



United States Department of State
Bureau of Political-Military Affairs
Washington, D.C. 20520-0112

FEB 14 2014

CHARGING LETTER

Mr. Carlos Dominguez
Elint, S.A.
Calle Sagitario, 1
Madrid, Aravaca, 28023 Spain

Re: Violations of the Arms Export Control Act and the International Traffic in Arms Regulations by Carlos Dominguez; Elint, S.A.; Spain Night Vision, S.A.; and SNV, S.A.

Dear Mr. Dominguez:

The United States Department of State (“Department”) charges Mr. Carlos Dominguez (individually and in his capacity as principal of the following entities); Elint, S.A.; Spain Night Vision, S.A.; and SNV, S.A. (including successors, assignees, and aliases)(collectively, “Respondents”), with violations of the Arms Export Control Act (“AECA”)(22 U.S.C. §§ 2778-2780) and the International Traffic in Arms Regulations (“ITAR”)(22 C.F.R. Parts 120-130), which were carried out by Mr. Dominguez by and through the entities Elint, S.A.; Spain Night Vision, S.A.; and SNV, S.A. The violations charged are in connection with Respondents’ re-export and retransfer of night vision devices without authorization from the U.S. Department of State. Three hundred sixty-six (366) violations are alleged at this time.

The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend this charging letter, including through a revision, to incorporate additional charges stemming from the same misconduct of Respondent in these matters. Pursuant to

22 C.F.R. § 128.3, this letter 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.

If you fail to answer this charging letter within 30 days after service, your failure to answer will be taken as an admission of the truth of the charges. In addition to your answer, you may submit a written demand for an oral hearing and any supporting evidence.

JURISDICTION

The AECA authorizes the Department, as delegated by the President, in the furtherance of world peace, and the national security and foreign policy interests of the United States, to control the export of defense related articles, including technical data, and the provision of defense services. The AECA authorizes the President to designate items as defense articles and control such items under the United States Munitions List ("USML"). The Department implemented the statutory provisions of the AECA by adopting the ITAR.

The Department further delegated administration of the ITAR to the Deputy Assistant Secretary of State for Defense Trade Controls and the Managing Director, Directorate of Defense Trade Controls ("DDTC"). Within the Directorate of Defense Trade Controls, the Office of Defense Trade Controls Compliance ("DTCC") has responsibilities related to violations of law or regulation and compliance therewith, including references contained in parts 122, 126, 127, 128, and 130 of the ITAR.

The defense articles and technical data associated with the violations set forth herein are designated as controlled under various categories of the USML, § 121.1 of the ITAR. These relevant defense articles and technical data are deemed to be significant military equipment ("SME"), as specified in § 120.7 of the ITAR.

Respondents are foreign persons within the meaning of the AECA and § 120.16 of the ITAR, and Respondents' activities are subject to the jurisdiction of the United States.

NATURE OF THE CHARGES

The Department alleges that, during the period covered by the violations set forth herein, the Respondents willfully engaged in and caused the unauthorized re-export and retransfer of hundreds of night vision devices as well as related defense articles and technical data.

Respondents re-exported and retransferred defense articles in violation of Department authorizations and falsified export control documents. Upon notification of ineligibility to engage in defense trade by the Department, Respondents Dominguez and Elint changed or established new business names and engaged third-party purchasers through which to funnel transactions in order to conceal their activities and evade detection. Further re-exports and retransfer of previously exported defense articles continued under these new business names.

Re-exports and retransfers of defense articles undertaken and caused by Respondents involved defense articles covered under Category XII(c) and technical data covered under Category XII(f) of the USML. Defense articles and technical data controlled under USML Category XII(c) and Category XII(f), respectively, are considered Significant Military Equipment. Significant Military Equipment is defined in § 120.7 of the ITAR as articles for which special export controls are warranted because of their capacity for substantial military utility or capability.

BACKGROUND

At all times relevant to this charging letter, unless otherwise indicated:

1. Respondent Elint, S.A., is a Spanish company located in Madrid, specializing in the supply of night vision and other military electronic equipment for military and law enforcement end-use.
2. Respondent Spain Night Vision, S.A., is a Spanish company located in Madrid, specializing in the supply of night vision and other military electronic equipment for military and law enforcement end-use. It is believed to be related to Elint, S.A. and SNV, S.A.
3. Respondent SNV, S.A., is a Spanish company located in Madrid, specializing in the supply of night vision and other military

electronic equipment for military and law enforcement end-use. It is believed to be related to Elint, S.A. and Spain Night Vision, S.A.

4. Respondent Carlos Dominguez is the Product Manager at Elint S.A. and the Defense Managing Director at SNV, S.A. He has also negotiated transactions using the name Spain Night Vision, S.A., although his exact title is unknown.

STATEMENT OF FACTS

5. The allegations contained in paragraphs 1 through 4, above, are hereby incorporated by reference.

6. In September 2005, ITT Industries Night Vision (ITT)¹ received DDTC DSP-05 license² 05-971940³ for the export of 2,000 Night Vision Devices (NVDs) to Spain for end-use by the Spanish Marine Corps (SMC). Elint, S.A. was listed as the foreign consignee. Three hundred fifty (350) of the 2,000 NVDs were exported in three separate shipments on May 27, 2006; August 30, 2006; and March 24, 2007.

7. On February 19 and 26, 2009, American Embassy Madrid ("Post") conducted Blue Lantern⁴ visits to Elint to review license 05-971940 and the export of the 350 NVDs to Elint as the foreign consignee for the SMC. In July 2009, Post again visited Elint to verify the inventory that was completed in February. These Blue Lantern visits (together, Blue Lantern 8961) revealed that the SMC had received only 113 of the 350 NVDs exported by ITT to Elint. Post discovered that 110 of those 350 NVDs remained in Elint's inventory, three (3) NVDs had been

¹ ITT Industries Night Vision was a division of ITT Industries. ITT Industries later became ITT Corporation, which subsequently spun off its defense businesses, including ITT Night Vision, to form Exelis, Inc.

² The term DSP-05 is a reference to the form used to submit an "Application for the Permanent Export of Unclassified Defense Articles, Related Technical Data, and Defense Services" and any subsequent license approved under that submission. It is one of several authorization types used by the Department. In all instances in this charging letter any application or subsequent license was submitted via a form DSP-05 and any use of the word "license" refers to that type of authorization.

³ In 2005, DDTC adopted a new license naming protocol. This license was assigned a license number under the prior system in which the license type and number are separated by a dash, whereas the other licenses relevant to this charging letter do not contain a dash. The licenses are otherwise equivalent in all aspects.

⁴ The Blue Lantern program is the Department's end-use monitoring program. DTCC, through U.S. Embassies abroad, conducts both pre- and post-licensing checks to determine the bona fides of the end-users, as well as compliance with license provisos, terms and conditions.

retransferred without authorization to the Spanish Army, ten (10) had been retransferred without authorization to the Spanish Intelligence Service, and two (2) were re-exported without authorization to MOWAG, a private Swiss company specializing in armored military vehicles. Post reported that Elint's recordkeeping, including of sales receipts and serial numbers, was inadequate, leading to confusion regarding the location of many of the NVDs. Thus, the location of the remaining 112 NVDs from the 05-971940 license is unknown.

8. On July 1, 2009, N-Vision Optics LLC, of Needham, MA, applied for DSP-05 050177626 for the export of 862 NVDs to Spain for end-use by the SMC. Elint was listed as the foreign intermediate consignee on the license application.⁵ A pre-licensing Blue Lantern check (Blue Lantern 11124) was completed by Post for this proposed export. In cooperation with the Spanish Ministry of Defense, Post determined that Elint had altered the accompanying DSP-83 Nontransfer and Use Certificate,⁶ as well as fabricated certain Spanish Ministry of Defense documentation in connection with the license application. Specifically, Elint had changed the DSP-83 from a requested 62 NVDs to 462 NVDs (AN/PVS-14 monoculars) and added an additional 400 NVDs (GT-14 monoculars) resulting in a request for 862 total NVDs.⁷

9. In subsequent contact with Post, the Spanish National Police (SNP) acknowledged an investigation of Elint. In addition, the Spanish MOD expressed a desire to coordinate law enforcement measures to prevent Elint from receiving any further MOD contracts. It also wanted to cooperate in efforts to designate Elint an ineligible recipient of U.S. Munitions List items.

10. As a result of the multiple unfavorable Blue Lanterns and evidence of falsified export control documents, the Office of Defense Trade Controls Compliance notified Dominguez and Elint, S.A. by letter

⁵ It appears that the license applicant, N-Vision Optics LLC, misidentified Elint as the foreign intermediate consignee on the license. Elint should have been identified as the foreign consignee.

⁶ A DSP-83 Nontransfer and Use Certificate must be executed by the foreign consignee, foreign end user, and the applicant, and includes the number and type of defense article to be exported. The certificate stipulates that the foreign consignee and foreign end user will not reexport, resell or otherwise dispose of the significant military equipment enumerated in the application outside the country named as the location of the foreign end user or to any other person. 22 C.F.R. § 123.10(a).

⁷ DDTC voided and Returned Without Action DSP-05 application 050177626 for related insufficiency before the Unfavorable Blue Lantern report was received. This license application was therefore never approved or exported against.

dated September 24, 2009 of the application of a “policy of denial.”⁸ Although neither Dominguez nor Elint responded to this letter, both largely disappeared from any licensing activity with the Department at this time. Email activity between Dominguez and U.S. company Nivisys Industries, LLC, located in Tempe, Arizona, at the time indicated he was aware of his ineligibility and referenced problems with DDTC.

11. In November 2009, American Embassy Madrid received information that Elint had again retransferred without authorization 73 of the NVDs originally exported for end-use by the SMC under license 05-971940 to Segur Iberica Security Services, a private Spanish security company, located in Madrid, Spain. Segur Iberica was contracted by the Spanish Ministry of Defense to provide security services aboard Spanish commercial fishing vessels for protection against pirates. These 73 NVDs were part of the 110 noted in the February/July 2009 Blue Lantern 8961 as stored without authorization in Elint’s warehouse.⁹

12. Post further determined that Elint had originally sold the NVDs using the name Spain Night Vision, S.A. to Segur Iberica through General Dynamics-Santa Barbara Sistemas (GD-SBS), located in Madrid, Spain. The Department believes that this name change was a deliberate attempt to subvert the policy of denial and avoid detection by the Department and Spanish officials. GD-SBS maintains that Elint/Spain Night Vision assured it that the NVDs were not subject to the ITAR.

13. Sometime after December 15, 2009, a search warrant was issued for Elint by the Spanish National Police (SNP). The search warrant was limited to documents only and no NVDs were discovered or seized as a part of the resultant search. On January 15, 2010, the SNP arrested two Elint employees. Their names and charges were undisclosed. The Spanish MOD then removed Elint, its successor entities, their principals, and anyone directly or indirectly associated with Elint’s management from its register of authorized defense suppliers.

⁸ Note that DTCC no longer uses the term “policy of denial” to indicate the further review and presumptive denial of licensing due to belief that the entity or individual is ineligible pursuant to 22 C.F.R. § 126.7(a)(1) or (2). Currently, DTCC uses “presumption of denial;” however, the letter, dated September 24, 2009, makes use of the earlier language.

⁹ Seventy-four (74) NVDs were sold by Elint to Segur Iberica in total. However, only seventy-three (73) of that total were tied by serial number to the original 05-971940 license.

14. On September 3, 2010, the Department sent a Directed Disclosure¹⁰ to Elint and Dominguez, regarding the Segur Iberica retransfer and the whereabouts of the unaccounted for NVDs. The Department never received a response.

15. On July 17, 2011, Nivisys Industries applied for DSP-05 050308495 for the export of six (6) image intensifier tubes and the related technical data to Spain, for end-use by the Barañain Police. The foreign consignee was BRV Police S.L., a private company located in Madrid, Spain. Email correspondence in June 2011 between Nivisys Industries and Dominguez later obtained by the Department indicated, however, that SNV was the actual foreign consignee and that SNV was passing orders through BRV Police to avoid license denial by DDTC.

16. On September 16, 2011, Nivisys Industries received DSP-05 license 050319948 for the export of fifty (50) NVDs to Finland for end-use by CPE Production, Oy (CPE). CPE was also listed as the foreign consignee. On April 5, 2012, Nivisys Industries applied for DSP-05 license 050372216, for the export of 400 NVDs to CPE. In June 2012, a Blue Lantern post-shipment check on license 050319948 (Blue Lantern 13436) and pre-shipment check on license application 050372216 (Blue Lantern 13435) by American Embassy Helsinki revealed that the fifty (50) NVDs shipped under license 050319948 from Nivisys Industries to CPE were re-exported to Spain without authorization. Further review of the transaction revealed that Carlos Dominguez, utilizing new company SNV, S.A., had arranged the transaction, presumably with the intent of funneling the order through CPE, although Respondents did not appear on the license.

17. Pre-license Blue Lantern 13435, for license application 050372216, and further inquiry with Nivisys Industries revealed that Dominguez had also arranged this second transaction and likely intended to re-export the NVDs to Spain. DDTC denied the application pursuant to the unfavorable Blue Lantern pre-licensing check.

18. CPE informed American Embassy Helsinki that it was unaware of these licenses and that the signatures on the end-use documentation had been forged. CPE maintained that it was only aware of the shipment when

¹⁰ The Department may request information from applicants or parties to a transaction via letter, referred to as a "Directed Disclosure." See, e.g., 22 C.F.R. § 122.5(b).

contacted by SNV's freight forwarder, who stated that the NVDs had been shipped by mistake to CPE.

19. Email correspondence in August 2011 between Dominguez and Nivisys Industries regarding the transaction, however, indicates that Dominguez had identified CPE as a buyer and was coordinating the transaction. The Department believes CPE was not a bona fide purchaser, and that Dominguez and SNV likely intended to conceal their involvement in the licensing documentation by funneling the order through CPE. The current location of all of the fifty (50) NVDs is unknown, although one was subsequently returned to Nivisys Industries by CPE for repair and remains in the U.S.

20. In September 2012, Star Night USA, located in Towson, MD, received DSP-05 050398506 for the export of 200 NVD housings (without image intensifier tubes) to Spain for end-use by BRV Police. BRV Police was also listed as the foreign consignee. As the Department became aware of Respondents' attempts to funnel orders through third parties to avoid detection, DDTC began targeting Blue Lantern inquiries to Respondents known partners. Thus, in December 2012, DTCC initiated a post-licensing Blue Lantern check (Blue Lantern 13861) on DSP-05 050398506. The Blue Lantern revealed the order had been placed by BRV Police on behalf of Dominguez, although Respondents' names did not appear on any of the licensing documentation. The Department revoked the license before export of the items occurred.

RELEVANT ITAR REQUIREMENTS

21. Paragraphs 1-20 are hereby incorporated and re-alleged.

22. Section 120.19 of the ITAR defines a re-export or retransfer as the transfer of defense articles or defense services to an end-use, end-user, or destination not previously authorized by license, written approval, or exemption pursuant to the ITAR.

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

24. Section 123.9(a) of the ITAR provides, in part, that the written approval of the DDTC must be obtained before disposing of a defense article to any end user, end use, or destination other than as stated on the export license.

25. Section 126.7(a) of the ITAR provides, in part, that licenses or approvals shall be denied or revoked whenever required by any statute of the United States. Any application for an export license or other approval under the ITAR may be disapproved, and any license or other approval or exemption granted under the ITAR may be revoked, suspended, or amended without prior notice whenever: (1) the Department of State deems such action to be in furtherance of world peace, the national security or the foreign policy of the United States, or is otherwise advisable; or (2) the Department of State believes that 22 U.S.C. 2778, any regulation contained in this subchapter, or the terms of any U.S. Government export authorization ... has been violated by any party to the export or other person having significant interest in the transaction; ... or (6) An applicant, any party to the export or agreement, any source or manufacturer of the defense article or defense service or any person who has a significant interest in the transaction has been debarred, suspended, or otherwise is ineligible to receive an export license or other authorization from any agency of the U.S. government.

26. Section 127.1(a)(2) of the ITAR provides, in part, that it is unlawful to re-export or retransfer or attempt to re-export or retransfer any defense article or technical data from one foreign end-user, end-use, or destination to another foreign end-user, end-use, or destination for which a license or written approval is required by the ITAR without first obtaining the required license or other written approval from DDTC.

27. Section 127.1(a)(4) of the ITAR provides, in part, that it is unlawful to conspire to export, import, re-export, retransfer, furnish or cause to be exported, imported, re-exported, retransferred, or furnished any defense article, technical data, or defense service for which a license or written approval is required by the ITAR.

28. Section 127.1(b)(1) of the ITAR provides, in part, that it is unlawful to violate any of the terms or conditions of a license or approval granted pursuant to the ITAR, or any rule or regulation contained in the ITAR .

29. Section 127.1(d) of the ITAR provides that who is ineligible pursuant to § 120.1(c)(2) of the ITAR, may not, directly or indirectly, in any manner or capacity, without prior disclosure of the facts to, and written authorization from, DDTC: (1) Apply for, obtain, or use any export control document as defined in §127.2(b) of the ITAR for such ineligible person; or (2) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any manner in any transaction that may involve any defense article, which includes technical data, defense services, or brokering activities subject to the ITAR, where such ineligible person may obtain any benefit therefrom or have any direct or indirect interest therein.

30. Section 127.1(e) of the ITAR provides that no person may knowingly or willfully attempt, solicit, cause, or aid, abet, counsel, demand, induce, procure, or permit the commission of any act prohibited by, or the omission of any act required by 22 U.S.C. 2778, 22 U.S.C. 2779, or any regulation, license, approval, or order issued thereunder.

31. Section 127.2(a) of the ITAR provides that it is unlawful to use or attempt to use any export control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting, transferring, re-exporting, retransferring, obtaining, or furnishing any defense article, technical data, or defense service. Any false statement, misrepresentation, or omission of material fact in an export control document is considered as made in a matter within the jurisdiction of a department or agency of the United States for purposes of 18 U.S.C. 1001, 22 U.S.C. 2778, and 22 U.S.C. 2779.

CHARGES

32. Paragraphs 1-31 are hereby incorporated and re-alleged.

33. Charges 1-294 – Respondents re-exported or retransferred 293 night vision devices and one (1) set of related technical data, designated under United States Munitions List Category XII(c) and XII(f), respectively, without having first obtained from the Department of State a license or written authorization for such re-export or retransfer in violation of 22 U.S.C. 2778 and 22 C.F.R. 127.1(a)(2).

- Charges 1-3: In or about February 2009, Respondents Dominguez & Elint retransferred three (3) NVDs originally exported under license 05-971940 to the Spanish Army without authorization.
- Charges 4-13: In or about February 2009, Respondents Dominguez & Elint retransferred ten (10) NVDs originally exported under license 05-971940 to the Spanish Intelligence Service without authorization.
- Charges 14-15: Between about February 2009 and in or about July 2009, Respondents Dominguez & Elint re-exported two (2) NVDs originally exported under license 05-971940 to MOWAG (now General Dynamics European Land Systems - Mowag GmbH) without authorization.
- Charges 16-88: In November 2009, Respondents Dominguez and Spain Night Vision retransferred seventy-three (73) NVDs originally exported under license 05-971940 to GD-SBS and Segur Iberica without authorization.
- Charges 89-95: After July 2011, Respondents Dominguez and SNV retransferred six (6) image intensifier tubes (charges 89-94) and the related technical data (charge 95) originally exported under Department license 050308495 from foreign consignee BRV Police to Respondents.
- Charges 96-145: Between about October 2011 and in or about June 2012, Respondents Dominguez and SNV re-exported and retransferred fifty (50) NVDs originally exported under license 050319948 from CPE Production, Oy in Finland to Respondents in Spain without authorization.
- Charges 146-257: In or about July 2009, Respondents Dominguez and Elint re-exported or retransferred or both 112 NVDs originally exported under license 05-971940 to unknown end-users without authorization.
- Charges 258-294: In or about February 2009, Respondents Dominguez and Elint retransferred 37 NVDs originally exported

under license 05-971940 to its own inventory (change in end-use and end-user) without authorization.¹¹

34. Charges 295-351 – Respondents conspired to and caused the re-export and retransfer of NVDs designated under United States Munitions List Category XII(c) from authorized end users to its facilities in Spain in violation of 22 U.S.C. 2778 and 22 C.F.R. 127.1(a)(4).

- Charges 295-301: After July 2011, Respondents Dominguez and SNV conspired to and caused the retransfer of six (6) image intensifier tubes (charges 299-304) and the related technical data (charge 305) originally exported under Department license 050308495 from foreign consignee BRV Police to Respondents in Spain.
- Charges 302-351: Between about October 2011 and in or about June 2012, Respondents Dominguez and SNV conspired to and caused the re-export and retransfer of fifty (50) NVDs from CPE Production, Oy in Finland, originally exported under DDTC license 050319948, to Respondents in Spain without authorization.

35. Charge 352 – Respondents, in re-exporting and retransferring defense articles without authorization, violated the terms and conditions of a license or approval granted pursuant to the ITAR in violation of 22 U.S.C. 2778 and 22 C.F.R. 127.1(b)(1). We are charging one violation for each license involved.

- Charge 352: Between about February 2009 and the present, Respondents violated the terms and conditions of DDTC license 05-971940 when Respondents re-exported and retransferred at least 229 NVDs to persons other than the authorized end-user.

36. Charges 353-356 – Respondents, with knowledge that Dominguez and Elint were ineligible pursuant to Section 126.7 of the ITAR, continued to obtain, and use export control documents and obtain benefits therefrom and have a direct interest therein in transactions involving a

¹¹ Although Blue Lantern 8961 determined 110 NVDs remained in Elint's inventory, Post determined that 73 of these NVDs had been retransferred to GD-SBS and Segur Iberica, leaving 37 in Elint's inventory.

defense article in violation of 22 U.S.C. 2778 and 22 C.F.R. 127.1(d). We are charging one violation for each license involved.

- Charge 353: After July 2011, Respondents Dominguez and SNV requested Nivisys Industries apply for and receive DDTC license 050308495 for the export of six (6) image intensifier tubes and the related technical data to foreign consignee BRV Police and then retransferred the defense articles and technical data to Respondents, despite ineligibility, to avoid detection.
- Charge 354: Between about October 2011 and in or about June 2012, Respondents Dominguez and SNV requested Nivisys Industries apply for, and receive, DDTC license 050319948, and then re-exported and retransferred fifty (50) NVDs from CPE Production, Oy in Finland, originally exported under DDTC license 050319948, to Respondents in Spain without authorization, despite ineligibility.
- Charge 355: In or about June 2012, Respondents Dominguez and SNV requested Nivisys Industries apply for an additional 400 NVDs for export to CPE in Finland, under DDTC license 050372216, despite ineligibility.
- Charge 356: In or about August 2012, Respondents requested BRV Police in Spain obtain a license for the export of 200 NVD housing units for Respondents, via DDTC license 050398506, despite ineligibility.

37. Charges 357-361 – Respondents knowingly and willfully caused, aided, abetted, counseled, demanded, induced, procured, or permitted the commission of acts prohibited by, or the omission of any act required by, 22 U.S.C. 2778 and 2779, or any regulation, license, approval, or order issued thereunder in violation of 22 U.S.C. 2778 and 22 C.F.R. 127.1(e). We are charging one violation for each license involved.

- Charge 357: In or about November 2009, Respondents Dominguez and Spain Night Vision retransferred 73 NVDs to GD-SBS and Segur Iberica, without authorization, and despite assuring GD-SBS that the defense articles were not subject to the ITAR.

- Charge 358: After July 2011, Respondents Dominguez and SNV requested Nivisys Industries apply for and receive DDTC license 050308495 for the export of six (6) image intensifier tubes and the related technical data to foreign consignee BRV Police and then retransferred the defense articles and technical data to Respondents, despite ineligibility, to avoid detection by the Office of Defense Trade Controls Compliance (DTCC).
- Charge 359: Between about October 2011 and in or about June 2012, Respondents Dominguez and SNV requested Nivisys Industries apply for and receive DDTC license 050319948, and then re-exported and retransferred fifty (50) NVDs from CPE Production, Oy in Finland, originally exported under DDTC license 050319948, to Respondents in Spain without authorization, despite ineligibility.
- Charge 360: In or about June 2012, Respondents Dominguez and SNV requested Nivisys Industries apply for an additional 400 NVDs for export to CPE in Finland, under DDTC license 050372216, despite ineligibility and for future re-export and retransfer to Respondents in Spain without authorization.
- Charge 361: In or about August 2012, Respondents requested BRV Police in Spain obtain a license for the export of 200 NVD housing units for Respondents, via DDTC license 050398506, despite ineligibility, and in order to avoid detection by DTCC.

38. Charges 362-366 – Respondents used or attempted to use export control documents containing falsified information and misrepresenting and omitting material facts for the purpose of exporting defense articles in violation of 22 U.S.C. 2778 and 22 C.F.R. 127.2. We are charging one violation for each license involved.

- Charge 362: In or about July 2009, Respondents Dominguez and Elint falsified and altered the DSP-83 end-user certification associated with license 050177626.

- Charge 363: After July 2011, Respondents Dominguez and SNV requested Nivisys Industries apply for, and receive, DDTC license 050308495 for the export of six (6) image intensifier tubes and the related technical data to foreign consignee BRV Police, specifically omitting Respondents' participation, for retransfer to Respondents to avoid detection by DTCC.
- Charge 364: Between about October 2011 and in or about June 2012, Respondents Dominguez and SNV requested Nivisys Industries apply for and receive DDTC license 050319948 specifically omitting Respondents' participation, and then re-exported and retransferred fifty (50) NVDs from CPE Production, Oy in Finland, originally exported under DDTC license 050319948, to Respondents in Spain, despite ineligibility and without authorization, in order to avoid detection by DTCC.
- Charge 365: In or about June 2012, Respondents Dominguez and SNV requested Nivisys Industries apply for an additional 400 NVDs for export to CPE in Finland, under DDTC license 050372216, specifically omitting Respondents' participation, despite ineligibility and for future re-export and retransfer to Respondents in Spain without authorization, in order to avoid detection by DTCC.
- Charge 366: In or about August 2012, Respondents requested BRV Police in Spain obtain a license for the export of 200 NVD housing units for Respondents, via DDTC license 050398506, specifically omitting Respondents' participation, despite ineligibility, and in order to avoid detection by DTCC.

ADMINISTRATIVE PROCEEDINGS

Pursuant to Part 128 of the ITAR, administrative proceedings are instituted by means of a charging letter against Respondent 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 years, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed \$500,000 per violation, may be imposed as well in accordance with § 38(e) of the AECA and § 127.10 of the ITAR.

A Respondent has certain rights in such proceedings as described in Part 128 of the ITAR. You are required to answer the 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. 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, your answer, written demand for oral hearing (if any) and supporting evidence required by § 128.5(b) of the ITAR, shall be in duplicate and mailed to the office of 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, D.C. 20593. A copy shall be simultaneously mailed to the Deputy Assistant Secretary for Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, PM/DDTC, SA-1, 12th Floor, Washington, D.C. 20522-0112. If you do not demand an oral hearing, you must transmit within seven (7) days after the service of your 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 that charging letters may be amended from time to time, upon reasonable notice.

Be advised that the U.S. Government is free to pursue civil, administrative, and/or criminal enforcement for violations of the AECA and the ITAR. The Department'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,



Kenneth B. Handelman
Deputy Assistant Secretary
Defense Trade Controls