

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

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In the Matter of: )  
 )  
General Dynamics C4 Systems, Inc. )  
8201 East McDowell Rd. )  
Scottsdale, AZ 85257 )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO GENERAL DYNAMICS C4 SYSTEMS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified General Dynamics C4 Systems, Inc. (“General Dynamics C4 Systems”), of its intention to initiate an administrative proceeding against General Dynamics C4 Systems pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the “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)) (the “Act”),<sup>2</sup> through issuance of a proposed charging letter to General Dynamics C4 Systems that alleged that General Dynamics C4 Systems committed two violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The violations alleged to have been committed occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2006 Regulations establish the procedures that apply to this matter.

<sup>2</sup> Since August 21, 2001 the Act has been in lapse. However, 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 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

**Charge 1 15 C.F.R. §764.2(a) - Engaging in Prohibited Conduct by Exporting Encryption Items Without the Required License**

On one occasion on or about July 30, 2004, General Dynamics C4 Systems engaged in conduct prohibited by the Regulations by exporting encryption test equipment, items subject to the Regulations (ECCN 5B002), to Malaysia without obtaining Department of Commerce licenses as required by Section 742.4 of the Regulations. In so doing, General Dynamics C4 Systems committed one violation of Section 764.2(a) of the Regulations.

**Charge 2 15 C.F.R. §764.2(g) - Misrepresentation**

On one occasion on or about July 30, 2004, in connection with the transaction described in Charge 1 above, General Dynamics C4 Systems made false or misleading representations to the U.S. government in violation of the Regulations. Specifically, General Dynamics C4 Systems filed or caused to be filed export control documents, a Shipper's Export Declaration, with the U.S. Government that stated that certain encryption equipment classified under ECCN 5B002 qualified for export from the United States to a government end-user in Malaysia with License Exception ENC. This is false because License Exception ENC was not available for the export of these items to a government end-user in Malaysia. In so doing, General Dynamics C4 Systems committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, BIS and General Dynamics C4 Systems 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 of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$6,600 is assessed against General Dynamics C4 Systems, 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.

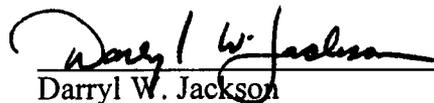
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest

as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, General Dynamics C4 Systems 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 General Dynamics C4 Systems. Accordingly, if General Dynamics C4 Systems should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of General Dynamics C4 Systems' 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.



Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 8<sup>th</sup> day of May, 2007.

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

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General Dynamics C4 Systems, Inc. )  
8201 East McDowell Rd. )  
Scottsdale, AZ 85257 )  
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Respondent )  
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between General Dynamics C4 Systems, Inc. (referred to hereinafter as “General Dynamics C4 Systems”) 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 (2006)) (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>

WHEREAS, General Dynamics C4 Systems filed a voluntary self-disclosure on December 12, 2005 with BIS’s Office of Export Enforcement in

<sup>1</sup> The violations alleged to have been committed occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2006 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 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

accordance with Section 764.5 of the Regulations concerning certain transactions at issue herein;

WHEREAS, BIS has notified General Dynamics C4 Systems of its intention to initiate an administrative proceeding against General Dynamics C4 Systems, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to General Dynamics C4 Systems that alleged that General Dynamics C4 Systems committed two violations of the Regulations, specifically:

**Charge 1      15 C.F.R. §764.2(a) - Engaging in Prohibited Conduct by Exporting Encryption Items Without the Required License**

On one occasion on or about July 30, 2004, General Dynamics C4 Systems engaged in conduct prohibited by the Regulations by exporting encryption test equipment, items subject to the Regulations (ECCN 5B002), to Malaysia without obtaining Department of Commerce licenses as required by Section 742.4 of the Regulations. In so doing, General Dynamics C4 Systems committed one violation of Section 764.2(a) of the Regulations.

**Charge 2      15 C.F.R. §764.2(g) - Misrepresentation**

On one occasion on or about July 30, 2004, in connection with the transaction described in Charge 1 above, General Dynamics C4 Systems made false or misleading representations to the U.S. government in violation of the Regulations. Specifically, General Dynamics C4 Systems filed or caused to be filed export control documents, a Shipper's Export Declaration, with the U.S. Government that stated that certain encryption equipment classified under ECCN 5B002 qualified for export from the United States to a government end-user in Malaysia with License Exception ENC. This is false because License Exception ENC was not available for the export of these items to a government end-user in Malaysia. In so doing, General Dynamics C4 Systems committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, General Dynamics C4 Systems has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against General Dynamics C4 Systems if the allegations are found to be true;

WHEREAS, General Dynamics C4 Systems 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, General Dynamics C4 Systems enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, General Dynamics C4 Systems states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, General Dynamics C4 Systems neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, General Dynamics C4 Systems wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, General Dynamics C4 Systems agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over General Dynamics C4 Systems, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against General Dynamics C4 Systems in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter and the voluntary self-disclosure:
  - a. General Dynamics C4 Systems shall be assessed a civil penalty in the amount of \$6,600, all of 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 of any export license, permission, or privilege granted, or to be granted, to General Dynamics C4 Systems. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of General Dynamics C4 Systems' 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, General Dynamics C4 Systems 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 \$6,600 civil penalty, BIS will not initiate any further administrative proceeding against General Dynamics C4 Systems in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter and the voluntary self-disclosure.

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

GENERAL DYNAMICS C4 SYSTEMS, INC.



John McKenna  
Acting Director  
Office of Export Enforcement

Date:

5/2/07



Devon Engel  
Vice President and General Counsel

Date:

4/27/07

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

General Dynamics C4 Systems, Inc.  
8201 East McDowell Rd.  
Scottsdale, AZ 85257

Attention: *Chris Marzilli*  
*General Manager*

Dear Mr. Marzilli:

The Bureau of Industry and Security, U. S. Department of Commerce (“BIS”), has reason to believe that General Dynamics C4 Systems, Inc., of Scottsdale, AZ (“General Dynamics C4 Systems”) has committed two 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 General Dynamics C4 Systems committed the following violations:

**Charge 1      15 C.F.R. §764.2(a) - Engaging in Prohibited Conduct by Exporting Encryption Items Without the Required License**

On one occasion on or about July 30, 2004, General Dynamics C4 Systems engaged in conduct prohibited by the Regulations by exporting encryption test equipment, items subject to the Regulations (ECCN 5B002)<sup>3</sup>, to Malaysia without obtaining Department of Commerce licenses as required by Section 742.4 of the Regulations. In so doing, General Dynamics C4 Systems committed one violation of Section 764.2(a) of the Regulations.

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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 in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2006 Regulations govern the procedural aspects of this case.

<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 2, 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> The “ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. Part 744. The equipment was controlled for national security and anti-terrorism reasons.

**Charge 2 15 C.F.R. §764.2(g) - Misrepresentation**

On one occasion on or about July 30, 2004, in connection with the transaction described in Charge 1 above, General Dynamics C4 Systems made false or misleading representations to the U.S. government in violation of the Regulations. Specifically, General Dynamics C4 Systems filed or caused to be filed export control documents, a Shipper's Export Declaration, with the U.S. Government that stated that certain encryption equipment classified under ECCN 5B002 qualified for export from the United States to a government end-user in Malaysia with License Exception ENC. This is false because License Exception ENC was not available for the export of these items to a government end-user in Malaysia. In so doing, General Dynamics C4 Systems committed one violation of Section 764.2(g) of the Regulations.

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Accordingly, General Dynamics C4 Systems 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 General Dynamics C4 Systems 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 General Dynamics C4 Systems defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to General Dynamics C4 Systems. 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.

General Dynamics C4 Systems is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. (Regulations, Section 766.6). General

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<sup>4</sup> See 15 C.F.R. § 6.4 (2001-2005), as supplemented by 68 Fed. Reg. 4,380 (Jan. 29, 2003), and 68 Fed. Reg. 69,001 (Dec. 11, 2003).

General Dynamics C4 Systems, Inc.  
Proposed Charging Letter  
Page 3

Dynamics C4 Systems 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 General Dynamics C4 Systems have a proposal to settle this case, General Dynamics C4 Systems' 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, General Dynamics C4 Systems' 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 General Dynamics C4 Systems' answer must be served on BIS at the following address:

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

Eric Clark is the attorney representing BIS in this case; any communications that General Dynamics C4 Systems may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael Turner  
Director  
Office of Export Enforcement