

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

In the Matter of:

Axis Communications, Inc.
300 Apollo Drive
Chelmsford, MA 01824

Respondent

ORDER RELATING TO
AXIS COMMUNICATIONS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Axis Communications, Inc., of Chelmsford, Massachusetts (“Axis”), of its intention to initiate an administrative proceeding against Axis pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Axis that alleges that Axis committed fifteen (15) violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2016). The charged violations occurred in 2011-2013. The Regulations governing the violations at issue are found in the 2011-2013 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2016 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 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 4, 2016 (81 Fed. Reg. 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2012)).

**Charges 1-13 15 C.F.R. § 764.2(a): Export of Thermal Imaging Cameras
Without the Required Licenses**

On thirteen (13) occasions between on or about March 16, 2011, and on or about July 15, 2013, Axis engaged in conduct prohibited by the Regulations when it made unlicensed exports from the United States to Mexico of thermal imaging cameras, items subject to the Regulations, classified under Export Control Classification Number 6A003.b.4, controlled for national security and regional stability reasons, and valued in total at \$391,819. These exports to Mexico required BIS licenses pursuant to Sections 742.4 and 742.6 of the Regulations.

In so doing, Axis committed 13 violations of Section 764.2(a) of the Regulations.

**Charges 14-15 15 C.F.R. § 764.2(i): Failure to Comply with Recordkeeping
Requirements**

On two occasions, on or about June 17, 2013, and on or about July 15, 2013, respectively, Axis failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations in connection with exports from the United States to Mexico of thermal imaging cameras, items subject to the Regulations, classified under Export Control Classification Number 6A003.b.4, and controlled for national security and regional stability reasons. Axis failed to retain documents required to be retained under Section 762.2, including, but not limited to, invoices relating to these exports.

In so doing, Axis committed two violations of Section 764.2(i) of the Regulations.

WHEREAS, BIS and Axis 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, Axis shall be assessed a civil penalty in the amount of \$700,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

SECOND, 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, Axis 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, Axis shall complete an external audit of its export controls compliance program. Axis shall hire an unaffiliated third-party consultant with expertise in U.S. export control laws to conduct the external audit of its compliance with U.S. export control laws (including recordkeeping requirements), with respect to all exports or reexports of items on the Commerce Control List, Supp. No. 1 to Part 774 of the Regulations. The results of the audit, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, 10 Causeway Street, Suite 253, Boston MA 02222 ("BIS Boston Field Office"). The audit shall cover the 36-month period beginning on March 5, 2014, and the related report shall be due to the BIS Boston Field Office no later than June 5, 2018. Said audit shall be in substantial compliance with the Export Compliance Program (ECP) sample audit module, and shall include an assessment of Axis's compliance with the Regulations. The ECP sample audit module is currently available on the BIS web site at <https://www.bis.doc.gov/index.php/forms-documents/pdfs/1641-ecp/file>. In addition, where said audit identifies actual or potential violations of the Regulations, Axis shall promptly provide copies of the pertinent invoices, waybills, and other export control documents and supporting documentation to the BIS Boston Field Office.

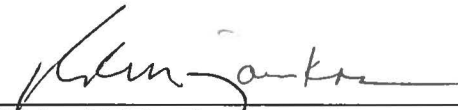
FOURTH, the full and timely payment of the civil penalty in accordance with the payment schedule set forth above and the completion and submission of the audit as set forth above are hereby made conditions to the granting, restoration, or continuing validity

of any export license, license exception, permission, or privilege granted, or to be granted, to Axis. Accordingly, if Axis should fail to pay the civil penalty in a full and timely manner or complete the audit and submit the audit results in a fully and timely manner, the undersigned may issue an order denying all of Axis's export privileges under the Regulations for a period of one year from the date of the failure to, as may be applicable, make such payment, complete the audit, or submit the audit results.

FIFTH, Axis shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or this Order. The foregoing does not affect Axis's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

SIXTH, 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.



Richard Majauskas
Acting Assistant Secretary of Commerce
for Export Enforcement

Issued this 9th day of June, 2017.

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

In the Matter of:

Axis Communications, Inc.
300 Apollo Drive
Chelmsford, MA 01824

Respondent

SETTLEMENT AGREEMENT

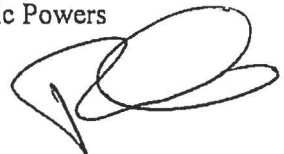
This Settlement Agreement ("Agreement") is made by and between Axis Communications, Inc., of Chelmsford, Massachusetts ("Axis"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (the "Act").²

WHEREAS, BIS has notified Axis of its intentions to initiate an administrative proceeding against Axis, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to Axis that alleges that Axis committed fifteen (15) violations of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2016). The charged violations occurred from 2011-2013. The Regulations governing the violations at issue are found in the 2011-2013 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2016 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 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 4, 2016 (81 Fed. Reg. 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2012)).



**Charges 1-13 15 C.F.R. § 764.2(a): Export of Thermal Imaging Cameras
Without the Required Licenses**

On thirteen (13) occasions between on or about March 16, 2011, and on or about July 15, 2013, Axis engaged in conduct prohibited by the Regulations when it made unlicensed exports from the United States to Mexico of thermal imaging cameras, items subject to the Regulations, classified under Export Control Classification Number 6A003.b.4, controlled for national security and regional stability reasons, and valued in total at \$391,819. These exports to Mexico required BIS licenses pursuant to Sections 742.4 and 742.6 of the Regulations.

In so doing, Axis committed 13 violations of Section 764.2(a) of the Regulations.

**Charges 14-15 15 C.F.R. § 764.2(i): Failure to Comply with Recordkeeping
Requirements**

On two occasions, on or about June 17, 2013, and on or about July 15, 2013, respectively, Axis failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations in connection with exports from the United States to Mexico of thermal imaging cameras, items subject to the Regulations, classified under Export Control Classification Number 6A003.b.4, and controlled for national security and regional stability reasons. Axis failed to retain documents required to be retained under Section 762.2, including, but not limited to, invoices relating to these exports.

In so doing, Axis committed two violations of Section 764.2(i) of the Regulations.

WHEREAS, Axis has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, Axis 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, Axis enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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



WHEREAS, Axis neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, Axis agrees to be bound by the Order, if issued;

NOW, THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Axis, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against Axis:
 - a. Axis shall be assessed a civil penalty in the amount of \$700,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.
 - b. Axis shall complete an external audit of its export controls compliance program. Axis shall hire an unaffiliated third-party consultant with expertise in U.S. export control laws to conduct the external audit of its compliance with U.S. export control laws (including recordkeeping requirements), with respect to all exports or reexports of items that are on the Commerce Control List, Supp. No. 1 to Part 744 of the Regulations. The results of the audit, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, 10 Causeway Street, Suite 253, Boston MA 02222 ("BIS Boston Field Office"). The audit shall cover the 36-month period beginning on March 5, 2014, and the related report shall be due to the BIS Boston Field Office no later



than June 5, 2018. Said audit shall be in substantial compliance with the Export Compliance Program (ECP) sample audit module, and shall include an assessment of Axis's compliance with the Regulations. The ECP sample audit module is currently available on the BIS web site at <https://www.bis.doc.gov/index.php/forms-documents/pdfs/1641-ecp/file>. In addition, where said audit identifies actual or potential violations of the Regulations, Axis shall promptly provide copies of the pertinent invoices, waybills, and other export control documents and supporting documentation to the BIS Boston Field Office.

c. The full and timely payment of the civil penalty agreed to in Paragraph 2.a, and the timely completion of the audit and submission of the audit results in Paragraph 2.b, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Axis. Failure to make full and timely payment of the civil penalty or to complete the audit and submit the audit results may result in the denial of all of Axis export privileges under the Regulations for one year from the date of the failure to, as may be applicable, make such payment, complete the audit, or submit the audit results.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Axis 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 issued), including, without limitation, any right to: (a) receive 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 issued; and (c) seek judicial review or otherwise

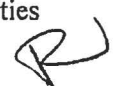


contest the validity of this Agreement or the Order, if issued. Axis also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until the later of the date Axis pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement or has completed the audit and submitted the audit results agreed to in Paragraph 2.b.

4. Axis shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Axis's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a and completion of the audit and submission of the audit results as set forth in Paragraph 2.b, BIS will not initiate any further administrative proceeding against Axis in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

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 issued; 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.

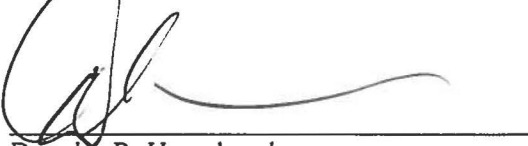
8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. If the Order issues, BIS will make the Proposed Charging Letter, this Agreement, and the Order available to the public.

A handwritten signature or set of initials, possibly 'R' or 'P', written in black ink.

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

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



Douglas R. Hassebrock
Director of Export Enforcement

Date: 8 JUN, 2017

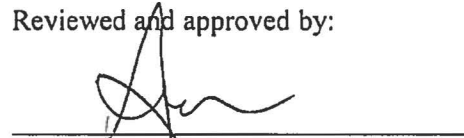
AXIS COMMUNICATIONS, INC.



Fredrik Nilsson
General Manager

Date: JUNE 15, 2017

Reviewed and approved by:



Andrew W. Shoyer, Esq.
Sidley Austin LLP
Counsel for Axis Communications, Inc.

Date: 5 June, 2017

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Axis Communications, Inc.
300 Apollo Drive
Chelmsford, MA 01824

*Attention: Fredrik Nilsson
General Manager*

Dear Mr. Nilsson,

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Axis Communications, Inc. (“Axis”), of Chelmsford, Massachusetts, has committed 15 violations of the Export Administration Regulations (the “Regulations”),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS alleges that Axis committed the following violations:

**Charges 1-13 15 C.F.R. § 764.2(a) – Export of Thermal Imaging Cameras
Without the Required Licenses**

As described in further detail in the attached Schedule of Violations, which is incorporated herein by reference, on thirteen (13) occasions between on or about March 16, 2011, and on or about July 15, 2013, Axis engaged in conduct prohibited by the Regulations when it made unlicensed exports from the United States to Mexico of thermal imaging cameras, items subject to the Regulations, classified under Export Control Classification Number 6A003.b.4, controlled for national security and regional stability reasons, and valued in total at \$391,819. These exports to Mexico required BIS licenses pursuant to Sections 742.4 and 742.6 of the Regulations.

In so doing, Axis committed 13 violations of Section 764.2(a) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2016). The violations alleged occurred from 2011-2013. The Regulations governing the violations at issue are found in the 2011-2013 versions of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2011-2013). The 2016 Regulations govern the procedural aspects of this case.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>). 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 4, 2016 (81 Fed. Reg. 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2012)).

Charges 14-15 15 C.F.R. § 764.2(i) – Failure to Comply with Recordkeeping Requirements

On two occasions, on or about June 17, 2013, and on or about July 15, 2013, respectively, Axis failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations in connection with exports from the United States to Mexico of thermal imaging cameras, items subject to the Regulations, classified under Export Control Classification Number 6A003.b.4, and controlled for national security and regional stability reasons. Axis failed to retain documents required to be retained under Section 762.2, including, but not limited to, invoices relating to these exports, which are described in further detail in the attached Schedule of Violations, which is incorporated herein by reference.

In so doing, Axis committed two violations of Section 764.2(i) of the Regulations.

* * * * *

Accordingly, Axis 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, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$289,238 per violation,³ or twice the value of the transaction that is the basis of the violation;⁴
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

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

Axis 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. Axis is also entitled to be represented

³ *See* 15 C.F.R. § 6.4(b)(4). This amount is subject to increase pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74, enacted on November 2, 2015.

⁴ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Axis Communications, Inc.
Proposed Charging Letter
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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 Axis have a proposal to settle this case, Axis should transmit it to the attorney representing BIS named below.

Axis is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Axis may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Axis'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 Axis's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Brian Volsky
Room H-3839
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Brian Volsky is the attorney representing BIS in this case; any communications that Axis may wish to have concerning this matter should occur through him. Mr. Volsky may be contacted by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement

Axis Communications, Inc.
Proposed Charging Letter
Schedule of Violations
Page 1 of 1

Charge No.	Export Date	Items	ECCN	Destination	Value	Violation
1	3/16/2011	Axis Q1921-E thermal imaging camera	6A003.b.4	Mexico	\$3,599	15 C.F.R. § 764.2(a)
2	3/31/2011	Axis Q1921-E thermal imaging camera	6A003.b.4	Mexico	\$3,599	15 C.F.R. § 764.2(a)
3	7/8/2011	Axis Q1921-E thermal imaging camera	6A003.b.4	Mexico	\$3,599	15 C.F.R. § 764.2(a)
4	9/1/2011	Axis Q1921-E thermal imaging camera	6A003.b.4	Mexico	\$3,599	15 C.F.R. § 764.2(a)
5	11/22/2011	Axis Q1921-E thermal imaging cameras	6A003.b.4	Mexico	\$35,992	15 C.F.R. § 764.2(a)
6	1/16/2012	Axis Q1921-E thermal imaging camera	6A003.b.4	Mexico	\$3,599	15 C.F.R. § 764.2(a)
7	2/20/2012	Axis Q1921-E thermal imaging cameras	6A003.b.4	Mexico	\$187,158	15 C.F.R. § 764.2(a)
8	2/23/2012	Axis Q1921-E thermal imaging camera	6A003.b.4	Mexico	\$4,319	15 C.F.R. § 764.2(a)
9	6/15/2012	Axis Q1922-E thermal imaging camera	6A003.b.4	Mexico	\$8,999	15 C.F.R. § 764.2(a)
10	7/25/2012	Axis Q1921-E thermal imaging cameras	6A003.b.4	Mexico	\$64,785	15 C.F.R. § 764.2(a)
11	4/25/2013	Axis Q1922 thermal imaging camera	6A003.b.4	Mexico	\$5,599	15 C.F.R. § 764.2(a)
12, 14	6/17/2013	Axis Q8721-E thermal imaging cameras	6A003.b.4	Mexico	\$50,229	15 C.F.R. §§ 764.2(a), (i)
13, 15	7/15/2013	Axis Q1921-E thermal imaging camera	6A003.b.4	Mexico	\$16,743	15 C.F.R. §§ 764.2(a), (i)