

Introduction to Export Controls and International Considerations

NCURA Region IV
Omaha, Nebraska – April 2010

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Session Description

- In the ever expanding world of international collaboration and research, the risks associated with export control and other international mandates can be overwhelming. Institutions often find themselves in violation without understanding how it came about. During this session we will discuss the processes, regulations, methodologies and tools necessary to identify, minimize and manage these risks.
- **Learning Objectives:**
 - Understand the basic framework of the export control process and other international restrictions
 - Understand the applicable federal agencies responsible for enforcing export controls and other international restrictions
 - Understand the process institutions should be prepared to use when identifying scenarios when export control and other international restrictions may apply
- **Speaker:** John Sites, Manager, Healthcare and Education Consulting, Huron Consulting Group

Basic Framework

Introduction and Background

- **Definition:** Export Controls are federal regulations for the distribution to foreign countries and foreign nationals of strategically important technology, services and information for reasons of foreign policy and national security.
- **What is an export?** - Transfer of controlled technology, information, equipment, software, or services to a foreign person in the US or abroad by:
 - Actual shipment outside the US
 - Visual inspection in or outside the US
 - A “deemed” export is the disclosure of a covered technology to a Foreign National who is within the United States
 - Written or oral disclosure

Introduction and Background (cont.)

Foreign person is defined as:

- Any person who is NOT a lawful permanent resident of the US;
- Any foreign corporation or other entity or group that is NOT incorporated or organized to do business in the US; or
- Any foreign government.

Applicable Federal Agencies

Overview and Regulations

Export Controls are Overseen by Three Federal Agencies

Federal Agency	Name of Regulations / Division	Exports Covered
Department of State	International Traffic in Arms Relations (ITAR) - 22 CFR 120-130 U.S. Munitions List (USML) Arms Export Control Act – 1976	Military technologies such as weapons, chemical and biological agents, vehicles, missiles, equipment, all satellites
Department of Commerce	Export Administration Regulations (EAR) - 15 CFR 730-774 Commerce Control List (CCL) Export Administration Act – 1969	“Dual-Use” technologies (commercial items with potential military applications), primarily civil use, includes Deemed Exports
Department of Treasury	Office of Foreign Assets Control (OFAC) Successor to FFC Formally established by President Truman - 1950	Prohibits transactions with countries subject to boycotts, trade sanctions, embargoes. May prohibit travel and other activities with embargoed countries and individuals even when exclusions to EAR/ITAR apply

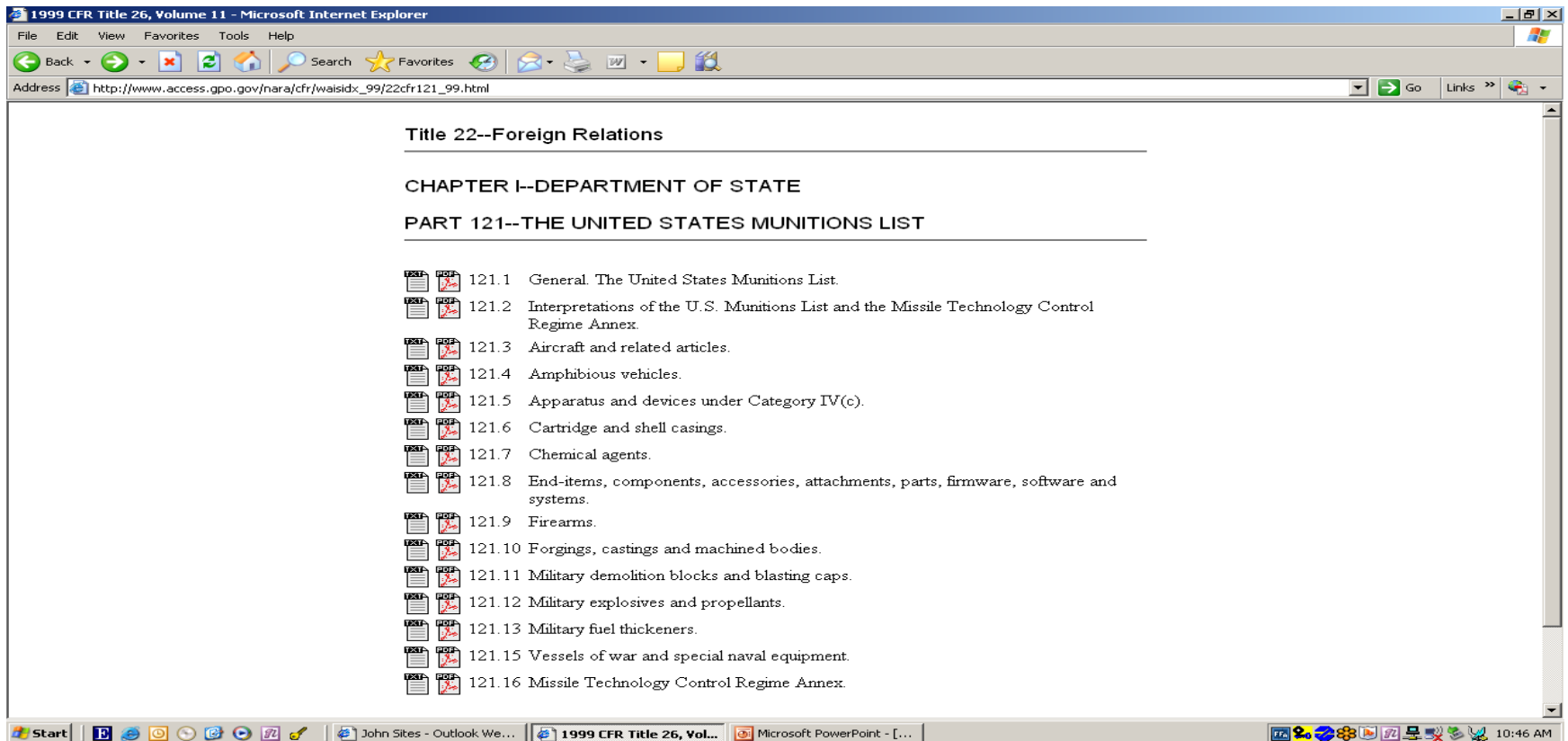
Regulations Summary

	Description	Requirements
EAR	<ul style="list-style-type: none"> • Covers Dual Use Items • Regulates commercial items with potential military applications • Covers the goods and technology • Includes Deemed Exports 	<ul style="list-style-type: none"> • Items and Technology covered are found in the Commerce Control List (CCL) • Obligations are determined by Classification; Destination; End-user; End-use and Conduct • 10 Prohibitions that require a License or must qualify for an Exception
ITAR	<ul style="list-style-type: none"> • Inherently military in nature (designed to kill/defend against death in a military situation) • Includes weapons, chemical and biological agents, vehicles, missiles, equipment, all satellites 	<ul style="list-style-type: none"> • Defense articles, defense services, related technical data on US Munitions List (USML) • There are 21 categories requiring a license • Strict “One Strike and You’re Out” Policy • Voluntary Disclosure is Encouraged
OFAC	<ul style="list-style-type: none"> • Regulates the transfer of items/services of value to embargoed nations • Imposes trade sanctions, and trade and travel embargoes • Prohibits payments/providing value to nationals of sanctioned countries and some specified entities/individuals • May prohibit travel and other activities with embargoed countries and individuals even when exclusions to EAR/ITAR apply 	<ul style="list-style-type: none"> • Based on US Foreign Policy and National Security Goals • Also based on UN and International Mandates in cooperation with Allied Governments • List of Sanctioned Countries and Individuals is updated frequently

Department of State

- Defense articles, defense services, related technical data
- Strict “One Strike and You’re Out” Policy
- Voluntary disclosure is encouraged
- There are 21 categories requiring a license
- U.S. Munitions List (partial):
 - Category I: Firearms, Close Assault Weapons and Combat Shotguns
 - Category II: Guns and Armament
 - Category III: Ammunition/Ordnance
 - Category IV: Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes
 - Category V: Explosives and Energetic Materials, Propellants, Incendiary Agents
 - Category VI: Vessels of War and Special Naval Equipment
 - Category VII: Tanks and Military Vehicles
 - Category VIII: Aircraft and Associated Equipment
 - Etc.

Department of State (cont.)



Department of Commerce

- Obligations are determined by classification
- Destination, End User, End Use and Conduct
- Export Administration Regulations (EAR): Commerce Control List Categories
 - 0: Nuclear materials, facilities & equipment
 - 1: Materials, chemicals, microorganisms, and toxins
 - 2: Materials processing
 - 3: Electronics design, development and production
 - 4: Computers
 - 5: Telecommunications and information security
 - 6: Sensors and lasers
 - 7: Navigation and avionics
 - 8: Marine
 - 9: Propulsion systems, space vehicles & related equip.

Department of Commerce (cont.)

- Contains list of items subject to licensing authority of the Bureau of Industry Security (BIS)
- Each item (entry) designated an Export Control Classification Number (ECCN)
 - Five alpha-numeric numbering systems
 - ECCN Breakdown – Example = 3D105
 - 3: Category
 - D: Product Group
 - 1: Reason for Control
 - 0: Relates to Reason for Control
 - 5: Used for numerical ordering

Department of Commerce (cont.)

U. S. Bureau of Industry and Security - ECCN FAQs - Microsoft Internet Explorer

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Address http://www.bis.doc.gov/licensing/do_i_needaneccn.html Go Links

Bureau of Industry and Security
U.S. Department of Commerce

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About BIS [Home](#) > [licensing](#) > ECCN FAQ's

ECCN Questions and Answers

1. [I need an ECCN!](#)
2. [What is an ECCN?](#)
3. [How do I get an ECCN?](#)
4. [What if my product is not listed?](#)

1. I need an ECCN!

You are ready to send your product out of the country today and your freight forwarder or delivery service tells you that it needs an ECCN to complete the Automated Export System (AES) or other documentation and you need to call the Bureau of Industry and Security (BIS) to get one! What do you do?

There is a process for determining the proper ECCN for your item. BIS's Office of Exporter Services (202-482-4811) in [Washington, D.C.](#) or (949-660-0144) in [Newport Beach, CA](#) will guide you in attempting to determine your ECCN using the Commerce Control List. The Commerce Control List is found in Supplement 1 to Part 774 of the Export Administration Regulations (EAR). BIS cannot provide official classification determinations by phone because we do not have access to all of the necessary technical information about the product. However, we can help guide you through the classification determination process. First, we ask that you look at the index to the Commerce Control List and the list itself to see if there's a description similar to that of your item.

[Go to Top of Page](#)

What is an ECCN?

ECCN, stands for Export Control Classification Number. An ECCN is an alpha-numeric classification used in the Commerce Control List to identify items for

Start | John Sites - Outlook We... | U. S. Bureau of Indust... | Microsoft PowerPoint - [...]

Internet 10:42 AM

Department of Commerce

- Bureau of Industry Security
 - Under the Department of Commerce
 - Advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system
 - Lists to check and found at BIS
 - Denied Persons List
 - Entity List
 - Specially Designated Nationals List
 - Debarred Lists
 - "Unverified" List
- Other agencies, Other lists
 - Most Wanted Terrorist [FBI]
 - Specially Designated Nationals and Blocked Persons [OFAC]
 - Designated Terrorist Organizations [State]
 - Terrorist Exclusion List [State]
 - Disqualified and Restricted Parties [FDA]
 - Special Investigations List [Air Force]

Department of Treasury

- Requirements are based on:
 - U.S. Foreign Policy and National Security Goals
 - U.N. and International Mandates in cooperation with Allied Governments
- Lists of sanctioned countries and sanctioned individuals updated frequently
- Current OFAC Country Sanctions Embargoes
 - Balkans
 - Belarus
 - Burma
 - Cote d'Ivoire
 - Cuba
 - Republic of the Congo
 - Iran
 - Iraq
 - Lebanon
 - North Korea
 - Sudan
 - Syria
 - Zimbabwe

Institutional Processes

Impacts on Research Organizations

- **Impacts 1940 Statement of Principles on Academic Freedom:**
 - “The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to assure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition”
- **Impacts Collaborations and Knowledge Sharing**
 - Ability of foreign nationals to participate in research involving a controlled technology
 - Ability to transfer controlled items to foreign nationals or to sanctioned countries
 - Ability to publish or disclose research results
 - Ability to send controlled equipment to foreign countries
 - Disclosure of proprietary information, e.g. patent and license disclosures

Impacts on Research Organizations

- **Export Controls involves:**
 - Sponsored Research
 - Compliance Office
 - Technology Transfer / Intellectual Property
 - Travel
 - Purchasing
 - Human Resources
 - International Student Affairs
 - Shipping
 - Property Control
 - General Counsel

Export Control Licensing

- EAR – not too complicated, no fee
 - Foreign nationals will require a “Deemed Export License”
 - In certain instances, licenses may be applied for electronically
- ITAR – much more complicated and expensive
 - Must register before applying for a license
 - DSP-5/TAA required for foreign nationals working with ITAR export controlled technology
 - Technology Control Plan required
- Licensing can take months
 - ITAR (State) requirements available at
 - <http://www.pmdtc.org/licenses.htm>
 - EAR (Commerce) requirements available at
 - <http://www.bis.doc.gov/licensing/index.htm>
 - OFAC (Treasury) requirements available at
 - <http://www.treas.gov/offices/eotffc/ofac/>

Export Control Licensing – An Example

OMB Approval NO. 1405-0003
EXPIRATION DATE: 07-31-2005
*ESTIMATED BURDEN: 1 hour

U.S. Department of State DIRECTORATE OF DEFENSE TRADE CONTROLS



Guidelines for Completion of a Form DSP-5 Application, Request for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data

The following guidelines are provided to assist applicants in accurately completing their license requests in compliance with the International Traffic In Arms Regulations (ITAR) requirements. **If using the DSP-5 license application form to address foreign national employment in the United States, please see the supplementary instructions and sample Non-Disclosure Agreement below.** Updates will be made based on changes to the ITAR or the DTC electronic licensing software. The submission of a complete and compliant request will provide DDTC officers with the necessary information to perform a timely review of your request and when it is necessary to seek the recommendation of other agencies or offices in State. Applications that are submitted and that do not meet the regulatory requirements or provide adequate details/documentation may be Returned Without Action (RWA'd).

Export Control Licensing – An Example (cont.)

Prior to completing this form, determine whether the applicant:

- is registered with the Department of State, DDTC. An applicant who is not a manufacturer or in the business of exporting defense articles may seek an exception to registration (see ITAR Part 122)
- has identified and designated an empowered official in accordance with Section 120.25 of the ITAR, authorized to sign the request
- has the appropriate documentation (see ITAR Section 123.1)
- qualifies under all of the eligibility conditions listed in the basic certification statement (ITAR Section 126.13), and satisfies eligibility requirements per ITAR Sections 120.1(c) and (d) and, where applicable, is in compliance with the requirements of ITAR section 127.1(c); and
- whether the commodities for which an export approval is being sought are covered by the U.S. Munitions List (USML; ITAR Part 121. Should a doubt exist see Sections 120.3, 120.4, and 120.6 of the ITAR and DDTC's website (www.pmdtc.org - "CJ Guidelines") for assistance on commodity jurisdiction procedures

Information that is part of the application submitted to DDTC must be included with the electronic application. Electronic attachments will consist of:

- a) purchase orders, letters of intent, and when not verified on these documents by the foreign party, a document from the foreign party that states end use and end user (signed originals are to be maintained by the applicant),
- b) descriptive literature and/or technical data,

Regulations Summary – Safe Harbor Provisions

Safe Harbor	Description
Basic Research	<ul style="list-style-type: none"> • Basic and applied research in science and engineering performed by colleges and universities • Must be carried out openly and without restrictions on publication, access or dissemination • Applies only to disclosures to foreigners in the U.S. of technical data – Deemed Exports • Not applicable to shipment or disclosure outside the borders of the U.S. • Allows research to be conducted with the participation of foreign nationals and results may be disseminated inside or outside the U.S. without the need for a license
Teaching	<ul style="list-style-type: none"> • Authorizes the disclosure of educational information released by instruction in catalog courses or; • General scientific, mathematical or engineering principles commonly taught in colleges and universities without a license
University	<ul style="list-style-type: none"> • Applies to universities • Covers the export of scientific, research or experimental satellite components fabricated for fundamental research purposes • Caution: special conditions apply to this exemption
EAR 99	<ul style="list-style-type: none"> • Referred to as a “catch-all” category • Technology or goods not covered by the 10 CCL categories • License are not required under this category except in limited circumstances <ul style="list-style-type: none"> –Exports to countries or individuals to whom exports are embargoed (OFAC) –End users who are defined as “denied persons”

Regulations Summary – Safe Harbor Provisions (cont.)

Safe Harbor	Description
Public Domain	<ul style="list-style-type: none">• The information is published• Generally accessible to the public• Unlimited and unrestricted distribution• Fundamental Research at accredited institutions of higher learning in the U.S.• Results are published and shared with the scientific community
License	<ul style="list-style-type: none">• Department of Commerce• Department of State

If you violate the safe harbor provisions you **MUST** start the review process - Even when your grant/contract does not include export control language...

License Exclusions

A license is **NOT required** to disseminate information if the following exclusions apply:

- **Fundamental Research Exclusion (applies to ITAR, EAR)**
 - Basic and applied research in science and engineering, **the results of which ordinarily are published and shared broadly within the scientific community**, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.
 - This **can be invalidated if** an institution **accepts restrictive contract clauses** that:
 - forbid the participation of foreign persons; gives the sponsor a right to approve publications resulting from the research; or otherwise operates to restrict participation in research and/or access to and disclosure of research results.
 - The PI and Sponsor make a “side deal” - may also violate university policies on openness in research.

License Exclusions (cont.)

A license is **NOT required** to disseminate information if the following exclusions apply:

- **Employment Exclusion (applies to ITAR only)**
 - Is a full-time, bona fide university employee
 - Has a permanent address in the US while employed provided that person is
 - Not a national of certain countries
 - Is advised in writing not to share controlled information with other foreign persons

License Exclusions (cont.)

A license is **NOT required** to disseminate information if one of three exclusions applies:

- **Education Exclusion (applies to ITAR, EAR)**
 - Information concerning general scientific, mathematical, or engineering principles commonly taught in universities
 - Information in the public domain
 - Foreign students using controlled equipment (e.g., GPS) to conduct research should be registered for a research credit class
- **Laptop Exception (applies to EAR only) – Travel**
 - Excluding countries under sanction, faculty who wish to take their laptops out of the country to use in a project that qualifies as fundamental research may be able to do so under the license exception for temporary export (TMP) if:
 - The laptop meets the requirement for “tools of trade,” and
 - Control of the laptop is retained at all times. (15 CFR Part 740.9)

License Exclusions (cont.)

A license is **NOT required** to disseminate information if one of three exclusions applies:

- **EAR 99**
 - Not an exclusion, but referred to as the “Catch-all” Category
 - Includes goods and technology not covered by the 10 categories of the CCL
 - License required for embargoed countries, organizations or entities identified by the OFAC
 - License required for End-users who are defined as “denied persons”

Penalties and Fines

- Export Administration Regulations (EAR)
 - Criminal
 - Up to \$1M fine or 5x value of export, whichever larger, per violation;
 - Imprisonment of up to 10 years for individuals
 - Debarment from Federal Grants and Contracts
 - Civil
 - Up to \$120K per violation;
 - Loss of export privileges

Penalties and Fines (cont.)

- International Traffic and Arms Regulations (ITAR)
 - Criminal
 - Up to \$1M per violation;
 - Imprisonment of up to 10 years in prison for individuals
 - Debarment from Federal Grants and Contracts
 - Civil
 - Up to \$500K per violation;
 - Loss of export privileges;
 - Seizure of item

Office of Foreign Assets Control (OFAC) – Denied Persons/Organizations

The screenshot shows a Windows Internet Explorer browser window displaying the U.S. Treasury - SDN List website. The address bar shows the URL: <http://www.treas.gov/offices/enforcement/ofac/sdn/index.shtml>. The browser's menu bar includes File, Edit, View, Favorites, Tools, and Help. The toolbar shows a star icon, a plus icon, and a search bar. The website's header features the U.S. Treasury logo and the text "OFFICE OF FOREIGN ASSETS CONTROL". A navigation menu on the left lists various links such as News, Direct Links, Key Topics, Press Room, About Treasury, Offices, Domestic Finance, Economic Policy, General Counsel, International Affairs, Management, Public Affairs, Tax Policy, Terrorism and Financial Intelligence, Office of Foreign Assets Control, Designation Lists & Financial Advisories, Publications and Legislation, Programs and Initiatives, Treasurer, Bureaus, Education, and Site Policies and Notices. The main content area includes a search bar, a link to "Back to OFAC Home", a section for "Specially Designated Nationals List (SDN)" with links to the SDN List in PDF and TEXT formats, and a section for "Delimited and XML Versions of the SDN list" with links to ASCII Delimited, Fixed-Width, and CSV data files in Windows and DOS operating systems. The taskbar at the bottom shows the Start button, several open applications (U.S. Treasury - SDN List, Microsoft PowerPoint), and the system clock showing 2:22 PM on 10/2/2008.

U.S. Treasury - SDN List - Windows Internet Explorer provided by Comcast

http://www.treas.gov/offices/enforcement/ofac/sdn/index.shtml

File Edit View Favorites Tools Help

U.S. Treasury - SDN List

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DEPARTMENT OF
THE TREASURY

OFFICE OF FOREIGN ASSETS CONTROL

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< Back to OFAC Home

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Specially Designated Nationals List (SDN)

[SDN List \(in PDF format\)](#) Last Updated - October 2, 2008
[SDN List \(in TEXT format\)](#)
[Having trouble downloading the latest SDN information?](#)
[Having trouble opening the PDF format version of the SDN list?](#)

[What changed on the list when it was last updated?](#)
[SDN List Sorted by OFAC Sanctions Program](#)
[SDN List Sorted by Country](#)
[Archive of changes to the SDN list](#)

Delimited and XML Versions of the SDN list

[ASCII Delimited, Fixed-Width and CSV data files in a Windows operating system 32 bit archive](#) - Contains 33 files in a self-extracting archive (archive includes XML version of the SDN list)
[ASCII Delimited, Fixed-Width and CSV data files in a DOS 16 bit archive](#) - Contains 33 files in a self-extracting archive (archive includes XML version of the SDN list)

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OFAC Sanctions



Executive Order - Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe

■ **INTRODUCTION** - On March 7, 2003, as a result of actions and policies by certain members of the government of Zimbabwe, and its supporters to undermine democratic institutions and processes in Zimbabwe, President Bush issued Executive Order 13288 imposing sanctions against specifically identified individuals and entities in Zimbabwe. On November 23, 2005, the President issued a new Executive Order superseding E.O. 13288. The new Executive Order expands the list of sanctions

located. The term property includes, but is not limited to, money, checks, drafts, bank accounts, securities and other financial instruments, letters of credit, bills of sales, bills of lading and other evidences of title, wire transfers, merchandise and goods. Blockable property also includes any property in which there is any interest of a Zimbabwe SDN, including direct, indirect, future or contingent, and tangible or intangible interests.

How Do We Know ?



OFFICE OF FOREIGN ASSETS CONTROL SPECIALLY DESIGNATED NATIONALS AND BLOCKED PERSONS

October 2, 2008

3MG (a.k.a. MIZAN MACHINE
MANUFACTURING GROUP), P.O. Box 16595-
365 Tehran, Iran [NPWMD]
7TH OF TIR (a.k.a. 7TH OF TIR COMPLEX;
a.k.a. 7TH OF TIR INDUSTRIAL COMPLEX;
a.k.a. 7TH OF TIR INDUSTRIES; a.k.a. 7TH OF
TIR INDUSTRIES OF ISFAHAN/ESFAHAN;
a.k.a. MOJTAMAE SANATE HAFTOME TIR;
a.k.a. SANAYE HAFTOME TIR; a.k.a.
SEVENTH OF TIR), P.O. Box 81465-478,
Isfahan, Iran; Mobarakeh Road Km 45, Isfahan,
Iran [NPWMD]
7TH OF TIR COMPLEX (a.k.a. 7TH OF TIR;

2904977 CANADA INC. (a.k.a. CARIBE SOL;
a.k.a. HAVANTUR CANADA INC.), 818 rue
Sherbrooke East, Montreal, Quebec H2L 1K3,
Canada [CUBA]
A A TRADING FZCO, P.O. Box 37089, Dubai,
United Arab Emirates [SDNTK]
A G REPRESENTACIONES LTDA., Calle 22
Norte No. 9-43, Cali, Colombia; Calle 20N No.
5N-26 Of. 102, Cali, Colombia; NIT #
800132578-3 (Colombia) [SDNT]
A K DIFUSION S.A. PUBLICIDAD Y
MERCADERO, Calle 28N No. 6BN-54, Cali,
Colombia; NIT # 900015699-8 (Colombia)

ABBES, Moustafa, Via Padova, 82, Milan, Italy;
DOB 5 Feb 1962; POB Osniers, Algeria
(individual) [SDGT]
ABBES, Youcef (a.k.a. "GIUSEPPE"), Via
Padova 82, Milan, Italy; Via Manzoni, 33,
Cinisello Balsamo, Milan, Italy; DOB 5 Jan
1965; POB Bab El Aoued, Algeria (individual)
[SDGT]
ABD AL HADI (a.k.a. BENDEBKA, L'Hadi; a.k.a.
HADI), Via Garibaldi, 70, San Zenone al Po,
Pavia, Italy; Via Manzoni, 33, Cinisello
Balsamo, Milan, Italy; DOB 17 Nov 1963; POB
Algiers Algeria (individual) [SDGT]

How Do We Know ?

Specially Designated Nationals List (SDN) List by Country

NOTE: The SDNs are listed by country of residence or incorporation. There are, however, SDNs with no fixed residence or country of incorporation. These entities are listed at the end of the Country List under the heading of "Undetermined". It is advisable to check both the Country list and the Undetermined list when searching for an SDN.

Afghanistan

ABDEL RAHMAN (a.k.a. ABDUL RAHMAN; a.k.a. AL-MUHAMMIR, Abdul Rahman; a.k.a. AL- NAMER, Mohammed K.A.; a.k.a. ATWAH, Muhsin Musa Matwalli), Afghanistan; DOB 19 Jun 1964; POB Egypt; citizen Egypt (individual)

AL BIR AL DAWALIA (a.k.a. BENEVOLENCE INTERNATIONAL FOUNDATION; a.k.a. BIF; a.k.a. BIF-USA; a.k.a. MEZHDUNARODNYJ BLAGOTVORITEL'NYJ FOND), Bashir Safar Ugli 69, Baku, Azerbaijan; 69 Boshir Safaroglu St., Baku, Azerbaijan; Sarajevo, Bosnia and Herzegovina; Zenica, Bosnia and Herzegovina; 3 King Street, South Waterloo, Ontario, N2J 3Z6, Canada; P.O. Box 1508 Station B, Mississauga, Ontario, L4Y 4G2, Canada; 2465 Cawthra Rd., #203, Mississauga, Ontario, L5A 3P2, Canada; Ottawa, Canada; Grozny, Chechnya, Russia; 91 Paihonggou, Lanzhou, Gansu, China; Hrvatov 30, 41000, Zagreb, Croatia; Makhachkala, Daghestan, Russia; Duisi, Georgia; Tbilisi, Georgia; 8820 Mobile Avenue, 1A, Oak Lawn, IL 60453; (Formerly located at) 20-24 Branford Place, Suite 705, Newark, NJ 07102; (Formerly located at) 9838 S. Roberts Road, Suite 1-W, Palos Hills, IL 60465; P.O. Box 548, Worth, IL 60482; Nazran, Ingushetia, Russia; Burgemeester Kessensingel 40, Maastricht, Netherlands; House 111, First Floor, Street 64, F- 10/3, Islamabad, Pakistan; Azovskaya 6, km. 3, off. 401, Moscow, Russia; P.O. Box 1055, Peshawar, Pakistan; Ulitsa Oktyabr'skaya, dom. 89, Moscow, Russia; P.O. Box 1937, Khartoum, Sudan; P.O. Box 7600, Jeddah 21472, Saudi Arabia; P.O. Box 10845, Riyadh 11442, Saudi Arabia; Dushanbe, Tajikistan; United Kingdom; Afghanistan; Bangladesh; Bosnia and Herzegovina; Gaza Strip, undetermined; Yemen; US FEIN 36-3823186

Major University Violation

- University of Tennessee Professor - Found guilty of violating export controls regulation

According to reports this occurred when sensitive information was shared with two research assistants who were foreign nationals. In this instance, the project involved building “a lightweight system for steering unmanned planes.”

Additionally, the professor was found guilty of illegally carrying prohibited information on his laptop and disclosing it in lectures abroad.

The professor in question was sentenced to 48 months in prison on July 1, 2009 at a U.S. District Court in Knoxville, Tennessee for violating the Arms Export Control Act by conspiring to illegally export, and actually exporting, technical information relating to a U.S. Air Force (USAF) research and development contract.

- Research faculty, university leadership, and others throughout academic community perceive this decision as evidence for the need to increase awareness and address potential risk related to export controls at their institutions.

Export Controls Compliance

Export Controls Compliance

An effective export management and compliance program includes adherence to a set of operational compliance policies, procedures, and safeguards AND a written set of export-related guidelines that tell employees what is expected of them and provides management with a framework to evaluate whether:

- On a daily basis, what should happen does happen, and what shouldn't happen doesn't happen.
- The #1 Key Element of an effective export control compliance program:
 - **Continuous Risk Assessment & Audit Program**

Export Controls Compliance (cont.)

University Assessment and Export Program Parameters

- Research Profile
- University Business Activity Profile
- Research and Business Collaborator Profile
- Investigator Profile
- Travel Profile
- Materials and Equipment Profile
- Shipping Profile

Export Controls Compliance (cont.)

Risk Assessment and Parameters

- An audit is the most effective and efficient way to:
 - Identify a university's export controls compliance risks and vulnerabilities
 - Provide reasonable assurance that your compliance safeguards and measures are effective a
 - Verify your export compliance program is working properly

Export Controls Compliance (cont.)

An Export Control Audit program should include:

- Experienced audit personnel
- Research departments, administrative units and university-wide audits
- Internal and external audits
- Transaction and procedural auditing
- High risk activity auditing
- Audit reporting, corrective action, and follow-up procedures

Export Controls Compliance (cont.)

Examples of what to audit:

- Sample Transactions
 - Proper scientific review of equipment on a sponsored project award against the U.S. Munitions List and Commerce Control List
- Performance
 - Compare operational practices to export control compliance policy and written procedures
- Proper Execution of Transactions
 - Screening purchasing department practices and enforcing rules regarding controlled technology
- Recordkeeping
 - Accurate, timely recording & documentation of foreign travel
- Management Commitment
 - Sufficient resource allocation and support

Export Controls Compliance (cont.)

Exercise – What to Audit at Property Control

For a Property Control unit of a university, provide a short but detailed internal audit control description for each category.

Hint: Classification of equipment

- Sample Transactions
- Performance
- Proper Execution of Transactions
- Recordkeeping

Guidance: Compliance Tips

- Establish a “culture of compliance” to ensure export control procedures are followed
- Establish and maintain self audit schedules
- Keep your program up to date with regulatory changes
- Establish training requirements tailored to job responsibilities and risk
- Recognize that there are no shortcuts in export controls
- Network with other institutions to learn from them

Guidance: Compliance Tips (cont.)

- Due diligence on foreign parties is not difficult – Visit the Bureau of Industry Security
- Make sure university administrative units work together when establishing an export control compliance program
- Ensure all audit findings are closed out in a timely manner
- Contact the federal government for assistance: For example, contact the Bureau of Industry Security for help with ECCN classification
- Audit your automated systems
- E-mails can be used as vehicle to export sensitive information, especially for technology transfers

Questions ?

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