



# EIB World Trade Headlines

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Fax: (978) 250-4529 • P.O. Box 4008. Chelmsford. MA 01824

May 2012- Vol4, Issue 11



## This Memorial Day.....

We remember our soldiers, sailors, marines, and air men and women who have given their lives in battle in conflicts since the revolution.

We especially remember those who have died in wars in our time, in WWI, WWII, Korea, Vietnam, Panama, Grenada, Iraq I, Afghanistan, Iraq II as well as all those civilians who died in the World Trade Center Towers.

It is in the honor and memory of those who lost their lives that we continue to support the living Wounded Warrior.

<http://www.woundedwarriorproject.org/>

### **NEWSLETTER NOTES**

- \*This Memorial Day
- \*There Are Savings to Be Had
- \*State Dept. and BIS Issues Proposed Rule to Revise USML
- \*Chinese National Charged with Illegal Export
- \*Upcoming Event – Automated Export System
- \*United States Dept. of Commerce Assists U.S. Suppliers...
- \*CHINA TRADE DAY – JUNE 11, 2012
- \*Solar Trade Group Publishing for Free
- \*Justice Department Posts Information on Fine Against U.S. Firm
- \*FDA Issues FR Notice Delaying Compliance for OTC Sunscreen
- \*Owners of California Company Sentenced
- \*Freight Forwarder Sentenced
- \*House Reaches Consensus on Export
- \*CBP Announces Plans for Two Additional CEEs
- \*European Union Posts Information
- \*House Subcommittee to Review Conflict
- \*President Expected to Sign Export
- \*World Bank Posts Report
- \*United States/China Commission
- \*Ericsson De Panama Pays \$1.75 Million
- \*International Gun Trafficking

## There are Savings To be Had in Freight Management!

Evolutions in Business is pleased to announce a strategic alliance with International Business Advisors, LLC of New Hampshire. The principal Robert Shaw has been responsible for freight and logistics savings for a number of large-scale companies. Now he is prepared to bring those savings to you.

He has travelled extensively to over 23 countries and has created savings for companies, which include the following reductions:

- LTL from 62% to 84%
- Fed Ex from 35% to 55%
- UPS from 35% to 68%

Mr. Robert Shaw also has the following to add to his list of credentials:

\*Established a Far East Logistics Center in Hong Kong, resulting in Hong Kong manufactured products remaining in-country versus being shipped to the USA to ultimately service the Asia-Pacific rim. Digital Equipment's estimated savings were \$800K USD annually and delivery time reductions of six business days were achieved.

\*Developed and implemented a company's first "U.S. to Europe" ocean freight program, resulting in \$1.5 million in annual transportation savings versus the previous use of air forwarding;

\*Re-designed the inbound finished goods flow from China to the USA. Annual transportation/brokerage cost savings were \$60K per year.

Cost savings is always in fashion. If you think you can benefit from a review by International Business Advisors, LLC, please give us a call and we will gladly put you in touch with the principal, Robert Shaw.

## State Department and BIS Issues Proposed Rules to Revise USML Cat XII and CCL

A proposed rule was issued by the State Department to revise USML Category XIII (materials and miscellaneous articles) to narrow the articles controlled on the USML, and to make this list of items more positive. At the same time, Bureau of Industry and Security (BIS) is proposing the creation of five new 600 series ECCNs to control auxiliary and miscellaneous military equipment and related articles the President determines no longer warrant control under Category XIII of the USML. As reported, the State Department is also not proposing any tiering at this time, and is still developing its definition of "Specially Designed." Written comments on both proposed rules are due by 07/02/12.

In December 2010 advanced notices of proposed rulemaking, the State Department and the BIS described the Administration's plan to make the U.S. Munitions List (USML) and the Commodity Control List (CCL) positive, tiered, and aligned so that eventually they can be combined into a single control list. While these remain the Administration's ultimate Export Control Reform (ECR) objectives, their concurrent implementation would be problematic in the near term. As a result, the Administration has decided, as an interim step, to propose and implement revisions to both the USML and the CCL that are more positive, but not yet tiered. Complete details posted for review.

State proposed rule (FR Pub 05/18/12)  
<http://www.gpo.gov/fdsys/pkg/FR-2012-05-18/pdf/2012-12123.pdf>

BIS proposed rule (FR Pub 05/18/12)  
<http://www.gpo.gov/fdsys/pkg/FR-2012-05-18/pdf/2012-12124.pdf>

## **-Chinese National Charged with Illegal Export of Sensitive Technology to China-**

**For Immediate Release BIS/Office of Congressional and Public Affairs May 23, 2012 -**  
**www.bis.doc.gov (202) 482-2721**

BOSTON - A Chinese national in Massachusetts on business was arrested for illegally supplying U.S. origin parts to end-users in China in violation of U.S. export laws.

Qiang Hu, a/k/a Johnson Hu, 47, was charged in a complaint with conspiracy to violate the Export Administration Regulations and the International Emergency Economic Powers Act. The complaint, originally filed on May 18, was unsealed after Hu's arrest at his hotel in North Andover yesterday.

The complaint alleges that Hu has been the sales manager at MKS Instruments Shanghai, Ltd. (MKS-Shanghai) since 2008. MKS-Shanghai is the Shanghai sales office of MKS Instruments, Inc. (MKS), which is headquartered in Andover. Hu's employment gave him access to MKS manufactured parts, including export-controlled pressure-measuring sensors (manometer types 622B, 623B, 626A, 626B, 627B, 722A, and 722B), which are commonly known as pressure transducers. Pressure transducers are export controlled because they are used in gas centrifuges to enrich uranium and produce weapons-grade uranium.

The complaint alleges that beginning in 2007, Hu and others caused thousands of MKS pressure transducers worth millions of dollars to be exported from the United States and delivered to unauthorized end-users using export licenses that were fraudulently obtained from the U.S. Department of Commerce. The complaint alleges that Hu and his co-conspirators used two primary means of deception to export the pressure transducers. First, the conspirators used licenses issued to legitimate MKS business customers to export the pressure transducers to China, and then caused the parts to be delivered to other end-users who were not themselves named on the export licenses or authorized to receive the parts. Second, the conspirators obtained export licenses in the name of a front company and then used these fraudulently obtained licenses to export the parts to China, where they were delivered to the actual end-users.

*(Continued above)*

MKS is not a target of the government's investigation into these matters.

Hu remains in custody, and is scheduled for a detention hearing on May 31 at 11 a.m. If convicted, he faces a maximum sentence of 20 years in federal prison to be followed by up to three years of supervised release, and a \$1 million fine.

United States Attorney Carmen M. Ortiz; Richard DesLauriers, Special Agent in Charge of the Federal Bureau of Investigation, Boston Field Office; Bruce M. Foucart, Special Agent in Charge of U.S. Immigration and Customs Enforcement's Office of Homeland Security Investigations in Boston; and John J. McKenna, Special Agent in Charge of the U.S. Department of Commerce, Office of Export Enforcement, Boston Field Office made the announcement today. The case is being prosecuted by Assistant U.S. Attorneys William D. Weinreb and B. Stephanie Siegmann in Ortiz's Antiterrorism and National Security Unit.

The details contained in the complaint are allegations. The defendant is presumed to be innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

Please visit  
<http://www.bis.doc.gov/index.htm> or <http://beta-www.bis.doc.gov/index.php/about-bis/newsroom> for more information.



**-Upcoming Event-**

Automated Export System - Seminar and Workshop

**Venue:** Philadelphia, PA

**Date:** June 19-20, 2012

**Register:** <http://export.gov/pennsylvania/philadelphia/aesseminar/index.asp>

The U.S. Commercial Service, Philadelphia, is partnering with the U.S. Census Bureau and Temple University's Fox School of Business to bring you a much needed educational program on how to stay in compliance and navigate the AES systems. The Census Bureau requires mandatory filing of export information through the Automated Export System (AES) or through the AESDirect for all shipments where a Shipper's Export Declaration was previously required. The Foreign Trade Division is actively engaged in educational outreach to assist you in avoiding these costly penalties. The AES seminar and workshop help you understand the FTR requirements.

For more information, please contact [Leandro.Solorzano@trade.gov](mailto:Leandro.Solorzano@trade.gov) or telephone: 215-597-6101.



**United States Department of Commerce Assists U.S. Suppliers Facing Unfair Foreign Government Procurement Practices**

The U.S. Department of Commerce (USDOC) wants to know if your business is facing problems with obtaining fair access to foreign government procurement opportunities. Adam Boltik, a USDOC international trade specialist for international government procurement policies, said "Government procurement can account for 15-20% of a country's GDP, and Commerce is here to help ensure U.S. suppliers have a fair chance to compete for government contracts around the world."

Whether through the World Trade Organization or a Free Trade Agreement, Commerce works to ensure that U.S. trading partners are transparent in their government procurement procedures and U.S. suppliers of goods and services have access to procurements in a fair and competitive way."

If you have encountered a foreign government trade barrier, you can report it by visiting [http://tcc.export.gov/Report\\_a\\_BARRIER/index.asp](http://tcc.export.gov/Report_a_BARRIER/index.asp), call 202-482-1191, or e-mail [tcc@trade.gov](mailto:tcc@trade.gov) the Department's Trade Compliance Center to seek assistance.

Learn more about the Trade Agreements Compliance Program by visiting <http://www.youtube.com/watch?v=UJu5JcdVot8> and watching the video.



## CHINA TRADE DAY - JUNE 11, 2012

**Date:** June 11, 2012

**Registration:** 7:45AM-8:30AM

**Time:** 8:30AM-5:00PM

**Venue:** Wesleyan University, Beckham Hall, 45 Wyllys Avenue, Middletown, CT 06457

Please join the U.S. Commercial Service and Wesleyan University for China Trade Day. This event will educate regional firms about business opportunities in China and provide the opportunity for companies to meet with key industry and government experts from China.

**Why China?** - China responded quickly to the global economic downturn in 2008, and as a result of a combination of monetary, fiscal, and bank-lending measures, China's GDP grew 9.2 percent in 2009, 10.3 percent in 2010, and 9.2 percent in 2011. GDP in 2012 is expected to grow 7.5 percent, with GDP projections for 2013 not expected to be far off that mark at between 8.3 percent and 8.8 percent. China's leading industry sectors include: Education and Training, Aviation Market, Clean Energy, Consumer Products, Railway and Metro Industry, Medical Device and Healthcare Service Market, Safety Security Market, Marine Industries, Travel and Tourism, Franchising, Air Pollution, ICT Equipment and Software, Green Building and Agricultural Sectors.

### At China Trade Day, companies will:

- \*Gain an understanding of China's economic and trade climate with a focus on Shandong Province;
- \*Learn the best approach to doing business in China and discuss opportunities for US exporters in Tier 2 cities;
- \*Meet one-on-one with various Chinese and USG representatives as well as with industry experts;
- \*Hear from private sector experts on IP, tax and legal considerations in China;

*(Continued above)*

\*Participate in roundtable sessions on how to write a VISA letter, IP, VAT tax, legal issues, and industry overviews of the Aerospace and Medical sector;

\*Learn about standards/regulations in China as well as assistance available to help US companies succeed in China

\*Special afternoon program on clean energy initiatives

\*Special afternoon program on commercial aerospace opportunities in China

**Cost:** \$300 per company; \$75 for additional company representatives

### Register Here:

<https://emenuapps.ita.doc.gov/ePublic/newWebinarRegistration.jsp?SmartCode=2Q83>

### For more information contact:

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## Global Solar Group Pushing for Free Trade in Solar Equipment

According to the newly formed Global Solar Council (GSC), governments should promote sustainable solar markets by allowing the solar industry to trade freely and fairly on the basis of quality, technology, service, and price. "As a global industry with customers, producers and supply chains around the world, solar PV depends on international trade for its continued success," GSC reported. The council supports "a strong, effective, and enforceable international trading system that promotes free and open trade." But, "in a growing number of countries and regions around the world, the growth of solar PV is facing threats from calls for restrictive trade measures that hinder access to markets rather than provide it," GSC noted. The GSC urged favorable policy regimes, reducing import duties on manufacturing inputs, and other measures.

GSC press release:

<http://www.globalsolarcouncil.net/>

## Justice Department Posts Information on Fine Against U.S. Firm for Selling Chinese Products to the U.S. Government

The Department of Justice (DOJ) recently reported that Direct Resource Inc. has agreed to pay the government \$450,000 to resolve allegations that the company falsely claimed payment in violation of the Trade Agreements Act (TAA), which prohibits the sale of products to federal agencies from countries that do not have a reciprocal trade agreement with the United States. The Columbus, Ohio Company allegedly knowingly sold products from China, a country that does not have such an agreement with the United States. Direct Resource sells a variety of products to U.S. agencies, including office supplies. The General Services Administration (GSA) contracts at issue require that all products sold to the U.S. government be manufactured in one of a list of designated countries deemed to trade fairly with the United States. The allegations arose from a whistleblower lawsuit filed in a federal court in the District of Columbia under the whistleblower, provisions of the False Claims Act. As reported, the claims settled by this agreement are allegations only, and there has been no determination of liability, said the Justice Department. The matter was investigated by GSA's Office of the Inspector General, the U.S. Attorney's Office for the District of Columbia and the Justice Department's Civil Division.

DOJ notice  
(5/8/12)<http://www.justice.gov/opa/pr/2012/May/12-civ-589.html>

## FDA Issues FR Notice Delaying Compliance for OTC Sunscreen Drug Products

-Now Effective 12/17/13-

As reported, compliance dates for the Food and Drug Administration's (FDAs) final rule for over-the-counter (OTC) sunscreen drug products is now delayed by six months, to 12/17/13, for products with annual sales of less than \$25,000 and 12/17/12, for all other products subject to the rule. According to the FDA, The final rule's compliance dates are being delayed because information received after publication of the 2011 final rule indicates that full implementation of the 2011 final rule's requirements for all affected products will require an additional 6 months.

The final rule, published in the Federal Register on 06/17/11, establishes labeling and effectiveness testing for certain OTC sunscreen products containing specified active ingredients and marketed without approved applications. It also amends labeling claims that are not currently supported by data and lifts the previously-published delay of implementation of the Drug Facts labeling requirements for OTC sunscreens.

FDA FR notice:  
<http://www.gpo.gov/fdsys/pkg/FR-2012-05-11/pdf/2012-11390.pdf>

## Owners of California Company Sentenced in Connection with Exports of Computer Equipment to Iran

May 16, 2012

WASHINGTON – Massoud Habibion, 49, a U.S. citizen, Mohsen Motamedian, 44, a U.S. citizen, and their Costa Mesa, California company Online Micro LLC, were sentenced today in the District of Columbia in connection with a scheme to illegally export millions of dollars worth of computer-related goods from the United States to Iran through the United Arab Emirates UAE.

The sentences were announced by Lisa Monaco, Assistant Attorney General for National Security; Ronald C. Machen Jr., U.S. Attorney for the District of Columbia; John Morton, Director of U.S. Immigration and Customs Enforcement (ICE); David W. Mills, Assistant Secretary for Export Enforcement, Department of Commerce; and Adam Szubin, Director of the Office of Foreign Assets Control (OFAC), Department of the Treasury.

U.S. District Judge Ellen S. Huvelle today sentenced Habibion to 13 months in prison for conspiracy to violate the International Emergency Economic Powers Act and to defraud the United States. Judge Huvelle sentenced Motamedian to three years supervised release for obstruction of justice. Habibion and Motamedian pleaded guilty to these charges on February 16, 2012.

Under the terms of their guilty pleas and related civil settlements with the Department of Commerce's Bureau of Industry and Security (BIS) and OFAC, Habibion and his company have agreed to forfeiture of \$1.9 million seized from Online Micro's bank accounts by ICE's Homeland Security Investigations (HSI) during the course of the investigation. In addition, Habibion and Online Micro are denied export privileges for 10 years, although the denial order will be suspended provided that neither Habibion nor Online Micro commit any export violations during the 10-year probationary period and comply with the terms of the criminal plea agreements and sentences. Motamedian separately agreed to a \$50,000 monetary penalty to settle a civil charge that he solicited a false statement to federal law enforcement agents.

*(Continued above)*

Habibion and Motamedian were arrested on a criminal complaint in California on April 7, 2011. The defendants and their company were later indicted on April 21, 2011.

Habibion and Online Micro willfully conspired with a company operating in Dubai, UAE, and Tehran, Iran, to procure U.S.-origin computers from the United States and export those computers from the United States to Iran through Dubai without first obtaining licenses or authorizations from OFAC.

In or around May 2007, Online Micro purchased 1,000 computer units from Dell Inc. for approximately \$500,000. Later that year, Dell began receiving service calls concerning Dell computer units from individuals in Iran, and after conducting an internal investigation, suspended Online Micro from placing further orders with Dell.

Beginning around Nov. 9, 2009, and continuing through December 2010, Habibion and Online Micro conspired with a company operating in Dubai and Tehran, to procure U.S.-origin computer-related goods and export those goods to Iran via the UAE. During the scope of the conspiracy, Online Micro and Habibion sold to that company and exported from the United States numerous shipments of computer-related goods, worth a total of more than \$4,904,962, with knowledge that the majority of those goods were destined for Iran.

Online Micro also caused Shipper's Export Declarations to be filed with U.S. Customs and Border Protection falsely identifying the ultimate destination of the goods as the UAE. During the course of the investigation, Habibion and Motamedian told a government cooperator to lie to U.S. law enforcement officials about the transactions. Specifically, the defendants told the cooperator to lie about Iran being the true ultimate destination for the goods and counseled him to tell U.S. law enforcement agents that the computer-related goods remained in Dubai.

*(Continued below)*

This investigation was conducted by the ICE-HSI offices in San Diego and Orange County, Calif. U.S. Customs and Border Protection and the Department of Commerce's Office of Export Enforcement Los Angeles Field Office also assisted in the investigation.

Senior Attorney Adrienne Frazier from the U.S. Department of Commerce BIS and Assistant Director of Enforcement Michael Geffroy from OFAC handled the civil settlements for their agencies, respectively. The prosecution is being handled by Assistant U.S. Attorneys T. Patrick Martin and Anthony Asuncion from the U.S. Attorney's Office for the District of Columbia, and Trial Attorney Jonathan C. Poling from the Counterespionage Section of the Justice Department's National Security Division.

### **Freight Forwarder Sentenced to Six Months in Prison for Conspiracy to Facilitate Export of Goods to Iran**

May 15, 2012

NEWARK, N.J. – A former manager of a Netherlands-based freight-forwarding company was sentenced to six months in prison today for conspiring to defraud the United States by facilitating the illegal export of goods to Iran, U.S. Attorney Paul J. Fishman announced.

Ulrich Davis, 50, a Dutch citizen of Pumerend, The Netherlands, previously pleaded guilty before U.S. District Judge Claire C. Cecchi to an Information charging him with conspiracy to defraud the United States through the violation of a U.S. Department of Commerce Temporary Denial Order ("TDO"). Judge Cecchi imposed the sentence today in Newark federal court.

The government is represented by Assistant U.S. Attorney Joyce Malliet of the U.S. Attorney's Office National Security Unit in Newark and Trial Attorneys Jonathan Poling and Elizabeth Cannon of the Counterespionage Section of the Justice Department's National Security Division.

May 2, 2012 BIS and State Department publish proposed rules addressing energetic materials and related articles that the President determines no longer warrant control on the United States Munitions List. The comment period for both rules closes on June 18, 2012.

### **House Reaches Consensus on Export-Import Bank Reauthorization**

As reported, House Democrats and Republicans reached an agreement to reauthorize the U.S. Export-Import Bank. The bipartisan legislation would increase the bank's lending limit to \$140 billion by 2014. The House is expected to vote on the bill this week. The legislation would reauthorize the bank's charter, which would have expired on 05/31/12, and increase the lending cap on the bank. The Ex-Im bank was expected to hit that lending limit by the end of May. The bill also begins the process for reducing export subsidies for aircraft, addressing a major complaint from airlines that disagreed with the practice. If passed, the Senate would still need to act on the legislation.

Previous reauthorization legislation ran into problems in the Senate when conservative Republicans voiced opposition to the bank. Reauthorization of the bank would help create American jobs by "investing in a strong manufacturing sector that builds and exports products around the world," commented House Democratic Whip Steny Hoyer (D-MD). Speaker of the House John Boehner (R-OH) noted, "The simple truth is that action on this agreement is necessary to promote American exports and remove a threat to the creation of American jobs.

It also provides for important reforms at the same time that will protect American taxpayers." The U.S. Chamber of Commerce also voiced support for the deal.

Text of the legislation:

<http://docs.house.gov/billsthisweek/20120507/BILS-112hr2072-SUS.pdf>

Press release:

<http://www.democraticwhip.gov/content/agreement-export-import-bank-reauthorization-strengthens-american-manufacturing-spurs-job-cr>

## CBP Announces Plans for Two Additional CEEs by End of FY 2012 - 19CFR111 ANPR

U.S. Customs and Border Protection (CBP) plans to establish two more Centers for Excellence and Expertise (CEEs) by the end of FY 2012, and five more after that by the end of FY 2013, CBP announced. In addition, CBP is planning to establish a center for Automotive and Aerospace in Detroit and a Petroleum, Natural Gas and Minerals center in Houston. CBP's "Trade Transformation" updated document includes a map of the locations of the two current CEEs and planned Detroit and Houston locations but doesn't specify the future locations.

The document also describes a "Trade Intelligence" pilot in which individuals representing the industry sectors are assigned to work with CEE and other staff to identify issues of mutual interest and to provide CBP with targeting, enforcement, and/or intelligence information. The Pilot's aim is to deploy three Private Sector Intelligence Liaison Officers (PSILO) for the following trade industries:

\*Semiconductor Industry (Under the Electronics CEE);

\*Pharmaceuticals (Under the Pharmaceutical CEE);

\*Tube and Pipe (Under HQ OT staff);

CBP advises, the CEEs represent "Tailor-Made Trade"; aligning CBP trade processing along industry sectors for maximum efficiency. Trade Intelligence takes co-creation to the next level by leveraging the private sector to develop actionable trade intelligence. This latest "Trade Transformation" document also includes an update on the role of the broker. CBP reports a coming advance notice of proposed rulemaking (ANPR) for 19 CFR Part 111 will look at:

\*Continuing education for licensed brokers;

\*Due process proceedings for brokers, including penalties and suspension and revocation of licenses;

*(Continued above)*

\*Establishing bona fides and broker relationships with unlicensed parties

\* "Business model alignment" between the trade and CBP, which includes conducting customs business within the geographic bounds of the United States and rethinking the district permitting requirements in the modern business environment

According to CBP, the move to automation of the broker exam application has led to less administrative burden for CBP port and headquarters personnel while improving efficiencies in processing the application.

CBP

notice: [http://www.cbp.gov/linkhandler/cgov/trade/trade\\_transformation/external\\_trade\\_trans.ctt/external\\_trade\\_trans.pdf](http://www.cbp.gov/linkhandler/cgov/trade/trade_transformation/external_trade_trans.ctt/external_trade_trans.pdf)

## European Union Posts Information on Trusted Trade Program with U.S.

The European Union issued the following trade-related release:

"The EU and U.S. formally agreed to recognize each other as "safe traders", thereby allowing these companies to benefit from faster controls and reduced administration for customs clearance. Mutual recognition will also improve security on imports and exports by enabling customs authorities to focus their attention on real risk areas. Certified trusted traders will enjoy lower costs, simplified procedures, and greater predictability in their transatlantic activities"

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/449&format=HTML&aged=0&language=en&guiLanguage=en>



## House Subcommittee to Review Conflict Mineral Provisions

The House Financial Services Subcommittee on International Monetary Policy and Trade recently reviewed conflict mineral provisions within the Dodd-Frank Wall Street Reform and Consumer Protection Act. Specifically, Section 1502 of Dodd-Frank requires companies subject to Security and Exchange Commission (SEC) reporting whose manufactured goods contain any gold, tantalum, tin, or tungsten to report annually to the SEC on whether those minerals "did originate" from the Democratic Republic of Congo (DRC) or adjoining countries. In cases where minerals did originate in those countries, SEC registrants must submit a report that includes a description of the measures they took to exercise due diligence on the source and "chain of custody" of such minerals.

As reported, Subcommittee Chairman Gary G. Miller (R-CA) was highly critical of the statutes. Miller announced the House never had an opportunity to hold hearings and explore the provisions that were added through the Senate version. "We're going to do the legislative due diligence that should have happened then." 1502 falls completely out of the scope of Dodd-Frank and the provision falls outside of the SEC's role, reported Miller. According to Franklin Vargo, vice president-international economic affairs of the National Association of Manufacturers (NAM), three major points are necessary to understand needs of industry as related to Section 1502. First, the statute needs for a phase-in period that includes a category of "indeterminate origin."

Second, there needs to be flexibility in determining due diligence. Third, government must understand the huge cost of complying with this rule, particularly if sufficient flexibility is not provided. Estimated by NAM to be \$9-16 billion. Stephen Lamar, executive vice president at the American Apparel & Footwear Association, also voiced concern over the provisions.

*(Continued above)*

According to Lamar, the "impact of Section 1502 on the business community is deceptively large – much larger than we believe was intended. The fact that I am testifying here today, on a bill that was largely intended to focus on the electronics industry, is one indicator of that fact." Use of these minerals in the footwear industry is small, "yet the smallest apparel or footwear company will be equally liable as a company that is a major consumer of large quantities of these minerals.

Nicolas Djomo Lola, president of National Bishops Conference in the DRC, said the provisions are already helping improve the dealing of such minerals in the DRC. The SEC proposed rules in 2010 to implement Section 1502.

<http://www.financialservices.house.gov/Calendar/EventSingle.aspx?EventID=293936>

## ITA Determined to Levy AD Duties against China Solar Panels and Other Imports Incorporating China Solar Panels

In its fact sheet regarding its affirmative preliminary determination in its antidumping (AD) investigation of crystalline silicon photovoltaic cells, whether or not assembled into modules from China (A-570-979, Chinese exporters of solar cells received preliminary AD rates of 31.14% to 249.96% from the International Trade Administration (ITA). The fact sheet says mandatory respondents Wuxi Suntech and Trina Solar received AD rates of 31.22% and 31.14%, respectively. Fifty-nine other exporters qualified for a separate AD rate of 31.18%, and all other Chinese producers/exporters received a preliminary AD rate of 249.96%.

The ITA also advised it preliminarily determined that critical circumstances exist, and will instruct U.S. Customs and Border Protection (CBP) to require a cash deposit or bond based on these preliminary AD rates for all entries made up to 90 days prior to the date of publication of the ITA's preliminary determination Federal Register notice.

### ITA Fact Sheet

<http://ia.ita.doc.gov/download/factsheets/factsheet-prc-solar-cells-ad-prelim-20120517.pdf>

## DDTC Issues FR Notice Seeking Comments on Forms for Export or Import of ITAR Items

The State Department Directorate of Defense Trade Controls (DDTC) is seeking public comment on its request for Office of Management and Budget (OMB) approval for the following information collections: "Request to Change End-User, End-Use, and/or Destination of Hardware" and "Request for Advisory Opinion." Comments are due by 07/17/12. According to the DDTC, the export, temporary import, temporary export and brokering of defense articles, defense services and related technical data are licensed by the DDTC in accordance with the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130) and Section 38 of the Arms Export Control Act (AECA).

DDTC advises, those who manufacture or export defense articles, defense services, and related technical data, or do the brokering thereof, must register with the Department of State. In addition, those doing brokering must submit an application or written request to conduct the transaction to the Department to obtain a decision whether it is in the interests of U.S. foreign policy and national security. Also, registered brokers must submit annual reports regarding all brokering activity that was transacted, and registered manufacturers and exporters must maintain records of defense trade activities for five years.

Questions or comments should be sent to Nicholas Memos, [memosni@state.gov](mailto:memosni@state.gov) or SA-1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, D.C. 20522-0112

DDTC FR Notice:  
[http://www.ofr.gov/OFRUpload/OFRData/2012-11981\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2012-11981_PI.pdf)

## President Expected to Sign Export-Import Reauthorization Bill

President Barack Obama is expected to sign into law HR-2072; the bill re-authorizing the Export-Import Bank of the U.S. As reported, HR-2072 includes several additional provisions that could affect international trade.

One provision says the Secretary of the Treasury shall begin negotiations with other major exporting countries, including members of the Organization for Economic Co-operation and Development (OECD) to substantially reduce, and ultimately eliminate, subsidized export financing programs and other forms of export subsidies. The most widely-reported section of that involves reducing export financing for aircraft. Other provisions include:

\*A study by the Comptroller General on the role of the bank in the world economy and on its risk management.

\*A report to Congress by the bank within 180 days on its current programs and policies on the implementation of its export credit insurance program, delegated lending authority, and direct loans, and any other programs, products, and policies established to support exports from small businesses in the U.S.

\*The Ex-Im Bank shall report to Congress within a year on its domestic content policy for medium- and long-term transactions.

\*Beginning 180 days after the date of the enactment of this Act, the Ex-Im Bank board may not approve any transaction unless the entity involved certifies that it's not in violation of the Iran Sanctions Act.

\*The Ex-Im Bank shall do a study and report to Congress within 180 days on the extent to which the products offered by the Bank are available and used by manufacturers in the U.S. that export U.S.-manufactured goods used as components in global textile and apparel supply chains.

Press release: [http://thomas.loc.gov/cgi-bin/query/D?c112%3A5%3A\\_%2Ftemp%2F%7Ec112REBpyf%3A%3A=](http://thomas.loc.gov/cgi-bin/query/D?c112%3A5%3A_%2Ftemp%2F%7Ec112REBpyf%3A%3A=)

## World Bank Posts Report on International Trade Logistics

According to the World Bank's latest survey on trade logistics, improvements in trade logistics slowed over the last two years amid the global recession. Customs agencies got better ratings than any other agencies involved in the trade process, with those responsible for sanitary and phytosanitary regulations lagging behind. The survey listed rail services dissatisfied more than 90 percent of respondents to the survey. The report advised Singapore performed best among the 155 economies included in the Logistics Performance Indicators (LPI) in the report.

The U.S., plus Chile, China, India, Morocco, South Africa and Turkey, saw improvements in their performance. High income economies dominate the top logistics rankings, while the economies with the worst performance are least developed countries that are also often landlocked, small islands, or post-conflict, it said. The survey also found that green logistics is quickly gaining prominence in high-income and emerging economies. The report shows, projects dealing with logistics and trade facilitation constitute about 10 percent of the World Bank's overall portfolio. They include customs reforms, trade development, and regional and corridor projects. World

Bank report:  
<http://go.worldbank.org/7TEVSUEAR0>



## United States/China Commission Posts Report on China Export Credit Negotiations

China's agreement to participate in negotiations on a deal to limit government financing for exports by 2014 is a potentially positive step, but such an agreement faces certain pitfalls and would likely not reverse the growing international inequities created by China's aggressive government financing of its exports, reported the U.S. China Commission (USCC). The backgrounder, released 05/07/12, entitled "Export Assistance and the China Challenge" reports a separate non-comprehensive deal could undermine the Organization for Economic Cooperation and Development's (OECD) arrangement on export credit financing, and U.S. budgetary concerns constrain the ability of the Export-Import Bank to compete with the extraordinarily high level of export credit financing provided by China.

However, the USCC did note that a deal would help the U.S. compete on a case-by-case basis if it greatly improves Chinese transparency. In February 2012, China agreed to participate in negotiations on an eventual deal to limit government financing for exports. According to the announcement, the goal is to establish an international working group and to conclude an agreement on export credit finance guidelines by 2014. The February agreement reiterates a previous bilateral agreement to discuss export credit financing, made during the May 2011 meeting of the Strategic and Economic Dialogue, but also adds a deadline for negotiations.

According to USCC, most export credit agencies (ECAs) of OECD members, especially the Ex-Im Bank, operate primarily or wholly as lenders of last resort in a free market context, in contrast to Chinese financing programs which incorporate broader government policy priorities. USCC argued that a deal resulting in more Chinese transparency could facilitate Ex-Im Bank's efforts to level the playing field for U.S. exporters by identifying and matching Chinese financing on a case-by-case basis. Ex-Im Bank has used its authority, granted by the Obama administration, to provide matching financing support for U.S. firms seeking to secure domestic or third-country sales when they are up against non-competitive official financing that fails to observe international disciplines.

(Continued below)

Ex-Im Bank has a “tied aid war chest” available for this purpose. Recently Ex-Im Bank used this authority by offering financing, outside of accepted international guidelines, in order to help General Electric successfully secure a contract to sell locomotive engines to Pakistan despite Chinese offers of loans at below-commercial rates to subsidize Pakistani purchases of Chinese locomotives.

USCC noted successful matching, however, will require not just improved transparency but a high level of transparency.

USCC notice:

[http://www.uscc.gov/researchpapers/2012/5.7.2012\\_ExportAssistanceandtheChinaChallenge.pdf](http://www.uscc.gov/researchpapers/2012/5.7.2012_ExportAssistanceandtheChinaChallenge.pdf)

## Ericsson De Panama Pays \$1.753 Million to Settle Charges of Unlicensed Transshipments to Cuba

**FOR IMMEDIATE RELEASE BIS/Office of Congressional and Public Affairs - May 25, 2012**  
[www.bis.doc.gov](http://www.bis.doc.gov) (202) 482-2721

WASHINGTON – The U.S. Department of Commerce’s Bureau of Industry and Security (BIS) announced today that Ericsson de Panama S.A. of Panama City, Panama, has agreed to pay a civil penalty of \$1.753 million to settle 262 violations of the Export Administration Regulations (EAR).

“Today’s settlement reflects the serious consequences that result when companies knowingly violate the EAR and take steps to conceal that activity,” said Assistant Secretary of Commerce for Export Enforcement David W. Mills. “Companies must maintain vigilant compliance programs that extend to subsidiaries and affiliates wherever they do business.”

BIS alleged that the violations occurred between 2004 and 2007, and that Ericsson de Panama knowingly implemented a scheme to route items from Cuba through Panama, repackaged the items to conceal their Cuban markings, forwarded the items to the U.S. for repair and replacement and then returned the items to Cuba. Classified under Export Control Classification Numbers 5A002, 4A994, 5A991, 5B991 or designated EAR99, the items’ distribution to Cuba were controlled for national security, antiterrorism, encryption, and sanctions reasons.

(Continued next column)

“While the conduct in this case was egregious, Ericsson de Panama avoided possible criminal prosecution and heavier fines by voluntarily disclosing the violations to BIS and cooperating with the investigation,” Mills added.

In addition to the monetary penalty, the settlement also requires a company-wide export audit conducted by an independent third party of all transactions connected with Cuban customers.

Assistant Secretary Mills also commended the BIS Office of Export Enforcement’s Dallas Field Office for its work on the investigation.

### Background

BIS controls exports and re-exports of dual-use commodities, technology, and software for reasons of national security, missile technology, nuclear non-proliferation, chemical and biological weapons non-proliferation, crime control, regional stability, anti-terrorism and foreign policy.

Criminal penalties and administrative sanctions can be imposed for violations of the Export Administration Regulations. For more information, please visit [www.bis.doc.gov](http://www.bis.doc.gov). Parties who may have been involved in violations of the EAR are encouraged to submit a Voluntary Self Disclosure (VSD) to the BIS Office of Export Enforcement.



## **International Gun Trafficking Ring Dismantled by Arrests of North Carolina Resident and Chinese Nationals**

**FOR IMMEDIATE RELEASE BIS/Office of  
Congressional and Public Affairs  
May 24, 2012**  
[www.bis.doc.gov](http://www.bis.doc.gov) (202) 482-2721

### **U.S. Defendant Supplied Semi-Automatic Weapons To Be Exported To China:**

One defendant was arraigned today, and another appeared in an ongoing removal hearing, in connection with their roles in a multi-national firearms trafficking investigation being conducted in the Eastern District of New York and elsewhere. A criminal complaint was unsealed earlier this week in federal court in Brooklyn charging Joseph Debose, a resident of North Carolina and Staff Sergeant in a U.S. Special Forces National Guard Unit, with illegal gun dealing and aiding others, including Chinese nationals Zhifu Lin and Lilan Li, in the illegal export of firearms to China.<sup>1</sup> Debose was arrested May 20, 2012, in a sting operation by federal agents in Smithfield, North Carolina, when he arrived to provide another shipment of firearms for export. At the time of his arrest, Debose was carrying a loaded .45 caliber pistol. In addition, agents seized twelve other firearms from Debose, which were intended for export.

Lin was arraigned this morning before United States Magistrate Judge Robert M. Levy, at the U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on an indictment previously returned by a grand jury in the Eastern District of New York, and ordered detained. Li was previously arraigned on that indictment on May 2, 2012, and entered a plea of not guilty. Also this morning, at a proceeding in federal court in Raleigh, North Carolina, the government sought to remove Debose to the Eastern District of New York for prosecution on a related complaint. The removal hearing was continued until May 30, 2012. Debose remains in custody pending the outcome of that proceeding.

*(Continued next column)*

The charges were 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 (ICE), Homeland Security Investigations (HSI), Joseph Anarumo, Jr., Special Agent-in-Charge, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), New York Field Division, Victor W. Lessoff, Acting Special Agent-in-Charge, Internal Revenue Service (IRS), New York Field Office, and Sidney Simon, Special Agent-in-Charge, Department of Commerce (DOC), Office of Export Enforcement, New York Field Office.

According to the charging documents and facts presented by the government at Lin's arraignment, between December 2010 and April 2012, Debose provided multiple shipments of firearms to associates who then secreted the weapons in packages and transported them to shipping companies to be sent to customers in China. The smuggling scheme came to light after authorities in China seized a package containing firearms with defaced serial numbers that had been shipped from Queens, New York. Thereafter, U.S. law enforcement agents traveled to China and examined the firearms, which were determined to be listed on the United States Munitions List and barred from export without a license issued by the U.S. State Department. Utilizing forensic techniques, agents learned that one of the seized weapons had originally been purchased in North Carolina.

Among the weapons seized in China were those Debose provided to his associates for export. Last month, an indictment was unsealed in Brooklyn federal court charging Lin and Li with illegally exporting firearms, including the seized firearms mentioned above, from Queens to China without obtaining the required license from the State Department in violation of U.S. Arms Export Control Act. Lin was also charged with operating an illegal gun-dealing business and transporting firearms with obliterated serial numbers.

"The defendants in North Carolina and New York allegedly ran a pipeline of illegal firearms from the United States to China. We will utilize all available resources to stop the export of such weapons," stated United States Attorney Lynch. "The arrest of Debose marks the latest in a series of charges brought by this office against international gun traffickers." Ms. Lynch expressed her grateful appreciation to the task force of federal agencies that worked together to investigate the case and added that the government's investigation is continuing. *(Continued below)*

"The defendants allegedly altered the serial numbers on various weapons to disguise their origin in order to export them to China – an indication these guns were going to fall into the wrong hands," said HSI Special Agent-in-Charge Hayes. "HSI maintains a zero-tolerance policy when it comes to the illegal export of weapons on the United States Munitions List."

ATF Special Agent-in-Charge Anarumo stated, "The unlawful purchasing and trafficking in firearms is a serious crime that feeds and amplifies the violence that is plaguing so many communities in this nation and around the world. This investigation is a testament to the collective resolve of federal law enforcement to stem the flow of illegal firearms both within and outside of our nation's borders."

IRS Acting Special Agent-in-Charge Lessoff stated, "The potential harm that can result from the movement of illegal firearms through the New York City-metropolitan area cannot be overstated. IRS-Criminal Investigation is enthusiastic about lending its financial investigative expertise to this ongoing investigation."

DOC Special Agent-in-Charge Simon stated, "Special Agents from the Commerce Department's Bureau of Industry and Security Office of Export Enforcement are committed to working with our law enforcement partners to stem the flow of firearms that are illegally smuggled out of the country. We will continue to pursue arrests and convictions that ultimately shut-down these illicit schemes."

The defendants each face up to 20 years' imprisonment if convicted.

The government's case is being prosecuted by Assistant United States Attorney Seth DuCharme, with assistance from Trial Attorney David Recker of the Department of Justice Counter Espionage Section. Assistance also was provided by the U.S. Attorney's Offices in the Northern District of West Virginia and the Eastern District of North Carolina.

**The Defendants:** JOSEPH DEBOSE Age: 29 ZHIFU LIN Age: 25 LILAN LI Age: 23

