

FILED
9/15/2020
THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

OBAIDULLAH SYED

CASE NUMBER:
UNDER SEAL

20CR629

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about September 21, 2015, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant OBAIDULLAH SYED violated:

Code Section

Title 50, United States Code, Section 1705(a), and Title 15, Code of Federal Regulations, Parts 730.7, 734.3, 734.13, 736.2, 744, Supplement No. 4, and 764.2

Offense Description

defendant willfully and knowingly exported, sold, and supplied, attempted to export, sell, and supply, and attempted to cause to be exported, sold, and supplied, directly and indirectly, from the United States, goods, including six Finisar TXRX OPT 1G/10G 850nm transceivers, to the Pakistan Atomic Energy Commission, without first obtaining the required authorization from the U.S. Department of Commerce, Bureau of Industry and Security, in violation of Title 50, United States Code, Section 1705(a), and Title 15, Code of Federal Regulations, Parts 730.7, 734.3, 734.13, 736.2, 744, Supplement No. 4, and 764.2

This criminal complaint is based upon these facts:

X Continued on the attached sheet.

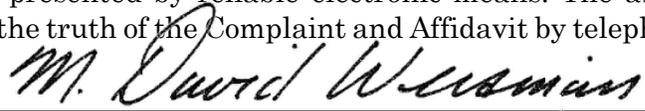
/s/ Jennifer Green (MDW with permission)

JENNIFER GREEN

Special Agent, Homeland Security Investigations

Pursuant to Fed. R. Crim. P. 4.1, this Complaint is presented by reliable electronic means. The above-named agent provided a sworn statement attesting to the truth of the Complaint and Affidavit by telephone.

Date: September 15, 2020



Judge's signature

City and state: Chicago, Illinois

M. DAVID WEISMAN, U.S. Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

AFFIDAVIT

I, JENNIFER GREEN, being duly sworn, state as follows:

1. I am a Special Agent with the U.S. Department of Homeland Security (“DHS”), U.S. Immigration and Customs Enforcement (“ICE”), Homeland Security Investigations (“HSI”), and have been since September 2011. I am currently assigned to the Counter-Proliferation Investigations Group at the HSI Special Agent in Charge Office, Chicago, Illinois. I am a graduate of the Criminal Investigator Training Program at the Federal Law Enforcement Training Center.

2. My current responsibilities include the investigation of illegal exports of goods and technology from the United States. I am familiar with the federal laws relating to the export of goods and technology from the United States as regulated by the U.S. Departments of Commerce, State, and the Treasury. I have received training related to identifying the techniques, methods, and procedures employed by those who export commodities in violation of United States' export laws, as well as laundering funds related to such transactions. In addition, I have received specific instruction and training on conducting criminal investigations associated with export law violations and have participated in numerous such investigations.

3. HSI, the United States Department of Commerce (“DOC”), and the Defense Criminal Investigative Service (“DCIS”) are conducting an investigation of multiple exports of commodities arranged by OBAIDULLAH SYED. As discussed

below, SYED, through various companies that he operates, (a) exported computer systems and associated equipment from the United States to prohibited entities in Pakistan on four different occasions between May 15, 2002, and September 20, 2015, each time without obtaining a license; and (b) caused the submission of false and misleading export documentation by misidentifying the ultimate consignees of these exported goods in an effort to conceal the identity of the goods' true end user and destination from U.S. regulators and law enforcement authorities and thereby avoid licensing requirements that would trigger greater scrutiny by regulators and law enforcement authorities.

4. This affidavit is submitted in support of a criminal complaint alleging that OBAIDULLAH SYED has violated Title 50, United States Code, Section 1705(a). The statements in this affidavit are based on my personal knowledge, and on information I have received from other law enforcement personnel and from persons with knowledge regarding relevant facts. Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging SYED with willfully and knowingly exporting goods and services from the United States without the required license from the U.S. Department of Commerce, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

STATUTORY AUTHORITY

I. IEEPA AND THE EXPORT ADMINISTRATION REGULATIONS

5. The U.S. Department of Commerce, Bureau of Industry and Security (“BIS”), is responsible for reviewing and controlling the export of certain goods and technologies from the United States to foreign countries. The Export Administration Act (“EAA”), 50 U.S.C. App. §§ 2401-2420, authorized BIS to prohibit or curtail the export of any goods and technology as necessary to protect, among other things, the national security of the United States. BIS implemented that authority through the Export Administration Regulations (“EAR”), 15 C.F.R. Parts 730-774. Although the EAA has lapsed, the EAR continued to be in effect under the provisions of the IEEPA, by virtue of Executive Order 13222 (August 17, 2001), as extended by successive Presidential notices. The primary focus of export controls under the EAR was to prevent the diversion of “dual use” exports, that is, items capable of either military or non-military use. In particular, the DOC has placed restrictions on the export of goods and technologies that it has determined could make a significant contribution to the military potential or nuclear proliferation of other nations or that could be detrimental to the foreign policy or national security of the United States.

6. Specific items controlled by BIS are identified on the Commerce Control List (“CCL”), which is found in Supplement No. 1 to Part 774 of the EAR. These items are further classified through the use of Export Control Classification Numbers (“ECCN”). Each ECCN contains a commodity description, license requirements, potential valid license exceptions, and the reasons the item was controlled for export.

7. The EAR contain a list of names of certain foreign persons – including businesses, research institutions, government and private organizations, individuals, and other types of legal persons – that are subject to specific license requirements for the export, re-export, and in-country transfer of specified items. These persons comprise the DOC’s “Entity List,” which is found at Title 15, Code of Federal Regulations, Part 744, Supplement No. 4. The DOC first published the Entity List in February 1997 as part of its efforts to inform the public of entities who have engaged in activities that could result in an increased risk of the diversion to weapons of mass destruction (“WMD”) programs of items exported, re-exported, and transferred in-country. Since its initial publication, grounds for inclusion on the Entity List have expanded to include activities prohibited by the U.S. State Department and activities contrary to United States. national security and/or foreign policy interests.

8. On an individual basis, the persons on the Entity List are subject to export licensing requirements and policies supplemental to those found elsewhere in the EAR. Toward that end:

a. On November 19, 1998, the DOC added the Pakistan Atomic Energy Commission (“PAEC”) to the Entity List, and it has remained on the list at all times relevant to this affidavit. *See* 63 Fed. Reg. 64322 (Nov. 19, 1998); 65 Fed. Reg. 14444 (Mar. 17, 2000), 66 Fed. Reg. 50090 (Oct. 1, 2001); 77 Fed. Reg. 58006 (Sept. 19, 2012); and 79 Fed. Reg. 55998 (Sept. 18, 2014).

b. On June 30, 1997, the DOC added the National Development Complex (a/k/a “National Development Centre,” and hereafter, “NDC”) to the Entity

List, and it has remained on the list at all times relevant to this affidavit. See 62 Fed. Reg. 35335 (June 26, 1998); 65 Fed. Reg. 14444 (Mar. 17, 2000); 66 Fed. Reg. 50090 (Oct. 1, 2001); 77 Fed. Reg. 58006 (Sept. 19, 2012); and 79 Fed. Reg. 55998 (Sept. 18, 2014).

c. Accordingly, at all times relevant to this affidavit, individuals and entities who exported any items subject to the EAR to either the PAEC or NDC were required first to obtain a license from the DOC. No license exception may be used to export, re-export, or transfer (in country) to such entities on the Entity List, unless specially authorized.

9. A willful violation of the EAR constitutes a criminal violation of the IEEPA. Pursuant to Title 50, United States Code, Section 1705(a), “[i]t shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under” the IEEPA.

II. IEEPA AND THE EAR FILING REQUIREMENTS

10. The EAR also requires export license applicants to identify the nature of the article to be exported, the name and location of the person or entity that will receive the article, and the purpose for which the exported article will be used. 15 CFR § 748.8. The EAR also prohibits any false statements, misrepresentations, or concealment of material facts in the application for an export license or in any other report or declaration required to be filed or provided to BIS. 15 CFR § 764.2(g).

11. Pursuant to 13 U.S.C. § 305, exporters, shippers, and freight forwarders are required to file certain forms and declarations concerning exports of goods and

technology from the United States. Those filings include a Shipper's Export Declaration ("SED") or an Electronic Export Information ("EEI"). The SED and EEI require shippers to identify, among other things, the name and address of the ultimate consignee; the ultimate destination country of the export; and a description, quantity, and value of the items exported. Among other things, the identity of the ultimate consignee and destination determines whether the export requires (a) specific authorization from the United States government or (b) an export license from the DOC, the Department of State, or the Department of the Treasury.

12. Individuals responsible for the export are required to submit the SED or EEI to the Automated Export System ("AES"), which is administered by the U.S. Department of Homeland Security, U.S. Customs and Border Protection. Thus, the SED and EEI are official documents submitted to the United States government in connection with goods exported from the United States.

13. Pursuant to 13 U.S.C. § 305, "[a]ny person who knowingly fails to file or knowingly submits false or misleading export information through the Shippers Export Declaration (SED) (or any successor document) or the Automated Export System (AES) shall be" guilty of a crime.

FACTS SUPPORTING PROBABLE CAUSE

I. SYED AND HIS ASSOCIATED COMPANIES AND CLIENTS

14. As discussed below, OBAIDULLAH SYED was the owner of a business in Pakistan called "Business System International Pvt. Ltd." ("BSI-Pakistan") and a business in Chicago, Illinois, called "BSI USA, Incorporated" ("BSI USA"). SYED,

through his two companies, arranged for the export of controlled computer equipment from United States based companies to the PAEC and the NDC.

A. BSI-Pakistan and SYED

1. BSI-Pakistan

15. According to BSI-Pakistan's website ("bsipk.net"), last viewed by special agents on or about April 29, 2020, BSI-Pakistan is a provider of "High-Performance Computing Platforms, Linux Clusters as well as High Performance Servers, Data Storage & Backups, Network Solutions and Software Application Solutions to our Customers." The BSI-Pakistan website further notes:

a. BSI-Pakistan was established in November 1980. The company has offices in Pakistan, Bangladesh, and the Middle East. The website does not mention BSI-USA.

b. BSI-Pakistan advertised working partnerships with approximately eight United States-based companies, including Computer Company A (a California-based high performance computing manufacturer), Computer Company B (a Georgia-based computer periphery and server hardware company), and Computer Company C (a California-based computer manufacturer).

16. According to a March 12, 2015 letter that BSI-Pakistan sent to the Administrator of the Pakistani Directorate of Science Division ("DSD") at the headquarters of the PAEC:

a. "BSI provides a broad range of professional services to manage the lifecycle of networks and applications from requirements definition and design,

through development, deployment, and operations. BSI's Professional Services team uses its expert knowledge of solutions and best practice methodologies in performance engineering to manage, analyze, troubleshoot, and optimize enterprise applications, networks, and systems before and after operational deployment.”

b. BSI-Pakistan's customers include the “National Development Complex (NDC)” and “Pakistan Institutes [*sic*] of Engineering and Applied Sciences (PIEAS)” a PAEC-affiliated institute) – both of which are discussed in greater detail below – as well as the NDC's parent organization “NESCOM” (National Engineering and Scientific Commission), a program responsible for developing missiles, “SUPARCO” (Space and Upper Atmosphere Research Commission) , “Inter Services Intelligence” (Pakistan's national intelligence agency, a/k/a “ISI”), “Military Intelligence MI DTE”, and the Pakistani Air Force.¹

17. Based on the investigation to date, special agents have discovered that five other individuals employed at BSI-Pakistan who were involved in this conduct, who are the Director of Marketing and Sales, the Secretary, two Senior Support Engineers, and a Software Engineer (the “BSI-Pakistan Employees”).

¹ Several of these BSI-Pakistan customers are on the Commerce Entities List, including the NDC as of June 30, 1997 (as discussed above); NESCOM (*see* 81 Fed. Reg. 90712), and SUPARCO (63 Fed. Reg. 64322 (11/19/98), 65 Fed. Reg. 14444 (03/17/00), 66 Fed. Reg. 50090 (10/01/01), 77 Fed. Reg. 58006.

2. OBAIDULLAH SYED

18. According to SYED's LinkedIn profile, viewed by special agents on August 3, 2015, and again on May 20, 2020, SYED is the owner and CEO of BSI-Pakistan.

19. On or about July 13, 2015, a BSI employee received a document that BSI-Pakistan apparently filed with the Securities and Exchange Commission of Pakistan. According to this document, SYED was the Chief Executive and majority share owner of BSI-Pakistan.²

20. According to immigration records maintained by U.S. Citizenship and Immigration Services ("USCIS"), SYED is a national of Pakistan and became a naturalized United States citizen in 2006.

21. On or about July 16, 2015, SYED arrived at Chicago O'Hare International Airport on a flight from Pakistan by way of Qatar. Upon SYED's arrival, U.S. Customs and Border Protection ("CBP") officers, in the presence of HSI agents, conducted an inbound inspection interview of SYED. During this interview, SYED made the following representations:

a. SYED created BSI-Pakistan in the 1980s and ran the company until 2005 or 2006. He was at the time of the interview a consultant to the company,

² In the course of this investigation, agents obtained warrants to search several email accounts used by BSI-Pakistan employees and customers. For example, on or about September 3, 2015, Magistrate Judge Jeffery Cole issued warrants authorizing the search of osyed@bsipk.net ("Syed Email Account 1") and three BSI-Pakistan Employee email accounts. On or about March 3, 2016, Magistrate Judge Sheila Finnegan issued warrants authorizing the search of numerous email accounts, including ("PAEC Employee A Email Account 1").

which was then run by his brother, another BSI-Pakistan employee, who served as the executive director.³

b. BSI is an information technology company that purchases information, images, and other items that the company then sells to third parties. For example, BSI purchases satellite images from a Colorado-based company and then sells those images to an unspecified arm of the Pakistan Government.

c. BSI has a contract with the Pakistan Government and sells and exports goods that require licenses from the U.S. government to the Pakistan Government. SYED stated that when he ran BSI-Pakistan, he was in charge of obtaining proper licenses for exports, but his brother had assumed that responsibility.

22. During the border search, SYED had on his person a business card which read in part, “SYED Obaidullah, Chief Executive, Silicon Graphics, Business Systems International Pvt LTD” in Karachi, Pakistan,” and identified Syed Email

³ Notwithstanding SYED’s statements to agents on July 16, 2015, agents have obtained numerous emails and documents, and reviewed SYED’s LinkedIn profile, in which SYED continued to identify himself as the Chief Executive Officer of BSI-Pakistan beyond 2006 and through 2020. In addition, at the time of this July 2015 interview, SYED was carrying a business card that identified him as the “Chief Executive” of BSI-Pakistan.

Account 1⁴ and syedbsi@sbcglobal.net (“Syed Email Account 2”)⁵ as his email addresses.

B. BSI-USA

23. According to Illinois Secretary of State (“SOS”) records, BSI-USA incorporated in Illinois in 2005 and listed SYED as its president. Illinois SOS records listed Syed Residence 1, as BSI-USA’s physical address. According to Illinois SOS records, BSI-USA was involuntarily dissolved in 2014.

24. According to records maintained by USCIS, on or about April 10, 2006, SYED completed a United States Application for Naturalization, Form N-400, in which he listed himself as the owner of BSI USA Inc. located at Syed Residence 1.

25. According to records provided by Computer Company D, a U.S.-based company that has done business with SYED, SYED continued to operate BSI-USA as

⁴ Agents identified SYED as the user of Syed Email Account 1 as follows: First, the email address includes both SYED’s surname and the name of SYED’s company “bsipk”. Second, as noted above, agents obtained numerous emails between BSI-Pakistan employees pursuant to numerous search warrants. In many of these emails, the user of SYED Email Account 1 identified himself as, and responded to the name of “Obaidullah Syed” or some variation thereof. According to subscriber information provided by Yahoo on or about October 16, 2015, SYED Email Account 1 is registered in the name of “Mr Obaidullah Syed” located in Pakistan. In addition, Syed Email Account 1 was listed as SYED’s email address on his business card.

⁵ Agents identified SYED as the user of Syed Email Account 2 as follows: First, the email address includes both SYED’s last name (“syed”) and the name of the company he owned and operated (“bsi”). Second, as noted above, agents obtained numerous emails between BSI-Pakistan employees pursuant to search warrants. In many of those emails, the user of Syed Email Account 2 identified himself as, and responded to the name of, “Obaidullah Syed” or some variation thereof. According to subscriber information provided by AT&T on July 9, 2016, Syed Email Account 2 is registered in the name of “Obaidullah Syed” at a residence on the 3500 block of W. Bryn Mawr in Chicago (“Syed Residence 1”). On or about October 4, 2006, SYED completed a Notice of Naturalization Oath Ceremony (“Form N-445”), in which he identified Syed Residence 1 as his home address. In addition, Syed Email Account 2 was listed as SYED’s email address on his business card.

recently as September 2015. According to records obtained by special agents in December 2015 from FedEx, SYED received a package address to “BSI – Business Systems Int PV” at Syed Residence 1, on September 17, 2015.

C. Pakistan Atomic Energy Commission

26. *Pakistan Atomic Energy Commission* (“PAEC”): As discussed below, the PAEC is one of BSI-Pakistan and BSI-USA’s customers. According a declassified research paper prepared by the Directorate of Intelligence of the Central Intelligence Agency (“CIA”) in September 1999 (available at https://www.cia.gov/library/readingroom/docs/DOC_0000252646.pdf, last viewed by special agents on April 20, 2020):

a. The Pakistani government established the PAEC in 1956 to conduct basic nuclear research and training. The purview of the PAEC includes the design, fabrication, and testing of high explosives and nuclear weapons parts; uranium mining and enrichment; and processing feed materials (raw materials, such as uranium bearing ores that are processed into forms suitable for enrichment).

b. PAEC has been heavily involved in Pakistan’s development of solid-fueled ballistic missiles.

27. *Directorate of Science Division*: According to numerous documents attached to emails sent to and from BSI and PAEC employees, which special agents seized pursuant to email search warrants, the Directorate of Science Division (“DSD”) is a division within the PAEC. According to a PowerPoint presentation entitled “High Speed Computing @ DSD [the PAEC’s Directorate of Science Division],” which was

attached to a January 11, 2016 email between two PAEC employees that special agents seized pursuant to an email search warrant:

a. The DSD's "Area of Research includes . . . Radiation Hydrodynamics[,] . . . Neutron Transport," and "Detonics (explosive)."

b. The DSD uses High-Performance Computing, which it defines as "the use of parallel processing for running advanced application programs efficiently, reliably and quickly. HPC most generally refers to the practice of aggregating computing power in a way that delivers much higher performance than one could get out of a typical desktop computer or workstation in order to solve large problems in science, engineering or business."

c. To "meet [its] computational needs," the DSD has used computer systems including the Computer Company A Onyx 3400 visualization computer system and the Computer Company C Super Servers, discussed in detail below.

28. On or about May 28, 1998, the Pakistani government conducted five underground nuclear tests. See John F. Burns, *Nuclear Anxiety: The Overview; Pakistan, Answering India, Carries Out Nuclear Tests*, The New York Times at Section A, page 1 (May 29, 1998) (available at <https://www.nytimes.com/1998/05/29/world/nuclear-anxiety-overview-pakistan-answering-india-carries-nuclear-tests-clinton.html>), last viewed by special agents on April 29, 2020. In response to these tests, and in accordance with Section 102(b) of the Arms Export Control Act, President Clinton imposed various sanctions against Pakistan, the PAEC, and many of the PAEC's subsidiaries, resulting in the addition of the PAEC to the DOC's Entity

List. See DOC Bureau of Export Administration, “India and Pakistan Sanctions and Other Measures,” 63 Fed. Reg. 64322 (Nov. 19, 1998) (codified at 15 C.F.R. Pts. 742 and 744).

29. *PAEC Employee A*: According to numerous emails and documents that agents obtained pursuant to a warrant to search a BSI-Pakistan Employee email account and PAEC Employee A Email Account 1, PAEC Employee A is employed by PAEC in Islamabad, Pakistan. For example:

a. A November 30, 2007 email between BSI-Pakistan employees (including SYED), entitled, “NEW Quotation of Mr. [PAEC Employee A],” attached a document identified as a price quote for the “PAEC” and addressed to “Mr. [PAEC Employee A], Principle Scientific Officer, DSD [Directorate of Science Division], Islamabad.”

b. In addition, according to the aforementioned PowerPoint presentation, which special agents obtained from the PAEC Employee A Email Account 1, entitled “High Speed Computing @ DSD,” as of January 11, 2016, PAEC Employee A is the “Division Head” of the DSD’s “Computer Services Division.”

c. According to PAEC Employee A’s Facebook profile (last viewed by special agents on June 2, 2020), the user of the Facebook account with the name of PAEC Employee A works at “DSD [Directorate of Science Division, a department within the PAEC], Islamabad Pakistan,” and resides in Islamabad, Pakistan. Agents observed an email “friend request” from Facebook in BSI-Pakistan Employee Email

Account 1, stating, “[BSI-Pakistan Employee], [PAEC Employee A] added you as a friend on Facebook.”

30. *PAEC Employee B*: In an attachment to a February 14, 2009 email between BSI-Pakistan Employees, which special agents obtained pursuant to the aforementioned search warrants, various government and banking organizations are identified along with their respective employees. PAEC Employee B is listed as an employee of PAEC.

31. *PAEC Employee C*: In a draft “Release Bank Guarantee” attached to a June 2015 email, which special agents obtained pursuant to the aforementioned search warrants, PAEC Employee C was identified as the “Director” of the “Pakistan Atomic Energy Commission” in Islamabad.

32. *PAEC Employee D*: In an attachment to a January 11, 2016 email between PAEC Employee A and PAEC Employee D, which special agents obtained pursuant to a warrant to search of PAEC Employee A Email Account 1, PAEC Employee D is identified as an employee of the Computer Services Division (“CSD”) of the PAEC.

33. *Pakistan Institute of Engineering and Applied Sciences*: As discussed below, the Pakistan Institute of Engineering and Applied Sciences (“PIEAS”) is also one of BSI-Pakistan and BSI-USA’s customers. According to the International Atomic Energy Agency, the Islamabad-based PIEAS is “a major nuclear research facility of the Pakistan Atomic Energy Commission.” *See New IAEA Collaborating Centre in Pakistan to Assist in Applications of Nuclear Technologies* (Dec. 5, 2019), available at

www.iaea.org/newscenter/news/new-iaea-collaborating-centre-in-pakistan-to-assist-in-applications-of-nuclear-technologies. According to the institute's official website (www.pieas.edu.pk/about-us.cshtml), last visited on April 20, 2020:

a. "Pakistan Institute of Engineering and Applied Sciences (PIEAS), Islamabad, is recognized as a preeminent federal public university devoted to higher education in specific disciplines of engineering, natural sciences and formal sciences."

b. "The seeds for this institution were sown in 1967, when a small training facility called 'Reactor School' was established at the Pakistan Institute of Nuclear Science & Technology (PINSTECH)⁶, to conduct some courses in nuclear technology for the young engineers and scientists of PAEC."

c. "PIEAS is committed to excellence in science and engineering education. We seek to impart education in fields which are essential for the technological development of Pakistan and, in particular, to play a pioneering role in fostering the establishment of educational programs in newly emerging technological fields in the country. We accord the highest priority to meeting the current and future trained manpower needs of PAEC and other technical organizations."

D. National Development Complex ("NDC")

34. As noted above, BSI-Pakistan lists the NDC as one of its customers. According to the Nuclear Threat Initiative, the NDC is an aerospace and defense agency of the Government of Pakistan's Ministry of Defense, responsible for

⁶ On October 1, 2001, PINSTECH was added to the Entity List requiring a license for any items subject to the EAR. See <https://legacy.export.gov/csl-search?q=pinstech>.

Pakistani programs aimed at weaponizing nuclear technology through missile development and other means. See <https://www.nti.org/learn/facilities/634> (last visited on May 11, 2020). NDC's parent organization is the National Engineering and Scientific Commission (NESCOM). *Id.*

35. *NDC Employee A* and *NDC Employee B*: On or about April 28, 2015, a BSI-Pakistan employee emailed his colleagues a copy of a bank check received from the NDC, which special agents obtained pursuant to a warrant to search another BSI-Pakistan Employee email account. Specifically, the check was made payable to BSI-Pakistan and signed by NDC Employee A in his capacity as "Director General (C&S), National Development Complex, Islamabad" and another individual in his capacity as "Assistant Manager (Finance), National Development Complex, Govt. Of Pakistan, Islamabad." The subject of the email attaching this check was "Cheque Received from [NDC Employee B]" and the body of the email stated, "Payment received from [NDC Employee B] Office." Based on these documents, special agents identified NDC Employee A and NDC Employee B as employees of NDC.

36. According to visa records maintained by U.S. Department of State, on or about March 4, 2003, NDC Employee A applied for an A2 visa to enter the United States to visit Computer Company A. According to the U.S. Department of State, A2 visas are granted to government official representing their government, coming to the United States based on written request of their country to perform official, government related duties. In his A2 visa application, NDC Employee A identified himself as a Pakistani official and listed "Joint Staff Headquarters" as his employer.

Based on my training and experience, I understand that the Joint Staff Headquarters houses Pakistan's Joint Chiefs of Staff Committee, which serves as the leadership of the Pakistan Armed Forces.

37. *NDC Employee C*: In an attachment to a February 14, 2009 email between BSI-Pakistan employees, which special agents obtained pursuant to a warrant to search a BSI-Pakistan Employee email account, various government and banking organizations are identified along with their respective employees. NDC Employee C is listed as an employee of NDC.

II. SYED AND BSI EMPLOYEES' KNOWLEDGE OF U.S. DEPARTMENT OF COMMERCE LICENSING REQUIREMENTS

38. As noted above, during his inbound inspection at O'Hare International Airport on July 16, 2015, SYED advised CBP officers and HSI agents that he was in charge of obtaining necessary United States government licenses for goods that BSI-Pakistan exported from the United States to Pakistan until 2005 or 2006, and that his brother assumed that responsibility thereafter. As the following documents show, both SYED and the BSI-Pakistan Employees were aware of those licensing requirements and the prohibition against unlicensed exports to the entities on the Entities List, and each became aware of those requirements at various times between 2003 and 2015.

39. On or about August 12, 2003, SYED, who was using Syed Email Account 2, received an email from an employee of Computer Company A. In this email, the Computer Company A employee gave SYED information regarding his research into various companies' "Route Planning Software." The employee advised SYED that one

United States-based company's product was subject to "numerous export restrictions."

40. Between on or about May 14, 2004, and May 18, 2004, SYED, using Syed Email Account 2, exchanged emails with a Computer Company A Sales Representative. The following was noted during this exchange:

a. On May 14, 2004, The Computer Company A Sales Representative wrote:

Our export compliance has made a remark that BSI has been purchasing many demo equipment during the past few Qtrs. Hence it would be useful if you could drop me an email stating the customers hope this demo eqt would shown to and that BSI would declare to [Computer Company A] as & when these demo equipment are sold to end users. A typical email format could be as follows; [*sic*]

"BSI declares that Purchase Order [the purchase order number for Computer Company A goods] dated . . . 10 May 04 . . . [is] for demonstration purposes only. End user customers would include Cust A, Cust B, Cust C. BSI would undertake the responsibility to inform [Computer Company A]'s personnel as & when any of the demonstration equipment is sold to enduser."

b. On May 18, 2004, SYED responded:

BSI declares that Purchase Order [the purchase order number for Computer Company A goods] dated . . . 10 May 04 . . . [is] for demonstration purposes only. BSI would undertake the responsibility to inform [Computer Company A]'s personnel as & when any of the demonstration equipment is sold to enduser.

41. According to documents provided by Computer Company A, on or about November 4, 2004, SYED signed a "[Computer Company A] GLOBAL SERVICE ADVANTAGE PROGRAMME ("GSAP") SERVICE PROVIDER TECHNICAL

SUPPORT AGREEMENT,” listing his title as “Chief Executive” of BSI-Pakistan.⁷

Section 16.6 of this agreement stated:

Export. All Products provided under this Agreement are subject to the export control laws and regulations of the U.S. Department of Commerce, or any other agency or department of the U.S. Government, and any amendments to such laws and regulations. BSI agrees that it will not make any disposition of Products (or technical data) by way of transshipment, export, diversion or otherwise, other than in and to the United States except as such laws and regulations may permit.

42. On or about May 5, 2005, SYED, who was using Syed Email Account 2, sent an email to a BSI-Pakistan Employee. SYED attached to this email a document provided by a Pennsylvania-based software company (“Company E”), entitled, “End-Use Certification,” which stated:

Intending to be legally bound, Company [BSI-Pakistan] certifies that any [Company E] (including its affiliates or suppliers) non-public technical information will not be destined for the following end-uses, now or in the future as dictated by United States export laws. Licensee [BSI-Pakistan] also agrees to comply with other export or import laws as applicable. The [Company E] non-public technical information:

A. Will not be used, sold, resold, delivered or transferred, directly or indirectly contrary to U.S. export control regulations.

⁷ Some of the interview statements and consensually-captured and lawfully-seized emails, correspondence, and documents (“documented conversations”) have been summarized in this Affidavit. The language that is quoted from the documented conversations throughout this Affidavit is based upon a preliminary review of the documented conversations, and not final transcripts of the conversations. The times listed for the documented conversations are approximate and in central time, unless otherwise noted. The summaries do not include all statements or topics covered during the course of the documented conversations. At various points in the Affidavit, I have included in brackets my interpretation of words and phrases used in the documented conversations. My interpretations are based on information obtained throughout the investigation, the contents and context of the documented conversations, events that took place before and after the conversations, my knowledge of the investigation as a whole, my experience and training, and the experience and training of other law enforcement agents in this investigation.

B. Will not be used in the design, development, production, stockpiling, or use of chemical or biological weapons and their precursors.

C. Will not be used in the design, development, production, stockpiling, or use of missiles, rocket systems (including but not limited to ballistic missile systems, space launch vehicles, and sounding rockets), and unmanned air vehicle systems (including but not limited to cruise missile systems, target drones, and reconnaissance drones). Reference Export Administration Regulations (EAR) part 744

D. Will not be used in or for any nuclear end-use or activity; the term “nuclear end-use or activity” is defined as:

1. Nuclear explosive activities. Nuclear explosive activities, including research on or development, design, manufacture, construction, testing or maintenance of any nuclear explosive device or components or subsystems of such a device;

2. Unsafeguarded nuclear activities. Activities including research on, or development, design manufacture, construction, operation, or maintenance of any nuclear reactor, critical facility, facility for the fabrication of nuclear fuel, facility for the conversion of nuclear material from one chemical form to another, or separate storage installation, where there is no obligation to accept International Atomic Energy Agency (IAEA) safeguards at the relevant facility or installation when it contains any source or special fissionable material (regardless of whether or not it contains such material at the time of export), or where any such obligation is not met; or

3. Safeguarded and unsafeguarded nuclear activities. Safeguarded and unsafeguarded nuclear fuel cycle activities, including research on or development, design, manufacture, construction, operation or maintenance of any of the following facilities, or components for such facilities: (i) Facilities for the chemical processing of irradiated special nuclear or source material; (ii) Facilities for the production of heavy water; (iii) Facilities for the separation of isotopes of source and special nuclear material; or (iv) Facilities for the fabrication of nuclear reactor fuel containing plutonium...

G. Will not be imported or re-exported to destinations embargoed by the U.S. government.

H. Will not be imported or re-exported to entities listed on U.S. government denial lists: U.S. Department of Commerce Denied Persons List, State Department Debarment List, State Department Parties of Proliferation Concern, or Treasury Department Specially Designated Nationals List.*

I. Will not be imported or re-exported for use by the end-users listed on the Unverified List, or the “Entity List,”* Supplement No.4, Part 744 of the EAR, without prior approval from the U.S. Department of Commerce...

*These lists are available from [Company E] at fax #[Company E fax number] and the following U.S. government websites:
Bureau of Export Administration, U.S. Dept. of Commerce:
www.bis.doc.gov

Office of Foreign Assets Control, U.S. Dept. of Treasury:
www.treas.gov/ofac

Office of Defense Trade Controls, U.S. Dept. of State: www.pmdtc.org

43. The aforementioned website, www.bis.doc.gov, listed both the PAEC and the NDC on the “Entity’s List,” requiring exporters to obtain licenses for the export, re-export, and in-country transfer of specified items to those entities; and these websites have included the PAEC and the NDC on that posted list since no later than January 2002.

44. Between March 17, 2008, and June 21, 2008, SYED and some combination of the BSI-Pakistan Employees either emailed, received, or prepared BSI proposals to sell various computer hardware systems to customers (including PIEAS), in which they (a) noted that “the country of origin of the . . . [offered] system is USA” and (b) stated in bold font “**Business Systems International Pvt. Ltd. will organize the Export License from US Government.**” For example:

a. By no later than April 1, 2008, SYED and the BSI-Pakistan Employees, had exchanged one or more emails attaching BSI proposals with the foregoing licensing language. Each sent a copy of this proposal with the licensing language at least once, asking the recipient to read or otherwise note the attached document, and two BSI-Pakistan Employees each exchanged revised copies of the proposal, suggesting that they had taken turns editing the document with the aforementioned licensing language.

b. On or about June 13, 2008, a BSI-Pakistan Employee sent a proposal with the foregoing licensing language in an email to SYED and three BSI-Pakistan Employees.

45. On or about October 14, 2008, and as discussed in detail below, BSI-Pakistan prepared a formal proposal to sell an Altix 450 High Performance Server to PIEAS in Pakistan. In this proposal, which a BSI-Pakistan Employee emailed to another BSI-Pakistan Employee, BSI-Pakistan noted that the High Performance Server originated in the United States and stated in bold font “**Business Systems International Pvt. Ltd. will organize the Export License from US Government.**”

46. On or about January 12, 2009, an employee of Computer Company A sent an email to SYED.⁸ SYED in turn forwarded this email to four BSI-Pakistan Employees. In this email, regarding BSI-Pakistan’s proposed purchase of an Altix 450

⁸ Throughout this affidavit, references to SYED sending an email indicates he used SYED Email Account 1, unless otherwise indicated.

High Performance Server on behalf of PIEAS, the Computer Company A employee advised SYED:

Pakistan Atomic Energy Commission (PAEC) is currently a prohibited end-user. This means that [Computer Company A] may not export to, or for the benefit of, PAEC. Exports to PIEAS which would benefit PAEC are prohibited without an export license issued by the United States Government. As a matter of policy, [Computer Company A] will not pursue an export license for any prohibited entity.

47. On or about April 21, 2014, SYED sent an email to an employee from Computer Company C (a California-based computer manufacturer), copying a BSI-Pakistan Employee. In this email, SYED stated, “We are delighted to be your distributors in Pakistan,” identified two BSI-Pakistan Employees as Computer Company C’s “Contact in Pakistan,” and attached a three-page non-disclosure agreement between BSI-Pakistan and Computer Company C, dated April 21, 2014. Paragraph 11 of the agreement, which contain SYED’s initials on each page and signed in his capacity as “CEO” of BSI, stated in part:

Non-use and Non-disclosure – The Confidential Information [of Computer Company C] shall not be used for any purpose or in any manner that would constitute a violation of any laws or regulations, including, without limitation, *the import or export control laws of the United States. . . .*

Governing Law and Jurisdiction. This agreement shall be governed by the laws of the State of California. Each party agrees that the Confidential Information is subject to the export and customs laws and regulations of the United States and any other applicable country and [it] *shall not export, re-export or transship, direct or indirect, such information to any country without first obtaining proper government approval.* (emphasis added).⁹

⁹ Agents also found this non-disclosure agreement on SYED’s laptop during his inbound inspection at O’Hare International Airport on July 16, 2015. Agents found this agreement on SYED’s laptop during its examination of the computer pursuant to HSI’s border search

48. On or about April 25, 2014, an employee from Computer Company C sent an email to SYED, copying a BSI-Pakistan Employee, writing, “Attached please find two forms for new account and sales term application as I have the green light from the management to move forward with BSI.” The email attached a completed “New Account Application Form.” Under the subject “Export Compliance,” SYED prepared and signed the following letter:

Business Systems International Pvt., Ltd, doing business with [Computer Company C], agrees to fully comply with all laws, regulations and requirements regarding the export, re-export, transfer, diversion or release of [Computer Company C]’s products and technology, including without limitation to the United States Export Administrative Regulations and the United States Department of Treasury Office of Foreign Assets Control Regulations. We understand that these requirements include the obligation to obtain Appropriate U.S. government authorization prior to export, re-export, transfer, diversion or release of [Computer Company C]’s products and technology to any proscribed or controlled destinations, end-users or person/entity on the U.S. Government “Restricted Parties List.” “Restricted Parties List” include the U.S. Department of Commerce Entity List, Denied Person List, and Unverified List, The U.S. Department of Treasury Specially Designated Nationals and Blocked Persons List, and the U.S. Department of State Debarred Parties List. We agree to indemnify, defend and hold [Computer Company C] harmless from any and all expense, judgements, penalties, or other liabilities by reason of our failure to comply with such export regulations.

Sincerely yours,
Obaidullah Syed/CEO

(emphasis added).¹⁰

authority, and later seized the document pursuant to a warrant to search the laptop, issued on or about September 3, 2015, by Magistrate Judge Jeffrey Cole of the United States District Court for the Northern District of Illinois.

¹⁰ According to records obtained from Computer Company C, SYED and BSI submitted this letter to Computer Company C, with the same language, on or about June 5, 2014. Agents also found this document on SYED’s laptop during his inbound inspection at O’Hare

49. On or about June 24, 2014, SYED forwarded an email to two BSI-Pakistan Employees, stating “[p]rint” and attached an unsigned U.S. DOC BIS Form 711 – “Statement by Ultimate Consignee and Purchaser,” which related to BSI’s purchase of Computer Company C products. The attached Form 711 required BSI to certify the following:

[W]e will not reexport, resell, or otherwise dispose of any items approved on a license supported by this statement (1) to any country not approved for export as brought to our attention by means of a bill of lading, commercial invoice, or any other means, or (2) to any person if we know that it will result directly or indirectly, in disposition of the items contrary to the representations made in this statement or contrary to Export Administration Regulations. (emphasis added).¹¹

50. According to documents obtained from Computer Company C, SYED signed the attached Form 711 the following day (June 25, 2014) in his capacity as Chief Executive Officer of BSI. Furthermore, SYED acknowledged on the BIS 711 that “the making of any false statement or concealment of any material fact in connection with this statement may result in imprisonment or fine, or both and denial, in whole or in part, of participation in U.S. exports and reexports.”

51. On or about June 25, 2014, SYED signed an End-Use/User Certification for products purchased from Computer Company C in his capacity of Chief Executive Officer of BSI. The form included the following certification:

International Airport on July 16, 2015, pursuant to HSI’s border search authority and their subsequent execution of the September 3, 2015, warrant to search the laptop.

¹¹ Agents also found this Form 711 agreement on SYED’s laptop during his inbound inspection at O’Hare International Airport on July 16, 2015, pursuant to HSI’s border search authority and their subsequent execution of the September 3, 2015, warrant to search the laptop.

Our company expressly acknowledges that U.S. export controls apply to transactions outside the United States. We fully knowledgeable [*sic*] of, and agree to comply with, all applicable U.S. export control requirements. I [SYED] certify that the foregoing representations and answers are true and accurate to the best of my knowledge and belief and that I have the lawful authority to sign this document on behalf of the below listed company. Business Systems International Pvt. Limited.¹²

52. As discussed above, on July 16, 2015, CBP officers, in the presence of HSI agents, conducted an inbound inspection interview of SYED at O'Hare International Airport upon his arrival from Pakistan by way of Qatar. During this interview, SYED made the following representations:

a. SYED created BSI-Pakistan in the 1980s and ran the company as its CEO until 2005-2006.¹³ In his capacity as the BSI-Pakistan CEO, SYED purchased technological devices, including computers, from U.S.-based manufacturers and resold and exported those goods to third party buyers in foreign countries, including Pakistan. BSI-Pakistan exported goods, subject to licensing requirements, to the Pakistan Government.

b. SYED understood that some items, including computers that BSI-Pakistan exported from the United States, required licensing from the U.S. government before those items could be exported to BSI-Pakistan's customers.

¹² Agents found this certification on SYED's laptop during his inbound inspection at O'Hare International Airport on July 16, 2015, pursuant to HSI's border search authority and their subsequent execution of the September 3, 2015, warrant to search the laptop.

¹³ Notwithstanding SYED's statements to agents on July 16, 2015, agents have obtained numerous emails and documents, and reviewed SYED's LinkedIn profile, in which SYED continued to identify himself as the Chief Executive Officer of BSI-Pakistan beyond 2006 and through 2020. In addition, at the time of this July 2015 interview, SYED was carrying a business card that identified him as the "Chief Executive" of BSI-Pakistan.

Specifically, SYED understood that BSI had to obtain licenses from “Commerce [U.S. Department of Commerce]” to export some computers based on the computers’ processing speeds. SYED understood that, for those computers, the United States Government required BSI to report the identity of the end user.

c. SYED was responsible for obtaining licenses for all shipments until 2005 or 2006, at which time a BSI-Pakistan Employee became responsible for licensing.

53. On or about April 24, 2015, two BSI-Pakistan Employees received an email from a Computer Company C employee, attaching shipping information for computer equipment that BSI-Pakistan had obtained from Computer Company C. The shipping documentation from Computer Company C stated, “These commodities, technologies or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.”

54. As discussed below, on or about August 27, 2015, a BSI-Pakistan Employee, sent an email to a Computer Company C employee, copying SYED and three BSI-Pakistan Employees, attaching four complete BIS-711 forms and “End-Use/User Certifications,” each dated August 27, 2015, related to the company’s export of Computer Company C SuperServers and associated transceivers. In each of the attached BIS-711 forms:

a. a BSI-Pakistan Employee certified on behalf of BSI-Pakistan that:

[W]e will not reexport, resell, or otherwise dispose of any items approved on a license supported by this statement . . . to any person if we know

that it will result directly or indirectly, in disposition of the items . . . contrary to Export Administration Regulations. . . . We acknowledge that the making of any false statements or concealment of any material fact in connection with this statement may result in imprisonment or fine, or both

b. In each of the attached “End-Use/User Certification” forms, Computer Company C required answers to following questions prior to exporting goods purchased from the computer company:

- “Will you or any of your customers or consignees use, or incorporate, [Computer Company C] products or technical data (a) in the design, development or production of missile/rocket systems or unmanned air vehicles, or (b) in connection with nuclear or chemical/biological proliferation activities?”
- “Will you or any of your customers or consignees provide, export or re-export [Computer Company C] goods or technical data to . . . to any person, entity, organization or other party identified on the U.S. Department of Commerce’s Denied Persons or Entity List . . . ?”

c. In each form, the purported end user responded, “No” to both of these questions on behalf of BSI-Pakistan.

d. In each of the attached “End-Use/User Certification” forms, BSI-Pakistan’s putative end user certified that:

Our company expressly acknowledges that U.S. export controls apply to transactions outside the United States. We fully knowledgeable [*sic*] of, and agree to comply with, all applicable U.S. export control requirements. I [putative end user representative] certify that the foregoing representations and answers are true and accurate to the best of my knowledge and belief and that I have the lawful authority to sign this document on behalf of the below listed company.

III. SYED AND BSI EMPLOYEES CAUSED THE EXPORT OF COMPUTER SYSTEMS AND ASSOCIATED EQUIPMENT FROM THE UNITED STATES TO THE PAEC AND NDC IN PAKISTAN WITHOUT A LICENSE

55. As discussed below, between December 2001 and October 2015, SYED and other employees of BSI-Pakistan and BSI-USA arranged for the export of multiple computer systems and associated parts from companies in the United States to the PAEC and the NDC in Pakistan. Specifically, SYED and his associates arranged for the export of (1) an ONYX 3400 visualization computer system from the United States-based Computer Company A to the PAEC in Pakistan on or about May 15, 2002; (2) a Tezro high-end computer workstation and TP9300 high-bandwidth RAID Fibre Channel storage system from Computer Company A in the United States to the NDC in Pakistan on or about June 22, 2004; (3) replacement parts for the previously-exported ONYX 3400 visualization computer system from the United States-based Computer Company B to the PAEC in Pakistan in July 2008; (4) an Altix 450 high performance computer server from Computer Company A in the United States to PIEAS in Pakistan on or about June 24, 2009; and (5) computer transceivers from the U.S.-based Computer Company D to the PAEC on or about September 21, 2015, after a failed attempt to export similar transceivers from Computer Company C. In each instance, SYED and his associates exported the goods without obtaining a required license and falsely reported the end user of the goods to evade license requirements.

A. SYED and BSI Employees Exported an Onyx 3400 Visualization Computer System from the United States to the PAEC in Pakistan Without a License (May 15, 2002)

56. As discussed below, SYED and a BSI-Pakistan Employee, through their company BSI-Pakistan, arranged for the export of an Onyx 3400 visualization computer system from Computer Company A in the United States, through Chicago (as the United States Port of Export), to the PAEC in Pakistan, without obtaining a license. To effectuate the export and evade licensing requirements, SYED and a BSI-Pakistan Employee knowingly provided Computer Company A the name of a false end-user, Taxila University.

57. On or about December 3, 2001, a BSI-Pakistan Employee, in his capacity as BSI-Pakistan “Director,” sent Computer Company A a letter on BSI-Pakistan letterhead.¹⁴ The subject of the letter was “P.O. #[Computer Company A]/BSI/0174/10.01,” which, as discussed below, is the purchase order number for an Onyx 3400 visualization computer system that BSI-Pakistan purchased from Computer Company A. In this document, the BSI-Pakistan Employee stated:

Reference your email of November 30th, 2001. . . . Kindly note the required address of Taxila University as follows:

Taxila University
Hattar Road
Taxila
Punjab
Pakistan
Contact Person: [NDC Employee A]

¹⁴ Agents obtained this document pursuant to a warrant to search a BSI-Pakistan Employee email account. Specifically, this document was attached to a January 26, 2009 email entitled “Taxila University address,” which email the BSI-Pakistan Employee sent to SYED and other BSI-Pakistan Employees.

Kindly ship the [Onyx 3400] system through [Shipping Company A] directly to BSI as the custom clearance would be handle [sic] by BSI as the customer does not want to go through a tedious clearance procedure which is rather very hectic.

58. According to records obtained from Computer Company A, on or about May 16, 2002, Computer Company A issued an invoice documenting the company's sale of an Onyx 3400 visualization computer system bearing "Serial Number L1001540" (and related parts) to BSI-Pakistan in Karachi, Pakistan, under "Customer P.O. Number [Computer Company A]/BSI/0174/10.01" and sales order number "330000543," for US\$315,137.46. The invoice further stated that the Onyx 3400 visualization computer system would ultimately be "Shipped To" to "Taxila University." Computer Company A's Demand Fulfillment records show that the company routed the Onyx 3400 system to Shipping Company A in Bensenville, Illinois, for shipment to BSI in Pakistan.

59. According to HPC Wire, a news resource that covers "the fastest computers in the world":

SGI Onyx 3000 series visualization systems [of which the Onyx 3400 visualization computer system is a part] offer users a unique combination of graphics capability and compute power. This combination allows for visualization of large, complex volumetric data (e.g., brain mapping); allows interactivity and realism (e.g., pilot training simulation); provides bandwidth and image quality for real-time, high-definition special effects (e.g., broadcast); and has the visual accuracy and compute power that enable interactive design (e.g., photo-realistic automotive modeling).

...

Notable SGI 3000 family clients, including the U.S. Army Engineer Research Development Center and NASA/Ames Research Center, have either ordered or already taken delivery. These organizations will use

the systems for a variety of needs, ranging from financial analytics to crash-test simulation and aircraft testing.

See SGI Launches Family of High Performance Computers, July 28, 2000 (available at <https://www.hpcwire.com/2000/07/28/sgi-launches-family-of-high-performance-computers>, last visited on June 6, 2020).

60. According to the website of Taxila University (a/k/a the “University of Engineering and Technology”), Taxila University is an educational institute located in Taxila, Pakistan. Unlike the PAEC and the NDC, Taxila University is not listed on the DOC’s Entity List, and thus individuals, companies, and foreign governments are generally not required to obtain an export license from DOC to export goods to the university.

61. According to AES records (the CBP-administered system tracking all SEDs and EEI filed in connection with exported goods), on or about May 15, 2002, Shipping Company B filed four SEDs on behalf of Computer Company A, listing BSI-Pakistan (“Business Systems International” located at “260, R.A. Lines, Strachen Road, Karachi, PK 74200”) as the Intermediate and Ultimate Consignee of exported goods valued at (1) \$240,548; (2) \$11,550; (3) \$8,245; and (4) \$4,122, respectively. The United States Port of Export was listed as Chicago, Illinois.

62. Email correspondence following the shipment confirms that the Onyx 3400 visualization computer system was actually delivered to PAEC. For example, approximately two years later, on or about January 26, 2009, a BSI-Pakistan Employee sent an email to SYED, copying another BSI-Pakistan Employee, with the subject line “Onyx 3400 serial number,” writing:

[T]he following are [sic] the information of the UET Taxila machine

Machine: Onyx 3400
Customer name: University of Engineering and Technology [*sic*] Taxila.
Actual Customer: PAEC
Serial number: L1001540

(emphasis added).

63. Based on my training, experience, and familiarity with this case – including Computer Company A documents, AES records, and prior and subsequent emails sent and received by BSI-Pakistan employees – I believe that, in this email, the BSI-Pakistan Employee (a) confirmed that the serial number of the Onyx 3400 visualization computer system that BSI-Pakistan obtained from Computer Company A in May 2002, putatively on behalf of Taxila University, was “L1001540”; and (b) acknowledged that the “[c]ustomer name” formally associated with this purchase (“University of Engineering and Technology [*sic*] Taxila”) was false by noting that the “[a]ctual [c]ustomer” was the “PAEC.”

64. Similarly, on or about January 11, 2016, PAEC Employee D, who was using PAEC Employee D Email Account 1,¹⁵ sent an email to PAEC Employee A, who was using PAEC Employee A Email Account 1.¹⁶ As discussed above, both PAEC

¹⁵ Agents identified PAEC Employee D as the user of PAEC Employee D Email Account 1 as follows: First, the email address includes PAEC Employee D’s first initial combined with his last name. Second, as noted above, agents obtained numerous emails between PAEC employees and BSI employees pursuant to a warrant to search PAEC Employee A Email Account 1 and a BSI-Pakistan Employee email account. In many of these emails, the user of PAEC Employee D Email Account 1 identified himself as PAEC Employee D.

¹⁶ Agents identified PAEC Employee A as the user of PAEC Employee A Email Account 1 as follows: First, as noted above, agents obtained numerous emails between BSI-Pakistan employees pursuant to a warrant to search PAEC Employee A Email Account 1. In many of those emails, the user of PAEC Employee A Email Account 1 identified himself as, and responded to the name of, PAEC Employee A or some variation thereof. According to

Employee A and PAEC Employee D are employees of the PAEC. PAEC Employee D attached to this email a Power-Point presentation entitled, “High Speed Computing @ DSD [the PAEC’s Directorate of Science Division].” In this document – which described the DSD’s “Area of Research” to include “Radiation Hydrodynamics,” “Neutron Transport,” and “Detonics (explosive),” the presentation stated, “[I]n 2001, DSD purchased [Computer Company A] ONYX 3400 system for its computational needs.”

65. As noted above, a DOC export license from BIS was required in order to legally export a good directly or indirectly from the United States to the PAEC in Pakistan. During this investigation, special agents have checked with BIS, and those checks revealed that neither SYED, BSI-Pakistan, BSI-USA, nor any of its employees have applied for or been granted a license by BIS to export an Onyx 3400 visualization computer system from Computer Company A to the PAEC in Pakistan.

B. SYED, BSI, and BSI Employees Exported a Tezro Computer Workstation and TP9300 Computer Storage System from the United States to the NDC in Pakistan Without a License (June 22, 2004)

66. As discussed below, SYED and a BSI-Pakistan Employee, through their company BSI-Pakistan, arranged for the export of a Tezro computer workstation and TP9300 computer storage system from Computer Company A in the United States to the NDC in Pakistan without obtaining a license. To effectuate the export and evade

subscriber information provided by Yahoo on April 14, 2016, PAEC Employee A Email Account 1 is registered in the name of PAEC Employee A in Pakistan.

licensing requirements, SYED and a BSI-Pakistan Employee knowingly provided Computer Company A the name of a false end-user, namely, BSI-Pakistan.

67. On or about May 10, 2004,¹⁷ a BSI-Pakistan Employee, on behalf of BSI-Pakistan, submitted a purchase order to Computer Company A, ordering a Tezro high-end computer workstation, a TP9300 high-bandwidth computer storage workstation, and associated equipment, under BSI “Purchase Order No. [Computer Company A]/BSI/0233/05.04,” at a total purchase price of US\$147,669.50. The BSI-Pakistan Employee directed Computer Company A to ship the computer systems to BSI-Pakistan.

68. On or about May 14, 2004, the same Computer Company A Sales Representative sent an email to SYED, using Syed Email Account 2. In this email, the Computer Company A Sales Representative stated:

Demo Equipment – Our export compliance has made a remark that BSI has been purchasing many demo equipment during the past few Qtrs. Hence it would be useful if you could drop me an email stating the customers hope this demo eqt would shown to and that BSI would declare to [Computer Company A] as & when these demo equipment are sold to end users. A typical email format could be as follows; *[sic]*

“BSI declares that Purchase Order [Computer Company A]/BSI/0233/05.04 [the purchase order number for the Tezro workstation and TP9300 computer storage system] dated . . . 10 May 04 . . . [is] for demonstration purposes only. End user customers would include Cust A, Cust B, Cust C. BSI would undertake the responsibility to inform [Computer Company A]’s personnel as & when any of the demonstration equipment is sold to enduser.”

¹⁷ The purchase order is misdated “May 10, 2005.” Based on other Computer Company A records and seized emails, agents understand “2005” marking to be a typo.

69. On or about May 18, 2004, SYED, using Syed Email Account 2, responded to the Computer Company A Sales Representative's May 14 email. In this email, SYED stated:

We are buying first time following demo Equipment since their launch.
Origin 3000 System

Tezro
Storage

We would like to address Energy, CAD/CAM and Broadcast marketing segments with these machines and further BSI declares that Purchase Order [Computer Company A]/BSI/0233/05.04 [the purchase order number for the Tezro workstation and TP9300 computer storage system] dated . . . 10 May 04 . . . [is] for demonstration purposes only. BSI would undertake the responsibility to inform [Computer Company A]'s personnel as & when any of the demonstration equipment is sold to enduser.

70. On or about June 16, 2004, Computer Company A issued a shipping invoice to BSI-Pakistan for the Tezro workstation and TP9300 computer storage system sold under Sales Order Number 330001339. In this invoice, Computer Company A advised BSI-Pakistan that:

These commodities, technologies or software [the Tezro and TP9300] were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

71. According to shipping documents maintained in Computer Company A's records, on or about June 22, 2004, Computer Company A shipped the Tezro workstation and TP9300 computer storage system sold under "Purchase Order No [Computer Company A]/BSI/0233/05.04" and Shippers Reference No. "330001339" from a Computer Company A facility in Wisconsin, to BSI-Pakistan.

72. According to AES records, on or about June 22, 2004, Shipping Company B filed an SED on behalf of Computer Company A, listing BSI-Pakistan in Islamabad as the Intermediate Consignee, and BSI-Pakistan in Karachi as the Ultimate Consignee, of exported goods valued at \$147,670. The United States Port of Export was listed as John F. Kennedy Airport.

73. On or about June 22, 2004, a BSI-Pakistan Employee exchanged emails with SYED. In this exchange, the BSI-Pakistan Employee stated, “Mr. [PAEC Employee C] is asking about his shipment. (Tezro),” and SYED responded, “Tezros are arriving by the end of that month.”

74. On or about October 28, 2004, an employee of Computer Company A sent an email to a BSI-Pakistan Employps, copying SYED, with the subject line “TEZRO PART LIST,” stating, “Attached is the list of spares [parts to the Terzo supercomputer] that I will carry in to Pakistan. Pls get Syed to advise on the declaration of the parts. We need a letter so that we will not get into any custom issues,” and attaching a Computer Company A “Part Request Form,” documenting numerous parts that “Customer: Businesss [sic] Systems International Pvt Ltd” requested for a “TEZRO” system bearing “System Serial No. P1002672” – the same serial number for the Tezro workstation that Computer Company A exported to BSI-Pakistan on June 22, 2004. The form identified two BSI-Pakistan Employees as the customer contacts.

75. On or about October 29, 2004, SYED forwarded the aforementioned “TEZRO PART LIST” email to NDC Employee A, who was using NDC Employee A

Email Account 1, copying NDC Employee A at a second email address (NDC Employee A Email Account 2)¹⁸ and blind copying a BSI-Pakistan Employee. In this email, SYED stated, “Tezro Part List Attached. SYED attached the aforementioned Computer Company A “Part Request Form,” documenting the numerous parts that BSI-Pakistan had requested for the “TEZRO” system bearing serial number P1002672.

76. Based on my training, experience, and familiarity with this case – including Computer Company A documents, AES records, and prior and subsequent emails sent and received by BSI-Pakistan employees – I believe that the aforementioned emails and their attachments show that (a) in October 2004, BSI-Pakistan asked Computer Company A to provide parts for the Tezro workstation that the computer company had exported to BSI-Pakistan on June 22, 2004; (b) SYED gave NDC Employee A, the Director General of the NDC, an update on the status of those parts; (c) SYED gave the Director General of the NDC an update on the status of the Tezro workstation parts because SYED and BSI-Pakistan gave the Tezro workstation that Computer Company A had exported to BSI-Pakistan in June 2004 to the NDC; and (d) it was therefore the NDC, and not BSI-Pakistan, that needed the Tezro workstation parts.

¹⁸ Agents identified NDC Employee A as the user of NDC Employee A Email Accounts 1 and 2 as follows: First, the email accounts include NDC Employee A’s surname. Second, as noted, agents obtained multiple emails in which the user of NDC Employee A Email Accounts 1 and 2 identified himself as NDC Employee A. In 2003, NDC Employee A applied for a U.S. visa. In his visa application, he provided NDC Employee A Email Account 1 on his application. According to DomainTools, the domain erdc.net was created on or about 10/10/2001 with Administrative Technical Contact NDC Employee A.

77. Subsequent emails confirm that the Tezro workstation and associated equipment were actually delivered to NDC. For example, on or about April 8, 2005, a BSI-Pakistan Employee sent an email to SYED, writing, “I delivery [sic] the Dispaly [sic] Card and Radio Modem to Mr. [NDC Employee B] and also informe [sic] Mr [NDC Employee A, Director General of the NDC].”

78. On or about April 20, 2005, NDC Employee B, using the email account NDC Employee B Email Account 1,¹⁹ sent an email to a BSI-Pakistan Employee. In this email, NDC Employee B complained of certain malfunctions with the workstation, which the BSI-Pakistan Employee then relayed to SYED.

79. As noted above, a DOC export license from BIS was required in order to legally export a good directly or indirectly from the United States to the NDC in Pakistan. During this investigation, special agents have checked with BIS, and those checks revealed that neither SYED, BSI-Pakistan, BSI-USA, nor any of its employees have applied for or been granted a license by BIS to export a Tezro computer workstation or TP9300 computer storage system from Computer Company A to the NDC in Pakistan.

¹⁹ Agents identified NDC Employee B as the user of NDC Employee B Email Account 1 as follows: As noted above, agents obtained numerous emails between BSI-Pakistan employees pursuant to a warrant to search numerous employee email accounts. In many of those emails, the user of NDC Employee B Email Account 1 identified himself as, and responded to the name of, NDC Employee B or some variation thereof.

C. SYED and His Associates Exported Replacement Parts for the Previously-Exported Onyx 3400 Visualization Computer System from the United States to the PAEC in Pakistan Without a License (July 2008)

80. As discussed below, SYED and four BSI-Pakistan Employees, through BSI-Pakistan and BSI-USA, arranged for the July 2008 export of replacement parts for the aforementioned ONYX 3400 visualization computer system from a computer periphery and server hardware company based in the United States (Computer Company B) to the PAEC in Pakistan without obtaining a license. To effectuate the export and evade licensing requirements, SYED and his associates falsely misrepresented to Computer Company B that BSI-Pakistan was the ultimate consignee of the goods.

81. On or about May 11, 2006, PAEC Employee E of the PAEC's DSD, using email account PAEC Employee E Email Account 1,²⁰ sent an email to SYED, copying a BSI-Pakistan Employee. The subject of the email was "Provision of Quotation for [Computer Company A] ONYX3400 System Parts." In this email:

a. PAEC Employee E wrote, "Plz [please] you are requested to kindly offer your best price for the [Computer Company A] ONYX3400 parts mentioned in our letter (attached). Kindly treat this as most urgent."

²⁰ Agents identified PAEC Employee E as the user of PAEC Employee E Email Account 1 as follows: First, the email address includes PAEC Employee E's full name. Second, in this email and an attached letter, the user of PAEC Employee E Email Account 1 identified himself as, and responded to the name of, PAEC Employee E, or some variation thereof. Agents identified PAEC Employee E as an employee of the PAEC's DSD based on, among other things, his use of official PAEC letterhead ("Pakistan Atomic Energy Commission, Directorate of Scientific Development, . . . Islamabad) in corresponding with BSI-Pakistan employees and his identification of himself in correspondence as "Pr. [Principal] Administrator, DSD."

b. Attached to the email was a May 11, 2006 letter written by PAEC Employee E under the letterhead of the “Pakistan Atomic Energy Commission, Directorate of Scientific Development” in Islamabad. In the letter, PAEC Employee E wrote:

Please refer to our [PAEC’s] request for the diagnosis of problem being faced in our [Computer Company A] ONYX3400 System. Mr. [BSI-Pakistan Employee] and Mr. [BSI-Pakistan Employee] of your firm [BSI-Pakistan] visited our office to carry out the diagnostic check on the system. It was concluded that the Main Card of C-Brick is faulty. In addition, a Hard Disk of the system is faulty and requires to be replaced with a new one having a capacity of 200 GB or 300 GB (whichever is available).

We had requested your representatives to provide a quotation for the following parts:-

- a. Main Board of C-Brick only (without PIMM cards & RAM).
 - b. Hard Disk 200/300 GB.
2. This office [PAEC] is interested in purchasing the above items on priority, preferably before the end of the financial year ending June 30, 2006.
 3. In view of above, you are requested to kindly provide an estimate of the price for these items on an urgent basis.

82. In correspondence between SYED, four BSI-Pakistan Employees, and PAEC employees, sent on various dates between November 2006 and April 2008, BSI-Pakistan and the PAEC negotiated the price on the C-Brick and Hard drive, as well as a power supply. The prolonged negotiating appeared to be a result of funding issues within the PAEC.

83. Between on or about July 21 and 25, 2008, SYED and other BSI-Pakistan employees exchanged a series of emails with an employee of Computer

Company B arranging for the purchase and shipment of the aforementioned replacement parts for the Onyx 3400 computer (the Computer Company A C Brick, Hard disk, and Power Supply).

84. According to AES records, on or about July 25, 2008, Shipping Company C filed an SED on behalf of Computer Company B, listing BSI-Pakistan in Karachi as the Ultimate Consignee of exported goods valued at \$2,650. The United States Port of Export was listed as New York, New York.

85. Based on my training, experience, and familiarity with this case – including AES records and subsequent emails sent and received by BSI-Pakistan employees – I believe that (a) on or about July 25, 2008, Computer Company B exported the aforementioned replacement parts from Atlanta, Georgia to BSI-Pakistan in Karachi, Pakistan; and (b) prior to causing the export BSI-Pakistan falsely represented to Computer Company B that BSI-Pakistan was the ultimate consignee.

86. Subsequent email correspondence indicates these replacement parts were delivered to PAEC. On September 3, 2008, a BSI-Pakistan Employee sent an email to SYED, copying two BSI-Pakistan Employees. In this email, a BSI-Pakistan Employee stated, “The power supply of G-Brick [sic] of onyx system installed successfully and system operational okay, faulty power supply carry out to office and faulty c-brick will bring tomorrow.”

87. As discussed above, by no later than June 21, 2008 – more than one month before Computer Company B’s shipment of the Onyx 3400 replacement parts

from the United States to Pakistan – SYED and other BSI-Pakistan Employees had each either emailed, received, or prepared one or more BSI offers to sell U.S.-origin computer products, promising in bold font that “**Business Systems International Pvt. Ltd. will organize the Export License from US Government.**”

88. As noted above, a DOC export license from BIS was required in order to legally export a good directly or indirectly from the United States to the PAEC in Pakistan. During this investigation, special agents have checked with BIS, and those checks revealed that neither SYED, BSI-Pakistan, BSI-USA, nor any of its employees have applied for or been granted a license by BIS to export replacement parts for an Onyx 3400 visualization computer system from Computer Company B to the PAEC in Pakistan.

D. SYED and BSI-Pakistan Employees Identified a False End-User to Cause the Export of an Altix 450 High Performance Server from the United States to the PIEAS in Pakistan (June 2009)

89. As discussed below, SYED and four BSI-Pakistan Employees, through their company BSI-Pakistan, arranged for the export of an Altix 450 High Performance Server from Computer Company A in the United States to the PIEAS in Pakistan. To effectuate the export, SYED and the four BSI-Pakistan Employees knowingly provided Computer Company A the name of a false end-user, Taxila University.

90. On or about September 30, 2008, a BSI-Pakistan Employee sent an email to SYED, copying BSI-Pakistan Employees. The email was entitled, “Fax from PIEAS.” In this email:

a. A BSI-Pakistan Employee stated, “Attached fax rcvd from PIEAS [Pakistan Institute of Engineering and Applied Sciences, a research facility of the PAEC, as discussed above] regarding PO [purchase order] of Altix 450 [High Performance Server].”

b. Attached to the email was a purchase order from a PIEAS representative on PIEAS letterhead, stating, “I am directed to confirm an order to supply the Altix 450 High Performance Server” The purchase order also provided a reference/tender number of “38/07-08.”

91. On or about October 14, 2008, an email between BSI-Pakistan Employees contained the subject line, “PIEAS proposal for yours [sic] consideration.” In this email:

a. A BSI-Pakistan Employee stated, “[K]indly see the attached document of PIEAS, and give the green signal [permission] to take print out for Islamabad PIEAS file.”

b. Attached to the email was a BSI proposal for the sale of a “[Computer Company A] Altix 450 High Performance Server” to PIEAS. The terms of the proposal state “[t]he country of origin of the above mentioned goods [the Altix 450] is USA” and “**Business Systems International Pvt. Ltd. will organize the Export License from US Government.**” (emphasis in original).²¹

²¹ By no later than June 21, 2008, SYED and the BSI-Pakistan Employees had exchanged one or more emails attaching BSI proposals with the same licensing language.

92. According to Computer Company A records, on or about December 6, 2008, SYED, in his capacity as “Chief Executive” of BSI-Pakistan, submitted a purchase order to Computer Company A, ordering a “Altix 450 System” and associated equipment, under BSI “Purchase Order No. [Computer Company A]/BSI/16/12.08,” at a total purchase price of US\$225,648. SYED identified the purchasing “Customer” as “PIEAS” and as directed Computer Company A to ship the computer system to BSI-Pakistan.

93. On or about January 12, 2009, an employee of Computer Company A (“Computer Company A Employee 1”) sent an email to SYED. In this email:

a. Computer Company A Employee 1 advised SYED:

I have got a response from our order processing [the Altix 450 High Performance Server order for PIEAS]. Please refer to below.

Our research indicates the following:

1. PIEAS has a very close relationship with the Pakistan Atomic Energy Commission (PAEC).
2. PAEC has nurtured PIEAS for years, and PIEAS has been the primary resource for employees at PAEC, who are considered the backbone of most PAEC activities.
3. It is noted in several places on the PIEAS web site: [‘]... Faculty members are also encouraged to undertake collaborative work with other [Emphasis Added] PAEC establishments ... Besides regular academic activities, PIEAS also provides specialized training in nuclear reactor operations, and supervision.

[‘]PIEAS has a 27 kW under-moderated tank-in-pool type Nuclear Reactor for training and research. It uses highly enriched uranium as fuel, light water as moderator and coolant, and metallic beryllium as reflector. The reactor is controlled by one centrally located cadmium control rod. It is used for neutron activation analysis, radioisotope production and training of manpower.’

[]PIEAS has a pressurized water reactor power plant simulator which provides individuals hands-on experience of reactor operation.[]

Pakistan Atomic Energy Commission (PAEC) is currently a prohibited end-user. This means that [Computer Company A] may not export to, or for the benefit of, PAEC. *Exports to PIEAS which would benefit PAEC are prohibited without an export license issued by the United States Government.* As a matter of policy, [Computer Company A] will not pursue an export license for any prohibited entity. Hence, in order for us to process the order, we need written certification from PIEAS, as provided in the attached certification document.
(emphasis added).

b. Computer Company A Employee 1 attached a blank document entitled, “CERTIFICATION OF PIEAS,” which was to be completed by a representative of PIEAS. Through this form:

i. Computer Company A asked PIEAS to certify that “(1) It is not part of, nor controlled under PAEC, nor any of its subordinates. (2) No research or training being performed will be provided or utilized by PAEC. (3) Will not be used in the tank-in-pool type Nuclear Reactor training reflected above.”

ii. Computer Company A asked PIEAS to “[p]lease explain the relationship between PIEAS and the Government of [Pakistan²²] for which this order [the Altix 450] has been placed.”

²² The certification attached to Computer Company A Employee 1’s January 12, 2009 email asked PIEAS to explain its relationship with “the Government of Vietnam,” but in an email she sent to SYED the following day, Computer Company A Employee 1 attached the same certification form, replacing only the word “Vietnam” with “Pakistan,” and directed SYED to “use this document instead.”

iii. Computer Company A asked PIEAS to “[p]lease provide any other information which you believe may assist [Computer Company A] in determining that the requested shipment will not be used for the benefit of PAEC.”

94. Approximately one week later, on or about January 19, 2009, SYED sent an email to BSI-Pakistan Employees with subject line “PIEAS-Letter.” SYED attached a letter for a BSI-Pakistan Employee’s signature on behalf of BSI-Pakistan, addressed to the “Principal Procurement Officer” of PIEAS, dated January 19, 2009, and regarding “Reference Tender # 38/2007-2008 for Altix 450 Based System.” In this letter, a BSI-Pakistan Employee stated:

We would like to request you to extend the supply date of the equipment [Altix 450] by 31st March 2009, as [Computer Company A] received the export license clearance from the US Government last week[.] [W]e anticipated this clearance to happened [*sic*] in November 2008 but it took more than eight weeks. Now [Computer Company A] has the clearance and it would take eight weeks to manufacture and test the equipment before shipment.

95. During this investigation, special agents have checked with DOC and the pertinent databases, and those checks revealed that neither Computer Company A, SYED, nor any of the companies or employees with whom SYED is associated (BSI-Pakistan, BSI-USA, or the BSI-Pakistan Employees) has applied for or been granted a license by DOC to export this Altix 450 High Performance Server to PIEAS. Based on my training and experience, I understand that PIEAS, unlike PAEC, was not one of the prohibited entities listed on the DOC Entities List and that the DOC did not require a license to export goods to PIEAS.

96. Based on special agents' review of records provided by Computer Company A, neither PIEAS, BSI-Pakistan, nor any of their representatives ever submitted a completed copy of the aforementioned "CERTIFICATION OF PIEAS" to Computer Company A. Instead, as discussed below, BSI-Pakistan ultimately canceled its order to obtain the Altix 450 on behalf of PIEAS and instead submitted an order for the same system, purportedly on behalf of Taxila University.

97. On or about January 26, 2009, a BSI-Pakistan Employee sent an email to another BSI-Pakistan Employee, copying SYED and another BSI-Pakistan Employee, with the subject line "Taxila University address." In this email, the BSI-Pakistan Employee wrote, "[A]ttached is required address," and attached the December 3, 2001 BSI purchase order that BSI had previously submitted to Computer Company A for the May 2002 export of the Onyx 3400 visualization computer system to PAEC (discussed above), providing the full address for Taxila University and an NDC employee (NDC Employee A) as the purported Taxila University "contact person."

98. Based on my training, experience, and familiarity with this case – including Computer Company A documents and prior and subsequent emails sent and received by BSI-Pakistan and PAEC and PIEAS employees – I believe that (a) after Computer Company A advised that it would give greater scrutiny to any BSI-Pakistan order on behalf of a PAEC-related entity (like PIEAS), SYED and his employees at BSI-Pakistan decided to falsely represent to Computer Company A that the end user of the Altix 450 was not PIEAS, but Taxila University – the same false

end user that BSI-Pakistan successfully used to get Computer Company A to export the Onyx 3400 visualization computer system in May 2002.

99. According to Computer Company A records, on or about February 7, 2009, SYED submitted “Purchase Order No. [Computer Company A]/BSI/17/02.09” to Computer Company A on behalf of “Customer: Taxila Engineering University.” In this purchase order, which SYED signed as “Chief Executive” of BSI-Pakistan, SYED placed an order for a Computer Company A Altix 450 System and associated equipment for \$212,700.

100. On or about February 17, 2009, SYED exchanged emails with the BSI-Pakistan Employees, with the subject line “Export-Compliance.” During this exchange:

a. SYED stated, “Complete this export compliance form and send it to me ASAP. This export compliance for Texila [sic] University, complete exactly including all the data what provided previously also mention [Computer Company A] ONYX 3400.”

b. A BSI-Pakistan Employee responded with a completed Computer Company A “Corporate Export Compliance” form, stating, “Sir, I have filled the attached Export Compliance form. Please recheck it.”

c. The attached Export Compliance form was filled out on behalf of BSI-Pakistan under a BSI-Pakistan Employee’s name, who identified himself in the form as a Computer Company A’ “Sales Representative” and “Country Compliance Coordinator.” In the form:

i. A BSI-Pakistan Employee identified an “Altix 450 System” as the “New System” to be exported by Computer Company A, and the “Existing System” as an “Onyx 3400 Graphics System” with serial number L1001540 (the same computer that BSI-Pakistan exported for the PAEC in May 2002).

ii. A BSI-Pakistan Employee listed the “CUSTOMER/END-USER” as “Taxila Engineering University” and NDC Employee A as the end-user’s contact person. Though, as discussed above, NDC Employee A was an NDC employee, a BSI-Pakistan Employee stated in this form that NDC Employee A was “an officer (executive) of” Taxila University.

iii. Computer Company A’s Export Compliance form asked, “Is the customer/end-user engaged in any nuclear-related activities (other than nuclear medicine), or is the intended end-use of the products covered by this order, nuclear-related?” A BSI-Pakistan Employee responded, “No,” despite the fact that the actual end-user of the Altix 450 was PIEAS, which is a major nuclear research facility of the PAEC.

iv. Computer Company A’s Export Compliance form asked BSI to verify the following:

ENHANCED PROLIFERATION CONTROL INITIATIVE (NEGATIVE EPCI) VERIFICATION: Based upon the information supplied to me by the customer and my existing knowledge of the customer's activities, **I believe** that the [Computer Customer A] products covered by this order **will not be used** in connection with any activities that involve or include the development or proliferation of:

- nuclear or atomic technology, materials, weapons, or equipment or machinery related to these items. (EAR § 742.3 and § 744.2)

- missile technology, design, development, production or use.
(EAR § 742.5 and § 744.3)

(emphasis in original).

v. Despite the fact that the true end-user of the Altix 450 was PIEAS – a major nuclear research facility of the PAEC – a BSI-Pakistan Employee verified the foregoing non-proliferation statement by stating, “Yes.”

vi. A BSI-Pakistan Employee signed the form electronically on February 17, 2009, certifying, “I have reviewed this Transaction Profile and have found it to be accurate to the best of my knowledge. I am not aware of any information that is inconsistent with the information contained here. I approve, or recommend approval, of this transaction consistent with my level of authority.”

101. According to Computer Company A records, on or about May 22, 2009, Computer Company A Employee 1 submitted a Computer Company A Corporate Export Compliance form related to BSI-Pakistan’s order of an Altix 450 High Performance Server. The form contained most of the same information that a BSI-Pakistan Employee had provided on behalf of BSI-Pakistan under another BSI-Pakistan Employee’s name on February 17, 2009, but also contained additional information apparently taken from Taxila University’s website.

102. On or about May 24, 2009, Computer Company A Employee 1 forwarded Computer Company A Employee 2’s above email to SYED, stating:

For the attached Export Transaction Profile [related to the purchase of the Altix 450], could you please advice [*sic*]:--

- What the customer [putatively Taxila University, but in fact PIEAS] is going to do with the [Computer Company A] equipment
- What is their end use?
- Who will have access to the equipment?
- Which departments will be using it, etc.

103. On or about May 25, 2009, SYED forwarded Computer Company A Employee 1's email to BSI-Pakistan Employees, stating "Prepare all the question [sic] and phone me."

104. Later that day, a BSI-Pakistan Employee responded to SYED, copying other BSI-Pakistan Employees, which included the entire email string with the Computer Company A employees and their questions, the BSI-Pakistan Employee stated:

Following are the replies we have sent previously for Onyx 3400 for Taxila University.

1. [What is the customer going to do with the Computer Company A equipment?] Under the Charter of Imparting Education to the students to attain Post Graduate Degree
2. [What is their end use?] Education
3. [Who will have access to the Altix 450 Server?] All members of the faculty of RDBMS
4. [Which departments will be using the Altix 450 Server?] RDBMS Department

Also attached is [Computer Company A] Customer End Use and Transaction Profile which we had sent for Textila [sic] University for your perusal.

105. On or about May 27, 2009, a BSI-Pakistan Employee sent an email to other BSI-Pakistan Employees:

a. The BSI-Pakistan Employee stated, “Attached is [Computer Company A] Corporate Compliance for Taxila University.”

b. Attached to the email was a completed Computer Company A Corporate Export Compliance form. The form was filled out on behalf of BSI-Pakistan under a BSI-Pakistan Employee’s name, who identified himself in the form as a Computer Company A’ “Sales Representative” and “Country Compliance Coordinator.” In the form:

i. The BSI-Pakistan Employee again identified an “Altix 450 System” as the “New System” to be exported by Computer Company A, and the “Existing System” as an “Onyx 3400 Graphics System” with serial number L1001540 (the same computer that BSI-Pakistan exported for the PAEC in May 2002).

ii. The BSI-Pakistan Employee listed the “CUSTOMER/END-USER” as “Taxila Engineering University” and NDC Employee A as the end-user’s contact person. Though, as discussed above, NDC Employee A is an NDC employee, a BSI-Pakistan Employee stated in this form that NDC Employee A was “an officer (executive) of” Taxila University.

iii. As before, the form asked, “Is the customer/end-user engaged in any nuclear-related activities (other than nuclear medicine), or is the intended end-use of the products covered by this order, nuclear-related?” The BSI-Pakistan Employee again responded, “No,” despite the fact that the actual end-user of the Altix 450 was PIEAS, which is a major nuclear research facility of the PAEC.

iv. As before, Computer Company A's Export Compliance form asked BSI to verify the following:

ENHANCED PROLIFERATION CONTROL INITIATIVE (NEGATIVE EPCI) VERIFICATION: Based upon the information supplied to me by the customer and my existing knowledge of the customer's activities, **I believe** that the [Computer Customer A] products covered by this order **will not be used** in connection with any activities that involve or include the development or proliferation of:

- nuclear or atomic technology, materials, weapons, or equipment or machinery related to these items. (EAR § 742.3 and § 744.2)
- missile technology, design, development, production or use. (EAR § 742.5 and § 744.3)

(emphasis in original).

v. Despite the fact that the true end-user of the Altix 450 was PIEAS – a major nuclear research facility of the PAEC – a BSI-Pakistan Employee again verified the foregoing non-proliferation statement by stating, “Yes.”

vi. The BSI-Pakistan Employee signed the form electronically on March 31, 2009, certifying, “I have reviewed this Transaction Profile and have found it to be accurate to the best of my knowledge. I am not aware of any information that is inconsistent with the information contained here. I approve, or recommend approval, of this transaction consistent with my level of authority.”

106. According to Computer Company A records, on or about June 19, 2009, Computer Company A issued a shipping invoice to BSI-Pakistan, documenting the sale of an “Altix 450 System” to BSI-Pakistan in Pakistan, in satisfaction of “Customer PO No. [Computer Company A]/BSI/17/02.09.”

107. On or about June 19, 2009, a BSI-Pakistan Employee sent an email to SYED, copying other BSI-Pakistan Employees, with the subject line “PIEAS Ltr: Minutes of meeting regarding receipt of [Computer Company A]-Altix 450 Machine,” and attached a document entitled, “Minutes of meeting regarding receipt of [Computer Company A]-Altix 450 Machine.” In the attached meeting minutes, which were prepared on PIEAS letterhead:

a. The minutes documented that “[a] meeting was held on the afternoon of Thursday June 04, 2009, regarding the receipt of the subject mentioned high performance computing machine [Computer Company A Altix 450 Server] at PIEAS as per supply order issued to Business System International (BSI) who represents [Computer Company A] in Pakistan.”

b. The minutes recorded that SYED, a BSI-Pakistan Employee, and numerous employees of PIEAS, among others, were “participants of the meeting.”

c. The minutes stated, “The Altix 450 machine system . . . will be delivered to PIEAS at ACRE Laboratory by 15th to 20th July 2009.”

108. According to Computer Company A records, on or about June 22, 2009, Computer Company A shipped the “Altix 450 System” from a Computer Company A manufacturing facility located in Chippewa Falls, Wisconsin, to the “consignee” BSI-Pakistan in Pakistan, on behalf of “Taxila Engineering University,” under “Consignee’s Reference [Computer Company A]/BSI/17/02.09.”

109. According to AES records, on or about June 24, 2009, Shipping Company D filed an SED on behalf of Computer Company A, listing Taxila Engineering

University in Punjab, Pakistan, as the Ultimate Consignee of exported goods valued at \$170,675. The United States Port of Export was listed as Detroit, Michigan.

E. SYED and His BSI-Pakistan Associates Exported Transceivers Required to Operate a Computer Company C SuperServer, from the United States to the PAEC in Pakistan, Without a License (September 2015)

110. As discussed below, SYED and the BSI-Pakistan Employees, through their company BSI-Pakistan, arranged for the export of transceivers required for the operation of a Computer Company C SuperServer from computer companies in the United States to the PAEC in Pakistan without obtaining a license. To effectuate the export and evade licensing requirements, SYED and the BSI-Pakistan Employees initially attempted to obtain the transceivers from Computer Company C by knowingly providing that company the name of a false end-user, “National University of Science & Technology.” After Computer Company C placed BSI-Pakistan’s transceiver order on hold to audit the export, SYED obtained the transceivers from Computer Company D instead, took possession of the transceivers at BSI-USA’s former address in Chicago (Syed Residence 1), then arranged for BSI Courier A to hand carry the transceivers to two BSI-Pakistan Employees in Pakistan for their ultimate delivery to the PAEC. SYED and his BSI companies and employees failed to obtain a license for this export to the PAEC, and failed to declare or report the export of these transceivers to the DOC.

1. BSI-Pakistan Agreed to Abide by United States Export Laws for Computer Company C Exports (2014)

111. As discussed above, between on or about April 21, 2014, and August 27, 2015, SYED and the BSI-Pakistan Employees each received (and in SYED's case, containing SYED's signature) one or more documents, in which BSI-Pakistan acknowledged that it was bound by United States export and customs laws and that it would not re-export, resell, or otherwise dispose of any Computer Company C items to any person in contravention of United States export law (including to entities on the DOC Entity List).

112. As noted above, on or about June 24, 2014, SYED forwarded an email to two BSI-Pakistan Employees attached an unsigned U.S. DOC BIS Form 711 related to BSI's purchase of Computer Company C products, and directed them to "[p]rint" the attachment. According to documents obtained from Computer Company C, SYED signed the attached "End-Use/User Certification the following day (June 25, 2014) in his capacity as Chief Executive Officer of BSI. In this form:

a. SYED was asked, "Will you or any of your customers or consignees use, or incorporate, [Computer Company C] products or technical data (a) in the design, development or production of missile/rocket systems or unmanned air vehicles, or (b) in connection with nuclear or chemical/biological proliferation activities?" SYED responded, "No."

b. SYED was asked, "Will you or any of your customers or consignees provide, export or re-export [Computer Company C] goods or technical data to . . . to any person entity, organization or other party identified on the U.S.

Department of Commerce's Denied Persons or Entity List, the U.S. Department of Treasury's Specially Designated Nationals or Blocked Persons List, or the Department of State's Debarred Parties List?" SYED responded, "No."

c. SYED also certified, as Chief Executive Officer of BSI-Pakistan, that:

Our company expressly acknowledges that U.S. export controls apply to transactions outside the United States. We fully knowledgeable [*sic*] of, and agree to comply with, all applicable U.S. export control requirements. I [SYED] certify that the foregoing representations and answers are true and accurate to the best of my knowledge and belief and that I have the lawful authority to sign this document on behalf of the below listed company. Business Systems International Pvt. Limited.

2. BSI-Pakistan Obtained Computer Company C SuperServers for the PAEC in Pakistan (June 2015)

113. On or about February 25, 2015, a BSI-Pakistan Employee sent an email to other BSI-Pakistan Employees, attaching a draft letter on BSI-Pakistan letterhead, dated February 25, 2015 addressed to "Mr. [PAEC Employee A]" of "PAEC, Islamabad," with the subject "[Computer Company C]: Hi-Performance Computing Technology," and which included a five-page draft offer sheet, offering to sell the PAEC multiple Computer Company C computers, including two "SuperServer 4048B-TR4FT," two "SuperServer 1028U-TR4+," and three "Super Workstation 7038A-I."

114. As discussed above, on or about March 12, 2015, a BSI-Pakistan Employee sent a letter on BSI-Pakistan letterhead to the Administrator of the DSD at PAEC Headquarters in Islamabad, with subject "[Computer Company C]: Hi-Performance Computing Technology," in which the BSI-Pakistan Employee identified

BSI-Pakistan as “the distributor of [Computer Company C] in Pakistan,” and BSI’s prior customers as the NDC, NDC’s parent agency (NESCOM, which is also on the DOC Entity List), SUPARCO (the National Space Agency of Pakistan, which is also on the DOC Entity List), PIEAS, ISI, Pakistani military branches, and others.

115. On or about April 2, 2015, a BSI-Pakistan Employee sent an email to PAEC Employee A, who was using PAEC Employee A Email Account 1, with the subject “Revised Quote of [Computer Company C],” stating “Attached quotation with additional RAM and one Unit,” and attaching an April 2, 2015 letter on BSI-Pakistan letterhead, from him to the DSD Administrator at “PAEC HQ” in Islamabad, under the subject “[Computer Company C] Hi Performance Computing Technology.” The letter stated, “It has come under our attention that you have been looking at Servers & WorkStation for your technological needs. We are pleased to submit our offering for your kind perusal and reference,” and included a three-page offer sheet, offering to sell the PAEC multiple Computer Company C computers, including two “SuperServer 4048B-TR4FT,” two “SuperServer 1028U-TR4+,” and four “Super Workstation 7038A-I,” in exchange for \$232,578.

116. On or about April 28, 2015, the same BSI-Pakistan Employee sent an email to SYED and other BSI-Pakistan Employees, with the “[PAEC Employee A] Order Received,” stating “Attached order from Mr. [PAEC Employee A] Office,” and attaching a purchase order on PAEC letterhead, dated April 28, 2015, from PAEC Employee C to BSI-Pakistan. The subject of the purchase order was “SUPPLY OF [Computer Company C] Hi-PERFORMANCE COMPUTING TECHNOLOGY.”

Under purchase order number “Pur (222)/14,” PAEC Employee C stated, “I am directed to place an order for the supply of [Computer Company C] Computers mentioned/specified in below on the following terms and conditions.” The purchase order then agreed to pay \$235,078 for numerous Computer Company C SuperServers and associated equipment, including two SuperServer 4048B-TR4FT units, two “SuperServer 1028U-TR4+ units, and four Super Workstation 7038A-I units.

117. On or about April 28, 2015, a BSI-Pakistan Employee responded to the April 28, 2015 email regarding the “[PAEC Employee A] Order Received,” with an email to SYED and other BSI-Pakistan Employees, stating “Al-Homdulliah [Praise be to God], its high and opening order for [Computer Company C] machines in Pakistan. Insha Allah [God willing], you shall keep getting More and more order [*sic*] in near future. Heartiest congratulations.” Based on my training, experience, and familiarity with this case, I believe that, in this email, the BSI-Pakistan Employee acknowledged the high price that the PAEC was willing to pay for Computer Company C SuperServers and encouraged SYED and the other BSI-Pakistan employees to move forward with this export and to obtain additional orders for other customers in Pakistan as well.

118. On or about May 11, 2015, a BSI-Pakistan Employee sent an email to other BSI-Pakistan Employees, with subject line “Summary of Compatibility Issues with NUST [National University of Science and Technology] Order,” attaching a document detailing compatibility problems that Computer Company C identified based on certain parts that the BSI “customer” has requested for two “SuperServer

4048B-TR4FT” units and four “Super Workstation 7038A-I” units – the same items that the PAEC had ordered from BSI-Pakistan.

119. On or about May 11, 2015, this email was forwarded to SYED, and copying BSI-Pakistan Employees, in which a BSI-Pakistan Employee wrote “Attached work document which give detail issue of [PAEC Employee A] Order.”

120. Based on my training, experience, and familiarity with this case – including prior and subsequent emails between employees of BSI-Pakistan and Computer Company C and end-user documents that BSI prepared for Computer Company C, in which BSI employees falsely identified the “National University of Science and Technology” as the end user of the Computer Company C SuperServers – I believe that, in the aforementioned May 11, 2015 emails, SYED and the BSI-Pakistan Employees were all aware that (a) PAEC was the true end user of the Computer Company C SuperServers that BSI-Pakistan was preparing to order from Computer Company C; and (b) if asked to identify an end user for these goods, BSI-Pakistan would falsely identify the National University of Science & Technology.

121. On or about May 15, 2015, a BSI-Pakistan Employee sent an email to SYED and other BSI-Pakistan Employees, stating, “Today I have got the cheque of Rs. 9,284,160.00 [9,284,160 Rupees] from Mr [PAEC Employee A] office and deposited into BSI account at Askari Bank. They have detected [deducted] 4% income tax amount (9,671,000.00) which is 386,840.00.”

122. On or about June 2, 2015, at approximately 1:06 a.m., a BSI employee sent an email to other BSI-Pakistan Employees attaching four purchase orders to Computer Company C, each dated June 1, 2015, ordering (among other things):

- two SuperServer 4048B-TR4FT units and associated equipment for US\$87,100.64, under BSI “Purchase Order No. [Computer Company C]/BSI/0253/06.15” and Computer Company C “Order No. TOR0031322”;
- two “SuperServer 1028U-TR4+ units and associated equipment for US\$27,485.06, under BSI “Purchase Order No. [Computer Company C]/BSI/0256/06.15” and Computer Company C “Order No. TOR0031328”; and
- four Super Workstation 7038A-I units and associated equipment for US\$51,453.36, under BSI “Purchase Order No. [Computer Company C]/BSI/0255/06.15” and Computer Company C “Order No. TOR0028440.”

123. In each of these purchase orders, a BSI-Pakistan Employee signed for BSI-Pakistan, identified “Business Systems International” as the “Customer,” and directed Computer Company C to ship the SuperServers to BSI-Pakistan.

124. On or about June 2, 2015, at approximately 1:18 a.m., a BSI-Pakistan Employee sent an email to a Computer Company C employee, copying SYED, and attaching the same four orders to purchase various SuperServers from Computer Company C, identifying “Business Systems International” – and not the PAEC – as the “Customer.”

125. On or about June 23, 2015, a BSI representative sent an email to PAEC Employee A, who was using PAEC Employee A Email Account 1, copying BSI-Pakistan Employees, and attaching a June 23, 2015 letter on BSI-Pakistan letterhead, from a BSI-Pakistan Employee to the Administrator of the DSD at PAEC

Headquarters in Islamabad, under the subject, “[Computer Company C]: Hi-Performance Computing Technology.” In this letter, a BSI-Pakistan Employee wrote:

With reference to you Purchase Order No Pur (222)/14, we would like to inform you that your order is ready for shipment and we will be providing you the shipment documents shortly in the next few days. As per our agreement, you are requested to kindly make the arrangements to make the 20% payments relating to the order to ensure a speedy process of installing your product without any delay. Thank you for your custom.

126. On or about June 29, 2015, a Computer Company C employee sent an email to BSI-Pakistan Employees, attaching multiple invoices to BSI-Pakistan for the various SuperServer units and associated equipment sold under Computer Company C Order Nos. TOR0028440, TOR0031322, and TOR0031328. In each of these invoices, all issued by Computer Company C’s Taiwan office, Computer Company C noted that the Computer Company C SuperServers were “Sold To” BSI-Pakistan in Karachi and shipped to BSI-Pakistan’s offices in Islamabad on June 26, 2015. Each invoice also advised BSI-Pakistan that:

These commodities, technology or software [the Computer Company C SuperServers] were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

127. Based on my training, experience, and familiarity with this case – including records obtained from Computer Company C and prior and subsequent emails sent and received by BSI-Pakistan employees – I believe that (a) on or about June 26, 2015, Computer Company C exported two SuperServer 4048B-TR4FT units and associated equipment from Taiwan to BSI-Pakistan in Pakistan; and (b) after

BSI-Pakistan received these SuperServers, the company delivered them to their true end user, the PAEC.

3. SYED and BSI-Pakistan Exported Transceivers Needed to Operate Computer Company C SuperServer from the United States to the PAEC in Pakistan, Without a License (September 2015)

128. On or about July 9, 2015, a BSI-Pakistan Employee sent an email to a representative of Computer Company C (“Computer Company C Employee 1”), copying other BSI-Pakistan Employees, with the subject line “Query relating to latest order [the SuperServers BSI-Pakistan obtained for the PAEC],” stating, “I wanted to enquire about the 2-Port SFP+ 10GbE cards that have been installed on some of the systems that we ordered from you. Upon opening one of the products, no transceiver can be found. Isn’t the transceiver included with the AOC [add-on card, which is a device that enhances a computer’s capabilities]?”

129. On or about July 10, 2015, PAEC Employee A, who was using PAEC Employee A Email Account 1, sent an email to two BSI-Pakistan Employees, writing, “Nos. 8 transceivers two each in the four servers are missing. These may be provided as soon as possible as we cannot start work on these servers with out [sic] these accessories because no remote access is possible with out [sic] these. Specifications are forward in the file attached herewit [sic] please.” PAEC Employee A attached to this email was a word document that read:

Specification of SFP+ 10 GB Transceiver:

8 Nos. Transceivers of the following Specification may be please provided as soon as possible

10GBase-SR/LC/SFP+; 850nm, MNF, 300m.

130. On or about July 13, 2015, Computer Company C Employee 1 sent an email to two BSI-Pakistan Employees. This email was in response to BSI's July 9 email "Query relating to latest order," regarding the missing transceivers for the "SFP+ 10GbE cards." In this email, Computer Company C Employee 1 stated, "Here are some compatible transceivers for your reference. They are both working for 850nm multimode, please have customer double confirm the spec will proper fulfill their requirement or not." Computer Company C Employee 1 then identified two transceivers by part numbers ("AOC-E10SFPSR" and "AOC-TSR-FS") with accompanying internet page links for additional information.

131. Based on my training, experience, and familiarity with this case – including prior and subsequent emails sent and received by BSI-Pakistan and PAEC employees – I believe that (a) the Computer Company C SuperServers that BSI-Pakistan obtained for the PAEC did not include transceivers needed to operate the computers; (b) the PAEC directed BSI-Pakistan to obtain the necessary transceivers on its behalf; and (c) Computer Company C Employee 1 identified transceiver options, available for purchase, that would meet the requirements of the SuperServers that BSI-Pakistan ultimately sold to the PAEC.

132. On or about July 14, 2015, a BSI-Pakistan Employee sent an email to Computer Company C Employee 1, copying other BSI-Pakistan Employees, stating, "We would be interested in purchasing 8x AOC-TSR-FS [for the PAEC computers]. Please provide a performa invoice so that we may process the order ASAP."

133. On or about July 16, 2015, a BSI-Pakistan Employee sent an email to Computer Company C Employee 1, copying SYED and other BSI-Pakistan Employees, stating:

We are emailing you our Purchase Order for Order Number TOR0032857 dated 14/Jul/2015 amounting to \$692.00 being the cost of 8 nos. of AOC-TSR-FS.

Although transceivers are inclusive and supplied with SFP+ 10GbE cards but since you have excluded this item with this supply, hence we are placing order for 8 numbers of transceivers. Please do not mention the total cost of the item in the commercial invoice. Only \$48 should be mentioned being the cost of the order.

134. On or about July 16, 2015, a BSI-Pakistan Employee on behalf of BSI-Pakistan, submitted a purchase order to Computer Company C, ordering eight “AOC-TSR-FS” transceivers under Computer Company C “Order No. TOR0032857” at a total purchase price of \$692.

135. On or about July 29, 2015, a BSI-Pakistan Employee sent an email to SYED, copying other BSI-Pakistan Employees, forwarding the chain of emails under the subject “Query relating to latest order,” regarding the missing transceivers for the “SFP+ 10GbE cards,” and advising SYED, “With accordance with the customer’s [PAEC’s] request, we would like to go ahead with the order of 8x transceivers as described in the attached Performa Invoice [from Computer Company C].”

136. On or about August 20, 2015, at approximately 9:02 p.m., SYED, who was using Syed Email Account 2, sent an email to Computer Company C Employee 1, copying (among others) BSI-Pakistan Employees, with the subject line “Order No. TOR0032857 [the purchase order for the eight transceivers for the PAEC],” and

stating, “You must have received the payment [b]y now, please expedite the shipment [o]f transceivers ASAP. Regards Obaidullah Syed.”

137. On or about August 20, 2015, at approximately 9:06 p.m., Computer Company C Employee 1 forwarded SYED’s email regarding Order No. TOR0032857 to Computer Company C Employee 2. In this email, Computer Company C Employee 1 wrote, “Can you please let me know what’s reason for on hold [eight transceivers]? Without these items, they [BSI-Pakistan] can NOT deliver the system [Computer Company C SuperServers] they order back in June.”

138. On or about August 25, 2015, at approximately 12:31 a.m., Computer Company C Employee 3 sent an email to Computer Company C Employee 1, responding to Computer Company C Employee 1’s email regarding Order No. TOR0032857. In this email, Computer Company C Employee 3 stated, “BSI needs to include end use and end user information. Who are their end users and what are the end uses. Please follow-up. The Account will remain on hold until corporate receives that information.”

139. On or about August 25, 2015, at approximately 5:53 a.m., Computer Company C Employee 1 forwarded Computer Company C Employee 3’s email to a BSI-Pakistan Employee, copying SYED and other BSI-Pakistan Employees, stating, “Please do read the email from our legal department [regarding the end user and end use of the Computer Company C SuperServers that BSI-Pakistan obtained in June 2015] and follow up accordingly.”

140. On or about August 26, 2015, a BSI-Pakistan Employee sent an email to Computer Company C Employee 1, copying SYED and other BSI-Pakistan Employees, with the subject line “Order No. TORD0032857: Statement by Ultimate Consignee,” stating, “Please find attached Statement by Ultimate Consignee for your ready reference,” and attaching a complete BIS-711 form and an “End-Use/User Certifications,” both dated August 27, 2015, for BSI’s purchase of eight transceivers under the Computer Company C Order Number TORD0032857. The BIS-711 form was signed by a BSI-Pakistan Employee on behalf of the “purchaser” (BSI-Pakistan) and by another individual on behalf of the purported “ultimate consignee” (“National University of Science & Technology”). In the BIS-711 form:

a. A BSI-Pakistan Employee and the individual signing on behalf of the purported end user identified “National University of Science & Technology” in Islamabad – not the PAEC – as the “Ultimate Consignee” of the eight transceivers.

b. A BSI-Pakistan Employee and the individual signing on behalf of the purported end user stated that the nature of the business of the ultimate consignee was “education.”

c. A BSI-Pakistan Employee and the individual signing on behalf of the purported end user certified that:

[A]ll of the facts contained in this statement are true and correct to the best of our knowledge and we do not know of any additional facts which are inconsistent with the above statement. We shall promptly send a supplemental statement to the U.S. Exporter, disclosing any change of facts or intentions set forth in this statement which occurs after the statement has been prepared and forwarded . . . [W]e will not reexport, resell, or otherwise dispose of any items approved on a license supported by this statement . . . to any person if we know that it will result directly

or indirectly, in disposition of the items contrary to the representations made in this statement or contrary to Export Administration Regulations. . . . We acknowledge that the making of any false statements or concealment of any material fact in connection with this statement may result in imprisonment or fine, or both

141. The “End-Use/User Certification” form that the BSI-Pakistan Employee attached to this email was signed by an individual purporting to represent National “University of Science & Technology”. In this form, the representative of the purported end user:

- stated that “[t]he target application [of the Computer Company C goods] is Commercial”;
- described the “target application” as “Animation, Frame Rendering, Graphic Designing, and Data Storage used in an Academic environment”;
- answered “NO,” when asked, “Will you or any of your customers or consignees use, or incorporate, [Computer Company C] products or technical data (a) in the design, development or production of missile/rocket systems or unmanned air vehicles, or (b) in connection with nuclear or chemical/biological proliferation activities?”;
- answered “NO,” when asked, “Will you or any of your customers or consignees provide, export or re-export [Computer Company C] goods or technical data to . . . to any person, entity, organization or other party identified on the U.S. Department of Commerce’s Denied Persons or Entity List . . . ?”; and
- certified the following: “Our company expressly acknowledges that U.S. export controls apply to transactions outside the United States. We fully knowledgeable of, and agree to comply with, all applicable U.S. export control requirements. I certify that the foregoing representations and answers are true and accurate to the best of my knowledge and belief and that I have the lawful authority to sign this document on behalf of the below listed company.

142. On or about August 27, 2015, at approximately 12:58 a.m., Computer Company C Employee 3 sent an email to Computer Company C Employee 1,

regarding “Order No. TOR0032857.” In this email, Computer Company C Employee 3 stated, “Please obtain completed BIS-711 [DOC Statement by Ultimate Consignee form] and SMC end use / end user forms for the orders listed below for corporate audit purposes. . . . The [BSI] Account will remain on hold until we are satisfied with the audit.” Computer Company C Employee 3 provided four purchase order numbers related to BSI-Pakistan’s purchase of Computer Company C SuperServers for the PAEC in June 2015, including Computer Company C Order No. TOR0031322.

143. On or about August 27, 2015, at approximately 7:33 a.m., Computer Company C Employee 1 forwarded Computer Company C Employee 3’s email to a BSI-Pakistan Employee, copying SYED and other BSI-Pakistan Employees. In this email, Computer Company C Employee 1 stated, “Please also kindly provide the end user information for the following orders that were shipped back in June [the Computer Company C SuperServers that BSI-Pakistan obtained for the PAEC in June 2015].”

144. On or about August 27, 2015, a BSI-Pakistan Employee sent a responsive email to Computer Company C Employee 1, SYED, and other BSI-Pakistan Employees.

a. In this email, the BSI-Pakistan Employee stated:

As you are aware, the 4 orders placed in June [Computer Company C SuperServers] were all for the same customer and have been bought for the same end use. The last order of the transceivers is also for the same customer as the these [*sic*] transceivers were missing in that order. I fail to understand the need to keep on filling these documents when [Computer Company C] is aware of this situation. Furthermore, why wasn't this issue addressed back in June when the 4 orders were placed in the first place? The only thing this unnecessary exercise is achieving

is more delay. Regardless, I am attaching 4 PDFs with both the forms signed and dated respective to each order that was placed in June. I have also included an official cover letter explaining the situation as well.

Please advise your upper management that this sort of practise [*sic*] creates unnecessary hurdles which is frankly quite frustrating and would ultimately discourage our customers to go with [Computer Company C] products in the future. I sincerely hope you understand and make sure that this does not happen in the future.

b. The BSI-Pakistan Employee attached to this email a letter on BSI-Pakistan letter head dated August 27, 2015, from the BSI-Pakistan Employee to Computer Company C, stating:

This is to certify that the products purchased in your Order Reference Nos. [numbers related to Computer Company C SuperServers sold to BSI-Pakistan, including TORD0031322] dated June 1, 2015, were all for the same customer specified in the [BIS-711] forms attached. Furthermore, the latest order TORD0032857 [eight transceivers] dated July 16, 2015 includes missing supplementary parts associated with the same end user.

You are requested to take this into consideration and release the order [for the eight transceivers] as soon as possible.

c. The BSI-Pakistan Employee also attached to this email four complete BIS-711 forms and “End-Use/User Certifications,” each dated August 27, 2015, for the four Computer Company C Order Numbers related to the June 2015 sale of the Computer Company C SuperServers to BSI-Pakistan, including TORD0031322. Each of these forms identified “National University of Science & Technology” in Islamabad – not the PAEC – as the “Ultimate Consignee” of the Computer Company C SuperServers and eight transceivers. The BIS-711 forms were signed by a BSI-Pakistan Employee on behalf of the “purchaser” (BSI-Pakistan) and

by an individual named “Sarwal Jamal” on behalf of the purported “ultimate consignee” (National University of Science & Technology). In each BIS-711 form:

i. The BSI-Pakistan Employee and the individual signing on behalf of the purported end user stated that the “nature of business of ultimate consignee” was “education.”

ii. The BSI-Pakistan Employee and the individual signing on behalf of the purported end user certified that:

[A]ll of the facts contained in this statement are true and correct to the best of our knowledge and we do not know of any additional facts which are inconsistent with the above statement. We shall promptly send a supplemental statement to the U.S. Exporter, disclosing any change of facts or intentions set forth in this statement which occurs after the statement has been prepared and forwarded . . . [W]e will not reexport, resell, or otherwise dispose of any items approved on a license supported by this statement . . . to any person if we know that it will result directly or indirectly, in disposition of the items contrary to the representations made in this statement or contrary to Export Administration Regulations. . . . We acknowledge that the making of any false statements or concealment of any material fact in connection with this statement may result in imprisonment or fine, or both

iii. Each of the “End-Use/User Certification” forms were signed by “Sarwal Jamal” on behalf of “National University of Science & Technology”.

In each these forms, the representative of the purported end user:

- stated that “[t]he target application [of the Computer Company C goods] is Commercial”;
- described the “target application” as “Animation, Frame Rendering, Graphic Designing, and Data Storage used in an Academic environment”;
- answered “NO,” when asked, “Will you or any of your customers or consignees use, or incorporate, [Computer Company C] products or technical data (a) in the design, development or production of

missile/rocket systems or unmanned air vehicles, or (b) in connection with nuclear or chemical/biological proliferation activities?";

- answered "NO," when asked, "Will you or any of your customers or consignees provide, export or re-export [Computer Company C] goods or technical data to . . . to any person, entity, organization or other party identified on the U.S. Department of Commerce's Denied Persons or Entity List . . . ?"; and
- certified the following: "Our company expressly acknowledges that U.S. export controls apply to transactions outside the United States. We fully knowledgeable of, and agree to comply with, all applicable U.S. export control requirements. I certify that the foregoing representations and answers are true and accurate to the best of my knowledge and belief and that I have the lawful authority to sign this document on behalf of the below listed company.

145. Based on my training, experience, and familiarity with this case – including Computer Company C documents and prior and subsequent emails sent and received by BSI-Pakistan and PAEC employees – I believe that (a) Computer Company C required BSI-Pakistan and the end user of its goods to complete the BIS-711 and "End-Use/User Certification" forms before the U.S.-based company would export the eight transceivers needed to operate the Computer Company C SuperServers to BSI in Pakistan; (b) a BSI-Pakistan Employee completed the BIS-711 forms on behalf of BSI-Pakistan; (c) on those BIS-711 forms, a BSI-Pakistan Employee falsely identified National University of Science & Technology as the end-user of the Computer Company C SuperServers and eight transceivers, rather than the PAEC; (d) SYED and three BSI-Pakistan Employees reviewed the BIS-711 and "End-Use/User Certification" forms that BSI-Pakistan submitted to Computer Company C, knowing that the documents (i) falsely identified National University of Science & Technology as the end-user of the Computer Company C SuperServers and

eight transceivers; (ii) falsely stated that the ultimate consignee was not involved in “nuclear . . . proliferation activities”; and (iii) falsely stated that the consignee would not provide the Computer Company C goods to any person, entity, organization or other party identified on the U.S. Department of Commerce’s Entity List, despite the fact that they all knew BSI-Pakistan obtained and would obtain the SuperServers and transceivers on behalf of the PAEC.

146. On or about August 27, 2015, SYED sent an email to Computer Company C Employee 1. In this email, SYED wrote:

The orders what we placed in June 2015 [the SuperServers] for one customer NUST (National University of Science & Technology) and this 5th order [the transceivers] is also for the same customer. We sent you all the documents including 711 and Enduser certification. I called you on your cell and left voice mail. Please release the credit hold ASAP.

147. Between on or about August 31, 2015, and September 7, 2015, SYED exchanged a series of emails with Computer Company C Employee 1. These emails continued the prior email string sent under the subject, “Order No. TORD0032857: Statement by Ultimate Consignee.” In this exchange:

a. On or about August 31, 2015, SYED asked, “What is the status of credit hold and the shipment Status [for the eight supercomputer transceivers BSI requested from Computer Company C]?” Computer Company C Employee 1 responded, “I am checking with our legal department.”

b. On or about September 3, 2015, SYED asked, “What is the status any update?” Computer Company C Employee 1 responded, “Still on hold due to audit process is not complete yet. Our people can’t provide me with any information

regarding how soon this audit can be complete. Please try any online resellers in the US for this parts for fulfilling university's [purported end user, National University of Science & Technology] needs."

c. On or about September 7, 2015, SYED asked, "Any Update on Audit Process[?]"

148. On or about September 14, 2015, a BSI-Pakistan Employee exchanged emails with Computer Company C Employee 1, copying BSI-Pakistan Employees, with the subject line "Update on order audit." In this exchange:

a. The BSI-Pakistan Employee stated, "Just contacting you for an update on the latest order [of eight transceivers for the PAEC's Computer Company C SuperServers]. Please advise if the audit has been completed or the expected time it will take for the order to be completed. If you are recommending that we should look for an external supplier for these parts, please recommend where can we purchase them from."

b. Computer Company C Employee 1 responded, "The audit is not complete yet and I have spoken with our legal department, at this moment, no sales order can be released. . . . I am not getting any schedule information as to when the audit can be complete." Computer Company C Employee 1 provided two internet page links to vendors other than Computer Company C, from which BSI-Pakistan could purchase the transceivers.

149. On or about September 14, 2015, BSI Courier A received an email from Travel Agency A. In this email, Travel Agency A provided a travel itinerary, showing

that BSI Courier A was scheduled to fly Qatar Airways from O'Hare International Airport in Chicago to Karachi, Pakistan, via Doha, Qatar, departing Chicago on September 20, 2015, and arriving in Karachi on September 21, 2015.

150. On or about September 17, 2015, at approximately 6:27 p.m., SYED, who was using Syed Email Account 2, forwarded an email to a BSI-Pakistan Employee. The subject of the forwarded email was "Your [Computer Company D] order has been received." In this email:

a. SYED stated, "I have placed the order for transceivers qty Six [six transceivers that PAEC requested for the Computer Company C SuperServers], One of my friend [sic] [BSI Courier A] is going to Karachi on Sunday shall arrive on Tuesday, will carry the product."

b. SYED forwarded an email from Computer Company D, confirming SYED's placement of an order with the company earlier that day under sales order number "44202304."

151. According to records obtained from Computer Company D, on or about September 17, 2015, Computer Company D issued an invoice documenting a sale to "Obaidullah Syed" at "BSI, 3558 W. Bryn Mawr Ave, Chicago, IL" (Syed Residence 1). Specifically, the invoice documented that Computer Company D sold six "TXRX OPT 1G/10G 850nm" units (Computer Company D Item Number "775-1147-ND") to SYED of BSI under sales order number "44202304" (the same sales order number noted in the Computer Company D email that SYED forwarded to another BSI-Pakistan Employee on September 17). Computer Company D shipped

the six units from Thief River Falls, Minnesota, to SYED and BSI at Syed Residence

1. The invoice stated, “NOTE: ONE OR MORE ITEMS ON THIS ORDER ARE CONTROLLED FOR EXPORT. These commodities, technology, or software were exported from the United States in accordance with the Export Administration Regulations. *Diversion contrary to U.S. law prohibited.*” (emphasis added).

152. According to Computer Company D’s website ([www.\[Computer Company D\].com/product-detail/en/finisar-corporation/FTLX8571D3BCV/775-1147-ND/3189475](http://www.[Computer Company D].com/product-detail/en/finisar-corporation/FTLX8571D3BCV/775-1147-ND/3189475), last visited on April 23, 2020), the six “TXRX OPT 1G/10G 850nm” units that SYED ordered on behalf of BSI-Pakistan – Computer Company D part number “775-1147-ND” – are described as “Fiber Optic Transceiver Module Ethernet 10.3Gbps 850nm 3.3V LC Duplex Pluggable, SFP+,” manufactured by Finisar Corporation. Based on my training, experience, and familiarity with this case – including Computer Company D records and prior and subsequent emails sent and received by BSI-Pakistan and PAEC employees – I believe that the six “TXRX OPT 1G/10G 850nm” units that SYED purchased from Computer Company D on or about September 17, 2015, were the transceivers that the PAEC instructed BSI-Pakistan to obtain on its behalf to complete the installation of the Computer Company C SuperServers that BSI-Pakistan sold to the PAEC in June 2015.

153. On or about September 17, 2015, at approximately 6:34 p.m., SYED, who was using Syed Email Account 2, sent an email to two BSI-Pakistan Employees with the subject line was “Required Transceivers.” In this email:

a. SYED stated, “I searched and found the Original Manufacturer for the [PAEC] required transceiver. Place[d] the order with one of it agent [Computer Company D] in US[.] [S]hall be delivered to me [at Syed Residence 1] By Tomorrow. [BSI Courier A] is coming to Karachi shall carry this. The brochure of the transceiver is attached.”

b. SYED attached to this email a brochure for the aforementioned transceiver (“TXRX OPT 1G/10G 850nm”), model number FTLX8571D3BCV.

154. According to records provided by FedEx, Fed Ex picked up a package from Computer Company D in Minnesota on or about September 17, 2015, and delivered that package to “Obaidullah Syed, BSI, 3558 W Bryn Mawr Ave, Chicago, IL 60659, US” (Syed Residence 1) on or about September 18, 2015.

155. On or about September 19, 2015, SYED, who was using osyed@att.net (“Syed Email Account 3”),²³ sent an email to BSI Courier A. In this email, SYED wrote:

Attached Invoice,
Contact Details are as follows:

1. [BSI-Pakistan Employee, with phone number].
2. [BSI-Pakistan Employee, with phone number].

Business Systems International Pvt. Ltd.
260, R.A. Lines Strachen Road
Karachi 74200.

²³ Agents identified SYED as the user of Syed Email Account 3 as follows: First, the account uses the first letter of SYED’s first name “O” paired with his surname “SYED”. Second, as noted, agents obtained numerous emails between BSI-Pakistan employees pursuant to the Subject Email Accounts. In many of these emails, BSI employees direct the email to “Obaidullah.”

156. SYED attached to this email the aforementioned Computer Company D invoice dated September 17, 2015, documenting the sale of six Finisar transceivers (“TXRX OPT 1G/10G 850nm”) to SYED and BSI under sales order number “44202304” (the same sales order number noted in the Computer Company D email that SYED forwarded to BSI-Pakistan Employee on September 17).

157. On or about September 20, 2015, BSI Courier A checked into, and received boarding passes for, his Qatar Airways flights from Chicago to Karachi, via Doha, arriving in Pakistan on or about September 21, 2015.

158. On or about October 12, 2015, a BSI-Pakistan Employee sent an email to Computer Company C Employee 1, copying SYED and other BSI-Pakistan Employees, stating, “We wish to cancel the last order of transceivers [for the Computer Company C SuperServers] . . . as the customer [PAEC] has arranged to get these parts from a third party [Computer Company D]. Please make the arrangement for the order cancellation and refund of amounts paid.”

159. According to the aforementioned PowerPoint presentation entitled “High Speed Computing @ DSD,” which was attached to a January 11, 2016 email between PAEC Employee A and another PAEC employee, the PAEC’s DSD did in fact receive the Computer Company C SuperServers and the Computer Company D transceivers needed to operate those SuperServers in 2015. Under a slide entitled “HPC at DSD [High Performance Computing at Directorate of Science Division] – 2015,” the presentation stated:

With evolution of technology, new resources were needed to meet computational needs of DSD researchers. So a new HPC [High

Performance Computing] lab has been set up. New processing resources are:

[Computer Company C] Super Server 4048B-TRTF

160. As noted above, a DOC export license from BIS was required in order to legally export a good directly or indirectly from the United States to the PAEC in Pakistan. During this investigation, special agents have checked with BIS, and those checks revealed that neither SYED, BSI-Pakistan, BSI-USA, nor any of its employees have applied for or been granted a license by BIS to export Computer Company C SuperServers from Computer Company C to the PAEC in Pakistan.

161. Based on my training, experience, and familiarity with this case – including Computer Company C and Computer Company D records, Fed Ex Records, BSI-Pakistan documents, and prior and subsequent emails sent and received by BSI-Pakistan and PAEC employees – I believe that (a) in June 2015, SYED and BSI-Pakistan obtained several Computer Company C SuperServers on behalf of the PAEC; (b) between July 9, 2015, and September 14, 2015, SYED and BSI-Pakistan Employees attempted to obtain from Computer Company C transceivers needed to operate the Computer Company C SuperServers delivered to the PAEC, by knowingly providing the computer company the name of a false end-user, “National University of Science & Technology”; (c) after Computer Company C’s legal department placed BSI-Pakistan’s transceiver order on hold to audit the export, SYED purchased the transceivers from Computer Company D instead on September 17, 2015; (d) SYED took possession of the transceivers at BSI-USA in Chicago (Syed Residence 1) on September 18, 2015, then arranged for BSI Courier A to hand carry the transceivers

to BSI-Pakistan Employees in Pakistan on September 20, 2015, for their ultimate delivery to the PAEC; (e) SYED arranged for Computer Company D to ship the transceivers to him at Syed Residence 1 in Chicago to avoid triggering any of the supplier's standard international export compliance requirements or questions, including BIS-711 forms and questions regarding the identity of the end user of the goods; and (f) SYED and BSI-Pakistan Employees arranged for a courier to hand carry the transceivers from the United States to Pakistan because they knew that the export of these transceivers to the PAEC required a DOC license and SYED and his employees wanted to evade this licensing requirement.

CONCLUSION

162. Based on the foregoing, I respectfully submit that there is probable cause to believe that on or about September 21, 2015, defendant exported, sold, and supplied, attempted to export, sell, and supply, and attempted to cause to be exported, sold, and supplied, directly and indirectly, from the United States, goods,, namely six Finisar TXRX OPT 1G/10G 850nm transceivers, to the Pakistan Atomic Energy Commission, without first obtaining the required authorization from the U.S. Department of Commerce, Bureau of Industry and Security, in violation of Title 50, United States Code, Section 1705(a), and Title 15, Code of Federal Regulations, Parts 730.7, 734.3, 734.13, 736.2, 744, Supplement No. 4, and 764.2.

FURTHER AFFIANT SAYETH NOT.

/s/ Jennifer Green (MDW with permission)

JENNIFER GREEN

Special Agent, Homeland Security
Investigations

SWORN TO AND AFFIRMED by telephone September 15, 2020.



Honorable M. DAVID WEISMAN
United States Magistrate Judge