

will augment and improve its establishment data on all U.S. businesses from the Economic Census by separately identifying data for the establishments of foreign-owned U.S. companies for specific detailed industries, and by identifying data quality issues arising from reporting differences in the Census Bureau and BEA surveys. The Census Bureau and BEA will publish non-confidential aggregate reports (public use) that have cleared BEA and Census Bureau disclosure review. Disclosure review is a process conducted to verify that the data to be released do not reveal any confidential information.

**DATES:** Written comments must be submitted on or before July 19, 2004.

**ADDRESSES:** Please direct all written comments on this proposed program to the Director, Bureau of Economic Analysis, (BE-1), Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information on this proposed program should be directed to Christopher Emond, Chief, Special Surveys Branch, International Investment Division, Bureau of Economic Analysis (BE-50), Washington, DC 20230, by phone on (202) 606-9826 or by e-mail at [christopher.emond@bea.gov](mailto:christopher.emond@bea.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

CIPSEA (Pub. L. 107-347, Title V) and the International Investment and Trade in Services Survey Act (Pub. L. 94-472, 22 United States Code (U.S.C.) 3101-3108) allow BEA and the Census Bureau to share certain business data for exclusively statistical purposes. Section 524(d) of the CIPSEA requires a **Federal Register** notice announcing the intent to share data (allowing 60 days for public comment).

Section 524(d) also requires us to provide information about the terms of the agreement for data sharing. For the purposes of this notice, BEA has decided to group these terms by three categories. The categories are:

- Shared data.
- Statistical purposes for the shared data.
- Data access and confidentiality

**Shared Data**

BEA proposes to provide the Census Bureau with data collected from the FDI surveys. The agreement also calls for the Census Bureau to share data collected from the 2002 Economic Census and Business Register. A separate notice will address this issue.

BEA will provide the Census Bureau with only those data items necessary to link records from the FDI surveys with the establishments from the Business Register. The Census Bureau will use these data for statistical purposes exclusively. Through record linkage, the Census Bureau will augment and improve its establishment data on all U.S. businesses from the Economic Census by separately identifying data for the establishments of foreign-owned U.S. companies for specific detailed industries, and by identifying data quality issues arising from reporting differences in the Census Bureau and BEA surveys.

**Statistical Purposes for the Shared Data**

The data collected from the FDI surveys are used to estimate the financial and operating data, direct investment positions, and the international transactions data of U.S. affiliates of foreign companies. Statistics from these surveys are published in articles in the *Survey of Current Business* and in separate data publications. All data are collected under sections 3101-3108, of Title 22 U.S.C.

**Data Access and Confidentiality**

Title 22, U.S.C. 3104 protects the confidentiality of these data. The data may be seen only by persons sworn to uphold the confidentiality of the information. Access to the shared data will be restricted to specifically authorized personnel and will be provided for statistical purposes only. The results of this project are subject to disclosure protection. All Census Bureau employees with access to these data will become BEA Special Sworn Employees—meaning that they, under penalty of law, must uphold the data's confidentiality. To further safeguard the confidentiality of the data, BEA has conducted an Information Technology security review of the Census Bureau.

Dated: May 11, 2004.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

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**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

[Docket No. 03-BIS-06]

**Under Secretary for Industry and Security In the Matter of: Arian Transportvermittlungs GmbH, Morsestrasse 1, D-50769 Cologne, Germany, Respondent; Decision and Order**

On May 15, 2003 the Bureau of Industry and Security ("BIS") issued a charging letter against the respondent, Arian Transportvermittlungs GmbH (Arian), that alleged two violations of the Export Administration Regulations (Regulations).<sup>1</sup> The charging letter alleged that Arian committed one violation of § 764.2(a) and one violation of § 764.2(e) of the Regulations, issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) ("Act").<sup>2</sup>

Specifically, the charging letter alleged that, on or about July 17, 1999, Arian reexported certain computers and encryption software, items subject to the Regulations and classified under Export Control Classification Numbers 4A994 and 5D002, from Germany to Iran without obtaining a license from BIS as required by § 746.7 of the Regulations. BIS alleged that, by reexporting the computers and encryption software, Arian committed one violation of § 764.2(a) of the Regulations.

The charging letter further alleged that, in connection with the reexport, Arian caused the transport of certain computers and encryption software to Iran with knowledge that a violation of the Regulations would occur. BIS alleged that, by causing the reexport of items with knowledge that a violation of the Regulations would occur, Arian committed one violation of § 764.2(e) of the Regulations.

<sup>1</sup> The violations charged occurred in 1999. The Regulations governing the violations at issue are found in the 1999 version of the Code of Federal Regulations (15 CFR parts 730-774 (1999)). The 2003 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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. Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 FR 47833, August 11, 2003), continues the Regulations in effect under IEEPA.

On the basis of the factual record before the Administrative Law Judge (ALJ), he found that the respondent failed to file an answer to BIS's charging letter within the time required by the Regulations. Indeed, service of the notice of issuance of a charging letter on the respondent was properly effected on July 22, 2003, a response to the charging letter was due no later than August 21, 2003, and the record does not include any such response from Arian. The ALJ therefore held Arian in default.

Under the default procedures set forth in § 766.7(a) of the Regulations, "[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear," and "on BIS's motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter." Accordingly, on April 8, 2004, the ALJ issued a Recommended Decision and Order, in which he found that the facts alleged in the charging letter constitute the findings of fact in this matter and, thereby, establish that Arian committed one violation of § 764.2(a) and one violation of § 764.2(e) of the Regulations. The ALJ also recommended a penalty of a ten-year denial of Arian's export privileges.

Pursuant to § 766.22 of the Regulations, 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 knowing nature of the violations 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.

*It is hereby ordered,*

*First*, that, for a period of 10 years from the date on which this Order takes effect, Arian Transportvermittlung GmbH ("Arian"), Morsestrasse 1, D-50769 Cologne, Germany, and all of its successors or assigns, and, when acting for or on behalf of Arian, its officers, representatives, agents, and employees (individually referred to as "a 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 an other activity subject to the Regulations; 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 Regulations, or in connection with 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 a Denied Person any item subject to the Regulations;

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 Regulations 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 Regulations that has been exported from the United States;

D. Obtain from a 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 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 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 § 766.23 of the Regulations, 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**.

Dated: May 12, 2004.

**Kenneth I. Juster,**

*Under Secretary of Commerce for Industry and Security.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 051004E]

#### North Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of a joint public meeting.

**SUMMARY:** The North Pacific Fishery Management Council's (Council) Non-Target Species Committee and Ad Hoc Working Group will meet June 3-4, 2004, in Seattle, WA.

**DATES:** The meeting will be held on Thursday, June 3 through Friday, June 4, 2004, from 9 a.m. until 4:30 p.m..

**ADDRESSES:** The meeting will be held at the Alaska Fishery Science Center, 7600 Sand Point Way North East, Building 4, Room 2143, Seattle, WA 98115.

*Council address:* North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:** Jane DiCosimo, Council staff; telephone: 907-271-2809.

**SUPPLEMENTARY INFORMATION:** The committee will review a discussion paper that summarizes the status of recommendations proposed by the Council, committee, and working group for management of non-target groundfish species in the North Pacific. The committee and working group will jointly address a series of decision points outlined in the discussion paper.