

We have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: December 15, 1988.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 88-29248 Filed 12-20-88; 8:45 am]

BILLING CODE 3510-07-M

### Bureau of Export Administration

[Docket Nos. 8112-01, 8112-02, 8112-03, 8112-04]

#### Actions Affecting Export Privileges: Man Chung Tong et al.

##### Summary

Pursuant to the November 16, 1988 recommended Decision and Order of the Administrative Law Judge (ALJ), which Decision and Order is attached hereto and affirmed in principle part by me, Man Chung Tong individually and doing business as Stillwell Development Company, Ltd., Scientific Data Systems, Ltd., and Equipment Rental Company, Ltd. (hereinafter Respondents) all with an address of Flat 2B, Cheers Court, 15 Dianthus Road, Yan Yat Cheuen, Kowloon, Hong Kong, is, and the Respondents are collectively, denied for a period of 20 years all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the regulations.

##### Discussion

Although I find that the ALJ has correctly decided the instant case, one technical modification and one comment are in order. The technical modification is one to impart clarity to the Order. One page 17 of the ALJ's Order he states that "Such denial of export privileges shall extend to matters which are subject to the Act and Regulations." For reason of clarity, the denial should "extend only to those commodities and technical data which are subject to the Act and Regulations."

The comment pertains to the ALJ's footnote 10. In that footnote the ALJ opines that the instant case is somehow stale, should have been adjudicated with a prior, related case, and that the failure to consolidate somehow relates to an alleged desire on the part of the Department to exaggerate the number of cases it prosecutes. This *dicta* of the ALJ has absolutely nothing to do with his jurisdiction regarding export control violation cases. If anything the *dicta* relates to an obvious bias the ALJ has

with respect to the provisions of the Export Administration Act and the Regulations. Although it is always desirable that cases be adjudicated as quickly as possible, so long as a case is brought within the period provided by the applicable statute of limitations (as was the instant case) neither the ALJ nor the Respondent should be heard to complain. If the ALJ is of the personal opinion that the statute of limitations is wrong, he should petition the legislature to change the same. So too, there is no legal premise requiring consolidation of this case with a prior, related one. Finally, the suggestion that the separation of related cases is an effort to exaggerate the number of cases prosecuted by the Department is a direct and unjustified insult to Departmental counsel. Violations of the Export Administration Act and the Regulation are not treated as piecemeal. The ALJ would be well advised to restrict his comments to matters appropriately within his jurisdiction.

##### Order

On November 16, 1988, the Administrative Law Judge (ALJ) entered his recommended Decision and Order in the above referenced matter. That Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. Having examined the record, and based on the facts of this case, subject to the technical modification below and my rejection of the *dicta* in footnote 10, I affirm the Decision and Order of the ALJ. The modification the the ALJ's Decision and Order is as follows: on page 17, the last sentence of paragraph II should read, "Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and Regulations."

This constitutes final agency action in this matter.

Date: December 16, 1988.

Paul Freedenberg,

Under Secretary for Export Administration.

#### Decision and Order on Default

##### Preliminary statement

Appearance for Respondent: Man Chung Tong (pro se), Flat 2B, Cheers Court, 15 Dianthus Road, Yan Yat Cheuen, Kowloon, Hong Kong.

Appearance for Agency: Anthony Hicks, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3329, 14th and Constitution Avenue NW., Washington, DC 20030.

On May 16, 1988, the Office of Export Enforcement, Bureau of Export Administration, United States

Department of Commerce (Agency), issued a Charging Letter to Man Chung Tong, individually and doing business as Stillwell Development Company, Ltd., Scientific Data Systems, Ltd., and Equipment Rental Company, Ltd. (Respondent), alleging that the Respondent violated the Export Administration Act of 1979 (50 U.S.C. App. 2401-2420), as amended, (the Act), and the Export Administration Regulations (the Regulations) promulgated thereunder.<sup>1</sup> The Charging Letter alleged that the Respondent committed one violation of former § 387.3, eleven violations of former § 387.4 and eleven violations of former § 387.6, for a total of twenty three violations of the Regulations.

On August 17, 1988, three months after the date of the Charging Letter, the undersigned Administrative Law Judge directed Agency Counsel to make a default submission, pursuant to § 388.8 of the Regulations, for failure of the Respondent to answer the Charging Letter.

##### DEFAULT (a) General

If a timely answer is not filed, the department shall file with the Administrative Law Judge a proposed Order together with the supporting evidence for the allegations in the charging letter. The Administrative Law Judge may require further submissions and shall issue any Order he deems justified by the evidence of record, any Order so issued shall have the same force and effect as an Order issued following the disposition of contested charges.

In accordance with this section, Agency Counsel filed a Motion for Default Judgment, with supporting documentary evidence, on September 16, 1988. A copy of the Motion was also sent to the Respondent and on September 27, 1988 the undersigned issued an Order to Show Cause why a default order should not be entered was sent to the Respondent. No response to the order or answer to the Charging Letter has been filed.

On April 5, 1984, Respondent and William T. Newkirk were charged in a Grand Jury Indictment, entered in the United States District Court for the

<sup>1</sup> The Act was reauthorized and amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120, (July 12, 1985), and amended by the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100-418, 102 Stat. 1107 (Aug. 23, 1988).

The Regulations, formerly codified at 15 CFR Parts 368-399, were redesignated as 15 CFR Parts 768-799, effective October 1, 1988 (53 FR 37761, September 28, 1988).

Central District of California, with seventeen counts of conspiring to knowingly export electronic testing and calibration equipment from the United States to the Republic of Hong Kong without first obtaining the required validated export licenses from the Department of Commerce, and with knowingly submitting false statements to the Department (Agency Exh. 2). On or about June 21, 1984, the Respondent pled guilty to one count of conspiracy and one count of illegal export (Agency Exh. 3). On or about August 20, 1984, the Respondent failed to appear for sentencing and is currently a fugitive.<sup>2</sup>

On February 15, 1984, the Respondent was also charged in a Grand Jury indictment in the Western District of Washington. The indictment alleged multiple violations of the Act. A Superseding Indictment was subsequently filed on May 9, 1984 (Agency Exh. 27). On July 24, 1984, the Respondent pled guilty to Count II of the Superseding Indictment. On or about September 7, 1984, the Respondent again failed to appear for sentencing.<sup>3</sup>

#### Facts

The Respondent is alleged to have conspired with William T. Newkirk to bring about acts that violated the Act and the Regulations. The Charging Letter alleges that Respondent placed orders with Newkirk for U.S.-origin electronic equipment wanted by the Respondent's customers in the People's Republic of China and elsewhere. Newkirk purchased the equipment from U.S. manufacturers, took delivery of it, and exported the equipment to Respondent in Hong Kong, either directly from the United States or indirectly through Mexico, knowing that he did not have the requisite export authorization from the Agency. Newkirk effected these exports by knowingly submitting false statements to the Agency on the export documents. After the equipment arrived in Hong Kong, the Respondent resold it to his customers.

The Respondent has admitted that he conspired with Newkirk in this manner by pleading guilty to Count I of the Indictment (Agency Exh. 2, 3).

Respondent thus committed one violation of § 387.3 of the Regulations, by conspiring and acting in concert with Newkirk to bring about the following overt acts.

On or about October 14, 1982, Newkirk unlawfully exported a computer system from the United States through Mexico to the Respondent in Hong Kong without obtaining from the Agency the validated export license that Newkirk and Respondent knew or had reason to know was required by § 372.1(b) of the Regulations. Newkirk obtained the goods by representing to the manufacturer that he had a customer in Mexico, and by preparing a false invoice showing such a sale. Respondent has admitted these facts by pleading guilty to Count I of the Indictment (Agency Exh. 2, 3).

Newkirk exported this computer equipment in furtherance of the conspiracy, therefore these acts are attributable to the Respondent. Therefore Respondent violated § 387.6 of the Regulations for exporting the equipment in violation of § 387.2 of the Regulations.

In pleading guilty to Count I of the Indictment, Respondent admitted that he knew or had reason to know that an export license was required to lawfully ship the computer to Hong Kong and that one had not been obtained. Accordingly, Respondent committed one violation of § 387.4 of the Regulations in that he received the computer in Hong Kong knowing or having reason to know that it had been shipped without an export license and that a violation of the Regulations had thus occurred.

On November 17, 1982, Respondent, doing business as Stillwell Development Company, Ltd., submitted Purchase Order No. ST00051 to Newkirk for the purchase of two spectrum analyzers with options (Agency Exh. 5). On or about November 22, 1982, Newkirk submitted an export license application (A659962) to the Agency to export these spectrum analyzers to Respondent's company, Stillwell Development, in Hong Kong (Agency Exh. 6). On or about January 17, 1983, while the license application was still pending,<sup>4</sup> Newkirk exported two spectrum analyzers from the United States to the Respondent in Hong Kong, without obtaining from the Agency the validated export license Newkirk and Respondent knew or had reason to know was required by § 372.1(b) of the Regulations (Agency Exh. 7). On the Shipper's Export Declaration (SED) filed in connection

with this shipment, Newkirk falsely stated that the shipment was authorized under "G-DEST" (Agency Exh. 8).

Newkirk exported these spectrum analyzers contrary to the terms of the Regulations because he exported them without the export license required by § 372.1(b) of the Regulations. This export was made in furtherance of the conspiracy. Thus, Newkirk's acts are attributable to Respondent. Accordingly, Respondent committed one violation of § 387.6 of the Regulations.

Because Newkirk applied for an individual validated license, he knew or had reason to know that an export license was required to lawfully ship the computer to Hong Kong and that one had not been obtained. Newkirk knew or had reason to know that a violation occurred when he forwarded the computer to Respondent without the required validated export license. This export was made in furtherance of the conspiracy. As a co-conspirator, Newkirk's acts are attributable to the Respondent. Thus, in connection with this export, Respondent committed one violation of § 387.4 of the Regulations.

On or about November 11, 1982, Respondent, doing business as Scientific Data Systems, Ltd., submitted Purchase Order No. SDS037 to Newkirk for electronic computer equipment (Agency Exh. 10). On or about November 16, 1982, Newkirk submitted two export license applications (A659118 and A6959955) to the Agency to export that electronic computer equipment to Respondent's company, Scientific Data, in Hong Kong (Agency Exh. 11). While these license applications were still pending,<sup>5</sup> on or about February 26, 1983, Newkirk exported the electronic computer equipment from the United States to Respondent in Hong Kong, without obtaining the validated export license Newkirk and Respondent knew or had reason to know was required by § 372.1(b) of the Regulations (Agency Exh. 12). On the SED filed in connection with the shipment, Newkirk again stated that the shipment was authorized under "G-DEST".

Newkirk exported the computer equipment contrary to the terms of the Regulations because he exported it without the export license required by § 372.1(b) of the Regulations. The export was made in furtherance of the conspiracy. Newkirk's actions are therefore attributable to the Respondent. In connection with this export, the Respondent committed one violation of § 387.6 of the Regulations.

<sup>2</sup> On or about August 21, 1984, William T. Newkirk pled guilty to five of the seventeen counts and was sentenced to two years' imprisonment and fined \$50,000 (Agency Exh. 4).

<sup>3</sup> The Charging Letters issued to Newkirk and Respondent by the Agency allege the same violations as the counts to which Newkirk and Respondent pled guilty. Newkirk's guilty plea supports the Agency's version of events (Agency Exh. 4). Newkirk was charged in a separate administrative civil penalty proceeding and was found to have violated the Act and the Regulations (ALJ Decision, July 28, 1988, Order of Under Secretary, August 26, 1988).

<sup>4</sup> This license application was denied by the Agency on May 26, 1983 (Agency Exh. 9).

<sup>5</sup> The license applications were denied by the Agency on May 19, 1983 (Agency Exh. 13).

Because Newkirk applied for individual validated licenses, he knew or had reason to know that an export license was required to lawfully ship the computer equipment to Hong Kong and that it had not been obtained.

Accordingly, Newkirk knew or had reason to know that a violation occurred when he forwarded the computer to Respondent without the required validated export license. This export was made in furtherance of the conspiracy. As a co-conspirator, Newkirk's actions are attributable to the Respondent. Accordingly, Respondent violated § 387.4 of the Regulations.

On or about December 13, 1982, Respondent, doing business as Equipment Rental Company, Ltd., submitted Purchase Order No. ER001 to Newkirk for electronic equipment, including oscilloscopes and spectrum analyzers (Agency Exh. 14). On or about January 3, 1983, Newkirk submitted two export license applications (A669213 and A669214) to the Agency to export this equipment to Respondent's company, Equipment Rental, in Hong Kong (Agency Exh. 15). While these license applications were still pending,<sup>6</sup> Newkirk exported the equipment in two shipments from the United States to Hong Kong on or about April 9, 1983 and on or about June 4, 1983, without obtaining from the Agency the validated export licenses Newkirk and Respondent knew or had reason to know were required by § 372.1(b) of the Regulations (Agency Exh. 16, 17). Newkirk effected these exports by stating on the SED's that accompanied each shipment that these shipments were authorized by validated export license A663561, an export license unrelated to these exports (Agency Exh. 18).

In these two separate shipments, Newkirk exported the electronic equipment contrary to the terms of the Regulations because he exported it without the export licenses required by § 372.1(b) of the Regulations. The two exports were made in furtherance of the conspiracy, thus Newkirk's acts are attributable to Respondent. Accordingly, Respondent committed two violations of § 387.6 of the Regulations, one for each unauthorized export.

In addition, because Newkirk applied for validated export licenses, he knew that export licenses were required to lawfully ship the electronic equipment to Hong Kong and they had not been obtained. Newkirk knew or had reason to know that a violation occurred when

he forwarded the electronic equipment to Tong without the required validated export licenses. These exports were made in furtherance of the conspiracy, thus Newkirk's acts are attributable to the Respondent. Accordingly, Respondent committed two violations of § 387.4 of the Regulations.

On February 4, 1983, Respondent, doing business as Scientific Data Systems, Ltd., submitted Purchase Order No. SD063 to Newkirk for electronic equipment, including cathode ray oscilloscopes (Agency Exh. 20). On or about February 14, 1983, Newkirk submitted an export license application (A677421) to the Agency to export that electronic equipment to Respondent's company, Scientific Data Systems, in Hong Kong (Agency Exh. 21).<sup>7</sup> While the application was still pending, and after it was denied by the Agency, Newkirk exported the equipment in four shipments, on May 7, May 28, June 25 and July 3, 1983, from the United States to the Respondent in Hong Kong, (Agency Exh. 22-25), without obtaining from the Agency the validated export licenses Newkirk and Respondent knew or had reason to know were required by § 372.1(b) of the Regulations. Newkirk effected these exports by falsely stating on the SED filed in connection with each shipment that validated export license application number A663561 authorized the shipments.<sup>8</sup>

In these four shipments Newkirk exported the electronic equipment contrary to the terms of the Regulations because he exported each shipment without the export licenses required by § 372.1(b) of the Regulations. Each export was made in furtherance of the conspiracy, thus Newkirk's acts are attributable to Respondent. Accordingly, Respondent committed four violations of § 387.6 of the Regulations.

Because Newkirk applied for individual validated licenses he knew or had reason to know that export licenses were required to lawfully ship the electronic equipment to Hong Kong and that they had not been obtained. Accordingly, Newkirk knew or had reason to know that a violation occurred when he forwarded the electronic equipment to Respondent without the required validated licenses. These exports were made in furtherance of the conspiracy and as a co-conspirator Newkirk's acts are attributable to the Respondent. In connection with these

exports, Respondent committed four violations of § 387.4 of the Regulations.

On or about October 7, 1982, Newkirk submitted a validated export license application (A648884) to the Agency to ship twenty cathode ray oscilloscopes to a customer in Mexico. On or about June 22, 1983, Newkirk exported from the United States through Mexico to Respondent in Hong Kong two oscilloscopes and two plug-in units on the false representation that export license A648884 authorized the export.<sup>9</sup> The export was made without obtaining the validated export license from the Agency which Newkirk and Respondent knew or had reason to know was required by § 372.1(b) of the Regulations. Respondent has admitted these facts by pleading guilty to Count I of the indictment (Agency Exh. 2).

Newkirk exported the oscilloscopes and plug-in units contrary to the terms of the Regulations because he exported them without the export license required by § 372.1(b) of the regulations. The export was made in furtherance of the conspiracy, thus, Newkirk's acts are attributable to Respondent. Accordingly, Respondent committed one violation of § 387.6 of the Regulations.

Because Newkirk applied for an individual validated license, he clearly knew that an export license was required to lawfully ship the computer to Hong Kong and that one had not been obtained. Newkirk knew or had reason to know that a violation occurred when he forwarded the computer to Respondent without the required validated export license. Moreover, this export was made in furtherance of the conspiracy. As a co-conspirator, Newkirk's acts are attributable to Respondent. Accordingly, Respondent committed one violation of § 387.4 of the Regulations.

On or about August 16, 1983, in a shipment unrelated to the conspiracy, Respondent exported four U.S.-origin cathode ray tubes from the United States through Canada to Hong Kong, without obtaining from the Agency the validated export licenses which Respondent knew or had reason to know were required by § 372.1(b) of the Regulations. Respondent admitted these facts by pleading guilty to Count II of the Superceding Indictment (Agency Exh. 28).

Respondent exported the cathode ray tubes contrary to the terms of the Regulations because he exported them without the export license required by § 372.1(b) of the Regulations.

<sup>7</sup> License application A677421 was denied by the Agency on May 19, 1983 (Agency Exh. 21).

<sup>8</sup> License application number A663561 does not cover the equipment shipped in these exports (Agency Exh. 26).

<sup>9</sup> License application A648884 related to a different export to Mexico.

<sup>6</sup> License application numbers A669213 and A669214 were denied by the Agency on July 29, 1983 (Agency Exh. 19).

Respondent, thus, committed one violation of § 387.6 of the Regulations.

In pleading guilty to Court II of the Superceding Indictment, Respondent admitted that he knew or had reason to know that an export license was required and he exported the cathode ray tubes to Hong Kong from the United States without obtaining that license. Thus, Respondent committed one violation of § 387.4 of the Regulation in that, by exporting the cathode ray tubes to Hong Kong, without the required license, Respondent transported them knowing or having reason to know that a violation of Regulations had occurred.

#### Conclusion

The exhibits and representations by Agency Counsel and the Respondent, as well as his co-conspirator's guilty pleas fully support the charges made by the Agency in the May 16, 1988 Charging Letter, which alleged that the Respondent knowingly exported electronic testing and calibration equipment from the United States to the Republic of Hong Kong without first obtaining the required validated export licenses from the Agency and knowingly submitted false statements to the Agency.<sup>10</sup> By doing so, the Respondent committed the charged violations of former §§ 387.4, 387.5 and 387.6 of the Regulations.

The pattern of conduct demonstrated by the violations shows a deliberate and willful intent to violate United States export laws and regulations. I find that an Order denying export privileges for 20 years from the date that a final order is entered in this proceeding is warranted and is reasonably necessary to protect the public interest, and to achieve effective enforcement of the Act and the Regulations.

#### Order

I. For a period of 20 years from the date of the final Agency action, Respondent.

Man Chung Tong, individually and doing business as Stillwell Development Company, Ltd., Scientific Data Systems, Ltd., Equipment Rental Company, Ltd.,

Flat 2B, Cheers Court, 15 Dianthus Road, Yan Yat Cheuen, Kowloon, Hong Kong, and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation.

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend to matters which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. All outstanding individual validated export licenses in which Respondents appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondents' privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin

commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly.

(a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(b) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VI. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C. App. 2412(c)(1)).

Hugh J. Dolan,

Administrative Law Judge.

Date: November 16, 1988.

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Avenue NW., Room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 388.23(b), 50 FR 53134 (1985).

[FR Doc. 88-29267 Filed 12-20-88; 8:45 am]

BILLING CODE 3510-DT-M

#### International Trade Administration

#### Export Trade Certificate of Review

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice of Issuance of an Export Trade Certificate of Review, Application #88-00015.

**SUMMARY:** The Department of Commerce has issued an Export Trade Certificate of Review to the Ferrous Scrap Export Association. This notice

<sup>10</sup> The Charging Letter in this proceeding was issued almost three months after that directed to William T. Newkirk, et al., Docket No. 81-8104, 81-8105. The Secretarial action in that matter is dated August 26, 1988 and was published at 53 FR 3,3833 (Sept. 1, 1988). There is no explanation for the separation of these two related cases. The two referenced indictments were in 1983 and 1984. From those and other exhibits it appears that the facts were known and evidence gathered over four years ago. I continue to lament the stale status of too many of these proceedings and now add a concern for the exaggeration of the numbers of the few cases presented for adjudication.

summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** Thomas H. Stillman, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15, CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the *Federal Register*. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

#### Description of Certified Conduct:

##### *Export Trade.*

#### 1. Products

Carbon steel and iron scrap (currently identified at U.S. Department of Commerce Schedule B numbers 607.0180 through 607.0846 (to be identified at Schedule B numbers 7204.10 and 7204.30 through 7204.50)) ("ferrous scrap").

#### 2. Export Trade Facilitation Services (as they relate to the export of Products)

Consulting, management, international market research, marketing and trade promotion, sales of goods and services, insurance, legal assistance, inspection services, quality surveys, draft surveys, packing, transportation, wharfing and handling, steamship agency services, trade documentation, freight forwarding, storage, foreign exchange, taking title to goods and customs clearance.

##### *Export Markets*

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern

Mariana Islands, and the Trust Territory of the Pacific Islands).

##### *Export Trade Activities and Methods of Operation*

1. FSEA and/or one or more of its Members may:

a. Engage in joint negotiation, joint offering, or other joint selling arrangements for the sale of ferrous scrap in Export Markets and allocate sales resulting from such arrangements among the Members;

b. Establish and operate jointly owned subsidiaries or other joint ventures, owned exclusively by Members, to purchase, process and export ferrous scrap to Export Markets and to provide Export Trade Facilitation Service to Members;

c. Establish export prices and terms for the sale of ferrous scrap in Export Markets, and allocate export markets and/or customers among themselves;

d. Jointly refuse to quote prices for ferrous scrap, or to market or sell ferrous scrap, in Export Markets;

e. On a country-by-country basis for the Export Markets, jointly establish and/or negotiate with purchasers regarding specifications for grades of ferrous scrap to be sold in each country;

f. Jointly negotiate for and purchase ferrous scrap or raw materials for ferrous scrap for export from either Members or non-Member Suppliers for resale in Export Markets;

g. Jointly provide and/or jointly negotiate with Suppliers for Export Trade Facilitation Services;

h. Jointly establish, or arrange to have FSEA, one or more of its Members, or Suppliers to act as, exclusive or non-exclusive Export Intermediaries in Export Markets. Any such exclusive Export Intermediary may agree not to represent any other Supplier of ferrous scrap in the relevant country or market, and Members may agree that they will not export independently, either directly or through any other Export Intermediary or other party;

i. Agree that they will export for sale in one or more Export Markets only directly, through other Members, and/or through designated Export Intermediaries;

j. Cooperate in responding to attempted boycotts, refusals to deal, or other unfair trade practices by buyers of ferrous scrap in Export Markets against any Member, including cooperation in seeking relief before the U.S.

Departments of Commerce or Justice, the Federal Trade Commission, the Office of the United States Trade

Representative, and/or the courts in the United States and/or the courts and administrative agencies of other countries;

k. Meet and exchange information on any of the above subjects, as well as on market strategies and economic and business conditions in Export Markets; on export prices, terms, quality, quantity, source and delivery dates of ferrous scrap available from Members or non-Members for export; on U.S. and foreign legislation and regulations affecting the sale of ferrous scrap in Export Markets; and on FSEA's organization, governance, financial condition, and membership; and

1. Agree that any information obtained pursuant to the Certificate from another Member shall not be provided to any other Supplier of ferrous scrap.

2. FSEA and its Members may prescribe the following conditions with respect to voting rights, membership in, and withdrawal and expulsion from, FSEA:

a. Voting need not be on a one-member/one-vote basis. Initial voting rights shall be: Camden Iron & Metal, Inc., LMC Metals, Michael Schiavone & Sons, Inc., Schiavone-Bonomo Corp., Schnitzer Steel Products Co., Southern Scrap Material Co., Ltd., and Witte-Chase Corporation shall have one vote each; Hugo Neu & Sons, Inc. and Proler International Corp. shall have one vote jointly to be voted by Hugo Neu & Sons, Inc.; Naporano Iron & Metal Co. and NIMCO Shredding Co. shall have one vote jointly to be voted by Naporano Iron & Metal Co. Thereafter, any change in voting rights, shall be conducted under the voting rules then in effect.

b. Additional parties may be admitted to membership upon receiving:

(1) An affirmative vote of two-thirds of FSEA's existing members, and

(2) Unanimous approval of those members conducting export operations from the same Customs Clearance district as the proposed new member. In the event that no member has export operations in the same Customs Clearance district as the proposed new member. In the event that no member has export operations in the same Customs Clearance district as the proposed new member, unanimous approval must be obtained from those members operating from the adjacent Customs Clearance districts.

Inclusion of each new member under the Certificate shall be subject to the successful application to the Secretary of Commerce to amend the Certificate to

add the proposed new member as a Member.

c. In the event of a change in the control of a member, such member may continue as a member of FSEA only upon receiving the affirmative votes of two-thirds of the other members. This paragraph shall not apply to a family-controlled company in the case of a change in ownership within the family.

d. Any member may be expelled, without cause or notice, by a majority vote of the other members.

e. Any member may withdraw from membership in FSEA by giving thirty (30) days' written notice to the remaining members. However, the withdrawing member shall remain responsible for commitments made by such member and by FSEA on behalf of such member prior to the effective date of such member's withdrawal.

*Members (within the meaning of §325.2(1) of the Regulations)*

Camden Iron & Metal Inc.; Hugo Neu & Sons, Inc.; LMC Meals; Michael Schiavone & Sons, Inc.; Naporano Iron & Metal Co.; NIMCO Shredding Co.; Proler International Corp.; Schiavone-Bonomo Corp.; Schnitzer Steel Products Co.; Southern Scrap Material Co.; Ltd.; and Witte-Chase Corporation.

*Definitions*

For purposes of the Certificate:

1. "Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, or broker for the sale of goods or services to Export Markets, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services;

2. "Supplier" means a person who produces, provides, or sells ferrous scrap and/or Export Trade Facilitation Services, whether a Member or non-Member; and

3. "Member" means a person who has membership in FSEA.

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Date: December 16, 1988.

Thomas H. Stillman,

Director, Office of Export Trading Company Affairs.

[FK Doc. 88-29279 Filed 12-20-88; 8:45 am]

BILLING CODE 3510-DR-M

**National Oceanic and Atmospheric Administration**

**Preliminary Approval of the Proposed Amendment To Incorporate the 1988 Beach Management Act into the South Carolina Coastal Management Program**

**AGENCY:** National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

**ACTION:** Notice of preliminary approval of amendment.

**SUMMARY:** The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) received a request from the South Carolina Coastal Council to amend the South Carolina Coastal Management Program (SCCMP) by incorporating the South Carolina Beach Management Act which became law in June 1988. The State's request was made pursuant to section 306(g) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1455(g) and the regulations implementing the CZMA at 15 CFR 923.81. The Beach Management Act enlarges the beach/dune critical area, establishes a setback line based on erosion of the shoreline, places strict limits on what may be constructed seaward of that line, requires long-range comprehensive shorefront management plans at the State and local level, and requires disclosure statements regarding erosion conditions in all contracts of sale and deeds of transfer of affected properties.

The Director, OCRM, has reviewed the amendment request and has made the preliminary determination that, if the amendment is approved, the SCCMP will still constitute an approvable program and that the procedural requirements of section 306(c) of the CZMA have been met. The Director has also determined that approval of the proposed change does not constitute a major Federal action having a significant effect on the human environment. Therefore, this action does not require an environmental impact statement pursuant to the National Environmental Policy Act of 1969, as amended.

Copies of the Finding of No Significant Impact, including the supporting Environmental Assessment, and the Preliminary Findings of Approvability can be obtained from the address below. Comments on these documents should be made by January 17, 1989. Address

comments to: Mr. William Millhouser, Regional Manager, South Atlantic and Gulf Regions, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 673-5138.

[Federal Domestic Assistance Catalogue 11.419 Coastal Zone Management Program Administration.

[FR Doc. 88-29363 Filed 12-20-88; 8:45 am]

BILLING CODE 3510-08-M

**National Telecommunications and Information Administration**

[Docket No. 81257-8257]

**Inquiry on Production Standards for High Definition Television (HDTV)**

**AGENCY:** National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

**ACTION:** Notice of inquiry.

**SUMMARY:** In 1985 the United States Government decided to support the NHK HDTV production standard in an effort to achieve a single, worldwide standard. Due to the opposition of a number of other governments, however, it is unlikely that a single, worldwide HDTV production standard will be agreed to. In addition, other production standards are now under development and certain questions have been raised concerning the technical feasibility of a single standard. In light of these changed circumstances, NTIA seeks comments on these developments and whether the U.S. Government should continue to support a production standard or standards.

**DATES:** Interested persons are invited to submit comments on this Notice of Inquiry to: Office of the Chief Counsel, National Telecommunications and Information Administration, U.S. Department of Commerce, Room H4717, 14th and Constitution Avenue, NW., Washington, DC 20230. Comments are due at the above address by 5:00 p.m. on March 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Firestone, Chief Counsel, National Telecommunications and Information Administration, Department of Commerce, Room H4717, 14th & Constitution Avenue, NW., Washington, DC 20230; (202) 377-1816.

**SUPPLEMENTARY INFORMATION:** High Definition Television or HDTV is a generic term referring to a new generation of video receivers and production equipment that will provide superior picture clarity as compared to that currently available. HDTV