



EIB World Trade Headlines

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April 15, 2014 - Volume 6, Issue 7

The Bureau of Industry and Security Presents Update 2014 Conference on Export Controls and Policy July 29-31, 2014

The Bureau of Industry and Security (BIS) is preparing for the 27th annual Update Conference on Export Controls and Policy in Washington, D.C. This major outreach activity draws business and government representatives from around the world to learn and exchange ideas about export control issues. It is one of the Department's most notable international trade events.

Update 2014 will be held July 29-31, 2014, at the Washington Hilton Hotel. A conference room rate will be available to registered attendees when registration opens. Detailed registration and program information will be available in the coming days.

For additional information on Update 2014, you may contact the Outreach and Educational Services Division at:
UpdateConference@bis.doc.gov or (202) 482-6031.



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Four Incidents of Export Violations From The Department of Justice

Military Night Vision Equipment to Ukraine

On May 22, 2013, in the Eastern District of New York, Ukrainian citizen Volodomyr Ponomarenko was sentenced to 24 months in prison after pleading guilty on February 22, 2013 to conspiring to violate the Arms Export Control Act by attempting to export military-grade night vision equipment from the U.S. to Ukraine. Ponomarenko was arrested attempting to enter the U.S. on March 23, 2011. He and others purchased military-grade night vision equipment, among other things, from dealers in the U.S. and attempted to export that equipment to Ukraine without the required State Department export licenses. As part of the scheme, Ponomarenko and his co-conspirators used straw purchasers in the U.S. to purchase the equipment. In exchange for a fee, the straw purchasers shipped the items to various freight forwarders for export to Ponomarenko in Ukraine. The night vision scopes were intercepted by law enforcement at John F. Kennedy International Airport. In their review of the shipping records, investigators learned that Ponomarenko and his co-conspirators caused the freight forwarding companies to inaccurately describe the items and to falsely state that no export license was required. The case was investigated by ICE and DCIS.

Industrial Supplies for Iranian Petrochemical Companies

On May 21, 2013, Iranian national Saeed Talebi was sentenced in the Southern District of New York to 12 months imprisonment. Previously, on September 26, 2012, Talebi pleaded guilty to conspiring to violate the International Emergency Economic Powers Act (IEEPA) stemming from his work with others to ship to Iran parts and goods for use in industrial operations. The indictment against Talebi was first unsealed on July 12, 2012 and charged him with conspiring to violate IEEPA and conspiring to commit money laundering. Talebi worked to ship industrial goods and parts from U.S.-based firms to Dubai and that these goods were then to be sent to various petrochemical companies located in Iran. In the course of the scheme, Talebi allegedly caused funds to be wired to the United States, including more than \$300,000 that was sent to a bank account in Manhattan. The investigation was conducted by BIS, with assistance from CBP.

*(*Continued On The Following Column)*

Military Weapons Parts and Accessories Overseas

On October 10, 2013, Christopher M. Gray was sentenced in the District of Columbia to 36 months imprisonment. Gray was also ordered to pay \$6,990 in restitution and a \$100,000 fine. On June 17, 2013, Gray pleaded guilty to one count of unlawfully exporting and attempting to export ACOG Riflescopes from the United States to Thailand, in violation of the Arms Export Control Act. The operator of an online business in Buffalo called "Hidden Treasures," Gray made his initial appearance on April 15, 2013 pursuant to a federal indictment charging him with 12 counts of illegally exporting defense articles abroad. Gray allegedly exported a variety of combat optical gun sights, tactical sights, scopes and other military items to the following locations -- Hong Kong, Thailand, Ukraine, Turkey, South Korea, Spain, France, New Zealand and Canada -- without the required State Department licenses.

Thermal Imaging Scopes and Cameras to Belarus

On August 21, 2013, Ernest Chornoletsky was sentenced in the Eastern District of Pennsylvania to 15 months in prison for conspiring to export military-grade night vision devices to Belarus in violation of the Arms Export Control Act and the International Emergency Economic Powers Act (IEEPA). On August 10, 2011, an indictment was returned charging Chornoletsky, as well as Vitali Tsishuk, Yahor Osin, Aliaksandr Belski, Aliaksandr Stashynski, and Volha Dubouskaya with conspiracy to export defense articles without a license and conspiracy to violate IEEPA. Osin, Belski and Tsishuk were further charged with conspiracy to launder monetary instruments. According to the indictment, from January 2008, to early August 2011, the defendants conspired to illegally export to Belarus numerous defense articles, including ThOR 2 Thermal Imaging Scopes, AN/PAS-23 Mini Thermal Monoculars, and Thermal-Eye Renegade-320s without State Department licenses. During this period, they also allegedly conspired to illegal export Commerce-controlled items to Belarus, including L-3 x 200xp Handheld Thermal Imaging Cameras without a Commerce Department license. Belski was sentenced on July 19, 2013 to 57 months in prison after pleading guilty on December 6, 2012. Dubouskaya was sentenced to 6 months in prison on February 6, 2013 after pleading guilty on November 7, 2012. Stashynski was sentenced to 6 months in prison on November 28, 2012 after pleading guilty on February 28, 2013. Tsishuk was sentenced to 24 months in prison on February 14, 2013 after pleading guilty on October 28, 2011. Osin pleaded guilty on February 29, 2012.

Commerce Department Announces Move Against Russian Expropriation of Ukrainian Company

WASHINGTON – The U. S. Department of Commerce's Bureau of Industry and Security announced today that it has added a company located in the occupied Crimea region of Ukraine to the Entity List in response to Russian expropriation of the company. The Entity List designation imposes a license requirement for the export, reexport or in-country transfer of items subject to the Export Administration Regulations to the company, with the presumption of denial. The company, Chernomorneftegaz, a.k.a. Chornomornaftogaz and NJSC Chornomornaftogaz, is a regional oil and gas company in Crimea and a subsidiary of the Ukrainian company Naftogaz, but its assets are now being overseen by Russian government interests following their seizure by the Crimean parliament.

"The addition of Chernomorneftegaz to the Entity List sends a strong message of the United States government's condemnation of Russia's incursion into Ukraine and expropriation of Ukrainian assets," said Under Secretary of Commerce Eric L. Hirschhorn in announcing the move.

The Department of Commerce's addition of Chernomorneftegaz to the Entity List is being done in conjunction with a parallel action by the Department of the Treasury. Today's move is consistent with the President's finding in Executive Order 13660 that the actions and policies of persons who have asserted governmental authority in the Crimean region without the authorization of the Government of Ukraine threaten the national security and foreign policy of the United States. In Executive Order 13661 and Executive Order 13662, the President further found that the actions and policies of the Russian government with respect to Ukraine – including the deployment of its military forces to, and purported annexation of, Crimea – undermine Ukraine's democratic processes and institutions, threaten Ukraine's peace, security, stability, sovereignty, and territorial integrity, and contribute to the misappropriation of its assets. In a related action today by the Department of the Treasury, Chernomorneftegaz is being designated pursuant to E.O. 13660 because it is complicit in the misappropriation of state assets of Ukraine or of an economically significant entity in Ukraine. Chernomorneftegaz is being added to the Department of Commerce's Entity List under two entries, consisting of one entry in Crimea (Occupied) with an additional entry added to provide a cross reference from Ukraine. The United States continues to condemn in the strongest terms Russia's occupation of Crimea and will not recognize Russia's illegal annexation of Crimea.



The Bureau of Industry and Security invites you to register for one of these upcoming seminars to learn about export control requirements under the Export Administration Regulations.

"Essentials of U.S. Export Controls" – 1 Day

May 21, 2014, San Antonio, TX – \$225.

This is an intensive, one-day program that covers the key information you need to know to comply with the EAR. Counseling and other professionals from the Bureau of Industry and Security will cover the major elements of the U.S. export control system for commercial exports. This fast-paced program is ideal for those with busy schedules.

View "[Essentials of U.S. Export Controls](#)" event details.

"Export Control Reform" - 1 day

May 22, 2014, San Antonio, TX - \$225.

This one day training course is designed to provide in-depth exposure to core elements of the Export Control Reform (ECR) initiative. Regulatory, compliance, and engineering officials will provide training on the key elements ranging from licensing issues to "specially designed" and license exceptions such as use of the Strategic Trade Authorization. The course will focus on new and different compliance requirements. This course will be useful to defense exporters with relatively limited exposure to the regulatory requirements of the Export Administration Regulations, and to exporters who now will be able to support U.S. military items without incurring International Traffic in Arms Regulations (ITAR) liability.

Attend both seminars for \$429.

View "[Export Control Reform](#)" event details.

Proposed Routed Transaction Rule Change

DEPARTMENT OF COMMERCE

Bureau of Industry and Security 15 CFR Parts 748, 750, 758, and 772 [Docket No. 121025583–2583–01]
RIN 0694–AF67 Delegation of License Requirements Determination and Licensing Responsibility to a Foreign Principal Party.

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule clarifies the responsibilities under the Export Administration Regulations (EAR) of parties involved in export transactions where the foreign principal party in interest (FPPI) is responsible for the transportation out of the United States of items subject to the EAR. These transactions are currently referred to as “routed export transactions.” In such transactions, the U.S. principal party in interest (USPPI) may retain the responsibility and authority under the EAR to determine license requirements and, if necessary, to apply for a license from the Bureau of Industry and Security (BIS). Alternatively, if certain criteria are met, the USPPI may allow the FPPI, acting through a U.S. agent, to assume these responsibilities and authority. To enhance clarity, this proposed rule would remove the defined term “Routed Export Transaction” from the EAR and create a new term to better define certain transactions of particular interest to BIS, specifically a “Foreign Principal Party Controlled Export Transaction” which is a transaction where an FPPI which is responsible for the export of items subject to the EAR, also assumes the authority and responsibility for licensing requirements. This proposed rule also would refine certain procedures for creating a “Foreign Principal Party Controlled Export Transaction”. These proposed changes are intended to facilitate enhanced public understanding of the EAR by eliminating perceived discrepancies between the EAR and the Bureau of the Census’s Foreign Trade Regulations (FTR) with respect to the definition of a “routed export transaction.” Specifically, this proposed rule will clarify the responsibilities of each party engaged in a transaction subject to the EAR and provide clearer instructions for USPPI to delegate responsibility for license requirement determinations.

Overview

The Bureau of Industry and Security is proposing to amend the Export Administration Regulations (EAR) by removing the term “routed export transaction” from the EAR, including the definition of this term in § 772.1, and

This new term would define the export transactions currently identified and permitted under § 758.3(b) of the EAR. This new term will better distinguish between the EAR concept described in § 758.3(b) and other regulations that use the term “routed export transaction.” In addition to improving the clarity of this EAR specific term, this proposed rule will also revise the procedures with which parties must comply to use § 758.3(b). Currently, the Bureau of the Census (Census Bureau) determines through provisions in the Foreign Trade Regulations (FTR) (15 CFR Part 30), whether an export transaction is treated as a “routed export transaction” for the filing of electronic export information (EEI) in the Automated Export System (AES). However, this term risks creating confusion because while “routed export transaction” is defined in both the FTR and the EAR, each set of regulations has a different definition for that term. In order to provide greater clarity to exporters, the term “routed export transaction” would be removed from the EAR. That term would be replaced by a new term that more accurately describes transactions that are of particular interest to BIS, specifically, a subset of “routed export transactions” (as they are currently defined in the EAR) where the FPPI has assumed from the USPPI responsibility for export license determinations and licensing. This change to the Regulations should facilitate enhanced public understanding, as the same term would no longer be used by both the EAR and FTR to refer to potentially different types of transactions. This proposed rule would remove the terms “routed export transaction” and “routed transaction” in five sections of the EAR, specifically from §§ 748.4, 750.7, 758.1, 758.3 and 772.1, and add, as appropriate, the new term “Foreign Principal Party Controlled Export Transaction.” Each of these sections would be revised to clarify the responsibilities of each party to a transaction. BIS will still allow an FPPI to assume responsibility and authority for its U.S. agent to determine license requirements and apply for a license on behalf of the FPPI, subject to the revised terms and conditions set forth in § 758.3(b). These revisions will clarify the responsibilities that accrue to each party engaged in a transaction subject to the EAR, and will provide clearer instructions for USPPI wishing to delegate responsibility for license requirement determinations and licensing to the FPPI and its U.S. agent. Further, this type of transaction would be defined as a “Foreign Principal Party Controlled Export Transaction.”

BACKGROUND

During some of the outreach seminars, provided by BIS questions arose related to “routed export transactions,” and in particular why the term “routed export transactions” can have different meanings in the EAR and FTR. This proposed rule seeks to address questions brought up during the public comment period and outreach seminar.

unless authorized by § 758.3, the USPPI will be the exporter and the party responsible for applying to BIS for a license, when required, even if the FPPI is responsible for the export of the items out of the United States. When authorized by § 758.3, the FPPI designated U.S. agent may apply for a license to export items from the United States. This revision maintains and clarifies the obligations of each party and removes the potential confusion resulting from the use of the term “routed export transaction.” This rule also proposes to revise § 748.4(b)(2)(i)(a) by removing the phrase “routed transaction” and replacing it with the phrase “Foreign Principal Party Controlled Export Transaction.”

Revisions to § 758.3, Responsibilities of Parties to the Transaction Section 758.3 provides that all parties who participate in transactions subject to the EAR must comply with the EAR. It also describes the responsibilities of the parties to an export transaction and describes the requirements for delegating certain of those responsibilities to other parties to the transaction or to agents. This proposed rule would revise this section to clarify the responsibilities of the parties to the transaction and provide for increased information sharing. BIS is not proposing to alter the general responsibilities of the parties. This rule does, however, propose changes to the requirements for delegating the responsibility for licensing determination and licensing to the FPPI, by clarifying that the USPPI must agree to the delegation, through a written authorization, and that the FPPI must accept the delegation in writing and identify the U.S. agent authorized to act as the exporter, as described in detail below in the description of the proposed changes to § 758.3(b).

Section 758.3(a), Export Transactions This rule proposes to revise § 758.3(a) by changing the first sentence to state:

“The U.S. principal party in interest is the exporter, except in certain transactions and subject to certain requirements, described in paragraph (b) of this section.” Some exporters, freight forwarders, and foreign parties have misunderstood the current language to require the USPPI to allow the FPPI to assume responsibility for determining licensing requirements and obtaining license authority in all routed export transactions, as defined by the Census Bureau, because the current language states that the USPPI is the exporter “except in certain routed transactions.” This change will clarify that the USPPI is the exporter in all export transactions, except when the specific requirements of § 758.3(b) are met to create a “Foreign Principal Party Controlled Export Transaction.” However, this does not change the USPPI responsibilities as defined in the Foreign Trade Regulations (15 CFR Part 30).

Section 758.3(b), Routed Export Transactions This rule

the USPPI may allow the FPPI to assume responsibility for determining licensing requirements and obtaining license authority if, and only if, the FPPI complies with certain requirements. These requirements will be described in three new paragraphs: §§ 758.3(b)(1)– (b)(3). These requirements will generally follow the documentary requirements in the current § 758.3(b) and § 758.3(d) and the information sharing requirements in the current § 758.3(c). These new sections will strengthen the requirements by providing greater detail on the required contents of the documentation and information sharing. This rule would also remove § 758.3(c) and § 758.3(d). In addition, the heading for paragraph (b) to section 758.3 would also be revised to “Foreign Principal Party Controlled Export Transaction.” The end-use and end-user controls found in Part 744 of the EAR and the General Prohibitions found in Part 736 of the EAR would continue to be applicable to all transactions, including “Foreign Principal Party Controlled Export Transactions.”

Section 758.3(b)(3), Information Sharing Requirement This rule proposes a new § 758.3(b)(3), with two subparagraphs. Section 758.3(b)(3)(i) would require the USPPI to provide the FPPI and its U.S. agent with the correct Export Control Classification Number (ECCN), or with sufficient technical information to determine a classification, upon the request of the FPPI or its U.S. agent. The USPPI would also be required to provide the FPPI and its U.S. agent with any information that the USPPI “knows” may affect the determination of license requirements or export authorization. The USPPI will be held to the “knowledge” standard defined in Part 772 of the EAR. Section 758.3(b)(3)(ii) would require the FPPI to authorize the USPPI to obtain from the FPPI’s U.S. agent certain information related to the transaction, and direct the U.S. agent to provide such information to the USPPI, upon request. Specifically, upon request, the FPPI’s U.S. agent must provide the USPPI with the date of export, port of export, country of ultimate destination and destination port, method of transportation and specific carrier identification, and export authorization (e.g., license number, license exemption, or NLR designation). This information sharing will enable the USPPI to confirm that the export was properly authorized.

Revisions to § 772.1, Responsibilities of Parties to the Transaction This proposed rule would revise § 772.1 to remove the term “routed export transaction” from the list of definitions of terms used in the EAR, as this definition will become unnecessary. This rule would also revise the definitions of “Forwarding agent” to remove the term “routed export transaction” from that definition and to replace it with “Foreign Principal Party Controlled Export Transaction.” Finally, the term, “Foreign Principal Party Controlled Export Transaction” is proposed to be added to § 772.1 and defined as a transaction meeting the requirements of § 758.3(b). It would also state that the FPPI may only assume the responsibility for determining

SilverRail Raises \$40 Million to Target Train Tickets

By Kyle Alspach

Globe Staff April 15, 2014

A Woburn software firm has raised \$40 million to expand its technology that enables travelers to book train tickets the same way for every rail line, as can already be done for air travel.

The company, SilverRail Technologies Inc., is aiming to follow the lead of Cambridge-based ITA Software, which developed a standardized system for booking plane tickets that is used by airlines and travel services.

ITA was acquired by Google Inc. for \$700 million in 2011. Similarly, SilverRail's software integrates all of the world's rail lines into a single source, a sort of Rosetta Stone that brings together the wide array of online booking systems currently being used.

"We're trying to make rail as easy to buy as is air," said SilverRail's chief executive, Aaron Gowell.

The platform includes both search and transaction technologies and initially targeted travel agencies. SilverRail eventually expanded into serving some of the rail carriers themselves, Gowell said.

"It was the exact same way at ITA — they started off by powering third-party travel agencies, and the airlines then adopted ITA," he said.

To date, the company has rolled out its technology in nine countries, including many European nations, including England and Italy, and for corporate rail travel in the United States, he said. SilverRail is not yet being used for consumer rail booking in the United States but Gowell said he aims to have his company's technology power popular online travel sites such as Kayak.com for all train travel.



Unilever Agrees To \$4.5M Settlement In Conn. Pollution Case

By Juan Carlos Rodriguez

Law360, New York (April 03, 2014, 5:57 PM ET) -- Unilever Home & Personal Care USA on Thursday finalized a \$4.5 million deal to settle criminal charges it violated the Clean Water Act by dumping untreated wastewater into a creek near a former manufacturing site in Connecticut.

A federal judge imposed a \$1 million fine and sentenced Conopco Inc., doing business as Unilever, to three years probation, and the company agreed to contribute \$3.5 million to state and local environmental programs, as well as institute a new environmental compliance program at its U.S. manufacturing facilities.

CJ Submissions:

Due to technical issues, all new CJ submissions and those currently in process will be on hold until further notice. Updates regarding this web notice will be provided as new information is received. (04.14.14)

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"Well done is better than well said."

~Benjamin Franklin~