

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

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In the Matter of: )  
)  
Atlas Copco Compressors Inc. )  
46 School Road )  
Voorheesville, NY 12186 )  
)  
Respondent. )  

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ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having notified Atlas Copco Compressors Inc (“Atlas Copco”)<sup>1</sup> of its intention to initiate an administrative proceeding against Atlas Copco pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“Regulations”),<sup>2</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>3</sup> based on the proposed charging letter issued to Atlas Copco that alleged

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<sup>1</sup> Effective January 1, 2003, the former Atlas Copco Comptec Inc. of Voorheesville, New York formally changed its name to Atlas Copco Compressors Inc. Previous BIS correspondence with Atlas Copco concerning this matter was addressed to Atlas Copco Comptec Inc.

<sup>2</sup> The violations charged occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The Regulations define the violations that BIS alleges occurred and establish the procedures that apply to this matter.

<sup>3</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 7, 2003 (68 *Fed. Reg.* 47833, August 11, 2003), has continued the Regulations in effect under IEEPA. The Act and Regulations are

that Atlas Copco committed two violations of the Regulations. Specifically, the charges are:

1. *One Violation of 15 C.F.R. § 764.2(a) - Unlicensed Export to Entity List*

*Organization:* On or about July 8, 2000, Atlas Copco caused the shipment of items subject to the EAR (seals and o-rings) to Bharat Heavy Electrical Limited, Hyderabad, India (BHEL), an organization on the Entity List, Supplement No. 4 to Part 744 of the Regulations, without the license required by then Section 744.11 of the Regulations.

2. *One Violation of 15 C.F.R. § 764.2(a) - Application for Export License Post-*

*Shipment:* On or about March 19, 2001, Atlas Copco engaged in conduct prohibited by Section 748.4(d) of the Regulations by submitting an export license application to BIS that sought authorization to ship the items referred to in Charge 1 despite the fact that the items had already been shipped.

BIS and Atlas Copco 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 \$13,000 is assessed against Atlas Copco, 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.

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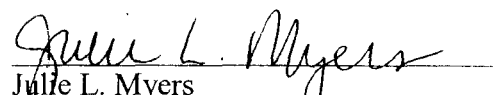
available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.

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, Atlas Copco 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 Atlas Copco. Accordingly, if Atlas Copco should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Atlas Copco'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 10<sup>th</sup> day of March 2003.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Atlas Copco Comptec, Inc.  
46 School Road  
Voorheesville, NY 12186

Attention: Mr. Ray Lofgren  
President

Dear Mr. Lofgren:

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

**Charge 1                    15 C.F.R. §764.2(a) - Unlicensed export to Entity List organization**

On or about July 8, 2000, Atlas Copco Comptec caused the shipment of items subject to the EAR (seals and o-rings) to Bharat Heavy Electrical Limited, Hyderabad, India (BHEL), an organization on the Entity List, Supplement No. 4 to Part 744 of the Regulations, without the license required by then Section 744.11 of the Regulations. In so doing, Atlas Copco Comptec committed one violation of Section 764.2(a) of the Regulations.

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003) and establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508, and it remained in effect through August 20, 2001. The Act expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 Fed. Reg. 47833, August 11, 2003), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)).

**Charge 2 15 C.F.R. §764.2(a) - Application for Export License Post-Shipment**

On or about March 19, 2001, Atlas Copco Comptec engaged in conduct prohibited by Section 748.4(d) of the Regulations by submitting an export license application to BIS that sought authorization to ship the items referred to in Charge 1 despite the fact that the items had already been shipped. In so doing, Atlas Copco Comptec committed one violation of Section 764.2(a) of the Regulations.

Accordingly, Atlas Copco Comptec 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;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Atlas Copco Comptec is further notified that it is entitled to an agency hearing on the record if Atlas Copco Comptec files a written demand for one with its answer. (Regulations, Section 766.6). Atlas Copco Comptec 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 Atlas Copco Comptec have a proposal to settle this case, Atlas Copco Comptec or its representative should transmit the offer to me through the attorney representing BIS named below.

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<sup>3</sup> See 15 C.F.R. §6.4(a)(2).

Atlas Copco Comptec, Inc.  
Proposed Charging Letter  
Page 3

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

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

Philip Ankel is the attorney representing BIS in this case. Any communications that you may wish to have concerning this matter should occur through him. He 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

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Voorheesville, NY 12186 )  
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Atlas Copco Compressors Inc. (“Atlas Copco”)<sup>1</sup> 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 (2003)) (“Regulations”),<sup>2</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>3</sup>

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

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

1. *One Violation of 15 C.F.R. § 764.2(a) - Unlicensed Export to Entity List Organization:* On or about July 8, 2000, Atlas Copco caused the shipment of items subject to the EAR (seals and o-rings) to Bharat Heavy Electrical Limited, Hyderabad, India (BHEL), an organization on the Entity List, Supplement No. 4 to Part 744 of the Regulations, without the license required by then Section 744.11 of the Regulations.
2. *One Violation of 15 C.F.R. § 764.2(a) - Application for Export License Post-Shipment:* On or about March 19, 2001, Atlas Copco engaged in conduct prohibited by Section 748.4(d) of the Regulations by submitting an export license application to BIS that sought authorization to ship the items referred to in Charge 1 despite the fact that the items had already been shipped.

WHEREAS, Atlas Copco 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;

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11, 2003). 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/>.



WHEREAS, Atlas Copco fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

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

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

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

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

WHEREAS, Atlas Copco agrees to be bound by the Order, if entered:

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Atlas Copco, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Atlas Copco in complete settlement of the violations of the Regulations set forth in the proposed charging letter:
  - a. Atlas Copco shall be assessed a civil penalty in the amount of \$13,000 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, license exception, permission or privilege granted, or to be granted, to Atlas Copco. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Atlas Copco's export privileges 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, Atlas Copco 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 the proposed 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 \$13,000 civil penalty, BIS will not initiate any further administrative proceeding against Atlas Copco 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.

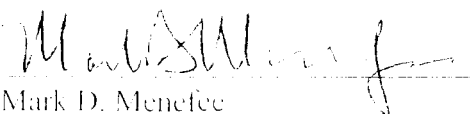
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

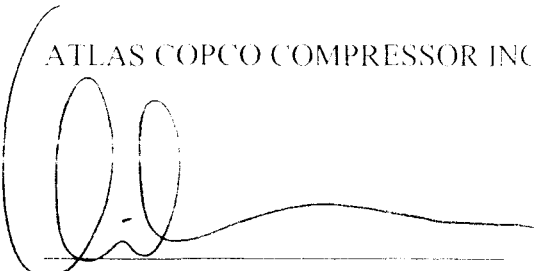
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States 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

  
\_\_\_\_\_  
Mark D. Menefee  
Director  
Office of Export Enforcement

ATLAS COPCO COMPRESSOR INC.  
  
\_\_\_\_\_  
Ray Lofgren  
President  
Atlas Copco Compressors Inc.

Date: 12/15/03

Date: 12/11/03