



July 16, 2010

Update: New Charges for Irish Company Suspected of Military Exports to Iran

On July 9, the United States released [an indictment](#) containing two new charges against Mac Aviation Group of County Sligo, Ireland. The company and its two owners, father and son Thomas and Sean McGuinn, are charged with two counts of illicitly procuring three U.S. F-5 fighter jet canopy panels and selling them to the sanctioned Iran Aircraft Manufacturing Industrial Company, or HESA, between 2005 and 2006. The company allegedly told the U.S. supplier that the goods were destined for the “Republic of Nigeria Aviation Industry,” but allegedly shipped them to Iran in violation of the U.S. Arms Export Control Act. The canopy panels were allegedly purchased from Commerce Overseas Corporation of California, hereafter referred to as “COC,” for \$86,400. Mac Aviation was originally charged by the United States in March 2009 with twenty-five counts of selling U.S. military aircraft parts, including helicopter engines, to Iran. (See a previous ISIS case study on Mac Aviation [here](#), and an update [here](#)).

The Alleged Scheme

According to the indictment, to obtain the canopy panels, Mac Aviation allegedly told COC that the items should be shipped to Belgium to K-Line Air Service, a shipping company, where they would eventually go to Nigeria. When COC said a U.S. export license would be required to ship to Belgium, Mac Aviation allegedly arranged for K-Line of Belgium to contact the K-Line division in California to ask them to contact COC about accepting ownership of the goods as an agent of Mac Aviation. K-Line of California would then ship the items to K-Line of Belgium. Mac Aviation allegedly advised K-Line of Belgium that end user certification should not be discussed when K-Line of California made contact with COC. Mac Aviation allegedly informed COC itself that it would become Mac Aviation’s responsibility to arrange an export license to the European Union to send the items to Belgium from K-Line of California.

K-Line of California apparently refused to cooperate. About one week later, Mac Aviation had K-Line of Belgium contact New York Express freight forwarding to ask them about receiving the items. New York Express refused to accept them without an export license from the Department of State. Finally, ABL freight of California allegedly agreed to help. ABL allegedly removed all attached COC invoices from the package and replaced them with Mac Aviation letterhead addressed to “Microset Systems Sdn Bhd” in the free commercial zone of Kuala Lumpur, Malaysia. Upon arrival of the goods in Malaysia, Mac Aviation allegedly caused shipment of the canopy panels to “Sasadja Moavanate Bazargani” in Tehran. It is unclear whether this was an individual or entity, but the indictment alleges that he/she or it was working on behalf of HESA. A few months later, Mac Aviation sent an e-mail to Iran’s Bank Sepah confirming it had received a payment of \$85,328.20, and asked that the remainder of an \$86,400 letter of credit be paid.

Mac Aviation also used a similar strategy for which it was earlier indicted when it allegedly procured aircraft vanes by telling the U.S. supplier that the items were destined for Belgium. In that instance, it allegedly had the company ship the goods to its location in Ireland, and it then allegedly sent them to Iran via Malaysia. It is alleged that Mac Aviation used Malaysia as a transshipment point in each of the other charges.

Lessons

Mac Aviation's success at obtaining possession of the goods from within the supplier state is a strategy commonly used by illicit procurement networks. (See an ISIS case study detailing the strategy used by accused smugglers Keshari and Bujduveanu [here](#)). Since Mac Aviation allegedly had another intermediary obtain the items in the United States, it circumvented COC's need to obtain an export license which would have included an end user certification from the Nigerian recipient. COC should have been suspicious about the change in arrangements (delivering the goods to a shipping company within the United States, rather than to Belgium) and halted the sale.

Extradition More Likely?

The U.S. Department of Justice faced problems in obtaining extradition of the accused owners of Mac Aviation after the announcement of charges in 2009 due to an antiquated extradition treaty with Ireland and the fact that the sales to Iran were not illegal in that country. The United States may now seek extradition once again, and this time with greater merit, as [pointed out](#) by Clif Burns of Export Law Blog. Sales of arms to Iran became illegal under United Nations Security Council Resolution 1747 in 2007. The alleged violations occurred prior to the resolution in 2005 and 2006, but Burns believes that the resolution and the substantial alleged criminal activity of Mac Aviation in obtaining the canopy panels within the United States and arranging for their illicit shipment out of the United States could strengthen U.S. claims of jurisdiction over the defendants. The Department of Justice has declined to discuss extradition matters relating to the case.