

subject to the Regulations<sup>3</sup> and the Iranian Transactions Regulations, 31 CFR Part 560 (“ITR”), could be exported from the United States to Iran. Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction subject to the ITR. In furtherance of the conspiracy, Robert Kraaiipoel and his co-conspirators devised and employed a scheme to purchase these items from the United States on behalf of Iranian customers and give U.S. manufacturers false information regarding the ultimate destination, end user, and end use of the items, thereby causing false export control documents to be submitted to the U.S. Government listing countries other than Iran as the ultimate destination for the items. These acts were taken to export U.S.-origin items to Iran without the required U.S. Government authorization and avoid detection by law enforcement. By engaging in this activity, Robert Kraaiipoel committed one violation of section 764.2(d) of the Regulations.

Whereas, BIS and Robert Kraaiipoel have entered into a Settlement Agreement pursuant to Section 766.18(a) 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*, Robert Kraaiipoel shall be assessed a civil penalty in the amount of \$250,000. Payment of the \$250,000 penalty shall be suspended for a period of three (3) years from the date of this Order, and thereafter shall be waived, provided that during the period of suspension, Robert Kraaiipoel has committed no violation of the Act, or any regulation, order, or license issued thereunder.

*Second*, for a period of seven (7) years from the date of this Order, Robert Kraaiipoel, P.O. Box 418, Heerhugowaard, Netherlands 1700AK and Flemming Straat 36, Heerhugowaard, Netherlands 1700AK, his representatives, assigns or agents (hereinafter collectively referred to as “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 Regulations, or in any other activity subject to the Regulations; or

C. Benefitting 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 any other activity subject to the Regulations.

*Third*, 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.

*Fourth*, 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 Robert Kraaiipoel 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.

*Fifth*, 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.

*Sixth*, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

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

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

Issued this 2nd day of March 2010.

**David W. Mills,**

*Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 2010-5109 Filed 3-9-10; 8:45 am]

**BILLING CODE 3510-DT-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Action Affecting Export Privileges; Aviation Services International, B.V.

In the Matter of: Aviation Services International, B.V. also known as Delta Logistics, B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK and Flemming Straat 36, Heerhugowaard, Netherlands 1700AK Respondent; *Order Relating to Aviation Services International, B.V.*

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has initiated an administrative proceeding against Aviation Services International, B.V., also known as Delta Logistics, B.V. (collectively referred to herein as “ASI”) pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730-774 (2009)) (“EAR”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420) (the

<sup>1</sup> The violation alleged by BIS occurred between 2005 and 2007. The governing provisions of the EAR are found in the 2005-2007 versions of the Code of Federal Regulations (15 CFR Parts 730-774 (2005-2007)). The 2009 version of the EAR establishes the procedures that apply to the BIS administrative proceeding.

<sup>3</sup> The items were classified as Export Control Classification Numbers (“ECCNs”) 9A991, 1C008.a.3, and 5A991. Additionally, some of the aircraft parts were designated EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. (2005-2007).

“EAA”),<sup>2</sup> through issuance of a Proposed Charging Letter to ASI that alleged that ASI committed one violation of the EAR. Specifically:

**Charge 1 15 CFR 764.2(d)—  
Conspiracy**

Between on or about October 1, 2005, and continuing through on or about October 30, 2007, ASI conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about acts that constitute violations of the Regulations. The purpose of the conspiracy was to export U.S.-origin items including aircraft parts, electronic components, and polyimide film on multiple occasions, from the United States to Iran, via the Netherlands, Cyprus, and the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to section 746.7 of the Regulations, authorization was required from OFAC before the aircraft parts, electronic components, and polyimide film, items subject to the Regulations<sup>3</sup> and the Iranian Transactions Regulations, 31 CFR part 560 (“ITR”), could be exported from the United States to Iran. Pursuant to section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction subject to the ITR. In furtherance of the conspiracy, ASI and its co-conspirators devised and employed a scheme to purchase these items from the United States on behalf of Iranian customers and give U.S. manufacturers false information regarding the ultimate destination, end user, and end use of the items, thereby causing false export control documents to be submitted to the U.S. Government listing countries other than Iran as the ultimate destination for the items. These acts were taken to export U.S.-origin items to Iran without the required U.S. Government authorization and avoid detection by law enforcement. By engaging in this activity, ASI committed one violation of section 764.2(d) of the Regulations.

Whereas, BIS and ASI have entered into a Settlement Agreement pursuant to

Section 766.18 of the EAR, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein;<sup>4</sup> and

Whereas, I have approved of the terms of the Settlement Agreement;<sup>5</sup>  
It is therefore ordered:

*First*, that a civil penalty of \$250,000 is assessed against ASI. Payment of the \$250,000 penalty shall be suspended for a period of three (3) years from the date the BIS Order is issued and thereafter shall be waived provided that during the period of suspension, ASI has committed no violation of the EAA, EAR or any order or license issued thereunder.

*Second*, that for a period of seven (7) years from the date of this Order, Aviation Services International, B.V., also known as Delta Logistics, B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK and Fleming Straat 36, Heerhugowaard, Netherlands, 1700AK, its successors or assigns, and, when acting for or on behalf of ASI, its officers, representatives, agents 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 Regulations, or in any other activity subject to the Regulations; or

C. Benefitting 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

any other activity subject to the Regulations.

*Third*, that no person may, directly or indirectly, do any of the actions described below with respect to an item that is subject to the Regulations that has been, will be, or is intended to be exported or reexported from the United States:

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.

*Fourth*, 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 ASI 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.

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

*Sixth*, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

<sup>2</sup> Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 13, 2009 (74 FR 41325 (August 14, 2009)), has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*) (“IEEPA”).

<sup>3</sup> The items were classified as Export Control Classification Numbers (“ECCN”) 9A991, 1C008.A.3, 5A991. Additionally, some of the aircraft parts were designated EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. (2005–2007).

<sup>4</sup> The Settlement Agreement also resolves allegations by the U.S. Department of Treasury, Office of Foreign Assets Control (“OFAC”), which is also a party to the Settlement Agreement, of apparent violations of the Iranian Transactions Regulations, 31 CFR part 560 (“ITR” or the “OFAC Regulations”). ASI’s apparent violations of the OFAC Regulations are contained in an OFAC Prepenalty Notice that was issued by OFAC on or about September 24, 2009, identified as FAC Number IA–365318.

<sup>5</sup> This Order signifies my approval of the Settlement Agreement based on the violations alleged in the Proposed Charging Letter, and not the OFAC Prepenalty Notice referenced in note 4, *supra*.

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

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

Issued this 2nd day of March 2010.

**David W. Mills,**

*Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 2010-5107 Filed 3-9-10; 8:45 am]

**BILLING CODE 3510-DT-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Reporting Requirements for Sea Otter Interactions with the Pacific Sardine Fishery; Coastal Pelagic Species Fishery Management Plan

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

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before May 10, 2010.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, 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)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Gary Rule, (503) 230-5424 or [Gary.Rule@noaa.gov](mailto:Gary.Rule@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

In accordance with the regulations implementing the Endangered Species Act (ESA), National Marine Fisheries Service (NMFS) initiated an ESA section 7 consultation with the United States Fish and Wildlife Service (USFWS) regarding the possible effects of implementing Amendment 11 (71 FR 36999) to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). USFWS determined that formal

consultation was necessary on the possible effects to the threatened southern sea otter. USFWS completed a biological opinion for this action and although it was concluded that fishing activities were not likely to jeopardize the continued existence of the southern sea otter there remained the potential to incidentally take southern sea otters. USFWS determined that certain measures should be put in place to ensure the continued protection of the species. Therefore on May 30, 2007, NMFS published a final rule (72 FR 29891) implementing new reporting requirements and conservation measures under the CPS FMP. This included the requirement to report any interactions that may occur between a CPS vessel and/or fishing gear and sea otters.

*Specifically, these reporting requirements are:*

1. If a southern sea otter is entangled in a net, regardless of whether the animal is injured or killed, such an occurrence must be reported within 24 hours to the Regional Administrator, NMFS Southwest Region.

2. While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entanglement, which will be initially reported as described in #2 above, all other observations must be reported within 20 days to the Regional Administrator.

When contacting NMFS after an interaction, fishermen are required to provide information regarding the location, specifically latitude and longitude, of the interaction and a description of the interaction itself. If available, location information should also include: Water depth; distance from shore; and, relation to port or other landmarks. Descriptive information of the interaction should include: Whether or not the otters were seen inside or outside the net; if inside the net, had the net been completely encircled; did contact occur with net or vessel; the number of otters present; duration of interaction; otter's behavior during interaction; and, measures taken to avoid interaction.

##### II. Method of Collection

The information will be collected on forms submitted by mail, phone, facsimile or e-mail.

##### III. Data

*OMB Control Number:* 0648-0566.  
*Form Number:* None.

*Type of Review:* Regular submission.  
*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 2.  
*Estimated Time per Response:* 15 minutes.

*Estimated Total Annual Burden Hours:* 1.

*Estimated Total Annual Cost to Public:* \$10.

#### IV. Request for Comments

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 5, 2010.

**Gwellnar Banks,**

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

[FR Doc. 2010-5117 Filed 3-9-10; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Interim Capital Construction Fund Agreement and Certificate Family of Forms

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), DOC.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before May 10, 2010.