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UNITED STATES DEPARTMENT OF  
**COMMERCE**  
**NEWS**

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WASHINGTON, D.C. 20230

BUREAU OF  
EXPORT  
ADMINISTRATION

FOR IMMEDIATE RELEASE:  
March 29, 1999  
www.bxa.doc.gov

CONTACTS: Eugene Cottilli  
Susan Hofer  
(202) 482-2721

**CALIFORNIA CO., SUBSIDIARY, PENALIZED \$708,000 IN  
CONNECTION WITH BIOTOXIN EXPORTS AND REEXPORTS**

WASHINGTON, D.C. -- The Commerce Department's Bureau of Export Administration (BXA) today imposed a \$708,000 civil penalty on CN Biosciences, Inc. of San Diego, California, and its subsidiary Calbiochem-Novabiochem (UK) Ltd., of the United Kingdom, for alleged illegal shipments of U.S.-origin biological toxins without the required export licenses, F. Amanda DeBusk, assistant secretary for Export Enforcement, announced.

The Department alleged that, on 171 separate occasions between July 1992 and January 1994, CN Biosciences, Inc. exported U.S.-origin biological toxins from the United States to various destinations without the required export licenses; and that, on six separate occasions between November 1992 and January 1994, Calbiochem-Novabiochem (UK) Ltd. reexported a U.S.-origin biological toxin from the United Kingdom to the Republic of Ireland without the required reexport authorization from BXA.

Although the companies neither admitted nor denied the charges, CN Biosciences and its subsidiary agreed to pay the penalty to settle the allegations. Half of the penalty, \$354,000, is suspended for a one year provided the companies commit no violations of the Export Administration Regulations during that time. DeBusk commended the company for voluntarily disclosing the violations and cooperating with the investigation.

Export controls on biological agents are part of U.S. obligations to the 30-nation Australia Group, whose members are committed to curbing proliferation of chemical and biological weapons. All member countries require licenses to export biological agents with both legitimate civilian uses and possible uses in biological weapons. Biotoxins are considered among the most dangerous items controlled by Australia Group members because some nonmember countries have produced or acquired them for biological weapons purposes.

The Bureau of Export Administration controls and licenses exports and reexports of dual-use commodities, technology and software for reasons of national security, foreign policy, nonproliferation and short supply.



E616-2

UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Export Administration  
Washington, D.C. 20230

CN Biosciences, Inc.  
10394 Pacific Center Court  
San Diego, California 92121

and

Calbiochem-Novabiochem (UK) Ltd.  
Healthcoat Building, Highfields Science Park  
University Boulevard, Nottingham NG7 2QJ  
United Kingdom

Attention: James G. Stewart  
Vice President and Chief Financial Officer  
CN Biosciences, Inc.

Dear Mr. Stewart:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, CN Biosciences, Inc., formerly known as Calbiochem-Novabiochem Corporation, and its subsidiary, Calbiochem-Novabiochem (UK) Ltd., have violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).<sup>2</sup>

Facts constituting violations:

Charges 1-171

On 171 separate occasions between on or about July 20, 1992 and on or about January 20, 1994, CN Biosciences, Inc. exported U.S.-origin biological toxins to various destinations without

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<sup>1</sup> The alleged violations occurred in 1992, 1993 and 1994. The Regulations governing the violations at issue are found in the 1992, 1993 and 1994 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992, 1993 and 1994)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121 (August 17, 1998)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



obtaining the validated licenses required by Section 772.1(b) of the former Regulations. Each of those exports is described more fully on the enclosed Schedule 1, which is incorporated herein by this reference. BXA alleges that, by exporting U.S.-origin commodities to any person or destination or for any use in violation of or contrary to the terms of the Act, or any regulation, order, or license issued thereunder, CN Biosciences, Inc. violated Section 787.6 of the former Regulations in connection with each of the 171 shipments.

Charges 172-177

On six separate occasions between on or about November 27, 1992 and on or about January 14, 1994, Calbiochem-Novabiochem (UK) Ltd. reexported a U.S.-origin biological toxin from the United Kingdom to the Republic of Ireland without obtaining the reexport authorizations required by Section 774.1 of the former Regulations. Each of those reexports is described more fully on the enclosed Schedule 2, which is incorporated herein by this reference. BXA alleges that, by reexporting a U.S.-origin commodity to any person or destination in violation of or contrary to the terms of the Act, or any regulation, order, or license issued thereunder, Calbiochem-Novabiochem (UK) Ltd. violated Section 787.6 of the former Regulations in connection with each of the six shipments.

BXA alleges that CN Biosciences, Inc. committed 171 violations of Section 787.6, and that Calbiochem-Novabiochem (UK) Ltd. committed six violations of Section 787.6, for a total of 177 violations of the former Regulations.

Accordingly, CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. are hereby notified that an administrative proceeding is instituted against them 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 \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If CN Biosciences, Inc. and/or Calbiochem-Novabiochem (UK) Ltd. fail to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as

provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. are further notified that they are entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with their answer(s). CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. are also entitled to be represented by counsel, and to seek a settlement of the charges.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. should file their answer(s) with the U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of the answer(s) should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Lorie B. Whitaker, Esq." below the address. Ms. Whitaker may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosures

# CN BIOSCIENCES, INC.

## EXPORT VIOLATIONS - SCHEDULE 1

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
1	07/20/92	Saxitoxin	Japan	58110	131-7161-4992
2	07/20/92	Saxitoxin	Germany	57743	10199550
3	07/24/92	Conotoxin GVIA	U.K.	58505	125-4546-4952
4	07/27/92	Botulinum Toxin A	Germany	58828	10199572
5	08/06/92	Microcystin-LR	Australia	60668	10199561
6	08/07/92	Conotoxin GVIA	Australia	60422	10199562
7	08/11/92	Microcystin-LR	Switzerland	60855	10199567
8	08/24/92	Tetrodotoxin	U.K.	62623	057-5676-2322
9	09/08/92	Microcystin-RR Microcystin-LR Microcystin-LR	Australia	64198 64198 64199	10199578
10	09/08/92	Microcystin-LR	Switzerland	64205	10199588
11	09/08/92	Tetrodotoxin	Germany	64201	10244389

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
12	09/14/92	Saxitoxin	France	64758	057-6301-0496
13	09/15/92	Tetrodotoxin	Italy	65134	055-5713-0172
14	09/18/92	Conotoxin GVIA	U.K.	65786	125-4546-4893
15	09/22/92	Saxitoxin	Singapore	66006	023-3014-9630
16	09/22/92	Saxitoxin	Netherlands	65989	074-2930-1871
17	09/22/92	Saxitoxin	Chile	66515	045-0819-9332
18	09/28/92	Tetrodotoxin Saxitoxin	Germany	66647 66649	10244397
19	10/06/92	Microcystin-LR	Japan	67835	131-7236-4504
20	10/08/92	Tetrodotoxin Microcystin-LR Tetrodotoxin	Switzerland	67983 67987 67992	30317990
21	10/12/92	Microcystin-LR Microcystin-RR	Spain	68408	074-2930-1985
22	10/12/92	Microcystin-LR	Norway	68636	117-6321-5666
23	10/13/92	Microcystin-LR	Australia	68457	30317983
24	10/15/92	Conotoxin GVIA	Switzerland	68821	30317991
25	10/19/92	Saxitoxin	Spain	69377	074-2930-1801

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
26	10/20/92	Conotoxin GVIA	Mexico	69548	
27	10/26/92	Botulinum Toxin A Microcystin-LR	Germany	70293	30318687
28	10/26/92	Conotoxin GVIA	Mexico	70318	
29	11/02/92	Saxitoxin	U.K.	71258	057-6301-0441
30	11/02/92	Microcystin-LR Microcystin-LR	Germany	71260 71262	30318689
31	11/03/92	Microcystin-LR	Norway	71497	220-1249-9572
32	11/09/92	Microcystin-LR	Australia	72182	30318624
33	11/09/92	Tetrodotoxin	Germany	72180	30318691
34	11/09/92	Microcystin-LR	U.K.	72198	057-6301-0415
35	11/16/92	Saxitoxin Saxitoxin	U.K.	72947 73202	057-6301-0371
36	11/16/92	Botulinum Toxin A Microcystin-RR Microcystin-LR	Germany	72943 72943 72944	30317994
37	11/23/92	Botulinum Toxin A	U.K.	74380	125-4546-4016
38	11/24/92	Conotoxin GVIA	Switzerland	74105	10221452

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
39	11/25/92	Tetrodotoxin	Netherlands	74363	074-2930-1952
40	11/30/92	Microcystin-RR Saxitoxin	Germany	74365 74366	30317996
41	12/02/92	Tetrodotoxin Microcystin-RR Saxitoxin	Switzerland	74828 74829 74834	30333816
42	12/07/92	Microcystin-LR Tetrodotoxin	U.K.	75419 76156	057-6301-0334
43	12/11/92	Tetrodotoxin	Germany	76161	30333814
44	12/11/92	Saxitoxin	France	75941	057-6301-0290
45	12/14/92	Tetrodotoxin	Norway	76643	117-6862-2890
46	01/07/93	Saxitoxin Microcystin-LR	Switzerland	78664 78669	30333826
47	01/11/93	Tetrodotoxin	U.K.	78957	
48	01/11/93	Botulinum Toxin A	Germany	78937	30333804
49	01/18/93	Microcystin-LR	Sweden	79801	
50	01/18/93	Tetrodotoxin	Germany	79796	30333803
51	01/25/93	Tetrodotoxin	U.K.	80836	

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
52	01/26/93	Microcystin-LR Microcystin-RR	Norway	81023 81073	074-1571-7144
53	02/01/93	Botulinum Toxin C	U.K.	81793	057-6301-0220
54	02/05/93	Conotoxin GVIA	Japan	82360	131-7236-4412
55	02/08/93	Microcystin-LR Tetrodotoxin	Japan	82757	131-7236-4434
56	02/08/93	Microcystin-LR Microcystin-LR	Norway	82582 82756	074-1571-7214
57	02/09/93	Microcystin-LR	Switzerland	82932	30333843
58	02/12/93	Conotoxin GVIA	Australia	83348	30308261
59	02/22/93	Botulinum Toxin A Tetrodotoxin	Germany	84437 84438	30333810
60	02/22/93	Tetrodotoxin	U.K.	84995	057-6301-0135
61	02/25/93	Conotoxin GVIA	Japan	84448	46787565
62	03/01/93	Tetrodotoxin Botulinum Toxin A	Germany	85503 85504	30308220
63	03/01/93	Microcystin-LR Saxitoxin	Australia	85495 85496	30308260
64	03/01/93	Microcystin-RR	France	85507	057-6301-0091

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
65	03/01/93	Tetrodotoxin Botulinum Toxin A	U.K.	85645 85734	057-6301-0102
66	03/08/93	Tetrodotoxin	U.K.	86397	057-6301-0076
67	03/08/93	Microcystin-LR Saxitoxin Tetrodotoxin Microcystin-RR	Japan	86399	131-7236-4471
68	03/08/93	Microcystin-LR Microcystin-RR	Germany	86394	30308222
69	03/11/93	Tetrodotoxin	Japan	86382	131-7295-5584
70	03/15/93	Tetrodotoxin	U.K.	87800	057-6301-0043
71	03/16/93	Microcystin-LR Tetrodotoxin	Switzerland	87584 87586	30333838
72	03/19/93	Conotoxin GVIA	Germany	88029	30308225
73	03/22/93	Microcystin-LR Saxitoxin	Germany	88156 88158	30308226
74	03/22/93	Microcystin-LR Tetrodotoxin	U.K.	88391	057-6301-4976
75	03/29/93	Microcystin-LR Saxitoxin	Germany	89157	30308227

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CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
76	03/29/93	Microcystin-LR	Belgium	89163	057-6301-4943
77	03/29/93	Tetrodotoxin	U.K.	89753	057-6301-4965
78	03/29/93	Tetrodotoxin	Sweden	89752	
79	03/31/93	Tetrodotoxin	Japan	89139	131-7295-5643
80	03/31/93	Microcystin-LR Microcystin-RR	Switzerland	89591 89592	30308275
81	04/05/93	Tetrodotoxin	U.K.	90106	125-4546-4226
82	04/09/93	Tetrodotoxin	Italy	90959	30308287
83	04/09/93	Microcystin-LR	Australia	90933	
84	04/12/93	Saxitoxin Tetrodotoxin	Germany	90934 90935	30308231
85	04/30/93	Conotoxin GVIA	U.K.	93501	125-3948-4535
86	05/03/93	Tetrodotoxin	Sweden	93672	
87	05/03/93	Tetrodotoxin	Germany	93682	30308235
88	05/03/93	Tetrodotoxin	U.K.	93684	057-6301-4000
89	05/14/93	Tetrodotoxin Tetrodotoxin Tetrodotoxin	Italy	95405 95408 95614	055-5713-0393

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
90	05/17/93	Tetrodotoxin	Germany	95382	30308239
91	05/17/93	Microcystin-LR Tetrodotoxin	U.K.	95404 95613	057-6301-4836
92	05/20/93	Microcystin-LR	Norway	96336	117-6321-5795
93	05/26/93	Saxitoxin	Chile	97038	045-0167-1795
94	06/01/93	Tetrodotoxin	Germany	97266	30308252
95	06/01/93	Tetrodotoxin	Sweden	97556	
96	06/07/93	Microcystin-LR	Australia	98019	30308250
97	06/14/93	Tetrodotoxin	U.K.	99177	057-6301-4744
98	06/14/93	Saxitoxin	France	99175	057-6301-4733
99	06/14/93	Microcystin-LR Microcystin-LR	Finland	98985 99174	074-5268-2022
100	06/15/93	Microcystin-LR Microcystin-LR	Switzerland	99191 99193	30308264
101	06/24/93	Microcystin-LR	U.K.	100230	057-6301-4685
102	06/24/93	Tetrodotoxin Microcystin-LR	Germany	100447 100449	30355662
103	06/29/93	Microcystin-LR	Japan	101220	131-7295-5783

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
104	06/29/93	Ricin	France	101218	057-6301-4630
105	07/07/93	Tetrodotoxin	Germany	102063	30308265
106	07/12/93	Microcystin-LR	Finland	102463	117-6321-5924
107	07/19/93	Microcystin-LR	Belgium	103919	074-5268-2151
108	07/19/93	Tetrodotoxin	Germany	103378	12033519
109	07/19/93	Tetrodotoxin	U.K.	103920	057-6301-4486
110	07/28/93	Microcystin-RR	Japan	107099	131-7295-5890
111	07/29/93	Microcystin-LR	Japan	104914	131-7295-5956
112	08/02/93	Microcystin-RR Microcystin-RR	Finland	105457 105458	074-5268-2265
113	08/02/93	Saxitoxin Microcystin-RR Microcystin-RR Microcystin-RR Saxitoxin	Australia	105422 105423 105424 105425 105426	12033555
114	08/02/93	Saxitoxin Saxitoxin Tetrodotoxin	Germany	105459 105460 105461	12033523
115	08/02/93	Saxitoxin Tetrodotoxin	U.K.	105416 105805	057-6301-4416

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
116	08/04/93	Microcystin-RR	Switzerland	105802	12033501
117	08/30/93	Tetrodotoxin	U.K.	109260	057-6301-4313
118	09/03/93	Conotoxin GVIA	U.K.	109650	39845504
119	09/07/93	Saxitoxin	Netherlands	109958	074-5268-2475
120	09/07/93	Saxitoxin	U.K.	109960	057-6301-4011
121	09/08/93	Microcystin-LR Saxitoxin Saxitoxin	Japan	110188 110189 110190	131-7379-2552
122	09/10/93	Conotoxin GVIA	Australia	110366	12033551
123	09/13/93	Saxitoxin	U.K.	110625	
124	09/13/93	Saxitoxin	Japan	110628	131-7379-2574
125	09/13/93	Tetrodotoxin	Germany	109459	12033581
126	09/16/93	Staphylococcus A	Switzerland	111218	12033528
127	09/20/93	Saxitoxin	Germany	111561	12033563
128	09/21/93	Microcystin-LR	Japan	111905	131-7379-2666
129	09/24/93	Conotoxin GVIA	U.K.	112894	125-3948-5040
130	09/27/93	Microcystin-LR Microcystin-RR	U.K.	112393	057-6301-4210

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
131	09/27/93	Microcystin-LR Tetrodotoxin	Germany	112390	12033565
132	09/27/93	Tetrodotoxin	Sweden	112502	074-5268-2685
133	09/28/93	Saxitoxin Tetrodotoxin	Switzerland	112520 112522	12033532
134	10/01/93	Conotoxin GVIA	France	113221	057-6301-4206
135	10/04/93	Saxitoxin Saxitoxin	Germany	113246 113247	12033575
136	10/07/93	Microcystin-RR	Norway	113668	117-5002-5986
137	10/14/93	Staphylococcus A	Japan	114430	46259043
138	10/14/93	Conotoxin GVIA	Switzerland	114459	12033535
139	10/18/93	Tetrodotoxin Tetrodotoxin	Sweden	114744 114746	
140	10/25/93	Microcystin-RR	Germany	115594	12033578
141	10/29/93	Conotoxin GVIA	U.K.	116333	125-3948-4852
142	11/01/93	Microcystin-LR	U.K.	116745	074-5268-2921
143	11/01/93	Saxitoxin	Japan	116747	131-7381-7214

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
144	11/02/93	Microcystin-RR Tetrodotoxin	Switzerland	116922 116923	30355672
145	11/03/93	Microcystin-LR	Denmark	116928	117-5003-1785
146	11/11/93	Microcystin-RR	U.K.	117474	057-6301-4151
147	11/15/93	Microcystin-RR Tetrodotoxin	Germany	118298	12033573
148	11/15/93	Tetrodotoxin	Japan	118292	131-7381-7240
149	11/23/93	Microcystin-RR	Japan	119530	131-7381-7450
150	11/30/93	Tetrodotoxin	Hong Kong	120129	180-3422-2941
151	12/06/93	Tetrodotoxin	U.K.	120797	057-6301-4081
152	12/13/93	Staphylococcus A Microcystin-RR	Japan	121625 121626	131-7381-7332
153	12/13/93	Tetrodotoxin Microcystin-RR	U.K.	121639 121820	057-6301-4593
154	12/17/93	Saxitoxin	Germany	122548	12098751
155	12/20/93	Staphylococcus A	U.K.	122556	400-1254-1222
156	12/22/93	Tetrodotoxin	Japan	122865	131-7381-7391

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
157	12/30/93	Tetrodotoxin Microcystin-LR Microcystin-LR	Germany	123312 123313 123314	12098756
158	01/03/94	Microcystin-LR	Japan	123512	131-7407-0010
159	01/04/94	Microcystin-YR	Norway	123952	117-5002-5953
160	01/06/94	Microcystin-LR	Japan	123919	131-7407-0253
161	01/06/94	Staphylococcus A	Italy	124101	
162	01/07/94	Staphylococcus A Staphylococcus A	Germany	124081 124084	12098729
163	01/07/94	Microcystin-YR Microcystin-YR	Australia	124128 124133	10223761
164	01/10/94	Microcystin-YR	Sweden	124411	
165	01/10/94	Microcystin-LR Microcystin-YR Microcystin-YR Microcystin-LR	U.K.	124415 124416 124417 124418	057-6301-4442
166	01/12/94	Staphylococcus A	Taiwan	124757	400-1253-9472
167	01/14/94	Staphylococcus A	Japan	124960	131-7407-0043
168	01/17/94	Microcystin-RR	U.K.	125227	057-6301-0835

CHARGE NUMBER	DATE OF EXPORT (on or about)	COMMODITY	DESTINATION	INVOICE NUMBER	AIR WAYBILL NUMBER
169	01/17/94	Saxitoxin	Japan	125224	131-7407-0220
170	01/19/94	Conotoxin GVIA	Spain	125567	400-1253-9785
171	01/20/94	Staphylococcus A	Japan	125559	131-7407-0080

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# CALBIOCHEM-NOVABIOCHEM (UK) LTD.

## REEXPORT VIOLATIONS - SCHEDULE 2

CHARGE NUMBER	DATE OF REEXPORT (on or about)	COMMODITY	FROM	DESTINATION	INVOICE	AIR WAYBILL NUMBER
1	11/27/92	Microcystin-LR	U.K.	Ireland	1927802	ANCG39486790
2	07/05/93	Microcystin-LR	U.K.	Ireland	19304944	ANCG39033654
3	10/05/93	Microcystin-LR	U.K.	Ireland	19307322	ANCG39016272
4	10/20/93	Microcystin-RR	U.K.	Ireland	19307670	ANCG39098371
5	01/14/94	Microcystin-LR	U.K.	Ireland	19400295	ANCG39082164
6	01/14/94	Microcystin-YR	U.K.	Ireland	19400284	ANCG39082153

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF EXPORT ADMINISTRATION  
WASHINGTON, D.C. 20230

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In the Matter of: )  
 )  
 CN BIOSCIENCES, INC. )  
 10394 Pacific Center Court )  
 San Diego, California 92121 )  
 )  
 and )  
 )  
 CALBIOCHEM-NOVABIOCHEM (UK) LTD. )  
 Healthcoat Building, Highfields Science Park )  
 University Boulevard, Nottingham NG7 2QJ )  
 United Kingdom )

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SETTLEMENT AGREEMENT

This Agreement is made by and between CN Biosciences, Inc. and its subsidiary, Calbiochem-Novabiochem (UK) Ltd., and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(b) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).<sup>2</sup>

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<sup>1</sup> The alleged violations occurred in 1992, 1993 and 1994. The Regulations governing the violations at issue are found in the 1992, 1993 and 1994 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992, 1993 and 1994)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13,

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. of its intention to initiate an administrative proceeding against them pursuant to the Act and the Regulations, based on allegations that, on 171 separate occasions between on or about July 20, 1992 and or about January 20, 1994, CN Biosciences, Inc. exported U.S.-origin biological toxins to various destinations without obtaining the validated licenses required by Section 772.1(b) of the former Regulations, and, on six separate occasions between on or about November 27, 1992 and on or about January 14, 1994, Calbiochem-Novabiochem (UK) Ltd. reexported a U.S.-origin biological toxin from the United Kingdom to the Republic of Ireland without obtaining the reexport authorizations required by Section 774.1 of the former Regulations, for a total of 177 violations of Section 787.6 of the former Regulations;

WHEREAS, CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. have reviewed the proposed Charging Letter and are aware of the allegations made against them and the administrative sanctions that could be imposed against them if the allegations are found to be true; they fully understand the terms of this Settlement Agreement and the proposed Order; they enter into this Settlement Agreement voluntarily and with full knowledge of their

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1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

rights, and they state that no promises or representations have been made to them other than the agreements and considerations herein expressed;

WHEREAS, CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. neither admit nor deny the allegations contained in the proposed Charging Letter;

WHEREAS, CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. wish to settle and dispose of all matters that were the subject of the investigation leading to the proposed Charging Letter (including the matters alleged in the proposed Charging Letter) by entering into this Settlement Agreement; and

WHEREAS, CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. agree to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, CN Biosciences, Inc. and its subsidiary, Calbiochem-Novabiochem (UK) Ltd., and BXA agree as follows:

1. BXA has jurisdiction over CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd., under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.

2. BXA, CN Biosciences, Inc., and Calbiochem-Novabiochem (UK) Ltd. agree that the following sanction shall be imposed against CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. in complete settlement of any violations of the Act and the former Regulations arising out of the transactions that were the

subject of the investigation leading to the proposed Charging Letter:

- a. CN Biosciences, Inc. shall be assessed a civil penalty in the amount of \$708,000, \$354,000 of which shall be paid within 30 days from the date of entry of the appropriate Order. Payment of the remaining \$354,000 shall be suspended for a period of one year from the date of entry of the appropriate Order and shall thereafter be waived, provided that, during the period of suspension, neither CN Biosciences, Inc. nor Calbiochem-Novabiochem (UK) Ltd. have committed any violation of the Act, or any regulation, order, or license issued thereunder.
- b. As authorized by Section 11(d) of the Act, 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 CN Biosciences, Inc. and to Calbiochem-Novabiochem (UK) Ltd. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of CN Biosciences, Inc.'s, and all of Calbiochem-Novabiochem (UK) Ltd.'s, export and reexport privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. agree that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, they hereby waive all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right (a) to an administrative hearing regarding the allegations in the Charging Letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against either CN Biosciences, Inc. or against Calbiochem-Novabiochem (UK) Ltd. in connection with any violation of the Act or the Regulations arising out of the transactions that were the subject of the investigation leading to the proposed Charging Letter (including the transactions identified in the proposed Charging Letter).

5. CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. understand that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

6. BXA, CN Biosciences, Inc., and Calbiochem-Novabiochem (UK) Ltd. agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not

accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(b) of the Regulations, BXA, CN Biosciences, Inc., and Calbiochem-Novabiochem (UK) Ltd. agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not 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 appropriate 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 BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION  
U.S. DEPARTMENT OF COMMERCE

CN BIOSCIENCES, INC. and  
CALBIOCHEM-NOVABIOCHEM (UK) LTD.

Mark Menefee  
Mark Menefee  
Director  
Office of Export Enforcement

Stephen J. Kunst  
Stephen J. Kunst  
Secretary

CN Biosciences, Inc.

Date: 3/26/99

Date: MARCH 25, 1999

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF EXPORT ADMINISTRATION  
WASHINGTON, D.C. 20230

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In the Matter of: )  
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 CN BIOSCIENCES, INC. )  
 10394 Pacific Center Court )  
 San Diego, California 92121 )  
 )  
 and )  
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 CALBIOCHEM-NOVABIOCHEM (UK) LTD. )  
 Healthcoat Building, Highfields Science Park )  
 University Boulevard, Nottingham NG7 2QJ )  
 United Kingdom )

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ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified CN Biosciences, Inc. and its subsidiary, Calbiochem-Novabiochem (UK) Ltd., of its intention to initiate an administrative proceeding against them pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act),<sup>1</sup> and the Export Administration Regulations (15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>2</sup> based on allegations that, on 171 separate

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<sup>1</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

<sup>2</sup> The alleged violations occurred in 1992, 1993 and 1994. The Regulations governing the violations at issue are found in the 1992, 1993 and 1994 versions of the Code of Federal Regulations

occasions between on or about July 20, 1992 and or about January 20, 1994, CN Biosciences, Inc. exported U.S.-origin biological toxins to various destinations without obtaining the validated licenses required by Section 772.1(b) of the former Regulations, and, on six separate occasions between on or about November 27, 1992 and on or about January 14, 1994, Calbiochem-Novabiochem (UK) Ltd. reexported a U.S.-origin biological toxin from the United Kingdom to the Republic of Ireland without obtaining the reexport authorizations required by Section 774.1 of the former Regulations, for a total of 177 violations of Section 787.6 of the former Regulations;

BXA, CN Biosciences, Inc., and Calbiochem-Novabiochem (UK) Ltd., 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 \$708,000 is assessed against CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd., \$354,000 of which shall be paid within 30 days from the date of entry of this Order. Payment shall be made in the manner

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(15 C.F.R. Parts 768-799 (1992, 1993 and 1994)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

specified in the attached instructions. Payment of the remaining \$354,000 shall be suspended for a period of one year from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension neither CN Biosciences, Inc. nor Calbiochem-Novabiochem (UK) Ltd. have committed any violation of the Act, or any regulation, order or license issued thereunder.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 & Supp. 1998)), 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, CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(d) of the Act, 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, permission, or privilege granted, or to be granted, to CN Biosciences, Inc. and to Calbiochem-Novabiochem (UK) Ltd. Accordingly, if CN Biosciences, Inc. and Calbiochem-Novabiochem (UK) Ltd. should fail to pay in a timely manner the civil penalty set forth above, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of CN Biosciences's and all of Calbiochem-Novabiochem

(UK) Ltd.'s export and reexport privileges for a period of one year from the date 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.

  
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 F. Amanda DeBusk  
 Assistant Secretary  
 for Export Enforcement

Entered this 29<sup>th</sup> day of March, 1999.