

a false end-user certificate concealing the actual destination for the radar parts, Pakistan. The exporter relied on the information provided in the end-user certificates in preparing a SED that falsely stated the country of ultimate destination as Bangladesh. In so doing, Yasmin Ahmed committed one violation of section 764.2(h) of the Regulations.

Finally, in connection with the April 16, 2002, transaction described in Charge 2 of the charging letter, Yasmin Ahmed took actions with the intent to evade the provisions of the Regulations. Specifically, Yasmin Ahmed took actions, including but not limited to, obtaining false signatures from a purported end-user who was actually a representative of ATS for inclusion on an end-user certificate submitted to an exporter in connection with the export of radar parts, items subject to the Regulations, from the United States to Pakistan via the UAE. The purpose of obtaining the false signatures was to prepare a false end-user certificate concealing the actual destination for the radar parts, Pakistan. The exporter relied on the information provided in the end-user certificates in preparing a SED which falsely stated the country of ultimate destination as Bangladesh. In so doing, Yasmin Ahmed committed one violation of section 764.2(h) of the Regulations.

#### D. Penalty Recommendation

[REDACTED SECTION]

#### E. Conclusion

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the Respondent, as provided in § 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).

Hon. Joseph N. Ingolia,  
Chief Administrative Law Judge, United States Coast Guard.

Done and Dated 16th September, 2008,  
Baltimore, Maryland.

#### Certificate of Service

I hereby certify that I have served the foregoing RECOMMENDED DECISION AND ORDER upon the following party in this proceeding at the addresses indicated below by First Class Mail to:

Parvin R. Huda, Senior Counsel,  
Attorneys for Bureau of Industry and Security, Office of Chief Counsel For Industry and Security, U.S. Department of Commerce, Room H-3839, 14th Street & Constitution Avenue, NW., Washington, DC 20230, (202) 482-5301.

Yasmin Ahmed, 612 Business Centre,  
Mumtaz Hasan Road, Off I.I  
Chundrigar Road, Karachi, Pakistan.

Dated on September 18, 2008, Baltimore, Maryland.

**Debra M. Gundy,**

*Paralegal Specialist, Administrative Law Judges Office, U.S. Coast Guard.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 0810071328-81331-01]

#### Impact of Implementation of the Chemical Weapons Convention on Commercial Activities Involving "Schedule 1" Chemicals Through Calendar Year 2008

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Bureau of Industry and Security (BIS) is seeking public comments on the impact that implementation of the Chemical Weapons Convention, through the Chemical Weapons Convention Implementation Act and the Chemical Weapons Convention Regulations, has had on commercial activities involving "Schedule 1" chemicals during calendar year 2008. The purpose of this notice of inquiry is to collect information to assist BIS in its preparation of the annual certification to the Congress, which is required under Condition 9 of Senate Resolution 75, April 24, 1997, in which the Senate gave its advice and consent to the ratification of the Chemical Weapons Convention.

**DATES:** Comments must be received by November 26, 2008.

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: [wfisher@bis.doc.gov](mailto:wfisher@bis.doc.gov).
- Include the phrase "Schedule 1 Notice of Inquiry" in the subject line;
- Fax: (202) 482-3355 (Attn: Willard Fisher);
- Mail or Hand Delivery/Courier: Willard Fisher, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th Street & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** For questions on the Chemical Weapons Convention requirements for "Schedule 1" chemicals, contact James Truske, Treaty Compliance Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (202) 482-1001. For questions

on the submission of comments, contact Willard Fisher, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (202) 482-2440.

#### SUPPLEMENTARY INFORMATION:

##### Background

In providing its advice and consent to the ratification of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and Their Destruction, commonly called the Chemical Weapons Convention (CWC) (the Convention), the Senate included, in Senate Resolution 75 (S. Res. 75, April 24, 1997), several conditions to its ratification. Condition 9, titled "Protection of Advanced Biotechnology," calls for the President to certify to Congress on an annual basis that "the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1." On July 8, 2004, President Bush, by Executive Order 13346, delegated his authority to make the annual certification to the Secretary of Commerce.

The CWC is an international arms control treaty that contains certain verification provisions. In order to implement these verification provisions, the CWC established the Organization for the Prohibition of Chemical Weapons (OPCW). The CWC imposes certain obligations on countries that have ratified the Convention (i.e., States Parties), among which are the enactment of legislation to prohibit the production, storage, and use of chemical weapons, and the establishment of a National Authority to serve as the national focal point for effective liaison with the OPCW and other States Parties for the purpose of achieving the object and purpose of the Convention and the implementation of its provisions. The CWC also requires each State Party to implement a comprehensive data declaration and inspection regime to provide transparency and to verify that both the public and private sectors of the State Party are not engaged in activities prohibited under the CWC.

"Schedule 1" chemicals consist of those toxic chemicals and precursors set forth in the CWC "Annex on Chemicals" and in Supplement No. 1 to part 712 of the Chemical Weapons Convention Regulations (CWCRR) (15 CFR parts 710-722). The CWC identified these toxic chemicals and

precursors as posing a high risk to the object and purpose of the Convention.

The CWC restricts the production of "Schedule 1" chemicals for protective purposes to two facilities per State Party. The CWC Article-by-Article Analysis submitted to the Senate in Treaty Doc. 103-21 defined the term "protective purposes" to mean "used for determining the adequacy of defense equipment and measures." Consistent with this definition, U.S. implementation, as authorized via Presidential Decision Directive (PDD) 70, December 17, 1999, assigned the responsibility to operate these two facilities to the Department of Defense (DOD), thereby precluding commercial production of "Schedule 1" chemicals for protective purposes in the United States. This action did not establish any limitations on "Schedule 1" chemical activities that are not prohibited by the CWC. However, the Department of Defense maintains strict controls on "Schedule 1" chemicals produced at its facilities in order to ensure the accountability and proper use of such chemicals, consistent with the object and purpose of the Convention.

The provisions of the CWC that affect commercial activities involving "Schedule 1" chemicals are implemented in the CWCR (see 15 CFR 712) and in the Export Administration Regulations (EAR) (see 15 CFR 742.18 and 15 CFR 745), both of which are administered by the Bureau of Industry and Security (BIS). Pursuant to CWC requirements, the CWCR restrict commercial production of "Schedule 1" chemicals to research, medical, or pharmaceutical purposes. The CWCR also contain other requirements and prohibitions that apply to "Schedule 1" chemicals and/or "Schedule 1" facilities. Specifically, the CWCR:

- (1) Prohibit the import of "Schedule 1" chemicals from States not Party to the Convention (15 CFR 712.2(b));
- (2) Require annual declarations by certain facilities engaged in the production of "Schedule 1" chemicals in excess of 100 grams aggregate per calendar year (i.e., declared "Schedule 1" facilities) for purposes not prohibited by the Convention (15 CFR 712.5(a)(1) and (a)(2));
- (3) Require government approval of "declared Schedule 1" facilities (15 CFR 712.5(f));
- (4) Provide that "declared Schedule 1" facilities are subject to initial and routine inspection by the Organization for the Prohibition of Chemical Weapons (15 CFR 712.5(e) and 716.1(b)(1));
- (5) Require 200 days advance notification of establishment of new

"Schedule 1" production facilities producing greater than 100 grams aggregate of "Schedule 1" chemicals per calendar year (15 CFR 712.4);

(6) Require advance notification and annual reporting of all imports and exports of "Schedule 1" chemicals to, or from, other States Parties to the Convention (15 CFR 712.6, 742.18(a)(1) and 745.1); and

(7) Prohibit the export of "Schedule 1" chemicals to States not Party to the Convention (15 CFR 742.18(a)(1) and (b)(1)(ii)).

#### Request for Comments

In order to assist in determining whether the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are significantly harmed by the limitations of the Convention on access to, and production of, "Schedule 1" chemicals as described in this notice, BIS is seeking public comments on any effects that implementation of the Chemical Weapons Convention, through the Chemical Weapons Convention Implementation Act and the Chemical Weapons Convention Regulations, has had on commercial activities involving "Schedule 1" chemicals during calendar year 2008. To allow BIS to properly evaluate the significance of any harm to commercial activities involving "Schedule 1" chemicals, public comments submitted in response to this notice of inquiry should include both a quantitative and qualitative assessment of the impact of the CWC on such activities.

#### Submission of Comments

All comments must be submitted to one of the addresses indicated in this notice. The Department requires that all comments be submitted in written form.

The Department encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on November 26, 2008. The Department will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them. All comments submitted in response to this notice will be a matter of public record

and will be available for public inspection and copying.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration, at (202) 482-1093, for assistance.

Dated: October 21, 2008.

**Christopher R. Wall,**

*Assistant Secretary for Export Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-201-805

#### Initiation of Antidumping Duty Changed Circumstances Review: Circular Welded Non-Alloy Steel Pipe from Mexico

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

**SUMMARY:** In response to a request from Ternium México, S.A. de C.V. ("Ternium Mexico"), and pursuant to section 751(b) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.216 and 351.221(c)(3), the Department is initiating a changed circumstances review of the antidumping duty order on circular welded non-alloy steel pipe ("standard pipe") from Mexico. This review will determine whether Ternium Mexico is the successor-in-interest to Hylsa, S.A. de C.V. ("Hylsa").

**EFFECTIVE DATE:** October 27, 2008.

**FOR FURTHER INFORMATION CONTACT:** John Drury or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone: (202) 482-0195 or (202) 482-3019, respectively.

#### Background

The Department published an antidumping duty order on standard pipe from Mexico on November 2, 1992. See *Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea ("Korea"), Mexico, and Venezuela*