EIB World Trade Headlines

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Fax: (978) 250-4529 • P.O. Box 4008. Chelmsford. MA 01824

April 2011 - Vol 3 Issue 9

Evolutions in Business Supports the Wounded Warrior Project

"The greatest casualty is being forgotten"

MISSION: To honor and empower wounded warriors
VISION: To foster the most successful, well-adjusted generation of wounded warriors in this nation's history
PURPOSES:

- To raise awareness and enlist the public's aid for the needs of injured service members
- To help injured service members aid and assist each other
- To provide unique, direct programs and services to meet the needs of injured service members

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Read more: http://www.woundedwarriorproject.org/

NEWSLETTER NOTES

CBP Posts Information on C-TPAT Mutual Recognition with New Zealand – New Zealand Program Members Get Tier II Status

U.S. Customs and Border Protection (CBP) Commissioner Alan Bersin and New Zealand Ambassador to the U.S. Mike Moore have signed four agreements that CBP reports will advance trade and security between their nations, including one on CBP's Customs-Trade Partnership Against Terrorism (C-TPAT). According to CBP, Moore and Bersin signed:

- Letters on tier 2 status for New Zealand Secure Export Scheme members in CBP's C-TPAT program. CBP reported this is the first time that another government's secure-supply-chain program has merited that level of CBP recognition.
- A Department of Homeland Security Science and Technology Project Arrangement concerning the Automated Targeting System-Global.
- A memorandum of cooperation regarding the Automated Targeting System-Global pilot for passenger risk assessment.
- A memorandum of cooperation on the exchange of passenger information between the New Zealand Customs Service's Integrated Targeting Operations Centre and the CBP National Targeting Center-Passenger.

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The granting of tier 2 C-TPAT status to New Zealand business members of the Secure Exports Scheme translates into generally greater certainty about the movement of their goods to U.S. markets. Both leaders communicated optimism about the agreements' impact on security and trade. At the signing ceremony, Commissioner Bersin described the agreements as "path-breaking" and voiced his hope that they would set a precedent for similar agreements with other countries.
CBP notice:
http://www.cbp.gov/xp/cgov/newsroom/highlights/newzealand.xml

BIS Posts Comments on Proposed License Exception Strategic Trade Authorization

The Bureau of Industry and Security (BIS) received 41 public comments on its December 2010 proposed rule to add a new License Exception Strategic Trade Authorization (STA). Commenter's expressed concerns that the proposed exception is too conservative and will not benefit many companies, and provided recommendations for new licensing mechanisms. As reported, commenter's generally stated that more work is needed to make the STA more attractive and useful to companies.

(Continued next page)

ICC Announces that Bosnia and Herzegovina Will Implement ATA Carnet System - Effective 4/18/11

The International Chamber of Commerce (ICC) announced that Bosnia and Herzegovina is set to implement the ATA Carnet System starting 04/18/11. With these additions it brings the number of countries to 70 using this international system, reducing paperwork and costs for businesses traveling with goods. ICC also announced that Mexico is expected to join the ATA system soon.
ICC notice: **http://www.iccwbo.org/wcf/index.html?id=42208**

They stated that while BIS expects the STA exception to reduce its licensing burden by 3,000 licenses, this is not a large portion of the low-risk licensing volumes BIS currently faces. Associations, including the International Safety Equipment Association, American Association of Exporters and Importers, Semiconductor Industry Association, National Association of Manufacturers, and the Laser and Electro Optics Manufacturers' Association (LEOMA), commented that the proposal may not be attractive to manufacturers as individual companies will only be able to use the STA for a small portion of their license volumes. Additionally, they stated some companies believe the STA would place too many limitations on the export control classification number (ECCN) and destinations, while requiring burdensome consignee destination control statements that would likely lead many manufacturers to avoid using the STA. Associations noted that BIS should minimize the use of a transaction-by-transaction licensing of dual-use exports as U.S. collaboration with allies and partners, synchronization of control regimes around the world, intra-company trade, and the number of license applications increases. They reported that the current practice of "deemed" export licensing has resulted in major complications as the need to obtain transaction-by-transaction licenses for actual intra-company exports can negatively affect the operations of foreign sites or subsidiaries. In addition to STA, the Associations recommend that BIS develop licensing policies for items in the proposed tiers 2 and 3 that provide additional flexible authorization mechanisms such as validated end user, intra-company and program licensing, or use of an open license. Associations stated that the License Exception STA would impose significant requirements on exporters, reexporters, transferors and consignees. They noted that their customers in allied nations rely on license exception Additional Permissive Reexports (APR) to proceed under the law and regulation of their home country in their export and transfer activities. Their customers would find it objectionable to have to instead submit to the extra-territorial jurisdiction of the U.S. , when it is already often difficult to get foreign customers to agree to sign documents subjecting them to U.S. export controls. To antagonize their customers under the proposed rule is too great a risk in order to avoid the administrative burdens of export licenses. In such circumstances, they recommend a validated export license than use License Exception STA.

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Many associations remained supportive of the implementation of an intra-company transfer (ICT) license exception as a more constructive and attractive license exception compared to STA. Companies with a global reach are frequently required to transfer equipment, technology and other items to their foreign sites, which requires the case-by-case filing of license applications as well as requests for license renewals and upgrades. Associations noted that an ICT license exception would authorize U.S. companies to provide access to export-controlled technology, products and equipment within the perimeters of their global operations. They view the ICT as a way to minimize some of the problems associated with the rules for deemed and actual exports and as a way to provide companies with the flexibility they need. Associations ask BIS to amend the STA to remove duplicative requirements on consignees and exports by not requiring a prior consignee statement as the new requirements are already made available to both the government and consignees by the manufacturers. (Examples provided).
BIS notice / Comments:
http://efoia.bis.doc.gov/pubcomm/records-of-comments/record_of_comments_sta.pdf

Department of Justice Issues Report on Major Export and Embargo Cases For 2011

The Justice Department (DOJ) issued an updated summary containing some of its major export and embargo-related criminal prosecutions in 2011 since January 2007. DOJ notes that this list of cases is not exhaustive and only represents select cases. The following are highlights of DOJ's listed U.S. export enforcement prosecutions from February 2010 to the present:

- Chemical equipment re-exports to Libya, March 2010;
- Bullet-proof vests, etc. to Yemen, January 2011,
- Specialized metals export to Iran, February 2011;
- Vacuum pumps for nuclear application to Iran, November 2010;

(Continued below)

- Dow trade secrets to China, February 2011;
- Military radar electronics export to China, January 2011;
- Rocket propulsion systems to Korea, October 2010;
- Infrared focal planes to Korea January 2011;
- Military optics to China, Russia Turkey, S. Korea, June 2010;
- AK-47s, other firearms export to Mexico, January 2011; and
- High-performance coating to nuclear reactor in Pakistan, December 2010.

DOJ report:
http://www.justice.gov/nsd/docs/summary-eaca.pdf

OFAC Issues Alert to Importers/ Exporters/Intermediaries on Iran 's Use of Fraudulent Documents to Evade Sanctions

On 3/31/11, the Office of Foreign Assets Control (OFAC) issued an Advisory to alert shippers, importers/exporters and freight forwarders to practices used by the Islamic Republic of Iran Shipping Lines (IRISL) and companies acting on its behalf to evade U.S. and international economic sanctions. OFAC reported that practices which hide the involvement of IRISL in shipping transactions include

1. using container prefixes registered to another carrier;
2. omitting or listing invalid, incomplete or false container prefixes in shipping container numbers; and/or
3. naming non-existent ocean vessels in shipping documents.

Examples of container prefixes that have been used by IRISL and either belong to another carrier or are fabricated include "IRSU" (belongs to another carrier), "XBIU" (belongs to another carrier) and "ALXU" (fabricated). Examples of container prefixes that are registered to designated entities affiliated with IRISL include "SBAU" and "HDXU."

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Documents making use of these practices can be used to facilitate IRISL's shipping business and the financing of transactions involving merchandise shipped on vessels that have been identified as blocked, including through letters of credit and other trade finance facilities. Transactions involving U.S.-sanctioned entities, like IRISL, cannot be processed through the United States or by U.S. persons unless there is an authorization from OFAC. OFAC advises all persons to exercise enhanced due diligence to ensure that they do not unwittingly process fraudulent shipping documents or facilitate prohibited activities. Check unfamiliar names. All persons should be alert to the presentation of fabricated vessel names in trade documents and check the credentials of unfamiliar entities issuing shipping documents. OFAC advises one further useful step to mitigate this risk is to verify the accuracy of container numbers, particularly when unfamiliar with the issuer of the shipping documents. Information for verifying container numbers is available on the Internet using a search term, such as "shipping container validation." Questions or concerns regarding this advisory, or sanctions on Iran should be directed to OFAC's Compliance Hot line at 1-800-540-6322 or 202-622-2490. OFAC notice:
http://www.treasury.gov/resource-center/sanctions/Programs/Documents/20110331_advisory.pdf

CBP Posts Fact Sheet on Radiation Detection Rules for Cargo and Passengers

U.S. Customs and Border Protection (CBP) has issued a fact sheet to advise what it does to address radiological risks at ports of entry to detect and resolve any security or safety risks that are identified with inbound travelers and cargo. As reported, CBP employs several types of radiation detection equipment in its operations at ports of entry. If radiation is encountered, CBP has protocols in place to isolate the affected traveler or cargo and perform more detailed inspection to determine the level and type of radiation present. CBP science officers are available 24-hours/day, 365-days/year. These officers have expertise in the analysis of radiation detector data and in assessing the risk of radiation present. Containerized cargo arriving in the U.S. via sea is screened at the port of arrival for elevated radiation levels using large-scale radiation detectors.

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If radiation is encountered, CBP has protocols in place to isolate the cargo and to perform a more detailed inspection to determine if level and type of radiation. CBP advised, that in the vast majority of cases, the radiation detected is from naturally-occurring sources common in many commodities such as fertilizers, ceramics, and concrete. CBP scans passenger baggage and general cargo for the presence of radiation. If radiation is encountered, CBP has protocols in place to isolate the affected baggage to perform a more detailed inspection to determine if level and type of radiation. Cargo will be released if the level of radiation present is determined to be low and the isotope does not present a concern. If the level of radiation present is determined to be high, then the baggage or cargo will be held for decontamination procedures in accordance with local protocols. The Food and Drug Administration (FDA) is the primary authority that regulates the safety of food products imported into the U.S. , while the U.S. Department of Agriculture/Food Safety Inspection Service (USDA/FSIS) also plays a key role on meat, eggs, milk and other products. CBP coordinates with FDA and USDA/FSIS on proper responses and guidance for food shipments. Cargo shipments containing food undergo the same radiation detection scanning procedures as those that govern other cargo shipments.

In addition, since 2005, FedEx and UPS have had Memoranda of Understanding (MOU) with CBP to scan all shipments prior to departure for the U.S. FedEx and UPS are responsible for resolving radiation detection alarms through established protocols. Both companies maintain a zero tolerance policy on transporting packages that are determined to have radiation contamination. Contaminated parcels are returned to the shipper. In the air environment, CBP frontline personnel are equipped with personnel radiation detectors (PRD), and all airports have more sensitive handheld equipment to determine the type of radiation encountered. To identify the source of a PRD alert, CBP Officers use handheld Radiation Isotope Identification Devices (RIID) to isolate the source and determine the type and level of radiation present. CBP will focus on the health concerns of any traveler exhibiting signs of radiation sickness and refer the traveler to Health & Human Services (HHS) and the Center for Disease Control (CDC) for examination. In these cases, the admissibility decision for non-US persons can be deferred until the health issues are addressed.

CBP Radiation Fact Sheet:http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/japan_fact_sheets.ctt/japan_fact_sheets

China Related Prosecutions

From the FBI COUNTERINTELLIGENCE STRATEGIC PARTNERSHIP NEWSLETTER

The information, technologies, and proprietary information targeted in export-control violations included:

Night vision technology

Electronics components
Unmanned Aerial Vehicle technology

Converters

Microprocessors

Microcontrollers

Crystal oscillators

Low noise amplifiers

Telecommunications

Ultra violet light emitting diodes

Cadmium Zinc Telluride wafers

Thermal imaging cameras

Advanced plasma technology

Liquid hydrogen technologies for space launch vehicles

High-tech integrated circuits

Dual-use microwave technologies
The information, technologies, and proprietary information targeted in the economic espionage cases included:
Space Shuttle Program information

Computer source code

Computer chip design

Delta IV rocket

EPA Announces Requirement for Electronic Submission of TSCA New Chemical Notices

The Environmental Protection Agency (EPA) announces that beginning 04/06/11, it will require electronic submissions for new chemical notices under the Toxic Substances Control Act (TSCA), under which companies are required to submit new chemical notices, including pre-manufacture notices (PMNs), to EPA at least 90 days prior to the manufacture or import of the chemical. Currently, companies are required to submit these notices using EPA's electronic PMN software either on optical disk (for one more year) or via EPA's Central Data Exchange (CDX). EPA advises that they can no longer submit their new chemical notices and support documents on paper. EPA notice: http://yosemite.epa.gov/opa/admpress.nsf/eeffe922a687433c85257359003f5340/65c135180da8e53a8525786a004f219c!OpenDocument

CBP Issues Notice Listing Conditions for Granting Constructive Detention for Exports

U.S. Customs and Border Protection (CBP) issued a notice regarding the conditions for "constructive detention" of detained exports at a location other than the carrier's premises. According to CBP, Port Directors have the discretion to permit constructive detentions upon an exporter's request, provided that all of the conditions listed below are met. However, the Port Director is not required to grant any request, even if all the conditions listed below are met. A constructive detention is purely a matter of Port Director's discretion. CBP lists the required conditions for a constructive detention as:

1. The shipment must be held at a facility that has a CBP custodial bond. Facilities without a CBP custodial bond and facilities on the carrier's premises are not eligible to receive detained shipments for constructive detention.

(Continued above)

If CBP and the exporter cannot mutually identify a bonded facility in which to store the detained merchandise, the Port Director has the discretion to identify a bonded facility that will be used at the risk and expense of the exporter until the cargo is released.

2. The Port Director must ensure that the cargo is not subject to an embargo under U.S. laws.
3. The exporter must agree, in writing on company letterhead, with the signature of an empowered official, not to sell, mortgage, use as collateral, loan or otherwise encumber the goods, or attempt to export or remove the goods until the cargo is either released from detention or seized, and if the exporter does not produce the subject merchandise upon demand, to make available to CBP an amount of money equal to the value of the merchandise, which will be subject to seizure and forfeiture in lieu of the missing merchandise.
4. The exporter must agree to be responsible for all costs associated with the constructive detention, including, but not limited to, costs of moving, handling and storing the cargo for the entire time the cargo is detained.

The Port Director will ensure the detention request is documented, monitored and controlled at all times.

As noted, the constructive detention documentation should be filed at the port for potential review by the Field Office or CBP Headquarters. If the constructive detention goes beyond the initial 30 day detention period, a second detention notice will be issued to the exporter, with copied to the carrier and bonded facility. Subsequent detention notices will be issued as needed, once every 30 days. CBP advises that the port will maintain documentation for a constructive detention that will include the following documents:

1. the initial request from the exporter,
2. any written response by CBP to the initial request to the exporter,

(Continued below)

3. the agreement by the exporter, on company letterhead, with the signature of an empowered official, not to sell, mortgage, use as collateral, loan or otherwise encumber the goods, or attempt to export or remove the goods until the cargo is either released from detention or seized, a copy of the detention notice(s), and
4. either the release or seizure notice.

CBP notes; goods under constructive detention cannot be used, manipulated, or moved to another facility while detained, except with the express written consent of the Port Director. Release of the detained cargo is conditioned upon compliance with all export laws and regulations governing the export of merchandise from the U.S.
CBP contact – Outbound Enforcement Division (202) 344-1376
CBP notice:
http://www.cbp.gov/linkhandler/cgov/trade/trade_outreach/conditions.ctt/conditions.doc

ECHA Issues New Guidance on Labeling/Packaging Under REACH

The European Union issued the following trade-related releases on 04/08/11:

- REACH labeling guidance. The European Chemicals Agency (ECHA) has published a new guidance on the labeling and packaging rules for substances and mixtures as set out in the Classification, Labeling, and Packaging (CLP) regulation. It is addressed to manufacturers, importers, downstream users and distributors.

http://echa.europa.eu/news/na/201104/na_11_18_lp_guidance_20110408_en.asp

EU Issues Regulation on Classification, Labeling, and Packaging of Certain Chemicals

The European Commission recently published a regulation in the Official Journal to adapt regulation No. 1272/ 2008 on the classification, labeling and packaging (CLP) of substances and mixtures to account for changes made to the United Nation's Globally Harmonized System of Classification and Labeling of Chemicals. The regulation contains amendments to provisions on the allocation of hazard statements and for the labeling of small packaging, new sub-categories for respiratory and skin sensitization, the revision of the classification criteria for long-term hazards (chronic toxicity) to the aquatic environment and a new hazard class for substances and mixtures hazardous to the ozone layer. For substances, the regulation applies from 12/01/12 and for mixtures from 06/01/15. EU press release (03/10/11)
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ%3AL%3A2011%3A083%3A0001%3A0053%3AEN%3APDF

WTO Predicting 6.5% Trade Growth in 2011

As reported, the World Trade Organization estimates that world trade will grow a more modest 6.5% in 2011 following the record-breaking 14.5% surge in the volume of exports in 2010. If achieved, this would be higher than the 6.0% average yearly increase between 1990 and 2008. Yet, economists remain concerned about the impact of a number of recent events, including the earthquake and tsunami in Japan , rising prices for food and other primary products, and unrest in major oil exporting countries.
WTO press release:
http://www.wto.org/english/news_e/pres11_e/pr628_e.htm

UK Implements Anti-Bribery Law - Effective July 11, 2011

The United Kingdom's Bribery Act of 2010, which is reportedly stricter in several respects than the similar Foreign Corrupt Practices Act (FCPA) in the U.S., is now set to take effect 07/01/11. The effective date was established after the U.K. Ministry of Justice issued a guidance document on procedures that companies can implement to prevent persons associated with them from committing bribery on their behalf. According to press reports and industry experts, the Bribery Act exceeds the scope of the FCPA in several respects. For instances, it applies to not only the bribery of foreign officials but corruption between businesses as well. It also explicitly establishes that senior executives of a company may be held liable for bribery they themselves did not commit in certain circumstances. In addition, the Bribery Act lacks the FCPA's distinction between bribery and facilitation payments. UK reports that there is one defense to bribery charges under the new law, which is for a company to prove that it had adequate anti-bribery procedures in place. While the guidance document is intended to offer some details on how to establish such procedures, it also emphasizes that whether a company's procedures are considered adequate "is a matter that can only be resolved by the courts taking into account the particular facts and circumstances of [each] case." However, the guidance also notes that a "departure from the suggested procedures … will not of itself give rise to a presumption that an organization does not have adequate procedures." Press reports add that the guidance appears to soften the law's restrictions in certain areas in response to concerns from the business community. For example, The Wall Street Journal states, "gifts and hospitality … will not be prosecuted as long as they are 'reasonable and proportionate." In addition, Am Law Daily points out that the law applies to "any company that has a U.K. office, employs U.K. citizens or provides any services to a U.K. organization," but The New York Times reported that the guidance exempts "foreign companies whose shares were traded on the London stock exchange if they did not have operations in Britain."
http://www.strtrade.com/wti/wti.asp?pub=0&story=36751&date=4%2F5%2F2011&company

US DOT Announces United States-Mexico Trucking Pilot Program - End of Duties May Be in Sight

The Federal Motor Carrier Safety Administration (FMCSA) announced a United States-Mexico cross-border trucking pilot program that would allow Mexico-domiciled motor carriers to operate throughout the United States for up to 3 years. This program is the result of the deal that President Obama and Mexican President Calderón announced in March and that would clear the way for eliminating the $2.4 billion in duties that Mexico imposed on U.S. ex port s in retaliation for the U.S. refusal to allow Mexican long-haul trucks to operate in the U.S., as required by NAFTA. According the agreement, Mexico will suspend its retaliatory tariffs in stages beginning with reducing tariffs by 50 percent at the signing of an agreement (after the FMCSA has collected and considered comments on the proposal) and will suspend the remaining 50 percent when the first Mexican carrier is granted operating authority under the program. Mexico will terminate all current tariffs once the program is normalized.

-Important Notice-

DEPARTMENT OF STATE
22 CFR Parts 120 and 124……

[Public Notice: 7415]
RIN 1400–AC80
International Traffic in Arms Regulations: Defense Services

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to update the policy regarding defense services, to clarify the scope of activities that are considered a defense service, and to provide definitions of ''Organizational-Level Maintenance,'' ''Intermediate-Level Maintenance,'' and ''Depot-Level Maintenance,'' and to make other conforming changes.

DATES: The Department of State will accept comments on this proposed rule until June 13, 2011.

SUPPLEMENTARY INFORMATION: As part of the President's Export Control Reform effort, the Department of State is proposing to amend parts 120 and 124 of the ITAR to reflect new policy regarding coverage of defense services. The Department reviewed the ITAR's treatment of defense services with a view to enhancing support to allies and friends, improving efficiency in licensing, and reducing unintended consequences. As a result, it was determined that the current definition of defense services in § 120.9 is overly broad, capturing certain forms of assistance or services that do not warrant ITAR control. The proposed change in subpart (a) of the definition of ''defense services'' narrows the focus of services to furnishing of assistance (including training) using ''other than public domain data'', integrating items into defense articles, or training of foreign forces in the employment of defense articles.

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Consequently, services based solely upon the use of public domain data would not constitute defense services under this part of the definition and, therefore, would not require a license, technical assistance agreement, or manufacturing license agreement to provide toa foreign person. The proposed new definition of defense service also includes a new provision that would control the ''integration'' of items, whether controlled by the U.S. Munitions List (USML) or the Commerce Control List (CCL), into USML controlled defense articles even if ITAR-controlled ''technical data'' is not provided to a foreign person during the provision of such services. Additionally, the new rule specifies that training for foreign ''units or forces'' will be considered a defense service only if the training involves the employment of a defense article, regardless of whether technical data is involved. This operational definition improves upon the current open-ended wording of § 120.9(a)(3), which covers ''military training of foreign units and forces.'' Also, significantly, the proposed new rule specifies in subpart (b) examples of activities that do not constitute defense services. For example, the proposed new rule would prevent the anomalous situation where foreign companies are reluctant to hire U.S. citizens for fear that such employment alone constitutes a defense service, even where no technical data would be transferred to the employer.
A new § 120.38 is proposed to provide definitions for ''Organizational-Level Maintenance'' (or basic level maintenance), ''Intermediate-Level Maintenance,'' and ''Depot-Level Maintenance,'' terms used in the proposed revision of § 120.9.
The Department proposes to make several other conforming changes to the ITAR. The proposed rule modifies § 124.1(a), which describes the approval requirements of manufacturing license agreements and technical assistance agreements.
follows:

(Continued below)

The DTAG recommended the qualifier ''U.S. origin'' be added before ''technical data'' in the proposed § 120.9. We note the current definition of technical data in § 120.10 is not restricted to U.S. origin data. We do not believe that a departure from the existing definition of technical data for the purposes of defense services is prudent. However, the confusion caused by the term ''technical data'' lead to the rewrite of the definition to require the use of data ''other than public domain data'' as the regulatory standard. This rewrite provides clarity and an objective standard that can be easily applied. Using data that is ''other than public domain data,'' including proprietary data or ''technology'' ''subject to the Export Administration Regulations,'' to provide assistance would constitute a defense service under this change. The DTAG also recommended adding definitions of ''intermediate or depot level repair or maintenance.'' We agreed with the recommendation and added such definitions in a new § 120.38. The DTAG agreed with the addition of ''integration'' but recommended that a definition of that term be added, especially to distinguish it from ''installation.'' We declined to accept that recommendation, finding that integration has plain meaning in the context of the proposed rule. As used in the proposed definition of defense services, ''installation'' means the act of putting something in its pre-determined place and does not require changes or modifications to the item in which it is being installed (e.g., installing a dashboard radio into a military vehicle where no changes or modifications to the vehicle are required; connecting wires and fastening the radio inside of the preexisting opening is the only assistance that is necessary). ''Integration'' means the systems engineering design process of uniting two or more things in order to form, coordinate, or blend into a functioning or unified whole, including introduction of software to enable proper operation of the device.

(Continued above)

This includes determining where to install something (e.g., integration of a civil engine into a destroyer which requires changes or modifications to the destroyer in order for the civil engine to operate properly; not simply plug and play). The DTAG suggested that language in § 120.9(a)(3) be changed from ''whether or not use of technical data is involved'' to ''whether or not the transfer of technical data is involved.'' We adopted that recommendation.
The DTAG suggested we add definitions of ''irregular forces'' and ''tactical employment.'' We did not agree with the need to define the first term, believing that the meaning should be clear in the context of the proposed rule. Subsequent to the DTAG's evaluation of this proposed rule, the word ''tactical'' was removed from before the word ''employment'' in § 120.9(a)(3). In § 120.9(a)(3), the DTAG recommended we change ''conducting direct combat operations or providing intelligence services for a foreign person'' to ''conducting direct combat operations of a military function for or providing military intelligence services to a foreign person.'' We do not believe that adding the words ''military function'' or ''military'' are necessary or add clarity. The clarification in subsection § 120.9 (b)(5) suffices.
The DTAG advised that ''U.S. citizen'' in § 120.9 (b)(2) be changed to ''U.S. person.'' We did not concur with that recommendation because the proposed rule was intended to cover individuals, not business entities such as corporations. The use of ''U.S. persons'' would have included the latter. The DTAG recommended we add the words ''or installed'' after the word ''integrated'' in § 120.9 (b)(3). We accepted the inclusion of those words, but subsequently changed the word ''integrated'' to ''incorporated.'' The DTAG also suggested adding ''physical security or personal protective training'' to § 120.9 (b)(4). We accepted that change.