



# *EIB World Trade Headlines*

Evolutions In Business • [www.eib.com](http://www.eib.com) • (978) 256-0438  
Fax: (978) 250-4529 • P.O. Box 4008, Chelmsford, MA 01824

March 2011 - Vol 3 Issue 6

## **Libya Licenses Suspended**

Effective March 3, 2011, all licenses issued by BIS for exports or re-exports to Libya under the authority of the Export Administration Regulations (15 C.F.R. 730-774) as kept in force by the International Emergency Economic Powers Act have been suspended indefinitely and all persons currently holding active licenses have been so notified. No further shipments may be made against licenses for exports or re-exports to Libya by any person. For further information, please contact the Foreign Policy Division/Bureau of Industry and Security at 202-482-4252.

### NEWSLETTER NOTES

- \*Libya Licenses Suspended
- \*State Department Issues Proposed Rule
- \*BIS Posts Information Regarding Proposal
- \* ECHA Issues Proposal
- \* CBP Posts FY 2011 Progress Highlights
- \* California Supreme Court Rules
- \* BIS Posts Updated Export Control and Compliance Training Schedule
- \* Export.Gov Posts Updated List of Upcoming Trade Missions
- \* EU Proposes New Food Labeling Rules
- \* Pakistani National Indicted In Scheme
- \* UAE To Join ATA Carnet System on April 1, 2011

## State Department Issues Proposed Rule for Electronic Submission of ITAR Annual Registration Fees and Revision of Registration Form

The Department of State issued a proposed rule to amend the International Traffic in Arms Regulations (ITAR) to require the electronic payment of annual registration fees and revise the Statement of Registration (Form DS-2032), which would still be required to be submitted in paper format. Comments are due by 04/25/11.

Persons who manufacture or export defense articles or engage in brokering activities with respect to the manufacture, export, import, or transfer of defense articles must register with the State Department's Directorate of Defense Trade Controls (DDTC). Registration is required annually, and must be submitted on the paper Statement of Registration (Form DS-2032), along with a check or money order for the registration fee. According to the State Dept., the electronic payment of these fees would simplify DDTC's collection and verification of payments, eliminate the need to manually process and collect returned payments, and eliminate the possibility of lost payments. The proposed rule would revise 22 CFR 122.2(a) to make electronic payment the sole means of registration fee submission for manufacturers and exporters. The originating account must be the registrant's account and not a third parties. Intended registrants should access DDTC's website at [www.pmddtc.state.gov](http://www.pmddtc.state.gov) for detailed guidelines on submitting ACH and SWIFT electronic payments. Payments, including from foreign brokers, must be in U.S. currency, payable through a U.S. financial institution. Cash, checks, foreign currency or money orders will not be accepted." Information regarding intended registrants would be clarified in 22 CFR 129.4(a); additionally, the certifications previously required through the transmittal letter referenced in 22 CFR 122.2(b) would be incorporated into the revised Form DS-2032. Consequently, 122.2(b) would no longer address a separate transmittal letter, but would address certain certifications to be made on the Form DS-2032 that used to be provided via the transmittal letter.

*(Continued above)*

The DS-2032 would be revised to reflect that fee payments are to be made electronically. It would also include additional data fields to match the electronic payment to the DS-2032. Additionally, data elements would be added to ensure clarification during analysis as well as standardization of responses. The prior definitions of "ownership" and "control" would be renamed as "foreign ownership" and "foreign control" and moved to new 22 CFR 120.37 (they would be removed from 22 CFR 122.2(c). State Department contact- Lisa Studtmann (202) 663-2477

State Dept. Notice: (FR Pub 02/24/11) <http://www.gpo.gov/fdsys/pkg/FR-2011-02-24/pdf/2011-3878.pdf>

## BIS Posts Information About Proposal to Modify USML by 2012

Bureau of Industry and Security (BIS) Under Secretary Hill recently gave a speech to the C5 European Forum on Export Controls, where he stated that by early 2012, BIS expects the entire U.S. Munitions List (USML) to be turned into a positive list. He also stated that many items deemed to be militarily insignificant (bolts, screws, blankets, etc.) would be moved from the USML to the Computational Chemistry List (CCL) to distinguish them from items that truly have a military utility and that USML Category VII items for parts and components will likely be moved to Commerce jurisdiction. BIS notice:

[http://www.bis.doc.gov/news/2011/hill\\_C5\\_forum.htm](http://www.bis.doc.gov/news/2011/hill_C5_forum.htm)



## ECHA Issues Proposal to Identify 7 Chemicals as Substances of Very High Concern - Seeks Comments

The European Chemicals Agency (ECHA) is seeking comments on proposals submitted by five European Union member countries to identify seven chemicals as Substances of Very High Concern (SVHC), which could make them subject to the "authorization" component of the EU's REACH program. Comments are due by 04/07/11. REACH entered into force in 2007, and is intended to streamline and improve the former legislative framework on chemicals of the EU. It stands for Registration, Evaluation, Authorization and Restriction of Chemicals and places greater responsibility on industry to manage the risks that chemicals may pose to health and the environment. Under REACH, the ECHA is required to determine whether chemical substances proposed by member countries for consideration should be characterized as SVHCs. ECHA then places all those it characterizes as SVHCs on a "Candidate List"; prioritizes them according to the level of concern; and recommends to the European Commission those which it thinks should be subject to REACH "authorization." If subjected to REACH authorization, a chemical substance may not be placed on the market or used in the EU unless an authorization is granted for its use. In addition to possibly being subject to REACH authorization, once a SVHC is included on the Candidate List, EU or European Economic Area (EEA) countries (EEA) suppliers of these substances face certain notification requirements. To facilitate its evaluation, ECHA seeks comments primarily on the hazardous properties that qualify the chemicals as SVHCs, as well as further information related to their uses, exposure, and availability of safer alternative substances or techniques. The names and potential uses of the 7 substances being considered for SVHC have been posted for comments.

ECHA notification obligations for substances on the Candidate

List: [http://echa.europa.eu/chem\\_data/authorisation\\_process/candidate\\_list\\_obligations\\_en.asp](http://echa.europa.eu/chem_data/authorisation_process/candidate_list_obligations_en.asp)

ECHA current "Candidate List" of 46

SVHCs: [http://echa.europa.eu/chem\\_data/authorisation\\_process/candidate\\_list\\_table\\_en.asp](http://echa.europa.eu/chem_data/authorisation_process/candidate_list_table_en.asp)

ECHA

notice: [http://echa.europa.eu/news/pr/201102/pr\\_11\\_04\\_svhc\\_consultation\\_20110221\\_en.asp](http://echa.europa.eu/news/pr/201102/pr_11_04_svhc_consultation_20110221_en.asp)

## CBP Posts FY 2011 Progress Highlights on C-TPAT, ACE, Import Safety

U.S. Customs and Border Protection (CBP) issued a news release and fact sheet on its progress in securing U.S. borders in FY 2010, the following are highlights from CBP's fiscal year 2010:

- CBP completed more than 3,200 validations of members of Customs-Trade Partnership Against Terrorism (C-TPAT). Security conferences held by CBP provided information on best practices, including a 5-Step Risk Assessment Guide, to more than 1,500 members to help better secure shipments. CBP conducted a third round of Joint Validations with China Customs which laid the foundation for the signing of a Supply Chain Security Memorandum of Understanding in October 2010.
- CBP made a number of enhancements to the Automated Commercial Environment (ACE), to allow for all entries in the system to be assessed for risk, as well as allowing for more timely liquidation and more accurate assessment of antidumping (AD) and countervailing (CV) duties.
- CBP established the multi-agency Import Safety Commercial Targeting and Analysis Center (ISCTAC). For the first time, personnel from U.S. Immigration and Customs Enforcement (ICE), the Food and Drug Administration (FDA), the Consumer Product Safety Commission (CPSC), and the Department of Agriculture (USDA) are working to share information that better enables CBP to target and stop unsafe imports before they enter U.S. commerce. CBP also developed an automated system with CPSC for standardized research and targeting for import safety product recalls.

*(Continued below)*

- CBP created and implemented the Agriculture Enforcement Alerts program (AEAP), for state and federal agriculture officials to evaluate trends of plant or animal pests and diseases and identify potential risks to U.S. agriculture
- CBP processed \$1.99 trillion in import value and collected \$32.3 billion in duties, taxes, and fees, increases of 15.8% and 9.5%, respectively, compared to FY 2009.
- CBP completed 379 audits of importers and related parties, resulting in the collection of nearly \$23 million in revenue.
- CBP responded to 1,600 reported trade violations received through e-Allegations, a web-based system that facilitates public reporting of alleged trade violations, a 60% increase over FY 2009.
- CBP initiated nearly 20,000 seizures for intellectual property rights (IPR) violations, an increase of 34% over FY 2009; and nearly 3,700 import safety seizures during FY 2010, an increase of 34% over FY 2009.
- CBP Agriculture Specialists seized more than 1.7 million prohibited plant materials, meat, and animal byproducts in FY 2010, a 9.5% increase in seizures compared to FY 2009.
- CBP began enforcement of the Importer Security Filing and Additional Carrier Requirements interim final rule (10+2), increasing the scope and accuracy of information gathered on shipments of cargo arriving by sea into the U.S
- CBP officers at more than 330 ports of entry inspected more than 105.8 million cars, trucks, buses, trains, vessels and aircraft, and 352 million travelers.
- CBP seized 4.1 million pounds of narcotics, including 880,000 pounds seized at ports of entry, 2.4 million pounds seized in between ports of entry, and 831,000 pounds seized by Air and Marine.

*(Continued above)*

- More than 800,000 individuals have enrolled in other CBP trusted traveler programs including NEXUS, SENTRI and FAST.
- CBP continued to work closely with U.S. international partners to strengthen the security of the global supply chain.
- CBP deployed 17 new Mobile Non-Intrusive Inspection (NII) Systems and 22 additional large-scale NII technology imaging systems, to allow officers and agents to detect stowaways and materials such as explosives, narcotics and currency in cargo and passenger vehicles. The large-scale systems were used to conduct over 7.3 million examinations at ports of entry that resulted in over 1,300 seizures, including 288,000 pounds of narcotics.
- CBP deployed 77 new radiation portal monitors (RPMs) to land and sea ports of entry nationwide to give CBP capability to scan 96% of all mail and express consignment mail/parcels; 100% of all containerized cargo entering from Canada and Mexico; and 99% of all arriving sea-borne containerized cargo for illicit radiological/nuclear materials.

CBP FY 2010 Data Fact Sheet:

[http://www.cbp.gov/xp/cgov/newsroom/fact\\_sheets/cbp\\_overview/fy2010\\_factsheet.xml](http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/cbp_overview/fy2010_factsheet.xml)

CBP notice:

[http://www.cbp.gov/xp/cgov/newsroom/news\\_releases/national/02232011.xml](http://www.cbp.gov/xp/cgov/newsroom/news_releases/national/02232011.xml)

## California Supreme Court Rules on Falsely Labeled "Made in USA " Case

The Supreme Court of California recently ruled that plaintiffs who were deceived into purchasing a product that they would not have purchased otherwise due to false "Made in U.S.A." labels or similar misrepresentations, have "lost money or property" under California Proposition 64 and have standing to sue.

In 2000, James Benson brought suit against Kwikset, for falsely marketing and selling locksets labeled as "Made in U.S.A. " that contained foreign-made parts or involved foreign manufacture.

*(Continued below)*

The trial court concluded Kiwkset had engaged in unlawful, unfair, and deceptive business practices under country of origin labeling and false advertising statutes. Both parties appealed. In 2004, while the appeals were pending, Proposition 64 was enacted by the electorate to limit public standing to sue to any "person who has suffered injury in fact and has lost money or property as a result of unfair competition." As reported, Benson filed an amended complaint to prove facts satisfying the new standing requirements under Proposition 64. Benson alleged that he and three other plaintiffs relied on the false "Made in U.S.A." label on Kwikset's locksets in deciding to purchase the locksets. Benson argued that the plaintiffs were deceived into purchasing products they did not want, as they would not have done so but for the false label. As a result, the plaintiffs have suffered injury and loss of money. The Court of Appeal concluded that Benson's allegation was insufficient to establish that the plaintiffs lost money or property to satisfy Proposition 64's standing requirements to sue. The court ruled that plaintiffs could not show economic injury because, although they had spent money, they received locksets in return and did not allege them to be defective, overpriced, or of inferior quality. The plaintiffs received the benefit of their bargain and did not have standing to sue. However, the California Supreme Court ruled that the Appeal Court's standing on economic injuries is under-inclusive as it limits the phrase "lost money or property" to functional defects or price overcharges only. The Supreme Court concluded that if plaintiffs would not have bought a product but for the false label, then they paid more than they otherwise would have been willing to spend because they valued the product as labeled more than the product as it actually was. The extra money paid is the economic injury and affords the plaintiff's standing to sue. Therefore, the Supreme Court reverses the Appeal Court's decision. Superior Court of California notice:

<http://www.courtinfo.ca.gov/opinions/documents/S171845.PDF>



## BIS Posts Updated Export Control and Compliance Training Schedule

The Bureau of Industry and Security (BIS) posted the following updated schedule for its export control and compliance training outreach efforts:

March 24-25	Del Mar, CA	Complying with U.S. Export Controls
April 5-6	New Jersey	Complying with U.S. Export Controls
April 6-7	Denver, CO	Complying with U.S. Export Controls
April 12-13	Minneapolis, MN	Complying with U.S. Export Controls
April 14	Minneapolis, MN	Technology Controls
April 27-28	Santa Clara, CA	Complying with U.S. Export Controls
April 27-28	Ft. Lauderdale, FL	Complying with U.S. Export Controls
April 29	Ft. Lauderdale, FL	Complying with the ITAR
May 4-5	Newport Beach, CA	Complying with U.S. Export Controls
May 10-11	Louisville, KY	Complying with U.S. Export Controls
May 12	Louisville, KY	Technology Controls
June 16-17	Seattle, WA	Complying with U.S. Export Controls
July 19-21	Washington, DC	Update 2011
August 10-11	Universal City, CA	Complying with U.S. Export Controls
September 13-14	Smithfield, RI	Complying with U.S. Export Controls

Controls

BIS notice:

<http://www.bis.doc.gov/seminarsandtraining/elsem.htm>

## Export.Gov Posts Updated List of Upcoming Trade Missions

Export.gov announced a series of trade missions scheduled for the remainder of February through June 2011 as follows:

Feb 27 - March 4 - Water Technology Trade Mission ; Bangalore and Mumbai , India

March 8-10 - Executive-led Trade Mission to Nigeria ; Lagos , Nigeria

March 25 - April 1 - Exec-Led Trade Mission : Gateways to Africa & Middle East; Cairo , Egypt and Casablanca and Tangier, Morocco

April 2-5 - The U.S. ICT Mission to Saudi Arabia ; Riaydh , Saudi Arabia

April 3-8 - Education Mission to Vietnam and Indonesia ; Jakarta , Indonesia ; Texas , U.S. ; and Ho Chi Minh City and Hanoi , Vietnam

April 10-15 - U.S. Franchise Trade Mission to India ; Hyderabad , Mumbai, and New Delhi , India

April 25-29 - NC/SC DEC Magellan Trade Mission to Colombia ; Bogota , Colombia

May 2-4 - U.S. Aerospace Supplier and Investment Mission ; Montreal , Canada

May 22-27 - Arizona District Export Council Trade Mission to Colombia and Panama Bogota ; Colombia and Panama City , Panama

June 20-24 - Eurasian Oil & Gas Trade Mission 2011; Almaty , Kazakhstan and Istanbul , Turkey

[Export.gov notice:](#)

[http://www.export.gov/eac/show\\_short\\_trade\\_events.asp?CountryName=null&StateName=null&IndustryName=null&TypeName=Trade%2520Mission&StartDate=null&EndDate=null](http://www.export.gov/eac/show_short_trade_events.asp?CountryName=null&StateName=null&IndustryName=null&TypeName=Trade%2520Mission&StartDate=null&EndDate=null)

## EU Proposes New Food Labeling Rules - Including COOL and Nutrition Labeling

The Council of the European Union adopted its first-reading-position on a draft regulation on food labeling rules, which would include nutrition and country of origin labeling rules. The following are highlights of the Council's position:

- Labeling of energy values and of the quantities of fat, saturates, carbohydrates, protein, sugars and salt would also become compulsory. All elements of the nutrition declaration would have to appear together in the same field of vision.

*(Continued above)*

- Labeling of the country of origin would be compulsory, as it is currently, if the failure to do so would mislead consumers. Compulsory labeling of the country of origin would be requested for several types of meat, such as pork, lamb, and poultry, subject to implementing rules.

- Within three years after entry into force of the new regulation it should submit a report examining the possible extension of the compulsory labeling of the country of origin to further products, such as milk, milk used as an ingredient, meat used as an ingredient, unprocessed foods, single-ingredient products, and ingredients that represent more than 50% of a food.

- Certain alcoholic beverages (such as wines, products derived from aromatized wines, mead, beer, spirits, but not alcopops) are exempted from bearing the nutrition declaration as well as the list of ingredients. The Commission would, however, must examine within five years after the entry into force of the new regulation whether the exemption was still justified.

- Non-prepacked food would also be exempted from nutrition labeling, unless Member States decide otherwise at national level. Allergens, however, must always be indicated.

- A minimum font size for the mandatory information on the labeling, which added to other criteria, such as contrast, aims to ensure the legibility of the labels.

The European Commission submitted its legislative proposal to the Parliament and European Council in 2008. In June 2010, the Parliament adopted its position at the first reading of the draft regulation, voting to make the nutrition labeling of pre-packed foods mandatory and rejecting a visual warning system for high fat, sugar, or salt content of a product. The position that the Council has just adopted will now be passed back to Parliament. At the second reading, if Parliament approves the Council's text or fails to take a decision, the act would be adopted. Draft regulation:

[http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/proposal\\_regulation\\_ep\\_council.pdf](http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/proposal_regulation_ep_council.pdf)

## Pakistani National Indicted In Scheme To Illegally Export Restricted Goods And Technologies To Pakistan

Baltimore, Maryland - A federal grand jury has indicted Nadeem Akhtar, age 45, of Silver Spring, Maryland, on charges related to a scheme to illegally export items that are used directly or indirectly in activities related to nuclear reactors and the processing and production of nuclear-related materials. The indictment was returned on March 11, 2010 and unsealed today.

Akhtar had an initial appearance today at noon, before U.S. Magistrate Judge Mildred Methvin, in U.S. District Court in Baltimore. Judge Methvin ordered Akhtar detained pending a detention hearing scheduled for tomorrow, March 10, 2011 at 1:30 p.m.

The indictment was announced by United States Attorney for the District of Maryland Rod J. Rosenstein; Special Agent in Charge Richard A. McFeely of the Federal Bureau of Investigation; and Special Agent in Charge Rick Shimon of the U.S. Department of Commerce, Office of Export Enforcement's Washington Field Office.

"The United States regulates the export of items that can be used in nuclear facilities, requiring a seller to truthfully disclose the end user," said U.S. Attorney Rod J. Rosenstein. "The indictment alleges that Nadeem Akhtar conspired to violate export regulations by selling controlled items while misrepresenting what they were and to whom they would be sold."

"U.S. businesses that produce regulated technology must remain vigilant about purchasers who misrepresent the intended use, especially as it relates to foreign transactions," said FBI Special Agent in Charge Richard A. McFeely. "We cannot let our guard down in keeping regulated technology from reaching those who are prohibited from acquiring it.

"This arrest is the product of a vigorous, cooperative joint-agency investigation focused on denying and disrupting the illegal export of controlled nuclear technology destined for Pakistan," said Eric L. Hirschhorn, Under Secretary of Commerce for Industry and Security. "We will continue to work aggressively to identify and apprehend willful proliferators, no matter where they operate, in order to guard against these types of national security threats."

*(Continued above)*

Akhtar, a Pakistani national and lawful permanent resident of the U.S., owns Computer Communication USA (CC-USA). According to the indictment, the export of certain goods and services from the United States to foreign countries is regulated, in order to protect, among other things, the national security of the U.S. A license to export certain items is required if the items are being exported to an end-user of concern or in support of a prohibited end-use. The indictment alleges that from October 2005, through March 11, 2010, Akhtar conspired with others to illegally export restricted goods and technology to Pakistan without the necessary licenses, specifically radiation detection devices, resins for coolant water purification, calibration and switching equipment, and surface refinishing abrasives. All of those items require a license for export because they can be used in activities related to nuclear reactors and the processing and production of nuclear material. The indictment further alleges that Akhtar attempted to conceal the ultimate end-use and/or end-users of the commodities that he sought to purchase and export, and their true value by causing false, misleading and incomplete information to be placed on documents such as invoices, purchase orders, air bills, and end-user statements. Further the indictment alleges that Akhtar transported funds to carry out this illegal activity.

Akhtar faces a maximum sentence of five years in prison for conspiracy to commit export violations and to defraud the United States; a maximum of 20 years in prison for the unlawful export of goods; and a maximum of 20 years in prison for conspiracy to commit money laundering.

An indictment is not a finding of guilt. An individual charged by indictment is presumed innocent unless and until proven guilty at some later criminal proceedings.

United States Attorney Rod J. Rosenstein praised the FBI and the Department of Commerce, Office of Export Enforcement for their work in the investigation. Mr. Rosenstein thanked Assistant United States Attorney Christine Manuelian, who is prosecuting the case and Assistant U.S. Attorney Harvey E. Eisenberg, Chief of the National Security Section, who is supervising the case.