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Download our free ITAR Handbook, available in **full page** and **booklet** forms. To receive a hard copy of our ITAR Handbook, please contact **Jennifer Rivers** (jennifer.rivers@squiresanders.com) or **Alexandra Moss** (alexandra.moss@squiresanders.com).

For up to date alerts and developments, follow us on Twitter @export_controls. We follow and report on changes in export controls from the US, European Union, UK, France, Germany, Spain and Italy.

Upcoming Events

ITAR Handbook 2013-2014 Addition

Squire Sanders released the latest update to our ITAR Handbook in late June 2013. This year's update included the first round of the Commerce Department's new 600 series of the CCL. The handbook also includes our ITAR primer and an extremely useful index and summary of ITAR licensing exemptions.

2013 AUSA Annual Meeting and Exposition

Squire Sanders is sending representatives to the Association of the United States Army (AUSA) Annual Meeting and Exposition October 21-23, 2013 Our representatives will be available during the conference to answer any questions related to the articles in this issue or generally on export controls and other international trade matters. Contact George Grammas (george.grammas@squiresanders.com) to arrange a meeting.

SIA Fall Conference

Squire Sanders is sending representatives to the Society for International Affairs conference on October 28-29, 2013. Our representatives will be available during the conference to answer any questions related to the articles in this issue or generally on export controls and other international trade matters. Contact George Grammas (george.grammas@squiresanders.com) to arrange a meeting.

5th Annual Advanced ITAR Compliance Conference

We have partnered again with Marcus Evans for their 5th Annual Advanced ITAR Compliance Conference in February 2014. George Grammas, partner and Chair of Global Import and Export Compliance Squire Sanders (US) LLP (Washington DC), will be conference chairperson and speaker during this year's conference.

Further information on these and other upcoming events can be found on the **International Trade and Export Controls Events Page**.

Global Import and Export Compliance Group

The International Trade and Technology Transfer Reporter is a semiannual publication of the Squire Sanders Global Import and Export Compliance Group. With 39 offices in 19 countries, Squire Sanders is the first choice for one-stop global import and export compliance advice. See the final pages of this newsletter for a listing of our key import/export compliance lawyers. Our International Trade & Export Controls Practice Group focuses on:

- Export controls and trade sanctions
- Customs
- Anticorruption
- Global government contracting

US EXPORT CONTROLS REFORM: STATE DEPARTMENT TO IMPLEMENT CHANGES TO USML FOR VEHICLE, VESSELS, SUBMERSIBLES AND MISCELLANEOUS ARTICLES

The US Departments of State, Commerce and Defense have been reforming the process the US uses to control exports of defense articles. The process, called Export Controls Reform, has focused on re-writing the United States Munitions List (USML) of the International Traffic in Arms Regulations (ITAR) to make it reflect more of the current global arms trade environment.

The second installment of the US Department of State's amendments to the ITAR implemented under the President's Export Control Reform (ECR) effort will go into effect on January 6, 2014. (See 78 Fed. Reg. 40922 (July 8, 2013).) Like the initial ECR amendments, which become effective on October 15, 2013, the changes include both revisions to the definitions of key terms in the ITAR, under Section 120, as well as revisions to USML that result in many items that were previously controlled as "defense articles" under the ITAR being controlled for export under Export Administration Regulations (EAR), administered by the Commerce Department's Bureau of Industry and Security (BIS).

Four USML categories are affected by changes that go into effect on January 6, 2014: Category VI, Vessels of War and Special Naval Equipment (retitled "Surface Vessels of War and Special Naval Equipment") ; Category VII, Tanks and Military Vehicles (retitled "Ground Vehicles"); Category XIII, Auxiliary Military Equipment (retitled "Materials and Miscellaneous Articles"); and Category XX, Submersible Vessels, Oceanographic and Associated Equipment (retitled "Submersible Vessels and Related Articles").

Squire Sanders' Global Import & Export Compliance Group publishes annually an **ITAR Handbook** that includes, among other tools, a copy of the ITAR. We provide the following revised text of the ITAR under this second installment of ECR revisions, as a supplement to the ITAR Handbook.

PART 120 – PURPOSE AND DEFINITIONS

§ 120.38 Maintenance levels.

(a) Organizational-level maintenance (or basic-level maintenance) is the first level of maintenance that can be performed "on-equipment" (directly on the defense article or support equipment) without specialized training. It consists of repairing, inspecting, servicing, calibrating, lubricating, or adjusting equipment, as well as replacing minor parts, components, assemblies, and line-replaceable spares or units. This includes modifications, enhancements, or upgrades that would result in improving only the reliability or maintainability of the commodity (e.g., an increased mean time between failure (MTBF)) and does not enhance the basic performance or capability of the defense article.

(b) Intermediate-level maintenance is second-level maintenance performed "off-equipment" (on removed parts, components, or equipment) at or by designated maintenance shops or centers, tenders, or field teams. It may consist of calibrating, repairing, testing, or replacing damaged or unserviceable parts, components, or assemblies. This includes modifications, enhancements, or upgrades that would result in improving only the reliability or maintainability of the commodity (e.g., an increased mean time between failure (MTBF)) and does not enhance the basic performance or capability of the defense article.

(c) Depot-level maintenance is third-level maintenance performed on- or off-equipment at or by a major repair facility, shipyard, or field team, each with necessary equipment and personnel of requisite technical skill. It consists of providing evaluation or repair beyond unit or organization capability. This maintenance consists of inspecting, testing, calibrating, repairing, overhauling, refurbishing, reconditioning, and one-to-one replacing of any defective parts, components or assemblies. This includes modifications, enhancements, or upgrades that would result in improving only the reliability or maintainability of the commodity (e.g., an increased mean time between failure (MTBF)) and does not enhance the basic performance or capability of the defense article.

PART 121 – THE UNITED STATES MUNITIONS LIST

§ 121.1 General. The United States Munitions List.

Category VI – Surface Vessels of War and Special Naval Equipment

(a*) Warships and other combatant vessels (See § 121.15 of this subchapter).

(b) Other vessels not controlled in paragraph (a) of this category (See § 121.15 of this subchapter).

(c) Developmental vessels and specially designed parts, components, accessories, and attachments therefor funded by the Department of Defense via contract or other funding authorization.

Note 1 to paragraph (c): This paragraph does not control developmental vessels and specially designed parts, components, accessories, and attachments therefor (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination (See § 120.4 of this subchapter), or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.

Note 2 to paragraph (c): Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.

Note 3 to paragraph (c): This provision is applicable to those contracts and funding authorizations that are dated one year or later following the publication of the rule, "Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform," RIN 140-AD40.

(d) [Reserved]

(e*) Naval nuclear propulsion plants and prototypes, and special facilities for construction, support, and maintenance therefor (See § 123.20 of this subchapter).

(f) Vessel and naval equipment, parts, components, accessories, attachments, associated equipment, and systems, as follows:

(1) Hulls or superstructures, including support structures therefor, that:

(i) Are specially designed for any vessels controlled in paragraph (a) of this category;

(ii) Have armor, active protection systems, or developmental armor systems; or

(iii) Are specially designed to survive 12.5% or greater damage across the length as measured between perpendiculars;

(2) Systems that manage, store, create, distribute, conserve, and transfer energy, and specially designed parts and components therefor, that have:

(i) Storage exceeding 30MJ;

(ii) A discharge rate less than 3 seconds; and

(iii) A cycle time under 45 seconds;

(3) Shipborne auxiliary systems for chemical, biological, radiological, and nuclear (CBRN) compartmentalization, over-pressurization and filtration systems, and specially designed parts and components therefor;

(4)* Control and monitoring systems for autonomous unmanned vessels capable of on-board, autonomous perception and decision-making necessary for the vessel to navigate while avoiding fixed and moving hazards, and obeying rules-of-the road without human intervention;

(5)* Any machinery, device, component, or equipment, including production, testing and inspection equipment, and tooling, specially designed for plants or facilities controlled in paragraph (e) of this section (See § 123.20 of this subchapter);

(6) Parts, components, accessories, attachments, and equipment specially designed for integration of articles controlled by USML Categories II, IV, or XVIII or catapults for launching aircraft or arresting gear for recovering aircraft (MT for launcher mechanisms specially designed for rockets, space launch vehicles, or missiles capable of achieving a range greater than or equal to 300 km);

Note to paragraph (f)(6): "Range" is the maximum distance that the specified rocket system is capable of traveling in the mode of stable flight as measured by the projection of its trajectory over the surface of the Earth. The maximum capability based on the design characteristics of the system, when fully loaded with fuel or propellant, will be taken into consideration in determining range. The range for rocket systems will be determined independently of any external factors such as operational restrictions, limitations imposed by telemetry, data links, or other external constraints. For rocket systems, the range will be determined using the trajectory that maximizes range, assuming International Civil Aviation Organization (ICAO) standard atmosphere with zero wind.

(7) Shipborne active protection systems (i.e., defensive systems that actively detect and track incoming threats and launch a ballistic, explosive, energy, or electromagnetic countermeasure(s) to neutralize the threat prior to contact with a vessel) and specially designed parts and components therefor;

(8) Minesweeping and mine hunting equipment (including mine countermeasures equipment deployed by aircraft) and specially designed parts and components therefor; or

(9)* Any part, component, accessory, attachment, equipment, or system that:

(i) Is classified;

(ii) Contains classified software directly related to defense articles in this subchapter or 600 series items subject to the EAR; or

(iii) Is being developed using classified information. "Classified" means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

Note 1 to paragraph (f): Parts, components, accessories, attachments, associated equipment, and systems specially designed for vessels enumerated in this category but not listed in paragraph (f) are subject to the EAR under ECCN 8A609.

Note 2 to paragraph (f): For controls related to ship signature management, See also USML Category XIII.

(g) Technical data (See § 120.10 of this subchapter) and defense services (See § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (f) of this category and classified technical data directly related to items controlled in ECCNs 8A609, 8B609, 8C609, and 8D609 and defense services using the classified technical data. (MT for technical data and defense services related to articles designated as such.)

(See § 125.4 of this subchapter for exemptions.)

(h)-(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (See § 120.42 of this subchapter) used in or with defense articles controlled in this category.

Note to paragraph (x): Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (See § 123.1(b) of this subchapter).

Category VII – Ground Vehicles

(a)* Armored combat ground vehicles (See § 121.4 of this subchapter) as follows:

(1) Tanks; or

(2) Infantry fighting vehicles.

(b)* Ground vehicles (not enumerated in paragraph (a) of this category) and trailers that are armed or are specially designed to serve as a firing or launch platform (See § 121.4 of this subchapter) (MT if specially designed for rockets, space launch vehicles, missiles, drones, or unmanned aerial vehicles capable of delivering a payload of at least 500 kg to a range of at least 300 km).

(c) Ground vehicles and trailers equipped with any mission systems controlled under this subchapter (MT if specially designed for rockets, space launch vehicles, missiles, drones, or unmanned aerial vehicles capable of delivering a payload of at least 500 kg to a range of at least 300 km) (See § 121.4 of this subchapter).

Note to paragraphs (b) and (c): "Payload" is the total mass that can be carried or delivered by the specified rocket, space launch vehicle, missile, drone, or unmanned aerial vehicle that is not used to maintain flight. For definition of "range" as it pertains to aircraft systems, See note to paragraph (a) USML Category VIII. For definition of "range" as it pertains to rocket systems, See note to paragraph (f)(6) of USML Category VI.

(d) [Reserved]

(e)* Armored support ground vehicles (See § 121.4 of this subchapter).

(f) [Reserved]

(g) Ground vehicle parts, components, accessories, attachments, associated equipment, and systems as follows:

(1) Armored hulls, armored turrets, and turret rings;

(2) Active protection systems (i.e., defensive systems that actively detect and track incoming threats and launch a ballistic, explosive, energy, or electromagnetic countermeasure(s) to neutralize the threat prior to contact with a vehicle) and specially designed parts and components there for;

(3) Composite armor parts and components specially designed for the vehicles in this category;

(4) Spaced armor components and parts, including slat armor parts and components specially designed for the vehicles in this category;

(5) Reactive armor parts and components;

(6) Electromagnetic armor parts and components, including pulsed power specially designed parts and components therefor;

Note to paragraphs (g)(3)-(6): See USML Category XIII(m)(1)-(4) for interpretations which explain and amplify terms used in these paragraphs.

(7) Built in test equipment (BITE) to evaluate the condition of weapons or other mission systems for vehicles identified in this category, excluding equipment that provides diagnostics solely for a subsystem or component involved in the basic operation of the vehicle;

(8) Gun mount, stabilization, turret drive, and automatic elevating systems, and specially designed parts and components therefor;

(9) Self-launching bridge components rated class 60 or above for deployment by vehicles in this category;

(10) Suspension components as follows:

(i) Rotary shock absorbers specially designed for the vehicles weighing more than 30 tons in this category; or

(ii) Torsion bars specially designed for the vehicles weighing more than 50 tons in this category;

(11) Kits specially designed to convert a vehicle in this category into either an unmanned or a driver-optional vehicle. For a kit to be controlled by this paragraph, it must, at a minimum, include equipment for:

(i) Remote or autonomous steering;

(ii) Acceleration and braking; and

(iii) A control system;

(12) Fire control computers, mission computers, vehicle management computers, integrated core processers, stores management systems; armaments control processors, vehicle-weapon interface units and computers;

(13) Test or calibration equipment for the mission systems of the vehicles in this category, except those enumerated elsewhere; or

(14)*Any part, component, accessory, attachment, equipment, or system that (MT for those articles designated as such):

(i) Is classified;

(ii) Contains classified software directly related to defense articles in this subchapter or 600 series items subject to the EAR; or

(iii) Is being developed using classified information.

"Classified" means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

Note to paragraph (g): Parts, components, accessories, attachments, associated equipment, and systems specially designed for vehicles in this category but not listed in paragraph (g) are subject to the EAR under ECCN 0A606.

(h) Technical data (See § 120.10 of this subchapter) and defense services (See § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (g) of this category and classified technical data directly related to items controlled in ECCNs 0A606, 0B606, 0C606, and 0D606 and defense services using the classified technical data. (See § 125.4 of this subchapter for exemptions.) (MT for technical data and defense services related to articles designated as such.)

(i)-(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (See § 120.42 of this subchapter) used in or with defense articles controlled in this category.

Note to paragraph (x): Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (See § 123.1(b) of this subchapter).

Category XIII – Materials and Miscellaneous Articles

(a) Cameras and specialized processing equipment therefor, photointerpretation, stereoscopic plotting, and photogrammetry equipment which are specifically designed, developed, modified, adapted, or configured for military purposes, and components specifically designed or modified therefor.

(b) Information security or information assurance systems and equipment, cryptographic devices, software, and components, as follows:

(1) Military or intelligence cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components, and software (including their cryptographic interfaces) capable of maintaining secrecy or confidentiality of information or information systems, including equipment or software for tracking, telemetry, and control (TT&C) encryption and decryption;

(2) Military or intelligence cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components, and software (including their cryptographic interfaces) capable of generating spreading or hopping codes for spread spectrum systems or equipment;

(3) Military or intelligence cryptanalytic systems, equipment, assemblies, modules, integrated circuits, components and software;

(4) Military or intelligence systems, equipment, assemblies, modules, integrated circuits, components, or software (including all previous or derived versions) authorized to control access to or transfer data between different security domains as listed on the Unified Cross Domain Management Office (UCDMO) Control List (UCL); or

(5) Ancillary equipment specially designed for the articles in paragraphs (b)(1)-(b)(4) of this category.

(c) [Reserved]

(d) Materials, as follows:

(1)* Ablative materials fabricated or semi-fabricated from advanced composites (e.g., silica, graphite, carbon, carbon/ carbon, and boron filaments) specially designed for the articles in USML Category IV (MT if usable for nozzles, reentry vehicles, nose tips, or nozzle flaps usable in rockets, space launch vehicles (SLVs), or missiles capable of achieving a range greater than or equal to 300 km); or

(2) Carbon/carbon billets and preforms that are reinforced with continuous unidirectional fibers, tows, tapes, or woven cloths in three or more dimensional planes (MT if designed for rocket, SLV, or missile systems and usable in rockets, SLVs, or missiles capable of achieving a range greater than or equal to 300 km).

Note to paragraph (d): "Range" is the maximum distance that the specified rocket system is capable of traveling in the mode of stable flight as measured by the projection of its trajectory over the surface of the Earth. The maximum capability based on the design characteristics of the system, when fully loaded with fuel or propellant, will be taken into consideration in determining range. The range for rocket systems will be determined independently of any external factors such as operational restrictions, limitations imposed by telemetry, data links, or other external constraints. For rocket systems, the range will be determined using the trajectory that maximizes range, assuming International Civil Aviation Organization (ICAO) standard atmosphere with zero wind.

Note to paragraph (d)(2): This paragraph does not control carbon/carbon billets and pre-forms where reinforcement in the third dimension is limited to interlocking of adjacent layers only.

(e) Armor (e.g., organic, ceramic, metallic) and armor materials, as follows:

(1) Spaced armor with E[m] greater than 1.4 and meeting NIJ Level III or better;

(2) Transparent armor having E[m] greater than or equal to 1.3 or having E[m] less than 1.3 and meeting and exceeding NIJ Level III standards with areal density less than or equal to 40 pounds per square foot;

(3) Transparent ceramic plate greater than 1/4 inch-thick and larger than 8 inches x 8 inches, excluding glass, for transparent armor;

(4) Non-transparent ceramic plate or blanks, greater than 1/4 inches thick and larger than 8 inches x 8 inches for transparent armor. This includes spinel and aluminum oxynitride (ALON);

(5) Composite armor with E[m] greater than 1.4 and meeting or ex-ceeding NIJ Level III;

(6) Metal laminate armor with E[m] greater than 1.4 and meeting or exceeding NIJ Level III; or

(7) Developmental armor funded by the Department of Defense via contract or other funding authorization.

Note 1 to paragraph (e)(7): This paragraph does not control developmental armor (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination (See § 120.4 of this subchapter), or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.

Note 2 to paragraph (e)(7): Note 1 does not apply to defense articles enumerated on the USML, whether in production or development.

Note 3 to paragraph (e)(7): This provision is applicable to those contracts and funding authorizations that are dated one year or later following the publication of the rule, "Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform," RIN 140-AD40.

(f)* Any article enumerated in this category that (MT for those articles designated as such):

(i) Is classified;

(ii) Contains classified software directly related to defense articles in this subchapter or 600 series items subject to the EAR; or

(iii) Is being developed using classified information.

"Classified" means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

(g)* Concealment and deception equipment, as follows (MT for applications usable for rockets, SLVs, missiles, drones, or unmanned aerial vehicles (UAVs) capable of achieving a range greater than or equal to 300 km and their subsystems. See note to paragraph (d) of this category):

(1) Polymers loaded with carbonyl iron powder, ferrites, iron whiskers, fibers, flakes, or other magnetic additives having a surface resistivity of less than 5000 ohms/square and greater than 10 ohms/square with electrical isotropy of less than 5%;

(2) Multi-layer camouflage systems specially designed to reduce detection of platforms or equipment in the infrared or ultraviolet frequency spectrums;

(3) High temperature (greater than 300 [degrees] F operation) ceramic or magnetic radar absorbing material (RAM) specially designed for use on defense articles or military items subject to the EAR; or

(4) Broadband (greater than 30% bandwidth) lightweight (less than 2 lbs/sq ft) magnetic radar absorbing material (RAM) specially designed for use

on defense articles or military items subject to the EAR.

(h) Energy conversion devices not otherwise enumerated in this subchapter, as follows:

(1) Fuel cells specially designed for platforms or soldier systems specified in this subchapter;

(2) Thermal engines specially designed for platforms or soldier systems specified in this subchapter;

(3) Thermal batteries (MT if designed or modified for rockets, SLVs, missiles, drones, or UAVs capable of achieving a range equal to or greater than 300 km. See note to paragraph (d) of this category); or

Note to paragraph (h)(3): Thermal batteries are single use batteries that contain a solid nonconducting inorganic salt as the electrolyte. These batteries incorporate a pyrolitic material that, when ignited, melts the electrolyte and activates the battery.

(4) Thermionic generators specially designed for platforms or soldier systems enumerated in this subchapter.

(i)* Signature reduction software, and technical data as follows (MT for software specially designed for reduced observables, for applications usable for rockets, SLVs, missiles, drones, or UAVs capable of achieving a range (See note to paragraph (d) of this category) greater than or equal to 300 km, and their subsystems, including software specially designed for analysis of signature reduction; MT for technical data for the development, production, or use of equipment, materials, or software designated as such, including databases specially designed for analysis of signature reduction):

(1) Software associated with the measurement or modification of system signatures for defense articles to reduce detectability or observability;

(2) Software for design of low-observable platforms;

(3) Software for design, analysis, prediction, or optimization of signature management solutions for defense articles;

(4) Infrared signature measurement or prediction software for defense articles or radar cross section measurement or prediction software;

(5) Signature management technical data, including codes and algorithms for defense articles to reduce detectability or observability;

(6) Signature control design methodology (See § 125.4(c)(4) of this subchapter) for defense articles to reduce detectability or observability;

(7) Technical data for use of micro-encapsulation or microspheres to reduce infrared, radar, or visual detection of platforms or equipment;

(8) Multi-layer camouflage system technical data for reducing detection of platforms or equipment;

(9) Multi-spectral surface treatment technical data for modifying infrared, visual or radio frequency signatures of platforms or equipment;

(10) Technical data for modifying visual, electro-optical, radio frequency, electric, magnetic, electromagnetic, or wake signatures (e.g., low probability of intercept (LPI) techniques, methods or applications) of defense platforms or equipment through shaping, active, or passive techniques; or

(11) Technical data for modifying acoustic signatures of defense platforms or equipment through shaping, active, or passive techniques.

(j) Equipment, materials, coatings, and treatments not elsewhere specified, as follows:

(1) Specially treated or formulated dyes, coatings, and fabrics used in the design, manufacture, or production of personnel protective clothing, equipment, or face paints designed to protect against or reduce detection by radar, infrared, or other sensors at wavelengths greater than 900 nanometers (See USML Category X(a)(2)); or *(2) Equipment, materials, coatings, and treatments that are specially designed to modify the electro-optical, radiofrequency, infrared, electric, laser, magnetic, electromagnetic, acoustic, electro-static, or wake signatures of defense articles or 600 series items subject to the EAR through control of absorption, reflection, or emission to reduce detectability or observability (MT for applications usable for rockets, SLVs, missiles, drones, or UAVs capable of achieving a range greater than or equal to 300 km, and their subsystems. See note to paragraph (d) of this category).

(k)* Tooling and equipment, as follows:

(1) Tooling and equipment specially designed for production of low observable (LO) components; or

(2) Portable platform signature field repair validation equipment (e.g., portable optical interrogator that validates integrity of a repair to a signature reduction structure).

(l) Technical data (See § 120.10 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (h), (j), and (k) of this category and defense services (See § 120.9 of this subchapter) directly related to the defense articles enumerated in this category. (See also § 123.20 of this subchapter.) (MT for technical data and defense services related to articles designated as such.)

(m) The following interpretations explain and amplify terms used in this category and elsewhere in this subchapter:

(1) Composite armor is defined as having more than one layer of different materials or a matrix.

(2) Spaced armors are metallic or non-metallic armors that incorporate an air space or obliquity or discontinuous material path effects as part of the defeat mechanism.

(3) Reactive armor employs explosives, propellants, or other materials between plates for the purpose of enhancing plate motion during a ballistic event or otherwise defeating the penetrator.

(4) Electromagnetic armor (EMA) employs electricity to defeat threats such as shaped charges.

(5) Materials used in composite armor could include layers of metals, plastics, elastomers, fibers, glass, ceramics, ceramic-glass reinforced plastic laminates, encapsulated ceramics in a metallic or non-metallic matrix, functionally gradient ceramic metal materials, or ceramic balls in a cast metal matrix.

(6) For this category, a material is considered transparent if it allows 75% or greater transmission of light, corrected for index of refraction, in the visible spectrum through a 1 mm thick nominal sample.

(7) The material controlled in paragraph (e)(4) of this category has not been treated to reach the 75% transmission level referenced in (m)(6) of this category.

(8) Metal laminate armors are two or more layers of metallic materials which are mechanically or adhesively bonded together to form an armor system.

(9) Em is the line-of-sight target mass effectiveness ratio and provides a measure of the tested armor's performance to that of rolled homogenous armor, where Em is defined as follows:

Em = PRHA (Po – Pr) / ADTarget

Where:

PRHA = density of RHA, (7.85 g/cm<3>)
Po = Baseline Penetration of RHA, (mm)
Pr = Residual Line of Sight Penetration, either positive or negative (mm RHA equivalent)
ADTARGET = Line-of-Sight Areal Density of Target (kg/ m<2>)

(10) NIJ is the National Institute of Justice and Level III refers to the requirements specified in NIJ standard 0108.01 Ballistic Resistant Protective Materials.

(n)-(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (See § 120.42 of this subchapter) used in or with defense articles controlled in this category.

Note to paragraph (x): Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (See § 123.1(b) of this subchapter).

Category XX – Submersible Vessels and Related Articles

(a) Submersible and semi-submersible vessels (See § 121.14 of this subchapter) that are:

(1)* Submarines;

(2) Mine countermeasure vehicles;

(3) Anti-submarine warfare vehicles;

(4) Armed;

(5) Swimmer delivery vehicles specially designed for the deployment, recovery, or support of swimmers or divers from submarines;

(6) Vessels equipped with any mission systems controlled under this subchapter; or

(7) Developmental vessels funded by the Department of Defense via contract or other funding authorization.

Note 1 to paragraph (a)(7): This paragraph does not control developmental vessels, and specially designed parts, components, accessories, attachments, and associated equipment therefor, (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination (See § 120.4 of this subchapter) or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.

Note 2 to paragraph (a)(7): Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.

Note 3 to paragraph (a)(7): This provision is applicable to those contracts and funding authorizations that are dated one year or later following the publication of the rule, "Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform," RIN 140-AD40.

(b)* Engines, electric motors, and propulsion plants as follows:

(1) Naval nuclear propulsion plants and prototypes, and special facilities for construction, support, and maintenance therefor e (See § 123.20 of this subchapter);

(2) Electric motors specially designed for submarines that have the following:

(i) Power output of more than 0.75 MW (1,000 hp);

(ii) Quick reversing;

(iii) Liquid cooled; and

(iv) Totally enclosed.

(c) Parts, components, accessories, attachments, and associated equipment, including production, testing, and inspection equipment and tooling, specially designed for any of the articles in paragraphs (a) and (b) of this category (MT for launcher mechanisms specially designed for rockets, space launch vehicles, or missiles capable of achieving a range greater than or equal to 300 km).

Note to paragraph (c): "Range" is the maximum distance that the specified rocket system is capable of traveling in the mode of stable flight as measured by the projection of its trajectory over the surface of the Earth. The maximum capability based on the design characteristics of the system, when fully loaded with fuel or propellant, will be taken into consideration in determining range. The range for rocket systems will be determined independently of any external factors such as operational restrictions, limitations imposed by telemetry, data links, or other external constraints. For rocket systems, the range will be determined using the trajectory that maximizes range, assuming International Civil Aviation Organization (ICAO) standard atmosphere with zero wind.

(d) Technical data (See § 120.10 of this subchapter) and defense services (See § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (c) of this category. (MT for technical data and defense services related to articles designated as such.) (See § 125.4 of this subchapter for exemptions.)

(e)-(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (See § 120.42 of this subchapter) used in or with defense articles controlled in this category.

Note to paragraph (x): Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (See § 123.1(b) of this subchapter).

§ 121.4 Ground vehicles.

(a) In USML Category VII, "ground vehicles" are those, whether manned or unmanned, that:

(1) Are armed or are specially designed to be used as a platform to deliver munitions or otherwise destroy or incapacitate targets (e.g., firing lasers, launching rockets, firing missiles, firing mortars, firing artillery rounds, or firing other ammunition greater than .50 caliber);

(2) Are armored support vehicles capable of off-road or amphibious use specially designed to transport or deploy personnel or materiel, or to move with other vehicles over land in close support of combat vehicles or troops (e.g., personnel carriers, resupply vehicles, combat engineer vehicles, recovery vehicles, reconnaissance vehicles, bridge launching vehicles, ambulances, and command and control vehicles); or

(3) Incorporate any "mission systems" controlled under this subchapter. "Mission systems" are defined as "systems" (See § 121.8(g) of this subchapter) that are defense articles that perform specific military functions, such as by providing military communication, target designation, surveillance, target detection, or sensor capabilities.

Note 1 to paragraph (a): Armored ground vehicles are (i) ground vehicles that have integrated, fully armored hulls or cabs, or (ii) ground vehicles on which add-on armor has been installed to provide ballistic protection to level III (National Institute of Justice Standard 0108.01, September 1985) or better. Armored vehicles do not include those that are merely capable of being equipped with add-on armor.

Note 2 to paragraph (a): Ground vehicles include any vehicle meeting the definitions or control parameters regardless of the surface (e.g., highway, off-road, rail) upon which the vehicle is designed to operate.

(b) Ground vehicles specially designed for military applications that are not identified in paragraph (a) of this section are subject to the EAR under ECCN 0A606, including any unarmed ground vehicles, regardless of origin or designation, manufactured prior to 1956 and unmodified since 1955. Modifications made to incorporate safety features required by law, are cosmetic (e.g., different paint, repositioning of bolt holes), or that add parts or components otherwise available prior to 1956 are considered "unmodified" for the purposes of this paragraph. ECCN 0A606 also includes unarmed vehicles derived from otherwise EAR99 civilian vehicles that have been modified or otherwise fitted with materials to provide ballistic protection, including protection to level III (National Institute of Justice Standard 0108.01, September 1985) or better and that do not have reactive or electromagnetic armor.

§ 121.14 Submersible vessels.

(a) In USML Category XX, submersible and semi-submersible vessels are those, manned or unmanned, tethered or untethered, that:

(1) Are submarines specially designed for military use;

(2) Are armed or are specially designed to be used as a platform to deliver munitions or otherwise destroy or incapacitate targets (e.g., firing torpedoes, launching rockets, firing missiles, deploying mines, deploying countermeasures) or deploy military payloads;

(3) Are specially designed for the deployment, recovery, or support of swimmers or divers from submarines;

(4) Are integrated with nuclear propulsion systems;

(5) Incorporate any "mission systems" controlled under this subchapter. "Mission systems" are defined as "systems" (See § 121.8(g) of this subchapter) that are defense articles that perform specific military functions such as by providing military communication, electronic warfare, target designation, surveillance, target detection, or sensor capabilities; or

(6) Are developmental vessels funded or contracted by the Department of Defense.

(b) Submersible and semi-submersible vessels that are not identified in paragraph (a) of this section are subject to the EAR under Category 8.

§ 121.15 Surface vessels of war.

(a) In USML Category VI, "surface vessels of war" are those, manned or unmanned, that:

(1) Are warships or other combatant vessels (battleships, aircraft carriers, destroyers, frigates, cruisers, corvettes, littoral combat ships, mine sweepers, mine hunters, mine countermeasure ships, dock landing ships, amphibious assault ships), or Coast Guard Cutters (with or equivalent to those with U.S. designations WHEC, WMEC, WMSL, or WPB for the purpose of this subchapter);

(2) Are foreign-origin vessels specially designed to provide functions equivalent to those of the vessels listed in paragraph (a)(1) of this section;

(3) Are high-speed air cushion vessels for transporting cargo and personnel, ship-to-shore and across a beach, with a payload over 25 tons;

(4) Are surface vessels integrated with nuclear propulsion plants or specially designed to support naval nuclear propulsion plants;

(5) Are armed or are specially designed to be used as a platform to deliver munitions or otherwise destroy or incapacitate targets (e.g., firing lasers, launching torpedoes, rockets, or missiles, or firing munitions greater than .50 caliber); or

(6) Incorporate any mission systems controlled under this subchapter. "Mission systems" are defined as "systems" (See § 121.8(g) of this subchapter) that are defense articles that perform specific military functions such as by providing military communication, electronic warfare, target designation, surveillance, target detection, or sensor capabilities.

(b) Vessels specially designed for military use that are not identified in paragraph (a) of this section are subject to the EAR under ECCN 8A609, including any demilitarized vessels, regardless of origin or designation, manufactured prior to 1950 and unmodified since 1949. Modifications made to incorporate safety features required by law, are cosmetic (e.g., different paint), or that add parts or components otherwise available prior to 1950 are considered "unmodified" for the purposes of this paragraph.

PART 123 – LICENSES FOR THE EXPORT AND TEMPORARY IMPORT OF DEFENSE ARTICLES

§ 123.20 Nuclear related controls.

(a) The provisions of this subchapter do not apply to equipment, technical data, or services in Category VI, Category XVI, and Category XX of § 121.1 of this subchapter to the extent such equipment, technical data, or services are under the export control of the Department of Energy or the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978, as amended, or is a government transfer authorized pursuant to these Acts.

***

(c) A license for the export of any machinery, device, component, equipment, or technical data relating to equipment referred to in Category VI(e) or Category XX(b) of § 121.1 of this subchapter will not be granted unless the proposed equipment comes within the scope of an existing Agreement for Cooperation for Mutual Defense Purposes concluded pursuant to the Atomic Energy Act of 1954, as amended, with the government of the country to which the Article is to be exported. Licenses may be granted in the absence of such an agreement only:

PART 124 – AGREEMENTS, OFF-SHORE PROCUREMENT, AND OTHER DEFENSE SERVICES

§ 124.2 Exemptions for training and military service.

(c)(5)(iv) Naval nuclear propulsion equipment listed in USML Category VI and USML Category XX;

***

(xii) Submersible and semi-submersible vessels and related articles covered in USML Category XX; or

PART 125 – LICENSES FOR THE EXPORT OF TECHNICAL DATA AND CLASSIFIED DEFENSE ARTICLES

§ 125.1 Exports subject to this part.

(e) The provisions of this subchapter do not apply to technical data related to articles in Category VI(e), Category XVI, and Category XX(b) of § 121.1 of this subchapter. The export of such data is controlled by the Department of Energy or the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978, as amended.

US EXPORT CONTROLS REFORM: STATE DEPARTMENT CLARIFIES BROKERING ACTIVITIES AND REGISTRATION IN THE ITAR

On August 26, 2013, the Directorate of Defense Trade Controls (DDTC) at the Department of State issued a Federal Register (78 FR 52680-52694) to modify the International Traffic in Arms Regulations (ITAR) concerning brokering activities. The ruling is an interim final rule and becomes effective on October 26, 2013. The new ruling clarifies many of the issues associated with brokering. This includes clarifications to which parties must register as a broker, how to register, what activities are considered brokering, prior approval requirements and how to report and keep records of brokering activities.

One of the most important changes is how a person will apply for a brokering registration. The new ruling allows applicants to combine their manufacturing, exporting and brokering registrations on the same DS 2032. This will eliminate the need to have separate registrations for manufacturing/exporting and brokering. The new form also asks for more information about the applicant's business structure to include information about the ultimate parent of the applicant

Another major change deals with clarification of which non-US persons are considered brokers and must register with DDTC. The current definition describes foreign persons subject to US jurisdiction, engaging in brokering activities, as a broker. The new ruling describes any foreign person engaging in brokering activities inside the US as a broker. The ruling also includes any foreign person located outside the US who is engaging in brokering activities and who is owned or controlled by a US person. The new ruling also provides a Note defining what it means to be owned and/or controlled by a US person.

The new ruling also modifies the USML categories in which a broker must obtain approval for prior to engaging in brokering activities. The list no longer mentions Missile Technology Control Regime Category I items, but spells them out by USML category instead. The list also removes nuclear weapons design and test equipment described in USML Category XVI.

The new ruling mainly modifies Part 129 of the ITAR. However, these changes required corresponding changes to several other sections of the ITAR. These changes should eliminate much of the confusion associated with brokering activities and registration by clearing up many of the concerns.

AUSTRALIAN ITAR EXEMPTION NOW EFFECTIVE

The US and Australia have ratified the Defense Trade Cooperation Treaty between the US and Australia. The State Department had previously published language in the ITAR necessary to implement the treaty. The implementation of the treaty makes this language effective as of May 16, 2013.

The procedures for using the exemption to export items to Australia are described in Section 126.16 of the ITAR. The Australian exemption is very similar to the previously implemented UK exemption found in ITAR Section 126.17. Supplement No. 1 to ITAR Part 126 list which USML Categories an applicant

can and cannot export items from using the exemption. An "X" in the block indicates the exemption can NOT be used to export the items, in other words, which USML categories are excluded from use of the exemption.

The latest version of our **ITAR Handbook** contains the most up-to-date version of the exemption and the USML exclusion matrix in Supplement No. 1.

ENFORCEMENT UPDATE

Directorate of Defense Trade Controls (DDTC) – US Department of State

Meggitt-USA, Inc. fined US$25 million to settle allegations that it violated the AECA and the ITAR in connection with the unauthorized export of defense articles and the failure to maintain specific records involving ITAR-controlled transactions

On August 23, 2013, the Department of State (Department) entered into a consent agreement with Meggitt-USA, Inc., to settle charges that its subsidiaries violated the Arms Export Control Act (AECA) (22 U.S.C. §§ 2778-2780) and the ITAR (22 C.F.R. Parts 120-130) in connection with unauthorized exports and retransfers. Meggitt-USA is a holding company for various subsidiaries in North America which specialize in extreme environment components and sub-systems for the aerospace, defense and energy markets. The conduct by Meggitt-USA included violations of a number of ITAR sections, but can be generally categorized as: 1) unauthorized exports, re-exports and retransfers resulting from unfamiliarity with the ITAR and/or improper classification of articles; and 2) failures related to the administration of licenses and agreements. Meggitt-USA has expands its footprint within the US, in part, through acquisitions. Over the course of a multi-year review and through multiple disclosures, primarily voluntary, Meggitt-USA and the Department identified violations that occurred within Meggitt-USA entities and corporations Meggitt-USA acquired as well as some ongoing violations after acquisition. Prior to commencing its review, Meggitt-USA instituted a Group-wide defense trade control compliance program with localized management by the Group Trade Compliance Manager, supervision by Meggitt-USA's General Counsel and oversight by a senior Meggitt Group official based in the UK. During the course of the Government's review, Meggitt-USA continued to improve and enhance its Group-wide and site specific defense trade control compliance program. The Department considered Respondent's voluntary disclosures and remedial compliance measures as significant mitigating factors when determining the charges. In the consent order the Department permits Meggitt-USA to use US$23 million of the US$25 million civil penalty on remedial measures in lieu of payment to the Department.

Aeroflex Incorporated fined US$8 million to settle allegations that it violated the AECA and the ITAR in connection with unauthorized exports and retransfers, and re-exports, of defense articles

On August 6, 2013, the Department entered into a consent agreement with Aeroflex, Inc., (Respondent) to settle charges that it violated the AECA (22 U.S.C. §§ 2778-2780) and the ITAR (22 C.F.R. Parts 120-130) in connection with unauthorized exports and retransfers, and re-exports of defense articles, to include technical data, to various countries, including proscribed destinations – totaling 158 charges. Aeroflux and its subsidiaries developed a specialized process to harden many of its integrated circuits to resist moderate levels of radiation. Respondent failed to correctly classify its products under ITAR and exported many products without proper authorization. Respondent primarily relied on commodity classification guidance from the Department of Commerce in reviewing the export control status of its microelectronics and electronics. Respondent and subsidiaries failed to understand, however, that the Department of Commerce can only properly classify items that are subject to the EAR (15 C.F.R. Parts 730-774). Instead, the proper classification was controlled by the DDTC under the commodity jurisdiction (CJ) procedure of ITAR § 120.4, which is the only US government method of determining whether an article or service is covered by the USML. The Department found that Aeroflex failed to recognize that its various radiation tolerant microelectronics were defense articles under Category XV(e), requiring Department authorization for export. The disclosure was the first of several disclosures revealing that, for more than a decade, Aeroflex CS incorrectly determined that radiation tolerant microelectronics designed or modified for spacecraft and associated equipment were subject to the EAR. The Department determined that the violations were caused by inadequate corporate oversight and demonstrated systemic and corporate-wide failure to properly determine export control jurisdiction over commodities. The Department considered Respondent's voluntary disclosures and remedial compliance measures as significant mitigating factors when determining the charges, however, had the Department not taken into consideration these factors, Aeroflex would have faced a more severe potential penalty. In the consent order the Department permits Aeroflex to use US$4 million of the US$8 million civil penalty on remedial measures in lieu of payment to the Department.

Raytheon Company fined US$8 million to settle allegations that it violated the AECA and the ITAR by failing to properly manage Department-authorized agreements and temporary import and export authorizations

On April 30, 2013, Raytheon entered into a consent agreement with the Department whereby it was required to pay US$8 million in fines to settle charges against it for violations of the AECA (22 U.S.C. §§ 2778-2780) and the ITAR (22 C.F.R. Parts 120-130) in connection with Raytheon's administration of its Part 124 agreements and Part 123 temporary import and export authorizations. A total of 125 charges were alleged. The ITAR violations derive from a number of voluntary disclosures provided over the past decade by several of Respondent's business units. The violations, in general, stemmed from a failure to properly manage Department-authorized agreements, and failure to properly manage temporary export and import authorizations. Respondent repeatedly discovered and disclosed violations to the Department, in some cases finding that previously reported remedial measures failed to prevent or detect additional similar violations subsequently disclosed. In other cases it was the the manufacture of hardware by Raytheon's foreign signatories greatly in excess of the approved amounts, as well as the failure to timely submit required documents and necessary amendments. Even though the

Department credited Raytheon for its significant voluntary disclosures and remedial compliance measures, the Department concluded that Respondent's efforts were repeatedly inadequate. In the consent order the Department permits Raytheon to use US$4 million of the US$8 million civil penalty on remedial measures in lieu of payment to the Department.

Bureau of Industry and Security (BIS) – US Department of Commerce

KMT GmbH of Germany to Pay US$125,000 to Settle Export Violations

On September 23, 2013, the Bureau of Industry and Security, US Department of Commerce (BIS) notified KMT GmbH of Bad Nauheim, Germany, of its intention to initiate an administrative proceeding against KMT GmbH pursuant to Section 766.3 of the EAR and Section 13(c) of the Export Administration Act of 1979, as amended (EAA), through the issuance of a Proposed Charging Letter to KMT GmbH that alleges that KMT GmbH committed one violation of the EAR, specifically, the charge 15 CFR 764.2(h), for evasion of the EAR. In particular, on or about October 27, 2008, KMT GmbH engaged in transactions or took actions with intent to evade the EAR in connection with the attempted unauthorized export to Iran, via transshipment through Germany, of nine high-pressure water pumps destined for use in the South Pars Industrial Complex, an energy field involved in Iran's oil and petrochemical industry. The items were subject to the EAR and the Iranian Transactions Regulations (ITR). KMT must pay the fine and will be debarred or suspended from export transactions if the penalty is not paid as agreed. According to BIS, KMT GmbH took the actions described above in order to avoid the US embargo on Iran and the requirement to obtain US Government authorization to export the items at issue. This was not a self-disclosure. In addition to the fine, KMT must hire a third party to complete an external audit of the export controls compliance programs of all of its operating entities worldwide, including its foreign subsidiaries and affiliates, to audit the operating entities' compliance with US export control laws (including recordkeeping requirements).

Network Hardware Resale, LLC to Pay US$262,000 to Settle Civil Charges Related to Unlawful Exporting of Technology to Iran

On September 13, 2013, the BIS issued an Order against Network Hardware Resale, LLC, of Santa Barbara, California (NHR), pursuant to Section 766.3 of the EAR and Section 13(c) of the EAA for committing 16 violations of the EAR. In particular, on multiple occasions, from 2008 to 2011, NHR, through its branch office located in Amsterdam, The Netherlands, engaged in conduct prohibited by the EAR by re-exporting US-origin networking equipment and related accessories from The Netherlands to Iran without the required US Government authorization. These items were subject to the EAR and the ITR, classified under Export Control Classification Numbers (ECCN) 5A991, 5A002 and 5A991.

Computerlinks FZCO to Pay US$2.8 Million in Civil Settlement for Charges Related to Unlawful Exporting of Technology to Syria

On April 25, 2013, the BIS announced that Computerlinks FZCO, Dubai, United Arab Emirates, agreed to pay a US$2.8 million civil penalty following allegations that it committed three violations of the EAR related to the transfer to Syria of devices designed to monitor and control Internet traffic. In addition to the civil penalty, which is the statutory maximum, the company has agreed to submit to independent, third-party audits. Computerlinks FZCO was an authorized distributor in the Middle East for Blue Coat, distributing Blue Coat hardware and software products and providing support services to resellers and end users, including account, sales and installation support and assistance. Under the distribution agreement with Blue Coat, Computerlinks FZCO was obligated to "comply with all export and import laws, rules, policies, procedures, restrictions, and regulations of the Department of Commerce[.]" Computerlinks FZCO provided Blue Coat, the US manufacturer and exporter, with false information concerning the end user and ultimate destination of the items in connection with these transactions. Computerlinks FZCO falsely stated that the ultimate destination and end users for the items was the Iraq Ministry of Telecom (on two occasions) or the Afghan Internet service provider Liwalnet (on one occasion). The items subsequently were shipped to Computerlinks FZCO in the UAE for ultimate delivery to Syria without the required licenses having been obtained.

Pennsylvania Man Convicted of Conspiring to Export Thermal Imaging Cameras Without Authorization

On February 6, 2013, in the US District Court, Eastern District of Pennsylvania, Volha Dubouskaya was convicted of violating the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. § 1701, et seq. (2006 & Supp. IV 2010)). Specifically, Dubouskaya was convicted of conspiring and agreeing, together with others known and unknown to the grand jury, to commit an offense against the US, that is, to willfully export from the US to Belarus export-controlled items, including but not limited to L-3 x200xp Handheld Thermal Imaging Cameras, without first obtaining from the US Department of Commerce a license or written authorization. Dubouskaya was sentenced to six months in prison followed by three years of supervised release, a US$3,000 criminal fine and an assessment of US$100.

OFAC – US Department of the Treasury[1]

World Fuel Services Corporation Pays US$39,000 to Settle Potential Civil Liability for Alleged Violations of Iranian Transactions Regulations, Sudanese Sanctions Regulations and Cuban Assets Control Regulations

On September 9, 2013, World Fuel Services Corporation, Miami, FL, agreed to pay US$39,501 to settle potential civil liability for alleged violations of ITR[2], the Sudanese Sanctions Regulations (SSR) and the Cuban Assets Control Regulations (CACR). The alleged violations involve World Fuel's facilitation of a sale by one of its non-US affiliates of fuel for a vessel at port in Bandar Abbas, Iran, on or about June 23, 2008; the facilitation by a US subsidiary of World Fuel of services and fuel purchases for an aircraft that stopped in Khartoum, Sudan, on or about January 29, 2009; and coordination services provided by two US subsidiaries of World Fuel for 30 unlicensed flights to Cuba, between on or about March 18, 2007 and on or about April 13, 2009.

OFAC determined that World Fuel voluntarily self-disclosed the alleged violations of the ITR and SSR, but did not voluntarily self-disclose the alleged violations of the CACR, and that all of the alleged violations constitute a non-egregious case. The total transaction value for the alleged violations was US$79,219 and the base penalty was US$73,151.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A: World Fuel has no history of prior OFAC violations; World Fuel cooperated with OFAC's investigation, including signing a statute of limitations tolling agreement; and World Fuel has enhanced its OFAC compliance plan.

Communications and Power Industries LLC to Pay US$346,000 to Settle Potential Civil Liability for Apparent Violations of Iranian Transactions and Sanctions Regulations

On September 6, 2013, Communications and Power Industries LLC (CPI), Palo Alto, CA, agreed to pay US$346,530 to settle potential civil liability for apparent violations of the Iranian Transactions and Sanctions Regulations (ITSR), 31 C.F.R. part 560, occurring on or about March 31, 2006 to on or about October 22, 2010. The Switzerland branch office of CPI's US subsidiary, Communications and Power Industries International Inc., sold, on 30 occasions, x-ray generators to an entity in Tehran, Iran; attempted to sell, on two occasions, x-ray generators and a medical digital imaging workstation to an entity in Tehran, Iran; at the request of an entity in Tehran, Iran, directed its affiliate in Canada, Communications & Power Industries Canada Inc. (CPI Canada), to make three shipments of x-ray generators and one shipment of automatic exposure control field kits to an entity in Istanbul, Turkey; and referred to CPI Canada an order that it had received from an entity in Tehran, Iran for a medical digital imaging workstation and one x-ray generator. The base penalty amount for the apparent violations was US$1,100,096. OFAC determined that CPI voluntarily self-disclosed this matter to OFAC and that the apparent violations constitute a non-egregious case.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A: CPI's delay in assessing the applicability of US sanctions laws to the Switzerland branch office of its subsidiary demonstrated a reckless disregard of these laws; CPI lacked an adequate risk-based OFAC compliance program at the time of the apparent violations; upon discovering the apparent violations, CPI, with the support of its senior management, undertook a thorough investigation and implemented significant remedial measures; CPI has no history of prior OFAC violations; the apparent violations represent a very small percentage of CPI's overall sales; the exports at issue likely would have been licensed by OFAC under existing licensing policy; and CPI cooperated with OFAC by executing a tolling agreement and one extension of that tolling agreement.

Deutsche Bank Trust Company Americas Pays US$19,000 to Settle Potential Civil Liability for Apparent Violations of Executive Order 13382 of June 28, 2005

On September 5, 2013, Deutsche Bank Trust Company Americas (DBTCA) agreed to remit US$18,900 to settle potential civil liability for two apparent violations of Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters" (E.O. 13382). The OFAC has determined that DBTCA did not voluntarily self-disclose the apparent violations and that the apparent violations constituted a non-egregious case. OFAC concluded that the apparent violations described below were not the result of willful or reckless conduct. The total base penalty amount for the apparent violations was US$35,000. The violations stem from one funds transfer to an entities in Iran, and another transfer that was rejected instead of blocked.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. OFAC considered the following to be mitigating factors: DBTCA has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the transactions giving rise to the apparent violations; and DBTCA took appropriate remedial action in response to these apparent violations. Although the apparent violations did not confer an economic benefit on a sanctioned entity, OFAC considered the fact that DBTCA's actions of improperly rejecting rather than blocking the transaction negatively impacted the policy objectives of E.O. 13382. OFAC found the following to be aggravating factors in this case: six low-level DBTCA employees and a senior member of the review team who was the final reviewer for escalated OFAC matters were aware of the transaction; DBTCA is a large and commercially sophisticated financial institution; the bank failed to include the BIC of the London Branch of Bank Melli in its interdiction software; and a settlement in this case would demonstrate the necessity of including the BICs of financial institutions on the Specially Designated Nationals and Blocked Persons List in interdiction software. Mitigation was further extended because DBTCA agreed to settle these apparent violations.

VISA International Service Association Receives a Finding of Violation Regarding Violations of the Reporting, Procedures and Penalties Regulations

On August 08, 2013, The OFAC issued a Finding of Violation to VISA International Service Association for violations of the Reporting, Procedures and Penalties Regulations (RPPR), 31 C.F.R. part 501. On November 9, 2007, VISA violated § 501.603(b)(1) of the RPPR when it failed to file two initial reports of blocked property with OFAC within 10 business days of blocking two accounts in which Bank Melli had an interest. Bank Melli is an entity whose assets are blocked pursuant to Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters." On October 1, 2008, VISA violated § 501.603(b)(2) of the RPPR when it failed to file its 2008 annual report of blocked property in connection

[1] On October 22, 2012, OFAC changed the heading of 31 C.F.R. part 560 from the Iranian Transactions Regulations to the Iranian Transactions and Sanctions Regulations (ITSR), amended the renamed ITSR and reissued them in their entirety. See 77 Fed. Reg. 64,664 (Oct. 22, 2012).

[2] Note, on October 22, 2012, OFAC changed the heading of 31 C.F.R. part 560 from the Iranian Transactions Regulations to the Iranian Transactions and Sanctions Regulations (ITSR), amended the renamed ITSR, and reissued them in their entirety. See 77 Fed. Reg. 64,664 (Oct. 22, 2012). All references herein to the ITSR shall mean the regulations in 31 C.F.R. part 560 in effect at the time of the activity, regardless of whether such activity occurred before or after the regulations were renamed.

with the Bank Melli accounts. While VISA appears to have had written procedures with respect to filing reports of blocked property, it only disclosed these blockings in 2009 and stated that the violations were due to an inadvertent oversight.

The determination to issue a Finding of Violation to VISA reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app., including: (1) VISA is a commercially sophisticated financial institution; (2) failure to report to OFAC denied the US government the benefit of accurate information in making its policy decisions; (3) transactions did not result in an economic benefit being conferred to a sanctioned party; and VISA also has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the failure to report the blocked property that gave rise to the violations. A Finding of Violation is also likely to promote compliance with OFAC reporting obligations.

American Express Travel Related Services Company, Inc. Pays US$5.2 Million to Settle Potential Civil Liability for Apparent Violations of the Cuban Assets Control Regulations

On July 22, 2013, American Express Travel Related Services Company, Inc. (TRS), New York, NY, agreed to pay US$5,226,120 to settle potential civil liability for apparent violations of the CACR, 31 C.F.R. part 515. From on or about December 15, 2005 through on or about November 1, 2011, TRS dealt in property in which Cuba or its nationals had an interest when its foreign branch offices and subsidiaries issued 14,487 tickets for travel between Cuba and countries other than the US, many of which had adopted "antidote" measures (blocking statutes) prohibiting compliance with the CACR, without authorization from OFAC. OFAC determined that TRS voluntarily self-disclosed this matter to OFAC and that the apparent violations occurred "subsequent to agency notice" in 1995. TRS was investigated by OFAC in 1995 and 1996 for similar apparent violations of the CACR arising from the provision of travel services to and from Cuba by a recently acquired subsidiary at the time. OFAC provided written notice to TRS that such conduct constituted apparent violations of the CACR. Under the Cuba Penalty Schedule, 68 Fed. Reg. 4429 (Jan. 29, 2003), the base penalty for the apparent violations is US$3,629,250.

The settlement amount reflects OFAC's consideration of the several facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, App. A (Guidelines), including: (1) TRS demonstrated reckless disregard for the CACR, (2) TRS' US management should have known that the conduct resulting in the apparent violations would or might take place; (3) the apparent violations caused significant harm to US sanctions program objectives; (4) TRS is a large and sophisticated travel service providers (TSPs); (5) TRS has a significant sanctions history during the five years preceding these apparent violations; (6) TRS' compliance program was inadequate, given the nature of TRS' operations; (7) without authorization from OFAC, TRS continued to book travel to and from Cuba; (8) a substantial civil monetary penalty in this case is warranted; (9) TRS has not received a penalty notice or Finding of Violation from OFAC in the five years; (10) while TRS implemented a number of remedial measures; and (11) TRS provided substantial cooperation to OFAC by agreeing to toll the statute of limitations.

Stanley Drilling Equipment & Supply, Inc. Pays US$84,000 to Settle Potential Civil Liability for Alleged Violations of the Iranian Transactions Regulations

On July 19, 2013, Stanley Drilling Equipment & Supply, Inc. , Houston, TX, agreed to pay US$84,240 to settle potential civil liability for alleged violations of the ITR, 31 C.F.R. part 560. The alleged violations by Stanley Drilling occurred between June 16, 2008 and October 17, 2008, when Stanley Drilling attempted to export four shipments and successfully exported two shipments of goods, valued at US$93,329, from the US to the United Arab Emirates, with reason to know that the shipments were intended specifically for supply, transshipment, or re-exportation to an oil drilling rig located in Iranian waters. This matter was not voluntarily disclosed to OFAC and the alleged violations constitute a non-egregious case. The base penalty amount for the alleged violations was US$156,000.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A: Stanley Drilling did not have an OFAC compliance program in place at the time of the violations; the transactions were particularly harmful to US sanctions program objectives because they aided the development of Iranian petroleum resources; the harm to OFAC sanctions program objectives was lessened because four of the six shipments were detained prior to leaving the US; Stanley Drilling did not appear to have actual knowledge that the drilling rig was destined for or located in Iranian waters at the time of the subject transactions (although Stanley Drilling had reason to know these facts, because they were publicly and readily available before and at the time of the subject transactions); Stanley Drilling is a small company; and Stanley Drilling has no history of prior OFAC violations.

Intesa Sanpaolo S.p.A. Pays US$2.9 Million to Settle Potential Civil Liability for Apparent Violations of Multiple Sanctions Programs

On June 28, 2013, Intesa Sanpaolo S.p.A. agreed to remit US$2,949,030 to settle potential civil liability for apparent violations of the CACR, 31 C.F.R. part 515; the Sudanese Sanctions Regulations (SSR), 31 C.F.R. part 538; and ITR, 31 C.F.R. part 560. The OFAC has determined that Intesa did not voluntarily self-disclose the apparent violations and that the apparent violations constituted a non-egregious case. Intesa maintained a customer relationship with Irasco S.r.l., an Italian company headquartered in Genoa, Italy that is owned or controlled by the Government of Iran (GOI). Despite Irasco's ownership and line of business as an exporter of goods to Iran, and its financial and commercial associations with Iranian state-owned financial institutions, companies, and projects, Intesa failed to identify Irasco as meeting the definition of the GOI in the ITR and, at the time of the apparent violations, did not take appropriate measures to prevent the bank from processing transactions for or on behalf of Irasco that terminated in the US and/or with US persons. Intesa's payment instructions for these transactions all identified Irasco as the ordering customer. Separately, Intesa processed 53 wire transfers totaling approximately US$1,643,326 involving Cuba in apparent violation of the CACR. The base penalty amount for this set of apparent violations was US$1,867,000. Intesa processed 31 wire transfers for Irasco totaling US$3,142,565 between November 1, 2004 and December 8, 2006, in apparent violation of the ITR. The total base penalty for this set of apparent violations was US$3,371,000. Intesa processed 67 funds transfers involving Sudan totaling US$2,858,065 between November 4, 2004, and October 29, 2007, in apparent violation of the SSR. The total base penalty for this set of apparent violations was US$4,124,000. The total base penalty amount for the apparent violations was US$9,362,000.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A: Intesa had reason to know that one of its customers met the definition of the GOI in the ITR and that payments which terminated in the US for this customer constituted apparent violations of the ITR; Intesa's conduct resulted in harm to the integrity of US economic sanctions programs; Intesa is a commercially sophisticated international financial institution; and Intesa did not, at the time of the apparent violations, maintain an adequate program to ensure that it was in compliance with US economic sanctions. Substantial mitigation was provided to Intesa due to the following factors: OFAC concluded that the apparent violations did not constitute a willful or reckless violation of the law; OFAC also determined that no Intesa managers or supervisors had actual knowledge or awareness of these matters within the meaning of the Guidelines; Intesa provided substantial cooperation to OFAC, including signing a tolling agreement and multiple extensions; Intesa took remedial action in response to the apparent violations and now has a more robust compliance program in place; and Intesa has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the transactions giving rise to the apparent violations.

Offshore Marine Laboratories Agrees to Pay US$97,695 to Settle Alleged Violations of the Iranian Transactions Regulations and Executive Order 13382 (WMD) for Selling Offshore Wells Fargo Bank, N.A. Pays US$23,000 to Settle Potential Liability for Apparent Violations of the Foreign Narcotics Kingpin Sanctions Regulations

On June 27, 2013, Wells Fargo Bank, N.A. (Wells Fargo) agreed to remit US$23,937 to settle potential civil liability for 804 apparent violations of the Foreign Narcotics Kingpin Sanctions Regulations, 31 C.F.R. part 598. The OFAC has determined that Wells Fargo voluntarily self-disclosed the apparent violations, and that the apparent violations constituted a non-egregious case. Between December 12, 2007, and March 11, 2010, Wells Fargo maintained accounts for, and processed 58 transactions totaling US$22,211.94 on behalf of, Claudia Aguirre Sanchez (Aguirre Sanchez). The date of birth provided in connection with opening the accounts matched the date of birth for Aguirre Sanchez on OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List). Separately, Wells Fargo maintained accounts for, and processed 746 transactions totaling US$53,780.39 on behalf of, Carlos Antonio Ruelas Topete (Ruelas Topete). The date of birth provided in connection with opening the accounts matched the date of birth for Ruelas Topete on the SDN List. The total base penalty amount for the apparent violations was US$37,996.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. Mitigation was extended because Wells Fargo has not received a penalty notice or a Finding of Violation from OFAC in the five years preceding the date of the transactions giving rise to the apparent violations; the apparent violations processed by Wells Fargo could have been licensed by OFAC under licensing policy existing at the time of the apparent violations; Wells Fargo cooperated with OFAC throughout its investigation, including by signing a tolling agreement; and Wells Fargo has taken significant remedial steps, including specific measures to bolster its screening processes, since these apparent violations occurred. OFAC considered the following to be aggravating factors in this case: at the time of the apparent violations, Wells Fargo did not include screening based on date of birth in its OFAC compliance procedures; and Wells Fargo is a very large and highly-sophisticated financial institution.

ATP Tour, Inc. Pays US$48,000 to Settle Potential Civil Liability for Alleged Violations of the Iranian Transactions Regulations

On June 12, 2013, ATP Tour, Inc. (ATP), Ponte Vedra Beach, FL, agreed to pay US$48,600 to settle potential civil liability for alleged violations of the Iranian Transactions Regulations (the Regulations). OFAC alleged that between on or about May 8, 2007, and on or about July 15, 2010, ATP violated §§ 560.206 and 560.208 of the Regulations by approving, facilitating, and in some instances making, 18 salary payments to an individual who is ordinarily resident in Iran (the individual), for services rendered and expenses incurred in connection with ATP tournaments the individual officiated. OFAC determined that ATP did not voluntarily self-disclose its conduct, and the alleged violations constituted a non-egregious case. The base penalty for the alleged violations was US$135,000.

The settlement reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors Affecting Administrative Action listed in OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A: ATP demonstrated reckless disregard for US sanctions requirements because eight of the 18 payments to the individual occurred after OFAC issued a "Warning Letter" to ATP on August 11, 2008, for acting as a funds transfer agent in connection with individuals in Iran; ATP's supervisory and managerial staff knew of the payments to the individual; ATP did not have an OFAC compliance program in place at the time of the alleged violations; ATP has not received a Penalty Notice or Finding of Violation from OFAC in the five years preceding the alleged violations; ATP cooperated with OFAC's investigation, including by agreeing to toll the statute of limitations; ATP's transactions represent relatively low harm to the sanctions program; ATP's transactions may have been licensable under then-existing policies; ATP is a non-profit, member-based organization; and ATP has implemented an OFAC compliance plan.

The American Steamship Owners Mutual Protection and Indemnity Association, Inc. Pays US$348,000 to Settle Potential Liability for Apparent Violations of Multiple Sanctions Programs

On May 09, 2013, The American Steamship Owners Mutual Protection and Indemnity Association, Inc. (American Club), a nonprofit international marine mutual insurance association of merchant ship owners and charterers with its principal offices in New York, agreed to remit US$348,000 to settle potential liability for 55 apparent violations of: the CACR, 31 C.F.R. part 515; the SSR, 31 C.F.R. part 538; and the ITR, 31 C.F.R. part 560. The OFAC has determined that the American Club did not voluntarily self-disclose the apparent violations. OFAC has also determined that the apparent violations constituted a non-egregious case. The American Club processed three Protection and Indemnity (P&I) insurance claims totaling approximately US$40,584 between January 19, 2004 and June 28, 2006, involving Cuba in apparent violation of the CACR. The base penalty amount for this set of apparent violations was US$61,000. The American Club processed 18 P&I insurance claims, issued six Letters of Undertaking/Guarantee (LOU), and issued one letter of indemnity as security or countersecurity for an LOU totaling approximately US$685,774.26 between November 15, 2003 and March 13, 2007,

involving Sudan in apparent violation of the SSR. The base penalty amount for this set of apparent violations was US$844,000. The American Club processed 21 P&I insurance claims, one LOU, and issued five letters of indemnity as security or countersecurity for an LOU totaling US$488,453.65 between January 27, 2004 and August 8, 2006, involving Iran in apparent violation of the ITR. The base penalty amount for this set of apparent violations was US$824,000. The total base penalty amount for the apparent violations was US$1,729,000.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A: the American Club had actual knowledge or reason to know that some P&I claim activity and LOUs involved sanctioned countries; and the American Club is a sophisticated commercial entity. OFAC considered the following to be mitigating factors in this case: the American Club's conduct does not appear to have been willful or reckless; the P&I claims and LOUs constituting the apparent violations may have been licensable at the time the transactions occurred; the size of operations, financial condition and other relevant factors related to the individual characteristics of the American Club; the American Club had not received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the transactions giving rise to the apparent violations; the American Club took appropriate remedial action following the apparent violations; and the American Club cooperated with OFAC, including by providing all information in a responsive, well-organized fashion, and by signing a tolling agreement and two extensions to that agreement.

Toyota Motor Credit Corporation Pays US$23,000 to Settle Potential Liability for Apparent Violations of the Foreign Narcotics Kingpin Sanctions Regulations

On April 25, 2013, Toyota Motor Credit Corporation (TMCC) agreed to remit US$23,400 to settle potential civil liability for 26 apparent violations of the Foreign Narcotics Kingpin Sanctions Regulations, 31 C.F.R. part 598, all relating to one account. The OFAC has determined that TMCC did not voluntarily self-disclose the apparent violations and that the apparent violations constituted a non-egregious case. Between April 6, 2008 and June 30, 2010, TMCC maintained a loan account for, and processed instead of blocked, 26 loan payments totaling US$14,449 on behalf of, Claudia Aguirre Sanchez, whom OFAC designated as a Specially Designated Narcotics Trafficker pursuant to the Foreign Narcotics Kingpin Designation Act, 21 U.S.C. 1901 et seq. and added to the Specially Designated Nationals and Blocked Persons List on December 12, 2007. The total base penalty amount for the apparent violations was US$26,000.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. Mitigation was extended because TMCC has not received a penalty notice or a Finding of Violation from OFAC in the five years preceding the date of the transactions giving rise to the apparent violations; the apparent violations processed by TMCC likely would have been licensed by OFAC under licensing policy existing at the time of the apparent violations; TMCC cooperated with OFAC throughout its investigation; and TMCC took appropriate remedial action in response to these apparent violations. Mitigation for these general factors was offset by the following aggravating factors in this case: From OFAC's perspective, TMCC's failure to conduct an adequate review of an alert warning of a possible OFAC violation for nearly one year constituted a reckless disregard for US sanctions requirements. Moreover, an employee TMCC had placed in charge of OFAC compliance for its retail and lease portfolios, who was aware that the institution may have been maintaining an account for an SDNT, failed to exercise what OFAC considered to be a minimum degree of caution in avoiding the apparent violations by clearing the alert without appropriate investigation after being unable to locate the relevant TMCC customer file; TMCC is a commercially sophisticated financial institution; and TMCC's compliance program at the time of the apparent violations was not adequate to handle the company's volume of business.

Foreign Corrupt Practices Act (FCPA) – DOJ and SEC

Former Senior Executives of French Power Company Charged and Arrested in Connection with Foreign Bribery Scheme

On July 30, 2013, Frederic Pierucci, a current company executive at French power giant Alstom, and William Pomponi, a former vice president of sales at Alstom's Connecticut subsidiary, were indicted for FCPA violations and money laundering in connection with securing contracts for Alstom in Indonesia. Frederic Pierucci was previously charged in this case, pleaded guilty yesterday to one count of conspiring to violate the FCPA and one count of violating the FCPA. Charges against Pierucci were initially unsealed on April 16, 2013, along with a guilty plea by David Rothschild, a former vice president of regional sales at the Connecticut-based subsidiary, in connection with the bribery scheme. Rothschild pleaded guilty on Nov. 2, 2012. Pierucci, Pomponi and another former Alstom executive allegedly bribed Indonesian officials in order to win US$118 million in contracts to provide power-related services in Indonesia, known as the Tarahan Project. To funnel the bribes, the defendants allegedly hired a local consultant and gave him hundreds of thousands of dollars to pay off an Indonesian Parliament member. When the defendants and their co-conspirators determined that those bribes were insufficient, they hired a second consultant to bribe a high-level official at the Indonesian state-owned electricity company. The grand jury returned a sealed indictment against Pierucci on November 27, 2012. The case was unsealed on April 16, 2013, shortly after Pierucci was arrested at the John F. Kennedy International Airport. A superseding indictment adding Pomponi as a defendant was filed on April 30, 2013.

French Oil and Gas Company, Total, S.A., Pays US$398 Million to Resolve FCPA Charges In the US in Connection With an International Bribery Scheme

On May 29, 2013, Total, S.A., a French oil and gas company that trades on the New York Stock Exchange, agreed to pay a US$245.2 million monetary penalty to resolve charges related to violations of the FCPA in connection with illegal payments made through third parties to a government official in Iran to obtain valuable oil and gas concessions according to the DOJ's Criminal Division. The US Securities and Exchange Commission (SEC) entered into a cease and-desist order against Total in which the company agreed to pay an additional US$153 million in disgorgement and interest payments. Between

1995 and 2004, at the direction of the Iranian official, Total corruptly made approximately US$60 million in bribe payments under the agreements for the purpose of inducing the Iranian official to use his influence in connection with Total's efforts to obtain and retain lucrative oil rights in the Sirri A and E and South Pars oil and gas fields. Total mischaracterized the unlawful payments as "business development expenses" when they were, in fact, bribes designed to corruptly influence a foreign official. Further, Total failed to implement effective internal accounting controls, permitting the consulting agreements' true nature and true participants to be concealed and thereby failing to maintain accountability for assets.

As part of the agreed resolution, the Department and the SEC entered into separate deferred prosecution agreement with Total for a term of three years. In addition to the monetary penalty, Total also agreed to cooperate with the Department and foreign law enforcement, to retain an independent corporate compliance monitor for a period of three years, and to continue to implement an enhanced compliance program and internal controls designed to prevent and detect FCPA violations. According to the DOJ, this case was the first coordinated action by French and US law enforcement in a major foreign bribery case.

Ralph Lauren Corporation Agrees to Pay US$1.6 Million to Resolve FCPA Investigation for Misconduct by Argentine Subsidiary

On April 22, 2013, Ralph Lauren Corporation (RLC) entered into the first ever double non-prosecution agreement scenario to settle FCPA charges with the DOJ and SEC relating to the misconduct of its Argentine subsidiary, paying a criminal fine of US$882,000 to the DOJ and, in parallel civil proceedings with the SEC, paying US$734,845 in disgorgement and prejudgment interest. In recognition of RLC's extensive cooperation and remediation, the SEC agreed not to file charges against the company. RLC entered into a non-prosecution agreement with the SEC and paid US$734,845 in disgorgement and prejudgment interest.

According to the agreement, the manager of RLC's subsidiary in Argentina bribed customs officials in Argentina over the span of five years to improperly obtain paperwork necessary for goods to clear customs; permit clearance of items without the necessary paperwork and/or the clearance of prohibited items; and, on occasion, to avoid inspection entirely. The bribes were funneled through a customs clearance agency that created fake invoices to justify the payments. At the time, RLC did not have meaningful anticorruption training, safeguards, or internal controls to prevent or detect the illicit payments. RLC discovered the misconduct in the course of improving its worldwide compliance program and internal controls. The agreement acknowledges RLC's extensive, thorough and timely cooperation, including self-disclosure of the misconduct, voluntarily making employees available for interviews, making voluntary document disclosures, conducting a worldwide risk assessment and making multiple presentations to the SEC and the DOJ on the status and findings of the internal investigation and the risk assessment. In addition, RLC has engaged in early and extensive remediation, including conducting extensive FCPA training for employees worldwide, enhancing the company's existing FCPA policy, implementing an enhanced gift policy and other enhanced compliance, control and anticorruption policies and procedures, enhancing its due diligence protocol for third-party agents, terminating culpable employees and a third-party agent, instituting a whistleblower hotline and hiring a designated corporate compliance attorney.

Parker Drilling Company Resolves FCPA Investigation and Agrees to Pay US$15.85 Million to the DOJ and SEC

On April 16, 2013, Parker Drilling Company, a publicly listed drilling-services company, headquartered in Houston, has agreed to pay an US$11.76 million penalty to the DOJ, and US$3.05 million in disgorgement and US$1.04 million in prejudgment interest to the SEC, to resolve FCPA charges for authorizing payment to an intermediary, knowing that the payment would be used to corruptly influence the decisions of a Nigerian government panel reviewing Parker Drilling's adherence to Nigerian customs and tax laws. The investigation of Parker Drilling stemmed from the Justice Department's Panalpina-related investigations, which previously yielded criminal resolutions with Panalpina and five oil and gas service companies and subsidiaries and resulted in more than US$156 million in criminal penalties. According to court documents, in 2001 and 2002, Panalpina World Transport (Nigeria) Limited, working on Parker Drilling's behalf, avoided certain costs associated with complying with Nigeria's customs laws by fraudulently claiming that Parker Drilling's rigs had been exported and then re-imported into Nigeria. In late 2002, Nigeria formed a government commission, commonly called the Temporary Import (TI) Panel, to examine whether Nigeria's Customs Service had collected certain duties and tariffs that Nigeria was due. In December 2002, the TI Panel commenced proceedings against Parker Drilling. The TI Panel later determined that Parker Drilling had violated Nigeria's customs laws and assessed a US$3.8 million fine against Parker Drilling. Parker Drilling contracted indirectly with an intermediary agent to resolve its customs issues, transferring US$1.25 million to the agent, who reported spending a portion of the money on various things including entertaining government officials.

Under the terms of the agreement, the Justice Department agreed to defer prosecution of Parker Drilling for three years. Parker Drilling agreed, among other things, to implement an enhanced compliance program and internal controls capable of preventing and detecting FCPA violations, to report periodically to the department concerning Parker Drilling's compliance efforts, and to cooperate with the department in ongoing investigations. If Parker Drilling abides by the terms of the deferred prosecution agreement, the department will dismiss the criminal information when the term of the agreement expires. In entering into the deferred prosecution agreement with Parker Drilling, the Justice Department took into account a number of considerations. Parker Drilling conducted an extensive, multi-year investigation into the charged conduct; engaged in widespread remediation, including ending its business relationships with officers, employees or agents primarily responsible for the corrupt payments, enhancing scrutiny of high-risk third-party agents and transactions, increasing training and testing requirements, and instituting heightened review of proposals and other transactional documents for all the company's contracts; otherwise significantly enhanced its compliance program and internal controls; and agreed to continue to cooperate with the department in any ongoing investigation of the conduct.

French Citizen Arrested and Indicted for Attempting to Obstruct Grand Jury Investigation of Mining Company's Alleged Bribes to Government Officials of the Republic of Guinea

On April 15, 2013, Frederic Cilins, a French citizen, was arrested in the US and indicted for attempting to obstruct a grand jury investigation into whether a mining company, believed to be BSG Resources Ltd., paid bribes to government officials of the Republic of Guinea to win lucrative mining rights. BSG Resources was suspected of transferring money into the US as part of a scheme to secure valuable mining concessions in Guinea. The company allegedly sought to bribe a Guinean official who agreed to use his influence to help it secure the necessary rights. To that end, BSG resources allegedly entered into contracts with the wife of the official, promising to pay millions of dollars and stock as compensation for the official's assistance and bribes to additional government players. Evidence of this illicit agreement, including copies of the contracts, was subpoenaed by the FBI in the course of a grand jury investigation. Cilins was accused of attempting to buy and destroy those documents, and to induce a witness to sign an affidavit containing falsehoods about the matters under investigation. The complaint alleges that the documents Cilins sought to destroy included original copies of contracts between the mining company and its affiliates and the former wife of a now-deceased Guinean government official, who at the relevant time held an office in Guinea that allowed him to influence the award of mining concessions. The contracts allegedly related to a scheme by which the mining company and its affiliates offered the wife of the Guinean official millions of dollars, which were to be distributed to the official's wife as well as ministers or senior officials of Guinea's government whose authority might be needed to secure the mining rights. See *U.S. v. Cilins*, No. 13-cr-00315 (filed S.D.N.Y. Apr. 15, 2013).

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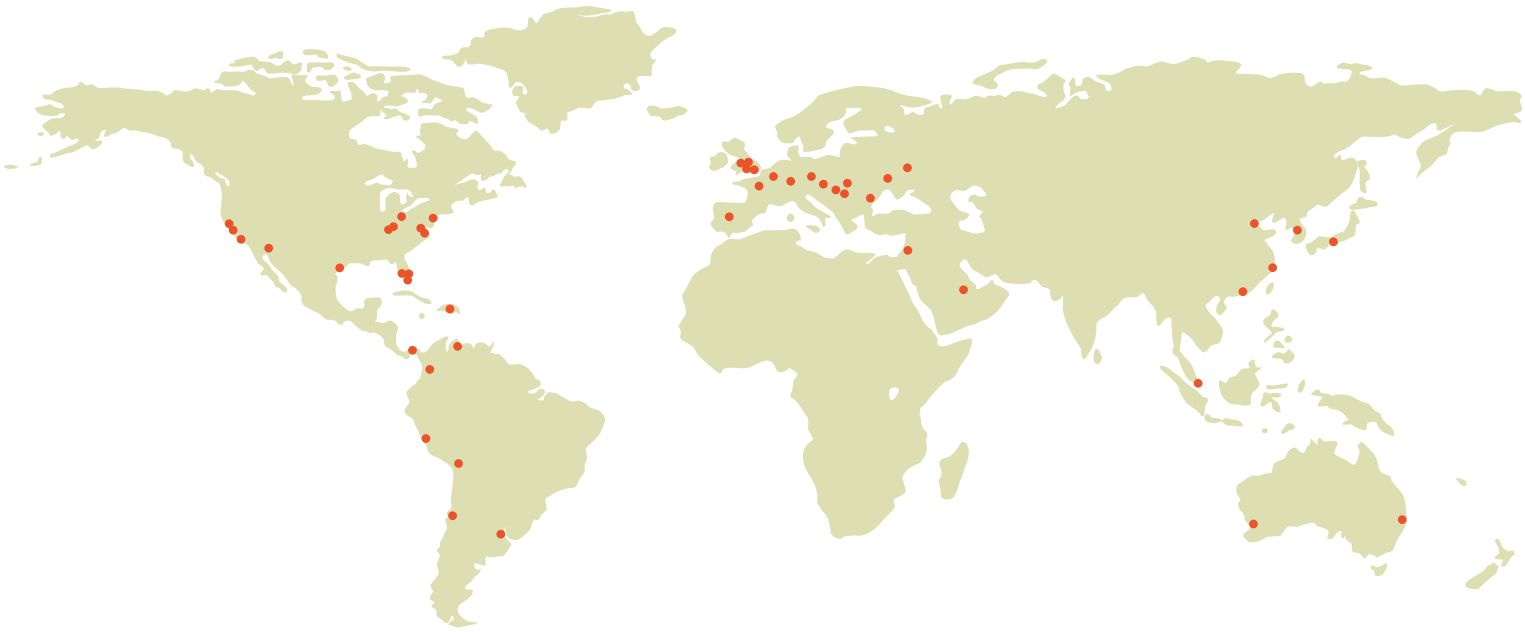

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