the Recommended Decision and Order. *See* 15 CFR 766.22(c).

Done and Dated August 30, 2006.

Joseph N. Ingolia,

*Chief Administrative Law Judge.*

[FR Doc. 06–8066 Filed 9–21–06; 8:45 am]

BILLING CODE 3510–33–M

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

**[Docket No. 04–BIS–21]**

### In the Matter of Mohammad Al-Mashan Group, Jleeb Asoukh Commercial Area, Alwaha Complex, First Floor #1, Safat, Kuwait and P.O. Box 5909, Safat 13060 Kuwait, Respondent; Decision and Order

In a charging letter filed on October 25, 2004, the Bureau of Industry and Security (''BIS'') alleged that Respondent, Mohammad Al-Mashan Group (''MAMG''), committed two violations of the Export Administration Regulations (''Regulations'') [1], issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. Sections 2401–2420 (2000)) (the ''Act'').[2]

Specifically, the charging letter alleged that during the period between on or about October 27, 1999 and on or about February 23, 2000, MAMG engaged in conduct prohibited by the Regulations when it transferred an uncooled infrared camera, an item subject to the Regulations and controlled on the Commerce Control List for national security reasons, to an individual from the United Arab Emirates in violation of a BIS license condition. The BIS license that authorized the export of the camera from the United States to MAMG prohibited the resale, transfer, or reexport of the camera to anyone other than the approved end-users on the license without prior authorization by the U.S. Government. In transferring the camera to a non-approved end-user without prior U.S. Government authorization, MAMG committed one violation of Section 764.2(a) of the Regulations.

The charging letter further alleged that during the period on or about October 27, 1999 and on or about February 23, 2000, MAMG transferred an uncooled infrared camera, an item subject to the Regulations and controlled on the Commerce Control List for national security reasons, to an individual from the United Arab Emirates with knowledge, or reason to know, that a violation would subsequently occur in connection with the item. Specifically, at the time MAMG transferred the camera, it knew, or had reason to know, that the BIS license authorizing the export of the camera from the United States to MAMG prohibited the resale, transfer, or reexport of the camera by MAMG to any entity other than those listed on the license as approved end-users without prior U.S. Government authorization. In transferring the camera with such knowledge, MAMG committed one violation of Section 764.2(e) of the Regulations.

In accordance with Section 766.3 of the Regulations, on October 25, 2004, BIS mailed the notice of issuance of the charging letter by registered mail to MAMG at its last known address. The charging letter was returned to BIS unopened. As stated in the ALJ's Recommended Decision and Order, although service of the notice of issuance of the charging letter by registered mail did not result in actual delivery of the charging letter, MAMG constructively refused delivery of the charging letter when it was served in accordance with Section 766.3 of the Regulations but returned to BIS as undeliverable. To date, MAMG has not filed an answer to the charging letter with the ALJ, as required by the Regulations.

In accordance with Section 766.7 of the Regulations, and because more than thirty days had passed since delivery of the charging letter was constructively refused, BIS filed a Motion for Default Order on July 19, 2006. This Motion for Default Order recommended that MAMG be denied export privileges under the Regulations for a period of ten years. Under 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.''

On August 30, 2006, based on the record before him, the ALJ found MAMG in default, and issued a Recommended Decision and Order in which he found that MAMG committed one violation of Section 764.2(a) and one violation of Section 764.2(e) of the Regulations. The ALJ recommended the penalty of denial of MAMG's export privileges for ten years.

The ALJ's Recommended Decision and Order, together with the entire record in this case, has been referred to me for final action under Section 766.22 of the Regulations.

I find that the record supports the ALJ's findings of fact and conclusions of law. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations, the lack of mitigating circumstances, and the importance of preventing future unauthorized exports.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the ALJ's Recommended Decision and Order.

*Accordingly, it is therefore ordered,*

*First,* that, for a period of ten (10) years from the date this Order is published in the **Federal Register,** Mohammad Al-Mashan Group, Jleeb Asoukh Commercial Area, Alwaha Complex, First Floor #1, Safat, Kuwait and with an address at P.O. Box 5909, Safat 13060 Kuwait (''MAMG''), its successors and assigns, and when acting for or on behalf of MAMG, its representatives, agents, assigns and employees (''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

[1] The charged violations occurred from 1999 through 2000. The Regulations governing the violations at issue are found in the 1999 through 2000 versions of the Code of Federal Regulations (15 CFR Parts 730–774 (1999–2000)). Actions taken during this administrative enforcement proceeding are governed by the Regulations in effect at the time such actions take place.

[2] 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. 297 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. Sections 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)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2006 (71 FR 44,551 (August 7, 2006)), has continued the Regulations in effect under IEEPA.

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.

*Second,* 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 that 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.

*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 the 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 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.

*Fifth,* 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: September 18, 2006.

**Mark Foulon,**

*Acting Under Secretary of Commerce for Industry and Security.*

## Recommended Decision and Order

On October 24, 2004, the Bureau of Industry and Security, U.S. Department of Commerce (''BIS''), issued a charging letter initiating this administrative enforcement proceeding against the Mohammad Al-Mashan Group (''MAMG''). The charging letter alleged that MAMG committed one violation of § 764.2(a) and one violation of § 764.2(e) of the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (2006)) (the ''Regulations'').[1] The Regulations are issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (the ''Act'').[2] In accordance with § 766.7 of the Regulations, BIS has moved for the issuance of an Order of Default against MAMG for failure to file an answer to the allegations contained in the charging letter issued by BIS within the time period required by law.

### *A. Legal Authority 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 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 (2006).

Pursuant to § 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'' initiating the proceeding.

### *B. Service of the Notice of Issuance of Charging Letter*

In this case, BIS served notice of issuance of the charging letter in accordance with § 766.3(b)(1) of the Regulations when it sent a copy of the charging letter by registered mail to MAMG at its last known address on October 25, 2005. After the letter was returned unopened, BIS sent a copy of the charging letter by registered mail to MAMG at its only other known address. That letter was also returned to BIS, but postage marks indicated that the letter had remained in Kuwait for approximately one month. Finally, in one last attempt to provide actual notice to MAMG, BIS mailed a copy of the charging letter to its last known address via Federal Express. The final letter was delivered.

Although there is no evidence that the letters were actually refused by a representative of MAMG, MAMG is determined to have constructively refused delivery as of the date the notice sent out on October 25, 2004 was returned to BIS. I find that delivery of a charging letter is deemed constructively refused when the letter has been properly served at the respondent's last known address in accordance with § 766.3 of the Regulations but has been returned to BIS as undeliverable. *See In re Export Materials, Inc. (Docket No. 98–BXA–09),* 64 FR 40,820, (July 28, 1999) (Decision and Order); *see also In re Modern Engineering Services, Ltd. (Docket No. 97–BXA–01),* 65 FR 81,822 (Dec. 27, 2000), (Decision and Order). BIS may legally pursue a default judgment against MAMB because more than thirty (30) days have passed without response from MAMG.

### *C. Summary of Violations Charged*

The charging letter issued by BIS included a total of two charges. Specifically, the charging letter alleged

[1] The violations charged occurred from 1999 through 2000. The Regulations governing the violations at issue are found in the 1999 through 2000 versions of the Code of Federal Regulations (15 CFR Parts 730–774 (1999–2000)). Actions taken during this administrative enforcement proceeding are governed by the Regulations in effect at the time such actions take place.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12,924, 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 remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001, 3 CFR, 2001 Comp. 783 (2002), as extended by the Notice of August 2, 2005, 70 FR 45,273 (Aug. 5, 2005), has continued the Regulations in effect under the IEEPA.

that during the period between on or about October 27, 1999 and on or about February 23, 2000, MAMG engaged in conduct prohibited by the Regulations when it transferred an uncooled infrared camera, an item subject to the Regulations, to an individual from the United Arab Emirates in violation of a BIS license condition. The BIS license that authorized the export of the camera from the United States to MAMG prohibited the resale, transfer, or reexport of the camera to anyone other than the approved end-users on the license without prior authorization by the U.S. Government. In transferring the camera to a non-approved end-user without prior U.S. Government authorization, MAMG committed one violation of § 764.2(a) of the Regulations.

The charging letter further alleged that during the period on or about October 27, 1999 and on or about February 23, 2000, MAMG transferred an uncooled infrared camera, an item subject to the Regulations, to an individual from the United Arab Emirates with knowledge or reason to know that a violation would subsequently occur in connection with the item. Specifically, at the time MAMG transferred the camera, it knew or had reason to know that the BIS license authorizing the export of the camera from the United States to MAMG prohibited the resale, transfer, or reexport of the camera by MAMG to any entity other than those listed on the license as approved end-users without prior U.S. Government authorization. In transferring the camera with such knowledge, MAMG committed one violation of § 764.2(e) 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 thirty (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 August 30th, 2006.

**Joseph N. Ingolia,**

*Chief Administrative Law Judge.*

[FR Doc. 06–8067 Filed 9–21–06; 8:45 am]

BILLING CODE 3510–33–M

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Deemed Export Advisory Committee; Notice of Partially Closed Meeting

The Deemed Export Advisory Committee (DEAC) will meet on October 12, 2006, 9 a.m., in the main lobby of the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee shall advise the Secretary on deemed export licensing policy. A tentative agenda of topics for discussion is listed below. While these topics will likely be discussed, this list is not exhaustive and there may be discussions on other related items during the public session.

**October 12**

*Public Session*

1. Introductory Remarks.
2. Current Deemed Export Control Policy Issues.
3. Technology Transfer Issues.
4. U.S. Industry Competitiveness.
5. U.S. Academic and Government Research Communities.

*Closed Session*

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app.2 §§ 10(a)(1) and 10(a)(3).

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee.

The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Yvette Springer at *Yspringer@bis.doc.gov.*

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 14, 2006, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app.2 § (10)(d)), that the portion of the meeting dealing with matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order (5 U.S.C. 552b(c)(1)(A) and (1)(B)), shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app.2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–4814.

Dated: September 19, 2006.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 06–8068 Filed 9–21–06; 8:45 am]

BILLING CODE 3510–JT–M

## DEPARTMENT OF COMMERCE.

### International Trade Administration

**[A–427–801]**

### Ball Bearings and Parts Thereof from France: Notice of Court Decision Not in Harmony

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

**SUMMARY:** On September 1, 2006, the United States Court of International Trade affirmed in part and struck in part the Department of Commerce's redetermination on remand of the final results of the administrative review of the antidumping duty order on ball bearings and parts thereof from France. See *SKF USA Inc., SKF France S.A., and Sarma v. United States*, Court No. 03–00490, slip op. 06–133 (CIT 2006). The Department is now issuing this notice of court decision not in harmony with the Department's determination.

**EFFECTIVE DATE:** September 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** Yang Jin Chun or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5760 or (202) 482–4477, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 16, 2003, the Department of Commerce (the Department) published the final results of the administrative review of the antidumping duty order on ball bearings and parts thereof from France for the period May 1, 2001, through April 30, 2002. See *Ball Bearings and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part*, and Determination Not to Revoke Order in Part, 68 FR 35623 (June 16, 2003). SKF France S.A., SKF USA Inc., and Sarma (hereafter ''SKF'') filed a lawsuit challenging the final results. On August 24, 2005, the United States