The Daily Bugle is a free daily newsletter from Full Circle Compliance BV, containing changes to export and import regulations (ATF, Customs, EAR, FACR/OFAC, FTR/AES, HTSUS, and ITAR), plus news and events. Subscribe at [www.FullCircleCompliance.us](http://www.FullCircleCompliance.us) or [www.FullCircleCompliance.eu](http://www.FullCircleCompliance.eu).

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EXPANDED ITEMS:

1. Treasury/OFAC Posts Iran General License G
   (Source: [Federal Register](http://Federal Register))

79 FR 49157-49158: Publication of Iran General License G

* AGENCY: Office of Foreign Assets Control, Treasury.
* ACTION: Notice, publication of general license.
* SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) published in the Federal Register General License G, which was issued under the Iranian transactions sanctions program on March 19, 2014. General License G authorizes certain academic exchanges between U.S. academic institutions and Iranian universities and the exportation or importation of certain educational services.

* DATES: Effective Date: March 19, 2014.

* FOR FURTHER INFORMATION CONTACT: Assistant Director for Licensing, tel.: 202-622-2480, Assistant Director for Policy, tel.: 202-622-2402, Assistant Director for Regulatory Affairs, tel.: 202-622-4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202-622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

* SUPPLEMENTARY INFORMATION: Electronic and Facsimile Availability

The text of General License G and additional information concerning OFAC are available on OFAC's Web site (www.treasury.gov/ofac). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

Background

On March 19, 2014, OFAC issued General License G authorizing certain academic exchanges between U.S. academic institutions and Iranian universities and the exportation or importation of certain educational services. On March 20, 2014, OFAC made General License G available on the OFAC Web site (www.treasury.gov/ofac). With this notice, OFAC is publishing General License G in the Federal Register.

General License G

Certain Academic Exchanges and the Exportation or Importation of Certain Educational Services Authorized

(a) Academic Exchanges. Except as provided in paragraph (c) of this general license, accredited graduate and undergraduate degree-granting academic institutions located in the United States (collectively, "U.S. academic institutions"), including their contractors, are authorized to enter into student academic exchange agreements with universities located in Iran (collectively, "Iranian universities") related to undergraduate or graduate educational courses, and to engage in all activities related to such agreements, including, but not limited to, the provision of scholarships to students enrolled in Iranian universities to allow such students to attend U.S. academic institutions.

(b) Educational Services. Except as provided in paragraph (c) of this general license,

(1) U.S. academic institutions, including their contractors, are authorized to export services:

(i) In connection with the filing and processing of applications and the acceptance of payments for submitted applications and tuition from or on behalf of individuals
who are located in Iran, or located outside Iran but who are ordinarily resident in
Iran;
(ii) related to the recruitment, hiring, or employment in a teaching capacity of
individuals who are located in Iran, or located outside Iran but who are ordinarily
resident in Iran, and regularly employed in a teaching capacity at an Iranian
university, provided that no such individuals are employed in a teaching capacity
within the United States without being granted appropriate visas by the
U.S. Department of State or authorization from the U.S. Department of Homeland
Security; and
(iii) to individuals located in Iran, or located outside Iran but who are ordinarily
resident in Iran, to sign up for and to participate in undergraduate level online
courses (including Massive Open Online Courses, coursework not part of a degree
seeking program, and fee-based courses) provided by U.S. academic institutions in
the humanities, social sciences, law, or business provided that the courses are the
equivalent of courses ordinarily required for the completion of undergraduate
degree programs in the humanities, social sciences, law, or business, or are
introductory undergraduate level science, technology, engineering, or math courses
ordinarily required for the completion of undergraduate degree programs in the
humanities, social sciences, law, or business.
(2) U.S. persons who are actively enrolled in U.S. academic institutions are
authorized to (i) participate in educational courses or engage in noncommercial
academic research at Iranian universities at the undergraduate level, or (ii)
participate in educational courses at the graduate level or engage in noncommercial
academic research at Iranian universities in the humanities, social sciences, law, or
business at levels above the undergraduate level.
(3) U.S. persons are authorized to export services to Iran in support of the
following not-for-profit educational activities in Iran: combating illiteracy, increasing
access to education, and assisting in educational reform projects.
(4) U.S. persons, wherever located, are authorized to administer professional
certificate examinations and university entrance examinations, including, but not
limited to, multiple choice standardized tests, and to provide those services that are
necessary or required for admission to U.S. academic institutions, to individuals
who are located in Iran or located outside Iran but who are ordinarily resident in
Iran.
(c) This general license does not authorize:
(1) The exportation or reexportation of any goods (including software) or
technology (see 31 CFR 560.418 & Note 1 addressing releases of technology or
software to foreign nationals) to (i) the Government of Iran, or (ii) Iran, except for
technology or software released under this General License that is designated as
EAR99 under the Export Administration Regulations, 15 CFR parts 730 through 774
(the "EAR"), or constitutes Educational Information not subject to the EAR, as set
forth in 15 CFR 734.9, and the release does not otherwise require a license from
the Department of Commerce; or
(2) The exportation or reexportation of services to any person whose property
and interests in property are blocked pursuant to any part of 31 CFR chapter V
other than part 560.
Note 1 to General License G: Students from Iranian universities who are otherwise qualified for a non-immigrant visa are authorized to carry out in the United States those activities for which such a visa has been granted by the U.S. State Department pursuant to 31 CFR 560.505.

Note 2 to General License G: United States depository institutions or United States registered brokers or dealers in securities are authorized to process transfers of funds in furtherance of activities authorized by this general license so long as the transfer is consistent with 31 CFR 560.516.

Note 3 to General License G: United States depository institutions and private loan companies are authorized to engage in all transactions necessary to collect, accept, and process student loan payments from persons in Iran or ordinarily resident in Iran under 31 CFR 560.551.

Note 4 to General License G: U.S. persons are authorized to engage in certain publishing-related activities, including with persons from academic and research institutions and their personnel in Iran under 31 CFR 560.538.

Note 5 to General License G: U.S. persons are authorized, inter alia, to export, reexport, and provide certain services, software, and hardware incident to personal communications under General License D-1 of 31 CFR part 560.

Issued: March 19, 2014.

Dated: August 12, 2014.
John E. Smith, Acting Director, Office of Foreign Assets Control.

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2. Ex/Im Items Scheduled for Publication in Future Federal Register Editions
(Source: Federal Register)

[No items of interest noted.]

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3. Commerce/BIS News: "Remarks by Deputy Secretary Bruce Andrews at the BIS Update Conference"
(Source: Commerce/BIS)

Thank you, Eric. Good afternoon. It's great to be here. I would like to join Eric in welcoming all of you today.

I also want to thank the entire team at the Bureau of Industry and Security (BIS) for organizing this Update Conference. It has become a must-attend event for many in our exporting community. And the reason is simple: as Secretary Pritzker said,
export control reform is essential to our national security, which includes our economic security.

To be honest, when I first joined the Department of Commerce as the Secretary's Chief of Staff, I did not have a full appreciation for the importance of BIS and its work. That changed quickly.

Around the time I started, I traveled to my home town of Syracuse to speak at an event organized by the International Trade Administration. During a roundtable with roughly 25 business leaders, I was surprised to hear them repeatedly raise the issue of the export control system.

This sentiment - this focus on export controls - was almost unanimous around the table; it was a real moment of epiphany for me. I never would have expected so many companies to raise this as one of their top issues.

From that experience, it became clear why, shortly after taking office, President Obama ordered a broad-based review of our export control system—a system that too often reflected assumptions of the Cold War era. We needed a system that addressed contemporary threats and realities. We needed a system that was more reliable and predictable so that U.S. exporters could be more reliable and predictable suppliers. We needed a system that was nuanced so that less sensitive items destined to countries and end uses of less concern could be controlled more flexibly. The Commerce Department system and regulations are designed to address all these concerns, which is why we have taken on the burden of implementing many of the reforms.

To the get to the point where we are today, a massive amount of work was needed over the course of the last five years. The Departments of Defense, State, and Commerce, supported by multiple other agencies and laboratories, reviewed every control for every military and space-related item. They had the difficult job of identifying which were the items that continued to warrant the worldwide controls of the ITAR and which were the military and space items that would still require control, but could be exported more flexibly to close allies. This was a massive exercise. And every one of the proposed changes went through multiple rounds of industry and public comment and congressional notification.

Assembling, devising, and executing this strategy has been considered one of the most difficult jobs in government. But the truth is, government can't do this job alone, which is why, at this conference and year-round, we seek out and appreciate the cooperation and participation of all of you - our nation's exporting community.

Now that the regulations are starting to come on line and grand policy plans are being put to the test in actual implementation, we need to hear from you whether they work and whether we are accomplishing the national security objectives that then-Secretary of Defense Gates set out in 2010.
Are the reforms allowing for greater interoperability with our close allies? Are the reforms reducing the incentive for foreign companies to design out or avoid U.S.-origin content or services? Are the reforms allowing the government to focus its resources on transactions of greater concern? We are looking to you to let us know whether we are failing or succeeding in each of these objectives.

Based on a review of the data since the first set of rules became effective last October, the new system seems to be working as intended. Exports of parts and components in the supply chain to our close allies are occurring more quickly and efficiently. Non-U.S. companies are more willing to buy items from U.S. companies without fear of an "ITAR taint" to what they build. The ability of companies in allied countries to engage in joint production and development projects is becoming easier. Once companies get comfortable with the new system, the paperwork and licensing burden is being reduced. Companies are able to determine more clearly when items are and are not ITAR controlled. The Administration is becoming able to spend more time investigating exports and reexports to destinations and end uses of more concern.

All told, here's the bottom line: export control reform maintains effective safeguards, brings transparency to our system, and ensures efficiency in a field of regulation that has long lacked it.

And for those aspects that are not yet as efficient as they could or should be, the heart of the reform effort includes a spirit of transparency and regular interaction with industry and national security stakeholders to continually improve and streamline the system.

As we work to make our reform initiative a source of even greater strength for the security of our country and the competitiveness of key industries, BIS and the Department of Commerce are here to help.

BIS provides a wide range of services to ensure companies can navigate the export control process easily and efficiently. Among these are: counselling; training seminars; Web-based interactive tools; compliance assistance; and, technical support to register and use the simplified network application process.

BIS has held more than 200 outreach activities to educate companies on the nuances of export control reform. Tomorrow, for example, the Bureau is hosting a large number of subject matter expert roundtables, including representatives from the Small Business Administration and Commerce’s Minority Business Development Agency. I encourage you all to attend.

We know that you are investing substantial resources to make export control reform work. Many of you have reclassified thousands of parts, revised your IT control systems, and conducted thousands of hours of training for your compliance, operations, and technical teams.
We recognize that, for some, this process has resulted in a significant increase in your workload. But we firmly believe that your tactical investment will reap strategic rewards over time.

In government, we are few in number and we rely on you, the private sector, to help educate your suppliers, employees, and customers. The effort and resources you devote to this exercise are crucial to the success of our reform efforts and indeed, of the export control system generally.

At Commerce, we are committed to working side-by-side with you to educate stakeholders, keep our supplier base informed, and reach out to customers at home and abroad.

Our task is not easy. Changing mindsets is always a seemingly impossible challenge. But you have demonstrated, time and again, your capacity to reinvent yourselves, to develop new products, to market ideas and items and innovations that place all of you at the forefront of the 21st century global economy.

With your ongoing commitment, with the expertise of the businesses in this room and the know-how of our teams at BIS and the Department of Commerce, we will achieve President Obama's goal: to make America safer, to give an edge to American industry, to keep American workers strong, competitive, and prosperous.

Thank you.

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4. **State/DDTC: (No new postings.)**
(Source: State/DDTC)

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5. **Expeditors News: "CBP Publishes FTA Side-by-Side Comparison"**
(Source: Expeditors News)

On August 15, 2014 U.S. Customs and Border Protection (CBP) published a side-by-side comparison of numerous U.S. Free Trade Agreements (FTAs) and preferential trade programs.

Areas of focus, among others, include Merchandise Processing Fee (MPF) exemptions, Documentation Requirements, Rules of Origin, Drawback Restrictions, Valuation, and Post Importation Claims.

The following FTAs are exempt from MPF:
- Chile (CLFTA)
- Singapore (SGFTA)
- Australia (AUFTA)
- Israel (ILFTA)
- Bahrain (BHFTA)
- Central American-Dominican Republic (CAFTA-DR)
- Colombia (CTPA)
- Korea (UKFTA)
- North American FTA (NAFTA)
- Oman (OMFTA)
- Panama (PAFTA)
- Peru (PTPA)
- Caribbean Basin Economic Recovery Act (CBERA)
- Caribbean Basin Trade Partnership Act (CBTPA)
- Generalized System of Preference (GSP) - only products of Least Developed Countries
- African Growth and Opportunity Act (AGOA) - Exempt when products of an LDBDC

CBP removed details for the Andean Trade Preference Act (ATPA) due to its termination, however, included guidelines for the expired GSP.

The side-by-side comparison can be accessed online [here](#).

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6. **ST&R Trade Report: "BIS Officials Review Export Enforcement Activity, Recommend Compliance Measures"**
(Source: [ST&R Trade Report](#))

Bureau of Industry and Security officials speaking at the recent Update Conference on Export Controls and Policy gave an update on the agency's export enforcement actions and offered recommendations on the steps exporters should be taking to ensure compliance.

Enforcement Actions. David Mills, assistant secretary of commerce for export enforcement, highlighted the operation of the Information Triage Unit housed in the Office of Enforcement Analysis and the Export Enforcement Coordination Center (E2C2) housed at the Department of Homeland Security. The ITU went into operation in mid-2012 and has produced more than 2,100 reports on the bona fides of foreign parties to export license applications, which Mills said facilitates the processing of these applications and secures "the integrity of our export control system." The ITU has also provided analysis to support Entity List nominations and to review appeals resulting from such designations.

The E2C2 has helped improve the coordination of export enforcement investigations by de-conflicting over 3,100 cases. De-confliction involves law enforcement agencies exchanging information about new cases to determine if any other U.S. government agency already has an investigation related to the same matter or possesses information that will aid in the investigation. White House Chief of Staff Denis McDonough said that by coordinating new export enforcement leads through the E2C2, officials have found that in 57 percent of new cases another department or agency is either already working the lead or has information that would be helpful.
In addition, Mills said, Export Enforcement has "significantly increased the consequences" for companies it is not able to verify during its end-use checks by (a) amending the Unverified List in December 2013 to make it a more useful tool for exporters to identify foreign parties whose bona fides cannot be confirmed by the U.S. government and provide instruction on how to deal with those parties and (b) publishing on June 16, 2014, the first set of UVL designations from China, Hong Kong, Russia and the United Arab Emirates.

More generally, BIS chief Eric Hirschhorn told attendees, in its enforcement efforts BIS is "trying to focus on truly bad actors, not those who have a decent compliance program, make a mistake, and work with us to remedy the situation."

Compliance Measures. "The best way to ensure you're not violating the regulations," Mills said, "is to have a comprehensive internal compliance program in place." Specific actions exporters should be taking in this regard include the following.

Screening. All transactions should be screened against government lists; a consolidated list is available here.

CCL. All items subject to an export transaction should be classified against the Commerce Control List and sales persons need to understand list-based, end-use and end-user controls.

License Conditions. For items subject to a license, exporters have an obligation to share license conditions with their customers and are highly encouraged to ensure their customers acknowledge their intent to comply, even where such acknowledgement is not otherwise required by BIS. Mills noted that BIS end-use checks over the past year have found significant non-compliance in this area.

STA. For license exception transactions involving Strategic Trade Authorization, exporters should ensure that they obtain before they ship a certification in which the recipient acknowledges that it understands that any subsequent retransfer or reexport requires a similar consignee statement prior to such retransfer or reexport.

Hirschhorn noted that BIS is continuing its layered approach to verifying compliance with license exception STA, that the review of Automated Export System data and exporter and consignee records, as well as some on-site document reviews, has resulted in a high degree of compliance, and that BIS will continue to review STA transactions to guard against misuse.

End-Use or End-User Concerns. For export transactions with end-use or end-user concerns, exporters should obtain end-use certificates and double check potential licensing requirements. "Self-blinding by not inquiring about end-use or not doing due diligence on an end-user is not an acceptable defense," Mills warned.
Transshipments. For items moving through transshipment locations like Hong Kong, Singapore and the United Arab Emirates, it is important for exporters to understand the foreign export control requirements of those governments in addition to those of the EAR. BIS has published a new best practice encouraging exporters to obtain a copy of their Hong Kong and UAE customers' import licenses prior to exporting and to ensure that customers in these three transshipment locations are aware of export control requirements for the reexport, transshipment or transit of items exported from the U.S.

Mills said that for Hong Kong the absence of receipt of such an import certificate for any multilaterally-controlled item from the importer should be a red flag, as it should be with regard to certain controlled items in the UAE. BIS has encountered many entities in Hong Kong "that are nothing more than secretarial firms who simply offer a forwarding service for the reexport of your item to another country," he noted. "Because of the likely difference in licensing treatment for your item to Hong Kong as compared to most other countries, such as China, extra due diligence is warranted."

Voluntary Self-Disclosures. Mills anticipates that BIS will handle 600-series VSDs (of which only 18 had been filed as of the end of July) "in a manner very similar to that of DDTC [the Directorate of Defense Trade Controls] and that most will result in a warning letter or no action at all, as is the case with most VSDs previously filed under the EAR."

Serious Violations. Mills said that as BIS becomes more familiar with the nature of VSDs filed under the 600 series it is his intention to issue new BIS administrative enforcement guidelines modeled upon those promulgated by the Office of Foreign Assets Control. "OFAC has a robust and comprehensive administrative enforcement program for cases involving more serious violations," Mills said, and "their guidelines - premised upon the statutory criteria set forth in IEEPA [the International Emergency Economic Powers Act], the statutory authority pursuant to which both agencies now administer and enforce their respective regulations - use the transaction value to determine the baseline for assessing a civil penalty. The OFAC guidelines also provide greater transparency and predictability for the exporting community."

As a result, exporters "may expect to see a continuing robust and comprehensive administrative enforcement program at BIS involving cases where aggravating factors are present, apart from cases involving knowledge and willful conduct, whether or not those cases arise in the context of criminal prosecutions. Such factors include inadequate compliance programs, systemic failures in those programs, [and] harm to U.S. national security or foreign policy interests."

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7. The Telegraph: "PwC Fined $25m for Hiding Bank's Sanctions Violations" (Source: The Telegraph)
New York state has fined PricewaterhouseCoopers $25m and suspended some consulting work for two years after finding the company hid a Japanese bank's US sanctions violations.

Bank of Tokyo-Mitsubishi UFJ, Japan's biggest lender, pressured PwC to delete a report on wire transfers the bank submitted to regulators to hide its dealings with blacklisted Iran, Myanmar and Sudan, the New York State Department of Financial Services (DFS) said.

"Under pressure from BTMU executives, PwC removed a warning in an ostensibly 'objective' report to regulators surrounding the bank's scheme to falsify wire transfer information for Iran, Sudan and other sanctioned entities," the department said.

Under the terms of the settlement, PwC's Regulatory Advisory Services unit will be suspended for 24 months from accepting consulting work at financial institutions regulated by the New York state agency and undertake a series of reforms.

Benjamin Lawsky, the superintendent of financial services, said this was the latest case of improper influence and misconduct in the bank consulting industry, which had a "troubling web of conflicts".

In 2013, the DFS reached a similar settlement with Deloitte Financial Advisory Services that involved a 12-month suspension of consulting activities.

"When bank executives pressure a consultant to whitewash a supposedly 'objective' report to regulators - and the consultant goes along with it - that can strike at the very heart of our system of prudential oversight," Mr Lawsky said.

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8. NSSF Ex/Im Update to Firearms Manufacturers
(Source: Lawrence G. Keane, lkeane@nssf.org) [Excerpts.]

Last week NSSF and the F.A.I.R. Trade Group held the 13th annual Firearms Import/Export Conference in Washington, D.C. A record number of attendees had the opportunity to hear from decision-makers at the Bureau of Alcohol, Tobacco Firearms and Explosives (ATF), the State Department, Customs and Border Protection, the Treasury Department, the Census Bureau and other experts about the laws and regulations that affect their businesses.

EXPORT CONTROL REFORM

BIS Says Will Treat Voluntary Self-Disclosures Similar to DDTC

BIS is again responding to exporter concerns that the Commerce Department's Bureau of Industry and Security (BIS) will impose more fines for voluntary self-disclosures (VSDs) for items transferred to the 600 series on the Commerce Control List (CCL) than the State Department's Directorate of Defense Trade Controls (DDTC) did previously. David Mills, BIS assistant secretary for
Export Enforcement told attendees at the BIS Update Conference that, "it is my sense that we will handle the 600-series VSDs in a manner very similar to that of DDTC and most will result in warning letters or no action at all, as is the case with most VSDs previously filed under the EAR." He also said that it is his intention to issue guidelines modeled upon those of the Office of Foreign Asset Control (OFAC), which uses the transaction value of the violation as the baseline for financial penalties.

ECR Expected to Yield 40% Drop in State Licensing

After Export Control Reform (ECR) changes are fully implemented, DDTC expects its annual licensing cases to come in around 45,000 to 50,000 licenses, a decline of over 40 percent from its peak in fiscal year 2012 of about 86,000 cases. Tony Dearth, director of licensing for DDTC told the BIS Update Conference that despite the drop in DDTC's licensing load, they expect an increase in the average days for handling cases as the easy cases are transferred to BIS and the harder cases will remain with State.

BIS Assistant Secretary Kevin Wolf told an advisory committee earlier this month that there the agency does not expect a parallel increase in the number of BIS cases, as most items moved to the CCL are being exported under license exceptions or no license required.

CENSUS

Census to Allow Entry of Data Following Voluntary Disclosures

The Census Bureau will amend its Automated Export System (AES) to add a code allowing exporters to file information correctly after DDTC approves a voluntary disclosure. The new code may be used by exporters that did not file an Electronic Export Information (EEI) for an export subject to ITAR after the export has occurred. Because Customs and Border Protection is responsible for AES enforcement, Census officials note that they cannot predict whether the late filing would trigger legal liability.

Census Personnel Changes

Dale Kelley has become chief of the Foreign Trade Division. Omari Wooden has shifted to be senior foreign trade advisor from trade ombudsman, while Joe Cortez is serving as the new ombudsman. Kiesha Downs will take over as chief of regulations, outreach and education branch.

STATE

Number of Voluntary Disclosures Decline

According to a State Department official, DDTC has seen a sharp decrease in the number of voluntary disclosures in the first 10 months of fiscal year 2014. Last month Daniel Buzby of DDTC's Office of Defense Trade Controls Compliance told the BIS Update Conference that DDTC received 1,050 voluntary disclosures, compared to about 2000 received in fiscal year 2013. At this pace, the agency may receive about 40 percent fewer reports that last year.

Buzby told the conference that two-thirds of the typically-minor disclosures are handled in days or weeks and the vast majority receive either warning letters or
no action. He also explained to attendees that the expected ECR-driven drop in the number of firms registering with DDTC has not materialized as news about reforms have "not filtered down" to the suppliers of parts and components that have moved to the Commerce Control List (CCL).

DDTC Announces Reorganization
At the NSSF/FAIR Trade conference, we learned of a reorganization of the compliance office. Its three divisions have merged into one and the research and analysis division has been transferred to the DDTC Office of Defense Trade Controls Policy. Buzby is now senior advisor to Sue Gainor, director of the Office of Defense Trade Controls Compliance and Glenn Smith, formerly chief of the enforcement division, is now a senior advisor to Ken Handelman, the deputy assistant secretary of state for defense trade controls.

RUSSIA

State Provides Guidance on Russian Import Sanctions
NSSF has learned that the U.S. State Department has provided guidance to ATF on the Russian sanctions that affect our industry. According to this guidance, only imports from entities named in the sanctions will be blocked. ATF has sent letters to those companies holding current Form 6s that are importing from named entities, e.g. Kalashnikov Concern, advising them the import permit is being revoked. In addition, those with Form 6s pending are being advised the permits are being denied. No new Form 6s will be issued while the sanctions remain in place. If an importer tries to bring product made by entity named in the sanctions in a transaction in which that sanctioned entity has no interest, e.g. Kalashnikov-manufactured rifles in which Kalashnikov Concern has no interest, those imports will not be blocked but it will be incumbent on the importer to establish the named entity's lack of "interest."

EU Sanctions Tougher than U.S. Prohibitions
We have learned that the European Union (EU) sanctions go further in some respect than the current U.S. sanctions. The EU sanctions block the shipment of all firearms and ammunition products, not just those blocked by the U.S. sanctions, from stopping at any EU port. For example, a ship leaving the port of St. Petersburg with ammunition or firearms on board cannot stop at the ports of Rotterdam or Bremen, Germany. Direct shipments from St. Petersburg to the U.S. of non-sanctioned products while still possible are significantly more expensive, adding about $2,000 US per container.

OFAC Issues New Guidance and Revised FAQs
The Office of Foreign Assets Control ("OFAC") published new guidance and revised FAQs regarding its fifty-percent rule which states that a blocked person who has fifty percent or more interest in an entity causes the entity to also be blocked, even though it may not be listed on OFAC's List of Specially Designated Nationals and Blocked Persons (the "SDN List."). The new guidance also advises that the interest of all blocked parties in an entity will be aggregated, and if the total owned in the entity by all blocked persons is 50% or more, then the entity
is also blocked. This new rule is a reversal of guidance previously given by OFAC, and may have more negative impact on U.S. businesses than it will on Russia and other sanctioned countries because it will make SDN screening very difficult. Under the old rule, you only needed to screen individuals with an interest of 50 percent to determine if they were blocked. Now you will need to screen every owner to see whether multiple owners are blocked and if there is an aggregate of 50 percent or more owned by blocked persons.

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(Source: WorldECR)

* Author: Scott Gearity, ECTI Instructor and Principal of BSG Consulting, sgearity@tradecontrols.com, 216-923-1378.

In my experience helping those tasked with keeping non-US firms compliant with the US regulations as an instructor with the Export Compliance Training Institute, I have found it helpful to break down this challenging subject matter into bite size pieces. Consider this an introduction to analysis under the Export Administration Regulations outlining the steps a reexporter should work through to reach US reexport decisions.

Step 1: Who are you?
In this step, as well as the two to follow, it quickly becomes clear that complying with US export controls outside the US is not merely equally as challenging as it is within the US, but it is actually even more perplexing. There are several issues US firms never have to consider which are crucially important to a non-US company.

The first question to face when considering US controls on activities outside the US centers on understanding what additional restrictions, if any, may apply to a firm based on who or what it is and how it is organized. While most US reexport controls apply similarly to both US and non-US persons, another layer of regulation may apply to US persons and, somewhat less frequently, foreign subsidiaries of US companies.

Anyone who reexports a US-origin item is, from the perspective of the US Government, subject to the jurisdiction of the Export Administration Regulations or other applicable US rules. As will be explored further, a non-US-origin item with certain amounts of types of US-origin content may also be subject to US jurisdiction. In any case, if the item is subject to US regulations, the regulations may require a license for reexport. All of this applies more or less equally to both US and non-US entities.

On top of these baseline controls, the EAR proscribes US persons from participating in certain proliferation-related activities. Office of Foreign Assets Control sanctions regulations prohibit transactions with embargoed countries, specially designated nationals and others. Subsidiaries of US companies may not generally trade with
Cuba or Iran. These are just a few examples to illustrate how understanding an organization’s ownership and control structure is important. Inside the US, these issues are of little relevance since any entity operating in the US is subject to the full breadth of US law.

Step 2: Sensitive US Content
If the commodity, software or technology to be reexported is of US-origin, and it will be reexported on its own, skip to Step 4. Otherwise, continue with Step 2.

Under the EAR, some US-origin content is considered so sensitive that incorporating it into a non-US-origin item always subjects the non-US item to US jurisdiction (i.e. it is not eligible for de minimis - a concept to be reviewed in Step 3). Fortunately, only a handful of items are deemed "sensitive." These include specific aircraft commercial standby instrument systems, particular semiconductors and interconnect devices and certain types of encryption, among others. So, a non-US-made assembly incorporating a "sensitive" item automatically becomes subject to the EAR, even if that is the only US-origin part. Of course, as will be explored in the subsequent steps, being subject to the EAR does not necessarily mean that a reexport license is required.

Of particular note to buyers of US-origin military equipment, ECR introduced a new category of "sensitive" content - 600 series items. 600 series items are those controlled in XX6XX Export Control Classification Numbers (e.g. ECCN 9A610) and which were, for the most part, previously controlled on the US Munitions List. Non-US items that incorporate 600 series US-origin content are always subject to the EAR, but only when destined for a destination in Country Group D:5. Among the countries in this group are China, Venezuela and Zimbabwe. Importantly, when such non-US items are destined for a country not in Country Group D:5, the 600 series content is not considered "sensitive."

If the non-US-made item to be reexported incorporates "sensitive" US-origin content, skip to Step 4. If not, continue with Step 3.

Step 3: US Content De Minimis
Most non-US products will not contain any "sensitive" US content, but there is still a way in which a product nonetheless may be subject to the EAR. If a non-US item contains US content, and that content is not "sensitive," then the reexporter should determine if the US content is "de minimis." If the US content is de minimis, the non-US-made item is not subject to EAR reexport controls. If the content is not de minimis, the non-US-made item is subject to the EAR.

And yes, your sneaking suspicions are correct. The upshot of de minimis is that the US claims authority over all sorts of things and know-how made or developed outside the US, based solely on the fact that they contain US parts, software code or technology. Of course, the US Government might put it differently: "look at all these things with US components which we reasonably and generously do not claim jurisdiction over!"
What are the details? For a non-US-origin product to be subject to the EAR when reexported to any destination, the value of its incorporated US content must be greater than 25 percent. If the value of the incorporated US content is greater than 10 percent, but no more than 25 percent, the non-US product is only subject to the EAR when reexported to destinations in Country Group E:1 (presently Cuba, Iran, North Korea, Sudan and Syria).

Only controlled US content must be considered when calculating de minimis. Put somewhat differently, it is only necessary to include the US content in the calculation if the reexport of that US item to the country of destination is ineligible for No License Required and License Exception GBS. So, many types of US hardware and software controlled at a low level will have no effect on de minimis calculations for most countries.

In all of these cases, a fair market value standard is applied. This will often be the sale or purchase price, particularly in an arm's length transaction. Making de minimis decisions requires the reexporter to obtain accurate valuations and classification details from its suppliers. It is up to the reexporter to make its own de minimis determination (with the exception of technology, which requires a report to the Bureau of Industry and Security, followed by a thirty day waiting period before relying upon the calculation).

If the non-US made item has de minimis US-origin content, stop here. The reexport is not subject to the EAR. If the non-US-origin product has greater than the de minimis level of US content, proceed to the next step.

Step 4: Export Classification
In reaching Step 4, it has been established that an item is subject to the EAR for one of these three reasons:

- The item is of US-origin.
- The item is of non-US-origin and incorporates "sensitive" US-origin content.
- The item is of non-US-origin and incorporates greater than the de minimis level of US-origin content.

Once it is clear that the reexport transaction falls under the EAR, the next task at hand is to classify the item being reexported. The EAR control list, formally known as the Commerce Control List, consists of hundreds of Export Control Classification Numbers (ECCNs). Although there is a great deal of overlap between the CCL and multilateral control lists (e.g. Wassenaar Arrangement, Missile Technology Control Regime, etc.), the CCL describes many items not on the multilateral lists. Should the reexporter be unable to find an item on the CCL, that item is likely classified EAR99. EAR99 can be viewed as a basket category which captures anything subject to the EAR, but not elsewhere listed on the CCL - a unique feature of the US export control system.

While reexporters are generally not required to document classification and license exception determinations, or to place classification information on shipping documents, documenting reexport decisions will help mitigate fines and penalties.
should an inadvertent licensing error occur. Always require US suppliers to provide classification information in writing. While a reexporter may still be held liable for unauthorized reexports based on faulty US supplier ECCNs, this is potentially a significant mitigating factor if the reexporter can demonstrate the due diligence they undertook to get the decision right.

Part of export control reform is the creation of new ECCNs, known as the 600 series, to control items formerly subject to the ITAR. For example, ECCN 9A619.a controls certain military gas turbine engines "specially designed" for a military use, but which are not controlled by the ITAR in USML Category XIX. A thorough understanding of this new, defined term "specially designed" is essential to accurate classification decisions.

Solid classification is a critical step. An erroneous ECCN determination can quickly escalate into a violation, because it easily leads to incorrect licensing decisions.

Step 5: Is this item eligible for No License Required?
Another unusual aspect of the US system is that reexports of many of the commodities, software and technologies on the control list do not trigger a license requirement. Just because something is described by the CCL, it does not mean that a license or even a license exception (the US equivalent of the general or open licenses seen in other jurisdictions) is necessary. This is why the next step is to ask if the item being shipped is eligible for reexport No License Required.

To determine if an item is eligible for reexport NLR, it is necessary to know two things - the country of destination and the classification of the item. Then look to the reasons for control, which are found in the header to each ECCN. The reason for control should indicate a two letter symbol, such as "CB", "AT" or "NS." The reason for control will also specify a column number next to this symbol, such as CB Column 1 or NS Column 2. Next cross reference these reasons for control against the Commerce Country Chart found in Supplement No. 1 to Part 738 of the EAR. Find the intended reexport destination on the chart and match it to the specific columns which indicate the reason(s) for control related to the particular ECCN. If there is no "X" in any of these columns for the country in question, that item is eligible for reexport to that country NLR, as long as a catch all control does not apply (reference Step 7 below). If there is one or more "X" in any applicable reason for control column associated with the country of destination, NLR is not available.

Items classified EAR99, which have no applicable reasons for control, may typically be reexported NLR except to Cuba, North Korea and Syria. Some EAR99 reexports to Iran and Sudan are also NLR-eligible.

If the reexport is eligible for NLR, skip to Step 7. If not, proceed with Step 6.

Step 6: Is there a license exception?
It might be logical to assume that if NLR does not authorize a reexport, a license would be required. But that is not what the EAR says. Before applying for a license, consider if a license exception may be available. A license exception is a built-in regulatory authorization which permits certain exports, reexports or transfers
without need to obtain advance approval from BIS. The appeal is obvious - no need to wait and no uncertainty for the reexporter. Just tick the boxes and make the shipment.

Unfortunately, it is not quite that simple. Some things are flat out ineligible for any exceptions (for example, most items controlled for missile technology reasons). And each exception comes with its own set of limitations and conditions. In some cases, these are minimal constraints, but in others, they are quite onerous.

To take an example of one of the simpler authorizations, License Exception GBS permits reexports Country Group B, as long as the ECCN for the item states "GBS: Yes." This can be quite useful, as Country Group B includes about 80 percent of the world's countries. Qualification for License Exception GBS and some others are driven primarily by the ECCN - i.e. the ECCN states if it is possible to use the exception. Others, such as those intended for replacements (License Exception RPL) or temporary shipments (License Exception TMP) are more driven by the particulars of the situation than by ECCN (though classification may still be relevant).

Step 7: Is there a catch-all control?
Just when you thought you might be able to reexport NLR or under an exception, there is one final gauntlet - catch-all controls. These are limitations which impose a license requirement where one would not necessarily exist otherwise.

If a catch all control applies, you may not proceed with any transaction involving any item subject to the EAR. For example, US origin items may not be reexported to a prohibited party, certain embargoed destinations, for proliferation-related end users and uses or to parties who may divert the products contrary to the EAR. You may not use NLR or a license exception if any catch all control applies.

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10. Webinar 20 Aug: "Specially Designed--Don't Rely on First Impressions"
(Source: Jill Kincaid; jill@learnexportcompliance.com)

* What: "Specially Designed" -- The Devil (and the Meaning) Is in (Understanding) the Details
* When: 1:00-2:30 pm Eastern, Wednesday, 20 Aug
* Where: Webinar
* Instructor: John Black
* Comments: The webinar will include:
  - The "catch and release" approach in "specially designed"
  - The across the board decontrol of certain things such as fasteners, springs, grommets, etc.
  - The decontrol of single use military items, because they are not "specially designed"
  - The decontrol of items that are the same as lesser controlled items
  - The decontrol of things with similar, but not identical, form and fit as lesser controlled items
  - The decontrol of items intended for use in highly controlled items and lesser controlled items
- The decontrol of general purpose items
- The continued use of the undefined "specifically designed" in most USML categories
- Tips and ideas for how to go about reclassifying your products based on the new definition
- A question and answer period to clarify your burning questions
* More info: [Here](#) or Jill Kincaid, 540-433-3977
* Registration: [Here](#)

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**11. Bartlett's Unfamiliar Quotations**
(Source: Author)

To do two things at once is to do neither.
- Publius Syrus (Syrian/Roman writer of maxims; 46 BC - 29 BC)

"Don't let the fact that you can't do all that you want to do keep you from doing what you can do."
- Source unknown

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**12. Are Your Copies of Regulations Up to Date?**
(Source: The official versions of the following regulations are published annually in the U.S. Code of Federal Regulations (C.F.R.), but are updated as amended in the Federal Register. Changes to applicable regulations are listed below.)

* ATF ARMS IMPORT REGULATIONS: 27 CFR Part 447-Importation of Arms, Ammunition, and Implements of War
  - Source: [http://tinyurl.com/q46kdgd](http://tinyurl.com/q46kdgd)

* CUSTOMS REGULATIONS: 19 CFR, Ch. 1, Pts. 0-199
  - Last Amendment: 8 Aug 2014: 79 FR 46348-46350: Technical Amendment to the List of CBP Preclearance Offices in Foreign Countries: Addition of Abu Dhabi, United Arab Emirates
  - Source: [http://tinyurl.com/kadflzy](http://tinyurl.com/kadflzy)

  - Source: [http://tinyurl.com/lmz77g7](http://tinyurl.com/lmz77g7)

* FOREIGN ASSETS CONTROL REGULATIONS (OFAC FACR): 31 CFR, Parts 500-599, Embargoes, Sanctions, Executive Orders
  - Last Amendment: 7 Apr 2014; 79 FR 26365-26373: Ukraine-Related Sanctions Regulations
* FOREIGN TRADE REGULATIONS (FTR): 15 CFR Part 30  
  - Last Amendment: 13 Nov 2013; 78 FR 67927-67928: 15 CFR Part 30; Foreign  
    Trade Regulations (FTR): Mandatory Automated Export System Filing for All  
    Shipments Requiring Shipper's Export Declaration Information: Substantive  
    8 gave exporters until October 2, 2014, to comply with the regulations that went  
    into effect April 5, 2014.  
  - Source: http://tinyurl.com/mu2auaq. HTS codes that are not valid for AES are  
  - The Annotated Foreign Trade Regulations ("BAFTR"), by James E. Bartlett III, is  
    available by subscription. The BAFTR contains all FTR/AES amendments. The  
    BAFTR is available for annual subscription at www.fullcirclecompliance.us. BITAR  
    subscribers will receive a 25% discount on the BAFTR.

* HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (HTS, HTSA or  
  HTSUSA),  
  2013: 19 USC 1202 Annex. ("HTS" and "HTSA" are often seen as abbreviations for the  
  Harmonized Tariff Schedule of the United States Annotated, shortened versions of  
  "HTSUSA".)  
  - Last Amendment: 1 Jul 2013, Revision of the HTSUS  
  - Source: http://www.usitc.gov/tata/hts/index.htm  
  - HTS codes that are not valid for AES: http://tinyurl.com/ygeamak

* INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR): 22 C.F.R. Ch. I,  
  Subch. M, Pts. 120-130  
    Republic  
  - Latest change to text: 15 Aug 2014; as ITAR 121.1, Cat. VIII(h)(4) took effect  
  - Source: http://tinyurl.com/nvawr3c, and scroll to "SUBCHAPTER M".  
  - The current edition of The Annotated ITAR ("BITAR"), by James E. Bartlett III, is  
    available for downloading in Word and PDF formats. The BITAR contains all ITAR  
    amendments to date, footnotes to sections that will take effect on future dates, plus  
    a large Index, and over 400 footnotes containing case annotations, practice tips,  
    and DDTC guidance. Subscribers receive updated copies of the BITAR in Word and  
    PDF versions by email, revised every time the ITAR is amended. The BITAR is  
    available by annual subscription from the Full Circle Compliance website at  
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