

NOVEMBER 2000

EXPORT CONTROL UPDATE

U.S. LIFTS SANCTIONS ON OIL AND AIR TRAVEL TO YUGOSLAVIA; OTHER TRADE AND FINANCIAL SANCTIONS REMAIN IN FORCE

President Clinton last month lifted certain U.S. restrictions on petroleum exports to the Federal Republic of Yugoslavia and air travel to and from that country in what he called a gesture of strong support for the country's new, democratically elected government. The announcement marks the beginning of the end of a decade-long effort to punish the Milosovic regime through trade sanctions, and came days after the announcement of a similar European Union ("EU") initiative.

A number of U.S. sanctions remain in place, however, including prohibitions on commercial dealings with certain Milosovic supporters and institutions such as Jugoslovenski Aerotransport, Jugopetrol, and Nis-Nafta Industrija Srbije, among others. President Clinton has, however, ordered the U.S. Departments of State and Treasury to begin taking steps to lift some of the remaining trade and financial sanctions still in force.

As a result, the Office of Foreign Assets Control ("OFAC") at the Department of the Treasury recently issued a statement explaining that license applications for exports not permitted under a general license to Yugoslavia will now be considered on an "expedited, case-by-case basis." Until President Clinton ordered the

sanctions lifted, OFAC had presumed applications for specific export licenses denied.

BXA ISSUES NEW ENCRYPTION RULES

After nearly one year of tinkering, the Commerce Department's Bureau of Export Administration ("BXA") recently published new encryption technology export control rules designed to bring U.S. encryption policy closer to EU regulations promulgated last summer. The new U.S. rules ease licensing requirements for exporters of non-retail encryption products to the 15 EU member countries and eight additional nations. Reporting requirements for exports to these countries remain in some instances, however, as do significant complexities for similar exports to other destinations.

BXA GETS FIRST INDICTMENT FOR A "DEEMED EXPORT" VIOLATION

For the first time ever, a federal grand jury has handed up criminal indictments citing the "deemed export" provisions of the Export Administration Regulation.

"Deemed exports" are exports that the government "deems" to have taken place when a foreign national is exposed to technology while in the United States, even though the technology at issue never leaves the United States or possession of the U.S. entity that controls it.

The nine-count indictment charges that two firms (Suntek Microwave and Silicon Telecom Industries) and several individuals violated the International Emergency Economic Powers Act ("IEEPA") and criminal conspiracy laws by providing controlled technologies to Chinese nationals in the United States and by shipping goods to China without proper high-tech licenses. The firms at issue manufacture goods with radar, missile and radio applications.

The indictment alleges a number of schemes through which Chinese nationals came to the United States for the specific purpose of being exposed to U.S. know-how in controlled technologies and that the companies shipped controlled products to China without the proper licenses. The charges also include submitting false and misleading information to BXA in export license applications regarding the true end-users of controlled technologies.

PHJ&W maintains an active trade and export controls practice, centered in Washington, D.C. For more information on these or other export control issues, please feel free to contact the following individuals:

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