



EIB World Trade Headlines

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Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Categories XIV and XVIII

FINAL CHANGES. XIV & XVIII

DEPARTMENT OF STATE

22 CFR Part 121 [Public Notice: 9466] RIN 1400-AD03

AGENCY: Department of State. **ACTION:** Final rule.

SUMMARY: As part of the President's Export Control Reform effort, the Department of State amends the International Traffic in Arms Regulations (ITAR) to revise Categories XIV (toxicological agents, including chemical agents, biological agents, and associated equipment) and XVIII (directed energy weapons) of the U.S. Munitions List (USML) to describe more precisely the articles warranting control on the USML. The revisions contained in this rule are part of the Department of State's retrospective plan under E.O.

DATES: This Final rule is effective on December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. C. Edward Peartree, Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663-2792; email DDTCPublicComments@state.gov. ATTN: ITAR Amendment—USML Categories XIV and XVIII.

<http://www.pmdtcc.state.gov/FR/2016/81FR49531.pdf>

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Threat Deflection: Small producers' cybersecurity/export-compliance roles grow

Connecticut's small manufacturers are finding more money-making assignments flowing their way from larger companies, particularly in the defense sector, where export-sales are crucial to their profit lines.

But that opportunity also poses a burden: Smaller producers must invest time, energy and money to prove to federal authorities that nothing, or no one, in their technology- and product-supply chain poses a threat to America's national security.

It's a theme that the nation's top domestic-international trade agency, the U.S. Commerce Department, is trying to rigorously drive home through tightened compliance requirements on major, so-called "tier 1" technology providers like Pratt & Whitney and General Electric, and smaller, "tier 2" participants in their supply chain.

In June, the Marriott Hartford Downtown was the site of a day-long Commerce Department forum meant to educate small and midsize Connecticut manufacturers and suppliers about the need for compliance. It was also a showcase for the commerce agency, whose undersecretary overseeing export cybersecurity compliance was a keynote speaker, to update companies on the federal government's headway in reducing red tape and other paperwork to make their compliance tasks easier.

For instance, a machine-tool maker must ensure not only that end users of its devices aren't on the U.S.-enemies list, but that none of the machine's components can be cannibalized to make weapons or be incorporated into enemy defense systems.

Officials at Birken Manufacturing Co. in Bloomfield, which performs value-added machining of component parts for Pratt and a host of other Connecticut and U.S. customers with overseas markets, say they see the value in the U.S. shielding vital technology from its enemies — and support it. "It's a brave new world," said Birken co-owner and CEO Gary Greenberg. "All of us in the industry are very cognizant about national security."

Avoiding 'wrong hands'

Eric L. Hirschhorn, a New York lawyer who has been undersecretary of Commerce for Industry and Security and head of the Bureau of Industry and Security (BIS) since March 2010, likens his role as "the opposite side of the coin to the defense department."

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"Their job is to ensure that if [the U.S. military] goes onto the battlefield," he said, "they have the best possible equipment and technology. My job is to make sure the other guys don't." To that end, the U.S. for years has kept a lengthy list of American-made parts and technologies — International Traffic in Arms Regulations (ITAR) — that are banned for export to any nation-state other than America's allies, Hirschhorn said.

The growth in outsourced production and distribution of American technology, in tandem with the mushrooming appeal and convenience of the internet to match faceless buyers and sellers of that technology, has ratcheted up America's urgency to ensure its best innovations don't fall into the wrong hands, Hirschhorn said.

But along with that sense of urgency is recognition, he said, of the difficulty for some large and small American manufacturers to keep up. To help with that, the U.S. government has shortened the wait time for American firms that apply for export-import licenses, especially in doing business with U.S. allies, Hirschhorn said.

James Kask is partner at accounting-consultancy CohnReznick LLC in Hartford and co-head of its manufacturing and wholesale distribution and industry practice. Kask moderated one of the panel sessions for the Commerce Department's recent cybersecurity forum in Hartford.

Kask said the presence of a Connecticut assistant U.S. attorney assigned to the national-security and major-crimes unit, drove home for him the gravity of the government's desire to educate more New England companies about their cybersecurity roles and responsibilities.

"Many of them have only recently given thought to this area," Kask said. "Historically, the cybersecurity strategy for a lot of companies haven't been properly aligned with business risk."

Costly compliance

There's also the issue of the cost to implement and monitor cybersecurity protocols. At large companies, that expense can include the salary and benefits of one or a team of ITAR-compliance officers, not to mention the cost to buy and operate electronic hardware and software for monitoring compliance.

H. Ross Garber, head of the government practice at Hartford law firm Shipman & Goodwin LLC, said companies just can't walk into a store and pluck a fully equipped compliance package off the "cybersecurity shelf." Not only are such systems costly, Garber said, they must be thorough enough to account for all of a company's products, markets and customers.

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Iran Nuclear Deal Year Later

"It's, frankly, very difficult for smaller companies to comply with the ... requirements that the government imposes, particularly those related to cybersecurity and international trade," Garber said. "Many smaller companies have adopted a strategy of simply hoping for the best."

And certainly over the past few years, Garber said, government and prime contractors have been trying to educate smaller companies that "hoping" isn't a workable strategy.

If the cybersecurity threat is real, so is punishment for companies that lapse in their compliance responsibilities. In June 2012, the U.S. slapped Farmington's United Technologies Corp., and its Pratt-Canada and Hamilton Sundstrand divisions, with more than \$75 million in fines for lying about the illegal export of U.S. military software that China used to develop its first modern military helicopter, the X-10.

At smaller firms, responsibility for compliance typically falls to a single individual. At Birken, a major aeroparts supplier to Pratt and GE, among others, ITAR compliance-monitoring is Greenberg's duty. In the past decade alone, he said he has watched grow steadily the number of its parts/technologies subject to "no sale" to non-allies.

Each year, Birken applies to the federal Directorate of Defense Trade Controls to receive its mandatory identification-registration code.

"We always used to sell direct to Pratt or to the U.S. government," Greenberg said. "We don't do very much internationally. It's only when the customer asks us to direct-ship to someone."

The U.S. also strictly limits outsiders' access to shop floors where vital technology is being developed or tested. For instance, Birken, like many other production "job shops" around the country, must keep a log of visitors to and from their offices.

Anyone who is not an American citizen, or doesn't hold a legitimate "green card," is banned from setting foot in certain sensitive areas, or seeing or handling, sensitive technology, authorities say.

Recently, Greenberg said he sold a part to a New York broker. But before the deal could close, Greenberg insisted the broker provide him with verification — for Birken's files — that the part was not headed overseas. He said a government-issued checklist of banned parts, technologies and procedures would simplify his compliance routine.

Greenberg said federal authorities typically have relied on "whistleblowers" to tip them to potential trade-technology breaches.

"When we're talking about national security," he said, "if [enemies] can use our technology against us, it's not something we want to be part of."

The Joint Comprehensive Plan of Action (JCPOA), commonly known as the Iran nuclear deal, was reached one year ago on July 14 between Iran and the P5+1 nations, the United States, the UK, Russia, France, China and Germany.

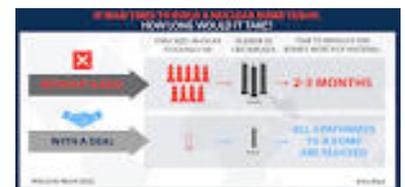
Looking back on the past year, five RAND experts responded to a series of critical questions about the deal, its implementation and potential challenges ahead. [Dalia Dassa Kaye](#) is the director of the Center for Middle East Public Policy and a senior political scientist, [Lynn E. Davis](#) is a senior fellow, [Alireza Nader](#) is a senior international policy analyst, [Jeffrey Martini](#) is a senior Middle East analyst and [Larry Hanauer](#) is a senior international policy analyst. They are among the authors of RAND's 2015 series of reports [The Days After a Deal with Iran](#), as well as [commentary](#) published since the agreement.

What's your general assessment of where things stand one year later?

Dalia Dassa Kaye: The nuclear agreement has progressed surprisingly well over this past year. Iran completed the central requirements in the JCPOA earlier than expected, curtailing both its uranium enrichment and plutonium programs in exchange for the lifting of nuclear related sanctions. But broader disputes have clouded the spirit if not the letter of the deal. The Iranians have been complaining they aren't receiving the economic windfall they expected because of continuing U.S. sanctions in non-nuclear areas that are still scaring off investors and making financial transactions difficult. Meanwhile the United States remains concerned about Iranian missile tests and the arrest of dual nationals, among other troubling regional activity. But expectations that this deal would fundamentally transform Iran or the tumultuous regional landscape were never realistic. If the measure for assessing this agreement is whether it has set back Iran's nuclear advances diplomatically for the foreseeable future, then it has worked far better than many thought might have been possible just a few years ago.

Lynn E. Davis: The agreement is an important non-proliferation success. It has come into force faster than many expected and so far it is being implemented without any real problems. There are difficulties for the Iranians in how the relief from economic sanctions is being implemented. But the JCPOA has mechanisms for resolving issues as they arise and Secretary of State John Kerry remains engaged in finding ways ahead.

Have any developments over the last year surprised you?



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Kaye: I find it remarkable how after months of contentious debate, the nuclear issue moved off the map in Israel so quickly once the U.S. congressional debate ended and the agreement moved forward last September. Of course Israeli leaders are still concerned about Iran, but Iran has moved from being a nuclear problem to a regional problem.

Davis: After years of serious concerns about Iran's nuclear weapons program, including the possibility of a cascade of new nuclear states in the region, the end of Iran's nuclear threat was almost a non-event. This is unfortunate, for the region is much safer with the constraints now being enforced on Iran's nuclear program.

Has the nuclear agreement led to reforms within Iran's political system?

Alireza Nader: While President Hassan Rouhani has been boosted by the nuclear accord, there have been no political reforms within Iran. The unelected conservative establishment continues to wield enormous power and, if anything, societal repression and human rights abuses have increased since Rouhani became president. He has not demonstrated the will or capability to implement any social or political reforms in the face of a conservative backlash.

How have Israeli policies evolved in the year following the agreement?

Kaye: Israeli leaders and analysts are now much more focused on Iran's role in Syria, and its support for Hezbollah, than on the nuclear issue now that the JCPOA is a done deal. Most Israeli analysts expect Iran to adhere to the agreement but worry about Iran's non-nuclear activities in the region and what Iran might do once major restrictions of the deal end in 10 to 15 years. Israel's biggest concern is preventing the Iranians from transferring advanced weaponry to Hezbollah in Syria as well as a permanent Iranian presence on Israel's border in the Syrian Golan. Direct Israeli military action against Iranian nuclear sites isn't likely as long as the JCPOA is being implemented, but there's still the potential for Israeli-Iranian escalation on the Syrian border.

What about other regional neighbors who were concerned about the agreement, particularly the Gulf Arab states? How have they responded to this agreement?

Jeffrey Martini: Fearing the agreement signals a weakened U.S. commitment to their security, the Gulf states have responded by demonstrating their own military capabilities. The Saudi-led military coalition operating against the Houthis in Yemen, which they view as a vector of Iranian influence, is an example of this military activism. The irony is that the United States has long urged the Gulf states to play a greater role in providing for their own security, but now that they are, there are concerns in Washington about the potential escalatory effect on regional conflicts.

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How has this agreement affected the U.S.-Iranian relationship?

Kaye: It's become very popular to hear analysts in the United States and abroad talk about the nuclear agreement as transactional, not transformational. And that's true to a large degree—this is ultimately an arms control agreement, not a broader rapprochement with Iran. That said, it's critical to build on this agreement—if it continues to work—to identify other areas where the United States and Iran might have common interests.

Davis: Not surprisingly, little has changed in the overall U.S.-Iranian relationship as a result of the agreement. The interests of the two countries in the region remain fundamentally different. Nevertheless, taking the nuclear issue off the table could open up areas for some limited cooperation. The United States should be open to the possibility while keeping expectations low.

What about concerns that the United States is tilting toward Iran following this agreement at the expense of regional allies?

Kaye: This isn't a question of choosing Iran over our longstanding regional allies or ignoring ongoing human rights abuses in Iran, which we shouldn't. It's about treating Iran at a minimum as a normal adversary, and in normal adversarial relationships we still find opportunities to communicate and even cooperate in areas that serve our self-interest. That's why it will be important to find ways to institutionalize some of the diplomatic cooperation that's already begun through these negotiations into the next U.S. administration.

What are other potential challenges to the agreement in the months and years ahead?

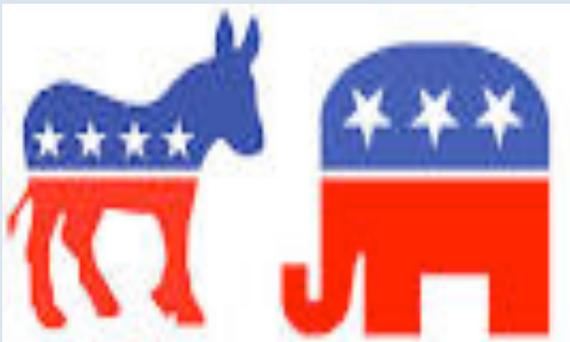
Davis: The main challenge is to keep the nuclear agreement on track when other interests between the United States and Iran continue to diverge. There will also be the technical implementing issues, which will need to be dealt with on their merits and which should not be allowed to become politicized in the domestic politics of either Iran or the United States.

Kaye: It will be critical to keep international attention on the agreement and hold the Iranians to their commitments with strict enforcement, which will be easier if the agreement is depoliticized in the United States. Maintaining international cooperation and increasing support for the role of the International Atomic Energy Agency in verification of the agreement is also crucial. Continued domestic opposition to the agreement in the United States and Iran and the volatile regional environment will not make the smooth implementation of this complicated agreement easy. But all sides have a lot invested in making this deal work.

What has Congress done to address the Iran deal in the past year? What might Congress do under the next president?

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Larry Hanauer: Although Congress held some hearings and introduced some legislation in the immediate aftermath of the nuclear agreement, it has done little of substance that will affect the JCPOA's implementation. Congressional efforts to block the deal from being implemented failed, as did proposals to introduce new sanctions on Iran. That said, Congress's continued efforts to undermine the agreement have created some measure of uncertainty about its viability, which in turn may make some Western corporations feel that investing in Iran is a risky proposition. If companies truly fear that Congress would scuttle the deal, and they withhold their investment as a result, Iran could see little economic benefit from the agreement and decide to withdraw from it. In such a case, however, Iran would present the United States as the reason for the deal's downfall, leaving the United States isolated on the issue and unable to affect European countries' efforts to engage Iran despite U.S. opposition.



What Congress does after the election will depend on who is elected president and which party controls the House and Senate (and by what margin). If a Democrat wins the White House and wishes to continue the JCPOA's implementation, Congress will be unable to undo the agreement unless Republicans maintain control of the House and secure enough votes against the deal in the Senate (60) to overcome a Democratic filibuster. If a Republican wins the White House, the new president could withdraw from the deal without congressional approval. Congress would only be able to force the deal's implementation by law if pro-deal Democrats not only gain control of the House and Senate, but also secure two-thirds majorities in both chambers in favor of the deal in order to override a presidential veto. Neither outcome appears likely, meaning Congress will have little ability to affect the JCPOA's implementation except by drawing attention to it through hearings and public statements.

Citizen of China Sentenced to 15 Months in Prison for Trafficking in Counterfeit Computer Chips

Deirdre M. Daly, United States Attorney for the District of Connecticut, announced that Daofu Zhang, 40, of Shenzhen, China, was sentenced today by U.S. District Judge Robert N. Chatigny in Hartford to 15 months of imprisonment for conspiring to sell counterfeits of sophisticated integrated circuits to a purchaser in the United States. According to court documents and statements made in court, Zhang and his two co-conspirators each operated businesses in China that bought and sold electronic components, including integrated circuits ("ICs"). In the summer of 2015, Zhang's co-conspirator, Xianfeng Zuo asked the other co-conspirator, Jiang Yan, to locate and purchase several advanced ICs made by Xilinx Corp., which had military applications, including radiation tolerance for uses in space. Yan then asked a U.S. individual to locate the Xilinx ICs and sell them to Yan.

The U.S. individual explained that the ICs cannot be shipped outside the U.S. without an export license, but Yan still wished to make the purchase. When the U.S. individual expressed concern that the desired ICs would have to be stolen from military inventory, Yan proposed to supply the U.S. source with "fake" ICs that "look the same," 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 a total of eight counterfeit ICs, each bearing a counterfeit Xilinx 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 Xilinx ICs purchase. On December 10, 2015, the three conspirators drove to a location near Route 95 in Milford, Connecticut, where they planned to meet the U.S. individual, make payment, and take custody of the Xilinx ICs. Federal agents arrested all three at the meeting location. Zhang has been detained since his arrest. On April 15, 2016, he pleaded guilty to one count of conspiracy to traffic in counterfeit goods. As part of his sentence, Zhang was ordered to forfeit \$63,000. On March 7, 2016, Yan, 33, pleaded guilty to one count of conspiracy to traffic in counterfeit goods, and one count of attempt to export integrated circuits without the required export license. On March 16, 2016, Zuo, 38, pleaded guilty to one count of conspiracy to traffic in counterfeit goods. They await sentencing.

This matter was investigated by the Defense Criminal Investigative Service, the Department of Homeland Security, the Department of Commerce, the Federal Bureau of Investigation, and the Air Force Office of Special Investigations. The case is being prosecuted by Assistant U.S. Attorney Henry Kopel and U.S. Department of Justice Counterintelligence and Export Control Section Trial Attorney Casey Arrowood.

DDTC Company Visit Program (CVP)

What is the Company Visit Program? The Company Visit Program (CVP) entails visits by Directorate of Defense Trade Controls (DDTC) officials to U.S. entities registered with DDTC as manufacturers, exporters, or brokers of defense articles and defense services, as well as others involved in ITAR-regulated activities, to include foreign companies and foreign governments. The CVP is administered by the Office of Defense Trade Controls Compliance (DTCC); however, representatives from DDTC's Licensing and Policy offices, or other entities in the Department or elsewhere in the U.S. government, may also participate in the visits.



What is the purpose of the Company Visit Program? The CVP has several purposes. First, the CVP ensures DTCC understands how compliance programs are implemented in accordance with the International Traffic in Arms Regulations (ITAR). Second, the program enables DDTC to gather information to support the Directorate's development of regulatory policy and practice. Finally, DTCC uses site visits to glean, assess, and disseminate industry best practices, provide feedback to individual companies on their compliance programs, and share information on compliance programs industry-wide. Note that the CVP includes two (2) types of visits:

- **CVP-Outreach ("CVP-O") is an extension of DDTC's outreach activities, e.g., speaking at conferences. These visits are intended to be a learning exercise for both parties, and provide an opportunity to discuss challenges (such as adapting to changes associated with Export Control Reform) and offer suggestions or best practices. CVP-O site visits are unrelated to specific compliance matters. The purpose of the visit is to understand how companies implement ITAR compliance requirements, not to evaluate compliance failures or violations.**
- **CVP-Compliance ("CVP-C") visits are designed for DTCC oversight activities, for example as part of consent agreement monitoring. These visits may include a more in-depth look at a company's compliance program.**

Is a CVP visit considered an audit or inspection? What is DDTC looking for during a CVP visit? Both CVP-O and CVP-C type visits are neither an audit nor an inspection. Visits do not produce a grade or pass/fail assessment for internal or external use, and generally do not include review of

transactional records. DDTC will request information from the company to gain a better understanding of their compliance program. CVP-C visits may require a more in-depth look at a company's compliance program because the visits are focused on overseeing compliance matters already known to DTCC.

How is the visit not an audit if DDTC provides recommendations for improvements to our program? DDTC may provide recommendations for improvements to a company's compliance program during both CVP-O and CVP-C type visits. If we make recommendations, it is an effort to offer assistance, help prevent violations and share best practices. The CVP is intended to serve as a learning tool for both parties.

What happens if the DDTC team discovers or learns of a violation during the visit? DTCC will recommend that the company review the issue and submit a disclosure, if appropriate.

Adjusted IEEPA Penalties per Inflation

The adjusted civil penalty amounts described in this rule are applicable only to civil penalties assessed after August 1, 2016, whose associated violations occurred after November 2, 2015,

IEEPA. The maximum IEEPA-based CMP of the greater of \$250,000 or twice the amount of the underlying transaction was set in 2007 by the International Emergency Economic Powers Enhancement Act (Pub. L. 110-96, 121 Stat. 1011; 50 U.S.C. 1705 note). Pursuant to the OMB Guidance, the relevant inflation factor is 1.13833. Multiplying the current penalty amount of \$250,000 by the inflation factor of 1.13833 and rounding to the nearest dollar amount results in a maximum penalty amount of the greater of \$284,582 or twice the amount of the underlying transaction per violation. This would be an increase of \$34,582. Pursuant to the FCPIA Act, the maximum adjustment is 150% of \$250,000 (the CMP in effect on November 2, 2015), or \$375,000. The increase does not exceed the maximum adjustment. Therefore, the maximum IEEPA CMP effective August 1, 2016 is increased to the inflation-adjusted amount of \$284,582 or twice the amount of the underlying transaction per violation. The FCPIA Act applies only to CMPs that are for a specific monetary amount as provided by Federal law. Accordingly, the alternative IEEPA CMP of twice the amount of the underlying transaction remains unchanged.

https://www.treasury.gov/resource-center/sanctions/Documents/fr81_43070.pdf

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FREQUENTLY ASKED QUESTIONS RELATED TO CUBA



This document is explanatory only, does not have the force of law, and does not supplement or modify the Executive Orders, statutes, or regulations relating to Cuba. Where

specific questions arise about applicability, scope, impact, or any other aspects of these sanctions, it is the responsibility of individuals or entities seeking guidance to review the relevant statutes, regulations, and Executive Orders, and, if appropriate, consult with legal counsel.

- Embargo
- Travel
- Travel and Carrier Services
- Remittances
- Banking
- Trade/Business
- Telecommunications
- Miscellaneous

https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_faqs_new.pdf

Updated Statements of Legal Authority for the Export Administration Regulations

SUMMARY:

This rule updates the Code of Federal Regulations (CFR) legal authority paragraphs in the Export Administration Regulations (EAR) to cite a Presidential notice extending an emergency declared pursuant to the International Emergency Economic Powers Act and also to remove one obsolete citation.

DATES:

The rule is effective July 11, 2016.

FOR FURTHER INFORMATION CONTACT:

William Arvin, Bureau of Industry and Security, Email william.arvin@bis.doc.gov, Telephone: (202) 482-2440.

SUPPLEMENTARY INFORMATION: Background

The authority for parts 730, 736 and 746 of the EAR (15 CFR parts 730, 736 and 744) rests, in part, on Executive Order 13338 of May 11, 2004—**Blocking Property of Certain Persons and Prohibiting the Export of Certain Goods to Syria** (69 FR 26751, 3 CFR, 2004 Comp., p. 168) and on annual notices by the President continuing that emergency. This rule updates the authority paragraphs in 15 CFR parts 730, 736 and 746 to cite the Notice of May 3, 2016, 81 FR 27293 (May 5, 2016), **which continues that emergency.**

This rule also removes the citation to 30 U.S.C. 185(s), 185(u), which imposed **certain restrictions on exports of crude oil**, from the authority paragraph of 15 CFR part 738 because, as a result of Division O, Title 1, Section 101, subsection (b) of Public Law 114-113, **the EAR no longer imposes a license requirement on exports of crude oil.**

This rule is purely procedural and makes no changes other than to revise CFR authority citations to make them current. It does not change the text of any section of the EAR, nor does it alter any right, obligation or prohibition that applies to any person under the EAR.



Rockwell Collins technologies on New Planes at Farnborough

The 2016 Farnborough Airshow, taking place July 11-14, will include a broad array of next-generation commercial and military aircraft that feature major advancements in flight technology created by Rockwell Collins.

The company's large-format, high-resolution displays allow a pilot to customize the information they want and need for flight. Cursor control devices and touchscreen technology on primary flight displays featured on these aircraft are signs that pilot interaction with the avionics continues to mirror the consumer world.

Rockwell Collins' Head-Up Guidance and Helmet Mounted Display Systems place critical flight information on displays directly in front of pilots' eyes—either on a glass mounted to the windshield or even on the glass of a fighter pilot's helmet.

In addition to new displays in the cockpit, new information-rich offerings from the company can be found running behind the scenes, from on-board and air-to-ground communication networks to new inflight entertainment and connectivity offerings that keep passengers safe, connected and informed.



To date, the following aircraft platforms, which have been confirmed for Farnborough, all feature significant content from Rockwell Collins:

- Airbus A350
- Boeing 737 MAX
- Boeing 787 Dreamliner
- Bombardier C Series
- Bombardier Global 5000
- Embraer KC-390
- Embraer Legacy 500
- Gulfstream G280
- Lockheed Martin F-35 Lightning II.

Successful Flight Demos of Digital Eye Piece Night Display

Elbit Systems, in collaboration with several European countries currently flying the Joint Helmet Mounted Cueing System (JHMCS) on their operational aircraft, performed a series of successful night flight demonstrations with the Digital Eye Piece (DEP), a lightweight night vision cueing and display solution for JHMCS, Digital JHMCS (D-JHMCS), and JHMCS-II helmet mounted display (HMD) systems.

This unique add-on solution transforms existing HMDs and Night Vision Goggles (NVGs) into highly advanced, cutting-edge night vision smart helmets, providing pilots with daytime cueing and display capabilities in their night operations. Its seamless integration requires no changes to aircraft installation or software.



The DEP is a simple and cost-effective plug-and-play solution that enables pilots to transition from day to night configuration, improves situational awareness and meets the operational needs of military aviators. DEP can be installed onboard any fielded JHMCS, D-JHMCS or JHMCS-II.

The goal of the flights was to demonstrate the system's performance in night flight, including A/A and A/G scenarios, in which effective flight missions generally cannot be executed. A variety of international Air Forces participated in flights onboard their F-16 aircraft.

Feedback was very positive and the pilots emphasized the contribution of the system to night flight safety and effectiveness. Pilot feedback included: "the DEP improves situational awareness and reduces workload"... "the system improves night identification capabilities"... "the DEP provides more flexibility and better situational awareness for close air support".

The DEP was developed in cooperation with Elbit Systems' subsidiary, Elbit Systems of America, and Rockwell Collins through their joint venture, RCEVS. Since introducing the JHMCS 20 years ago, Elbit Systems has been providing aviators with proven day cueing technology.

Applicability of the ITAR Registration Requirement to Firearms Manufacturers and Gunsmiths

Summary:

The Directorate of Defense Trade Controls (DDTC) has reviewed and consolidated policy guidance about whether various activities related to firearms constitute manufacturing for International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130) purposes and require registration with DDTC and payment of a registration fee. DDTC has found that many – but not all – traditional gunsmithing activities do not constitute manufacturing for ITAR purposes and, therefore, do not require registration with DDTC. The following guidance is confined to DDTC’s ITAR implementation. You must also comply with all other relevant laws.

Background:

The Arms Export Control Act (AECA) (22 U.S.C. § 2751 et seq.) and the Gun Control Act (GCA) (18 U.S.C. § 921 et seq.) are two distinct U.S. laws that concern manufacturing of firearms. The GCA requires firearm manufacturers to obtain licenses as manufacturers (known as Federal Firearms Licenses (FFLs)) from the Department of Justice’s Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The AECA, in relevant part, requires manufacturers of defense articles, including certain firearms, to register with the Department of State, Directorate of Defense Trade Controls. Because the GCA is intended to cover a broader scope of domestic activity than the AECA, the ATF regulations define the term “firearm” more broadly than the ITAR. As a result, not every firearm controlled by the ATF regulations is also controlled by the ITAR.

The AECA’s statutory requirement for firearms manufacturers to register with DDTC is implemented in Part 122 of the ITAR: §122.1 Registration requirements.

(a) Any person who engages in the United States in the business of manufacturing or exporting or temporarily importing defense articles, or furnishing defense services, is required to register with the Directorate of Defense Trade Controls under §122.2. For the purpose of this subchapter, engaging in such a business requires only one occasion of manufacturing or exporting or temporarily importing a defense article or furnishing a defense service. A manufacturer who does not engage in exporting must nevertheless register. ITAR registration is required of persons who engage in the business of manufacturing defense articles. Persons who do not actually manufacture ITAR-controlled firearms (including by engaging in the activities described below, which DDTC has found in specific cases to constitute manufacturing) need not register with DDTC – even if they have an FFL from ATF. As indicated above, the requirements for obtaining FFLs under the GCA are separate and distinct from the requirement under the AECA and ITAR to register with DDTC.

The term “manufacturing” is not defined in the ITAR. In order to determine whether a firearms-related activity constitutes manufacturing for ITAR purposes, DDTC applies the ordinary,

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contemporary, common meaning of the term. Likewise, DDTC applies the ordinary, contemporary, common meaning for “gunsmithing,” which traditionally has broadly included designing, making, or repairing guns. Not all firearms (as defined by ATF regulation) are “defense articles” under the ITAR, however, and not all activities involving assembly of and repairs to firearms qualify as manufacturing for ITAR purposes. DDTC has found that many traditional gunsmithing activities do not constitute manufacturing for ITAR purposes and, therefore, do not require registration under the ITAR, particularly where such activities do not require cutting, drilling, or machining and do not improve the accuracy, caliber, or operation of the ITAR-controlled firearm beyond its original capabilities.

Policy Guidance:

The guidance below is limited to domestic (U.S.) activities involving firearms (as defined in Category I(j)(1) of the United States Munitions List (USML) (22 CFR § 121.1)) and related ammunition that are .50 caliber (12.7 mm) or smaller – i.e., firearms in Category I, paragraphs (a) and (b), related items in paragraphs (e)-(h), and ammunition in Category III(a) for those firearms. Activities involving items elsewhere on the USML, including Category I, paragraphs (c) and (d), are not included in the scope of this guidance.

1. Registration not Required – Not Manufacturing: In response to questions from persons engaged in the business of gunsmithing, DDTC has found in specific cases that ITAR registration is not required because the following activities do not meet the ordinary, contemporary, common meaning of “manufacturing” that DDTC employs in implementing the ITAR and, therefore, do not constitute “manufacturing” for ITAR purposes:

- a) Occasional assembly of firearm parts and kits that do not require cutting, drilling, or machining;
- b) Firearm repairs involving one-for-one drop-in replacement parts that do not require any cutting, drilling, or machining for installation;
- c) Repairs involving replacement parts that do not improve the accuracy, caliber, or other aspects of firearm operation;
- d) Hydrographic paint or Cerakote application or bluing treatments for a firearm;
- e) Attachment of accessories to a completed firearm without drilling, cutting, or machining—such as attaching a scope, sling, or light to existing mounts or hooks, or attaching a flash suppressor, sound suppressor, muzzle brake, or similar item to a pre-threaded muzzle;
- f) Cosmetic additions and alterations (including engraving) that do not improve the accuracy, caliber, or other aspects of firearm operation beyond its original capabilities;
- g) Machining new dovetails or drilling and tapping new holes for the installation of sights which do not improve the accuracy or operation of the firearm beyond its original capabilities; and
- h) Manual loading or reloading of ammunition of .50 caliber or smaller.

Activities limited to the domestic sale or resale of firearms, the occasional assembly of firearms without drilling, cutting, or machining, and/or specific gunsmithing activities that do not improve the accuracy, caliber, or operations of the firearm beyond its original capabilities (as described above) are not manufacturing within the context of the ITAR. If you are not

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manufacturing, exporting, temporarily importing or brokering defense articles or services, you are not required to register with DDTC.

2. Registration Required – Manufacturing: In response to questions from persons engaged in the business of gunsmithing, DDTC has found in specific cases that ITAR registration is required because the following activities meet the ordinary, contemporary, common meaning of “manufacturing” and, therefore, constitute “manufacturing” for ITAR purposes:

- a) Use of any special tooling or equipment upgrading in order to improve the capability of assembled or repaired firearms;
- b) Modifications to a firearm that change round capacity;
- c) The production of firearm parts (including, but not limited to, barrels, stocks, cylinders, breech mechanisms, triggers, silencers, or suppressors);
- d) The systemized production of ammunition, including the automated loading or reloading of ammunition;
- e) The machining or cutting of firearms, e.g., threading of muzzles or muzzle brake installation requiring machining, that results in an enhanced capability;
- f) Rechambering firearms through machining, cutting, or drilling;
- g) Chambering, cutting, or threading barrel blanks; and
- h) Blueprinting firearms by machining the barrel.

3. Registration Required – Other than Manufacturing:
a) Assisting foreign persons in the design, development, and repair of firearms may constitute the export of a defense service (see 22 CFR § 120.9) and require ITAR registration with and authorization from DDTC; and b) Exporting a firearm or any other item on the USML requires ITAR registration with and authorization from DDTC

If you have any general follow-on questions, please feel free to contact the Response Team at (202) 663-1282 or DDTCResponseTeam@state.gov.

Cash-Starved Startups See Some Daylight

Entrepreneurs perhaps never have been more celebrated in American culture than they are today. But that popularity is at odds with a startling long-term trend: The U.S. economy has been getting less entrepreneurial for decades. From 1977 to 2013, startups as a share of all firms fell from 16.5 percent to 8.0 percent. The decline is pervasive across all sectors, including high tech.

The map of entrepreneurship is shrinking, too. Since the recession, start-up activity has become much more highly concentrated in a few super-performing geographic areas. Consider this: fully *half* of the national increase in business establishments from 2010 to 2014 occurred in only 20 counties, 17 of which were located in just four states: California, Florida, New York, and Texas. Many regions, including large swathes of the Rust Belt, are struggling to seed the new industries needed to replace the millions of manufacturing and construction jobs lost during the recession.

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Size and density are driving much of the concentration. In the 1990s and 2000s, counties with more than 1 million people generated less than a third of net business formation. Today, those counties are responsible for almost 60 percent of the economy’s net new businesses—more than quadruple their 1990s share.

Why is this happening?

The concentration of capital is a key factor in reinforcing the geographic concentration of entrepreneurship. Cities like Boston, New York, and San Francisco have developed large and well-financed ecosystems dedicated to scaling promising new businesses. In turn, these cities attract the best and brightest entrepreneurs across America.

Businesses need capital to thrive and grow, but the Great Recession wiped out many of the most important traditional sources of startup financing, including home equity, personal savings, and personal credit. In addition, small business lending is down by one-quarter since before the financial crisis and more than one out of every four community banks has gone belly up since 2008.

What’s more, the map of venture capital—a critical source of funding for scaling promising new companies—is even more intensely concentrated: 78 percent of the nation’s venture capital goes to just three states: New York, Massachusetts, and California. Half of the country’s 366 metro areas saw no venture capital in 2015, and less than 4 percent of U.S. ZIP Codes received a single dollar.

But there are a handful of innovators who are working hard to expand the map and build a foundation for entrepreneurs everywhere. Revolution’s “Rise of the Rest” is a nationwide effort to support entrepreneurs in emerging startup ecosystems that rarely get national attention. Likewise, Village Capital uses an investment model designed to build communities of transformative startups in overlooked cities all over the country. And start-up incubator 1776 has used its Challenge Cup competition to find new companies and ideas taking root all over the world.

A handful of major investors, too, are proving how bold investments can transform even the most distressed communities throughout the country. Vivid examples include Dan Gilbert of Quicken Loans, Kevin Plank of Under Armour, Graham Weston of Rackspace, and Tony Hsieh of Zappos, who have collectively invested billions of dollars in underserved areas of Detroit, Baltimore, San Antonio, and Las Vegas, respectively—helping to fuel a new generation of homegrown entrepreneurs and new enterprises.

The decline of entrepreneurship threatens America’s advantage as the world leader in innovation. It’s a challenge that deserves attention from the public and private sectors alike. Just like we need pioneering investors, tackling this issue requires creative public policy ideas that connect capital with communities that have been left behind—places rich in potential but starved of investment.

Training and Seminars

“Trans-Pacific Partnership: Canada and Mexico” Webinar
Date: August 10, 2016

Time: 2:00 p.m. – 3:00 p.m. ET

Location: Online via webinar

Additional Information about the Event: There is no cost to view the webinar

To register, please go to:
<<https://emenuapps.ita.doc.gov/ePublic/event/editWebReg.do?SmartCode=6Q7B>>

“Trans-Pacific Partnership: Japan” Webinar
Date: August 24, 2016

Time: 2:00 p.m. – 3:00 p.m. ET

Location: Online via webinar

Additional Information about the Event: There no cost to view the webinar

To register, please go to:
<<https://emenuapps.ita.doc.gov/ePublic/event/editWebReg.do?SmartCode=6Q7D>>

Technology Controls Seminar, Silicon Valley, CA

On September 15, 2016, BIS will conduct a one-day “Technology Controls” seminar in Milpitas, CA. This one-day seminar will cover the

Web Notice: The Directorate of Defense Trade Controls (DDTC) is currently in the process of modernizing its IT systems. During this time period, we anticipate there may be delays in response times and time to resolve IT related incidents and requests. We apologize for any inconvenience, and appreciate your patience while we work to improve DDTC services. If you need assistance, please contact the DDTC Service Desk at (202) 663-2838, or email at DtradeHelpDesk@state.gov (06.28.16)



the distinctive provisions of the Export Administration Regulations that relate to the export of technology. Regulatory experts will cover general technology controls and licensing considerations. The seminar will address the specific provisions related to deemed exports and associated technology control plans, as well as the considerations pertaining to fundamental research

The seminar will also discuss the provisions of the recently published “Definitions Rule” that will take effect on September 1, 2016. This rule is intended to enhance clarity and consistency with terms also found in the ITAR as well as to update and clarify export controls on electronically transmitted and stored technology and software, including by way of cloud computing.

Continuing legal education credit (MCLE) is available for this program for California State Bar members.

To register, please click here:
<http://www.paei.org/?p=265>

Please note that this program will be held in lieu of the “Encryption Controls” seminar originally scheduled for September 15, 2016. We regret any inconvenience this may have caused. Please contact PAEI Admin at (408) 532-7234 or email paeiadmin@paei.org if you have already registered for the Encryption seminar and need to make alternate arrangements.

The program will be held at the Crowne Plaza San Jose-Silicon Valley, 777 Bellew Drive, Milpitas, CA 95035.

Please visit our website for additional information: <http://www.bis.doc.gov/>.

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“If You Change The Way You Look At Things, The Things You Look At Will Change.”