

January 14, 2003

AMENDED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

MMT, Metal & Mineral Trade SARL
Rue Pierre D'Aspelt
1142 Luxembourg
Luxembourg

Attention: *Ahmad Katani*
Partner

Dear Mr. Katani:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), files this amended charging letter that replaces the charging letter issued to you on June 20, 2002.

BIS has reason to believe that MMT, Metal & Mineral Trade SARL ("MMT") violated the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979 (the "Act"),² on six occasions. Specifically, BIS charges that MMT committed the following violations:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The violations charged occurred in 1998-2000 and 2002. The Regulations governing the violations at issue are found in the 1998 and 1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-2000 & 2002)).

² 50 U.S.C. app. 2401- 2420 (1994 & Supp. V. 1999). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (1994 & Supp. V 1999)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 *Fed. Reg.* 44025 (August 22, 2001)), as extended by the Notice of August 14, 2002 (67 *Fed. Reg.* 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.

Charge 1 (15 C.F.R. § 764.2(b) - Aiding & Abetting Unauthorized Exportation to Iran)

On or about June 4, 1999, MMT aided and abetted a violation of the Regulations, that is the export of spare parts for mining machinery, items subject to the Regulations and to the Iran Transactions Regulations, from the United States to Iran via Germany without prior authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by § 746.7 of the Regulations. In doing so, MMT violated Section 764.2(b) of the Regulations.

Charge 2 (15 C.F.R. § 764.2(b) - Aiding & Abetting Unauthorized Exportation to Iran)

On or about November 17, 1999, MMT aided and abetted a violation of the Regulations, that is the export of rotary hammers, items subject to the Regulations and to the Iran Transactions Regulations, from the United States to Iran via Germany without prior authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by § 746.7 of the Regulations. In doing so, MMT violated Section 764.2(b) of the Regulations.

Charge 3 (15 C.F.R. § 764.2(b) - Causing an Unauthorized Exportation to Iran)

On or about April 26, 2000, MMT caused the exportation of vehicle spare parts, items subject to the Regulations and to the Iran Transactions Regulations, from the United States to Iran via Germany without prior authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by § 746.7 of the Regulations. In doing so, MMT violated Section 764.2(b) of the Regulations.

Charge 4 (15 C.F.R. § 764.2(b) - Causing an Unauthorized Exportation to Iran)

On or about August 27, 2000, MMT caused the exportation of vehicle spare parts, items subject to the Regulations and to the Iran Transactions Regulations, from the United States to Iran via Germany without prior authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by § 746.7 of the Regulations. In doing so, MMT violated Section 764.2(b) of the Regulations.

Charge 5 (15 C.F.R. § 764.2(b) - Causing an Unauthorized Exportation to Iran)

On or about August 4, 2002, MMT caused the exportation of an electric motor, an item subject to the Regulations and to the Iran Transactions Regulations, from the United States to Iran via Germany without prior authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by § 746.7 of the Regulations. In doing so, MMT violated Section 764.2(b) of the Regulations.

Charge 6 (15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation)

On or after August 4, 2002, MMT transported the item referred to in Charge 5 knowing that the item was to be exported from the United States to Iran via Germany in violation of the Regulations. In doing so, MMT violated Section 764.2(e) of the Regulations.

Accordingly, MMT is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of up to \$12,000 per violation;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

MMT is reminded that if it fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. (Regulations, Sections 766.6 and 766.7). If MMT defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to MMT. The Under Secretary of Commerce for Export Administration may then impose up to the maximum penalty on each of the charges in this letter.

MMT is further reminded that it is entitled to an agency hearing on the record if MMT files a written demand for one with its answer. (Regulations, Section 766.6). MMT is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should you have a proposal to settle this case, you or your representative should transmit it to me through the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, MMT's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

³Pursuant to 15 C.F.R. §6.4(a)(2), the maximum penalty violations one through four is \$11,000, and the maximum penalty for violations five and six is \$12,000.

MMT
Amended Charging Letter
Page 4

In addition, a copy of MMT's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Peter R. Klason
Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Peter R. Klason is the attorney representing BIS in this case; any communications that you may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5304.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

_____)	
In the Matter of:)	
)	
Metal & Mineral Trade Sarl.)	Docket No. 02-BIS-10
Rue Pierre D'Aspelt)	
1142 Luxembourg)	
Luxembourg)	
)	
Respondent)	

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Metal & Mineral Trade Sarl. (“MMT”) and the Bureau of Industry and Security, United States Department of Commerce (“BIS”), pursuant to Section 766.18(b) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2003)) (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² and which are currently maintained in force under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (2000)).

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003). The violations charged occurred from 1999 to 2002. The Regulations governing the violations are codified at 15 C.F.R. Parts 730-774 (1999-2002). They are substantially the same as the 2003 version of the Regulations which govern the procedural aspects of this case.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (2000)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. The Act expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 Fed. Reg. 47833, August 11, 2003), continues the Regulations in effect under IEEPA.

WHEREAS, BIS has initiated an administrative proceeding against MMT pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a charging letter to MMT that alleged that MMT committed six violations of the Regulations. Specifically, the charges are that MMT committed violations of the Regulations by aiding and abetting the export of items from the United States to Iran without the required authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by the Regulations on two occasions; by causing the export of items from the United States to Iran without the required authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by the Regulations on three occasions; and by acting with knowledge of a violation of the Regulations on one occasion.

WHEREAS, MMT has reviewed the charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, MMT fully understands the terms of this Agreement and the Order that will be issued to give effect to this Settlement Agreement (“Order”);

WHEREAS, MMT enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, MMT states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, MMT neither admits nor denies the allegations contained in the charging letter;

WHEREAS, MMT wishes to settle and dispose of all matters alleged in the charging letter by entering into this Agreement; and

WHEREAS, MMT agrees to be bound by the Order, when entered;

NOW THEREFORE, MMT and BIS agree as follows:

1. BIS has jurisdiction over MMT, under the Regulations, in connection with the matters alleged in the charging letter.

2. The following sanctions shall be imposed against MMT in complete settlement of the alleged violations set forth in the charging letter:

a. For a period of five years from the date of the Order, MMT, and, when acting for or on behalf of MMT, its representatives, agents, assigns, or employees (“denied persons”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

1. Applying for, obtaining, or using any license, License Exception, or export control document;
2. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting,

- financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
3. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- b. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the final three years of the five-year denial period against MMT set forth in paragraph 2a. shall be suspended for a period of five years from the entry of the Order, and shall thereafter be waived, provided that during the period of suspension, MMT has not committed a violation of the Act or any regulation, order or license issued thereunder.
 - c. MMT shall be assessed a civil penalty in the amount of \$35,000, which shall be paid in accordance with the instructions provided, within 30 days from the date of the Order.
 - d. The timely payment of the civil penalty agreed to in paragraph 2c. is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to MMT.
3. MMT agrees that, subject to the approval of this Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, when entered), including, without



limitation, any right to: (a) an administrative hearing regarding the allegations in the charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, when entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, when entered.

4. BIS agrees that, upon entry of the Order, it will not initiate any administrative proceeding against MMT in connection with any violation of the Act or the Regulations arising out the transactions identified in the charging letters pending against MMT or Ahwaz Steel Commercial & Technical Service Gmbh. (docket no. 02-BIS-11). BIS additionally agrees that it will withdraw the pending charging letter against MMT in docket number 02-BIS-10 from adjudication by the Administrative Law Judge.

5. MMT understands that BIS will make the charging letter, this Agreement, and the Order, when entered, available to the public.

6. BIS and MMT agree that this Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(b) of the Regulations, BIS and MMT agree that they may not use this Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, when entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by



any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on BIS only when the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE

METAL & MINERAL TRADE
SARL.



Jon A. Dyck
Chief Counsel for
Industry and Security



Ahmad Katani
Partner

Date: 11/13/07

Date: 04 - Nov - 2007



UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)	
)	
Metal & Mineral Trade Sarl.)	
Rue Pierre D'Aspelt)	Docket No. 02-BIS-10
1142 Luxembourg)	
Luxembourg,)	
)	
Respondent)	

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), having initiated an administrative proceeding against Metal & Mineral Trade Sarl. (“MMT”) pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“Regulations”),² based on allegations in a charging letter issued to MMT that alleged that MMT committed six violations of the Regulations, specifically that MMT committed violations of the Regulations by aiding and abetting the export of items from

¹ From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (2000)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. The Act expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 Fed. Reg. 47833, August 11, 2003), continues the Regulations in effect under IEEPA.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003). The violations charged occurred from 1999 to 2002. The Regulations governing the violations are codified at 15 C.F.R. Parts 730-774 (1999-2002). They are substantially the same as the 2003 version of the Regulations which govern the procedural aspects of this case.

the United States to Iran without the required authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by the Regulations on two occasions; by causing the export of items from the United States to Iran without the required authorization from the Office of Foreign Assets Control, Department of the Treasury, as required by the Regulations on three occasions; and by acting with knowledge of a violation of the Regulations on one occasion; and

BIS and MMT having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that, for a period of five years from the date of this Order (hereinafter the “Denial Period”), Metal & Mineral Trade Sarl., Rue Pierre D’Aspelt, 1142 Luxembourg, Luxembourg, shall be denied its U.S. export privileges as described herein. MMT, and all of its successors, assigns, officers, representatives, agents, and employees, may not participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

SECOND, that, during the Denial Period, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a person subject to this Order any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by a person subject to this Order of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a person subject to this order acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a person subject to this Order of any item subject to the Regulations that has been exported from the United States;

D. Obtain from a person subject to this Order in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by a person subject to this Order, or service any item, of whatever origin, that is owned, possessed or controlled by a person subject to this Order if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that after notice and opportunity for comment as provided in section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this order.

FOURTH, that this order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

FIFTH, that, as authorized by Section 766.18(c) of the Regulations, the final three years of the Denial Period set forth above shall be suspended for five years from the date of entry of this Order, and shall thereafter be waived, provided that, during the period of suspension, MMT

Order
Metal & Mineral Trade Sarl.
Page 5 of 6

has not committed a violation of the Act or any regulation, license, or order, including this Order, issued thereunder.

SIXTH, that a civil penalty of \$35,000 is assessed against MMT which shall be paid to the U.S. Department of Commerce within thirty days from the date of entry of this Order.

Payment shall be made in the manner specified in the attached instructions.

SEVENTH, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§3701-3720E (1983 and Supp. 2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, MMT will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

EIGHTH, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to MMT.

NINTH, that the charging letter, the Settlement Agreement, and this Order shall be made available to the public.

TENTH, that a copy of this Order shall be delivered to the Honorable Edwin M. Bladen, Administrative Law Judge, United States Coast Guard, 915 Second Avenue, Room 3448, Jackson Federal Building, Seattle, Washington 98174; and to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, providing notification that case number 02-BIS-10 naming MMT as a respondent is withdrawn from adjudication, as

Order
Metal & Mineral Trade Sarl.
Page 6 of 6

provided by Section 766.18(b) of the Regulations.

This Order, which constitutes the final agency action in this matter, is effective immediately.


Julie L. Myers
Assistant Secretary of Commerce
for Export Enforcement

Entered this 17th day of November, 2003.