United States Department of State

Bureau of Politico-Military Affairs
Office of Defense Trade Controls

Washington, D.C. 20522–0602

PROPOSED CHARGING LETTER

Delft Instruments, N.V.

The Office of Defense Trade Controls, Bureau of Politico-Military Affairs, United States Department of State (Department) charges that Delft Instruments, N.V. (hereinafter referred to as Delft), by and through certain of its subsidiaries, has violated the provisions of § 38(c) of the Arms Export Control Act (22 U.S.C. § 2778(c)) and §§ 121.1, 123.1, 123.9, 123.10, 124.1, 124.11, 126.1, 127.1(a)(3), 127.1(b), 127.1(d) and 127.3(a) of the International Traffic in Arms Regulations (codified at 22 C.F.R. Parts 120-130) (the Regulations), issued pursuant to §§ 38 - 42 of the Arms Export Control Act (22 U.S.C. §§ 2778-2780, & 2791) (the Act) as set forth below.

Facts constituting violations:

Charge 1

On or about April 1990, Delft, by and through certain of its subsidiaries, transferred and caused to be transferred to Iraq one thermal imaging system containing United States-origin defense articles, namely one Hughes infra-red detector dewar and one Litton thermal imaging scanner specifically designed for night sighting and night viewing equipment, without first obtaining the requisite approval of the Department and in violation of the terms of an agreement and export licenses previously approved for Delft by the Department.

Charge 2

On or about December 1990, Delft, by and through certain of its subsidiaries, transferred and caused to be transferred to Jordan one thermal imaging system containing United States-origin defense articles, namely one Hughes infra-red detector dewar and one Litton thermal imaging scanner specifically designed for night sighting and night viewing equipment, without first obtaining the requisite approval of the Department and in violation of the terms of an agreement and export licenses previously approved for Delft by the Department.

Charge 3

On or about December 1989, Delft, successor of Oldelft Groep N.V., by and through certain of its subsidiaries, transferred and caused to be transferred to Iraq a thermal camera containing United States-origin defense articles, namely one Hughes infra-red detector dewar and one Litton thermal imaging scanner specifically designed for night sighting and night viewing equipment, without first obtaining the requisite approval of the Department and in violation of the terms of an agreement and export licenses previously approved for Delft by the Department.

The Department alleges that Delft, by and through certain of its subsidiaries, committed a total of three (3) violations, involving §§ 121.1, 123.1, 123.9, 123.10, 124.1, 124.11, 126.1, 127.1(a)(3), 127.1(b), 127.1(d), or 127.3(a), each of which involves U.S.-origin defense articles and/or directly related technical data controlled by the Department under § 38 of the Arms Export Control Act. The Act regulates the export of defense articles and defense services in the furtherance of world peace and the foreign policy and security interests of the United States.

Accordingly, Delft is hereby notified that an administrative proceeding is instituted against it pursuant to § 38(e) of the Act and § 127.6 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

Revocation of licenses and other written approvals by, for or to Delft, under §§ 126.7(a)(1) & (2);

Prohibition from participating directly or indirectly in the export of any defense article or technical data or the furnishing of any defense service, for which a license or approval is required by the Regulations;

Debarment for a period of (3) three years;

Denial of applications for export licenses or other requests for written approvals by, for or to Delft, under § 127.6(a);

Imposition of the maximum civil penalty allowed by law of $500,000.00 for each violation, for a total of $1,500,000.00, under § 127.9;

Delft is notified that it is required to answer the charges contained herein within 30 days of the service as provided in 22 C.F.R. § 128.5(a). Delft's failure to answer the charges will be taken as an admission of the truth of the charges and may be treated as a default under 22 C.F.R. § 128.4.

Delft is further notified that it is entitled to an oral agency hearing on the record, as provided in § 128.8 of the Regulations, if a written demand for one is filed with its answer, or within 7 (seven) days after service of the answer. Delft may if so desired, be represented by counsel, and may seek a consent agreement with the concurrence of the Office of Defense Trade Controls as provided under 22 C.F.R. § 128.11.

Delft's 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 or delivered to the Office of the Administrative Law Judge, Room H-6716, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. In addition, a copy of Delft's answer shall be simultaneously mailed or delivered to the Director, Office of Defense Trade Controls, Room 200, State Annex 6, Department of State, Washington, D.C. 20522-0602.

A copy of Parts 120 through 130 of the Regulations is enclosed.

This charging letter may be amended from time to time upon reasonable notice.

Sincerely

William B. Robinson
Director