

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Tesmec S.p.A.
Via Trento 26
Curno, Bergamo, Italy
BG 24035

Attention: *Ambrogio Caccia Dominioni*
President

Dear Mr. Dominioni:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Tesmec S.p.A. ("Tesmec Italy") of Curno, Italy, has committed three 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 Tesmec Italy has committed the following violations:

Charge 1 15 C.F.R. § 764.2(h) - Taking Action with Intent to Evade the Regulations

On or about February 17, 2003, Tesmec Italy took action with intent to evade the Regulations when it asked its subsidiary located in the United States to remove the U.S.-origin markings from a trencher subject to the Regulations ("EAR99")³ that the subsidiary was intending to export to Libya via Italy. Removal of such markings would have concealed the fact that the trencher was of U.S. origin and hence would have required a license from the Department of Commerce ("DOC") for export to Libya under then Section 746.4 of the Regulations. In so doing, Tesmec Italy committed one violation of Section 764.2(h) of the Regulations.

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 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2005 Regulations establish 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)), as extended by the Notice of August 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

³ EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control list.

Charge 2 15 C.F.R. § 764.2(h) - Taking Action with Intent to Evade the Regulations

On or about February 17, 2003, Tesmec Italy took action with intent to evade the Regulations when it asked its subsidiary located in the United States about “re-styling” the technical documents associated with a trencher, an subject to the Regulations, to include Tesmec Italy logos. The subsidiary intended to export this trencher to Libya via Italy. Altering the technical documents in this manner would have concealed the fact that the trencher was of U.S. origin and hence would have required a license from DOC for export to Libya under then Section 746.4 of the Regulations. In so doing, Tesmec Italy committed one violation of Section 764.2(h) of the Regulations.

Charge 3 15 C.F.R. § 764.2(e) - Ordering an Item Subject to the Regulations With Knowledge That a Violation Would Occur

In connection with an attempted export from the United States to Libya made by its subsidiary on or about February 11, 2003, Tesmec Italy ordered a trencher, an item subject to the Regulations, from its subsidiary with knowledge that a violation of the Regulations was intended to occur in connection with the trencher. At all times relevant hereto, Tesmec Italy knew that the trencher required a license from DOC for export to Libya under then Section 746.4 of the Regulations, and that the required authorization would not be obtained. In so doing, Tesmec Italy committed one violation of Section 764.2(e) of the Regulations.

Accordingly, Tesmec Italy 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;⁴

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Tesmec Italy 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 Tesmec Italy defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Tesmec Italy. The

⁴ See 15 C.F.R. § 6.4(a)(2).

Under Secretary for Industry and Security may then impose up to the maximum penalty on the charges in this letter.

Tesmec Italy is further notified that it is entitled to an agency hearing on the record if Tesmec Italy files a written demand for one with its answer. (Regulations, Section 766.6). Tesmec Italy 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 Tesmec Italy have a proposal to settle this case, Tesmec Italy 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, Tesmec Italy'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 Tesmec Italy's answer must be served on BIS at the following address:

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

Parvin Huda is the attorney representing BIS in this case. Any communications that Tesmec Italy may wish to have concerning this matter should occur through her. She may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement

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

In the Matter of:)
)
Tesmec S.p.A.)
Via Trento 26)
Curno, Bergamo, Italy)
BG 24035)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Tesmec S.p.A. (“Tesmec Italy”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (“Regulations”)¹, issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”);²

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

WHEREAS, BIS has issued a proposed charging letter to Tesmec Italy that alleged that Tesmec Italy committed three violations of the Regulations, specifically:

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

² 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 most recently by the Notice of August 2, 2005, (70 Fed. Reg. 45,273 (August 5, 2005)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701- 1706 (2000)).

1. *One Violation of 15 C.F.R. § 764.2(h) - Taking Action with Intent to Evade the Regulations:* On or about February 17, 2003, Tesmec Italy took action with intent to evade the Regulations when it asked its subsidiary located in the United States to remove the U.S.-origin markings from a trencher subject to the Regulations (“EAR99”)³ that the subsidiary was intending to export to Libya via Italy. Removal of such markings would have concealed the fact that the trencher was of U.S. origin and hence would have required a license from the U.S. Department of Commerce for export to Libya under then Section 746.4 of the Regulations.
2. *One Violation of 15 C.F.R. § 764.2(h) - Taking Action with Intent to Evade the Regulations:* On or about February 17, 2003, Tesmec Italy took action with intent to evade the Regulations when it asked its subsidiary located in the United States about “re-styling” the technical documents associated with a trencher, an subject to the Regulations, to include Tesmec Italy logos. The subsidiary intended to export this trencher to Libya via Italy. Altering the technical documents in this manner would have concealed the fact that the trencher was of U.S. origin and hence would have required a license from the U.S. Department of Commerce for export to Libya under then Section 746.4 of the Regulations.
3. *One Violation of 15 C.F.R. § 764.2(e) - Ordering an Item Subject to the Regulations With Knowledge That a Violation Would Occur:* In connection with an attempted export from the United States to Libya made by its subsidiary on or

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about February 11, 2003, Tesmec Italy ordered a trencher, an item subject to the Regulations, from its subsidiary with knowledge that a violation of the Regulations was intended to occur in connection with the trencher. At all times relevant hereto, Tesmec Italy knew that the trencher required a license from the U.S. Department of Commerce for export to Libya under then Section 746.4 of the Regulations, and that the required authorization would not be obtained.

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

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

WHEREAS, Tesmec Italy neither admits nor denies the allegations contained in the proposed charging letter;

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

WHEREAS, Tesmec Italy agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Tesmec Italy, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanctions shall be imposed against Tesmec Italy in complete settlement of the violations of the Regulations set forth in the proposed charging letter:

- a. Tesmec Italy shall be assessed a civil penalty in the amount of \$24,300, 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 Tesmec Italy. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Tesmec Italy'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, Tesmec Italy 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 \$24,300 civil penalty, BIS will not initiate any further administrative proceeding against Tesmec Italy in connection with any

violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

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.

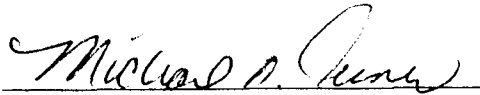
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department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

8. This Agreement shall become binding on BIS 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.

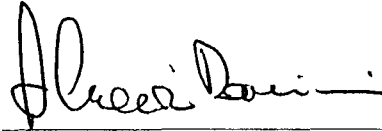
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

TESMEC S.p.A.



Michael D. Turner
Director
Office of Export Enforcement



Ambrogio Caccia Dominioni
President

Date: 06/14/06

Date: 02-15-06

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

In the Matter of:)
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)
Tesmec S.p.A.)
Via Trento 26)
Curno, Bergamo, Italy)
BG 24035)

Respondent)

ORDER RELATING TO TESMEC S.p.A.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Tesmec S.p.A. (“Tesmec Italy”) of its intention to initiate an administrative proceeding against Tesmec Italy pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² by issuing a proposed charging letter to Tesmec Italy that alleged that Tesmec Italy committed three violations of the Regulations. Specifically, the charges are:

1. *One Violation of 15 C.F.R. § 764.2(h) - Taking Action with Intent to Evade the Regulations:* On or about February 17, 2003, Tesmec Italy took action with intent to evade the Regulations when it asked its subsidiary located in the United States to remove the U.S.-origin markings from a trencher subject to the

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

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Regulations (“EAR99”)³ that the subsidiary was intending to export to Libya via Italy. Removal of such markings would have concealed the fact that the trencher was of U.S. origin and hence would have required a license from the U.S. Department of Commerce for export to Libya under then Section 746.4 of the Regulations.

2. *One Violation of 15 C.F.R. § 764.2(h) - Taking Action with Intent to Evade the Regulations:* On or about February 17, 2003, Tesmec Italy took action with intent to evade the Regulations when it asked its subsidiary located in the United States about “re-styling” the technical documents associated with a trencher, an item subject to the Regulations, to include Tesmec Italy logos. The subsidiary intended to export this trencher to Libya via Italy. Altering the technical documents in this manner would have concealed the fact that the trencher was of U.S. origin and hence would have required a license from the U.S. Department of Commerce for export to Libya under then Section 746.4 of the Regulations.
3. *One Violation of 15 C.F.R. § 764.2(e) - Ordering an Item Subject to the Regulations With Knowledge That a Violation Would Occur:* In connection with an attempted export from the United States to Libya made by its subsidiary on or about February 11, 2003, Tesmec Italy ordered a trencher, an item subject to the Regulations, from its subsidiary with knowledge that a violation of the Regulations was intended to occur in connection with the trencher. At all times relevant hereto, Tesmec Italy knew that the trencher required a license from the

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U.S. Department of Commerce for export to Libya under then Section 746.4 of the Regulations, and that the required authorization would not be obtained.

WHEREAS, BIS and Tesmec Italy 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:

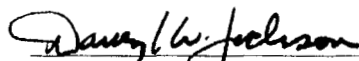
FIRST, that a civil penalty of \$24,300 is assessed against Tesmec Italy, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, Tesmec Italy 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 Tesmec Italy. Accordingly, if Tesmec Italy should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Tesmec Italy'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 20th day of June 2006.

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

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WHEREAS, BIS and Tesmec Italy 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:

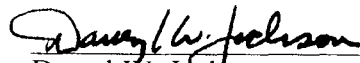
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This Order, which constitutes the final agency action in this matter, is effective immediately.



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 20th day of June 2006.