

PROPOSED CHARGING LETTER

Mr. Amnon Parizat
President & CEO
Island Pyrochemical Industries Corp.
267 East Jericho Turnpike
Mineola, NY 11501

Re: Alleged Violations of the Arms Export Control Act and the
International Traffic in Arms Regulations by Island Pyrochemical
Industries Corp.

Dear Mr. Parizat:

The Department of State (“Department”) charges Island Pyrochemical Industries Corp., including its operating divisions, subsidiaries, and business units (collectively “IPI” or “Respondent”), with violations of the Arms Export Control Act (“AECA”) (22 U.S.C. 2751 *et seq.*) and the International Traffic in Arms Regulations (“ITAR”) (22 C.F.R. parts 120-130) in connection with unauthorized brokering activities with an entity from a proscribed country, the People’s Republic of China (PRC) referred to in ITAR § 126.1. Three violations are alleged at this time.

The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend this proposed charging letter, including through a revision to incorporate additional charges stemming from the same misconduct of Respondent. Please be advised that this proposed charging letter, pursuant to 22 C.F.R. § 128.3, provides notice of our intent to impose debarment or civil penalties or both in accordance with 22 C.F.R. §§ 127.7 and 127.10.

When determining the charges to pursue in this matter, the Department considered several aggravating factors, including: (a) Respondent did not disclose the violations voluntarily to the Department; (b) certain violations involved false statements or misrepresentations or omissions of material facts; (c) certain violations involved a state-owned corporation of the PRC, a country that is subject to a policy of denial under ITAR § 126.1; (d) the required license or other approval for the activity at issue would not have been granted by the Department; and (e) the violations and surrounding circumstances demonstrate

Respondent's disregard for the requirements of the ITAR and for Respondent's export compliance responsibilities.

The Department also considered mitigating factors, most notably: (a) Respondent implemented certain remedial compliance measures in an effort to prevent future similar violations; and (b) Respondent cooperated with the Department in its investigation and entered into agreements with the Department tolling the statutory period that applies to enforcement of the AECA and the ITAR.

This proposed charging letter describes certain alleged violations for the time period from April 1, 2015, to May 5, 2016.

JURISDICTION

Respondent is a corporation organized under the laws of New York and a U.S. person within the meaning of section 120.15 of the ITAR. Respondent is subject to the jurisdiction of the United States.

During the period covered by the violations set forth herein, Respondent was registered with the Department as a manufacturer, exporter, and broker, in accordance with section 38 of the AECA and section 122.1 of the ITAR.

The described violations relate to ammonium perchlorate ("APC"), an explosive and energetic materials oxidizer, controlled under Category V(d)(2) of the United States Munitions List ("USML"), section 121.1 of the ITAR, at the time the violations occurred.

BACKGROUND

Respondent is a manufacturer and supplier of specialty chemicals and related materials with a variety of applications in both the commercial and military sectors, including rocket propellants and precursor chemicals used in explosive ordnance. Respondent has affiliates in Brazil and the PRC. Respondent was incorporated in 1982 and is headquartered in Mineola, New York. Respondent is a small privately held corporation with less than 100 employees. Respondent engages in both domestic and foreign sales.

VIOLATIONS

ITAR violations addressed in this proposed charging letter are derived from multiple sources. The Department issued, and Respondent responded to, a directed disclosure and a request for information describing alleged violations that took place between April 1, 2015, through May 5, 2016. In addition, a U.S. government agency provided additional information that substantiated the violations. The violations involved the unauthorized brokering of defense articles from the PRC, a proscribed country, to Brazil and providing false statements in export license applications.

Brokering Without Obtaining the Required License or Written Approval

On March 24, 2015, shortly before the first date of the charged violations, Respondent registered as a broker with the Department for the first time.

In or around April 2015, the Respondent reached out to three companies to discuss the procurement of APC. Respondent, including the Respondent's President and Chief Executive Officer (CEO), met with representatives from Avibras Industria Aeroespacial SA (Avibras), a Brazilian company, to discuss a transaction to procure APC for Avibras' use in manufacturing certain rockets for its client, the Kingdom of Saudi Arabia. Also in April 2015, the Respondent contacted Dalian Gaojia Chemical Co., Ltd (Dalian), a PRC manufacturer of APC, and an export company, Aerospace Long-March International Co., Ltd. (ALIT), a subsidiary of China Aerospace Science and Technology Corporation. In Respondent's response to the directed disclosure, it stated that "Although Dalian was the actual APC manufacturer, IPI was advised that under the [PRC's] law[s] only designated export companies, like ALIT, are permitted to export defense articles to other countries.

The Respondent, without authorization, engaged in brokering activities between Avibras and ALIT through various means of communication, engagement, and facilitation. From May 27, 2015, to November 5, 2015, the Respondent engaged in the business of brokering activities without first obtaining the required license or written approval from the Department. On May 27, 2015, Respondent entered into an agreement with Avibras for the procurement of APC from ALIT. The agreement between the Respondent and Avibras explicitly stated "...IPI has located a manufacturer of the PRODUCT in China hereinafter referred to as IPI's supplier who is willing to sell PRODUCT to IPI for re sale of the PRODUCT to Avibras..." The agreement further stated that Respondent will

“...supply 140 metric tons of PRODUCT to Avibras...” IPI and Avibras signed and executed the agreement on June 1, 2015.

Additionally, as described in its response to DTCC’s directed disclosure letter dated November 5, 2021, Respondent engaged in multiple brokering activities as described in ITAR § 129.2(b) involving the soliciting, promoting, negotiating, contracting for, arranging, or otherwise assisting in the purchase of APC. Respondent’s brokering activities occurred through: 1) “Communications regarding ALIT’s proposal to contract directly with Avibras, with IPI remaining involved in the project as a non-principal, and termination of IPI’s contract with Avibras” from December 17, 2015 through December 25, 2015; 2) “communications regarding [the] ALIT [and] Avibras supply contract, amendments to contract, and payments,” from January 6, 2015 through June 15, 2016; 3) “Communications regarding shipment schedule[s] [and] logistics” between Avibras and ALIT from January 14, 2016 through May 31, 2016; 4) “Communications regarding import/export licensure” between Avibras and ALIT from February 4, 2016 through April 9, 2016; 5) “Communications regarding inspection of Dalian production” between Avibras and ALIT from February 15, 2016 through March 24, 2016; and 6) “Communications regarding supervision of vessel loading” between Avibras and ALIT from March 18, 2016 through April 7, 2016. On or about May 5, 2016, ALIT sent a shipment of eight (8) containers of approximately 750,000 kilograms of APC from the PRC to Avibras in Brazil, completing the transaction that Respondent had brokered.

Through such activities, Respondent’s brokering activities included (1) recommending courses of action to Avibras on obtaining the APC from the PRC and assisting in arranging meetings with suppliers during a planned trip to the PRC, thereby negotiating for, arranging for, and otherwise assisting in and facilitating the purchase of APC by Avibras and the transfer of the APC from the PRC to Brazil; (2) Respondent “finalizing” an arrangement to supply Avibras with APC manufactured in the PRC thereby facilitating the manufacture and intended export of a foreign defense article from the PRC to Brazil on behalf of Avibras; (3) Respondent arranging for shipment of AP from the PRC to Brazil on behalf of Avibras; (4) Respondent issuing Dalian the final specifications for the AP thereby facilitating, on behalf of Avibras, the manufacture of the APC; (5) Respondent providing a down payment to Dalian to enable Dalian to begin manufacturing the AP thereby facilitating on behalf of Avibras Dalian’s manufacture of APC; and (6) Respondent arranging for Avibras to send a purchase order to ALIT with pricing specified by the Respondent for shipment of APC from the PRC to Avibras in

Brazil demonstrating that the Respondent assisted in the export and transfer of APC from the PRC to Brazil on behalf of Avibras.

False Statement, Misrepresentation, or Omission of a Material Fact on DSP-5 License Applications

On Respondent's DSP-5 application, dated July 23, 2015, Respondent listed itself as the manufacturer of APC and indicated ALIT as an intermediate party. The Department returned without action the license on August 12, 2015, seeking additional clarification on the roles of ALIT and AVIBRAS. Respondent submitted another DSP-5 application dated August 14, 2015, in which ALIT was not listed as a party, and Respondent again listed itself as the manufacturer. On December 10, 2015, the Department issued a denial of the August 14, 2015 application stating that "The proposed transaction is not consistent with National Security and Foreign Policy objectives." In Respondent's response to the Department's directed disclosure letter dated November 5, 2021, Respondent stated that it "had a longstanding (but flawed) practice of listing itself as the manufacturer on form DSP-5 as a 'placeholder' when IPI was considering multiple sources for a given product." Respondent does not have the domestic capability to produce APC.

Respondent Seriously Violated the ITAR

The Department's brokering registration letter dated March 24, 2015 informed Respondent to be aware of compliance with brokering requirements. Specifically, the Department gave respondent notice in writing that no person(s) may engage in the business of brokering activities with respect to the manufacture, export, import, or transfer of any U.S. or foreign defense article without first obtaining a license from the Department.

Respondent falsely listed itself as the manufacturer of APC on a license application to the Department. The Department denied Respondent's license application because of national security and foreign policy concerns. Even after failing to obtain appropriate authorization from the Department, Respondent engaged in brokering activities between ALIT and Avibras. Respondent's unauthorized brokering activities demonstrated a disregard for its export compliance responsibilities.

RELEVANT ITAR REQUIREMENTS

The relevant period for the alleged conduct is April 1, 2015, through May 5, 2016. The regulations effective as of the relevant period are described below.

Part 121 of the ITAR identifies the items that are defense articles, technical data, and defense services pursuant to section 38 of the AECA.

Section 126.1(a) of the ITAR provides that it is the policy of the United States to deny, among other things, licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries, including the PRC.

Section 127.1(b)(2) of the ITAR provides that it is unlawful to engage in the business of brokering activities for which registration, a license or written approval is required by this subchapter without first registering and obtaining the required license or written approval from the Department.

Section 127.2(a) of the ITAR provides that it is unlawful to use or attempt to use any export or temporary import control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting, transferring, reexporting, retransferring, obtaining, or furnishing any defense article, technical data, or defense service.

Section 129.2 of the ITAR defines “broker” and “brokering activities.”

Section 129.3 identifies the registration requirements for persons engaged in brokering activities.

Section 129.4 describes the requirements for approval from DDTC for the brokering of certain defense articles.

PROPOSED CHARGES

Charge 1 – Unauthorized Brokering

Respondent violated ITAR § 127.1(b)(2) one (1) time when Respondent engaged in brokering activities from April 1, 2015 through May 5, 2016 for which a license or written approval was required by facilitating the transfer of foreign-

origin defense articles from the PRC, a proscribed country, to Brazil, without obtaining the required license or written approval from the Department.

Charges 2-3 – Misrepresentation and Omission of Facts

Respondent violated ITAR § 127.2(a) two (2) times when Respondent used or attempted to use an export control document containing a false statement, misrepresentation, or omission of a material fact for the purpose of exporting, transferring, reexporting, retransferring, obtaining, or furnishing any defense article, technical data, or defense service by falsely listing itself as the manufacturer of a defense article on a DSP-5 license application submitted on July 23, 2015 and by falsely listing itself as the seller and source of the defense article on a DSP-5 license application submitted on August 14, 2015.

ADMINISTRATIVE PROCEEDINGS

Pursuant to 22 C.F.R. § 128.3(a), administrative proceedings against a respondent are instituted by means of a charging letter for the purpose of obtaining an Order imposing civil administrative sanctions. The Order issued may include an appropriate period of debarment, which shall generally be for a period of three (3) years, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed the greater of \$1,200,000 or the amount that is twice the value of the transaction that is the basis of the violation, per violation of 22 U.S.C. § 2778, may be imposed as well, in accordance with 22 U.S.C. § 2778(e) and 22 C.F.R. § 127.10.

A respondent has certain rights in such proceedings as described in 22 C.F.R. part 128. This is a proposed charging letter. In the event, however, that the Department serves Respondent with a charging letter, the company is advised of the following:

You are required to answer a charging letter within 30 days after service. If you fail to answer the charging letter, your failure to answer will be taken as an admission of the truth of the charges and you may be held in default. You are entitled to an oral hearing, if a written demand for one is filed with the answer, or within seven (7) days after service of the answer. You may, if so desired, be represented by counsel of your choosing.

Additionally, in the event that the company is served with a charging letter, its answer, written demand for oral hearing (if any), and supporting evidence

required by 22 C.F.R. § 128.5(b), shall be in duplicate and mailed to the administrative law judge designated by the Department to hear the case at the following address:

USCG, Office of Administrative Law Judges G-CJ,
2100 Second Street, SW
Room 6302
Washington, DC 20593.

A copy shall be simultaneously mailed to the Director, Office of Defense Trade Controls Compliance:

Director Jae Shin
U.S. Department of State
PM/DDTC
SA-1, Room L132,
2301 E Street NW
Washington, DC 20522-0112.

If a Respondent does not demand an oral hearing, it must transmit within seven (7) days after the service of its answer, the original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue.

Please be advised also that charging letters may be amended upon reasonable notice. Furthermore, pursuant to 22 C.F.R. § 128.11, cases may be settled through consent agreements, including after service of a proposed charging letter.

The U.S. government is free to pursue civil, administrative, and/or criminal enforcement for AECA and ITAR violations. The Department of State's decision to pursue one type of enforcement action does not preclude it, or any other department or agency, from pursuing another type of enforcement action.

Sincerely,

Jae Shin
Director
Defense Trade Controls Compliance
Bureau of Political-Military Affairs