



# EIB World Trade Headlines

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## Spy App Can Turn Smart-Phones Against You

**LIVESCIENCE - October 1, 2012**

The smart-phone in your hands could get hijacked and used as an accessory to virtual burglary. U.S. military researchers have created a mobile app that creates 3D maps of a phone's immediate surroundings, possibly allowing spies or criminals to steal personal information and "download" the physical space to prepare for a break-in. Such a troubling scenario comes from the "PlaceRaider" app that could disguise itself as an ordinary camera app for Android phones, according to researchers from the Naval Surface Warfare Center in Crane, Ind. and Indiana University in Bloomington. The app sneakily uses the phone camera to take new images, while also collecting orientation data from the phone's accelerometer, the device that flips your screen horizontally. PlaceRaider can then upload the information to a central computer that combines the best images into a 3D virtual map of a person's house or office.

"We develop and demonstrate a tool that allows an attacker to visualize and navigate a victim's space in 3D, allowing them to quickly hone in on areas that likely contain sensitive or private information and then retrieve targeted, high-resolution images," said Robert Templeman, an engineer at the Naval Surface Warfare Center in Crane, Ind., and colleagues in an arXiv paper submitted on September 26th.

*(Continued below)*

## NEWSLETTER NOTES

### \*Spy App Can Turn Smart-Phones Against You

\*-BREAKING NEWS-  
People's Republic of China  
Corporate Entity Enters Guilty  
Plea....

\*DOD Issues New Directive on Use  
on Autonomous Drones

\*Taiwanese National Pleads Guilty  
to Attempting to Illegally Export  
Aerospace-Grade Carbon Fiber

\*CBP Posts Information for C-TPAT  
Conference in January 2013

\*CBP Posts Updated ACE Fact  
Sheets

\*Rule Requiring Testing of Samples  
for Continued Compliance of  
Children's Products

\*U.S. Commercial Service -  
Resources for Going Global

The computer experts explained how PlaceRaider would permit hackers to zoom in on sensitive information scattered around a room, such as financial statements, phone numbers, personal checks or a wall calendar showing travel plans. PlaceRaider also showed how its 3D map, reconstructed from sneaky images, could give spies or criminals tools to plan for physical reconnaissance or burglary. The U.S. military's Special Forces might also find such a tool useful for scouting ahead of dangerous missions.

This example of a Trojan horse app uses the smartphone's own computing system to screen for only the most useful images and avoid transmitting blurry or dark photos. It then uploads the selected information to a command-and-control computer that can perform the actual 3D-map reconstruction. Past hacking demonstrations have shown how to hijack smartphone microphones to "hear" sensitive conversations, or to harness a phone's accelerometer to "feel" vibrations from a computer keyboard and deduce keystrokes. But PlaceRaider's ability to create a 3D map of the physical space potentially makes smartphones even more effective tools for spying — for better and for worse.

### BIS Denies Export Privileges to Company for Entity List Violations

The Enterysis Corp., based in India and San Jose, CA, had its export privileges denied for 10 years after the Bureau of Industry and Security (BIS) found it violated the Export Administration Regulations (EAR) by exporting controlled items to India without the required license. As reported, Enterysis was charged with several offenses including:

1. Exporting ceramic cloth to India without the required license;
2. Evasion;
3. Engaging in prohibited conduct by exporting electronic components to a company on then Entity List without a license; and
4. Acting with knowledge of a violation.

BIS found the company to be in default after it received no response to a charging letter, and no response to an administrative law judge's recommended decision and order. According to BIS, in 2006 Enterysis purchased ceramic cloth, classified under ECCN 1C010, controlled for national security reasons (NS2), and valued at \$15,460.

*(Continued above)*

When Enterysis asked the manufacturer to ship the material to its freight forwarder instead of directly to Enterysis, the manufacturer informed the company that the ceramic cloth was "a controlled commodity in terms of export to India," and asked for a guarantee that the ceramic cloth would not be exported to India. Enterysis then asked the manufacturer not to put any packing list, invoice, or certificate of conformance in the box with the ceramic cloth, but to instead fax the documents to Enterysis directly.

Meanwhile, Enterysis arranged for its freight forwarder to ship the ceramic cloth to Enterysis in India. Once the merchandise was in possession of the freight forwarder, Enterysis provided the freight forwarder with shipping documentation, including a packing list and invoice that falsely identified the ceramic cloth as twenty square meters of "used waste material," with a value of \$200. The ceramic cloth was then exported to India without the required license, in violation of 15 CFR 764.2(a) and 15 CFR 762(h), BIS reported.

During the same period, Enterysis was also exporting electronic components from the U.S. to Bharat Dynamics Limited (BDL), an Indian company designated in the Entity List. Although the items were EAR99, a license was required to export the items. Enterysis obtained no license to export the electronic components, in violation of 15 CFR 764.2(a).

BIS advised that Enterysis had knowledge of at least some of the violations, because in May 2007, a freight forwarder informed the company that the items being exported required an export license and that BDL was on the Entity List. Enterysis found another freight forwarder after the first one returned the items according to the report.

BIS report: [http://beta-efoia.bis.doc.gov/index.php/component/docman/doc\\_view/815-e2292?Itemid](http://beta-efoia.bis.doc.gov/index.php/component/docman/doc_view/815-e2292?Itemid)

## **-BREAKING NEWS-**

### **People's Republic of China Corporate Entity Enters Guilty Plea to Conspiracy and Felony Export Violations Stemming from the Illegal Export of High-Performance Coatings to a Nuclear Reactor in Pakistan**

**(Company Agrees to \$3 Million in Criminal and Civil Fines)**

**U.S. Department of Justice  
United States Attorney's Office**

**For Immediate Release: December 3, 2012  
Contact - BIS Public Affairs: 202-482-2721**

WASHINGTON - The China Nuclear Industry Huaxing Construction Co., Ltd., (Huaxing), a corporate entity owned, operated and/or controlled by the People's Republic of China (PRC), pled guilty today to conspiring to violate the International Emergency Economic Powers Act (IEEPA) and the Export Administration Regulations (EAR), and other related charges, announced Ronald C. Machen Jr., U.S. Attorney for the District of Columbia, and Eric L. Hirschhorn, U.S. Department of Commerce Under Secretary for Industry and Security.

It is believed that today's plea marks the first time that a PRC corporate entity has entered a plea of guilty in a U.S. criminal export matter. The case's combined \$3 million in criminal and administrative fines represent the government's continued determination to pursue substantial monetary penalties for export violations.

Huaxing is headquartered in Nanjing, China. Its guilty plea is the result of a long-term investigation of illegal exports of high-performance epoxy coatings from the United States to the Chashma II Nuclear Power Plant in Pakistan (Chashma II), which Huaxing was building as part of a nuclear cooperation pact between the PRC and Pakistan. Chashma II is owned by the Pakistan Atomic Energy Commission (PAEC), an entity on the Department of Commerce's Entity List. The investigation was led by the Department of Commerce's Bureau of Industry and Security (BIS).

*(Continued above)*

As part of its plea agreement, Huaxing agreed to the maximum criminal fine of \$2 million, \$1 million of which will be stayed pending its successful completion of five years of corporate probation. The terms of Huaxing's probation will require it to implement an export compliance and training program that recognizes Huaxing's obligation to comply with U.S. export laws. Through an administrative agreement with the Department of Commerce, Huaxing has also agreed to pay another \$1 million immediately and be subject to multiple third-party audits over the next five years to ensure the efficacy of its compliance with U.S. export laws.

Huaxing's guilty plea is related to the December 2010 guilty plea of PPG Paints Trading (Shanghai) Co., Ltd. (PPG Paints Trading), a Chinese subsidiary of Pittsburgh-based PPG Industries, to a four-count Information in the U.S. District Court for the District of Columbia. Together, PPG Paints Trading and its parent company, PPG Industries, paid \$3.75 million in criminal and administrative fines and more than \$32,000 in restitution. In November 2011, Xun Wang, the highest ranking executive at the Chinese PPG subsidiary, pled guilty to conspiracy and agreed to cooperate with the government's investigation.

Huaxing entered the guilty plea today and was sentenced in accordance with the terms of the plea agreement by the Honorable Judge Emmet G. Sullivan in the U.S. District Court for the District of Columbia.

"In 2010, the Chinese subsidiary of PPG Industries pleaded guilty to the conspiracy to export high-performance coatings for use in the Pakistani nuclear reactor. In 2011, the former managing director of that subsidiary, a Chinese national, pled guilty. Now, Huaxing - the PRC-corporate entity that bought the coatings for application in the Pakistani reactor - has accepted responsibility for its role in the crime," said U.S. Attorney Machen. "The lesson here is clear: we will pursue violations of U.S. export controls wherever they occur in the world, we will prosecute both individuals and corporate wrong-doers, and a corporation's status as foreign-owned, or even state-owned, will not bar enforcement of those laws in U.S. courts."

*(Continued below)*

"Having a corporate entity plead guilty to such egregious violations demonstrates our resolve in combatting diversion of legitimate commerce," said Under Secretary Hirschhorn. "BIS Special Agents in the Office of Export Enforcement will continue to leverage their unique authorities to disrupt and prosecute corporate and individual violators."

According to count one of the Information filed with the court, beginning in or about June 2006 through in or about March 2007, Huaxing conspired to export PPG Industries' high-performance coatings from the United States to Chashma II, via China, without first having obtained the required export license from the Bureau of Industry and Security in violation of the EAR. Chashma II is a PAEC power plant under construction near Kundian, Punjab province, Pakistan.

The PAEC is the science and technology organization in Pakistan responsible for Pakistan's nuclear program including the development and operation of nuclear power plants in Pakistan. In November 1998, following Pakistan's first successful detonation of a nuclear device, the Commerce Department's Bureau of Industry and Security added PAEC, as well as its subordinate nuclear reactors and power plants, to the list of prohibited end users under the EAR.

As a restricted end-user, a United States manufacturer seeking to export, re-export, or transship any items subject to the EAR to the PAEC or its nuclear power plants or reactors, would need first to obtain a license from the Department of Commerce in the District of Columbia.

According to count one of the Information, in January 2006, PPG Industries sought such an export license for the shipments of coatings to Chashma II. The Commerce Department denied that license application in June 2006. Following that denial, the Information states, Huaxing agreed upon an arrangement whereby the high-performance coatings would be sold to a third-party distributor in China which, in turn, would deliver the coatings to Huaxing for application at Chashma II.

*(Continued above)*

Further, members of the conspiracy stated, or caused to be stated, that the coatings were to be used at a nuclear power plant in China, the export of goods to which did not require a license from the Department of Commerce. Through these means, the transactions were thus structured to evade U.S. export law by concealing that the true end-user of the coatings was Chashma II.

Counts two through four of the Information state that Huaxing violated IEEPA and the EAR when it willfully exported, reexported, and transshipped and/or attempted to export, re-export and transship three shipments of the high-performance coatings destined for Chashma II between June 2006 and March 2007 without the required Commerce Department license. The total value of the three illegal exports in question was approximately \$32,000.

In announcing the guilty plea and sentencing, U.S. Attorney Machen and Under Secretary Hirschhorn commended Special Agents James Fuller and Donald Pearce, who worked under the direction of Special Agent in Charge Sidney M. Simon and Assistant Special Agent in Charge Jonathan Carson, as well as Senior Attorney R. Elizabeth Abraham, all of the Department of Commerce's Bureau of Industry and Security. They also thanked Assistant U.S. Attorney G. Michael Harvey of the U.S. Attorney's Office for the District of Columbia, who prosecuted this matter.



## Ocean Port Labor Update

\*The Ports of LA/LB are back to work, clearing backlog. Kudos to Customs for extending their work hours and issuing policies to deal with cargo diverted to other ports.

\*The Port of Oakland has settled their labor dispute.

\*The ILA and USMX met for two days this week – not much info coming out from the meetings. They will meet next week to talk about a major sticking point – Container Royalties.

\*Articles that may be of interest:

**-Waiting in the Wings: Taft-Hartley** - December 13, 2012

**-Unions, Employers Pulling No Punches** - December 13, 2012

**-ILA, USMX to Meet on Royalties** - December 12, 2012

**-ILA, USMX Reps Seek to Bridge Differences** - December 11, 2012

**-ILA Authorizes Possible Strike When Contract Expires** - December 11, 2012

\*Just so you do not think we are the only country with port labor issues - India's Nehru Port APM Terminal hit by indefinite Port Trucker Strike

## FSIS Issues FR Notice on New Policy for Entry of Meat/Poultry Products Until FSIS Gets Test Results

The Food Safety and Inspection Service (FSIS) announced adopting a policy, effective 02/08/12, to no longer allow meat and poultry products, including imported products, to enter into U.S. commerce until all test results have been received by FSIS. The agency will withhold its determination as to whether the imported or domestic products are not adulterated until it receives the results of sampling.

Importers will, however, be able to move products away from the border pending test results as long as the product moves under company seal and does not enter into U.S. commerce. According to FSIS, this proposed policy will reduce the number of recalls and reduce the amount of unsafe food that reaches store shelves.

The new policy adopts an April 2011 proposal in its entirety.

FSIS contact – Rachel Edelstein (202) 205-0495

FR Notice available at [http://www.ofr.gov/OFRUpload/OFRData/2012-29516\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2012-29516_PI.pdf)



## DOD Issues New Directive on Use on Autonomous Drones

(Officials Deny Connection Between the New Doctrine and the Human Rights Watch Report Released in November)

By Robotics Trends' News Sources – Filed Dec 05, 2012

### More Security and Defense Stories

The U.S. Defense Department has issued a new directive on the use of autonomous and semi-autonomous weapon systems in an attempt to regulate a technology that officials say could be years from becoming reality.

The directive, released November 27th, is focused on systems that can select and engage targets without the intervention of a human operator. Non-lethal autonomous systems, such as electronic attack or cyberspace systems, fall outside its jurisdiction. So do technologies such as the Patriot missile system, which have autonomous functions but still require human supervision.

Any autonomous and semi-autonomous weapon systems “shall be designed to allow commanders and operators to exercise appropriate levels of human judgment over the use of force,” the doctrine reads.

Humans still must play an oversight role, with the ability to activate or deactivate system functions should the need arise. Systems will also be required to go through “rigorous” verification and validation and operational test and evaluation stages to catch potential malfunctions before the systems ever see active duty.

Once through the testing stages, systems will require the approval of the undersecretary of defense for policy, the undersecretary of defense for acquisition, technology and logistics, and the chairman of the Joint Chiefs of Staff before their activation.

*(Continued above)*

The overall goal of the new rules is to avoid “unintended engagements,” defined in the doctrine as “damage to persons or objects that human operators did not intend to be the targets of U.S. military operations, including unacceptable levels of collateral damage beyond those consistent with the law of war, [rules of engagement], and commander’s intent.”

The new rules aren’t in place to discourage the development of an autonomous weapon system, said David Ochmanek, deputy assistant secretary for policy force development, who described the doctrine as “flexible.” “What it does say is that if you want to [develop an autonomous weapon system], there will be a rigorous review process, and if you expect it to be approved, you will be asked to show that your software and hardware has been subject to rigorous test and validation,” Ochmanek said.

While the department is looking toward the future, the report’s authors don’t expect to need the new regulations any time soon. “This directive is, for once, out ahead of events,” Ochmanek said. “This isn’t something where we all of a sudden realized someone’s out there about to develop a Terminator and decided we better get a directive out. That’s not the case.”

Although Ochmanek declined to guess at a timetable for the development of this technology, “I can say with confidence that there is no development program going on right now that would create an autonomous weapons system,” he said.

The idea of a robotic military UAV that can identify enemies and hunt them down is a long-time staple in science fiction. But even when autonomous military systems become a reality, they are unlikely to resemble something out of “Star Wars” or “The Matrix”, inherently lacking in necessary human qualities.

“When you hear folks talk about this outside the Pentagon, in reports, they tend to leap to the hardest case ... something making a judgment call that [is] hard for people to make,” said a defense official involved with the drafting of the new doctrine.

*(Continued below)*

The official used the example of two cars driving on the ground, one with an ally inside and one with an enemy inside. A machine would have to process an incredible amount of different data to be able to decide which car should be targeted.

"We don't want to build a robot for that. Machines won't have an advantage in that case," said the official, who added that DoD would have a series of meetings with interested parties to brief them on the new doctrine.

The specter of that "hardest case" was raised in a Nov. 19 Human Rights Watch (HRW) report, "Losing Humanity: The Case against Killer Robots." The report warned of the need to regulate autonomous devices, "which would inherently lack human qualities that provide legal and non-legal checks on the killing of civilians."

Ochmanek denied any connection between the release of the HRW report and the new doctrine, which was in development for 18 months with the help of representatives from the Joint Staff, DoD's acquisitions office, the Office of the General Counsel, the U.S. military services, and the research and development community.

## Manager of South Carolina-Based Firm Pleads Guilty in Connection with Illegal Exports to Iran

**FOR IMMEDIATE RELEASE BUREAU OF INDUSTRY AND SECURITY - Office of Congressional and Public Affairs - December 5, 2012**  
[www.bis.doc.gov](http://www.bis.doc.gov) (202) 482-2721

COLUMBIA, S.C. – Markos Baghdasarian, the manager of Delfin Group USA LLC, pleaded guilty yesterday in the District of South Carolina to charges of conspiracy to violate the International Emergency Economic Powers Act (IEEPA), violating the IEEPA and making false statements in connection with his illegal exports to Iran without the required U.S. government licenses.

The guilty plea was announced by William N. Nettles, U.S. Attorney for the District of South Carolina; Lisa Monaco, Assistant Attorney General for National Security; John Morton, Director of U.S. Immigration and Customs Enforcement (ICE); and David W. Mills, Assistant Secretary of Commerce for Export Enforcement.

*(Continued above)*

At sentencing, Baghdasarian faces a potential sentence of five years in prison for conspiring to violate IEEPA, 20 years in prison for violating IEEPA and five years in prison for false statements. Baghdasarian was arrested on May 19, 2012, in Atlanta on a criminal complaint issued in the District of South Carolina and was later indicted on June 14, 2012.

In May 1995, the President of the United States, under executive IEEPA authority, declared a trade embargo with Iran, prohibiting the export from the United States to Iran of any goods, technology or services with limited exceptions. The imposition of the trade embargo followed a March 1995 executive order that declared a national emergency with respect to Iran and its government based on findings that the Iranian government constituted a threat to the national security of the United States due to Iran's support of international terrorism and its attempts to acquire weapons of mass destruction.

According to the indictment, Baghdasarian served as the manager of Delfin Group USA, located in Charleston, S.C., which supplies automotive and marine lubricants to domestic and international markets. From as early as June 13, 2010, until Oct. 12, 2011, Baghdasarian engaged in prohibited transactions with customers in Iran. Under IEEPA, U.S. persons and companies are prohibited from engaging in commercial transactions involving Iran unless authorized by the U.S. Department of Treasury.

As further detailed in the indictment, Baghdasarian and others received orders from customers in Iran for Delfin USA products. Baghdasarian then registered "paper" companies in the United Arab Emirates (UAE) and produced fictitious labels for Delfin USA products in order to obscure the company identity from export enforcement officials. In addition, he concealed from the U.S. government that materials were being sold to customers in Iran by falsely stating that the UAE was the final end destination of goods intended for Iran. Finally, according to the indictment, Baghdasarian caused Delfin USA products to be sold to customers in Iran without obtaining a license from the Treasury Department.

*(Continued below)*

This case was the product of an extensive investigation by ICE's Homeland Security Investigations and the U.S. Department of Commerce's Bureau of Industry and Security Office of Export Enforcement, with assistance from U.S. Customs and Border Protection and the U.S. Coast Guard. The case is being prosecuted by Trial Attorney Elizabeth Cannon of the Counterespionage Section in the Justice Department's National Security Division and Assistant U.S. Attorney Alston Badger of the U.S. Attorney's Office for the District of South Carolina, Charleston Division.

## Four Individuals Charged in the Southern District of New York with Exporting Various Goods from the United States to Iran and China

*(Two Iranian Nationals Have Been Arrested, Including One on Charges of Exporting Carbon Fiber - a Product That Can Be Used for Uranium Enrichment)*

**U.S. Department of Justice  
United States Attorney's Office  
For Immediate Release: December 5, 2012  
Contact - BIS Public Affairs: 202-482-2721**

Preet Bharara, the United States Attorney for the Southern District of New York, George Venizelos, the Assistant Director-in-Charge of the New York Field Division of the Federal Bureau of Investigation ("FBI"), James T. Hayes, Jr., the Special Agent-in-Charge of the New York Field Office of U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations ("HSI"), and Sidney Simon, the Special Agent-in-Charge of the U.S. Commerce Department, Bureau of Industry and Security's Office of Export Enforcement New York Field Office ("DOC"), today announced charges against four individuals for exporting various goods from the U.S. to Iran and China.

These goods include carbon fiber, which has a wide variety of uses, including in gas centrifuges that enrich uranium and in military aircraft and strategic missiles. The four individuals charged are HAMID REZA HASHEMI, a dual U.S. and Iranian citizen who resides in Iran, PETER GROMACKI, a U.S. citizen and a resident of Orange County, New York, AMIR ABBAS TAMIMI, an Iranian citizen and a resident of Iran, and MURAT TASKIRAN, a Turkish citizen. HASHEMI, GROMACKI, and TAMIMI are in custody in the U.S.

*(Continued above)*

HASHEMI is alleged to have violated the International Emergency Economic Powers Act ("IEEPA") by working with others, including TASKIRAN, to arrange for the export of carbon fiber from the U.S. to his company in Tehran, Iran. HASHEMI was arrested at John F. Kennedy International Airport as he entered the U.S. on December 1, 2012, and was arraigned in federal court in White Plains on December 4, 2012, before U.S. Magistrate Judge George A. Yanthis. U.S. District Judge Vincent L. Briccetti is assigned to the case.

GROMACKI is alleged to have violated IEEPA by using his company in Orange County, New York, to export carbon fiber from the U.S. to China. He was arrested this morning at his residence in Orange County, and was arraigned in federal court in White Plains before U.S. Magistrate Judge George A. Yanthis this afternoon.

TAMIMI is alleged to have violated IEEPA by working to export helicopter component parts from the U.S. to Iran, through South Korea. He was arrested at John F. Kennedy International Airport as he entered the U.S. on October 5, 2012, and was arraigned on October 9, 2012, in federal court in Manhattan before U.S. District Judge J. Paul Oetken.

U.S. Attorney Preet Bharara said: "The embargo and export laws that all four of these defendants are alleged to have violated are critical to protecting the national security of the United States and its citizens. Carbon fiber in the wrong hands poses a serious threat to that security, and two of these defendants are charged with arranging its export to Iran, where it most assuredly had the potential to end up in the wrong hands. The law enforcement actions we announce today should make clear that, together with our law enforcement partners, we will work tirelessly to enforce the laws that protect our country."

FBI Assistant Director-in-Charge George Venizelos: "The law prohibits the exportation of goods to Iran and certain goods to China. Whether motivated by greed or otherwise, these defendants allegedly violated the law, including by arranging for the export of carbon fiber that can be used in uranium enrichment. The FBI takes very seriously its responsibility to ensure that strategically important goods and technology do not end up in the wrong hands."

*(Continued below)*

HSI Special Agent-in-Charge James T. Hayes, Jr. said: "We are engaged in a daily cat-and mouse game with individuals who will go to great lengths to circumvent U.S. Customs law to export sensitive military grade technology to countries like Iran and China. If in the wrong hands, carbon fiber can be used to manufacture dangerous products that threaten our national security and the security of other nations. HSI works closely with federal law enforcement partners and foreign governments to prevent the illegal exportation of this sensitive technology."

DOC Special Agent-in-Charge Sidney Simon: "Today's arrests and charges demonstrate our resolve to work hand-in-hand with our law enforcement partners to pursue export violators anywhere in the world."

The following allegations are based on the Indictments and the Complaint:

From 2007 until his arrest, HASHEMI lived and worked in Iran, and operated a company in Tehran (the "Iranian Company"), which procured carbon fiber from various brokers. TASKIRAN was the Managing Director of a company in Turkey (the "Turkish Company"). For example, in March and April 2008, HASHEMI, TASKIRAN, and a Europe-based broker ("Individual-1"), successfully arranged for the shipment of carbon fiber from the U.S. to the Iranian Company. Specifically, Individual-1 bought carbon fiber from a U.S. supplier, and arranged for the supplier to export it from the U.S. to Europe. Individual-1 then used a European freight forwarder – a private company that handles large overseas exports – to send the carbon fiber from Europe to United Arab Emirates (the "UAE"), and arranged for the carbon fiber to be sent from the UAE to the Iranian Company operated by HASHEMI.

From 2006 until his arrest, GROMACKI lived and worked in Orange County, New York. In June 2007, GROMACKI arranged for the export of more than 6,000 pounds of carbon fiber from the U.S. to Belgium, which was then shipped to China. In addition, and in connection with this export, GROMACKI made various false statements on a shipper's export declaration form, concerning: the ultimate consignee of the shipment; the ultimate country of destination of the shipment; and whether an export license was required for the shipment.

*(Continued above)*

Beginning in November 2011 and until his arrest, TAMIMI attempted to arrange for the export of helicopter component parts from the U.S. to Iran, through South Korea. The components were for a particular helicopter that can be used for military purposes, including for reconnaissance, tactical insertion, and as a missile platform.

None of the participants in any of the transactions described above obtained the requisite approval from the U.S. Department of Treasury, Office of Foreign Assets Control, or DOC.

**HASHEMI, 52**, has been charged with one count of conspiracy to violate IEEPA, and two substantive IEEPA violations. He faces a maximum penalty of 60 years in prison.

**GROMACKI, 48**, has been charged with one count of conspiracy to violate IEEPA, one substantive violation of IEEPA, and one count of making false statements in a matter within the jurisdiction of the U.S. He faces a maximum penalty of 30 years in prison.

**TASKIRAN** has been charged with one count of conspiracy to violate IEEPA and one substantive IEEPA violation. He faces a maximum penalty of 40 years in prison.

**TAMIMI, 40**, has been charged with conspiracy to violate IEEPA and one substantive IEEPA violation. He faces a maximum penalty of 40 years in prison.

Mr. Bharara praised the extraordinary investigative work of the various law enforcement agencies involved in this investigation, including the New York Offices of the FBI, HSI, and DOC. Mr. Bharara also thanked the U.S. Department of Justice's National Security Division and its Office of International Affairs.

The case is being handled by the Office's Terrorism and International Narcotics Unit.

Assistant U.S. Attorneys Christopher L. Lavigne and Jason P.W. Halperin are in charge of the prosecution.

The charges contained in the Indictments and the Complaint are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

## Manhattan U.S. Attorney Announces Arrest of Queens Resident for the Export of Military-Use Items to Taiwan and for Attempting to Export Them to China

**U.S. Department of Justice  
United States Attorney's Office  
For Immediate Release: December 6, 2012  
Contact - BIS Public Affairs: 202-482-2721**

Preet Bharara, the United States Attorney for the Southern District of New York, Sidney Simon, the Special Agent-in-Charge of the U.S. Commerce Department's Bureau of Industry and Security's Office of Export Enforcement New York Field Office ("DOC"), and George Venizelos, the Assistant Director-in-Charge of the New York Field Office of the Federal Bureau of Investigation ("FBI"), today announced the arrest of MARK HENRY, a United States citizen and a resident of Queens, New York, in connection with a scheme to illegally export defense articles and goods with military applications from the U.S. to Taiwan and China. HENRY, 49, was arrested earlier today at his home in Queens, and was presented in Manhattan federal court before U.S. Magistrate Judge Gabriel Gorenstein this afternoon.

Manhattan U.S. Attorney Preet Bharara said: "As alleged, Mark Henry shipped sensitive military and dual-use materials in violation of federal laws that seek to prevent such materials from ending up in the wrong hands. His arrest today demonstrates, yet again, the seriousness with which law enforcement takes its responsibility to catch and prosecute those who attempt to export prohibited items and materials and to violate trade embargos."

DOC Special Agent-in-Charge Sidney Simon: "Preventing the illegal export of sensitive U.S. origin commodities that enhance the military capabilities of foreign nations is our top priority. We are constantly striving to maintain the technological advantage of U.S. fighting forces. I applaud the cooperative efforts of the Justice and Commerce Departments and the FBI which led to today's arrest."

*(Continued above)*

FBI Assistant Director-in-Charge George Venizelos: "The illegal export of our intellectual property and restricted military material may not grab headlines, but it presents serious implications for our nation's security. Shipping restricted products might line your pockets, but it could also land you in prison."

According to the allegations in the Indictment unsealed today in Manhattan federal court:

From April 2009 through September 2012, HENRY operated an export company based in New York City that shipped goods from suppliers located in the U.S. to customers in Asia – specifically China and Taiwan. HENRY shipped military-grade materials that can be used as a protective coating for rocket nozzles, and which are designated as defense articles on the U.S. Munitions List, to customers in Taiwan. He also attempted to ship microwave amplifiers, which have both commercial and military uses and are listed on the Commerce Control List, to China. HENRY did not apply for or receive the requisite licenses for these shipments.

The Indictment charges HENRY in three counts: Count One – conspiracy to violate the Arms Export Control Act; Count Two – a substantive violation of the Arms Export Control Act and the International Traffic in Arms Regulations; and Count Three – an attempt to violate the International Emergency Economic Powers Act. Count One carries a maximum sentence of five years in prison. Counts Two and Three each carry a maximum sentence of 20 years in prison. HENRY's case is assigned to U.S. District Judge Jesse M. Furman, and the defendant will be arraigned before Judge Furman tomorrow at 9:30 a.m.

Mr. Bharara praised the extraordinary investigative work of the New York Field Office of the DOC's Bureau of Industry and Security's Office of Export Enforcement and the New York Field Office of the FBI's Counterintelligence Division. Mr. Bharara also thanked the U.S. Department of Justice's National Security Division.

This prosecution is being handled by the Office's Terrorism and International Narcotics Unit. Assistant United States Attorneys Aimee Hector and Michael Lockard are in charge of the prosecution.

The charges contained in the Indictment are merely accusations and the defendant is presumed innocent unless and until proven guilty.

## Taiwanese National Pleads Guilty to Attempting to Illegally Export Aerospace-Grade Carbon Fiber

(Defendant Sought Thousands Of Pounds Of High-Tech Material)

**FOR IMMEDIATE RELEASE BUREAU OF INDUSTRY AND SECURITY Office of Congressional and Public Affairs December 11, 2012 - [www.bis.doc.gov](http://www.bis.doc.gov) (202) 482-272**

Yen Ling Chen, a citizen of Taiwan, pled guilty today at the federal courthouse in Brooklyn, New York, before the Honorable Nicholas G. Garaufis to violating the International Emergency Economic Powers Act by attempting to export weapons-grade carbon fiber from the United States to Taiwan. According to the indictment and facts presented today in court, Chen was arrested in the United States after attempting to negotiate a deal to acquire tons of the specialized fiber, which has applications in the defense and aerospace industries and is therefore closely regulated by the United States Department of Commerce.

The plea was announced by Loretta E. Lynch, United States Attorney for the Eastern District of New York; James T. Hayes, Jr., Special Agent-in-Charge, U.S. Immigration and Customs Enforcement, Homeland Security Investigations (HSI), New York; and Sidney Simon, Special Agent-in-Charge, U.S. Department of Commerce (DOC), Office of Export Enforcement, New York Field Office.

On April 25, 2012, the defendant contacted an undercover agent in Brooklyn via the Internet and indicated that she and others were interested in purchasing several tons of carbon fiber. Shortly thereafter, the defendant and an accomplice wired \$1,000 to a United States bank account, as a deposit on a sample. In furtherance of the export scheme, and in an effort to secure a source of the controlled commodity, the defendant traveled from Taiwan to the United States on July 5, 2012, for the purpose of obtaining the sample. During a meeting with an undercover agent the following day, the defendant assisted in negotiating the deal and making arrangements for the delivery of the sample to Taiwan for further analysis.

*(Continued above)*

Certain types of carbon fiber, such as the type defendant Chen sought to acquire in this case, are closely controlled for nuclear non-proliferation and anti-terrorism reasons. The regulation of carbon fiber falls under the jurisdiction of the Department of Commerce, which reviews and controls the export of certain goods and technology from the United States to foreign countries. In particular, the Commerce Department has placed restrictions on the export of goods and technology that it has determined could make a significant contribution to the military potential or nuclear proliferation of other nations, or that could be detrimental to the foreign policy or national security of the United States.

Carbon fiber composites are ideally suited to applications where strength, stiffness, lower weight, and outstanding fatigue characteristics are critical requirements. These composites also can be used in applications where high temperature, chemical inertness, and high damping are important. The two main applications of carbon fiber are in specialized technology, which includes aerospace and nuclear engineering, and in general engineering and transportation. In addition, certain carbon fiber-based composites, such as the material sought by the defendant, are used in military aircraft. When sentenced, Chen faces up to 20 years in prison.

"The defendant tried to circumvent laws that are intended to protect our national security by preventing specialized technologies from falling into the wrong hands," stated United States Attorney Lynch.

"Today's conviction should leave no doubt that the United States will vigorously prosecute violations of our laws that help maintain the superiority of our armed forces on land, at sea, and in the air." Ms. Lynch added that the government's investigation is ongoing.

"In the wrong hands, this sensitive commodity could be used to produce materials that threaten the national security of the United States," said HSI Special Agent-in-Charge Hayes. "Homeland Security Investigations will continue to remain vigilant in its mission to protect our citizens and residents."

*(Continued below)*

"Today's plea demonstrates our resolve to prevent potentially dangerous technologies with both nuclear and missile applications from falling into the wrong hands. We will continue to work hand in hand with our law enforcement partners in the worldwide pursuit of those who flout our export control laws," stated DOC Special Agent-in-Charge Simon.

The government's case is being prosecuted by Assistant United States Attorneys Seth DuCharme and David Sarratt, with assistance from Trial Attorney David Recker of the Department of Justice Counterespionage Section. Assistance was also provided by Trial Attorney Dan E. Stigall of the Department of Justice Office of International Affairs. **The Defendant: YEN LING CHEN Age: 53**

### Excerpted Prepared Remarks of Eric L. Hirschhorn Under Secretary for Industry and Security U.S. Department of Commerce

Practicing Law Institute - Washington DC December  
10, 2012

#### **Where Export Control Reform Stands Today**

As outlined by President Obama in August 2009 and then later by Secretary Gates, our ultimate vision for a new export control system remains one with a single licensing agency administering a single list, operating on a single information technology (IT) platform, and enforced by a single export enforcement coordination agency. This objective, however, will require legislation to complete.

Meanwhile, we are doing everything we can to reap the national security benefits of the larger plan within the existing system. We are also making the proposed amendments with an eye to the ITAR and the EAR and their control lists one day being consolidated. This, for example, is why we are developing common definitions and exemptions. Such work not only builds a better functioning, more coherent system but is also a prerequisite for one day creating a single list and single set of control regulations.

*(Continued above)*

Commerce, State, and Defense have agreed on almost all the proposed revisions of control list categories. BIS and State have published 24 proposed rules covering categories of the ITAR and EAR, including the proposed "specially designed" and transition rules. The proposed rules cover such categories as military aircraft, engines, explosives, naval vessels, tanks and military vehicles, protective personnel equipment, auxiliary military equipment, and submersibles.

On November 28th, we and the State Department published proposed rules on military electronics that are open for public comment. Six more pairs of control list rules are in the Office of Management and Budget (OMB) interagency review process. I want to thank those of you who have been commenting on our proposals and encourage you to continue to do so. We take public comments very seriously. Your expertise is crucial for us to make sure we get this right.

We are moving toward publishing our first final rule on our revisions to control list categories. This rule will combine all previous proposed rules on the structure of the new system, plus the new Commerce and State controls on military aircraft, military engines, and related parts and components.

Thus, the draft final rule includes (1) the structure for the new "600 series" in the CCL to control former USML items, (2) the rules for how License Exception STA and other exceptions will or will not apply to the export of 600 series items, (3) the new definition of "specially designed," (4) changes to EAR license exceptions to make them more consistent with the ITAR's exemptions, (5) new license validity terms to align them with the ITAR (4 years instead of 2, for example), and (6) the rules for transitioning or grandfathering into the new system ITAR licenses covering items that become subject to the EAR.

*(Continued below)*

Before any items can be transferred from the USML to the CCL, the State Department is required under Section 38(f) of the Arms Export Control Act to notify its congressional oversight committees. Each notification must be made at least 30 days before the President implements the proposed changes to the control lists. We have held many meetings with our congressional committees of jurisdiction to keep them up to speed on the reform effort in preparation for the "Section 38(f)" notifications. We expect the State Department will send the first "Section 38(f)" notification sometime in the next several months.

Satellites are a special case. In May, the House passed legislation that would restore the President's authority to transfer satellites, like other USML items, to the CCL. We had concerns with some provisions of the House language and have worked closely with members and staff of both parties to address those concerns. We are optimistic that the final Defense authorization bill will provide the President with appropriate authority while ensuring that national security is fully protected.

In addition to the publication of proposed rules and our efforts on satellites in Congress, we have taken a number of steps to improve our export control system this first term. This includes: (1) creating License Exception Strategic Trade Authorization (STA) for most items subject to the EAR; (2) improving our export enforcement capabilities; (3) addressing key operational issues, such as moving toward the USXports I.T. platform, which we expect to have in "initial operation capability" for all export control agencies shortly; and (4) establishing and training the Munitions Control Division within BIS in anticipation of the movement of items that no longer warrant ITAR control.

We've also enhanced enforcement capabilities within BIS and across the U.S. government. This is partly the result of the establishment of the Information Triage Unit (ITU) and Export Enforcement Coordination Center (E2C2), which have enhanced our intelligence abilities and interagency collaboration.

*(Continued above)*

We have obtained permanent law enforcement authority for our export enforcement agents and have focused our enforcement investigations on not only companies that violate our regulations, but also individuals. No longer will an individual be able to intentionally violate the EAR and leave the company's shareholders to foot the bill, while he banks his commission.

It is worth noting that, in our enforcement, we are trying to make a distinction between "oops" and "the heck with you"—meaning that we are focusing on the truly bad actors, not those who had a decent compliance program, made a mistake, and are working with us to remedy the situation.

This is why we are enhancing our educational programs. BIS is developing a targeted and multi-faceted outreach program to support the USML-to-CCL process and to get exporters up to speed once these changes are published in final form. We also have deployed on the BIS website an interactive tool to assist companies in determining whether they are eligible for and compliant with STA.

Transferring certain defense articles from the USML to the CCL does not degrade the U.S. Government's enforcement capabilities. If anything, it enables *more* enforcement tools to be applied to those items. The criminal penalties for violations of the ITAR and violations of the EAR are the same—a fine of \$1 million and up to 20 years imprisonment, per violation.

Under the Commerce authorities, the Government has more administrative enforcement tools to apply to violators, especially overseas violators who may be beyond the reach of extradition. These include: temporary export denial orders, plus inclusion on Denied Persons List, Entity List, or Unverified List.

Under our plan, there will be *more* law enforcement resources available in that the regulations will be enforced by criminal investigators from three agencies: Commerce, FBI, and DHS.

*(Continued below)*

## **Next Steps**

On the export reform front, our priority is completing the USML list review effort. Although the drafts of each category are written, we still need to publish the few remaining categories in proposed form, work through public comments on all categories to put together final versions, notify Congress of each category change, and make the changes in the revised USML and "600 series" ECCNs with all of the other edits to the ITAR and EAR necessary to allow for the change.

There will be a massive amount of work needed in 2013 to ensure that licenses are processed no less quickly than under the current system. In addition, we will be engaging in educational outreach effort over the next year to help companies respond to changes to the system. This will include more specialty training programs and remote training opportunities. The proposed changes will benefit national security, foreign policy and industrial security, but the transition will be difficult in the short term and we want to help companies successfully respond to the new environment.

Because of the relative size and significance of the national security issues pertaining to the USML that I've described today, there thus far has been relatively little focus on *EAR*-specific improvements or updates, other than License Exception STA and the regular regime-related modifications. Our priorities were right for the President's first term, but we now are to have a second term and we will be working to modernize many parts of the EAR that do not require regime involvement. We are already beginning this process with the publication on November 29th of our proposed CCL "clean-up" rule, which describes ways to make the CCL more user-friendly for exporters.

The proposed rule, in many respects, reflects public comments in response to an Advance Notice of Proposed Rulemaking from December 9, 2010. We encourage you to provide comments on the CCL proposal, which are due January 28th.

*(Continued above)*

Other topics that warrant serious attention include encryption controls and deemed export requirements. We are working now with our advisory committees and our colleagues in the other agencies to develop a priority list of EAR-specific tasks that can be undertaken in 2013 and in the second term.

We will apply the same general standard that has governed our work thus far—achieve greater regulatory efficiency and rationality, focus controls on the most significant items and destinations, increase education to sensitize exporters to their compliance responsibilities, and strengthen enforcement. It has been a pleasure to be a part of this effort and I look forward to continuing it as the President begins his second term.

## **Massachusetts Announces STEP Grants for Exporters (Many Other States Have Similar Programs)**

The Massachusetts Office of International Trade & Investment (MOITI) and the Massachusetts Export Center announce that applications are now available for small businesses to apply for a 2013 STEP (State Trade & Export Promotion) Export Grant. As reported, eligible companies in the Commonwealth can receive grants of up to \$10,000. Last spring, more than 60 MA companies received STEP grants. Funds were used for attending overseas trade shows, translation, trade conferences and Gold Key matchmaking services from the US Dept. of Commerce.

Also reported, the US Small Business Administration (SBA) has awarded more than \$700,000 in STEP funds to the Bay State for 2013. The application deadline is 02/28/13. In January, MOITI and the MA Export Center will hold a series of webinars for companies to learn more about the application process and enhance their chances of being awarded a grant.

Complete details on the program, visit the website, email [STEP@moiti.org](mailto:STEP@moiti.org), or call 617-830-5409

MOITI website:

<http://www.mass.gov/hed/economic/eohed/moiti/exporting/step-program/>

## President Creates Government Task Force to Level Playing Field for Exporters

An Interagency Task Force on Commercial Advocacy has been established by President Obama in an executive order on 12/06/12. The White House advised the goal is "to help level the playing field on behalf of U.S. businesses and workers competing for international contracts against foreign firms and to facilitate the growth of sales of U.S. goods and services around the world in support of the National Export Initiative (NEI)."

The Task Force will be chaired by the Secretary of Commerce and consist of senior-level officials from the Department of State, Department of the Treasury, Department of Defense, Department of Agriculture, Department of Health and Human Services, Department of Transportation, Department of Energy, Department of Homeland Security, U.S. Agency for International Development, Export-Import Bank of the U.S., Millennium Challenge Corp., Overseas Private Investment Corp., U.S. Trade and Development Agency, and other agencies that may be designated. A senior-level Commerce Department official will be named executive director of the task force.

White House Press Release:  
<http://www.whitehouse.gov/the-press-office/2012/12/06/executive-order-establishment-interagency-task-force-commercial-advocacy>

## CBP Posts Information for C-TPAT Conference in January 2013

U.S. Customs and Border Protection (CBP) announced they will hold the 2013 C-TPAT Conference January 8-10, in the Washington, DC.

The three-day seminar will be divided into one general session day and two workshop days. The conference registration will open 12/05/12 at noon EST.

CBP notice:  
[http://www.cbp.gov/xp/cgov/trade/cargo\\_security/ctpat/ctpat\\_conf\\_2013.xml](http://www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/ctpat_conf_2013.xml)

## A Bill That Would Start A Pilot Program to Require Drug Testing for Truck Drivers in the U.S.

American Trucking Associations (ATA) applauded Reps. Reid Ribble of WI and Chuck Fleischmann of TN for calling for a pilot program to require drug testing of hair samples for truck drivers in the United States. As reported, the proposed bill would require the Transportation Department (DOT) to develop a pilot program to test the viability of hair testing on truckers.

According to the ATA press release, hair testing for drugs is much more effective than currently used methods. ATA's representative, Mike Card commented "more effective drug testing procedures can help us make sure that doesn't happen. ATA invites the DOT to join it in supporting this approach to improving the regulated testing program."  
[www.americanshipper.com](http://www.americanshipper.com) (12/6/12)

## FDA Creates Website for Guidance on Medical Devices

As reported, the Food and Drug Administration (FDA) has announced the Website location where it will post two lists of guidance documents that its Center for Devices and Radiological Health (CDRH) intends to publish in Fiscal Year (FY) 2013.

FDA has also established a docket where stakeholders may provide comments and/or propose draft language for those topics, suggest or different guidance documents, and comment on the priority of topics for guidance.

FDA website:  
<http://www.ncbfaa.org/userfiles/file/meddevicerelease.pdf>

National Customs Brokers and Forwarders Association of America (NCBFAA) notice:  
[www.ncbfaa.org](http://www.ncbfaa.org) (12/3/12)

## CBP Posts Updated ACE Fact Sheets

U.S. Customs and Border Protection (CBP) posted numerous documents providing overviews of the Automated Commercial Environment (ACE) and its benefits for various industries as well as other information on ACE. The new fact sheets include industries not previously covered in the ACE benefits document.

**\*ACE Overview for Brokers**

<http://1.usa.gov/UrW07c>

**\*ACE Overview for Cartmen and Lightermen**

<http://1.usa.gov/UKaXnp>

**\*ACE Overview for Facilities Operators**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/ace\\_overview/ace\\_overview\\_fo.ctt/ace\\_overview\\_fo.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/ace_overview/ace_overview_fo.ctt/ace_overview_fo.pdf)

**\*ACE Overview for Foreign Trade Zone Operators**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/ace\\_overview/ace\\_overview\\_ftzo.ctt/ace\\_overview\\_ftzo.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/ace_overview/ace_overview_ftzo.ctt/ace_overview_ftzo.pdf)

**\*ACE Overview for Service Providers**

<http://1.usa.gov/11REcrf>

**\*ACE Overview for Sureties**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/ace\\_overview/ace\\_overview\\_sureties.ctt/ace\\_overview\\_sureties.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/ace_overview/ace_overview_sureties.ctt/ace_overview_sureties.pdf)

**\*ACE Overview for Truck Carriers**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/ace\\_overview/ace\\_overview\\_truck\\_carriers.ctt/ace\\_overview\\_truck\\_carriers.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/ace_overview/ace_overview_truck_carriers.ctt/ace_overview_truck_carriers.pdf)

**\*ACE Overview for Importers**

<http://1.usa.gov/Vsp5xX>

**\*ACE Overview for Rail and Sea Carriers**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/ace\\_overview/railseacarriers.ctt/railseacarriers.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/ace_overview/railseacarriers.ctt/railseacarriers.pdf)

*(Continued above)*

**\*ACE Electronic Manifest Capabilities**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/employed\\_ace\\_feats/ace\\_elec\\_manip\\_capabilities.ctt/ace\\_elec\\_manip\\_capabilities.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/employed_ace_feats/ace_elec_manip_capabilities.ctt/ace_elec_manip_capabilities.pdf)

**\*ACE Entry Summary, Accounts, and Revenue Capabilities**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/employed\\_ace\\_feats/ace\\_esar\\_capabilities.ctt/ace\\_esar\\_capabilities.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/employed_ace_feats/ace_esar_capabilities.ctt/ace_esar_capabilities.pdf)

**\*ACE Periodic Monthly Statement Capabilities**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/employed\\_ace\\_feats/ace\\_monthly\\_statement\\_capabilities.ctt/ace\\_monthly\\_statement\\_capabilities.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/employed_ace_feats/ace_monthly_statement_capabilities.ctt/ace_monthly_statement_capabilities.pdf)

**\*ACE Secure Data Portal Reporting Capabilities**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/employed\\_ace\\_feats/ace\\_sec\\_data\\_portal\\_reporting.ctt/ace\\_sec\\_data\\_portal\\_reporting.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/employed_ace_feats/ace_sec_data_portal_reporting.ctt/ace_sec_data_portal_reporting.pdf)

**\*International Trade Data System (ITDS) Capabilities**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/employed\\_ace\\_feats/itds\\_capabilities.ctt/itds\\_capabilities.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/employed_ace_feats/itds_capabilities.ctt/itds_capabilities.pdf)

**\*ACE Accomplishments to Date**

<http://1.usa.gov/TOS3bO>

**\*ACE Deployed Capabilities Fact Sheet**

[http://www.cbp.gov/linkhandler/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/ace\\_deployed\\_capabilities.ctt/ace\\_deployed\\_capabilities.pdf](http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ace_factsheets/ace_deployed_capabilities.ctt/ace_deployed_capabilities.pdf)

**\*ACE At a Glance Fact Sheet**

[http://www.cbp.gov/xp/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/ace\\_at\\_a\\_glance\\_sheet.xml](http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/trade/ace_factsheets/ace_at_a_glance_sheet.xml)

CBP Fact Sheets ACE benefits by industry:

<http://1.usa.gov/UKa4eB>

## ITA Issues FR Notices on AD/CVD Rates for China Solar Cells

The International Trade Administration (ITA) recently issued an amended final determination and antidumping duty (AD) order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from China (A-570-979), which amends AD rates for 74 exporter/producer combinations. The order also details a "gap period" of 11/22/12 – 12/05/12 of no AD duty liability due to the expiration of the provisional measures period, and says that AD cash deposits and bonds collected between 02/25/12 and 05/24/12 because of the ITA's critical circumstances determination will be refunded.

### ITA Notes:

For entries with a time of entry on or after 05/25/12 through 11/21/12, suspension of liquidation and AD duty liability remain in effect. Suspension of liquidation now resumes for all entries of subject merchandise from China with a time of entry on or after 12/06/12, the date that the final International Trade Commission (ITC) affirmative injury determination was published. An AD cash deposit requirement is also in effect for subject merchandise from China with a time of entry on or after 12/06/12.

The ITA will instruct U.S. Customs and Border Protection (CBP) to require, at the same time as importers deposit estimated duties, a cash deposit equal to the revised AD duty rates as listed in this FR notice, adjusted for export subsidies, for all entries of subject merchandise from China with a time of entry on or after 12/06/12. (Complete list of AD rates posted for review).

ITA contact - Jeffrey Pedersen (202) 482-2769

ITA FR Notice (12/07/11)

[http://www.ofr.gov/OFRUpload/OFRData/2012-29668\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2012-29668_PI.pdf)

In addition, the International Trade Administration (ITA) issued a countervailing (CV) order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from China (C-570-980). The order details a "gap period" of 07/24/12 – 12/05/12 of no CV duty liability due to the expiration of the provisional measures period. Also, CV cash deposits collected between 12/27/11 and 03/25/12 will be refunded because of the International Trade Commission's (ITCs) determination of no critical circumstances.

*(Continued above)*

Suspension of liquidation resumes for all entries of subject merchandise from China with a time of entry beginning 12/06/12, the publication date of the final ITC affirmative injury determination. A CV cash deposit requirement is also in effect for subject merchandise from China with a time of entry beginning 12/06/12. The ITA will instruct U.S. Customs and Border Protection (CBP) to require, at the same time as importers deposit estimated duties, a cash deposit equal to the CV duty rates as listed in the FR notice for all entries of subject merchandise from China.

ITA contact – Gene Calvert (202) 482-3586

FR Notice (12/07/12)

[http://www.ofr.gov/OFRUpload/OFRData/2012-29669\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2012-29669_PI.pdf)

## Congress Approves Russia PNTR

On 12/6/12, the Senate gave its approval for legislation HR-6156 that would give Russia and Moldova Permanent Normal Trade Relations (PNTR) status. The Senate approval means the next step will be a signature from President Barack Obama. The House recently approved the bill, which would repeal the Jackson-Vanik amendment, which limits U.S. trade with communist countries. Obama signaled his plans to sign the legislation in a statement.

Acting Commerce Secretary Rebecca Blank also said she was appreciative of congressional approval.

Secretary Blank 's statement:

<http://1.usa.gov/11R7AxY>

In addition, several trade groups voiced appreciation for the passage.

U.S. Chamber of Commerce press release

<http://bit.ly/SDeeCS>

Laudatory press releases from Business Roundtable <http://bit.ly/Re68nq> and National Foreign Trade Council <http://bit.ly/SLgFVn> was issued.

HR-6156 (12/6/12) <http://1.usa.gov/Vk5RuA>

## CBP Talks to COAC About Numeric ID Platform for IPR

According to agency officials and members of the trade industry during the December Advisory Committee on Commercial Operations (COAC) meeting, U.S. Customs and Border Protection (CBP) is considering establishing a numeric identifiers platform as a way to cut down on intellectual property rights (IPR) violations and allow the agency to better target and authenticate products. The agency is looking to pilot the program first, and the IPR COAC subcommittee continues to work with the agency to develop the program. The identifier platform is part of a distribution chain management program effort meant to reduce IPR inspections and holds for participants in the program. As reported, CBP and the IPR Subcommittee members are developing a pilot program of the Numeric Identifier platform for February 2013 at the Southern Border.

The Numeric Identifier platform is based on importer submission of a unique identifier provided by the right holder that identifies a shipment as authentic. Participation within the platform will allow for submission of a numeric identifier on an individual product, or an aggregation of individual products, such as a pallet or container, or at the entry level. According to Therese Randazzo, director of IPR Policy and Programs in CBP's Office of International Trade, CBP would initially like to test the numeric identifier platform in the express environment. She noted the growth of e-commerce has meant a huge increase to the number of counterfeit and pirated goods sent through express carrier mail. The identifier would be applied either directly to parcels or submitted to CBP, potentially as part of Simplified Entry, to identify shipments from authorized websites.

Randazzo advised it remains uncertain what exactly the new pilot will entail. Mike Mullen, executive director of the Express Association of America added it will be important that the private sector be heavily involved in the process. "Both rights holders and carriers need to be brought into the conversation to explore the feasibility of numeric identifiers."

*(Continued above)*

Mullen advised he planned to discuss the plans with CBP as part of routine meetings with the express industry in the coming year. In addition, the IPR subcommittee has also started discussion on the enforcement of IPR laws on refurbished goods. "We've taken this issue on in response to challenges identified by rights holders, CBP ports of entry and the Electronic Center for Excellence and Expertise (CEE)," Randazzo reported.

"The challenge we are having is determining if a refurbished or remanufactured product remains an authentic product or is it so substantially changed to now become a counterfeit product."

The CBP report <http://1.usa.gov/Ufp9A9>

The COAC report is <http://1.usa.gov/VkK7P2>



## Rule Requiring Testing of Samples for Continued Compliance of Children's Products

**Sandler, Travis & Rosenberg P.A.**

[www.strtrade.com](http://www.strtrade.com)

The Consumer Product Safety Commission has issued a final rule that will require the testing of representative samples to ensure the continued compliance of children's products with all applicable safety rules. The CPSC is also establishing a requirement to maintain records associated with this testing for five years. This final rule will be effective as of Feb. 8, 2013, and will apply to products manufactured after that date.

The Consumer Product Safety Act requires manufacturers, including importers, and private labelers of any children's product that is subject to a children's product safety rule to submit sufficient samples of the product, or samples that are identical in all material respects to the product, to a third-party conformity assessment body whose accreditation has been accepted by the CPSC to be tested for compliance with the applicable rule. Based on that testing the manufacturer or private labeler must issue a certificate of compliance, called a Children's Product Certificate.

A certifier must issue a separate certificate for each applicable children's rule or a combined certificate that certifies compliance with all applicable safety rules and specifies each one. The Consumer Product Safety Improvement Act of 2008, as amended in 2011, requires the CPSC to ensure the periodic testing of representative samples of a children's product tested for compliance with a safety rule to ensure continued compliance.

This final rule requires manufacturers (including private labelers and importers of products manufactured by foreign manufacturers) to select representative samples of children's products to be submitted to a third-party conformity assessment body for periodic testing. The procedure used to select such samples must provide a basis for inferring that if the selected samples comply with the applicable children's product safety rules then the units not selected will also comply.

*(Continued above)*

The CPSC states that if the importer is the party that issues the Children's Product Certificate for a product, it is that importer's responsibility to ensure that periodic testing is performed on the children's products they import that are subject to an applicable safety rule. Under the component part testing rule, an importer can rely on test reports or certificates from another party as long as it exercises due care.

If an importer relies on certificates for component parts or finished products that are supplied by another party, such as a foreign manufacturer or a supplier, then it is the voluntary certifier of the component part or finished product who is responsible for periodic testing of representative samples for the component parts or finished products they certify, and not the importer. The importer must exercise due care to ensure that applicable testing is completed in an appropriate manner.

However, if the importer arranges for periodic testing itself, the importer retains the responsibility for selecting and testing representative samples periodically to ensure continued compliance. Periodic testing, including representative sample selection, may be contracted to another party, and if this is done the other party (e.g., a foreign manufacturer or distributor) must provide the basis that the samples selected for testing are representative.

Federal Register Notice available at <http://www.gpo.gov/fdsys/pkg/FR-2012-12-05/pdf/2012-29204.pdf>



## U.S. Commercial Service - Resources for Going Global

### **How to Handle Problems with Mexican Customs, Distributor and Agent Agreements**

**Date/Time:** January 9, 2013, 2:00 PM – 3:00  
PM EDT

**Cost:** \$25

**Learn more/register:**

<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=3Q06>

### **NAFTA Labeling Requirements for Exported Goods**

**Date/Time:** February 6, 2013, 2:00 PM –  
3:00 PM EDT

**Cost:** \$25

**Learn more/register:**

<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=3Q0A>

**Venue:** Your Computer

In this webinar series, you will learn how to set up agents, distributors and direct employees in Mexico and the tax implications that might occur in this process, learn how to handle potential problems with Mexican Customs and understand the possible technical violations and additional duties your shipment might incur at the border, and understand the NAFTA labeling requirements when exporting your goods and the importance of proper labeling when exporting to Mexico and Canada. You will be able to ask questions and get answers from the speakers. For more information, please contact Linda Abbruzzese at [Linda.Abbuzzese@trade.gov](mailto:Linda.Abbuzzese@trade.gov)



*(Continued above)*

## **Webinar Series: A Basic Guide to Exporting**

### **How to Avoid Customs Penalties on Export Shipments**

**Date:** January 16, 2012

**Learn more/Register:**

<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=2Q4Z>

### **Understanding FTAs**

**Date/Time:** March 6, 2013; 2:00 PM – 3:00  
PM EDT

**Learn more to register:**

<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=3Q0E>

### **How to Create an Export Compliance Program**

**Date/Time:** April 3, 2013; 2:00 PM – 3:00  
PM EDT

**Learn more to register:**

<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=3Q0F>

### **How to Determine HS Codes, Calculate Duties and Taxes**

**Date/Time:** May 1, 2013; 2:00 PM – 3:00 PM  
EDT

**Learn more to register:**

<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=3Q0D>

*(Continued below)*

## **Satisfying International Product Certification Requirements**

**Date/Time:** June 5, 2013; 2:00 PM – 3:00 PM EDT

**Learn more to register:**

<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=3Q0C>

**Venue:** Your Computer

In this webinar series you will learn about current compliance and regulatory concerns, most common problem areas in customs clearance and how to avoid penalties and delays in shipment from customs officials and logistics professionals. Learn about the benefits of using export credit insurance. You will learn how credit insurance allows you to increase your export sales by limiting your international risk, offering credit to your international buyers, and enabling you to access working capital funds, learn how to maximize international exposure for your products and services.

This webinar will discuss using websites as an effective marketing channel, making your site “visible” to customers, comparing Search Engine Optimization to Pay Per Clicks, and attracting buyers from different countries to your site. You will learn how to take advantage of the opportunities provided by Free Trade Agreements (FTAs). FTAs can reduce your exporting costs, making your products more attractive to foreign buyers. United States’ exports to free trade agreement markets are growing faster than to other trading partners.

You will learn how to create an effective compliance program, the core elements all effective compliance programs should include, as well as the benefits of implementing a compliance program in your company. Learn how to classify your products for customs and to calculate the full landed cost for your buyers. You will learn about the ten-digit or Harmonized Code (also known as the tariff code), how it is used and how to find the Harmonized Code using available on-line tools.

With this information, you can accurately price your product and avoid unpleasant surprises and difficulties with customs officials, learn how products are tested and certified in the United States to American standards and how they are retested and re-certified in other markets. You will learn about the tools and resources to help your firm find, understand, and comply with international certification requirements. Learn how to confirm if your product will require an Export Health Certificate or Certificate of Free Sale when exporting.

You will also learn the difference between certificates, which applies to your product, and what agency to approach. In addition, you will understand the role of the buyer/importer in confirming import requirements for their country and how that translates into documents you need to prepare. For more information, please contact Linda Abbruzzese at [Linda.Abbuzzese@trade.gov](mailto:Linda.Abbuzzese@trade.gov).

## **Registering and Selling Chemicals in China**

**Venue:** Your computer

**Date/Time:** January 9, 2013 6:00-7:30pm EST

**Cost:** \$50

**Learn more/register:**

<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=3Q37>

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