

What happens if I violate export controls in the US - 28 Aug 2013

State/DDTC: Meggitt-USA Agrees to \$25 Million Penalty to Settle AECA/ITAR Violation Charges

(Source: http://www.pmdtdc.state.gov/compliance/consent_agreements/meggitt.html) [Published 23 August; corrected and expanded.]

* Respondent: Meggitt-USA, Inc., 1955 N. Surveyor Avenue, Simi Valley, CA 93063, and subsidiary/affiliates:

- Endevco Corp., California
- Meggitt (Xiamen) Sensors & Controls Co., Ltd, China (PRC)
- Engineering Fabrics Corp., Rockmart, Georgia
- Meggitt Training Systems, Inc., Suwanee, Georgia
- Wilcoxon Research, Inc., Maryland

* Charges: 67 violations of AECA ITAR), some extending back to 1998.

* Fine or Civil Settlement: \$25 Million (\$3 Million cash payments over 3 years; \$22 Million suspended if spent on corrective actions)

* Debarred or Suspended from Export Transactions: Not if penalty is paid as agreed (See below mitigating factors justifying non-debarment.)

* Result of Voluntary Self-Disclosure: Partially

* Date of Order: 23 August 2013

Meggitt-USA, Inc. settled allegations that it violated the AECA and the ITAR in connection with the unauthorized export of defense articles, including technical data, the unauthorized provision of defense services, violation of the terms of provisos or other limitations of license authorizations, and the failure to maintain specific records involving ITAR-controlled transactions.

Available documents:

- [Proposed Charging Letter](#)
- [Consent Agreement](#)

- [Order](#)

Violations:

Unauthorized Exports of Defense Articles, including to a Proscribed Country:

(1) Between 2004 and 2008, Endevco exported without authorization three AACs with a capability to connect to an ITAR-controlled Shock Motion Accelerometer Calibrator ("SMAC") and related operator manuals and software to MXM in the PRC.

(2) Between 2007 and 2008, EFC exported without authorization twelve shipments (35 units) of an ITAR-controlled fairing heating bulb and fuel tank assembly intended for the CH-124 helicopter to IMP Group Ltd. in Canada for the Canadian Department of National Defence.

Unauthorized Export of Technical Data and Provision of Defense Services:

(3) Between 2004 and December 2008, Endevco provided defense services without authorization involving repair, maintenance, training, and troubleshooting of the AACs to foreign person employees of MXM in the PRC.

(4) Between April 2005 and July 2009, EFC exported without authorization technical data and provided defense services involving integration of certain foil-related defense articles on the PX & CX aircraft de-icing systems to SEI Hybrid Products, Inc., and SHC Company, Ltd. in Japan.

(5) Between December 2008 and January 2009, EFC exported without authorization technical data and provided defense services for the manufacture of fuel tanks for the UH-60J helicopter to seven different manufacturers in Japan.

(6) Between 2000 and 2009, MTSI provided access without authorization to a foreign person employee from the United Kingdom to its network containing ITAR-controlled technical data involving various firearms simulation systems.

(7) In April 2009, MTSI exported without authorization four (4) training manuals involving operation and maintenance of stationary infantry targets, stationary armor targets, and a computer range control system for targeting, to foreign persons from India and Egypt. MTSI provided the manuals to a translation services vendor in the United States who subsequently provided the materials to foreign persons in India and Egypt.

Violating the Terms, Conditions, and Provisos of Licenses:

(8) Between 1997 and 2009, EFC violated a proviso of a manufacturing license agreement ("MLA") by failing to obtain non-disclosure agreements from sublicensees. The foreign licensee retransferred without authorization technical data and provided defense services for the manufacture of door plates involving the CH-47 helicopter to sublicensees.

(9) Between August 1997 and July 2009, EFC violated the terms of an MLA, including a proviso, by failing to obtain non-disclosure agreements from sublicensees; providing defense services and exporting technical data to a party that did not sign the MLA; exceeding the manufacturing value; and, exporting technical data and providing defense services after the expiration of the MLA. This MLA authorized the manufacture of fuel tanks for the CH-47D, OH-1, and UH-1J helicopters to various end-users in Japan. EFC also violated a proviso of the MLA by failing to timely amend the agreement.

(10) Between October 1999 and October 2007, EFC violated a proviso of an MLA by failing to obtain non-disclosure agreements from sublicensees. The end-user, without authorization, retransferred technical data and provided defense services for the manufacture of the tank assembly and associated components intended for the UH-60J helicopter to six (6) sublicensees in Japan. EFC also failed to amend timely the agreement as required by a proviso.

(11) Between 2003 and 2009, EFC committed several violations involving an MLA that authorized the export of technical data and provision of defense services for the production of the main heating element on the UH/SH-60 helicopter to Japan. EFC disclosed to the Department the following violations under the MLA:

- a. Failed to submit sales reports to the Department as required under §124.9(a)(5) of the ITAR;
- b. Manufactured articles greater than the value authorized by the MLA by approximately \$559,861.00;
- c. Failed to comply with a proviso by not referencing the MLA on exports of defense articles under 16 DSP-5 licenses;
- d. Failed to comply with a proviso when EFC did not provide an update to the valuation of the MLA;
- e. Provided incorrect sales reports under the MLA. EFC originally reported to the Department that no sales took place. However, sales occurred from 2004 to 2006;
- f. Without authorization exported technical data and provided defense services related to the MLA;
- g. Failed to identify a broker to the MLA;
- h. Omitted relevant information and provided inaccurate information when Respondent proposed amendments to the Department. EFC failed to identify the known violations identified involving the MLA;
- i. Without authorization exported eleven shipments of hardware in support of the MLA. EFC temporarily imported two (2) shipments without authorization; and
- j. Failed to comply with a proviso by not executing amendments A and B to the MLA prior to the exports.

(12) Between 2004 and 2009, EFC violated a proviso of an MLA by failing to obtain a non-disclosure agreement from a sublicensee in Japan. The end-user, without authorization, retransferred technical data and provided defense services involving the production of fuel tank assemblies for the T-3KAI and T-5 aircraft to the sublicensee. Also, EFC failed to file timely and accurately annual sales reports and exported defense articles in violation of a proviso.

(13) Between December 2004 and January 2008, EFC violated a proviso of a TAA by failing to obtain non-disclosure agreements from sublicensees. The TAA's end-user retransferred technical data and provided defense services without authorization involving the manufacture of ITAR-controlled tank assemblies to four sublicensees in Japan.

(14) Between April 2005 and March 2008, EFC violated a proviso of an MLA by failing to obtain non-disclosure agreements from twelve (12) sublicensees. The end-user without authorization retransferred technical data and provided defense services involving the production of fuel cells for the F-15, T-4, US-1, and US-2 aircraft to eleven sublicensees in Japan.

(15) Between 1988 and July 2009, EFC violated a proviso of an MLA by failing to obtain non-disclosure agreements from nine (9) sublicensees. The MLA's end-user without authorization retransferred technical data and provided defense services for the manufacture of components of the SH-60J helicopter to nine sublicensees in Japan.

(16) EFC violated a proviso of two manufacturing license agreements by exporting hardware. The proviso prohibited hardware exports.

(17) EFC failed to submit annual reports of sales as required pursuant to § 124.9(a)(5) of the ITAR for three manufacturing license agreements.

(18) EFC provided inaccurate sales reports for two manufacturing license agreements.

(19) EFC failed to reference six manufacturing license agreements and one technical assistance agreement on various DSP-5 licenses as required by a license proviso.

(20) MTSI violated the terms of four DSP-73 temporary licenses by failing to return from Japan various firearms simulation training equipment before the expiration of the licenses.

(21) EFC violated the terms of three DSP-5 licenses for the export of the coated fabric, nylon cord, and acrylonitrile-butadine rubber intended for the T-2 and F-15J aircraft, and SH-60J helicopter to Japan by using an unauthorized freight forwarder.

Violations Involving Administrative Requirements:

(22) EFC failed to modify four manufacturing license agreements and three technical assistance agreements prior to execution, as required by an agreement proviso.

(23) Between 2002 and 2008, EFC failed to return ninety-nine (99) expended, unused and/or expired licenses obtained between 2002 and 2007 in accordance with § 123.21(b) of the ITAR.

(24) EFC failed to execute thirteen agreements and amendments within 30 days or provide a written status of unexecuted agreements on a yearly basis, as required by § 124.4(a) of the ITAR.

(25) EFC failed to submit an amendment to extend five agreements at least 60 days prior to the expiration of the agreements.

Failure to Maintain Required License Records:

(26) EFC failed to maintain records of thirteen technical assistance and manufacturing license agreements.

(27) EFC failed to novate timely nine manufacturing license agreements and three technical assistance agreements to reflect a change in ownership.

Mitigating Factors:

- Voluntary disclosure of most violations.
- Most violations were committed by subsidiaries before Respondent acquired those subsidiaries.
- Respondent's offer to settle matters with DDTC.
- Respondent's offer to settle related matters with Department of Justice.
- Respondent's self-initiated comprehensive remedial compliance measures before and during the course of government review.
- Respondent's responsiveness and cooperation with DDTC.

Aggravating Factors:

- Violations were long-standing when subsidiaries were acquired by Respondent (lack of adequate due diligence before acquisition).
- Subsidiaries' unfamiliarity with, and apparent disregard of ITAR compliance.
- One disclosure was directed.

Corrective Actions (CAs): (Excerpts.)

- Incorporate CAs upon acquisition of any new business entity engaged in ITAR-regulated activities.

- Notify DDTC 60 days before sale of any entity engaged in ITAR-regulated activities and inform purchaser of CA requirements.
- Ensure adequate resources are dedicated to ITAR compliance, including:
 - lines of authority
 - staffing increases
 - performance evaluations
 - career paths
 - promotions and compensation
- Appoint Internal Special Compliance Officer (ISCO) who will:
 - report directly to DDTC and to VP/GM
 - conduct ITAR compliance review throughout ITAR-regulated business units
 - oversee implementation of all compliance measures.
 - have authority to hire staff and outside consultants to assist.
- VP/General Counsel to brief Board annually re findings and recommendations of ISCO.
- Retain outside consultant to conduct initial comprehensive audits of ITAR-regulated business units; follow two years later with additional audits to determine whether CAs were adequately implemented.
- Implement comprehensive automated electronic export compliance system that will track ITAR compliance from sales order through exports, re-exports, to conclusion of compliance requirements.