



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Serfilco, Ltd.
1777 Shermer Road
Northbrook, Illinois 60062

Attention: Jack Berg
President

Dear Mr. Berg:

The **Office** of Export Enforcement, Bureau of Industry and Security, United States Department of Commerce (BIS), hereby charges that, as described below, Serfilco, Ltd. (Serfilco) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2002)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the Act).*

¹ The Regulations governing the violations at issue are found in the 1996 and 1997 versions of the Code of Federal Regulations, (15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. **Reg.** 12714, March 25, 1996) (hereinafter “the former Regulations”)), and 15 C.F.R. Parts 730-774 (1997)). **The March 25, 1996 Federal Register** publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. As an interim measure that was part of the transition to newly restructured and reorganized Regulations, the March 25, 1996 **Federal Register** publication also restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations and the Regulations define the various violations that BIS alleges occurred. The 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 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations then in effect under the International Emergency Economic Powers Act (50 U.S.C. A. §§ 1701 - 1706 (1991 & Supp. 2001)) (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 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 **Fed. Reg.** 5372 1 (August 16, 2002)), has continued the Regulations in effect under IEEPA.



Facts constituting violations:

Charge 1

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, from on or about October 1996, through on or about December 1996, Serfilco carried on negotiations concerning sale of commodities to be exported from the United States to the United Arab Emirates, contrary to the terms of the June 10, 1996 Order³ denying all of Serfilco's export privileges to the United Arab Emirates. BIS alleges that by engaging in acts to solicit the commission of, or that constitutes an attempt to bring about, a violation of the Act or any regulations, order, or license issued thereunder, Serfilco violated 787A.3 of the former Regulations.

Charge 2

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in November 1996, Serfilco sold commodities to a company in the United States to be exported to Bahrain, contrary to the terms of the June 10, 1996 Order denying all of Serfilco's export privileges to Bahrain. BIS alleges that by selling commodities exported or to be exported from the United States with knowledge or reason to know that a violation of the Act or any regulations, order, or license issued thereunder, Serfilco violated 787A.4 of the former Regulations.

Charge 3

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on or about January 2, 1997, Serfilco sold commodities to a company in the United States to be exported to Saudi Arabia, contrary to the terms of the June 10, 1996 Order denying all of Serfilco's export privileges to Saudi Arabia. BIS alleges that, by engaging in conduct prohibited by or contrary to the Act, the Regulations, or any order, license or authorization issued thereunder, Serfilco violated Section 764.2(a) of the Regulations.

Charge 4

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on or about January 24, 1997, Serfilco sold commodities to a company in the United States to be exported to Bahrain, contrary to the terms of the June 10, 1996 Order denying all of Serfilco's export privileges to Bahrain. BIS alleges that, by engaging in conduct prohibited

³ The June 10, 1996 Order was published in the **Federal Register** on June 14, 1996. BXA subsequently issued an amended Order on July 17, 1996 which was published in the **Federal Register** on July 24, 1996. The amended Order includes a recitation the specific terms and conditions of the Order.

by or contrary to the Act, the Regulations, or any order, license or authorization issued thereunder, Serfilco violated Section 764.2(a) of the Regulations.

Charge 5

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on or about May 28, 1997, Serfilco carried on negotiations concerning sale of commodities to be exported from the United States to Saudi Arabia, contrary to the terms of the June 10, 1996 Order denying all of Serfilco's export privileges to Saudi Arabia. BIS alleges that, by engaging in conduct prohibited by or contrary to the Act, the Regulations, or any order, license or authorization issued thereunder, Serfilco violated Section 764.2(a) of the Regulations.

Charge 6

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on or about May 29, 1997, Serfilco sold commodities to a company in the United States to be exported to Saudi Arabia, contrary to the terms of the June 10, 1996 Order denying **all** of Serfilco's export privileges to Saudi Arabia. BIS alleges that, by engaging in conduct prohibited by or contrary to the Act, the Regulations, or any order, license or authorization issued thereunder, Serfilco violated Section 764.2(a) of the Regulations.

BIS alleges that Serfilco committed one violation each of Section 787A.3 and 787A.4 of the former Regulations, and four violations of Section 764.2(a) of the Regulations, for a total of six violations.

Accordingly, Serfilco is hereby notified that an administrative proceeding is instituted against it 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 \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);⁴

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

⁴ The maximum civil penalty for any violation committed after October 23, 1996 is \$11,000 per violation, and after November 1, 2000 is \$12,000. See 15 C.F.R. § 6.4(a)(3)(2001).

If **Serfilco** fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Serfilco is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a consent settlement.

Pursuant to an Interagency Agreement between BIS and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, **Serfilco's** answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of **Serfilco's** answer should be served on BIS at the address set forth in Section 766.5(b), adding "**ATTENTION: Mi-Yong Kim, Esq., Room 3839**" below the address. Ms. Kim may be contacted by telephone at (202) 482-5301.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosures

**SCHEDULE A: VIOLATIONS BY
SERFILCO, LTD.**

Charge No.	Date	Invoice/Quote No.	Destination
1	October 1996 - December 1996	Quote Ref. No. SHL- 6009I / SHL-6009-I	United Arab Emirates
2	11-27-1996	U.S. Company Invoice No. 904	Bahrain
3	01-02-1997	Serfilco Invoice No. 352603	Saudi Arabia
4	01-24-1997	Serfilco Invoice No. 353814	Bahrain
5	05-28-1 1997	U. S Company Reference No. TN3547	Saudi Arabia
6	05-29- 1997	Serfilco Invoice No. 361883	Saudi Arabia

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

In the Matter of:)
)
Serfilco, Ltd.)
1777 Shermer Road)
Northbrook, IL 60062-5360)
)

Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Serfilco Ltd. (“Serfilco”) and the Bureau of Industry and Security, United States Department of Commerce (“BIS”), pursuant to Section 766.18(a) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2002)) (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).*

¹ The Regulations governing the violations at issue are found in the 1996 and 1997 versions of the Code of Federal Regulations, (15 C.F.R. Parts 768-799 (1996), as amended (61 **Fed. Reg.** 12714, March 25, 1996) (hereinafter “the former Regulations”), and 15 C.F.R. Parts 768-799 (1997)). The March 25, **1996 Federal Register** publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts **768A-799A**. As an interim measure that was part of the transition to newly restructured and reorganized Regulations, the March **25, 1996 Federal Register** publication also restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations and the Regulations define the various violations that BIS alleges occurred. The 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 C.F.R., 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. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 **Fed. Reg.** 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

WHEREAS, BIS has notified Serfilco of its intention to initiate an administrative proceeding against Serfilco pursuant to the Act and the Regulations, based on allegations that Serfilco committed one violation each of Section 787A.3 and 787A.4 of the former Regulations, and four violations of Section 764.2(a) of Regulations by selling commodities to companies in the United States to be exported to Bahrain and Saudi Arabia, and negotiating the sale of commodities to be exported to the United Arab Emirates and Saudi Arabia, contrary to the terms of the June 10, 1996 Order denying all of Serfilco's export privileges to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates or the Republic of Yemen;

WHEREAS, Serfilco has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, Serfilco fully understands the terms of this Settlement Agreement and the Order of the Assistant Secretary of Commerce for Export Enforcement implementing this Settlement Agreement ("Order");

WHEREAS, Serfilco enters into this Settlement Agreement voluntarily and with full knowledge of its rights;

WHEREAS, Serfilco states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Serfilco neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Serfilco wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Settlement Agreement; and

WHEREAS, Serfilco agrees to be bound by the Order, when entered;

NOW THEREFORE, Serfilco and BIS agree as follows:

1. BIS has jurisdiction over Serfilco, under the Regulations, in connection with the matters alleged in the proposed charging letter.'

2. BIS and Serfilco agree that the following sanctions shall be imposed against Serfilco in complete settlement of the alleged violations of the Regulations set forth in the proposed charging letter:

- a. Serfilco shall be assessed a civil penalty in the amount of \$65,000, of which \$32,500 shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order. Payment of the remaining \$32,500 shall be made within six months from the date of the entry of the Order.
- b. Serfilco and all of its successors or assigns, and, when acting for or on behalf of Serfilco, its officers, representatives, agents or employees may not, for a period of three years from the date of entry of the Order, 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 to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates or the Republic of Yemen, that is subject to the Regulations, or in any other activity subject to the Regulations related to

exports to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates or the Republic of Yemen, including, but not limited to:

- i. Applying for, obtaining, or using any license, license exception, or export control document;
- ii. 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
- iii. **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.

3. Serfilco agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed charging letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the Order, when entered.

4. BIS agrees that, upon entry of the Order, it will not initiate any administrative proceeding against Serfilco in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. Serfilco understands that BIS will make the proposed charging letter, this Settlement Agreement, and the Order, when entered, available to the public.

6. BIS and Serfilco agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.1 S(a) of the Regulations, BIS and Serfilco agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

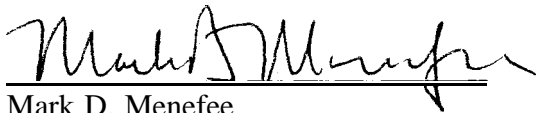
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BIS only when the Assistant Secretary of Commerce for Export Enforcement approves it by entering an Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

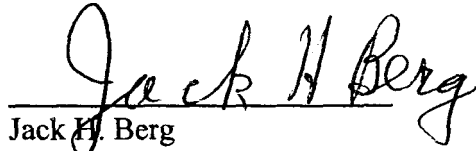
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE

SERFILCO, LTD



Mark D. Menefee
Director
Office of Export Enforcement



Jack H. Berg
President

Date: 3/12/03

Date: 03-03-03

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

In the Matter of:)
)
Serfilco, Ltd.)
1777 Shermer Road)
Northbrook, IL 60062-5360)
)
Respondent)

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), having notified Serfilco, Ltd., 1777 Shermer Road, Northbrook, Illinois, 60062-5360, (“Serfilco”) of its intention to initiate an administrative proceeding against Serfilco, pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-**2420 (2000)**) (“Act”),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2002)) (“Regulations”),* based on allegations that Serfilco committed one

¹ 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 C.F.R., 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. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 **Fed. Reg.** 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

² The Regulations governing the violations at issue are found in the 1996 and 1997 versions of the Code of Federal Regulations, (15 C.F.R. Parts 768-799 (1996), as amended (61 **Fed. Reg.** 127 14, March 25, 1996) (hereinafter “the former Regulations”)), and 15 C.F.R. Parts 768-799 (1997)). **The** March 25, 1996 **Federal Register** publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. As an interim measure that was part of the transition to newly restructured and reorganized Regulations, the March 25, 1996 **Federal Register** publication also restructured and reorganized the Regulations, designating them

violation each of Section 787A.3 and 787A.4 of the former Regulations, and four violations of Section 764.2(a) of Regulations by selling commodities to companies in the United States to be exported to Bahrain and Saudi Arabia, and negotiating the sale of commodities to be exported to the United Arab Emirates and Saudi Arabia, contrary to the terms of the June 10, 1996 Order denying all of Serfilco's export privileges to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, or the Republic of Yemen; and

BIS and Serfilco having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$65,000 is assessed against Serfilco, of which \$32,500 shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment of the remaining \$32,500 shall be made within six months from the date of the entry of the Order. Payments shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Serfilco shall be assessed, in addition to the full amount of the civil penalty and interest, a

as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations and the Regulations define the various violations that BIS alleges occurred. The Regulations establish the procedures that apply to this matter.

penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that for a period of three years from the date of this Order, Serfilco, its successors or assigns, and when acting for or on behalf of Serfilco, its officers, representatives, agents or 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 to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, or the Republic of Yemen, that is subject to the Regulations, or in any other activity subject the Regulations related to export to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, or the Republic of Yemen, 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
- 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.

FOURTH, 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 from the United States to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, or the Republic of Yemen;
- 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 to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, or the Republic of Yemen, 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 to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, or the Republic of Yemen;
- 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 to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, or the Republic of Yemen; or

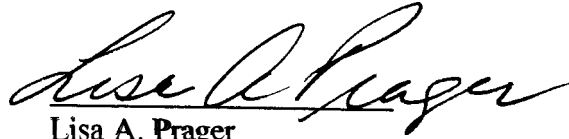
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, or the Republic of Yemen, and which is owned, possessed or controlled 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 to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates, or the Republic of Yemen. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

FIFTH, 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 Serfilco by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

SIXTH, 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.

SEVENTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Lisa A. Prager
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 15th day of March 2003.