

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****[Docket No. 06-BIS-13]****Action Affecting Export Privileges; Norman Spector; In the Matter of: Norman Spector, 27 Bethpage Drive, Monroe Township, NJ 08831, Respondent****Order Relating to Norman Spector**

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has initiated an administrative proceeding against Norman Spector ("Spector") pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730-774 (2007)) (the "Regulations"),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. § 2401-2420 (2000)) (the "Act"),<sup>2</sup> through issuance of a charging letter to Spector that alleged that Spector committed 44 violations of the Regulations. Specifically, the charges are:

**Charges 1-14 15 CFR 764.2(a)—Export of Microwave Amplifiers Without the Required Licenses**

On 14 occasions, between on or about November 9, 2000 and January 9, 2003, Spector engaged in conduct prohibited by the Regulations by exporting or causing to be exported microwave amplifiers, items subject to the Regulations and classified under Export Control Classification Number ("ECCN") 3A001.b.4, to the People's Republic of China ("China") without the Department of Commerce license required by § 742.4 of the Regulations. In so doing, Spector committed 14 violations of § 764.2(a) of the Regulations.

**Charge 15 15 CFR 764.2(c)—Attempted Export of Microwave Amplifiers Without the Required License**

On or about March 13, 2003, Spector attempted a violation of the Regulations by attempting to export microwave

amplifiers, items subject to the Regulations and classified under ECCN 3A001.b.4, to China without the Department of Commerce license required by § 742.4 of the Regulations. In so doing, Spector committed one violation of § 764.2(c) of the Regulations.

**Charges 16-30 15 CFR 764.2(e)—Selling Microwave Amplifiers With Knowledge of a Violation of the Regulations**

With respect to the exports or attempted exports as described in Charges 1-15 above, Spector sold microwave amplifiers with the knowledge that a violation was about to occur or was intended to occur in connection with the microwave amplifiers. At all times relevant hereto, Spector knew or had reason to know that the microwave amplifiers in question required a Department of Commerce license for export to China, and that the required license had not been obtained. In so doing, Spector committed 15 violations of § 764.2(e) of the Regulations.

**Charge 31-44 15 CFR 764.2(g)—False Statement on Shipper's Export Declarations as to Authority To Export**

With respect to the exports or attempted exports as described in Charges 1-11 and 13-15, above Spector filed or caused to be filed Shipper's Export Declarations ("SEDs") with the United States Government that contained false statements of fact. Specifically, Spector filed or caused to be filed 14 SEDs that stated that the microwave amplifiers that were the subjects of the SEDs did not require licenses ("NLR"). This representation is false as at all times relevant to this case a Department of Commerce license was required to export the microwave amplifiers in question in this case to China. In so doing, Spector committed 14 violations of § 764.2(g) of the Regulations.

*Whereas*, BIS and Spector have entered into a Settlement Agreement pursuant to § 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

*Whereas*, I have approved of the terms of such Settlement Agreement; *It is Therefore Ordered*:

*First*, that a civil penalty of \$462,000 is assessed against Spector. Spector shall pay \$22,000 to the U.S. 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. Payment of the remaining \$440,000 shall be suspended for a period of one year from the date of entry of this Order and thereafter shall be waived, provided that during the period of suspension, Spector has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made the payment of \$22,000, described above, in a timely manner.

*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, Spector will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

*Third*, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Spector. Accordingly, if Spector should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Spector's export privileges under the Regulations for a period of one year from the date of entry of this Order.

*Fourth*, that for a period of twenty-five years from the date of entry of this Order, Norman Spector, 27 Bethpage Drive, Monroe Township, New Jersey 08831, and, when acting for or on behalf of Spector, his representatives, agents, assigns, or employees, ("Denied Person") may not participate, directly or indirectly, 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

<sup>1</sup> The violations charged occurred between 2000 and 2003. The Regulations governing the violation at issue are found in the 2000 through 2003 version of the Code of Federal Regulations (15 CFR parts 730-774 (2000-2003)). The 2007 Regulations govern the procedural aspects of this case.

<sup>2</sup> 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 successive Presidential Notices, the most recent being that of August 3, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701-1706 (2000)).

that is subject to the Regulations, or in any other activity subject to the Regulations.

*Fifth*, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

*Sixth*, 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 Spector by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

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

*Eighth*, that the charging letter, the Settlement Agreement, this Order, and the record of this case as defined by Section 766.20 of the Regulations shall be made available to the public.

*Ninth*, that the administrative law judge shall be notified that this case is withdrawn from adjudication.

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

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

Entered this 21st day of August, 2007.

**Wendy L. Wysong,**

*Acting Assistant Secretary of Commerce for Export Enforcement.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-817]

#### **Oil Country Tubular Goods from Mexico: Notice of NAFTA Panel Decision Not In Harmony With Final Results of Sunset Administrative Review**

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

**SUMMARY:** On July 19, 2007, a Bi-National Panel ("Panel") constituted under the North American Free Trade Agreement ("NAFTA") affirmed the Department of Commerce's ("the Department's") redetermination on remand of the final results of the sunset review on oil country tubular goods from Mexico. *See In the Matter of: Oil Country Tubular Goods from Mexico; Final Results of Sunset Review of the Antidumping Duty Order, USA-MEX-2001-1904-03* (July 19, 2007) ("NAFTA Final Decision"). The Panel issued its Notice of Final Panel Action in the above-referenced matter on July 30, 2007. This case arises out of the Department's determination in the final results of the first sunset review covering entries for the five years after August 11, 1995. *See Oil Country Tubular Goods ("OCTG") from Mexico: Final Results of Sunset Review of Antidumping Order*, 66 FR 14131 (March 9, 2001) and accompanying Issues and Decision Memorandum ("Final Results"). Consistent with the decision of the *United States Court of Appeals for the Federal Circuit in Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("Timken"), the Department is notifying the public that the *NAFTA Final Decision* and the Notice of Final Panel Action are not in harmony with the Department's *Final Results*.

**EFFECTIVE DATE:** August 9, 2007

**FOR FURTHER INFORMATION CONTACT:** John Drury or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0195 or (202) 482-3019, respectively.

**SUPPLEMENTARY INFORMATION:** In the *Final Results*, the Department determined that revocation of the antidumping duty order would likely lead to the continuation or recurrence of dumping. Subsequent to the completion of the sunset review, Tubos de Aceros de Mexico, S.A. ("TAMSA") challenged the Department's findings and requested that a Bi-National Panel review the final determination. From 2005 to 2007, the Panel issued multiple decisions remanding various aspects of the Department's decision to the agency. *See* Panel decisions of February 11, 2005, February 3, 2006, July 28, 2006, and January 17, 2007. In response to the Panel's January 17, 2007, order, the Department analyzed the redetermination on remand and found that TAMSA's 'other factors' did not outweigh the likelihood presumption of dumping due to the virtual cessation of exports of OCTG by TAMSA during the five-year review period. The Panel disagreed with the Department's factual and legal conclusions with regard to the issues, and remanded the review to the Department on June 1, 2007, with instructions that the Department "make a determination consistent with the decision of this Panel to the effect that the evidence on the record does not support a finding of likelihood of recurrence or continuation of dumping upon revocation of the antidumping duty order." *See In the Matter of: Oil Country Tubular Goods from Mexico; Final Results of Sunset Review of the Antidumping Duty Order, USA-MEX-2001-1904-03* (June 1, 2007) at page 27.

Consistent with the Panel's instructions, the Department issued a determination on June 11, 2007, where the Department "made a determination to the effect that the evidence on the record does not support a finding or likelihood of recurrence or continuation of dumping upon revocation of the antidumping duty order." *See Fifth Redetermination on Remand, Oil Country Tubular Goods from Mexico: Sunset Review*, (June 11, 2007) at page 2. On July 19, 2007, the Panel affirmed the Department's fifth remand redetermination. *See NAFTA Final Decision*. The Panel issued its Notice of Final Panel Action on July 30, 2007.