



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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Minequip Corporation
1781 NW 79 Avenue
Miami, Florida 33126

DRAFT

Attn: *John Clements*
President

Dear Mr. Clements:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”)¹ has reason to believe that Minequip Corporation (“Minequip”) violated the Export Administration Regulations (the “Regulations”),² which are issued under the authority of the Export Administration Act of 1979 (the “Act”),³ on two occasions. Specifically, BIS charges that Minequip committed the following violations:

Charge 1 (15 C.F.R. §764.2(d) - Conspiracy to Violate U.S. Export Control Laws)

Beginning in September 2001 and continuing through May 2002, Minequip conspired and acted in concert with others, known and unknown, to violate the Regulations. The purpose of the conspiracy was to export spare parts for hydraulic shears, items subject to the Regulations, from the United States to Libya without the U.S. Government authorization required by Section 764.4 of the Regulations. To accomplish the conspiracy, the conspirators, including Minequip, participated in a scheme to buy parts for hydraulic shears from a U.S. company and then to export the parts from the United States through

¹ Effective April 18, 2002, the Bureau of Export Administration changed its name to the Bureau of Industry and Security. This name change does not affect any substantive issues in this case.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The violations charged occurred in 2001 and 2002. The Regulations governing the violations at issue are found in 15 C.F.R. Parts 730-774 (2001 -2002). The 2001 and 2002 Regulations are substantially the same and the 2002 Regulations govern the procedural aspects of this case.

³ 50 U.S.C. app. §§ 2401- 2420 (1994 & Supp. V 1999). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 Fed. Reg. 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>



the United Kingdom and Germany to their ultimate destination in Libya. In doing so, Minequip committed one violation of Section 764.2(d) of the Regulations.

Charge 2 (15 C.F.R. §764.2(e) - Forwarding Items Knowing that a Violation of the Regulations was to Occur)

On or about April 30, 2002, in connection with the conspiracy referenced in Charge 1, Minequip caused the parts for hydraulic shears to be forwarded from a U.S. company to Minequip knowing that the parts were to be exported from the United States to Libya in violation of the Regulations. At all times relevant hereto, Minequip knew that U.S. Government authorization was required to export the parts from the United States to Libya, and that the U.S. Government had not authorized the export. Therefore, BIS alleges that Minequip committed one violation of Section 764.2(e) of the Regulations.

Accordingly, Minequip 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 \$12,000 per violation;⁴

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Minequip is further notified that it is entitled to an agency hearing on the record if Minequip files a written demand for one with its answer. (Regulations, Section 766.6). Minequip 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).

⁴Pursuant to the Federal Civil Penalties Adjustment Act of 1990 (28 U.S.C. §2461, note (1994 & Supp. V 1999)), and 15 C.F.R. §6.4(a)(2), the maximum penalty for each violation committed after November 1, 2000 is \$12,000.

Minequip Corporation
Charging Letter
Page 3

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should you have a proposal to settle this case, you or your representative should transmit it to me through the attorney representing BIS named below.

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

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

Melissa B. Mannino is the attorney representing BIS in this case; any communications that you may wish to have concerning this matter should occur through her. She may be contacted by telephone at (202) 482-5301.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

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

In the Matter of:)
)
Minequip Corporation)
1781 NW 79 Avenue)
Miami, Florida 33126,)
)
Respondent.)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Minequip Corporation (“Minequip”), and the Bureau of Industry and Security, United States 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 (2002)) (“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 Minequip of its intention to initiate an administrative proceeding against Minequip, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Minequip that alleged that Minequip committed two violations of the Regulations, specifically:

¹ The violations charged occurred in 2001 and 2002. The Regulations governing the violations at issue are found in 15 C.F.R. Parts 730-774 (2001-2002). The 2001 Regulations are substantially the same as the 2002 Regulations. The procedural aspects of this case are governed by the 2002 Regulations.

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 by the Notice of August 14, 2002 (67 Fed. Reg. 53721 (August 16, 2002)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1707 (2000)).

1. *One Violation of 15 C.F.R. §764.2(d)- Conspiracy:* Beginning in or about September 2001 and continuing through in or about May 2002, Minequip conspired and acted in concert with others, known and unknown, to violate the Regulations. The purpose of the conspiracy was to export spare parts for hydraulic shears, items subject to the Regulations, from the United States to Libya without prior authorization from BIS as required by Section 746.4 of the Regulations. To accomplish the conspiracy, the conspirators, including Minequip, participated in a scheme to buy parts for hydraulic shears from a U.S. company and then to export the parts from the United States through the United Kingdom and Germany to their ultimate destination in Libya.
2. *One Violation of 15 C.F.R. §764.2(e)- Forwarding Items Knowing that a Violation of the Regulations was to Occur:* In connection with conspiracy referenced above, Minequip caused the parts for hydraulic shears to be forwarded from a U.S. company to Minequip knowing that the parts were to be exported from the United States to Libya in violation of the Regulations. At all times relevant hereto, Minequip knew that U.S. Government authorization was required to export the parts from the United States to Libya, and that the U.S. Government had not authorized the export.

WHEREAS, Minequip 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, Minequip fully understands the terms of this Agreement and the Order of the Assistant Secretary of Commerce for Export Enforcement that will implement this Agreement (“Order”);

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Minequip, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. BIS and Minequip agree that the following sanction shall be imposed against Minequip in complete settlement of the violations of the Regulations set forth in the proposed charging letter:
 - a. Minequip shall be assessed a civil penalty in the amount of \$12,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.

b. The timely payment of the civil penalty agreed to in paragraph 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 Minequip. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Minequip's export privileges for a period of one year from the date of imposition of the penalty.

3. Minequip agrees that, subject to the approval of this Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, when entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, when entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, when entered.

4. Upon entry of the Order, BIS will not initiate any further administrative proceeding against Minequip in connection with any violation of the Act or the Regulations arising out the transactions identified in the proposed charging letter.

5. Minequip understands that BIS will make the proposed charging letter, this Agreement, and the Order, when 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, when entered, nor shall this 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 Agreement shall become binding on BIS only when 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.

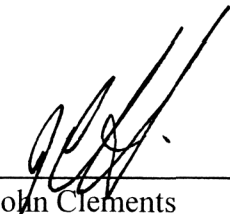
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Mark Menefee
Director
Office of Export Enforcement

MINEQUIP CORPORATION



John Clements
President

Date: 3/17/03

Date: 3/11/03

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

In the Matter of:)
)
Minequip Corporation)
1781 NW 79 Avenue)
Miami, Florida 33126,)
)
Respondent.)
_____)

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having notified Minequip Corporation (“Minequip”) of its intention to initiate an administrative proceeding against Minequip pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“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 based on the proposed charging letter issued to Minequip that alleged that Minequip violated the Regulations on two occasions. Specifically, the charges are:

1. *One Violation of 15 C.F.R. §764.2(d)- Conspiracy:* Beginning in or about September 2001 and continuing through in or about May 2002, Minequip conspired and acted in concert with others, known and unknown, to violate the Regulations. The purpose of the conspiracy was to export spare parts for hydraulic shears, items subject to the Regulations, from the United States to Libya without prior

¹ 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 7, 2003 (68 Fed. Reg. 478333, August 11, 2003), has continued the Regulations in effect under IEEPA.

² The violations charged occurred in 2001 and 2002. The Regulations governing the violations at issue are found in 15 C.F.R. Parts 730-774 (2001-2002). The 2001 Regulations are substantially the same as the 2003 Regulations. The procedural aspects of this case are governed by the 2003 Regulations.

authorization from BIS as required by Section 746.4 of the Regulations. To accomplish the conspiracy, the conspirators, including Minequip, participated in a scheme to buy parts for hydraulic shears from a U.S. company and then to export the parts from the United States through the United Kingdom and Germany to their ultimate destination in Libya.

2. *One Violation of 15 C.F.R. §764.2(e)- Forwarding Items Knowing that a Violation of the Regulations was to Occur:* In connection with conspiracy referenced above, Minequip caused the parts for hydraulic shears to be forwarded from a U.S. company to Minequip knowing that the parts were to be exported from the United States to Libya in violation of the Regulations. At all times relevant hereto, Minequip knew that U.S. Government authorization was required to export the parts from the United States to Libya, and that the U.S. Government had not authorized the export.

BIS and Minequip having 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 the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$12,000 is assessed against Minequip, 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, Minequip 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 Minequip. Accordingly, if Minequip should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Minequip's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

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


Julie L. Myers
Assistant Secretary of Commerce
for Export Enforcement

Entered this 24th day of November 2003.