

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Atotech USA Inc.
1750 Overview Drive
Rock Hill, SC 29730

Attn: John T. Kinne, Vice President and General Manager

Dear Mr. Kinne:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that Atotech USA Inc. (“Atotech”) of Rock Hill, SC has committed three violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979 (the “Act”).² Specifically, BIS charges that Atotech committed the following violations:

Charge 1 (15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct)

On March 15, 2001, Atotech exported Econo-Chrome 140-S, a corrosive chemical substance, an item subject to the Regulations and classified under Export Control Classification Number 1C350, to Hong Kong without the Department of Commerce license as required in Section 742.2 of the Regulations. In doing so, Atotech committed one violation 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 (2003). The charged violations occurred in 2001. The Regulations governing the violations at issue are found in the 2001 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001)). The 2003 Regulations establish the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 *Fed. Reg.* 53721 (August 16, 2002)), 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/>.

Charge 2 (15 C.F.R. §764.2(e)- Acting with Knowledge of a Violation)

On or about March 15, 2001, Atotech ordered Econo-Chrome 140-S, a corrosive chemical substance, an item subject to the Regulations and classified under Export Control Classification Number 1C350, with knowledge that a violation of the Regulations was intended to occur. At all times relevant hereto, Atotech knew or had reason to know that a Department of Commerce license was required to export Econo-Chrome 140-S to Hong Kong. Atotech ordered Econo-Chrome 140-S knowing that it would be exported to Hong Kong without the required license. In doing so, Atotech committed one violation of Section 764.2(e) of the Regulations.

Charge 3 (15 C.F.R. §764.2(g) - False Statement on Shipper's Export Declaration)

In connection with the export to Hong Kong referenced above, Atotech made a false statement to the U.S. Government by filing or causing to be filed a Shipper's Export Declaration ("SED") that stated that the corrosive chemical substance exported to Hong Kong was eligible for export as NLR ("no license required"). The certification of eligibility for NLR on the SED was false since an export license from the Department of Commerce was required. In so doing, Atotech committed one violation of Section 764.2(g) of the Regulations.

Accordingly, Atotech 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;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Atotech is further notified that it is entitled to an agency hearing on the record if Atotech files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Atotech is also entitled to be

³ *See* 15 C.F.R. § 6.4(a)(2).

represented 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 Atotech have a proposal to settle this case, Atotech or its 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, Atotech's answer must be filed in accordance with the instructions set forth 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 Atotech's answer must be served on BIS at the following address:

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

Lairoid M. Street is the attorney representing BIS in this case. Any communications that Atotech 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

In the Matter of:)
)
Atotech USA Inc.)
1750 Overview Drive)
Rock Hill, SC 29730)
)
Respondent.)
_____)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Atotech USA Inc. (“Atotech”), 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 (“Regulations”)¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),²

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The charged violations occurred in 2001. The Regulations governing the violations at issue are found in the 2001 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001)). The 2004 Regulations establish the procedures that apply to this matter.

² 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 (3 C.F.R., 2003 Comp. 328 (2004)), has continued the Regulations in effect under the IEEPA.

WHEREAS, Atotech filed a voluntary self-disclosure with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

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

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

1. *One Violation of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct:* On March 15, 2001, Atotech exported Econo-Chrome 140-S, a corrosive chemical substance, an item subject to the Regulations and classified under Export Control Classification Number 1C350, to Hong Kong without the Department of Commerce license as required in Section 742.2 of the Regulations.
2. *One Violation of 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation:* On or about March 15, 2001, Atotech ordered Econo-Chrome 140-S, a corrosive chemical substance, an item subject to the Regulations and classified under Export Control Classification Number 1C350, with knowledge that a violation of the Regulations was intended to occur. At all times relevant hereto, Atotech knew or had reason to know that a Department of Commerce license was required to export Econo-Chrome 140-S to Hong Kong. Atotech ordered Econo-Chrome

140-S knowing that it would be exported to Hong Kong without the required license.

3. *One Violation of 15 C.F.R. §764.2(g) - False Statement on Shipper's Export Declaration:* In connection with the export to Hong Kong referenced above, Atotech made a false statement to the U.S. Government by filing or causing to be filed a Shipper's Export Declaration ("SED") that stated that the corrosive chemical substance exported to Hong Kong was eligible for export as NLR ("no license required"). The certification of eligibility for NLR on the SED was false since an export license from the Department of Commerce was required.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against Atotech in complete settlement of the violations of the Regulations relating to the transactions specifically detailed in the voluntary self-disclosure and proposed charging letter:

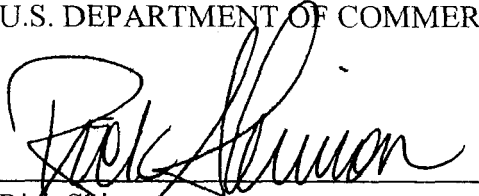
- a. Atotech shall be assessed a civil penalty in the amount of \$14,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to Atotech. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Atotech's export privileges for a period of one year from the date of imposition of the penalty.

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 his 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



Rick Shimon
Acting Director
Office of Export Enforcement

Date: 15 JUN 04

ATOTECH USA INC.



John T. Kinne
Vice President and General Manager

Date: 6/7/04

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

In the Matter of:)
)
Atotech USA Inc.)
1750 Overview Drive)
Rock Hill, SC 29730)
)
Respondent.)
_____)

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) has notified Atotech USA Inc. (“Atotech”) of its intention to initiate an administrative proceeding against Atotech pursuant to Section 766.3 of the Export Administration Regulations¹ (“Regulations”) 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 Atotech that alleged that Atotech committed three 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 (2004). The charged violations occurred in 2001. The Regulations governing the violations at issue are found in the 2001 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001)). The 2004 Regulations establish the procedures that apply to this matter.

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1. *One Violation of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct:* On March 15, 2001, Atotech exported Econo-Chrome 140-S, a corrosive chemical substance, an item subject to the Regulations and classified under Export Control Classification Number 1C350, to Hong Kong without the Department of Commerce license as required in Section 742.2 of the Regulations.
2. *One Violation of 15 C.F.R. §764.2(e) - Acting with Knowledge of a Violation:* On or about March 15, 2001, Atotech ordered Econo-Chrome 140-S, a corrosive chemical substance, an item subject to the Regulations and classified under Export Control Classification Number 1C350, with knowledge that a violation of the Regulations was intended to occur. At all times relevant hereto, Atotech knew or had reason to know that a Department of Commerce license was required to export Econo-Chrome 140-S to Hong Kong. Atotech ordered Econo-Chrome 140-S knowing that it would be exported to Hong Kong without the required license.
3. *One Violation of 15 C.F.R. §764.2(g) - False Statement on Shipper's Export Declaration:* In connection with the export to Hong Kong referenced above, Atotech made a false statement to the U.S. Government by filing or causing to be filed a Shipper's Export Declaration ("SED") that stated that the corrosive chemical substance exported to Hong Kong was eligible for export as NLR ("no license required"). The certification of eligibility for NLR on the SED was false since an export license from the Department of Commerce was required.

BIS and Atotech 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:

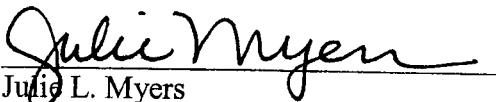
FIRST, that a civil penalty of \$14,000 is assessed against Atotech, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, Atotech 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 Atotech. Accordingly, if Atotech should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Atotech'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 June 2004.