

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Varian B.V.
Herculesweg 8
4338 PL
Middelburg, Netherlands

Attn: Henry Broosus and Rene de Nijs
Managing Directors

Dear Sirs:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has reason to believe that Varian B.V., of Middelburg, the Netherlands (“Varian B.V.”) has committed nine violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”).² Specifically, BIS charges that Varian B.V. committed the following violations:

Charges 1-3: 15 C.F.R. § 764.2(b) - Aiding Export of Computers and Associated Software to Syria without the Required Department of Commerce Licenses

As more fully described in the Schedule of Violations, which is attached hereto and incorporated herein by reference, on three occasions from on or about August 10, 2001 to on or

¹ 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 to 2003. The Regulations governing the violations at issue are found in the 2001 to 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2003)). The 2006 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508, and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222, which has been extended by a series of Presidential Notices, the most recent being that of August 2, 2005 (70 Fed. Reg. 45,273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

about January 23, 2002, Varian B.V. engaged in conduct prohibited by the Regulations by aiding the export of computers and associated software (“computers and software”), items subject to the Regulations and classified under export control classification numbers (“ECCN”) 4A003 and 5D002, from the United States to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations. In particular, Varian B.V. received the computers and software from its affiliate, Varian, Inc., in the United States, and transshipped them to Syria when the required licenses had not been obtained. In so doing, Varian B.V. committed three violations of Section 764.2(b) of the Regulations.

Charges 4-5: 15 C.F.R. § 764.2(a) - Reexporting Computers and Associated Software to Syria without the Required Department of Commerce Licenses

On or about June 26, 2002 and on or about October 8, 2002, Varian B.V. engaged in conduct prohibited by the Regulations by reexporting computers and associated software (“computers and software”), items subject to the Regulations and classified under export control classification numbers (“ECCN”) 4A994, 5D002 and 5D992, from the Netherlands to Syria, without the Department of Commerce licenses required by Section 742.9 of the Regulations. In so doing, Varian B.V. committed two violations of Section 764.2(a) of the Regulations. *See* attached Schedule of Violations, which is incorporated herein by reference.

Charges 6-7: 15 C.F.R. § 764.2(e) - Transferring Computers and Software with Knowledge that Violations of the Export Administration Regulations Would Occur

On or about June 26, 2002 and on or about October 8, 2002, and in connection with the reexports described in Charges 4 and 5 above, Varian B.V. transferred the computers and software to Syria with knowledge that violations of the Regulations would occur. Specifically, Varian B.V. knew that a Department of Commerce license was required to reexport the computers and software from the Netherlands to Syria and Varian B.V. transferred the computers and software without the required licenses. In so doing, Varian B.V. committed two violations of Section 764.2(e) of the Regulations. *See* attached Schedule of Violations, which is incorporated herein by reference.

Charges 8-9: 15 C.F.R. § 764.2(a) - Reexporting Ethernet Switches to Syria without the Required Department of Commerce Licenses

On or about June 13, 2003 and on or about August 5, 2003, Varian B.V. engaged in conduct prohibited by the Regulations by reexporting ethernet switches (“switches”), items subject to the Regulations and classified under export control classification number (“ECCN”)

5A991 from the Netherlands to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations. In so doing, Varian B.V. committed two violations of Section 764.2(a) of the Regulations. *See* attached Schedule of Violations, which is incorporated herein by reference.

* * * *

Accordingly, Varian B.V. 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 \$11,000 per violation;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Varian B.V. 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 Varian B.V. defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Varian B.V. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for each of the charges in this letter.

Varian B.V. 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. Varian B.V. 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 Varian B.V. have a proposal to settle this case, Varian B.V. 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, Varian B.V.'s answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

³ *See* 15 C.F.R. § 6.4(a)(2).

Varian B.V.
Proposed Charging Letter
Page 4

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of Varian B.V.'s answer must be served on BIS at the following address:

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

James C. Pelletier is the attorney representing BIS in this case; any communications that Varian B.V. may wish to have concerning this matter should occur through him. Mr. Pelletier may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement

VARIAN, B.V. SCHEDULE OF VIOLATIONS

DATE (on or about)	Violations	COMMODITY	ECCNs	DESTINATION
8/10/01	15 C.F.R. 764(b)	Dell Optiplex Pentium IV Computer/Microsoft Windows 2000 Software	4A003/5D002	Syria
10/24/01	15 C.F.R. 764(b)	Dell Optiplex Pentium IV Computer/Microsoft Windows 2000 Software	4A003/5D002	Syria
1/23/02	15 C.F.R. 764(b)	Dell Optiplex Pentium IV Computers/Microsoft Windows 2000 Software	4A003/5D002	Syria
6/26/02	15 C.F.R. 764(a), (e)	Dell Optiplex Pentium IV Computer/Microsoft Windows 2000 Software	4A994/5D002	Syria
10/8/02	15 C.F.R. 764(a), (e)	Dell Optiplex Pentium IV Computer/Microsoft Windows 2000 Software	4A994/5D992	Syria
6/13/03	15 C.F.R. 764(a)	Netgear Ethernet Switch	5A991	Syria
8/5/03	15 C.F.R. 764(a)	Netgear Ethernet Switch	5A991	Syria

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

In the Matter of:)
)
Varian B.V.)
Herculesweg 8)
4338 PL)
Middelburg, Netherlands)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Varian B.V. 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”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”).²

¹ The violations charged occurred from 2001 to 2003. The Regulations governing the violations at issue are found in the 2001 to 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2003)). The 2006 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 Fed. Reg. 45,273 (Aug. 5, 2005)), has continued the Regulations in effect under IEEPA.

WHEREAS, Varian Inc., on behalf of Varian B.V.,³ filed a voluntary self-disclosure with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

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

WHEREAS, BIS has issued a proposed charging letter to Varian B.V. that alleged that Varian B.V. committed nine violations of the Regulations, specifically:

- 1. Three Violations of 15 C.F.R. § 764.2(b) - Aiding Export of Computers and Associated Software to Syria without the Required Department of Commerce Licenses:* On three occasions from on or about August 10, 2001 to on or about January 23, 2002, Varian B.V. engaged in conduct prohibited by the Regulations by aiding the export of computers and associated software ("computers and software"), items subject to the Regulations and classified under export control classification numbers ("ECCN") 4A003 and 5D002, from the United States to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations. In particular, Varian B.V. received the computers and software from its affiliate, Varian, Inc., in the United States, and transshipped them to Syria when the required licenses had not been obtained.
- 2. Two Violations of 15 C.F.R. § 764.2(a) - Reexporting Computers and Associated Software to Syria without the Required Department of Commerce Licenses:* On or about June 26, 2002 and October 8, 2002, Varian B.V.

³ Varian B.V. is a wholly-owned subsidiary of Varian Inc.

engaged in conduct prohibited by the Regulations by reexporting computers and associated software (“computers and software”), items subject to the Regulations and classified under export control classification numbers (“ECCN”) 4A994, 5D002 and 5D992, from the Netherlands to Syria, without the Department of Commerce licenses required by Section 742.9 of the Regulations.

3. *Two Violations of 15 C.F.R. § 764.2(e) - Transferring Computers and Software with Knowledge that Violations of the Export Administration Regulations Would Occur:* On or about June 26, 2002 and October 8, 2002, and in connection with the reexports described in Charges 4 and 5 above, Varian B.V. transferred the computers and software to Syria with knowledge that violations of the Regulations would occur. Specifically, Varian B.V. knew that a Department of Commerce license was required to reexport the computers and software from the Netherlands to Syria and Varian B.V. transferred the computers and software without the required licenses.
4. *Two Violations of 15 C.F.R. § 764.2(a) - Reexporting Ethernet Switches to Syria without the Required Department of Commerce Licenses:* On or about June 13, 2003 and August 5, 2003, Varian B.V. engaged in conduct prohibited by the Regulations by reexporting ethernet switches (“switches”), items subject to the Regulations and classified under export control classification number (“ECCN”) 5A991 from the Netherlands to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations.

WHEREAS, Varian B.V. 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, Varian B.V. 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, Varian B.V. enters into this Agreement voluntarily and with full knowledge of its rights;

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

WHEREAS, Varian B.V. neither admits nor denies the allegations contained in the proposed charging letter;

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

WHEREAS, Varian B.V. agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Varian B.V., under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Varian B.V. 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 submitted on behalf of Varian B.V.:

a. Varian B.V. shall be assessed a civil penalty in the amount of \$39,600, 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 Varian B.V. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Varian B.V.'s export privileges under the Regulations 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, Varian B.V. 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; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$39,600 civil penalty, BIS will not initiate any further administrative proceeding against Varian B.V. 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 submitted on behalf of Varian B.V.

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

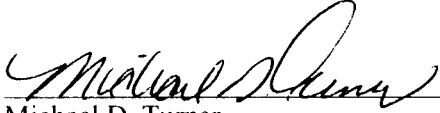
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial 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.

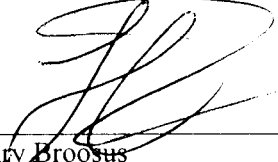
BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



Michael D. Turner
Director
Office of Export Enforcement

Date: 7/26/06

VARIAN B.V.



Henry Broosus
Managing Director

Date: July 19, 2006



Rene de Nijs
Managing Director

Date: July 19, 2006

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

In the Matter of:)
)
Varian B.V.)
Herculesweg 8)
4338 PL)
Middelburg, Netherlands)
)

Respondent)

ORDER RELATING TO VARIAN B.V.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Varian B.V. of its intention to initiate an administrative proceeding against Varian B.V. pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through the issuance of a proposed charging letter to Varian

¹ The violations charged occurred from 2001 to 2003. The Regulations governing the violations at issue are found in the 2001 to 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2003)). The 2006 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 Fed. Reg. 45,273 (Aug. 5, 2005)), has continued the Regulations in effect under IEEPA.

B.V. that alleged that Varian B.V. committed nine violations of the Regulations.

Specifically, the charges are:

- 1. Three Violations of 15 C.F.R. § 764.2(b) - Aiding Export of Computers and Associated Software to Syria without the Required Department of Commerce Licenses:* On three occasions from on or about August 10, 2001 to on or about January 23, 2002, Varian B.V. engaged in conduct prohibited by the Regulations by aiding the export of computers and associated software (“computers and software”), items subject to the Regulations and classified under export control classification numbers (“ECCN”) 4A003 and 5D002, from the United States to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations. In particular, Varian B.V. received the computers and software from its affiliate, Varian, Inc., in the United States, and transshipped them to Syria when the required licenses had not been obtained.
- 2. Two Violations of 15 C.F.R. § 764.2(a) - Reexporting Computers and Associated Software to Syria without the Required Department of Commerce Licenses:* On or about June 26, 2002 and October 8, 2002, Varian B.V. engaged in conduct prohibited by the Regulations by reexporting computers and associated software (“computers and software”), items subject to the Regulations and classified under export control classification numbers (“ECCN”) 4A994, 5D002 and 5D992, from the Netherlands to Syria, without the Department of Commerce licenses required by Section 742.9 of the Regulations.

3. *Two Violations of 15 C.F.R. § 764.2(e) - Transferring Computers and Software with Knowledge that Violations of the Export Administration Regulations Would Occur:* On or about June 26, 2002 and October 8, 2002, and in connection with the reexports described in Charges 4 and 5 above, Varian B.V. transferred the computers and software to Syria with knowledge that violations of the Regulations would occur. Specifically, Varian B.V. knew that a Department of Commerce license was required to reexport the computers and software from the Netherlands to Syria and Varian B.V. transferred the computers and software without the required licenses.
4. *Two Violations of 15 C.F.R. § 764.2(a) - Reexporting Ethernet Switches to Syria without the Required Department of Commerce Licenses:* On or about June 13, 2003 and August 5, 2003, Varian B.V. engaged in conduct prohibited by the Regulations by reexporting ethernet switches (“switches”), items subject to the Regulations and classified under export control classification number (“ECCN”) 5A991 from the Netherlands to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations.

WHEREAS, BIS and Varian B.V. 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:

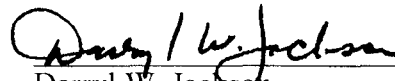
FIRST, that a civil penalty of \$39,600 is assessed against Varian B.V., which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, Varian B.V. 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 Varian B.V. Accordingly, if Varian B.V. should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Varian B.V.'s export privileges under the Regulations 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 2nd day of August, 2006.