

DRAFT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

GE Medical Systems Ultrasound and Primary Care Disgnostics, Inc.  
3000 N Grandview Blvd.  
Waukaesha, Wisconsin 53188

Attention: *William Clements*  
*Counsel, International Trade Regulation*

Dear Mr. Clements:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that GE Medical Systems Ultrasound and Primary Care Diagnostics, Inc. ("GE Medical"), as successor to Lunar Eupore, N.V., violated the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the "Act"),<sup>2</sup> on 13 occasions. Specifically, BIS charges that GE Medical is liable for the following violations:

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

<sup>2</sup> 50 U.S.C. app. 2401- 2420 (2000). 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/>.

**Charges 1-13 (15 C.F.R. §764.2(c) - Causing an Export in Violation of the Regulations)**

On 13 occasions, between on or about May 20, 1998 and on or about March 22, 2000, Lunar Europe N.V. caused the export from the United States to Iran of bone densitometer equipment, items subject to the Regulations and subject to the Iran Transactions Regulations, without prior authorization from the Office of Foreign Assets Control, U.S. Department of the Treasury, as required in Section 746.7 of the Regulations. *See* Schedule A, which is enclosed herewith and incorporated herein by reference. In doing so, Lunar Europe N.V. committed 13 violations of Section 764.2(c) of the Regulations and, as successor to Lunar Europe N.V., GE Medical is liable for these violations.

Accordingly, GE Medical 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 \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If GE Medical 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 GE Medical defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to GE Medical. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

GE Medical is further notified that it is entitled to an agency hearing on the record if GE Medical files a written demand for one with its answer. (Regulations, Section 766.6). GE Medical 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.

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<sup>3</sup> *See* 15 C.F.R. § 6.4(a)(2).

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The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, GE Medical'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

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

Office of 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

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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) 482-5301.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosure

## SCHEDULE A

CHARGE NUMBER	DATE OF VIOLATION	SYSTEM NUMBER	VALUE
2	May 20, 1998	DQW 5983	\$33,003.34
3	August 26, 1998	DMD-2919, DMD-2920, DMD-2921, DMD-2926	\$141,780.00
4	May 7, 1999	DMD-7164	\$32,815.00
5	June 2, 1999	DMD-3095	\$28,050.00
6	June 2, 1999	1319	\$82,400.00
7	July 28, 1999	DMD-7308	\$31,000.00
8	September 1, 1999	DMD-7275	\$32,815.00
9	September 24, 1999	DMD-7360	\$31,000.00
10	October 15, 1999	DMD-7394	\$32,815.00
11	November 3, 1999	DMD-3113	\$33,945.00
12	June 2, 1999*	20782	\$10,320.00
13	August 27, 1999*	DMD-7349	\$34,913.00
14	March 22, 2000*	DMD-3134	\$33,005.00

\* For these exports the date of shipment is unknown, so the date that the order was booked is included in this chart.

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

In the Matter of: )  
)  
GE Ultrasound and Primary Care Diagnostics LLC )  
3000 N Grandview Blvd. )  
Waukaesha, Wisconsin 53188 )  
)  
)  
Respondent )

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between GE Ultrasound and Primary Care Diagnostics LLC (“GE Ultrasound”), as successor to Lunar Eupore, N.V., and the Bureau of Industry and Security, United States Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup>

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<sup>1</sup> The violations charged occurred between 1998 and 2000. The Regulations governing the violations at issue are found in the 1998, 1999, and 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-2000)). The 2004 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through 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 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), continues the Regulations in effect under IEEPA.

WHEREAS, BIS has notified GE Ultrasound of its intention to initiate an administrative proceeding against GE Ultrasound, pursuant to the Act and the Regulation;

WHEREAS, BIS has issued a proposed charging letter to GE Ultrasound that alleged that Lunar Europe N.V., a predecessor corporation to GE Ultrasound, committed 13 violations of the Regulations, specifically:

1. *13 Violations of 15 C.F.R. §764.2(b) - Causing an Export in Violation of the Regulations:* On 13 occasions, between on or about May 20, 1998 and on or about March 22, 2000, Lunar Europe N.V. caused the export from the United States to Iran of bone densitometer equipment, items subject to the Regulations and subject to the Iranian Transactions Regulations, without prior authorization from the Office of Foreign Assets Control, U.S. Department of the Treasury, as required in Section 746.7 of the Regulations. In doing so, Lunar Europe N.V. committed 13 violations of Section 764.2(b) of the Regulations and, as successor to Lunar Europe N.V., GE Ultrasound is liable for these violations.

WHEREAS, GE Ultrasound has reviewed the proposed 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, GE Ultrasound fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

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

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

WHEREAS, GE Ultrasound neither admits nor denies the allegations contained in the proposed charging letter;

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

WHEREAS, GE Ultrasound agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanctions shall be imposed against GE Ultrasound in complete settlement of the violations of the Regulations set forth in the proposed charging letter:

- a. GE Ultrasound shall be assessed a civil penalty in the amount of \$32,500 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity or any export license, permission, or privilege granted, or to be granted, to GE Ultrasound.

in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

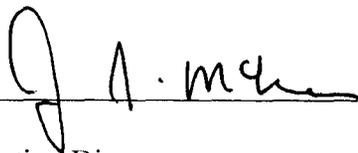
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on BIS only if 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

GE ULTRASOUND AND PRIMARY  
CARE DIAGNOSTICS LLC



Acting Director  
Office of Export Enforcement



Jason D. Hanson

Date: 10/01/04

Date: Sept. 28, 2004

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

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In the Matter of: )  
)  
GE Ultrasound and Primary Care Diagnostics LLC )  
3000 N Grandview Blvd. )  
Waukaesha, Wisconsin 53188 )  
)  
)  
)  
Respondent )

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ORDER.

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having notified GE Ultrasound and Primary Care Diagnostics LLC (“GE Ultrasound”), as successor to Lunar Europe, N.V., of its intention to initiate an administrative proceeding against GE Ultrasound pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> based on the proposed charging letter issued to GE Ultrasound that alleged that Lunar Europe, N.V., a

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<sup>1</sup> The violations charged occurred between 1998 and 2000. The Regulations governing the violations at issue are found in the 1998, 1999, and 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-2000)). The 2004 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through 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 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), continues the Regulations in effect under IEEPA.

predecessor corporation to GE Ultrasound, committed 13 violations of the Regulations.

Specifically, the charges are:

- 1. 13 Violations of 15 C.F.R. §764.2(b) - Causing an Export in Violation of the Regulations:* On 13 occasions, between on or about May 20, 1998 and on or about March 22, 2000, Lunar Europe N.V. caused the export from the United States to Iran of bone densitometer equipment, items subject to the Regulations and subject to the Iranian Transactions Regulations, without prior authorization from the Office of Foreign Assets Control, U.S. Department of the Treasury, as required in Section 746.7 of the Regulations. In doing so, Lunar Europe N.V. committed 13 violations of Section 764.2(b) of the Regulations and, as successor to Lunar Europe N.V., GE Ultrasound is liable for these violations.

BIS and GE Ultrasound having entered into a Settlement Agreement pursuant to Section 766.18(a) 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 a civil penalty of \$32,500 is assessed against GE Ultrasound which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

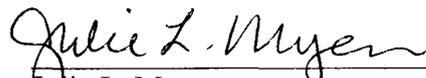
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein,

GE Ultrasound 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.

THIRD, 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 GE Ultrasound. Accordingly, if GE Ultrasound should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of GE Ultrasound's export privileges for a period of one year from the date of entry of this Order.

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

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

  
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Julie L. Myers  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 18<sup>th</sup> day of October 2004.