



# Global Watch<sup>®</sup>

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## ITT's Plea Agreement Prompts Lively Industry Response

Industry reaction to the largest trade compliance violation case ever demonstrates how the attitudes of compliance professionals are changing. The question is does senior management of other corporations recognize the changed world? What lessons might companies learn from the commentary below?

In March of this year, ITT Corporation pled guilty to two criminal counts for unauthorized exports of sensitive night vision technology, including classified data, to the United Kingdom, Singapore and People's Republic of China as well as the omission of material facts from reports to the State Department. This case and the related \$100M fine are a first time criminal

*ITT Plea - Continued on page 10*

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## China: Import Licenses Waived for Many Items

In an attempt to achieve more balanced international trade, China now allows domestic companies to freely import a wide range of materials and products, in a move to achieve trade balance.

From April 1, 2007, Chinese firms no longer need to apply for an import license to import products in 338 categories, the Foreign Trade Department of the Commerce Ministry announced on its website.

Steel products, plastic materials as well as some machinery and electronics products are included in the list.

Chinese traders need to get an "automatic import license" for these products, meaning they do not need to get official approval but their imports will have to be recorded at the Ministry.

"The move is aimed at promoting the balanced development of China's foreign trade by simplifying import administration and facilitating trade," the trade department said.

The relaxation of import licensing marks the latest attempt by the Ministry to help rebalance the country's imports and exports.

"It's one of the substantial measures the Commerce Ministry makes this year to facilitate imports," said an official who asked not to be named.

To prevent the trade surplus from widening, the government has taken a series of measures to encourage imports and restructure exports.

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## Read how High Technology is being used to Protect U.S. Borders

See Page 3

## BIS is Picking up the Enforcement Pace

See Page 4

## Consent Agreements Define Trouble

See Page 6

## China Orient University Completes IIEI Testing

See Page 12

## Proposed 2007 U.S. Export Enforcement Act

The Bush Administration has proposed federal legislation aimed at providing law enforcement with enhanced tools in the fight against terrorism and the creation of weapons of mass destruction. The Export Enforcement Act of 2007 represents a significant step in aiding the Department of Commerce's Bureau of Industry and Security (BIS).

"In today's post-9/11 world we need to give law enforcement officers the vitally important tools necessary, like those in the Export Enforcement Act of 2007, to keep the most sensitive items out of dangerous hands," said Secretary of Commerce Carlos M. Gutierrez.

The Commerce Department's proposed legislation would increase

*Export Act - Continued on page 11*

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## Notes from the Executive Director

### Whirlwind of Change Around the World

by *Dr. Donald N. Burton*



It seems that the changes in international trade are coming faster and faster as the 21<sup>st</sup> century begins to unfold. And that is evident in this issue of GlobalWatch® as well. The U.S. Government is moving ahead with its proposal of the U.S. Export Enforcement Act of 2007. China is lessening its restrictions on imports and the U.S. Customs and Border Protection Agency is strengthening its border security with high technology. Following this theme, the Bureau of Industry and Security is stepping up its pace at enforcing export laws. It seems that the rules for conducting international trade are getting stricter and stricter.

A notable continuing story is that of the fate of ITT Corporation. Government and public reaction, both in our cover story "ITT's Plea Agreement Prompts Lively Industry Response" and the "ITT Corp Asked to Take Action..."

piece on page 5, signal industry that trade compliance must become a boardroom issue NOW. It is only fitting with ITT's plea agreement that the IIEI publish the Jeremy Huffman et al article on related consent agreements in this issue.

I am pleased to report that the IIEI's effort is continuing to expand in the U.S. and elsewhere in the world, most notably in China (see article page 12). Mr. Joseph Zodl is now in China completing another round of IIEI train-the-trainer sessions—this time for the Certified International Trade Logistics Specialist® certification. I am also very excited to announce that the State University of New York has become an official Approved Education Provider for the IIEI's certification program. Welcome aboard.

As always, thank you for your strong continued support. I hope you enjoy this issue.

### Virginia Company Named Exporter of the Year by U.S. Export Promotion Magazine

The Republic Group (TRG) of Arlington, Va., has been awarded the 2007 ThinkGlobal/Commercial News USA Exporter of the Year award from ThinkGlobal Inc., publisher of Commercial News USA, the official export promotion magazine of the U.S. Commerce Department.

TRG's two core business units are its Environmental Systems Division and its Electronic

Components Division, both of which pursue global market opportunities by utilizing an extensive network of in-country representatives and contacts. Today exports make up over 90% of TRG's \$35 million annual turnover.

Since its inception in 1958, the company has focused almost exclusively on the international marketplace. "For nearly 40 years

**Exporter of the Year** - Continued on page 7

## New High Technology Solutions Protect U.S. Borders

High tech surveillance of U.S. borders is now in place. A 37-year-old Honduran national was arrested attempting to illegally enter the United States as a stowaway on a southbound freight train. U.S. Customs and Border Protection (CBP) officers and Border Patrol agents apprehended Elmer Centeno Castro, using rail gamma-imaging technology.

CBP officers were performing routine inspections of the Burlington Northern Santa Fe freight train on April 30 around 11 p.m. when they discovered an anomaly. The train was stopped and Centeno Castro was found hiding inside a grain car. Identification checks revealed he has an extensive criminal history and is currently wanted in San Francisco on a felony dangerous drugs warrant.

In a second incident, CBP officers discovered an anomaly while processing a southbound freight train with the gamma-imaging technology. CBP Border Patrol Agents extracted a 24-year-old Honduran from the porthole area of a hopper car containing potassium. Rigoberto Valle Acosta was immediately returned to Canadian authorities.

CBP uses a variety of inspection technology at most ports of entry throughout the United States. In addition to the large-scale gamma-ray imaging systems used in these apprehensions, CBP deploys personal radiation detectors, radiation portal monitors

and radiation isotope identifier devices. These tools give CBP officers the capability to efficiently and safely perform thorough examinations of cargo and conveyances without having to resort to the costly, time consuming process of unloading cargo for manual searches, or intrusive exams such as drilling and dismantling. This allows CBP officers to work smarter and faster in recognizing potential terrorist threats while simultaneously facilitating legitimate trade and travel through our ports of entry.

*U.S. Customs and Border Protection is the unified border agency within the Department of Homeland Security charged with the management, control and protection of our Nation's borders at and between the official ports of entry. CBP is charged with keeping terrorists and terrorist weapons out of the country while enforcing hundreds of U.S. laws.*

**Source:** <http://www.cbp.gov>

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### Interesting Note

**Industry experts claim that perhaps as many as 80% of responsible companies exporting controlled goods continuously for five years or more have committed one or more export violations without knowing or reporting them.**

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See new degree emphasis on the back cover of this GlobalWatch®.



## BIS Update

U.S. DOC Bureau of Industry and Security

### LogicaCMG Pled Guilty

The U.S. Department of Commerce announced that Logica-CMG, Inc., of Houston, Texas, agreed to pay a \$99,000 civil penalty to settle nine charges that predecessor and affiliated entities, CMG Telecommunications of Nashua, New Hampshire, and CMG Wireless Data Solutions of Brazil, violated the Export Administration Regulations (EAR) in connection with unlicensed export of

*Guilty - Continued on page 9*

### SNAP-R User ID and PIN

On May 3, 2007, BIS posted a change to the submission of SNAP-R User ID and PIN requests. These requests will now be accepted via fax. Please see the PIN Request Page at <http://www.bis.doc.gov/SNAP/pinsnapr.htm>.

### Missile Technology Control Regime Final Rule

The Bureau of Industry and Security (BIS) final rule amends the Export Administration Regulations (EAR) to reflect changes to the Missile Technology Control Regime (MTCR) Annex that were agreed to by MTCR member countries at the October 2006 Plenary in Copenhagen, Denmark.

The amendments set forth include adding a new Export Control Classification Number (ECCN) 7A107 to control three axis magnetic heading sensors designed or modified to be integrated with flight control and navigation systems.

**Source:** [Federal Register: May 7, 2007 (Volume 72, Number 87)]

### Illinois Co. Agrees to \$220,000 Civil Penalty for Unauthorized Exports of Diaphragm Pumps.

Yamada America, Inc. an Illinois company, was assessed a civil penalty of \$220,000 in connection with the export of diaphragm pumps to Taiwan, Singapore, Brazil and Ecuador without the required licenses.

BIS charged that, between 2001 and 2005, Yamada commit-

*Yamada - Continued on page 11*

### \$200,00 in Fines and Penalties

Alpine Armoring, Inc., headquartered in Herndon, Virginia, pled guilty to selling and exporting various commodities and articles, some of which were subject to export controls maintained by the U.S. Department of Commerce and the U.S. Department of State.

*Alpine - Continued on page 5*



## Complying with the International Traffic in Arms Regulations (ITAR) in the Invigorated Post-9/11 Enforcement Environment

Hosted by the Arizona District Export Council



We invite you to participate in this timely, in-depth one-day seminar at the Orange Tree Resort, 10601 North 56<sup>th</sup> Street, Scottsdale, AZ

**Tuesday, June 12, 2007 7:30 AM - 5:00 PM**

Seminar Fee: \$150 per person

Deadline for Payment: June 8, 2007 (space is limited) - Breakfast and Lunch included

Register on-line today at <http://www.buyusa.gov/arizona/itar.html>

For an agenda and more information, please contact: Mr. Matt Baker, Arizona U.S. Export Assistance Center  
Phone: 520-670-5809 Email: [matt.baker@mail.doc.gov](mailto:matt.baker@mail.doc.gov)

This event is jointly sponsored by the Arizona U.S. Export Assistance Center, JPMorgan Chase and Snell & Wilmer, LLP.

# DDTC Update

Directorate of Defense Trade Controls

## ITT Corp Asked to Take Action Against Employees Responsible for Illegal Exports

On May 4, 2007, ITT Corporation filed its first quarter 2007 quarterly report (Form 10-Q) with the Securities and Exchange Commission. Among other things, the 10-Q notes that an ITT shareholder has requested ITT's Board of Directors to take actions against the ITT employees that were responsible for engaging in the activities that led to the criminal penalties that were levied on the company. The request is being evaluated by ITT.

**Source:** International Trade Law News, <http://tradelawnews.com/>

## D-Trade / Licensing Update

As of April 30, 2007, the Office of Defense Trade Controls Licensing no longer accepts the "carbon paper" and "downloadable" DSP-5, DSP-61, and DSP-73 application forms. The D-Trade (electronic) version of these forms may only be used, and must be submitted through D-Trade. Any "carbon paper" or "downloadable" form postmarked or hand delivered after April 30 will be returned to the applicant.

For amendments, the DSP-119 may still be used until replaced by the DSP-6, DSP-62, and DSP-74.

Submissions not affected by this change include: DSP-85 (Application/

License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data), DSP-53 (International Import Certificate), General Correspondence, Agreements and Agreement Amendments (TAAs, MLAs, DAs), and Brokering Requests.

**Source:** [http://www.pmdtcc.state.gov/dtrade\\_licensing\\_update.htm](http://www.pmdtcc.state.gov/dtrade_licensing_update.htm)

*Alpine - Continued from page 4*

The company specifically exported unlicensed ballistic helmets to Surinam, in violation of federal law. Chuck Rosenberg, United States Attorney for the Eastern District of Virginia, also announced that Fred Khoroushi, President and Director of Alpine Armoring, Inc., pled guilty to making false statements on a Shipper's Export Declaration, in violation of federal law. The maximum penalties for Khoroushi's offense are one year of imprisonment and a fine of \$100,000.

In January 2002, Alpine Armoring, Inc., shipped an order of ballistic helmets to the Centrale Banke Van Suriname without first obtaining a license for the shipment from the U.S. Department of Commerce. The ballistic helmets were classified under an Export Control Classification Number, and were controlled by the Department of Commerce for anti-terrorism and national security reasons; thus, a license was required for their export.

Fred Khoroushi and Alpine Armoring, Inc., have agreed to pay \$200,000 in criminal fines and civil sanctions.

**Source:** [www.bis.doc.gov](http://www.bis.doc.gov)

## 43 Countries on "Special 301" Report List on Intellectual Property Rights Violators

The Office of the U.S. Trade Representative (USTR) issued its annual "Special 301" report for 2007 on intellectual property rights (IPR) protection in trading partners around the world. This year's report highlights concerns with respect to some countries, in spite of some evidence of improvement.

This year's Special 301 report places 43 countries on the Priority Watch List (PWL), Watch List (WL) or the Section 306 monitoring list. Countries on the PWL do not provide an adequate level of IPR protection or enforcement, or market access for persons relying on intellectual property protection. The report highlights the prominence of concerns with respect to China and Russia, in spite of some evidence of improvement. In addition to flagging prominent intellectual property concerns of U.S. trade policy, the report recognizes progress.

According to the release, Brazil is being moved to the WL (from the PWL), which reflects significant improvements in copyright enforcement. Trading partners Bahamas, Bulgaria, Croatia, the EU and Latvia are being removed from the Special 301 listing altogether.

This report makes clear that many U.S. trading partners increasingly appreciate the link between innovation-fueled economic vitality and effective government enforcement against those who produce and trade in pirated and counterfeit goods. The report makes equally clear, though, that U.S. right holders continue to face major challenges to protecting their intellectual property in many parts of the world. View the complete report online at:

[http://www.ustr.gov/Document\\_Library/Press\\_Releases/2007/April/SPECIAL\\_301\\_Report.html](http://www.ustr.gov/Document_Library/Press_Releases/2007/April/SPECIAL_301_Report.html)

# In Compliance....

## CONSENT AGREEMENTS: TOOLS OF LAST RESORT? A BASIC UNDERSTANDING/PRIMER

By *Jeremy K. Huffman • Darren P. Riley • Suzanne Y. Kao*

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The phrase “Consent Agreement” strikes fear in the hearts of export compliance professionals, eliciting visions of multi-million dollar fines, the appointment of oppressive compliance ombudsman, complex computer monitoring systems, and exhaustive audit requirements, not to mention hordes of lawyers demanding boxes of documents. In truth, however, export-related consent agreements tend to be utilized in a narrow range of situations when the Department of Commerce or the Department of State:

- 1.learns of a particularly egregious export violation involving either: sensitive technologies; sensitive destinations; or a systemic pattern of unauthorized activities;
- 2.believes that an exporter is being less than forthright in providing information concerning a transaction of concern; or
- 3.is presented with a scenario that provides a basis for the agency to “make a point” that the government believes needs to be demonstrated to the exporting community at large.

Although space constraints preclude a statistical review to demonstrate just how few enforcement actions, whether initiated by virtue of a voluntary disclosure, directed disclosure or other mechanism, result in consent agreements, suffice it to say that consent agreements tend to be a tool of last resort at both Commerce and State, which generally arises from one of the above-listed scenarios.<sup>1</sup>

### Department of State

International Traffic in Arms Regulations (“ITAR”) §§ 128.3 and 128.11(b) govern the Consent Agreement process at State, which generally begins when the Directorate of Defense Trade Controls, Office of Defense Trade Compliance (“DDTC”) determines that violations have occurred that justify administrative proceedings. Instead of going forward with a formal administrative proceeding, the case may be settled with a Consent Agreement. Typically DDTC issues a draft charging letter describing the relevant facts and identifying the resulting charges. DDTC will then meet with the charged exporter to discuss the draft charging letter and negotiate the terms of the Consent Agreement. The process from this point forward is case-specific, and will vary depending on the ability of DDTC and the charged exporter to agree to terms of a settlement. As is evident from a review of past Consent Agreements, such settlements typically include a combination of measures, penalties and fines, including:

- 1.monetary penalties, often paid over the term of the Consent Agreement, which is typically three years;
- 2.suspended monetary penalties that only must be applied to an exporter’s compliance program over an established period of time and be paid only if the ex-

porter violates the terms of the Agreement;

- 3.modifications to an exporter’s compliance program to address the particular problem that resulted in the violations. This may include training, realignment of responsibility to ensure oversight by the company’s General Counsel, and implementation of strengthened export compliance processes and procedures;
- 4.appointment of an internal or external Special Compliance Official (“SCO”), for a period of two to three years, who reports directly to the company General Counsel and/or Board of Directors and is responsible for monitoring and reporting on export compliance matters. The SCO often must also provide periodic reports concerning the implementation of the Consent Agreement and overall export compliance to DDTC;
- 5.access to facilities for audits by DDTC;
- 6.mandated outside audits of export compliance processes and procedures<sup>2</sup>;
- 7.implementation of electronic tracking of export authorizations from the time the need for the authorization is identified through use of the authorizations to conduct exports, with remote access by DDTC; and

In Compliance - Continued from page 6

8. certification by a senior company official at the conclusion of the term of the Consent Agreement that all terms have been satisfied.

On its face, this illustrative list may seem overwhelming, especially when one considers the fact that the regulations permit up to \$500,000 per a violation and imprisonment. However, it is often the case that DDTC and the exporter will be able to negotiate credits back to the exporter for mitigating factors and/or corrective actions it has taken, in the case of voluntary disclosures, thereby reducing some of the fines and penalties.

Although rarely exercised in the civil context, DDTC also has the discretion to debar or suspend entities from participating in exports of ITAR-controlled defense articles. See ITAR §§ 127.7 and 127.8. Consent Agreements must be approved and signed by the Assistant Secretary for Political-Military Affairs.

#### Department of Commerce

On the Commerce side, Export Administration Regulations (“EAR”) § 766.18 generally addresses the settlement of cases, typically via Consent Agreement, prior to issuance of a formal charging letter. The Assistant Secretary for Export Enforcement, Bureau of Industry and Security (“BIS”) is responsible for Commerce enforcement actions, in conjunction with the Office of Chief Counsel of Industry and Security. BIS also maintains an internal Administrative Case Review Board (“ACRB”) that advises the Assistant Secretary on such matters as:

1. whether to issue a proposed charging letter;
2. potential charges;
3. appropriate penalties; and
4. settlement terms.

When BIS determines that a violation has occurred and issues a proposed

or final charging letter, settlement discussions may lead to a Consent Agreement at any time. The terms of the agreement and associated Order must be approved by the Assistant Secretary for Export Enforcement. In Supplement No. 1 to EAR § 766, Guidelines on Charging and Penalty Determinations in Settlement of Administrative Enforcement Cases, BIS describes its three primary types of administrative sanctions: monetary penalties, a denial of export privileges, and an exclusion from practice before BIS. These Guidelines also describe the types of factors that BIS considers, including:

1. degree of willfulness;
2. destination involved;
3. related violations; and
4. the timing of the settlement in reference to the charging letter.

BIS Consent Agreements also typically include a compliance mandate, requiring the exporter to meet certain standards in its compliance program. BIS has demonstrated that it will not tolerate deliberate misrepresentations in voluntary disclosures, and expects companies to be forthcoming in exchange for mitigation of fines and penalties. As with DDTC, however, Consent Agreements are not BIS’ preferred avenue of closing out cases and tend to be reserved for particularly egregious cases or instances of deliberate misconduct.

#### Conclusion

In effect, Consent Agreements are the result of negotiations between the government agency and the charged exporter, the terms of which are closely tied to the specific facts of the case. Every exporter has violations; they are nearly inevitable, given the scope of global business and the complexity of the ITAR and the EAR. Nevertheless,

it is critical that exporters realize that voluntary disclosures generally do not result in a Consent Agreement, either at State or Commerce. In most cases, transparency and thoroughness of voluntary disclosures, in conjunction with a carefully designed, monitored and executed compliance program, are an exporter’s best tools to avoid costly administrative proceedings and settlements. Where Consent Agreements do come into play, these same factors provide the exporter with a solid negotiating position.<sup>3</sup>

#### **(Footnotes)**

<sup>1</sup> For further information concerning the statistics at the Department of Commerce, see <http://www.bis.doc.gov/News/2007/cases/VSD.paper.pdf>. State Department consent agreements are available at: [http://www.pmdtc.state.gov/consent\\_agreements.htm](http://www.pmdtc.state.gov/consent_agreements.htm)

<sup>2</sup> In recent years, DDTC has implemented a visit program that “kicks the tires” of company export compliance programs, including companies that have been under Consent Agreements.

<sup>3</sup> This article is provided for general informational purposes and does not constitute legal advice for specific cases, which should only be obtained from an attorney.

You may contact the authors at:

[www.hrk-law.com](http://www.hrk-law.com)

Exporter of the Year - Continued from page 2

now, TRG has considered the entire world as our ‘sandbox.’ We have always been a ‘gazelle’ company, gladly leaving the heavy lifting to the ‘big guys.’ That’s how we are able to stay one step ahead of them every time,” stated Mike Ueltzen who joined TRG in 1968 and became President and CEO in 1992.

Gregory Sandler, Publisher of Commercial News USA, said that The Republic Group’s success is indicative of how American companies can benefit from exporting. “With 95% of the world’s market outside the U.S., there is significant growth opportunity for American manufacturers and service providers.”



## Country Profile

## Mongolia

Mongolia is the world's second-largest landlocked country after Kazakhstan. It is bordered by Russia to the north and China to the south. Mongolia's political system is parliamentary democracy.

Mongolia was the center of the Mongol Empire in the thirteenth century and was later ruled by the Chinese Qing Dynasty from the end of the seventeenth century until 1911, when an independent government was formed with Russian assistance. The Mongolian People's Republic was proclaimed in 1924, leading to the adoption of communist policies and a close alignment to the Soviet Union.

After the fall of communism in Mongolia in 1990, Mongolia adopted a new, democratic constitution which was ratified in 1992, making it one of the world's youngest democracies.

Mongolia's economy is centered on agriculture and mining. Mongolia has rich mineral resources, and copper, coal, molybdenum, tin, tungsten, and gold account for a large part of industrial production.

There are currently over 30,000 independent businesses in Mongolia. The majority of the populations outside urban areas participate in subsistence herding; livestock typically consists of sheep, goats, cattle, horses, and Bactrian camels. Agricultural crops include wheat, barley, vegetables, and other forage crops.

In 2005, per capita income was \$1,900. Although GDP has risen steadily since 2002 at the rate of 6.2% in an official 2005 estimate, the state is still working to overcome a sizable trade deficit. A massive (\$11 billion) foreign debt to Russia was settled by the Mongolian Government in 2004 with a \$250 million payment. Despite growth, the proportion of the population below the poverty line is estimated

to be 36.1% in 2004, and both the unemployment rate and inflation rate are high at 6.7% and 10.9%, respectively. Mongolia's largest trading partner is China. As of 2003, 46.6 percent of Mongolia's exports went to China, and China supplied 24.4 percent of Mongolia's imports.

China is Mongolia's chief export partner and a main source of the "shadow" or "grey" economy. The World Bank and other international financial institutions estimate the grey economy to be at least equal to that of the official economy, but the formers' actual size is difficult to calculate since the money does not pass through the hands of tax authorities or the banking sector. Remittances from Mongolians working abroad both legally and illegally are sizable, and money laundering is a growing concern. Mongolia, which joined the World Trade Organization in 1997, seeks to expand its participation and integration into Asian regional economic and trade regimes.

Mongolia is seeking to increase trade with the world. All indicators are that it can be a favorable market opportunity with acceptable risk factors.

Mongolia  
at a Glance

**GDP:** \$5.781 billion (2006 est.)

**GDP - real growth:** 7.5% according to official estimate (2006 est.)

**GDP - per capita (PPP):** \$2,000 (2006 est.)

**Inflation Rate:** 3.3% (2006 est.)

**Labor Force:** 1.577 million (2005)

**Unemployment Rate:** 3.3% (2005)

**Population:** 2,951,786 (July 2007 est.)

**Exports:** \$1.064 billion f.o.b. (2005)

**Exports - Commodities:** copper, apparel, livestock, animal products, cashmere, wool, hides, fluorspar, other nonferrous metals

**Exports - Markets:** China 48.1%, US 14.2%, Canada 11.6%, UK 8.3%, South Korea 6.2% (2005)

**Imports:** \$1.184 billion c.i.f. (2005)

**Import - Commodities:** machinery and equipment, fuel, cars, food products, industrial consumer goods, chemicals, building materials, sugar, tea

**Import - Markets:** Russia 34.5%, China 27.4%, Japan 7.1%, South Korea 5.3% (2005)

**Exchange Rate:** togrogs/tugriks per US dollar - 1,179.6 (2006)

**Internet Users:** 268,300 (2005)

**Internet Hosts:** 272 (2006)

**Source:** CIA World Fact Book and Wikipedia



## U.S. - Korea Free Trade Agreement

The White House issued a press release recently announcing that President Bush has advised the U.S. Congress of his intention to enter into a free trade agreement (FTA) with the Republic of Korea. The President notified Congress of his intent on April 1, 2007.

Under the Trade Act of 2002, the Bush administration must notify Congress at least 90 days before signing the agreement. Upon notification, Congress has 90 days to consider the matter. The administration must now consult with Congress to prepare the way for the eventual consideration of the agreement.

"This is a historic moment for our two countries," said U.S. Trade Representative (USTR) Susan C. Schwab, "The United States - Korea Free Trade Agreement [KORUS FTA] will provide U.S. farmers, ranchers, manufacturers and service providers exciting new market opportunities in a growing, dynamic country."

Courtesy: Expeditors' Newsflash

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telecommunications equipment through Panama to Cuba.

LogicaCMG also pled guilty in the U.S. District Court, District of New Hampshire on April 25 to violating the International Emergency Economic Powers Act for the unlicensed export of the SMSC through Panama to Cuba and was ordered to pay a \$50,000 criminal fine.

The Commerce Department's Bureau of Industry and Security (BIS) charged that from July 2001 through October 2001, CMG Telecommunications and CMG Wireless Data Solutions conspired to export and did export a single node short message service center (SMSC) from the United States through Panama for ultimate delivery to an end-user in Cuba without the required export license. The equipment was controlled for national security, anti terrorism and encryption item reasons. BIS further charged that CMG Telecommunications took actions to evade the provisions of the EAR by concealing the fact that Cuba was the country of ultimate destination and acted with knowledge of a violation when it transmitted technical data to Cuba by e-mail to assist in the installation of the SMSC without getting the required export license.

Source: [www.bis.doc.gov](http://www.bis.doc.gov)

China Imports - Continued from page 1

From late last year, China began to scrap or lower the export tax rebate rates on some energy-intensive and polluting products.

In April, the country will also open an imports section at the Canton Fair, China's largest trade event.

Despite these efforts by the gov-

**... China Trade Surplus  
tripled to US\$39.64 billion in  
first two months [of 2007].**

ernment, China still saw its trade surplus tripled to US\$39.64 billion in the first two months of this year.

Vice-Minister of Commerce Gao Hucheng said the impact of the measures to cut the trade surplus will show later. "I think things will change in the coming months as import-encouraging and trade-facilitating measures take effect," he said.

He added that it's impossible to achieve an absolute balance in trade in the coming years because of the country's huge trade figures.

He noted that although China has a mounting trade surplus with some economies, such as the United States and the European Union, domestic firms don't profit as much since most of it is taken by foreign investors.

Chinese top officials stress China is not pursuing a strategy of trade surplus. Instead, the country is striving to improve the quality of its exports to upgrade its foreign trade structure.

Source: China People's Daily Online

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ITT Plea - Continued from page 1

conviction of a major US defense contractor—record breaking—precedent setting—with significant long-term impact on the trade compliance community worldwide and a long list of adverse consequences for the Corporation.

A group of seasoned industry practitioners attending the International Import-Export Institute were provided copies of the Plea Agreement between ITT and the US Department of Justice. They were then asked: How would you characterize ITT's corporate compliance culture? Here's a representative cross-section of responses.

- “ITT Night Vision (NV) was obviously driven by the bottom-line with no regard for ethics or the law. Management displayed an arrogant and dismissive attitude toward laws and regulations. Their obstructive and deceitful behavior throughout should have been cause enough for individuals to be held responsible. ITT NV was negligent in the accountability for this sensitive equipment and technology – missing NV goggles...”

- “ITT [management] did not value compliance. They had total disregard for regulations, the protection of National Security and the warfighter.”

- “Wow, what a trade compliance disaster! Amazing how self-blinding, covering-up and ignoring violations that harmed national security are cancerous and infect an entire organization. This has got to be a worst cast scenario with repeated unauthorized exports of our most sensitive technologies including classified documents to sanctioned countries like China and apparently aided and abetted by a group of employees with the help of inside and outside counsels.”

- “The ITT Corporate Compliance Culture in this case was non-existent. There were multiple violations, willful violations, and violations over an extended period of time. Then on top of all of that the company tried to cover-up and divert their actions. Unbelievable!”

- “ITT's corporate compliance culture was “antipathetic,” with emphasis on PATHETIC. ITT, through the deliberate actions and inactions of a number of its employees, subordinated compliance to the pursuit of sales and profits. The culture was conducive to the willful and deliberate neglect, resistance, evasion, and defiance of US laws and regulations whenever there was any conflict, real or imagined, between compliance with those laws and regulations and the narrow self-interests of the corporation and/or its employees.”

- “I wonder whether the survivors of US troops killed in night combat have, or will have, recourse to sue ITT for damages for enabling their family members' losses.”

- “I consider the ITT Corporate Compliance Culture very non-compliant and trying to find a backdoor for its export compliance initiatives (cultivating a non-compliant environment) in order to save a few dollars. I would question the compliance culture for approximately [the last] 10 years or better since the atmosphere has been ingrained and without terminating those managers who knowingly violated the law, the USG's monitoring may not be enough to encourage a more compliant atmosphere.”

- “I am concerned about this non-compliant legal representation atmosphere. These attorneys are setting a precedent by knowing the law and the spirit of the law but are willing to further support their client's illegal activity.”

- “Talk about a culture of non-compliance, this has got to be a text book example of how not to do things and what greed does. Who was in charge here? Didn't the organization have a Code of Conduct? If so, did anyone follow it? A \$100M fine to the organization is almost statistically insignificant to a major defense contractor who makes billions every year. Why wasn't the fine higher? Who's being held accountable? Based on the Statement of Facts, this case has little or no real bite without those responsible being brought to justice for breaking the law over and over again with blatant and consistent disregard for the regulations.”

- “Did anyone in this equation abide by the letter and spirit of the International Traffic in Arms Regulations 120.25 requirements? It definitely doesn't look like it. This appears to be a culture where non-compliance is rewarded for the sake of a few and to the detriment of many. I am most concerned about the impact on our national security and someone's willingness to give our leading edge away and secrets. I wonder. If ITT was doing it, how many other exporters and manufacturers are doing it to a lesser or even greater degree?”

- “I would characterize ITT's culture as arrogant and willing to do anything to win a contract and stay in business. The company felt that they could do what ever they wanted and did not have to answer to the US Government.”

- “Until the Judicial Branch starts delving out some serious jail time there will be no incentive to not cheat if you are on or near the top of the executive pile.”

- “It's obvious from reading the Statement of Facts that ITT had no culture of compliance. It's one

ITT Plea - Continued from page 10

thing to make a mistake, everybody does; it's another to blatantly disregard USG laws and regulations. If ITT NV shows so little regard for trade compliance, what about other areas of compliance? Ethics, financial, human resources?? It's difficult to imagine that they would limit their activities to ONLY trade compliance matters."

- "This culture was one of greed and disregard for U.S. Armed Forces, it's citizens and the welfare of our country."

- "This guilty plea by ITT begs many questions. While the corporation is paying a price for their non-compliance, why aren't the individuals and law firms that willfully and knowingly broke the law getting the deserved degree of appropriate justice? While a non-compliant culture fostered the wrongdoing, wasn't it individuals who according to the Statement of Facts were responsible for the deeds that were done and the subsequent damage to our national security."

- "Without individual accountability won't others be tempted to go down the same path for the love of money?"

There are many lessons to be learned as a result of this case and the investigation is ongoing. What should senior managers of other organizations take away from the comments shown here? As a trade

compliance professional, you should read all 63 pages of the Plea Agreement. Take what you learn and ensure your organization isn't making the same mistakes. For the Department of Justice Press Release and all the Plea Agreement documents, go to [http://www.usdoj.gov/opa/pr/2007/March/07\\_nsd\\_192.html](http://www.usdoj.gov/opa/pr/2007/March/07_nsd_192.html).

Statistics indicate and history shows it takes years to completely move a non-compliant culture to a fully compliant one. It doesn't happen quickly. Habit patterns die hard. Unfortunately, once you're in a cultural rut, it's an uphill battle to dig your way out.

One thing is for sure, over time, preventive medicine is proven to be better, far more effective, less painful and a lot less costly route for you, your organization and our collective national security, including our military men and women in harm's way.

Export Act - Continued from page 1

civil and criminal penalties for violators of export control laws. For example: maximum corporate penalties for criminal violations would increase from \$50,000, as provided for in IEEPA, to the greater of \$5 million or ten times the value of the exports involved. The proposed law will expand the list of criminal violations upon which a denial of export privileges may be based.

Source: [www.bis.doc.gov](http://www.bis.doc.gov)

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Yamada - Continued from page 4

ted a total of 26 violations of the EAR. Specifically, BIS found that Yamada committed 10 violations of exporting diaphragm pumps to the four countries, six violations of exporting the pumps with knowledge that violations would occur, and 10 violations by making false statements on export control documents.

Source: [www.bis.doc.gov](http://www.bis.doc.gov)



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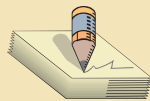
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