case resulted from a joint investigation conducted by OEE's Chicago Field Office and ICE.

**The Penalty:** On April 15, 2019, Yang was sentenced in the District of Columbia to time served (six months), assessed a \$5,000 criminal fine, a \$100 assessment, ordered to forfeit \$25,000, and deportation to China.

## ***WMD Controls***

### **Zaosong Zheng**

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**The Violation:** In August 2018, Chinese national Zaosong Zheng entered the United States on a J-1 visa and conducted cancer-cell research at Beth Israel Deaconess Medical Center in Boston. Zheng stole vials of biological research, hid the vials in his luggage, and attempted to take them out of the United States aboard a flight destined for China. Zheng was arrested on December 10, 2019, at Logan International Airport in Boston after an outbound search discovered the vials hidden in a sock inside one of Zheng's bags, and not properly packaged. When asked by federal officers whether he was traveling with any biological items or research, Zheng lied and answered "no." Zheng later admitted he had stolen the vials from a lab at Beth Israel. Zheng stated that he intended to bring the vials to China to use them to conduct research in his own laboratory and publish the results under his own name. On December 3, 2020, Zheng pled guilty to making false, fictitious or fraudulent statements in connection with his theft of 19 vials of biological research. This case resulted from an investigation conducted by OEE's Boston Field Office, the FBI and U.S. Customs and Border Protection (CBP).

**The Penalty:** On January 6, 2021, Zheng was sentenced in U.S. District Court for the District of Massachusetts to time served in prison, three years of supervised released, a \$100 special assessment, and removal from the United States.

### **Mohawk Global Logistics Corp. / Multiwire Laboratories**

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**The Violation:** In 2014 and 2015, Multiwire Laboratories (Multiwire) of Ithaca, New York, and Mohawk Global Logistics Corp. (Mohawk) of North Syracuse, New York, each violated the EAR when Multiwire, aided and abetted by Mohawk, twice exported camera detectors and accessories designated EAR99 and valued at \$177,156 to the University of Electronic Science and Technology of China (UESTC) in China without the required BIS license. UESTC was listed on the BIS Entity List, and a BIS license was required to export any items subject to the EAR to that entity. Mohawk acted as Multiwire's freight forwarder and Mohawk used screening software in connection with the 2014 transaction, but assertedly did not enter UESTC's full, unabbreviated name (which was known to Mohawk) into the software, which as a result did not "flag" the transaction. Mohawk proceeded with the 2014 transaction and prepared and filed EEI that incorrectly indicated the export was "NLR." In August 2015, Multiwire (again with the assistance of Mohawk) also exported the same items to UESTC, which had been returned to Multiwire for warranty repair. Mohawk also violated the EAR in August 2012, when it aided and abetted the export of a liquid nitrogen plant designated EAR99 and valued at \$33,587 to the All-Russian Scientific Research Institute of Experimental Physics (VNIIEF), a Russian Federal Nuclear Center-VNIIEF (RFNC-VNIIEF). VNIIEF and its RFNC-VNIIEF alias were at all relevant times listed on the BIS Entity List. Mohawk was aware of the BIS Entity List and maintained a screening program to detect and prevent shipments to restricted parties. Mohawk compared the name of the ultimate consignee to entries on the BIS Entity List using their screening software, which correctly identified VNIIEF as being listed on the BIS Entity List, and "flagged" the shipment. However, as Mohawk acknowledged

to BIS, an export supervisor erroneously overrode or ignored this red flag and Mohawk proceeded without further inquiry or due diligence to forward the items for export. Mohawk prepared and filed EEI with the U.S. Government on or about that date indicating that the shipment was “NLR.” The exporter in this transaction was Cryomech, Inc., of Syracuse, New York, and previously agreed to a settlement with BIS on June 9, 2017, for its role in the unlicensed export. This case resulted from an investigation conducted by OEE’s New York Field Office.

**The Penalty:** On January 16, 2019, Multiwire was assessed a civil penalty of \$80,000. On August 10, 2018, Mohawk was assessed a civil penalty of \$155,000, \$20,000 of which was suspended during the one-year probationary period and thereafter waived, provided no violations are committed during the probationary period. Cryomech, Inc., was previously assessed a civil penalty of \$28,000 and ordered to complete an external audit of its export compliance program.

## **MHz Electronics, Inc.**

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**The Violation:** On two occasions during 2013, MHz Electronics, Inc. of Phoenix, Arizona, violated the EAR when it exported pressure transducers classified under ECCN 2B230 and controlled for nuclear nonproliferation reasons to China and Taiwan without the required BIS export licenses. MHz Electronics, Inc. sold the pressure transducers, which have nuclear explosive applications, through eBay. The company did not have a program in place to ensure its compliance with U.S. export control laws or regulations despite a visit from FBI Special Agents prior to the exports, wherein the Special Agents expressed concern to company officials that a different item MHz Electronics was selling on eBay would have required an export license if shipped to customers outside of the United States. This case resulted from an investigation conducted by OEE’s Los Angeles Field Office.

**The Penalty:** On January 11, 2018, MHz Electronics, Inc. agreed to pay a \$10,000 civil penalty, all of which was suspended provided no violations occur during a two-year probationary period. The company was also ordered to complete an external audit of its export compliance program, to be conducted by an unaffiliated third-party consultant.

## **Fuyi Sun / Zhong Li Bang Ye International Trading Co. Ltd.**

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**The Violation:** On April 21, 2017, Fuyi “Frank” Sun, a citizen of China, pled guilty to violating the IEEPA in connection with a scheme to illegally export high-grade carbon fiber to China without a license. The carbon fiber, classified under ECCN 1C210, is used primarily in aerospace and military applications. Since approximately 2011, Sun used fraudulent documents and code words in his attempt to acquire high-grade carbon fiber, including Toray type carbon fiber. On April 11, 2016, Sun traveled from China to New York for the purpose of purchasing carbon fiber from an undercover company. During meetings with undercover agents, Sun repeatedly suggested that the Chinese military was the ultimate end user for the carbon fiber he sought to acquire from the undercover company and claimed to have personally worked in the Chinese missile program. On April 12, 2016, Sun agreed to purchase two cases of carbon fiber from the undercover company. Sun paid the undercover agents \$23,000 in cash for the carbon fiber, as well as an additional \$2,000 as compensation for the risk he believed the undercover company was taking to illegally export the carbon fiber to China without a license. Sun was arrested the next day. This case resulted from a joint investigation conducted by OEE’s New York Field Office, ICE, and DCIS.

**The Penalty:** On August 31, 2017, Sun was sentenced in U.S. District Court for the Southern District of New York to three years in prison. On June 13, 2018, BIS issued an order denying Sun’s export privileges for ten years (until August 31, 2027).

## Xun Wang / PPG Paints Trading Shanghai / Huaxing Construction

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**The Violation:** From 2006 through 2007, Chinese companies PPG Paints Trading Shanghai Co Ltd, Huaxing Construction Co Ltd., and Xun Wang, Managing Director of PPG Paints Trading, agreed upon a scheme to export, reexport and transship high-performance epoxy coatings from the United States to Chashma II Nuclear Power Plant in Pakistan. The epoxy coatings, designated as EAR99, were transshipped via a third party in China without having first obtained the required export license. Chashma II is owned by the Pakistan Atomic Energy Commission, which appears on the BIS Entity List. This case resulted from an investigation conducted by OEE's New York Field Office.

**The Penalty:** In December 2012, Huaxing Construction pled guilty and as part of its plea agreement, agreed to pay the maximum criminal fine of \$2 million, with \$1 million suspended if no further violations occur during the five years of probation. Under the terms of a related civil settlement, Huaxing Construction also agreed to pay another \$1 million, implement an export compliance program, a five-year denial order suspended if no further violations occurring during that period, and be subject to multiple third-party audits over the following five years. Xun Wang also pled guilty and was sentenced to 12 months in prison, a \$100,000 criminal fine, and one year of probation. Under the terms of a related civil settlement, Wang also agreed to pay a civil penalty of \$250,000 (with \$50,000 suspended), and to be placed on the Denied Persons List for a period of ten years with five years suspended. In December 2010, PPG Paints Trading Shanghai pled guilty, and as part of its plea agreement agreed to pay the maximum criminal fine of \$2 million, serve five years of corporate probation, and forfeit \$32,319 to the U.S. Government. Under the terms of a related civil settlement, PPG Paints Trading Shanghai also agreed to pay a civil penalty of \$1 million and complete third-party audits. Huaxing Construction's guilty plea in this case marks the first time a Chinese corporate entity has entered a plea of guilty in a U.S. criminal export matter.

**On September 10, 2014, OEE Special Agents, along with the Assistant U.S. Attorney assigned to the case, were awarded the Executive Office of the U.S. Attorney Director's Award by U.S. Attorney General Eric Holder in recognition of their achievement in the category of Superior Performance by a Litigation Team in connection with this investigation.**

### *Other Controls*

## USGoBuy, LLC

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**The Violation:** During 2015, USGoBuy, LLC of Portland, Oregon twice exported rifle scopes classified under ECCN 0A987 and controlled on crime control grounds, without seeking or obtaining the licenses required for these items, to China and the United Arab Emirates. The export to China occurred following an outreach to the company by OEE Special Agents. USGoBuy, a package forwarding company, offers a "BuyForMe" service in which it purchases U.S.-origin items on behalf of its customers, and then exports the items to a foreign addressee and address provided by the customer. Customers create accounts that allow them to enter a purchase request on the USGoBuy website for specific items on U.S. retailer websites by including a link to the product webpage. This case resulted from an investigation conducted by OEE's Portland Resident Office.

**The Penalty:** On June 17, 2021, USGoBuy, LLC agreed to pay a \$20,000 civil penalty, \$15,000 of which was suspended provided no violations occur during a three-year probationary period. In addition, a three-year denial of export privileges was imposed.

## Yantai Jereh Oilfield Services Group Co, Ltd.

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**The Violation:** Yantai Jereh Oilfield Services Group Co., Ltd (Yantai Jereh) in Yantai Shandong Province, China, violated the Export Administration Regulations by ordering, buying, and/or selling oilfield equipment including coiled tubing and pump sets, items subject to the EAR, with the intention to export the items from the United States to Iran via

third countries, including China and the United Arab Emirates, without the required authorization. In order to facilitate its business activities in Iran and avoid detection by U.S. law enforcement, Yantai Jereh structured the transactions to conceal from the U.S. suppliers or exporters that the equipment was ultimately destined for use in Iran. Part of this scheme included the involvement of China-based trading company Jinan Tongbaolai Oilfield Equipment Co. Ltd. (JNTBL), which was done to allow Yantai Jereh to claim it was unaware the items were procured to fulfill contracts with Iranian parties. Based on the false information provided to the U.S. parties by Yantai Jereh, Automated Export System filings were made to the U.S. Government indicating that the items were ultimately destined to China or the UAE. A now-former employee of Yantai Jereh employee identifying herself as Jereh’s sales manager for Iran claimed that Yantai Jereh had previously left the Iranian market due to the sanction risk because “all the main components we are using [are] from the US.” Nonetheless, this former Yantai Jereh employee indicated that Yantai Jereh would try to circumvent U.S. restrictions, building “a new way to access Iranian market that is using a [Chinese trading] company named JNTBL to deal with Iranian client to control the sanctions risk.” OEE’s investigation found additional correspondence with this same individual, using a JNTBL email address to conduct business with Iranian customers. Additionally, during an interview with OEE Special Agents, a then-Yantai Jereh sales vice president, who was involved in or aware of the attempted exports to Iran, admitted that he was aware of U.S. policy and laws regarding exporting to countries sanctioned by the United States. The company also made false or misleading statements to BIS in the course of its investigation. This case resulted from a joint investigation conducted by OEE’s Houston Resident Office, HSI and CBP.

**The Penalty:** On December 10, 2018, Yantai Jereh agreed to pay a \$600,000 civil penalty. Additionally, a five-year denial of export privileges was imposed on Yantai Jereh, which was suspended provided that during the suspension period Yantai Jereh commits no future violations and pays the civil penalty, and eight additions were made to the BIS Entity List. A concurrent OFAC penalty in the amount of \$2,774,972 was issued against Yantai Jereh and its affiliated companies and subsidiaries worldwide.



*OEE Special Agents participating in a tactical training exercise*

## Chapter 2 – Russia

### Criminal and Administrative Case Examples

#### *National Security Controls*

##### **Vorago Technologies, Inc.**

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**The Violation:** Beginning on a bout May 2014 through March 2019, Vorago Technologies of Austin, Texas (known as Silicon Space Technology Corporation during part of this time) conspired to send radiation-hardened 16mB SRAM silicon wafers classified under ECCN 9A515 to Russia without the required BIS export license authorization, and ultimately did so, knowingly, via a Bulgarian front company. Vorago Technologies, Inc. (Vorago) designed and manufactured radiation-hardened and extreme-temperature hardened integrated circuit components that could be used in satellite, military, medical, a automotive, oil & gas, mining, and other industrial applications. The company had contracts with the U.S. Air Force, Missile Defense Agency, NASA, and other government agencies. This case resulted from an investigation conducted by OEE’s Houston Resident Office.

**The Penalty:** On September 28, 2021, Vorago Technologies agreed to an egregious civil penalty of \$497,000, \$247,00 of which was suspended, along with a two-year denial of export privileges. Previously, the U.S. Department of Justice entered into a three-year Non-Prosecution Agreement with Vorago related to these illegal transactions and previously returned an indictment against three foreign nationals for related conduct. Additionally, three Russian companies and four Russian individuals were added to the BIS Entity List in connection with this investigation.

##### **Comtech Xicom Technology, Inc.**

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**The Violation:** Between 2015 and 2017, Comtech Xicom Technology, Inc. (Comtech), located in Santa Clara, California, engaged in conduct prohibited by the EAR when it exported traveling wave tubes classified under ECCN 3A001 and controlled for National Security reasons to Russia, Brazil and the UAE, without seeking or obtaining the



required BIS authorization. Comtech is a satellite communications manufacturer and seller of amplifiers, traveling wave tubes (TWTs) and related products for both commercial and military broadcast and broadband applications. In 2017, OEE notified Comtech of unfavorable post shipment verification (PSV) check on Comtech shipments of TWTs exported to the United Arab Emirates and Russia. Upon discovering that the company had failed to obtain licenses for both shipments despite a previous license history and knowledge that those items required a

license to both destinations, OEE directed Comtech to conduct an internal review of their exports. The internal review found additional transactions involving exports of TWT’s without the requisite licenses to Brazil and Russia.

**The Penalty:** On March 11, 2021, Comtech agreed to pay a civil penalty of \$122,000.

##### **Peter Zuccarelli / Syed Razvi / American Coating Technologies**

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**The Violation:** Between approximately June 2015 and March 2016, Peter Zuccarelli and Pakistani naturalized U.S. citizen Syed Razvi agreed to illegally export space-grade radiation hardened integrated circuits (RHICs) to Russia and China. The microchips, classified under ECCN 9A515, are used in satellites and space probes but also have military uses, such as guiding ballistic missiles. In furtherance of the conspiracy, Razvi received purchase orders from customers seeking to purchase RHICs for use in China’s and Russia’s space programs. Zuccarelli, owner/CEO of

American Coating Technologies, in Carrollton, Texas, received these orders from Razvi, as well as payment of approximately \$1.5 million to purchase the RHICs for the Chinese and Russian customers. Zuccarelli placed orders with U.S. suppliers, and used the money received from Razvi to pay the U.S. suppliers. In communications with the U.S. suppliers, Zuccarelli certified that his company, American Coating Technologies was the end user of the RHICs, knowing that this was false. Zuccarelli received the RHICs he ordered from U.S. suppliers, removed them from their original packaging, repackaged them, falsely declared them as “touch screen parts,” and shipped them out of the U.S. without the required licenses. In an attempt to hide the conspiracy from the U.S. government, he created false paperwork and made false statements. This case resulted from a joint investigation conducted by OEE’s Dallas Field Office, the FBI, ICE, DCIS, and the U.S. Postal Inspection Service (USPIS).

**The Penalty:** On April 22, 2019, Syed Razvi was sentenced to 46 months in prison, three years of supervised release, a \$20,000 criminal fine, and a \$100 special assessment. On January 24, 2018, Peter Zuccarelli was sentenced to 46 months in prison, three years of supervised release, a \$50,000 criminal fine, and a \$100 special assessment.

## **Julian Demurjian and CIS Project LLC**

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**The Violation:** Between December 2014 and August 2015 Julian Demurjian and CIS Project LLC, a company that Demurjian owned and operated, caused, aided, or abetted seven violations of the EAR. The seven violations were in connection with the submission of false or misleading information of the values of telecommunications networking equipment controlled for national security, encryption, or anti-terrorism reasons and destined for Russia. Demurjian and CIS Project prepared invoices on CIS Project letterhead that significantly undervalued the items and provided these invoices to a freight forwarder. The freight forwarder subsequently filed Electronic Export Information (EEI) containing the false value information in the Automated Export System for each of the shipments. Additionally, in February 2015, Demurjian and CIS Project generated and provided to the freight forwarder an invoice on CIS Project letterhead that falsely undervalued the items so that the stated value did not exceed \$2,500, and thus did not appear to trigger an EEI filing requirement. This case resulted from a joint investigation conducted by OEE’s San Jose Field Office, the FBI, and ICE.

**The Penalty:** On January 27, 2021, Demurjian agreed to settle the charges and to resolve the matter, Demurjian was assessed a civil penalty of \$540,000, with an out-of-pocket payment of \$60,000. He was also subjected to a two-year suspended denial of his export privileges.

## **Alexy Barysheff / Alexy Krutilin / Dimitri Karpenko**

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**The Violation:** On March 8, 2017, U.S. citizen Alexy Barysheff and Russian nationals Alexy Krutilin and Dimitri Karpenko pled guilty in U.S. District Court for the Eastern District of New York in connection with the unauthorized export of integrated circuits classified under ECCNs 3A001 and 9A515 to Russia. Karpenko and Krutilin were arrested in Colorado in October 2016 and in November 2016 were extradited to the Eastern District of New York. This case resulted from a joint investigation conducted by OEE’s New York Field Office, the FBI, ICE and DCIS.

**The Penalty:** On October 19, 2017, Alexy Barysheff was sentenced in U.S. District Court for the Eastern District of New York to time served and two years of probation. On April 28, 2017, in U.S. District Court for the Eastern District of New York, Alexy Krutilin and Dimitri Karpenko were sentenced to time served and a \$100 special assessment. BIS also issued a Denial of Export privileges for five years for both Krutilin and Karpenko.

## **Arc Electronics / Alexander Fishenko / Alexander Posobilov / Shavkat Abdullaev / Anastasia Diatlova**

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**The Violation:** Between 2008 and 2012, Alexander Fishenko, owner of Houston, Texas-based Arc Electronics, and several of its employees obtained advanced microelectronics valued at over \$30 million from manufacturers and suppliers located within the United States and exported those goods to Russia, while carefully evading the

government export licensing system. They provided false end-user information in connection with the purchase of the goods, concealed the fact that they were resellers, and falsely classified the goods they exported on export records submitted to the Department of Commerce. The microelectronics shipped to Russia included analog-to-digital converters, static random access memory chips, microcontrollers and microprocessors. These commodities are classified under ECCN 3A001 and are subject to export controls due to their potential use in a wide range of military systems, including radar and surveillance systems, weapons guidance systems, and detonation triggers. This case resulted from a joint investigation conducted by OEE's Houston Resident Office, the FBI, NCIS, and the IRS.

**The Penalty:** On October 26, 2015, after a month-long trial, Alexander Posobilov, Shavkat Abdullaev and Anastasia Diatlova were convicted in U.S. District Court for the Eastern District of New York. On February 28, 2017, Posobilov was sentenced to 135 months in prison. In September 2015, Alexander Fishenko pled guilty in connection with the illegal exports. On October 9, 2012, BIS added 165 foreign persons and companies to its Entity List for allegedly engaging in this illegal export scheme.

## ***Military Controls***

### **Patriot 3, Inc.**

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**The Violation:** On or about October 16, 2014, Patriot 3, Inc. of Fredericksburg, Virginia, sold and/or transferred maritime jet boots with underwater propulsion systems (JetBoots) for export to military end users in Russia with knowledge that a violation of the Regulations had occurred or was about to occur. The items are classified under ECCN 8A992 and valued at approximately \$329,760. This case resulted from an investigation conducted by OEE's Washington Field Office.

**The Penalty:** On June 28, 2021, Patriot 3, Inc. agreed to pay a \$200,000 civil penalty.

### **Alexander Brazhnikov / ABN Universal**

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**The Violation:** Alexander Brazhnikov, owner of ABN Universal in Carteret, New Jersey, and his companies were part of a sophisticated procurement network that obtained and smuggled more than \$65 million worth of regulated, sensitive electronic components from American manufacturers and vendors and exported those items to the Federal States Unitary Enterprise Russian Nuclear Center - Academician E.I. Zababkhin All-Russian Scientific Research Institute of Technical Physics, and MIG Electronics, located in Russia. Both companies appear on the BIS Entity List. Brazhnikov was responsible for nearly 2,000 illegal shipments of EAR99 electronics components, many of which wound up in the hands of Russian military and security forces. Brazhnikov also took extensive measure to conceal the true destination of the parts and to conceal the true sources of funds in Russia, as well as the identities of the various Russian defense contracting firms receiving U.S.-origin electronics components. This case resulted from a joint investigation conducted by OEE's New York Field Office, the FBI and ICE.

**The Penalty:** On June 30, 2016, Alexander Brazhnikov was sentenced in U.S. District Court for the District of New Jersey to 70 months in prison, a \$75,000 criminal fine, a \$65 million forfeiture, forfeiture of his two houses valued at approximately \$500,000 each, and a \$300 special assessment. In the related administrative case, the BIS Acting Under Secretary affirmed a recommended decision from an administrative law judge imposing a 15-year denial order against Brazhnikov.



## *Other Controls*

### **Gennadiy Boyko / SHOPOZZ, Inc.**

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**The Violation:** On December 6, 2017, Gennadiy Boyko pled guilty in U.S. District Court for the Northern District of Georgia in connection with conspiring to violate the IEEPA and the Arms Export Control Act. Boyko is the owner of SHOPOZZ, Inc., a mail consolidation and forwarding business located in Alpharetta, Georgia that provides a virtual U.S. address for individuals located in Russia and Ukraine. Boyko and his co-conspirators utilized his business to illegally export EAR-controlled rifle optics classified under ECCN 0A987 as well as ITAR-controlled weapons parts to Russia and Ukraine. The items were ordered from U.S. online vendors and then shipped to SHOPOZZ or Boyko's home, repacked with other innocuous items and then shipped out of the country. This case resulted from a joint investigation conducted by OEE's Atlanta Resident Office, the FBI, DCIS, and CBP.

**The Penalty:** On November 28, 2018, Gennadiy Boyko was sentenced to 18 months in prison, one year of supervised release, 100 hours of community service, and a \$100 special assessment.

### **Mark Komoroski / Sergey Korznikov / D&R Sports Center**

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**The Violation:** On January 16, 2018, Mark Komoroski, owner of D&R Sports Center of Nanticoke, Pennsylvania, pled guilty in connection with the illegal export of rifle scopes classified under ECCN 0A987 (currently ECCN 0A504) to Russia and firearms violations. Komoroski has a history with OEE; based on an earlier joint investigation with HSI, Komoroski was incarcerated for 32 months after pleading guilty to violating IEEPA and the Arms Export Control Act. On December 28, 2010, co-conspirator Sergey Korznikov pled guilty to one count of conspiracy related to his involvement in smuggling items from the United States. This case resulted from a joint investigation conducted by OEE's New York Field Office, the FBI, and DCIS.

**The Penalty:** On February 14, 2020, Komoroski was sentenced in U.S. District Court for the Middle District of Pennsylvania to seven months in prison, a \$1,100 fine, and two years of supervised release. On July 21, 2011, Korznikov was sentenced to six months in prison, two years of supervised release and a \$100 special assessment.



*OEE Special Agents conducting inspections with U.S. Customs and Border Protection Officers*

## Chapter 3 - Iran

### Criminal and Administrative Case Examples

#### *National Security Controls*

##### **Nordic Maritime Pte. Ltd. and Morten Innhaug**

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**The Violation:** On March 11, 2020, Nordic Maritime Pte. Ltd. (Nordic), and its Chairman, Morten Innhaug (Innhaug), were found to have committed four violations of the EAR for their respective roles in the illegal reexport of controlled undersea surveying equipment to Iran for use in surveying an Iranian oil field. Specifically, between May 2012 and April 2013, Nordic knowingly used seismic surveying equipment classified under ECCN 6A001, and controlled for National Security and Anti-Terrorism purposes, to conduct a survey of the Forouz B natural gas field in Iranian territorial waters under a contract for the ultimate benefit of the state-owned National Iranian Offshore Oil Company. Nordic and Innhaug were informed by the owner of the items that their use in Iranian waters would violate the EAR and was provided with a copy of the BIS re-export license issued to the owner listing all of the license conditions, but they nevertheless proceeded to re-export the items to Iran without authorization from either BIS or the Department of Treasury's Office of Foreign Assets Control. Upon discovery of the violations by BIS, Nordic then made a written submission falsely stating that the owner of the items had never advised Nordic that the equipment was subject to a BIS re-export license, never provided Nordic with a copy of the re-export license, and never advised Nordic of the license conditions.

After a hearing, an administrative law judge determined that Nordic committed three violations including acting with knowledge when it illegally re-exported the items and making false and misleading statements to BIS during the investigation. Nordic's Chairman, Morten Innhaug, was also found to have aided and abetted Nordic in violating the Regulations. This case resulted from an investigation conducted by OEE's Houston Resident Office.

**The Penalty:** On March 11, 2020, the BIS Acting Under Secretary issued an order denying the export privileges of both Nordic and Innhaug for 15 years, and remanded the case to the ALJ for further consideration of a civil monetary penalty. On August 19, 2020, the BIS Acting Under Secretary then issued a second order imposing a \$31,425,760 civil monetary penalty jointly and severally against Nordic and Innhaug in addition to the 15-year denial orders.

##### **Alireza Jalali / Negar Ghodskani / Green Wave Telecommunication**

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**The Violation:** As part of a conspiracy to export digital communication devices classified under ECCN 3A001 to Iran, Negar Ghodskani assisted in establishing and operating Green Wave Telecommunication Sdn Bhn, a Malaysian company. Green Wave operated as a front company for Fanavar Moj Khavar (Fana Moj), an Iran-based company that specializes in broadcast communications, microwave communications as well as in the production of digital video broadcasting equipment. Fana Moj supplies microwave radio systems and wireless broadband access in Iran. Fana Moj's principal customer was the Islamic Republic of Iran Broadcasting (IRIB), which is controlled by the Government of Iran. In 2017, Fana Moj was designated by the Office of Foreign Assets Control as a Specially Designated National for providing financial, material, technological or other support for, or goods or services in support of, the Iranian Revolutionary Guard Corps (IRGC). Ghodskani, who was based in Tehran, falsely represented herself as an employee of Green Wave to U.S. companies in order to obtain controlled technology from the United States on behalf of Fana Moj. Ghodskani and her co-conspirators concealed the ultimate destination and end users of the exported technology through false statements and unlawful financial transactions. When received by Green Wave in Malaysia, the goods were repackaged and unlawfully exported from Malaysia to Fana Moj in Iran. On August 9, 2019, and November 29, 2017, Ghodskani and Jalali pled guilty, respectively, to conspiracy to defraud the government. This case resulted from a joint investigation conducted by OEE's Chicago Field Office, the FBI, and ICE.

**The Penalty:** On September 24, 2019, Negar Ghodskani was sentenced in U.S. District Court for the District of Minnesota to 27 months in prison. On March 20, 2018, co-defendant, Alireza Jalali was sentenced in U.S. District Court for the District of Minnesota to 15 months of prison.

## *Military Controls*

### **Edsun Industries / Joyce Eliabachus / Edsun Industries / Peyman Amiri Larijani**

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**The Violation:** On June 11, 2019, Eliabachus pled guilty to conspiracy to violate the IEEPA in connection with her role in an international procurement network that smuggled over \$2 million worth of aircraft components to Iran through the United Arab Emirates and Turkey. Eliabachus was the principal officer and operator of Edsun Equipments LLC, a New Jersey-based aviation parts trading company run out of her residence. Peyman Amiri Larijani was the owner of an Iran-based procurement firm and served as operations and sales manager of a network of supply and engineering companies in Tehran, Iran, and Istanbul, Turkey. From May 2015 through October 2017, Eliabachus, Larijani, and their co-conspirators facilitated at least 49 shipments containing 23,554 controlled aircraft parts from the United States to Iran, all of which were exported without the required licenses. Eliabachus conspired with Larijani, whose international network helped initiate the purchase of U.S.-origin aircraft components on behalf of Larijani's clients in Iran. The network's client list included Iranian airline companies, several of which have been officially designated by the United States as a threat to national security, foreign policy, or economic interests. One company, Mahan Air Co., has been subject to sanctions by the United States for providing financial, material and technological support to the Islamic Revolutionary Guard Corps-Qods Force, and allegedly ferrying arms and reinforcements to designated terrorist groups such as Hezbollah and Hamas. Eliabachus used her company to finalize the purchase and acquisition of the requested components from the various U.S.-based distributors. She repackaged and shipped the components to shipping companies in the UAE and Turkey, where Larijani and other Iranian conspirators directed the components to locations in Iran. In order to obscure the extent of the network's procurement activities, Eliabachus routinely falsified the true destination and end-user of the aircraft components she acquired. She also falsified the true value of the components being exported in order to avoid filing export control forms, which further obscured the network's illegal activities from law enforcement. The funds for the illicit transactions were obtained from the Iranian purchasers, funneled through Turkish bank accounts held in the names of shell companies controlled by the Iranian conspirators. The money was ultimately transferred into one of Edsun Equipments' accounts in the United States. This case resulted from a joint investigation conducted by OEE's New York Field Office and ICE.

**The Penalty:** On October 6, 2020, Joyce Eliabachus was sentenced in U.S. District Court for the District of New Jersey to 18 months in prison, one year of supervised release, and a \$100 special assessment.

### **Golden Gate International**

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**The Violation:** Aiden Davidson, also known as Hamed Aliabadi Davidson, is a citizen of Iran and a naturalized citizen and resident of the United States. Davidson was the manager/member and registered agent of a New Hampshire limited liability company, Golden Gate International, LLC. Babazadeh Trading Co., aka Babazadeh Hydraulic Trading Group was an Iranian company that operated an online resale business based in Tehran, Iran. Stare Lojistik Enerji Sanayi Ticaret was a Turkish freight forwarding company with a location in Igdır, Turkey. Between December 2016 and February 2017, Davidson and Golden Gate smuggled goods from Savannah, Georgia, to Babazadeh in Iran. The goods included motors, pumps, valves, and other items designated EAR99 and valued at more than \$100,000. Documents related to the shipments falsely identified the ultimate consignee of the shipments as Stare in Turkey. In causing the unlicensed exportation of these goods, Davidson and Golden Gate willfully evaded national security controls related to transactions with Iran. All told, between 2014 and 2017, Davidson caused a total of at least ten exports of containers of industrial goods and equipment including items demilitarized by the Defense Department, from the U.S. to Iran. During that period he received approximately \$1 million in international wire transfers to Golden Gate's bank account in New Hampshire. Davidson was arrested in September 2018 prior to boarding a flight from Atlanta to Turkey. This case resulted from an investigation conducted by OEE's Boston Field Office and ICE.

**The Penalty:** On July 16, 2020, Davidson was sentenced to 46 months in prison, 12 months of supervised release, and a \$200 special assessment.

**On March 30, 2021, several OEE Special Agents received the Excellence in the Pursuit of Justice Award from the U.S. Attorney's Office (USAO) for the District of New Hampshire for their work on this investigation.**

## **Resit Tavan / Ramor Construction**

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**The Violation:** In June 2017, Turkish company Ramor Construction and Turkish Nationals Resit Tavan and Fulya Oguzturk were indicted for conspiring to defraud the United States by exporting marine equipment from the state of Wisconsin in violation of the IEEPA and the ITSR. The violations involved a scheme to transship U.S.-origin marine parts and components designated EAR99 and classified under ECCN 8A992 to Iran through Turkey. Some of the items, including surface drives and generators, were for use by the Islamic Revolutionary Guard Corps-Navy on a prototype attack boat. Tavan pled guilty in April 2019. Oguzturk remains at large with an outstanding arrest warrant issued in June 2017. In December 2019, a Red Notice seeking Oguzturk's arrest was issued by INTERPOL. This case resulted from a joint investigation conducted by OEE's Chicago Field Office and the FBI.

**The Penalty:** On August 29, 2019, Tavan was sentenced in U.S. District Court for the Eastern District of Wisconsin to 28 months in prison. Prior to these charges, Resit Tavan and Ramor Construction were added to the BIS Entity List. On December 31, 2019, a 10-year denial order was issued for Tavan and Ramor Construction.

## **David Levick / ICM Components**

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**The Violation:** On February 1, 2019, Australian national David Levick pled guilty to charges related to his involvement in the procurement and shipment of U.S.-origin items, including aircraft parts classified under ECCN 9A991 and controlled under the U.S. Munitions List, to Iran. Levick, the General Manager of ICM Components, Inc. in Thornleigh, Australia, solicited purchase orders and business for aircraft parts from a representative of a trading company in Iran. This individual in Iran also operated and controlled companies in Malaysia that acted as intermediaries for the Iranian trading company. Levick then placed orders with U.S. companies on behalf of the Iranian individual for the goods, which included aircraft parts, precision pressure transducers that have a wide variety of applications in the avionics industry, emergency flotation systems kits designed for use on Bell 206 helicopters to assist when landing in water or soft desert terrain, and shock mounted light assemblies designed for high vibration use that can be used on helicopters and other fixed wing aircraft. When necessary, Levick used a broker in Tarpon Springs, Florida, through whom orders could be placed for the parts to further conceal that they were intended for transshipment to Iran. Levick intentionally concealed the ultimate end use and end users of the parts from manufacturers, distributors, shippers, and freight forwarders located in the United States and elsewhere. In addition, Levick and others structured their payments between each other for the parts to avoid trade restrictions imposed on Iranian financial institutions by other countries. Levick and ICM Components wired money to companies in the United States as payment for the parts. This case resulted from a joint investigation conducted by OEE's Boston Field Office, the FBI, ICE, and DCIS.

**The Penalty:** On March 21, 2019, Levick was sentenced in U.S. District Court for the District of Columbia to 24 months in prison, 12 months of supervised release, a \$199,227 forfeiture, a \$400 special assessment, and deportation upon completion of his sentence.

## **Arash Sepehri / Tajhiz Sanat Shayan**

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**The Violation:** Between 2008 and 2014, Iranian citizen Arash Sepehri, an employee and on the board of directors of Tehran-based Tajhiz Sanat Shayan (TSS), conspired with individuals and companies operating in Hong Kong, the United Arab Emirates (UAE), and Iran to send hundreds of thousands of dollars' worth of U.S.-origin goods and

technology, most with military applications, to Iran. TSS and other companies involved in the conspiracy were listed by the European Union on May 23, 2011, as entities being sanctioned for their involvement in the procurement of components for the Iranian nuclear program. Sepehri and his conspirators relied on well-known techniques to evade export controls and sanctions including the use of aliases, front companies, and circuitous shipping and payment methods. These techniques allowed Sepehri to conceal both the true end users and intended use of the procured goods. Through TSS and associated companies, Sepehri and others conspired to obtain high-resolution sonar equipment, data input boards, laptops, and acoustic transducers classified under ECCN 6A991 and designated EAR99, as well as a lens for a missile tracking device controlled under the International Traffic in Arms Regulations (ITAR), to Iran via Hong Kong and the UAE. In June 2018, Sepehri was returned to the United States based on an Interpol Diffusion Notice. On November 7, 2018, Arash Sepehri, pled guilty in U.S. District Court for the District of Columbia for his role in the scheme. This case resulted from a joint investigation conducted by OEE's Washington Field Office, ICE and the FBI.

**The Penalty:** On February 26, 2019, Arash Sepehri was sentenced to 25 months in prison with credit for time served, a \$100 special assessment and a \$125,661 forfeiture. In addition, on September 30, 2019, a seven-year denial order was imposed against Sepehri.

## **Arzu Sagsoz / Kral Havacilik**

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**The Violation:** On October 4, 2018, Arzu Sagsoz pled guilty in the U.S. District Court for the District of Columbia to conspiracy to violate IEEPA. Sagsoz was arrested on September 27, 2017, by law enforcement authorities at the Batumi International Airport in the country of Georgia pursuant to an Interpol Red Notice submitted by BIS. After a period of detention in Georgia, Sagsoz was extradited to the United States and was arrested and processed upon her arrival at Washington Dulles International Airport. Sagsoz operated as a corporate employee of Turkish Aviation Supply Company, Kral Havacilik, which was responsible for illegally supplying the Iranian airline Mahan Air with U.S.-origin aircraft parts. Mahan Air has been subject to a BIS Temporary Denial Order since 2008. In 2011, Mahan Air was also added to the Office of Foreign Assets Control Special Designated National's list for Mahan Air's support of global terrorism. This case resulted from an investigation conducted by OEE's Atlanta Resident Office and Washington Field Office.

**The Penalty:** On January 10, 2019, Arzu Sagsoz was sentenced to 20 months in prison, with credit for time served in the country of Georgia, one year of probation, and a \$100 special assessment.

## **WMD Controls**

### **Mehdi Hashemi**

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**The Violation:** From at least 2015 to 2018, Mehdi Hashemi, a dual citizen of Iran and the United States, and Feroz Khan, a citizen of India and resident in the United Arab Emirates, conspired to unlawfully export used Computer Numerical Control (CNC) machines classified under ECCN 2B201, 2B991, and EAR99, some of which are controlled for nuclear non-proliferation, to Iran via the United Arab Emirates. Hashemi purchased the CNC machines and related equipment from suppliers in the U.S. and Canada, made arrangements to ship the machines to the UAE under false and forged invoices and packing lists, and then arranged with Khan to forward the machines from the UAE to Iran. Hashemi purchased the machines on behalf of a Tehran-based company that claimed to manufacture textiles, medical and automotive components, and spare parts. In December 2019, Hashemi pled guilty in U.S. District Court for the Central District of California in connection with the illegal exports. Khan remains a fugitive. This case resulted from a joint investigation conducted by OEE's Los Angeles Field Office, HSI, and CBP.

**The Penalty:** On July 1, 2020, Mehdi Hashemi was to 12 months and one day in prison, and three years of supervised release.

## Beng Sun Koh / Anh Minh Cuong Co Ltd.

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**The Violation:** On November 1, 2019, Beng Sun Koh, also known as Michael Koh, pled guilty in U.S. District Court for the District of Columbia in connection with the illegal transshipment of U.S.-origin commodities to Iran via Singapore. Koh, Owner and Director of Anh Minh Cuong Co. Ltd. in Singapore, was directed to use his company to acquire U.S.-origin chromatograph mass spectrometers and electron capture detectors classified under ECCN 3A999 on behalf of an Iranian national and his Tehran, Iran based company. Koh purchased the requested items from a U.S. company through a distributor located in Singapore. Koh then conspired with the Iranian to transship the goods from Singapore, through a freight forwarder in the United Arab Emirates to Iran without valid OFAC or BIS export license authorization. On January 2, 2019, Koh arrived in the United States for vacation and was taken into custody at the JFK International Airport in Queens, New York, by OEE, HSI, and DCIS Special Agents the same day. Koh was transferred from New York to Washington DC for prosecution. This case resulted from a joint investigation conducted by OEE's Boston Field Office, the FBI, ICE, and DCIS.

**The Penalty:** On January 24, 2020, Koh was sentenced in U.S. District Court for the District of Columbia to 18 months in prison, supervised release for 12 months, a \$23,025 forfeiture, a \$34,000 fine, and a \$100 special assessment, followed by deportation.

## Erdal Akova / Esa Kimya

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**The Violation:** On March 8, 2017, Turkish national Erdal Akova pled guilty in U.S. District Court for the Northern District of Georgia in connection with a conspiracy to export military grade epoxy to Iran for final use by the Iran Aircraft Manufacturing Industrial Company (HESA). The U.S. Department of the Treasury designated HESA as an entity with roles in Iran's nuclear and ballistic missile programs and because it has provided support to the Iranian Revolutionary Guard Corps. Akova knowingly allowed his name and his company's name to be used to purchase epoxy destined for Iran. He also allowed his company in Turkey, Esa Kimya, to be used as the transshipment location for the epoxy ultimately destined for delivery to Iran. This case resulted from a joint investigation conducted by OEE's Atlanta Resident Office, ICE, and the FBI.

**The Penalty:** On March 8, 2017, Akova was sentenced to 36 months in prison and a \$200 special assessment.

## Qiang (Johnson) Hu / MKS Shanghai

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**The Violation:** This investigation was initiated after photographs surfaced of the former President of Iran, Mahmoud Ahmadinejad, touring the Natanz Uranium Enrichment facility in Iran which revealed the presence of what appeared to be pressure transducers manufactured by MKS Instruments in Andover, MA. From 2008 through his arrest in 2012, Qiang (Johnson) Hu, a sales manager at MKS Shanghai, conspired with co-workers and others to illegally supply thousands of export-controlled pressure transducers, worth more than \$6.5 million, to unauthorized end users in China, Iran and elsewhere using export licenses fraudulently obtained from the Department of Commerce. The pressure transducers are classified under ECCN 2B230 and are controlled for nuclear nonproliferation reasons. Hu was arrested in May 2012 and in October 2013 he pled guilty to conspiracy to violate IEEPA. This case resulted from a joint investigation conducted by OEE's Boston Field Office, the FBI, and ICE.

**The Penalty:** On July 21, 2014, Hu was sentenced in the U.S. District Court for the District of Massachusetts to 34 months in prison and \$100 special assessment. On February 3, 2016, BIS issued an order denying Hu's export privileges for ten years (until July 24, 2024).

## Sihai Cheng

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**The Violation:** In 2013, Chinese national Sihai Cheng was charged in an indictment along with Seyed Abolfazl Shahab Jamili, an Iranian national, and two Iranian companies, Nicaro Eng. Co., Ltd. and Eyvaz Technic

Manufacturing Company, with conspiring to export, and exporting, highly sensitive U.S.-manufactured goods with nuclear applications to Iran from at least 2009 to 2012. In December 2014, Cheng was extradited from the United Kingdom to the United States and has remained in custody since then. On December 18, 2015, Cheng pled guilty to conspiracy to commit export violations and smuggle goods from the United States to Iran and to illegally exporting U.S.-manufactured pressure transducers to Iran. From February 2009 through at least 2012, Cheng, Jamili, and a third individual conspired with each other and others in China and Iran to illegally obtain hundreds of U.S.-manufactured pressure transducers and export them to Iran. Initially, the parts were exported to China using fraudulently obtained BIS export licenses. When they arrived in the China, Cheng inspected them in the Shanghai Free Trade Zone and removed their U.S. manufacturer serial numbers to conceal the fact that he was violating U.S. law. Cheng then caused the pressure transducers to be exported to Iran knowing that the parts were being supplied to the Government of Iran. Jamili advised Cheng that the Iranian end-user was Kalaye Electronic Company, which the U.S. Government designated as a proliferator of weapons of mass destruction in 2007 for its work with Iran's nuclear centrifuge program. Pressure transducers can be used in gas centrifuges to enrich uranium and produce weapons-grade uranium. This case resulted from a joint investigation conducted by OEE's Boston Field Office, the FBI and ICE.

**The Penalty:** On January 27, 2016, Cheng was sentenced in U.S. District Court for the District of Massachusetts to nine years in prison and a \$600 special assessment in connection with the export of the pressure transducers to Iran.

## *Other Controls*

### **SAP SE**

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**The Violation:** SAP SE is a German multinational software corporation based in Waldorf, Baden-Wurtemberg, Germany. It develops enterprise software to manage business operations and customer relations among other things. In 2018 SAP filed a voluntary self-disclosure with the Department of Justice, Department of Commerce and OFAC regarding violations of US sanctions. The multi-year investigation that followed revealed that during a period including December 2009 through September 2019, SAP engaged in conduct prohibited by the EAR when it exported SAP products including software, upgrades and patches from the United States to various end users located in sanctioned countries, including Iran, without the required export licenses. This case resulted from an investigation conducted by OEE's Boston Field Office and the Office of Foreign Assets Control (OFAC).

**The Penalty:** In April 2021, SAP entered into a non-prosecution agreement with DOJ, and agreed to a global settlement with DOJ, DOC and OFAC. As part of the agreement SAP agreed to pay combined penalties of more than \$8 million as part of a global resolution with the U.S. Departments of Justice (DOJ), Commerce and Treasury. Included in the settlement was a payment of \$3.29 million to the Department of Commerce, and an agreement to conduct three audits of its export compliance program over a three-year period. In voluntary disclosures the company made to the three agencies, SAP acknowledged violations of the Export Administration Regulations and the Iranian Transactions and Sanctions Regulations. As a result of its voluntary disclosure, in addition to the penalties, SAP spent more than \$27 million to bring its company's exporting into compliance.

### **Behrooz "Bruce" Behroozian**

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**The Violation:** U.S./Iranian citizen Behrooz "Bruce" Behroozian and his co-conspirators illegally diverted millions of dollars' worth of industrial parts designated EAR99 and classified under 2B999 to Iran's oil and petrochemical industry, all in violation of the Iranian Transactions Sanctions Regulations (ITSR) and the International Emergency Economic Powers Act (IEEPA). Behroozian was the owner and operator of a computer parts supplier in Dublin, Ohio called Comtech International. Comtech had no storefront and made no domestic sales and it primarily exported industrial equipment to co-conspirators in the United Arab Emirates for diversion to Iran. Behroozian and his co-conspirators used a Hawala money remittance system in order to try and avoid sanctions placed on the Iranian financial sector and to

obfuscate law enforcement. In 2016, Behroozian pled guilty to an IEEPA violation. This case resulted from a joint investigation conducted by OEE's Washington Field Office and the FBI.

**The Penalty:** On October 24, 2019, Behroozian was sentenced in U.S. District Court for the Southern District of Ohio to 20 months in prison, 24 months of supervised release, a \$100 special assessment, \$79,000 monetary forfeiture, and forfeiture of gas turbine parts valued at \$101,300.

## **Asim Fareed / Compass Logistics International**

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**The Violation:** On June 14, 2016, Asim Fareed, a U.S. citizen and Vice President of Compass Logistics International in Somerset, New Jersey, surrendered for arrest and pled guilty in U.S. District Court for the Middle District of Pennsylvania in connection with a conspiracy to make false statements related to the export of U.S.-origin EAR99 commodities to Iran. Fareed operated Compass Logistics, an export business, and agreed to ship items purchased by customers in Iran and to provide false documentation to the U.S. Department of Commerce for export purposes. Fareed prepared invoices which included false information as to the identity and geographic location of the purchasers of the goods. The items were then to be shipped from the United States to the United Arab Emirates, and then transshipped to Iran. In the related administrative action, BIS charged one count of conspiracy to export \$50,000 in items subject the Regulations from the United States to Iran, via the United Arab Emirates. This case resulted from a joint investigation conducted by OEE's New York Field Office and ICE.

**The Penalty:** On September 12, 2016, Fareed was sentenced to two years of probation, a \$1,000 criminal fine, and a \$100 special assessment. On December 19, 2018, BIS issued a Final Order subjecting Fareed to a three-year suspended denial of export privileges and requiring him to submit two annual reports of his export and reexport activities.



*OEE Special Agents conducting a container inspection*

## **IC Link Industries Ltd / Mohammad Khazrai Shaneivar / Arezoo Hashemnejad Alamdari**

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**The Violation:** Mohammad Khazrai Shaneivar, an Iranian national and owner of the Iranian Company, Sensor Co., immigrated to Canada and founded the company IC Link Industries Ltd. The name IC Link is an abbreviation of Iran – Canada Link, and the company's sole objective was to procure U.S. and North American manufactured industrial goods designated as EAR99 which were used in the oil, gas, petrochemical and steel industries. Shaneivar created IC Link to avoid scrutiny from U.S. suppliers, and to aid in the conspiracy to illegally export U.S.-origin items to Iran. The scheme to evade the sanctions generally worked as such: Arezoo Hashemnejad Alamdari, an Iranian national and Sensor employee located in Iran, would receive requests to obtain parts on behalf of Iranian end-users such as the National



Iranian Oil Company (NIOC) and other entities controlled by the government of Iran. Sensor would forward these requests to Shaneivar and IC Link. The request for quote (RFQ) was then sent to Michael Sheehan, operating as Real-Time Industrial Solutions located in Lakewood, Ohio. Sheehan would contact U.S. companies, negotiate pricing, and then procure the goods on behalf of IC Link. In order to obscure the end users being located in Iran, IC link engaged in business relationship with Parisa Mohamadi, (AKA Parisa Javidi), a dual U.S. and Iranian citizen, residing in Dubai, United Arab Emirates (UAE). Mohamadi, using her UAE-registered company Intelligent Solutions, arranged for the items to be exported to her and/or freight forwarding companies in Dubai. Mohamadi then arranged with Alamdari of Sensor to move the goods to Iran. In an attempt to obfuscate export enforcement, IC Link and Mohamadi would direct Sheehan to de-value the items and remove labels and markings that identified the manufacturer of that the items were of U.S.-origin. From 2009 to 2016, this network was responsible for procuring and illegally exporting millions of dollars' worth of goods from the U.S. to Iran. In 2017, IC Link, Shaneivar, Mohamadi, and Alamdari were indicted in the Northern District of Ohio for multiple counts of violating the International Emergency Economic Powers Act (IEEPA) and conspiracy to do the same. In 2018, Sheehan was charged with submission of false or misleading information to the Automated Export System (AES) and providing false information to an OEE Special Agent. This case resulted from a joint investigation conducted by OEE's Washington Field and ICE.

**The Penalty:** In November 2018, Sheehan was sentenced to 24 months of probation, a \$500 criminal fine, and a \$200 special assessment. In September 2019, Mohamadi was sentenced to 24 months in prison, 24 months of supervised release, and a \$200 special assessment. In October 2020, Shaneivar was sentenced to a \$100,000 criminal fine and the forfeiture of three commercial properties appraised at over \$2,000,000. IC Link was sentenced to a \$200,000 criminal fine, and Alamdari was sentenced to a \$5,000 criminal fine.

### **Schlumberger Oilfield Holdings Ltd.**

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**The Violation:** Starting in about 2004 and continuing through June 2010, Drilling & Measurements (D&M), a United States-based Schlumberger business segment, provided oilfield services to Schlumberger customers in Iran and Sudan through their non-U.S. subsidiary Schlumberger Oilfield Holdings Ltd. (SOHL), incorporated in the British Virgin Islands. Although SOHL and the parent company Schlumberger Limited had policies and procedures designed to ensure that D&M did not violate U.S. sanctions, both companies failed to train their employees adequately to ensure that all U.S. persons, including non-U.S. citizens who resided in the United States while employed at D&M, complied with Schlumberger Ltd.'s sanctions policies and compliance procedures. As a result of D&M's lack of adherence to U.S. sanctions combined with SOHL's failure to properly train U.S. persons and to enforce fully its policies and procedures, D&M, through the acts of employees residing in the United States, violated U.S. sanctions against Iran and Sudan by: (1) approving and disguising the company's capital expenditure requests from Iran and Sudan for the manufacture of new oilfield drilling tools and for the spending of money for certain company purchases; (2) making and implementing business decisions specifically concerning Iran and Sudan; and (3) providing certain technical services and expertise in order to troubleshoot mechanical failures and to sustain expensive drilling tools and related equipment in Iran and Sudan. This case resulted from an investigation conducted by OEE's Dallas Field Office.

**The Penalty:** In May 2015, Schlumberger Oilfield Holdings Ltd. entered a plea of guilty in U.S. District Court for the District of Columbia and agreed to pay over \$232.7 million, the largest criminal fine ever imposed for violations of sanctions programs administered under the IEEPA. Parent company Schlumberger Ltd. also agreed to the following additional terms during the three-year term of probation maintaining its cessation of all operations in Iran and Sudan, (2) reporting on the parent company's compliance with sanctions regulations, (3) responding to requests to disclose information and materials related to the parent company's compliance with U.S. sanctions laws when requested by U.S. authorities, and (4) hiring an independent consultant to review the parent company's internal sanctions policies and procedures and the parent company's internal audits focused on sanctions compliance.

**On June 21, 2016, the OEE Special Agent responsible for this investigation was recognized at the United States Attorney's Office, District of Columbia's Thirty-Fourth Law Enforcement Awards Ceremony for his outstanding work on the Schlumberger Oilfield Holdings Ltd. case.**

## Chapter 4 – Rest of the World

### Criminal and Administrative Case Examples

#### *National Security Controls*

##### Usama Hamade / Issam Hamade

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**The Violation:** From 2009 to 2013, Usama Hamade and his brother, Issam Hamade, conspired to illegally export controlled parts and technology used in unmanned aerial vehicles (UAVs) from the United States through intermediaries for ultimate delivery to Hezbollah, in violation of the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR). A number of these U.S. manufactured items included inertial measurement units (IMUs), which can be used to track an aircraft's position, and digital compasses, which can be paired with the IMUs for drone guidance systems. These more specially designed IMUs are controlled under the U.S. Munitions List (USML). Other items illegally exported included a jet engine holding ECCN 9A101, and various aircraft parts and components classified under ECCN 7A994. The items were procured from multiple U.S. companies. Usama Hamade, a citizen of South Africa, falsely claimed that the items would be used in drones in South Africa to monitor wildlife in order to prevent poaching activities. In fact, the items were diverted to Lebanon through South Africa and the UAE and ultimately delivered to Hezbollah, a U.S. designated foreign terrorist organization for use in their UAV program. To fund the procurement of these items, Issam Hamade, a citizen of Lebanon, made multiple wire transfers from a bank in Beirut, Lebanon, to the bank account of a South African company, which was controlled by Usama Hamade. The wired transfers totaled nearly \$174,000. Subsequent coordination and information sharing between the United States and the South African Governments resulted in both Hamade brothers being arrested by South African authorities in February 2018, and held pending extradition back to the U.S. to face charges. On October 18, 2019, Usama Hamade and Issam Hamade were extradited from South Africa and made their initial appearances in U.S. District Court for the District of Minnesota. This case resulted from a joint investigation conducted by OEE's Chicago Field Office, the FBI, and HSI.

**The Penalty:** On April 27, 2020, Issam Hamade was sentenced in U.S. District Court for the District of Minnesota to time served (26 months), a \$100 special assessment, and deportation to Lebanon. On July 20, 2020, Usama Hamade was sentenced to 42 months in prison, a \$100 special assessment, and deportation to South Africa upon completion of his prison sentence.

#### *Military Controls*

##### Federal Express

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**The Violation:** On 53 occasions between 2011 and 2012, Federal Express (FedEx), located in Memphis, Tennessee, facilitated the export of civil aircraft parts and equipment used for electronic microscope manufacturing classified under ECCN 9A991 or 7A994, or designated EAR99, and valued at approximately \$58,091 from the United States to Aerotechnic France (Aerotechnic), or to the Pakistan Institute for Nuclear Science and Technology (PINSTECH) in Pakistan, without the required BIS licenses. Aerotechnic was added to the BIS Entity List in June 2011 "based on evidence that [it had] engaged in actions that could enhance the military capability of Iran, a country designated by the U.S. Secretary of State as having repeatedly provided support for acts of international terrorism...[and] because [its] overall conduct pose(d) a risk of ongoing EAR violations." PINSTECH is a subordinate entity of the Pakistan Atomic Energy Commission, and has been on the BIS Entity List since November 1988, when it was added along with a number of other Pakistani government (parastatal and private) entities involved in nuclear or missile activities shortly after Pakistan detonated a nuclear device. This case resulted from an investigation conducted by OEE's Miami Field Office.

**The Penalty:** On April 24, 2018, FedEx agreed to pay a \$500,000 civil penalty.

## Ali Caby / Marjan Caby / Arash Caby

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**The Violation:** In February 2017, Iranian nationals Ali Caby, Marjan Caby, and Arash Caby were arrested in connection with a conspiracy to illegally export aviation parts classified under ECCN 9A991 to Syrian Arab Airlines, which appears on the Office of Foreign Assets Control's Specially Designated Nationals List for transporting weapons and ammunition to Syria in conjunction with terrorist organization Hezbollah, and the Iranian Revolutionary Guard Corps. Ali Caby ran the Bulgaria office of AW-Tronics, a Miami, Florida-based export company that was managed by Arash Caby, and which shipped and exported various aircraft parts and equipment to Syrian Arab Airlines. Ali Caby and Arash Caby closely supervised and encouraged subordinate employees of AW-Tronics in the willful exportation of the parts and equipment to SDN Syrian Air, whose activities have assisted the Syrian government's violent crackdown on its people. Marjan Caby, as AW-Tronics' export compliance officer and auditor, facilitated these exports by submitting false and misleading electronic export information to federal agencies. This case resulted from a joint investigation conducted by OEE's Miami Field Office, the FBI, ICE, and DCIS.

**The Penalty:** On December 19, 2017, Ali Caby, Marjan Caby, and Arash Caby were sentenced in U.S. District Court for the Southern District of Miami. Ali Caby was sentenced to two years in prison, two years of supervised release and a \$100 special assessment. Marjan Caby was sentenced to one year and one day in prison, two years of supervised release and a \$100 special assessment. Arash Caby was sentenced to two years in prison, two years of supervised release, a \$10,000 criminal fine and a \$100 special assessment. All three defendants were also subject to a shared \$35,000 forfeiture as part of the plea agreement. In addition, in 2019 a six-year denial of export privileges was imposed on Ali Caby, Arash Caby, AW-Tronics and Arrowtronics.

## *WMD Controls*

### Alsima Middle East General Trading LLC

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**The Violation:** On or about October 5, 2015, Alsima Middle East General Trading LLC (Alsima) made false and misleading representations, statements, and certifications in connection with the submission to BIS of a license application for the export to the United Arab Emirates (UAE) of a powder grade nickel classified under ECCN 1C402 and controlled for nonproliferation and antiterrorism reasons. In the submission of the license application, Alsima falsely and misleadingly represented that the nicked powder was to be used to manufacture self-lubricating seal rings in the UAE for distribution in the UAE. In 2016, BIS conducted a post shipment verification check at Alsima. The director of Alsima stated that the nickel powder was for the manufacturing of specialized compressor rings. However, the director further clarified that Alsima had intended to export the manufactured rings to an Azerbaijani company. He also stated that he had contacted companies in South Africa and India about manufacturing the rings for the Azerbaijani company if Alsima provided the nickel powder. This case resulted from an investigation conducted by OEE's New York Field Office.

**The Penalty:** On May 28, 2021, Alsima agreed to pay a \$25,000 civil penalty, \$12,500 of which was suspended provided no violations occur during a two-year probationary period.

### MDA Precision LLC

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**The Violation:** During April 2015, MDA Precision LLC of Gilroy, California sold and transferred a five-axis benchtop milling machine classified under ECCN 2B201 and controlled on nuclear nonproliferation and anti-terrorism grounds to the United Arab Emirates without the required BIS license. In the shipper's letter of instructions that it provided the freight forwarder, MDA Precision LLC stated that the item was designated EAR99 and did not require a license for export to the UAE. Moreover, the company failed to act on red flags that were present in the transaction indicating that

the items were intended for diversion. This case resulted from an investigation conducted by OEE's San Jose Field Office and the FBI.

**The Penalty:** On April 30, 2021, MDA Precision LLC agreed to pay a \$60,000 civil penalty, \$35,000 of which was suspended provided no violations occur during a two-year probationary period. The company was also ordered to complete and export compliance training on the Regulations within 12 months.

## Princeton University

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**The Violation:** On 37 occasions between 2013 and 2018, Princeton University engaged in conduct prohibited by the EAR when it exported various strains and recombinants of an animal pathogen classified under ECCN 1C351, 1C352, or 1C353, controlled for Chemical and Biological Weapons reasons, from the United States to various overseas research institutions. These research institutions were located in Belgium, United Kingdom, Singapore, Canada, France, Israel, Japan, Denmark, Switzerland, Australia, Hungary, Portugal, South Korea, India and China. This case resulted from an investigation conducted by OEE's New York Field Office

**The Penalty:** On February 1, 2021, Princeton University agreed to pay a \$54,000 civil penalty. The University was also ordered to complete an internal audit of its export controls compliance program, as well as an external audit to be conducted by an unaffiliated third-party consultant.

**Voluntary Self-Disclosure:** Princeton University voluntarily disclosed the violations and cooperated fully with the investigation.

## Kenneth Chait / Tubeman.com/Advantage Tube Services, Inc.

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**The Violation:** In October 2012, U.S. citizen Kenneth Chait, owner/operator of Tubeman.com/Advantage Tube Services, Inc., located in Lake Worth, Florida, communicated to an undercover OEE Special Agent that he was willing to export to Pakistan two ceramic metal triggered spark gaps (also known as nuclear trigger spark gaps), without the required BIS export license. The spark gaps were listed on the Commerce Control List, controlled for nuclear proliferation reasons, and therefore required a license for export to Pakistan. ICE Special Agents then conducted undercover operations by speaking with Chait regarding obtaining a ceramic metal triggered spark gap classified under ECCN 3A228 for export to Pakistan. Chait was arrested in March 2014 during execution of a search warrant, and in April 2015, he pled guilty in U.S. District Court for the Middle District of Georgia to violations of the International Emergency Economic Powers Act and the EAR in connection with the attempted export of nuclear trigger spark gaps to Pakistan without a license. This case resulted from a joint investigation conducted by OEE's Miami Field Office and ICE.



**The Penalty:** On November 13, 2018, Kenneth Chait was sentenced to 12 months and one day in prison, two years of supervised release, and a \$100 special assessment. As part of the plea agreement, Chait agreed to forfeit \$7,465 to the U.S. Government, which represents the proceeds traceable to the undercover transactions in which he participated.

## Imran Khan / Kamran Khan / Muhammad Ismail

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**The Violation:** From at least December 2012 through December 2016, brothers Imran Khan and Kamran Khan and their father Muhammad Ismail engaged in a scheme to purchase U.S.-origin items, including spectrometers classified under ECCN 3A999 and other commodities designated EAR99, for parties in Pakistan that appear on the BIS Entity List. Through companies conducting business as Brush Locker Tools, Kauser Enterprises-USA and Kauser Enterprises-Pakistan, the three defendants received orders from a Pakistani company that procured materials and equipment for the Pakistani military, requesting them to procure specific products that were subject to the EAR.

When U.S. manufacturers asked about the end user for a product, the defendants either informed the manufacturer that the product would remain in the United States, or completed an end-user certificate indicating that the product would not be exported. After the products were purchased, they were shipped by the manufacturer to the defendants in Connecticut. The products were then shipped to Pakistan on behalf of either the Pakistan Atomic Energy Commission (PAEC), the Pakistan Space & Upper Atmosphere Research Commission (SUPARCO), or the National Institute of Lasers & Optronics (NILOP), all of which appeared on the BIS Entity List. The defendants never obtained a BIS license to export any item to the designated entities even though they knew that a license was required prior to export. The defendants received the proceeds for the sale of export-controlled items through wire transactions to a U.S. bank account that the defendants controlled. In June 2017, Imran Khan pled guilty to violating IEEPA when he procured, received, and exported a spectrometer to PAEC without an export license. In March 2018, Muhammad Ismail and Kamran Khan each pled guilty for causing funds to be transferred from Pakistan to the United States in connection with the export control violations. This case resulted from a joint investigation conducted by OEE's Boston Field Office, the FBI, ICE, DCIS, and USPIS.

**The Penalty:** On September 19, 2018, Imran Khan was sentenced to three years of probation (the first six months of which were to be served in home confinement), a \$3,000 criminal fine, 100 hours of community service, and a \$200 special assessment. On July 18, 2018, Kamran Khan and Muhammed Ismail were each sentenced to 18 months in prison, three years of probation, and a \$100 special assessment.

## Cryofab, Inc.

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**The Violation:** On two occasions during 2012, Cryofab, Inc. of Kenilworth, New Jersey, engaged in conduct prohibited by the EAR by exporting gas storage containers and related tools and accessories designated EAR99 to the Bhabha Atomic Research Center (BARC), without the required BIS export licenses. At the time of the exports, BARC appeared on the BIS Entity List. Although an experienced exporter, Cryofab Inc. failed to screen against the BIS Entity List in connection with these two transactions, and failed to seek or obtain the required BIS export licenses. It also erroneously listed the items as eligible for shipment without a license on the Shipper's Letter of Instructions for each shipment. This case resulted from an investigation conducted by OEE's New York Field Office.

**The Penalty:** On August 18, 2017, Cryofab, Inc. agreed to pay a \$35,000 civil penalty. The company was also ordered to complete an external audit of its export controls compliance program, to be conducted by an unaffiliated third-party consultant.

## Trexim Corporation / Bilal Ahmed

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**The Violation:** On October 2, 2014, Bilal Ahmed pled guilty in connection with the export of carbon fiber and microwave laminates, and the attempted export of a thermal imaging camera, from his company Trexim Corporation of Schaumburg, Illinois, to Pakistan without the required export licenses. Ahmed admitted that in 2009 he shipped carbon fiber to Pakistan's Space and Upper Atmosphere Research Commission (SUPARCO), an entity on the BIS Entity List. Ahmed knew that the carbon fiber and thermal imaging camera were export-restricted and a license was required from the U.S. Government. Ahmed also undervalued the goods he exported to Pakistan to avoid filing an SED and to avoid detection. The carbon fiber was classified under ECCN 1C210 and was controlled for nuclear non-proliferation and anti-terrorism reasons. The thermal imaging camera was classified under ECCN 6A003 and was controlled for national security and regional stability reasons. Ahmed was arrested in March 2014 as he attempted to ship a FLIR thermal imaging camera to Pakistan. This case resulted from a joint investigation conducted by OEE's Headquarters and the FBI.

**The Penalty:** On May 14, 2015, Bilal Ahmed was sentenced in U.S. District Court for the Northern District of Illinois to 24 months in prison, two years of supervised release, a \$1,000 criminal fine, and a \$100 special assessment.

## General Logistics International

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**The Violation:** On four occasions between during November 2009, General Logistics International of New Brunswick, New Jersey, facilitated the unauthorized export of EAR99 steel scrap, valued at \$672,022, from the United States to the People's Steel Mills, located in Pakistan. The People's Steel Mill appears on the BIS Entity List. For each export, General Logistics International arranged for the trucking of the scrap steel from the U.S. exporter's location to the port of export, arranged for the shipping of the scrap steel to People's Steel Mills in Pakistan, and prepared and submitted shipping documentation, part of which indicated that no license was required for these exports. This case resulted from an investigation conducted by OEE's New York Field Office.

**The Penalty:** On January 22, 2015, General Logistics International entered into a settlement agreement with BIS in which it agreed to pay \$90,000.

## GrafTech International Holdings Inc.

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**The Violation:** Between July 2007 and January 2010, GrafTech International Holdings Inc. (GrafTech), of Parma, Ohio, exported twelve shipments of CGW grade graphite to China and India without the required BIS licenses. The high-grade graphite, valued at approximately \$524,000, is classified under ECCN 1C107 and controlled for missile technology reasons. This case resulted from an investigation conducted by OEE's Washington Field Office.

**The Penalty:** On October 25, 2013, GrafTech agreed to pay a \$300,000 civil penalty. The agreement also includes an external audit requirement relating to GrafTech's compliance program and the compliance programs of three foreign GrafTech subsidiaries.

**Voluntary Self-Disclosure:** GrafTech voluntarily disclosed the violations and cooperated fully with the investigation.

## C.A. Litzler Co., Inc.

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**The Violation:** In May 2005, Western Advanced Engineering Company (WAEC) of Orange, California, exported a hot melt prepreg machine for uni-directional tape valued at \$825,000 to Spain without the required export license. The prepreg machine was classified under ECCN 1B001 and was controlled for missile technology reasons for export to Spain. BIS initially filed a Charging Letter against WAEC. In March 2011, C.A. Litzler Co., Inc. of Cleveland, Ohio, acquired at least a substantial portion of WAEC's assets, and in June 2013 BIS moved to amend the Charging Letter that was pending before an administrative law judge (ALJ) to add Litzler to the case as a successor in interest to WAEC. In August 2013, the ALJ granted BIS's motion to add granted BIS's motion to add Litzler as an additional respondent. This case resulted from an investigation conducted by OEE's Los Angeles Field Office.

**The Penalty:** On April 24, 2014, C.A. Litzler Co., Inc. agreed to pay a \$45,000 civil penalty. Additionally, on June 12, 2014, WAEC agreed to a three-year suspended denial order.

## Flowserve Corporation

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**The Violation:** Between 2002 and 2008, Flowserve Corporation, located in Irving, Texas, and ten of its foreign affiliates made unlicensed exports and reexports of pumps, valves and related components classified under ECCN 2B350 to a variety of countries including China, Singapore, Malaysia and Venezuela and caused the transshipment of U.S.-origin EAR99 items to Iran and Syria without the required U.S. Government

authorization. The items exported to non-embargoed destinations were controlled by the U.S. Department of Commerce for reasons of chemical and biological weapons proliferation and required licenses for export to China, Singapore, Malaysia, and Venezuela. This case resulted from an investigation conducted by OEE's Dallas Field Office.



**The Penalty:** On September 29, 2011, Flowserve Corporation and ten of its foreign affiliates agreed to pay civil penalties totaling \$2.5 million. The settlement also required external audits of Flowserve's compliance program. Flowserve also agreed to pay OFAC a civil penalty of \$502,408 for transactions involving Iran, Sudan and Cuba.

**Voluntary Self-Disclosure:** Flowserve voluntarily disclosed these violations and cooperated fully with the investigation.

## Buehler Limited

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**The Violation:** Between November 2001 and July 2006, Buehler Limited of Lake Bluff, Illinois, a global manufacturer of scientific equipment and supplies for use in materials research and analysis, made 80 exports of a product called "Coolmet," a mixture containing triethanolamine (TEA) that is used as a lubricant with cutting tools, to various destinations including China, Hong Kong, Thailand, India, Brazil and Israel, without the required BIS licenses. Additionally, on one occasion in August 2005, the company's German affiliate re-exported Coolmet from Germany to Iran without the required U.S. Government authorization. TEA is a Schedule 3 chemical precursor classified under ECCN 1C350 and is controlled for chemical/biological, anti-terrorism and chemical weapons reasons. This case resulted from an investigation conducted by OEE's Chicago Field Office.

**The Penalty:** On December 12, 2008, Buehler Limited agreed to pay a \$200,000 civil penalty.

**Voluntary Self-Disclosure:** Buehler Limited voluntarily disclosed the violations and cooperated fully with the investigation.

## Dr. Thomas Butler

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**The Violation:** On January 14, 2003, Dr. Thomas Campbell Butler, M.D., a professor at Texas Tech University in Lubbock, Texas, reported to the FBI that thirty vials of a potentially deadly plague bacteria, *Yersinia pestis* (the causative agent of human plague), were missing and presumed stolen from his research lab. The report sparked a bio-terrorism alert in west Texas, and the President was informed of the incident. An investigation ultimately proved that Dr. Butler had illegally exported *Yersinia pestis* to Tanzania. The bacteria is classified under ECCN 1C351 and cannot be exported to Tanzania without an export license from BIS. On January 15, 2003, Dr. Butler was arrested. Dr. Butler was found guilty of numerous charges at trial, two of which were export control-related: making false, fraudulent and fictitious statements regarding the export to federal agents and making an unauthorized export to Tanzania. This case resulted from a joint investigation by OEE's Dallas Field Office, the FBI, IRS, and Department of Transportation.



**The Penalty:** Dr. Butler was convicted of forty-seven counts of a sixty-nine-count indictment. He was sentenced to two years in prison on March 10, 2004, and he resigned from Texas Tech. On October 24, 2005, the U.S. Court of Appeals for the Fifth Circuit affirmed his conviction. In the administrative case, on September 1, 2006, Dr. Butler agreed to pay a \$37,400 civil penalty and accept a denial of his export privileges for a period of ten years.



*On the left, biological vectors hidden in a box of baby clothes, on the right, that was hand carried on a flight from the United States to Iran. The items were seized as part of an ongoing OEE criminal investigation*

## ***Other Controls***

### **Steven Anichowski**

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**The Violation:** In August 2017, HSI requested the assistance of OEE in an ongoing investigation that involved the export of United States Munitions List (USML) and Commerce Control List (CCL) items to possible Japanese Organized Crime members. After Special Agents conducted interviews, it was confirmed Steven Anichowski was procuring U.S.-origin gun parts and other accessories controlled under the USML, and rifle scopes and sights classified under ECCN 0A997 (currently ECCN 0A054) for two Japanese citizens. In July 2018, OEE, HSI, FBI and NCIS Special Agents arrested and interviewed Anichowski at Los Angeles International Airport as he arrived from Taiwan. In April 2019, Anichowski pled guilty in U.S. District Court for the District of New Mexico. This case resulted from a joint investigation conducted by OEE's Los Angeles Field Office, the FBI, ICE, USPIS and NCIS.

**The Penalty:** On December 4, 2019, Steven Anichowski was sentenced in U.S. District Court for the District of New Mexico to 12 months and one day in prison, two years of supervised release, and a \$100 special assessment.

### **Patrick Germain**

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**The Violation:** On October 9, 2018, Patrick Germain pled guilty in U.S. District Court for the Northern District of Illinois in connection with the illegal export of firearms to Haiti. In June 2016, Germain purchased 26 firearms, five shotguns classified under ECCN 0A984 (currently ECCN 0A502), and ammunition from dealers in Illinois. Germain also purchased three vehicles, including the cargo van that he would later use to transport the concealed firearms and ammunition. He then hired a company to deliver the three vehicles to Miami, where he arranged for a shipping company to transport the vehicles to Haiti. Germain devised a scheme to hide some of the items inside a hollowed-out wooden container constructed of plywood in a van he arranged to export through the Port of Miami to Haiti. When asked by the Illinois company why the cargo van appeared to be overweight, Germain represented to the driver that the added weight was due to furniture in the back seat. The van was detained and the firearms located. Germain was arrested in December of 2016 when he returned to the United States from Haiti. This case resulted from a joint investigation conducted by OEE's Chicago Field Office, ICE, and ATF.

**The Penalty:** On May 16, 2019, Patrick Germain was sentenced in U.S. District Court for the Northern District of Illinois to time served in prison (23 days), two years of supervised release, and a \$100 special assessment.



## Eric Baird / Access USA Shipping, LLC

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**The Violation:** On December 12, 2018, Eric Baird, the former owner and Chief Executive Officer (CEO) of Access, a Florida-based package consolidation and shipping service, pled guilty in U.S. District Court for the Middle District of Florida to one count of felony smuggling and admitted to 166 administrative violations of U.S. export control laws as part of a global settlement with the U.S. Department of Justice and BIS. Baird admitted to violations of the EAR committed from August 1, 2011, through January 7, 2013, during his tenure as CEO of Access USA Shipping, LLC dba MyUS.com (Access USA). Baird founded Access USA and developed its business model, which provided foreign customers with a U.S. address that they used to acquire U.S.-origin items for export without alerting U.S. merchants of the items' intended destinations. Under Baird's direction, Access USA developed practices and policies which facilitated concealment from U.S. merchants. Access USA would regularly change the values and descriptions of items on export documentation even where it knew the accurate value and nature of the items. Among the altered descriptions were some for controlled items listed on the Commerce Control List. For example, laser sights for firearms were described as "tools and hardware," and rifle scopes were described as "sporting goods" or "tools, hand tools." The activities that Baird knowingly authorized and/or participated in resulted in unlicensed exports of controlled items to various countries, as well as repeated false statements on AES filings. In doing so he caused, or permitted, the filing of false or misleading SED and AES filings. Baird also failed to make required SED/AES filings and also caused, aided or abetted the export of items subject to the EAR without the required export licenses. As early as September 2011, Baird was made aware that undervaluing violated U.S. export laws, including the EAR. In fact, Baird received e-mails on this subject from his Chief Technology Officer, who stated, "I know we are WILLINGLY AND INTENTIONALLY breaking the law" (emphasis in original). In the same email chain, Baird suggested that Access USA could falsely reduce the value of items by 25% on export control documentation submitted to the U.S. government and if "warned by [the U.S.] government," then the company "can stop ASAP." Additionally, Baird established and/or authorized Access USA's "personal shopper" program. As part of this program, Access USA employees purchased items for foreign customers from a shopping list while falsely presenting themselves to U.S. merchants as the domestic end users of the items. This case resulted from a joint investigation conducted by OEE's Miami Field Office and ICE.

**The Penalty:** On January 30, 2019, Eric Baird was sentenced to 24 months of probation and a \$100 special assessment. Baird also agreed to a five-year denial of export privileges and a \$17 million fine with \$7 million suspended. Access USA also agreed to an administrative fine of \$27 million with \$17 million suspended.

## Rasheed Al Jijakli / Palmyra Corporation

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**The Violation:** From June through July of 2012, Syrian-born naturalized U.S. citizen Rasheed Al Jijakli and a co-conspirator purchased tactical gear, including day vision and night vision rifle scopes classified under ECCN 0A987 (currently ECCN 0A504), laser boresighters, flashlights, radios and other items designated EAR99, for intended end use in Syria. On July 17, 2012, Al Jijakli traveled with the tactical gear from Los Angeles to Istanbul with the intent that it would be provided to Syrian rebels training in Turkey and fighting in Syria. Al Jijakli provided some of the tactical gear, specifically the laser boresighters, to a second co-conspirator, who Al Jijakli learned was a member of the militant group Ahrar Al-Sham. Al Jijakli also provided the goods to other armed Syrian insurgent groups in Syria and Turkey. Additionally, in August and September 2012, Al Jijakli directed co-conspirators to withdraw thousands of dollars from Palmyra Corporation, where Al Jijakli was the chief executive officer, to pay for tactical gear that would be provided to Syrian rebels. In his plea agreement, Al Jijakli specifically admitted directing that \$17,000 from Palmyra be used to purchase tactical gear intended for Syrian rebels. On August 13, 2018, Al Jijakli pled guilty in connection with a conspiracy to illegally export tactical gear to Syria. During Al Jijakli's sentencing hearing, the Judge agreed with prosecutors that the goods Al Jijakli took to Syria were "instruments of death." This case resulted from a joint investigation conducted by OEE's Los Angeles Field Office, the FBI, ICE, and the IRS.

**The Penalty:** On December 20, 2018, Rasheed Al Jijakli was sentenced to 46 months in prison, two years of supervised release, a \$5,000 criminal fine, and a \$100 special assessment. In addition, on September 30, 2019, a ten-year denial of export privileges was imposed on Jijakli.



*An inspection of two shipping containers the Port of Baltimore revealed air compressors, left, filled with guns, rifle optics and ammunition, on the right, welded back together to conceal the contents*

## **Bryan Singer**

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**The Violation:** On June 12, 2018, Bryan Singer was found guilty by a jury in the U.S. District Court for the Southern District of Florida in connection with the unlicensed attempted smuggling of electronic devices to Cuba and the making of false statements to federal law enforcement officials. On May 2, 2017, Singer intended to travel from Stock Island, Florida to Havana, Cuba aboard his vessel “La Mala.” Prior to his departure, a CBP Officer conducted an outbound inspection of the boat. During the inspection, Singer asserted that he was only bringing to Cuba items observable on the deck and that their value was less than \$2,500. However, the CBP agent discovered a hidden compartment under a bolted down bed in the cabin that contained hundreds of electronic devices valued at over \$30,000. The devices included more than 300 Ubiquiti Nanostation Network devices designed to provide highly encrypted connections between computer networks over long distances. Singer had been previously warned by U.S. Government officials on at least four occasions that a license was required to export items to Cuba. This case resulted from a joint investigation conducted by OEE’s Miami Field Office, ICE, and CBP.

**The Penalty:** On September 27, 2018, Bryan Singer was sentenced in the Southern District of Florida to 78 months in prison, to be followed by supervised release.

## **Dmytro Medvedyev**

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**The Violation:** On November 30, 2016, Ukrainian national Dmytro Medvedyev pled guilty in U.S. District Court for the District of Delaware in connection with identity theft crimes. Medvedyev utilized stolen identities to purchase rifle scopes classified under ECCN 0A987 (currently ECCN 0A054) and smuggle them to Ukraine. In October 2015, OEE Special Agents interdicted 10 of these rifle scopes at freight forwarder located in Delaware. This case resulted from a joint investigation conducted by OEE’s Washington Field Office, the FBI and ICE.

**The Penalty:** On August 30, 2017, Dmytro Medvedyev was sentenced in U.S. District Court for the District of Delaware to 36 months in prison and restitution in the amount of \$14,200, one year of probation, and a \$300 special assessment.



*OEE Special Agents training at an outdoor firing range*

## Chapter 5 – Antiboycott Violations

### Introduction

The Office of Antiboycott Compliance (OAC) administers and enforces the antiboycott provisions of the EAR, which are set forth in Part 760 of the EAR. These antiboycott provisions prohibit U.S. persons from complying with certain requirements of unsanctioned foreign boycotts, including requirements that the U.S. person provide information about business relationships with a boycotted country or refuse to do business with certain persons for boycott-related reasons. In addition, the EAR requires that U.S. persons report their receipt of certain boycott requests to BIS. Failure to report the receipt of certain boycott requests may constitute a violation of the EAR. Under the antiboycott provisions of the EAR, certain foreign subsidiaries of domestic U.S. companies are considered to be U.S. persons. To help members of the exporting community better understand the substance and applications of



*Cathleen Ryan, Director of the Office of Antiboycott Compliance, speaks at the BIS 2014 Update Conference.*

the antiboycott provisions, BIS offers an antiboycott training module through the *BIS Online Training Room*. The information and examples contained in the module illustrate how to identify an antiboycott issue and how to respond in a manner that complies with the requirements of the EAR. The Training Room also houses a number of pre-recorded webinars covering a variety of topics, including the basics of U.S. export control and deemed exports. The training modules are presented in a video streaming format.

In addition, Supplement No. 2 to Part 766 of the EAR provides guidance regarding BIS's penalty determination process in the settlement of administrative antiboycott cases involving violations of Part 760 of the EAR or violations of Part 762 (Recordkeeping), which specifies the recordkeeping requirements that pertain to activity that is subject to Part 760. Similar to guidance regarding administrative export control cases, Supplement No. 2 to Part 766 describes how BIS determines appropriate penalties in settlement of violations in

antiboycott cases. The guidance contains a comprehensive description of the factors taken into account in determining civil penalties including significant mitigating and aggravating factors.

As in export control cases, BIS encourages submission of voluntary self-disclosures (VSDs) by parties who believe they may have violated the antiboycott provisions of the EAR. The procedures relating to antiboycott VSDs are set out in Section 764.8 of the EAR, which details timing requirements and the information that must be included in the initial notification and in the narrative account of the disclosure.

OAC monitors the type and origin of boycott-related requests received by U.S. persons. Because boycott-related terms and conditions may pose a barrier to trade, OAC partners with the Office of the U.S. Trade Representative and the U.S. Department of State and U.S. Embassy officials to engage with ministers and other government officials in boycotting countries in an effort to remove boycott language from letters of credit, tenders, and other transaction documents at their source. U.S. companies must still remain vigilant when they undertake any export or other business transactions that might implicate unsanctioned foreign boycotts and must report the receipt of requests to comply with such boycotts to BIS, as required by part 760 of the EAR.

For advice concerning boycott-related requests contained in export transaction documents, or any other matter concerning the antiboycott provisions of the EAR, please visit the Office of Antiboycott Compliance portion of the BIS website: <http://www.bis.doc.gov/index.php/enforcement/oac>, or contact the OAC advice line via the website, above, or by telephone at (202) 482-2381.

## An Overview of the Antiboycott Authorities

### History

During the mid-1970s, the United States took steps to counteract the participation of U.S. persons in other nations' economic boycotts of countries friendly to the United States. These actions culminated in, among other developments, the enactment of 1977 amendments to the Export Administration Act of 1969 and the Ribicoff Amendment to the 1976 Tax Reform Act. The 1977 amendments, which established Commerce's core antiboycott prohibitions, subsequently formed the basis of Section 8 of the Export Administration Act of 1979, as amended (EAA). On August 13, 2018, President Trump signed into law the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. §§ 4801-4852, which includes the Anti-Boycott Act of 2018. The ECRA provides the legal authority for BIS's antiboycott enforcement regime. It carries forward Section 8 of the EAA as to prohibited conduct and jurisdictional requirements. Part 760 of the EAR, in turn, implements ECRA's antiboycott provisions.

### Objectives

To encourage, and in specified cases, to require U.S. persons to refuse to participate in foreign boycotts of a country friendly to the United States and that is not itself subject to boycott under United States law.

### Primary Focus

Although the ECRA/Part 760 of the EAR apply generally to all boycotts of countries that are friendly to the United States that are imposed by foreign countries, the Arab League boycott of Israel is the principal foreign boycott with which U.S. persons must be concerned today.

### Who (and What Activities) Are Covered by Part 760 of the EAR?

The antiboycott provisions set forth in Part 760 of the EAR apply to all "U.S. persons," defined to include individuals and companies located in the United States and, in certain circumstances, such companies' foreign affiliates and subsidiaries. These U.S. persons are subject to the Part 760 of the EAR when they undertake certain activities relating to the sale, purchase, or transfer of goods or services (including information) within the U.S. or between the U.S. and a foreign country with the intent to comply with, further, or support an unsanctioned foreign boycott. These activities include exports from the U.S., forwarding and shipping, financing, and certain other transactions by U.S. persons who are not located in the United States.

## Administrative Case Examples

### Kuwait Airways Corporation

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**The Violation:** During the years 2014 through 2015, Kuwait Airways Corporation (KAC), a permanent domestic establishment (registered in New Jersey) of a foreign corporation, on 14 occasions, refused to accept individuals who were holders of Israeli passports for boarding as passengers on Kuwait Airways flight KU 102 from John F Kennedy International Airport (New York) to London Heathrow Airport (United Kingdom). Kuwait Law prohibits entering agreements with entities or persons residing in Israel, or who have Israeli citizenship, regardless of their domicile. In so doing, KAC committed 14 violations of Section 760.2(a) of the EAR, which prohibits refusals to do business with a

national or resident of a boycotted country, or with another person, pursuant to an agreement with, a requirement of, or a request from or on behalf of a boycotting country.

**The Penalty:** On December 26, 2019, Kuwait Airways Corporation agreed to a civil penalty of \$700,000, with \$600,000 to be paid out-of-pocket and \$100,000 to be suspended during a three-year probationary period.

### **RHDC International (Houston)**

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**The Violation:** During the years 2011 through 2013, in connection with the preparation and processing of documents in letter of credit transactions on behalf of its clients involved in the sale and/or transfer of goods to customers in Kuwait, Lebanon, Qatar and the United Arab Emirates, RHDC International LLC (RHDC), located in Houston, Texas, on one occasion received a request to furnish information about the national origin of a United States person and on four occasions received a request to furnish a vessel eligibility certificate signed by other than the owner, master or charterer of the vessel. RHDC failed to report its receipt of these requests to take an action which would have the effect of furthering or supporting a restrictive trade practice or unsanctioned foreign boycott.

**The Penalty:** On August 11, 2016, RHDC International LLC agreed to pay a civil penalty of \$9,000.

### **Vinmar International, Ltd. / Vinmar Overseas, Ltd.**

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**The Violation:** On seven occasions between 2011 and 2012, two related foreign companies with Houston, Texas-based U.S. operations, Vinmar International, Ltd. (VIL) and Vinmar Overseas, Ltd. (VOL), furnished prohibited information in bills of lading or vessel certificates regarding the blacklist status or eligibility status of the vessel to enter Arab ports. On ten occasions between 2009 and 2012, the companies failed to report their receipt of requests from Lebanon, Libya, Oman, Qatar, Syria, and Yemen to furnish a vessel eligibility certificate signed by other than the owner, master or charterer of the vessel. In addition, on three occasions during 2009, VOL failed to report its receipt of a directive from the United Arab Emirates requiring the exclusion of parties of Israeli origin.

**The Penalty:** On September 25, 2015, VOL agreed to pay a civil penalty of \$41,400, and VIL agreed to pay a civil penalty of \$19,800.

### **Baker Eastern, SA (Libya)**

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**The Violation:** On 22 occasions during the years 2004 through 2008, Baker Eastern, SA (Libya) (Baker Eastern), a controlled-in-fact foreign subsidiary of Baker Hughes, Inc., furnished to Libyan Customs a certificate of origin that contained two items of prohibited information: first, a negative certification of origin which set out information concerning Baker Eastern's or another person's business relationships with or in a boycotted country; and second, a blacklist certification which set out information concerning Baker Eastern's or another person's business relationships with other persons known or believed to be restricted from having any business relationship with or in a boycotting country. In addition to the 44 violations related to the furnishing of such prohibited information, Baker Eastern committed 22 violations by agreeing to refuse to do business with another person pursuant to a requirement or request from a boycotting country. Specifically, the company included a statement in the certificate of origin regarding compliance with the principles and regulations of the Arab Boycott of Israel. In total, Baker Eastern committed 66 violations of the antiboycott provisions of the EAR. Baker Eastern voluntarily disclosed these transactions to BIS.

**The Penalty:** On June 12, 2013, Baker Eastern, SA (Libya) agreed to pay a civil penalty of \$182,325.

## **TMX Shipping Company, Inc.**

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**The Violation:** During the years 2007 through 2010, in connection with transactions involving the sale and/or transfer of U.S.-origin goods to Bahrain, Kuwait, Lebanon and United Arab Emirates, TMX Shipping Company, Inc. (TMX), located in Virginia, on four occasions furnished a statement, signed by other than the owner, master or charterer, certifying that the carrying vessel was eligible to enter, or allowed to enter, the port of destination. In so doing, TMX furnished prohibited information concerning its or another person's business relationships with another person known or believed to be restricted from having any business relationship with or in a boycotting country. In addition, on 11 occasions, TMX received a request to furnish a certification by other than the owner, master or charterer of the vessel stating that the vessel was allowed to enter certain ports. TMX failed to report its receipt of these requests to take an action which would have the effect of furthering or supporting a restrictive trade practice or unsanctioned foreign boycott.

**The Penalty:** On October 31, 2013, TMX Shipping Company, Inc. agreed to pay a civil penalty of \$36,800.

## **Laptop Plaza, Inc. (aka IWEBMASTER.NET, Inc.)**

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**The Violation:** In 2006, in connection with transactions involving the sale and/or transfer of U.S.-origin goods to Pakistan and Lebanon, Laptop Plaza, Inc. (Laptop), located in California, on four occasions, furnished to its customer an invoice which set out a statement that the goods were not of Israeli origin and did not contain Israeli materials. Furnishing this information is prohibited because the information concerns Laptop's or another person's business relationships with or in a boycotted country. In addition, on three occasions, Laptop failed to maintain records of transactions relating to a restrictive trade practice or boycott for a five-year period, as required by the Regulations.

**The Penalty:** On September 7, 2013, Laptop Plaza, Inc. agreed to pay a civil penalty of \$48,800.

## **Leprino Foods Company**

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**The Violation:** During the years 2009 through 2011, in connection with transactions involving the sale and/or transfer of U.S.-origin goods to consignees in Bahrain, Oman, Qatar and the United Arab Emirates, Leprino Foods Company (Leprino), located in Colorado, on one occasion, furnished a transport certificate, signed by other than the owner, master or charterer, declaring that the ship was permitted to enter the port in Oman, in accordance with the laws of the Sultanate of Oman. By so doing, Leprino furnished prohibited information concerning its or another person's business relationships with another person known or believed to be restricted from having any business relationship with or in a boycotting country. In addition, on 15 occasions, Leprino received a request to take an action which would have the effect of furthering or supporting a restrictive trade practice or unsanctioned foreign boycott. Among these requests were 12 goods directives indicating that products manufactured or produced in Israel were banned. Leprino failed to report its receipt of these requests to engage in a restrictive trade practice or boycott.

**The Penalty:** On September 16, 2013, Leprino Foods Company agreed to pay a civil penalty of \$32,000.

## **AIX Global LLC**

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**The Violation:** In 2008, in connection with a transaction involving the sale and/or transfer of U.S.-origin goods to Iraq, AIX Global LLC (AIX), located in Tennessee, on one occasion agreed to a prohibited condition that the manufacturer must not be a subsidiary of a company included on a list of "Israeli Boycott Companies." By so doing, AIX agreed to refuse to do business with another person, pursuant to an agreement with, a requirement of, or a request from or on behalf of a boycotting country. In the same transaction, AIX furnished prohibited information concerning its or another person's business relationships with another person

known or believed to be restricted from having any business relationship with or in a boycotting country. Lastly, AIX, on one occasion, failed to report timely its receipt of requests to take an action which would have the effect of furthering or supporting a restrictive trade practice or unsanctioned foreign boycott.

**The Penalty:** On September 27, 2013, AIX Global LLC agreed to pay a civil penalty of \$15,000 (suspended for six months and thereafter waived, provided AIX committed no violations during the suspension period).





U.S. DEPARTMENT OF COMMERCE  
Bureau of Industry and Security  
Export Enforcement

