



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

PROPOSED CHARGING LETTER

November 5, 2001

Reliance Electric, GmbH
Industriering Ost 8 1
Postfach 101220
D-4 152 Kampen- 1
Germany

Case No. 95-16(a)

Gentlemen/Ladies:

We have reason to believe and charge that you, Reliance Electric, GmbH, have committed one violation of the Export Administration Regulations, (currently codified at 15 C.F.R. Parts 730-774 (2001)) (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1991 & Supp. 2001))(the "Act").*

We charge that you committed one violation of Section 769.2(d) of the former Regulations, in that, with intent to comply with, further or support an unsanctioned foreign boycott, you furnished one item of information about your business relationships with or in a boycotted country; with business concerns organized under the laws of a boycotted country; and with nationals and residents of a boycotted country.

¹ The alleged violation occurred in 1992. The Regulations governing the violation at issue are found in the 1992 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992)). Those Regulations define the violation that we allege occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations established the procedures that apply to the matter in this letter.

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 most recent 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.A. §§ 1701-1706 (1991 & Supp. 2001)) (IEEPA). On November 12, 2000, the Act was reauthorized and 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 (66 Fed. Reg. 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.



We allege that:

1. Reliance Electric Company is, and at all times relevant was, a domestic concern incorporated in the State of Delaware and resident in the State of Ohio and, as such, is a United States person as defined in Section 760.1 (b) of the Regulations.

2. You, Reliance Electric, GmbH, are, and at all times relevant were, a company registered under the laws of Germany and a wholly-owned subsidiary of Reliance Electric Company. Accordingly, you are a controlled-in-fact foreign subsidiary of a domestic concern, as defined in Section 760.1(c) of the Regulations, and, as such, are a United States person as defined in Section 760.1 (b) of the Regulations.

3. During the period October 1991 through January 1992, you engaged in a transaction involving the sale of United States-origin goods to Abu Dhabi, U.A.E., an activity in the interstate or foreign commerce of the United States as defined in Section 769.1 (d) of the former Regulations.

4. In connection with the activity described in paragraph 3 above, on or about January 8, 1992, you furnished a document containing the following statement:

“...The goods are neither of Israeli origin nor do they contain Israeli materials nor are they being exported from Israel.”

5. By providing the information identified in paragraph 4 above, you furnished one item of information about your business relationships with or in a boycotted country; with business concerns organized under the laws of a boycotted country; and with nationals and residents of a boycotted country, activities prohibited by Section 769.2(d) of the former Regulations, and not excepted. We, therefore, charge you with one violation of Section 769.2(d) of the former Regulations.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions.³

You are entitled to a hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel and, under Section 766.18 of the Regulations, to seek a settlement agreement.

³ Administrative sanctions may include any or all the following:

- a. A civil penalty of \$10,000 per violation (see § 764.3(a)(1) of the Regulations);
- b. Denial of export privileges (see § 764.3(a)(2) of the Regulations); and/or
- c. Exclusion from practice (see § 764.3(a)(3) of the Regulations).

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

As provided in Section 766.3, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between the Bureau of Export Administration 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 matter set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

U.S. Coast Guard ALJ Docketing Center
40 South Gay Street
Baltimore, Maryland 21202-4022

Attention: Administrative Law Judge

Also, in accordance with the instructions in Section 766.5(b) of the Regulations, a copy of your answer should also be served on the Bureau of Export Administration at:

Office of the Chief Counsel for Export Administration
U.S. Department of Commerce
Room H-3839
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230

Sincerely,

Dexter M. Price
Director
Office of Antiboycott Compliance

UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

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 In the Matter of)
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) Case No. 95-16(a)
 Rockwell International, GmbH)
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ORDER

The Office of Antiboycott Compliance, Bureau of Industry and Security', U.S. Department of Commerce ("Department"), having determined to initiate an administrative proceeding pursuant to Section 11(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp.V 1999)) (the "Act")² and the Export Administration Regulations (currently codified at 15 C.F.R Parts 730-774 (2002)) (the "Regulations"), against Rockwell International, GmbH ("Rockwell GmbH"), successor to Reliance Electric, GmbH ("Reliance GmbH"), a wholly owned foreign subsidiary of a domestic concern, resident in the

¹ On April 18, 2002, the Department of Commerce announced that the name of the Bureau of Export Administration ("BXA") had been changed to the Bureau of Industry and Security ("BIS") and made conforming changes in the Export Administration Regulations. *Fed. Reg.* 20630-32 (April 26, 2002). This change does not affect the substantive activities or responsibilities of BIS. All actions taken before, on or after April 18 under the name of BXA will be deemed to have been taken under the name BIS and all references to BXA are deemed to be to BIS.

² The Act expired on August 20, 2001. 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)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1994 & supp. v 1999)).

State of Wisconsin, based on the allegations set forth in the Proposed Charging Letter, dated November 5, 2001, a copy of which is attached hereto and incorporated herein by this reference, for alleged violations of the Regulations committed by Reliance GmbH prior to its acquisition by Rockwell GmbH;

The Department and Rockwell GmbH having entered into a Settlement Agreement, incorporated herein by this reference, whereby the parties have agreed to settle this matter; and

I, the Assistant Secretary for Export Enforcement, having approved the terms of the Settlement Agreement:

IT IS ORDERED THAT,

FIRST, a civil penalty of \$2,000 is assessed against Rockwell GmbH;

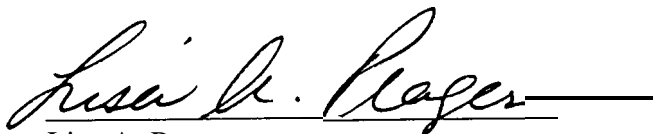
SECOND, Rockwell GmbH shall pay to the Department the sum of \$2,000 within thirty days of the date of this Order, as specified in the attached instructions;

THIRD, pursuant to the Debt Collections Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 2001)), 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, Rockwell GmbH may be assessed, in addition to interest, a penalty charge and an **administrative** charge, as more fully described in the attached Notice.

FOURTH, as authorized by Section 11 (d) of the Act, the timely payment of the sum of \$2,000 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 Rockwell GmbH. Accordingly, if Rockwell GmbH should fail to pay the sum of \$2,000 in the manner prescribed by this Order, I will enter an Order under the authority of Section 11(d) of the Act denying all of Rockwell GmbH's export privileges for a period of one year from the date of the entry of this Order; and

FIFTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon Rockwell GmbH.

This Order is effective immediately.



Lisa A. Prager
Acting Assistant Secretary for Export Enforcement

Entered this 23d day of May, 2003

Attachments

INSTRUCTIONS FOR PAYMENT OF SETTLEMENT AMOUNT

1. The check should be made payable to:

U.S. DEPARTMENT OF COMMERCE

2. The check should be mailed to:

U.S. Department of Commerce
Bureau of Industry and Security
Room 688 1
14th & Constitution Avenue, N. W.
Washington, D.C. 20230

Attention: Sharon Gardner

NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty and the rights, if any, that respondent may have to seek review, both within the U.S. Department of Commerce and the courts. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 2001)) and the Federal Claims Collection Standards (65 Fed. Reg. 70390-70406, November 22, 2000 to be codified at 31 C.F.R. Parts 900-904), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed respondent is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C.A. § 3717 and 31 C.F.R. § 901.9.

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and respondent will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a penalty charge of six percent per year. However, although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date. See 31 U.S.C.A. § 3717 and 31 C.F.R. § 901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with Section 901.2(b) of the Federal Claims Collection Standards (4 C.F.R. § 901.2(b)).

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

In the Matter of)
Rockwell International, GmbH) Case No. 95-16(a)
_____)

SETTLEMENT AGREEMENT

This agreement is made by and between Rockwell International, GmbH (“Rockwell GmbH”), successor to Reliance Electric, GmbH, a wholly owned foreign subsidiary of a domestic concern, and the Office of Antiboycott Compliance, Bureau of Industry and Security’, United States Department of Commerce (“Department”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2002)) (the “Regulations”), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999)) (the “Act”).²

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² The Act expired on August 20, 2001. 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)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1994 & supp. v 1999)).

WHEREAS, the Department has notified Rockwell GmbH of its intention to initiate an administrative proceeding against Rockwell GmbH, as successor to Reliance Electric, GmbH (“Reliance GmbH”), pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter dated November 5, 2001, a copy of which is attached hereto and incorporated herein by this reference, for alleged violations of the Regulations committed by Reliance GmbH prior to its acquisition by Rockwell GmbH; and

WHEREAS, Rockwell GmbH has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Rockwell GmbH fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and Rockwell GmbH states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, Rockwell GmbH neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Rockwell GmbH agrees to be bound by the appropriate Order (“Order”) when entered;

NOW, THEREFORE, Rockwell GmbH and the Department agree as follows:

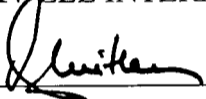
1. Under the Act and the Regulations, the Department has jurisdiction over Rockwell GmbH with respect to the matters alleged in the Proposed Charging Letter.
2. In complete settlement of all matters set forth in the Proposed Charging Letter, Rockwell GmbH will pay to the Department the amount of \$2,000 within 30 days of the date of the Order, when entered.
3. As authorized by Section 1 l(d) of the Act, timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Rockwell GmbH. Failure to make payment of this amount shall result in the denial of all of Rockwell GmbH's export privileges for a period of one year from the date of entry of the Order.
4. Subject to the approval of this Settlement Agreement pursuant to paragraph 9 hereof, Rockwell GmbH hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement 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 the funds paid by Rockwell GmbH pursuant to this Settlement Agreement and the Order, when entered; or

C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.

5. The Department, upon entry of the Order, will not initiate any administrative or judicial proceeding, or make a referral to the Department of Justice or to any other agency of the United States Government for possible enforcement action, against Rockwell GmbH or any of its officers, directors or employees, with respect to any violation of Section 8 of the Act or Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by the Department in the course of its investigation.
6. Rockwell GmbH understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.
7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by Rockwell GmbH that it has violated the Regulations or an admission of the truth of any allegation contained in the Proposed Charging Letter or referred to in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against Rockwell GmbH in any administrative or judicial proceeding.

8. 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 Order, when entered, nor shall this Settlement Agreement 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 herein addressed.
9. This Settlement Agreement will become binding on the Department only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

ROCKWELL INTERNATIONAL, GmbH



D. N. WHITELY
ASSOC. GEN. COUNSEL

DATE: 4/22/03

U.S. DEPARTMENT OF COMMERCE



Dexter M. Price
Director
Office of Antiboycott Compliance

D A T E : 5/8/03



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Immediate Release

May 22, 2003

Contact: BIS Public Affairs
(202) 482-2721

U.S. Parent Company and Two Subsidiaries Fined for Alleged Antiboycott Violations

Acting Assistant Secretary for Export Enforcement Lisa A. Prager announced today that the U.S. Department of Commerce has imposed a \$9,000 civil penalty on Rockwell Automation Inc, a Milwaukee, Wisconsin-based corporation and successor company to Reliance Electric Company, and two of Reliance's foreign subsidiaries to settle allegations that the Reliance companies committed four violations of the antiboycott provisions of the Export Administration Regulations (EAR).

The Commerce Department's Bureau of Industry and Security (BIS) alleged that Dodge International, a division of Reliance Electric Company, violated the EAR's antiboycott provisions by failing to report a request from a Kuwaiti purchaser for a declaration from Dodge that the goods at issue did not originate in Israel and that Dodge was not affiliated with any Israeli boycotted or blacklisted company. BIS further alleged that Dodge failed to maintain records containing information relating to a reportable boycott request as required by the EAR's antiboycott provisions.

In addition, BIS alleged that two foreign subsidiaries of Reliance, prior to their acquisition by Rockwell, each committed one violation of the EAR's antiboycott provisions by furnishing prohibited information about their or another company's business relationships. Specifically, BIS alleged that Reliance Electric GmbH furnished information regarding its business relationship with Israel in a transaction involving a sale to the United Arab Emirates, and that Reliance Electric AG furnished information regarding the blacklist status of the aircraft carrying the goods in a transaction involving a sale to Pakistan.

The companies involved voluntarily disclosed the transactions and cooperated fully with the subsequent investigation.

Acting Assistant Secretary Prager commended Senior Compliance Officer Cathleen A. Ryan, who conducted the investigation of this case.