DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 100812348–0366–01]

Best Practices for Transit, Transshipment, and Reexport of Items Subject to the Export Administration Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of Inquiry.

SUMMARY: The Department of Commerce's Bureau of Industry and Security (BIS) seeks public comments on a set of proposed "Best Practices for Transit, Transshipment, and Reexport of Items Subject to the Export Administration Regulations." BIS is particularly interested in engaging in a dialogue with industry regarding new transshipment principles and best practices that complement those already identified by BIS in its Web guidance (*http://www.bis.doc.gov/complianceandenforcement/emcp.htm*), and industry outreach regarding export management and compliance. BIS will consider all comments timely submitted before finalizing these best practices and publishing them in the **Federal Register** and on the BIS Web site. This document will include a discussion of those comments.

DATES: Comments must be received before October 18, 2010.

ADDRESSES: Comments may be submitted by e-mail to *best_practices@bis.doc.gov,* by fax at (202) 482–5361, or on paper to Gerard Horner, Office of Technology Evaluation, Bureau of Industry and Security, Room 1093, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

How To Comment

All comments must be in writing and submitted to the address indicated above or via e-mail. Comments must be received by BIS no later than October 18, 2010. BIS may consider comments received after that date if feasible to do so, but such consideration cannot be assured. All comments submitted in response to this notice will be made a matter of public record, and will be available for public inspection and copying. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public record. BIS will seek to protect business confidential information from public disclosure to the extent permitted by law.

FOR FURTHER INFORMATION CONTACT: Office of Technology Evaluation, Gerard Horner at *ghorner@bis.doc.gov* or (202) 482–2078, or Donald Creed at *dcreed@bis.doc.gov* or (202) 482–8341.

SUPPLEMENTARY INFORMATION:

Background

In this notice of inquiry, BIS is seeking public comment on a proposed updated list of a set of "best practices" for industry regarding the transit, transshipment, and reexport of dual-use items. The previous list, which was developed following the solicitation of public comments (68 FR 26567, May 16, 2003), was posted on BIS's Web site on November 24, 2003. BIS is updating the list in light of the U.S. Government's current export control reform efforts and the increased attention that reexport, transit, and transshipment trade has generated in recent years, both within the U.S. and globally. BIS will publish an updated list of best practices in the **Federal Register** that will include a discussion of those comments. BIS will also post the final list on the BIS Web site.

The best practices identified herein include the types of practices that industry has adopted to guard against diversion risk. Both government and industry recognize that implementing effective export compliance programs is an important component of responsible corporate citizenship and good business practices.

BIS seeks information to refine and revise this proposed list of best practices to help ensure that industry and the government continue to prevent diversion of controlled items subject to the Export Administration Regulations (EAR) through transshipment points. The success of export control laws in the context of transit, transshipment, and reexport transactions rests on well-managed and comprehensive export compliance programs. The diversion of controlled and unlisted U.S. origin items from authorized to unauthorized end-uses, end-users, or destinations, even inadvertently, undermines efforts to counter the proliferation of weapons of mass destruction, terrorism, and other threats to national and international security. Global "transshipment hubs"—*i.e.,* countries or areas that function as major hubs for the trading and shipment of cargo—pose special risks due to their large volumes of transit, transshipment, and import and reexport traffic. Such hubs make transshipment trade particularly vulnerable to the diversion of sensitive items to illicit purposes.

To combat diversion risk, BIS seeks to strengthen its partnership with industry (including exporters, freight forwarders, carriers, consolidators, express couriers, and others that are parties to dual-use export transactions) involved in the transshipment of items subject to the EAR by consolidating existing best practices and establishing new and emerging ones to prevent diversion. BIS recognizes the importance of soliciting input from industry to define a set of best practices tailored to the particular activities and circumstances of transshipment trade.

The publication of these best practices creates no legal obligation to comply with such practices on the part of any person, absent a legal requirement that is set forth elsewhere in the EAR. Compliance with these best practices creates no defense to liability for the violation of export control laws. However, demonstrated compliance with these best practices by a company will be considered an important mitigating factor in administrative prosecutions arising out of violations of provisions of the EAR that apply to transit, transshipment or reexport transactions.

Although BIS intends to issue this guidance on industry best practices as it applies to items and transactions that are subject to the EAR, the guidance clearly has broader potential application. BIS envisions this guidance as a step toward a strengthened dialogue with industry, other agencies that administer export controls, and foreign governments in a manner that may make the guidance pertinent beyond its application to the EAR.

Principles

These best practices are based on the following four principles:

- Industry and government should work together in a cooperative partnership on a domestic and global basis to foster secure trade.
- Secure trade will reduce the incidence of diversion of dual-use items to prohibited end-uses and end-users.
- Effective export management and compliance programs will encourage expeditious movement of legitimate trade.
- Industry can achieve secure trade objectives through quality-driven export management and compliance practices.

Practices

The following reflect existing and emerging transshipment best practices that guard against diversion risk. BIS seeks comment on these and additional

practices from the public based on experience.

Best Practice #1. Pay heightened attention to the Red Flag Indicators on the BIS Web site (*see http://www.bis.doc.gov/Enforcement/redflags.htm*) with respect to transactions to, from, or through transshipment hubs. When a company encounters a suspicious transaction, such as those outlined in the "Know Your Customer" Guidance and Red Flags (Supplement No. 3 to Part 732 of the EAR), it should inquire further and attempt to resolve any questions raised by the transaction.

Best Practice #2. An Exporter/Reexporter should seek to utilize only those Trade Facilitators/Freight Forwarders that also observe these best practices and possess their own export management and compliance program.

Best Practice #3. Exporters/Reexporters should have information regarding their foreign customers. In particular, a company should know if the customer is a trading company or distributor, and inquire whether the customer resells to or has guidelines to resell to third parties.

Best Practice #4. With respect to transactions to, from, or through transshipment hubs, Exporters/Reexporters should take appropriate steps to inquire about the end-user and to determine whether the item will be reexported or incorporated in an item to be reexported.

Best Practice #5. Freight Forwarders should inquire about the details of a routed transaction when asked by a foreign principal party in interest to ship to a country or countries of destination or ultimate consignees that are different from those provided by the U.S. principal party in interest.

Best Practice #6. An Exporter/Reexporter should communicate the appropriate Export Control Classification Number (ECCN) or other classification information (EAR99) for each export/reexport to the end-user and, where relevant, to the ultimate consignee.

Best Practice #7. An Exporter/Reexporter should report such ECCN or the EAR99 classifications for all export transactions, including "No License Required" designations to the Trade Facilitator/Freight Forwarder or enter them in the Automated Export System (AES).

Dated: August 27, 2010.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No.: 100806330–0330–01]

Call for Applications for the International Buyer Program Calendar Year 2012

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice and call for applications.

SUMMARY: This notice sets forth objectives, procedures and application review criteria associated with support for domestic trade shows by the International Buyer Program (IBP) of the U.S. Department of Commerce (DOC). This announcement covers selection for International Buyer Program participation for calendar year 2012 (January 1, 2012 through December 31, 2012). The purpose of the IBP program is to bring international buyers together with U.S. firms by promoting leading U.S. trade shows in industries with high export potential.

DATES: Applications must be received by November 1, 2010.

ADDRESSES: The application may be downloaded from *http://www.export.gov/IBP.* Applications may be submitted by any of the following methods: (1) Mail/Hand Delivery Service: International Buyer Program, Global Trade Programs, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, Ronald Reagan Building, 1300 Pennsylvania Ave., Ronald Reagan Building, Suite 800M—Mezzanine Level—Atrium North, Washington, DC 20004. Telephone (202) 482–4207; (2) Facsimile: (202) 482–7800; or (3) e-mail: *Blanche.Ziv@trade.gov.* Facsimile and e-mail applications will be accepted as interim applications, but must be followed by a signed original application that is received by the program within five (5) business days after the application deadline. To ensure that applications are timely received by the deadline, applicants are strongly urged to send applications by hand delivery service (*e.g.,* U.S. Postal Service Express Delivery, Federal Express, UPS, *etc.*).

FOR FURTHER INFORMATION CONTACT: Blanche Ziv, Director, International Buyer Program, Global Trade Programs, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 1300 Pennsylvania Ave., Ronald Reagan Building, Suite 800M—Mezzanine Level—Atrium North, Washington, DC 20004; Telephone (202) 482–4207; Facsimile: (202) 482–7800; E-mail: *Blanche.Ziv@trade.gov.*

SUPPLEMENTARY INFORMATION: The International Buyer Program was established to bring international buyers together with U.S. firms by promoting leading U.S. trade shows in industries with high export potential. The International Buyer Program emphasizes cooperation between the DOC and trade show organizers to benefit U.S. firms exhibiting at selected events and provides practical, hands-on assistance such as export counseling and market analysis to U.S. companies interested in exporting. The assistance provided to show organizers includes worldwide overseas promotion of selected shows to potential international buyers, end-users, representatives and distributors. The worldwide promotion is executed through the offices of the DOC U.S. and Foreign Commercial Service (hereinafter referred to as the Commercial Service) in more than 80 countries representing the United States' major trading partners, and also in U.S. Embassies in countries where the Commercial Service does not maintain offices.

The Commercial Service is accepting applications for the International Buyer Program for trade events taking place between January 1, 2012 through December 31, 2012. Selection of a trade show is valid for one event, *i.e.,* a trade show organizer seeking selection for a recurring event must submit a new application for selection for each occurrence of the event. Even if the event occurs more than once in the 12-month period covered by this announcement, the trade show organizer must submit a separate application for each event.

The Commercial Service expects to select approximately 35 events from among applicants to the program for the January 1, 2012 through December 31, 2012 period. The Commercial Service will select those events that are determined to most clearly meet the Commercial Service's statutory mandate to promote U.S. exports, especially those of small—and medium-sized enterprises, and that best meet the selection criteria articulated below. Shows selected for the International Buyer Program will provide a venue for U.S. companies interested in expanding their sales into international markets. Successful show organizer applicants will be required to enter into a Memorandum of Agreement (MOA) with the DOC. The MOA constitutes an agreement between the DOC and the show organizer specifying which