BAE Systems plc Enters Civil Settlement of Alleged Violations of the AECA and ITAR and Agrees to Civil Penalty of $79 Million

Media Note
Office of the Spokesman
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On May 16, 2011, BAE Systems plc of the United Kingdom (BAES), including its businesses, units, subsidiaries, and operating divisions and their assignees and successors, except BAE Systems, Inc. and its subsidiaries, entered into a civil settlement with the Department of State for alleged violations of the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR) (22 C.F.R. Parts 120-130).

Under the four-year term of the Consent Agreement, BAES will pay in fines and in remedial compliance measures an aggregate civil penalty of $79 million, the largest civil penalty in Department history. The Department agreed to consider suspension of $10 million of this amount for qualified pre-and post-Consent Agreement remedial compliance measures. BAES also agreed to oversight and auditing of its export compliance program for the duration of the Consent Agreement.

The violations were identified by the Department during a review of BAES' conduct following its criminal conviction in March, 2010, for conspiracy to violate the AECA and the ITAR. Per the Proposed Charging Letter, BAES allegedly committed an estimated 2,591 violations of the ITAR in connection with unauthorized brokering of U.S. defense articles and services, failure to register as a broker, failure to file annual broker reports, causing unauthorized brokering, failure to report the payment of fees or commissions associated with defense transactions, and failure to maintain records involving ITAR-controlled transactions.

In response to the criminal conviction, the Department determined to impose a statutory debarment on BAES, but in accordance with the AECA, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps had been taken to mitigate law enforcement concerns, the Department determined to concurrently rescind the statutory debarment. The Department is also releasing the administrative hold it imposed immediately following the conviction on BAES-related license authorization requests. The Department is imposing, however, a policy of denial on three BAES subsidiaries, because of their substantial involvement in activities related to the conviction. These subsidiaries are BAE Systems CS&S International, Red Diamond Trading Ltd., and Poseidon Trading Investments Ltd., including their divisions and business units, and successor entities. This means that there will be an initial presumption of denial for all applications involving these entities, unless upon case-by-case review the Department determines that it is in the foreign policy or national security interests of the United States to provide an approval.

The Consent Agreement and related documents will be available to the public at the State Department Reading Room (515 22nd Street NW) or on the Directorate of Defense Trade Controls website at http://www.pmddtc.state.gov/compliance/consent_agreements.html. There will be a notice published in the Federal Register of the statutory debarment and concurrent reinstatement, and policy of denial.

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