

What happens if I violate US export controls? 12 Aug 2013

State Department Concludes Settlement of Export Violations by Aeroflex Incorporated

(Source: Office of the Spokesperson, <http://www.state.gov/r/pa/prs/ps/2013/08/213002.htm>)

[Excerpts.]

Aug. 9, 2013, Press Release:

"The State Department concluded an administrative settlement with Aeroflex Incorporated ("Aeroflex") of Plainview, NY, to resolve alleged violations of the Arms Export Controls Act ("AECA")(22 U.S.C. § 2778) and the International Traffic in Arms Regulations ("ITAR")(22 C.F.R. parts 120-130). The settlement was resolved pursuant to ITAR Section 128.11 wherein Aeroflex agreed to enter into a consent agreement with the Department.

The settlement was reached after an extensive compliance review by the State Department's Office of Defense Trade Controls Compliance in the Bureau of Political-Military Affairs and addresses hundreds of alleged civil violations of the AECA and ITAR. This settlement highlights the Department's responsibility to protect sensitive U.S. defense hardware and technology from unauthorized use.

The Office of Defense Trade Controls Compliance determined that Aeroflex demonstrated inadequate corporate oversight and a systemic and corporate-wide failure to properly determine export control jurisdiction over commodities, leading to numerous violations during the period of 1999-2009. Over the course of many years, Aeroflex business units disclosed to the Department hundreds of ITAR violations, largely consisting of unauthorized exports resulting from the failure to properly establish jurisdiction over defense articles and technical data. The violations included unauthorized exports and re-exports of ITAR-controlled electronics, microelectronics, and associated technical data and causing unauthorized exports of ITAR-controlled microelectronics by domestic purchasers.

Under the terms of the two-year Consent Agreement with the Department, Aeroflex will pay a civil penalty of \$8 million. The State Department agreed to suspend \$4 million of this amount on the condition the Department approves expenditures for self-initiated, pre-Consent Agreement remedial compliance measures and Consent Agreement-authorized remedial compliance costs. In addition, an Internal Special Compliance Official will be engaged by Aeroflex to oversee the Consent Agreement, which will also require the company to conduct two audits of its compliance program during the Agreement term as well as implement additional compliance measures, such as improved policies and procedures, and additional training for staff and principals.

Aeroflex disclosed nearly all of the ITAR violations resolved in this settlement voluntarily to the Department, acknowledged their serious nature, cooperated with Department reviews, and since 2008 has implemented or has planned extensive remedial measures, including the restructuring of its compliance organization, the institution of a new testing protocol of its commodities, and a

revised company-wide ITAR compliance program. For these reasons, the Department determined that an administrative debarment of Aeroflex was not appropriate at this time.”