

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

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In the Matter of: )  
 )  
Cryostar-France SA )  
Zone Industrielle, BP 48 )  
F-68220 Hesingue France )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO CRYOSTAR-FRANCE SA

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Cryostar-France SA (“Cryostar”), 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 (2007)) (“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> by issuing a proposed charging letter to Cryostar that alleged that Cryostar committed seven violations of the Regulations. Specifically, the charges are:

<sup>1</sup> The violations alleged to have been committed occurred in 2001-2004. The Regulations governing the violations at issue are found in the 2001-2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2004)). The 2007 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charge 1 15 C.F.R. §764.2(d) - Conspiracy to Export Cryogenic Pumps to Iran without the Required U.S. Government Authorization**

Between on or about October 1, 2001 and continuing through on or about August 31, 2003, Cryostar conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations by agreeing to export cryogenic pumps from the United States to Iran without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, authorization was required from the Office of Foreign Assets Control, U.S. Department of Treasury ("OFAC") before the cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations<sup>3</sup>, could be exported from the United States to Iran. Pursuant to Section 560.204 of the Iranian Transactions Regulations, an export to a third country intended for transshipment to Iran is a transaction subject to the Iranian Transaction Regulations. In furtherance of the conspiracy, Cryostar and its co-conspirators devised and employed a scheme under which a co-conspirator in the United States would sell the pumps to Cryostar in France, who would then resell the pumps to another co-conspirator in France, who would then forward the pumps to a petrochemical company in Iran. In so doing, Cryostar committed one violation of Section 764.2(d) of the Regulations.

**Charge 2 15 C.F.R. §764.2(b) - Aiding and Abetting the Export of Cryogenic Pumps to Iran Without the Required U.S. Government Authorization**

In connection with the conspiracy referenced in Charge 1, between on or about March 11, 2002 and on or about April 2, 2003, Cryostar aided and abetted the doing of an act prohibited by the Regulations. Specifically, Cryostar ordered cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, from a co-conspirator in the United States and then forwarded the cryogenic pumps to another co-conspirator knowing the country of ultimate destination was Iran. Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required for the export of cryogenic pumps to Iran and no authorization was obtained. In so doing, Cryostar committed one violation of Section 764.2(b) of the Regulations.

**Charge 3 15 C.F.R. § 764.2(e) - Acting with Knowledge that a Violation of the Regulations was to Occur**

In connection with export referenced in Charge 2, between on or about March 11, 2002 and on or about April 2, 2003, Cryostar ordered and forwarded cryogenic pumps with knowledge that a violation of the Regulations would occur in connection with the items. At all times relevant hereto, Cryostar knew that prior authorization was required from OFAC to export the cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, from the United States to Iran. Cryostar ordered the items from a co-conspirator in the United States and then forwarded the items to another co-conspirator knowing that the country of ultimate destination for the cryogenic pumps was Iran and

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<sup>3</sup> 31 C.F.R. Part 560 (2001-2004)

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Cryostar-France SA

that the required U.S. Government authorization had not been obtained. In so doing, Cryostar committed one violation of Section 764.2(e) of the Regulations

**Charge 4 15 C.F.R. §764.2(c)-Attempted Export of Cryogenic Pumps to Iran without the Required U.S. Government Authorization**

In connection with the conspiracy referenced in Charge 1, between on or about September 20, 2002 and or about August 25, 2003, Cryostar and co-conspirators attempted a violation of the Regulations when they tried to export cryogenic pumps from the United States to Iran without the required U.S. Government Authorization. Pursuant to Section 746.7 of the Regulations, OFAC authorization was required to export cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, from the United States to Iran and no authorization was obtained. In so doing, Cryostar committed one violation of Section 764.2(c) of the Regulations.

**Charge 5 15 C.F.R. § 764.2(e) -Acting with Knowledge that a Violation of the Regulations was to Occur**

In connection with the attempted export referenced in Charge 4, between on or about September 20, 2002 and or about August 25, 2003, Cryostar ordered cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, with the knowledge that a violation of the Regulations was intended to occur in connection with the items. At all times relevant hereto, Cryostar knew that OFAC authorization was required to export cryogenic pumps from the United States to Iran. Cryostar ordered the cryogenic pumps from a co-conspirator in the United States with the intent to forward the items to another co-conspirator knowing that the country of ultimate destination was Iran and that no authorization was obtained. In so doing, Cryostar committed one violation of Section 764.2(e) of the Regulations.

**Charge 6 15 C.F.R. §764.2(h) - Actions to Evade the Requirements of the Regulations**

In connection with the conspiracy referenced in Charge 1, between on or about October 1, 2001 and on or about August 31, 2003, Cryostar took actions to evade the U.S. Government's licensing requirements for the export of cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, to Iran. Specifically, Cryostar gave a co-conspirator Cryostar company letterhead in order to falsify documents by allowing the co-conspirator to place engineering documents, correspondence, and inspection reports on Cryostar letterhead. This falsification of documents was done to conceal the fact that the cryogenic pumps originated from the United States. In so doing, Cryostar committed one violation of Section 764.2(h) of the Regulations.

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**Charge 7      15 C.F.R. §764.2(g) - False Statements to an Office of Export Enforcement Special Agent in the Course of an Investigation.**

On or about May 18, 2004, in connection with an ongoing BIS, Office of Export Enforcement ("OEE") investigation into the unauthorized export of cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, to Iran, Cryostar's Director of Marketing and Sales, represented to an OEE Special Agent that he was convinced that a co-conspirator in the United States had obtained an export license for transactions involving the export of cryogenic pumps to Iran. This statement was false in that Cryostar knew that no export licenses were received for these transactions. Cryostar's involvement was specifically to facilitate the export of the items without an export license. In so doing, Cryostar committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, BIS and Cryostar 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 the Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$66,000 is assessed against Cryostar, 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, Cryostar 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 Cryostar. Accordingly, if Cryostar should fail to pay the civil

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Cryostar-France SA

penalty in a timely manner, the Assistant Secretary of Commerce for Export Enforcement may enter an Order denying all of Cryostar's export privileges under the Regulations for a period of one year from the date of entry of this Order.

FOURTH, for a period of two years from the date of entry of the Order Cryostar-France SA, Zone Industrielle, BP 48, F-68220 Hesingue France, ("Cryostar"), its successors or assigns, and when acting for or on behalf of Cryostar, its representatives, agents, officers or employees (hereinafter collectively referred to as "Denied Person") 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.

FIFTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person 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 the Denied Person 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 the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person 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 the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person 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.

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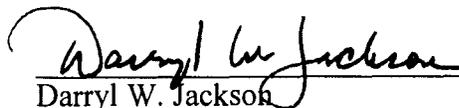
SIXTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Cryostar by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be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

SEVENTH, 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.

EIGHTH, that, as authorized by Section 766.18 (c) of the Regulations, the denial period set forth above shall be suspended in its entirety, and shall thereafter be waived, provided that during the period of suspension, Cryostar has committed no violation of the Act or any regulation, order or license issued thereunder.

NINTH, 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.

  
Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 7<sup>th</sup> day of December, 2007.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
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Zone Industrielle, BP 48 )  
F-68220 Hesingue France )  
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Respondent )

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Cryostar-France SA (“Cryostar”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup>

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<sup>1</sup> The violations alleged to have been committed occurred between 2001 and 2004. The Regulations governing the violations at issue are found in the 2001-2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2004)). The 2007 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

WHEREAS, BIS has notified Cryostar of its intention to initiate an administrative proceeding against Cryostar, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Cryostar that alleged that Cryostar committed seven violations of the Regulations, specifically:

**Charge 1      15 C.F.R. §764.2(d) - Conspiracy to Export Cryogenic Pumps to Iran without the Required U.S. Government Authorization**

Between on or about October 1, 2001 and continuing through on or about August 31, 2003, Cryostar conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations by agreeing to export cryogenic pumps from the United States to Iran without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, authorization was required from the Office of Foreign Assets Control, U.S. Department of Treasury ("OFAC") before the cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations<sup>3</sup>, could be exported from the United States to Iran. Pursuant to Section 560.204 of the Iranian Transactions Regulations, an export to a third country intended for transshipment to Iran is a transaction subject to the Iranian Transaction Regulations. In furtherance of the conspiracy, Cryostar and its co-conspirators devised and employed a scheme under which a co-conspirator in the United States would sell the pumps to Cryostar in France, who would then resell the pumps to another co-conspirator in France, who would then forward the pumps to a petrochemical company in Iran. In so doing, Cryostar committed one violation of Section 764.2(d) of the Regulations.

**Charge 2      15 C.F.R. §764.2(b) - Aiding and Abetting the Export of Cryogenic Pumps to Iran Without the Required U.S. Government Authorization**

In connection with the conspiracy referenced in Charge 1, between on or about March 11, 2002 and on or about April 2, 2003, Cryostar aided and abetted the doing of an act prohibited by the Regulations. Specifically, Cryostar ordered cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, from a co-conspirator in the United States and then forwarded the cryogenic pumps to another co-conspirator knowing the country of ultimate destination was Iran. Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required for the export of cryogenic pumps to Iran and no authorization was obtained. In so doing, Cryostar committed one violation of Section 764.2(b) of the Regulations.

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<sup>3</sup> 31 C.F.R. Part 560 (2001-2004)

**Charge 3      15 C.F.R. § 764.2(e) - Acting with Knowledge that a Violation of the Regulations was to Occur**

In connection with export referenced in Charge 2, between on or about March 11, 2002 and on or about April 2, 2003, Cryostar ordered and forwarded cryogenic pumps with knowledge that a violation of the Regulations would occur in connection with the items. At all times relevant hereto, Cryostar knew that prior authorization was required from OFAC to export the cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, from the United States to Iran. Cryostar ordered the items from a co-conspirator in the United States and then forwarded the items to another co-conspirator knowing that the country of ultimate destination for the cryogenic pumps was Iran and that the required U.S. Government authorization had not been obtained. In so doing, Cryostar committed one violation of Section 764.2(e) of the Regulations

**Charge 4      15 C.F.R. §764.2(c)-Attempted Export of Cryogenic Pumps to Iran without the Required U.S. Government Authorization**

In connection with the conspiracy referenced in Charge 1, between on or about September 20, 2002 and or about August 25, 2003, Cryostar and co-conspirators attempted a violation of the Regulations when they tried to export cryogenic pumps from the United States to Iran without the required U.S. Government Authorization. Pursuant to Section 746.7 of the Regulations, OFAC authorization was required to export cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, from the United States to Iran and no authorization was obtained. In so doing, Cryostar committed one violation of Section 764.2(c) of the Regulations.

**Charge 5      15 C.F.R. § 764.2(e) -Acting with Knowledge that a Violation of the Regulations was to Occur**

In connection with the attempted export referenced in Charge 4, between on or about September 20, 2002 and or about August 25, 2003, Cryostar ordered cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, with the knowledge that a violation of the Regulations was intended to occur in connection with the items. At all times relevant hereto, Cryostar knew that OFAC authorization was required to export cryogenic pumps from the United States to Iran. Cryostar ordered the cryogenic pumps from a co-conspirator in the United States with the intent to forward the items to another co-conspirator knowing that the country of ultimate destination was Iran and that no authorization was obtained. In so doing, Cryostar committed one violation of Section 764.2(e) of the Regulations.

**Charge 6      15 C.F.R. §764.2(h) - Actions to Evade the Requirements of the Regulations**

In connection with the conspiracy referenced in Charge 1, between on or about October 1, 2001 and on or about August 31, 2003, Cryostar took actions to evade the U.S. Government's licensing requirements for the export of cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, to Iran. Specifically, Cryostar gave a co-conspirator Cryostar company letterhead in order to falsify documents by allowing the co-conspirator to place engineering documents, correspondence, and inspection reports on Cryostar letterhead. This falsification of documents was done to conceal the fact that the cryogenic pumps originated from the United States. In so doing, Cryostar committed one violation of Section 764.2(h) of the Regulations.

**Charge 7      15 C.F.R. §764.2(g) - False Statements to an Office of Export Enforcement Special Agent in the Course of an Investigation.**

On or about May 18, 2004, in connection with an ongoing BIS, Office of Export Enforcement ("OEE") investigation into the unauthorized export of cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, to Iran, Cryostar's Director of Marketing and Sales, represented to an OEE Special Agent that he was convinced that a co-conspirator in the United States had obtained an export license for transactions involving the export of cryogenic pumps to Iran. This statement was false in that Cryostar knew that no export licenses were received for these transactions. Cryostar's involvement was specifically to facilitate the export of the items without an export license. In so doing, Cryostar committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, Cryostar 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, Cryostar fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

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

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

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

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

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

NOW THEREFORE, the Parties, for purposes of this Agreement only, hereby agree as follows:

1. BIS has jurisdiction over Cryostar, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Cryostar in complete settlement of the alleged violations of the Regulations relating to the transactions detailed in the proposed charging letter:
  - a. Cryostar shall be assessed a civil penalty in the amount of \$66,000, which shall be paid to the U.S. Department 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 of any export license, permission, or privilege granted, or to be granted, to Cryostar. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Cryostar's export privileges for a period of one year from the date of imposition of the penalty.

- c. For a period of two years from the date of entry of the Order, Cryostar, its successors or assigns, and, when acting for or on behalf of Cryostar, its officers, representatives, agents, or employees (“Denied Person”) 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:
- i. Applying for, obtaining, or using any license, License Exception, or export control document;
  - ii. 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
  - iii. Benefiting 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.
- d. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the two year denial period set forth in paragraph 2.c shall be suspended in its entirety, and shall thereafter be waived, provided that during the period of suspension, Cryostar has committed no violation of the Act or any regulation,

order or license issued thereunder, and, provided further that Cryostar has made a timely payment of the of the \$66,000 civil penalty assessed pursuant to this Agreement and the Order.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Cryostar 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 any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$66,000 civil penalty, BIS will not initiate any further administrative proceeding against Cryostar 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.

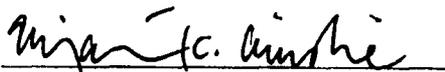
8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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

CRYOSTAR-FRANCE SA

  
Thomas Madigan  
Acting Director  
Office of Export Enforcement

  
Elizabeth K. Ainslie, Esq.  
Schnader, Harrison, Segal & Lewis LLP  
Attorney for Cryostar-France SA

Date: November 29, 2007

Date: 11/21/07

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Cryostar-France SA  
Zone Industrielle, BP 48  
F-68220 Hesingue France

Attn: *Mr. Daniel Meyer*  
*Managing Director*

Dear Mr. Meyer:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has reason to believe that Cryostar-France SA (“Cryostar”) has committed seven violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 as amended, (the “Act”).<sup>2</sup> Specifically, BIS charges that Cryostar committed the following violations:

**Charge 1 15 C.F.R. §764.2(d) - Conspiracy to Export Cryogenic Pumps to Iran without the Required U.S. Government Authorization**

Between on or about October 1, 2001 and continuing through on or about August 31, 2003, Cryostar conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations by agreeing to export cryogenic pumps from the United States to Iran without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, authorization was required from the Office of Foreign Assets Control, U.S. Department of Treasury (“OFAC”) before the cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations<sup>3</sup>, could be exported from the United States to Iran. Pursuant to Section 560.204 of the Iranian Transactions Regulations, an export to a third country intended for transshipment to Iran is a transaction subject to the Iranian Transaction

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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 (2006). The violations charged occurred from 2001 through 2004. The Regulations governing the violations at issue are found in the 2001 through 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2004)). The 2006 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). 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 most recently by the Notice of August 3, 2006, (71 Fed. Reg. 44551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”).

<sup>3</sup> 31 C.F.R. Part 560 (2001-2004)

Regulations. In furtherance of the conspiracy, Cryostar and its co-conspirators devised and employed a scheme under which a co-conspirator in the United States would sell the pumps to Cryostar in France, who would then resell the pumps to another co-conspirator in France, who would then forward the pumps to a petrochemical company in Iran. In so doing, Cryostar committed one violation of Section 764.2(d) of the Regulations.

**Charge 2 15 C.F.R. §764.2(b) - Aiding and Abetting the Export of Cryogenic Pumps to Iran Without the Required U.S. Government Authorization**

In connection with the conspiracy referenced in Charge 1, between on or about March 11, 2002 and on or about April 2, 2003, Cryostar aided and abetted the doing of an act prohibited by the Regulations. Specifically, Cryostar ordered cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, from a co-conspirator in the United States and then forwarded the cryogenic pumps to another co-conspirator knowing the country of ultimate destination was Iran. Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required for the export of cryogenic pumps to Iran and no authorization was obtained. In so doing, Cryostar committed one violation of Section 764.2(b) of the Regulations.

**Charge 3 15 C.F.R. § 764.2(e) - Acting with Knowledge that a Violation of the Regulations was to Occur**

In connection with export referenced in Charge 2, between on or about March 11, 2002 and on or about April 2, 2003, Cryostar ordered and forwarded cryogenic pumps with knowledge that a violation of the Regulations would occur in connection with the items. At all times relevant hereto, Cryostar knew that prior authorization was required from OFAC to export the cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, from the United States to Iran. Cryostar ordered the items from a co-conspirator in the United States and then forwarded the items to another co-conspirator knowing that the country of ultimate destination for the cryogenic pumps was Iran and that the required U.S. Government authorization had not been obtained. In so doing, Cryostar committed one violation of Section 764.2(e) of the Regulations

**Charge 4 15 C.F.R. §764.2(c)-Attempted Export of Cryogenic Pumps to Iran without the Required U.S. Government Authorization**

In connection with the conspiracy referenced in Charge 1, between on or about September 20, 2002 and or about August 25, 2003, Cryostar and co-conspirators attempted a violation of the Regulations when they tried to export cryogenic pumps from the United States to Iran without the required U.S. Government Authorization. Pursuant to Section 746.7 of the Regulations, OFAC authorization was required to export cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, from the United States to Iran and no authorization was obtained. In so doing, Cryostar committed one violation of Section 764.2(c) of the Regulations.

**Charge 5 15 C.F.R. § 764.2(e) -Acting with Knowledge that a Violation of the Regulations was to Occur**

In connection with the attempted export referenced in Charge 4, between on or about September 20, 2002 and or about August 25, 2003, Cryostar ordered cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, with the knowledge that a violation of the Regulations was intended to occur in connection with the items. At all times relevant hereto, Cryostar knew that OFAC authorization was required to export cryogenic pumps from the United States to Iran. Cryostar ordered the cryogenic pumps from a co-conspirator in the United States with the intent to forward the items to another co-conspirator knowing that the country of ultimate destination was Iran and that no authorization was obtained. In so doing, Cryostar committed one violation of Section 764.2(e) of the Regulations.

**Charge 6 15 C.F.R. §764.2(h) - Actions to Evade the Requirements of the Regulations**

In connection with the conspiracy referenced in Charge 1, between on or about October 1, 2001 and on or about August 31, 2003, Cryostar took actions to evade the U.S. Government's licensing requirements for the export of cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, to Iran. Specifically, Cryostar gave a co-conspirator Cryostar company letterhead in order to falsify documents by allowing the co-conspirator to place engineering documents, correspondence, and inspection reports on Cryostar letterhead. This falsification of documents was done to conceal the fact that the cryogenic pumps originated from the United States. In so doing, Cryostar committed one violation of Section 764.2(h) of the Regulations.

**Charge 7 15 C.F.R. §764.2(g) - False Statements to an Office of Export Enforcement Special Agent in the Course of an Investigation.**

On or about May 18, 2004, in connection with an ongoing BIS, Office of Export Enforcement ("OEE") investigation into the unauthorized export of cryogenic pumps, items subject to the Regulations and the Iranian Transactions Regulations, to Iran, Cryostar's Director of Marketing and Sales, represented to an OEE Special Agent that he was convinced that a co-conspirator in the United States had obtained an export license for transactions involving the export of cryogenic pumps to Iran. This statement was false in that Cryostar knew that no export licenses were received for these transactions. Cryostar's involvement was specifically to facilitate the export of the items without an export license. In so doing, Cryostar committed one violation of Section 764.2(g) of the Regulations.

\* \* \* \* \*

Accordingly, Cryostar 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>4</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Cryostar is further notified that it is entitled to an agency hearing on the record if Cryostar files a written demand for one with its answer. (Regulations, Section 766.6). Cryostar 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 Cryostar have a proposal to settle this case, Cryostar or its representative should transmit it to 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, Cryostar'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 Cryostar's answer must be served on BIS at the following address:

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

Gregory Michelsen is the attorney representing BIS in this case; any communications that

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<sup>4</sup> See 15 C.F.R. § 6.4(a)(2).

Cryostar may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner  
Director  
Office of Export Enforcement

Enclosure