# EIB World Trade Headlines

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June 1, 2021 - Volume 13, Issue 10


## Information for Exporters with a Surplus of Medical Supplies and Equipment

Release Date:
May 19, 2021
*This document was updated as of May 19, 2021

FEMA published a Temporary Final Rule (TFR) in the Federal Register on December 31, 2020. It allocates certain scarce critical medical and healthcare resources for domestic use to ensure domestic needs are met during the COVID-19 pandemic, and to ensure supplies of certain materials are not exported abroad inappropriately. The current TFR is in effect until June 30, 2021.

FEMA strives to keep the TFR up to date while reflecting the most current information about critical medical supplies and healthcare resources. The process requires a balance between potential domestic shortages, protection of the national defense interest, promotion of the domestic economy, and an acknowledgment of international and diplomatic considerations.

To adapt to consistently fluid supply chain considerations, FEMA is announcing some changes under the current TFR.

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### NEWSLETTER NOTES

Effective immediately, the following are no longer restricted from export under the TFR:

Industrial N95 Respirators, including devices that are currently NIOSH approved for use in healthcare settings under an Emergency Use Authorization (EUA) issued by the Food and Drug Administration (FDA)
PPE Surgical Masks, as described by 21 CFR 878.4040, including masks that cover the user's nose and mouth providing a physical barrier to fluids and particular materials, that meet fluid barrier protection standards pursuant to: ASTM F 1862; and Class I or Class II flammability tests under CPSC CS 191-53, NFPA Standard 702-1980, or UL 2154 standards
Piston syringes that allow for the controlled and precise flow of liquid as described by 21 CFR 880.5860, that are compliant with ISO 7886-1:2017 and use only Current Good Manufacturing Practices (CGMP) processes; or
Hypodermic single lumen needles that have engineered sharps injury protections as described in the Needlestick Safety and Prevention Act, Pub. L. 106-430, 114 Stat. 1901 (Nov. 6, 2000).
The review and restriction from export under the TFR remains unchanged for these items:

Surgical N95 Respirators, that are single-use, disposable respiratory protective devices used in a healthcare setting that are worn by healthcare personnel during procedures to protect both the patient and HCP from the transfer of microorganisms, body fluids, and particulate material at an N95 filtration efficiency level per 42 CFR 84.181.
PPE Nitrile Gloves, specifically those defined at 21 CFR 880.6250 (exam gloves) and 878.4460 (surgical gloves) and such nitrile gloves intended for the same purposes.
Level 3 and 4 Surgical Gowns and Surgical Isolation Gowns that meet all of the requirements in ANSI/AAMI PB70 and ASTM F2407-06 and are classified by Surgical Gown Barrier Performance based on AAMI PB70
Additional Information

If you are a manufacturer or distributor of one of the remaining covered items under the TFR, and believe you have a surplus you may request an exemption due to a surplus of materials. This is only required for the three covered items remaining , surgical N95 Respirators, PPE Nitrile Gloves, or Level 3 and Level 4 Surgical Gowns and Surgical Isolation Gowns. You will be asked to demonstrate a good-faith and unsuccessful attempt to sell the material to the domestic market.

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To request this TFR export process exemption due to a surplus of materials, please submit a Letter of Attestation with the following information to docs@cbp.dhs.gov :

The surplus material you wish to export
The commercially reasonable efforts you have made to market and sell the material domestically
The difference, to the extent known, between the domestic demand and the domestic production
How the proposed export volume will not interfere with continued satisfaction of domestic demand.
DHS-FEMA will review submitted Letters of Attestation and make every effort to provide parties with a Letter of Decision within three business days.

For more information on submitting Letters of Attestation and allocated exports, visit the CSMS #42506108- CBP Frequently Asked Questions About PPE Exports.

For information on additional exemptions to the allocation order, go to the Notice of Exemptions published in the Federal Register in April 2020.

Export Allocation Rule on Medical Supplies and Equipment for COVID-19

## Homeland Security Dept. to issue first-ever cybersecurity regulations for pipelines after Colonial hack that disrupted fuel supply

The Transportation Security Administration, a DHS unit, will issue a security directive this week requiring pipeline companies to report cyber incidents to federal authorities, senior DHS officials said, and will follow up in coming weeks with a more robust set of mandatory rules for how pipeline companies must safeguard their systems against cyberattacks and the steps they should take if they are hacked. The agency has offered only voluntary guidelines in the past.

## New Zealand Travel

New Zealand has paused its travel bubble with the Australian state of Victoria after a fresh COVID-19 outbreak in Melbourne. The U.S. has advised American citizens not to travel to Japan, which is hosting the Olympics in two months, because of fresh cases there. And doctors in Afghanistan are worried about the war-torn nation's ability to handle the spread of the dangerous Indian variant of the virus. (Sources: NZ Herald, CNN, Guardian)

## Mali Coup

One coup wasn't enough. Mali's military has arrested the country's interim president, prime minister and defense minister nine months after an earlier coup deposed previous leader Ibrahim Boubacar Keïta. The United Nations, African Union and the EU have condemned the arrests. (Sources: Al Jazeera, BBC)

## Malawi Elections

The outcome of Malawi's national elections in February 2020 was in keeping with a pan-African trend: Incumbent President Peter Mutharika was declared the winner amid serious allegations of fraud. But what followed was a distinct break with the norm. Under Chief Justice Andrew Nyirenda, the country's Supreme Court ordered a fresh election. A furious Mutharika tried to forcibly retire Nyirenda, ostensibly so he could "write his biography." But the nation's judicial community stood up against that move. Mutharika lost the reelection, Malawian democracy won and Nyirenda is still chief justice. The biography will have to wait.

## U.K. urges airlines to avoid Belarus airspace, as Europe moves to isolate Minsk after it forced down plane carrying dissident

Britain joined other nations in steering clear of Belarusian airspace after the country's leaders brazenly forced down a commercial jet and arrested a dissident journalist.

## Justice Department Settles Discrimination Claim Against Aerojet Rocketdyne, Inc.

The Department of Justice today announced that it reached a settlement with Aerojet Rocketdyne Inc. (Aerojet Rocketdyne), a rocket and missile propulsion manufacturer.

The settlement resolves a charge brought by a lawful permanent resident whom Aerojet Rocketdyne did not consider for a mechanic position because of his immigration status. The department's investigation concluded that Aerojet Rocketdyne violated the anti-discrimination provision of the Immigration and Nationality Act (INA) when it only considered U.S. citizens for 12 mechanic positions in Jupiter, Florida, without legal justification.

"Employers cannot limit positions only to U.S. citizens unless they have a legal requirement to do so," said Principal Deputy Assistant Attorney General Pamela S. Karlan of the Justice Department's Civil Rights Division. "The department commends Aerojet Rocketdyne for quickly changing its practices when it learned of the issue, and for its cooperation throughout the department's investigation."

Aerojet Rocketdyne builds and sells advanced propulsion and energetics systems to customers including the U.S. government and private companies. The department's investigation determined that Aerojet Rocketdyne did not allow the Charging Party and other non-U.S. citizens to apply for 12 mechanic positions, based on their citizenship status. The investigation also concluded that the company misunderstood its obligations under federal regulations, such as the International Traffic in Arms Regulations (ITAR), by mistakenly believing that they imposed restrictions on the company's ability to hire non-U.S. citizens, which they do not. The investigation also determined that the company incorrectly believed that some of its government contracts required it to fill the 12 mechanic positions with U.S. citizens. When it learned of the investigation, Aerojet Rocketdyne was forthcoming and quickly changed its practices to avoid future discrimination.

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The INA protects U.S. citizens, non-citizen nationals, refugees, asylees, and recent lawful permanent residents from hiring discrimination based on citizenship status. The law has an exception if an employer or recruiter is required to limit jobs due to a law, regulation, executive order, or government contract.

Today's settlement agreement requires Aerojet Rocketdyne to take several steps to ensure it follows the law, including training its employees who conduct hiring in its Jupiter, Florida location. The company also must pay a $37,008 civil penalty. As with its other settlements, the department will monitor the company to make sure it is complying with the agreement.

The Civil Rights Division's Immigrant and Employee Rights Section (IER) is responsible for enforcing discrimination protections under the INA. The law prohibits citizenship status and national origin discrimination in hiring, firing, or recruitment or referral for a fee; unfair documentary practices; and retaliation and intimidation. Learn more about citizenship status discrimination under the INA here.

Learn more about IER's work and how to get assistance through this brief video. Applicants or employees who believe they were discriminated against based on their citizenship, immigration status, or national origin in hiring, firing, recruitment, or during the employment eligibility verification process (Form I-9 and E-Verify); or subjected to retaliation, may file a charge.

The public also may contact IER's worker hotline at 1-800-255-7688;

call IER's employer hotline at 1-800-255-8155 (1-800-237-2515, TTY for hearing impaired);

email IER@usdoj.gov; s
ign up for a free webinar;

or visit IER's English and Spanish websites.

Subscribe to GovDelivery to receive updates from IER.

## SAP Admits to Thousands of Illegal Exports of Its Software Products to Iran and Enters Into Non-Prosecution Agreement with DOJ

BOSTON – SAP SE, a global software company headquartered in Waldorf, Germany, has agreed to pay combined penalties of more than $8 million as part of a global resolution with the Departments of Justice, Commerce, and the Treasury.

In voluntary disclosures the Company made to the three agencies, SAP acknowledged violations of the Export Administration Regulations and the Iranian Transactions and Sanctions Regulations. As a result of its voluntary disclosure to DOJ, extensive cooperation, and remediation costing more than $27 million, United States Attorney's Office for the District of Massachusetts and DOJ's National Security Division entered into a Non-Prosecution Agreement with SAP. Pursuant to that agreement, SAP will disgorge $5.14 million of ill-gotten gain.

Beginning in approximately January 2010 and continuing through approximately September 2017, SAP, without a license, willfully exported, or caused the export, of its products to Iranian users. SAP's violations occurred in two principle ways.

First, between 2010 and 2017, SAP and its overseas partners released its U.S-origin software, including upgrades, and/or software patches more than 20,000 times to users located in Iran. SAP senior management was aware that neither the Company nor its U.S.-based Content Delivery Provider used geolocation filters to identify and block Iranian downloads, yet for years the Company did nothing to remedy the issue. The vast majority of the Iranian downloads went to 14 companies, which SAP Partners in Turkey, United Arab Emirates, Germany, and Malaysia knew were Iranian-controlled front companies. The remaining downloads went to several multinational companies with operations in Iran, which downloaded SAP's software, updates, and/or patches from locations in Iran.

Second, from approximately 2011 to 2017, SAP's Cloud Business Group companies (CBGs) permitted approximately 2,360 Iranian users to access U.S.-based cloud services from Iran. Beginning in 2011, SAP acquired various CBGs and became aware, through pre-acquisition due diligence as well as post-acquisition export control-specific audits, that these companies lacked adequate export control and sanctions compliance processes. Yet, SAP made the decision to allow these companies to continue to operate as standalone entities after acquiring them and failed to fully integrate them into SAP's more robust export controls and sanctions compliance program.

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While this conduct constituted serious violations of U.S. law involving the release of U.S. origin technology and software through cloud servers and online portals, this Non-Prosecution Agreement recognizes the importance of voluntary self-disclosure and cooperation with the government. DOJ and the District of Massachusetts reached this resolution with SAP based upon its voluntary self-disclosure as well as SAP's extensive internal investigation and cooperation over a three-year period. During this time, SAP worked with prosecutors and investigators, producing thousands of translated documents, answering inquiries, and making foreign-based employees available for interviews in a mutually agreed upon overseas location. AP also timely remediated and implemented significant changes to its export compliance and sanctions program, spending more than $27 million on such changes, including, among other things detailed in the NPA: (1) implementing GeoIP blocking; (2) deactivating thousands of individuals users of SAP cloud based services based in Iran; (3) transitioning to automated sanctioned party screening of its CBGs; (4) auditing and suspending SAP partners that sold to Iran-affiliated customers; and (5) conducting more robust due diligence at the acquisition stage by requiring new acquisitions to adopt GeoIP blocking and requiring involvement of the Export Control Team before acquisition.

Concurrently with this agreement, SAP is entering into Administrative Agreements with the Department of Commerce, Bureau of Industry and Security ("BIS") and the Department of the Treasury, Office of Foreign Assets Control ("OFAC"). Among other things, the BIS settlement agreement requires SAP to conduct internal audits of its compliance with U.S. export control laws and regulations, and produce audit reports to BIS for a period of three years.

"Today, SAP has admitted to thousands of export violations spanning six years that violated the U.S. embargo against Iran and endangered the national security of the United States," said Acting U.S. Attorney Nathaniel Mendell. "This settlement should serve as a strong deterrent message to others that the release of software and sale of product and services on the internet are subject to U.S. export laws and regulations."

"Today's first-ever resolution pursuant to the Department's Export Control and Sanctions Enforcement Policy for Business Organizations sends a strong message that businesses must abide by export control and sanctions laws, but that when they violate those laws, there is a clear benefit to coming to the Department before they get caught," said Assistant Attorney General John C. Demers for the National Security Division. "SAP will suffer the penalties for its violations of the Iran sanctions, but these would have been far worse had they not disclosed, cooperated, and remediated. We hope that other businesses, software or otherwise, we heed this lesson."

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"This action demonstrates that the Office of Export Enforcement will continue to leverage our unique authorities to enforce our nation's export control laws and to deter new violations. Violators of the EAR will be held accountable through criminal, civil penalties, or both when appropriate," said William Higgins, Special Agent in Charge of the Department of Commerce's Office of Export Enforcement, Boston Field Office. "These laws are designed to protect U.S. Foreign Policy and National Security and will be vigorously investigated."

"By supplying Iran with millions of dollars' worth of illegally exported software and services, SAP circumvented U.S. economic sanctions against Iran—pressure that is intended to end Iran's malign behavior. However, it was SAP that first uncovered and reported this sanctions violation, and we would like to thank them for working hard to enhance their compliance program to prevent future violations," said Joseph R. Bonavolonta, Special Agent in Charge of the Federal Bureau of Investigation, Boston Division. "Let this case be a lesson to others that it's better to self-report and own up to one's mistakes than undermine U.S. foreign policy and adversely affect our national security."

"Among HSI's priorities is the commitment to ensuring that sensitive U.S. products, to include software, are not illegally exported to embargoed destinations, such as Iran," said William S. Walker, Acting Special Agent in Charge for Homeland Security Investigations, Boston. "It will continue to be incumbent upon U.S. companies to guarantee that foreign subsidiaries dealing in their products remain in compliance with U.S. sanctions and export control regulations. HSI will continue to coordinate with our law enforcement partners to safeguard sensitive technologies produced in the United States from ending up in the hands of our adversaries."

Acting U.S. Attorney Mendell, Assistant Attorney General John Demers, SAC William Higgins, SAC Bonavolonta, and Acting SAC William Walker made the announcement today. Assistant U.S. Attorney B. Stephanie Siegmann, Chief of Mendell's National Security Unit; Elizabeth Cannon, Deputy Chief of Export Controls and Sanctions, National Security Division; and Heather Schmidt, Senior Trial Attorney, National Security Division, oversaw this investigation and negotiated this agreement.

# State Proposes changes to Definition of Regular Employee

ACTION:
Proposed rule.

SUMMARY:
The Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to update the definition of regular employee to allow subject persons to work remotely, and to clarify the contractual relationships that meet the definition of regular employee.

DATES:
Send comments on or before July 26, 2021.

ADDRESSES:
Interested parties may submit comments by one of the following methods:

Email: DDTCPublicComments@state.gov, with the subject line "ITAR Amendment: Regular Employee"

Internet: At www.regulations.gov, search for this document using Docket DOS-2021-0009.

Comments received after the acceptance date may be considered if feasible. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted. Comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls website at www.pmddtc.state.gov. Parties who wish to comment anonymously may submit comments via www.regulations.gov, leaving identifying fields blank.

FOR FURTHER INFORMATION CONTACT:
Ms. Engda Wubneh, Foreign Affairs Officer, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663-1809; email DDTCCustomerService@state.gov. ATTN: Regulatory Change, ITAR Section 120.39: Regular Employee.

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SUPPLEMENTARY INFORMATION:
In March 2020, the President declared a national emergency as a result of the COVID-19 pandemic. Subsequently, the Department announced a temporary suspension, modification, and exception through July 31, 2020, of the requirement that a regular employee, for purposes of ITAR § 120.39(a)(2), work at a company's facilities. The temporary measure allowed individuals to work remotely provided they are not located in Russia or a country listed in ITAR § 126.1 (85 FR 25287, May 1, 2020), and still be considered regular employees under the ITAR. The Department requested and received comments regarding the efficacy and duration of this temporary measure (85 FR 35376, June 10, 2020). Many commenters, one industry association, and several individual entities endorsed the telework provisions and requested that this measure be effective until the end of the year, if not extended indefinitely. Additionally, many commenters mentioned that this temporary measure allowed industry to continue their business activities despite COVID-19 as many employees could work remotely. In response, this temporary measure was extended until December 31, 2020 (85 FR 45513, July 29, 2020).

Further, the Department proposes to codify the meaning of a "long term contractual relationship" in ITAR § 120.39(a)(2) by clarifying in the regulations that individuals must be providing services to an entity under a contract for a term of one year or more (ITAR § 120.39(a)(2)(i)). The goal of this Start Printed Page 28504provision is to minimize the risk of diversion of U.S. defense articles. The delineation of a contract for one year or more was selected in part based on the Department's expectation that a long-term contractor will receive superior orientation and training from a regulated entity upon onboarding, and the ability to absorb and apply training materials and adhere to compliance policies and procedures (e.g., ITAR-related training) is more likely to occur with at least a year of experience on the job. For those individuals not in a "long term contractual relationship" with a regulated entity (i.e., where the contract is less than one year), the Department will allow such individuals to be treated as regular employees provided that, in addition to the control and non-disclosure considerations described in ITAR § 120.39(a)(3), the individual also maintains an active security clearance approved by the United States or by the government of the entity to which the individual's services are provided.

Lastly, although employment type is not explicitly referenced in the definition, individuals providing services pursuant to a contractual relationship can include independent contractors, seconded employees, individuals provided by a staffing agency, or contractors provided by a contracting agency.

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## FLIR SYSTEMS RESOLVES ALLEGATIONS OF MISREPRESENTATIONS MADE TO BIS AND OTHER GOVERNMENT AGENCIES

WASHINGTON – Today, Kevin J. Kurland, Acting Assistant Secretary of Commerce for Export Enforcement, Bureau of Industry & Security (BIS), announced an administrative settlement of $307,922 with FLIR Systems, Inc., located in Wilsonville, OR. The settlement follows an investigation by the Portland Resident Office, San Jose Field Office of BIS's Office of Export Enforcement (OEE), after a voluntary self-disclosure by FLIR involving an egregious violation of the Export Administration Regulations ("EAR").

"In order to prevent violations of the EAR, BIS strongly encourages organizations to maintain robust export compliance programs, and to ensure accurate representation of all compliance information to the United States Government," said Mr. Kurland. "BIS will not tolerate exporters that provide inaccurate or incomplete representations related to export regulations and laws. This enforcement action demonstrates the serious nature and consequences of such behavior and BIS's continued commitment to safeguarding U.S. national security, foreign policy, and economic interests on behalf of the public we serve."

This settlement resolves BIS's allegations that, between November of 2012 and December of 2013, FLIR made inaccurate or incomplete representations, statements, or certifications in violation of the EAR while seeking a determination that a newly developed Uncooled Focal Plane Array (UFPA) was subject to the EAR rather than the International Traffic in Arms Regulations. In advance of the determination, as the U.S. Government expressed concerns over the possible diversion of the UFPA to end-uses of concern, FLIR represented that the UFPA was designed specifically for insertion into commercial smartphones and recognized the need to prevent its diversion to uses other than insertion into smartphones. However, FLIR internally contemplated other markets for its product, developed plans for military applications involving nano reconnaissance drones, and later sold cameras incorporating the UFPA to a Norwegian customer in the defense industry for such drones. FLIR also represented to U.S. Government officials that the UFPAs incorporated a novel type of anti-tamper encryption protection to protect against diversion to end-uses of concern, but never actually successfully developed nor added such anti-tamper protections as a feature of the UFPA.

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"BIS is the principle agency involved in the development, implementation, and enforcement of export controls for commercial technologies and many military technologies. As such, BIS has a compelling interest in ensuring that parties submit complete and accurate information to the U.S. Government in connection with their exports. We perform our mission through preventative enforcement and the pursuit of appropriate criminal and administrative sanctions, as is illustrated in this enforcement action," said Special Agent in Charge John D. Masters of BIS's San Jose, CA Field Office.

BIS's mission is to advance U.S. national security and foreign policy objectives by ensuring an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership. Among its enforcement efforts, BIS is committed to preventing U.S.- origin items from supporting Weapons of Mass Destruction (WMD) projects, terrorist activities, or destabilizing military modernization programs. For more information, please visit www.bis.doc.gov

## Trainings

Agreements: Tips, Tricks and Tradecraft Webinar - June 8th @ 2:00 PM EDT

Please join DDTC's IT Modernization team and DDTC-Licensing for a discussion on submitting Agreements. As described in §124.1, an agreement approved by DTCL is required for a U.S. person to provide a defense service to a foreign person, to authorize manufacture of defense articles abroad, or to establish a distribution point abroad for defense articles of U.S. origin for subsequent distribution to foreign persons. In this session, we will provide answers to common questions users have when submitting Agreement requests to DDTC, review the submission process within DECCS, and walk through the tools available to all users when looking for additional support. And as always, we will leave plenty of time for Q&A.

Login Details:

Date: June 8th, 2021

Time: 2:00 pm - 3:00 pm EDT

Event Link to be Added

https://www.pmddtc.state.gov/ddtc_public?id=ddtc_public_portal_news_and_events

## Honeywell International, Inc.

PROPOSED CHARGING LETTER

Mr. Victor J. Miller
Vice President, Deputy General Counsel, Corporate Secretary, and Chief Compliance Officer Honeywell International Inc.
300 South Tryon Street.
Charlotte, NC 28202

Re: Alleged Violations of the Arms Export Control Act and the International Traffic in Arms Regulations by Honeywell International Inc.

Dear Mr. Miller:
The Department of State ("Department") charges Honeywell International Inc., including its operating divisions, subsidiaries, and business units (collectively "Honeywell" or "Respondent"), with violations of the Arms Export Control Act ("AECA") (22 U.S.C. § 2751 et seq.) and the International Traffic in Arms Regulations ("ITAR") (22 C.F.R. parts 120-130) in connection with unauthorized exports and retransfers of technical data, to various countries, including a proscribed destination. A total of thirty-four (34) charges are alleged at this time.

The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend this proposed charging letter, including through a revision to incorporate additional charges stemming from the same misconduct of Respondent. Please be advised that this proposed charging letter, pursuant to 22 C.F.R. § 128.3, provides notice of our intent to impose debarment or civil penalties or both in accordance with 22 C.F.R. §§ 127.7 and 127.10.

When determining the charges to pursue in this matter, the Department considered a number of mitigating factors. In particular, the Department took into account that Respondent voluntarily disclosed the violations, cooperated with the Department's requests, and entered into two agreements tolling the statutory period that applies to enforcement of the AECA and the ITAR. The Department notes that had it not taken into consideration these mitigating factors it would have charged Respondent with additional violations.

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## Summary of Changes to International Traffic in Arms Regulations § 126.1 – Russia

OVERVIEW: On March 18, 2021, the Directorate of Defense Trade Controls (DDTC) published a final rule (86 FR 14802) amending § 126.1 of the International Traffic in Arms Regulation to include Russia and announce that, subject to certain exceptions, it is the policy of the United States to deny licenses and other approvals for exports of defense articles and defense services destined for Russia.

The Bureau of International Security and Nonproliferation (ISN) concurrently published a separate notice of sanctions entitled "Determinations Regarding Use of Chemical Weapons by Russia Under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991" (86 FR 14804). This notice resulted from the Secretary of State's determination on March 1, 2021, pursuant to that Act that the Government of Russia used chemical weapons in violation of international law or lethal chemical weapons against its own nationals.

The ITAR Amendment

The final rule (86 FR 14802) does the following:

- Adds Russia to ITAR § 126.1(d)(2), which applies a policy of denial for exports, subject to certain exceptions, as specified in ITAR § 126.1(l).

- Provides in ITAR § 126.1(l) that exports of defense articles and defense services to Russia are subject to a policy of denial, except that a license or other approval may be issued on a case-by-case basis:

(1) for government space cooperation; and
(2) prior to September 1, 2021, for commercial space launches.

- Amends ITAR § 126.1(a) to allow exporters to use the exemptions provided in ITAR § 126.4(a)(2) and (b)(2) for exports to Russia when in support of government space cooperation.

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Q&S's

Q: Will DDTC deny all pending license applications involving Russia as a party to the transaction?

A: DDTC is currently assessing license applications involving Russia to determine that country's role in the transaction. If the transaction does not meet one of the carve-outs, the license application will be denied. If it does meet one of the carve-outs, the license application will be reviewed on a case-by-case basis.

Q: I applied for and received a DDTC issued license or agreement for export to Russia. Is it now automatically void?

A: No. DDTC will contact you in the event that your existing license or other approval is terminated, suspended, or otherwise revoked. No new export licenses or other approvals that identify Russia and do not satisfy one of the carve-outs will be issued; this includes amendments to existing agreements and licenses in furtherance of existing agreements.

Q: Do I need to submit my license application in support of commercial space launches before September 1, 2021, or does DDTC need to approve my license application before September 1, 2021?

A: You should plan to submit any license applications far enough in advance to enable DDTC to complete its case-by-case review of the application prior to September 1, 2021. Average license processing timelines generally range from 35-45 days and exports involving countries listed in ITAR § 126.1 often require additional time to review.

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"Learn how to be happy with what you have while you pursue all that you want."

Q: Does the policy of denial apply to temporary imports from Russia? Or does it apply only to exports?

A: As provided in ITAR § 126.1(l), the policy of denial applies to licenses or other approvals for exports of defense articles and defense services destined for Russia. License applications related to temporary imports will continue to be adjudicated on a case-by-case basis consistent with U.S. foreign policy and national security considerations.

Q: Does the policy of denial apply to brokering activities involving Russia?

A: Consistent with ITAR § 129.7(d), it is the policy of the Department of State to deny requests for approval of brokering activities or proposals to engage in brokering activities involving any country listed in ITAR § 126.1.

*For a complete set of FAQs related to this rule, please visit the "ITAR/USML Updates" tab of the Frequently Asked Questions page of our website (www.pmddtc.state.gov).

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