

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Bullard Gmbh  
Hochkreuzallee 36  
53175 Bonn  
Germany

Attention: *Stefan Roemer*  
*European Sales Manager*

Dear Mr. Roemer:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that Bullard Gmbh ("Bullard Germany"), of Bonn, Germany, has committed six violations of 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> Specifically, BIS charges that Bullard Germany committed the following violations:

---

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The violations charged occurred in 2000 and 2001. The Regulations governing the violations at issue are found in the 2000 and 2001 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2001)). The 2004 Regulations govern the procedural aspects of this case.

<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 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 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 (Aug. 10, 2004)), continues the Regulations in effect under IEEPA.

**Charges 1-3 (15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras in Violation of License Conditions)**

On three occasions, between on or about December 12, 2000 and May 20, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring five thermal imaging cameras classified under Export Control Classification Number ("ECCN") 6A003.b.4 to Austria in violation of condition 5 of license D280601, which authorized the export and resale, reexport, or transfer of such cameras to Germany for distribution within countries that are members of the North Atlantic Treaty Organization ("NATO"). Austria is not a member of NATO, and Section 742.6 of the Regulations requires a license for the export or resale, reexport, or transfer of thermal imaging cameras classified under ECCN 6A003.b.4 to Austria. *See* Schedule A, which is enclosed herewith and incorporated herein by reference. In so doing, Bullard Germany committed three violations of Section 764.2(a) of the Regulations.

**Charge 4 (15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras in Violation of License Condition)**

On one occasion, on or about January 10, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring five thermal imaging cameras classified under ECCN 6A003.b.4 to Switzerland in violation of condition 4 of license D279296, which authorized the export and resale, reexport, or transfer of such cameras to Germany for distribution within countries that are members of the NATO. Switzerland is not a member of NATO, and Section 742.6 of the Regulations requires a license for the export or resale, reexport, or transfer of thermal imaging cameras classified under ECCN 6A003.b.4 to Switzerland. *See* Schedule A, which is enclosed herewith and incorporated herein by reference. In so doing, Bullard Germany committed one violation of Section 764.2(a) of the Regulations.

**Charge 5 (15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras to a Destination not Authorized by License)**

On one occasion, on or about May 8, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring one thermal imaging camera classified under ECCN 6A003.b.4 to Austria in violation of condition 5 of license D280642, which authorized the export of such camera to Switzerland. Section 742.6 of the Regulations requires a license for the export or resale, reexport, or transfer of thermal imaging cameras classified under ECCN 6A003.b.4 to Austria. *See* Schedule A, which is enclosed herewith and incorporated herein by reference. In so doing, Bullard Germany committed one violation of Section 764.2(a) of the Regulations.

**Charge 6 (15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras to a Destination not Authorized by License)**

On one occasion, on or about September 28, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring one thermal imaging camera classified under ECCN 6A003.b.4 to France in violation of condition 5 of license D280663, which authorized the export of such camera to Germany. Section 742.6 of the Regulations requires a license for the export of thermal imaging cameras classified under ECCN 6A003.b.4 to France. *See* Schedule A, which is enclosed herewith and incorporated herein by reference. In so doing, Bullard Germany committed one violation of Section 764.2(a) of the Regulations.

Accordingly, Bullard Germany 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 Bullard Germany 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 Bullard Germany defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Bullard Germany. 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.

Bullard Germany is further notified that it is entitled to an agency hearing on the record if Bullard Germany files a written demand for one with its answer. (Regulations, Section 766.6). Bullard Germany 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 through the attorney representing BIS named below.

---

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

Bullard Gmbh  
Proposed Charging Letter  
Page 4

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Bullard Germany'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 Bullard Germany'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) 482-5301.

Sincerely,

Acting Director  
Office of Export Enforcement

Enclosure

## SCHEDULE A

CHARGE NUMBERS	DATE OF VIOLATION	DESTINATION	COMMODITY EXPORTED (All ECCN 6A003)	LICENSE NUMBER	SERIAL NUMBERS	VALUE	VIOLATIONS CHARGED
1	12/12/00	Austria	3 Thermal imaging cameras	D279296	3530, 3553, 1948	DM126,000	15 C.F.R. § 764.2(a)
2	4/4/01	Austria	1 Thermal imaging camera	D280601	3942	\$6,200.00	15 C.F.R. § 764.2(a)
3	4/20/01	Austria	1 Thermal imaging camera	D280601	3980	\$6,200.00	15 C.F.R. § 764.2(a)
4	1/10/01	Switzerland	3 Thermal imaging cameras	D279296	3537, 3552, 3535	DM85,100	15 C.F.R. § 764.2(a)
5	5/8/01	Austria	1 Thermal imaging camera	D280642	4030	\$6,200.00	15 C.F.R. § 764.2(a)
6	9/28/01	France	1 Thermal imaging camera	D280663	4447	\$6,200.00	15 C.F.R. § 764.2(a)

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

.....  
In the Matter of: )  
 )  
Bullard GmbH )  
Hochkreuzallee 36 )  
53175 Bonn )  
Germany )  
 )  
Respondent )  
.....

.....  
SETTLEMENT AGREEMENT  
.....

This Settlement Agreement ("Agreement") is made by and between Bullard GmbH ("Bullard Germany"), and the Bureau of Industry and Security, U.S. 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 (2005)) ("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>

.....  
<sup>1</sup> The violations charged occurred in 2000 and 2001. The Regulations governing the violations at issue are found in the 2000 and 2001 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2001)). The 2005 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 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 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004, (69 Fed. Reg. 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

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

WHEREAS, BIS has issued a proposed charging letter to Bullard Germany that alleged that Bullard Germany committed six violations of the Regulations, specifically:

1. *Three Violations of 15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras in Violation of License Conditions.* On three occasions, between on or about December 12, 2000 and May 20, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring five thermal imaging cameras classified under Export Control Classification Number ("ECCN") 6A003.b.4 to Austria in violation of condition 5 of license D280601, which authorized the export and resale, reexport, or transfer of such cameras to Germany for distribution within countries that are members of the North Atlantic Treaty Organization ("NATO"). Austria is not a member of NATO, and Section 742.6 of the Regulations requires a license for the export or resale, reexport, or transfer of thermal imaging cameras classified under ECCN 6A003.b.4 to Austria.
2. *One Violation of 15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras in Violation of License Condition.* On one occasion, on or about January 10, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring five thermal imaging cameras classified under ECCN 6A003.b.4 to Switzerland in violation of

condition 4 of license D279296, which authorized the export and resale, reexport, or transfer of such cameras to Germany for distribution within countries that are members of the NATO. Switzerland is not a member of NATO, and Section 742.6 of the Regulations requires a license for the export or resale, reexport, or transfer of thermal imaging cameras classified under ECCN 6A003.b.4 to Switzerland.

3. *One Violation of 15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras to a Destination not Authorized by License.* On one occasion, on or about May 8, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring one thermal imaging camera classified under ECCN 6A003.b.4 to Austria in violation of condition 5 of license D280642, which authorized the export of such camera to Switzerland. Section 742.6 of the Regulations requires a license for the export or resale, reexport, or transfer of thermal imaging cameras classified under ECCN 6A003.b.4 to Austria.
4. *One Violation of 15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras to a Destination not Authorized by License.* On one occasion, on or about September 28, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring one thermal imaging camera classified under ECCN 6A003.b.4 to France in violation of condition 5 of license D280663, which authorized the export of such camera to

Germany. Section 742.6 of the Regulations requires a license for the export of thermal imaging cameras classified under ECCN 6A003.b.4 to France.

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

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

WHEREAS, Bullard Germany neither admits nor denies the allegations contained in the proposed charging letter;

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

WHEREAS, Bullard Germany agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

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

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

- a. Bullard Germany shall be assessed a civil penalty in the amount of \$36,000, of which \$9,000 shall be paid to the United States Department of Commerce not later than May 31, 2005; \$9,000 shall be paid to the United States Department of Commerce by not later than August 31, 2005; \$9,000 shall be paid to the United States Department of Commerce by not later than November 30, 2005; and \$9,000 shall be paid to the United States Department of Commerce by not later than February 28, 2006. Payment shall be made in the manner specified in the attached instructions.
- 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 of any export license, License Exception, permission, or privilege granted, or to be granted, to Bullard Germany. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Bullard Germany's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Bullard Germany hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from

the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order, BIS will not initiate any further administrative proceeding against Bullard Germany in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. 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(a) of the Regulations, no Party may use this Agreement 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 U.S. 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

BULLARD GMBH



Michael D. Turner  
Director  
Office of Export Enforcement



Eric D. Pasch  
Managing Director

Date: 6/1/2005

Date: 5/24/05

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

.....  
In the Matter of: )  
 )  
Bullard Gmbh )  
Hochkreuzallee 36 )  
53175 Bonn )  
Germany )  
 )  
Respondent )  
.....

ORDER RELATING TO BULLARD GMBH

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has notified Bullard Gmbh ("Bullard Germany") of its intention to initiate an administrative proceeding against it pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) ("Regulations"),<sup>1</sup> and Section 13(e) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),<sup>2</sup> by issuing a proposed charging letter issued to Bullard Germany that alleged that it committed six violations of the Regulations. Specifically, the charges are:

---

<sup>1</sup> The charged violations occurred in 2000 and 2001. The Regulations governing the violations at issue are found in the 2000 and 2001 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2001)). The 2005 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 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. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004, (69 Fed. Reg. 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

1. *Three Violations of 15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras in Violation of License Conditions.* On three occasions, between on or about December 12, 2000 and May 20, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring five thermal imaging cameras classified under Export Control Classification Number ("ECCN") 6A003.b.4 to Austria in violation of condition 5 of license D280601, which authorized the export and resale, reexport, or transfer of such cameras to Germany for distribution within countries that are members of the North Atlantic Treaty Organization ("NATO"). Austria is not a member of NATO, and Section 742.6 of the Regulations requires a license for the export or resale, reexport, or transfer of thermal imaging cameras classified under ECCN 6A003.b.4 to Austria.
  
2. *One Violation of 15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras in Violation of License Condition.* On one occasion, on or about January 10, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring five thermal imaging cameras classified under ECCN 6A003.b.4 to Switzerland in violation of condition 4 of license D279296, which authorized the export and resale, reexport, or transfer of such cameras to Germany for distribution within countries that are members of the NATO. Switzerland is not a member of NATO, and Section 742.6 of the Regulations requires a license for the export or resale, reexport, or transfer of thermal imaging cameras classified under ECCN 6A003.b.4 to Switzerland.

3. *One Violation of 15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras to a Destination not Authorized by License.* On one occasion, on or about May 8, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring one thermal imaging camera classified under ECCN 6A003.b.4 to Austria in violation of condition 5 of license D280642, which authorized the export of such camera to Switzerland. Section 742.6 of the Regulations requires a license for the export or resale, reexport, or transfer of thermal imaging cameras classified under ECCN 6A003.b.4 to Austria.
4. *One Violation of 15 C.F.R. § 764.2(a) - Reselling, Reexporting, or Transferring Thermal Imaging Cameras to a Destination not Authorized by License.* On one occasion, on or about September 28, 2001, Bullard Germany engaged in conduct prohibited by the Regulations by reselling, reexporting, or transferring one thermal imaging camera classified under ECCN 6A003.b.4 to France in violation of condition 5 of license D280663, which authorized the export of such camera to Germany. Section 742.6 of the Regulations requires a license for the export of thermal imaging cameras classified under ECCN 6A003.b.4 to France.

WHEREAS, BIS and Bullard Germany have 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

WHEREAS, I have approved the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$36,000 is assessed against Bullard Germany, of which \$9,000 shall be paid to the U.S. Department of Commerce not later than May 31, 2005; \$9,000

shall be paid to the U.S. Department of Commerce by not later than August 31, 2005; \$9,000 shall be paid to the U.S. Department of Commerce by not later than November 30, 2005; and \$9,000 shall be paid to the U.S. Department of Commerce by not later than February 28, 2006. 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, Bullard Germany 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 Bullard Germany. Accordingly, if Bullard Germany should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Bullard Germany'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.

Wendy L. Wysong  
Wendy L. Wysong  
Acting Assistant Secretary of Commerce  
for Export Enforcement

Entered this 6<sup>th</sup> day of June 2005.