

order found Mahdi liable on the conspiracy charged based on the collateral estoppel effect of his prior criminal conviction for conspiracy. BIS's motion for summary decision was denied on other charges. See ALJ Order of September 6, 2002.

On May 13, 2003, the ALJ conducted an evidentiary hearing in this matter. On August 26, 2003, the ALJ issued a Recommended Decision and Order, in which he found that Mahdi and OTS each committed the six violations described above. The ALJ also recommended the denial of the export privileges of Mahdi and OTS for 20 years. See Recommended Decision and Order of August 26, 2003.

Pursuant to § 766.22 of the EAR, the ALJ's Recommended Decision and Order has been referred to me for final action. Based on my review of the entire record, I find that the record supports the ALJ's findings of fact and conclusions of law regarding each of the above-referenced charges. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations, the scope of the respondent's efforts to make unauthorized exports, and the importance of preventing future unauthorized exports to Iran, an embargoed country. I therefore affirm the findings of fact and conclusions of law in the ALJ's Recommended Decision and Order.<sup>3</sup>

It is hereby ordered,

First, that for a period of 20 years from the date on which this Order takes effect, Abdulmir Mahdi, also known as Amir Mahdi and Jasin Khafaf, 20 Huntingwood Drive, Scarborough, Ontario, Canada, M1W1A2, and OTS Refining Equipment Corporation, 7030 Woodbine Avenue, NE., Suite 500, Markham, Ontario, Canada, L3R6G2, (hereinafter collectively referred to as "Denied Persons" and individually referred to as "as Denied Person"), and

all of their successors or assigns, officers, representatives, agents, and employees, 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 EAR, or in any other activity subject to the EAR, 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 EAR, or in any other activity subject to the EAR; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in connection with any other activity subject to the EAR.

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

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

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 EAR 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 EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR 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 EAR 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 EAR 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 EAR, any person, firm, corporation, or business organization related to a 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 shall be served on the Denied Persons and on BIS, and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision and Order, except for the section with the heading "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 29, 2003.

**Kenneth I. Juster,**

*Under Secretary of Commerce for Industry and Security.*

#### **Recommended Decision and Order**

Before: Hon. Peter A. Fitzpatrick,  
Administrative Law Judge, United  
States Coast Guard.

#### **Appearances:**

Philip D. Golrick, Esq.—For the  
Bureau of Industry and Security  
Abdulmir Mahdi—PRO SE

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<sup>3</sup> There are two minor clarifications to the ALJ's Recommended Decision and Order that need to be made:

(1) The language in paragraph 2 of Part V of the Recommended Decision and Order indicates that Canada does not require licenses for non-munitions items of Canadian-origin to Iran. However, while Canada does not control the oil field equipment exported by Mahdi and OTS to Iran, it does in fact control the export of certain other non-munitions items of Canadian-origin to Iran.

(2) The language quoted from the Iranian Transactions Regulations at 31 CFR 560.204(a) in Part VII.A of the Recommended Order was not in effect until after the conduct at issue in this case. However, the language of § 560.204 that was in effect at the time of respondents' conduct plainly reached their actions. See *United States v. Ehsan*, 163 F.3d 855, 858–59 (4th Cir. 1998) (shipment to the United Arab Emirates ultimately intended for Iran "fits the plain meaning of an 'exportation' to Iran" under 31 CFR 560.204).