D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 6, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–11868 Filed 5–10–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Indiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will be held from 9 a.m. to 5 p.m. on Thursday, May 30, 2002, at the Hyatt Regency Hotel, One South Capitol Avenue, Indianapolis, Indiana 46204. The purpose of the meeting is to discuss current events and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 6, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–11867 Filed 5–10–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 6 p.m. and adjourn at 8 p.m. on June 6, 2002, at the Baton Rouge Marriott, 5500 Hilton Avenue, Baton Rouge, LA 70808. The Committee will plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 3, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–11865 Filed 5–10–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Nebraska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 6 p.m. and adjourn at 8 p.m. on June 5, 2002, at the Holiday Inn, 3221 S. 72nd Street, Omaha, Nebraska 68124. The Committee will plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 3, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–11866 Filed 5–10–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Wednesday, June 5, 2002, at the North Carolina A&T State University, Hodgin Hall, Room 118, Greensboro, North Carolina 27411. The purpose of the meeting is to hold new member orientation and discuss the Title VI project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 6, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–11864 Filed 5–10–02; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Under Secretary for Industry and Security

[01–BXA–01]

In the Matter of: Jabal Damavand General Grading Company, P.O. Box 52130, Dubai, United Arab Emirates, Respondent; Decision and Order

On January 4, 2001, the Bureau of Industry and Security (BIS) [1] issued a charging letter against the respondent, Jabal Damavand General Trading Company (Jabal), that alleged three violations of the Export Administration Regulations (EAR), 15 CFR part 730 *et seq*. The three charges related to a shipment of U.S.-origin ferrography laboratory equipment to the United Arab Emirates (UAE) and, ultimately, to

[1] 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.

Iran. The specific charges were: (1) Reexporting the equipment from the UAE to Iran without the required authorization from BIS; (2) participating in that transaction with knowledge that a violation had occurred; and (3) making a false statement to the U.S. supplier of the equipment as to the end-use and destination of the equipment. *See* BIS Charging Letter of January 4, 2001.

Jabal failed to answer the charging letter within the time limits set forth in Section 766.7 of the EAR. Accordingly, on June 14, 2001, the Administrative Law Judge (ALJ), at the request of BIS, issued a Recommended Decision and Order finding that Jabal had violated the EAR as charged in the charging letter and recommending a penalty of denial of Jabal's export privileges for 10 years. *See* Recommended Decision and Order of June 14, 2001, published at 66 FR 39,008 (July 26, 2001).

On July 19, 2001, I vacated the ALJ's Recommended Decision and Order and remanded the case to the ALJ. *See* 66 FR 39,007, July 26, 2001. Based on my review of the record, I found that BIS had not established the Export Control Classification Number of the equipment in question and, consequently, had not established a requirement under the EAR to obtain authorization from BIS to reexport the equipment from the UAE to Iran. I also directed the ALJ to determine whether to consider as an answer a letter that Jabal had sent to the ALJ more than 30 days after notice of issuance of the charging letter. Finally, I directed the ALJ to reconsider the recommended penalty in light of any decisions on remand.

On September 4, 2001, the ALJ approved BIS's request to amend the charging letter. *See* ALJ Order of September 4, 2001, at 2. BIS filed an amended charging letter with the ALJ on September 24, 2001 and served it on Jabal on the same date. *See* BIS Amended Charging Letter of September 24, 2001. Jabal did not respond to the amended charging letter.

BIS's amended charging letter alleges four violations of the EAR. These violations are: (1) Causing the illegal exportation of goods from the United States through the UAE to Iran; (2) transferring the goods in the UAE to Iran knowing that they had been exported in violation of the EAR; (3) evading the EAR by misrepresenting to the U.S. supplier that the end-user was in the UAE when, infact, the end-user was in Iran; and (4) evading the EAR by having the equipment assembled and tested in the UAE so as to conceal the true destination from the U.S. supplier.

In his Recommended Decision and Order issued on April 1, 2002, the ALJ found that the charges in the amended charging letter were proven on three alternate theories: (1) Jabal defaulted by not answering the amended charging letter within the time set forth in the EAR; (2) BIS was entitled to a summary decision as a matter of law because there was no genuine issue of material fact; and (3) after review of the facts in the record, the charges in the amended charging letter were proven by BIS. *See* Recommended Decision and Order of April 1, 2002, at 10–11.

As provided by section 66.22 of the EAR, the Recommended Decision and Order has been referred to me for final action. Based on my review of the entire record, I find that each of three alternate findings of the ALJ is correct and that the charges in the amended charging letter have been proven. I hereby affirm the findings of fact and conclusions of law in the Recommended Decision and order of the ALJ.

It is therefore ordered.

First, that, for a period of 10 years from the date that this Order is published in the **Federal Register**, Jabal Damavand General Trading Company, P.O. Box 52130, Dubai, United Arab Emirates, and all of its successors or assigns, officers, representatives, agents, and employees (hereinafter collectively referred to as the ''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 Untied States that is subject to the Export Administration Regulations (EAR), or in any other activity subject to the EAR, 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 EAR, or in connection with 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 from 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 the denied person any item subject to the EAR;

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 EAR 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 EAR that has been exported from the United States;

D. Obtain from the 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 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 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 the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related servicing may also be made subject to the provisions of this Order.

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

Fifth, that this Order shall be served on the denied person and on BIS, and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision and Order, except for the section headed ''Proposed Decision and Order,'' shall be published in the **Federal Register**.

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

Dated: May 2, 2002.

Kenneth I. Juster,

Under Secretary of Commerce for Industry and Security.

Bureau of Export Administration

Recommended Decision and Order

Background

On January 4, 2001, the Bureau of Export Administration (''BXA'') issued a charging letter against the respondent, JABAL DAMAVAND GENERAL TRADING COMPANY (''Jabal'') that alleged three violations of Export Administration Regulations (''EAR'').[1] The charges related to a shipment of ferrography laboratory equipment to Iran through the United Arab Emirates (''UAE''). The charges were (1) re-exporting the equipment from the UAE to Iran without re-export authorization from BXA, (2) participating in that transaction with knowledge that a violation had occurred, and (3) making a false statement to the supplier of the equipment as to the end use and destination of the equipment.

Jabal failed to answer the charging letter in a timely manner. On June 14, 2001, this Administrative Law Judge (ALJ), at the request of BXA, issued a Recommended Decision and Order that found Jabal in violation of the charges in the charging letter and that recommended a penalty of denial of Jabal's export privileges for 10 years.

On July 19, 2001, the Under Secretary for Export Administration vacated the Recommended Decision and Order and remanded the case to the ALJ. The Under Secretary found that BXA had not established the Export Control Commodity Number (ECCN) of the goods in question and, consequently, had not established a requirement under the Export Administration Regulations to obtain authorization from BXA for the re-export. The Under Secretary further directed the ALJ to determine whether to consider as an answer a letter that Jabal had sent to the ALJ more than 30 days after service of the charging letter. Finally, the Under Secretary directed that the ALJ reconsider the penalty.

On August 14, 2001, BXA asked the ALJ's permission to amend the charging letter. (Under EAR Section 766.3(a), the charging letter may be amended with permission of the ALJ.) On September 4, 2001, the ALJ approved BSA's request to amend the charging letter. Additionally, the ALJ ordered BXA to ''include [in the amended charging letter] sufficient information relating to the classification of the ferrography laboratory equipment within the Commerce Control List.

This ALJ also ordered:

> Respondent may * * * amend its answer after service of the amended charging letter. Respondent shall have 20 days from the date of service of the amended charging letter to file such an amendment. A failure to timely file such an answer will be considered a waiver of the right to answer the amended charging letter.

BXA filed an amended charging letter with the ALJ on September 24, 2001 and served it on Jabal on the same date. Jabal has not responded to the amended charging letter.[2]

BXA's amended charging letter alleges four violations of the Export Administration Regulations. These violations are (1) causing the illegal exportation of goods from the United States through the UAE to Iran, (2) transferring the goods in the UAE to Iran knowing that they had been exported in violation of the Regulations, (3) evading the Regulations by representing to the U.S. supplier that the end-user was in the UAE when, in fact, the end-user was in Iran, and (4) evading the Regulations by assembling and testing that goods in the UAE so the U.S. supplier would not know their true destination.

On March 11, 2002, BXA filed a Motion for Recommended Decision together with a Declaration of David J. Poole, Senior Special Agent, of the Bureau of Export Administration, Office of Export Enforcement. The Declaration included various factual exhibits.[3] Jabal has not responded to this motion.

Facts

In November 1997, a manufacturer in Massachusetts received an order for a ferrograph analysis system from the Jabal General Trading Company in Dubai, UAE. In a fax to Jabal dated November 11, 1997, the manufacturer requested information relating to the end-use of the equipment and asked for assurances that the ferrograph system would not be shipped to a ''boycotted nation.'' Jabal responded that the end-user was in Dubai and that an engineer from the U.S. manufacturer should install the system at its facility. See, Declaration of David J. Poole ¶ 4 (Declaration and Exhibits).

On February 27, 1998, the U.S. manufacturer exported a ferrograph analysis system valued at $438,200, to Jabal in Dubai, UAE. Approximately one month after the shipment, an engineer from the U.S. manufacturer traveled to the UAE to install and test this system for Jabal Declaration, ¶ 5.

Shortly after the engineer's arrival in the UAE, he met with a man who identified himself as Mr. Ashraf of Jabal. An individual who identified himself as A.R. Massoudi accompanied Mr. Ashraf. Mr. Massoudi gave the engineer a business card that stated that Mr. Massoudi was the chairman of the Tavankav PJS Company in Iran. When the engineer questioned this, Mr. Massoudi said that he was a consultant working with the Jabal. Mr. Massoudi and Mr. Ashraf then took the engineer to a warehouse, not the end user's location, where the equipment was stored. When the engineer asked Mr. Massoudi why the ferrograph analysis system was being tested in a warehouse as it would usually be tested after installation at the end-user's premises, Mr. Ashraf said that his customer's facility was still being built. The engineer assembled the equipment and then demonstrated to Ashraf and Massoudi how the equipment should be used. Upon completion of the assembly and testing of the equipment, the engineer returned to the United States on or about April 5, 1998 Declaration ¶ 6.

The U.S. manufacturer had no further contact with Jabal until July 6, 1998. On that day, a person identifying himself as Mr. Massoudi called and asked to speak with the engineer. The engineer was unavailable but Mr. Massoudi asked that he contact him at his office in Dubai at 971–4–278–808, or on his cellular phone, number 98–911–228–15–004. Mr Massoudi called the U.S. manufacturer again on July 7, 1998, and this time reached Mr. Kelly and spoke to him about a problem with the ferrograph system. The problem described by Mr. Massoudi appeared to be related to the elevation at which the system was being used. When the engineer asked Massoudi if the system had been moved, Massoudi said that it had, but was reluctant to provide any details. Eventually, Massoudi admitted that the system had been moved to a location near Tehran, Iran Declaration ¶ 7.

On July 7, 1998, the U.S. manufacturer received an inquiry from

[1] The Export Administration Regulations are codified at 15 CFR part 730, *et seq.*

[2] Jabal had ample notice of its need to properly answer the amended charging letter. In addition to the ALJ's order, BXA made the following statement in the brief it filed with the amended charging letter, which it served on Jabal, and which alerted Jabal to its need to properly answer.

> BXA has no objection to the ALJ's decision to consider the June 19, 2001 letter from Jabal as an answer, but we note that the answer does not meet the requirements for a detailed response that are set out in the EAR. In light of the amended charges, BXA believes that Jabal must file another answer that specifically addresses each charge, lest the charges be deemed to have been admitted.

[3] While BXA's Motion is characterized as one for Recommended Decision its pleadings show it is both a motion for default under EAR Section 766.7, and a motion for Summary Decision under EAR Section 766.8.

Jabal concerning the purchase of spare parts for the ferrograph system. Declaration ¶ 8.

Sometime later, Massoudi again contacted the U.S. manufacturer and spoke with then engineer. During this conservation, Massoudi advised that he had corrected the problem with the system and expressed an interested in being a representative for the U.S. manufacturer in Iran. Declaration ¶ 9.

The U.S. manufacturer received a fax message on July 30, 1998, from the Tavankav PJS Company in Iran advising that Tavankav had purchased the U.S. manufacturer's equipment from Jabal in Dubai, and was following up on Mr. Massoudi's offer to represent the U.S. manufacturer in Iran. On October 7, 1998, Jabal again inquired about the purchase of spare parts for the system that was now in Iran. Declaration ¶ 10.

Neither the Bureau of Export Administration, nor the U.S. Treasury's Office of Foreign Assets Control (''OFAC'') authorized the shipment of the items in issue to Iran. Declaration ¶¶ 13 and 14, and Exhibit 11.

In its letter of June 19, 2001, Jabal claimed that it was only a financier based on an accompanying contract and copies of messages. Jabal also asserted that it was told the end user was in Dubai and the equipment was to be installed in Dubai. Jabal denied making any false or misleading statement.

The Law

A. Procedural

Given the nature of the procedural setting of this case, I find it appropriate to rule in the alternative. First, BXA is entitled to a finding that the facts in the amended charging letter are proven since Jabal has defaulted by not answering the Amended Charging Letter. Second, BXA is entitled to a summary decision according to EAR Section 766.8, because there are no genuine issues of material fact and thus is entitled to a judgement as a matter of law. Third, in reviewing all of the facts on the merits, BXA has established that the charges in the amended charging letter are proven.

It is clear from the Regulations that respondent's answer is critical to framing the factual issues in the case. There are no factual issues in dispute if the respondent has not presented an answer as required by this regulation. EAR Section 766.7 provides as follows:

The answer must be responsive to the charging letter and must fully set forth the nature of the respondent's defense or defenses. The answer must admit or deny specifically each separate allegation of the charging letter; if the respondent is without knowledge, the answer must so state and will operate as a denial. *Failure to deny or controvert a particular allegation will be deemed an admission of that allegation.* The answer must also set forth any additional or new matter the respondent believes supports a defense or claim of mitigation. *Any defense or partial defense not specifically set forth in the answer shall be deemed waived,* and evidence thereon may be refused, except for good cause shown. EAR Section 766.6(b) [Emphasis supplied].

While Jabal has answered, in part, the first charging letter, its failure to answer the amended charging letter is the critical element, which constitutes the default under EAR Section 766.7(a). Respondent Jabal has not answered the amended charging letter even after it was explicitly given the opportunity to do so. Therefore, I find that Jabal has defaulted in its failure to answer the amended Charging Letter, and thus find those charges to be as alleged in the Charging Letter and thus proven in accordance with EAR Section 766.7(a).

Even if Jabal is deemed to have answered certain allegations originally included in the first Charging Letter, its answer and supporting documentation raised no disputed issues of fact that prevent a finding for BXA under the summary decision procedures in EAR Section 766.8. This is because Jabal may not rest on its answer to oppose summary decision. It must make an affirmative showing on all matters placed in issue by BXA's motion as to which it has the burden of proof at trial.[4] A simple denial is insufficient.[5] See *Celotex Corporation* v. *Catrett,* 477 US 317, 323–324 (1986).

Simply put, Jabal has made no response to the BXA motion, and its earlier answer did not supply evidence that was significantly probative to raise a genuine issue of material fact, which would cause or be enough for the ALJ, as the trier of fact, to resolve the parties' differing versions of the truth.[6] See, *Avdin Corporation* v. *Loral Corporation,* 718 F.2d 897, 902 (9th Cir. 1983).

Consequently, I find there is no genuine issue as to any material fact, and BXA is entitled to a summary decision as a matter of law. EAR Section 766.8.

B. Export Control Law

While the EAR do not create a requirement to obtain an export license from BXA to ship goods, such as those here, from the United States to Iran, it does violate the EAR to export such goods from the United States to Iran without authority from the Office of Foreign Assets Control of the United States Department of the Treasury (OFAC). Thus, the gist of the offense here was exporting goods subject to the EAR without approval from OFAC.

The ferrography laboratory equipment that Jabal caused to be exported to Iran was of ''U.S. origin'' and was classified as EAR99.[7] The equipment was ''subject to the Export Administration Regulations'' as it was of U.S. origin. *See* EAR Section 734.3(a)(2). As described below, the export of this equipment to Iran violated provisions of the EAR precluding shipments to Iran of any item ''subject to the EAR'' without authorization from OFAC.

The licensing policy with respect to Iran is contained in EAR Section 746.7, which reads in pertinent part:

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 re-export 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 re-exports to Iran under the EAR as described in paragraph (a)(2) of this section. *No person may export or re-export items subject to both the EAR and OFAC's Iranian Transactions Regulations without prior OFAC authorization.* Exports and re-exports subject to the EAR that are not subject to the Iranian Transactions Regulations may require authorization from BXA. [Emphasis supplied.][8]

The italicized portion of this provision, then, establishes a violation that has the following elements:

[4] Jabal affirmatively asserted in its answer it was only a financer and was told the end user was in Dubai. Jabal has the burden of showing these affirmative statements of fact at trial.

[5] Jabal denied making a false statement. The Amended Charging Letter no longer asserts that violation.

[6] For summary decision purposes, Jabal's answer to the first charging letter included three documents, when carefully read support the inference that Jabal aided and abetted the false representation to the U.S. manufacturer regarding the true identity and location of the end user causing an evasion of the EAR.

[7] *See* EAR Section 734.3(c). Items not on the Commerce Control List (CCL) but which are ''subject to the EAR'' are designated ''EAR 99.''

[8] This provision was added in 1996. The **Federal Register** notice that made the change said in part: ''This rule makes clear that enforcement action may be taken under the EAR with respect to an export or re-export prohibited both by the EAR and by the Executive Order and not authorized by OFAC.'' 61 FR 8471 (Mar. 5, 1996). This provision allows BXA's enforcement penalties, such as denial of export privileges, to supplement those available to OFAC.

(1) An export or re-export that is subject to the EAR, regardless whether it is on the CCL or classified as EAR99;

(2) That is also subject to OFAC's Iranian Transactions Regulations; and

(3) That does not have authorization from OFAC.

The transaction in this case was export from the United States to Iran that made a temporary stop in the UAE.[9] Section 560.204 of OFAC's Iran Transactions Regulations provided at the times relevant to this case:

Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, the exportation from the United States to Iran or the Government of Iran, or the financing of such exportation, of any goods, technology, or services is prohibited.[10]

The facts of this case demonstrate that the export alleged in the amended charging letter was subject to the EAR because the ferrography equipment was of U.S. origin, was subject to Iranian Transactions Regulations because it was an export to Iran, and did not have authorization from OFAC. These facts establish a violation of EAR Section 746.7 (''No person may export or re-export items subject to both the EAR and OFAC's Iranian Transactions Regulations without prior OFAC authorization.'')

Discussion

The four charges in this case are clearly proven. In charge 1, Jabal caused the good to be exported to Iran by ordering them from the U.S. supplier knowing that they were bound for Iran. Pursuant to EAR Section 734.2(b)(6), Jabal's intent that the goods ultimately go to Iran makes that an export to Iran under the EAR. There was no authorization for this export to Iran from OFAC. Consequently, the elements of this offense are proven.

Charge 2 alleges that Jabal, with knowledge of the illegal exportation of the goods as set out in charge 1, transferred them to Iran. EAR Section § 764.2(e) prohibits Jabal from taking this action with such knowledge. It is clear that Jabal knew that its customer was in Iran since the customer's representative, Mr. Massaoudi, was so closely connected to Jabal. Jabal's action of transferring the goods to Iran clearly proves charge 2.

Under charge 3, Jabal lied to the U.S. supplier because if the U.S. supplier knew the true facts, it would be required to obtain an export license, notify the authorities, or absent a license terminate the deal. Any of these actions would have circumvented Jabal's attempt to supply its Iranian customer. So Jabal's lie was intended to evade the provisions of the EAR and establishes that charge 3 was proven.

Charge 4 was another important step in Jabal's circumvention of U.S. export controls. Jabal had to gain the expertise to use the equipment but could not gain that expertise in Iran for feat that the U.S. supplier would alert the authorities. Consequently, Jabal arranged the assembly and testing of the goods at a warehouse in order to gain the necessary information on use of the equipment without detection of the true nature of the transaction. Again, Jabal evaded U.S. export controls.

The Penalty

In the Under Secretary's order of remand, he directed the ALJ to reconsider the recommended penalty in light of any new findings of fact or conclusions of law.

The Bureau of Export Administration has requested that all of Jabal's export privileges be denied for at least 10 years. A 10-year denial period is the appropriate sanction for several reasons. Under Section 764.3 of the Regulations, the only realistic sanctions available to BXA for the violations charged in this proceeding are a civil monetary penalty and a denial of export privileges. Jabal is located overseas, has not responded to the allegations set forth in the amended charging letter, or this motion, and has not demonstrated any interest in resolving this matter, either through the hearing process or through settlement. It is unlikely that Jabal would pay a civil monetary penalty willingly and BXA's ability to collect such a judgment is doubtful, rendering any judgment involving a civil monetary penalty meaningless.

Moreover, Jabal's violations are willful, blatant, and the result of an unlawful scheme. Finally, Jabal sent the ferrograph equipment to Iran, an embargoed country. Under all of these circumstances, I recommend a penalty of a 10-year denial of export privileges.

Conclusion

For these reasons, I recommend that you issue a *Decision* and *Order* as follows:

Dated: April 1, 2002.

Edwin M. Bladen,

Administrative Law Judge.

[FR Doc. 02–11581 Filed 5–10–02; 8:45 am]

BILLING CODE 3510–DT–M

[9] Pursuant to EAR Section 734.2(b)(6), an export that transits or transships one country for a new country or is intended for a new country is deemed to be an export to the new country.

[10] See also 15 CFR 742.8(a)(2) [export from the United States to any destination with knowledge that the items will be re-exported directly or indirectly in whole or in part to Iran is prohibited without a license from the Department of Treasury].

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–832, A–560–815, A–841–805]

Postponement of Final Antidumping Duty Determinations; Carbon and Certain Alloy Steel Wire Rod from Germany, Indonesia and Moldova

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Postponement of Final Antidumping Duty Determinations of Carbon and Certain Alloy Steel Wire Rod from Germany, Indonesia and Moldova.

SUMMARY: The Department of Commerce (the Department) is postponing the final determinations in the antidumping duty investigations of carbon and certain alloy steel wire rod from Germany, Indonesia and Moldova.

EFFECTIVE DATE: May 13, 2002.

FOR FURTHER INFORMATION CONTACT: Robert James at 202–482–0649 (Germany), Michael Ferrier at 202–482–1394 (Indonesia) or Scott Lindsay at 202–482–0780 (Moldova), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (April 2001).

Postponement of Final Determinations and Extension of Provisional Measures

On April 10, 2002, the Department published the affirmative preliminary determinations for the investigation of carbon and certain alloy steel wire rod (steel wire rod) from Germany and Moldova, and a negative preliminary determination in the investigation of steel wire rod from Indonesia. *See*