

States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a) [43 USCS § 1331(a)]);

#### B. Regulations

The applicable regulations read as follows:

##### 15 CFR 746.7 Iran

The Treasury Department's Office of Foreign Assets Control (OFAC) administers a comprehensive trade and investment embargo against Iran under the authority of the International Emergency Economic Powers Act of 1977, as amended, section 505 of the International Security and Development Cooperation Act of 1985, and Executive Orders 12957 and 12959 of March 15, 1995 and May 6, 1995, respectively. This embargo includes prohibitions on export and certain reexport transactions involving Iran, including transactions dealing with items subject to the EAR. (See OFAC's Iranian Transactions Regulations, 31 CFR part 560.) BXA continues to maintain licensing requirements on exports and reexports to Iran under the EAR as described in paragraph (a)(2) of this section. No person may export or reexport items subject to both the EAR and OFAC's Iranian Transactions Regulations without prior OFAC authorization.

##### 15 CFR 764.2 Violations

(a) Engaging in prohibited conduct. No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by, the EAA, the EAR, or any order, license or authorization issued thereunder.

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(c) Solicitation and attempt. No person may solicit or attempt a violation of the EAA, the EAR, or any order, license or authorization issued thereunder.

(d) Conspiracy. No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the EAA, the EAR, or any order, license or authorization issued thereunder.

(e) Acting with knowledge of a violation. No person may order, buy, remove, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or in part, any item exported or to be exported from the United States, or that is otherwise subject to the EAR, with knowledge that a violation of the EAA, the EAR, or any order, license or authorization issued thereunder, has occurred, is about to occur, or is intended to occur in connection with the item.

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(g) Misrepresentation and concealment of facts. (1) No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, either directly to BXA, the United States Customs Service, or an official of any other United States agency, or indirectly through any other person:

(i) In the course of an investigation or other action subject to the EAR; or

(ii) In connection with the preparation, submission, issuance, use, or maintenance of any export control document or restrictive

trade practice or boycott request report, as defined in § 760.6 of the EAR; or

(iii) For the purpose of or in connection with effecting an export, reexport or other activity subject to the EAR.

(2) All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify BIS and any other relevant agency, in writing, of any change of any material fact or intention from that previously represented, stated, or certified, immediately upon receipt of any information that would lead a reasonably prudent person to know that a change of material fact or intention has occurred or may occur in the future.

#### V. Findings of Fact

The Findings of Fact are based on the documentary evidence, the testimony of the Bureau's witness, and the entire record. The facts of this case are as follows:

##### A. Background

1. In the late 1940s through the 1950s, U.S. multinational corporations built the national oil extraction and processing infrastructures in Iran, Iraq, and Libya. These corporations manufactured oil field parts and equipment. Between 1995 through present, replacement parts and equipment were needed for repairs of malfunctioning oil field parts and equipment. Maintaining a repair inventory was also of interest to Iran, Iraq, and Libya. (Tr. 247–50).<sup>8</sup>

2. Between 1995 through present, the United States imposed an embargo that restricted the export of munitions and dual use items of U.S. origin to Iran absent consent from the Department of Treasury, OFAC. Canada's export controls for Canadian-origin commodities that are destined for Iran are minimal compared to those of the United States. Canada only requires export licenses for munitions exported to Iran. Therefore, oil-field equipment can be exported legally from Canada to Iran without a license if the equipment is of Canadian-origin. (Tr. at 266–69).

3. Because of the close historical, cultural, geographical, and other ties with Canada, the United States has relaxed export controls affecting commodities whose ultimate destination is Canada. (Tr. 262–64). If the commodities are merely transiting

<sup>8</sup> The citations in this Recommended Decision are as follows: Government Exhibit followed by exhibit number, at page number (Gov't Ex. \_\_, at \_\_); Transcript followed by page number, (Tr. \_\_); Government Proposed Findings of Fact and Conclusions of Law followed by number, (Gov't PFF \_\_); and Government Proposed Ultimate Findings of Fact and Conclusions of Law, (Gov't PUFF).

Canada or the Canadian company plans to transship the commodities to a third country, the relaxed export controls do not apply. (*Id.* at 263–65).

4. Mr. Mahdi knew of the United States' embargo against Iran, which restricted the export of U.S. origin commodities to Iran. (Gov't Ex. 3, at 26–27; Gov't PFF 27).

5. Mr. Mahdi is a naturalized Canadian citizen and resident of Ontario, Canada. (Gov't Ex. 2, at 16; Gov't Ex. 3, at 20–21; Gov't Ex. 6, at 1; Gov't PFF 1).

6. Mr. Mahdi was born in Iraq. He is formally known as Abdulmir Mahdi. However, he commonly uses two different names depending on whether he is transacting business with Iran or Iraq. When conducting business with Iraq, Mr. Mahdi uses an Iraqi name: Amir Mahdi. When transacting business in Iran, he goes by an Iranian name: Jasin Khafaf. Tr. 100–01; Gov't Ex. 6, at 1; Gov't PFF 2).

7. From October 1995 through March 17, 1999, Mr. Mahdi served as the sole owner and operator of OTS located in Markham, Ontario, Canada. (Gov't Ex. 2, at 16; Gov't Ex. 3, at 20–21; Gov't Ex. 6, at 2; Gov't PFF 3).

8. OTS was a Canadian corporation that served as a broker of spare parts for oil field and industrial equipment to Middle Eastern countries, including Iran and Iraq. (Gov't Ex. 1, at 6; Gov't Ex. 3, at 20; Gov't PFF 3). OTS had offices in France, and Dubai, United Arab Emirates (U.A.E.). OTS also conducted business in Saudi Arabia. (Gov't Ex. 6, at 2).

9. Mr. Tito DiMarco and Mr. Mahdi's only employee at OTS in Canada. (Tr. 188).

10. Approximately 90% of OTS's sales of equipment were to Iran and Iraq, and the remaining 10% of the sales were to Saudi Arabia. (Tr. 178, 236–238; Gov't Ex. 26; Gov't PFF 44).

11. Neither Mr. Mahdi nor OTS owns any property or liquid assets in the United States. (Entire Administrative Record).

12. At all relevant times, neither OTS nor Mr. Mahdi under his formal name or any of his aliases had an export license issued by the Department of Commerce or OFAC authorizing the export of oil field equipment from the United States to Iran. The Respondents also had not applied for such a license. (Tr. 215–17; Gov't Ex. 20; Gov't PFF 39).

13. Mr. Mahdi served a 51-month sentence in Federal prison after pleading guilty to one count of conspiracy to export oil field equipment from the United States to Iran and Iraq between March 1997 and March 1998 without required export license and