

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

In the Matter of:)
)
Robert Kraaiipoel)
P.O. Box 418)
Heerhugowaard, Netherlands 1700AK)
)
and)
)
Flemming Straat 36)
Heerhugowaard, Netherlands 1700AK)
)
Respondent.)
)

ORDER RELATING TO ROBERT KRAAIPOEL

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Robert Kraaiipoel, in his individual capacity, of its intention to initiate an administrative proceeding against him pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Robert Kraaiipoel that alleged that he committed one violation of the Regulations. Specifically, the charge is:

Charge 1 15 C.F.R. §764.2(d) – Conspiracy

Between on or about October 1, 2005, and continuing through on or about October 30, 2007, Robert Kraaiipoel conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about acts that constitute violations of the Regulations. The purpose of

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violations occurred between 2005 and 2007. The Regulations governing the violations at issue are found in the 2005 through 2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005-2007)). The 2009 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

the conspiracy was to export U.S.-origin items including aircraft parts, electronic components, and polyimide film on multiple occasions, from the United States to Iran, via the Netherlands, Cyprus, and the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, authorization was required from OFAC before the aircraft parts, electronic components, and polyimide film, items subject to the Regulations³ and the Iranian Transactions Regulations, 31 C.F.R. Part 560 (“ITR”), could be exported from the United States to Iran. Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction subject to the ITR. In furtherance of the conspiracy, Robert Kraaiipoel and his co-conspirators devised and employed a scheme to purchase these items from the United States on behalf of Iranian customers and give U.S. manufacturers false information regarding the ultimate destination, end user, and end use of the items, thereby causing false export control documents to be submitted to the U.S. Government listing countries other than Iran as the ultimate destination for the items. These acts were taken to export U.S.-origin items to Iran without the required U.S. Government authorization and avoid detection by law enforcement. By engaging in this activity, Robert Kraaiipoel committed one violation of Section 764.2(d) of the Regulations.

WHEREAS, BIS and Robert Kraaiipoel have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, Robert Kraaiipoel shall be assessed a civil penalty in the amount of \$250,000. Payment of the \$250,000 penalty shall be suspended for a period of three (3) years from the date of this Order, and thereafter shall be waived, provided that during the period of suspension, Robert Kraaiipoel has committed no violation of the Act, or any regulation, order, or license issued thereunder.

SECOND, for a period of seven (7) years from the date of this Order, Robert Kraaiipoel, P.O. Box 418, Heerhugowaard, Netherlands 1700AK and Flemming Straat 36, Heerhugowaard, Netherlands 1700AK, his representatives, assigns or agents (hereinafter collectively referred to

³ The items were classified as Export Control Classification Numbers (“ECCNs”) 9A991, 1C008.a.3, and 5A991. Additionally, some of the aircraft parts were designated EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. (2005-2007).

as “Denied Person”) may not participate, directly or indirectly, 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 Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- 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 Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

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

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

- D. Obtain from the Denied Person in the United States any item subject to the Regulations 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 Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

FOURTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Robert Kraaiipoel 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 the Order.

FIFTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

SIXTH, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

SEVENTH, that this Order shall be served on the Denied Person, and shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective immediately.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 2 day of April, 2010.

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

In the Matter of:)
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Robert Kraaipoel)
P.O. Box 418)
Heerhugowaard, Netherlands 1700AK)
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and)
)
Flemming Straat 36)
Heerhugowaard, Netherlands 1700AK)
)
Respondent.)
_____)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Robert Kraaipoel, in his individual capacity, and the Bureau of Industry and Security, U. S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (“Act”),²

WHEREAS, BIS has notified Robert Kraaipoel of its intention to initiate an administrative proceeding against him pursuant to the Act and the Regulations,

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violation occurred between 2005 and 2007. The Regulations governing the violation at issue are found in the 2005 through 2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005-2007)). The 2009 Regulations govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 Fed. Reg. 41,625 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)).

WHEREAS, BIS has issued a proposed charging letter to Robert Kraaiupoel that alleged that he committed one violation of the Regulations, specifically:

Charge 1 15 C.F.R. §764.2(d) – Conspiracy

Between on or about October 1, 2005, and continuing through on or about October 30, 2007, Robert Kraaiupoel conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about acts that constitute violations of the Regulations. The purpose of the conspiracy was to export U.S.-origin items including aircraft parts, electronic components, and polyimide film on multiple occasions, from the United States to Iran, via the Netherlands, Cyprus, and the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, authorization was required from OFAC before the aircraft parts, electronic components, and polyimide film, items subject to the Regulations³ and the Iranian Transactions Regulations, 31 C.F.R. Part 560 (“ITR”), could be exported from the United States to Iran. Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction subject to the ITR. In furtherance of the conspiracy, Robert Kraaiupoel and his co-conspirators devised and employed a scheme to purchase these items from the United States on behalf of Iranian customers and give U.S. manufacturers false information regarding the ultimate destination, end user, and end use of the items, thereby causing false export control documents to be submitted to the U.S. Government listing countries other than Iran as the ultimate destination for the items. These acts were taken to export U.S.-origin items to Iran without the required U.S. Government authorization and avoid detection by law enforcement. By engaging in this activity, Robert Kraaiupoel committed one violation of Section 764.2(d) of the Regulations.

WHEREAS, Robert Kraaiupoel has reviewed the proposed charging letter and is aware of the allegations made against him and the administrative sanctions which could be imposed against him if the allegations are found to be true;

WHEREAS, Robert Kraaiupoel fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

³ The items were classified as Export Control Classification Numbers (“ECCN”) 9A991, 1C008.A.3, 5A991., Additionally, some of the aircraft parts were designated EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. (2005-2007).

WHEREAS, Robert Kraaiipoel enters into this Agreement voluntarily and with full knowledge of his rights;

WHEREAS, the parties enter into this Agreement having taken into consideration a plea agreement that Robert Kraaiipoel has entered into with the U.S. Attorney's Office for the District of Columbia;

WHEREAS, Robert Kraaiipoel states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Robert Kraaiipoel neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Robert Kraaiipoel wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Robert Kraaiipoel agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Robert Kraaiipoel, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanctions shall be imposed against Robert Kraaiipoel in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:
 - a. Robert Kraaiipoel shall be assessed a civil penalty in the amount of \$250,000. Payment of the \$250,000 shall be suspended for a period of three years from the date of issuance of the Order and thereafter shall be waived, provided that during the period of suspension, Robert Kraaiipoel

has committed no violation of the Act, or any regulation, order, or license issued thereunder.


- b. For a period of seven years from the date of entry of the Order, Robert Kraaijoel and when acting for or on behalf of Robert Kraaijoel, his representatives, agents, assigns or employees, (hereinafter collectively referred to as the "Denied Person") may not participate, directly or indirectly, 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 Regulations, or in any other activity subject to the Regulations, including, but not limited to:
 - i. Applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. 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 Regulations, or in any other activity subject to the Regulations; or
 - iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Robert Kraaiipoel hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if issued), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued.
4. BIS agrees that, upon issuance of the Order, it will not initiate any further administrative proceeding against Robert Kraaiipoel in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.
5. BIS will make the proposed charging letter, this Agreement, and the Order, if issued, available to the public.
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued, nor shall this Agreement serve to bind,

constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

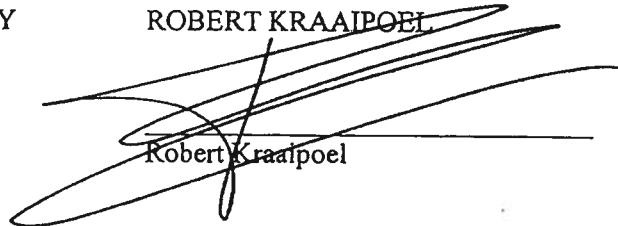
BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



Thomas Madigan
Director
Office of Export Enforcement

Date: 22 JANUARY 2010

ROBERT KRAAIJPOEL



Robert Kraaijpoel

Date: 14 December 2009

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Kraaiipoel, President
Aviation Services International, B.V.
P.O. Box 418
Heerhugowaard, Netherlands 1700AK

and

Flemming Straat 36
Heerhugowaard, Netherlands 1700AK

*Attn: Mr. Robert Kraaiipoel
President*

Dear Mr. Kraaiipoel:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Robert Kraaiipoel, in your individual capacity as president of Aviation Services International, B.V. of Heerhugowaard, Netherlands have committed one violation of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that you committed the following violation:

Charge 1 15 C.F.R. §764.2(d) – Conspiracy

Between on or about October 1, 2005, and continuing through on or about October 30, 2007, Robert Kraaiipoel conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about acts that constitute violations of the Regulations. The purpose of the conspiracy was to export U.S.-origin items including aircraft parts, electronic components,

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The alleged violation occurred between 2005 and 2007. The Regulations governing the alleged violation at issue are found in the 2005-2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005-2007)). The 2009 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000) (“IEEPA”). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

and polyimide film on multiple occasions, from the United States to Iran, via the Netherlands, Cyprus, and the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, authorization was required from OFAC before the aircraft parts, electronic components, and polyimide film, items subject to the Regulations³ and the Iranian Transactions Regulations, 31 C.F.R. Part 560 (“ITR”), could be exported from the United States to Iran. Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction subject to the ITR. In furtherance of the conspiracy, Robert Kraaiipoel and his co-conspirators devised and employed a scheme to purchase these items from the United States on behalf of Iranian customers and give U.S. manufacturers false information regarding the ultimate destination, end user, and end use of the items, thereby causing false export control documents to be submitted to the U.S. Government listing countries other than Iran as the ultimate destination for the items. These acts were taken to export U.S.-origin items to Iran without the required U.S. Government authorization and avoid detection by law enforcement. By engaging in this activity, Robert Kraaiipoel committed one violation of Section 764.2(d) of the Regulations.

* * * * *

Accordingly, you are hereby notified that an administrative proceeding is instituted against you 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 up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If you fail to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7 (2009). If you default, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to you. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

You are further notified that you are entitled to an agency hearing on the record if you file a written demand for one with your answer. *See* 15 C.F.R. § 766.6 (2009). You are also entitled

³ The items were classified as Export Control Classification Numbers (“ECCN”) 9A991, 1C008.A.3, 5A991., Additionally, some of the aircraft parts were designated EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. (2005-2007).

⁴ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

to be represented by counsel or other authorized representative who has power of attorney to represent you. *See* 15 C.F.R. §§ 766.3(a) and 766.4 (2009).

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2009). Should you have a proposal to settle this case, you or your representative should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, your answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of your answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Gregory Michelsen
Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

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

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement