

PROPOSED CHARGING LETTER

March 21, 2013

Mr. William H. Swanson
Chairman and Chief Executive Officer
Raytheon Company
870 Winter Street
Waltham, MA 02451-1449

Re: Alleged Violations of the Arms Export Control Act and the
International Traffic in Arms Regulations by Raytheon Company.

Dear Mr. Swanson:

The Department of State (“Department”) charges Raytheon Company, including its operating divisions, subsidiaries and business units (“Raytheon” or “Respondent”) with violations of the Arms Export Control Act (“AECA”) (22 U.S.C. §§ 2778-2780) and the International Traffic in Arms Regulations (“ITAR”) (22 C.F.R. Parts 120-130) in connection with Raytheon’s administration of its Part 124 agreements and Part 123 temporary import and export authorizations. A total of one hundred and twenty-five (125) charges are alleged at this time.

The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend this proposed charging letter, including through a revision to incorporate additional charges stemming from the same misconduct of the Respondent in these matters. Please be advised that this proposed charging letter, pursuant to 22 C.F.R. § 128.3, provides notice of our intent to impose civil penalties in accordance with 22 C.F.R. 127.10.

The Department considered Respondent’s voluntary disclosures and remedial compliance measures as mitigating factors when determining the charges to pursue in this matter. However, as outlined in more detail below, Respondent’s record in effectively administering its agreements and temporary authorizations, and in effectively investigating and correcting related violations, has frequently been inadequate, thereby requiring repeated comprehensive reviews conducted at

the behest of or in consultation with the Department. Given the longstanding and repeated nature of the violations, as well as the attendant need for the Department to engage repeatedly with Respondent regarding effective remedial measures, the Department has decided to charge Respondent with one hundred and twenty-five (125) violations at this time. The Department has appropriately credited Respondent's open disclosure policy and remedial compliance measures in determining the number of charges against Respondent.

JURISDICTION

Respondent is a corporation organized under the laws of the State of Delaware.

Respondent is a U.S. person within the meaning of the AECA and the ITAR, and is subject to the jurisdiction of the United States.

During the period covered by the violations set forth herein, Respondent was engaged in the manufacture and export of defense articles and defense services, and was registered as a manufacturer, exporter and broker with the Department of State, Directorate of Defense Trade Controls ("DDTC") in accordance with Section 38 of the AECA and sections 122.1 and 129.3 of the ITAR.

The defense articles and defense services associated with the violations set forth herein are designated as controlled under various categories of the U.S. Munitions List ("USML"), §121.1 of the ITAR. Some of the relevant defense articles are further defined as significant military equipment ("SME"), requiring a DSP-83 (Nontransfer and Use Certificate) for retransfers and re-exports.

BACKGROUND AND VIOLATIONS

The ITAR violations included in this proposed charging letter are derived from a number of the many voluntary disclosures provided over the past decade by several of Respondent's business units. The violations fall into two broad categories: 1) failure to properly manage Department-authorized agreements; and 2) failure to properly manage temporary export and import authorizations. Respondent repeatedly discovered and disclosed violations to the Department, in some cases finding that previously reported remedial measures failed to prevent or detect additional similar violations subsequently disclosed. In other cases,

Respondent's self-initiated internal compliance reviews identified additional violations of the same nature, prompting further disclosures and assurances of remediation.

Based on the repetitive nature of the violations, the Department has determined that there is a corporate-wide weakness in administering Part 124 agreements and Part 123 temporary import and export authorizations and in investigating and correcting errors that requires immediate, comprehensive, effective remedial action across Respondent's many operating units and subsidiaries.

Respondent has submitted numerous voluntary disclosures identifying administrative violations in the management of its Part 124 agreements over the course of many years, some of which form the basis of the charges alleged herein. These violations included, but were not limited to, the manufacture of hardware by its foreign signatories greatly in excess of the approved amounts, as well as the failure to timely submit required documents and necessary amendments. Due to the large number of violations over an extended period of time, the Department has not identified each specific violation below, but has generally described the categories of violations.

Several of these violations resulted in the inability of the Department to properly inform and involve Congress. In accordance with section 36(d) of the AECA and section 124.11 of the ITAR, the Department is required to notify Congress prior to the granting of any approval of a manufacturing license agreement or technical assistance agreement for the manufacturing abroad of any item of significant military equipment that is entered into with any country regardless of dollar value. Additionally, in accordance with section 36(c) of the AECA and section 123.15(a) of the ITAR, the Department must notify Congress prior to the granting of any license or other approval for transactions concerning defense articles and defense services sold under a contract in excess of certain dollar amounts, depending on the countries involved. In several instances, Respondent exceeded the dollar amounts authorized under its Department-approved agreements, such that Congressional notification would be required but was not effectuated. In those cases, Congress did not receive the information necessary to perform its oversight role as called for in the AECA and the ITAR.

Prior to 2006, the Department, in the exercise of its broad discretion, decided to close these compliance cases without penalizing Respondent for the extensive violations, relying, in part, on the reported remedial measures expected to prevent

recurrence. However, in 2006, perceiving a systemic problem evidenced by multiple disclosures of agreements violations at Respondent's Space and Airborne Systems (SAS) business unit, the Department requested an outside audit of all agreements managed by that unit. The auditor reviewed some 184 agreements, and reported in 2008 more than one hundred instances of administrative noncompliance with the ITAR. Over the next two years, in parallel with this outside audit of SAS, Respondent carried out another internal assessment of all Department-authorized agreements managed by business units within the rest of the company. The internal audit resulted in a "bulk" disclosure by Respondent in 2007 and 2008, reporting almost 300 violations of some 170 agreements across the company's business units. Again, most of the violations demonstrated poor agreement administration; with respect to at least one agreement, the types of violations discovered during a prior audit were found again four years later. In addition, a number of agreements reviewed had associated hardware licenses in excess of authorization, in one instance implicating the requirement for Congressional notification.

In response to the findings of both the SAS and the company-wide audits, Respondent again identified a number of corrective actions designed to prevent recurrence of the violations, including the assignment of a focal point person responsible for monitoring each business unit's agreements, launch of a regular internal audit program focusing on agreements management, and improved training. In early 2009, while acknowledging improvements in SAS compliance practices, the external auditor of SAS recommended further process changes, continued training, and database modifications. Given that the violations were almost entirely administrative in nature and did not cause harm to national security, the Department decided not to pursue administrative action against Respondent at that time, relying in part on the reported remedial measures expected to prevent recurrence.

At the end of 2009, Respondent reported to the Department that the SAS audit recommendations had been fully implemented. In 2009 and 2010, Respondent also reported steady progress in implementing other corrective measures consequent to the audits. In this context, Respondent continued to review its agreement management, and disclosed to the Department during this time period additional violations of some 50 agreements. In its responses to the disclosures, the Department noted that many of the violations appeared to be recurring and to result from failures by personnel to follow written procedures, suggesting insufficiency of existing training. The Department also conducted an extensive review of various aspects of Respondent's compliance program related

to agreement management. In September 2010, the Department met with Respondent to again discuss agreement management concerns. Respondent identified a number of areas that required improvement, including adopting a more robust information technology system and tools, increased and more experienced personnel and additional financial resources to provide enhanced compliance training. The Department made several additional recommendations that Respondent agreed to implement, including improving accountability for compliance in general and for agreement management specifically, greater coordination on compliance matters within the company, and more robust internal auditing.

Since its September 2010 meeting with the Department, Respondent has submitted more than 30 additional disclosures of violations involving administration of some 50 agreements. A significant number of these violations were identified during internal audits, but some were not subsequently disclosed to the Department for a year or more. And although the reported violations were numerous and varied, and ranged across Respondent's business units, the disclosures did not demonstrate consistent efforts to identify and address underlying problems systemically.

Furthermore, Respondent notified the Department in June 2012 that an external audit was carried out of all agreements managed in its Network Centric Systems (NCS) business unit, in response to Department inquiries regarding continuing disclosures of agreement management violations involving NCS. The audit was conducted between May 2011 and April 2012, and the audit report was finalized in March 2013, highlighting some of the same underlying issues identified during prior reviews, including insufficient accountability, continuity and training for agreement managers, inadequate valuation practices and procedures, and apparent noncompliance with reporting and other administrative requirements. Respondent submitted one voluntary disclosure as a consequence of the audit.

Overall, Respondent has violated hundreds of its Department-authorized agreements. Despite undertakings and efforts by Respondent to identify and address the underlying causes, many of these violations recurred over the years, as corrective measures repeatedly proved insufficient or failed. For example, Respondent disclosed in February 2008 failure to file for a certain agreement required annual sales reports for 2004 and 2005; two years later, Respondent disclosed failure to file annual sales reports for the same agreement, for 2006 and 2007. With respect to another agreement, Respondent reported violations as a

result of its internal audit in 2002, again during the Department-requested outside audit of SAS in 2006, and then more violations in response to a directed disclosure in 2009 – including some violations that should have been identified and disclosed during the earlier audits.

Respondent also has had similar problems with managing its temporary export and import authorizations under the ITAR. Since September 2005, Respondent has submitted to the Department more than thirty disclosures reflecting violations of such temporary authorizations companywide. In one recent example, Respondent's Missile Systems (RMS) unit conducted an internal audit in 2010 and 2011 of all of its temporary authorizations. RMS found violations of 76 authorizations out of the 480 licenses reviewed. The disclosed violations were generally administrative in nature, involving inaccurate tracking, valuation and documentation of temporary exports and imports. Several such cases involved shipments of classified defense articles. In other instances, the relevant defense articles could not be located.

In disclosing results of the temporary authorizations audit at RMS, Respondent described a number of corrective actions for that business unit, but did not prescribe corrective actions for other business units that may have similar pervasive issues. For example, since September 2010, Respondent has submitted six disclosures to the Department involving temporary authorization violations by its Network Centric Systems (NCS) business unit. Reported violations included failures to obtain proper license endorsements, failures to properly decrement licenses, as well as failures to file a shipment in the Automated Export System and to return expired licenses.

The Department has concluded that Respondent's remedial and corrective efforts have been hampered at times by inadequate investigations of root causes. Respondent has also managed its voluntary disclosures inadequately, at times complicating the Department's reviews of the reported violations. Section 127.12(c) of the ITAR provides in part that a "person wanting to disclose information that constitutes a voluntary disclosure should ... initially notify the [Department] immediately after a violation is discovered and then conduct a thorough review of all defense trade transactions where a violation is suspected." Section 127.12(c) also includes a number of additional requirements and recommendations regarding the submission of voluntary disclosures. Although the Department has repeatedly communicated to Respondent the importance of complying with the requirements and recommendations set forth in ITAR section 127.12, since September 2010 Respondent has not satisfactorily done so.

RELEVANT ITAR REQUIREMENTS

Part 121 of the ITAR identifies the items that are defense articles, technical data, and defense services pursuant to Section 38 of the AECA.

Section 123.1(a) of the ITAR provides that any person who intends to export or to import temporarily a defense article must obtain the approval of the DDTC prior to the export or temporary import, unless the export or temporary import qualifies for an exemption under the provisions of this subchapter.

Section 123.1(c)(5) of the ITAR provides that a DSP-83 (Nontransfer and Use Certificate) is required for the permanent export of significant military equipment.

Section 123.15(a) of the ITAR requires a certification to the Congress pursuant to Section 36(c) of the Arms Export Control Act prior to the granting of any license or other approval for transactions concerning exports of defense articles and defense services sold under a contract in excess of certain dollar amounts, depending on the countries involved.

Section 123.22(b) of the ITAR provides that before exporting any hardware controlled by the ITAR, using a license or exemption, the DDTC registered applicant/exporter, or an agent acting on the filer's behalf, must electronically file the export information with the U.S. Customs and Border Protection using the Automated Export System (AES).

Section 124.1(c) of the ITAR requires that changes to the scope of approved agreements (including modifications, upgrades, or extensions) must be submitted for approval, and that the amendments may not enter into force until approved by DDTC.

Section 124.11 of the ITAR requires a certification to the Congress pursuant to Section 36 of the Arms Export Control Act prior to the granting of any approval of a manufacturing license agreement or technical assistance agreement for the manufacturing abroad of any item of significant military equipment that is entered into with any country regardless of dollar value. Approval may not be granted when the Congress has enacted a joint resolution prohibiting the export.

Section 127.1(a)(1) of the ITAR provides that it is unlawful to export or attempt to export from the United States, or to re-export or re-transfer or attempt to re-export or re-transfer from one foreign destination to another foreign destination, any defense article or technical data or to furnish any defense service for which a license or written approval is required by the ITAR without first obtaining the required license or written approval from DDTC.

Section 127.1(a)(4) of the ITAR provides that it is unlawful to violate any terms or conditions of licenses or approvals granted by DDTC.

Section 127.1(b) of the ITAR provides that any person granted an authorization by DDTC is responsible for the acts of all authorized persons to whom possession of the licensed defense article or technical data has been entrusted.

CHARGES

Charges 1-110 Failure to Comply with the Terms and Administrative Requirements of Agreements

Respondent violated Sections 127.1(a)(4), 127.1(b), 127.2, and 124.1(c) of the ITAR one hundred ten (110) times when it failed to abide by the substantive and administrative terms and conditions associated with DDTC-approved Part 124 agreements.

Charges 111-125 Failure to Comply with the Terms and Administrative Requirements of Temporary Import and Export Authorizations

Respondent violated Sections 123.1, 123.3, 123.5, 123.22(c)(2), 127.1(a)(4) and 127.1(b) of the ITAR fifteen (15) times when it failed to abide by the requirements associated with DDTC-approved Part 123 temporary import and export authorizations.

The Department considered the Respondent's voluntary disclosures and remedial compliance measures as significant mitigating factors, and would otherwise have charged the Respondent with many additional violations, thereby exposing Respondent to a more severe potential penalty.

ADMINISTRATIVE PROCEEDINGS

Pursuant to Part 128 of the ITAR, administrative proceedings are instituted by means of a charging letter against Respondent for the purpose of obtaining an Order imposing civil administrative sanctions. The Order issued may include an appropriate period of debarment, which shall generally be for a period of three years, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed \$500,000 per violation, may be imposed as well in accordance with Section 38(e) of the AECA and Section 127.10 of the ITAR.

A Respondent has certain rights in such proceedings as described in Part 128 of the ITAR. Currently, this is a proposed charging letter. However, in the event that you are served with a charging letter, you are advised of the following matters: You are required to answer the charging letter within 30 days after service. If you fail to answer the charging letter, your failure to answer will be taken as an admission of the truth of the charges. You are entitled to an oral hearing, if a written demand for one is filed with the answer, or within seven (7) days after service of the answer. You may, if so desired, be represented by counsel of your choosing.

Additionally, in the event that you are served with a charging letter, your answer, written demand for oral hearing (if any) and supporting evidence required by Section 128.5(b) of the ITAR, shall be in duplicate and mailed to the administrative law judge designated by the Department to hear this case. These documents should be mailed to the administrative law judge at the following address: USCG, Office of Administrative Law Judges G-CJ, 2100 Second Street, SW Room 6302, Washington, D.C. 20593. A copy shall be simultaneously mailed to the Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, PM/DDTC, SA-1, 12th Floor, Washington, D.C. 20522-0112. If you do not demand an oral hearing, you must transmit within seven (7) days after the service of your answer, the original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue.

Please be advised also that charging letters may be amended from time to time, upon reasonable notice. Furthermore, pursuant to Section 128.11 of the

ITAR, cases may be settled through consent agreements, including after service of a proposed charging letter.

Be advised that the U.S. Government is free to pursue civil, administrative, and/or criminal enforcement for violations of the AECA and the ITAR. The Department of State's decision to pursue one type of enforcement action does not preclude it, or any other department or agency, from pursuing another type of enforcement action.

Sincerely,

Lisa V. Aguirre
Director
Office of Defense Trade Controls
Compliance