

for supplemental economic data from intercepted anglers; 1.5 minutes for verification calls; 1 minute for non-fishing households, and .5 minutes for non-households.

**Needs and Uses:** Marine recreational anglers are surveyed for catch and effort data, fish biology data, and angler socioeconomic characteristics. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

**Affected Public:** Business or other for-profit, and individuals or households.

**Frequency:** On occasion.

**Respondent's Obligation:** Voluntary.

**OMB Desk Officer:** David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7285, or [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov).

Dated: November 23, 2004.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 04-26514 Filed 11-30-04; 8:45 am]

BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

[Docket Nos. 04-BIS-02 and 04-BIS-03]

**Decision and Order**

In the Matters of: Technology Options (India) Pvt. Ltd., Pilot #168, Behind Maria Mansion, CST Road, Kalina, Mumbai 400 098 India; and Shivram Rao, of Technology Options (India) Pvt. Ltd., Pilot #168, Behind Maria Mansion, CST Road, Kalina, Mumbai 400 098 India, Respondents.

On February 2, 2004, the Bureau of Industry and Security ("BIS") issued separate charging letters against the respondents, Technology Options (India) Pvt. Ltd. (Technology Options) and Shivram Rao (Rao), that alleged four violations each of the Export Administration Regulations

(Regulations).<sup>1</sup> The charging letters alleged that the respondents each committed one violation of section 764.2(d), two violations of section 764.2(h), and one violation of section 764.2(g) 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 letters alleged that, on or about April 1, 2002, through on or about August 31, 2001, Technology Options and Shivram Rao, acting in his capacity as Managing Director of Technology Options, conspired with others, known and unknown, to export from the United States to the Indira Ghandi Centre for Atomic Research ("IGCAR") a thermal mechanical fatigue rest system and a universal testing machine, both items subject to the Regulations, without the required export licenses from BIS as provided in section 744.1(c) of the Regulations. At all relevant times, IGCAR was an organization on the Entity List set forth at Supplement No. 4 to part 744 of the Regulations. In furtherance of the conspiracy, BIS alleged that false documentation as submitted to the U.S. exporter that provided that a party other than IGCAR was the ultimate consignee for the export from the United States of the items at issue. By conspiring to bring about an act in violation of the Regulations, BIS charged that the respondents committed one violation each of section 764.2(d) of the Regulations.

The charging letters further alleged that, in connection with the export of the fatigue test system and universal testing machine to IGCAR, on or about June 13, 2000, and on or about December 21, 2000, the respondents took actions to evade the Regulations, including developing and employing a scheme by which Technology Options

<sup>1</sup> The violations charged occurred between 2000 and 2002. The Regulations governing the violations at issue are found in the 2000, 2001, and 2002 versions of the Code of Federal Regulations (15 CFR parts 730 through 774 (2000-2002)). The 2004 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 was reauthorized (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.

would receive the export of the items at issue from the United States without a BIS export license and then divert them to the true ultimate consignee, IGCAR, in violation of the Regulations. BIS alleged that, by engaging in such transactions, the respondents committed two violations each of section 764.2(h) of the Regulations.

Finally, the charging letters alleged that, on or about August 16, 2001 through on or about April 8, 2002, in connection with the export of the fatigue test system reference above, the respondents made false statements to the U.S. Government regarding their knowledge of and involvement in the export. Specifically, BIS alleged that the respondents made inconsistent and false statements to U.S. Foreign Commercial Service Officers regarding the end user of the fatigue test equipment. In doing so, BIS charged that the respondents committed one violation each of section 764.2(g) of the Regulations.

On the basis of the factual record before the Administrative Law Judge (ALJ), he found that the respondents 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 respondents was properly effected on February 16, 2004, a response to the charging letter was due no later than March 17, 2004, and the record does not include any such response from the respondents. The ALJ therefore held Technology Options and Rao in default.

Under the default procedures set forth in section 766.7(a) of the Regulations, "[f]ailure of the respondent to file 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 October 28, 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 the respondents committed one violation of section 764.2(d), two violations of section 764.2(h), and one violation of section 764.2(g) of the Regulations. The ALJ also recommended a penalty of a 15-year denial of the respondents' export privileges.

Pursuant to section 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 nature and scope of the violations, the disregard of the Regulations demonstrated by the respondents, and the lack of any mitigating factors.

Specifically, the respondents engaged in transactions to evade the Regulations and conspired to export items useful in the development or production of nuclear weapons to an organization on the Entity List. BIS charged that Technology Options acted as a front company for the purpose of diverting U.S.-origin items to IGCAR without the necessary authorization. BIS also charged that the respondents did not cooperate with the investigation or participate in this proceeding. Indeed, the respondents made false statements to U.S. officials during the course of the investigation about the true location of the items that had been exported to IGCAR. There are no mitigating factors on the record that would justify a reduction in the denial order. Further, the imposition of a civil penalty in this case may not be effective, given the difficulty of collecting payment against a party outside the United States. In light of these circumstances, I affirm the findings of fact and conclusions of law of 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, Technology Options (India) Pvt. Ltd. (Technology Options) and Shivram Rao, of Technology Options (both located at Pilot #168, Behind Maria Mansion, CST Road, Kalina, Mumbai 400 098, India), and all of their successors or assigns, and, when acting for or on behalf of Technology Options, 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 Regulation, or in any 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 in section 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: November 24, 2004.

**Kenneth I. Juster,**

*Under Secretary of Commerce for Industry and Security.*

**Recommended Decision and Order on Motion for Default Order**

On February 2, 2004, the Bureau of Industry and Security, United States Department of Commerce (BIS), issued a charging letter initiating this administrative enforcement proceeding against Technology Options (India) Pvt. Ltd. ("Technology Options"). The charging letter alleged that Technology Options committed one violation of section 764.2(d), one violation of section 764.2(g), and two violations of section 764.2(h) of the Export Administration Regulations (currently codified at 15 CFR parts 730 through 774 (2004)) (the "Regulations")<sup>1</sup>, issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (the "Act").<sup>2</sup> In accordance with section 766.7 of the Regulations, BIS moved for the issuance of an Order of Default against Technology Options, because Technology Options has not answered or otherwise responded to the charging letter as required by the Regulations.

*A. Legal Basis for Issuing an Order of Default*

Section 766.7 of the Regulations state that BIS may file a Motion for an Order of Default if a respondent fails to file a timely Answer to a charging letter. That section, entitled "Default," provides in pertinent part:

Failure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear and contest the allegations in the charging letter. In such event, the administrative law judge, on BIS's motion and without further notice to the respondent, shall find the facts to be as alleged in the charging letter and render an initial or recommended decision containing findings of fact and appropriate conclusions of law and issue or recommend an order imposing appropriate sanctions.

15 CFR 766.7 (2004).

<sup>1</sup> The violations charged occurred in 2000 and 2001. The Regulations governing the violations at issue are found in the 2000 and 2001 versions of the Code of Federal Regulations (15 CFR parts 730 through 774 (2000–2001)). The 2004 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 through 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 6, 2004 (69 FR 48763, August 10, 2004), has continued the Regulations in effect under IEEPA.

Pursuant to section 766.7 of the Regulations, as respondent must file an Answer to the charging letter "within 30 days after being served with notice of the issuance of the charging letter" initiating the proceeding.

#### B. Service of the Charging Letter

Section 766.3(b)(1) of the Regulations provides that notice of issuance of a charging letter shall be served on a respondent by mailing a copy via registered or certified mail addressed to the respondent at the respondent's last known address. In accordance with that section, as previously mentioned, on February 2, 2004, BIS sent a notice of issuance of the charging letter by registered mail to Respondent Technology Options, at its last known address: Technology Options (India) Pvt. Ltd., Plot #168, Behind Maria Mansion, CST Road, Kalina, Mumbai 400 098, India. BIS submitted evidence establishing that on February 16, 2004, Technology Options received the notice of issuance of a charging letter. These actions constitute service under the Regulations.

Section 766.6(a) of the Regulations provides, in pertinent part, that "[t]he respondent must answer the charging letter within 30 days after being served with notice of issuance of the charging letter[.]" Since service was effectuated on February 16, 2004, Technology Options' Answer to the charging letter was due no later than March 16, 2004. Technology Options did not file an Answer to the Charging letter nor did Technology Options request an extension of time to answer the Charging letter under section 766.16(b)(2). Accordingly, because Technology Options failed to answer or otherwise respond to the charging letter within thirty days from the date he received the notice of issuance of the charging letter, as required by section 766.6 of the Regulations, Technology Options is in default.

#### C. Summary of Violations

The charging letter filed by BIS included a total of four charges. Specifically, the charging letter alleged that from on or about April 1, 2000, through on or about August 31, 2001, Technology Options conspired with others, known and unknown, to export from the United States to the Indira Gandhi Centre for Atomic Research ("IGCAR") a thermal mechanical fatigue test system ("fatigue test system") and a universal testing machine, both items subject to the Regulations, without a BIS export license as required by section 744.11 of the Regulations. See Gov't Ex. 3. At all relevant times, IGCAR was an organization listed on the Entity List set forth at Supplement No. 4 to part 744 of the Regulations ("Entity List").<sup>3</sup> In furtherance of the conspiracy, false documentation was submitted to the United States exporter that provided that a party other than IGCAR was

the ultimate consignee for the items to be exported from the United States.

The charging letter further alleged that on or about June 13, 2000, in connection with the export of the fatigue test system and attempted export of the universal testing machine, Technology Options took actions to evade the Regulations. Specifically, Technology Options, with others, known and unknown, developed and employed a scheme by which the company with which Technology Options was affiliated, Technology Options (India) Pvt. Ltd. ("Technology Options"), would receive the export of the fatigue test system from the United States without a BIS license and then divert it to the true ultimate consignee, IGCAR, in violation of the Regulation.

The charging letter also alleged that on or about August 16, 2001, through on or about April 8, 2002, in connection with the export of the fatigue test system references above, Technology Options made false statement to the U.S. Government regarding its knowledge of and involvement in the export. Specifically, Technology Options made misleading and false statements to U.S. Foreign Commercial Service Officers regarding the end user of the fatigue test system.

Pursuant to the default procedures set forth in section 766.7 of the Regulations, I find the facts to be as alleged in the charging letter, and hereby determine that those facts establish that Technology Options committed one violation of section 764.2(d), one violation of section 764(g), and two violations of 764.2(h) of the Regulations.

Section 764.3 of the Regulations establishes the sanctions that BIS may seek for the violations charged in this proceeding. The applicable sanctions are a civil monetary penalty, suspension from practice before the Department of Commerce, and a denial of export privileges under the Regulations. See 15 CFR 764.3 (2004).

Because Technology Options violated the Regulations by conspiring and engaging in transactions to evade the Regulations, BIS request that I recommend to the Under Secretary of Commerce for Industry and Security<sup>4</sup> that Technology Options' export privileges be denied for fifteen (15) years. BIS has suggest this sanction because Technology Options has demonstrated a severe disregard for U.S. export control laws. Further, BIS believes that imposition of a civil penalty in this case may be ineffective, given the difficulty of collecting payment against a party outside of the United States. In light of these circumstances, BIS believes that the denial of Technology Options' export privileges for fifteen (15) years is an appropriate sanction.

Given the foregoing, I concur with BIS and recommend that the Under Secretary enter an Order denying Technology Options' export privileges for a period of fifteen (15) years.

The terms of the denial of export privileges against Technology Options should be

<sup>4</sup> Pursuant to section 13(c)(1) of the Act and section 766.17(b)(2) of the Regulations, in export control enforcement cases, the Administrative Law Judge makes recommended findings of fact and conclusions of law that the Under Secretary must affirm, modify or vacate. The Under Secretary's actions is the final decision for the agency.

consistent with the standard language used by BIS in such order. The language is:

[Portions of recommend decision and order REDACTED]

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary for review and final action for the agency, without further notice to the Respondent, as provided in section 766.7 of the Regulations.

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 CFR 766.22(c).

The Honorable Joseph N. Ingolia,  
*Chief Administrative Law Judge.*

Done and dated this 27 of October, at  
Baltimore, MD.

#### Certificate of Service

I hereby certify that I served the *Recommended Decision and Order* by Federal Express to the following person:

Technology Options (India) Pvt. Ltd.,  
Pilot #168, Behind Maria Mansion, CST  
Road, Kalina, Mumbai 400 098, India.

Alyssa L. Paladino,  
Law Clerk, ALJ Docketing Center, United  
States Coast Guard, 40 S. Gay Street, Room  
412, Baltimore, MD 21202. Phone: (410)  
962-7434. Facsimile: (410) 962-1742.

Done and dated this 28 day of October 2004  
Baltimore, Maryland.

[FR Doc. 04-26519 Filed 11-30-04; 8:45 am]

BILLING CODE 3510-33-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

**ACTION:** Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

#### Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2004) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

<sup>3</sup> The persons on the Entity List are end-users who have been determined to present an unacceptable risk of diversion to the development of weapons of mass destruction or the missiles used to delivery such weapons.