

NOV 22 2005



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Swiss Telecom
777 Bay The Wicket
P.O. Box 46070
Toronto, ON M5G 2P6

Attn: *Seyed Mohammad Moein Sadejhi*
Chief Executive Officer

Dear Mr. Sadejhi:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Swiss Telecom, Inc., of Toronto, Ontario, ("Swiss Telecom") 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 (the "Act").² Specifically, BIS charges that Swiss Telecom committed the following violations:

Charge 1 15 C.F.R. § 764.2(d): Conspiracy to Export Items from the United States to Iran without the Required Licenses:

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, from on or about November 2001, through on or about March 2002, Swiss Telecom conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations, namely the export of telecommunications devices to Iran without the required licenses. The goal of the conspiracy was to obtain telecommunications devices, including devices manufactured by a U.S. company, including the Adit 600 Chassis, FXO Channel Cards, and ABI FXO Ports, items subject to both the

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The charged violations occurred in 2001 and 2002. The Regulations governing the violations at issue are found in the 2001 and 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). The 2005 Regulations set forth the procedures that apply to this matter.

² 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 August 2, 2005 (70 Fed. Reg. 45,273 (August 5, 2005)), has continued the Regulations in effect under the IEEPA.



Regulations (ECCN³ 5A991) and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control (OFAC),⁴ on behalf of an Iranian end-user and to export those telecommunications devices to Iran. In furtherance of the conspiracy, Swiss Telecom employees met with employees of a U.S. co-conspirator on at least one occasion to discuss the purchase of telecommunications devices for export to Iran, and caused the export of these telecommunications devices from the United States to a co-conspirator in the United Arab Emirates who completed the export to Iran. Contrary to Section 746.7 of the Regulations, no authorization from OFAC was obtained for the export of these items from the United States to Iran. In so doing, Swiss Telecom committed one violation of Section 764.2(d).

Charges 2 – 3 15 C.F.R. § 764.2(b): Causing the Export of Items from the United States Without the Required Licenses:

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on two occasions on or about December 17, 2001, and on or about March 7, 2002, Swiss Telecom caused, aided or abetted the doing of an act prohibited by the Regulations. Specifically, Swiss Telecom ordered telecommunications devices from a U.S. company, including the Adit 600 Chassis, FXO Channel Cards, and ABI FXO Ports, items subject to both the Regulations (ECCN 5A991) and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control (OFAC), for a project in Iran and told the U.S. company to export the items through the United Arab Emirates. The U.S. company then exported the devices through the UAE to Iran without authorization from OFAC as required by Section 746.7 of the Regulations. In so doing, Swiss Telecom committed two violations of Section 764.2(b) of the Regulations.

Charges 4 – 5 15 C.F.R. § 764.2(e): Acting With Knowledge That a Violation of the Regulations Was About to Occur:

In connection with the transactions referenced in Charges Two and Three, Swiss Telecom ordered items (as described above) that were to be exported from the United States with knowledge that a violation of the Regulations was intended to occur. Specifically, Swiss Telecom ordered telecommunication devices for a project in Iran with knowledge that they would be exported without the required authorization from the United States to Iran, via the United Arab Emirates. In so doing, Swiss Telecom committed two violations of Section 764.2(e) of the Regulations.

³ The term "ECCN" refers to an Export Control Classification Number. See Section 772.1 of the Regulations.

⁴ See 31 C.F.R. § 560.204.

Charges 6 – 9 15 C.F.R. § 764.2(b): Causing the Export of Technical Information Without the Required Licenses:

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on four occasions between on or about September 14, 2001, and on or about March 19, 2002, Swiss Telecom caused the doing of an act prohibited by the Regulations by causing the export of technical information subject to the Regulations (ECCN 5E991) from a U.S. company to Iran. Specifically, a Swiss Telecom employee caused a U.S. company to provide Swiss Telecom with technical data and customer support assistance for equipment in Iran, via telephone, e-mail and telnet, without the required U.S. Government authorization. In so doing, Swiss Telecom committed four violations of Section 764.2(b) of the Regulations.

* * * *

Accordingly, Swiss Telecom 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;⁵

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Swiss Telecom 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. Swiss Telecom 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 Swiss Telecom have a proposal to settle this case, Swiss Telecom or its representative should transmit it to the attorney representing BIS named below.

⁵ 15 C.F.R. § 6.4(a)(2).

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

SCHEDULE A

SWISS TELECOM

CHARGES ⁶	DATE OF EXPORT (ON OR ABOUT)	COMMODITY	VALUE (U.S. DOLLARS)	ECCN	COUNTRY	INVOICE/AIRWAYBILL
2, 4	12/17/01	Audit 600 Chassis (2) Audit 600 FXO Cards (12)	\$7,491.82	5A991	Iran	29826/FedEx601102116011
3, 5	3/7/02	Audit 600 Chassis (4) FXO Cards (24) ABI w/24 FXO ports (4) Power Adapter (4) Cables (20)	\$23,288.64	5A991	Iran	31504/FedEx601102120871
6	9/14/01	Telephone call to U.S. company requesting assistance with connection of device manufactured by U.S. company to Iranian network.	--	5E991	Iran	--
7	11/08/01	Telephone calls to U.S. company requesting assistance with connection of device manufactured by U.S. company to router in Iran.	--	5E991	Iran	--
8	3/8/02	Telephone call to U.S. company about connecting device manufactured by U.S. company to power supply in Iran.	--	5E991	Iran	--
9	3/19/02	Telephone calls to U.S. company to resolve a "disconnect issue" in Iran; 1 request for U.S. company to telnet into Swiss Telecom system.	--	5E991	Iran	--

⁶ Charge One relates to conduct occurring from on or about November 2001 through on or about March 2002.

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

In the Matter of:)

Swiss Telecom)

777 Bay the Wicket)

P.O. Box 46070)

Toronto, ON M5G 2P6)

Respondent.)

Docket No: 05-BIS-18

RECOMMENDED DECISION AND ORDER

On November 22, 2005, the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), issued a charging letter initiating this administrative enforcement proceeding against Swiss Telecom. The charging letter alleged that Swiss Telecom committed nine violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the “Regulations”),¹ issued under the Export Administration Act of 1979, as amended (50 U.S.C. App. §§ 2401-2420 (2000)) (the “Act”).²

¹ The charged violations occurred in 2001 and 2002. The Regulations governing the violations at issue are found in the 2001 and 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). 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 was 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. §§ 1701-06 (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.

Specifically, the charging letter alleged that Swiss Telecom conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations, namely the export of telecommunications devices to Iran without the required licenses. BIS alleged that the goal of the conspiracy was to obtain telecommunications devices, including devices manufactured by a U.S. company, including an Adit 600 Chassis, FXO Channel Cards, and ABI FXO Ports (ECCN 5A991³), items subject to both the Regulations and the Iranian Transactions Regulations⁴ of the Treasury Department's Office of Foreign Assets Control (OFAC), on behalf of an Iranian end-user and to export those telecommunications devices to Iran. (Charge 1).

The charging letter filed by BIS also alleged that, on or about December 17, 2001, and on or about March 7, 2002, Swiss Telecom caused, aided or abetted the doing of an act that was prohibited by the Regulations. Specifically, BIS alleged that Swiss Telecom ordered the aforementioned telecommunications devices from a U.S. company for a project in Iran and told the U.S. company to export the items through the United Arab Emirates (UAE) to Iran. The U.S. company then exported the devices through the UAE to Iran. These transactions were subject to the Iranian Transactions Regulations, and were done without authorization from OFAC as required by Section 746.7 of the Regulations. (Charges 2 and 3).

In addition, the BIS charging letter alleged that in connection with the two aforementioned transactions, Swiss Telecom ordered the telecommunications devices for a project in Iran with knowledge that they would be exported from the United States to Iran, via the UAE without authorization from OFAC. (Charges 4 and 5).

³ The term "ECCN" refers to Export Control Classification Number. See 15 C.F.R. § 772.1 (2006).

⁴ 31 C.F.R. Part 560 (2006).

Finally, the BIS charging letter alleged that on four occasions between on or about September 14, 2001, and or about March 19, 2002, Swiss Telecom caused the doing of an act prohibited by the Regulations by causing the export of technical information subject to the Regulations (ECCN 5E991) from a U.S. company to Iran. Specifically, BIS alleged that a Swiss Telecom employee caused a U.S. company to provide Swiss Telecom with technical data and customer support assistance for equipment in Iran, via telephone, email and telnet. These transactions were subject to the Iranian Transactions Regulations, and were done without authorization from OFAC as required by Section 746.7 of the Regulations. (Charges 6, 7, 8, and 9).

Section 766.3(b)(1) of the Regulations provides that notice of the issuance of a charging letter shall be served on a respondent by mailing a copy by registered or certified mail addressed to the respondent at the respondent's last known address. In accordance with the Regulations, on November 22, 2005, BIS mailed the notice of issuance of a charging letter by registered mail to Swiss Telecom at its last known address: Swiss Telecom, 777 Bay The Wicket, P.O. Box 46070, Toronto, Ontario M5G 2P6. In addition, BIS mailed the notice of issuance of a charging letter by registered mail to counsel for Swiss Telecom, Mr. Kenneth H. Page, Page Arnold LLP, Suite 2200, 439 University Avenue, Toronto, Ontario, M5G 1Y8. BIS has submitted evidence that establishes that this charging letter was received by Swiss Telecom on or about December 9, 2005. BIS has also submitted evidence that establishes that this charging letter was received by Mr. Arnold Page on or about December 8, 2005.

Section 766.6(a) of the Regulations provides, in pertinent part, that "[t]he respondent must answer the charging letter within 30 days after being served with notice of issuance of the

charging letter” initiating the administrative enforcement proceeding. To date, Swiss Telecom has not filed an answer to the charging letter.

Pursuant to the default procedures set forth in Section 766.7 of the Regulations, I find the facts to be as alleged in the charging letter, and hereby determine that those facts establish that Swiss Telecom committed one violation of Section 764.2(d), six violations of Section 764.2(b), and two violations of Section 764.2(e) of the Regulations.

Section 764.3 of the Regulations sets forth the sanctions BIS may seek for violations of the Regulations. The applicable sanctions are: (i) a monetary penalty, (ii) suspension from practice before the Bureau of Industry and Security, and (iii) a denial of export privileges under the Regulations. See 15 C.F.R. § 764.3 (2001-2002). Because Swiss Telecom knowingly violated the Regulations by causing the export of technical information subject to the Regulations and by ordering telecommunications devices for delivery to Iran, with knowledge that a violation of the Regulations would occur, BIS requests that I recommend to the Under Secretary of Commerce for Industry and Security⁵ that Swiss Telecom’s export privileges be denied for ten years.

BIS has suggested these sanctions because Swiss Telecom’s knowing violation in causing the export of controlled technical information and telecommunications devices for delivery to Iran without prior authorization evidences a serious disregard for U.S. export control laws. Furthermore, BIS has noted that Iran is a country that the United States has designated as a state-sponsor of international terrorism. In addition, BIS believes that the imposition of a civil penalty in this case may be ineffective, given the difficulty of collecting payment against a party outside

⁵ Pursuant to Section 13(c)(1) of the Export Administration Act and Section 766.17(b)(2) of the Regulations, in export control enforcement cases, the Administrative Law Judge makes recommended findings of fact and conclusions of law that the Under Secretary must affirm, modify or vacate. The Under Secretary’s action is the final decision for the U.S. Commerce Department.

of the United States. In light of these circumstances, BIS believes that the denial of Swiss Telecom's export privileges for ten years is an appropriate sanction.

On this basis, I concur with BIS and recommend that the Under Secretary of Commerce for Industry and Security enter an Order denying Swiss Telecom's export privileges for a period of ten years. Such a denial order is consistent with penalties imposed in past cases under the Regulations involving shipments to Iran. See In the Matter of Petrom GmbH International Trade, 70 Fed. Reg. 32,743 (June 6, 2005) (affirming the recommendations of the Administrative Law Judge that a twenty year denial order and a civil monetary sanction of \$143,000 were appropriate where knowing violations involved a shipment of EAR99 items to Iran); In the Matter of Arian Transportvermittlungs, GmbH, 69 Fed. Reg. 28,120 (May 18, 2004) (affirming the recommendation of the Administrative Law Judge that a ten year denial order was appropriate where knowing violations involved a shipment of a controlled item to Iran); In the Matter of Jabal Damavand General Trading Company, 67 Fed. Reg. 32,009 (May 13, 2002) (affirming the recommendation of the Administrative Law Judge that a ten year denial order was appropriate where knowing violations involved shipments of EAR99 items to Iran); In the Matter of Abdulmir Mahdi, 68 Fed. Reg. 57,406 (Oct. 3, 2003) (affirming the recommendation of the Administrative Law Judge that a twenty year denial order was appropriate where knowing violations involved shipments of EAR99 items to Iran as a part of a conspiracy to ship such items through Canada to Iran). A ten year denial of Swiss Telecom's export privileges is warranted because Swiss Telecom's violations, like those of the defendants in the above-cited case, were deliberate acts done in violation of U.S. export control laws.

The terms of the denial of export privileges against Swiss Telecom should be consistent with the standard language used by BIS in such orders. The language is:

[Redacted]

[Redacted]

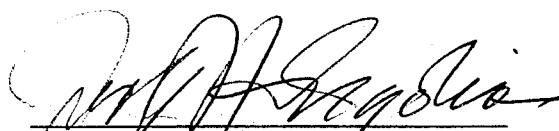
[Redacted]

This Order, which constitutes the final agency action in this matter, is effective upon publication in the Federal Register.

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the respondent, as provided in Section 766.7 of the Regulations.

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order. See 15 C.F.R. § 766.22(c).

Dated: May 12th 2006


The Honorable Joseph N. Ingolia
Chief Administrative Law Judge

UNITED STATES DEPARTMENT OF COMMERCE
UNDER SECRETARY FOR INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
Swiss Telecom)
777 Bay the Wicket)
P.O. Box 46070) Docket No: 05-BIS-18
Toronto, ON M5G 2P6)
)
Respondent)
_____)

DECISION AND ORDER

On November 22, 2005, the Bureau of Industry and Security ("BIS") issued a charging letter alleging that Respondent, Swiss Telecom, committed nine violations of the Export Administration Regulations (Regulations)¹. The Regulations were issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the Act).²

Specifically, the charging letter alleged that Swiss Telecom conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations, namely the export of telecommunications devices to Iran without the required

¹ The Regulations are currently codified at 15 C.F.R. Parts 730-774 (2006). The charged violations occurred in 2001 and 2002. The Regulations governing the violations at issue are found in the 2001 and 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). 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)), which has been extended by successive 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.

licenses. BIS alleged that the goal of the conspiracy was to obtain telecommunications devices, including devices manufactured by a U.S. company, including an Adit 600 Chassis, FXO Channel Cards, and ABI FXO Ports (ECCN 5A991³), items subject to both the Regulations and the Iranian Transactions Regulations⁴ of the Treasury Department's Office of Foreign Assets Control (OFAC), on behalf of an Iranian end-user and to export those telecommunications devices to Iran. In doing so, BIS charged that Swiss Telecom committed a violation of Section 764.2(d) of the Regulations.

The charging letter filed by BIS also alleged that, on or about December 17, 2001, and on or about March 7, 2002, Swiss Telecom caused, aided or abetted the doing of an act that was prohibited by the Regulations. Specifically, BIS alleged that Swiss Telecom ordered the aforementioned telecommunications devices from a U.S. company for a project in Iran and told the U.S. company to export the items through the United Arab Emirates (UAE) to Iran. The U.S. company then exported the devices through the UAE to Iran. These transactions were subject to the Iranian Transactions Regulations, and were done without authorization from OFAC as required by Section 746.7 of the Regulations. BIS charged that Swiss Telecom committed two violations of Section 764.2(b) of the Regulations.

In addition, the BIS charging letter alleged that in connection with the two aforementioned transactions, Swiss Telecom ordered the telecommunications devices for a project in Iran with knowledge that they would be exported from the United States to Iran, via the UAE, without authorization from OFAC. In doing so, BIS charges that two violations of Section 764.2(e) of the Regulations were committed.

³ The term "ECCN" refers to Export Control Classification Number. See 15 C.F.R. § 772.1 (2006).

⁴ 31 C.F.R. Part 560 (2006).

Finally, the BIS charging letter alleged that on four occasions between on or about September 14, 2001, and on or about March 19, 2002, Swiss Telecom caused the doing of an act prohibited by the Regulations by causing the export of technical information subject to the Regulations (ECCN 5E991) from a U.S. company to Iran. Specifically, BIS alleged that a Swiss Telecom employee caused a U.S. company to provide Swiss Telecom with technical data and customer support assistance for equipment in Iran, via telephone, email and telnet. These transactions were subject to the Iranian Transactions Regulations, and were done without authorization from OFAC as required by Section 746.7 of the Regulations. This activity was the basis for four charges under Section 764.2(b) of the Regulations.

In accordance with Section 766.3(b)(1) of the Regulations, on November 22, 2005, BIS mailed the notice of issuance of the charging letter by registered mail to Swiss Telecom at its last known address. BIS has established that this charging letter was received by Swiss Telecom on or about December 9, 2005. In addition, BIS mailed notice of issuance of a charging letter by registered mail to counsel for Swiss Telecom. BIS has also established that this charging letter was received by counsel for Swiss Telecom on or about December 8, 2005.

Section 766.6(a) of the Regulations provides, in pertinent part, that “[t]he respondent must answer the charging letter within 30 days after being served with notice of issuance of the charging letter” initiating the administrative enforcement proceeding. To date, Swiss Telecom has not filed an answer to the charging letter.

Pursuant to the default procedures set forth in Section 766.7 of the Regulations, BIS filed a Motion for Default Order on April 7, 2006. Under Section 766.7(a) of the Regulations, “[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the

respondent's right to appear," and "on BIS's motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter." Based upon the record before him, the ALJ held Swiss Telecom in default.

Accordingly, on May 12, 2006, the ALJ issued a Recommended Decision and Order in which he found the facts to be as alleged in the charging letter, and determined that those facts established that Swiss Telecom committed one violation of Section 764.2(d), six violations of Section 764.2(b) and two violations of Section 764.2(e) of the Regulations. The ALJ recommended a penalty of denial of Swiss Telecom's export privileges for 10 years.

The ALJ's Recommended Decision and Order, together with the entire record in this case, has been referred to me for final action under Section 766.22 of the Regulations. I find that the record supports the ALJ's findings of fact and conclusions of law with respect to each of the above-referenced charges brought against Swiss Telecom. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations, the importance of preventing future unauthorized exports, and the lack of any mitigating factors. Although the imposition of monetary penalties is an appropriate option, I agree with the ALJ that in this case such a penalty may not be effective, given the difficulty of collecting payment against a party outside the United States.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the ALJ's Recommended Decision and Order.

ACCORDINGLY, IT IS THEREFORE ORDERED,

FIRST, that, for a period of ten years from the date this Order is published in the Federal Register, Swiss Telecom, 777 Bay the Wicket, P.O. Box 46070, Toronto, ON M5G 2P6, and all of its successors and assigns, and, when acting for or on behalf of Swiss Telecom, its officers,

representatives, agents, and employees ("Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

FIFTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the Federal Register.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the Federal Register.

Dated: 6/1/06

A handwritten signature in black ink, appearing to read "D. McCormick", written over a horizontal line.

David H. McCormick
Under Secretary of Commerce
for Industry and Security