

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

\_\_\_\_\_  
In the Matter of: )  
)  
Novamet Specialty Products Corporation )  
681 Lawlins Road )  
Wyckoff, NJ 07481 )  
)  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO NOVAMET SPECIALTY PRODUCTS CORPORATION

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Novamet Specialty Products Corporation (“Novamet”) of its intention to initiate an administrative proceeding against Novamet pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2009)) (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 Novamet that alleged that Novamet committed 32 violations of the Regulations. Specifically, these charges are:

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<sup>1</sup> The alleged violations occurred during the April 2003-January 2008 period. The Regulations governing the violations at issue are found in the 2003-2008 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2003-2008). The 2009 Regulations govern the procedural aspects of this case.

<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 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).

**Charges 1-28**

**15 C.F.R. § 764.2(a) - Exporting Nickel Powder to  
Several Destinations Without the Required Licenses**

On twenty-eight occasions between on or about April 3, 2003, and on or about January 28, 2008, Novamet engaged in conduct prohibited by the Regulations by exporting nickel powder products, items subject to the Regulations (ECCN<sup>3</sup> 1C240.a), from the United States to Taiwan, Singapore, India, Thailand, the Dominican Republic, Mexico, and Israel without the licenses required by Section 742.3 of the Regulations. In so doing, Novamet committed twenty-eight violations of Section 764.2(a).

**Charge 29**

**15 C.F.R. § 764.2(e) – Selling or Transporting Nickel  
Powder to India With Knowledge that a Violation  
Would Occur**

On or about November 7, 2005, Novamet sold or transported nickel powder products, items subject to the Regulations (ECCN 1C240.a), to an end-user in Bangalore, India with knowledge that a violation of the Regulations would occur in connection with such items. On or about October 26, 2005, Novamet had submitted a license application to the Department of Commerce for export of the items to this end-user. Under Section 742.3 of the Regulations, a license is required for export of the items to India. While the application was pending, Novamet exported the same items on or about November 7, 2005 without a license. In so doing, Novamet committed one violation of Section 764.2(e).

**Charge 30**

**15 C.F.R. § 764.2(e) – Selling or Transporting Nickel  
Powder to Israel With Knowledge that a Violation  
Would Occur**

On or about January 20, 2006, Novamet sold or transported nickel powder products, items subject to the Regulations (ECCN 1C240.a), to an end-user in Israel with knowledge that a violation of the Regulations would occur in connection with such items. On or about December 19, 2005, Novamet had submitted a license application to the Department of Commerce for export of the items to this end-user. Under Section 742.3 of the Regulations, a license is required for export of the items to Israel. While the application was pending, Novamet exported the same items on or about January 20, 2006 without a license. In so doing, Novamet committed one violation of Section 764.2(e).

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<sup>3</sup> “ECCN” refers to “Export Control Classification Number.” See 15 C.F.R. § 772.1.

**Charges 31-32**

**15 C.F.R. § 764.2(e) – Selling or Transporting Nickel Powder to the PRC With Knowledge that a Violation Would Occur**

In connection with two exports to the People’s Republic of China (“PRC”) that occurred on or about March 2, 2006 and July 30, 2006, Novamet sold or transported nickel powder products, items subject to the Regulations (ECCN 1C240.a), with knowledge that violations of the Regulations would occur in connection with such items. Novamet had reason to know that export licenses would be required for these two exports, as it had previously applied for and obtained a license from the Department of Commerce for the export of similar powder products with the same ECCN to the PRC. Under Section 742.3 of the Regulations, a Department of Commerce license is required for export of the items to the PRC. In so doing, Novamet committed two violations of Section 764.2(e).

WHEREAS, BIS and Novamet 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 \$700,000 is assessed against Novamet, which shall be paid to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, Novamet shall perform an audit of its internal export controls compliance program covering the 12-month period immediately following the date of this Order. Said audit shall be in substantial compliance with the EMS sample audit module. The EMS sample audit module is available on the BIS web site at [http://www.bis.doc.gov/complianceandenforcement/emcp.htm#emcp\\_assistance](http://www.bis.doc.gov/complianceandenforcement/emcp.htm#emcp_assistance). A copy of said audit shall be transmitted to the Office of Export Enforcement, 1200 South

Avenue, Suite 104, Staten Island, NY, 10314, no later than 15 months from the date of this Order.

THIRD, 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, Novamet 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.

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

FIFTH, 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.

  
\_\_\_\_\_  
Kevin Delli-Colli  
Acting Assistant Secretary of Commerce  
for Export Enforcement

Issued this 1<sup>st</sup> day of October, 2009.

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

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In the Matter of: )  
 )  
Novamet Specialty Products Corporation )  
681 Lawlins Road )  
Wyckoff, NJ 07481 )  
 )  
Respondent )  
\_\_\_\_\_

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Novamet Specialty Products Corporation (“Novamet”) 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 (2009)) (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, BIS has notified Novamet of its intention to initiate an administrative proceeding against Novamet, pursuant to the Act and the Regulations;

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<sup>1</sup> The alleged violations occurred during the April 2003-January 2008 period. The Regulations governing the violations at issue are found in the 2003-2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2008)). The 2009 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 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).



**Charges 31-32**

**15 C.F.R. § 764.2(e) – Selling or Transporting Nickel Powder to the PRC With Knowledge that a Violation Would Occur**

In connection with two exports to the People's Republic of China ("PRC") that occurred on or about March 2, 2006 and July 30, 2006, Novamet sold or transported nickel powder products, items subject to the Regulations (ECCN 1C240.a), with knowledge that violations of the Regulations would occur in connection with such items. Novamet had reason to know that export licenses would be required for these two exports, as it had previously applied for and obtained a license from the Department of Commerce for the export of similar powder products with the same ECCN to the PRC. Under Section 742.3 of the Regulations, a Department of Commerce license is required for export of the items to the PRC. In so doing, Novamet committed two violations of Section 764.2(e).

WHEREAS, Novamet has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

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

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

WHEREAS, Novamet neither admits nor denies the allegations contained in the Proposed Charging Letter;

WHEREAS, the Parties wish to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

WHEREAS, the Parties agree to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Novamet, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against Novamet in complete settlement of the alleged violations of the Regulations relating to the transactions specifically identified in the Proposed Charging Letter:

a. Novamet shall be assessed a civil penalty in the amount of \$700,000, all of which shall be paid to the U.S. Department of Commerce within 30 days of the date 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 Novamet. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Novamet's export privileges for a period of one year from the date of imposition of the penalty.

c. Novamet shall perform an audit of its internal export controls compliance program covering the 12-month period immediately following the date of the Order. Said audit shall be in substantial compliance with the EMS sample audit module. The EMS sample audit module is available on the BIS web site at

[http://www.bis.doc.gov/complianceand enforcement/emcp.htm#emcp\\_assistance](http://www.bis.doc.gov/complianceand enforcement/emcp.htm#emcp_assistance).

A copy of said audit shall be transmitted to the Office of Export Enforcement,

1200 South Avenue, Suite 104, Staten Island, NY, 10314, no later than 15 months from the date of the Order.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Novamet 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 issued), 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 issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued.

4. Upon issuance of the Order, BIS will not initiate any further administrative proceeding against Novamet in connection with any violation of the Act or the Regulations arising out of the transactions specifically identified in the Proposed Charging Letter.

5. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, 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 oral 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 issued; 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 issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

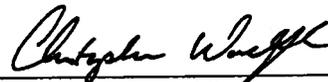
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Thomas Madigan  
Director  
Office of Export Enforcement

NOVAMET SPECIALTY PRODUCTS  
CORPORATION



Christopher Woelfle  
President

Date: September 30, 2009

Date: September 30, 2009

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Novamet Specialty Products Corporation  
681 Lawlins Road  
Wyckoff, NJ 07481

*Attention:* Christopher Woelfle  
President

Dear Mr. Woelfle:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Novamet Specialty Products Corporation of Wyckoff, New Jersey (“Novamet”) has committed 32 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 alleges that Novamet committed the following violations:

**Charges 1-28                                      15 C.F.R. § 764.2(a) - Exporting Nickel Powder to Several Destinations Without the Required Licenses**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, on twenty-eight occasions between on or about April 3, 2003, and on or about January 28, 2008, Novamet engaged in conduct prohibited by the Regulations by exporting nickel powder products, items subject to the Regulations (ECCN<sup>3</sup> 1C240.a), from the United States to Taiwan, Singapore, India, Thailand, the Dominican Republic, Mexico, and Israel without the licenses required by Section 742.3 of the Regulations. In so doing, Novamet committed twenty-eight violations of Section 764.2(a).

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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 (2009). The violations alleged occurred during the April 2003-January 2008 period. The Regulations governing the violations at issue are found in the 2003-2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2008)). The 2009 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)), which has been extended by successive Presidential Notices, the most recent being that of July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).

<sup>3</sup> “ECCN” refers to “Export Control Classification Number.” See 15 C.F.R. § 772.1.



Accordingly, Novamet 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 the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;<sup>4</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Novamet 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. *See* 15 C.F.R. §§ 766.6 and 766.7. If Novamet defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Novamet. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Novamet 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. *See* 15 C.F.R. § 766.6. Novamet is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Novamet have a proposal to settle this case, Novamet should transmit it to the attorney representing BIS named below.

Novamet is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Novamet may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

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

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<sup>4</sup> 50 U.S.C. § 1705(b) (2007).

Novamet Specialty Products Corporation  
Proposed Charging Letter  
Page 4 of 4

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

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

Parvin R. Huda is the attorney representing BIS in this case; any communications that Novamet may wish to have concerning this matter should occur through her. Ms. Huda may be contacted by telephone at (202) 482-5301.

Sincerely,

Thomas Madigan  
Director  
Office of Export Enforcement

### Novamet Schedule of Violations

Charges	Export Date	Invoice	Destination	Commodity	Value	Violation
1	4/3/2003	21385	Taiwan	4SP-10 Nickel Powder	\$706.20	15 C.F.R. Section 764.2(a)
2	5/31/2003	21670	India	4SP-10 Nickel Powder	\$3,768.00	15 C.F.R. Section 764.2(a)
3	9/4/2003	22028	India	4SP-10 Nickel Powder	\$6,280.00	15 C.F.R. Section 764.2(a)
4	12/5/2003	22516	Singapore	Spherical Nickel Powder Type 4SP	\$3,924.00	15 C.F.R. Section 764.2(a)
5	3/12/2004	23007	India	4SP-10 Nickel Powder	\$3,768.00	15 C.F.R. Section 764.2(a)
6	5/18/2004	23358	Singapore	Spherical Nickel Powder Type 4SP	\$9,350.00	15 C.F.R. Section 764.2(a)
7	5/20/2004	23381	Singapore	4SP-10 Nickel Powder	\$1,349.50	15 C.F.R. Section 764.2(a)
8	1/19/2005	24606	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$17,556.00	15 C.F.R. Section 764.2(a)
9	3/4/2005	24836	India	T123 Nickel Powder	\$3,433.50	15 C.F.R. Section 764.2(a)
10	11/14/2005	26104	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$6,600.00	15 C.F.R. Section 764.2(a)
11	1/23/2006	26418	Mexico	INCO Nickel Powder Type 123	\$2,676.00	15 C.F.R. Section 764.2(a)
12	3/7/2006	26678	Dominican Rep.	Spherical Nickel Powder 4SP - 10 Micron	\$8,792.00	15 C.F.R. Section 764.2(a)
13	3/23/2006	26787	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$7,000.00	15 C.F.R. Section 764.2(a)
14	4/26/2006	26991	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$6,200.00	15 C.F.R. Section 764.2(a)
15	7/11/2006	27394	Singapore	Spherical Nickel Powder Type 4SP	\$4,034.00	15 C.F.R. Section 764.2(a)

Charges	Export Date	Invoice	Destination	Commodity	Value	Violation
16	10/31/2006	27960	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$8,074.00	15 C.F.R. Section 764.2(a)
17	1/31/2007	28437	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$8,074.00	15 C.F.R. Section 764.2(a)
18	4/24/2007	28873	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$12,254.00	15 C.F.R. Section 764.2(a)
19	4/25/2007	28884	Taiwan	Spherical Nickel Powder Type 4SP	\$11,990.00	15 C.F.R. Section 764.2(a)
20	4/25/2007	28885	Taiwan	Spherical Nickel Powder Type 4SP	\$31,174.00	15 C.F.R. Section 764.2(a)
21	6/6/2007	29106	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$12,254.00	15 C.F.R. Section 764.2(a)
22	7/25/2007	29364	Taiwan	Conductive Nickel Spheres--400 Mesh	\$1,584.00	15 C.F.R. Section 764.2(a)
23	8/9/2007	29454	Thailand	INCO Nickel Powder Type HDNP	\$31,059.60	15 C.F.R. Section 764.2(a)
24	8/29/2007	29551	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$6,006.00	15 C.F.R. Section 764.2(a)
25	10/1/2007	29736	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$18,200.00	15 C.F.R. Section 764.2(a)
26	10/25/2007	29867	Taiwan	Conductive Nickel Spheres - 400 Mesh	\$5,132.00	15 C.F.R. Section 764.2(a)
27	11/19/2007	29995	Israel	INCO Nickel Powder Type 123	\$1,237.50	15 C.F.R. Section 764.2(a)
28	1/28/2008	S-3514	Taiwan	INCO T110FSC	\$0.00	15 C.F.R. Section 764.2(a)
29	11/7/2005	26029	India	T123	\$3,924.00	15 C.F.R. Section 764.2(e)
30	1/20/2006	26404	Israel	T123	\$115.50	15 C.F.R. Section 764.2(e)

<b>Charges</b>	<b>Export Date</b>	<b>Invoice</b>	<b>Destination</b>	<b>Commodity</b>	<b>Value</b>	<b>Violation</b>
31	3/2/2006	26571	PRC	4SP-10, T110	\$2,210.00	15 C.F.R. Section 764.2(e)
32	7/30/2006	27440	PRC	4SP-10, T110	\$1,355.20	15 C.F.R. Section 764.2(e)
					<b>\$240,081.00</b>	