submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure:
Transmittal No. DTC 087–03

The Honorable J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State,
Washington, D.C. 20520

September 3, 2003.

Dear Mr. Speaker: Pursuant to Section 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense services, technical data and defense articles to Japan to support the manufacture, maintenance, and marketing of the AN/AAS–44 (JM) and TIFLIR–49(JM) Infrared Detecting Systems for the Japanese Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure:
Transmittal No. DDTC 087–03

The Honorable J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State,
Washington, D.C. 20520

September 3, 2003.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction described in the attached certification involves the manufacture in Denmark and The Netherlands of Optical Waveguide Chips for use as sensing devices for chemical and biological detection for the United States Government.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Assistant Secretary, Legislative Affairs.

Enclosure:
Transmittal No. DTC 093–03
The Honorable J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State,
Washington, D.C. 20520

September 10, 2003.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction described in the attached certification involves the transfer of technical data, assistance and manufacturing know-how to Japan necessary for the production, use, sale, repair, maintenance and overhaul of the F–4EJ Flight Director System for end-use by the Government of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure:
Transmittal No. DTC 094–03

The Honorable J. Dennis Hastert,
Speaker of the House of Representatives.

[FR Doc. 03–26403 Filed 10–17–03; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 4518]

Determination Pursuant to Section 1(b) of Executive Order 13224 Relating to Dhamat Houmet Daawa Salafia

Acting under the authority of section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13286 of July 2, 2002, and Executive Order 13284 of January 23, 2003, and in consultation with the Secretary of the Treasury, the Attorney General, and the Secretary of Homeland Security, I hereby determine that: Dhamat Houmet Daawa Salafia [also known as Group Protectors of Salafist Preaching; aka Houmat Ed Daawa Es Salifiya; aka Katibat El Ahoual; aka Protectors of the Salafist Predication; aka El-Ahoual Battalion; aka Katibat El Ahouel; aka Houmate Ed-Daawa Es-Salafia; aka the Horror Squadron; aka Djamaat Houmat Eddawa Essalafia; aka Djamaatt Houmat Ed Daawa Es Salafiya; aka Salafist Call Protectors; aka Djamaat Houmat Ed Daawa Es Salafiya; aka Houmate el Da'awaa es-Salafiyya; aka Protectors of the Salafist Call; aka Houmat ed-Daaoua es-Salafia; aka Group of Supporters of the Salafiste Trend; aka Group of Supporters of the Salafist Trend] has committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice need be provided to any person subject to this determination who might have a constitutional presence in the United States because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: October 10, 2003.

Colin L. Powell,

Secretary of State, Department of State.

[FR Doc. 03–26524 Filed 10–17–03; 5:00 pm]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation; Suborbital Rocket Launch

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA licenses launches of expendable and reusable launch vehicles (RLVs), including suborbital rockets, under regulations found in 14 CFR Ch. III, parts 400–450. The FAA is issuing this Notice to clarify the applicability of FAA licensing requirements to suborbital rocket launches, in general, and suborbital RLVs, in particular so that a vehicle operator can determine, in advance of consultation with the FAA, whether it

must obtain a launch license. Some suborbital RLVs currently under development use traditional aviation technology and components, including wings, for lift and glide capability, as well as rocket propulsion for thrust to maintain their trajectory. These vehicles may be termed ''hybrid'' in nature, because a single vehicle system uses aviation and aerospace technology during different portions of flight. This Notice advises an operator of a hybrid suborbital RLV that a proposed mission may require other FAA flight authorization, specifically an experimental airworthiness certificate (EAC), as a condition of a launch license, to operate in the National Airspace System (NAS).

FOR FURTHER INFORMATION CONTACT: Jay Garvin, AST–200, Manager, Licensing and Safety Division, Office of the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, U.S. Department of Transportation, 800 Independence Avenue, SW., Washington, DC 20591, (202) 385–4700; or David Hempe, AIR–100, Manager, Aircraft Certification Service, Office of the Associate Administrator for Regulation and Certification, Federal Aviation Administration, U.S. Department of Transportation, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8235.

Comments Invited

The FAA is not opening a docket for the receipt of comments; however, we welcome input from person interested in submitting views and information to the FAA regarding suborbital RLV missions and concepts. Please send them to the attention of Jay Garvin, AST–200, Manager, Licensing and Safety Division, Office of the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, U.S. Department of Transportation, Room 331, 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (FAA) licenses the launch of a launch vehicle, reentry of a reentry vehicle and the operation of a launch or reentry site under authority granted to the Secretary of Transportation in the Commercial Space Launch Act of 1984, as amended (CSLA), codified in 49 U.S.C. Subtitle IX, chapter 701, and delegated to the FAA Administrator. Under the CSLA, a U.S. citizen must obtain authorization from the FAA to launch, reenter or operate a launch or reentry site anywhere in the world. Any person wishing to conduct commercial space transportation activities in the United States must also obtain FAA authorization to do so. FAA authorization for these activities is granted by a license issued by the FAA's Associate Administrator for Commercial Space Transportation (AST) to the vehicle or site operator. A license prescribes terms and conditions for conducting authorized activity. Requirements for obtaining and remaining in compliance with a license are located in 14 CFR Chapter III, parts 400–450. U.S. Government space activities, including launches the government carriers out for the Government are not subject to licensing by the FAA.

When the CSLA was enacted in 1984, only expendable launch vehicles (ELVs) and sounding rockets were available for private sector use, along with certain ballistic missiles adapted for commercial applications. A report prepared by the Senate Committee on Commerce, Science, and Transportation accompanying passage of the CSLA recognized that vehicle and space-related technologies would continue to evolve with commercialization of space access and assets and that the regulatory program would have to adapt. The Committee ''recognizes that additional requirements may be necessary to meet the requirements and consideration of future launch technologies and activities and new classes payloads that presently do not exist.'' S. Rept. 98–656, ''Commercial Space Launches, 98th Cong., 2d Sess., at pp. 11–12.

The Committee's observations in 1984 were borne out by the development of reentry capability for commercial use in the 1990s. Increasing emphasis on efficient and lower cost space access, combined with reentry capability, prompted a range of new launch vehicle concepts that would be fully or partially reusable. This new type of launch vehicle became known as a reusable launch vehicle or RLV, in contrast to conventional one-time use expendable launch vehicles or ELVs. In 1998, Congress amended the CSLA by adding reentry licensing authority for reentry vehicles, including RLVs. ''to establish the appropriate legal framework to ensure public safety is protected while minimizing regulatory burden, delay or uncertainty that could inhibit commercial exploitation of reentry capabilities.'' H. Rep. 105–347, ''Commercial Space Act of 1997,'' 105th Cong., 1st Sess., at p. 21. Reentry licensing would authorize the purposeful return of a reentry vehicle and any payload from Earth orbit or outer space to Earth. A reentry vehicle is one that is designed to return from Earth orbit or outer space to Earth substantially intact.

Although the FAA had licensing authority under the CSLA over suborbitally operated RLVs by virtue of its licensing authority over suborbital rocket launches, the addition of licensing authority for reentry activities and specific reference to RLVs in the 1998 amendments eliminated regulatory risk, and removed any investor doubt, that Congress did indeed intend the FAA to address through CSLA licensing the unique safety and policy issues that may result from launch and intact landing of a launch vehicle, whether or not the vehicle enters Earth orbit before returning for landing on Earth.

The FAA promptly issued licensing regulations to implement its newly added statutory authority over reentry activity and RLV missions in general. The FAA covered suborbitally operated RLVs in its rulemaking. Under the licensing requirements for RLV missions, a suborbitally operated RLV may follow either a ballistic or maneuverable trajectory. The FAA explained in its rulemaking a proposal that a ''suborbital trajectory is a flight path that is not closed, whereas an orbit is a closed path. A suborbital trajectory may be ballistic, that is, acted on only by atmospheric drag and gravity, or it can be controlled by external forces and therefore maneuverable.'' *See* 64 FR 19626–19666, April 21, 1999, at p. 19630, fn. 1. The FAA proposed, and codified, a uniform measure of public safety risk for an RLV that is launched and subsequently returns from Earth orbit and one that is launched and operates in suborbital fashion, where maneuvered in its return trajectory or returning through ballistic flight. The final RLV mission licensing rule (14 CFR part 431), issued September 19, 2000, clarified that all RLV missions, whether orbital (consisting of launch and reentry) or suborbital (launch and intact landing) are covered by the rule although only those RLVs that return to Earth from outer space or Earth orbit may be considered to ''reenter'' under the statutory definition of ''reenter; reentry.'' *See* ''Final Rule, Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulations,'' 65 FR 56618–56667, September 19, 2000.

Despite the efficient development of a comprehensive regulatory regime for RLVs, vehicle development slowed in the late 1990s, with the downturn in the Low Earth Orbit (LEO) satellite market. Recently, though, mounting demand for

space tourism services has prompted renewed interest in commercial RLV possibilities. To spur entrepreneurial competition and development, the X-Prize Foundation promises a $10 million purse for the first qualifying contestant to successfully conduct two piloted flights of a privately financed and built vehicle, within a two-week timeframe, to a minimum altitude of 100 kilometers. Ultimately, RLV technology may provide trans-atmospheric high-speed flight around the globe, for rapid international travel.

The FAA issued reports for the years 1998–2001, surveying the various RLV concepts under development, publicly and privately, including announced X-Prize contestants. The reports are available and can be downloaded from the AST Web site: *http://ast.faa.gov.* A brief overview of vehicles featured in the various reports illustrates the range of RLV concepts, from single-stage-to-orbit vertical take-off models to multi-stage air-launched systems employing wing-generated lift to gain altitude before initiating rocket motors to generate thrust.

Some RLV concepts combine aviation and space technology so that they are essentially hybrid in nature. Some vehicles are hybrid because a single vehicle integrates characteristics of both flight technologies, employing them for different stages of flight. Others are hybrid because two vehicles, each capable of operating independently at some point during flight, are combined or joined, to form a launch system, *e.g.,* where one vehicle serves as a high altitude platform from which a second vehicle begins its flight.

RLV designers whose vehicles embody aircraft operating characteristics, in whole or in part, have expressed uncertainty about the type of regulatory regime that would cover flight operations, *i.e.,* whether a launch license or aircraft certification, such as an experimental airworthiness certificate (EAC), would be required for flight authorization. Some also question whether a test flight is a licensable event or requires only aircraft certification as the sole flight authorization, particularly where flight operations would be limited to high altitude atmospheric tests not bound for low Earth orbit or otherwise into outer space.

There is concern that uncertainty regarding the applicable regulatory regime may impede the ability of developers of hybrid suborbital RLVs to obtain the financing needed to take their concepts from the drawing board into flight testing. Concerns stem from not knowing, in advance of operation, whether suborbital flight would be regulated under the CSLA and the Commercial Space Transportation Regulations, 14 CFR Ch. III, as launch of an RLV that is a suborbital rocket, or under the Federal Aviation Regulations as civil aircraft that must satisfy airworthiness certification requirements. Although both regulatory regimes, launch licensing and aircraft certification, protect the health and safety of the uninvolved public, there are differences in the approval processes that may affect technical choices in terms of vehicle design and planned flight profiles, in addition to the perceived difference in cost of regulatory compliance.

At a July 24, 2003 joint congressional hearing on commercial human space flight, witnesses noted the uncertainty surrounding the appropriate flight authorization for a winged suborbital RLV. They urged Congress to reduce the regulatory risk facing potential investors by mandating an enabling regulatory framework for commercial suborbital human space flight with AST taking the lead in regulating the activity.

The FAA is issuing this Notice to eliminate uncertainty regarding the applicable regulatory regime for a suborbital RLV and suborbital rockets, in general. The Notice provides a technical demarcation between launch vehicles and aircraft so that the public, including vehicle developers, can determine in advance of consultation with the FAA whether a launch license or only aircraft certification is required to conduct flight operations.

Suborbital Rocket

The Secretary of Transportation has authority to differentiate between civil aviation and launch of a launch vehicle, including a suborbital rocket. Authority under the CSLA to license suborbital rocket launches and other commercial space transportation activities was delegated to the FAA Administrator in 1995.[1] Licensing authority is exercised by AST, under a delegation from the FAA Administrator. Safety of air commerce and the National Airspace System (NAS) is regulated under separate statutory authority provided in 49 U.S.C. Subtitle VII, Part A, ''Air Commerce and Safety.''

A license under the CSLA is required to launch a suborbital rocket. The CSLA defines a ''launch vehicle'' to mean a vehicle built to operate in, or place a payload in, outer space, and a suborbital rocket. ''Launch'' means to place or try to place a launch vehicle or reentry vehicle and any payload from Earth—in a suborbital trajectory; in Earth orbit in outer space, or otherwise in outer space. 49 U.S.C. 70102. for a suborbital rocket, ''launch'' under the CSLA means placing a suborbital rocket on a suborbital trajectory.

This Notice informs the public of the criteria used by the FAA to differentiate civil aircraft subject to aircraft certification and operating standards for flight in airspace from a suborbital rocket launch subject to licensing under the CSLA. The FAA considers use of rocket propulsion for thrust, as opposed to wing-generated lift, in determining whether a vehicle that flies through airspace is a suborbital rocket under the CSLA, or an aircraft. Quite simply, a vehicle that relies principally upon rocket-propelled thrust to maintain its intended flight trajectory during powered flight is a launch vehicle, or rocket, subject to licensing under the CSLA unless exempt. A vehicle that relies chiefly upon lift generated by its wings in maintaining its intended course during powered flight is an aircraft subject to regulation under the Federal Aviation Regulations. A rocket-propelled civil aircraft that relies upon wing-borne lift for the majority of its powered flight is not a suborbital rocket requiring a license for operation. The ''E–Z Rocket,'' flown by X–COR, is an example of a rocket-propelled aircraft.

To summarize, a suborbital rocket subject to CSLA licensing is a rocket-propelled vehicle intended for flight on a suborbital trajectory, whose thrust is greater than its lift for the majority of the powered portion of its flight.

The FAA rulemaking regarding RLV missions, concluded in 2000, addressed ''suborbital trajectory'' in the context of RLVs. The FAA regards a suborbital trajectory as the intentional flight path, or any portion of that flight path, of a launch vehicle or reentry vehicle, whose vacuum instantaneous impact point (IIP) does not leave the surface of the earth. The IIP of a launch vehicle is the projected impact point on Earth where the vehicle would land if its engines stop or where vehicle debris, in the event of failure and break-up, would land. The notion of a ''vacuum'' IIP reflects the absence of atmospheric effects in performing the IIP calculation. If the vacuum IIP never leaves the Earth's surface, the vehicle would not achieve Earth orbit and would therefore be on a suborbital trajectory.

[1] Certain small-scale unmanned rocket launches have traditionally been subject to FAA flight authorization under 14 CFR part 101, and are not subject to licensing under the CSLA. FAA authority over those small recreational and hobby rockets was not affected by enactment of the CSLA, nor was delegation of CSLA licensing authority to the FAA Administrator intended to place launch vehicle licensing under 14 CFR part 101 or aircraft certification regulations.

The FAA relies upon thrust versus lift during powered flight in differentiating launch vehicles from aircraft because it provides a clear and objective point of demarcation that relies on technical distinctions grounded in the science of physics, not labels. Other options for differentiating launch vehicles from aircraft are not as well grounded in science or logic. For example, the FAA could point to the use of wings and classify all winged vehicles as aircraft that must satisfy airworthiness certification requirements; however, the Pegasus launch vehicle is a winged vehicle used to place payloads in Earth orbit and is subject to CSLA licensing. Similarly, the Space Shuttle has wings but is not regarded as an aircraft (nor is it subject to licensing because its operation is deemed to be by and for the Government and therefore exempt from the CSLA). The FAA could look to other traditional indicia of space flight, such as use of pressure suits or reaction control systems, but both are used for high altitude aircraft and therefore do not help us distinguish launch vehicles from aircraft. Altitude is also not an appropriate discriminator for launch vehicles and aircraft because some suborbital rockets, including sounding rockets, are not necessarily intended for launch into Earth orbit or outer space and because aircraft can be designed to operate at increasingly extreme altitudes above controlled airspace. Therefore, altitude does not offer an objective means of distinguishing suborbital launch vehicles from aircraft.

The FAA finds that flight physics provides a clear, certain and objective criteria the public can use in determining whether a vehicle requires a license from the FAA under the CSLA. Using the suborbital rocket criteria identified above, a prospective operator can determine whether it must contact AST and begin the pre-application consultation process required for a launch license.

Licensing Requirements for Suborbital RLVs

A launch license is issued consistent with public health and safety, safety of property, and U.S. national security and foreign policy interests, including international obligations. Upon satisfactory completion of the various reviews required under the Commercial Space Transportation Licensing Regulations, AST issues a license to an operator authorizing the mission; however, authorization is subject to operator compliance with license terms and conditions.

The FAA has an established regulatory framework governing launches of suborbital rockets, both expendable and reusable. Suborbital ELVs are regulated under license requirements contained in 14 CFR part 415.[2] Suborbital RLVs, including those that employ traditional aviation characteristics, such as wings and landing gear, are regulated under RLV mission licensing requirements contained in 14 CFR part 431.

Certain suborbital RLVs, described in this Notice as ''hybrid,'' that employ aviation characteristics are also regulated under FAA aircraft regulations. Where operation of a launch vehicle includes operation of a civil aircraft for any portion of flight, an EAC may be required, in addition to a launch license, in order to obtain complete flight authorization for operation in the national airspace system. Where appropriate, obtaining and complying with an EAC under 14 CFR parts 21 and 91, with special operating conditions, would be made a condition of a suborbital RLV mission license. During pre-license application consultation, AST will refer an applicant proposing a hybrid suborbital RLV mission to the FAA's Aircraft Certification Service and Flight Standards Service to obtain the required certificate if the applicant has not already done so.

AST has issued an advisory circular (AC) regarding test flight launch licensing to illustrate acceptable means of satisfying safety requirements of 14 CFR part 431. Test flights may be a desirable means of validating performance capabilities of a new vehicle under increasingly demanding flight parameters. AC 431.35–3, ''Licensing Test Flight RLV Missions,'' issued August 2002, explains how a license applicant can streamline its submissions under the safety requirements of part 431, when seeking authorization to conduct a series of suborbital RLV test flights that are subject to licensing under the CSLA.

Not all test flights will require licensing under the CSLA. A license will be required only for those vehicles that operate as a suborbital rocket and that are launched. In addition, the Commercial Space Transportation Licensing Regulations exempt from licensing certain low-powered rocket launches known as ''amateur rocket activities.'' Test flights of a hybrid suborbital RLV that fit the definition of ''amateur rocket activities'' are not licensed by the FAA, although an EAC may be required. The term, ''amateur rocket activities,'' is defined in 14 CFR 401.5. It means launch activities conducted at private sites that satisfy all three of the following characteristics:

- Powered by a motor(s) having a total impulse of 200,000 pound-seconds or less;
- Total burning or operating time of less than 15 seconds; and
- A ballistic coefficient—*i.e.,* gross weight in pounds divided by frontal area of rocket vehicle—less than 12 pounds per square inch.

The FAA also retains authority to waive for a particular applicant the requirement to obtain a license where the agency determines that the waiver is in the public interest and will not jeopardize public health and safety, the safety of property and U.S. national security and foreign policy interests.

Issued in Washington, DC, on October 14, 2003.

Patricia Grace Smith,

Associate Administrator for Commercial Space Transportation.

Nicholas A. Sabatini,

Associate Administrator for Regulation and Certification.

[FR Doc. 03–26373 Filed 10–15–03; 4:42 pm]

BILLING CODE 4910–13–M

[2] AN FAA rulemaking is pending that would revise licensing and safety requirements for licensed ELV launches, including suborbital ELVs. *See* Docket No. FAA–2000, accessible through the Department of Transportation's electronic Docket Management System (DMS), for the most current rulemaking proposal and public comments. You can access the DMS using the following Web site: *http://dms.dot.gov.*

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Mobile and Baldwin Counties, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Mobile and Baldwin Counties, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Joe D. Wilkerson, Division Administrator, Federal Highway Administration, 500 Eastern Blvd., Suite 200, Montgomery, Alabama 36177, Telephone: (334) 223–7370.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Alabama Department of Transportation (ALDOT) will prepare an environment impact statement on a proposal to increase the capacity of Interstate Route 10 at Mobile by constructing a new six-lane bridge across the Mobile River at Mobile and