



**DRAFT**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Howmet Corporation  
9 Old Kings Highway  
Darien, Connecticut 06820

Attention: *Mario Longhi*  
*President and Chief Executive Officer*

Dear Mr. Longhi:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that Howmet Corporation (“Howmet”) has committed three violations of the Export Administration Regulations (the “Regulations”), which are issued under the authority of the Export Administration Act of 1979 (the “Act”).<sup>1</sup> Specifically, BIS charges that Howmet committed the following violations:

**Charge 1 (15 C.F.R. § 742.4(a), § 742.5(a)(1), and § 764.2(a) - Engaging in Prohibited Conduct - Export of Ceramic Core Technology to the United Kingdom Without the Required License)**

Between in or about March of 1997 and on or about March 29, 2000, Howmet exported or caused to be exported technology for the production of ceramic cores from the United States to Howmet Ltd., in Exeter, Devon, United Kingdom. The exported technology was subject to the

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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 (2002). The current version of the Regulations govern the procedural aspects of this case. The violations charged occurred from 1997 through 2000. The Regulations governing the violations at issue are found in the 1997 through 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1997-2000)). The Regulations were issued pursuant to the Export Administration Act of 1979 (“Act”), 50 U.S.C. app. §§ 2401-2420 (2000). 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 issued on 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 14, 2002 (67 Fed. Reg. 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.



Regulations and described in Export Control Classification Number (ECCN) 9E002.<sup>2</sup> During the period described above, Howmet did not have a license to export to the United Kingdom technology subject to ECCN 9E002 from the Department of Commerce, as required by Sections 742.4(a) and 742.5(a)(1) of the Regulations. In exporting this technology to the United Kingdom, Howmet committed one violation of Section 764.2(a) of the Regulations.

**Charge 2 (15 C.F.R. § 742.4(a), § 742.5(a)(1), and § 764.2(a) - Engaging in Prohibited Conduct - Export of Ceramic Core Technology to Japan Without the Required License)**

Between in or about March of 1997 and on or about March 29, 2000, Howmet exported or caused to be exported technology for the production of ceramic cores from the United States to Komatsu-Howmet Ltd., in Nomi, Ishikawa, Japan. The exported technology was subject to the Regulations and described in ECCN 9E002. During the period described above, Howmet did not have a license to export to Japan technology subject to ECCN 9E002 from the Department of Commerce, as required by Sections 742.4(a) and 742.5(a)(1) of the Regulations. In exporting this technology to Japan, Howmet committed one violation of Section 764.2(a) of the Regulations.

**Charge 3 (15 C.F.R. § 742.5(a)(1) and § 764.2(a) - Engaging in Prohibited Conduct - Export of Casting Furnace Equipment to Japan Without the Required License)**

On or about December 15, 1997, Howmet exported or caused to be exported parts for a directional solidification casting furnace from the United States to Komatsu-Howmet Ltd., in Nomi, Ishikawa, Japan. The exported parts, valued at \$290,026, were subject to the Regulations and described in ECCN 9B001. Howmet did not have a license from the Department of Commerce to export these parts to Japan, as required by Section 742.5(a)(1) of the Regulations. In exporting this equipment to Japan, Howmet committed one violation of Section 764.2(a) of the Regulations.

Accordingly, Howmet 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:

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<sup>2</sup> The ECCN's for various items are set out in the Commerce Control List (CCL) in Supplement No. 1 to part 774 of the Regulations.

The maximum civil penalty allowed by law of \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

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

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

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<sup>3</sup> See the Federal Civil Penalties Adjustment Act of 1990 (28 U.S.C. § 2461, note (2000)) and 15 C.F.R. § 6.4(a)(2).

Howmet Corporation  
Charging Letter  
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**DRAFT**

Philip D. Golrick is the attorney representing BIS in this case; any communications that you may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosure

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

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In the Matter of: )  
)  
Howmet Corporation )  
9 Old Kings Highway )  
Darien, Connecticut 06820 )  
)  
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)  
Respondent. \_\_\_\_\_)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Howmet Corporation (“Howmet”) and the Bureau of Industry and Security, United States Department of Commerce (“BIS”), pursuant to Section 766.18(b) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2002)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).\*

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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 (2002). The current version of the Regulations govern the procedural aspects of this case. The charged violations occurred from 1997 through 2000. The Regulations governing the charged violations are found in the 1997 through 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1997-2000)).

<sup>2</sup> 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 14, 2002 (67 *Fed. Reg.* 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

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

WHEREAS, BIS has issued a proposed charging letter to **Howmet** alleging that **Howmet** committed three violations of Section 764.2(a) of the Regulations; specifically, that **Howmet** exported technology for the production of ceramic cores from the United States to the United Kingdom and to Japan, and exported parts for a directional solidification casting furnace from the United States to Japan, without obtaining the necessary licenses for these exports;

WHEREAS, **Howmet** 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, **Howmet** fully understands the terms of this Settlement Agreement and the Order of the Assistant Secretary of Commerce for Export Enforcement to be issued to give effect to this Settlement Agreement (“Order”);

WHEREAS, **Howmet** enters into this Settlement Agreement voluntarily and with full knowledge of its rights;

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

WHEREAS, **Howmet** disclosed the violations described in the proposed charging letter;

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

WHEREAS, **Howmet** agrees to be bound by the Order, when entered;

NOW THEREFORE, Howmet and BIS agree as follows:

1. BIS has jurisdiction over Howmet, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. BIS and Howmet agree that the following sanctions shall be imposed against Howmet in complete settlement of the alleged violations of the Regulations set forth in the proposed charging letter:
  - a. Howmet shall be assessed a civil penalty in the amount of \$10,000 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 2a 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 Howmet. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Howmet's export privileges for a period of one year from the date of imposition of the penalty.
3. Howmet agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed charging letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the Order, when entered; and (c) to seek

judicial review or otherwise to contest the validity of this Settlement Agreement or the Order, when entered.

4. BIS agrees that, upon entry of the Order, it will not initiate any administrative proceeding against Howmet in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. Howmet understands that BIS will make the proposed charging letter, this Settlement Agreement, and the Order, when entered, available to the public.

6. BIS and Howmet agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(b) of the Regulations, BIS and Howmet agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BIS only when the Assistant Secretary of Commerce for Export Enforcement approves it by entering an Order, which will

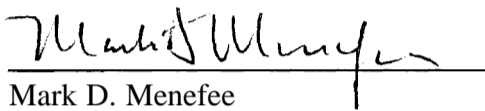


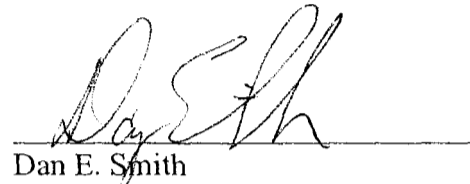
have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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

HOWMET CORPORATION

  
Mark D. Menefee

  
Dan E. Smith

Director  
Office of Export Enforcement

Vice President Finance

Date: 4/30/03

Date: 4/22/03

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

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In the Matter of: )  
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Howmet Corporation )  
9 Old Kings Highway )  
Darien, Connecticut 06820 )  
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Respondent. )

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ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), having notified Howmet Corporation, 9 Old Kings Highway, Darien, Connecticut, 06820 (“Howmet”) of its intention to initiate an administrative proceeding against Howmet, pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>1</sup> and the Export Administration Regulations (15 C.F.R. Parts 730-774 (2002)) (“Regulations”),\* based on allegations in a proposed charging letter issued to Howmet

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<sup>1</sup>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 14, 2002 (67 *Fed. Reg.* 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

<sup>2</sup>The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The current version of the Regulations govern the procedural aspects of this case. The charged violations occurred from 1997 through 2000. The Regulations governing the charged violations are found in the 1997 through 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1997-2000)).

that Howmet committed three violations of Section 764.2(a) of the Regulations; specifically, that Howmet exported technology for the production of ceramic cores from the United States to the United Kingdom and to Japan, and exported parts for a directional solidification casting furnace from the United States to Japan, without obtaining the necessary licenses for these exports; and

BIS and Howmet having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$10,000 is assessed against Howmet, 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, Howmet shall 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 Howmet. Accordingly, if Howmet should fail to pay the civil penalty in a timely manner, the undersigned may enter an

Order  
Howmet Corporation  
Page 3 of 3

Order denying all of Howmet's 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.



Lisa A. Prager  
Acting Assistant Secretary of Commerce  
for Export Enforcement

Entered this 26<sup>th</sup> day of MAY 3 .

## NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), and the Federal Claims Collection Standards (31 C.F.R. Parts 900-904 (2002)), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed respondent is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C.A. § 3717 and 31 C.F.R. § 901.9.

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and respondent will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a penalty charge of six percent per year. However, although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date. See 31 U.S.C.A. § 3717 and 31 C.F.R. § 901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with section 901.2(b) of the Federal Claims Collection Standards (31 C.F.R. § 901.2(b)).

INSTRUCTIONS FOR PAYMENT OF CIVIL PENALTY

1. The civil penalty check should be made payable to:

U.S. Department of Commerce

2. The check should be mailed to

U.S. Department of Commerce  
Bureau of Industry and Security  
Export Enforcement Team  
Room H-6883  
14th Street and Constitution Avenue, N. W.  
Washington, D.C. 20230

ATTN: Raven Austin