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June 2013 COGR Meeting Thursday Afternoon Presentation - Clif Burns

Author: Clif Burns

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BRYAN CAVE

* Cloudy, with a Chance of Fines

Clif Burns

Council on Governmental Relations, June 6, 2013

University of Massachusetts at Lowell Agrees to BIS Fine



\$100,000 Fine, Suspended

SUPARCO on Entity List

EAR99 Atmospheric Sensor

Joint research → Published Article: “Study of maximum electron density NmF2 at Karachi and Islamabad during solar minimum (1996) and solar maximum (2000) and its comparison with IRI”

Fundamental Research?

Not Our First Time at the Rodeo: Déjà Vu All Over Again



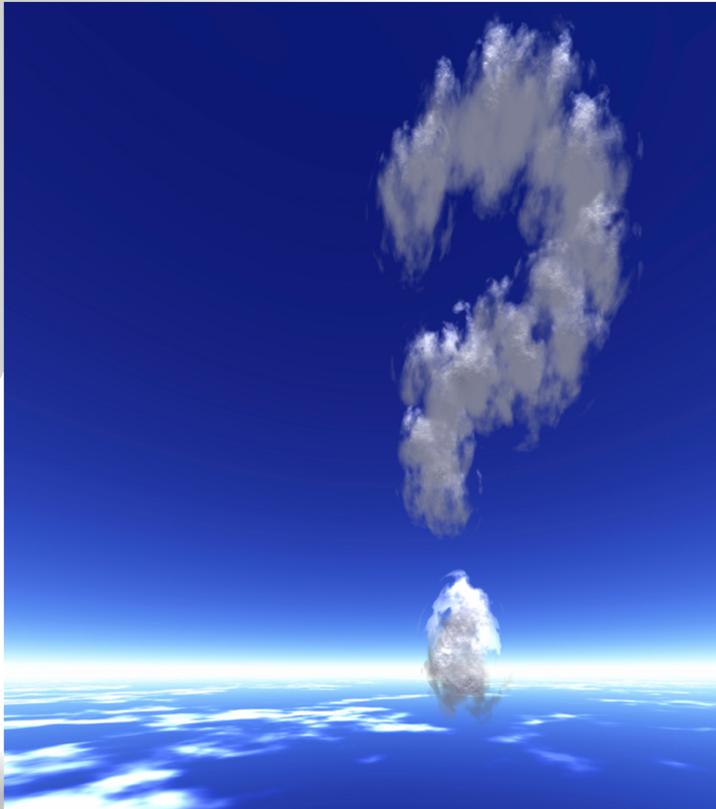
Or not . . .

UMass Probably Had Compliance Program

UMass Probably* Made a Voluntary Self Disclosure

*BIS no longer indicates in settlement papers whether there was a VSD or not

Not Every Cloud Has A Silver Lining



Clouds and Export Controls

Definition of Export Covers Data Leaving Country Albeit Briefly

BIS 2009 Advisory Opinion: Cloud Provider Not Exporter

BIS 2009 Advisory Opinion: Mozilla Can Bury Head in Sand on Downloads.

BIS 2011 Advisory Opinion: Foreign IT Staff of Cloud Provider No Problem, Because Cloud Provider Isn't an Exporter.

Cloud User? Or OFAC? Did Anyone Mention the Cloud User or OFAC? Hello?? Anyone Home???

Not Every Problem Has a Silver Bullet



Is Encryption The Answer?

ITAR and EAR on encrypted data exports: <crickets chirping>
<chirp> <chirp>

DoD on encrypted data exports:
Best thing EVER! We ♥ Chinese Satellites

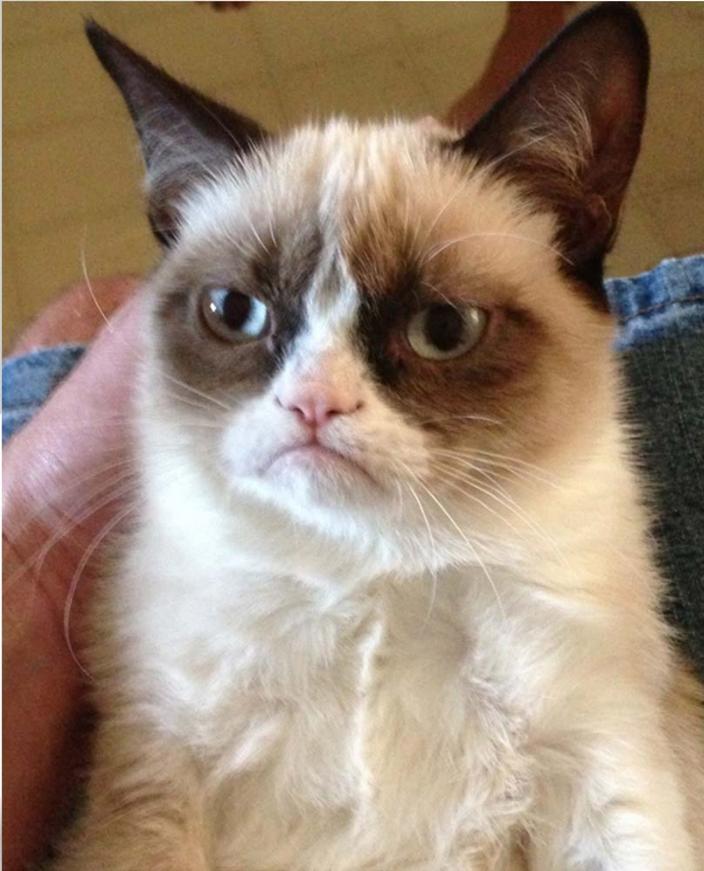
Still . . .

Best practice

Mitigating Factor (maybe).

Chance of guidance from BIS or DDTTC? >0

Not Every Problem Has a Silver Bullet (cont'd)



Chance of guidance from
BIS or DDTTC?

Chance < 0



Presented by: Clif Burns

Email address: clif.burns@BryanCave.com

Phone number: 202.508.6067

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