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National Aeronautics and Space Administration

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Export Control Brief

John F. Kennedy Space Center Export Control Office
December 2006 4thQuarter
"Export Control… The first line of defense"

Disclosure Timeliness—A Matter of National Security

(Excerpts from the Global Watch Newsletter—IIEI Staff)

Timely reporting of suspected or known violations of Export Administration Regulations (EAR) and International Traffic in Arms Regulations (ITAR) is **critically important**. It is also essential for compliance professionals to understand the voluntary disclosure provisions in the EAR and ITAR and differences between them.

While the basic concept of disclosures are similar, the EAR and ITAR have different approaches in terms of when the disclosure should be submitted to the appropriate agency. ***(NOTE: The EAR uses the term voluntary self-disclosure (VSD) and ITAR uses voluntary disclosure (VD).)*** As a result of amendments to the ITAR issued earlier this year, section 127.12 (c) (1) states that parties should "initially notify the Directorate of Defense Trade Controls (DDTC)—**"immediately"** after violations are discovered and then conduct a thorough review of all export-related transactions where violations are suspected." In contrast, section 764.5 (c) (1) of the EAR states that, with respect to VSDs exporters should "initially notify the Office of Export Enforcement as **"soon as possible"**, after violations are discovered and then conduct a thorough review of all export-related transactions where violations are suspected."

The timeliness of reporting violations is viewed as an indication of how an organization conducts its business. Late disclosures may cause the USG agencies to conduct a much wider investigation of practices, policies, procedures and transactions to determine what else was not disclosed by the organization in a timely manner.

Also note, the USG in general has an even greater interest when sensitive national security and/or foreign policy concerns are involved. Commodities on the U.S. Munitions List annotated as SME or identified by the intelligence community as Targeted Advanced Conventional, Enabling or Targeted Technologies or virtually anything having to do with weapons of mass destruction or their delivery systems get **"very special"** attention from the Departments of Commerce, Defense, Energy, Homeland Security, Justice, State and Treasury.

Do not make the mistake of making your own assessment of the impact on national security. That is the responsibility of the USG. No one in industry has the resources or access to sensitive USG information to make an accurate and complete evaluation, particularly when it comes to intelligence implications and exactly what impact there is on our war-fighters or on broader foreign policy and national security interests. That is another reason why timely disclosure to the USG is important.

In 2006, KSC experienced several EC investigations, voluntary disclosures and internal reviews that strengthened the export management systems of the KSC Export Control Office and KSC U.S.G. Contractors.

Due to reporting the ***voluntary disclosures*** in a timely, accurate and thorough manner the USDOS—DDTC did not issue penalties—however bestowed stern written reprimands, made recommendations and promised increased EC oversight.

The efficiency in furnishing the voluntary disclosures emphasized the importance of expeditious reporting and the **"value added"** of VDs and VSDs. **Please remember to Stay Export Aware in 2007 here at KSC.**

(Article Excerpts contributed by the International Import Export Institute. To read the entire article, please visit the IIEI's web site Http://www.iiei.edu**)**

EC Compliance and Enforcement Agencies

DTSA Ensuring the Edge

Kennedy Space Center—Export Control Office Mission Statement

"To protect our NASA civil servants and government Contractors through the enforcement of export and import compliance regulations". http://exportcontrol.ksc.nasa.gov

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Government Policy Review

According to the ITAR the following are the definitions for U.S. person and Foreign person.

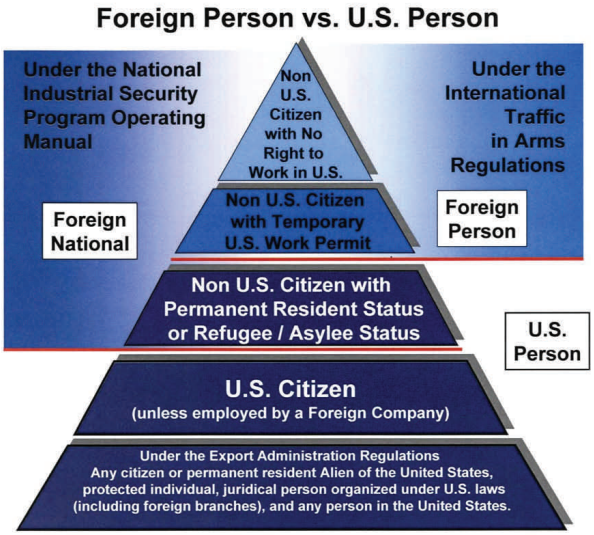
§ 120.15 U.S. person.

U.S. person means a person (as defined in §120.14 of this part) who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the United States. It also includes any governmental (federal, state or local) entity. It does not include any foreign person as defined in §120.16 of this part.

§ 120.16 Foreign person.

Foreign person means any natural person who is not a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions).

Foreign Person vs. U.S. Person



Note: *The chart above furnishes a general overview of the ITAR and the National Industrial Security Operating Manual interpretations of foreign person; foreign national and U.S. person. (Chart is available from the NASA—KSC ECO)*

Understanding Foreign and U.S. Persons will assist you in how to handle exports to these "Persons" under the EAR and ITAR; deemed exports and NASA badging.

Export Control Training Web Sites and Video

SATERN Certification: https://satern.nasa.gov/elms/learner/login.jsp

KSC - Export Training Purposes Only: http://exportcontrol.ksc.nasa.gov

Export Control Video: http://exportcontrol.ksc.nasa.gov/exportcontrol.ram

University of Berkeley Training: http://research.chance.berkeley.edu/echome.cfm

NASA Kennedy Space Center – Export Control Office

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Wayne Ranow

Melanie Chan

William Collins

Export Control Web Site

http://exportcontrol.ksc.nasa.gov

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Export Control News

Export control news from the USDOC , the USDOS and KSC.

BIS Computer System Under Attack From Chinese Hackers: by Jill Kincaid

The Bureau of Industry and Security (BIS) has been the target of hackers operating though Chinese internet servers for the second time in recent months, according to US Department of Commerce officials.

Through security measures currently in place, the BIS discovered an effort by hackers to gain access to BIS user accounts. The hackers were traced to web-sites registered to Chinese ISPs. This has resulted in further increase in BIS security provisions and forced the replacement of hundreds of workstations, as well as blocked employees from use of the internet from their workstations. It has significantly impaired the ability of the BIS to communicate with other government agencies and the public, including US companies who rely on them for their export licenses.

A Government Accountability Office (GAO) report, issued 5 years ago, warned of significant weaknesses in the Department of Commerce computer security system. They found that outsiders could gain access to the system and view confidential data. Subsequent to this report, the DOC reported taking significant steps to increase security. It is evident that these steps have not deterred Chinese hackers, as they continue to be successful in their relentless attacks on computers of the DOC and other US agencies.

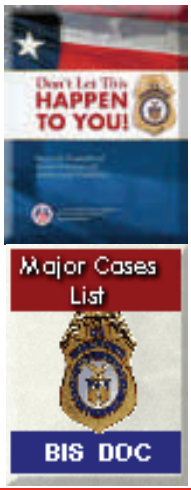
It is worth noting that China was the destination for the largest number of licenses approved by the BIS in 2004 according to the bureau's annual report. For this reason, and others, China remains the focus of a high level of attention at the BIS as they try to protect national security without unduly hindering legitimate commercial trade. **Contribution by Jill Kincaid:** ***The Export Compliance Training Institute,*** **Black, Sengers & Associates, Global Trade Consulting** www.bsaexport.com

NASA KSC ECO—Now Under NASA Protective Services Office:

As of **10/01/06**, the NASA KSC ECO is officially in the "NASA Protective Services Office" within TA. The Chief of Protective Services for KSC is Calvin L. Burch. This union has proven to be a logical and beneficial move at other NASA centers with export control, SBU, and counter-intelligence working closely to protect our technology. The CEA and the Protective Services Office will be operating comprehensively to ensure enforcement of the federal export control and import compliance regulations here at Kennedy Space Center.

ECO Office Relocations:

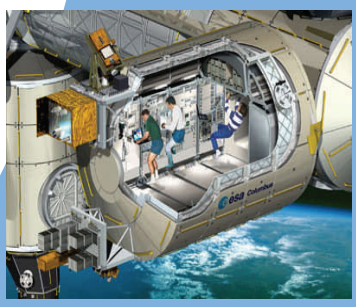
- **KSC Export Administrator/Wayne Ranow**: Has been **relocated to room 1114H** of the headquarters building, new mail code is TA-G and a new fax number: 321-867-7206, Ph. 321-867-6066, Cell 321-431-4940
- **William Collins**: Has been **relocated to room 1629** of headquarters building, mail code is General Dynamics, Ph. 321-867-9209; Cell 386-679-4042; Fax 321-867-9810



USBIS Export Control Publications

http://www.bis.doc.gov/ComplianceAndEnforcement/Dont_Let_This_Happen_To_You_2005.pdf

http://www.bis.doc.gov/ComplianceAndEnforcement/Majorcaselist.pdf



Please visit the USBIS web site for the most recent publications.

For forms and current export information, please visit these official export-control web sites:

Arms Export Control Act of 1976

International Traffic in Arms Regulations (ITAR)

Govern export of defense articles and services to include most space-related technologies/ systems.

The United States Munitions List (USML)

www.pmddtc.state.gov.

Export Administration Act of 1979

Export Administration Regulations (EAR)

Govern the majority of US commercial exports (civil and dual-use) as well as International Space Station (ISS) hardware.

The Commerce Control List (CCL)

www.bis.doc.gov/

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Training Opportunities in 2007

AAEI to Hold 2007 Winter Conference & Expo January 28-30 in New Orleans

Source: http://www.csis.org/events/Archive/

- What: AAEI's 2007 Winter Conference & Expo
- When: January 28 - 30, 2007
- Where: New Orleans, LA
- Sponsor: American Association of Exporters and Importers
- Registration: www.aaei.org

Hear industry leaders discuss trade continuity and resumption, ethics and global compliance, C-TPAT and recent WCO PSCG activities, legislative and regulatory updates, transfer tax and customs values, ACE and advance data management, drawback issues, foreign policy-based export controls, non-tariff barriers, and due diligence in track-specific (export or import) breakouts and general sessions. Network with your peers to share mutual concerns and explore possible solutions for issues resulting from recent regulations and legislation. For Additional Information—Please Visit: http://aaeiconferences.org/

12th Annual NASA Export Control Program Conference

The KSC—ECO will be hosting the 12th Annual NASA Export Control Conference, scheduled for April 3—5, 2007 here at Kennedy Space Center. This conference will bring together the NASA Center CEA's for briefings pertaining to export control; Center Audit Reviews and updates from each NASA Center export control program.
The conference will also include Classified and Non-Classified briefings from:

- U.S. Department of Commerce—EAR
- U.S. Department of State—ITAR

NOTE—Attention ECR's: In order for NASA/USG Contractors to attend—You must apply for a "Temporary—Secret Clearance" from the NASA/KSC Security Office. Without this clearance you may not attend any of the NASA Export Control Program Conference. We recommend that you apply as soon as possible for your clearance.

A Message from Wayne Ranow, the Center Export Administrator

Welcome to our **4th edition** of the Kennedy Space Center Export Control Brief.

This year has been a very busy year for the Export Control Office and a very profitable year. We rolled out our newsletter, completed the annual export audit, updated the export control classification stamp, made the transition to the Protective Services Division, and provided a successful three day training course for all of the ECR's.

Training and export awareness are the most important parts of export control compliance and provide the backbone of a successful export control program. KSC has received numerous compliments from other NASA centers and the private sector for its compliance program. Congratulations to all who put forth the efforts to make it happen.

Next year will provide some challenges as we step up our launch program and move into the new CEV program. KSC will host the annual NASA Export Conference in April, with expectations to exceed the previous conferences in attendance. Our area provides more in the way of attractions and great weather here in paradise. More to come on the conference as the date gets closer.

I look forward to the new challenges next year and a chance to improve our compliance program.

The NASA KSC ECO wishes everyone Happy Holidays, Merry Christmas, and a prosperous New Year.

KSC Export Control Web Site:

http://exportcontrol.ksc.nasa.gov

Remember, Stay Export Aware!

National Aeronautics and Space Administration

www.nasa.gov

The **Export Control Brief** is the official publication of the Kennedy Space Center Export Control Office in the interest of KSC civil servants and contractor employees.

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Approved by: Wayne Ranow, KSC Center Export Administrator, NASA KSC Export Control Office

Approved by: the NASA KSC Mission Support Office of Strategic Communications, for instruction/training and for U.S.G. policy direction/objectives as per the "NASA Style Guidelines."

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