

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[03-BIS-14]

Action Affecting Export Privileges; Mr. Kiarash Arastafar In the Matter of: Mr. Kiarash Arastafar, Westboschlaan, 151A, 2265 EN Leidschendam, The Netherlands, Respondent; Order Relating to Kiarash Arastafar

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") having initiated an administrative proceeding against Kiarash Arastafar, pursuant to section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730-774 (2004)) ("Regulations"),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) ("Act"),² by issuing a charging letter to Kiarash Arastafar that alleged that Kiarash Arastafar committed three violations of the Regulations. Specifically, the charges are:

1. One Violation of 15 CFR 764.2(c)—Solicitation of the Unlicensed Export of Items to Iran: From on or about July 15, 2002, to on or about January 28, 2003, Kiarash Arastafar solicited the export of gas processor parts, items subject both to the Regulations (EAR99³) and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC") and located in the United States, to Iran through the Netherlands without the authorization from OFAC required by section 746.7 of the Regulations.

2. One Violation of 15 CFR 764.2(e)—Acting with Knowledge of a Violation: In connection with the solicitation referenced in paragraph 1 above, Kiarash Arastafar ordered the above-

described items with knowledge that a violation of the Regulations was intended to occur in connection with the items. Kiarash Arastafar knew that U.S. government authorization was required for the purported export and would not be obtained.

3. One Violation of 15 CFR 764.2(h)—Attempting to Evade the Provisions of the Regulations: In connection with the solicitation referenced in paragraph 1 above, Kiarash Arastafar took action with the intent to evade the Regulations by urging the purported exporter to ship the items in question to the Netherlands from the United States, with the understanding that the items would subsequently be shipped to Iran (a destination requiring an export license for these items).

Whereas, BIS and Kiarash Arastafar have entered into a Settlement Agreement pursuant to section 766.18(b) 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, that for a period of 15 years from the date of entry of this Order, Kiarash Arastafar, Westboschlaan, 151A, 2265 EN Leidschendam, The Netherlands, and when acting for or on behalf of Kiarash Arastafar, his representatives, agents, assigns or employees ("Denied Person") 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 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.

Second, 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.

Third, 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 Kiarash Arastafar 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.

Fourth, 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.

Fifth, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by section 766.18 of the Regulations.

Sixth, that the charging letter, the Settlement Agreement, and this Order shall be made available to the public

¹ The charged violations occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 versions of the Code of Federal Regulations (15 CFR parts 730-774 (2002-2003)). The 2004 Regulations establish the procedures that apply to this matter.

² 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 August 3, 2000 (3 CFR, 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 CFR 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004 (69 FR 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

³ The term "EAR99" refers to items subject to the Regulations that are not listed on the Commerce Control List. See 15 CFR 734.3(c).

and record of the case as described in section 766.22 of the Regulations.

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

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

Entered this 24th day of February, 2005.

Wendy L. Wysong,

Acting Assistant Secretary of Commerce for Export Enforcement.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[03-BIS-13]

Action Affecting Export Privileges; Chemical Industries Consolidated B.V. In the Matter of: Chemical Industries Consolidated b.v., Westboschlaan, 151A, 2265 EN Leidschendam, The Netherlands, Respondent; Order Relating to Chemical Industries Consolidated B.V.

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") having initiated an administrative proceeding against Chemical Industries Consolidated b.v. ("CIC"), pursuant to section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730-774 (2004)) ("Regulations"),¹ and section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) ("Act"),² by issuing a charging letter to CIC that alleged that CIC committed three violations of the Regulations. Specifically, the charges are:

1. One Violation of 15 CFR 764.2(c)—Solicitation of the Unlicensed Export of

Items to Iran: From on or about July 15, 2002, to on or about January 28, 2003, CIC solicited the export of gas processor parts, items subject both to the Regulations (EAR99³) and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC") and located in the United States, to Iran through the Netherlands without the authorization from OFAC required by section 746.7 of the Regulations.

2. One Violation of 15 CFR 764.2(e)—Acting with Knowledge of a Violation: In connection with the solicitation referenced in paragraph 1 above, CIC ordered the above-described items with knowledge that a violation of the Regulations was intended to occur in connection with the items.

3. One Violation of 15 CFR 764.2(h)—Attempting To Evade the Provisions of the Regulations: In connection with the solicitation referenced in paragraph 1 above, CIC took action with the intent to evade the Regulations by urging the purported exporter to ship the items in question to the Netherlands from the United States, with the understanding that CIC would subsequently ship the items to Iran (a destination requiring an export license for these items).

Whereas, BIS and CIC have entered into a Settlement Agreement pursuant to section 766.18(b) 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, that for a period of five years from the date of entry of this Order, Chemical Industries Consolidated b.v., 151A, 2265 EN Leidschendam, The Netherlands, its successors or assigns, and when acting for or on behalf of CIC, its officers, representatives, agents, or employees ("Denied Person") 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 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.

Second, 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.

Third, 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 CIC 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.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations

¹ The charged violations occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 versions of the Code of Federal Regulations (15 CFR parts 730-774 (2002-2003)). The 2004 Regulations establish the procedures that apply to this matter.

² 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 August 3, 2000 (3 CFR, 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 CFR, 2001 Comp 783 (2002)), as extended by the Notice of August 6, 2004 (69 FR 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

³ The term "EAR99" refers to items subject to the Regulations that are not listed on the Commerce Control List. See 15 CFR 734.3(c).