

broad commitments endorsed by the ICANN Board as an annex to the JPA. Specifically, ICANN committed to take action on the responsibilities set out in the Affirmation of Responsibilities established in ICANN Board Resolution 06.71, dated September 25, 2006.¹²

Those responsibilities included activities in the following categories: security and stability, transparency, accountability, root server security and relationships, TLD management, multi-stakeholder model, role of governments, IP addressing, corporate responsibility, and corporate administrative structure. What steps has ICANN taken to meet each of these responsibilities? Have these steps been successful? If not, what more could be done to meet the needs of the community served in these areas?

5. The current JPA called for NTIA to conduct a mid-term review. That review revealed that ICANN needed to take further steps to increase institutional confidence related to long-term stability, accountability, responsiveness, continued private sector leadership, stakeholder participation, increased contract compliance, and enhanced competition. What steps has ICANN taken to address the concerns expressed in the mid-term review process? Have these steps been successful? If not, what more could be done to meet the needs of the community served in these areas?

6. The JPA between the Department of Commerce and ICANN is an agreement by mutual consent to effectuate the transition of the technical coordination and management of the Internet DNS in a manner that ensures the continued stability and security of the Internet DNS. Has sufficient progress been achieved for the transition to take place by September 30, 2009? If not, what should be done? What criteria should be used to make that determination?

7. Given the upcoming expiration of the JPA, are there sufficient safeguards in place to ensure the continued security and stability of the Internet DNS, private sector leadership, and that all stakeholder interests are adequately taken into account? If yes, what are they? Are these safeguards mature and robust enough to ensure protection of stakeholder interests and the model itself in the future? If no, what additional safeguards should be put in place?

8. The JPA provides that before its termination, NTIA and ICANN are to

collaborate on a DNS Project Report that will document ICANN's policies and procedures designed and developed pursuant to the agreement. What should be included in this report?

EX PARTE COMMUNICATIONS:

Any oral presentation to NTIA regarding the substance of this proceeding will be considered an *ex parte* presentation, and the substance of the meeting will be placed on the public record and become a part of this docket. No later than two (2) business days after an oral presentation or meeting, an interested party must submit a memorandum to NTIA, which summarizes the substance of the communication. Any written presentations provided in support of the oral communication or meeting will also be placed on the public record and become a part of this docket. Such *ex parte* communications must be submitted to DNSTransition@ntia.doc.gov in one of the above listed formats and clearly labeled as an *ex parte* presentation. All *ex parte* documents will be posted at <http://www.ntia.doc.gov/comments/2009/dnstransition>.

Dated: April 20, 2009.

Anna M. Gomez,
*Acting Assistant Secretary for
Communications and Information
Administration.*

[FR Doc. E9-9409 Filed 4-23-09; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[05-BIS-26]

In the Matter of Tariq Ahmed; Final Decision and Order

In the Matter of: Tariq Ahmed, 612 Business Centre, Mumtaz Hasan Road, Off I.I. Chundrigar Road, Karachi, Pakistan, 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.

On December 15, 2005, the Bureau of Industry and Security ("BIS") issued a charging letter alleging that Respondent, Tariq Ahmed,¹ committed two violations of the Export Administration Regulations (currently codified at 15 CFR parts 730-774 (2008)

("Regulations")),² issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) ("Act").³ The charging letter included a charge that was based on actions taken by Tariq Ahmed to evade licensing requirements governing the export of items subject to the Regulations from the United States to a Pakistani organization listed on BIS's Entity List. Specifically, Charge One alleged as follows:

Charge 1 (15 CFR 764.2(h)—Actions Taken with Intent to Evade the Provisions of the Regulations)

On or about April 27, 2002, T[ariq] Ahmed took actions with the intent to evade the U.S. Government's licensing requirements for exports to Pakistan. Specifically, T[ariq] Ahmed took actions, including but not limited to, the submission of false information to a freight forwarder in connection with an export of components for an online chemical monitoring system, items subject to the Regulations (EAR99 and 4A994⁴), from the United States to the Karachi Nuclear Power Plant ("KANUPP") in Karachi, Pakistan via the UAE. T[ariq] Ahmed provided shipping information representing that the consignee was in the UAE but omitting the final destination for the items. The purpose of T[ariq] Ahmed's actions was to conceal the end-user, KANUPP, a Pakistani organization on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations and for which a Department of Commerce export license was required by Section 744.1 of the Regulations. In so doing, T[ariq] Ahmed committed one violation of Section 764.2(h) of the Regulations.⁵

In accordance with § 766.3(b)(1) of the Regulations, on December 15, 2005, BIS mailed the notice of issuance of the charging letter by registered mail to

² The charged violations occurred during 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 CFR parts 730-774 (2002)). The 2008 Regulations establish the procedures that apply to this matter.

³ Since August 21, 2001 the Act has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of July 23, 2008 (73 FR 43603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701-1707).

⁴ "ECCN" refers to "Export Control Classification Number." Supp. 1 to 15 CFR § 774.

⁵ The Charging Letter included a second evasion charge, Charge Two, relating to BIS's export control documentation filing requirements. By Notice of Withdrawal filed with the Administrative Law Judge simultaneously with its Motion for Default Order, BIS provided notice that it was withdrawing Charge Two. Thus, Charge Two was not part of BIS's Motion for Default Order.

¹² Joint Project Agreement Between the U.S. Department of Commerce and the Internet Corporation for Assigned Names and Numbers, Amendment 7, http://www.ntia.doc.gov/ntiahome/domainname/agreements/jpa/ICANNJPA_09292006.htm.

¹ Tariq Ahmed is also known as Tariq Amin, Tariq Ahmad, and Tariq Ahmad Amin.

Tariq Ahmed at his last known address, which is in Pakistan. Although BIS did not receive a signed return mail receipt for the letter, the charging letter was apparently delivered no later than January 17, 2006, as the BIS attorney (Ms. Huda) named in the charging letter reported receiving a telephone message that day from Mr. Ahmed seeking to discuss that letter, as well as the charging letter served in a related administrative proceeding also initiated by BIS on December 15, 2005, in the Matter of Advanced Technical System (Docket No. 05-BIS-25).⁶ According to the filed pleadings, on the following day, January 18, 2006, Ms. Huda returned the call. She and Mr. Ahmed discussed the possibility of settlement, and Mr. Ahmed concurred in Ms. Huda's suggestion of a 60-day stay in both proceedings to pursue settlement discussions. BIS subsequently filed an unopposed request to stay both proceedings. An order granting a stay until May 14, 2006 was issued on April 4, 2006.

To date, Mr. Ahmed has not filed an answer to BIS's charging letter. Neither has Mr. Ahmed responded to the motion for default or to the recommended decision and order, both of which were served upon him at his last known address.

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[.]"

In accordance with Section 766.7 of the Regulations, and because more than thirty days had passed since Tariq Ahmed had been served with the charging letter, BIS filed a Motion for Default Order on January 12, 2009. This Motion for Default Order recommended that Tariq Ahmed be denied export privileges under the Regulations for a period of seven years.

On March 20, 2009, based on the record before him, the ALJ issued a RDO in which he found Tariq Ahmed in default, found the facts to be as alleged in Charge One of the charging letter, and

determined that those facts established that Mr. Ahmed had committed the violation alleged in Charge One of the charging letter, specifically, one violation of Section 764.2(h). The ALJ also recommended the penalty of denial of Mr. Ahmed's export privileges for seven years, citing BIS's arguments in favor of such a penalty, including the sensitivity of the ultimate end user, a Pakistani entity on BIS's Entity List, a compilation of end-users that pose a risk of diversion to weapons of mass destruction programs. Additionally, the ALJ referred to BIS's argument that the penalty was warranted as Mr. Ahmed's actions were part of a larger criminal conspiracy to violate U.S. export control laws and regulations. Mr. Ahmed pled guilty to one count of violating the federal conspiracy statute in connection with making shipments to Pakistan.

The ALJ's RDO, together with the entire record in this case, has been referred to me for final action under section 766.22 of the Regulations. I find that, consistent with section 766.7(a), the findings of fact and conclusions of law in the recommended decision and order are fully supported. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violation and the importance of preventing future unauthorized exports.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the ALJ's RDO.

Accordingly, It Is Therefore Ordered
First, that, for a period of seven (7) years from the date this Order is published in the **Federal Register**, Tariq Ahmed, 612 Business Centre, Mumtaz Hasan Road, Off I.I. Chundrigar Road, Karachi, Pakistan, and when acting for or on behalf of Tariq Ahmed, his representatives, agents, assigns and employees (hereinafter collectively referred to as the "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 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, 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 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 that 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.

⁶Mr. Ahmed is the principal of the respondent in the relating proceeding, Advanced Technical System ("ATS"), a company located in Dubai, United Arab Emirates ("UAE").

Fifth, that this Order shall be served on the Denied Person and on BIS, and 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: April 17, 2009.

Daniel O. Hill,

Acting Under Secretary of Commerce for Industry and Security.

Certificate of Service

I hereby certify that on April __, 2009, I caused the foregoing Response of BIS to the ALJ's Recommended Decision and Order and Final Decision and Order to be sent by Federal Express to: Tariq Ahmed, 612 Business Centre, Mumtaz Hasan Road, Off I.I. Chundrigar Road, Karachi, Pakistan.

Sandra Lambright,
Senior Paralegal Specialist.

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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Notice of Availability of a Final Finding of No Significant Impact (FONSI) for the Public Safety Interoperable Communications (PSIC) Grant Program

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The National Telecommunications and Information Administration (NTIA) publishes this notice of availability of a Final Finding of No Significant Impact (FONSI). The Final FONSI was written to evaluate the environmental impact of the Public Safety Interoperable Communications (PSIC) Grant Program.

DATES: The effective date of the Final FONSI is April 24, 2009.

ADDRESSES: The Final FONSI is available online at <http://www.regulations.gov> and also will be available on NTIA's website at <http://www.ntia.doc.gov/psic>.

FOR FURTHER INFORMATION CONTACT: Written requests for a hard copy of the Final FONSI should be submitted to: Ms. Laura Pettus, National Telecommunications and Information Administration, 1401 Constitution Avenue, N.W., Room 4812, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The Digital Television Transition and Public Safety Act of 2005 (the Act) directed NTIA, in consultation with the Department of Homeland Security (DHS), to establish and administer a grant program to assist public safety agencies in the advancement of interoperable communications.¹ The Act authorized NTIA to make payments not to exceed \$1 billion, in the aggregate, through fiscal year 2010 to carry out the PSIC program. The grant program assisted public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that can utilize reallocated public safety spectrum in the 700 MHz band for radio communication.²

On September 30, 2007, the PSIC Grant Program awarded \$968,385,000 to fund interoperable communications projects for 56 States and Territories.³ These awards represent the largest single infusion of Federal funding ever provided for State, Territory, and local agencies to implement interoperable communications solutions for public safety.

On February 19, 2009, NTIA published a Notice of Availability of a Final Programmatic Environmental Assessment (PEA) and Draft FONSI for the PSIC Grant Program.⁴ The comment period closed on March 23, 2009. NTIA received three (3) comments. These comments were from the Association of Public-Safety Communications Officials (APCO), the National Public Safety Telecommunications Council (NPSTC), and the Federal Communications Commissions (FCC). The APCO and NPSTC commenters suggested that NTIA's chosen environmental procedures would be overly burdensome and that NTIA should use the FCC's environmental evaluation process. NTIA notes that the National Environmental Policy Act of 1969 (NEPA) would not permit this approach

¹ The Digital Television Transition and Public Safety Act of 2005 § 3006, 47 U.S.C. § 309 note (2008), Pub. L. No. 109-171, 120 Stat. 25. The PSIC grant program requirements were subsequently amended by the Implementing Recommendations of the 9/11 Commission Act of 2007 § 2201, 47 U.S.C. § 309 note (2008), Pub. L. No. 110-53, 121 Stat. 276.

² For additional information regarding the PSIC Grant Program, see, Public Safety Interoperable Communications Grant Program, Improving Interoperable Communications Nationwide: Overview of Initial State and Territory Investments, [http://www.ntia.doc.gov/psic/PSIC%20Investment%20Data%20Analysis%20\(report%20only\).pdf](http://www.ntia.doc.gov/psic/PSIC%20Investment%20Data%20Analysis%20(report%20only).pdf).

³ Section 4 of the Call Home Act of 2006, 47 U.S.C. § 309 note (2008), Pub. L. No. 109-459, 120 Stat. 3399, mandated that all PSIC funds be awarded by September 30, 2007.

⁴ 74 Fed. Reg. 7663 (2009).

under these circumstances, and thus, did not amend the draft FONSI in response. NTIA did clarify in the final FONSI that the Tower Construction Notification System should only be used for projects involving communication of towers and is not suitable for use for other types of PSIC-funded projects.

NTIA prepared the Final FONSI in accordance with the requirements of NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA.⁵ The Final FONSI may be reviewed at <http://www.regulations.gov> or on NTIA's website as noted above. In addition, copies may be obtained by writing to Ms. Laura Pettus as provided above.

Dated: April 20, 2009.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XO31

Marine Mammals; File No. 13614

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Sea World, Inc., 9205 South Park Center Loop, Suite 400, Orlando, FL 32819 [Brad Andrews, Responsible Party] has been issued a permit to import one pilot whale (*Globicephala melas*) for public display.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s): Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4001; fax (562)980-4018.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Kristy Beard, (301)713-2289.

⁵ National Environmental Policy Act of 1969, 42 U.S.C. § 4321 (2008); Council on Environmental Quality for Implementing the Procedural Provisions of NEPA, 40 C.F.R. parts 1500-1508 (2008).