



Office of Export Enforcement

Bureau of Industry and Security (BIS)

U.S. Department of Commerce

Edward G. Holland
Supervisory Special Agent
Unit Chief
Investigations Division



Summit Marketing



LOCKHEED MARTIN

UCAR

Bayer

ALLEGHENY TELEDYNE INCORPORATED

Illinois Tool Works Inc. OPTO POWER CORPORATION

DOW

IBM

Silicon Graphics

INDUSTRIAL SCIENTIFIC CORPORATION

HOUGHTON CHEMICAL INTERNATIONAL

HUGHES

InfoComCorp

AVS MORRISON EXPRESS

Bushnell PERFORMANCE OPTICS

IGG Corporation

LEP LION PRECISION



Gateway

ATT Communications

Hercaire

Litton Technology. Solutions. Results.

Bet Air

Lawrence Livermore National Laboratory



TAL Industries



OMEGA HANEFLEX BOEING

JAGRO Custom Brokers & International Freight Forwarders, Inc.

CACI Systems • Software • Simulation



WACHS

MOTOROLA

PANALPINA on 6 continents

SYNTEX



ORBIT / FR

LORAL Space & Communications

Lasertechnics

Halliburton

Trijicon SWISSCO Allergan Worldwide

JML FREIGHT ICS INC

FedEx RTI International Metals, Inc.

Los Alamos NATIONAL LABORATORY

Expeditors

OAI

DELL

COMPAQ

ADCOM details you can hear

Sun microsystems

MICROTEK

SIGMA-ALDRICH

QUEST TECHNOLOGIES

Digital Creations

PAN AVIATION

AERO SYSTEMS WORLDWIDE AVIATION EQUIPMENT

Rockwell Automation

Raytheon

SERFILCO, LTD.

Entegris



SIGMA



Export Enforcement's Mission

Protect National Security and
Foreign Policy Goals

- Prevention and Detection in
Partnership with Industry
- Investigation and Prosecution
- Domestic and International
Law Enforcement Cooperation



Office of Export Enforcement

- The role of OEE
- Statutes and Penalties
- Recent Cases
- Root Causes of Problems
- Questions & Answers



Who Are We?

The enforcement arm of The Department of
Commerce, Bureau of Industry and Security
(BIS)



Office of Export Enforcement Field Office Regions





Education Component of OEE's Mission

- The key to OEE's mission is educating the exporting community about preventing violations and dealing with exporter responsibilities under the Export Administration Regulations through:
 - Company Outreach Visits
 - Seminars
 - Workshops



The PARTNERSHIP between OEE and YOU

- 1) We can assist you in avoiding illegal transactions.
- 2) We can assist you in avoiding negative publicity.
- 3) We can assist you in avoiding fines and/or imprisonment
- 4) We can assist you in avoiding a situation where your company has to pay enormous costs for legal representation resulting from a criminal or administrative proceeding.

Strengthening our partnership means working together to enhance our national security.





Preventive Measures

- Check exporters and customers prior to issuing license
- Check end-users and end-uses after shipment
- Use watch list to screen license applications
- Review Shipper's Export Declarations
- Review Visa Applications
- Detentions/Seizures
- Issue Temporary Denial Orders
- Educate Exporters - Outreach & BEET





Enforcement Sources

- Confidential and Industry Sources
- Intelligence Sources
- Safeguards Verification Program
- Visa Application Review Program
- Export Document Review
(SEDs, Airway Bills, Bills of Lading)
- Public Sources - Newspapers, Trade Publications, Internet





Investigations and Sanctions

- Investigations:
 - Criminal
 - Administrative
- Sanctions:
 - Criminal fines and imprisonment
 - Civil fines and penalties (i.e. denial of export privileges, exclusion from practice, etc.)



CRIMINAL

CRIMINAL PENALTIES

COMMERCE:

- EAR - currently enforced under 50 U.S.C., sec. 1705 (b), IEEPA. (EAA currently in lapse)

OTHER STATUTES:

- Conspiracy, 18 U.S.C. sec. 371
- Money Laundering, 18 U.S.C. 1956
- And more....





Criminal Penalties

- “Willful Violations”
 - \$250,000 fine for individuals and/or
Ten years imprisonment
 - \$1 Million or five times the value of
the exports involved for firms



Case Example 1: Miami Export Purchasing Corp.



EXPORT PURCHASING CORP

Miami Export Purchasing Corp.

- United Arab Emirates company ordered pulsed neutron generators through a automobile export company in Miami, Florida. The generators are controlled under ECCN 3A231.
- Miami company applied for a Commerce Department export license.
- Stated end-use was for oil well logging, but model ordered was for lab use.

Miami Export Purchasing Corp.

- Commerce initiated a pre-license check through our embassy in the UAE.
- U.S. Embassy reported back that the stated end-user listed on the license did not order the pulsed neutron generators.
- Export Enforcement arrested the Miami man that signed the license application for making false statements and conspiring to violate U.S. export control laws.

Case example 2:
Berkeley Nucleonics Corporation



Berkeley Nucleonics
Corporation

Berkeley Nucleonics Corp.

- Berkeley Nucleonics Corporation of San Rafael, California, was indicted August 28, 2001, by a federal grand jury.
- One count of conspiracy in violation of Title 18, United States Code, Section 371.
- Six counts of violations of Export Administration Regulations regarding exports to India.

Berkeley Nucleonics Corp.

Berkeley Nucleonics Corp.



(BNC) and three of its employees solicited business for and knowingly exported nuclear pulse generators and related parts to various entities in India without the export license required by the Department of Commerce

Berkeley Nucleonics Corp.

- The entities to which BNC is alleged to have shipped the nuclear pulse generators:
- **Bhaba Atomic Research Center (BARC)**
- **Nuclear Power Corporation (NPC)**
- BARC and NPC are divisions of the Government of India's Department of Atomic Energy and—at the time of shipment—were on the Department of Commerce's **Entities List**.

Berkeley Nucleonics Corp.

- David Brown, company president, indicted
- Richard Hamilton, marketing director, indicted
- One count of conspiracy
- One count of violating the Export Administration Regulations.
- Vincent Delfino, former Operations Mgr., indicted
One count of conspiracy
- Six counts of violating the Export Administration Regulations.

Case Example 3

Omega Engineering Inc.



Omega Engineering Inc.

- Omega, a Connecticut company, was indicted on charges it illegally shipped measurement equipment—with potential nuclear use—to Pakistan through a German subsidiary after the Department of Commerce denied an export license.
- Company claimed the shipment to Pakistan was separate from the license application and did not require a license.

Omega Engineering Inc.

- Commerce rejected company's arguments at each stage of process based on risk of diversion to an unsafeguarded nuclear facility.
- Some of company's employees tried to alert senior executives of the employees' concerns about the export.

Omega Engineering Inc.

- Company's CFO directed that the equipment be shipped.
- Recently Omega pled to an information charging it with a criminal violation of the IEEPA for exporting commodities to Pakistan through its German subsidiary after being denied an export license to ship directly to the end-user.
- PLC prompted charges.

Case Example 4:

Pakistani Businessman
Pakland PME Corporation

Pakland PME Corporation

- Pakistani businessman and South African counterpart were indicted for allegedly conspiring to export controlled triggered spark gaps and high-tech testing equipment to Pakistan, via South Africa, without the required Department of Commerce license.
- The triggered spark gaps are high-energy electrical switches with dual-use capabilities.

Pakland PME Corporation

- In the civilian sector, triggered spark gaps (Illustrated in Figure 1) are used in medical equipment to dissolve kidneystones.
- In the military sector, triggered spark gaps are used for:
 - Ordnance firing
 - Rocket ignitions
 - Nuclear detonators

Figure 1:



Pakland PME Corporation

- An anonymous source informed agents that a South African company was in the process of obtaining several hundred triggered spark gaps from a New Jersey broker.
- South African business partner was arrested at Denver Internat'l Airport.
- Simultaneous searches were conducted at the New Jersey broker's office and South African business.

Case Example 5:

L-3 Communications
Exported X-Ray System

L-3 Communications

- A Virginia Company (L-3 Communications) exported a cargo x-ray unit to the Netherlands without the required Department of Commerce license.
- Company agreed to pay \$33,000 in civil fines.
- Agents were permitted to conduct an audit on eight of its other companies over a one-year time period for export-related transactions.

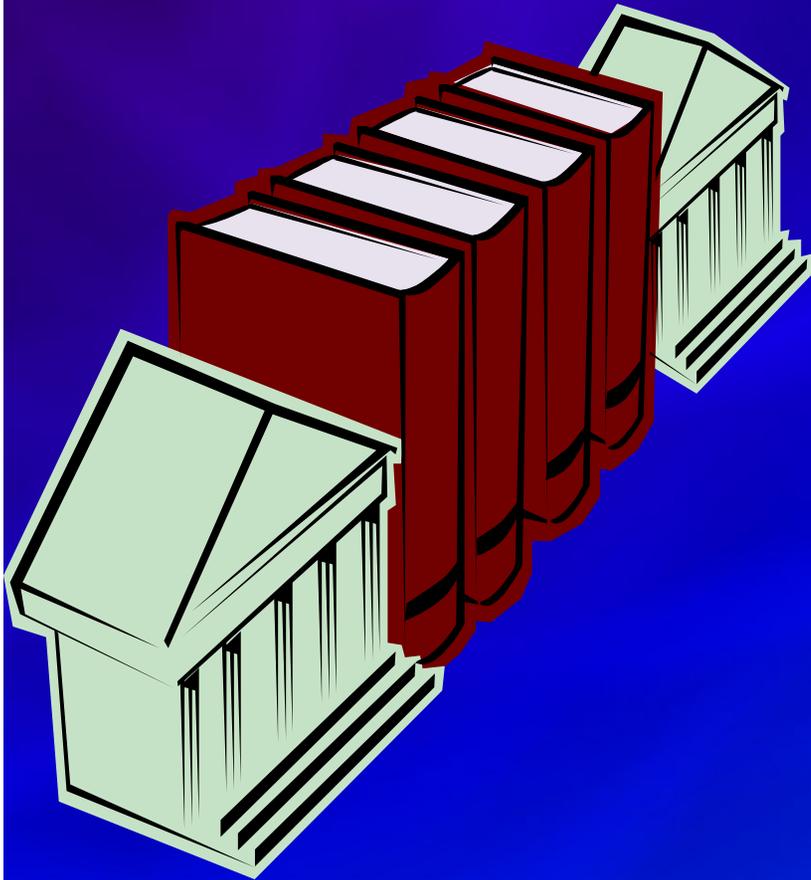
Case Example 6:

Dubai Trader and Iranian Company Officer

Dubai Trader and Iranian Company Officer

- Iranian company officer attempted to use UAE trader to purchase several hundred radiators (valued at more than \$80k) for forklifts with the intent to circumvent US export control laws.
- UAE trader was arrested in DC and charged with three international violations, including the EAR.
- Each violation carries a maximum of \$250k per penalty along with 10 years imprisonment.
- Iranian officer was charged with the same violations and an arrest warrant has been issued for his capture. He is believed to be in Iran.

Administrative Penalties

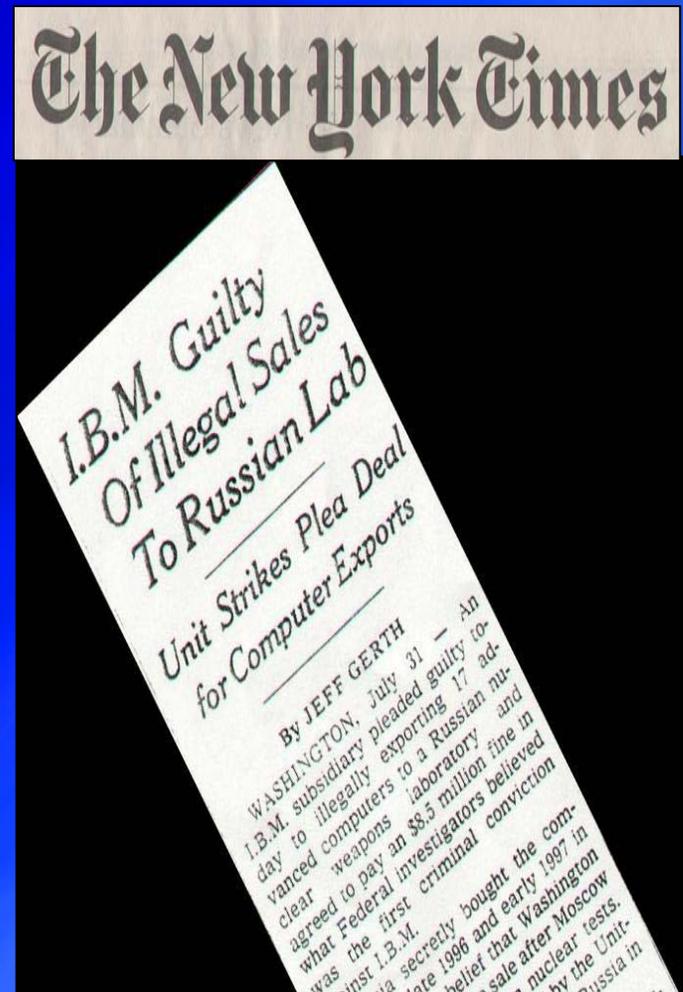


- CIVIL AUTHORITIES
 - EAR - TITLE 15, C.F.R. Part 764
- CIVIL SANCTIONS
 - Fines: \$11,000/violation
 - Denial of Export Privileges / Revocation of Export Licenses
 - Exclusion from practice



Temporary Denial Orders (TDOs)

- Department of Commerce is the only agency authorized to issue TDOs
- Designed to halt imminent violations
- Warns exporters & consignees not to do business with these individuals & firms
- Valid for 180 days and issued on *ex parte* basis
- Renewable



Voluntary Self Disclosure

- Permitted under EAR Section 764.5
- Initiated by a company when a company identifies export violations
- Violations still investigated by OEE
- “Great Weight” Mitigating Factor



How Do I Avoid This?

Root Causes of Civil Enforcement Cases

1. Incomplete Transaction Information
2. Ignoring Red Flags
3. Human Error
4. Incorrect SED Filing
5. Non-Compliance with License Conditions



1. Incomplete Transaction Information

- Unknown end-user
- Unknown or inconsistent end-use
- Multiple parties to a transaction not listed
- Incorrect product classification

Solution:

- Identify all parties to a transaction, confirm legitimate intermediaries and ultimate consignees.



2. Ignoring Red Flags

- Person placing the order is unfamiliar with product or information regarding end-use
- Inappropriate end-user: banks, overseas freight forwarders, etc.
- Conflicting information on sales documentation and export routing correspondence.

Solution:

- Ask questions and inquire further if you have concerns.



3. Human Errors

- Pressure to meet sales goals and rush order processing
- New personnel using outdated go-by documentation
- Export manager on vacation - no cross trained back up export managers
- Poor communication with sales staff and foreign distributors

Solution:

- Increase training and cross train personnel. Ensure export guidelines and classifications are current.

4. Incorrect SED Filing

- Wrong ECCN entered on SED
- Improper use of NLR (No License Required) exemption
- Incorrect Ultimate Consignee

Solution:

- Seek assistance from BIS and ensure correct classifications.



5. Non-Compliance with License Conditions

- Failure to identify all conditions on issued license
- Failure to identify any conflict of conditions with sales transaction.

Solution:

- Resolve any conflicts before proceeding with transaction. Even if this means amending the license!
- Notify intermediate and ultimate consignees of the BIS license conditions.
- Submit all reporting as required by BIS license.



Other Enforcement Priorities

Deemed Exports

A “deemed export” is an export of technology or source code (except encryption source code) that is “deemed” to take place when it is released to a foreign national within the United States. See §734.2(b)(2)(ii) of the Export Administration Regulations (EAR).



Deemed Exports

Technology is "released" for export when it is available to foreign nationals for:

- visual inspection (such as reading technical specifications, plans, blueprints, etc.)
- when technology is exchanged orally
- made available by practice or application under the guidance of persons with knowledge of the technology



Deemed Exports

- Export license required under the "deemed export" rule when both conditions are met:
 1. Intend to transfer controlled technologies to foreign nationals while in the United States; and
 2. Transfer of the same technology to the foreign national's home country would require an export license.

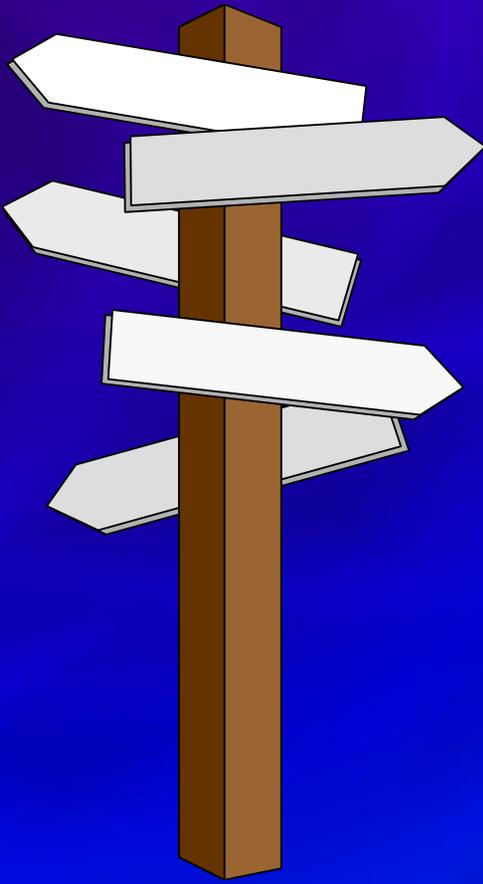


Visa Review Program

- Export Enforcement reviews thousands of H1-B visa applications annually
- In FY 2003, 109 Visa applications of these were referred to OEE's field offices for further investigation.
- Results:
 - Most visas were found to be legitimate
 - In some instances, the alleged visa sponsors were completely unaware of the intended visit.
 - In some instances, the sponsors were unaware of the deemed export rule. Resulting investigations led to the prosecution and detention of goods.



Future Outlook



- Increased Partnership opportunities with Industry
- More agents and more targeted emphasis
- Focused enforcement on key areas



When You Find a Violation

- Notify management
- Identify and contain immediate violation
- Conduct internal audit for scope of problem
- Initiate a self-disclosure report to OEE



Contact BIS

WE'RE HERE TO HELP!

- If you have questions about product classification, call BIS Exporter Services
- If you have questions about Red Flags or other potential enforcement problems call BIS Office of Export Enforcement (OEE)
- Check the BIS Website for current information about regulations, denied parties and listed entities





OFFICE OF EXPORT ENFORCEMENT



Hotline 1-800-424-2980

Unit Chief Holland's 202-482-6450

**For more information or to
receive regular email
updates, please visit our
website at :**

www.bis.doc.gov

