

the law. For the next 30 days, NRCS will receive comments on the proposed changes. Following that period, a determination will be made by NRCS regarding disposition of those comments, and a final determination of change will be made.

Signed in Washington, DC, on November 19, 2003.

**Thomas A. Weber,**

*Associate Chief, Natural Resources Conservation Service.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 031114279-3279-01]

#### Impact of Implementation of the Chemical Weapons Convention on Commercial Activities Involving "Schedule 1" Chemicals Through Calendar Year 2003

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Bureau of Industry and Security (BIS) is seeking public comments on the impact that implementation of the Chemical Weapons Convention has had on commercial activities involving "Schedule 1" chemicals through calendar year 2003. This notice of inquiry is part of an effort to collect information to assist in the preparation of the annual Presidential certification required under Condition 9 of Senate Resolution 75, April 24, 1997, in which the Senate gave its advice and consent to the ratification of the Chemical Weapons Convention.

**DATES:** Comments are due December 22, 2003.

**ADDRESSES:** Written comments (three copies) should be submitted to Willard Fisher, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. In order to meet the due date for comments, single copies may be faxed to (202) 482-3355, provided that you follow up by submitting the appropriate number (three copies) of written comments.

**FOR FURTHER INFORMATION CONTACT:** For questions on the Chemical Weapons Convention requirements for "Schedule 1" chemicals, contact Larry Denyer, Treaty Compliance Division, Office of Nonproliferation Controls and Treaty

Compliance, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (703) 605-4400. For questions on the submission of comments, contact Willard Fisher, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (202) 482-2440.

#### SUPPLEMENTARY INFORMATION:

##### Background

In its resolution to advise and consent to the ratification of the Chemical Weapons Convention (Convention) (S. Res. 75, April 24, 1997), the Senate included several conditions. Condition 9 of Senate Resolution 75, titled "Protection of Advanced Biotechnology," provides that the President shall certify to the Congress on an annual basis that "\* \* \* the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1 \* \* \*". In 2000, 2001, and 2002, the President certified to Congress that these firms were not significantly harmed by the Convention's Schedule 1 limitations. The Bureau of Industry and Security is collecting data to assist in determining the impact, if any, that the implementation of the Convention's requirements have had on commercial "Schedule 1" activities through calendar year 2003.

The Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and Their Destruction, commonly called the Chemical Weapons Convention (CWC), is an international arms control treaty that establishes the Organization for the Prohibition of Chemical Weapons (OPCW) to implement the verification provisions of the treaty. The CWC imposes a number of obligations on countries that have ratified the Convention (States Parties), including enactment of legislation to prohibit the production, storage, and use of chemical weapons, and establishment of a National Authority for liaison with the OPCW and other States Parties. The CWC also requires States Parties to implement a comprehensive data declaration and inspection regime to provide transparency and to verify that both the public and private sectors of States Parties are not engaged in activities prohibited under the CWC.

"Schedule 1" chemicals are those toxic chemicals and precursors

identified in the Convention as posing a high risk to the object and purpose of the Convention. The "Schedule 1" chemicals are set forth in the Convention's "Annex on Chemicals," as well as in Supplement No. 1 to part 712 of the Chemical Weapons Convention Regulations (15 CFR part 712).

The "Schedule 1" provisions of the Convention that affect commercial activities are implemented through part 712 of the Chemical Weapons Convention Regulations and parts 742 and 745 of the Export Administration Regulations, both administered by the Bureau of Industry and Security. These regulations:

(1) Prohibit the import of "Schedule 1" chemicals from States not Party to the Convention (15 CFR 712.2);

(2) Require annual declarations by certain facilities engaged in the production of "Schedule 1" chemicals in excess of 100 grams aggregate per calendar year (*i.e.*, declared "Schedule 1" facilities) for purposes not prohibited by the Convention (15 CFR 712.3(a)(2) and (a)(3));

(3) Require government approval of "declared Schedule 1" facilities (15 CFR 712.3(e));

(4) Provide that "declared Schedule 1" facilities are subject to initial and routine inspection by the Organization for the Prohibition of Chemical Weapons (15 CFR 712.3(d));

(5) Require 200 days advance notification of establishment of new "Schedule 1" production facilities producing greater than 100 grams aggregate of "Schedule 1" chemicals per calendar year (15 CFR 712.4);

(6) Require advance notification and annual reporting of all imports and exports of "Schedule 1" chemicals to, or from, other States Parties to the Convention (15 CFR 712.5, 742.18(a)(1) and 745.1); and

(7) Prohibit the export of "Schedule 1" chemicals to States not Party to the Convention (15 CFR 742.18).

#### Discussion and Request for Comments

In order to assist in determining whether the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are being significantly harmed by the limitations of the Convention on access to, and production of, "Schedule 1" chemicals, BIS is seeking public comments on any effects that implementation of the Chemical Weapons Convention has had on commercial activities involving "Schedule 1" chemicals through calendar year 2003.

### Submission of Comments

All comments must be submitted to the address indicated in this notice. The Department requires that all comments be submitted in written form.

The Department encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on December 22, 2003. The Department will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them. All comments submitted in response to this notice will be a matter of public record and will be available for public inspection and copying.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this web site, please call BIS's Office of Administration, at (202) 482-0637, for assistance.

Dated: November 21, 2003.

**Peter Lichtenbaum,**

*Assistant Secretary for Export Administration.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 02-BIS-11]

#### Action Affecting Export Privileges; Ahwaz Steel Commercial & Technical Service Gmbh

In the Matter of: Ahwaz Steel Commercial & Technical Service Gmbh, Tersteegenstr. 10, 40474 Dusseldorf, Germany, Respondent.

#### Order

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), having initiated an administrative proceeding against Ahwaz Steel Commercial & Technical Service Gmbh ("ASCOTEC") pursuant

to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) ("Act"),<sup>1</sup> and the Export Administration Regulations (currently codified at 15 CFR parts 730-774 (2003)) ("Regulations")<sup>2</sup> based on allegations in a charging letter issued to ASCOTEC that alleged that ASCOTEC committed eight violations of the Regulations, specifically that ASCOTEC committed violations of the Regulations by causing the export of items from the United States to Iran without the required authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by the Regulations on eight occasions; and

BIS and ASCOTEC having entered into a Settlement Agreement pursuant to Section 766.18(b) 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, for a period of five years from the date of this Order (hereinafter the "Denial Period"), Ahwaz Steel Commercial & Technical Service Gmbh, Tersteegenstr. 10, 40474 Dusseldorf, Germany, shall be denied its U.S. export privileges as described herein. ASCOTEC, and all of its successors, assigns, officers, representatives, agents, and employees, 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:

<sup>1</sup>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 issued on August 3, 2000 (3 CFR, 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. The Act expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 FR 47833, August 11, 2003), continues the Regulations in effect under IEEPA.

<sup>2</sup>The Regulations are currently codified in the Code of Federal Regulations at 15 CFR, parts 730-774 (2003). The violations charged occurred from 1999 to 2002. The Regulations governing the violations are codified at 15 CFR, parts 730-774 (1999-2002). They are substantially the same as the 2003 version of the Regulations which govern the procedural aspects of this case.

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.

*Second*, that, during the Denial Period, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a person subject to this Order any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by a person subject to this Order 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 a person subject to this order acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a person subject to this Order of any item subject to the Regulations that has been exported from the United States;

D. Obtain from a person subject to this Order 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 a person subject to this Order, or service any item, of whatever origin, that is owned, possessed or controlled by a person subject to this Order 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 opportunity for comment as provided in § 766.23 of the Regulations, any other person, firm, corporation, or business organization