



EIB World Trade Headlines

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Michigan Company Fined for Illegal Exports to China, Others

WASHINGTON - The Commerce Department's Bureau of Industry and Security (BIS) today announced that Arvin Meritor of Troy, Michigan, has agreed to pay a \$100,000 civil fine to settle allegations that it committed 14 violations of the Export Administration Regulations. On two occasions between August 2005 and November 2006, ArvinMeritor shipped products, including various vehicle axles and seal assemblies controlled for national security reasons, to China and France. Additionally, on twelve occasions between December 2005 and May 2006, ArvinMeritor engaged in prohibited conduct by exporting technical data, controlled for national security reasons, to Italy, India, China, Mexico, South Korea, and Brazil. "Arvin Meritor voluntarily disclosed the violations and cooperated fully in the investigation," said Douglas Hassebrock, Director, Office of Export Enforcement. "I applaud ArvinMeritor for coming forward to report these violations," said Assistant Secretary of Commerce for Export Enforcement David W. Mills.

BACKGROUND

BIS controls exports and reexports of dual-use commodities, technology, and software for reasons of national security, missile technology, nuclear non-proliferation, chemical and biological weapons non-proliferation, crime control, regional stability, foreign policy and anti-terrorism. Criminal penalties and administrative sanctions can be imposed for violations of the EAR. For more information, please visit www.bis.doc.gov. Parties who may have been involved in violations of the EAR are encouraged to submit a Voluntary Self Disclosure (VSD) to the BIS Office of Export Enforcement. VSDs are an important indicator of parties' intent to comply with the EAR, and may provide BIS important information on illicit proliferation networks. A VSD is considered a "great weight" mitigating factor in the settlement of BIS administrative cases

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EPA and Justice Department Announce Fine Against Company for Importing Non-Complying Engines

In a joint statement, the Environmental Protection Agency (EPA) and the Justice Department announced on that Mississippi-based PowerTrain, Inc. will pay a civil penalty of \$2 million to resolve claims that the company imported and sold nearly 80,000 nonroad engines and equipment from China that did not meet standards under the Clean Air Act. As reported, between 2002 and 2008, PowerTrain allegedly imported 79,830 nonroad engines or pieces of equipment into the U.S. that were not covered by a Clean Air Act-required certificate of conformity. The engines and equipment were sold to businesses and individuals through Wood Sales Company Inc. and Tool Mart, Inc. The engines and equipment were not covered by certificates of conformity because they were different models, had different power ratings, or were made by a different manufacturer than that listed on the certificate. The engines also lacked two-year emissions-related warranties, as required by law. Under the settlement, PowerTrain will implement a plan to ensure that the engines and equipment they import in the future comply with Clean Air Act requirements. They will also offset the excess emissions of hydrocarbons, nitrogen oxides, and carbon monoxide resulting from the sale of the illegal engines and equipment. As one of the offset projects, PowerTrain will spend an estimated \$600,000 to provide subsidies for consumers to replace old wood-burning appliances with efficient, EPA-certified wood stoves. EPA notice:

<http://yosemite.epa.gov/opa/admpress.nsf/ab2d81eb088f4a7e85257359003f5339/7d774a49b2cf2c75852578450067de5e%21OpenDocument>



White House Posts Executive Order on Exports to Libya

President Obama issued an Executive Order, on 2/25/11, pursuant to the International Emergency Economic Powers Act (IEEPA), that takes steps with respect to the situation in Libya. As reported, President Obama has determined that the actions of Colonel Muammar Qadhafi, his government, and close associates, including extreme measures against the people of Libya, constitute an unusual and extraordinary threat to the national security and foreign policy of the U.S. The order declares a national emergency to deal with this threat. All property and interests in property that are in the U.S., that hereafter come within the U.S., or that are or hereafter come within the possession or control of any U.S. person, including any overseas branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

1. the persons listed in the Annex to this EO; and
2. any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:
 - o to be a senior official of the Government of Libya;
 - o to be a child of Colonel Muammar Qadhafi;
 - o to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, the commission of human rights abuses related to political repression in Libya;
 - o to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of the activities described in subsection (b)(iii) of this section or any person whose property and interests in property are blocked pursuant to this order;

(Continued below)

- o to be owned or controlled by, or to have acted or purported to act for or on behalf of, any person whose property and interests in property are blocked pursuant to this order; or
- o to be a spouse or dependent child of any person whose property and interests in property are blocked pursuant to this order.

All property and interests in property that are in the U.S., that hereafter come within the U.S., or that are or hereafter come within the possession or control of any U.S. person, including any overseas branch, of the Government of Libya, its agencies, instrumentalities, and controlled entities, and the Central Bank of Libya, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in. Additionally, the Secretary of State is suspending all existing licenses and other approvals for the export of defense articles and services to Libya.

Executive Order (2/25/11)

http://www.whitehouse.gov/sites/default/files/2011libya_eo_rel.pdf

BIS Posts Speech on Progress Towards Making United States Munitions List Positive and CCL Clearer

At the recent Export Control Forum, Eric Hirschhorn, Under Secretary for Industry and Commerce, discussed the Administration's progress on export control reform, including proposed changes to the U.S. Munitions List (USML) and Commerce Control List (CCL), licensing policy, compliance and enforcement. Hirschhorn reported that last spring, Defense Secretary Gates set out the Administration's conclusion that fundamental reform is needed.

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"If the application of controls on key items and technologies is to have any meaning," he said, "we need a system that dispenses with 95 percent of 'easy' cases and lets us concentrate our resources on the remaining 5 percent. By doing so, we will be better able to monitor and enforce controls on technology transfers with real security implications." According to Hirschhorn, the most important aspect of control list reform may be making the USML a "positive" list.

Currently, the USML controls many defense articles based on "design intent," in part because at one time, the majority of items used by the military were produced specifically for the military. Today, however, many-if not most technologies used by the military are developed and manufactured by the commercial sector. Moreover, the design-intent nature of the USML is inconsistent with a predictable and transparent regulatory process-one where industry and government alike readily and objectively can determine what is controlled. Under the leadership of the Defense and State Departments, the Administration is addressing this problem by converting the USML to a positive list.

As reported, on 12/10/10, the State Department issued a proposed regulation that would revise Category VII of the USML-Tanks and Military Vehicles into a positive list, focusing the category's controls on truly significant military items, while moving less significant items-particularly parts and components that do not serve an inherently military function-to the Commerce Control List. Concurrently, State requested public comment on converting the remaining USML categories into positive lists. According to Hirschhorn, DoD has an ambitious plan for completing its work on this review in 2011.

He noted that the Administration's plan to transfer low level, widely available items from the USML to the Commerce Control List (CCL) will provide greater flexibility and a simpler structure of controls.

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First, ITAR registration would be eliminated for many small and medium-sized exporters (SME) if their sole ITAR items are minor elements of defense products. Second, the change in jurisdiction should eliminate many problems associated with the "see through" rule, which make certain items manufactured offshore subject to U.S. re-export control requirements if they incorporate U.S.-origin ITAR parts and components, regardless of value or importance. Third, there would be far fewer transactions requiring U.S. exporters to enter into and obtain complex Manufacturing Licensing Agreements or Technical Assistance Agreement to share data and services. Finally, there could be a significant reduction in the time required to determine the jurisdiction of parts and components. In addition, even though the existing CCL is largely a "positive" list that describes items using objective criteria, it is not wholly so. Therefore, the Administration seeks to make it sufficiently "positive," clear, and precise, so that someone who isn't an expert on U.S. export controls but understands the technical characteristics and capabilities of an item, can accurately determine its jurisdictional status and classification. Hirschhorn reported BIS published a proposed rule for License Exception Strategic Trade Authorization, or STA. STA would allow the export, re-export, and in-country transfer of specified items. As noted, it could be used only where CCL-specified license requirements would apply. There are two key elements of the proposal:

1. For exports of most items on the CCL that do not require a license for statutory reasons, exports would be authorized to a group of 37 countries under the proposed license exception.
2. For certain other countries, Wassenaar Arrangement "Basic List" items would be eligible for export under this exception.

According to Hirschhorn, the STA proposal represents the first step in implementing the President's goal of eliminating easy cases so that we can focus the Government's limited resources on items and on end users requiring greater scrutiny.

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He adds that the proposed license exception STA has the potential to eliminate approximately 3000 individual licenses. The Administration is also working on several other initiatives to produce a more streamlined, user-friendly system. This includes developing a single license application form that the Departments of Commerce, State, and Treasury will use and harmonizing definitions of key terms such as "technology" across the spectrum of export control and sanctions regulations. As part of the export control reform initiative, the Administration also hopes to clarify the meaning of the term "specially designed" as used in the CCL and the USML. Hirschhorn states that the Administration is working on harmonizing a number of definitions but "specially designed" is a priority given the frequency with which the term is used in the two control lists and the importance of adequately defining the term in order to develop two "positive" lists. Hirschhorn mentioned that BIS is adjusting how it penalizes those who violate U.S. export controls. In the past, BIS typically has imposed penalties on companies involved in export violations. Going forward, where a violation is the deliberate action of an individual, it will consider seeking penalties against that individual, including heavy fines, imprisonment, and the denial of export privileges as well as against the company. The same will be true for supervisors who are complicit in deliberate violations by their subordinates. At the same time, Hirschhorn says the Administration recognizes that even companies that have good intentions can make mistakes. Therefore, it promotes the submission of voluntary self-disclosures (VSDs) in these and other instances. The Administration views VSDs, along with robust internal compliance programs, as important mitigating factors. Given the volume of exports and re-exports that are subject to the EAR-BIS processed more than 20,000 license applications during 2010 – the Administration relies on industry for the bulk of compliance. The trade's knowledge of its products, end uses, and customers makes them the "front line troops" in this effort. In conclusion, Hirschhorn discussed the new consolidated end-user screening list, stating that it reduces drastically the time and cost burdens associated with having to review up to ten separate lists to screen transaction parties. The new consolidated electronic screening list includes more than 24,000 entities. Most important, exporters now can screen parties in a cost efficient manner from an up-to-date list. This should help prevent inadvertently exporting to an ITAR-debarred party, a specially designated national, a denied person, or an entity on the Entity List. The consolidated file can be downloaded from the Export Control Reform website at www.export.gov/ecr

DDTC Issues Notice Suspending All Licenses and Exemptions for Exports to Libya

The Directorate of Defense Trade Controls (DDTC) issued a notice announcing that effective immediately, all export licenses for Libya issued pursuant to the authorities of the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR)(22 CFR 120-130) are hereby suspended until further notice. No further exports may be made against them. These actions have been entered into the Automated Export System (AES) database and forwarded to U.S. Customs and Border Protection (CBP). Additionally, no exemptions may be utilized for exports to Libya. Further guidance related to exports to Libya will be promulgated via a Federal Register Notice.

DDTC notice:

http://www.pmddtc.state.gov/documents/LibyaSuspension_02262011.pdf

BIS Suspends All Libya EAR Export Licenses

The Bureau of Industry and Security (BIS) announced that effective 03/03/11, all licenses issued by BIS for exports or re-exports to Libya under the authority of the Export Administration Regulations (EAR) 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.

BIS notice: <https://www.bis.doc.gov/>



EU Regulation on Formaldehyde Certification China/HK Plastic Kitchenware Effective 7/1/2011

The European Commission recently laid down conditions and procedures, which will take effect 07/01/11, on the import of polyamide and melamine plastic kitchenware originating in or consigned from China and Hong Kong. According to the EC, such kitchenware has been reported to release into food levels of formaldehyde that are higher than those authorized under EC regulations, despite several EC initiatives to increase awareness of its requirements. Therefore, effective July 1, 2011, the EC will only allow polyamide and melamine plastic kitchenware originating in or consigned from China and Hong Kong to be imported into the Member States if the importer submits to the competent authority for each consignment a declaration and laboratory report confirming that the products comply with EU regulations regarding the release of primary aromatic amines and formaldehyde, laid down in Directive 2002/72/EC.

EC notice: http://www.europa-nu.nl/9353000/1/j4nvgs5kjg27kof_j9vvikqpopjt8zm/vile9rins9t7/f=/pdf

Japanese Shipping Could be Affected for Weeks Due to Earthquake/Tsunami

According to an initial assessment of the impact by BIMCO, an independent shipping association in Copenhagen. Japan's shipping industry and services will take a hit across the board, after the massive 8.9 magnitude earthquake and tsunami that slammed the country on 3/11/11. "Container shipping may be impacted by lack of exports from the Japanese factories, causing liner companies to leap-frog Japanese ports on their trans-Pacific trading lanes," BIMCO reported. "Both imports and exports may be affected by force majeure." Other analysts said the earthquake may be the most expensive natural disaster, with estimates of the insurance loss running as high as \$10 billion. In the short-term, demand for shipping will stop and only slowly start to move once things get back to normal.

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In the medium to long-term outlook, demand for shipping may be higher because of this natural disaster, noted BIMCO, which provides research for its membership, which consists of ship-owners, managers, brokers, agents and other maritime stakeholders. As reported, the ports in the northern part of the country are most affected by the quake and the tsunami. "All ports in that area are assumed to be out of order as operations have stopped and port facilities may have been washed away." More than 40 ships were scheduled to arrive or depart at the port of Yokohama on 03/11/11. The port ranked 39th on the JOC's list of Top 50 Global Container Ports for 2009, with volume of 2.8 million 20-foot equivalent units of containers. In addition, Dry bulk shipping may be impacted in many ways, as Japan is a major importer of thermal coal for power generation, iron ore and coking coal for steel production and grains for food and feedstock. Some 18 percent of Japan 's refining capacity was shut down by the quake. BIMCO notes tanker shipping may be affected as refineries are on fire, reducing product tanker demand.

www.joc.com (3/11/11)

Ocean Carriers Will Experience Container Shortage in Coming Months

Alphaliner forecasts ocean carriers will face a shortage of containers in the coming months as production of boxes lags growing cargo capacity. The box-inventory-to-vessel capacity ratio will drop to 1.99 by the end of the year from 2.03 in 2010. This is the lowest ratio on record and compares with the capacity ratio of 2.99 boxes per slot in 2000. Alphaliner, the Paris-based analyst, commented that back haul shippers from the U.S. and Europe will be hit hardest by the box shortage as carriers will need to quickly return empty containers to high demand locations in Asia . Ocean carriers and freight forwarders are also predicting a shortage of boxes later in the year will drive up freight rates, mirroring the situation last summer when lines imposed peak season surcharges of up to \$750 per 20-foot container on the Asia-Europe trade.

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In addition, Alphaliner noted the box-to-slot ratio has been shrinking gradually over the past decade, partly reflecting the more efficient management of equipment by container lines. Over the past decade the global inventory of containers grew 6.9 percent annually while the container ship fleet increased 11.1 percent per year. Container manufacturers also ceased production of standard boxes in 2009 to focus on reefer and specialized equipment.

However, the imbalance has stabilized since July, as container manufacturers resumed production and carriers halted the scrapping of older equipment. While carriers appear better prepared for the coming summer season, the surge in box prices would dampen additional orders for new containers. The industry has to adapt -- through faster turnaround of equipment, improved upkeep on old containers and extending the lifespan of boxes, reported Alphaliner. www.joc.com (3/8/11)

Report: Cyber-Spies to Wage Non-Stop Assaults on Defense Firms in 2011

Defense companies should expect to come under non-stop attack by countries engaging in cyberespionage in 2011, predicted experts at McAfee Labs, the research-and-development wing of the world's largest dedicated Internet security firm. January 2010's Operation Aurora helped coin a new term, the advanced persistent threat. Aurora, believed to have originated in China, successfully infiltrated dozens of U.S. companies with the goal of stealing source codes and other data. The spies used messages sent through emails that appeared to come from close friends or colleagues that asked them to link to photos. The link actually took them to a webpage that installed sophisticated worms that embedded deep within operating systems.

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This form of attack is called "spear-phishing" because unlike regular phishing scams that are sent out in mass emails, these are crafted for individual targets. Once a computer was infected and sent out a message to its creators that it had been enslaved, hackers were standing by 24/7 to exfiltrate data. This went on for several months before Google discovered the plot in January. McAfee defines an advanced persistent threat as one that originates from a nation-state and is carried out for motivations other than financial gain or political protest. "Companies of all sizes that have any involvement in national security or major global economic activities — even peripherally, such as a law firm advising a corporate conglomerate starting business in another country — should expect to come under pervasive and continuous APT attacks that go after email archives, document stores, intellectual property repositories, and other databases," the report said. Hand in hand with the advanced persistent threat will be the increasing use of social networking sites that publicly display personal information such as friends, relatives and likes and dislikes that can help cyber-spies craft spear-phishing messages. Attacks have gravitated toward social networking sites such as Facebook and Twitter as the use of email diminishes in favor of these popular sites. Short URLs, which allow users to abbreviate web addresses that are too long to cut and paste into status update boxes, are a particular concern because the recipient cannot tell by looking at it if it is a legitimate site or not. Dmitri Alperovitch, one of the report's co-authors, said social networking sites can be used in two ways. They can be compromised and used to launch an attack on a person connected to a company of interest to hackers. And they can also be used to conduct research. A cyber-spy can find out the names of friends of his target, discover the target's interests — windsurfing for example — and then craft a message sent through instant messaging, email, or social networking sites that appears to come from a friend who has windsurfing pictures. "Social media connections will eventually replace email as the primary vector for distributing malicious code and links," the report said. The coming year will see increased attacks on both mobile devices and Apple operating systems, the report also predicted. It acknowledged that past predictions of increased vulnerabilities to smart phones and their like have not come to pass, but 2011 will be a "turning point for threats to mobile devices," the report said.

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As far as Apple, the day when cyber-criminals and spies bypassed its software for the more popular Windows systems have come and gone. The popularity of the iPad and iPhone in business applications makes them another conduit for spies to gain access to defense firms and for their users to unwittingly pass around malicious codes. Company employees are increasingly coming to their IT departments and asking them to connect iPhones and other popular devices to their organizations' networks, Alperovitch said. They must take care to ensure they have the proper encryption and that the data could be destroyed remotely if a device is lost or stolen, he added. Applications that are rushed into the market for mobile devices pose another risk, the report said. The lab has already seen poorly developed "apps" that are rushed to market with security flaws.

WWW.NATIONALDEFENSEMAGAZINE.ORG

United States Citizen Gets 4 Years for Trying to Spy for China

ALEXANDRIA, Virginia (Reuters) - A Michigan man was sentenced on Friday to four years in prison for trying to get a job with the CIA so he could spy for China, just as Chinese President Hu Jintao was wrapping up his U.S. visit. Glenn Shriver, 29, pleaded guilty in October to conspiracy to communicate national defense information after admitting he met Chinese officials about 20 times and took about \$70,000 from Chinese intelligence officers.

Shriver said at the sentencing hearing he made a "terrible decision" to try to spy for China and "somewhere along the way I got into bed with the wrong people." U.S. District Judge Liam O'Grady sentenced Shriver to four years in prison, as called for in the plea agreement, followed by two years of supervised release. "Mr. Shriver sold out his country and repeatedly sought a position in our intelligence community so that he could provide classified information to the PRC (People's Republic of China)," U.S. Attorney Neil MacBride said in a statement. Prosecutors said Shriver was caught before he could begin working at the Central Intelligence Agency and that he never was close to getting access to classified information.

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Shriver spent a year during college studying in Shanghai in 2002-2003 and moved there in 2004 to continue his studies and to work. Prosecutors said he responded to an advertisement for a writer on U.S.-Sino relations and the contact he met later introduced him to Chinese intelligence agents. Shriver took the U.S. Foreign Service exam twice at the State Department, failing both times, but the Chinese still paid him \$30,000 for his "friendship" and efforts, according to court papers.

He then applied for a job in the CIA's National Clandestine Service and demanded \$40,000 from the Chinese intelligence officers, according to prosecutors.

During his final employment processing last May, he failed to disclose his contacts and the money he received.

Shriver said he considered the initial contacts "very innocuous" and the offers of money were explained to him as a stipend for living expenses. He said only once did the Chinese contacts say they wanted U.S. secrets.

The sentencing came as Hu wrapped up a four-day visit to the United States that included talks with President Barack Obama and the announcement of numerous commercial deals. Relations between the two countries have been strained at times over issues including China's currency policies and its position as the largest foreign holder of U.S. debt, as well as tensions over the nuclear ambitions of Iran and North Korea.

WWW.REUTERS.COM

Judge Sentences Former B-2 Engineer to 32 Years for Selling Secrets to China

A former B-2 stealth bomber engineer was sentenced to 32 years in prison Monday for selling military secrets to China in the latest of several high-profile cases of Chinese espionage in the U.S. Chief U.S. District Judge Susan Oki Mollway said Noshir Gowadia, 66, would likely be in his late 80s by the time he is released if he gets credit for good behavior in prison. "He broke his oath of loyalty to this country," Mollway said. "He was found guilty of marketing valuable technology to foreign countries for personal gain." Gowadia was convicted in August on 14 counts, including communicating national defense information to aid a foreign nation and violating the arms export control act.

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. Prosecutors said Gowadia helped China design a stealth cruise missile to get money to pay the \$15,000-a-month mortgage on his luxurious multimillion dollar home overlooking the ocean on Maui. They say he pocketed at least \$110,000 by selling military secrets. The defense argued Gowadia only provided unclassified information to China and was innocent. His son, Ashton Gowadia, told reporters the jury wasn't able to see documents that would absolve his father of the crimes because they were deemed classified. He said his father's defense team would present these during an appeal. "My father would never, ever do anything to intentionally to hurt this country," Ashton Gowadia said. "We hope the convictions will be overturned and he'll be able to go home." Assistant U.S. Attorney Ken Sorenson, the lead prosecutor, had asked Mollway to sentence Gowadia to life in prison. But he said 32 years was a stiff and appropriate sentence given Gowadia's age. "We're confident the message is sent that when you compromise U.S. national security, when you disclose national defense secrets, when you profit by U.S. national defense information, that you will be punished, you will be pursued, you will be convicted," Sorenson told reporters. A federal jury in Honolulu found Gowadia helped China design a cruise missile exhaust nozzle that would give off less heat, allowing the missile to evade infrared radar detection and U.S. heat-seeking missiles. . The jury, after hearing 39 days of evidence over nearly four months, also found Gowadia guilty of attempting to sell classified stealth technology to the Swiss government and businesses in Israel and Germany. The case follows other high-profile convictions of people accused of providing secrets to China. Last March, Chinese-born engineer Dongfan "Greg" Chung was sentenced to more than 15 years in prison after he was convicted of six counts of economic espionage and other federal charges. A defense contractor engineer, Chi Mak, was sentenced in 2008 to 24 years in prison after being convicted of conspiracy to export U.S. defense technology to China. Gowadia's sentencing came just weeks after China conducted a flight test of its new J-20 stealth fighter during a visit to Beijing by U.S. Defense Secretary Robert Gates.

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The Jan. 11 flight was held at an airfield in Chengdu, where prosecutors said Gowadia delivered an oral presentation on classified stealth technology in 2003. Chengdu is a center for Chinese fighter aircraft and cruise missile research and development. The judge sentenced Gowadia to 32 years for each of two counts of communicating national defense information to aid a foreign nation. She also gave him 20 years for each of four counts of violating the arms export control act, and 10 years for each of five lesser counts including money laundering. He received five years for one count of conspiracy and three years for two counts of filing a false tax return. But Mollway ordered the sentences to run together. Gowadia has already spent more than five years at Honolulu's federal detention center after he was ordered held without bail following his 2005 arrest. The engineer helped design the propulsion system for the B-2 bomber when he worked at Northrop Corp., now known as Northrop Grumman Corp., between 1968 and 1986. Born in India, Gowadia moved to the U.S. for postgraduate work in the 1960s and became a U.S. citizen about a decade later. He moved to Maui in 1999. ASSOCIATED PRESS
January 24, 2011

California Man Pleads Guilty to Attempting to Export Military Items to Iran

WILMINGTON, Del. - Marc Knapp, 35, of Simi Valley, Calif., pleaded guilty today to engaging in a seven-month course of criminal conduct involving illegal exports to Hungary and attempted exports to the Islamic Republic of Iran and Russia. This guilty plea resulted from an investigation conducted by U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI). The announcement was made by Charles M. Oberly, III, U.S. Attorney for the District of Delaware; John P. Kelleghan, special agent in charge of ICE HSI in Philadelphia; and Edward T. Bradley, special agent in charge, Defense Criminal Investigative Service, Northeast Field Office.

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"HSI will continue to pursue those who are willing to put America's national security at risk" said Special Agent in Charge Kelleghan. "The export of technology to Iran is controlled so that it cannot be used to harm America or its allies. Enforcing export laws are one of HSI's top priorities and we will continue to work with our partners to ensure that those who send prohibited items to Iran are brought to justice."

The information charges Knapp with one count of violating the International Emergency Economic Powers Act, Title 50, United States Code, Sections 1702 and 1705(c), and Executive Order 13222, and Title 31, Code of Federal Regulations, Sections 560.204-560.205, and one count of violating the Arms Export Control Act, Title 22, United States Code, Sections 2778(b)(2) and 2778(c), and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, and 127.1. Knapp faces a maximum statutory sentence of 30 years' incarceration, followed by three years supervised release, a \$2,000,000 fine, forfeiture, and a \$200 mandatory special assessment.

The information charges that Knapp engaged in a seven-month course of criminal conduct involving illegal exports to Hungary and attempted exports to the Islamic Republic of Iran and Russia. As set forth in the Information, as well as affidavits accompanying a Criminal Complaint and various search warrants, Knapp's conduct involved the illegal export and attempted export of the following United States defense articles: an F-5B Tiger II fighter jet; five (5) CSU-13 Anti-Gravity (Anti-G) Flight Suits, which are worn by pilots to counteract the forces of gravity and acceleration; one F-14 NATOPS emergency procedures manual, which is designed for use by pilots during in-flight emergencies in F-14A & B (Tomcat), F-5 (Tiger II) and F-4B (Phantom) fighter jets; three (3) electronic versions of the NATOPS emergency procedures manual; four (4) AN/PRC-149 Survival radios, which are hand-held search and rescue radios used primarily by U.S. Navy pilots as an emergency locator beacon; and two (2) F-14 (GRU-7A) Ejection Seats. According to documents that have been unsealed and information placed in the court record, a cooperating defendant introduced Knapp to an undercover HSI special agent ("UC").

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Between December 2009 and July 2010, the UC met with Knapp on several occasions, at locations in California, Pennsylvania, Delaware, and Budapest, Hungary. During the meetings, Knapp informed the UC that he had various defense items for sale. He also admitted to procuring an F-14 (GRU-7A Ejection Seat), which was sold to the UC by the cooperating defendant. Over the course of their interaction, Knapp provided the UC with various lists containing items for sale, and he sent photographs and descriptions to the UC via email.

On two occasions, Knapp exported items outside the United States. On Feb. 22, 2010, Knapp exported two (2) CSU-13 Anti-Gravity flight suits and a NATOPS emergency procedures manual to an address in Hungary; and on May 13, 2010, Knapp exported an additional three CSU-13 Anti-Gravity flight suits to an address in Hungary. On a third occasion, Knapp sold the UC an F-14 (GRU-7A) ejection seat. On March 17, 2010, Knapp delivered the seat to a shipping company located in California. Knapp identified the item to the shipping company as a "museum display chair," and he provided the shipping company with a consignee's address in Denmark from which it was to be transshipped to Iran. After Knapp left the shipping company, HSI agents seized the ejection seat prior to its export outside the United States.

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Knapp first broached the idea of obtaining an F-5 fighter jet from a source in California to sell to the UC in January 2010. Knapp told the UC that the "Iranians" might be interested in various items, including the F-5 fighter jet, and stated that he was not concerned whether the jet or the other items ended up in Iran. Knapp stated on January 4, 2010: "We're essentially ... for lack of a better term, ... leveling the playing field...."

Knapp also asked the UC whether he had customers in China or Russia who would be interested in pilot emergency radios for use in locating downed pilots. Knapp explained that the customers would be able to "just listen in" to locate the downed pilot, and would therefore be interested in reverse-engineering the radios.

During a Jan. 13, 2010 meeting in California, Knapp took the UC to an airport to inspect the aircraft. Over the course of the next several months, the UC and Knapp had multiple conversations regarding transporting the aircraft from California to a freight forwarder in Delaware; determining appropriate transshipment points to Iran; and devising a payment scheme. They also arranged to meet in Budapest, Hungary, to discuss the purchase.

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HAPPY SPRING



On Apr. 29-30, 2010, the UC and another undercover law enforcement officer posing as an Iranian intermediary, met with Knapp in Budapest. During the meetings, Knapp explained that he would have a contact fly the F-5 from California to the East Coast, where it would subsequently be crated and shipped to Hungary for transshipment to Iran. Knapp said that the F-5 would be flown cross-country using "uncontrolled" airports. Knapp also displayed additional photographs of the F-5 on his laptop computer. Knapp also discussed making payment for the F-5 into a "trust" and setting up documents to make the payment look like a "gift" or a "loan". Knapp also stated: "[A]s more and more time goes on, I'm starting to hate the U.S. more and more...."

On July 9, 2010, Knapp sent a contract for the F-5 fighter jet to the UC via the United States mail. The body of the contract (entitled "Contract for acquisition and transport of F-5B from CA to DE") set forth in detail the purchase price and terms for the sale of the aircraft. The contract further set forth the timing (approximately four weeks) for flying the F-5 to Delaware after the UC transferred \$3.25 million into a bank account specified by Knapp. In addition, the contract provided terms for insurance, registration, and operational costs of flying the aircraft from California to Delaware. Knapp further noted that his requested commission would be \$500,000, "with 50% paid on the date of arrival and landing of the aircraft at the DE (New Castle) or other agreed on airport, and 50% paid at the time of arrival at destination."

On July 20, 2010, Knapp met with the UC at a location in Wilmington, Delaware. Knapp brought to the meeting various defense items, including the four AN/PRC-149 handheld search and rescue radios, which the UC agreed to purchase for \$11,000.

The UC told Knapp the customer was Russian, to which Knapp replied: "Awesome." Knapp amplified: "Whoever your customer is, I'm happy with." Knapp stated that he was going to open an offshore bank account for the proceeds of the F-5 sale. Knapp and the UC discussed the logistics of flying the F-5 fighter jet from California to Delaware, and preparing the jet for transshipment to Iran. UC told Knapp that the Iranians expected Knapp to make a personal guarantee that the aircraft would arrive in Iran and that it would be operational.

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Knapp explained that the Iranians would know that it was in working order based upon his transport of the plane from California to Delaware. He further stated that what the Iranians had already seen in photographs was what they would get. According to Knapp, the only thing he would not be able to test was the weapons systems. The UC asked whether he could tell the Iranians that Marc Knapp personally guaranteed the aircraft, to which Knapp replied that he could. The parties then signed the contract.

Knapp was provided with a power of attorney form for use in exporting the F-5. He stated that he would use a false name and said that he would describe the item to be shipped as a "Museum Display Shell."

Following the meeting, ICE HSI and DCIS agents placed defendant under arrest. "This case demonstrates the threat to our national security posed by those, like Knapp, who are willing to trade with Iran and attempt to provide that nation with American goods and technology, particularly military components," said U.S. Attorney Oberly. "I applaud our law enforcement partners for their exceptional dedication in pursuing this major investigation. "The Defense Criminal Investigative Service remains vigilant for offenders both within and outside our borders who intend to harm our nation's security," said Special Agent in Charge Bradley. "The unlawful sale of sensitive Defense technology increases hostile nations' ability to injure U.S. military forces. Our mission of protecting America's Warfighters remains paramount and is substantially furthered by these cooperative, priority investigations." This case is being prosecuted by David L. Hall and Robert F. Kravetz, Assistant U.S. Attorneys.

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