

7. Export Enforcement

In Fiscal Year 1998, BXA's Office of Export Enforcement (OEE) and the Office of Enforcement Analysis (OEA) continued their programs to prevent and investigate dual-use export control violations and protect important national security and foreign policy interests safeguarded by the Export Administration Act (EAA) and Export Administration Regulations (EAR). Export Enforcement also implemented, through the Office of Antiboycott Compliance (OAC), the antiboycott policy and program articulated in Section 8 of the EAA.

BXA's Export Enforcement arm has 163 trained professionals, including 105 special agents, assigned solely to enforcing the EAA and the EAR, the Fastener Quality Act and the Chemical Weapons Convention Implementation Act. Export Enforcement protects U.S. national security, foreign policy, and economic interests by educating exporters, interdicting illegal exports, and assisting in the prosecution of violators, without impeding legitimate trade activities. Working closely with BXA's licensing officers and policy staff, Commerce export law enforcement officers apply their special skills and understanding of the export control system to minimize exports of potentially damaging items to unreliable users.

When there is reason to believe that the EAA or EAR have been violated, OEE's special agents or OAC's compliance officers investigate and recommend initiating appropriate charges. During Fiscal Year 1998, \$2,549,000 in civil penalties and \$11,473,000 in criminal fines were imposed for export control violations. Antiboycott violations resulted in the imposition of \$380,000 in civil penalties.

Export Control Enforcement:

The Office of Export Enforcement (OEE) is headquartered in Washington, D.C. Its Investigations Division has eight field offices, located in Irvine and San Jose, California; Chicago, Illinois; Dallas, Texas; Ft Lauderdale, Florida; Boston, Massachusetts; New York, New York; and Herndon, Virginia. Special Agents are empowered to make arrests, carry firearms, execute search warrants, and seize goods about to be illegally exported. Special Agents and analysts in OEE's Intelligence and Field Support Division serve as conduits between the intelligence community and OEE's field offices.

The Office of Export Analysis (OEA) assists OEE's field offices and BXA's licensing offices by receiving and disseminating export control-related information. OEA also makes recommendations to BXA's licensing officers concerning pending license applications based on intelligence and investigative information.

During Fiscal year 1998, Export Enforcement underwent a reorganization to strengthen its analytic resources, create a clear career track for non-special agents, and enhance its intelligence division. The Office of Enforcement Analysis became the central point for the collection, research, and analysis of classified and unclassified information and various activities using information technology.

During Fiscal Year 1998, OEE conducted numerous investigations, some of which led to both criminal and administrative sanctions. It also issued 266 warning letters in cases of minor violations informing the recipients that OEE had reason to believe they had violated the EAR, and that increased compliance efforts were warranted.

BXA special agents worked with the Department of Justice to secure convictions against 13 individuals and 4 companies. Criminal fines imposed in cases investigated by Commerce or resulting from joint Commerce-Customs investigations totaled \$11,473,000.

In addition, administrative sanctions -- civil monetary penalties, denial of export privileges, or both -- were levied on individuals and businesses. Civil monetary penalties totaled \$2,549,000 in Fiscal Year 1998. Under the EAA, the maximum civil penalties were \$10,000 per violation for items controlled for foreign policy reasons and \$100,000 per violation for items controlled for national security reasons. Because of Congressional failure to reauthorize the EAA, provisions of the EAA and EAR were continued in effect under the International Emergency Economic Powers Act (IEEPA). The maximum civil penalty under IEEPA is \$10,000 per violation.

Administrative sanctions may also include a denial of export privileges. An order denying export privileges prohibits the denied person from participating in any export transaction involving any U.S.-origin goods or technology subject the EAR. It also prohibits other firms or individuals from engaging in transactions with, or on behalf of, the denied person when U.S.-origin goods or technology are involved. Persons who violate this prohibition may be fined, denied export privileges themselves, or subjected to other sanctions authorized by the EAA, IEEPA or EAR, including criminal penalties. In Fiscal Year 1998, 29 persons were denied export privileges for EAA and EAR violations and violations pursuant to Section 11(h) of the EAA.

During Fiscal Year 1998, BXA enforcement personnel examined 5,583 export license applications to assess diversion risks, identify potential violations, and determine the reliability of proposed end users of controlled U.S.-origin commodities or technical data. Based on this review, OEE recommended that 164 license applications either be rejected or returned without action because of diversion risks or other enforcement concerns. Together, these applications represented \$118 million in potential illegal trade.

In addition, as part of ongoing responsibility for preventing illegal exports before they occur, BXA's enforcement staff completed 274 pre-license checks (PLCs) in Fiscal Year 1998, and recommended that 30 be rejected or returned without action. Together, these applications represented nearly \$11 million worth of trade in situations where violations may have occurred

had the transactions been completed.

Export Enforcement also assessed the results of 400 post-shipment verifications (PSVs) completed during the year. Of these PSVs, 289 were conducted by OEE special agents as part of its Safeguards program, while the other 111 were conducted by Foreign Commercial Service or other personnel assigned by American Embassies. Six PSVs produced information that required further enforcement action.

Export Enforcement Initiatives

Chemical Weapons Convention

Under the Chemical Weapons Convention (CWC) implementing legislation passed in the fall of 1998, certain commercial chemical production and processing facilities will be required to submit data declarations and to permit international inspections. In preparation for fulfilling its responsibilities under this legislation, Export Enforcement participated in mock inspection exercises with BXA's Office of Chief Counsel and Export Administration at chemical production and processing facilities. Export Enforcement also developed procedures for obtaining administrative warrants for these inspections. EE included special training sessions on the CWC treaty and implementing legislation and EE's role in CWC inspections as part of its basic agent training for its newer agents and as part of continuing training for all veteran EE agents and analysts.

National Defense Authorization Act of 1998

The National Defense Authorization Act (NDAA) passed on November 18, 1997, contains provisions requiring regulation and careful scrutiny of sales of high performance computers to certain countries of concern. Export Enforcement established a five-person team reporting directly to the Assistant Secretary for Export Enforcement to coordinate and supervise all enforcement responsibilities under the NDAA. A provision of the NDAA requires those who wish to export high-performance computers to certain countries to notify the Department at least ten days prior to export. During the ten-day period, relevant Government agencies review the pre-export notification. If any agency has an objection, a license is required.

The EE team drafted procedures for agents and analysts reviewing NDAA notifications to communicate their concerns through EE's management so that BXA may object when appropriate. The team worked with Export Administration and the Department to design a reporting form for companies and to implement regulations requiring post-shipment reports. In July, EE completed and sent a one-time report to Congress, required by Section 1212 of the NDAA, on exports of high-performance computers worldwide for the period January 26, 1996, through December 31, 1997.

In further pursuit of its NDAA responsibilities, EE established a database for tracking its

activities under the NDAA and for producing the required report; included special training sessions on high-performance computers and on the NDAA in its basic agent training and as part of continuing training for all EE agents and analysts; and conducted post-shipment verifications mandated by the NDAA. Four of EE's 12 safeguard trips were devoted primarily to NDAA-mandated PSVs. EE submitted the NDAA annual report to the designated Congressional committees in January 1999. It covered exports of high-performance computer exports to countries of the greatest proliferation concern, and the results for the period November 18, 1997, through November 17, 1998.

Project Outreach

As part of its public education efforts, OEE special agents participated in numerous seminars and trade shows across the country. They also developed contacts with private sector firms through Project Outreach, a program which provides firms with specific export guidance, while giving OEE a better understanding of the private sector's needs and valuable information with which to initiate investigations. OEE conducted 1,282 Project Outreach visits during the fiscal year.

Safeguards Verification Program

OEE's Safeguards Verification Program was developed in 1990 to ensure the legitimate use of strategic U.S. goods and technology by the newly emerging democracies of Central Europe, traditional diversion points to the former Soviet Union. Since then, OEE's Safeguards Verification Program has expanded worldwide to conduct onsite pre-license and post-shipment checks using Export Enforcement personnel instead of officers from Commerce's Foreign Commercial Service. The Safeguards Verification Teams travel overseas to determine the disposition of licensed or otherwise controlled U.S.-origin commodities, particularly those of proliferation concern. These Safeguards Verification Teams also assess the suitability of foreign firms to receive U.S.-origin licensed goods and technology and conduct educational visits to foreign firms, often in cooperation with host Government officials.

International Law Enforcement Cooperation

In Fiscal Year 1998, (EE) aggressively increased its international cooperative efforts. Working with its BXA and interagency counterparts, EE had a number of significant achievements. At the June 1998 Presidential Summit in Beijing, U.S. and China Ministry of agreed to a set of end-use visit practices, a U.S. goal for the last 15 years. This arrangement has been successfully implemented for the first time the United States to conduct PSVs on U.S. products there.

EE's work this year in Hong Kong has resulted in increased enforcement cooperation. In October 1997, Secretary Daley signed an agreed minute with his Hong Kong counterpart which forms the basis for U.S.-Hong Kong export control cooperation. Throughout the fiscal year,

both in Hong Kong and Washington, officials worked together to ensure that U.S. products destined for Hong Kong were not illegally diverted to China.

Export Enforcement also hosted a number of enforcement seminars with other countries, including the third in a series of enforcement exchanges with Russian enforcement officials. The April 1998 exchange with Russia which took place in Boston, Dallas, and San Antonio was the first time Russian enforcement officers had a chance to observe how EE interacts with industry. This provided valuable insights which Russian officials can use to help in their work with Russian industry to halt the illegal export of commodities and technologies to countries involved in the proliferation of weapons of mass destruction.

EE hosted seminars with its enforcement counterparts in the Transcaucus Republics of Armenia and Georgia and another with the Central Asian Republics of Uzbekistan and Kyrgyzstan. These exchanges were the first time enforcement officials from these republics, which are located in strategically placed transit points, had a chance for in-depth discussions about the practical methods of enforcing export control laws and regulations. This year EE continued to work with foreign counterparts as part of the DOD-FBI Counter proliferation Program for Newly Independent States (NIS) of the former Soviet Union.

EE also took part in discussions with the international nonproliferation regimes, including enforcement seminars of the Wassenaar Arrangement and the Missile Technology Control Regime and the plenary sessions of the Nuclear Suppliers Group. EE participated in the January 1998 Asian Export Control Seminar involving 16 Pacific Rim countries, where EE chaired the seminar's enforcement panel.

Throughout the year, EE continued its enforcement assistance to the four nuclear NIS, as well as Baltic, Central European, Central Asian, and Transcaucasian states. The Assistant Secretary for Export Enforcement and other senior EE officials met with many Central European and NIS export control delegations in Washington, D.C., to provide perspectives on EE's investigative and preventive enforcement techniques.

As a result of these efforts, the governments of these countries have either implemented or initiated export control programs that incorporate effective enforcement concepts including development of watch lists, end-use checks, a professionally-trained investigative force, interagency and international law enforcement cooperation, and use of administrative and criminal sanctions and penalties.

Shipper's Export Declaration Review Program

As the volume of export licenses has decreased, EE has increased the number of Shipper's Export Declarations (SEDs) that it reviews. Under the SED Review Program, on-site reviews of selected SEDs are conducted by OEE Special Agents at U.S. ports. OEE Special Agents review numerous transactions before selecting a smaller target group for closer scrutiny.

A systematic review of SEDs at EE Headquarters is also conducted after shipments have occurred. OEA receives from the Census Bureau microfilm copies of the actual SEDs and a computerized index of key data fields every SED. OEA uses the index to produce a list of SEDs targeted for closer review. Following this review, OEA identifies SEDs that may indicate violations of the EAR and refers them to OEE. Over the past year, OEA referred 363 SEDs to OEE on the basis of these reviews of SEDs.

Visa Application Review Program

EE initiated the Visa Application Review Program in 1990 to prevent unauthorized access to controlled technology or technical data by foreign nationals visiting the United States. Section 734.2(b)(1) of the EAR defines the export of technical data to include the release of technology or source codes to a foreign national (other than persons lawfully admitted for permanent residence in the United States). A release of technology to a foreign national is deemed to be an export to the home country of that person.

In Fiscal Year 1998, EE restructured its Visa Application Review Program, developing new criteria and thresholds for evaluating incoming visa applications for targeting purposes. EE has narrowed its focus and is concentrating on specific products most often used in weapons of mass destruction projects. OEA's evaluation and analysis of visa application cable traffic involves preventive enforcement efforts such as recommending denial of certain visas, intelligence gathering, and the referral of enforcement leads to OEE's field offices for possible case development.

During Fiscal Year 1998, OEA reviewed information on thousands of visa applications to detect and prevent possible EAR violations. Of these, 14 visa applications were referred to OEE's field offices for further investigation. In some instances, based upon OEA's recommendations, the State Department declined to issue visas due to the risk of transfer of sensitive technology. In a few cases, OEA analysts uncovered possible visa fraud on the part of the foreign applicant. These findings were forwarded to the State Department's Fraud Unit for further investigation and action.

Significant Commerce Export Enforcement Cases

Ben Attia Denied Export Privileges for 15 years

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. in Tunis, Tunisia, all U.S. export privileges for 15 years for exporting ballistic shields to Tunisia without obtaining the required export license. At the time of the export, the ballistic shields required a validated license to most destinations, including Tunisia, for foreign policy reasons. The investigation was conducted by OEE's Boston Field Office.

Kiyoyuki Yasutomi Pleads Guilty to Illegal Reexport from Japan to Pakistan

On January 5, 1998, Kiyoyuki Yasutomi, a Japanese businessman, pled guilty in the U.S. District Court in Washington, D.C., to violating the EAA by illegally shipping U.S.-origin computer equipment valued at \$1.4 million from Japan to Pakistan without the required export license. Yasutomi was sentenced to imprisonment for 18 months and a \$10,000 fine.

An indictment filed in 1991 charged that, in the late 1980's, Yasutomi's Tokyo firm, Micro Electronics International Japan, Inc., purchased U.S.-origin computer equipment from two U.S. suppliers, which he reexported to Pakistan without the required Department of Commerce authorization. At the time of the transaction, the export to some countries of this type of computer equipment was controlled for national security, foreign policy and nonproliferation reasons. In 1991, the U.S. Attorney's Office in Washington, D.C. obtained an arrest warrant for Yasutomi, who resided in Japan. Yasutomi was arrested in July 1996 when he tried to enter the United States at San Francisco International Airport. The investigation was conducted by the Miami Field Office.

Allergan, Inc. Penalized \$824,000 for Biotxin Exports

On January 26, 1998, the Commerce Department imposed a civil penalty of \$824,000 on Allergan, Inc., of Irvine, California, for allegedly violating export control law regarding biological agents by shipping U.S.-origin botulinum toxin pharmaceutical product on 412 separate occasions to various countries without the required export licenses. Allergan, Inc. agreed to pay the \$824,000 civil penalty to settle these allegations.

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. The investigation was conducted by OEE's Los Angeles Field Office.

NF&M International, Inc. Penalized \$82,500 to Settle Charges of Illegal Exports of Titanium Alloy

On February 9, 1998, the Commerce Department imposed an \$82,500 civil penalty on NF&M International Inc. (NF&M), of Jericho, New York, a manufacturer of titanium alloy, for allegedly exporting titanium alloy products without the required export licenses. The Department alleged that on 33 occasions between September 1991 and August 1993, NF&M exported titanium alloy products to consignees in Australia, Austria, England, Germany, and Israel without obtaining the required export licenses. These products are controlled for export for foreign policy reasons. The Department agreed to suspend payment of \$42,500 of the civil

penalty for a period of one year, and will waive that portion of the penalty provided that during the suspension period, NF&M complies with export control regulations. The investigation was conducted by the OEE's Boston Field Office.

Allegations of Realtek's Violation of Export Denial Order Results in \$20,000 Civil Penalty and One-Year Additional Denial

On March 2, 1998, the Commerce Department imposed a \$20,000 civil penalty and an additional one-year denial on Realtek Semi-Conductor Co. Ltd., of Hsinchu, Taiwan, Taipei, Taiwan and Taipei Hsien, Taiwan, for allegedly violating the terms of a 1995 Commerce Department order denying its U.S. export privileges for five years. The Department alleged that during 1996, Realtek ordered items to be exported from the United States knowing that it was violating the terms of an order that denied all its U.S. export privileges until August 3, 2000.

To settle the allegations, Realtek agreed to pay the \$20,000 civil penalty. As part of the settlement, the Department agreed to suspend the additional one-year period of denial, and thereafter waive it, provided that, during the period of suspension, Realtek does not violate the Export Administration Regulations. The investigation was conducted by the Office of Export Enforcement's San Jose Field Office.

Republic-Lagun Machine Tool Company Penalized \$20,000 to Settle Charge in Connection With Export to the People's Republic of China

On May 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 numerical controller from the United States to the People's Republic of China without obtaining the export license that it knew was required. Exports of computer numeric controller-equipped milling machines are controlled for national security and nuclear nonproliferation reasons. The investigation was conducted by OEE's Los Angeles Field Office.

Well Complex International Inc. and David Chan Convicted for Illegal Export to the People's Republic of China

On March 17, 1998, Well Complex International, Inc. (Well Complex), located in Passaic, New Jersey, and its president, David Chan, pled guilty in the U.S. District Court in Newark to charges related to the export of hafnium granules to the People's Republic of China without obtaining the required export license from the Department of Commerce. Well Complex pled guilty to charges that the company knowingly and willfully exported items contained on the Commerce Control List without first obtaining the required export license. David Chan pled guilty to charges that he made false statements in connection with the illegal exportation of hafnium granules to the People's Republic of China. The export of hafnium is controlled to the People's Republic of China for foreign policy reasons. 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 investigation was conducted by OEE's New York Field Office.

Gateway 2000, Inc. Penalized \$402,000 to Settle Charges of Illegal Exports of Computers

On June 19, 1998, the Commerce Department imposed a \$402,000 civil penalty on Gateway 2000, Inc. (Gateway), of North Sioux City, South Dakota to settle alleged violations of the EAR. The Department alleged that, on 30 separate occasions between February 1992 and April 1993, Gateway exported U.S.-origin computer systems to 16 countries, including Iran, Syria and China, without obtaining the required export licenses that it knew or had reason to know were required by the EAR. The Department also alleged that, on 27 separate occasions, Gateway filed Shipper's Export Declarations containing false or misleading statements of material fact. To settle the allegations that it committed 87 violations of the EAR, Gateway agreed to pay the \$402,000 civil penalty. The investigation was conducted by the OEE's Chicago Field Office.

EVI Inc. Penalized \$40,000 to Settle Charges Of Illegal Exports to Iran

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. As part of the settlement, the Department suspended, for one year, payment of \$10,000 of the civil penalty and agreed to waive payment of the suspended portion of the penalty if EVI complies with the EAR during the period of suspension. The investigation was conducted by OEE's Dallas Field Office.

Chemicals Export Company Penalized \$16,000 to Settle Charges of Illegal Exports

On September 3, 1998, the Commerce Department imposed a \$16,000 civil penalty on Chemicals Export Company, of Boston, Massachusetts, for alleged violations of the EAA and EAR. The Department alleged that on four separate occasions between January 6, 1994 and July 7, 1995, Chemicals Export Company exported sodium cyanide from the United States to Peru, Venezuela, and Guatemala, without obtaining the required export licenses. To settle the allegations, the company agreed to pay the \$16,000 civil penalty imposed by the Commerce Department. The investigation was conducted by OEE's Boston Field Office.

Syntex, S.A. de C.V. and Two Freight Forwarders Penalized In Connection With Exports of Controlled Chemicals

On September 3, 1998, the Commerce Department imposed a \$65,000 civil penalty on Syntex

S.A. de C.V. (Syntex), a Mexican chemical company, to settle allegations that it caused, aided, or abetted the export of 13 shipments of U.S.-origin hydrogen fluoride from the United States to Mexico without the required licenses. A portion of the penalty, \$32,500, will be suspended for a period of one year and will be waived, provided that, during the one-year probation period, Syntex commits no violations of the EAR.

Two Laredo, Texas-based, freight forwarders who acted for Syntex were also assessed civil penalties. The Department imposed a \$50,000 civil penalty on Mario Palmeros of Palmeros Forwarding (Palmeros), and a \$2,500 civil penalty on Villasana and Company, Inc. (Villasana) and denied the export privileges of each freight forwarder for a period of two years. Both Palmeros and Villasana agreed to the sanctions imposed by the Commerce Department in order to settle allegations that they prepared and used export control documents representing that the chemicals needed no licenses when, in fact, licenses were required. In both cases, the civil penalties and the denial of export privileges against the freight forwarders were suspended for two years and will be waived provided, that, during the period of suspension, the freight forwarders commit no violation of the EAR. The investigation was conducted by OEE's Dallas Field Office.

Herb Kimiatek, Individually and Doing Business as Kimson Chemical, Inc. Penalized \$20,000 to Settle Charges in Connection With Chemical Exports

On September 4, 1998, the Department of Commerce imposed a \$20,000 civil penalty on Herb Kimiatek, individually and doing business as Kimson Chemical Inc., of Boston, Massachusetts, to settle allegations that 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 by the Department of Commerce for nonproliferation reasons because it can be used as a precursor for chemical weapons. To settle the allegations, Kimiatek agreed to pay the \$20,000 civil penalty. The investigation was conducted by OEE's Boston Field Office.

Significant Joint Commerce-Customs Cases

Fortend USA and Yuri Montgomery Indicted for Illegal Exports of U.S.-Origin Commodities to Macedonia and Slovenia

On December 2, 1997, a federal grand jury in Washington, D.C., returned a 33-count indictment charging Yuri I. Montgomery, also known as Yuri I. Malinkovski, and Fortend USA with illegally exporting U.S.-origin crime control equipment from the United States to Macedonia and Slovenia without the required authorization from the U.S. Departments of Commerce and State. The indictment resulted from an investigation conducted by OEE's Boston Field Office and the Customs Service. Yuri Montgomery, on behalf of himself and doing business as Fortend USA, subsequently pled guilty to exporting various U.S.-origin crime control items from the United States to Macedonia and Slovenia without the required export licenses.

Three Sentenced for Charges Related to Illegal Exports to Cuba

On December 5, 1997, the U.S. District Court for the Southern District of Florida sentenced Francisco Ferreiro-Parga to imprisonment for 18 months and probation for two years for violating U.S. restrictions on trade with Cuba. On January 30 and February 2, 1998, the court sentenced Ferreiro's co-defendants, Carlos Fernandez and Kenneth Broder, to imprisonment for five months and supervised release for two years respectively, and imposed on Fernandez a \$250 special assessment fee. Broder was fined \$30,000 with a \$200 special assessment fee. All three defendants pled guilty in September of 1997 to criminal charges involving the illegal export of commercial foodstuffs and restaurant supplies from the United States to Cuba. Ferreiro 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 criminal conspiracy statute. The investigation was conducted jointly by OEE's Miami Field Office and the Customs Service.

Jack Baugher Sentenced for Illegal Exports to Mexico and the Philippines

On December 19, 1997, a U.S. District Judge in Yakima, Washington, sentenced Jack Baugher, who had earlier pled guilty to illegally exporting from the United States electronic stun guns to Mexico and the Philippines, to 5 years probation with 4 months of home detention, 100 hours of community service, a \$400 special assessment fee, and a criminal fine of \$130,000. In addition, on August 3, 1998, the Commerce Department issued an order pursuant to Section 11(h) of the EAA denying Baugher's export privileges until December 19, 2005. This investigation was conducted jointly by OEE's San Jose Field Office and the U.S. Customs Service.

BE Aerospace, Inc. and Affiliates Penalized for Illegal Exports of Aircraft Parts to France for Iran Air Aircraft

On January 13, 1998, BE Aerospace, Inc., headquartered in Wellington, Florida, pled guilty in the United States District Court in New Haven, Connecticut, to a charge that it violated U.S. export control laws by shipping aircraft parts from the United States to France for installation in Iran Air aircraft without obtaining the required export license. As a result of the guilty plea, BE Aerospace was sentenced to a \$2,500,000 criminal fine, a \$100 special assessment fee, and probation for three years.

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 export licenses. In addition to the civil penalty, the Department denied PTC Aerospace's export privileges for a

period of three years. The denial period was suspended for three years, and will thereafter be waived if the company does not violate U.S. export control laws during that period.

On May 12, 1998, the Commerce Department also imposed a \$10,000 civil penalty on Marc A. Leveille, a French national and manager of BE Aerospace, S.A. in Paris, for allegedly falsifying or concealing a material fact in the course of an action instituted under the authority of the EAA regarding the export of aircraft parts to France for installation on Iran Air aircraft. To settle the allegations, Leveille agreed to pay the \$10,000 civil penalty. The investigation was conducted jointly by OEE's New York Field Office and the U.S. Customs Service.

Henry Joseph Trojack and Hamid Abdol Rashidian Convicted for Conspiring to Illegally Export to Iran

On February 18, 1998, a federal jury in Portland, Oregon, convicted Henry Joseph Trojack of conspiring with others to illegally export impregnated alumina, a chemical catalyst, to Iran through Dubai, United Arab Emirates, between December 1995 and August 1996, while operating under the name of R and H International.

On April 6, 1998, co-defendant Hamid Abdol Rashidian pled guilty in the U.S. District Court in Portland, Oregon, to conspiring with others to illegally export gas turbine parts and impregnated alumina to Iran through the United Arab Emirates. Rashidian was sentenced to a 21-month term of imprisonment, three years of 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 OEE's San Jose Field Office and the Customs Service.

Helco Company, Inc. Penalized and Denied Export Privileges In Connection With Shipments to Libya

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. (Helco); of Warren, Ohio, for allegedly conspiring to evade U.S. export laws that restrict exports to Libya. The Department alleged that Helco sold equipment and spare parts for use in construction of the Great Man-Made River Project in Libya to Doornbos GmbH of Soligen, Germany, which acted as an intermediary for the South Korean builder, Dong Ah Consortium. To settle the allegations, Helco agreed to pay the \$90,000 civil penalty. As part of the settlement, \$40,000 of the civil penalty and the denial of export privileges were suspended for two years and will thereafter be waived, provided that Helco does not violate U.S. export control laws during the suspension period. In a separate criminal action, Helco also pled guilty in federal court to a one-count criminal information charging it with conspiracy to export machine parts to Libya. Helco paid a \$250,000 criminal fine and a special assessment fee of \$200. The case resulted from a criminal investigation by the Customs Service, with assistance from OEE's Washington Field Office for purposes of the administrative settlement.

Freight Forwarder Penalized for Role in Exports to Vietnam

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 that contained false information. The Department alleged that, on 12 occasions, the Seattle office of LEP prepared and used export control documents to effect exports from the United States to Vietnam. These documents represented that the commodities were licensed by the U.S. for export to Vietnam, when, in fact, none of the exports was licensed. A portion of the penalty, \$15,000, was suspended for two years and will thereafter be waived provided that LEP does not violate U.S. export control laws during the suspension period. The investigation was conducted by OEE's San Jose Field Office and the Customs Service.

Xiaoming Liang and David Salman Sentenced for Illegal Exports

On March 19, 1998, a U.S. District Judge in Connecticut sentenced Xiaoming Liang and David Salman each to a \$2,500 criminal fine, three years probation, 400 hours community service and a \$200 special assessment fee. Liang and Salman had previously pled guilty to a two-count information charging them with conspiring to possess, sell, and illegally export wire, oral, or electronic communication intercepting devices to the United Kingdom. The investigation was conducted jointly by OEE's New York Field Office and the Customs Service.

Suburban Guns (PTY) Denied Export Privileges Following Conviction For Illegal Exports to South Africa

On March 23, 1998, Suburban Guns (Pty) Ltd. of Capetown, South Africa, was denied export privileges until July 25, 2007, pursuant to Section 11(h) of the EAA. Suburban Guns had been convicted in the U.S. District Court for the Southern District of New York for illegally exporting shotguns, rifles, and ammunition to South Africa in violation of the EAA and IEEPA. In the criminal case, Suburban Guns was sentenced to two years probation, a \$10,000 criminal fine and a \$600 special assessment fee. The investigation was conducted jointly by OEE's New York Field Office and the Customs Service.

Ten-Year Denial Orders for Illegal Exports of U.S.-Origin Commodities to the People's Republic of China

On April 6, 1998, the Commerce Department issued orders, pursuant to Section 11(h) of the EAA, denying the U.S. export privileges of James Lee, also known as Li Jin (Lee), and Penny Ray, also known as Lei Ping (Ray), until January 14, 2008. In July 1997, Lee and Ray were convicted in the U.S. District Court for the Northern District of California for illegally exporting and attempting to export U.S.-origin defense articles to the People's Republic of China without obtaining the required export license from the Department of State. In January 1998, Lee and Ray were sentenced to 18 months of imprisonment, three years supervised release, and a \$50

special assessment fee. The investigation was conducted by the Customs Service, supported by OEE's San Jose Field Office.

Temporary Denial Order against Texas Company, Officers, and Affiliates Renewed

On April 29, 1998, BXA's Assistant Secretary for Export Enforcement renewed the October 31, 1997, temporary denial order against TIC, Ltd. and Export Materials, Inc. in a "standard" format. The renewal denies all U.S. export privileges of the two entities for an additional 180 days. On the same date, the Assistant Secretary renewed the October 31, 1997 order against Thane-Coat, Inc., Stafford, Texas; its president, Jerry Vernon Ford; and its vice-president, Preston John Engebretson, in a "non-standard" format, denying them all U.S. export privileges for items exported or to be exported to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country against which the United States declares an embargo.

The original temporary denial orders were issued in May 1997 and were subsequently renewed in October of 1997, based on the Department's reason to believe 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 authorization required under the EAR. The U.S.-origin commodities were allegedly to be used for coating the internal surface of prestressed concrete cylinder pipe for use in the second phase of the Government of Libya's Great Man-Made River Project, a multi-phase, multi-billion dollar endeavor to bring fresh water from wells drilled in southeast and southwest Libya to its coastal cities.

The U.S. Government maintains a comprehensive economic sanctions program against the Government of Libya, which prohibits virtually all commercial transactions involving U.S.-origin goods or U.S. persons, or both, with the Government of Libya, unless specifically authorized. The investigation is being conducted jointly by OEE's Dallas Field Office and the Customs Service.

Summit Marketing Inc. and Sanford Groetzinger Denied Export Privileges Following Conviction For Illegal Exports of Aircraft Parts to Iran

On May 11, 1998, Summit Marketing Inc. and its president, Sanford Groetzinger, were each denied all export privileges until September 26, 2005, each pursuant to Section 11(h) of EAA. Following a criminal investigation by OEE's Boston Field Office and the Customs Service, Summit Marketing and Groetzinger had previously pled guilty in the United States District Court for Massachusetts to charges that they violated the Arms Export Control Act by knowingly and willfully exporting and attempting to export military aircraft components to France for transshipment to Iran without obtaining the required export licenses.

Jose L. Segin Sentenced for Illegal Exports to Cuba

On May 20, 1998, a U.S. District Judge in Miami, Florida sentenced Jose Luis Segin, president of Segin International Corporation, to three years probation, a \$20,000 criminal fine, and a \$100 special assessment fee for violating U.S. restrictions on trade with Cuba. As a term of his probation, the judge ordered Segin to participate in a home detention electronic monitoring program for a period of six months. On April 6, 1998, Segin had pled guilty in U.S. District Court in Miami to violations of the IEEPA, the Trading with the Enemy Act and conspiracy in connection with his involvement in the illegal exportation of commercial foodstuffs and restaurant supplies to Cuba. This investigation was conducted jointly by the OEE and Customs Service offices in Miami.

Arrest and Indictment on Charges of Attempted Illegal Export of U.S.-Origin Equipment to Lebanon

On July 13, 1998, Fawzi Mustapha Assi, a Lebanese naturalized U.S. citizen residing in Dearborn, Michigan, was stopped by OEE and Customs Service special agents at the Detroit Metropolitan Airport as he attempted to board an international flight destined for Beirut, Lebanon. Discovered in his luggage were night vision goggles, a global positioning system, and a thermal imaging camera, which he was attempting to smuggle out of the United States without the required State Department or Commerce Department export licenses.

On July 23, 1998, following the execution of multiple search warrants by OEE, the FBI, and the Customs Service, Assi was arrested by special agents from OEE's Chicago Field Office, the FBI and the Customs Service for attempting to export the items without the required export licenses and for attempting to provide material support or resources to a designated foreign terrorist organization. Assi admitted to procuring items for the Hizballah organization in Lebanon for its use. The U.S. Magistrate released Assi on an unsecured bond.

Assi was subsequently indicted August 4, 1998, on four counts alleging violations of the 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.

IBM East Europe/Asia Ltd. Fined \$8.5 Million for Illegal Exports to Russian Nuclear Weapons Laboratory; \$171,000 Civil Penalty Also Imposed

On July 31, 1998, IBM East Europe/Asia Ltd., a Russian subsidiary of International Business Machines Corp., pled guilty in the U.S. District Court in Washington, D.C., to charges that it exported \$1.5 million worth of computers in 1996 and 1997 to a Russian nuclear weapons laboratory, known as Arzamas-16, having reason to believe that the computers would be used "directly or indirectly" in research on, 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,

the Commerce Department ordered IBM East Europe/Asia to pay \$171,000 and denied its export privileges for two years. The denial period was suspended and will be waived provided the company does not violate the EAR during the two-year probation period. Additionally, IBM East Europe/Asia agreed that, during the two-year period, it will not use license exception CTP, and will not engage in any transactions involving nuclear or military end-users or end-uses without written authorization from BXA. The investigation was jointly conducted by OEE's Washington Field Office and the Customs Service.

Three New York Exporters Penalized In Connection With Conspiracy To Export to Libya

On September 30, 1998, the Commerce Department imposed a \$25,000 civil penalty and a three-year denial of U.S. export privileges on Paul Dufault of Fairport, New York, and on Ed Jentz of Oyster Bay, New York, to settle allegations that they conspired to evade export laws which restrict shipments of U.S.-origin equipment to Libya. Previously, the Commerce Department had imposed the same sanctions on a third co-conspirator, Robert J. Gaudu, of Victor, New York. The Department alleged that Dufault, Jentz, and Gaudu conspired to illegally export U.S.-origin computer systems to Libya, and that they made false or misleading statements of material fact to both BXA and U.S. Customs Service officials in the course of the investigation.

To settle the allegations, Dufault, Jentz, and Gaudu each agreed to pay the \$25,000 civil penalties. As part of the settlement, the Department agreed to suspend the three-year denial periods, which will thereafter be waived provided that, during the period of suspension, the individuals do not violate the EAR.

TABLE II.6-1 -Fiscal Year 1998 Criminal Convictions For Export Administration Act Violations

Conviction Date	Defendant	Violation	Enforcement Organization	Sanction
3/19/98	Xiaoming Liang and David Salman	Conspiracy to possess, sell and illegally export wire, oral or electronic communication intercepting devices to the United Kingdom.	Commerce/ Customs	Xiaoming and Salmon each received a \$2,500 fine, 3 years of probation and 400 hours of community service.
12/19/97	Jack Allen Baugher	Illegal exports of electronic stun guns and pepper spray to Mexico and the Philippines.	Commerce/ Customs	Received a \$130,000 fine, 5 years of probation with 4 months of home detention and 100 hours of community service.
1/13/98	B/E Aerospace	Illegal export of aircraft parts to France for installation in Iran Air aircraft.	Commerce/ Customs	Received a \$2,500,000 fine and 3 years of probation.
1/6/98 1/29/98 1/29/98 6/4/98	Sport Cars Center, Alan Odeh, Ali Odeh, Jamal Odeh and Nael Odeh	Conspiracy to prepare false documentation to export vehicles to various end-users.	Commerce/ Customs	Sport Cars Center received a \$200,000 criminal fine; Alan Odeh received 36 months of probation; Jamal Odeh received a \$25,000 criminal fine and a 21- month term of imprisonment; and Nael Odeh a received \$21,000 criminal fine and a 21- month term of imprisonment.

Conviction Date	Defendant	Violation	Enforcement Organization	Sanction
4/6/98 2/18/98	Abdol Hamid Rashidian a.k.a David Rashidian and Henry Joseph Trojack	Conspiracy to procure and export alumina impregnated with a copper catalyst and General Electric gas turbine parts to Iran through the United Arab Emirates.	Commerce/ Customs	Rashidian received a 21-month term of imprisonment, 3 years of supervised release, and forfeited \$10,000. Trojack is awaiting sentencing.
3/17/98	Well Complex International Inc. and David Chan	Illegal export of hafnium granules to the People's Republic of China; false statement	Commerce	Well Complex received a \$7,500 fine and 5 years of probation. Chan received a \$500 fine and 3 years of probation.
4/6/98	Jose L. Sestin	Illegal export of commercial foodstuffs and restaurant supplies to Cuba.	Commerce/ Customs	Received a \$20,000 fine, 3 years' probation and 6 months' home detention.
6/26/98 8/28/98	Augustin Lopez Rodriguez and Desideria Rodriguez	Conspiracy to illegally export small arms and shotguns to Mexico.	Commerce/ Customs/ Alcohol Tobacco and Firearms	Augustin Rodriguez received a \$5,000 fine, a 5-month term of imprisonment and 3 months of probation. Desideria Rodriguez received a \$500 fine and a 10-month term of imprisonment.
7/31/98	IBM East Europe/Asia, Ltd.	Illegal export of computers to a Russian nuclear weapons laboratory, Arzamas-16.	Commerce/ Customs	Received an \$8.5 million fine.

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