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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matters of Technology Options (India) Pvt. Ltd. and Shivram Rao

On Wednesday, December 1, 2004, the **Federal Register** published the November 24, 2004 Decision and Order issued by the Under Secretary of Commerce, Bureau of Industry and Security (BIS), United States Department of Commerce, in the above-referenced matters (69 FR 69887). This notice corrects certain errors in connection with the publication of the Decision and Order. There is a minor error in the address listed for the respondents, Technology Options (India) Pvt. Ltd. and Shivram Rao, on pages 69887–69888. The correct address for both the respondents is “Plot #168, Behind Maria Mansion, CST Road, Kalina, Mumbai 400 098 India” rather than “Pilot #168, Behind Maria Mansion, CST Road, Kalina, Mumbai 400 098 India.”

In addition, this notice corrects two additional publication errors that appear on page 69887. In the first sentence of the second paragraph of the Decision and Order, the correct spelling of “Indira Gandhi Centre for Atomic Research” is “Indira Gandhi Centre for Atomic Research.” Also in the same sentence, the correct spelling of “mechanical fatigue rest system” is “mechanical fatigue test system.”

While the Administrative Law Judge’s (ALJ) October 27, 2004 Recommended Decision and Order concerning Technology Options (India) Pvt. Ltd. (Docket # 04–BIS–02) was published as an attachment to the Under Secretary’s Decision and Order, the October 27, 2004 Recommended Decision and Order of the ALJ concerning the second respondent, Shivram Rao (Docket # 04–BIS–03), was inadvertently not published. The Recommended and Decision Order of the ALJ related to

Shivram Rao, a portion of which has been redacted, shall hereby be published in the **Federal Register**.

Dated: December 3, 2004.

Kenneth I. Juster,

Under Secretary for Industry and Security.

Recommended Decision and Order on Motion for Default Order

[Docket No. 04–BIS–03]

On February 2, 2004, the Bureau of Industry and Security, United States Department of Commerce (BIS), issued a charging letter initiating this administrative enforcement proceeding against Shivram Rao (“RAO”). The charging letter alleged that Rao committed one violation of Section 764.2(d), one violation of Section 764.2(g), and two violations of Section 764.2(h) of the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (2004)) (the “Regulations”),¹ issued under the Export Administration Act of 1979, as amended (50 USC app. §§ 2401–2420 (2000)) (the “Act”).² In accordance with Section 766.7 of the Regulations, BIS moved for the issuance of an Order of Default against Rao, as Rao has not answered or otherwise responded to the charging letter as required by the Regulations.

A. Legal Basis for Issuing an Order of Default

Section 766.7 of the Regulations state 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:

¹ The violations charged occurred in 2000 and 2001. The Regulations governing the violations at issue are found in the 2000 and 2001 versions of the Code of Federal Regulations (15 CFR parts 730–774 (2000–2001)). The 2004 Regulations establish the procedures that apply to this matter.

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. 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 6, 2004 (69 FR, 48763, August 10, 2004), has continued the Regulations in effect under IEEPA.

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 Part 766.7 (2004):

Pursuant to Section 766.7 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 Charging Letter

Section 766.3(b)(1) of the Regulations provides that notice of issuance of a charging letter shall be served on a respondent by mailing copy via registered or certified mail addressed to the respondent at the respondent’s last known address. In accordance with that section, on February 2, 2004, BIS sent a notice of issuance of the charging letter by registered mail to Respondent Rao, at his last known address: Technology Options (India) Pvt. Ltd., Plot #168, Behind Maria Mansion, CST Road, Kalina, Mumbai 400 098, India. BIS also submitted evidence establishing that on February 2, 2004, BIS submitted evidence establishing that on February 16, 2004, Technology Options received the notice of issuance of a charging letter. These actions constitute service under the Regulations.

Section 766.6(a) of the regulations provides, in pertinent part, that “[t]he respondent must answer the charging letter within 30 days after being served with notice of issuance of the charging letter[.]” Since service was effected on February 16, 2004, Rao’s Answer to the charging letter was due no later than March 16, 2004. Rao did not file an Answer to the Charging letter nor did Rao request an extension of time to answer the Charging letter under Section 766.16(b)(2). Accordingly, because Rao failed to answer or otherwise respond to the charging letter within thirty days from the date he received the notice of issuance of the charging letter, as required by Section 766.66 of the Regulations, Rao is in default.

C. Summary of Violations

The charging letter filed by BIS included a total of four charges. Specifically, the charging letter alleged that from on or about April 1, 2000, through on or about August 31, 2001, Rao conspired with others, known and unknown, to export from the United States to the Indira Gandhi Centre for Atomic Research ("IGCAR") a thermal mechanical fatigue test system ("fatigue test system") and a universal testing machine, both items subject to the Regulations, without a BIS export license as required by Section 744.11 of the Regulations. See Gov't Ex. 3. At all relevant times, IGCAR was an organization listed on the Entity List set forth at Supplement No. 4 to Part 744 of the Regulations ("Entity List").³ In furtherance of the conspiracy, false documentation was submitted to the United States exporter that provided that a party other than IGCAR was the ultimate consignee for the items to be exported from the United States.

The charging letter further alleged that on or about June 13, 2000, in connection with the export of the fatigue test system and attempted export of the universal testing machine, Rao took actions to evade the Regulations. Specifically, Rao, with others, known and unknown, developed and employed a scheme by which the company with which Rao was affiliated, Technology Options (India) Pvt. Ltd. ("Technology Options"), would receive the export of the fatigue test system from the United States without a BIS license and then divert it to the true ultimate consignee, IGCAR, in violation of the Regulation.

The charging letter also alleged that on or about August 16, 2001, through on or about April 8, 2002, in connection with the export of the fatigue test system references above, Rao made false statements to the U.S. Government regarding its knowledge of an involvement in the export. Specifically, Rao made misleading and false statements to U.S. Foreign Commercial Service officers regarding the end user of the fatigue test system.

Pursuant to the default procedures set forth in Section 766.7 of the Regulations, I find the facts to be as alleged in the charging letter, and hereby determine that those facts establish that Rao committed one violation of Section 764.2(d), one violation of Section 764(g), and two violations of 764.2(h) of the regulations.

³ The persons on the Entity List are end-users who have been determined to present an unacceptable risk of diversion to the development of weapons of mass destruction or the missiles used to delivery such weapons.

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

Because Rao violated the Regulations by conspiring and engaging in transactions to evade the Regulations, BIS requests that I recommend to the Under Secretary of Commerce for Industry and Security⁴ that Rao's export privileges be denied for fifteen (15) years. BIS has suggested this sanction because Rao has demonstrated a severe disregard for U.S. export control laws. Further, BIS believes that imposition of a civil penalty in this case may be ineffective, given the difficulty of collecting payment against a party outside of the United States. In light of these circumstances, BIS believes that the denial of Rao's export privileges for fifteen (15) years is an appropriate sanction.

Given the foregoing, I concur with BIS and recommend that the Under Secretary enter an Order denying Rao's export privileges for a period of fifteen (15) years.

The terms of the denial of export privileges against Rao should be consistent with the standard language used by BIS in such order. The language is:

[Portions of this Recommended Decision have been 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 27th of October at Baltimore, MD.

Joseph N. Ingolia,
Chief Administrative Law Judge.

Certificate of Service

I hereby certify that I served the Recommended Decision and Order by Federal Express to the following person:

⁴ Pursuant to Section 13(c)(1) of the Act and Section 766.17(b)(2) of the Regulations, in export control enforcement cases, the Administrative Law Judge makes recommended findings of fact and conclusions of law that the Under Secretary must affirm, modify or vacate. The Under Secretary's actions is the final decision for the agency.

Shivram Rao, Technology Options (India) Pvt. Ltd., Pilot #168, Behind Maria Mansion, CST Road, Kalina, Mumbai 400 098, India.

Done and dated this 28th day of October 2004, at Baltimore, Maryland.

Alyssa L. Paladino,
Law Clerk, ALJ Docketing Center, U.S. Coast Guard.

[FR Doc. 04-27059 Filed 12-8-04; 8:45 am]

BILLING CODE 3510-33-M

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Microelectronics Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice to U.S. Microelectronics Trade Mission to Shanghai, China, March 14-17, 2005.

SUMMARY: The United States Department of Commerce, International Trade Administration, U.S. Commercial Service, Office of Global Trade Programs is organizing a microelectronics trade mission to China, March 14-17, 2005. This trade mission will take place during the renowned annual Shanghai exhibition Electronica and Productronica China 2005—co-located with SEMICON China. Participating firms will not only have pre-arranged one-on-one meetings scheduled for them by the U.S. Commercial Service in Shanghai, but will also have the opportunity to make additional business contacts at the exhibition. A similar microelectronics mission took place in March 2004.

FOR FURTHER INFORMATION CONTACT: Office of Global Trade Programs; Room 2012; Department of Commerce; Washington, DC 20230; Tel: (202) 482-4457; Fax: (202) 482-0178.

SUPPLEMENTARY INFORMATION: U.S. Microelectronics Trade Mission, Shanghai, China, March 14-17, 2005.

Mission Statement

I. Description Of The Mission

The United States Department of Commerce, International Trade Administration, U.S. Commercial Service, Office of Global Trade Programs is organizing a microelectronics trade mission to China, March 14-17, 2005. This trade mission will take place during the renowned annual Shanghai exhibition Electronica and Productronica China 2005—co-located with SEMICON China. Participating firms will not only have pre-arranged one-on-one meetings scheduled for