

National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.)

The final EIS is scheduled to be completed in June, 2005. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal.

John D. Berry, Forest Supervisor, Eldorado National Forest is the responsible official. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 215).

Dated: December 17, 2004.

**Kathryn D. Hardy,**

*Acting Forest Supervisor.*

[FR Doc. 04-28141 Filed 12-23-04; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF COMMERCE

[I.D. 122004C]

### Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Weather Modification Activities Reports.

*Form Number(s):* NOAA Forms 17-4, 17-4A, 17-4B.

*OMB Approval Number:* 0648-0025.

*Type of Request:* Regular submission.

*Burden Hours:* 330.

*Number of Respondents:* 55.

*Average Hours Per Response:* 30 minutes for Forms 17-4 and 17-4A; 5 hours for Form 17-4B.

*Needs and Uses:* The Weather Modification Activities Reports are required by Public Law 92-205, Section 6(b). All entities which engage in weather modification (e.g. cloud-seeding to enhance precipitation or

disperse fog) are required to report various data to NOAA. NOAA maintains the data for use in scientific research, historical statistics, international reports, and other purposes.

*Affected Public:* Business or other for-profit organizations; individuals or households; not-for-profit institutions; Federal government; State, local or tribal government.

*Frequency:* On occasion, annually.

*Respondent's Obligation:* Mandatory.

*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: December 17, 2004.

**Gwellnar Banks,**

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

[FR Doc. 04-28130 Filed 12-23-04; 8:45 am]

**BILLING CODE 3510-KD-S**

## DEPARTMENT OF COMMERCE

[I.D. 122004B]

### Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Processed Products Family of Forms.

*Form Number(s):* NOAA Forms 88-13, 88-13c.

*OMB Approval Number:* 0648-0018.

*Type of Request:* Regular submission.

*Burden Hours:* 680.

*Number of Respondents:* 1,320.

*Average Hours Per Response:* 30 minutes for Form 88-13; 15 minutes for Form 88-13c.

*Needs and Uses:* This is a survey of seafood and industrial fish processing firms. The firms processing fish from certain fisheries must report on their

annual volume, the wholesale value of products, and monthly employment figures. Data are used in economic analyses to estimate the capacity and extent to which processors utilize domestic harvest. These analyses are necessary to carry out the provision of the Magnuson-Stevens Fishery Conservation and Management Act.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* Monthly, annually.

*Respondent's Obligation:* Mandatory.

*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: December 17, 2004.

**Gwellnar Banks,**

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

[FR Doc. 04-28133 Filed 12-23-04; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### Under Secretary for Industry and Security

[Docket No. 03-BIS-013]

#### In the Matters of: Yaudat Mustafa Talyi a.k.a. Yaudat Mustafa a.k.a. Joseph Talyi, 41 Chamale Cove East, Slidell, Louisiana 70460, Respondents; Decision and Order

On June 22, 2004, the Bureau of Industry and Security ("BIS") issued a charging letter against the respondent, Yaudat Mustafa Talyi, a.k.a. Yaudat Mustafa, a.k.a. Joseph Talyi ("Talyi"), that alleged 11 violations of the Export Administration Regulations (Regulations),<sup>1</sup> which were issued under the Export Administration Act of 1979,

<sup>1</sup> The violations charged occurred between 2001 and 2002. The Regulations governing the violations at issue are found in the 2001 and 2002 versions of the Code of Federal Regulations (15 CFR parts 730-774 (2001-2002)). The 2004 Regulations establish the procedures that apply to this matter.

as amended (50 U.S.C. app. 2401–2420 (2000)) (“Act”).<sup>2</sup>

Specifically, the charging letter alleged that, on or about May 29, 2001, Talyi exported oil field parts, items subject to both the Regulations and the Libyan Sanctions Regulations of the Treasury Department’s Office of Foreign Assets Control (“OFAC”), to Libya without obtaining authorization from OFAC as required by section 746.4 of the Regulations. In doing so, Talyi committed one violation of section 764.2(a) of the Regulations.

The charging letter also alleged that, in March 2002, Talyi solicited a violation of the Regulations by ordering oil field parts, items subject to both the Regulations and the Libyan Sanctions Regulations, from an original equipment manufacturer located in the United States, for export to an end-user in Libya without the required OFAC authorization. In doing so, Talyi committed one violation of section 764.2(c) of the Regulations.

The charging letter alleged that Talyi ordered the items related to the May 2001 export and the March 2002 solicitation from original equipment manufacturers located in the United States with knowledge that a violation of the Regulations would occur. Specifically, Talyi ordered the items knowing that they would be exported to end-users in Libya and with knowledge that authorization from OFAC was required but would not be obtained. In doing so, Talyi committed two violations of section 764.2(e) of the Regulations.

Further, the charging letter alleged that, between October 2002 and on or about December 13, 2002, Talyi participated in four transactions concerning items subject to the Regulations that were to be exported from the United States in violation of a BIS order temporarily denying his export privileges. On two separate occasions—or about October 22, 2002, and on or about November 11, 2002—Talyi sent e-mails to an oil field equipment broker located in the United States that directed the broker to obtain

price quotations for oil field parts that were to be exported from the United States to the United Arab Emirates. Between October and November of 2002, Talyi also arranged for the attempted export of items subject to the Regulations from the United States to the United Arab Emirates from a grocery store in Slidell, Louisiana. Then, on or about December 13, 2002, Talyi sent an e-mail to the oil field equipment broker referenced above that included an attachment describing the technical information about the oil field parts to be exported from the United States to the United Arab Emirates. In the e-mail, Talyi asked the broker if he would like to handle the file and directed the broker to clarify parts specifications in response to comments provided by the end-user in the United Arab Emirates. Talyi’s participation in these four transactions was contrary to the terms and conditions of a September 30, 2002, BIS Temporary Denial Order denying Talyi’s export privileges. In doing so, Talyi committed four violations of Section 764.2(k) of the Regulations.

The charging letter alleged that, in connection with three of the violations of Section 764.2(k) of the Regulations discussed above, Talyi ordered the items at issue with knowledge that such actions were in violation of the terms and conditions of a September 30, 2002, BIS Temporary Denial Order. In so doing, Talyi committed three violations of section 764.2(e) of the Regulations.

On the basis of the factual record before the Administrative Law Judge (“ALJ”), he found that Talyi failed to file an answer to BIS’s charging letter within the time required by the Regulations. Indeed, as service of the notice of issuance of the charging letter on Talyi’s counsel was properly effected on June 30, 2004, a response to the charging letter was due no later than July 30, 2004. The record does not include any such response from the respondent. The ALJ therefore held Talyi in default.

Under the default procedures set forth in section 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 November 18, 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 Talyi committed one violation of section 764.2(a), one violation of section

764.2(c), five violations of section 764.2(e), and four violations of section 764.2(k) of the Regulations. The ALJ also recommended a 20-year denial of the respondent’s export privileges and a maximum civil penalty of \$121,000 against the respondent.

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 complete disregard for U.S. export control laws demonstrated by the respondent. Talyi knowingly violated the Regulations, violated the terms and conditions of a Temporary Denial Order, breached his plea agreement in a criminal case by refusing to sign a civil settlement agreement offered by BIS, and failed to participate in this administrative proceeding.

Specifically, Talyi knowingly violated the Regulations by ordering and shipping oil field parts from the United States to Libya, a sanctioned country. He also violated the terms and conditions of a BIS Temporary Denial Order on four occasions by participating in exports and attempted exports to the United Arab Emirates. On three of these occasions, Talyi ordered the items at issue with knowledge that the required U.S. government authorization would not be obtained. In January 29, 2004, pursuant to a plea agreement filed with the U.S. District Court for the Eastern District of Louisiana, Talyi pled guilty to two felony counts of violating the International Emergency Economic Powers Act for his participation in the export and attempted export of items from the United States to the United Arab Emirates in violation of the Temporary Denial Order. In the plea agreement, Talyi agreed to settle the BIS administrative case by paying a \$75,000 civil penalty and accepting a 10-year denial of export privileges. However, Talyi subsequently refused to sign the settlement agreement, and Talyi’s counsel ignored repeated attempts by counsel for BIS to discuss the matter in spring of 2004. Moreover, once this administrative proceeding was initiated against Talyi, he did not respond to the charging letter or otherwise participate in the proceeding. 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 a civil penalty of \$121,000 is assessed against Talyi, which shall be

<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.

paid to the Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

*Second*, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Talyi will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as further described in the attached Notice.

*Third*, that, for a period of 20 years from the date on which this Order takes effect, Yaudat Mustafa Talyi, a.k.a. Yaudat Mustafa, a.k.a. Joseph Talyi (“Talyi”), 41 Chamale Cove East, Slidell, Louisiana 70460, and, when acting for or on behalf of Talyi, his representatives, agents, assigns, 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 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.

*Fourth*, 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.

*Fifth*, 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.

*Sixth*, 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 related to the 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: December 20, 2004.

**Kenneth I. Juster**,

*Under Secretary of Commerce for Industry and Security.*

#### **Notice**

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty. It also specifies the amount owed and the date by which the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (2000)), and the Federal Claims Collection Standards (31 CFR Parts 900–904 (2002)), interest accrues on any and

all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed respondent is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. *See* 31 U.S.C. 3717 and 31 CFR 901.9

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and respondent will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim, and a penalty charge of six percent per year. Although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after the date. *See* 31 U.S.C. 3717 and 31 CFR 901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with section 901.2(b) of the Federal Claims Collection Standards (31 CFR 901.2(b)).

#### **Instructions for Payment of Civil Penalty**

1. The civil penalty check should be made payable to: U.S. Department of Commerce.

2. The check should be mailed to: U.S. Department of Commerce, Bureau of Industry and Security, Export Enforcement Team, Room H–6883, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Attn: Sharon Gardner.

#### **United States Department of Commerce, Bureau of Industry and Security**

[Docket No. 03–BIS–13]

In the Matter of: Yaudat Mustafa Talyi a.k.a. Yaudat Mustafa a.k.a. Joseph Talyi 41 Chamale Cove East, Slidell, Louisiana 70460 and Oakdale FDC Federal Bureau of Prisons P.O. Box 5060 Oakdale, Louisiana 71463 Respondent; *Decision and Order on Motion for Default Order.*

On June 22, 2004, the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) issued a charging letter initiating this administrative enforcement proceeding against Respondent, Yaudat Mustafa Talyi, a.k.a. Yaudat Mustafa, a.k.a. Joseph Talyi (“Talyi”). The charging letter alleged that Talyi committed eleven (11) violations of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2004)) (the “Regulations”),<sup>1</sup> issued under the Export

<sup>1</sup> The charged violations occurred from 2001 to 2002. The Regulations governing the violations at

Administration Act of 1979, as amended (50 U.S.C. App. 2401–2420 (2000)) (the “Act”),<sup>2</sup> relating to his export activities concerning items exported or to be exported from the United States to Libya in violations of U.S. export control laws and to the United Arab Emirates in violation of a temporary denial order (“initial TDO”) issued by BIS on September 30, 2002. *See* Exhibit 1, BIS Initial TDO, dated September 30, 2002 (67 FR 62225 (October 4, 2002)).

### I. Procedural Background

The procedural background in this matter insists of three interrelated elements concerning Talyi and his unlawful export activities: (i) a BIS temporary denial order (“initial TDO”),<sup>3</sup> (ii) a federal criminal case against Talyi, and (iii) this resulting administrative enforcement proceeding.

#### a. BIS Temporary Denial Orders Issued Against Talyi

On September 30, 2002, the Assistant Secretary of Commerce for Export Enforcement (“Assistant Secretary”) issued the initial TDO denying the export privileges of International Business Services, Ltd. (“IBS”), and its owner, Talyi, for one hundred and eighty (180) days based on evidence indicating they were involved in illegal exports of oil field parts to Libya and Sudan. *See* Exhibit 1, BIS Initial TDO, dated September 30, 2002 (67 FR 62225 (October 2, 2002)).<sup>4</sup> The Assistant Secretary renewed the initial TDO against Talyi on four subsequent occasions, each for the maximum period of one hundred and eighty (180) days, based on further evidence demonstrating Talyi had violated the initial TDO. *See* 68 FR 15982 (April 2, 2003); 68 FR 56261 (September 30, 2003); 69 FR 15291 (March 25, 2004); and 69 FR 57671 (September 27, 2004). The current TDO is set to expire on March 12, 2005.

#### b. Criminal Case Against Talyi

On January 29, 2004, pursuant to a plea agreement filed in the U.S. District Court for

issue are found in the 2001 to 2002 versions of the Code of Federal Regulations (15 CFR parts 730–774 (2001–2002)). 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. 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 Fed. Reg. 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

<sup>3</sup> A temporary denial order may be issued against a person by the Assistant Secretary of Commerce for Export Enforcement for up to 180 days based on a finding that there is sufficient evidence that the order is necessary in the public interest to prevent an imminent violation of the Act, the Regulations, or any order license or authorization issued there under. *See* 15 CFR 766.24.

<sup>4</sup> The initial TDO also named Talyi’s business, Top Oil Tools, as a related person. *See id.*

the Eastern District of Louisiana, Talyi pled guilty to two felony counts of violating the International Emergency Economic Powers Act for his participation in the export and attempted export of items from the United States to the United Arab Emirates that were violations of the initial TDO. *See* Exhibit 2, Talyi Plea Agreement, dated January 29, 2004.

On April 28, 2004, Talyi was sentenced to five months in prison, five months of home confinement, and one year of supervised release for the two felony convictions. *See* Exhibit 3, Talyi Judgment Commitment Order, dated April 29, 2004. Talyi was also ordered to pay a twenty-five thousand dollar (\$25,000) criminal fine and a two hundred dollar (\$200) special assessment. *See id.* Talyi has a projected release date from federal prison on December 1, 2004, at which time he will begin his five month term of home confinement.

Talyi’s plea agreement stated that Talyi agreed to settle the BIS administrative case by paying a seventy-five thousand dollar (\$75,000) civil penalty and accepting a ten (10) year denial of exporting privileges. *See* Exhibit 2, Talyi Plea Agreement, dated January 29, 2004. The plea agreement also states that a copy of the settlement agreement for BIS’s administrative case was attached thereto. *See id.* The settlement agreement for BIS’s administrative case was attached thereto. *See id.* The settlement agreement incorporated BIS’s allegations that Talyi committed eleven (11) violations of the Regulations for his export activities concerning oil field parts to be exported from the United States to Libya without the required U.S. Government authorizations for participating in export transactions in violation of the initial TDO. *See* Exhibit 4, BIS Settlement Agreement.

#### c. Administrative Case Against Talyi

On March 2, 2004, about six weeks prior to Talyi’s criminal sentencing, BIS sent settlement documents to Talyi’s counsel for the administrative case. Those settlement documents contained the agreement that Talyi would pay a seventy-five thousand dollar (\$75,000) civil penalty and receive a ten (1) year denial of his export privileges for the eleven (11) charges contained in the proposed charging letter. However, Talyi refused to sign the settlement agreement and Talyi’s counsel ignored repeated attempts by counsel for BIS to discuss the matter throughout the spring of 2004. Specifically, Talyi’s counsel did not return any of BIS’s calls nor did he respond to any correspondence sent by BIS’s counsel concerning this matter. *See e.g.* Exhibits 5 and 6, BIS Letters to Frank DeSalvo, dated May 25, 2004 and June 16, 2004.

As a result, on June 22, 2004, BIS filed a charging letter thereby initiating this formal administrative proceeding against Talyi. *See* Exhibit 7, BIS Charging Letter, dated June 22, 2004. As discussed *infra*, BIS served a copy of this charging letter on Talyi’s counsel. *See* Exhibit 8, U.S. Postal Service, Certified Mail Returned Receipt. On July 9, 2004, after no response from Talyi or his counsel, Talyi’s failure to enter into the BIS settlement agreement, and his apparent breach of his

plea agreement, BIS withdrew its offer of settlement. *See* Exhibit 9, Letter to Frank DeSalvo, dated July 9, 2004. To date, Talyi has not entered into a settlement agreement that is consistent with his criminal plea agreement and has been unwilling to engage in constructive settlement negotiations with BIS.<sup>5</sup>

## II. Facts

### a. Talyi’s Illegal Exports to Libya

The BIS charging letter stated that on or about May 29, 2001, Talyi ordered and exported oil field parts from the United States to Libya with knowledge that the required authorization from the U.S. Government would not be obtained. *See* Exhibit 7, BIS Charging Letter, dated June 22, 2004, Charges 1–2. BIS further charged that between, on, or about March 14, 2002, and on or about March 26, 2002, Talyi ordered oil field parts from an original equipment manufacturer located in the United States for export to an end-user in Libya with knowledge that the required U.S. Government authorization not be obtained. *See id.*, Charges 3–4.

### b. Talyi’s Participation in Illegal Exports or Attempted Export to the United Arab Emirates.

BIS also charged Talyi with violations concerning his participation in exports or attempted exports to the United Arab Emirates. *See* Exhibit 7, BIS Charging Letter, dated June 22, 2004. Specifically, BIS charged that on four occasions between, on, or about October 22, 2002, and on or about December 13, 2002, Talyi participated in an export or attempted export of items from the United Arab Emirates in violation of the initial TDO. *See id.*, Charges 9–11.

## III. Service of the Charging Letter

In accordance with Section 766.3(b)(1) of the Regulations, on June 22, 2004, BIS mailed the notice of issuance of a charging letter by registered mail to Talyi’s attorney, Frank G. DeSalvo, at his last known address: Frank G. DeSalvo, Esq., 201 South Galvez Street, New Orleans, Louisiana, 70119. *See* Exhibit 10, U.S. Postal Service Certified mail Receipt, dated June 22, 2004. According to the registered mail receipt, the notice of issuance of a charging letter was received by Mr. DeSalvo’s office on June 30, 2004. *See* Exhibit 8, U.S. Postal Service, Certified Mail Returned Receipt. To date, Talyi has failed to answer or otherwise respond to the charging letter.

Accordingly, because Talyi has not answered or otherwise responded to the charging letter within thirty (30) days from the time he received notice of issuance of the charging letter, as required by Section 766.6 of the Regulations, Talyi has defaulted in this matter.

<sup>5</sup> After BIS filed the charging letter and withdrew its settlement offer, Talyi (through his counsel) made a counter-offer to BIS. However, because this counter-offer was not consistent with the terms of Talyi’s plea agreement and the BIS settlement agreement to which Talyi had previously agreed, BIS rejected Talyi’s counter-offer.

#### IV. Legal Basis for Issuing an Order of Default

Section 766.7 of the Regulations states that BIS may file a motion for an Order of Default if a responder fails to file a timely answer to a charging letter. That section, entitled Default, provided in pertinent part:

Failure of the respondent to file an answer within the time provided constituted a waiver of the responder'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 sanctions.

15 CFR 766.7 (2004).

Pursuant to section 766.6 of the Regulations, a respondent must file an answer to the charging letter "within 30 days after being served with notice of the issuance of the charging letter" initiated the proceeding.

#### V. Sanctions

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

BIS requests that I recommend to the Under Secretary of Commerce for Industry and Security ("Under Secretary")<sup>6</sup> that Talyi's export privileges under the Regulations be denied for twenty (20) years and that Talyi be ordered to pay a one hundred twenty-one thousand dollar (\$121,000) civil penalty to the Department of Commerce, the maximum civil penalty allowable based on the charges in the charging letter. See Bureau of Industry and Security's Motion for Default Order, at 7-9. I agree with BIS, in that Talyi has exhibited a severe disregard and contempt for U.S. export control laws. See Exhibit 2, Talyi Plea Agreement, dated January 29, 2004; see also Exhibit 3, Talyi Judgment and Commitment Order, dated April 29, 2004. Talyi has deliberately and covertly participated in export transactions of items from the United States to the United Arab Emirates in violation of an initial TDO issued by BIS. See *id.* Talyi is currently serving a prison term resulting from his felony guilty plea to these violations of the TDO. See Exhibit 3, Talyi Judgment and Commitment Order, dated April 29, 2004. Furthermore, Talyi exported and solicited oil field parts from the United States to Libya, a country against which the United States maintained an economic embargo because of Libya's support for international terrorism, when Talyi knew the required U.S. government authorization

would not be obtained. See Exhibit 7, BIS Charging Letter, dated June 22, 2004.

BIS has also established that Talyi failed to enter into a settlement agreement consistent with that to which Talyi previously agreed in his criminal plea agreement, but has refused to engage in any good faith settlement negotiations with BIS concerning the case. See Exhibit 2, Talyi Plea Agreement, dated January 29, 2004; see also Exhibit 3, Talyi Judgment and Commitment Order, dated April 29, 2004; Exhibits 5 and 6, EIS Letters to Frank DeSalvo, dated May 25, 2004, and June 16, 2004. In light of the above, through his illegal actions Talyi has demonstrated that this is the kind of case for which a lengthy denial order and the maximum civil penalty are necessary because Talyi simply cannot be trusted to comply with U.S. export control laws. See *id.*

Based on the foregoing, I concur with BIS and recommend that the Under Secretary enter an Order denying Talyi's export privileges for a period of twenty (20) years and assess a twenty-one thousand dollar (\$121,000) civil penalty against Talyi. Such a denial order and civil penalty are consistent with penalties imposed in recent cases under the Regulations involving illegal exports to Iran, a country that is subject to a similar embargo as that which had applied to Libya during the relevant time period. See *In the Matter of Jabal Damavand General Trading Company*, 67 FR 32009 (May 13, 2002) (affirming the ALJ's recommendations that a ten year denial was appropriate where violations involved shipments of EAR99 items to Iran); *In the Matter of Abdulmir Mahdi*, 68 FR 57406 (October 3, 2003) (affirming the ALJ's recommendations that a twenty (20) year denial was appropriate where violations involved shipments of oil field equipment to Iran as part of a conspiracy to ship items through Canada to Iran).

The recommended penalties are also consistent with settlements reached in significant BIS cases under the Regulations concerning illegal exports of pipe coating materials to Libya. See *In the Matter of Jerry Vernon Ford*, 67 FR 7352 (Tuesday, February 19, 2002) (settlement agreement for a twenty-five (25) year denial); and *In the Matter of Thane-Coat, Inc.*, 67 FR 7351 (Tuesday, February 19, 2002) (settlement agreement for a civil penalty of one million, one hundred twenty thousand dollars (\$1,120,000) (five hundred twenty thousand dollars (\$520,000) suspended for two years and a twenty-five (25) year denial).

#### [Portions 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).

Done and dated this 18 of November, at Baltimore, MD.

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

#### CERTIFICATE OF SERVICE

I hereby certify that I served the *Decision and Order on Motion for Default Order* by Federal Express to the following person: Frank G. DeSalvo, Esq., 201 South Galvez St., New Orleans, LA 70119.

Done and dated this 18 day of November 2004 Baltimore, Maryland.

**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.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

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

**ACTION:** Notice of initiation of antidumping and countervailing duty administrative reviews and request for revocation in part.

**SUMMARY:** The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received a request to revoke one antidumping duty order in part.

**EFFECTIVE DATE:** December 27, 2004.

**FOR FURTHER INFORMATION CONTACT:** Holly A. Kuga, Office of AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-4737.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2004), for administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates. The Department also received a timely request to revoke in part the

<sup>6</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 ALJ issues a recommended decision and order which is reviewed by the Under Secretary, who issues the final decision for the agency.