

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

In the ~~Matter~~ of:

ABDULAMIR MAHDI,

And

OTS REFINING EQUIPMENT CORPORATION

Respondents.

Docket No. 02-BXA-02

**RECOMMENDED DECISION AND ORDER**

Before:

**HON. PETER A. FITZPATRICK**  
**Administrative Law Judge**  
**United States Coast Guard**

Appearances:

**PHILIP D. GOLRICK, ESQ.**

**For the Bureau of Industry and Security**

**ABDULAMIR MAHDI**

**PRO SE**

**I.  
TABLE OF CONTENTS**

I. TABLE OF CONTENTS ..... i

II. SUMMARY OF DECISION ..... 1

III. PRELIMINARY STATEMENT ..... 3

IV. APPLICABLE STATUTES AND REGULATIONS ..... 7

    A. Statutes ..... 7

    B. Regulations ..... 11

V. FINDINGS OF FACT ..... 12

    A. Background ..... 12

    B. Conspiracy to Export Oil Field Equipment from the United States to Iran via Canada ..... 15

    C. The Export of Oil Field Equipment from the United States to ~~Iran~~ via Canada ..... 18

        1. The October 30, 1997 Export from the United States to Iran ..... 19

        2. The February 2, 1998 Export from the United States to Iran ..... 20

    D. The Attempt to Export Oil Field Equipment on March 17, 1999 ..... 21

VI. ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW ..... 22

VII. DISCUSSION ..... 24

    A. Applicability Of The Export Administration Act And Regulations To Respondents ..... 24

    B. Violations Of The Export Administration Act **And** Regulations ..... 26

        1. Conspiracy to Obtain Oil Field Equipment from the United States ..... 27

        2. Unauthorized Export from the United States to Iran ..... 28

        3. Soliciting or Attempting **an** Unauthorized Export from the United States to Iran ..... 29

        4. Making a False Statement on a Shipper’s Declaration ..... 30

        5. Knowingly Violating the Export Administration Regulations ..... 31

VIII. REASON FOR THE SANCTION .....	33
IX. RECOMMENDED ORDER .....	34
ATTACHMENT A: EXHIBIT LIST.....	38
A. <b>Judge’s</b> Exhibit.....	38
B. Government Exhibit .....	38
ATTACHMENT B: RULINGS ON BUREAU’S PROPOSED FINDINGS .....	41
A. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW .....	41
B. PROPOSED ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW .....	58
NOTICE TO THE PARTIES REGARDING REVIEW <b>BY</b> UNDER SECRETARY .....	66
CERTIFICATE OF SERVICE .....	67

**11.**  
**SUMMARY OF DECISION**

This case involved covert operations by Respondents Abdulmir Mahdi and, his wholly owned company, OTS Refining Equipment Corporation (“OTS”), to unlawfully ship oil field equipment from the United States to ~~Iran~~ through Canada in violation of the Export Administration Act of 1979 (“Act” or “EAA”) and the Export Administration Regulations (“EAR”). See 50 U.S.C. App. §§ 2401-2420 (1991), *amended by* Pub. L. 106-508, 114 Stat. 2360 (Supp. 2002) (EAA); 15 CFR Parts 730-74 (1997-1999) (EAR). The EAA and its underlying regulations establish a “system of controlling exports by balancing national security, foreign policy and domestic supply needs with the interest of encouraging export to enhance . . . the economic well being” of the United States. See Times Publ’g Co. v. United States Dep’t of Commerce, 236 F.3d 1286, 1290 (11<sup>th</sup> Cir. 2001); see also 50 U.S.C. App. §§ 2401-02.’

Here, six violations of the EAR are alleged and the Bureau of Industry and Security, United States Department of Commerce (“Bureau” or “BIS”) seeks denial of the Respondents’ export privileges from the United States for a period of 20 years. This case ~~was~~ brought while Mr. Mahdi was serving a 4-year and 3-month sentence in Federal prison based on a Plea of Guilty to one count of conspiracy to export oil field equipment from the United States to Iran and

---

<sup>1</sup> The EAA and all regulations under it expired on August 20, 2001. See 50 U.S.C. App. 2419. **Three** days before its expiration, the President declared that the lapse of the EAA constitutes a national emergency. See Exec. Order. No. 13222, *reprinted in* 3 C.F.R. at 783-784, 2001 Comp. (2002). Exercising authority under the International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. §§ 1701-1706 (2002), the President maintained the effectiveness of the EAA and its underlying regulations throughout the expiration period by issuing Exec. Order. No. 13222 on August 17, 2001. Id. The effectiveness of the export control laws and regulations were further extended by Notice issued by the President on August 14, 2002. See Notice of August 14, 2002: Continuation of Emergency Regarding Export Control Regulations, *reprinted in* 3 C.F.R. at 306 (2003). Courts have held that the continuation of the operation and effectiveness of the EAA and its regulations through the issuance of Executive Orders by the President constitutes a valid exercise of authority. See Wisconsin Project on Nuclear Arms Control v. United States Dep’t of Commerce, 317 F.3d 275, 278-79 (D.C. Cir. 2003); Times Publ’g Co., supra, 236 F.3d at 1290.

Iraq without authorization, and in accordance with the judgment and sentence of the United States District Court for Middle District of Florida on November 22, 1999. See United States v. Mahdi, 99-128-CFOORL-22B. Charge 1 in this administrative proceeding is nearly identical to the conspiracy charge before the District Court to which Mr. Mahdi plead Guilty and for which the court entered a judgment and sentence. At a preliminary stage in this administrative proceeding, the Bureau's Motion for Summary Decision with respect to Charge 1 was granted. The undersigned found that the District Court's judgment collaterally estopped Mr. Mahdi from contesting Charge 1 relating to conspiracy. However, the Motion for Summary Decision was denied as to the remaining five charges.

At the administrative hearing, the Bureau presented substantial, reliable and probative evidence to support the remaining charges. Mr. Mahdi made a brief appearance at the hearing but refused to participate in the remainder of these proceedings. Thus, most of the evidence on this record is uncontested. Each of the remaining charges (Charges 2-6) is found Proved. The Bureau's request for a Denial Order of 20 years is well founded in view of the number of violations involved and the continuing efforts of Mr. Mahdi and his brother to unlawfully export items to Iran.

Finally, although the regulations require this proceeding to be concluded within one year from the filing of the charging letter, the undersigned Judge extended the period for issuance of the decision for good cause. See 15 C.F.R. § 766.17(d). In this case, the period was extended until January 17, 2004 to allow Mr. Mahdi to serve his Federal prison sentence, and afford him an opportunity to adequately prepare for the hearing. See Order dated October 10, 2003, at 9-10.

### III. PRELIMINARY STATEMENT

In an amended charging letter dated November 22, 2002, the Bureau alleged that Respondents Mahdi and **OTS** committed six violations of the EAR.<sup>2</sup> The Agency sought denial of Respondents export privileges for a period of 20 years.<sup>3</sup> The charges were as follows:

Charge 1 alleged that between in or about March 1997, and in or about April 1998, the Respondents violated Sections 746.7 and 764.2(d) of the EAR by conspiring and acting in concert with others known and unknown to obtain oil field equipment **from** the United States and export **it** to **Iran** through Canada.

Charge 2 and 3 alleged that on **or** about October **30**, 1997, and on or about February 2, 1998, the Respondents violated Sections 746.7 and 764.2(a) of the **EAR** by exporting oil field equipment from the United States through Canada to **Iran** without obtaining prior authorization from the Office **of** Foreign Assets Control (“OFAC”), a division of the Treasury Department.

Charge 4 alleged that on or about April 21, 1998, to on **or** about March 17, 1999, the Respondents violated Sections 746.7 and 764.2(c) of the EAR by soliciting or attempting to

---

<sup>2</sup> The “Bureau of Export Administration” or “BXA” issued the original charging letter on January 17, 2002. Through an internal organizational order, the Department of Commerce changed the name of BXA to BIS. See Industry and Security Programs: Change of Name, 67 Fed. Reg. 20630 (Apr. 26, 2002). Pursuant to the Savings Provision of the order, “Any actions undertaken in the name of or on behalf of the Bureau of Export Administration, whether taken before, on, or after the effective date of this rule, shall be deemed **to** have been taken in the name of or on behalf of the Bureau of Industry and Security.” Id. at 20631.

<sup>3</sup> Neither the original charging letter, nor the amended charging letter specified the exact nature of relief sought by the Agency. In the Agency’s “Pre-Hearing Memorandum” dated February 26, 2003, BIS revealed that it **was** seeking a 20-year denial of export privileges. The Agency also moved to withdraw the charges against a third respondent, Tech-Link Development Corporation (“Tech-Link”) because BIS was unable obtain service of the charging letter **on** Tech-Link. The charges were dismissed without prejudice in **an** Order dated March 3, 2003.

export oil field equipment from the United States through Canada to Iran without obtaining prior authorization from OFAC.<sup>4</sup>

Charge 5 alleged that on or about October 30, 1997, the Respondents violated Section 764.2(g) of the EAR by making a false and misleading statement of material fact on a Shipper's Export Declaration that the country of ultimate destination of the oil field equipment was Canada when, in fact, the true country of ultimate destination of the oil field equipment **was** Iran.

Charge 6 alleged that on October 30, 1997, the Respondents violated Section 764.2(e) of the EAR by transferring and forwarding the oil field equipment from Canada to Iran knowing that those goods had been exported **from the United States** in violation of the EAR.

By Order dated September 6, 2002, summary decision was granted against Respondent Mahdi solely on the conspiracy to export oil field equipment to Iran through Canada in violation of 15 C.F.R. §§ 746.7 and 764.2(d) alleged in Charge 1. Summary decision with respect to the remaining charges **was** denied. The hearing in this matter was continued numerous times over 18 months to accommodate Mr. Mahdi who represented himself and his company OTS. See Order dated May 9, 2002; Order dated October 9, 2002; Transcript of Pre-Hearing Conference dated January 8, 2003; Order dated January 13, 2003; Order Dismissing, Without Prejudice, Charges Against Tech-Link Development Corporation and Scheduling Order dated March 3, 2003; see also (*Transcript 24-25, 27-28, 35-47, 56-60, 73-77; Gov't Ex. 1A*). The evidentiary hearing was held before this Judge in Baltimore, Maryland on May 13, 2003 at 9:30 a.m., **EST**.

---

<sup>4</sup> Charge 4 in the original charging letter alleged that Respondents exported oil field equipment **from** the United States, through Canada, to Iran on or about April 21, 1998. Following the partial denial of **summary** decision, BIS filed a Motion for Reconsideration or Clarification on September 12, 2002. **On** September 18, 2002, BIS filed a Partial Withdrawal of the Motion for Reconsideration or Clarification with respect to Charge 4 and moved to amend that charge because the Bureau determined that the oil field equipment was not exported to ~~Iran~~ as alleged. The motion to amend Charge 4 **was** granted in an Order dated October 10, 2002. The Bureau filed a Notice of Filing Amended Charging Letter on November 22, 2002 and **served** the amended charging letter on Mr. Mahdi and OTS.

Because of the failure to secure approval of a parole application for reentry into the United States in accordance with the Immigration and Nationalization Services Regulations codified at 8 C.F.R. Part 212 (2002), Mr. Mahdi was not able to be physically present at the hearing to represent himself and OTS. See *Transcript* at 7-8, 35-47. However, arrangements were made for Mr. Mahdi to call into a telephone pool conference number and participate via telephone in the hearing. Id. at 5-7.<sup>5</sup>

Although Mr. Mahdi **was** advised in writing of the exact time and date of the hearing, he did not call into the telephone pool conference number until nearly 45 minutes into the proceeding. Id. at 3-8, 47-62; see also Order Dismissing, Without Prejudice, Charges Against Tech-Link Development Corporation and Scheduling Order dated March 3, 2003, at 3; Order dated April 14, 2003; Order Denying Request for Continuance dated April 15, 2003. At that time, Mr. Mahdi declared that he was mentally incompetent and did not want to participate in the hearing: then he hung up the telephone. (*Transcript* at 51-62). Mr. Mahdi only participated in these proceedings for a total of 15-20 minutes. Following a brief recess, connection to the telephone pool conference number **was** reestablished so that Mr. Mahdi could participate in the hearing if he changed his mind. Id. at 63. The telephone pool conference number remained open until approximately 12:30 p.m. Id. at 163-65. **Mr.** Mahdi did not change his mind and did not participate any further in the hearing or these administrative **proceeding**.<sup>6</sup>

---

On November 28, 2002, Mr. Mahdi **was** released into the custody of U.S. Immigration Officials and was subsequently deported after serving a 51-month sentence following a plea of guilty to one count of conspiracy to export oil field equipment from the United States to Iran and Iraq via Canada between March 1997 and March 1999 without authorization. **Mr.** Mahdi did not submit a copy of the parole application to the undersigned Judge or to BIS even though directed to do so. See Transcript of Pre-Hearing Conference dated January 8, 2003, at 19-20.

<sup>6</sup> On April 14, 2003, Ms. Lucinda Shinault, Paralegal to this Judge, served an Order memorializing a telephonic Pre-Hearing Conference by Federal Express to Respondent at the address provided by Mr. Mahdi. Respondent Mahdi received the Order, which **was** signed for by J. Khan. On April 15, 2003, Ms. Shinault sent an Order Denying Respondent's Request for Continuation of the May 13, 2003 hearing **based** on physical and mental incompetence by

Footnote continued on next page.

At the hearing, one witness, Special Agent Roy Gilfix of the Office of Export Enforcement, U.S. Department of Commerce (“OEE”) testified for the Agency and thirty-three exhibits were admitted into evidence. The exhibit list is provided in Attachment A. Following receipt of the transcript, Mr. Golrick also filed a Post-Hearing Submission, including proposed findings of fact and conclusion. Rulings on the proposed findings of fact and conclusions of law are contained in Attachment B. The record is now closed.

**As** a general rule, administrative proceedings conducted under the EAA are generally excluded from the operation of the Administrative Procedure Act (“APA”), **as** amended and codified in 5 U.S.C. §§ 551-559. See 50 U.S.C. App. § 2412(a); 15 C.F.R. § 766.1. However, in administrative enforcement actions seeking impositions of civil penalties and/or sanctions, there is an exception to the general exclusion if the case involves a violation of §§ 2407 or 2410. See 50 U.S.C. App. § 2412(c). Since this case involves violations of § 2410, the administrative proceeding was conducted in accordance with the APA. This administrative proceeding was also conducted in accordance with 50 U.S.C. App. §§ 2410(c)(2)(B) and 2412(c), 5 U.S.C. § 3344, 15 C.F.R. ~~Part~~ 766, 5 C.F.R. § 930.213. The conduct of this proceeding also complies with **the** provisions of a letter **from** the United States Office of Personnel Management (“OPM”) and **an** interagency reimbursable agreement between the Coast Guard and **BIS** dated December **30**, 2002. The OPM letter and the reimbursable agreement authorize Coast Guard Administrative Law Judges (“ALJ”) to adjudicate cases involving violations of **U.S.** export laws and regulations.

---

Federal Express. Federal Express attempted to deliver the April 15<sup>th</sup> Order on two occasions. The attempts proved unsuccessful. Federal Express also left telephone messages on **an** answering machine for Respondent Mahdi, who failed to return the telephone calls. On April 21, 2003, Ms. Shinault directed Federal Express to make a third attempt to deliver the April 15<sup>th</sup> Order. The Order was refused and an unidentified person sent a return to sender letter together with the Order. Thereafter, Ms. Shinault sent Mr. Mahdi the April 15<sup>th</sup> Order by regular first class mail. (Judge’s Ex. I, 2; Tr. 67-72). In view of Mr. Mahdi’s brief participation in the hearing there is no doubt that he had actual notice of the hearing.

After careful review of the facts and applicable law in this case, I find that BIS has proved the allegations in the charging letter by substantial evidence of a reliable and probative nature.<sup>7</sup>

#### **IV. APPLICABLE STATUTES AND REGULATIONS**

The acts constituting violations of the export control laws and regulations occurred between October 1997 and March 1999. Thus, the export control laws and regulations in effect on October 1997 through March 1999 govern resolution of this matter. Those laws and regulations are substantially similar to the current export control laws and regulations.

##### **A. Statutes**

The relevant statutes read in pertinent part as follows:

##### **50 U.S.C. App. § 2404. National Security Controls**

###### **(a) Authority.**

(1) In order to carry out the policy set forth in section 3(2)(A) of this Act [50 USCS App. § 2402 (2)(A)], the President may, in accordance with the provisions of this section, prohibit or curtail the export of **any** goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection includes the authority to prohibit or curtail the transfer of **goods** or technology within the United States to embassies and affiliates of controlled countries. For purposes of the preceding sentence, the term "affiliates" includes both governmental entities and commercial entities that are controlled in fact by controlled countries. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act [50 USCS App. § 2403(a)].

\* \* \*

---

<sup>7</sup> While this case ~~was~~ pending, the United States Coast Guard transferred from the Department of Transportation to the Department of Homeland Security. Pursuant to the Savings Provision of HR 5005 § 1512 (Pub. L. 107-296), pending proceedings ~~are~~ continued notwithstanding the transfer of the Agency.

(b) Policy toward individual countries.

(1) In administering export controls for national security purposes under this section, the President shall establish as a list of controlled countries those countries set forth in section 620(f) of the Foreign Assistance Act of 1961 [22 USCS § 2370(f)], except that the President may add any country to or remove any country from such list of controlled countries if he determines that the export of goods or technology to such country would or would not (as the case may be) make a significant contribution to the military potential of such country or a combination of countries which would prove detrimental to the national security of the United States. In determining whether a country is added to or removed from the list of controlled countries, the President shall take into account--

(A) the extent to which the country's policies are adverse to the national security interests of the United States;

(B) the country's Communist or non-Communist status;

(C) the present and potential relationship of the **country** with the United States;

(D) the present and potential relationships of the country with countries friendly or hostile to the United States;

(E) the country's nuclear weapons capability and the country's compliance record with respect to multilateral nuclear weapons agreements to which the United States is a party; and

(F) such other factors as the President considers appropriate.

Nothing in the preceding sentence shall be interpreted to limit the authority of the President provided in this Act to prohibit or curtail the export of any goods or technology to any country to which exports are controlled for national security purposes other than countries on the list of controlled **countries** specified in this paragraph. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors set forth in this paragraph.

**50 U.S.C. App. § 2405. Foreign policy controls**

(a) Authority.

(1) In order to carry out the policy set forth in paragraph (2)(B), (7), (8), or (13) of section 3 of this Act [50 USCS Appx. § 2402(2)(B), (7), (8), or (13)], the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to **further** significantly the foreign policy of the United States or to fulfill its declared international obligations. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of Agriculture, the Secretary of the Treasury, the United States Trade Representative, and such other departments and agencies

as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

### 50 U.S.C. App. § 2410. Violations

(a) In general. Except as provided in subsection (b) of this section, whoever knowingly violates or conspires to or attempts to violate any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or \$ 50,000, whichever is greater, or imprisoned not more than 5 years, or both.

(b) Willful violations.

(1) Whoever willfully violates or conspires to ~~or~~ attempts to violate any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that the exports involved will be used for the benefit, or that the destination or intended destination of the goods ~~or~~ technology involved **is**, any controlled country or any country to which exports are controlled for national security or foreign policy purposes —

(A) except in the case of an individual, shall be fined not more ~~than~~ five times the value of the exports involved or \$ 1,000,000, whichever is greater; and

(B) in the case ~~of~~ an individual, shall be fined not more than \$ 250,000, or imprisoned not more than 10 years, or both.

\* \* \*

(3) Any person who possesses any goods or technology--

(A) with the intent to export such goods or technology **in** violation **of** an export control imposed under section 5 ~~or~~ 6 **of** this Act [*50 USCS Appx § § 2404, 2405*] or any regulation, order, or license issued with respect to such control, or

(B) knowing or having reason to believe that the goods ~~or~~ technology would be so exported,

shall, in the case **of** a violation of an export control imposed under section 5 [*50 USCS Appx § 2404*] (or any regulation, order, or license issued with respect to such control), be subject to the penalties set forth in paragraph (1) of this subsection and shall, in the case of a violation of an export control imposed under section 6 [*50 USCS Appx § 2405*] (or any regulation, order, or license issued with respect to such control), be subject to the penalties set forth in subsection (a).

(c) Civil penalties; administrative sanctions.

\* \* \*

(1) **(A)** The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of **the** regulations issued pursuant to section 8(a) of this Act [*50 USCS Appx. § 2407(a)*].

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the regulations issued pursuant to section 8(a) of this Act [50 USCS Appx. § 2407(a)] may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code [5 USCS § § 554-5571.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued pursuant to section 8(a) of this Act [50 USCS Appx. § 2407(a)] shall be made available for public inspection and copying.

\* \* \*

(h) Prior convictions.

(1) No person convicted of a violation of this Act (or any regulation, license, or order issued under this Act), any regulation, license, or order issued under the International Emergency Economic Powers Act [50 USCS § § 1701 et seq.], section 793, 794, or 798 of title 18, United States Code [18 USCS § § 793, 794, 798], section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)) [50 USCS § 783(b)], or section 38 of the Arms Export Control Act (22 U.S.C. 2778) [22 USCS § 2778] shall be eligible, at the discretion of the Secretary, to apply for or use any export license under this Act for a period of up to 10 years from the date of the conviction. The Secretary may revoke any export license under this Act in which such person has an interest at the time of the conviction.

(2) The Secretary may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, or position of responsibility, to any person convicted of any violation of law set forth in paragraph (1), upon a showing of such relationship with the convicted party, and subject to the procedures set forth in section 13(c) of this Act.

**50 U.S.C. App. § 2415. Definitions**

As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

\* \* \*

(3) the term "good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, and excluding technical data;

\* \* \*

(5) the term "export" means--

(A) an actual shipment, transfer, or transmission of goods or technology out of the United States;

(B) a transfer of goods or technology in the United States to an embassy or affiliate of a controlled country; or

(C) a transfer to any person of goods or technology either within the United States or outside of the United States with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient;

(6) the term "controlled country" means a controlled country under section 5(b)(1) of this Act [*50 USCS Appx § 2404(b)(1)*];

(7) the term "United States" means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 *U.S.C. 1331(a)*) [*43 USCS § 1331(a)*];

## **B. Regulations**

The applicable regulations read as follows:

### **15 C.F.R. § 746.7 Iran.**

The Treasury Department's Office of Foreign Assets Control (OFAC) administers a comprehensive trade and investment embargo against Iran under the authority of the International Emergency Economic Powers Act of 1977, as amended, section 505 of the International Security and Development Cooperation Act of 1985, and Executive Orders 12957 and 12959 of March 15, 1995 and May 6, 1995, respectively. **This** embargo includes prohibitions on export and certain reexport transactions involving Iran, including transactions dealing with items subject to the EAR. (See OFAC's Iranian Transactions Regulations, 31 CFR part 560.) BXA continues to maintain licensing requirements on exports and reexports to Iran under the EAR as described in paragraph (a)(2) of this section. No person may export or reexport items subject to both the EAR and OFAC's Iranian Transactions Regulations without prior OFAC authorization.

### **15 C.F.R. § 764.2 Violations.**

(a) Engaging in prohibited conduct. No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by, the EAA, the EAR, or any order, license or authorization issued thereunder.

\* \* \*

(c) Solicitation and attempt. No person may solicit or attempt a violation of the EAA, the EAR, or any order, license or authorization issued thereunder.

(d) Conspiracy. No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about **or** to do any act that constitutes a violation of the EAA, the EAR, or any order, license or authorization issued thereunder.

(e) Acting with knowledge of a violation. No person may order, buy, remove, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or in part, any item exported or to be exported from the United States, or that is otherwise subject to the **EAR**, with knowledge that a violation of the **EAA**, the EAR, or any order, license or authorization issued thereunder, has occurred, is about to occur, or is intended to occur in connection with the item.

\* \* \*

(g) Misrepresentation and concealment of facts. (1) No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, either directly to BXA, the United States Customs *Service*, or an official of any other United States agency, or indirectly through any other person:

(i) In the course of an investigation or other action subject to the EAR; or

(ii) In connection with the preparation, submission, issuance, use, or maintenance of any export control document or restrictive trade practice or boycott request report, as defined in § **760.6** of the EAR; or

(iii) For the purpose of or in connection with effecting an export, reexport or other activity subject to the EAR.

(2) All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify BIS and any **other** relevant agency, in writing, of any change of any material fact or intention from that previously represented, stated, or certified, immediately upon receipt of any information that would lead a reasonably prudent person to **know** that a change of material fact or intention has **occurred** or may occur in the future.

## V. FINDINGS OF FACT

The Findings of Fact are based on the documentary evidence, the testimony of the Bureau's witness, and the entire record. The facts of this case are as follows:

### A. Background

1. In the late **1940s** through the 1950s, U.S. multinational corporations built the national oil extraction and processing infrastructures in Iran, Iraq, and Libya. These

corporations manufactured oil field parts and equipment. Between 1995 through present, replacement parts and equipment were needed for repairs of malfunctioning oil field parts and equipment. Maintaining a repair inventory was also of interest to Iran, Iraq, and Libya. (*Tr.* 247-50).<sup>8</sup>

2. Between 1995 through present, the United States imposed an embargo that restricted the export of munitions and dual use items of U.S. origin to Iran absent consent from the Department of Treasury, OFAC. Canada's export controls for Canadian-origin commodities that are destined for Iran are minimal compared to those of the United States. Canada only requires export licenses for munitions exported to Iran. Therefore, oil-field equipment can be exported legally from Canada to Iran without a license if the equipment is of Canadian-origin. (*Tr.* at 266-69).
3. Because of the close historical, cultural, geographical, and other ties with Canada, the United States has relaxed export controls affecting commodities whose ultimate destination is Canada. (*Tr.* 262-64). If the commodities are merely transiting Canada or the Canadian company plans to transship the commodities to a third country, the relaxed export controls do not apply. (*Id.* at 263-65).
4. Mr. Mahdi knew of the United States' embargo against Iran, which restricted the export of U.S. origin commodities to Iran. (*Gov't Ex.* 3, at 26-27; *Gov't PFF* 27).
5. Mr. Mahdi is a naturalized Canadian citizen and resident of Ontario, Canada. (*Gov't Ex.* 2, at 16; *Gov't Ex.* 3, at 20-21; *Gov't Ex.* 6, at 1; *Gov't PFF* I).

---

<sup>8</sup> The citations in this Recommended Decision are as follows: Government Exhibit followed by exhibit number, at page number (*Gov't Ex.* \_\_, at \_\_); Transcript followed by page number, (*Tr.* \_\_); Government Proposed Findings of Fact and Conclusions of Law followed by number, (*Gov't PFF* \_\_); and Government Proposed Ultimate Findings of Fact and Conclusions of Law, (*Gov't PUFF*).

6. Mr. Mahdi was born in Iraq. He is formally known as Abdulmir Mahdi. However, he commonly uses two different names depending on whether he is transacting business with Iran or Iraq. When conducting business with Iraq, Mr. Mahdi uses an Iraqi name: Amir Mahdi. When transacting business in Iran, he goes by an Iranian name: Jasin Khafaf. (*Tr. 100-01; Gov'tEx. 6, at 1; Gov'tPFF 2*).
7. From October 1995 through March 17, 1999, Mr. Mahdi served as the sole owner and operator of OTS located in Markham, Ontario, Canada. (*Gov'tEx. 2, at 16; Gov'tEx. 3, at 20-21; Gov'tEx. 6, at 2; Gov'tPFF 3*).
8. OTS was a Canadian corporation that served as a broker of spare parts for oil field and industrial equipment to Middle Eastern countries, including Iran and Iraq. (*Gov'tEx. 1, at 6; Gov'tEx. 3, at 20; Gov'tPFF 3*). OTS had offices in France, and Dubai, United Arab Emirates (U.A.E.). OTS also conducted business in Saudi Arabia. (*Gov'tEx. 6, at 2*).
9. Mr. Tito DiMarco was Mr. Mahdi's only employee at OTS in Canada. (*Tr. 188*).
10. Approximately 90% of OTS's sales of equipment were to Iran and Iraq, and the remaining 10% of the sales were to Saudi Arabia. (*Tr. 178, 236-238; Gov'tEx. 26; Gov'tPFF 44*).
11. Neither Mr. Mahdi nor OTS owns any property or liquid assets in the United States. (*Entire Administrative Record*).
12. At all relevant times, neither OTS nor Mr. Mahdi under his formal name or any of his aliases had an export license issued by the Department of Commerce or OFAC authorizing the export of oil field equipment from the United States to Iran. The

Respondents also had not applied for such a license. (*Tr. 215-17; Gov't Ex. 20; Gov't PFF 39*).

13. Mr. Mahdi served a 5 1-month sentence in Federal prison after pleading guilty to one count of conspiracy to export oil field equipment from the United States to Iran and Iraq between March 1997 and March 1998 without required export license and authorization in violation of the Export Administration Act and the Export Administration Regulations. (*Gov't Ex. 1-5; Tr. 110-125; Gov't PFF 6*).
14. Mr. Mahdi's older brother, Mahdik Mahdi owned and operated Zawana Trading & Marketing Establishment ("Zawana Trading") in Amman, Jordan. **The company** imports items into Jordan and exports the items to Iraq. (*Tr. 143; Gov't Ex. 1, at 6; Gov't Ex. 2, at 1; Gov't Ex 7, at 1; Gov't PFF 4*).
15. On February 28, 2003, Special Agent Gilfix of OEE performed a search for the name "Mahdi" on the Internet. The search revealed that on April 9, 2002, Respondent's brother Mahdik Mahdi in Amman, Jordan posted an advertisement soliciting bids for **140 tons of Alumina Based Catalyst** to be delivered to Tartuse, **Syria**. (*Tr. 260-62; Gov't Ex. 29*).

**B. Conspiracy to Export Oil Field Equipment from the United States to Iran via Canada**

16. In late 1996 or early 1997, Mr. Abdulmir Mahdi telephoned Brevard International Technical Services ("BITS") in Melbourne, Florida. BITS was owned and operated by Dr. John Strome, a Canadian citizen, who resided in Florida and who **was** the co-conspirator. Mr. Mahdi advised Dr. Strome that he was an oil field and industrial equipment broker with clients in the Middle East and that he was seeking a U.S.

company to serve **as** an exclusive supplier. (*Tr.* 136-38; *Gov't Ex. 1*, at 6; *Gov't Ex. 2*, at 18; *Gov't Ex. 6*, at 1; *Gov't PFF 5, 9*).

17. When Mahdi first initiated contact with BITS in late 1996 or early 1997, he was working on behalf of Tech-Link. Tech-Link was an oil field equipment broker but the company terminated operations in September 1997. After Tech-Link closed, Mr. Mahdi continued to transact business with BITS on behalf of OTS. (*Gov't Ex. 3* at 21; *Gov't Ex. 6*, at 1; *Gov't PFF 9-10*).
18. In October 1997, Dr. Strome and Mr. Mahdi met in Toronto, Canada to discuss the prospects **of** BITS serving as OTS's exclusive supplier **of** U.S. origin commodities to the Middle East. Under the business proposal, BITS would export to OTS products under the BITS brand name, OTS would sell the commodities to offshore end users, and the end users would obtain replacement parts from BITS through OTS. (*Tr.* 138, 243-44; *Gov't Ex. 6*, at 1-2; *Gov't PFF 10*).
19. A draft "Confidentiality and Non-Disclosure Exclusive Agreement" ("Agreement") dated November 1, 1997 between BITS and OTS was prepared. In the Agreement, BITS appointed **OTS as** its sole agent **of its** products in the Middle East, including Iran, Iraq, and Libya once the restrictions were lifted. However, the Agreement was never executed or otherwise signed by Mr. Mahdi or Dr. Strome **of** BITS. (*Tr.* 251-53; *Gov't Ex. 28*; *Gov't PFF 11*).
20. Mr. Mahdi sent a follow-up letter dated November 5, 1997 to Dr. Strome of BITS. The follow-up letter was on OTS stationary. The letter memorialized their agreement and listed nineteen countries that OTS was going to **try** to sell BITS products. The

countries were mostly in the Middle East. Iran and Iraq were both included in the list of countries. (*Tr. 241-242; Gov'tEx. 27; Gov'tPFF 12*).

21. Neither BITS nor Dr. Strome applied for or received authorization from OFAC to export from the United States to Iran or Iraq. (*Tr. 215-17; Gov'tEx. 20; Gov'tPFF 39*).
22. Although OTS and BITS never finalized their agreement in writing, their business relationship proceeded on the basis of a handshake and the list of countries provided by Mahdi in the November 5, 1997 letter. (*Tr. 253; Gov'tPFF 13*).
23. In late November or early December of **1997**, OEE initiated an investigation of BITS involving illegal export activities relating to Libya. (*Tr. 101-04*). Special Agent Gilfix of OEE obtained a federal search warrant and seized 25 to 35 boxes of business records belonging to BITS. (*Tr. 105-06; Gov'tEx. 6, at 2*). The BITS investigation led OEE to later investigate Respondents OTS and Mahdi for export violations. (*Tr. 103-04*).
24. Dr. Strome contacted Mr. Mahdi and advised him that **OEE** had visited BITS and taken some business records. Mr. Mahdi did not appear to be concerned **and** continued to **do** business with BITS. (*Tr. 106-07; Gov'tEx. 6, at 2*).
25. In September 1998, Dr. Strome visited Mahdi and his older brother Mahdik Mahdi in Canada. Mr. Mahdik Mahdi advised Dr. Strome that the Mahdi family was very affluent and owned homes near Saddam Hussein's palace in Baghdad. Mr. Madhik Mahdi further stated that the family conducted business with Iraq's elite, including ministerial and higher level staff. According to **Mr. Mahdik Mahdi**, the business relationship between OTS and BITS would prove to be prosperous once the embargo on Iraq was lifted. In the presence of Mr. Strome, Mr. Mahdik and Respondent Mahdi

reviewed files and drawings for projects in Iraq. The Mahdis also called Iraq to discuss projects. (*Tr. 253; Gov'tEx. 6, ut 2; Gov't PFF 14*).

26. From March 1997 through March 1999, Mr. Mahdi doing business as OTS submitted 117 Request for Quotations ("RFQ") to BITS. Of the 117 RFQs, a total of 42 requests were made on behalf of customers in Iran. Thirty-six requests were made on behalf of Zawana Trading, which OEE believes were transhipped by Mr. Mahdi's brother to Iraq. Mr. Mahdi requested quotations from numerous U.S. corporations and bought equipment from the lowest bidder. Since Dr. Strome was not always the lowest bidder, not all RFQs resulted in shipments **from** BITS through OTS to Iran. (*Tr. 224-26, 244-47; Gov'tEx. 21, 21A, 25; Gov't PFF 40-41*).

27. The RFQs submitted by OTS to BITS on behalf of customers in Iran included: a request for a quotation for parts for a Shaffer Agitator Shaft and Turbine submitted on December 8, 1997 under reference number 223-127-RSA by Mr. DiMarco of OTS on behalf of Razi Petrochemical; a request for quotation for parts for a Coppus Steam Turbine submitted on July 14, 1998 by Mr. DiMarco of OTS under reference number 463-078-ACT on behalf of **Arak** Petrochemical; and a request for quotation for a Coppus Steam Turbine submitted by Mr. DiMarco of OTS under reference number 529-088-ACO on behalf of **Arak** Petrochemical. (*Tr. 228-32; Gov'tEx. 22-25; Gov't PFF 42*).

### **C. The Export of Oil Field Equipment from the United States to Iran via Canada**

28. The business relationship between OTS and BITS involved Mr. Mahdi placing RFQs with BITS on behalf of Middle Eastern customers. Mr. Mahdi assigned an alphanumeric reference consisting of ten digits to each RFQ. The first letter in the

reference identified the end-user/prospective purchaser. (*Tr. 141; Gov'tEx. 7; Gov't PFF 10, 17*).

29. OTS's code for end-users/prospective purchaser was as follows: T = Kala Naft, Tehran, Iran (a subsidiary of National Iranian Oil Co.); K = Kala Naft, Canada; R = Razi Petrochemical, Iran (an affiliate of National Petrochemical Co.); A = **Arak** Petrochemical, Iran (an affiliate of National Petrochemical Co.); N = National Iranian Gas Company Iran; S = Saudi Arabia; M = Saudi Arabian medical end-users; and Z = Zawana Trading. (*Tr. 142-43, 150, 234; Gov'tEx. 7, 9.25; Gov'tPFF 17, 43*).

30. The last two letters represented the manufacturer or commodity. For example, GE represented General Electric and WP would represent water pumps. (*Gov'tEx. 7*).

1. The October 30, 1997 Export from the United States to Iran

31. On or about July 22, 1997, Mr. Mahdi submitted ~~an~~ irrevocable purchase order to Dr. Strome of BITS for \$41,695.46 worth of oil field equipment for a Halliburton cementing unit on OTS stationary. The reference number was 701-1320-TSI. Using OTS's established code, the "T" indicates that the end-user ~~was~~ Kala Naft, Tehran, Iran. The "SI" represents Smith International, a U.S. manufacturer. (*Tr. 148, 152; Gov'tEx. 8; Gov'tPFF 19*).

32. A BITS invoice dated July 23, 1997 memorialized the sale of \$42,356.56 worth of oil field equipment to OTS under reference number 701-1320-TSI. The equipment was to be shipped on October 29, 1997 to Danzas Canada, Limited ("Danzas"), a freight forwarder located in Ontario, Canada. (*Tr. 151; Gov'tEx. 10; Gov'tPFF 21*).

33. On October 30, 1997, Forward Logistics Group, Inc. ("Forward Logistics"), a freight forwarder acting on behalf of BITS, shipped the equipment purchased by OTS under

reference number 701-1320-TSI. The equipment was shipped to OTS in care of Danzas. Forward Logistics prepared the Shipper's Export Declaration ("SED") on behalf of BITS. Item 7 in the SED indicated that the country of ultimate destination was "Toronto." The true country of ultimate destination was Iran. Forward Logistics did not know the product would end in Iran. (*Tr. 156-60, 166-69; Gov't Ex. 11, 12; Gov't PFF 22-24*).

34. When Danzas received the commodities that were shipped on October 30, 1997, pursuant to Mr. Mahdi's directions, the oil field equipment was consolidated with other equipment OTS had purchased **from** another company located in Texas. All **of** the equipment **was** then sent to Iran via Cypress. In **an** effort to apply Canadian export law, the country of origin for the equipment was falsely identified as Canada. (*Tr. 153-55, 169-72, 177-78; Gov't Ex. 10; Gov't PFF 25-26*).

2. The February 2, 1998 Export from the United States to Iran

35. On October 23, 1997, Mr. Mahdi submitted **an** irrevocable purchase order to Dr.

Strome of **BITS** for \$69,478.20 worth of oil field equipment. **The** purchase order was prepared **on** OTS stationary. The reference number was 702-1360-TSI. (*Tr. 180; Gov't Ex. 6, at 4; Gov't Ex. 13; Gov't PFF 28*).

36. In January 1998, BITS sold approximately 845 parts for a Halliburton cementing unit to OTS under reference number 702-1360-TSI. (*Tr. 183-84; Gav't Ex. 6, at 4; Gov't Ex. 14*).

37. Mr. Mahdi hired **Pars** Maritime Cargo, Inc. ("**PCMI**") of Quebec, Canada to transport the parts via truck from BITS in Florida to Ontario, Canada. PCMI is the general sales

agent for Iran Air. PCMI picked up the parts from BITS on February 2, 1998. (*Tr. 185-187; Gov't Ex. 6, at 4; Gov't Ex. 14, 15; Gov't PFF 29-30*).

**D. The Attempt to Export Oil Field Equipment on March 17, 1999**

38. On April 21, 1998, Mr. DiMarco of OTS submitted an irrevocable purchase order under reference number 013-077-BTB to Dr. Strome of BITS. The reference number contained a typographical error. The true reference number was 013-077-TBT. (*Tr. 188, 191-93, 197-98; Gov't Ex. 6, at 4; Gov't Ex. 7, at 4; Gov't Ex. 16, 17; Gov't PFF 32*).
39. OTS ordered \$121,082.70 worth of extracting equipment used to remove broken drill heads from oil wells under reference number 013-077-TBT. The extracting equipment was to be manufactured by Bowen Tools, a U.S. manufacturer. Based on Madhi's transaction code, the end-user was Kala Naft, Tehran, Iran. (*Tr. 196-201, 206-208; Gov't Ex. 9, 16, 18A; Gov't PFF 32-33*).
40. On May 26, 1998, Mr. Mahdi, acting on behalf of OTS, wired \$16,082 in U.S. currency to BITS account. The money was a deposit for the equipment ordered under reference number 013-077-TBT. (*Tr. 189-91; Gov't Ex. 16, at 3; Gov't Ex. 17; Gov't PFF 34*).
41. In January 1999, Dr. Strome began cooperating with OEE investigators. (*Tr. 105-107*).
42. On or about March 4, 1999, Mr. Mahdi instructed Dr. Strome to export the equipment ordered by OTS under reference number 013-077-TBT to Industrial Engineering Inspection Company of Iran ("I.E.I.") for inspection. (*Tr. 201, 207, 210-15; Gov't Ex. 18A, at 3; Gov't Ex. 18, 19; Gov't PFF 35-36*).
43. Dr. Strome advised Special Agent Gilfix of OEE that Respondent had telephoned him from Canada and ordered that \$120,000 worth of oil field equipment be shipped and

inspected by an Iranian inspection company. At Special Agent Gilfix's behest Dr. Strome advised Mr. Mahdi that he would not export the equipment since they were destined for Iran. Instead, Mr. Mahdi agreed to meet Dr. Strome in Melbourne, Florida where the equipment could be inspected for Iran. (*Tr. 107-109*).

**44.** In the interim, Special Agent Gilfix obtained an arrest warrant from a federal magistrate judge in Orlando, Florida based on a criminal complaint alleging that Mr. Mahdi violated U.S. export laws and regulations. (*Tr. 109*).

45. In mid-March 1999, Mr. Mahdi flew to Florida to inspect the equipment for Iran. After inspecting and obtaining the oil field equipment ordered under reference number 013-077-TBT, Mr. Mahdi was arrested. (*Tr. 109, 202; Gov't PFF 37-38*).

## VI. ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Mr. Mahdi, **OTS**, and the subject matter ~~of~~ this proceeding are properly within the jurisdiction of the BIS in accordance with the Export Administration Act of 1979 (50 U.S.C. App. §§ 2401-2420) and the Export Administration Regulations (15 CFR Parts 730-774).
2. On the **basis** of an Order dated September 6, 2002, granting summary decision against Mr. Mahdi, Charge 1 relating to the conspiracy to export **oil** field equipment between March 1997 and April 1998 from the United States **to** Iran via Canada is found proved under the doctrine of collateral estoppel. (*Gov't PUFF 49-50, 56*),
3. BIS has established **by** a preponderance of the evidence that the Respondents violated Sections 746.7 and 764.2(a) of the EAR by exporting oil field equipment from the

- United States through Canada to Iran on October 30, 1997 and February 2, 1998 without obtaining prior authorization from OFAC. (*Gov't PUFF 51-53, 56*).
4. BIS has established by a preponderance of the evidence that the Respondents violated Sections 746.7 and 764.2(c) of the EAR by attempting to export oil field equipment from the United States through Canada to Iran on March 17, 1999 without obtaining prior authorization from OFAC. (*Gov't PUFF 54, 56*).
  5. BIS has established by a preponderance of the evidence that the Respondents violated Sections 764.2(g) of the EAR by making false and misleading statements of material fact on a Shipper's Export Declaration on October 30, 1997 that the country of ultimate destination of the oil field equipment was Canada, when, in fact, the true country of ultimate destination was **Iran**. (*Gov't PUFF 55, 56*).
  6. BIS has established by a preponderance of the evidence that the Respondents violated Sections 764.2(e) transferring and forwarding goods, on or about October 30, 1997, to Iran knowing the goods had been exported from the United States in violation of the EAR. (*Gov't PUFF 57*).
  7. Under the theory of respondeat superior, OTS is liable for the actions of Mr. Mahdi and the sole employee, Mr. DiMarco, who were both acting on behalf of the corporation and whose actions resulted in violations of the **EAA** and EAR. (*Gov't PUFF 49*).
  8. BIS has established that denial of export privileges for 20 years against Mr. Mahdi and OTS is justified and reasonable. (*Gov't PUFF 58*).

## VII. DISCUSSION

### A. Applicability Of The Export Administration Act And Regulations To Respondents

Throughout these proceedings, the Respondents have contended that BIS lacks jurisdiction. More specifically, Mr. Mahdi claimed that U.S. export laws do not apply to him as a Canadian citizen or **OTS** operating in Canada. This argument is rejected.

The authority delegated by Congress to the President **of** the United States under the EAA is extensive. The EAA gives the President authority to regulate or prohibit the export **of** goods, technology, and information “to the extent necessary to further the foreign policy **of** the United States or fulfill its international obligation.” See 50 U.S.C. App. § 2405(a)(1). The EAA also authorizes the President to regulate or prohibit the export **of** goods or technology in the interest of national security. See 50 U.S.C. App. §§ 2402(2)(A), 2404(a)(1). The statute makes clear that “[a]ny export control imposed under [the EAA] shall apply **to** any transaction or activity undertaken with the intent to evade that export control, even if that export control would not otherwise apply to that transaction or activity.”

In 1987, the President invoked import sanctions against Iran to “ensure that United States imports of Iranian goods and services will not contribute financial support to terrorism.” Exec. Order No. 12613, *reprinted in* 52 **Fed. Reg.** 41940 (Oct. 30, 1987). In 1995, the President declared a national emergency with respect to the actions and policies of the Iranian Government. See Exec. Order No. 12957, *reprinted in* 60 **Fed. Reg.** 14615 (Mar. 15, 1995). The President expanded the sanctions imposed against Iran to prohibit both import **of** Iranian-origin products and export of U.S. origin goods, technology, or services to **Iran**. See Exec. Order No. 12959, *reprinted in* 60 **Fed. Reg.** 24757 (May 6, 1995).

Exec. Order No. 12959 and its implementing regulations generally prohibit the exportation of any goods, technology or services from the United States to Iran without express authorization from OFAC. See 31 C.F.R. §§ 560.204, 560.501. This prohibition includes the exportation of any goods "to any person in a third country undertaken with knowledge or reason to know that such goods . . . are intended specifically for supply, transshipment, or reexportation, directly or indirectly, to Iran or the Government of Iran." See 31 C.F.R. § 560.204(a).

Section 746.7 of the EAR incorporates the OFAC's Iran Transactions Regulations by reference. It provides: "No person may export or reexport items subject to both the EAR and OFAC's Iranian Transactions Regulations without prior OFAC authorization." 15 C.F.R. § 746.7. The term "export" means the "actual shipment, transfer or transmission of goods or technology out of the United States; [the] transfer of goods or technology in the United States to an embassy or affiliate of a controlled country; or a transfer to any person of goods or technology either with the knowledge or intent that the goods or technology will be shipped, transferred or transmitted to an unauthorized recipient." 50 U.S.C. App. § 2415(5); see also 15 C.F.R. § 734.2(b)(1). The term "reexport" means "an actual shipment or transmission of items subject to the EAR from one foreign ~~country~~ to another foreign country." 15 C.F.R. § 734.2(b)(4). BIS has authority to exercise regulatory jurisdiction over all items subject to the **EAR**. 15 C.F.R. § 734.2(a)(1). The regulations clearly provide that "[a]ll U.S. origin items wherever located" are subject to the EAR. 15 C.F.R. § 734.4(a)(2),

From the plain language of the export laws and regulations, it is clear that the EAA and EAR were intended to apply extraterritorially regardless of a person's nationality or locality so long as U.S. origin items are involved. Counsel for BIS accurately pointed out that the EAA and EAR have **an in rem** basis, applicable to "goods . . . subject to the jurisdiction of the United

States.” Thus, it is immaterial that Mr. Mahdi is a naturalized Canadian citizen, OTS was a Canadian corporation, and some of the activities occurred in Canada. To hold otherwise would contravene existing law and regulation, and would undermine the effectiveness of the EAA and the EAR.

### **B. Violations Of The Export Administration Act And Regulations**

While Mr. Mahdi refused to participate in much of the hearing and did not contest much of the evidence presented, the burden **of** proof remains on the Agency to prove the allegations in the charging letter by reliable, probative, and substantial evidence. See 5 U.S.C. § 556(d). The Supreme Court has held that 5 U.S.C. § 556(d) adopts the traditional preponderance of the evidence standard of proof. Steadman v. S.E.C., 450 U.S. 91, 102 (1981). **To** prevail, BIS must establish that it is more likely than not that the Respondents committed the violations alleged in the charging letter. See Herman & Maclean v. Huddleston, 459 U.S. 375,390 (1983). In other words, the Agency must demonstrate “that the existence of a fact is more probable than its nonexistence.” Concrete Pipe & Products v. Construction Laborers Pension Trust, 508 U.S. 602, 622 (1993). To satisfy the burden **of** proof, **BIS** may rely on direct and/or circumstantial evidence. See generally Monsanto Co. v. Spray-Rite Serv. Corp., 465 U.S. 752,764-765 (1984).

Here, the Agency has produced quantum evidence, including witness testimony and documentary evidence, which establish that Respondents Mahdi and **OTS** violated the Sections 746.7 and 764.2 of the EAR. It is well settled that a corporation can be held liable for the actions of its officers and employees committed within the **scope** of employment and in furtherance **of** the employer’s business. See United States v. Bi-Co Pavers, Inc., 741 F.2d 730,737 (5<sup>th</sup> Cir. 1984); United States v. Sherpix, 512 F.2d 1361, 1367n. 7 (D.C. Cir. 1975). The doctrine **of** respondeat superior is applicable in export cases.

1. Conspiracy to Obtain Oil Field Equipment from the United States

Respondent Mahdi and the corporate respondent, OTS, have been charged in Count 1 with conspiracy to export goods to Iran in violation of section 746.7 of the EAR. The conspiracy regulations provide: “No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the EAA, the EAR, or any other order, license or authorization issued thereunder.” 15 C.F.R. § 764.2(d). To succeed under section 764.2(d), the Agency must establish that: 1) two or more persons formed an agreement to violate the EAA or EAR; 2) the respondent knowingly participated in the conspiracy; and 3) an overt act was committed in furtherance of a common scheme. See generally 50 U.S.C. App. § 2410(a). The conspiracy charge with respect to Mr. Mahdi has already been found proved on the basis of collateral estoppel.

On September 6, 2002, summary decision was entered against Mr. Mahdi on Charge 1 on the basis of collateral estoppel arising from the guilty plea in the criminal proceeding. The evidence shows that between March 1997 and April 1998, Mr. Mahdi was acting on behalf of OTS when he entered into business arrangements with Dr. Strome of BITS to provide U.S. origin oil field equipment to customers in Iran. (*Tr.* 138, 241-44, 251-53; *Gov’t Ex.* 3, *ut* 21; *Gov’t Ex.* 6, *ut* 1-2; *Gov’t Ex.* 27-28; *Gov’t PFF* 9-12, 14; *Gov’t PUFF* 49). Mr. Mahdi and Mr. DiMarco took several actions in furtherance of the conspiracy by submitting approximately 117 RFQs to BITS on behalf of customers in Iran. (*Tr.* 224-26, 244-47; *Gov’t Ex.* 21, 21A, 25; *Gov’t PFF* 40-41; *Gov’t PUFF* 49). The mere fact that RFQs submitted to BITS did not all result in shipments from BITS through OTS to Iran is not crucial. Conspiracy is an inchoate offense that can be committed regardless of whether object of the venture is achieved. See United States v. Plummer, 221 F.3d 1298, 1306 (11<sup>th</sup> Cir. 2000); see also Iannelli v. United States, 420 U.S. 770,

777 (1975). Since Mr. Mahdi and DiMarco's activities were performed within the scope of employment and in furtherance of OTS's business, the violations of section 764.2(d) are attributable to **OTS**.

## 2. Unauthorized Export from the United States to Iran

Charges 2 and 3 allege that the Respondents violated section 764.2(a) by unlawfully exporting oil field equipment from the United States to Iran through Canada without obtaining prior authorization from OFAC on October 30, 1997 and February 2, 1998. Both charges are found proved. The relevant regulation prohibits any person from engaging in "any conduct prohibited by or contrary to . . . the EAA [or] the EAR." 15 C.F.R. § 764.2(a). As previously stated, section 746.7 prohibits any person from exporting or reexporting **goods** to Iran without prior OFAC authorization.

The administrative record clearly establishes that neither BITS, nor OTS, nor Mr. Mahdi under any of his names, had applied for or received OFAC authorization to export from the United States to Iran. (*Tr. 215-17; Gov't Ex. 20; Gov't PFF 39*). Absent **OFAC** authorization, the export of goods to Iran constitutes a violation of the EAA and its underlying regulations.

The facts show that, in response to an irrevocable purchase order containing reference number 701-1320-TSI submitted by Mr. Mahdi, Dr. Strome of BITS sold \$42,356.56 **worth of U.S.** manufactured oil field equipment to **OTS**. The oil field equipment was exported to **OTS's** freight forwarder, Danzas, located in Ontario, Canada. (*Tr. 148, 152, 156-60, 166-69; Gov't 8, 11, 12; Gov't PFF 19, 22-24*). The "T" in the reference number indicates that the end-user was Kala Naft, Tehran, Iran. (*Tr. 148, 152; Gov't 8; Gov't PFF 19*). Pursuant to Mr. Mahdi's directions, the oil field equipment was consolidated with other OTS equipment and exported to Iran via Cypress. (*Tr. 153-55, 169-172, 177-78; Gov't Ex. 10; Gov't PFF 25-26*). Further, **to**

evade detection and so that Canadian law would apply, the **country** of origin for the products was identified as Canada when the true country of origin was the United States. **Id.**

The law contemplates that transfer of U.S. origin goods from one foreign country to another foreign country falls within the purview of the EAA and its underlying regulations. **See** 50 U.S.C. App. § 2415(5); **see also** 15 C.F.R. § 734.2(b). Thus, Mr. Mahdi's actions constitute a violation of section 764.2(a) on October **30**, 1997 as described in Charge 2. Since the export to Iran was performed in furtherance of OTS's business, the corporate respondent is equally liable for the violation of section 764.2(a).

The Respondents are also liable for violating section 764.2(a) on February 2, 1998 as described in Charge 3. The evidence shows that, in response to purchase 702-1360-TSI, **Dr. Strome** of BITS sold \$69,478.20 worth of **U.S.** manufactured oil field equipment to OTS. (*Tr. 180-184; Gov't Ex. 6, ut 4; Gov't Ex. 13, 14; Gov't PFF 28*). Mr. Mahdi hired Pars Maritime Cargo, Inc., a general sales agent for Iran Air, to pick up the equipment from BITS in Florida and export it on February 2, 1998. (*Tr. 185-187; Gov't Ex. 6, ut 4; Gov't Ex. 14, 15; Gov't PFF 29-30*). Although no direct evidence was presented showing that the equipment was subsequently exported to Iran, there is sufficient circumstantial evidence that the equipment was exported to Iran.

### **3. Soliciting or Attempting an Unauthorized Export from the United States to Iran**

Charge 4 is also proved. Section 764.2(c) prohibits any person from soliciting or attempting to violate the EAA or the **EAR**. Solicitation is defined as "asking another person to commit an offense." In the Matter of the Sound You Company, Ltd. and Yuzo Oshima, 58 Fed. Reg. 60593, 60597 (Nov. 17, 1993). "For the offense of solicitation to be completed, the [respondent] must entice, advise, incite, order or otherwise encourage another **to** commit **an**

offense.” Id. Like conspiracy, it is not necessary that the unlawful offense to actually be completed in order to find the charge of solicitation proved. Id.

Attempt is another inchoate crime, like conspiracy and solicitation, which “can be committed regardless of whether the objective of the venture is achieved.” Plummer, 221 F.3d at 1306. Attempt consists of: 1) an intent to engage in an unlawful activity; and 2) an overt act committed in furtherance of the unlawful activity. See generally 21 **Am.** Jur. 2d, Criminal Law § 175 (2003). Preparation alone or a mere statement of one’s intent to commit an unlawful activity is not enough to constitute an attempt; rather the respondent must engage in some appreciable overt act. Id. at § 177.

Here, the activities of Mr. Mahdi and OTS go beyond mere preparation. By soliciting Dr. Strome of BITS, on March 4, 1999, to export \$120,00 worth of oil field equipment ordered by OTS under reference number 013-077-TBT to Industrial Engineering Inspection Company of Iran for inspection, Mr. Mahdi and OTS violated section 764.2(c). (*Tr.* 107-09, 201, 207, 210-15; *Gov’t Ex. 18A, ut 3; Gov’t Ex. 18, 19; Gov’t PFF 35-36*). Mr. Mahdi and OTS violated section 764.2(c) again in mid-March when Mahdi went to Florida to inspect and obtain the oil field equipment ordered under reference 013-077-TBT because Dr. Strome refused to export the equipment to Iran. (*Tr.* 107-09, 202; *Gov’t PFF 37-38*). Although the Respondents committed two distinct counts of violations of 764.2(c), BIS has charged them with a single count. That count is found proved.

#### 4. Making a False Statement on a Shipper’s Declaration

Charge 5 is also found proved. Section 764.2(g) prohibits any person from making a misrepresentation or false statement of any material fact on any export control document. See 15 C.F.R. § 764.2(1)(ii). A SED qualifies as an export control document. See 15 C.F.R. § 772.1.

The Agency charges Respondents Mahdi and OTS with making a false and misleading statement of material fact on an SED on October 30, 1997. The SED falsely stated that the country of ultimate destination of the oil field equipment ordered in reference number 701-1320-TSI was Toronto. However, the true **country** of ultimate destination was Iran. Neither OTS nor Mr. Mahdi prepared the SED on October 30, 1997. Forward Logistics prepared the SED as directed by Dr. Strome. (*Tr. 156-60, 166-69; Gov't Ex. 11, 12; Gov't PFF 22-24*). BIS relies on *Pinkerton v. United States*, 328 U.S. 640 (1946), to hold Mr. Mahdi and OTS liable for the violation of section 764.2(g).

The Agency's argument is well taken. In *Pinkerton*, the Supreme Court held that a participant in a conspiracy is liable for the substantive offenses committed by co-conspirators in furtherance of the common objective. 328 U.S. at 645-48. In this case, Forward Logistics prepared the **SED** containing false information of material fact regarding the country of ultimate destination. Forward Logistics prepared the SED as directed by Dr. Strome. The preparation of the false SED was within the scope of the conspiracy, and in a manner reasonably foreseeable by Respondents **OTS** and Mahdi as a natural consequence of the conspiracy. Accordingly, the violation of section 764.2(g) is attributable to OTS and **Mr.** Mahdi even though the Respondents did not actually prepare the **SED**.

##### 5. Knowingly Violating the **Export** Administration Regulations

The final charge is also found proved. Charge 6 alleges that Mr. Mahdi and OTS violated section 764.2(e) by transferring and forwarding goods from Canada to Iran on or about October 30, 1997 knowing those goods had been exported from the United States in violation of the EAR. Section 764.2(e) prohibits any person from transferring, transporting, or forwarding "any item

exported or to be exported from the United States, or that is otherwise subject to the EAR, with knowledge that a violation of the EAA [or] the EAR . . . has occurred.” 15 C.F.R. 764.2(e).

The evidence shows that Mr. Mahdi knew of the United States’ embargo against Iran, which restricted the export of U.S. commodities to Iran. (*Gov’t Ex. 3, at 26-27; Gov’t PFF 27*). As a matter of fact, during the Change of Plea Proceedings before the United States District Court for the Middle District of Florida (Honorable Anne C. Conway) in Orlando, Florida on August 24, 1999, Mr. Mahdi testified that he knew that Dr. Strome could not lawfully export the goods to Iran without the assistance of Mahdi and OTS. (*Gov’t Ex. 3, at 27-28*). This knowledge is imputed to OTS, on whose behalf Mr. Mahdi was acting, See generally In re: Hellenic, Inc., 252 F.3d 391, 395 (5<sup>th</sup> Cir. 2001)(“An agent’s knowledge is imputed to the corporation where the agent is acting within the scope of his authority and where the knowledge relates to matters within the scope of that authority . . . [C]ourts generally agree that the knowledge of directors or key officers, such as the president and vice president, is imputed to the corporation).

The facts further show that Danzas shipped the oil field equipment ordered by OTS under reference number 701-1320-TSI to Iran via Cypress. (*Tr. 153-55, 169-72, 177-78; Gov’t Ex. 10; Gov’t PFF 25-26*). Moreover, so that Canadian export law would apply, the country of origin for the equipment was falsely identified as Canada. Id. The true country of origin was the United States. These activities constitute a violation of section 764.2(e) for which Mr. Mahdi and OTS are liable.

**VIII.**  
**REASON FOR THE SANCTION**

Based on the number and gravity of the offenses and the fact that it appears that Mr. Mahdi and **OTS** may resume efforts to make unauthorized exports from the United States, the Agency's proposed sanction of denial of **U.S.** export privileges for 20 years is deemed appropriate.

There is an on-going war against terrorism. The events of September 11, 2001 reveal that international terrorism is a real threat to the national security of the United States. To limit and curtail the financial support of terrorism, the United States established an embargo against Iran. The Respondents circumvention of the embargo by exporting goods destined for Iran through Canada cannot be tolerated. The facts show that in order to achieve their objective Respondents made false statements, or caused false statements to be made, on various export documents in the United States and in Canada. The facts also show that BITS was not the only U.S. company that had business dealings with OTS. Mr. Mahdi and **OTS** solicited quotations on behalf of customers in Iran and other Middle Eastern countries from a number of **U.S.** companies and bought equipment from the lowest bidder. (*Tr. 224-25, 244-47; Gov't Ex. 21, 21A, 25; Gov't PFF 40-41*). As Agency counsel correctly points out, Respondents efforts were extensive and far-reaching.

The value of the goods actually exported and those that Respondents attempted to **export** exceeded **\$232,834**. Dr. Strome, Mr. Mahdi, and Mahdik Mahdi all perceived that the business venture was lucrative and could prove to be prosperous. (*Tr. 253; Gov't Ex. 6, at 2; Gov't PFF 14*). As recent as April 2002, BIS learned that Mr. Mahdi's brother in Amman, Jordan posted an advertisement soliciting bids for a certain type of catalyst. (*Tr. 260-62; Gov't Ex. 29*). The record shows that Mr. Mahdi's brother, owner of Zawana Trading, had been instrumental in

facilitating the unauthorized export of equipment to Middle Eastern countries such as Iraq. (*Tr.* 178, 224-26, 236-238, 244-47, 253; *Gov't Ex. 6, at 6; Gov't Ex. 21, 21A, 25, 26; Gov't PFF 14, 40-41, 44*). The Agency notes that Mr. Mahdi and OTS are well positioned in Canada where the export laws are less stringent with respect to **Iran**. By the same token U.S. export laws concerning Canada are minimal. Thus, Respondents have **an** opportunity to resume their efforts if they so choose.

In order to deter such actions and prevent Respondents from committing future violations of the EAA and EAR, a significant denial order is not only warranted. It is justifiable. Agency counsel has established that a 20-year order denying export privileges is not without precedent. See In the Matter of Miguel Angel Faiardo, 66 Fed. Reg. 30162 (**Jun.** 5, 2001); In the Matter of Fawzi Mustapha Assi, 64 Fed. Reg. 40816 (Jul. 28, 1999); In the Matter of Ian Ace, 62 Fed. Reg. 43505 (Aug. 14, 1997).

The Recommended Decision and Order is being referred to the Under Secretary for review **and** final action. **As** provided by Section 766.17(b)(2) of the EAR, the recommended decision and order is being served by express mail. Because the Under Secretary must review the decision in a short time frame, **all** papers filed **with** the ~~Under~~ Secretary in response to **the**

recommended decision and order must be sent by personal delivery, facsimile, express mail, or other overnight carrier as provided in Section 766.22(a) of the EAR. Submissions by the parties must be filed with the Under Secretary for Export Administration, Bureau of Industry and Security, U.S. Department of Commerce, Room H-3898, 14<sup>th</sup> Street and Constitution Avenue, N.W., Washington, D.C. 20230, within 12 days from the date of issuance of this Recommended Decision and Order. Thereafter, the parties have eight days from receipt of any response(s) in which to submit replies.

Within 30 days after receipt of this Recommended Decision **and** Order, the Under Secretary shall issue a written order, affirming, modifying or vacating the recommended decision **and order**. See 15 C.F.R. § 766.22(c).

  
PETER A. FITZPATRICK  
ADMINISTRATIVE LAW JUDGE  
NORFOLK, VIRGINIA

Done **and** dated August 26, 2003 at  
**Norfolk**, Virginia

**ATTACHMENT A  
EXHIBIT LIST**

**A. Judge's Exhibit**

- Judge's Ex. 1                      Memorandum to File dated 24 April 2003 from Lucinda Shinault, Paralegal to the Administrative Law Judge
- Judge's Ex. 2                      Return to Sender Letter dated April 21<sup>st</sup>, 2002<sup>9</sup>

**B. Government Exhibit**

- Gov. Ex. 1A                      Canadian Department of Justice ("DOJ") Facsimile Memorializing Shipment of Boxes of Exhibits and Receipt thereof by Mr. Mahdi – *Ruling on admissibility reserved*<sup>10</sup>
- Gov. Ex. 1B                      Copy of envelope **from** Mr. Mahdi d/b/a OTS Refining Equipment Corporation addressed to the Bureau of Industry & Security – *Ruling on admissibility reserved*
- Gov. Ex. 1                      Two Count Criminal Indictment Filed in the United States District Court, Middle District of Florida, Orlando Division on June 15, 1999
- Gov. Ex. 2                      Plea Agreement between U.S. Attorney **and** Mr. Mahdi Filed in the United States District Court, Middle District of Florida, Orlando Division on Aug 24, 1999
- Gov. Ex. 3                      Transcript of Change of Plea Proceedings Before the Honorable Anne C. Conway, United States District Judge in **the** United States District Court, Middle District of Florida, Orlando Division on August 24, 1999
- Gov. Ex. 4                      Transcript of Sentencing Proceedings Before the Honorable Anne C. Conway, United States District Judge in the United States District Court, Middle District of Florida, Orlando Division on November 19, 1999
- Gov. Ex. 5                      Judgment & Sentencing Order in United States v. Abdulmir

---

<sup>9</sup> J. **Khan** signed for the Federal Express package on 4/17/2003. Thus, the unidentified correspondent incorrectly dated the return to sender letter. The true date is April 21, 2003.

<sup>10</sup> Ruling of admissibility on Government's Exhibits 1A and 1B were reserved pending service of those documents on Respondent. Notice of Service of those exhibits was sent May 14, 2003 so those Exhibits **are** Admitted.

- Mahdi, 99-128-CR-ORL-22B(Filed Nov. 22, 1999)
- Gov. Ex. 6 Statement of John Strome, President of Brevard International Technical Services, Inc. (BITS) dated 1/29/99
- Gov. Ex. 7 Report of Investigative Activity and Miranda Warning/Waiver signed by Abdulmir Mahdi dated 04-20-99
- Gov. Ex. 8 OTS Irrevocable Purchase Order 701-1320-TSI from Mahdi to BITS
- Gov. Ex. 9 Description of Kala Nafi Company downloaded from website <http://www.kalanaft-tehran.com/Introduction.htm> on 02/13/03
- Gov. Ex. 10 BITS Invoice Document Number 004325
- Gov. Ex. 11 Airway Bill MAWB# 014-81327750 dated 10/30/1997
- Gov. Ex. 12 Shippers **Export** Declaration 10/30/1997
- Gov. Ex. 13 OTS Irrevocable Purchase Order 702-1360-TSI from Mahdi to BITS
- Gov. Ex. 14 Bill from PARS Maritime Cargo Inc. to OTS Invoice No. 5285 dated 02/02/98
- Gov. Ex. 15 Information on **PARS** Maritime Cargo Inc. downloaded from website <http://www.openface.ca/~pars/main.html> on 1/19/99
- Gov. Ex. 16 OTS Irrevocable Purchase Order 013-077-BTB to BITS<sup>11</sup>
- Gov. Ex. 17 Royal Bank of Canada **Funds** Transfer dated 27 May 1998
- Gov. Ex. 18A Kala Naft Co. Tehran Purchase Order No. 08-70-264575-DO1 dated 19/04/98
- Gov. Ex. 18 Notes of Telephone Conversations between Mr. Strome and Mr. Mahdi on 3/4/99 at 11:50AM taken by Mr. Strome
- Gov. Ex. 19 Website Printout with Information about Industrial & Engineering Inspection *Co.* of Iran ("IEI")
- Gov. Ex. 20 Letter dated Aug 24,2000 from Office of Foreign Assets

---

<sup>11</sup> The purchase order reference number contains a typographical error. The true purchase order reference number is 013-077-TBT.

Control (“OFAC”) to Bureau of Export Administration<sup>12</sup>

i

- Gov. Ex. 21 Report of Investigative Activity dated August 25, 2000  
Containing an Itemized List of Request for Quotations from  
Mahdi to BITS.
- Gov. Ex. 21A Information Extracted from Gov. Ex. 21 According to the  
Explanation Provided by Respondent Mahdi in Gov. Ex. 7
- Gov. Ex. 22 OTS Request for Quotation 223-127-RSA to BITS
- Gov. Ex. 23 OTS Request for Quotation 463-078-ACT to BITS
- Gov. Ex. 24 OTS Request for Quotation 529-088-ACO to BITS
- Gov. Ex. 25 Information on National Petrochemical Company downloaded  
from website <http://www.nioc.net/> on 2/13/03
- Gov. Ex. 26 Report of Investigative Activity dated August 30, 2000  
summarizing Request for Quotations
- Gov. Ex. 27 OTS Letter to Dr. Strome of BITS dated Nov. 5, 1997  
Identifying Countries Mahdi Sells To
- Gov. Ex. 28 Draft Confidentiality and Non-Disclosure Exclusive  
Negotiations Agreement dated 11/1/97
- Gov. Ex. 29 Request for Quotation on Alumina Based Catalyst Posted by  
M.K. Mahdi on 04/09/02 downloaded from website  
<http://nlobalcatalvst.com/forum.mv?command=showthread&forum+catalyst&post+000004>

---

<sup>12</sup> Now referred to as the Bureau of Industry & Security (“BIS”).

**ATTACHMENT B****Rulings on the Bureau's Proposed Findings of Fact  
And Conclusions of Law and Proposed Ultimate Findings of Fact  
And Conclusions of Law**

On July 10, 2003 and Bureau of Industry and Security **filed** a Post-Hearing Submission. That pleading included both Proposed Findings of Fact and Conclusions of Law (pp 11-26) and Proposed Ultimate Findings of Fact and Conclusion of Law (pp 26-33). The rulings on **those** proposals are set out below.

**A. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Mr. Abdulamir Mahdi is a Canadian citizen and a resident of Ontario, Canada. **Govt. Ex. 2** at 16; **Govt. Ex. 3** at 20, lines 9-12.

**RULING: ACCEPTED AND INCORPORATED.**

2. Mr. Abdulamir Mahdi is also known **as**, and conducts business using the names, Amir Mahdi and Jasin Khafaf. **Govt. Ex. 2** at 1; May 13 **Tr.** at 100-01.

**RULING: ACCEPTED AND INCORPORATED.**

3. From October 1995 through March 17, 1999, **Mr. Mahdi was** the sole owner **and** operator of **OTS Refining Equipment Corporation (OTS)** in Markham, Ontario, Canada, the business of which included exporting spare **parts** for oil field equipment to Middle Eastern countries. Respondent's Motion for Denial of Bureau of Industry and Security's Motion for Summary Decision ("Respondent's Motion for Denial") at **4**; **Govt. Ex. 2** at 16; **Govt. Ex. 3** at 20, lines 20-25.

**RULING: ACCEPTED AND INCORPORATED.**

4. From at least March 1997 to at least April 2002, s brother, Mahdik Mahdi, owned and operated the Zawana Trading and Marketing Establishment (Zawana) in Amman, Jordan, which shipped items from Jordan to Iraq. **Govt.** Ex. 2 at 17; **Govt.** Ex. 7 at 1; **Govt.** Ex. 6 at 2-3; May 13 Tr. at 143, line 9 to 144, line 5.

**RULING: ACCEPTED.** Although the cited materials do not support the statement, the record as a whole does support the factual assertions.

5. From at least late 1996 to at least March 1999, Brevard International Technical Services (BITS), located in Melbourne, Florida, and operated by John R. Strome, was a supplier of parts for oil field equipment. Respondent's Motion for Denial at 8; **Govt.** Ex. 2 at 17.

**RULING: ACCEPTED AND INCORPORATED.**

6. On or about August 24, 1999, Mr. Mahdi pled guilty in the United States District Court, Middle Division of Florida, No. 6:99-CR-128-ORL-22DAB, to a criminal conspiracy to make unauthorized exports of U.S. origin oil field and industrial equipment from the United States to Iraq and Iran. Judgment was entered against **Mr.** Mahdi, who **was** sentenced to 51 months imprisonment. **Govt.** Exs. 1-5; May 13 Tr. at 110, line 1 to 120, line 11; **id.** at 124, line 14 to 125, line 9. [Charge 13

**RULING: ACCEPTED AND INCORPORATED.**

7. The record of the criminal proceeding against Mr. Mahdi, including his admissions therein, shows that OTS was involved in the conspiracy to which Mr. Mahdi pled guilty. **Govt.** Ex. I at 5, paragraph 12 ("It was the purpose of this conspiracy for defendant MAHDI, to enrich and benefit himself and others by offering to sell and selling United States origin oil field and industrial equipment through Tech-Link and OTS in Canada to Iran and Iraq"); **id.** at paragraph 13 ("It was further part of the ~~manner~~ and means of this conspiracy that defendant MAHDI

arranged . . .for OTS to import United States origin oil field and industrial equipment” into Canada); **Govt. Ex. 2** at 13, paragraph 9, at 18, paragraphs 12 and 13 (in plea agreement, Mr. Mahdi certified that these facts were true); May 13 Tr. at 110, line 8 to 119, line 10. [Charge 1]

**RULING: ACCEPTED AND INCORPORATED.**

8. The record of the criminal proceeding against Mr. Mahdi, including his admissions therein, shows that BITS and Mr. Strome were involved in the criminal conspiracy to which Mr. Mahdi pled guilty. In a separate proceeding, Mr. Strome also pled guilty to a charge of criminal conspiracy. **Govt. Ex. 1** at 6-8, paragraphs 15a-i, 15l-t, 15v (“overt acts” of the conspiracy involving Mr. Strome or BITS); **Govt. Ex. 2** at 13, paragraph 9, at 18-22, paragraphs 15-23, 26-34, 36 (in plea agreement, **Mr. Mahdi** certified that these facts were true); May 13 Tr. at 125, lines 11-25. [Charge 13]

**RULING: ACCEPTED AND INCORPORATED.**

9. In late 1996 or early 1997, **Mr. Mahdi** contacted Mr. Strome to discuss whether **BITS** would supply parts for oil field equipment to Mr. Mahdi for him to provide to customers, some of whom were in the Middle East. At this time, **Mr. Mahdi** presented himself to Mr. Strome as doing business as Tech-Link Development Corporation (Tech-Link). Respondent’s Motion for Denial at 8; **Govt. Ex. 2** at 18, paragraph 15; **Govt. Ex. 6** at 1; May 13, 2003 Tr. at 136, line 20 to 138, line 1. [Charge 1]

**RULING: ACCEPTED AND INCORPORATED.**

10. **Mr. Strome** met with Mr. Mahdi in or about October 1997 in Toronto, Canada. By this time, Mr. Mahdi had stopped doing business as Tech-Link and was doing business with Mr. Strome as OTS. At this meeting, they discussed entering into **an** arrangement in which BITS

would serve as OTS's exclusive supplier of United States origin commodities. Under the proposed arrangement, BITS would ship products manufactured under BITS's name brand to OTS in Canada, BITS would sell the products to customers overseas, and the customers would be obligated to obtain replacement parts from BITS through OTS. In fact, the business arrangement that they were able to pursue involved OTS and Mr. Mahdi placing requests for quotation and orders with BITS on behalf of overseas customers, and BITS supplying products manufactured by other suppliers to Mr. Mahdi and OTS. **Govt. Ex. 2** at 19, paragraph 18; **Govt. Ex. 6** at 1-2; May 13 Tr. at 161, lines 6-16; **id.** at 138, lines 2-18; **id.** at 241, line 20 to 245, line 12. [Charge 13

**RULING: ACCEPTED AND INCORPORATED.**

11. On or about November 1, 1997, Mr. Mahdi and Mr. Strome exchanged a draft agreement between BITS and OTS, describing the proposed arrangement. **Govt. Ex. 28**; May 13 Tr. at 250, line 24 to 253, line 7. [Charge 13

**RULING: ACCEPTED AND INCORPORATED.**

12. On or about November 5, 1997, Mr. Mahdi, on behalf of OTS, sent a memorandum to Mr. Strome at BITS, which stated: "Further to our various discussions and meetings in Toronto regarding the agency agreement, name (sic) of countries are listed below." A list of 19 countries, mostly in the Middle East, followed. These countries included Iraq and Iran. **Govt. Ex. 2** at 19, paragraph 21; **Govt. Ex. 27**; May 13 Tr. at 240, line 19 to 241, line 19. [Charge 13

**RULING: ACCEPTED AND INCORPORATED.**

13. Although Mr. Strome and Mr. Mahdi did not memorialize their agreement in a final document, they proceeded on the basis of a “handshake” agreement. May 13 Tr. at 253, lines 10-19. [Charge 1]

**RULING: ACCEPTED AND INCORPORATED.**

14. Mr. Strome met with **Mr.** Mahdi in Canada again in or about September 1998. On this occasion, Mr. Strome met Mahdik Mahdi. Mr. Strome was told that Mahdik Mahdi was well-connected politically and commercially in Iraq. In Mr. Strome’s presence, Mahdik Mahdi **and** Abdulmir Mahdi reviewed files and drawings for projects in Iraq and called Iraq to discuss such a project. **Govt. Ex. 2** at 19, paragraph 20; **Govt. Ex. 6** at 2-3; May 13 Tr. at 253, line 25 to 256, line **18**. [Charge 13]

**RULING: ACCEPTED AND INCORPORATED.**

15. Mr. Strome began to cooperate with the investigation of OTS and Mr. Mahdi in January of 1999. Throughout 1998, Mr. Strome, through counsel, was negotiating with the United States Attorney’s Office in Orlando, Florida regarding the terms of a possible guilty plea and agreement to act as a cooperating witness. During this negotiating period in 1998, Mr. Strome continued to do business with Mr. Mahdi and OTS. May 13 Tr. at 105, line 25 through 107, line 1. [Charge 1]

**RULING: ACCEPTED AND INCORPORATED.**

16. Mr. Mahdi has repeatedly admitted shipping United States **origin** items obtained from Mr. Strome and BITS **to** Iran via Canada. These admissions include:

- a. Referring to paragraph 11 on page 17 of his plea agreement (**Govt. Ex. 2**), Mr. Mahdi testified under oath at his change **of** plea proceeding: “So basically, what I’m

trying to say is shipment to Iran, yes, we did ship, I did ship to Iran knowingly, that it is going to Iran. And I knew there was an embargo, United States embargo against Iran.”

**Govt. Ex. 3** at 22, lines 22-24. “Your Honor, we did ship goods to Iran. And I knew there was a U.S. embargo.” *Id.* at 26, lines 14-15.

b. Referring to the same paragraph 11 at his sentencing proceeding, Mr. Mahdi testified under oath: “I pled to item 11 and shipping to Iran, yes. We did ship to Iran, true. . . . I’m trying to, what I’m saying I did ship goods to Iran from Canada.” **Govt. Ex. 4** at 16, lines 6-7, 11-12. “[Mr. Strome] was using me to sell to Iran.” *Id.* at 61, lines 2-3.

**RULING: ACCEPTED AND INCORPORATED.**

17. OTS and Mr. Mahdi used a system for assigning reference numbers to the requests for quotations they placed with BITS and other suppliers. This numbering system used the first letter in a reference number to identify the customer for whom the request for quotation was placed. Specifically, the initial letter T indicated the Kala Nafi Company (Kala Naft) in Tehran, Iran; the initial letter R indicated the Razi Petrochemical Company in Iran; the initial letter A indicated the Arak Petrochemical Company in Iran; the initial letter N indicated the National Iranian Gas Company in Iran; and the initial letter Z indicated Zawana, the firm operated by Mahdik Mahdi in Amman, Jordan. The next two letters in the reference number could refer to a specific manufacturer or a type of commodity. **Govt. Ex. 7**; May 13 Tr. at 140, line 16 to 143, line 8.

**RULING: ACCEPTED AND INCORPORATED.**

18. Mr. Mahdi has admitted that items he ordered for customers in Iran were intended to go to Iran from the earliest stage of the transaction. Respondent's Motion for Denial at 15 ("Mr. Mahdi informed his suppliers of the fact that the requested goods were destined for Iran right from the inquiry stage" and disclosed "to John Strome of Brevard in the United States (supplier/manufacturer) that the equipment was destined for Iran.").

**RULING: ACCEPTED AND INCORPORATED.**

19. On or about July 22, 1997, Mr. Mahdi submitted to BITS and Mr. Strome, on behalf of OTS, an irrevocable purchase order for oil field equipment valued at approximately **\$41,695**. The OTS reference number on this irrevocable purchase order was 701-1320-TSI. The "T" in this reference number indicates that Mr. Mahdi and OTS were seeking to obtain this equipment for Kala Naft in Tehran, Iran. **Govt. Ex. 8**; May 13 Tr. at 147, line 6 to 148, line 25. [Charge 2, 6].

**RULING: ACCEPTED AND INCORPORATED.**

20. Kala Naft in Tehran, Iran, is a subsidiary of the National Iranian Oil Company. **Govt. Ex. 9**; May 13 Tr. at 149, line 9 to 150, line 6. [Charge 2, 6]

**RULING: ACCEPTED AND INCORPORATED.**

21. On or about July 23, 1997, BITS issued a commercial invoice for the sale of oil field equipment for approximately \$42,356 in response to the purchase order with OTS reference number 701-1320-TSI. According to this invoice, the equipment was sold to OTS and to be shipped on October 29, 1997, to Danzas Canada, Ltd., a freight forwarder in Ontario, Canada. **Govt. Ex. 10**; May 13 Tr. at 150, line 12, to 151, line 25. [Charge 2, 6]

**RULING: ACCEPTED AND INCORPORATED.**

22. On or about October 30, 1997, Forward Logistics Group, Inc., a freight forwarder acting on behalf of BITS, issued an air waybill for the shipment of the oil field equipment purchased by OTS under by OTS reference number 701-1320-TSI. According to this air waybill, BITS shipped the oil field equipment from Melbourne, Florida, to OTS, care of Danzas Canada Ltd., in Ontario, Canada, via Air Canada. **Govt. Ex. 11**; May 13 Tr. at 155, line 23, to 157, line 6. [Charge 2, 6].

**RULING: ACCEPTED AND INCORPORATED.**

23. On or about October 30, 1997, Forward Logistics Group, Inc., acting on behalf of BITS, prepared and submitted to the United States Customs Service a Shipper's Export Declaration (SED) for the shipment of oil field equipment purchased by OTS under OTS reference number 701-1320-TSI. This SED identified BITS as the exporter, OTS care of Danzas Canada Ltd. as the ultimate consignee, Air Canada as the exporting carrier, and October 30, 1997, as the date of exportation. This SED also identified "Toronto" as the country of ultimate destination. BITS instructed Forward Logistics Group, Inc. to put this information on the SED, including the statement that Toronto was the ultimate destination for the exported equipment. **Govt. Ex. 12**; May 13 Tr. at 165, line 17 to 169, line 16. [Charges 2, 5]

**RULING: ACCEPTED AND INCORPORATED.**

24. Mr. Mahdi has admitted that Mr. Strome of BITS caused the submission of this SED, which contained the false statement that Toronto was the ultimate destination for the exported equipment. Respondent's Motion for Denial at 12 ("Mr. Mahdi did not complete the Shippers export Declaration (sic), Mr. Strome of 'Brevard' in Melbourne, Florida completed the form. It

was **Mr. Strome**, not Mr. Mahdi, how (sic) indicated that the final destination of the equipment was Canada knowing that the final destination was indeed Iran.”). [Charge 5]

**RULING: ACCEPTED AND INCORPORATED.**

25. As shown in records of Danzas Canada Ltd. that were reviewed by the Royal Canadian Mounted Police, Danzas Canada, Ltd., received the equipment obtained from BITS in the above-described transaction, consolidated it with other equipment obtained by OTS, and shipped the equipment from Canada to Iran via Cyprus in or about early November of 1997 on the instruction of Mr. Mahdi. May 13 Tr. at 153, line 12, to 155, line 18; *id.* at 169, line 17 to 170, line 15; *id.* at 176, line 12 to 178, line 18. [Charge 2, 5, 6]

**RULING: ACCEPTED AND INCORPORATED.**

26. Mr. Mahdi has admitted that he shipped the oil field equipment obtained from BITS under OTS reference number 701-1320-TSI to Iran. **Govt. Ex. 2** at 13, paragraph 9, at 20-21, paragraph 28 (in plea agreement, Mr. Mahdi certified that the following was true: “In or about November, 1997, ABDULAMIR MAHDI, a/k/a Amir Mahdi transshipped from Canada to Iran United States origin oil field equipment purchased from BITS . . . under OTS purchase order number 701-1320-TSI.”) [Charges 2, 5, 6]

**RULING: ACCEPTED AND INCORPORATED.**

27. Mr. Mahdi has repeatedly admitted that he knew Mr. Strome violated United States law by exporting from the United States items destined for Iran, and that he helped Mr. Strome to make these exports to Iran:

- a. At his change of plea proceedings, **Mr. Mahdi** testified under oath as follows:

“The Defendant: . . . [Mr. Strome] knew there’s embargo on Iran. And he asked me if some other orders or shipments can be made through Canada to Iran, which we were intending to do.

“The Court: And you knew that he couldn’t lawfully do it without your help?

“The Defendant: That’s correct, ma’am.

“The Court: And knowing that he couldn’t lawfully do it, you agreed to help him?”

“The Defendant: That’s correct, ma’am.”

**Govt.** Ex. 3 at 27, lines 17-25.

b. At his sentencing proceeding, Mr. Mahdi testified similarly: “I knew [Strome] was not able to sell, to Iran. And he was using me to sell to Iran.” **Govt. Ex. 4** at 61, lines 2-3.

c. In this proceeding, Mr. Mahdi has stated that he “knew that it was a violation of U.S. law for Mr. Strome, on behalf of a U.S. company and acting in the United States, to export the equipment to Iran from the United States” (although Mr. Mahdi contends that he did not know “that it was a violation of U.S. law for [Mr. Mahdi] as a Canadian citizen and a Canadian company to export the equipment to ~~Iran~~”). Respondent’s Motion for Denial at 18.

[Charge 6]

**RULING: ACCEPTED AND INCORPORATED.**

28. On or about October 23, 1997, Mr. Mahdi submitted to BITS and Mr. Strome, on behalf of OTS, an irrevocable purchase order for oil field equipment valued at approximately **\$69,478**. The OTS reference number on this irrevocable purchase order was 702-1360-TSI.

The “T” in this reference number indicates that Mr. Mahdi and OTS were seeking to obtain this equipment for Kala Naft in Tehran, Iran. **Govt. Ex. 13**; May 13 Tr. at 178, line 19 to 181, line 4. [Charge3].

**RULING: ACCEPTED AND INCORPORATED.**

29. Mr. Mahdi arranged for Pars Maritime Cargo Inc. (Pars) of Montreal, Canada, to transport the oil field equipment purchased by OTS under OTS reference number 702-1360-TSI in Melbourne, Florida, to Montreal, Canada. On or about February 9, 1998, Pars picked up the equipment at the BITS facility in Melbourne, Florida. The truck driver for Pars gave to Mr. Strome a copy of an invoice, printed on Pars letterhead, for this shipment. This invoice, which is dated February 2, 1998, identifies OTS as both the “customer” and the “shipper.”

Documentation provided to BITS by OTS indicated that the equipment would be exported from Canada. **Govt. Ex. 14**; **Govt. Ex. 6 at 4**; May 13 Tr. at 181, line 9 to 185, line 1. [Charge3]

**RULING: ACCEPTED AND INCORPORATED.**

30. On or about January 19, 1999, Pars’s Web site identified Pars as the general sales agent for Iran Air. The name “Pars” refers to Persia, *i.e.*, Iran. **Govt. Ex. 15**; May 13 Tr. at 185, line 20 to 187, line 14. [Charge3]

**RULING: ACCEPTED AND INCORPORATED.**

31. On or about April 19, 1998, Kala Naft sent a purchase order to OTS (referencing OTS employee Tito DiMarco) for specified parts for the “Overshot Series 70, Short Catch . . . for overshot 4-1/8 in.,” manufactured by Bowen Tools, **Inc.** On the first page of this purchase order, Kala Nafi stated that this purchase order was “placed in accordance with . . . your [OTS’s] quotation reference no. 013-077-TBT” and specified “delivery FOB Antwerp packed suitably for

export shipment.” On the second page of this purchase order, Kala Naft specified “shipment from Antwerp to B.Emam (Iran) by our nominated transport agent.” **On** the third page of this purchase order, Kala Nafi specified: “our nominated inspection agency for this order is I.E.I.” **Govt.** Ex. 18A; May 13 Tr. at 200, line 3 to 201, line 13; 206, line 6 to 208, line 13. [Charge 4]

**RULING ACCEPTED AND INCORPORATED.**

32. On or about April 21, 1998, OTS submitted to BITS and Mr. Strome an irrevocable purchase order for “parts for ‘Bowen’ Overshot Series 70, Short Catch . . . for Overshot 4-1/8 in.” The purchase order **was** signed by **OTS** employee Tito DiMarco. The specific parts ordered by OTS from BITS corresponded with the parts ordered from OTS by Kala Naft on or about April 19, 1998. The equipment was ordered for approximately \$121,082. In its irrevocable purchase order to BITS, OTS stated payment terms of “10% Deposit, Balance net 30 days” and specified packing “suitable for ocean freight.” The OTS reference number on this irrevocable purchase order was “013-077-BTB;” however, since ~~other~~ documents related to this transaction bore OTS reference number 013-077-TBT, the suffix “-BTB” on this document appears to be a typographical error for “-TBT.” The suffix “-TBT” indicates that **OTS** and Mr. Mahdi were seeking to obtain this equipment, originally manufactured by Bowen Tools, Inc., for Kala Naft in Tehran, Iran. **Govt.** Ex. 16; May 13 Tr. at 187, line 19 to 188, line 23; **id.** at 194, line 2 to 198, line 1. [Charge 4]

**RULING: ACCEPTED AND INCORPORATED.**

33. Mr. Strome described the equipment ordered under OTS reference number 013-077-TBT as extracting equipment used to remove broken drill heads from oil wells. **Govt. Ex. 6;** May 13Tr. at 194, line 2 to 195, line 2. [Charge 4]

**RULING: ACCEPTED AND INCORPORATED.**

34. On or about May 26, 1998, Mr. Mahdi, acting on behalf of OTS, caused the Royal Bank of Canada to make a funds transfer in the amount of approximately \$16,062 to be made to a bank account held by BITS. The document memorializing this funds transfer identifies OTS as the “ordering customer” and BITS as the “beneficiary customer.” These funds were a partial payment of the purchase order described in paragraph 32 above, as reflected in the notation: “PLS CREDIT BREVARD INTERNATIONAL TECHNICAL SERVICES, INC. FOR ORDER # 013-077-TBT.” **Govt. Ex. 17;** May 13Tr. at 189, line 13 to 190, line 10. [Charge 4]

**RULING: ACCEPTED AND INCORPORATED.**

35. On or about March 4, 1999, Mr. Mahdi telephoned Mr. Strome. In this conversation, Mr. Mahdi advised Mr. Strome that the customer purchasing the equipment ordered under OTS reference number 013-077-TBT desired to have the equipment inspected by a firm known as “I.E.I.” As noted above, Kala Naft’s purchase order to OTS dated April 19, 1998, and referencing OTS number 013-077-TBT designated “I.E.I.” as Kala Naft’s inspection agent for this order. **Govt. Exs. 18, 18A;** May 13Tr. at 209, line 6 to 211, line 5. [Charge 4]

**RULING: ACCEPTED AND INCORPORATED.**

36. The “I.E.I.” in this transaction refers to the Industrial Engineering and Inspection Company of Iran, which inspects cargo bound for Iran for conformance with documents such as

letters of credit and invoices. **Govt. Ex. 19**; May 13 Tr. at 211, line 11 to 214, line 25. [Charge 41

**RULING: ACCEPTED AND INCORPORATED.**

37. In March of 1999, Mr. Mahdi traveled to Florida to arrange for the shipment of the equipment purchased under OTS reference number 013-077-TBT. Investigating agents observed Mr. Mahdi inspect this equipment, and then arrested him. May 13 Tr. at 107, line 2 to 109, line 14; ~~id.~~ at 201, line 20 to 202, line 15. [Charge 4]

**RULING. ACCEPTED AND INCORPORATED.**

38. Mr. Mahdi has admitted that he obtained the oil field equipment purchased from BITS under OTS reference number 013-077-TBT “for the National Iranian Oil Company, Tehran, Iran.” **Govt. Ex. 2** at 13, paragraph 9, at 21, paragraph 30.<sup>12</sup> [Charges 2, 5, 6]

**RULING: ACCEPTED AND INCORPORATED.**

39. None of the following parties applied for or received an export license or other export authorization from the U.S. Department of Commerce or the Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury: OTS; Mr. Mahdi (including under the names “Amir Mahdi” and “Jasin Khafaf”); BITS; and Tech-Link. **Govt. Ex. 20**; May 13 Tr. at 215, line 1 to 217, line 11. [Charges 1-41

**RULING: ACCEPTED AND INCORPORATED.**

40. From 1997 to March of 1999, OTS and Mr. Mahdi (sometimes doing business as Tech-Link) submitted approximately 117 requests for quotations to BITS. The reference

---

<sup>12</sup> As noted in paragraph 20 above, Kala Naft is a subsidiary of the National Iranian Oil Company.

numbers on these requests for quotations indicate that approximately 42 of these requests were made on behalf of customers in Iran, as follows:

33 on behalf of Kala Naft, Tehran, Iran (indicated by the initial letter “T”)

5 on behalf of Razi Petrochemical, Iran (indicated by the initial letter “R”)

2 on behalf of Arak Petrochemical, Arak, Iran (indicated by the initial letter “A”)

2 on behalf of the National Iranian ~~Gas~~ Company, Iran (indicated by the initial letter “N”).

**Govt. Exs. 7, 21, 21A; May 13 Tr. at 220, line 14 to 225, line 13. [Charge 1, Penalty]**

**RULING: ACCEPTED AND INCORPORATED.**

41. In addition, approximately 36 of these requests for quotation were submitted to BITS on behalf of Zawana, the ~~firm~~ operated by Mahdik Mahdi in Jordan, which transshipped to Iraq.

**Govt. Exs. 7, 21, 21A; May 13 Tr. at 225, lines 14 to 22. [Penalty]**

**RULING: ACCEPTED AND INCORPORATED.**

42. The requests for quotation submitted to **BITS** by OTS on behalf of customers in Iran included:

a. A request for quotation dated December 8, 1997, and signed by OTS employee Tito DiMarco, with OTS reference number 223-127-RSA for specified **parts** for an agitator shaft and turbine. The initial letter “R” indicates that this request for quotation was submitted on behalf of Razi Petrochemical in Iran. **Govt. Ex. 22; May 13 Tr. at 227, line 11 to 228, line 12. [Charge 1, Penalty]**

b. A request for quotation dated July 14, 1998, and signed by OTS employee Tito DiMarco, with OTS reference number 463-078-ACT for parts for a steam turbine.

The initial letter “A” indicates that this request for quotation was submitted on behalf of *Arak* Petrochemical in Iran. **Govt. Ex. 23**; May 13 Tr. at 228, line 18 to 230, line 3.

[Charge 1, Penalty]

c. A request for quotation dated August 31, 1998, with OTS reference number 529-088-ACO for parts for a steam turbine. Handwritten notations on this document indicate that OTS quoted prices in response to this request. The initial letter “A” indicates that this request for quotation was submitted on behalf of *Arak* Petrochemical in Iran. **Govt. Ex. 24**; May 13 Tr. at 230, line 8 to 232, line 9. [Charge 1, Penalty]

**RULING: ACCEPTED AND INCORPORATED.**

43. The *Arak* Petrochemical Company and the Razi Petrochemical Company are affiliates of the National Petrochemical Company of Iran. **Govt. Ex. 25**; May 13 Tr. at 232, line 10 to 234, line 18. [Charge 1, Penalty]

**RULING: ACCEPTED AND INCORPORATED.**

44. From March 1997 to March 1999, **Mr. Mahdi**, OTS, and Tech-Link received approximately 195 requests for quotation from customers in Iran, as follows:

72 from the Razi Petrochemical Company

65 from Kala Naft, Tehran

22 from the National Iranian Gas Company

17 from the *Arak* Petrochemical Company

In addition, during the same time period, **Mr. Mahdi**, OTS, and Tech-Link received six requests for quotation directly from customers in Iraq and 117 requests for quotation from Zawana. **Govt.**

Ex. 26; May 13 Tr. at 219, line 21 to 220, line 9; *id.* at 235, line 7 to 238, line 2. [Charge 1, Penalty]

**RULING: ACCEPTED AND INCORPORATED.**

45. On or about April 9, 2002, Mahdik Mahdi placed on behalf of Zawana a request for quotation for the delivery of 140 tons of an alumina based catalyst to Syria. **Govt. Ex. 29**; May 13 Tr. at 260, line 8 to 262, line 13. [Penalty]

**RULING: ACCEPTED AND INCORPORATED.**

46. On or about March 10, 2003, Mr. Mahdi received thirteen boxes of business records from the Canadian Department of Justice. These records had been seized by the Royal Canadian Mounted Police during searches of Mr. Mahdi's residence and OTS's business premises in March of 1999 and transferred to the Office of Export Enforcement, U.S. Department of Commerce for use in the criminal prosecution of Mr. Mahdi. The U.S. Department of Commerce, through the Office of International Affairs of the Criminal Division of the U.S. Department of Justice, had shipped these records to the Canadian Department of Justice for return to Mr. Mahdi. **Govt. Ex. 1A**; May 13 Tr. at 73, line 11 to 76, line 11. [Penalty]

**RULING: ACCEPTED AND INCORPORATED.**

47. Mr. Mahdi represented to this Court that he wished to receive the above-described business records in order to present a defense in this proceeding. May 13 Tr. at 24, line 9 to 25, line 4 (quoting Mr. Mahdi's request for continuance dated April 9, 2002). The **Court** postponed the hearing in this matter partly to accommodate Mr. Mahdi's stated interest in using these records in the hearing in this case. May 13 Tr. at 24, line 9 to 26, line 7; *id.* at 59, line 22 to 60, line 10. However, after receiving those records on or about March 10, 2003, Mr. Mahdi for the

first time asserted that health problems prevented him from participating in the hearing.

Respondent's Request for Continuance, April 14, 2003; May 13 Tr. at 51, line 16 to 56, line 5; *id.* at 60, line 14 to 62, line 4. [Penalty]

**RULING: ACCEPTED AND INCORPORATED.**

48. Mr. Mahdi used an envelope with the pre-printed logo and address of OTS when he served a copy of a pleading in this matter on counsel for BIS. This pleading was received by counsel for BIS on or about May 5, 2003. **Govt. Ex. 1B**; May 13 Tr. at 76, line 12 to 78, line 1. [Penalty]

**RULING: ACCEPTED AND INCORPORATED.**

**B. PROPOSED ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW**

49. By order dated September 6, 2002, this Court granted summary decision against Mr. Mahdi on Charge 1, which alleges a conspiracy to export oil field equipment to Iran through Canada in violation of Section 746.7 of the EAR. Mr. Mahdi acted on behalf of OTS when he entered into the agreement with BITS and Mr. Strome to make unauthorized exports from the United States to Iran. *See* paragraphs 3, 10-13 above. Moreover, OTS, through Mr. Mahdi and another employee, Tito DiMarco, took several actions in furtherance of the conspiracy. *See* paragraphs 7, 19, 28-29, 32, 34, 42, and 44 above. Accordingly, OTS is liable for the conspiracy described in Charge 1.<sup>13</sup> *See, e.g., United States v. Bi-Co Pavers, Inc.*, 741 F.2d 730, 737 (5<sup>th</sup>

---

<sup>13</sup> Charge 1 alleges that this conspiracy took place "between in or about March 1997 and in or about April 1998." According to testimony at the hearing, the conspiracy continued into March 1999. May 13, 2003 at Tr. at 113, lines 9-21; *id.* at 118, lines 2-24. Mr. Mahdi himself has admitted that the conspiracy continued until March 1999. **Govt.** Footnote continued on next page.

Cir. 1984) (“a corporation is criminally liable for the unlawful acts of its agents, provided that such conduct is within the scope of the agent’s authority, actual or apparent”); *United States v. Sherpix*, 512 F.2d 1361, 1367 & n.7 (D.C. Cir. 1975) (“a corporation is criminally responsible for the acts of its officers and thus can be charged with their conspiracies,” provided corporation is “designated as a defendant and charged as a conspirator by appropriate factual allegations”).

**RULING: ACCEPTED AND INCORPORATED.**

50. **BITS** and **Mr. Strome** were co-conspirators of **OTS** and **Mr. Mahdi** in the above-referenced conspiracy. *See* paragraphs 8-13, 40, 42-43 above; *see also* **Govt. Ex. 3** at 27, lines 13-14 (Mr. Mahdi identified “Mr. Strom” (sic) as “the co-conspirator in this case” during sworn testimony at the change of plea proceeding).

**RULING: ACCEPTED AND INCORPORATED.**

51. The transactions described in Charges 2 and 3 were exports from the United States to Iran because Mr. Mahdi and OTS intended to transship the items in question to Iran via Canada from the time that they were exported from the United States. Similarly, the transaction described in Charge 4 was a solicited and attempted export from the United States to Iran because Mr. Mahdi and OTS intended that these items would be transhipped to Iran via Canada after they were exported from the United States. *See* 15 C.F.R. § 734.2(b)(6).

**RULING: ACCEPTED AND INCORPORATED.**

---

**Ex. 2** at 13, paragraph 9, at 17 paragraph 11 (in plea agreement, Mr. Mahdi certified to the truth of the allegation that conspiracy existed “[b]etween in or about March, 1997, and in or about March, 1999”).

52. By actions taken regarding the equipment purchased under OTS reference number 701-1320-TSI, Mr. Mahdi and OTS, on or about October 30, 1997,<sup>14</sup> exported oil field equipment, which was subject to both the EAR and to OFAC's Iranian Transaction Regulations, from the United States through Canada to Iran, without prior authorization from OFAC, in violation of Section 746.7 of the EAR, thereby each committing one violation of Section 764.2(a) of the EAR – engaging in conduct prohibited by the EAR. See paragraphs 19-23, 25-26 above. Mr. Mahdi and OTS are each accordingly liable for the violation described in Charge 2.

**RULING: ACCEPTED AND INCORPORATED.**

53. By actions taken regarding the equipment purchased under OTS reference number 702-1360-TSI, Mr. Mahdi and OTS, on or about February 9, 1998,<sup>15</sup> exported oil field equipment, which was subject to both the EAR and to OFAC's Iranian Transaction Regulations, from the United States through Canada to Iran, without prior authorization from OFAC, in violation of Section 746.7 of the EAR, thereby each committing one violation of Section

---

<sup>14</sup> Charge 2 states that the export occurred on or about October 30, 1997. The equipment in question was shipped from the United States to Canada on or about October 30, 1997, see paragraphs 22-23 above, and shipped from Canada to Iran in early November 1997. See paragraphs 25-26 above. Because this combination of shipments constituted an export from the United States to Iran, see paragraph 51 above, the date of export stated in Charge 2 is accurate.

<sup>15</sup> The equipment in question was picked up by truck in Florida on or about February 9, 1998, and transported to Montreal, Canada. See paragraph 29 above. Charge 3 describes the export as taking place “on or about February 2, 1999” (the date on the Pars invoice). This one-week variance between the date as alleged and the date as established at trial is immaterial to the validity of the charge. See *Tasty Baking Co. v. NLRB*, 254 F.3d 114, 122 D.C. Cir. 2001, and cases cited therein (“minor variances in ‘on or about’ dates” are permitted in both criminal and administrative enforcement proceedings).

764.2(a) of the EAR engaging in conduct prohibited by the EAR. See paragraphs 28-30 above.<sup>16</sup>

Mr. Mahdi and OTS are each accordingly liable for the violation described in Charge 3.

**RULING: ACCEPTED AND INCORPORATED.**

**54.** By actions taken regarding the equipment ordered under OTS reference number 013-077-TBT, Mr. Mahdi and OTS, from on or about April 21, 1998, to on or about March 17, 1999, solicited or attempted the export of oil field equipment, which was subject to both the EAR and to OFAC's Iranian Transaction Regulations, from the United States through Canada to Iran, without prior authorization from OFAC, in violation of Section 746.7 of the EAR, thereby each committing one violation of Section 764.2(c) of the Regulations - soliciting or attempting a violation of the Regulations. See paragraphs 31-37 above. Mr. Mahdi and OTS are each accordingly liable for the violation described in Charge 4.

**RULING: ACCEPTED AND INCORPORATED.**

**55.** On or about October 30, 1997, BITS and Mr. Strome, through Forward Logistics Group, Inc. caused a false material statement of the ultimate destination of the export described in Charge 2 as "Toronto," when the export was in fact ultimately destined for Iran, on an SED submitted to the United States Customs Service regarding that export. See paragraph 23 above. In so doing, BITS and Mr. Strome, the co-conspirators of OTS and Mr. Mahdi, acted within the

---

<sup>16</sup> Although BIS did not supply direct evidence that this equipment was shipped from Canada to Iran, the following facts and circumstances support the finding that such a shipment occurred: (1) Mr. Mahdi's repeated admissions that he shipped equipment obtained from BITS from Canada to Iran, see paragraph 16 above; (2) the fact that the letter "T" in this OTS reference number indicates that the customer ordering this equipment was Kala Naft in Tehran, Iran, see paragraphs 17 and 28 above; (3) the fact that Pars, the carrier that OTS and Mr. Mahdi arranged to transport the equipment from Florida to Montreal, Canada, served as the general sales agent for Iran Air, see paragraph 30 above; and (4) the fact that documentation provided to BITS by OTS indicated that the equipment would be exported from Canada, see paragraph 29 above.

scope of the conspiracy, in furtherance of the conspiracy's objective of making unauthorized exports of oil field equipment from the United States to Iran via Canada, and in a manner reasonably foreseeable by **OTS** and Mr. Mahdi as a natural consequence of the conspiracy.<sup>17</sup>

Accordingly, under the rule of *Pinkerton v. United States*, 328 U.S. 640, 645-46 (1946), **OTS** and Mr. Mahdi are liable for the violation of Section 764.2(g) of the EAR described in Charge **5**: making the false statement that Toronto **was** the ultimate destination on the **SED** submitted on or about October **30**, 1997.<sup>18</sup>

**RULING: ACCEPTED AND INCORPORATED.**

56. Alternatively, Mr. Mahdi and **OTS** are each liable for the violations described in Charges **2**, **3**, and **4** because the actions taken by their co-conspirators **Mr. Strome** and **OTS** constituted the unauthorized exports and attempted export described in those charges. In taking such actions, **Mr. Strome** and **OTS** acted within the scope of the conspiracy, in furtherance of the conspiracy's objective of making unauthorized exports of oil field equipment from the United States to Iran via Canada, and in a manner reasonably foreseeable by **OTS** and Mr. Mahdi as a natural consequence of the conspiracy. Accordingly, Mr. Mahdi and **OTS** are liable for such

---

<sup>17</sup> The conspiracy count to which Mr. Mahdi pled guilty in the criminal proceeding stated that the parties conspired to ship such equipment **from** the United States to Canada under **SED**'s that falsely stated the equipment's ultimate destination, *see* Govt. **Ex. 1** at **5**, paragraph 13, and Mr. Mahdi admitted in his plea agreement that this allegation **was** true. *See* Govt. **Ex. 2** at 13, paragraph 9 & 18, paragraph 13.

<sup>18</sup> The fact that Charge 5 states that **OTS** and Mr. Mahdi "prepared" the **SED** in question, rather than stating that **OTS** and Mr. Mahdi are liable for the actions of their co-conspirators, does not affect the application of the *Pinkerton* rule. Where a conspiracy is alleged, a charging document need not plead that the Government will rely on *Pinkerton* to establish liability for substantive offenses; the conspiracy charge itself is sufficient notice of the *Pinkerton* theory of liability. *See United States v. Washington*, 106 F.3d 983, 1010-12 (D.C. Cir. 1996), cert. denied, 522 U.S. 984 (1997); *United States v. Sax*, 39 F.3d 1380, 1389-90 (7<sup>th</sup> Cir. 1994). Moreover, **OTS** and Mr. Mahdi – even if they had participated in the hearing – could not claim prejudicial surprise, because **BIS**'s Pre-

Footnote continued on next page.

actions of their co-conspirators under the *Pinkerton* rule. *See* BIS's Motion for Summary Decision, dated May 31, 2002, at 12 n. 14, and in BIS's Pre-Hearing Memorandum, dated February 26, 2003, at 12 n. 11.<sup>20</sup>

**RULING: ACCEPTED AND INCORPORATED.**

57. Mr. Mahdi and OTS, acting through Danzas Canada, Ltd., transferred and forwarded from Canada to Iran the oil field equipment purchased under OTS reference number 701-1320-TSI. *See* paragraphs 25-26 above. Mr. Mahdi knew, at a minimum, that Mr. Strome and BITS had violated the **EAR** by exporting **this** equipment **from** the United States to **an** ultimate destination of Iran without the required license. *See* paragraph 27 above. **Thus**, Mr. Mahdi committed the violation described in Charge **6**: transferring and forwarding this equipment from Canada to Iran, knowing that it had been exported from the United States in violation **of** the **EAR**.<sup>21</sup> Moreover, Mr. Mahdi's knowledge **of** Mr. Strome's violation of the **EAR** is attributable

---

Hearing Memorandum, dated February 26, 2003, at 13-14, made clear that BIS would rely on *Pinkerton* to establish liability for Charge **5**.

<sup>20</sup> If the Court were **to** find insufficient evidence of completed exports to Iran, **as** described in Charges 2 and 3, OTS and Mr. Mahdi should be found liable under Section 764.2(c) of the EAR for attempting such exports. A defendant may be found guilty of attempt even if only the completed offense is charge, provided that the attempt is itself **an** offense, **as** it is here under Section 764.2(c). *See, e.g., United States v. Marin*, 513 F.2d 974, 976 (2d Cir. 1975); *Simpson v. United States*, 195 F.2d 721, 723 (9<sup>th</sup> Cir. 1952); *Clinton Cotton Mills v. United States*, 164 F.2d 173, 177 (4<sup>th</sup> Cir. 1947).

<sup>21</sup> Charge 6 describes the transferring and forwarding of this equipment **from** Canada to Iran **as** occurring "[o]n or about October 30, 1997." The evidence shows that the equipment was shipped to Iran in early November 1997. As explained in footnote 18 above, this variance is immaterial to the validity of the charge.

to OTS,<sup>22</sup> so that **OTS** committed the violation described in Charge **6** also.

**RULING ACCEPTED AND INCORPORATED.**

58. Based on the following factors, the **Court** recommends that Mr. Mahdi and OTS should be denied **U.S.** export privileges for twenty years, per the standard terms of a denial order set out at Supplement No. 1 to part 764 of the **EAR**:

- a. The scope of prior efforts to acquire **U.S.** origin equipment to export to customers in Iraq and **Iran** in violation of **U.S.** export controls. **See** paragraphs **40-44** above.
- b. The importance of the foreign policy objectives furthered by controlling exports to embargoed countries, such as **Iran**, and of preventing exports that violate export controls on embargoed countries.
- c. The significant nature of the transactions at issue in these charges, as indicated by the fact that the equipment involved in Charges **2**, **3**, and **4** had a collective value of over \$230,000.

---

<sup>22</sup> *See, e.g., In re Hellenic Inc.*, 252 F.3d 391,395 (5<sup>th</sup> Cir. 2001) (“An agent's knowledge is imputed to the corporation where the agent is acting within the scope of his authority and where the knowledge relates to matters within the **scope** of that authority. . . [C]ourts generally agree that the knowledge of directors or key officers, such as the president and vice president, is imputed to the corporation. . .”).

## CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing RECOMMENDED DECISION & ORDER by Federal Express to the following persons:

Undersecretary  
Bureau of Industry and Security  
U.S. Department of Commerce  
Room H-3839  
14<sup>th</sup> & Constitution Avenue, N.W.  
Washington, D.C. 20230  
Phone: 202-482-5301

Philip D. Golrick, **Esq.**  
Office of Chief Counsel for Industry and Security  
U.S. Department of Commerce  
Room H-3839  
14<sup>th</sup> & Constitution Avenue, N.W.  
Washington, D.C. 20230  
Phone: 202-482-5301

Abdulmir Mahdi  
20 Huntingwood Drive  
Scarborough, Ontario, Canada, M1W1A2  
Phone: 905-946-9551

ALJ Docketing Center, Baltimore  
40 S. Gay Street, Room 412  
Baltimore, Maryland 21202-4022  
Phone: 410-962-7434

  
Lucinda H. Shinault, CP  
Certified Paralegal to the ALJ Norfolk

Done and dated August 26, 2003 at  
Norfolk, Virginia

NOV 22 2 00



UNITED STATES DEPARTMENT OF COMMERCE  
Office of the General Counsel  
OFFICE OF CHIEF COUNSEL FOR INDUSTRY AND SECURITY  
Washington, D.C. 20230

## AMENDED CHARGING LETTER

Abdulmir Mahdi, aka Amir Mahdi and aka Jasin Khafaf  
Inmate No. 2364-018  
Federal Medical Center Devens  
42 Patton Road  
Devens, Massachusetts 01432

formerly residing at:

20 Huntington Drive  
Scarborough, Ontario, Canada, MIW 1A2

and,

Tech-Link Development Corporation  
7030 Woodbine Avenue, N.E.  
Suite 500  
Markham, Ontario, Canada L3R 6G2

and,

OTS Refining Equipment Corporation  
7030 Woodbine Avenue, N.E.  
Suite 500  
Markham, Ontario, Canada L3R 6G2

Attention: Mr. Abdulmir Mahdi

Dear Mr. Mahdi:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"),<sup>1</sup> files this amended charging letter that replaces the charging letter issued on January 17, 2002.

---

<sup>1</sup> On April 18, 2002, the Department of Commerce announced that the name of the Bureau of Export Administration ("BXA") had been changed to the Bureau of Industry and Security ("BIS") and made conforming changes in the Export Administration Regulations. 67 *Fed. Reg.* 20630-32 (April 26, 2002). This change does not affect the substantive activities or responsibilities of BIS. All actions taken before, on or after April 18 under the name of BXA will be deemed to have been taken under the name of BIS and all references to BXA are deemed to be to BIS. *Id.*

BIS has reason to believe that, as described below, Abdulmir Mahdi, also known as Amir Mahdi and Jasin Khalaf (“Abdulmir Mahdi”), Tech-Link Development Corporation, and OTS Refining Equipment Corporation violated the Export Administration Regulations (the “Regulations”).<sup>2</sup>

**Charge 1: Conspiracy to Export to Iran: EAR Section 764.2(d)**

Between in or about March 1997, and in or about April 1998, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation conspired and acted in concert with others known and unknown to bring about an act that constituted a violation of the Regulations, that is exporting goods to ~~Iran~~ in violation of Section 746.7 of the Regulations. The purpose of the conspiracy was for Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation, to obtain oil field equipment from the United States and export it to ~~Iran~~ through Canada in violation of the provisions of Section 746.7 of the Regulations. BIS alleges that by conspiring and acting in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the Act, or any regulation, order or license issued thereunder, Abdulmir Mahdi, Tech-Link Development Corporation and OTS Refining Equipment Corporation, committed one violation of Section 764.2(d) of the Regulations.

**Charge 2: Unauthorized Exports to Iran: EAR Section 764.2(a)**

On or about October 30, 1997, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation exported oil field equipment, which was subject to both

---

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The current version of the Regulations govern the procedural aspects of this case. The violations charged occurred in 1997 and 1998. The Regulations governing the violations at issue are found in the 1997 and 1998 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1997-98)). The Regulations were issued pursuant to the Export Administration Act of 1979 (“Act”), 50 U.S.C. app. §§ 2401-2420 (2000). From August 21, 1994 through November 12, 2000, the Act ~~was~~ in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000) (IEEPA)). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 *Fed. Reg.* 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.

the Export Administration Regulations and to the Iranian Transaction Regulations, from the United States through Canada to Iran, without prior authorization from the Office of Foreign Assets Control of the U.S. Department of Treasury, in violation of Section 746.7 of the Export Administration Regulations. By making an exportation that violated the Export Administration Regulations, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation committed one violation of Section 764.2(a) of the Regulations – engaging in conduct prohibited by the Regulations.

**Charge 3: Unauthorized Exports to Iran: EAR Section 764.2(a)**

On or about February 2, 1998, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation exported oil field equipment, which was subject to both the Export Administration Regulations and to the Iranian Transaction Regulations, from the United States through Canada to Iran, without prior authorization from the Office of Foreign Assets Control of the U.S. Department of Treasury, in violation of Section 746.7 of the Export Administration Regulations. By making an exportation that violated the Export Administration Regulations, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation each committed one violation of Section 764.2(a) of the Regulations – engaging in conduct prohibited by the Regulations.

**Charge 4: Soliciting or Attempting an Unauthorized Export to Iran: EAR Section 764.2(c)**

From on or about April 21, 1998, to on or about March 17, 1999, Abdulmir Mahdi and OTS Refining Equipment Corporation solicited or attempted the export of oil field equipment, which was subject to both the Export Administration Regulations and to the Iranian Transaction Regulations, from the United States through Canada to Iran, without prior authorization from the Office of Foreign Assets Control of the U.S. Department of Treasury, in violation of Section 746.7 of the Export Administration Regulations. By so doing, Abdulmir Mahdi and OTS Refining Equipment Corporation each committed one violation of Section 764.2(c) of the Regulations - soliciting or attempting a violation of the Regulations.

**Charge 5: Making a False Statement on a Shipper's Export Declaration: EAR Section 764.2(g)**

On or about October 30, 1997, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation prepared a Shipper's Export Declaration, which is defined as an export control document in Part 772 of the Regulations and which was submitted to the U.S. Customs Service, representing that the country of ultimate destination of the oil field equipment was Canada, when in fact, the country of ultimate destination of the equipment was Iran. BIS alleges that, by making a false and misleading statement of material fact directly or indirectly to a United States agency in connection with the preparation of an export control

document, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation each committed one violation of Section 764.2(g) of the Regulations – making a false statement.

**Charge 6: Acting with Knowledge of a Violation: EAR Section 764.2(e)**

On or about October 30, 1997, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation transferred and forwarded the goods referred to in Charge 2 from Canada to Iran knowing those goods had been exported from the United States in violation of the Export Administration Regulations. **BIS** alleges that by transferring and forwarding goods with knowledge that they have been exported in violation of the Regulations, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation each committed one violation of Section 764.2(e) of the Regulations – acting with knowledge of a violation.

**BIS** alleges that Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation each committed one violation of Section 764.2(d), two violations of Section 764.2(a), one violation of Section 764.2(g), and one violation of Section 764.2(e). In addition, **BIS** alleges that Abdulmir Mahdi and OTS Refining Equipment Corporation each committed one violation of Section 764.2(c).

Accordingly, Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation are hereby notified that an administrative proceeding is instituted against each of them pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$1 1,000 per violation;<sup>3</sup>

Denial of export privileges; and

Exclusion from practice before **BIS**.

Abdulmir Mahdi, Tech-Link Development Corporation, and OTS Refining Equipment Corporation are reminded of the information in the original charging letter dated January 17, 2002, relating to certain provisions of the Regulations concerning the procedural aspects of this case.

---

<sup>3</sup> Pursuant to the Federal Civil Penalties Adjustment Act of 1990 (28 U.S.C. § 2461, note (2000)) and 15 C.F.R. § 6.4(a)(2), the maximum penalty for each violation committed after October 23, 1996 and before November 1, 2000 is \$1 1,000.

Abdulmir Mahdi, et al.  
Amended Charging Letter  
Page 5

Philip D. Golrick is the attorney representing BIS in this case; any communications that you may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) **482-5301**.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Menefee". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark D. Menefee  
Director  
Office of Export Enforcement

UNITED STATES DEPARTMENT OF COMMERCE  
UNDER SECRETARY FOR INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

In the Matter of: )  
)  
ABDULAMIR MAHDI, )  
aka Amir Mahdi and aka Jasin Khafaf ) Docket No. 02-BXA-02  
20 Huntingwood Drive )  
Scarborough, Ontario, Canada, M1W1A2 )  
)  
and )  
)  
OTS REFINING EQUIPMENT CORPORATION )  
7030 Woodbine Avenue, N.E. )  
Suite 500 )  
Markham, Ontario, Canada L3R 6G2 )  
)  
Respondents )  
\_\_\_\_\_ )

DECISION AND ORDER

On November 22, 2002 the Bureau of Industry and Security (BIS)<sup>1</sup> issued an amended charging letter against the respondents, Abdulamir Mahdi, also known as **Amir** Mahdi and Jasin Khafaf (“Mahdi”), and OTS Refining Equipment Corporation (OTS), that alleged **six** violations of the **Export** Administration Regulations (EAR).<sup>2</sup> The charges are related to the export of U.S.-origin oil field equipment to Iran through Canada. The specific charges as amended were:

- (1) one charge under Section 764.2(d) of the EAR of conspiring to export the equipment to **Iran** without the required authorizations from the U.S. Government; (2) two charges under Section

<sup>1</sup> The Bureau of Industry and Security **was** formerly known as the Bureau of Export Administration. The name of the Bureau was changed pursuant to an order signed by the Secretary of Commerce on April 16, 2002.

<sup>2</sup> The **Export** Administration Regulations are codified at 15 C.F.R. §§ **730 - 799**.

764.2(a) of the EAR of making such unauthorized exports to Iran; (3) one charge under Section 764.2(c) of the EAR of soliciting or attempting an unauthorized export to Iran; (4) one charge under Section 764.2(g) of the EAR of making a false statement on a Shipper's Export Declaration; and (5) one charge under Section 764.2(e) of the EAR of transferring and forwarding goods to Iran with knowledge that the items were exported from the United States in violation of the EAR. *See* BIS Amended Charging Letter of November 22,2002.

On September 6,2002, the ALJ issued an order that granted in part **BIS's** motion for **summary** decision. That order found Mahdi liable on the conspiracy charge based on the collateral estoppel effect of his prior criminal conviction for conspiracy. BIS's motion for **summary** decision was denied on other charges. *See* ALJ Order of September 6,2002.

On May 13,2003, the ALJ conducted **an** evidentiary hearing in this matter. **On** August 26,2003, the ALJ issued a Recommended Decision and Order, in which he found that Mahdi and OTS each committed the six violations described above. The ALJ also recommended the denial of the export privileges of Mahdi and OTS for 20 years. *See* Recommended Decision and Order of August 26,2003.

Pursuant to Section 766.22 of the EAR, the ALJ's Recommended Decision and Order has been referred to me for final action. Based on my review of the entire record, I find that the record supports the ALJ's findings of fact and conclusions **of** law regarding each of the above-referenced charges. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations, the scope of the respondents' efforts to make unauthorized exports, and the importance of preventing future unauthorized exports to **Iran**, an embargoed country. I

therefore affirm the findings of fact and conclusions of law in the ALJ's Recommended Decision and Order.<sup>3</sup>

IT IS HEREBY ORDERED,

FIRST, that for a period of 20 years from the date on which this Order takes effect, Abdulmir Mahdi, also known as Amir Mahdi and Jasin Khafaf, 20 Huntingwood Drive, Scarborough, Ontario, Canada, M1W1A2, and OTS Refining Equipment Corporation, 7030 Woodbine Avenue, N.E., Suite 500, Markham, Ontario, Canada, L3R6G2, (hereinafter collectively referred to as "Denied Persons" and individually referred to as "a Denied Person"), and all of their successors or assigns, officers, representatives, agents, and employees, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR, including, but not limited to:

---

<sup>3</sup> There are two minor clarifications to the ALJ's Recommended Decision and Order that need to be made:

(1) The language in paragraph 2 of Part V of the Recommended Decision and Order indicates that Canada does not require licenses for non-munitions items of Canadian-origin to Iran. However, while Canada does not control the oil field equipment exported by Mahdi and OTS to Iran, it does in fact control the export of certain other non-munitions items of Canadian-origin to Iran.

(2) The language quoted from the Iranian Transactions Regulations at 31 C.F.R. § 560.204(a) in Part VII.A of the Recommended Order was not in effect until after the conduct at issue in this case. However, the language of § 560.204 that was in effect at the time of respondents' conduct plainly reached their actions. *See United States v. Ehsan*, 163 F.3d 855, 858-59 (4<sup>th</sup> Cir. 1998) (shipment to the United Arab Emirates ultimately intended for Iran "fits the plain meaning of an 'exportation' to Iran" under 31 C.F.R. § 560.204).

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or
- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in connection with any other activity subject to the EAR.

SECOND, that no person may, directly or indirectly, do any of the following:

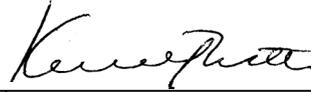
- A. Export or reexport to or on behalf of a Denied Person any item subject to the EAR,
- B. *Take* any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession, or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

- D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and that is owned, possessed, or controlled by a Denied Person, or service any item, **of** whatever origin, that is owned, possessed, or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, “servicing” means installation, maintenance, repair, modification, or testing.

THIRD, that after notice and opportunity for comment **as** provided in Section **766.23** of the EAR, any person, **firm**, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

FOURTH, that this Order shall be served on the Denied Persons and on **BIS**, and shall be published in the *Federal Register*. In addition, the ALJ’s Recommended Decision and Order, except for the section with the heading “Recommended Order,” shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the *Federal Register*.



---

Kenneth I. Juster

Under Secretary of Commerce  
for Industry **and** Security

Dated: 9/29/03