

# Don't Let this Happen to You!!!

## NEOPOINT, INC.

In February of 2002, the Bureau of Export Administration imposed a \$95,000 civil penalty on Neopoint, Inc., of San Diego, California, to settle charges that on ten occasions between March 1998 and June 1999, the company exported 128-bit encryption software to South Korea without the requisite export licenses.

## ELI COHEN

On January 30, 2002, the Commerce Department imposed a \$10,000 civil penalty, and a five year denial of export privileges, on Eli Cohen of Haifa, Israel, pursuant to a settlement agreement. The Department's Bureau of Export Administration (BXA) had alleged that Cohen had concealed an illegal transfer of an infrared camera from BXA agents. According to BXA's charging letter, Eli Cohen provided false and misleading information to Special Agents of BXA's Office of Export Enforcement concerning the camera's location when the agents sought to verify its end-use in Israel. The camera is capable of locating objects in day, night or adverse weather conditions, because of its ability to detect radiating heat. The camera was shipped to Israel under a BXA export license that authorized

its use only by the company named on the license, but was then illegally transferred. BXA controls the export of this type of camera for national security reasons because of its potential application in military surveillance.

## BS&B PROCESS SYSTEMS

BS&B Process Systems Inc. settled charges that on or about April 15, 1996, on or about May 5, 1997, and on or about February 5, 1998, BS&B Process Systems, Inc. exported oil production equipment from the United States to Iran, through the United Kingdom, without obtaining the authorization it knew or had reason to know was required, thereby committing violations of Sections 764.2(a) and 764.2(e) of the Regulations, and that in connection with the export to Iran on or about May 5, 1997, BS&B Process Systems Inc. prepared a Shipper's Export Declaration stating that the ultimate destination of the export was the United Kingdom, when in fact the ultimate destination was Iran, thereby making a false or misleading representation directly or indirectly to a U.S. Government agency in connection with the preparation of an export control document in violation of Section 764.2(g) of the Regulations, and that, in connection with the export to Iran on or about February 5, 1998, BS&B Process

Systems, Inc. failed to prepare the required SED, thereby violating Section 764.2(g) of the Regulations.

On January 17, 2002, BS&B Process Systems Inc. was sentenced in federal court in Tulsa, Oklahoma for violating the International Emergency Economic Powers Act for making an unauthorized export to Iran. The company agreed to pay a criminal fine of \$414,000 and a \$400 special assessment. The company agreed to pay the Commerce Department an additional fine of \$86,000 to settle administrative charges brought against it. The company also agreed that its export privileges would be suspended for three years, with all three years suspended provided it commits no further violations during this period.

Black Sivalls & Bryson (UK) Ltd., a company affiliated with BS&B Process Systems Inc., also settled charges that on or about April 15, 1996, on or about May 5, 1997, and on or about February 5, 1998, Black Sivalls & Bryson (UK) Ltd., a United Kingdom corporation, received oil production equipment in the United Kingdom that it knew or had reason to know BS&B Process Systems, Inc., had exported from the United States without the required authorization, and forwarded the items to Iran, thereby violating Section 764.2(e) of the Regulations.

On January 17, 2002, Black Sivalls & Bryson (UK) Ltd. was sentenced in federal court in Tulsa, Oklahoma for violating the International Emergency Economic Powers

Act, 50 U.S.C Appendix Section 1702 et seq, for making an unauthorized export to Iran. The company agreed to pay a criminal fine of \$448,000 and a special assessment of \$400. The company agreed to pay the Commerce Department an additional \$52,000 to settle administrative charges brought against it. In addition, the company agreed that its export privileges would be denied for three years, with two years of the denial suspended provided the company commits no further violations during this period.

### KAISER ALUMINUM & CHEMICAL CORPORATION

On December 28, 2001, the Commerce Department imposed a \$210,000 civil penalty on Kaiser Aluminum & Chemical Corporation of Houston, Texas, to settle charges that it illegally exported sensitive items without Department of Commerce authorization.

The agreement settled allegations that, between February 1996 and March 1999, Kaiser made 12 shipments of potassium fluoride to Jamaica and 10 shipments of high-strength aluminum rod to Israel and Taiwan without the required Department of Commerce export licenses. Potassium fluoride is a precursor for the production of toxic chemical agents. High-strength aluminum rod can be used to manufacture equipment for the enrichment of uranium. The Department of Commerce controls the export of these items to prevent the proliferation of weapons of mass destruction.

Kaiser voluntarily disclosed the unlicensed exports of potassium fluoride but not the shipments of the aluminum rod, and cooperated fully in the investigation. As part of the settlement, \$45,000 of the penalty was suspended.

## LION PRECISION

On December 20, 2001, the Commerce Department imposed a \$52,500 civil penalty on Automated Quality Technology, doing business as Lion Precision, of Shoreview, Minnesota. The penalty settles allegations that the company illegally exported measuring probes on seven occasions between June 1996 and December 1997, to Singapore, Taiwan, and Thailand. A portion of the penalty, \$42,500, was suspended for two years and will be waived, provided that the company does not commit any violations during this period. The probes that were exported were high performance devices, capable of precise measurements in the construction of military equipment. The Commerce Department's Bureau of Export Administration controls the export of these items for nuclear nonproliferation and national security reasons.

## MCDONNELL DOUGLAS

On November 14, 2001, the Department of Commerce imposed a \$2.12 million civil penalty against McDonnell Douglas Corporation of St. Louis, Missouri, as part of a settlement of charges that the

company violated federal export control laws. The penalty was the maximum fine possible for the alleged violations and was the second-largest civil fine ever imposed by the Commerce Department in an export control case.

The Order imposing the penalty concluded a six-year investigation into exports of machine tools to China between 1994 and 1995. The Department alleged that McDonnell Douglas submitted license applications containing false and misleading statements about the end-use and end-user of the machine tools. The Department also alleged that the exports violated the conditions of U.S. export licenses issued to the company.

In addition to the civil penalty, the Order and settlement agreement require that McDonnell Douglas' parent company, The Boeing Company, assume responsibility and liability for all exports under the Commerce Department's jurisdiction made or to be made by McDonnell Douglas.

In a related case concluded in May 2001, the Department had imposed a \$1.32 million civil penalty and a denial of export privileges on a group of Chinese government-owned companies and their U.S. affiliates that had received the machine tools from McDonnell Douglas.

## DETECTOR ELECTRONICS

On November 8, 2001, the Commerce Department imposed a \$15,000 civil penalty on Detector Electronics Corporation of Minneapolis, Minnesota. The penalty settled

allegations that the company exported U.S.-origin ultraviolet fire detection systems to India on two occasions between November and December 1998, without the required Department of Commerce export licenses. The goods were exported to Bharat Heavy Electrical Limited, an organization on the Entity List.

### FLUOROWARE, INC., NOW OWNED BY ENTEGRIS, INC.

On October 22, 2001, the Commerce Department imposed a \$496,000 civil penalty on Entegris, Inc., of Chaska, Minnesota. The Department had charged that , on 124 occasions between February 1996 and December 1998, Fluoroware, Inc., now owned by Entegris, Inc., exported diaphragm valves and components to the People's Republic of China, Israel, and Taiwan without the required Department of Commerce export licenses. The Department agreed to suspend \$96,000 of the \$496,000 penalty. Payment of the suspended amount will be waived after one year, provided that Entegris does not violate either the Export Administration Act or the Export Administration Regulations or fail to meet other conditions of the Department's order imposing the civil penalty. The Department's Bureau of Export Administration controls the export of valves such as these and their components because of their ability to be used in the manufacture of chemical weapons.

### THANE-COAT, INC. ET AL.

On May 5, 1997, BXA's Assistant Secretary for Export Enforcement issued a Temporary Denial Order (TDO) denying all U.S. export privileges of Thane-Coat, Inc., of Stafford, Texas; its president, Jerry Vernon Ford; its vice-president, Preston John Engebretson; and two affiliates, Export Materials, Inc., of Stafford Texas, and TIC, Ltd., of Freeport, The Bahamas. BXA took this action based on evidence that, between 1994 and 1996, Thane-Coat, Inc., through Ford and Engebretson, and using Export Materials, Inc. and TIC, Ltd., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts valued at \$35 million to Libya via the United Kingdom and Italy, without the authorizations required under U.S. law. BXA became aware of the shipments as a result of a joint investigation conducted by the Office of Export Enforcement's Dallas, Texas Field Office, the U.S. Customs Service, and the U.S. Attorney's Office in Houston, Texas.

The U.S.-origin commodities that were shipped to Libya were for coating the internal surface of prestressed concrete cylinder pipe for use in the Government of Libya's Great Man-Made River Project. This is a multi-phase, multi-billion dollar engineering endeavor designed to bring fresh water from wells drilled in southeast and southwest Libya to its coastal cities. The United States Government maintains a comprehensive economic sanctions program against the Government of Libya that prohibits virtually all commercial transactions involving U.S.-origin commodities or services of U.S. persons, or both, with the Government of Libya, unless specifically authorized.

The respondents to the Administrative Law Judge for relief from the TDO but were unsuccessful. They then challenged the TDO in the U.S. District Court in Houston, Texas. The Court upheld the TDO. BXA renewed the TDO with certain modifications.

On July 12, 1999, BXA's Under Secretary issued an order affirming the Administrative Law Judge's recommended decision and order of June 11, 1999. The Under Secretary imposed a 20-year denial of export privileges on two of Thane-Coat Inc.'s affiliates, Export Materials, Inc., of Stafford, Texas and TIC, Ltd., of Freeport, The Bahamas, for their involvement in the conspiracy. In a separate proceeding, BXA's Assistant Secretary for Export Enforcement renewed the TDO as to Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson. This TDO was renewed periodically.

On April 26, 2000, a federal grand jury in Houston, Texas, returned a 39-count criminal indictment against Thane-Coat, Inc., Jerry Vernon Ford, Preston John Engebretson, Eshbach Ltd., and TAM Ltd. The indictment against Thane-Coat, Inc., Ford, Engebretson, Eshbach Ltd., and TAM Ltd. charged the defendants with conspiracy, false statements, unauthorized exports, money laundering, and criminal forfeiture regarding the export of concrete pipe coating materials, spray machines and parts valued at over \$20 million to the Great Man-Made River Project in Libya.

On August 8, 2001, a superseding

criminal information was filed by the U. S. Attorney's Office, Houston, Texas charging Jerry Vernon Ford and Preston John Engebretson each with one count of violating the International Emergency Economic Powers Act (50 U.S.C. Appendix, Section 1701 et seq.) by making unauthorized exports to Libya. On October 11, 2001, Ford and Engebretson pled guilty in U.S. District Court to one count each of violating the International Emergency Economic Powers Act by exporting pipe coating materials to Libya. Ford and Engebretson each received three years probation and each was required to forfeit property that previously had been seized by the government and was valued at \$800,000.

In settlement of administrative charges, on January 24, 2002, BXA's Assistant Secretary for Export Enforcement imposed a \$1.12 million civil penalty on Thane-Coat, Inc. Thane-Coat's export privileges, as well as those of the company's president, Jerry Vernon Ford, and its vice-president, Preston John Engebretson, also were denied for a period of 25 years. BXA alleged that these parties committed 112 violations of the Export Administration Regulations, including conspiracy, failing to obtain the required BXA export licenses, and making false representations on Shipper's Export Declarations. Thane-Coat, Inc. was required to pay \$600,000 of the penalty within 90 days of the date of the order. Payment of the remaining \$520,000 was suspended for two years and will be waived provided that Thane-Coat does not commit any violations during the two year period.

**ANSIMAG, INC., A SUBSIDIARY OF**

## THE SUMNER CORPORATION

On September 19, 2001, the Commerce Department imposed a \$75,000 civil penalty on The Sumner Corporation, of Evanston, Illinois. The penalty settled allegations that Ansimag, Inc., a subsidiary of The Sumner Corporation, had, between October 1995 and January 1998, illegally exported centrifugal pumps on 15 occasions to Israel and Taiwan. The Commerce Department's Bureau of Export Administration controls these specific centrifugal pumps because of their ability to be used in the development of chemical weapons.

## PARS COMPANY, INC.

On September 4, 2001, Pars Company, Inc. plead guilty to exporting two STX Gas Monitors to Iran through the United Arab Emirates without the required U.S. Department of Commerce license, in violation of the International Emergency Economic Powers Act. As a result of the plea, Pars Company, Inc. was ordered to pay a \$10,000 criminal fine.

## FJ TECHNOLOGY, INC.

On July 3, 2001, Zhongda "Mark" Jin and FJ Technology, Inc., of San Jose, CA were indicted for the illegal export and conspiracy to illegally export chemicals to the People's Republic of China. An Arrest Warrant has been issued for Zhongda Jin, who has fled the U.S. and is believed to be in the People's Republic of China.

On July 31, 2001, the Commerce Department denied the export privileges of FJ Technology and Mark Jin also known as Zhongda Jin for a period of 25 years.

## SAEED HOMAYOUNI/YEW LENG FUNG/MULTICORE, INC.

On June 11, 2001, Saeed Homayouni and Yew Leng Fung, officials of Multicore, Inc. of Bakersfield, California, pleaded guilty in U.S. District Court, in San Diego in connection with the firm's purchase of commercial and military aircraft parts and missile components, for export to Iran. Homayouni pleaded to a charge of conspiracy to violate the Arms Export Control Act and the International Emergency Economic Powers Act. Fung pleaded guilty to misprision of a felony. On September 4, 2001, Homayouni was sentenced to two years imprisonment and Fung was sentenced to time served (ten months). Fung was transferred to the custody of the Immigration and Naturalization Service to begin deportation proceedings.

## IMMEDIATE CUSTOMS SERVICE INC.

On June 6, 2001, the Commerce Department imposed a \$30,000 civil penalty against Immediate Customs Service Inc., an international freight forwarder and customs broker. The civil penalty was based on a finding that on four occasions, Immediate Customs Service engaged in export transactions with a person whose U.S. export privileges had been denied. The denied person, Cosmotrans AG, was a Swiss based customs broker that had its export

privileges denied for 20 years in 1988 based on a Department of Commerce finding that it illegally diverted electronic test equipment, controlled for national security reasons, to the former Soviet Union.

The penalty on Immediate Customs Service was imposed after a hearing before an administrative law judge and review by the BXA Under Secretary. The Under Secretary ordered that Immediate Customs pay \$10,000 of the fine and suspended payment of the remaining \$20,000.

### COLLIN XU / YI YAO / LION PHOTONICS

On March 9, 1999, a grand jury in Boston returned an indictment charging Collin Xu, Yi Yao, Lion Photonics, of Montreal, Canada, and Lion Photonics, of Beijing, China, with illegally exporting fiber optic gyroscopes to China, via Canada. The investigation disclosed that the defendants falsely described the exported items as fiber sensors for optical communication and listed Canada as the country of ultimate destination. On November 9, 2000, Xu pled guilty to a conspiracy to violate the Arms Export Control Act and was sentenced to 30 months in prison and 36 months supervised release. On February 1, 2001, Yi also pled guilty to a conspiracy to violate the Arms Export Control Act and was sentenced on April 10, 2001, to 30 months in prison and 36 months supervised release.

### IMMUNOSTICS INC.

On September 17, 1999 Immunostics Inc., of Ocean, NJ, a manufacturer and distributor of medical test equipment including microbiological, serological and immunological reagents, pleaded guilty in U.S. District Court, Newark, NJ to a Criminal Information charging said firm with providing fraudulent export documents to both the U.S. Department of Commerce and the U.S. Customs Service. The plea was entered by Kenneth Kupits, Immunostics' president and chief executive officer, on behalf of the corporation, before District Judge William G. Bassler.

On February 14, 2000 Judge Bassler sentenced Immunostics to five years probation and imposed a \$60,000 criminal fine.

A two year investigation by the, Office of Export Enforcement's New York Field Office and the U.S. Customs Service, Newark, NJ disclosed that on more than 80 occasions, Immunostics supplied foreign customers in 17 different countries, with two commercial invoices for a particular shipment. One such invoice accurately reflected the cost of product and was directly sent to the customer for purposes of payment. A false invoice and corresponding Shipper's Export Declaration, reflecting a substantially lower cost of product was submitted in connection with the export, to be filed with the United States Customs Service and the Department of Commerce. The overseas companies were thereby able to provide documents to their respective import tariff authorities, reflecting undervalued purchases.

## OPTO POWER

On May 22, 2001, the Commerce Department imposed a \$80,000 civil penalty (\$40,000 suspended) on Opto Power Corporation of Tucson, Arizona. Opto Power paid the penalties as part of a settlement of charges that it illegally exported diode lasers to Israel between 1995 and 1997 on sixteen separate occasions.

## UCAR INTERNATIONAL, INC.

On May 22, 2001, the Commerce Department imposed a \$237,000 civil penalty on UCAR International, Inc., of Nashville, Tennessee. The penalty settles allegations that the company illegally exported ATJ grade graphite to various foreign countries over a period of two years. The Commerce Department's Bureau of Export Administration controls ATJ grade graphite because of its usage in rocket nozzles and reentry vehicle nose tips.

## TAL INDUSTRIES, INC.

On May 11, 2001, criminal and civil sanctions were imposed on TAL Industries, Inc., a wholly owned subsidiary of the China National Aero-Technology Import and Export Corporation (CATIC), a People's Republic of China (PRC) government owned corporation. TAL entered a plea of nolo contendere to a felony violation of the Export Administration Act for making false and misleading statements in connection with

an application submitted by the McDonnell Douglas Corporation (MDC) and CATIC for a license to export machine tools to the PRC. Pursuant to the plea, TAL was sentenced to pay a criminal fine of \$1 million and to the maximum 5-year period of corporate probation. TAL and related Chinese entities were indicted by a federal grand jury in October 1999. TAL's plea marks the first time in U.S. history that a corporate entity, wholly owned by the PRC, has waived sovereign immunity and been convicted of a criminal offense against the United States.

In addition, the Commerce Department imposed a \$1.32 million fine and denied TAL's export privileges for a period of 10 years. CATIC, CATIC USA, and CATIC Supply were denied export privileges for a period of five years, all of which were suspended provided that they comply with the terms of the denial order and do not violate the Export Administration Act or Regulations during the denial period. Further CATIC, CATIC USA, CATIC Supply, and TAL agreed to cooperate with the Commerce Department in any other administrative proceedings related to the export of the machine tools to China.

## DOW BENELUX N.V.

On May 9, 2001, the Commerce Department imposed a \$30,000 civil penalty on Holland-based Dow Benelux N.V., a wholly-owned subsidiary of Dow Chemical Company. The Commerce Department alleged that Dow Benelux N.V. reexported U.S.-origin triethanolamine to the Ivory Coast and Turkey without obtaining the required



authorizations.

Dow Benelux N.V. neither admitted nor denied the allegations, but agreed to pay a \$30,000 civil penalty, \$10,000 of which was suspended. Payment of the suspended amount will be waived at the end of one year, provided that Dow Benelux N.V. does not violate the Export Administration Act or Regulations during that period. Dow Benelux N.V. voluntarily disclosed the violations. Special Agents from the Commerce Department's Office of Export Enforcement Chicago Field Office investigated the case.

### OPTICAL ASSOCIATES, INC.

On April 26, 2001, the Commerce Department denied the export privileges to India of Optical Associates, Inc., of Milpitas, California, for the illegal export of semiconductor manufacturing equipment to India. Optical Associates also received a criminal fine of \$100,000 and was placed on two years probation by the U.S. District Court for the Northern District of California.

On March 7, 2001, Optical Associates pled guilty in district court to illegally exporting the equipment to the Bhaba Atomic Research Center, a division of India's Department of Atomic Energy, without the required Department of Commerce license. On March 15, 2001, the Department of Commerce denied Optical Associates its U.S. export privileges to India for three years.

### QUEST TECHNOLOGIES, INC.

On April 26, 2001, the Commerce Department imposed a \$225,000 civil penalty on Wisconsin based Quest Technologies, Inc., for exporting chlorine and sulphur dioxide gas sensors to Vietnam, Taiwan, India, the United Arab Emirates, Egypt, and Saudi Arabia, on 45 separate occasions between January 1997 and March 2000, without obtaining Department of Commerce licenses as required. The Department agreed to suspend \$135,000 of the \$225,000 penalty. Payment of the suspended amount will be waived at the end of the year, provided that Quest Technologies, Inc., does not violate either the Export Administration Act and the Export Administration Regulations or fail to meet other conditions of the Department order imposing the civil penalty. Special Agents from the Commerce Department's Chicago Office of Export Enforcement investigated the case.

### REFINERY INDUSTRIES, INC.

On March 12, 2001, criminal and civil sanctions were imposed on Refinery Industries, Inc., of Budd Lake, New Jersey, for attempted exports of gas detection equipment to Iran. The company received five years probation from Judge Dickenson R. Debevoise of the U.S. District Court in Newark, New Jersey. As part of the plea agreement in the criminal case, the company agreed to forfeit the seized 195 units of methane gas detectors to the U.S. government. The Commerce Department imposed a \$22,000 civil penalty against Refinery Industries, Inc., and denied the export privileges of the company and its president, Mahmood Reza Hashemi, for a period of ten years, five years of which were

suspended.

The Commerce Department alleged that between May 1998 and August 1998, Refinery Industries, Inc., attempted to export illegally gas detection equipment to Iran. The Commerce Department's New York office of Export Enforcement investigated the case.

### LIFE TECHNOLOGIES, INC.

On February 28, 2001, the Commerce Department imposed a \$230,000 civil penalty on Life Technologies, a Division of Invitrogen Corporation (Life Technologies, Inc.) of Rockville, Maryland, to settle allegations that the company illegally exported biotoxins to Australia, Belgium, Germany, Hong Kong, Japan, Peru, and the United Kingdom.

The Department alleged that on 46 separate occasions in 1995 and 1996, Life Technologies, Inc., exported alpha-toxin and microcystin without the required licenses. The toxins are controlled because they can be used in the development or production of chemical and biological weapons.

Life Technologies voluntarily disclosed the violations to the Department and cooperated fully in the investigation. As part of the settlement, \$100,000 of the penalty was suspended. Commerce's Office of Export Enforcement Washington Field Office investigated the case.

### WORCHELL TRANSPORT, INC.

On October 23, 2000, the Commerce Department imposed a \$40,000 civil penalty on Worchell Transport, Inc., doing business as Prime Transport, a freight forwarder and customs broker, in Springfield Garden, New York. The civil penalty resolved allegations that on eight separate occasions Prime Transport engaged in export transactions with a person whose U.S. export privileges had been denied. In this case, Prime Transport shipped U.S.-origin commodities to Cosmotrans AG in Switzerland. The Department denied Cosmotrans' U.S. export privileges in 1988 for 20 years. The transactions that led to the penalty on Prime Transport took place in 1995 and 1996. As part of the settlement, the Department will suspend \$7,000 of the \$40,000 fine for one year, and will waive that amount provided that Prime Transport commits no further violations. Special Agents from Commerce's Export Enforcement office in New York investigated the case.

### TRIJICON, INC.

On September 29, 2000, the Commerce Department imposed a \$64,000 civil penalty on Trijicon, Inc., a Michigan company, to settle allegations that it illegally exported U.S.-origin optical sighting devices for firearms.

The Commerce Department alleged that on four separate occasions between 1994 and 1998 Trijicon, Inc., exported U.S.-origin optical sighting devices for firearms from the United States to Argentina and South Africa without the licenses that it knew were required by the Export Administration Regulations. While neither admitting nor denying the allegations, Trijicon, Inc.

agreed to settle the allegations.

Special Agents from Commerce's Chicago Office of Export Enforcement investigated the case. A portion of the fine, \$19,500, has been suspended for one year.

### OSCAR OSMAN

On September 11, 2000, the Commerce Department issued an order pursuant to Section 11(h) of the EAA denying export privileges to Miami businessman Oscar Osman, president of the firm Antilliana Trading Corporation until September 23, 2006. Osman previously pleaded guilty in U.S. District Court in Miami on charges related to illegal export of U.S. origin paints, plastics, motor vehicles, and hotel supplies to Cuba. Osman pleaded guilty to a criminal information charging him with conspiracy and violating the Trading With the Enemy Act and the Export Administration Act by exporting goods valued at \$800,000 from the United States to Cuba without the required Commerce Department export licenses. The Court sentenced Osman to one year imprisonment, three years supervised release and a \$30,000 fine.

### PETER H. LEE

On August 29, 2000, the Commerce Department denied Peter H. Lee all U.S. export privileges for 8 years based on Section 11(h) of the Export Administration Act. On March 26, 1998, Peter H. Lee was

convicted in the United States District Court for the Central District of California for violating the Espionage Act. Lee was convicted of willfully attempting to communicate nuclear technology, that he had obtained while working for Lawrence Livermore and Los Alamos National Laboratories, to a person not entitled to receive it, namely an agent of the People's Republic of China (PRC), with reason to believe the information could be used to the advantage of the PRC. This investigation was conducted by OEE's Los Angeles Field Office.

### DEXIN INTERNATIONAL, INC.

On August 18, 2000, the Commerce Department imposed a \$50,000 civil penalty (\$35,000 suspended) on Dexin International, Inc., of West Covina, California, for alleged violations of the Export Administration Regulations (EAR) involving shipments to China. The Department alleged that on two occasions in 1994 and 1995, Dexin International, Inc., exported thermal video systems to China without obtaining the export licenses it knew or had reason to know were required under the EAR. Commerce also alleged that the company made a false and misleading statement of material fact on a Shipper's Export Declaration filed with the U.S. Government in connection with one export.

### FEDERAL EXPRESS

On August 10, 2000, the Commerce Department imposed a \$15,000 civil penalty on Federal Express (FedEx), of Memphis Tennessee, for allegedly facilitating the

export of U.S.-origin equipment to a Denied Person and failure to maintain records of the subject transaction. The Department alleged that FedEx, in 1996, facilitated the export of semiconductor test equipment from the United States to Taiwan. The export was destined to a Denied Person, Realtek Semiconductor Co. Ltd., of Taipei, Taiwan. The Department also alleged that FedEx failed to maintain a proper record of the transaction. The penalties were imposed as a result of an investigation conducted by the Office of Export Enforcement's Boston Field Office.

### EXPEDITORS INTERNATIONAL

On August 9, 2000, the Commerce Department imposed a \$5,000 civil penalty on Expeditors International, Inc., through its San Francisco office, for facilitating the export of U.S.-origin equipment to a Denied Person. The Department alleged that Expeditors International, in 1995, facilitated the export of semiconductor test equipment from the United States to Taiwan. The export was destined to a Denied Person, Realtek Semiconductor Co. Ltd. of Taipei, Taiwan. Commerce's Boston Office of Export Enforcement investigated the case.

### S.R. TRAFFIC SERVICE

On August 3, 2000, the Commerce Department imposed a \$10,000 civil penalty on Texas-based S.R. Traffic Service for alleged exports of U.S.-origin

potassium fluoride from the United States to Mexico without the proper export licenses. Potassium fluoride is controlled for export by multilateral agreement with the 30-nation Australia Group of chemical producers because, in addition to its legitimate commercial uses, the chemical has potential to serve as a precursor in a chemical weapons program.

### EMC CORPORATION

On August 3, 2000, the Commerce Department imposed a \$13,000 civil penalty on EMC Corporation on behalf of its Data General Division (formerly the Data General Corporation), Westboro, Massachusetts. The penalty was imposed to settle allegations that Data General exported computer equipment to Israel in 1995 without the required authorization. The Department also alleged that Data General made a false statement on an export control document related to the shipment of computer equipment to Mexico. Commerce's Office of Export Enforcement Boston Field Office investigated the case.

### LOS ALAMOS AND LAWRENCE LIVERMORE NATIONAL LABS

On June 26, 2000, the Commerce Department announced agreements with Los Alamos National Laboratory (LANL), Los Alamos, New Mexico, and Lawrence Livermore National Laboratory (LLNL), Livermore, California, concerning alleged shipments of various commodities without the proper Department of Commerce authorizations.

In 1996, the Department of Energy (DOE)

discovered that the labs may have made the unauthorized exports and brought the matter to the attention of the Department. LANL and LLNL fully cooperated in the investigation.

The Department of Commerce alleged that LANL, on four occasions from 1994 to 1996, and LLNL, on one occasion in 1994, shipped commodities to Russia without obtaining the export licenses required under the Export Administration Regulations. The exports by LANL occurred under the Department of Energy Material Protection, Control and Accounting Program, designed to reduce the threat to U.S. national security posed by unsecured Russian weapons-usable nuclear material. The commodities consisted of devices for measuring nuclear material, a communications router, a 486 computer and a printer. The export by LLNL occurred under a separate lab-to-lab project.

The agreements call for the labs to audit past transactions to ensure that exports to countries of concern were in compliance with the licensing requirements; increase their training of personnel on export controls; and provide increased technical training to the Bureau of Export Administration (BXA) on nuclear matters.

The agreements will be reinforced by a new export control program implemented by the Departments of Commerce and Energy. Under this program, officials from the DOE complex will work at BXA so that they can enhance their compliance systems while at the same time providing BXA basic ongoing technical support on nuclear matters.

## NEC TECHNOLOGIES, INC.

On May 10, 2000, the Commerce Department announced a \$25,000 civil penalty, with \$10,000 suspended, on NEC Technologies, Inc., of Boxborough, Massachusetts, to settle allegations that NEC illegally shipped automated finger print identification systems to several countries in violation of the Export Administration Regulations.

The Commerce Department alleged that on five separate occasions in 1996, NEC Technologies, Inc., exported U.S.-origin automated finger print identification systems to Argentina, Peru, Singapore, South Africa, and Taiwan, without obtaining the required Commerce licenses. Commerce also alleged that the company made false and misleading statements of material fact on Shipper's Export Declarations filed with the U.S. government in connection with the exports. NEC voluntarily disclosed the alleged violations. Commerce's Boston Office of Export Enforcement investigated the case.

## FEDERAL PARTS INTERNATIONAL, INC.

On May 8, 2000, two Georgia men and their firm pled guilty in U.S. District Court in Atlanta to charges relating to the illegal export of automobile and jeep parts to Iran. Federal Parts

International, Inc. located in Norcross, Georgia pled guilty to conspiracy to violate the U.S. embargo to Iran. The firm's owner, Mehdi (Michael) Azarin, a resident of Atlanta, and the firm's manager, Farhad Azarin, of Norcross, Georgia, both pled guilty to charges of making false statements to Commerce Department investigators. After President Clinton imposed comprehensive sanctions on Iran in May 1995, Federal Parts conspired to export automobile and jeep parts valued at approximately \$600,000 to Iran using an intermediary in Germany. The exports to Iran stopped in April 1996 when Export Enforcement agents executed a search warrant at Federal Parts offices in Norcross, and initiated the seizure of two pending shipments valued at \$225,000. In pleading guilty to the charges, Mehdi and Farhad Azarin each face a maximum sentence of five years in prison and a \$250,000 fine. The firm faces a maximum fine of \$500,000.

### ILLINOIS TOOL WORKS, INC.

On May 2, 2000, based on a investigation conducted by the Chicago Field Office, Commerce Assistant Secretary for Export Enforcement, F. Amanda imposed a civil penalty of \$142,000 on Illinois Tool Works, Inc. (ITW), of Glenview, IL, to settle allegations that the Magnaflux Division of ITW exported U.S.-origin chemicals to Brazil on seven occasions between March 1994 and October 1997 without the required Commerce Department licenses, and that Magnaflux made false or misleading statements on Shipper's Export Declarations in connection with these exports. Of the \$142,000 penalty imposed, \$37,000 was suspended.

The Commerce Department controls the export of certain U.S.- origin chemicals as part of a multilateral agreement with 30 chemical producing countries known as the Australia

Group. The controlled chemicals have legitimate commercial uses but also have the potential to be used as precursors in chemicals.

### HANEFLEX SALES AND SERVICE COMPANY

In April 2000, Haneflex Sales and Service Company, in Hong Kong settled civil charges for violations of the Export Administration Regulations for the resale and transfer of diffusion pumps in violation of the conditions of the license issued by BXA authorizing the export of the pumps from the U.S. to Haneflex in Hong Kong. Haneflex agreed to pay a \$20,000 fine to the Department of Commerce.

### INTERNATIONAL HIGH TECH MARKETING

On March 27, 2000 International High Tech Marketing (IHTM), a Miami-based computer exporting company, pled guilty in U.S. District Court in Miami to a criminal information charging the firm with five counts of violating the International Emergency Economic Powers Act. The charges related to the illegal export of U.S.-origin goods to Libya and Sudan, and to making false or misleading statements on export control documents. The Court ordered the firm to pay a fine of \$250,000.

A criminal information charged IHTM, a wholly owned subsidiary of CHS Electronics, Inc., with two counts for illegally exporting computers and related items to Libya and Sudan, and three counts charging that the firm under-declared the value of export shipments, thereby evading reporting requirements to the U.S. Government. The charges involved violations of the

International Emergency Economic Powers Act, and regulations administered by the Commerce Department's Bureau of Export Administration, and the Treasury Department's Office of Foreign Assets Control.

## ANDREW PIETKIEWICZ

On March 5, 2000, Andrew Pietkiewicz was arrested for defaulting on a portion of a \$25,000 civil penalty imposed upon him by the Department of Commerce for the illegal export of computers and computer accessories. Special Agents from the Office of Export Enforcement's Boston Field Office obtained a warrant for Pietkiewicz for violating an order issued by the Department, and arrested Pietkiewicz as he entered the U.S. from Poland.

## BAYER CORPORATION

On March 1, 2000, the Commerce Department imposed a \$200,000 civil penalty on Bayer Corporation, to settle allegations that Bayer Corporation, through its Diagnostics Division, exported glucose and other reagents from the United States to Hong Kong, Malaysia, Mexico, Singapore, South Africa, South Korea, and Taiwan, without obtaining the required validated export licenses. The chemicals are controlled for Chemical or Biological Warfare reasons. The Office of Export Enforcement's Washington Field Office investigated the case.

## HUA KO ELECTRONICS CO., LTD. /NANSHING COLOR & CHEMICAL CO., LTD./GENERAL CHEMICAL CORP. OF NEW JERSEY

On December 21, 1999, the Commerce Department imposed a \$174,000 civil penalty on Hua Ko Electronics Co., Ltd., a Hong Kong company which had previously been denied export privileges, for ordering and receiving U.S.-origin goods in violation of its denial order. The allegations involve shipments that occurred between August 1994 and May 1997. Hua Ko was also denied export privileges for five years. The denial and \$87,000 of its fine were both suspended.

In a related matter, the Department imposed a \$38,500 civil penalty on Nanshing Color & Chemical Co., Ltd., also a Hong Kong company, for transferring U.S.-origin goods to Hua Ko. The lesser civil penalty imposed was due in large part to Nanshing's cooperation in the investigation. A third company, General Chemical Corporation of New Jersey, agreed to a \$77,000 civil penalty to settle allegations that it exported U.S.-origin goods to Nanshing while knowing or having reason to know that the Nanshing would transfer the goods to Hua Ko Electronics Co. Ltd.

## MICROTEK

On December 14, 1999, Microtek International Inc., Development Systems Division and its' company President, Joe-Pin Ouyang plead guilty in U.S. District Court in Portland, Oregon to criminal charges that the firm attempted to illegally export computer emulators to Iran. The plea agreement directs that the firm pay a criminal fine of \$100,000 and agree to the civil forfeiture of \$75,125, seized during the investigation. The agreements also recommends that Ouyang serve 5 months in prison and 5 months of home detention and pay a \$3,000 criminal fine. Evidence

showed that Microtek attempted to illegally export two computer emulators valued at \$75,125 to the R & D Company in Iran.

### LAFAYETTE INSTRUMENT COMPANY, INC.

On December 8, 1999, the Commerce Department imposed a \$10,000 civil penalty on Lafayette Instrument Company, Inc., to settle an allegation that the company violated the terms of an export license when a shipment of U.S.-origin polygraph machines was reexported without authorization from Hong Kong to the People's Republic of China. This investigation was started as a result of a post shipment verification conducted in Hong Kong.

### MACOSIA INTERNATIONAL

On November 29, 1999, the Under Secretary for Export Administration issued an order affirming the recommended decision of the administrative law judge (ALJ) that imposed a seven-year denial of all export privileges against Macosia International, of Laredo, Texas. The ALJ found that Macosia had exported handcuffs and leg irons from the United States to Mexico without the validated export licenses required by the EAR.

### PRECISION SCIENTIFIC, INC.

On September 30, 1999 the Commerce Department imposed a \$10,000 civil penalty on

Varlan Corporation to settle allegations that Precision Scientific, Inc., its former subsidiary, made a false statement on an export control document in connection with a shipment of incubators to Iran. Precision Scientific stated on the Shipper's Export Declaration that the ultimate destination of the incubators was the Netherlands, when in fact the intended destination was Iran.

### PETER L. APPELBAUM

On August 18, 1999, Peter L. Appelbaum, president of Pacorp, Inc., Miami, Florida, pled guilty in U.S. District Court, Southern District of Florida, Miami Division, to charges of violating the Arms Export Control Act and the International Emergency Economic Powers Act by illegally exporting defense articles and crime control equipment to Honduras without the required State Department and Commerce Department licenses. The exported items included night vision equipment subject to the International Traffic in Arms Regulations, handcuffs, shackles, fingerprint powders, and dyes subject to the EAR. The conviction was the result of a joint investigation by the OEE=s Miami Field Office and the U.S. Customs Service.

### SUMMIT UNITED INDUSTRIES, INC.

On August 18, 1999, Summit United Industries, Houston, Texas, pled guilty in the Southern District of Texas to charges that the company illegally exported oil field equipment to Libya in violation of the International Emergency Economic Powers Act. Summit was ordered to pay a \$10,000 fine and a special assessment of \$400. The conviction resulted from a joint investigation by the Office of Export Enforcement's Dallas field office and the U.S. Customs Service, Houston, Texas.



## ROTHCO / MORRIS ROTHENBERG AND SONS INC.

On July 15, 1999, Morris Rothenberg and Sons, Inc., doing business as Rothco, a Smithtown, New York Company, plead guilty to charges that the company illegally exported and attempted to export handcuffs to the Republic of Croatia and gas masks to Japan. In connection with the plea, Rothco agreed to pay a criminal fine of \$500,000 and prosecution costs in the amount of \$200,000. In a related administrative action, the Department of Commerce ordered Rothco to pay a \$200,000 civil penalty and denied its export privileges for one year to settle alleged violations of the EAR. The denial period was suspended and will be waived, provided that, during the period of suspension, Rothco committed no violation of the EAR. The investigation was conducted jointly by OEE's New York Field Office and the U.S. Customs Service.

## FAWZI MUSTAPHU ASSI

On July 12, 1999, the Commerce Department imposed a twenty-year denial of all U.S. export privileges on Fawzi Mustapha Assi, a Lebanese naturalized U.S. citizen, for attempting to export from the United States to Lebanon a thermal imaging camera without the export license that he knew or had reason to know was required. The equipment that Assi was attempting to export was intended for Hizballah, which has been designated as a foreign terrorist organization by the Secretary of State.

In a separate criminal action, in July 1998, Assi was arrested by special agents from the OEE's Chicago Field Office, the Federal Bureau of

Investigations and the U.S. Customs Service for attempting to export U.S. origin items without the required export licenses and for attempting to provide material support and resources to a designated foreign terrorist organization. In August 1998, Assi was indicted on charges alleging violations of IEEPA, the Arms Export Control Act, and the Antiterrorism and Effective Death Penalty Act, and failing to appear in court. He is currently a fugitive.

## SUN MICROSYSTEMS OF CALIFORNIA LTD.,/ GOLD VALLEY TECHNOLOGY COMPANY

On June 21, 1999, the Commerce Department imposed a \$30,000 civil penalty on Sun Microsystems of California, Ltd., a Hong Kong company, to settle allegations that it violated the EAR by arranging for shipments of computers to the People's Republic of China (PRC) that did not adhere to a condition of the export license. In a related matter, on December 21, 1999, the Commerce Department's imposed a \$20,000 civil penalty on Gold Valley Technology Company to settle allegations that it violated a term of an export license involving a shipment of computers to the People's Republic of China. A portion of the civil penalty imposed against Gold Valley, \$10,000, was suspended.

The Department alleged that, in September 1993, Sun Microsystems and Gold Valley arranged for a shipment of computers to the PRC that they knew or had reason to know was contrary to the condition on the export license. The Department also alleged that in October 1993, Sun Microsystems arranged for a shipment of computers to the PRC falsely representing that the shipment was authorized under a BXA license. The investigation was conducted by OEE's Washington Field Office

## INTERLINK COMPUTER TECHNOLOGY

In June 1999, a criminal sentence was imposed on Interlink Computer Technology Inc., a company owned and operated by Ali Mozaffari, by the U.S. District Court for the Northern District of California for violating the U.S. trade embargo against Iran. Interlink was required to pay a \$30,000 criminal penalty. Mozaffari, individually and doing business as Interlink, also agreed to pay a \$5000 civil penalty to the U.S. Department of Commerce and received a five-year denial of export privileges (suspended).

The investigation revealed that Mozaffari, doing business as Interlink, attempted to ship computer goods to Iran via Germany in September 1996 in violation of the Export Administration Regulations (EAR). The United States Government maintains a comprehensive economic sanctions program against the Government of Iran, which prohibits virtually all commercial transactions involving U.S.-origin goods or U.S. persons, or both, with the Government of Iran, unless specifically authorized.

## DIEN DUC HUYNH/DIEN'S AUTO SALVAGE

On May 27, 1999, a U.S. District Court jury for the Western District of Louisiana found Dien Duc Huynh and his corporation, Dien's Auto Salvage, guilty of violating the Export Administration Act, Trading with the Enemy Act and theft of government property in connection with the illegal export of military surplus vehicles to Vietnam. Following his conviction, Dien Duc Huynh agreed to pay the government \$250,000 in lieu of forfeiting his property to the

government. The conviction resulted from a joint investigation by the Office of Export Enforcement's Dallas field office, the U.S. Customs Service and the Department of Defense. Investigators found evidence that the defendants were purchasing surplus military vehicles from Army bases in the United States and Europe and exporting them to Vietnam through Singapore in violation of U.S. export control laws. The vehicles are controlled for national security, anti-terrorism, and regional stability reasons.

## INTERLINK COMPUTER TECHNOLOGY

On April 29, 1999, Interlink Computer Technology pleaded guilty in U.S. district court in San Francisco to charges of attempting to ship computer goods through Germany to Iran. This plea was the result of a joint investigation by special agents in the Office of Export Enforcement's San Jose field office and the U.S. Customs Service. In a related administrative action, the Commerce Department ordered the President of Interlink, Ali Mozaffari, individually and doing business as Interlink, to pay a \$5,000 civil penalty and denied both Interlink and Mozaffari's export privileges for five years; the denial period was suspended for five years.

## WILLIAM F. MCNEIL/AMERICAN PROTECTION CORPORATION

On April 27, 1999, the Commerce Department denied the export privileges of American Protection Corporation until August 8, 2001. The Commerce Department determined that American Protection Corporation is related to William F. McNeil, whose export privileges were denied pursuant to Section 11(h) of the Export Administration Act, based on his criminal conviction for violating the International Emergency Economic Powers Act. The Commerce

Department issued the "related person order" to prevent evasion of the order against McNeil.

### JOHN STROME/ ABDULAMIR MAHDI

On April 23, 1999, a U.S. District Court judge in Orlando, Florida sentenced John R. Strome, President of the Melbourne, Florida firm, Brevard International Technical Services, to two years of imprisonment and two years of probation for violating U.S. restrictions on exports to embargoed destinations. Strome, a Canadian citizen, pled guilty on December 17, 1998 to conspiring to violate the International Emergency Economic Powers Act and the Export Administration Regulations by exporting industrial equipment and machinery to Iran, Iraq, and Libya via intermediaries in Canada and the United Kingdom. In imposing the sentence, the judge took into account Strome's substantial assistance in providing the Office of Export Enforcement with information and evidence on other firms and individuals involved in circumventing U.S. restrictions on exports subject to the EAR to embargoed destinations.

In a related matter, on November 19, 1999, Abdulamir Mahdi, a former associate of Strome and Canadian Businessman, was sentenced by a U.S. District Court judge in Orlando, Florida, to 51 months of imprisonment, a \$7,500 criminal fine and 3 years of probation for violating U.S. export controls restricting trade with Iran and Iraq. Mahdi, an Iraqi national, used two Toronto companies, OTS Refining Equipment Corporation and Tech-Link Development Corporation, to buy U.S. oil-field and industrial equipment for diversion to Iran and Iraq. The case was the result of a two-year investigation by special agents in the Office of Export Enforcement's Miami field office.

### KHALID KHALIL EL-AWAR

On April 12, 1999, the Commerce Department denied Khalid Khalil El-Awar (Khaled El-Awar) of Houston, Texas, all export privileges until August 5, 2003, pursuant to Section 11(h) of the Export Administration Act. On August 5, 1995, Khaled El-Awar was convicted in the U.S. District Court for the Southern District of Texas of violating the International Emergency Economic Powers Act by exporting steel pipe and oil field accessories from the United States to Rotterdam, Holland, for transshipment to Libya.

### SCHOTT FIBER OPTICS, INC.

On April 13, the Commerce Department imposed a \$50,000 civil penalty on Schott Fiber Optics, Inc., of Southbridge, Massachusetts, to settle allegations that the company exported fiber optic image inverters from the United States to the Netherlands without obtaining the required export licenses. A portion of the penalty, \$10,000, was suspended for one year, and thereafter will be waived, provided no violations are committed during the one-year period. The Office of Export Enforcement's Boston field office investigated the case.

### CN BIOSCIENCES, INC.

On March 29, 1999, the Commerce Department imposed a \$708,000 civil penalty on CN Biosciences, Inc., of San Diego, California, and its subsidiary, Calbiochem-Novabiochem (UK) Ltd., of the United Kingdom, for alleged shipments of U.S.-origin biological toxins to various destinations without the required export licenses. The Department further alleged that Calbiochem (UK) Ltd reexported a U.S.-origin biotoxin from the United Kingdom to the Republic of Ireland without the required reexport authorization from BXA. Half the penalty, \$354,00 is suspended for one year, and will thereafter be waived, provided the

companies commit no violation of the Export Administration Regulations during that time. The company voluntarily disclosed the shipments and cooperated with the investigation. Export controls on biological agents implement U.S. obligations to the 30-nation Australia Group. Biotoxins are among the most dangerous items controlled by Australia Group members because they can be used to produce biological weapons. The case resulted from an investigation conducted by special agents from the Office of Export Enforcement's field office in Irvine, California.

### ALDRICH AMES

On March 23, 1999, the Commerce Department denied Aldrich Ames export privileges until April 24, 2004, pursuant to Section 11(h) of the Export Administration Act, based upon his conviction under the Espionage Act. Ames is serving time in federal prison.

### HAROLD J. NICHOLSON

On March 23, 1999, the Commerce Department denied Harold J. Nicholson, of Eugene, Oregon, export privileges until June 7, 2007, pursuant to Section 11(h) of the Export Administration Act, based upon his conviction under the Espionage Act for conspiring with officers of the intelligence services of the Russian Federation, to communicate, deliver and transmit to

Russia photographic negatives and information relating

to the U.S. national defense. Nicholson is serving time in federal prison.

### A.V.S. ARMoured VEHICLES' SYSTEMS, INC.

On March 23, 1999, the Commerce

Department denied A.V.S. Armoured Vehicles' Systems, Inc., of Plainview, New York, export privileges until April 10, 2000, pursuant to Section 11(h) of the Export Administration Act, based upon its conviction under the Arms Export Control Act for false statements relating to the end-user of replacement parts for a "Hawk" anti-aircraft missile system.

### COLLIN XU/YI YAO/LION PHOTONICS

On March 9, 1999, a grand jury in Boston returned an indictment charging Collin Xu, Yi Yao, Lion Photonics, of Montreal, Canada, and Lion Photonics, of Beijing, China, with illegally exporting fiber optic gyroscopes to China, via Canada. The investigation disclosed that the defendants falsely described the exported items as fiber sensors for optical communication and listed Canada as the country of ultimate destination. Yao and Xu are currently in custody pending trial.

### HADI SHALCHI

On March 2, 1999, Hadi Shalchi, president and owner of Continental A. P. Company, of Hopelawn, New Jersey, pleaded guilty in U.S. District Court in Newark on behalf of Continental A.P. Company to charges that the company violated the Export Administration Regulations by illegally exporting auto parts to Iran. Shalchi pleaded guilty on his own behalf to making false statements in connection with that transaction. Shalchi admitted that he had represented that the auto parts were bound for the UAE when, in fact, they were bound for Iran. The Office of Export Enforcement's New York field office investigated the case.

### PPG INDUSTRIES DE MEXICO, S.A. DE C.V.

On February 26, 1999, the Commerce

Department imposed a \$60,000 civil penalty on PPG Industries de Mexico, S.A. de C.V. (PPG Mexico), a Mexican chemical company, to settle allegations that the company exported potassium fluoride from the United States to Mexico without the required Commerce Department licenses. The Department also alleged that, on two of those occasions, PPG Mexico knew that the violations would occur. A portion of the penalty, \$20,000, will be suspended for one year, then waived, if PPG Mexico commits no violations during that time. Potassium fluoride is controlled for export by multilateral agreement with the 30-nation Australia Group because, in addition to its legitimate commercial uses, the chemical has the potential to serve as a precursor in a chemical weapons program.

### ALCOA ORDERED TO PAY \$750,000 PENALTY

On February 19, 1999, Under Secretary for Export Administration William Reinsch imposed a \$750,000 civil penalty on the Aluminum Company of America (ALCOA) for 100 violations of the Export Administration Regulations (EAR). Reinsch affirmed the findings of an Administrative Law Judge (ALJ) that ALCOA exported potassium fluoride and sodium fluoride to Jamaica and Suriname on 50 separate occasions without obtaining the required Commerce export licenses. Additionally, the ALJ found that ALCOA made false statements in connection with each of the 50 shipments. ALCOA committed the violations because its export compliance program failed to recognize that the chemicals in question had been added to the Commerce Control List.

### YUFENG WANG/A&C INTERNATIONAL TRADE

On February 12, 1999, Yufeng Wang, also known as Alan Wang, was arrested by Special Agents from the Office of Export Enforcement's Boston Field Office, as he reentered the United States from China. Wang and his company, A&C International Trade, Inc., were indicted in U.S. District Court, Washington, DC, and charged with the illegal export of an armored riot control vehicle, equipped with a pepper spray system, to China. On March 10, 2000, A&C International pled guilty to the export charges, and Wang pled guilty to submitting false documents to the U.S. Government in connection with the export. Wang and A&C International are currently awaiting sentencing by the U.S. District Court.

### YURI MONTGOMERY

On January 15, 1999, a U.S. district judge in Washington, D.C., sentenced Yuri Montgomery, doing business as Fortend USA, to three years' probation for violations of the Export Administration Act and the International Emergency Economic Powers Act. On November 6, 1998, Montgomery pleaded guilty to exporting laser rifle sights, ballistic helmets, optical sights, handcuffs, and stun guns to Macedonia and Slovenia in violation of U.S. export controls. The case was investigated by special agents from the Office of Export Enforcement's Boston field office.

### HERB KIMIATEK/KIMSON CHEMICAL INC.

On September 4, 1998, the Commerce Department imposed a \$20,000 civil penalty on Herb Kimiatek, individually and doing business as Kimson Chemical Inc., of Boston, Massachusetts, to settle allegations that Mr. Kimiatek exported sodium cyanide from the United States to the Dominican Republic without obtaining the license he knew or had reason to know was required for the shipment. Sodium cyanide is controlled for

nonproliferation reasons because it can be used as a precursor for chemical weapons.

## CHEMICALS EXPORT COMPANY

On September 3, 1998, the Commerce Department imposed a \$16,000 civil penalty on Chemicals Export Company, of Boston, Massachusetts, to settle allegations that the company exported sodium cyanide from the United States to Peru, Venezuela and Guatemala without obtaining the required validated export licenses.

## SYNTEX S.A. de C.V./MARIO PALMEROS/VILLASANA AND COMPANY, INC.

On September 3, 1998, the Commerce Department imposed a \$65,000 civil penalty on Syntex S.A. de C.V., a Mexican chemical company, to settle allegations that it caused, aided, or abetted the export of U.S.-origin hydrogen fluoride from the United States to Mexico without the required Commerce Department licenses. Syntex will pay \$32,500 of the penalty; payment of the remaining fine will be suspended for one year, then waived, provided Syntex commits no violations of the Export Administration Regulations during the one-year probation period.

In two related cases involving freight forwarders for Syntex, the Commerce Department also imposed civil penalties. A \$50,000 civil penalty and a two-year denial of export privileges was imposed on Mario Palmeros of Palmeros Forwarding, and a \$2,500 civil penalty and a two-year denial of export privileges was imposed on Villasana and Company, Inc. All of the penalties against the forwarders, both of Laredo, Texas, were suspended for two years; they will be waived if the forwarders do not

violate the Export Administration Regulations during the two-year probation period. The freight forwarders agreed to the sanctions in order to settle allegations that they prepared and used export control documents representing that the chemicals needed no Commerce licenses when, in fact, licenses were required.

## SOUTHERN INFORMATION SYSTEMS

On September 3, 1998, the Commerce Department imposed a \$25,000 civil penalty on Southern Information Systems, located in Hsinchu, Taiwan, to

settle allegations that the company exported digital microwave systems, which incorporated U.S.-origin parts, from Taiwan to Vietnam without obtaining the required Commerce authorization.

## IBM EAST EUROPE/ASIA LTD

On July 31, 1998, IBM East Europe/Asia Ltd., a Russian subsidiary of International Business Machines Corp., pleaded guilty in U.S. District Court in Washington, D.C. to charges that, in 1996 and 1997, it exported a total of 17 computers to a Russian nuclear weapons laboratory, Arzamas-16, having reason to believe that the computers would be used "directly or indirectly" in research on, or development, design, manufacture, construction, testing or maintenance of nuclear explosive devices. The court imposed an \$8.5 million criminal fine, the maximum permitted for the charges to which the company pled guilty. In a related administrative action, Assistant Secretary Amanda DeBusk ordered IBM East Europe/Asia to pay \$171,000 and denied its export privileges for two years. Imposition of the denial period was suspended, and will be waived, provided the company does not violate the Export Administration Regulations (EAR) or any order issued under the EAR during the two-year probation period. Additionally, IBM East Europe/Asia agreed that, during the next two years, it will not use license exception CTP, and will not to engage in any transactions involving nuclear or military end users or end uses without written

authorization from BXA.

### EVI, INC.

On June 30, 1998, the Commerce Department imposed a \$40,000 civil penalty on EVI, Inc., of Houston, Texas, to settle allegations that EVI, Inc., through its former subsidiary, Energy Ventures Mid-East, Inc., exported oil field equipment to Iran without obtaining the required export licenses. The Department also alleged that, in connection with each export, EVI, through its former subsidiary, Energy Ventures Mid-East, Inc., made false and misleading statements of material fact on export control documents. At the time, the products were controlled for export to Iran for foreign policy reasons. The Department suspended, for one year, payment of \$10,000 of the \$40,000 civil penalty and will waive payment of the suspended portion of the penalty if EVI complies with the EAR during the one-year probation period.

### GATEWAY 2000, INC.

On June 19, 1998, the Commerce Department imposed a \$402,000 civil penalty on Gateway 2000, Inc. ("Gateway 2000"), of North Sioux City, South Dakota to settle allegations that, on 30 separate occasions, Gateway 2000 exported U.S.-origin computer systems to 16 countries, including Iran, Syria and China, without the required validated export licenses that it knew or had reason to know were required by the Export Administration Regulations. The Department also alleged that, on 27 separate occasions, Gateway 2000 filed Shipper's Export Declarations containing false or misleading statements of material fact.

### PENNY RAY/JAMES LEE

On April 6, 1998, the Commerce Department denied Penny Ray and James Lee, both of San

Jose, California, all U.S. export privileges until January 14, 2008, pursuant to Section 11(h) of the Export Administration Act. A jury in San Francisco convicted Penny Ray and James Lee of violating the Arms Export Control Act by exporting defense articles to the People's Republic of China without the required export license from the Department of State. On January 14, 1998, Ray and Lee were sentenced to 18 months of imprisonment, followed by three years' supervised release, and a \$50 special assessment fee.

### JOSE LUIS SESIN

On May 20, 1998, a U.S. district judge in Miami, Florida, sentenced Jose Luis Segin, president of Segin International Corp., a Miami food broker, to three years' probation, imposed a criminal fine of \$20,000 and a \$100 special assessment fee for violating U.S. restrictions on trade with Cuba. The judge also ordered Segin to serve home confinement using an electronic monitor for the first six months of his probation period. On April 6, 1998, Jose Luis Segin pled guilty in U.S. District Court in Miami to violations of the International Emergency Economic Powers Act, the Trading with the Enemy Act, and the conspiracy statute for his involvement in the illegal exportation of commercial foodstuffs and restaurant supplies to Cuba. On February 1, 1999, the Commerce Department denied Segin all U.S. export privileges until May 20, 2006, pursuant to Section 11(h) of the Export Administration Act.

### DAVID IRWIN PORTNOY

On May 5, 1998, the Commerce Department denied David Irwin Portnoy of Irving, Texas all U.S. export privileges until August 1, 2007, pursuant to Section 11(h) of the Export Administration Act. On August 1, 1997, Portnoy was convicted in the U.S. District Court in Dallas of violating the International Emergency Economic Powers Act by transshipping electronic components and telecommunications equipment through Switzerland to Libya without the required

export licenses.

## WAYNE P. SMITH

On May 5, 1998, the Commerce Department denied Wayne P. Smith of Vinton, Louisiana all U.S. export privileges until July 3, 2006, pursuant to Section 11(h) of the Export Administration Act. On July 3, 1996, Smith was convicted in the U.S. District Court in the Western District of Louisiana of violating the Arms Export Control Act by exporting 80 plain self-aligning ball bearings for McDonald Douglas F-4 Phantom II jets without the required export license from the Department of State.

## WELL COMPLEX INTERNATIONAL/DAVID CHAN

On March 17, 1998, Well Complex International of Passaic, New Jersey, pled guilty in U.S. District Court in Newark, New Jersey, to charges of exporting hafnium granules to the People's Republic of China without obtaining a validated export license from the Department of Commerce. The export of hafnium is controlled to the People's Republic of China for foreign policy reasons. David Chan, owner of Well Complex International, pled guilty to charges that he violated the false statement statute in connection with the illegal exportation of hafnium granules to the People's Republic of China. On July 8, 1998, Well Complex was sentenced to five years' probation, a \$7,500 criminal fine and a \$200 special assessment fee. David Chan was sentenced to three years' probation, a \$500 criminal fine and a \$100 special assessment. The case was the result of an investigation by the Office of Export Enforcement's New York field office.

## C.H. POWELL COMPANY

On March 2, 1998, the Commerce Department imposed a total civil penalty of \$30,000 on C.H. Powell Company of Peabody, Massachusetts for

allegedly preparing shipping documents containing false information and acting with knowledge or reason to know that a violation had occurred. The civil penalties were imposed in two separate cases. In one case, the Department alleged that C.H. Powell prepared export control documents with false information and used them in connection with the exports of sodium cyanide from the United States to Peru, Venezuela and Guatemala. In the second case, the Department alleged that C.H. Powell arranged for an exporter to ship U.S.-origin sodium cyanide from the United States to the Dominican Republic, knowing or having reason to know that the exporter had failed to obtain the necessary Commerce Department authorization.

## REPUBLIC CARGO SYSTEMS

On February 26, 1998, the Commerce Department imposed a \$10,000 civil penalty on Republic Cargo Systems, successor to certain of the business of H&M International Air Freight Corp. in Kearny, New Jersey, for allegedly exporting U.S.-origin marine diesel engine parts from the United States to Vietnam without obtaining the required validated license. The penalty is suspended for one year, and then will be waived provided that Republic Cargo Systems does not violate the export regulations during the suspension period.

## LEP PROFIT INTERNATIONAL, INC.

On February 26, 1998, the Commerce Department imposed a \$60,000 civil penalty on LEP Profit International, Inc. (LEP) of Marietta, Georgia, for allegedly preparing shipping documents containing false information. The Department alleged that the Seattle office of LEP prepared and used export control documents to effect exports to Vietnam, representing that the commodities were licensed for export to Vietnam, when, in fact, none of the exports was licensed. A portion of the penalty, \$15,000, will be suspended for two years then waived provided



that LEP does not violate the export regulations during the suspension period.

### ALLERGAN, INC.

On January 26, 1998, the Commerce Department imposed a \$824,000 civil penalty on Allergan, Inc. ("Allergan") of Irvine, California to settle allegations that Allergan violated export controls on biological agents by shipping botulinum toxin pharmaceutical product from the United States to various countries without the required export licenses. The export controls on biological agents are part of U.S. obligations to the 30-nation Australia Group, whose members are committed to curbing the proliferation of chemical and biological weapons. All member countries require licenses to export biological agents with both legitimate civilian uses and possible uses in biological weapons. Biotoxins are considered among the most dangerous items controlled by Australia Group members because some nonmember countries have produced or acquired them for biological weapons purposes. The Commerce Department's Office of Export Enforcement field office in Los Angeles conducted the investigation.

### HENRY JOSEPH TROJACK/HAMID ABDOL RASHIDIAN

On February 18, 1998, a federal jury in Portland, Oregon, convicted Henry Joseph Trojack for conspiring with others to illegally export impregnated alumina (a chemical catalyst) to Iran through Dubai, United Arab Emirates, while operating under the name of R & H International. On January 12, 1999, a U.S. district judge in Portland, Oregon, sentenced Henry Joseph Trojack to seven years' imprisonment for his part in the conspiracy. On April 6, co-defendant Hamid Abdol Rashidian pled guilty in U.S. District Court in Portland, Oregon, to conspiring with others to export General Electric gas turbine parts and impregnated alumina to Iran through the United Arab Emirates. On June 8, 1998, a federal judge in

Portland, Oregon, sentenced Hamid Abdol Rashidian to serve 21 months in prison, followed by three years' supervised release and a \$100 special assessment fee for his participation in the conspiracy. As part of his guilty plea, Rashidian agreed to forfeit \$10,000 to the United States. The case was the result of a joint investigation by the Office of Export Enforcement's San Jose field office and the U.S. Customs Service.

### REPUBLIC-LAGUN MACHINE TOOL COMPANY

On March 15, 1998, the Commerce Department imposed a \$20,000 civil penalty on Republic-Lagun Machine Tool Company, of Carson, California, to settle allegations that the company exported a vertical milling machine with a computer numeric controller (CNC) from the United States to the People's Republic of China without obtaining the validated export license that the company knew was required. Exports of CNC-equipped milling machines are controlled for national security and nuclear nonproliferation reasons.

### NF&M INTERNATIONAL INC.

On February 9, 1998, the Commerce Department imposed a \$82,500 civil penalty on NF&M International Inc. (NF&M), a manufacturer of titanium alloy in Jericho, New York, for allegedly exporting titanium alloy products to consignees in Australia, Austria, England, Germany, and Israel without obtaining the required export licenses. The Department agreed to suspend payment of \$42,500 for one year and then to waive that payment, provided that NF&M complies with export control regulations.

### BE AEROSPACE

On January 13, 1998, BE Aerospace, Inc., headquartered in Wellington, Florida, pled guilty in the United States District Court in New Haven, Connecticut to violating the Export Administration Regulations and was fined \$2.5 million and given three years' probation. In a related administrative

action, the Commerce Department imposed a \$500,000 civil penalty on PTC Aerospace, a division of BE Aerospace, to settle allegations stemming from the same transactions which involved the export of aircraft parts, mainly seats, from PTC Aerospace to France for installation in Iran Air aircraft without obtaining the required validated export licenses from the Department of Commerce. The Department also denied PTC Aerospace's export privileges for three years, but suspended the denial conditioned on PTC Aerospace not committing another violation during that period. On May 12, 1998, the Commerce Department imposed a \$10,000 civil penalty on Marc A. Leveille, a French national and manager of BE Aerospace, S.A. in Paris, for allegedly directly or indirectly falsifying or concealing a material fact in the course of an action instituted under the authority of the Act regarding the export of aircraft parts to France for installation on Iran Air aircraft. The case was the result of a joint investigation by the Commerce Department's Office of Export Enforcement field office in New York and the U.S. Customs Service.

### JACK BAUGHER

On December 19, 1997, a U.S. district judge in Yakima, Washington sentenced Jack Baugher to pay a \$130,000 fine, and a \$400 special assessment fee, serve five years' probation with four months of home detention, and to perform 100 hours of community service, based on his guilty plea to illegally exporting pepper spray and stun guns to the Philippines and Mexico. In addition, on August 3, 1998, the Commerce Department denied Baugher all U.S. export privileges until December 19, 2005, pursuant to Section 11(h) of the Export Administration Act.

### WILLIAM F. MCNEIL

On November 7, 1997, the Commerce Department imposed a five-year denial of export privileges on William F. McNeil, of Pittsfield, Massachusetts, based on his conviction for illegally exporting riot shields to Romania without the required export license.

### BEN H. ATTIA

On October 30, 1997, the Commerce Department's Under Secretary for Export Administration William A. Reinsch denied Ben H. Attia, also known as Adnan Attia, of Miami Beach, Florida, individually and doing business as General Polyphase, Inc. of Tunis, Tunisia, all U.S. export privileges for 15 years for exporting ballistic shields to Tunisia without obtaining the required export license. The Commerce Department's Office of Export Enforcement field office in Boston investigated the case.

### KIYOYUKI YASUTOMI

On January 5, 1998, Kiyoyuki Yasutomi, a Japanese businessman, pled guilty in U.S. District Court in Washington, D.C. to violating the Export Administration Act by illegally reexporting computer equipment valued at \$1.4 million from Japan to Pakistan without the required export license. The U.S. District Court Judge sentenced Yasutomi to eighteen months' imprisonment and a \$10,000 fine. On November 23, 1998, the Commerce Department denied Yasutomi all U.S. export privileges until January 5, 2008, pursuant to Section 11(h) of the Export Administration Act.

### FRANCISCO FERREIRO-PARGA/ CARLOS FERNANDEZ/KENNETH BRODER/MANUEL TORRES/ PEDRO BORGES

An indictment filed in May of 1997 charged that, from November 1993 through April 1997, Francisco Ferreiro-Parga, Carlos Fernandez, Kenneth Broder, and two co-defendants Manuel Torres and Pedro Borges, illegally exported 38

container loads of commercial foodstuffs and restaurant supplies from South Florida to Cuba by falsely claiming the shipments were destined for the Dominican Republic, Netherlands Antilles, and Mexico.

On September 18, 19, and 25, 1997, Ferreiro-Parga, Fernandez, and Broder respectively, pled guilty in the U.S. District Court for the Southern District of Florida to criminal charges relating to the illegal export of commercial foodstuffs and restaurant supplies to Cuba. Ferreiro-Parga and Broder pled guilty to charges that they violated the International Emergency Economic Powers Act, the Trading with the Enemy Act, and the federal criminal conspiracy statute. Fernandez pled guilty to charges that he violated the Trading with the Enemy Act and the federal criminal conspiracy statute. The pleas were the result of a nine-month investigation by Commerce Department's Office of Export Enforcement field office in Miami, the U.S. Customs Service, and the U.S. Attorney's Office in Miami.

On December 5, 1997, a U.S. District Court judge in Miami sentenced Ferreiro-Parga to 18 months' imprisonment and two years' probation for violating U.S. restrictions on trade with Cuba. On January 25, 1999, the Commerce Department denied Ferreiro-Parga all U.S. export privileges until December 12, 2007, pursuant to Section 11(h) of the Export Administration Act. On February 2, 1998, the Judge sentenced Fernandez to five months' imprisonment, two years' supervised release, five months of which must be spent in home detention and imposed a special assessment of \$250. The Judge sentenced Broder to five months' imprisonment, two years' supervised release, imposed a fine of \$30,000 and a special assessment fee of \$200. On February 2, 1999, the Commerce Department denied Broder all U.S. export privileges until February 2, 2007, pursuant to Section 11(h) of the Export Administration Act. Torres was found not guilty in a jury trial. Borges remains a fugitive in the case.

## IAN ACE/KARL CORDING/ A. ROSENTHAL

On August 8, 1997, the Commerce Department's Under Secretary for Export Administration, William A. Reinsch, affirmed an Administrative Law Judge's recommended decision and order and denied Ian Ace's export privileges for a period of 20 years, finding that Ace, Manager of A. Rosenthal (Pty) Ltd., Capetown, South Africa, conspired with others to export and exported U.S.-origin shotguns to Namibia and South Africa without obtaining the proper Commerce Department licenses. The Under Secretary further found that, in connection with those exports, Ace made false material statements of fact in connection with the preparation, submission, or use of export control documents. Separately, on June 6, 1997, one of Ace's co-conspirators, Karl Cording, was also denied export privileges for a period of 20 years. The Commerce Department's Office of Export Enforcement field office in Los Angeles investigated the case.

## ELHAM ABRISHAMI

On August 20, 1997, Elham Abrishami, of Dublin, Ohio, was sentenced to two terms of five months to run consecutively following a guilty plea on January 13, 1997, in the U.S. District Court for the Southern District of Ohio, to charges of violating provisions of the Commerce Department's Export Administration Regulations.

On August 3, 1998, the Commerce Department denied Elham Abrishami, of Dublin, Ohio, all U.S. export privileges until August 20, 2007, pursuant to Section 11(h) of the Export Administration Act.

Abrishami's conviction resulted from an investigation that disclosed that Abrishami knowingly and willfully exported and caused to be

exported items on the U.S. Department of Commerce's Control List, consisting of radio communications equipment valued at \$9,660, from the United States to the United Arab Emirates for transshipment to Iran without authorization from the Department, and with knowledge that the radio equipment was destined for Iran, a country to which exports are controlled for foreign policy purposes. Abrishami also pled guilty to attempting to export defense articles, 100 Sectrone ST-25 Mobilcall Encryption Modules, from the United States to the United Arab Emirates for transshipment to Iran without first having obtained the required U.S. Department of State license, in violation of the Arms Export Control Act. This investigation was conducted jointly by the Commerce Department's Office of Export Enforcement field office in Herndon, Virginia, and the U.S. Customs Service.

### I.G.G. CORPORATION

On July 17, 1997, I.G.G. Corporation (I.G.G.), King of Prussia, Pa., a wholly-owned subsidiary of IGG Component Technology, Ltd., Portsmouth, England, pleaded guilty in the U.S. District Court for the Eastern District of Pennsylvania to knowingly exporting electronic components from the United States to the Indian Space Research Organization (ISRO) without the required export licenses. I.G.G. was assessed a \$50,000 criminal fine, a special assessment of \$200 and placed on probation for five years. In addition, on July 17, 1997, Acting Assistant Secretary Frank Deliberti ordered I.G.G. to pay a \$400,000 civil penalty to settle allegations that I.G.G. exported U.S.-origin electronic equipment knowing the goods were intended for end-use by ISRO without the required export licenses in violation of the Commerce Department's Export Administration Regulation that implements the Enhanced Proliferation Control Initiative (EPCI). BXA had issued an "is informed letter" to I.G.G. under the authority of EPCI advising that an individual export license or reexport authorization was required for all exports to ISRO. EPCI was established to prevent any exports of products

to end-users which are known or believed to be involved with the development of weapons of mass destruction. I.G.G. was also denied export privileges for a period of seven years. This denial was suspended for seven years and will thereafter be waived if the company does not violate U.S. export control laws during the suspension period. The case was investigated by the Commerce Department's Office of Export Enforcement field office in New York and the U.S. Customs Service, Philadelphia, PA.

### WILLIAM A. ROESSL

On July 22, 1997, the Commerce Department's Under Secretary for Export Administration William A. Reinsch issued a final decision and order affirming the Administrative Law Judge's recommended decision and order, finding that William A. Roessl of Beverly Hills, CA, when doing business as Enigma Industries, exported a Floating Point Systems model 164 Array Processor from the United States through Canada to the Federal Republic of Germany without the required export license, and denying all of Roessl's export privileges for ten years.

### SUBURBAN GUNS (PTY) LTD.

On July 25, 1997, Suburban Guns (Pty) Ltd. of Capetown, South Africa, was fined \$10,000 and placed on two-year's probation, and ordered to pay a \$600 special assessment fee in the U.S. District Court for the Southern District of New York, for illegally exporting shotguns, rifles, and ammunition to South Africa. On March 23, 1998, the Commerce Department imposed a 10-year denial of export privileges pursuant to Section 11(h) of the EAA. The Commerce Department's Office of Export Enforcement's field office in New York investigated the case jointly with the U.S. Customs Service.

## LANSING TECHNOLOGIES CORPORATION

On June 17, 1997, Lansing Technologies Corporation (Lansing Technologies) , represented by its president, Red-Chin Yang, pleaded guilty in the U.S. District Court for the Eastern District of New York to exporting a vector computer processor and a data acquisition control system to the People's Republic of China without obtaining the required export licenses from the Department of Commerce. On October 16, 1997, U.S. District Court Judge, Eastern District of New York, imposed a \$10,000 fine and a \$400 special assessment on Lansing Technologies. The case was investigated by the Department of Commerce's Office of Export Enforcement field office in New York.

## SUMMIT MARKETING, INC.

On September 26, 1997, Sanford Groetzinger, president and corporate counsel of Summit Marketing, Inc., were convicted on four counts of violating the Arms Export control Act in connection with the export of numerous military aircraft components to Iran via France, without having obtained the required export licenses from the Department of State. On May 11, 1998, the Commerce Department denied Sanford Groetzinger and Summit Marketing, Inc. all export privileges until September 26, 2005, pursuant to Section 11(h) of the Export Administration Act. The Commerce Department's Office of Export Enforcement field office in Boston investigated the case.

## DELL COMPUTER CORPORATION

On June 17, 1997, the Commerce Department imposed a \$50,000 civil penalty on Dell Computer Corporation, of Austin, Texas, to settle allegations that it violated the Export

Administration Regulations. The Department alleged that, on three separate occasions from March 1992 through June 1992, Dell shipped U.S.-origin computer equipment from the United States to Iran without first obtaining the required validated export licenses from the Department of Commerce. The allegations are the result of an investigation conducted by Export Enforcement's Dallas Field Office.

## DELFT INSTRUMENTS, N.V.

On June 16, 1997, the Commerce Department imposed a \$50,000 civil penalty on Delft Instruments, N.V., a firm located in the Netherlands, to settle allegations that Delft made false statements to the Department in connection with an enforcement action. The Department alleged that, on five separate occasions between August 2, 1991 and February 10, 1992, Delft made false and misleading statements of material fact to the Department when Delft opposed the renewal of a 1991 temporary denial order. The alleged false statements related to representations Delft made to the Department concerning whether members of its Executive Board knew that Delft had exported thermal imaging prototypes to Iraq and Jordan without the required U.S. export licenses. Delft plead guilty in 1992 to charges that it had violated the Arms Export Control Act by exporting U.S.-origin thermal imaging prototypes to Iraq without the required export license. The allegations were the result of an investigation conducted by Export Enforcement's Washington Field Office.

## DIGITAL CREATIONS

On June 13, 1997, United States District Court Judge William Walls of the District of New Jersey fined Digital Creations Corporation of Closter, New Jersey, \$800,000 for violating the Export Administration Act and Regulations. In December 1994, Digital Creations Corporation had plead guilty to charges that it illegally exported DEC computer equipment to the People's Republic of China

without first having obtained the required export license from the Commerce Department. Lawyers for Digital Creations then requested postponement of the sentencing. The case was investigated by Export Enforcement's New York Field Office.

### LASERTECHNICS, INC.

On May 30, 1997, the Commerce Department imposed a \$180,000 civil penalty on the Albuquerque, New Mexico firm, Lasertechnics, Inc., for allegedly exporting U.S.-origin thyratrons from the United States without the required export licenses. While neither admitting nor denying the allegations, Lasertechnics cooperated with BXA in connection with the investigation, which was conducted by Export Enforcement's Los Angeles Field Office. Based on the investigation, the Department alleged that, on 36 separate occasions from November 1991 through March 1994, Lasertechnics, Inc., exported U.S.-origin thyratrons from the United States to Hong Kong, Ireland, Malaysia, and Singapore without first obtaining the licenses required under the Export Administration Regulations.

Thyratrons send a high voltage current through a device and can be used as a nuclear triggering device, but can also be used for medical and scientific purposes. Hydrogen thyratrons were controlled at the time of the violations for nuclear nonproliferation reasons and are currently controlled for anti-terrorism reasons. Payment by Lasertechnics of \$80,000 of the civil penalty will be suspended for three years, and thereafter waived provided that the company commits no violations of the Export Administration Act or Regulations during the period of suspension.

### AAT COMMUNICATIONS

On June 10, 1997, the Commerce Department imposed the maximum civil penalty of \$30,000 against AAT Communications of Staten Island, New York, to settle allegations that, in shipping electronic test equipment and communications components that AAT believed to be destined for Iran, the company violated U.S. export control laws. On three separate occasions between December 1990 and February 1991, AAT exported U.S.-origin electronic test equipment and communications components from the United States to the United Kingdom using general license G-DEST as the authority to export the commodities. The Department alleged that AAT misused general license G-DEST in making those exports because the company knew or had reason to believe that the commodities would be reexported from the United Kingdom to Iran. In each case, the reexport of the commodities from the United Kingdom to Iran had not been approved by the Commerce Department. The Department's allegations were based on an investigation conducted by Export Enforcement's New York Field Office.

### PRESIDENT TITANIUM/ HELLMANN INTERNATIONAL FORWARDERS/THYSSEN HANIEL LOGISTICS/JML FREIGHTFORWARDING/ MORRISON EXPRESS CORPORATION

On May 29, 1997, the Commerce Department imposed a \$125,000 civil penalty on President Titanium of Hanson, Massachusetts, for allegedly exporting titanium bars on 25 separate occasions from the United States to various foreign countries, England, France, Germany, Sweden, South Africa, Switzerland, and the Netherlands, without the required validated licenses, in violation of the Export Administration Regulations. The civil

penalty imposed on President Titanium was the final settlement in a series of related cases that were investigated by Export Enforcement's Boston Field Office. The other four cases, detailed below, involved the freight forwarders hired by President Titanium, and resulted in the imposition of civil penalties on each of the forwarders.

On May 1, 1997, the Commerce Department imposed a \$15,000 civil penalty on Hellmann International Forwarders, Inc., of Miami, Florida, for allegedly preparing shipping documents that contained false information. The Department alleged that on three occasions, the Chelsea, Massachusetts, office of Hellmann prepared and used export control documents to ship titanium bars from the United States to Sweden, representing that the exports qualified for export under general license G-DEST, when in fact a validated license was required.

On April 2, 1997, the Commerce Department imposed a \$30,000 civil penalty on Thyssen Haniel Logistics, Inc., of Atlanta, Georgia, formerly known as Amerford International Corporation, for allegedly preparing shipping documents that contained false information. The Department alleged that, on six occasions, the Boston office of Thyssen prepared and used export control documents for the purpose of effecting exports of titanium bars from the United States to Germany, representing that the exports qualified for export under general license G-DEST, when in fact a validated license was required.

On March 26, 1997, the Commerce Department imposed a \$15,000 civil penalty on JML Freight Forwarding, Inc., of Kearny, New Jersey, formerly known as Jacky Maeder, Ltd., for allegedly preparing shipping documents that contained false information. The Department alleged that, on three occasions, the East Boston, Massachusetts, branch of JML prepared

and used export control documents for the purpose of effecting exports of titanium bars from the United States to Switzerland, representing that the exports qualified for export under general license G-DEST, when in fact a validated license was required.

On February 26, 1997, the Commerce Department imposed a \$5,000 civil penalty on Morrison Express Corporation, of Chelsea, Massachusetts, for allegedly preparing a shipping document that contained false information. The Department alleged that Morrison represented on a shipping document that titanium bars could be exported under general license G-DEST, when in fact a validated license was required.

#### ADVANCED VACUUM SYSTEMS, INC. (AVS)

On May 1, 1997, the Commerce Department imposed a \$5,000 civil penalty on Advanced Vacuum Systems, Inc. (AVS), of Ayer, Massachusetts, for allegedly exporting commodities to the People's Republic of China (PRC) without obtaining the required export license. Based on an investigation conducted by Export Enforcement's Boston Field Office, the Department alleged that AVS exported a low pressure sintering furnace and spare parts valued at over \$600,000 to the PRC without the required export license. At the time of the export, the furnace was controlled worldwide for nuclear nonproliferation reasons. Because the company disclosed the alleged violation to the Department and took effective action to resolve the problem, \$2,000 of the \$5,000 penalty was suspended for three years. The suspended portion of the penalty will be waived after three years as long as there are no further violations.

## COMPAQ COMPUTER CORPORATION

On April 18, 1997, the Commerce Department imposed a civil penalty of \$55,000 on Compaq Computer Corporation, of Houston, Texas, for allegedly exporting computer equipment without obtaining the required validated licenses, in violation of the Export Administration Regulations. Based on an investigation conducted by Export Enforcement's Dallas Field Office, BXA alleged that, on three separate occasions from September 1992 through June 1993, Compaq exported computer equipment from the United States to Venezuela, Chile, and the People's Republic of China without obtaining the required validated licenses. At the time of the exports, the computer equipment was controlled for national security reasons. The penalty imposed reflects the fact that Compaq disclosed the alleged violation to the Department and took action to ensure that future exports would have the necessary authorization from BXA.

## RMI TITANIUM

On January 8, 1997, the Commerce Department imposed a \$160,000 civil penalty on RMI Titanium, of Niles, Ohio, for alleged violations of the Export Administration Act and Regulations. Based on an investigation conducted by Export Enforcement's Washington Field Office, the Department alleged that RMI Titanium violated the Export Administration Act and Regulations when it made six shipments of titanium alloy products to France and Israel without obtaining the required export licenses. The Department also alleged that RMI Titanium made false and misleading statements of material fact on export control documents. The export of these titanium alloy products from the United States is controlled for nuclear nonproliferation reasons.

## NEW WORLD TRANSTECHNOLOGY

On December 20, 1996, New World Transtechnology (NWT), Galveston, Texas, plead guilty to a criminal information that charged the company with two counts of violating the International Emergency Economic Powers Act, and one count of making false statements. A criminal fine of \$10,000 was imposed and a special assessment fine of \$600 was levied against NWT. On March 19, 1998, the Department imposed a ten-year denial of export privileges on New World Transtechnology pursuant to Section 11(h) of the EAA.

Export Enforcement's Dallas Field Office initiated an investigation of NWT based on information provided by Export Enforcement's San Jose Field Office. As a result of the Dallas Field Office's investigation, the criminal information filed in the Galveston, Texas, division of the U.S. District Court for the Southern District of Texas, alleged that NWT had exported three Sun Microsystems computers to a nuclear equipment factory located in the People's Republic of China in August 1992, without the required validated export license. It was also alleged that, in October 1992, NWT attempted to illegally export a MIPS computer to the same destination in the People's Republic of China. Export Enforcement Special Agents seized another computer before it could be shipped to China via Hong Kong.

## ALLVAC

On January 22, 1997, the Department imposed a \$122,500 civil penalty on Allvac, a Monroe, North Carolina, manufacturer, to settle allegations that the company violated the Export Administration Regulations. Based on an investigation conducted by Export Enforcement's Washington Field Office, the Department alleged that Allvac made 48 shipments of titanium alloy products from the United States to Australia, China, France, Ireland, Israel, Italy, Japan, Germany, Switzerland,



Taiwan, and the United Kingdom, as well as one shipment of a maraging steel product from the United States to Germany, all without the required U.S. export licenses. The shipments of the titanium alloy and maraging steel products, which are controlled for nuclear nonproliferation reasons, occurred from September 1991 to June 1993. Allvac voluntarily disclosed these shipments to the Department, and the Department agreed to suspend payment of \$47,500 of the penalty for one year, and then to waive payment of that amount provided Allvac commits no violation of the Regulations during that period.

### KORELSKI/DOORNBOS GMBH/HELCO COMPANY, INC.

On December 18, 1996, the Department imposed a four-year denial of export privileges on both Doornbos GmbH of Solingen, Germany, and its general manager, Helmut Korelski, to settle allegations that they conspired to evade export control laws which restrict shipments of U.S.-origin equipment to Libya. As a result, neither Doornbos nor Korelski may engage in any transaction involving commodities, technology, or software exported from the United States.

Based on a joint investigation conducted by Export Enforcement's Washington Field Office and the U.S. Customs Service, the Department alleged that Doornbos and Korelski acquired U.S.-made machine parts and construction equipment by claiming that the ultimate destination was Germany, when in fact the goods were sold to the Dong Ah Consortium for use in the Great Man-Made River Project in Libya. As a result of the investigation, Doornbos and Korelski also plead guilty to one count of conspiracy and Doornbos received a criminal fine of \$500,000 in U.S. District Court in Ohio.

On February 19, 1998, the Commerce Department imposed a two-year denial of export privileges and a \$90,000 civil penalty on Helco Company Inc. of Warren, Ohio for allegedly conspiring to evade U.S. export laws that restrict exports to Libya by selling equipment and spare parts for use in construction in the Great Man-Made River Project in Libya to Doornbos GmbH. As part of the settlement, \$40,000 of the civil penalty and the denial of export privileges will be suspended and then waived provided that Helco does not violate U.S. export control laws during the suspension period. Helco also pled guilty in federal court to a criminal charge of conspiring to export machine parts to Libya. Helco will pay a \$250,000 criminal fine and a special assessment of \$200.

### SOMBERGS/ROTHCO

On June 3, 1996, Milton Somberg, president of Rothco, Smithtown, New York, and his son, Howard Somberg, vice president of the company, were arrested by Special Agents from Export Enforcement's New York Field Office and from the U.S. Customs Service. In a complaint filed in U.S. District Court for the Eastern District of New York, the two were charged with illegally exporting military and police products controlled for export by the U.S. Departments of State and Commerce. The illegal exports included stun guns, tear and pepper gas, handcuffs, night vision equipment, semi-automatic ammunition magazines, deactivated hand grenades and chemical protective suits. The illegal exports were destined to various countries, including Japan, Peru, Bolivia, Paraguay and the Czech Republic.

The investigation which led to the arrests began after the receipt of allegations of possible links between U.S. military and police surplus equipment firms and the Aum Shinrikyu ("Aum"), a Tokyo-based religious sect whose leader was prosecuted for the March 20, 1995, fatal sarin gas attack on the Tokyo subway system. The investigation revealed that, in the days prior to the March 20 attack, a company owned by the Aum

had contracted with Rothco for the purchase and export of 400 Israeli-made gas masks. On March 2, 1995, Rothco shipped ten cartons of the gas masks, falsely labeled as "facemasks," to Fremont, California, for transshipment to Tokyo. U.S. Customs agents seized the gas masks prior to their scheduled export to Japan.

## YUCHAI AMERICA

On October 2, 1996, Yuchai America Corporation of Cleveland, Ohio, agreed to pay a civil penalty of \$200,000 for alleged violations of the Export Administration Regulations. As the result of an investigation conducted by Export Enforcement's New York Field Office, the Commerce Department alleged that, in May 1994, Yuchai America attempted to export two five-axis milling machines to the People's Republic of China without the required validated U.S. export license, and made false and misleading statements of material fact on export control documents. Yuchai America neither admitted nor denied the allegations.

Yuchai America is an affiliate of Yuchai Machinery Company, Ltd. of China.

## SIGMA CHEMICAL COMPANY

On July 8, 1996, the Commerce Department imposed a civil penalty of \$480,000 on Sigma Chemical Company, based in St. Louis, Missouri, for allegedly violating export controls on biological agents by shipping U.S.-origin biotoxins to various countries on 48 separate occasions between July 1992 and January 1993 without the required export licenses. This action marked the first settlement with a firm alleged to have exported biological agents illegally.

The investigation which led to this settlement began in 1992. It was prompted by a General Accounting Office (GAO) study of U.S. and international efforts to ban biological weapons, requested by then-Senator Al Gore. After the

follow-up investigation by BXA's Chicago Export Enforcement Field Office, it became clear that Sigma's export compliance system failed to properly interpret and implement the licensing requirements of the Export Administration Regulations.

## MCKEEVE/MCNEIL INTERNATIONAL

David McKeeve, a Scottish national, was arrested on November 2, 1995, by Special Agents from Commerce's Export Enforcement Boston Field Office and from U.S. Customs. At the time, McKeeve was attempting, but failed, to export controlled computer equipment to Libya, via Cyprus. He and his company, McNeil International, were subsequently indicted for violations of both the Export Administration Regulations and of the Office of Foreign Assets Control's Libyan Sanctions Regulations. He was also charged with conspiracy and making false statements. On May 30, 1996, McKeeve and McNeil International were found guilty on all charges in the U.S. District Court in Boston, Massachusetts. On August 22, 1996, McKeeve was sentenced to 51 months in federal prison, 36 months' supervised release, and a \$150 special assessment, while McNeil International received a criminal fine of \$125,000 and a \$200 special assessment.

## JAMES L. STEPHENS/WEISSER'S SPORTING GOODS

On November 28, 1995, the Commerce Department imposed a 15-year denial of export privileges and a \$60,000 civil penalty on James L. Stephens, president and co-owner of Weisser's Sporting Goods, National City, California, for the alleged illegal export of certain U.S.-origin shotguns to Namibia and South Africa. Separately, on January 16, 1996, Weisser's Sporting Goods was fined of \$30,000 and placed on three years' probation in the U.S. District Court for the Southern District of California. Weisser's Sporting

Goods had pled guilty to one count of violating U.S. export control laws in connection with the export of shotguns to South Africa in the District Court on November 20, 1995. The case was the result of an investigation by the Commerce Department's Los Angeles Office of Export Enforcement.

## STORM KHEEM

Storm Kheem, a resident of Bayshore, New York, pled guilty on January 27, 1995, to violating provisions of the Commerce Department's Export Administration Regulations that implement the Enhanced Proliferation Control Initiative (EPCI). The EPCI regulations prohibit, *inter alia*, U.S. persons from directly contributing to the design, development, production, stockpiling, and use of weapons of mass destruction. The investigation discovered that Kheem and others arranged to transport ammonium perchlorate, a highly-explosive chemical used to manufacture rocket fuel, from the People's Republic of China to Iraq via Jordan. The chemical had been deliberately mislabeled as a non-explosive water purification chemical to disguise its contents. The Commerce EPCI regulations reached Kheem's activities regarding this transaction even though it involved foreign-origin rocket fuel. Kheem also pled guilty to violating the Iraqi Sanctions Regulations. This investigation was conducted jointly by Commerce, Customs, and the FBI.

## TELEDYNE INDUSTRIES, INC./TELEDYNE WAH CHANG

Teledyne Industries, Inc. plead guilty in two separate cases, one in Miami, Florida, on January 26, 1995, and the other in Washington, D.C. on January 27, 1995. In addition, a division of the company, Teledyne Wah Chang of Albany, Oregon, was denied export privileges and fined by the Commerce Department, all for illegally exporting zirconium and making false statements on Commerce license applications

and shipping documents. In the Miami case, Teledyne Industries, Inc. was assessed a \$3.9 million criminal fine for violations relating to zirconium exports to companies controlled by Carlos Cardoen, a Chilean arms manufacturer. Cardoen used the zirconium to make cluster bombs which he then sold to Iraq. In the Washington case, Teledyne Industries, Inc. was assessed a \$5,498,125 criminal fine for violations relating to zirconium exports that were supposedly destined for Greece, but which actually were rerouted to another destination.

Commerce imposed a \$2 million civil penalty against Teledyne Wah Chang, the division that made the illegal exports at issue in the criminal cases. Commerce also imposed a three-year export denial against Teledyne Wah Chang, all but three months of which were suspended. During the remainder of the denial period, the division was on "probation." The State Department also imposed a \$1.5 million civil penalty against Teledyne Industries, Inc.

## EDWARD A. JOHNSON AND SWISSCO MANAGEMENT GROUP, INC.

On August 7, 1995, Edward A. Johnson, an employee of Teledyne Industries, Inc., was sentenced by a U.S. District Court judge in Miami to 41 months' imprisonment and fined \$25,000 for his role in illegally exporting 150 tons of zirconium to Chilean arms maker Carlos Cardoen. The zirconium was used as an incendiary agent in cluster bombs Cardoen sold to Iraq in the 1980's.

Johnson was convicted by a jury in Miami on April 4, 1995, on charges of conspiracy, false statements on export licenses submitted to the Commerce Department, and violating the Arms Export Control Act. Evidence presented in the eight-week trial showed that Johnson, a salesman at Teledyne's Wah Chang division in Oregon, knew Cardoen was using the zirconium to make cluster bombs for Iraq, even though export

license applications submitted to the Commerce Department claimed the end use was for civilian mining purposes in Chile and Peru. Johnson was also sentenced to three years' supervised release after serving 41 months. On April 28, the U.S. Court of Appeals for the 11th Circuit affirmed Johnson's conviction.

Additionally, the judge sentenced Johnson's co-defendant at trial, Swissco Management Group, Inc., to pay fines totaling \$1,309,230. The same jury that convicted Johnson found Swissco guilty of conspiracy and violating the Export Administration Act. Swissco is a defunct Miami company which acted as Cardoen's U.S. purchasing arm on the zirconium sales. Teledyne was also a co-defendant in the case, but settled pending charges before trial (see preceding story).

## CARLOS CARDOEN

Carlos Cardoen, the Chilean arms merchant involved with Teledyne in the matters described above, and several related parties, were also indicted in connection with the scheme to illegally export zirconium to Chile, where it was used to manufacture cluster bombs for Iraq. Cardoen is a fugitive from justice. Cardoen has paid \$8.6 million to resolve civil forfeiture actions that arose from activities relating to the illegal acts that are the basis for the indictment returned against him in Miami.

## FIBER MATERIALS, INC.

On March 31, 1995, Fiber Materials, Inc., a Maine corporation; its wholly-owned subsidiary, Materials International of Acton, Massachusetts; and the company's top two officers, Walter L. Lachman of Concord, Massachusetts, and Maurice H. Subilia, Jr. of Kennebunkport, Maine, were each found guilty of one count of violating the Export Administration Act and one count of conspiracy. The evidence at trial established that the defendants conspired to, and did,

export a control panel in April 1988 from the United States to the Defense Research Development Laboratory in India, intending for it to operate a production-size hot isostatic press to be subsequently provided by the defendants. The control panel required a validated export license from the U.S. Department of Commerce for export from the United States to India. The evidence showed that no such license was ever obtained by the defendants. The evidence also established that a production-size hot isostatic press was, in fact, later manufactured in Europe at the defendants' direction, and shipped from there to India. In 1991 and 1992, defendants Subilia and Fiber Materials, Inc., directed employees to travel to India to install and make fully operational the carbon/carbon processing equipment in India, which included connecting the control panel to the production-size hot isostatic press.

## HALLIBURTON

On July 25, 1995, Assistant Secretary for Export Enforcement John Despres signed an order assessing a civil penalty of \$2,610,000 against the Halliburton Company of Texas. The civil penalty was the largest fine imposed by the Department for export violations, and was part of a global settlement related to unauthorized exports and reexports of oil field equipment made to Libya by two Halliburton subsidiaries, Halliburton Logging Services (HLS) and Halliburton Geophysical Services (HGS). HLS exported six pulse neutron generators to Libya between December 1987 and August 1989, and made three unauthorized exports of pulse neutron generators to Kuwait or Yemen between August 1988 and January 1989. HGS made 68 unauthorized reexports of spare parts to Libya between April 1989 and April 1991, and one illegal export of U.S.-origin technical data to Libyan nationals in Tunisia in May 1990. Resolving the criminal proceedings in this case, a judge in the U.S. District Court for the Southern District of Texas accepted Halliburton's plea

agreement with the U.S. Attorney's Office, and imposed a criminal penalty of \$1,200,000 for three violations of the International Emergency

Economic Powers Act in connection with the export of the pulse neutron generators to Libya.

## Recent Antiboycott Cases

### ALARIS MEDICAL SYSTEMS, INC.

On June 14, 1999, the Commerce Department imposed a \$35,000 civil penalty on Alaris Medical Systems, Inc., a manufacturer of medical devices, formerly IMED Corporation, of San Diego, California, to settle allegations that the company failed to report the receipt of requests from Kuwait to participate in the boycott of Israel. The Department also alleged that the company failed to maintain records of reportable boycott requests.

### LANGHAM TRANSPORT SERVICES, INC.

On May 20, 1999, the Commerce Department imposed a \$2,000 civil penalty on Langham Transport Services, Inc., a freight forwarder in Indianapolis, Indiana, to settle allegations that Langham Transport Services furnished information to a company in Dubai, United Arab Emirates regarding another person's business relationships with or in Israel. The company voluntarily disclosed the alleged violation and cooperated fully with the investigation.

### SABRE GROUP, INC.

On May 20, 1999, the Commerce Department imposed a \$5,000 civil penalty on the SABRE Group, Inc. (SABRE), a Texas provider of travel-related products and services, to settle allegations that, in a 1998 contract with a company in

Pakistan, SABRE agreed to refuse to subcontract any work to Israeli-based businesses or individuals. Additionally, the Department alleged that SABRE failed to report promptly its receipt of the request to make this agreement. SABRE voluntarily disclosed the transaction that led to the allegations and fully cooperated with the Department's investigation.

### HANSON AGGREGATES WEST, INC.

On April 8, 1999, the Commerce Department imposed a \$3,000 civil penalty on Hanson Aggregates West, Inc., formerly known as Gifford-Hill & Company, of Dallas, Texas, to settle allegations that it furnished information about its business relationships with Israel and failed to report the receipt of boycott requests. Hanson Aggregates West, Inc. voluntarily disclosed the alleged violations to the Department.

### FRITZ COMPANIES, INC.

On February 1, 1999, the Commerce Department imposed a \$12,000 civil penalty on Fritz Companies, Inc. to settle allegations that its Houston, Texas office, furnished information regarding another person's business relationships with or in a boycotted country by certifying that the goods shipped were not of Israeli origin, were not shipped from Israel, and did not contain any material from Israel. The company voluntarily disclosed the alleged violations to the

Department.

## GROVE EUROPE LIMITED

On December 22, 1997, the Commerce Department imposed a \$298,000 civil penalty on Grove Europe Limited ("Grove Europe"), a controlled-in-fact foreign affiliate of a U.S. company located in Sunderland, England, to settle allegations that Grove Europe furnished information about its and other companies' business relationships with or in Israel or with companies known or believed to be blacklisted. Also, the Department alleged that Grove Europe agreed to comply with the Arab boycott of Israel in connection with exports of U.S.-origin parts to Libya.

## HONGKONG AND SHANGHAI BANKING CORP.

On July 24, 1997, the Commerce Department's Acting Assistant Secretary for Export Enforcement, Frank Deliberti, imposed a \$23,000 civil penalty on the New York branch of The Hongkong and Shanghai Banking Corporation Limited of Hong Kong to settle allegations that the bank confirmed a letter of credit from the United Arab Emirates that contained a request for a certification that shipped goods were not of Israeli origin. The Department also alleged that, in connection with three other letters of credit from Qatar, the bank agreed to refuse to do business with banks on the Arab boycott list or agreed to require other persons to refuse to do business with companies on the Arab boycott list, and failed to report, or failed to report in a timely manner, boycott-related requests it received from Jordan, Oman, Qatar and the United Arab Emirates.

## CACI/USAF/DOJ/HOOVER/ ALPERSON/ANDREW

On February 27, 1997, the Commerce Department reached settlements with the United States Air Force, an Air Force officer, the United States Department of Justice and one of its employees, and a government contractor, CACI Inc. - Commercial, and one of its employees, for alleged violations of the antiboycott provisions of the Export Administration Regulations.

During 1991 and early 1992, the U.S. Air Force and the Justice Department were involved in defending a lawsuit brought against the Air Force by a defense contractor. The Justice Department hired CACI Inc. - Commercial to provide litigation support services, including sending a team to Saudi Arabia for several months to microfilm documents. The Department alleged that, in a November 1991 meeting conducted by Air Force officers, representatives of the Justice Department and CACI were told that Jews or people with Jewish surnames could not go to Saudi Arabia as part of the microfilming team. In preparing for the microfilming project, CACI drafted and the Justice Department employee edited an "operations plan" which included the following "Screening/Selection Process" requirement:

"... No Jews or Jewish surnamed personnel will be sent as part of the Document Acquisition Team because of the cultural differences between Moslems and Jews in the Region. ... No Israeli stamped passport, as per Saudi rules."

BXA had no evidence that the restriction was specifically requested by, was required by, or was even known by the Government of Saudi Arabia.

In following the operations plan, Justice Department and CACI employees screened, interviewed, and selected people to go to Saudi Arabia. Eventually, a team was sent to Saudi Arabia. At least one U.S. person was refused a place on the team based on religion or national

origin. In late 1995, the Anti-Defamation League of B'nai B'rith informed Export Enforcement's Office of Antiboycott Compliance (OAC) of a complaint it had received alleging religious discrimination in connection with a litigation support project carried out in Saudi Arabia by CACI. Based on that lead, OAC conducted an investigation lasting nearly eighteen months.

As part of settlement agreements with the Department, both the U.S. Air Force and the Justice Department, in separate letters, agreed to institute measures to prevent a similar event from happening again.

Air Force Colonel Michael J. Hoover, then Chief of the Air Force litigation team, agreed to settle two allegations that he violated the antiboycott provisions of the Export Administration Regulations by requiring or knowingly agreeing to require the Justice Department and CACI Inc. - Commercial to discriminate against individuals based on religion.

Jane Hadden Alperson, Office of Litigation Support, Civil Division, Justice Department, the case manager involved in the microfilming project, agreed to settle two allegations that she violated the antiboycott provisions by agreeing to discriminate against individuals based on religion or national origin, and subsequently taking a boycott-based discriminatory action against a U.S. person on the basis of religion.

CACI Inc. - Commercial, an Arlington, Virginia contractor and David Andrew, the senior CACI employee involved in the microfilming project, each agreed to settle three allegations that each violated the antiboycott provisions by knowingly agreeing to discriminate against individuals based on religion or national origin, taking a boycott-based discriminatory action against a U.S. person on the basis of religion, and, with respect to one

particular individual, discriminating based on religion or national origin.

## JACK H. BERG/SERFILCO

On June 10, 1996, Under Secretary for Export Administration William Reinsch signed an opinion affirming an Administrative Law Judge's (ALJ) ruling in connection with the Commerce's Department's charges that Serfilco, Ltd., an Illinois commercial filtration and pumping equipment manufacturer, and its president, Jack H. Berg, committed 25 violations of the antiboycott provisions of the Export Administration Regulations. On December 7, 1995, the ALJ had upheld the Commerce Department's charges, and imposed a penalty of \$118,000 on Serfilco, Ltd. and a separate \$90,000 civil penalty on Berg. The ALJ also denied, for one year, each party's export privileges to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, and the Republic of Yemen. Berg and Serfilco appealed the ALJ's December 7 ruling to the Under Secretary for Export Administration, resulting in his June 10 opinion.

In his initial decision and order, the ALJ found that, between January and July of 1989, Serfilco and Berg each violated the prohibition against furnishing business relationship information in responding to a boycott questionnaire from a distributor in Iraq. The ALJ further found that Serfilco failed to report to the Department its receipt, on seven separate occasions between November 1988 and April 1990, of boycott-related requests, as required by the Regulations.

Berg and Serfilco have refused to pay the civil penalties. At the request of the Commerce Department, the U.S. Department of Justice filed, in federal court, a law suit against Berg and Serfilco to collect the penalties. Following the Justice Department's filing of the law suit, Berg

and Serfilco settled the case with the Justice Department.

## PARBEL, COSMAIR, AND MISHKIN

On August 29, 1995, Assistant Secretary for Export Enforcement John Despres signed orders approving settlements that imposed civil penalties totaling \$1,446,400 on Parbel of Florida, Inc., formerly known as Helena Rubinstein, Inc., and Cosmair Inc., both subsidiaries of L'Oreal, S.A., the French cosmetic company, and Bruce L. Mishkin, for 291 alleged violations of the antiboycott provisions of the Export Administration Act and Regulations. The companies and Mishkin each agreed to pay the civil penalties in separate but related settlements with the Department, which, combined, constitute one of the largest for Export Enforcement's Office of Antiboycott Compliance (OAC).

Under the terms of the consent agreements, Parbel paid \$1,387,000, Mr. Mishkin paid \$50,400 and is the U.S. distributor for that company. At the time of the settlement, Mr. Mishkin was associate corporate counsel for Cosmair, Inc. At the time of the alleged violations, Mr. Mishkin held that title, as well as the titles of Vice President, General Counsel, and Corporate Secretary of Helena Rubinstein, Inc., which was, in 1989, a L'Oreal-owned company that manufactured cosmetics and skin creams. Cosmair paid \$9,000. Parbel of Florida, Inc., located in Miami, Florida, is a subsidiary of L'Oreal, S.A., located in Clichy, France. At the time of settlement, Cosmair, Inc. was wholly-owned by L'Oreal, S.A.,

The Department alleged that, in 1989, in response to a request from L'Oreal, S.A., Helena Rubinstein, Inc. and Bruce Mishkin each furnished or agreed to furnish 144 items of information about Helena Rubinstein, Inc.'s business relationships with or in Israel. The Department also alleged that, on two separate occasions in 1989, Helena Rubinstein, Inc. failed to report its receipt of a boycott-related request concerning its business relationships with or in Israel. Finally, the Department alleged that Cosmair, Inc. did not prevent Mr. Mishkin, one of its employees, from furnishing information about Helena Rubinstein, Inc.'s business relationships with or in Israel. The Department alleged that, in so doing, Cosmair, Inc. violated the Regulations by permitting the doing of an act prohibited by the Regulations.

## BAXTER INTERNATIONAL INC.

In March 1993, Baxter International Inc., a multinational manufacturer and distributor of hospital and medical supplies based in Deerfield, Illinois, two of its corporate affiliates and a corporate officer agreed to pay a total of \$6,060,600 in civil penalties to settle allegations of violating the antiboycott regulations. The Department also imposed a denial of export privileges prohibiting Baxter, its affiliates, subsidiaries, and employees from entering into, negotiating, or extending contracts to export goods or technology to Syria and Saudi Arabia from March 1993 until March 1995. Baxter also pled guilty in U.S. District Court in Chicago to one felony count and was fined \$500,000.