



This notice explains the Department's policy regarding exports by or involving BAE Systems plc (BAES) and certain non-U.S. subsidiaries.

On March 2, 2010, in the United States District Court for the District of Columbia, judgment was filed against BAE Systems plc ("BAES") for conspiracy to violate certain U.S. laws, including the Arms Export Control Act ("AECA"). On Monday, May 16, 2011, the Department issued an Order after entering into a Consent Agreement with BAES regarding alleged civil violations of the AECA and International Traffic in Arms Regulations (ITAR) committed by BAES. The Consent Agreement outlines that as a result of the conviction, BAES was statutorily debarred but there was an immediate lifting of the debarment. The Consent Agreement also outlines a policy of denial concerning certain non-U.S. subsidiaries of BAES involved in activities related to the conviction (BAE Systems CS&S International, Red Diamond Trading Ltd., and Poseidon Trading Investments Ltd., and their subsidiaries, divisions and business units, and successor entities), which means that there will be a presumption of denial of license and other applications involving these entities. A notice will be published in the Federal Register regarding this statutory debarment and reinstatement, as well as the policy (or presumption) of denial.

The following is intended to provide additional information to exporters regarding the terms of the policy and the allowance of certain exceptions.

Scope of the Policy of Denial

- A policy (or presumption) of denial is applicable to BAE Systems CS&S International, Red Diamond Trading Ltd., and Poseidon Trading Investments Ltd., including their subsidiaries, divisions and business units, and successor entities. Pursuant to Section 126.7 of the International Traffic in Arms Regulations (ITAR) (22 C.F.R. Parts 120-130), any license or other approval may be denied by the Department, in part, where any party to the license is believed by the Department to have violated or conspired to have violated the AECA, or where such action is in the furtherance of world peace, the national security or the foreign policy of the United States. Applications for licenses or other approvals submitted to DDTC that involve any of the above referenced BAES subsidiaries, including their subsidiaries, divisions and

business units, and successor entities, will be presumed to be denied and may be denied or returned without action, unless the license falls within an exception as outlined below.

Existing approvals

- All licenses and other approvals granted prior to Monday, May 16, 2011, where any of the above referenced subsidiaries of BAES are a party are still valid.

New Approvals

- New applications for licenses or other approvals involving any of the above referenced subsidiaries of BAES, including their subsidiaries, divisions and business units, and successor entities, will be presumed to be denied unless a request is made for an exception and an exception is granted.

Exceptions to the Policy of Denial

The Department will accept on a case-by-case basis requests for exceptions to the policy of denial and will consider the following in its review:

- Is the exception warranted by overriding U.S. foreign policy or national security interests,
- Would the exception further law enforcement interests consistent with the foreign policy or national security interests of the U.S., or
- Do compelling circumstances exist that are consistent with the foreign policy or national security interests of the U.S.

Exporters wishing to apply for an exception to the policy of denial, known as a “Transaction Exception” (TE), should provide this exception request, including the relevant justification, either prior to or with their application.