

PROPOSED CHARGING LETTER

May [], 2011

David Parkes
Company Secretary
BAE Systems plc
6 Carlton Gardens
London SW1Y 5AD
United Kingdom

Re: Investigation of BAE Systems plc Regarding Violations of the
Arms Export Control Act and the International Traffic in Arms
Regulations

Dear Mr. Parkes:

The Department of State (“Department”) charges BAE Systems plc including its businesses, units, subsidiaries (other than BAE Systems, Inc. and its subsidiaries) and operating divisions (“Respondent”) 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) in connection with the unauthorized brokering of U.S. defense articles and services, failure to register as a broker, failure to file annual broker reports, causing unauthorized brokering, failure to report the payment of fees or commissions associated with defense transactions, and the failure to maintain records involving ITAR-controlled transactions. A total of two thousand five hundred and ninety-one (2,591) violations are alleged at this time.

This proposed charging letter and the facts set out herein do not relate to or represent any AECA and ITAR violations of BAE Systems, Inc., and its subsidiaries.

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 in these matters. 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, the Department considered mitigating factors, including the change in Respondent's senior management and members of the Board of Directors, and remedial compliance measures implemented after 2007.

At the same time, the Department considered aggravating factors in determining what charges to pursue, including the Respondent's failure to cooperate fully for the reasons described below in the fourteen months from the inception of the Department's investigation; its incomplete responses to the Department's requests for information; and its failure to maintain or produce relevant records. These various facts were substantially responsible for the incomplete nature of the investigation, and the inability of the Department to assess fully the potential harm to U.S. national security.

The Department considered other aggravating factors, including the frequency and type of Respondent's violations; the fact that certain violations were authorized by its former most senior management of Respondent; that violations were systemic, wide-spread, and sustained for more than ten (10) years; only three (3) of the violations by the Respondent were disclosed at the request of the Department, not voluntarily, after Respondent's criminal plea with the U.S. Department of Justice; and all other remaining violations were never disclosed, but rather identified by the Department during its investigation.

We note that had the Department not taken into consideration Respondent's change in senior management and remedial compliance measures, the penalties imposed upon Respondent would likely have been more significant.

BACKGROUND

Respondent is a multinational, integrated defense company headquartered in Farnborough, United Kingdom, with offices and operations in various countries around the world, including the United States. Respondent is the world's second largest defense company in terms of sales, employing approximately 105,000 people, with customers in over 100 countries. It manufactures, exports, brokers, and provides services regarding a host of land, sea and air defense systems and subsystems.

SUMMARY OF INVESTIGATION

This section provides a summary of the Department's investigation into Respondent's ITAR-controlled activities and highlights the key findings.

In February 2010, the Department and Respondent communicated on Respondent's intent to enter into a plea agreement with the U.S. Department of Justice for one count of conspiracy to violate certain U.S. laws, including the Arms Export Control Act. The plea agreement was finalized and judgment was filed in the case on March 2, 2010 (together with the associated Criminal Information and Sentencing Memorandum, the "Plea Agreement").

Following a request from the Department on March 10, 2010, Respondent disclosed its failure to report (or causing the failure to report) certain payments that were subject to Part 130 of the ITAR.

The undisclosed payments, which began in the latter part of the 1990s and terminated in 2007,¹ were associated with the lease and lease/sale of JAS-39 "Gripen" aircraft to the Ministries of Defense, Czech Republic and Hungary, respectively. The Gripen aircraft contained U.S. origin defense articles. U.S. defense services were provided to modify the aircraft for major U.S. systems and sub-systems. The aircraft were the subject of written re-export approval by the Department. Respondent has acknowledged that the payments were more than \$100,000 and the Department has confirmed that the payments were in respect to Department licenses or other authorizations

¹ Respondent did not produce accurate records to confirm the specific dates that payments were made.

valued at more than \$500,000. The undisclosed payments with respect to Department licenses or other authorizations therefore constituted violations of the ITAR.

Immediately following the entry of judgment in the criminal case, the Department implemented an administrative hold on all new license applications or other requests that included Respondent and its foreign subsidiaries, with certain exceptions authorized by the Assistant Secretary for Political-Military Affairs. Respondent's U.S. subsidiary, BAE Systems, Inc., and its U.S. subsidiaries, were not included in the administrative hold, except to the extent the license applications or other requests included Respondent as a party. Based on information received from the U.S. Department of Justice, the Department concluded that BAE Systems, Inc., and its U.S. subsidiaries were not involved in the undisclosed payments.

From March through August 2010, Respondent and the Department engaged in various correspondence and meetings to ascertain the nature of the violations and other possible violations of the ITAR.

Throughout the Department's investigation, Respondent was incapable or reluctant to provide further, meaningful detail on its payment of fees or commissions associated with ITAR-controlled transactions. Respondent indicated that it was constrained from responding due to UK statutes, including the Official Secrets Act of 1989 and the Data Protection Act of 1998; representations from the Government of the UK; and advice from the UK Serious Fraud Office (SFO), proffered during the time period when Respondent was subject of a separate criminal investigation by the SFO, that any internal inquiry conducted by the Respondent would be inappropriate.²

In November 2010, Department officials visited certain facilities of Respondent in the United Kingdom in an effort to understand Respondent's ITAR compliance program. Respondent cooperated during the visit by explaining its current compliance program and provided substantial documentation on the implementation of that program. As a result of that visit, the Department concluded that Respondent had a limited, but insufficient ITAR compliance program before 2007, which lacked adequate oversight, resources and record-keeping to fulfill their obligations under the ITAR. Over the past three years, however, Respondent has made

² The SFO investigation concluded and its decision was accepted by the UK court on December 22, 2010.

substantive improvements to the program and has indicated that it will continue to do so. Respondent has provided transparency on its current compliance program and future compliance objectives.

As a consequence of Respondent's lack of cooperation and other constraints on providing details of past ITAR-controlled activities, the Department was unable to complete a full review of Respondent's ITAR violations. Relying on Department license and registration records, the limited information provided by Respondent, and certain information from the criminal investigation conducted by the U.S. Department of Justice, the Department has produced a reasoned approximation of the nature and type of violations by the Respondent.

VIOLATIONS

This section provides a summary of all known or estimated violations committed by Respondent. Respondent was involved in the following types of ITAR violations: unauthorized brokering of U.S. defense articles and services; causing unauthorized brokering; failure to register as a broker; failure to file annual broker reports; failure to report the payment of fees or commissions associated with defense transactions; and the failure to maintain records involving ITAR-controlled transactions.

Unauthorized Brokering (1997-Present)

Part 129 of the ITAR provides that a foreign person otherwise subject to the jurisdiction of the United States who engages in the business of brokering activities must register with the Department. This requirement was implemented in 1997. In the intervening fourteen years, Respondent has never been registered as a broker with the Department and, as detailed below, should have been registered.³

Pursuant to Part 129 of the ITAR, the Department requires that any foreign person otherwise subject to the jurisdiction of the United States who engages in brokering activities obtain a license or other written approval for

³ Respondent's subsidiaries, BAE Systems, Inc., (U.S.), BAE Systems Australia, Ltd., and BAE Systems (Vehicles and Equipment) Ltd., England and Wales are registered as brokers with the Department.

the brokering activities, unless otherwise exempt under regulation. The Respondent has never obtained written approval to engage in brokering activities. The Department acknowledges that some number of licenses and other approvals have been granted to U.S. applicants that included Respondent as a foreign consignee that would otherwise authorize brokering activities for those particular U.S. defense articles.

Pursuant to section 129.9 of the ITAR, registered brokers are required to provide to the Department an annual report of brokering activities. Respondent, not having been registered as a broker with the Department, has never provided an annual report of brokering activities for the years in which it should have provided a report, 1998-2010.

In 1995, Respondent formed a joint venture with SAAB AB, Sweden by the name of SAAB-BAE Systems Gripen AB.⁴ The primary purpose of the joint venture was to leverage Respondent's expertise in marketing and selling aircraft and providing after-sale services for the JAS-39 Gripen aircraft. Subsequently in 2002, Respondent and SAAB AB formed Gripen International KB for similar reasons. Respondent's subsidiary, BAE Systems (Operations) Ltd., and SAAB AB served for a time as the contracting and payment vehicles for Gripen International KB. In 2005, SAAB AB assumed the marketing responsibility for new campaigns from Respondent, although Respondent continued from 2005 to support marketing efforts in relation to South Africa, the Czech Republic, and Hungary only, and remains a full partner in the joint venture.

From 1995-2004, eight (8) written requests (also known as General Correspondence requests) were approved by the Department for SAAB AB to market JAS-39 Gripen aircraft, which incorporated U.S. defense articles. U.S. defense services were provided to modify the aircraft for major U.S. systems and sub-systems.⁵ The countries and years approved were: Hungary 1995, Poland and Czech Republic 1996, Chile and Philippines 1997, Brazil and South Africa 1998, and Thailand 2004.⁶ Respondent also

⁴ Saab AB and its subsidiaries are not the subject of any investigation related to the transactions described herein.

⁵ Depending upon the country, aircraft configurations included: SA11 fly-by-wire, RM12 turbofan engine, HUD, APU, AGM-65 Maverick ASM, AIM-9 Sidewinder AAM, AIM-120 AMRAAM

⁶ Besides successful lease/sale agreement with Hungary (2004) and lease agreement with Czech Republic (2004), sales agreements occurred with South Africa (2001) and Thailand (2009).

engaged in brokering activities in all eight (8) countries during this period, but did not submit any requests for approval.

From 1998-present, Respondent exported the “Hawk” Trainer aircraft to the following six (6) countries: Indonesia 1999, Australia and Canada 2000, Bahrain and South Africa 2006, and India 2007. The aircraft incorporated U.S. defense articles. U.S. defense services were provided to modify the aircraft for major U.S. systems or sub-systems.⁷ Respondent did not obtain U.S. approval to engage in brokering activities of the U.S. systems or sub-systems as part of the proposed aircraft sale for any of the countries.

From 1998-present, Respondent marketed or exported the EF-2000 Eurofighter “Typhoon” to the following thirteen (13) countries: Australia, Czech Republic, Greece, Netherlands, Norway, Poland, Saudi Arabia, Singapore, and South Korea 1999, Austria 2001, Denmark 2005, Japan 2006, and Switzerland 2008. The aircraft incorporated U.S. defense articles. U.S. defense services were provided to modify the aircraft for major U.S. systems or sub-systems.⁸ Respondent did not obtain U.S. approval to engage in brokering activities of the U.S. systems or sub-systems as part of the proposed aircraft sale for any of the countries.

From 2005-2007, Respondent marketed the upgrade of three (3) refurbished frigates to Chile. The frigates included U.S. defense articles. U.S. defense services were provided to modify the frigate for major U.S. systems or sub-systems.⁹ Respondent did not obtain U.S. approval to engage in brokering activities of the U.S. systems or sub-systems as part of the proposed frigate sale to Chile.

From 1998 to 2007, Respondent engaged in brokering activities and caused others to engage in brokering activities by providing financing through payments to brokers for brokering military systems containing U.S. defense articles and modified by the provision of U.S. defense services for

⁷ Depending upon the country, aircraft configurations included: CAT 7000 TACAN, AN/ARN-153 TACAN, VOR/ILS & ADF, 4720 IFF, AN/ARC-182 U/VHF Transceiver, AN/ARC-210 Transceiver, AN/ARN-147 VOR/ILS, APG-66H Radar, AGM-65 Maverick ASM, AIM-9 Sidewinder AAM.

⁸ Depending upon the country, aircraft configurations included: 36-150 APU, INS/GPS, AIM-120 AMRAAM, AIM-9 Sidewinder, Paveway II & Paveway IV LGBs, Harpoon ASM, and GBU-32 JDAM

⁹ Depending upon the frigate, configurations included: Mk-46 Mod5 torpedoes, Harpoon ASM, Phalanx CIWS, Bushmaster cannon.

major U.S. systems and sub-systems. For example, information provided by the U.S. Department of Justice from its criminal investigation of Respondent indicated that Respondent made payments to two brokers associated with the frigate sales to Chile. These brokers were Cornwall Overseas Corp. and Tasker Investments Ltd., both in the British Virgin Islands.

While the Department lacks complete details, the Department has reasonable cause to believe and to estimate that from 1998 to 2007 when the Respondent claims payments ceased, Respondent directly made no less than one hundred (100) payments to brokers from 1998 to 2007.

Causing Unauthorized Brokering¹⁰

From 1998 to 2007, Respondent used advisers for defense transactions and proposed defense transactions involving U.S. defense articles and services without obtaining authorization from the Department. Information available to the Department indicates that one hundred and thirty-two (132) entities received payments from Respondent through a third party for services rendered from 1995-2007.

In its disclosure of March 10, 2010, Respondent acknowledged the use of eight (8) other advisers just in negotiating the lease/sale agreements for the JAS-39 Gripen aircraft to Czech Republic and Hungary. These included: Alfons Mensdorff-Pouilly, Valurex, CEC, Laris Overseas, Jan Hasek, Dubovny Mlyn, Manor Holdings, and Omnipol.

In an internal company document, Respondent claimed to have three hundred (300) advisers in 1995. During the visit by Department officials to Respondent's facilities in November 2010, the Department concluded that Respondent had an estimated 250 active and inactive advisers in 2007.

Based on the above information, the Department has a reasonable cause to believe and to estimate that Respondent had no less than three hundred (300) advisers cumulatively from 1998-2007 to which it made payments. Although some of the advisers were likely not engaged in ITAR-

¹⁰ Respondent uses the term "adviser," not broker. Based on the service(s) rendered by an adviser, the Department views an adviser as generally analogous to a broker pursuant to 22 C.F.R. § 129.2. Respondent informed the Department that some advisers perform services not regulated pursuant to 22 C.F.R. § 129.2.

controlled brokering activity, the Department concluded that other advisers were engaged in brokering activity that would have required registration and authorization pursuant to 22 C.F.R. §§ 129.3 and 129.7, respectively.

Unauthorized Brokering by Red Diamond

In February 1998, Respondent engaged Uniglobe Aktiengesellschaft (Uniglobe), a trust company in Vaduz, Liechtenstein, to create Red Diamond Trading Ltd., (Red Diamond), an offshore company, located in the British Virgin Islands, in order to, *inter alia*, conceal Respondent's brokering relationships. Although not a subsidiary of Respondent, Uniglobe structured Red Diamond in a manner in which Red Diamond could not act without Respondent's written agreement. Respondent was the ultimate beneficial owner of Red Diamond.

The purpose of Red Diamond was to facilitate payments to third party brokers hired by Respondent. Prior to Red Diamond's creation, Respondent was responsible for all agreements with and payments to its brokers. These brokers or advisors were in one of two categories: confidential and brass plate. Certain entities were considered "overt" and other entities were considered "covert." There were approximately 350 covert agreements with 299 brokers. Red Diamond operated with intent to circumvent the normal payments reviews and at the specific direction of the senior management of Respondent.

From 1998 until 2007 when it was dissolved by Respondent, Red Diamond engaged in unauthorized brokering activities subject to the ITAR by providing financing through payments to brokers for brokering military systems containing U.S. defense articles or military systems that were modified by the provision of U.S. defense services for major U.S. systems and sub-systems.

While the Department lacks complete details, the Department has reasonable cause to believe that during this period, Red Diamond made no fewer than one thousand (1,000) payments to unauthorized brokers on behalf of Respondent.

Undisclosed Payments under Part 130 of the ITAR

In its disclosure of March 10, 2010, Respondent acknowledged making undisclosed payments to unauthorized brokers in association with the re-export of JAS-39 “Gripen” aircraft from Sweden to Czech Republic and Hungary. The re-exports were the subject of written approval by the Department because of U.S. defense articles incorporated in the aircraft. Respondent failed to disclose payments to the Department pursuant to 22 C.F.R. § 130.9.

The Department conducted further review of JAS-39 aircraft transactions and identified a license issued by the Department in June of 2002 to SAAB NA. The license authorized the export of \$160 million worth of U.S. defense articles to support manufacture of JAS-39 aircraft.¹¹ The license included a negative certification pursuant to 22 C.F.R. § 130.9 on fees and commissions. The license was part of a broader transaction involving 1.6 billion BPS worth of Hawk and JAS-39 aircraft to National Defense Force - Air Force, South Africa.

Based on information obtained by the Department, Respondent or its representative Red Diamond made payments to brokers involved in securing the sale to South Africa. Respondent failed to disclose payments as required pursuant to 22 C.F.R. § 130.9.

Record-keeping (Respondent)

Respondent failed to maintain records on its brokering activities, its financing of brokering activities by third parties, and its reporting responsibilities pursuant to 22 C.F.R. § 130.9. In its disclosure of March 10, 2010, Respondent acknowledged that it had not “maintained comprehensive records regarding Part 130 declarations (prior to 2007).” In correspondence dated August 9, 2010, Respondent indicated that it was “not confident that it has complete records prior to 2008.”

¹¹ The aircraft were authorized for distribution (i.e., sale) to South Africa under a Warehouse & Distribution Agreement approved by the Department.

Record-keeping (Red Diamond)

On behalf of Respondent, Red Diamond failed to maintain records on its brokering activities and its financing of brokering activities by third parties.

JURISDICTION

Respondent is a public limited company organized under the laws of England and Wales.

Respondent is a foreign person within the meaning of the AECA and § 120.16 of the ITAR, and subject to the jurisdiction of the Department under the AECA and ITAR for matters identified herein.

During the period covered by the violations set forth herein, Respondent was engaged in brokering activities covered by Part 129 of the ITAR, was engaged in the payment of contributions, fees, or commissions for which it was obligated to provide the Department with information in accordance with Part 130 of the ITAR, and was involved in the manufacture, export and re-export of defense articles and defense services, and was required to be registered as a broker with the Department of State, Directorate of Defense Trade Controls (“DDTC”) in accordance with section 38 of the AECA and § 129.3 of the ITAR.

The defense articles and defense services associated with the violations set forth herein are designated as controlled under various categories of the U.S. Munitions list (“USML”), § 121.1 of the ITAR.¹² These defense articles and defense services include the following items:

The JAS-39 “Gripen” aircraft is controlled under Category VIII(a) of the USML, § 121.1 of the ITAR by virtue of its incorporation of U.S. origin defense articles and the provision of defense services to modify the aircraft for major U.S. defense systems and sub-systems.

¹² U.S. origin defense articles and defense services are controlled under the USML regardless of location. Foreign origin defense articles are controlled under the USML when temporarily imported into the United States.

Engines for the Gripen aircraft are controlled under Category VIII(b) of the USML, § 121.1 of the ITAR.

Parts and components of the Gripen aircraft are controlled under Category VIII(h) of the USML, § 121.1 of the ITAR.

U.S. systems and sub-systems of the Gripen aircraft not otherwise controlled under Category VIII of the USML are controlled under other categories of the USML, § 121.1 of the ITAR (e.g., military electronics are controlled under Category XI of the USML).

The Hawk Trainer aircraft is controlled under Category VIII(a) of the USML, § 121.1 of the ITAR.

Parts and components of the Hawk aircraft are controlled under Category VIII(h) of USML, § 121.1 of the ITAR.

U.S. systems and sub-systems of the Hawk aircraft not otherwise controlled under Category VIII of the USML are controlled under other categories of the USML, § 121.1 of the ITAR (e.g., missiles are controlled under Category IV and military electronics are controlled under Category XI of the USML).

The EF-2000 Eurofighter “Typhoon” aircraft is controlled under Category VIII(a) of the USML, § 121.1 of the ITAR.

Parts and components of the Typhoon aircraft are controlled under Category VIII(h) of USML, § 121.1 of the ITAR.

U.S. systems and sub-systems of the Typhoon aircraft not otherwise controlled under Category VIII of the USML are controlled under other categories of the USML, § 121.1 of the ITAR (e.g., missiles and bombs are controlled under Category IV and military electronics are controlled under Category XI of the USML).

The Frigate Type 23 is controlled under Category VI(a) of the USML, § 121.1 of the ITAR.

U.S. systems and sub-systems of the Frigate Type 23 not otherwise controlled under Category VI of the USML are controlled under other categories of the USML, § 121.1 of the ITAR (e.g., missiles and torpedoes are controlled under Category IV of the USML).

REQUIREMENTS

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 127.1(a)(1) provides that it is unlawful to re-export or re-transfer or attempt to re-export or re-transfer from one foreign destination to another foreign destination by anyone of any U.S. origin defense article for which a license or other approval is required by the ITAR without first obtaining the required license or written approval from the Directorate of Defense Trade Controls.

Section 127.1(a)(6) 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 or obtaining the required license or written approval from the Directorate of Defense Trade Controls.

Section 127.1(d) of the ITAR provides that it is unlawful to knowingly or willfully cause, or aid, abet, counsel, demand, 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.

Section 127.2(a) of the ITAR provides that it is unlawful 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 any defense article or technical data or furnishing of any defense service for which a license or approval is required by the ITAR. Section 127.2(b) provides that export control documents include an application for permanent export license and supporting documents and any other document used in the regulation or control of a defense article or defense service for which a license or approval is required under the ITAR.

Part 129 of the ITAR identifies the requirements for registration of brokers and brokering activities that require written approval or are otherwise exempt from written approval.

Section 129.3(a) of the ITAR provides that any foreign person otherwise subject to the jurisdiction of the United States who engages in the business of brokering activities as defined in Part 129 is required to register with the Directorate of Defense Trade Controls.

Section 129.4(c) of the ITAR provides that any person registered as a broker with the Directorate of Defense Trade Controls maintain records as required under Section 122.5 of the ITAR, including records on brokering activities and information on political contributions, fees or commissions required by Part 130.

Section 129.6 of the ITAR provides that no person may engage in the business of brokering activities without the prior written approval or prior notification to the Directorate of Defense Trade Controls, unless otherwise exempt.

Section 129.9 of the ITAR provides that any person required to register under Part 129 shall provide annually a report to the Directorate of Defense Trade Controls enumerating and describing its brokering activities by quantity, type, U.S. dollar value, and purchaser(s) and recipient(s), license(s) numbers for approved activities and any exemptions utilized for other covered activities.

Section 130.9 of the ITAR provides that applicants must inform the Directorate of Defense Trade Controls as to whether the applicant or its vendors have paid or offered or agreed to pay fees or commissions in respect of any sale for which a license or approval is requested.

Section 130.12(a) provides that every applicant or supplier must obtain from each vendor, from or through whom the applicant acquired defense articles or defense services forming the whole or a part of the sale, a full disclosure by the vendor of all political contributions or fees or commissions paid, by vendor with respect to the sale. Such disclosure must include responses to all the information pertaining to vendor required to

enable applicant or supplier, as the case may be, to comply fully with §§130.9 and 130.10. If so required, they must include the information furnished by each vendor in providing the information specified.

Section 130.12(b) provides that any vendor which has been requested by an applicant or supplier to furnish an initial statement under paragraph (a) of this section must, except as provided in paragraph (c) of this section, furnish such statement in a timely manner and not later than 20 days after receipt of such request.

CHARGES

Charges [1 – 14] – Failure to Register as a Broker

Respondent violated § 129.3 of the ITAR fourteen (14) times when it failed to register as a broker with the Department from 1998 to 2011 while Respondent engaged in brokering activities.

Charges [15 – 1144] – Failure to Obtain Written Approval for Brokering

Respondent violated § 129.6 of the ITAR one hundred and thirty (130) times when Respondent failed to obtain written approval when Respondent engaged in brokering activities – eight (8) times for the JAS-39 aircraft, thirteen (13) times for the EF-2000 aircraft, six (6) times for the Hawk aircraft, three (3) times for the Type 23 frigates, and an estimated one hundred (100) times for financing brokering by making payments to brokers from 1998 to 2007.

Red Diamond Trading Ltd., acting on behalf of and at the direction of Respondent violated § 129.6 of the ITAR an estimated one thousand (1,000) times for financing brokering by making payments to brokers from 1998 to 2007.

Charges [1145 – 1157] – Failure to File Annual Broker Reports

Respondent violated § 129.9 of the ITAR thirteen (13) times when Respondent failed to provide an annual report of brokering activities from 1998 to 2010 when Respondent engaged in brokering activities.

Charges [1158 – 1457] – Causing Unauthorized Brokering

Respondent violated § 127.1(d) of the ITAR three hundred (300) times when Respondent used brokers who were not authorized to engage in brokering activities from 1998 to 2007.

Charges [1458 – 1460] – Failure to Disclose Payments

Respondent violated § 130.9 of the ITAR three (3) times when Respondent failed to disclose payments in respect of a sale for which a license or other approval was required.

Charges [1461 – 2591] – Failure to Maintain Records

Respondent violated § 129.4(c) of the ITAR one hundred and thirty-one (131) times when it failed to maintain records of brokering and financing of brokering by payments to other brokers.

Red Diamond Trading Ltd., acting on behalf of and at the direction of Respondent violated § 129.4(c) of the ITAR an estimated one thousand (1,000) times when it failed to maintain records of brokering and financing of brokering by payments to other brokers.

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 section 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. Currently, this is a proposed charging letter. However, in the event that you are served with a charging letter, you are

advised of the following matters: 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, in the event that you are served with a charging letter, 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 administrative law judge designated by the Department to hear the case. These documents should be mailed to the administrative law judge 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 Managing Director, Directorate of 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 also that charging letters may be amended from time to time, upon reasonable notice. Furthermore, pursuant to § 128.11 of the ITAR, cases may be settled through consent agreements, including after service of a proposed charging letter.

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 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,

U.S. Department of State