

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

In the Matter of:)
)
PAKLAND PME CORPORATION)
Unit 7&8, 2nd Floor, Mohammadi Plaza)
Jinnah Avenue, Blue Area, F-6/4)
Islamabad-44000, Pakistan)
)
and,)
)
HUMAYUN KHAN)
Unit 7&8, 2nd Floor, Mohammadi Plaza)
Jinnah Avenue, Blue Area, F-6/4)
Islamabad-44000, Pakistan)
)

Respondents.)

ORDER TEMPORARILY DENYING EXPORT PRIVILEGES

Pursuant to Section 766.24 of the Export Administration Regulations (“EAR”),¹ the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce, through its Office of Export Enforcement (“OEE”), has requested that I issue an Order temporarily denying the export privileges under the EAR of PAKLAND PME CORPORATION (“Pakland”), Unit 7&8, 2nd Floor, Mohammadi Plaza, Jinnah Avenue, Blue Area, F-6/4, Islamabad-44000, Pakistan, and

^{1/} The EAR, which are currently codified at 15 C.F.R. Parts 730-774 (2004), are issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420) (2000) (the “Act”). 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 EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (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 6, 2004, (69 Fed. Reg. 48763 (August 10, 2004)), continued the Regulations in effect under the IEEPA.

HUMAYUN KHAN (“Khan”), Unit 7&8, 2nd Floor, Mohammadi Plaza, Jinnah Avenue, Blue Area, F-6/4, Islamabad-44000, Pakistan (hereinafter collectively referred to as the “Respondents”).

In its request, BIS has presented evidence that shows that Pakland and Khan, the owner and operator of Pakland, conspired with others, known and unknown, to cause items subject to the EAR to be illegally exported to Pakistan, that they caused and attempted to cause exports of items controlled for nuclear non-proliferation reasons to Pakistan with knowledge that violations of the EAR would occur, and that they took actions intended to evade the EAR.

Specifically, the evidence shows that, from July 2003 through January 2004, Respondents conspired to have triggered spark gaps² and oscilloscopes³, items included on the Commerce Control List and controlled for nuclear non-proliferation reasons, exported from the United States to Pakistan without the required BIS export licenses. The evidence also shows that Respondents developed and implemented a scheme to avoid the requirements of the EAR by causing these items exported through South Africa to Pakistan. More specifically, pursuant to direction from Respondents, on or about August 1, 2003, a purchase order for 200 triggered spark gaps was submitted to a U.S. manufacturer by a company in New Jersey. The purchase order stated that end-user of the triggered spark gaps was a hospital in the South Africa. The

²/ Triggered spark gaps are electronic switches that deliver a very high voltage with a very short delay once switched. Triggered spark gaps are used in medical lithotripters to disintegrate gallstones and kidney stones and are also used as triggers for nuclear weapons.

³/ Oscilloscopes are used for testing and assembly of electronic equipment, and can be used in the development of nuclear weapons. The oscilloscopes in question are controlled under ECCN 3A292 and require a license for export to Pakistan for nuclear non-proliferation reasons

manufacturer of the triggered spark gaps confirmed that a standard or normal size order of triggered spark gaps for a hospital would be five to six. On or about September 29, 2003, the U.S. manufacturer made the first shipment under the purchase order to the New Jersey company. On or about October 3, 2003, the New Jersey then shipped approximately 66 triggered spark gaps from the United States to South Africa. On or about October 19, 2003, the triggered spark gaps were shipped from South Africa to Pakistan (the intended destination of the triggered spark gaps) without a BIS license by persons who were conspirators with the Respondents.

Additionally, in 2003, Respondents were involved in at least two unauthorized export of oscilloscopes from the United States to Pakistan through South Africa, including one export to a Pakistani corporation on BIS's Entity List, the AI-Technique Corporation of Pakistan, Ltd.

I find the evidence presented by BIS demonstrates that the Respondents have conspired to violate the EAR, that such violations have been deliberate and covert, and that there is a strong likelihood of future violations, particularly given the nature of the transactions and the elaborate steps that have been taken by Respondents to avoid detection by the U.S. Government while knowing that their actions were in violation of the EAR. As such, a Temporary Denial Order ("TDO") is needed to give notice to persons and companies in the United States and abroad that they should cease dealing with the Respondents in export transactions involving items subject to the EAR. Such a TDO is consistent with the public interest to preclude future violations of the EAR.

Accordingly, I find that a TDO naming Pakland and Khan as Respondents is necessary, in the public interest, to prevent an imminent violation of the EAR. This Order is issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation.

IT IS THEREFORE ORDERED:

FIRST, that the Respondents, PAKLAND PME CORPORATION, Unit 7&8, 2nd Floor, Mohammadi Plaza, Jinnah Avenue, Blue Area, F-6/4, Islamabad-44000, Pakistan, and HUMAYUN KHAN, Unit 7&8, 2nd Floor, Mohammadi Plaza, Jinnah Avenue, Blue Area, F-6/4, Islamabad-44000, Pakistan (collectively the "Denied Persons"), 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 Export Administration Regulations ("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. Benefitting 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 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 the Denied Persons any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Persons 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 the Denied Persons 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 Persons of any item subject to the EAR that has been exported from the United States;

D. Obtain from the Denied Persons order 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 which is owned, possessed or controlled by the Denied Persons, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Persons 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 other person, firm, corporation, or business organization related to any of the Respondents 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.

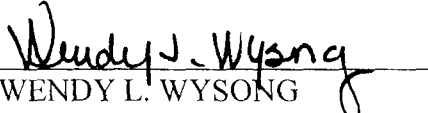
FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Section 766.24(e) of the EAR, the Respondents may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. The Respondents may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on the Respondents shall be published in the Federal Register.

This Order is effective upon date of publication in the Federal Register and shall remain
in effect for 180 days.


WENDY L. WYSONG
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 31st day of January, 2005.