

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

_____)	
In the Matter of:)	
)	
Chan Heep Loong)	
95 Havelock Road, #14-583)	10-BIS-0002
Singapore, 160095 SG)	
)	
Respondent.)	
_____)	

FINAL DECISION AND ORDER

This matter is before me upon a Recommended Decision and Order (“RDO”) of an Administrative Law Judge (“ALJ”), as further described below.¹

I. Background

On February 10, 2010, the Bureau of Industry and Security (“BIS”) issued a Charging Letter alleging that Respondent, Chan Heep Loong, of Singapore (“Loong” or “Respondent”), committed three violations of the Export Administration Regulations (“Regulations”),² issued

¹ I received the certified record from the ALJ, including the original copy of the RDO, for my review on June 26, 2013. The RDO is dated June 25, 2013. BIS timely submitted a response to the RDO, while Respondent has not filed a response to the RDO.

² The Regulations currently are codified at 15 C.F.R. Parts 730-774 (2013). The charged violations occurred in 2005 and 2006. The Regulations governing the violations at issue are found in the 2005 and 2006 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2005-06). The 2013 Regulations establish the procedures that apply to this matter. All citations herein to provisions of Part 766 (Administrative Enforcement Proceedings) are to the 2013 version of the Regulations. All other citations to the Regulations are to the 2005 and 2006 versions of the Regulations, as applicable, unless otherwise indicated. For ease of reference, I note that the 2005, 2006, and 2013 versions of the Regulations are the same with respect to the provisions of Section 764.2 and Part 766 cited herein, while Section 746.7 remains substantively the same in pertinent part.

pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (“Act”).³ The Charging Letter included the following specific allegations:

Charge 1 15 C.F.R. § 764.2(b) – Causing an Export to Iran without Authorization

From on or about February 14, 2005, through on or about February 24, 2005, Loong caused the doing of an act prohibited by the Regulations. Specifically, Loong caused the export from the United States to Iran, via transshipment through Singapore, of GPS engines, items subject to the Regulations and the Iranian Transaction Regulations (“ITR”) of the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), without the required U.S. Government authorization. Specifically, Loong, in his capacity as Owner/Operator of Tysonic Enterprises (“Tysonic”), of Singapore, ordered and/or bought the GPS engines, items that are classified under Export Control Classification Number (“ECCN”) 7A994 and are controlled for anti-terrorism reasons, from a U.S. company without informing that company of the intended final destination of the items. Loong then instructed the U.S. company to ship the items from the United States to Tysonic in Singapore, and, following arrival in Singapore, the items were then forwarded to Iran. Pursuant to Section 734.2(b)(6) of the Regulations, the export of an item from the United States to a second country intended for transshipment to a third country is deemed to be an export to that third country. Under Section 746.7 of the Regulations, a license from either BIS or OFAC is required to export to Iran items subject to control for anti-terrorism reasons, including items listed under ECCN 7A994. Neither BIS nor OFAC authorized the exports of the items described above to Iran. In engaging in the activity described herein, Loong committed one violation of Section 764.2(b) of the Regulations.

Charge 2 15 C.F.R. § 764.2(b) – Causing an Export to Iran without Authorization

From on or about April 22, 2005, through on or about May 12, 2005, Loong caused the doing of an act prohibited by the Regulations. Specifically, Loong caused the export from the United States to Iran, via transshipment through Singapore, of a peak power meter, an item subject to the Regulations and the Iranian Transaction Regulations (“ITR”) of the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), without the required U.S. Government authorization. Specifically, Loong, in his capacity as Owner/Operator of Tysonic, ordered and/or bought the peak power meter, an item classified under ECCN 3A992 and is controlled for anti-terrorism reasons, from a U.S. company []. Loong then instructed the U.S. company to ship the items from the United States to Tysonic in Singapore, and, following arrival in Singapore, the

³ Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49,699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701, *et seq.*) (2006 and Supp. IV 2010).

items were then forwarded to Iran. Pursuant to Section 734.2(b)(6) of the Regulations, the export of an item from the United States to a second country intended for transshipment to a third country is deemed to be an export to that third country. Under Section 746.7 of the Regulations, a license from BIS or OFAC is required to export to Iran items subject to control for anti-terrorism reasons, including items listed under ECCN 3A992. Neither BIS nor OFAC authorized the export of the items described above to Iran. In engaging in the activity described herein, Loong committed one violation of Section 764.2(b) of the Regulations.

Charge 3 15 C.F.R. § 764.2(k) - Violation of Terms of an Order Temporarily Denying Export Privileges

On or about August 29, 2006, Loong engaged in conduct prohibited by an Order issued by the Assistant Secretary of Commerce for Export Enforcement on April 12, 2006 pursuant to Section 766.24 of the Regulations, and effective upon publication in the Federal Register on April 19, 2006, temporarily denying the export privileges of Loong and Tysonic for 180 days (71 Fed. Reg. 20074, April 19, 2006) (the "TDO"). Under the terms of the TDO, Loong was prohibited from "directly or indirectly, participat[ing] in any way in any transaction involving any [item] exported or to be exported from the United States that is subject to the Regulations, or in a[n]y other activity subject to the Regulations [], including...[c]arrying 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." On or about August 29, 2006, Loong, acting through Rosen Enterprises, ordered and/or bought 30 inverters, items subject to the EAR and designated as EAR99, from a company located in the United States for export from the United States. Rosen Enterprises is owned and operated by Loong and co-located with Tysonic in Singapore. On or about August 29, 2006, the 30 inverters were exported from the United States to Singapore. The TDO continued in force at the time of the aforementioned actions taken by Loong. In engaging in the conduct described herein, Loong committed one violation of Section 764.2(k) of the Regulations.

Charging Letter at 1-3.

In accordance with § 766.3(b)(1) of the Regulations, on February 12, 2010, BIS mailed the notice of issuance of the Charging Letter to Loong at Loong's last known address in Singapore by registered mail. RDO at 2. BIS received a letter from Respondent's legal counsel, Mr. V. Esvaran, Esq., of the firm Esvaran & Tan, of Singapore, on March 4, 2010, indicating that the firm was acting for Loong, who had forwarded the Charging Letter from BIS to Mr. Esvaran and his firm. *Id.* at 2-3. Mr. Esvaran's letter also stated that although the Charging Letter was

dated February 12, 2010, Loong was served with the Charging Letter on February 25, 2010. *Id.* at 3.

In March 2010, BIS counsel received an informal request from Respondent's counsel that BIS stipulate to an extension until April 15, 2010 to answer the charges. BIS counsel indicated that BIS would not object to Loong's request if Loong's counsel entered a notice of appearance and filed the stipulation. *Id.* at 3. No notice of appearance or stipulation of extension of time to file an answer was ever filed. *Id.* Respondent thus was obligated to answer the Charging Letter by no later than March 27, 2010.

On February 27, 2013, BIS counsel sent a letter by e-mail and Federal Express to Respondent's counsel indicating that BIS would file a motion for default order if Respondent did not file an answer as required by the Regulations by March 13, 2013. *Id.* Respondent's counsel provided a letter response by e-mail to BIS counsel on February 28, 2013, acknowledging that Respondent "has to respond in a format and in compliance with instructions under the regulations," and asserting that Respondent would "revert shortly on the matter." *Id.* However, Respondent did not submit an answer by March 13, 2013, or at any time thereafter. *Id.*

Under Section 766.6(a) of the Regulations, the "respondent must answer the charging letter within 30 days after being served with notice of issuance" of the charging letter. Section 766.7(a) of the Regulations provides, in turn, that the "[f]ailure 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," and that "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 April 15, 2013, BIS filed its Motion for Default Order in accordance with Section 766.7(a) of the Regulations.⁴ The Motion for Default Order recommended that Loong be denied export privileges under the Regulations for a period of at least ten years. *Id.* at 7. In addition to the serious nature of Loong's violations, Loong's location in Singapore, BIS indicated that a monetary penalty may be difficult to collect and may not serve a sufficient deterrent effect.

On June 25, 2013, based on the record before him, the ALJ issued the RDO, in which he found Loong in default, found the facts to be as alleged in the Charging Letter, and concluded that Loong had committed the three violations alleged in the charging letter, specifically, two violations of 15 C.F.R. § 764.2(b), and one violation of 15 C.F.R. § 764.2(k). *Id.* at 7. The RDO contains a detailed review of the facts and applicable law relating to both merits and sanctions issues in this case.

Based on the record, the ALJ determined, *inter alia*, that, between February and April 2005, Loong caused two exports of items subject to the Regulations from the United States to Iran via transshipment through Singapore without the required U.S. Government authorization, in violation of Section 764.2(b) of the Regulations. *Id.* at 7-8. Further, the ALJ determined that after a TDO regarding Loong's U.S. export privileges was issued, Loong used another company he owned and controlled, Rosen Enterprises, to obtain other items subject to the Regulations for export from the United States in direct violation of the terms of the TDO. *Id.*

The ALJ also recommended that the Under Secretary deny Loong's export privileges for a period of ten years, citing, *inter alia*, Loong's "clear disregard for the Regulations and U.S. export control law, including the long-standing U.S. trade embargo against Iran and the TDO

⁴ Although not required to do so by Section 766.7 of the Regulations a copy of the Motion for Default Order was served on Loong.

issued against him in April 2006.” *Id.* at 8. The ALJ further noted that a 10-year denial order was appropriate in this case “in light of the nature of his conduct, his multiple violations and his location in Singapore.” *Id.*

II. Review Under Section 766.22

The RDO, together with the entire record in this case, has been referred to me for final action under Section 766.22 of the Regulations. BIS submitted a timely response to the RDO pursuant to Section 766.22(b); however, [Respondent has not submitted a response to the RDO].

I find that the record supports the ALJ’s findings of fact and conclusions of law that Respondent never filed an answer, is in default, and committed the three violations of the Regulations as alleged in the Charging Letter and set forth above.

I also find that the ten-year denial order recommended by the ALJ upon his review of the entire record is appropriate, given, as discussed in further detail in the RDO, the nature and number of the violations, the facts of this case, and the importance of deterring Respondent and others from acting to evade the Regulations and otherwise knowingly violate the Regulations.

Accordingly, based on my review of the entire record, I affirm the findings of fact and conclusions of law in the RDO without modification.

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*, Chan Heep Loong (“Loong”), with a last known address of 95 Havelock Road, #140583, Singapore, 160095 SG, and his successors and assigns, and when acting for or on its behalf, his employees, representatives, 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 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.

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 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.

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: July 21, 2013



Eric L. Hirschhorn
Under Secretary of Commerce for Industry and Security

**UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230**

In the Matter of:

**Chan Heep Loong
95 Havelock Road, #14-583
Singapore, 160095 SG**

10-BIS-0002

Respondent

**ORDER GRANTING MOTION FOR DEFAULT AND
RECOMMENDED DECISION AND ORDER**

On February 12, 2010, the Bureau of Industry and Security (BIS), U.S. Department of Commerce, issued a charging letter initiating this administrative enforcement proceeding against Chan Heep Loong (Loong or Respondent).

The charging letter alleged that Chan Heep Loong, as Owner/Operator of Tysonic Enterprises (Tysonic) committed three (3) violations of the Export Administration Regulations (Regulations) (See 15 C.F.R. Parts 730-774 (2008))¹. The Regulations were issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (Act).² In accordance with Section 766.7 of the Regulations, BIS moved for the issuance of an Order of Default against Chan Heep Loong in connection with Charges 1, 2 and 3 in the charging letter, as

¹ The charges are for violations that are alleged to have occurred during 2005 and 2006. The Regulations governing the violations at issue are found in the 2005 and 2006 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005-06)). The 2013 Regulations establish the procedures that apply to this matter.

² Since August 21, 2001, the Export Administration Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (Aug. 16, 2012)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1706 (2006 and Supp. IV 2010)).

Chan Heep Loong failed to file an Answer to the allegations contained in the charging letter within the time period required by law.

A. Legal Authority for Issuing an Order of Default

Section 766.7 of the Regulations states upon Motion by BIS, the Court shall enter a judgment of default if a respondent fails to file a timely answer to the charging letter. That section, entitled Default, provides in pertinent part as follows:

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' 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 C.F.R. § 766.7 (2008).

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

Section 766.3(b)(1) of the Regulations provides notice of the issuance of a charging letter shall be served on a respondent by mailing a copy by registered or certified mail addressed to the respondent at the respondent's last known address. On February 12, 2010, BIS mailed the notice of issuance of a charging letter by registered mail to Chan Heep Loong at his last known address in Singapore. See Gov't Ex. 1. Pursuant to Section 766.3(c) of the Regulations, the date of service in this case is the date of delivery. After mailing the Charging Letter to Chan Heep Loong at his last known address, BIS received a letter from Respondent's legal counsel, Mr. V. Esvaran,

Esq., of the firm of Esvaran & Tan, of Singapore, on March 4, 2010, indicating the firm was acting for Tysonic Enterprises and Respondent Chan Heep Loong who had forwarded the Charging Letter from the Agency to Mr. Esvaran and his firm. See Gov't Ex. 3. Mr. Esvaran's letter also stated that although the Charges are dated February 12, 2010 his clients were served with the Charges on February 25, 2010. Id. I find that BIS properly served the Charging Letter in accordance with 15 C.F.R. § 766.3(b).

In March of 2010, BIS counsel received an informal request from Respondent's counsel requesting BIS stipulate to an extension until April 15, 2010 to answer the charges. Agency counsel indicated BIS would not object if Respondent's counsel entered a notice of appearance and the necessary stipulation. See Gov't Ex. 4. However, no notice of appearance, motion, or stipulation for an extension has been filed. To date, Respondent has not filed an answer.

On February 27, 2013, BIS counsel sent a letter by email (and Federal Express) to Respondent's counsel indicating that BIS would file a motion for a default order if Respondent did not file an answer as required by the regulations with the Docketing Center by March 13, 2013. See Gov't Ex. 5; 15 C.F.R. §§ 766.5 and 766.6.

Respondent's counsel provided a letter response by email to BIS on February 28, 2013, acknowledging that Respondent "has to respond in a format and in compliance with instructions under the requisite regulations," and asserting that Respondent would "revert shortly on the matter." See Gov't Ex. 6. However, Respondent did not submit an answer on March 13, 2013 or at any time thereafter. On April 15, 2013, BIS filed a Motion for Default Order.

Under Section 766.6(a) of the Regulations, a respondent must file an answer to the charging letter within 30 days after being served with notice of issuance of the charging letter

initiating the administrative enforcement proceeding. Respondent originally had 30 days from February 25, 2010, to file an answer to the charging letter. As noted above, on February 27, 2013 BIS provided notice to Respondent of another opportunity to file an answer by March 13, 2013 and that failure to answer would result in submission of a default motion by BIS. To date, Respondent has not filed an answer.

C. Summary of Violations Charged

The charging letter filed by BIS included a total of three charged violations. Two violations concerned causing unauthorized exports to Iran, via transshipment through Singapore, of items controlled under the Regulations on anti-terrorism grounds; and one charge for violating an Order issued by the Assistant Secretary of Commerce for Export Enforcement on April 12, 2006 temporarily denying export privileges (TDO) of Loong and Tysonic for 180 days. (71 Fed. Reg. 20074, April 19, 2006).

Specifically, Charge 1 alleges from on or about February 14, 2005, through on or about February 24, 2005, Loong violated Section 764.2(b)(Causing, Aiding or Abetting a Violation) of the Regulations by causing the export of GPS engines to Iran, via transshipment through Singapore, without the required license. Acting through Tysonic Enterprises, a Singapore company Loong owned and operated, Loong ordered and/or bought the GPS engines, items classified on the Commerce Control List under Export Control Classification Number (ECCN) 7A994 and controlled for anti-terrorism reasons, from a U.S. company without informing that company that Iran was the intended final destination of the items.³ Loong instead instructed the

³ "ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § 774.

U.S. company to ship the items from the United States to Tysonic in Singapore, and following their arrival in Singapore, the items were forwarded to Iran. Pursuant to Section 734.2(b)(6) of the Regulations, the export of an item from the United States to a second country, such as Singapore, intended for transshipment to a third country, such as Iran, constitutes an export to that third country. Charge 1 further alleges that under Section 746.7 of the Regulations, a license from either BIS or the Treasury Department's Office of Foreign Assets Control (OFAC) was required to export these items to Iran, and that neither BIS nor OFAC authorized these exports to Iran. See Charging Letter; Gov. Ex. 1.

Charge 2 alleges from on or about April 22, 2005, through on or about May 12, 2005, Loong violated Section 764.2(b)(Causing, Aiding or Abetting a Violation) of the Regulations by causing the export of a peak power meter to Iran, via transshipment through Singapore, without the license required under Section 746.7 of the Regulations. Acting through Tysonic Enterprises, a Singapore company Loong owned and operated, Loong ordered and/or bought the peak power meter, an item classified on the Commerce Control List under ECCN 3A992 and controlled for anti-terrorism reasons, from a U.S. company without informing that company that Iran was the intended final destination of the item. Loong instead instructed the U.S. company to ship the item from the United States to Tysonic in Singapore, and following their arrival in Singapore, the items were forwarded to Iran. Pursuant to Section 734.2(b)(6) of the Regulations, the export of an item from the United States to a second country, such as Singapore, intended for transshipment to a third country, such as Iran, constitutes an export to that third country. Charge 2 further alleges that under Section 746.7 of the Regulations, a license from either BIS or OFAC was required to

export this item to Iran, and that neither BIS nor OFAC authorized this export to Iran. See Charging Letter; Gov. Ex. 1.

Charge 3 alleges from on or about August 29, 2006, Loong, acting through Rosen Enterprises, violated Section 764.2(k)(Violation of Terms of an Order Temporarily Denying Export Privileges) of the Regulations by purchasing 30 inverters, items subject to the EAR and designated as EAR99, from a company located in the United States for export from the United States. Rosen Enterprises is owned and operated by Loong and co-located with Tysonic Enterprises in Singapore. On or about August 29, 2006, the 30 inverters were exported from the United States to Singapore. The TDO continued in force at the time of these export actions taken by Respondent Loong. In engaging in these actions Loong committed one violation of Section 764.2(k) of the Regulations.

D. Penalty Recommendation

Pursuant to the default procedures set forth in § 766.7 of the Regulations, I find the allegations contained in the charging letter to be fact; and hereby determine that those facts establish Chan Heep Loong committed two violations of § 764.2(b) of the Regulations and one violation of Section 764.2(k) of the Regulations.

Section 764.3 of the Regulations establishes the sanctions BIS may seek for the violations charged in this proceeding. Sanctions potentially sought in this case include a civil monetary penalty, suspension from practice before the Department of Commerce, and a denial of export privileges under the Regulations. See 15 C.F.R. § 764.3.

BIS requests I recommend to the Under Secretary of Commerce for Industry and Security that Chan Heep Loong's export privileges under the Regulations be denied for ten (10) years.⁴ BIS believes that imposition of a civil penalty in this case would be ineffective and argues that a denial is justified because of the nature of Chan Heep Loong's multiple violations and his demonstrated disregard for U.S. export control laws including the long-standing U.S. trade embargo against Iran and a TDO issued against him by BIS. Specifically, between February and April 2005, Loong caused two exports of items subject to the Regulations from the United States to Iran⁵ via transshipment through Singapore without the required U.S. Government authorization, in violation of Section 764.2(b) of the Regulations, 15 C.F.R. § 764.2(b). See Charging Letter, Gov't Ex. 1, at Charges 1-2. Loong failed to inform the U.S. exporters that the intended final destination of the items was Iran, and instead instructed the exporters to ship the items from the United States to Tysonic in Singapore. Following the arrival of these items in Singapore, the items were forwarded on to Iran. These actions by Loong constitute two violations of Section 764.2(b) of the Regulations. Id.

BIS further notes Loong's actions in August 2006 were a clear violation of the TDO BIS issued against him (and Tysonic) on April 12, 2006.

Further, BIS asserts that a denial is justified in this case because Loong remains in Singapore, therefore a monetary penalty may be difficult to collect and would not serve a

⁴ Pursuant to Section 13(c)(1) of the Act and § 766.17(b)(2) of the Regulations, in export control enforcement cases, the Administrative Law Judge issues a recommended decision and order which is reviewed by the Under Secretary, who issues the final agency decision in the case.

⁵ Pursuant to 15 C.F.R. § 734.2(b)(6) the export of items from the United States to a second country, intended for transshipment to a third country is deemed to be an export to the third country.

sufficient deterrent effect. In light of these circumstances, BIS requests the Court to recommend denial of Loong's export privileges for ten years as an appropriate sanction.

I agree that the facts set forth in the Charging Letter show that Loong engaged in conduct that demonstrated a clear disregard for the Regulations and U.S. export control laws, including the long-standing U.S. trade embargo against Iran and the TDO issued against him in April 2006. In addition, the facts show that to facilitate the purchase and unlawful export of the items at issue in Charges 1 and 2, Loong failed to inform the U.S. exporters that Iran, not Singapore, was the intended final destination for the anti-terrorism controlled items at issue. Likewise, after the TDO regarding Loong and Tysonic's U.S. export privileges was issued, Loong used another company he owned and controlled, Rosen Enterprises, to obtain other items subject to the Regulations for export from the United States in direct violation of the terms of the TDO.

I agree that Loong's unlawful conduct calls for a significant sanction and recommend as an appropriate sanction the denial of Loong's export privileges for a period of ten (10) years, in light of the nature of his conduct, his multiple violations, and his location in Singapore. The imposition of a 10-year denial order as a sanction is also consistent with BIS precedent. See e.g. *In the Matter of: Teepad Electronic General Trading*, 71 Fed. Reg. 34596 (June 15, 2006) Ten (10) year denial order imposed against a defaulting respondent located in the United Arab Emirates (UAE) for conspiring to export anti-terrorism controlled telecommunications devices without the required licenses to Iran, via transshipment through UAE, aiding and abetting the unlicensed export of such items to Iran on two occasions, and committing knowledge violations in connection with those two exports. See also *In the Matter of: Aqua-Loop Cooling Towers, Co.*, 75 Fed.Reg. 16732 (Apr. 2, 2010). In view of the above facts and analysis I find Respondent's

misconduct exhibited a disregard for the Regulations and U.S. export controls, and that a monetary penalty is not likely to be an effective deterrent in this case. Given the foregoing, and consistent with BIS precedent, I recommend, pursuant to Section 766.7(a), that the Under Secretary of Commerce for Industry and Security enter an Order denying Chan Heep Loong's export privileges for a period of ten (10) years.

Using provisions from the Standard Terms of Orders Denying Export Privileges set forth in Supplement No. 1 to Part 764 of the Regulations (Supp. No. 1 to 15 C.F.R. Part 764), I recommend that the Under Secretary issue a Denial Order against Chan Heep Loong as follows:

[REDACTED SECTION]

[REDACTED SECTION]

[REDACTED SECTION]

[REDACTED SECTION]

Within thirty (30) days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating this Recommended Decision and Order. See 15 C.F.R. § 766.22(c). A copy of the Agency Regulations for Review by the Under Secretary can be found as Attachment A.



HON MICHAEL J. DEVINE
Administrative Law Judge
United States Coast Guard

Done and dated this 25th day of June, 2013
Baltimore, Maryland

ATTACHMENT A

NOTICE TO THE PARTIES REGARDING REVIEW BY UNDER SECRETARY

TITLE 15 -- COMMERCE AND FOREIGN TRADE
SUBTITLE B -- REGULATIONS RELATING TO COMMERCE AND FOREIGN TRADE
CHAPTER VII -- BUREAU OF INDUSTRY AND SECURITY, DEPARTMENT OF
COMMERCE
SUBCHAPTER C -- EXPORT ADMINISTRATION REGULATIONS
PART 766 -- ADMINISTRATIVE ENFORCEMENT PROCEEDINGS

15 CFR 766.22

§ 766.22 Review by Under Secretary.

(a) *Recommended decision.* For proceedings not involving violations relating to part 760 of the EAR, the administrative law judge shall immediately refer the recommended decision and order to the Under Secretary. Because of the time limits provided under the EAA for review by the Under Secretary, service of the recommended decision and order on the parties, all papers filed by the parties in response, and the final decision of the Under Secretary must be by personal delivery, facsimile, express mail or other overnight carrier. If the Under Secretary cannot act on a recommended decision and order for any reason, the Under Secretary will designate another Department of Commerce official to receive and act on the recommendation.

(b) *Submissions by parties.* Parties shall have 12 days from the date of issuance of the recommended decision and order in which to submit simultaneous responses. Parties thereafter shall have eight days from receipt of any response(s) in which to submit replies. Any response or reply must be received within the time specified by the Under Secretary.

(c) *Final decision.* Within 30 days after receipt of the recommended decision and order, the Under Secretary shall issue a written order affirming, modifying or vacating the recommended decision and order of the administrative law judge. If he/she vacates the recommended decision and order, the Under Secretary may refer the case back to the administrative law judge for further proceedings. Because of the time limits, the Under Secretary's review will ordinarily be limited to the written record for decision, including the transcript of any hearing, and any submissions by the parties concerning the recommended decision.

(d) *Delivery.* The final decision and implementing order shall be served on the parties and will be publicly available in accordance with §766.20 of this part.

[61 FR 12907, Mar. 25, 1996, as amended at 75 FR 33683, June 15, 2010]

CERTIFICATE OF SERVICE

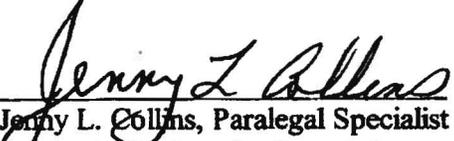
I hereby certify that I have served the foregoing **RECOMMENDED DECISION AND ORDER** as indicated below:

Mr. Eric H. Hirschhorn
Under Secretary for Industry and Security
Bureau of Industry and Security
U.S. Department of Commerce, Room H-3838
14th Street & Constitution Avenue, N.W.
Washington, DC 20230
PHONE: (202) 482-1460
Sent by Federal Express courier

Peter Klason, Esq., Attorney-Advisor
Office of Chief Counsel for Ind. & Security
U.S. Dept of Commerce, Room H-3839
14th Street & Constitution Avenue, N.W.
Washington, DC 20230
PHONE: (202) 482-5301
FAX: (202) 482-0085
Sent by Facsimile

Chan Heep Loong
95 Havelock Road, # 14-583
Singapore, 160095 SG
Sent by Federal Express courier

Hearing Docket Clerk
United States Coast Guard
ALJ Docketing Center
40 S. Gay Street, Room 414
Baltimore, MD 21202
Telephone: (410) 962-5100
Fax: (410) 962-1746
Sent by Hand Delivery


Jenny L. Collins, Paralegal Specialist
for the Administrative Law Judge

Done and dated this 25th day of June, 2013
Baltimore, Maryland



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

VIA REGISTERED MAIL

February 12, 2010

Mr. Chan Heep Loong
95 Havelock Road, #14-583
Singapore, 160095 SG

Dear Mr. Loong:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Chan Heep Loong (“Loong”), of Singapore, have committed three violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that you have committed the following violations:

Charge 1 15 C.F.R. §764.2(b) – Causing an Export to Iran without Authorization

From on or about February 14, 2005, through on or about February 24, 2005, Loong caused the doing of an act prohibited by the Regulations. Specifically, Loong caused the export from the United States to Iran, via transshipment through Singapore, of GPS engines, items subject to the Regulations and the Iranian Transaction Regulations³ (“ITR”) of the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), without the required U.S. Government authorization. Specifically, Loong, in his capacity as Owner/Operator of Tysonic Enterprises (“Tysonic”), of Singapore, ordered and/or bought the GPS engines, items that are classified under Export Control Classification Number (“ECCN”) 7A994 and are controlled for anti-terrorism reasons, from a U.S.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The violations charged occurred in 2005-2006. The Regulations governing the violation at issue are found in the 2005 and 2006 versions of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2005-2006). The 2009 Regulations govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001 the Act has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (“IEEPA”). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

³ 31 C.F.R. Part 560 (2005).



company without informing that company of the intended final destination of the items. Loong then instructed the U.S. company to ship the items from the United States to Tysonic in Singapore, and, following arrival in Singapore, the items were then forwarded to Iran. Pursuant to Section 734.2(b)(6) of the Regulations, the export of an item from the United States to a second country intended for transshipment to a third country is deemed to be an export to that third country. Under Section 746.7 of the Regulations, a license from either BIS or OFAC is required to export to Iran items subject to control for anti-terrorism reasons, including items listed under ECCN 7A994. Neither BIS nor OFAC authorized the export of the items described above to Iran. In engaging in the activity described herein, Loong committed one violation of Section 764.2(b) of the Regulations.

Charge 2 15 C.F.R. §764.2(b) – Causing an Export to Iran without Authorization

From on or about April 22, 2005, through on or about May 12, 2005, Loong caused the doing of an act prohibited by the Regulations. Specifically, Loong caused the export from the United States to Iran, via transshipment through Singapore, of a peak power meter, an item subject to the Regulations and the Iranian Transaction Regulations (“ITR”) of the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), without the required U.S. Government authorization. Specifically, Loong, in his capacity as Owner/Operator of Tysonic, ordered and/or bought the peak power meter, an item classified under ECCN 3A992 and is controlled for anti-terrorism reasons, from a U.S. company, from a U.S. company. Loong then instructed the U.S. company to ship the items from the United States to Tysonic in Singapore, and, following arrival in Singapore, the items were then forwarded to Iran. Pursuant to Section 734.2(b)(6) of the Regulations, the export of an item from the United States to a second country intended for transshipment to a third country is deemed to be an export to that third country. Under Section 746.7 of the Regulations, a license from either BIS or OFAC is required to export to Iran items subject to control for anti-terrorism reasons, including items listed under ECCN 3A992. Neither BIS nor OFAC authorized the export of the items described above to Iran. In engaging in the activity described herein, Loong committed one violation of Section 764.2(b) of the Regulations.

Charge 3 15 C.F.R. § 764.2(k) - Violation of Terms of an Order Temporarily Denying Export Privileges

On or about August 29, 2006, Loong engaged in conduct prohibited by an Order issued by the Assistant Secretary of Commerce for Export Enforcement on April 12, 2006 pursuant to Section 766.24 of the Regulations, and effective upon publication in the Federal Register on April 19, 2006, temporarily denying the export privileges of Loong and Tysonic for 180 days (71 Fed. Reg. 20074, April 19, 2006) (the “TDO”). Under the terms of the TDO, Loong was prohibited from “directly or indirectly, participat[ing] in any way in 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 in any other activity subject to the Regulations, including....[c]arrying 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.” On or about August 29, 2006, Loong, acting through Rosen Enterprises, ordered and/or bought 30 inverters, items subject to the EAR and designated as EAR99, from a company located in the United States for export from the United States. Rosen Enterprises is owned and operated by Loong and co-located with Tysonic in Singapore. On or about August 29, 2006, the 30 inverters were exported from the United States to Singapore. The TDO continued in force at the time of the aforementioned actions taken by Loong. In engaging in the conduct described herein, Loong committed one violation of Section 764.2(k) of the Regulations.

* * * * *

Accordingly, you, Loong, are hereby notified that an administrative proceeding is instituted against you pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If you, Loong, fail to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7 (2009). If you default, the Administrative Law Judge may find the charges alleged in this letter to be true without a hearing or further notice to you. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty based on the charge in this letter.

You are further notified that you are entitled to an agency hearing on the record if you file a written demand for one with your answer. *See* 15 C.F.R. § 766.6 (2009). You are also entitled to be represented by counsel or other authorized representative who has power of attorney to represent you. 15 C.F.R. §§ 766.3(a) and 766.4 (2009).

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2009). Should you have a proposal to settle this case, you or your representative should transmit it through the attorney representing BIS, who is named below.

⁴ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Mr. Chan Heep Loong
Charging Letter
Page 4

You are further notified that under the Small Business Regulatory Enforcement Flexibility Act, you may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, your answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of your answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Peter Klason, Esq.
Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Peter Klason is the attorney representing BIS in this case; any communications that you may wish to have concerning this matter should occur through him. Mr. Klason may be contacted by telephone at (202) 482-5301.

Sincerely,



John Sonderman
Acting Director
Office of Export Enforcement