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Contact - BIS Public Affairs 202-

St. Jude Medical Export GmbH Settles Charges of Antiboycott Violations

The U.S. Department of Commerce today announced that St. Jude Medical Export GmbH (St. Jude), an Austrian subsidiary of a Minnesota-based U.S. exporter of medical equipment, has agreed to pay a \$30,000 civil penalty to settle charges that it violated the antiboycott provisions of the Export Administration Regulations (EAR).

The Commerce Department's Bureau of Industry and Security (BIS) charged that St. Jude violated the EAR when it failed to report in a timely manner its receipt of three requests from an Iraqi government agency to adhere to the rules of the Israeli boycott during the 2000-2001 reporting period. BIS also charged that, on four occasions, St. Jude violated the antiboycott provisions by agreeing to refuse to do business with blacklisted persons.

The antiboycott provisions of the EAR prohibit U.S. persons from complying with certain requirements of unsanctioned foreign boycotts, including providing information about business relationships with another person who is known or believed to be restricted from having a business relationship with or in a boycotting country. In addition, the EAR requires that U.S. persons report their receipt of certain boycott requests to the Department of Commerce. Under the antiboycott provisions of the EAR, a controlled-in-fact foreign subsidiary of a domestic U.S. company is considered a U.S. person.

St. Jude voluntarily disclosed the transactions and cooperated fully with the investigation.

Assistant Secretary for Export Enforcement Julie L. Myers commended Compliance Officer Perry Province of BIS's Office of Antiboycott Compliance, for his work on this case.

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

_____))
_____))
_____))
In the Matter of _____))
_____)) Case No. 01-07
St. Jude Medical Export GmbH _____))
_____))
_____)

ORDER

The Office of Antiboycott Compliance, Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), following voluntary disclosure of certain information by St. Jude Medical Export GmbH, 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.A. app. §§ 2401-2420 (2001)) (the “Act”)¹ and the Export Administration Regulations (currently codified at 15 C.F.R Parts 730-774 (2004))(the “Regulations”), against St. Jude Medical Export GmbH (St. Jude Medical Export), a controlled-in-fact foreign subsidiary of a domestic concern, based on allegations set forth in the Proposed Charging Letter, dated September 29, 2004, that alleged that St. Jude Medical Export committed seven violations of the Regulations.

¹From 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. Sections 1701-1706 (2000)) (IEEPA). On November 13, 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 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004), has continued the Regulations in effect under the IEEPA.

Specifically, the charges are:

1. *One Violation of 15 C.F.R. §760.2(a) - Agreeing to Refuse to do Business with Boycotted Person:*

During the period November, 1999, through February, 2001, St. Jude Medical Export engaged in transactions involving the sale of United States-origin goods and services to Iraq. In connection with these activities, on or about November 1, 1999, St. Jude Medical Export executed and provided to persons in Iraq a document containing the following statement:

“The transportation ship...should not be blacklisted.”

By providing that information, St. Jude Medical Export, with intent to comply with, further or support an unsanctioned foreign boycott, knowingly agreed to refuse to do business with persons known or believed to be restricted from having any business relationship with or in a boycotting country, pursuant to a requirement of or a request from, or on behalf of, a boycotting country, an activity prohibited by Section 760.2(a) of the Regulations, and not excepted.

2. *One Violation of 15 C.F.R. §760.5-Failing to Report a Request to Engage in a Restrictive Trade Practice or Foreign Boycott of a Country Friendly To the United States:* During 1999, St. Jude Medical Export engaged in transactions

involving the sale of United States-origin goods and services to Iraq. In connection with these activities, St. Jude Medical Export on one occasion received a request to engage in restrictive trade practices or boycotts, which St. Jude Medical Export failed to report to the Department in a timely manner as directed by Section 760.5 of the Regulations.

3. *Three Violations of 15 C.F.R. §760.2(a)-Refusal to Do Business:* During the period December, 2000, through February, 2001 St. Jude Medical Export engaged in transactions involving the sale of United States-origin goods and services to Iraq. In connection with these activities, St. Jude Medical Export executed and provided to persons in Iraq documents containing the following statement:

“We hereby confirm the transportation ship should not
...be blacklisted.”

By executing and providing those documents St. Jude Medical Export, with intent to comply with, further or support an unsanctioned foreign boycott, knowingly agreed to refuse to do business with persons known or believed to be restricted from having any business relationship with or in a boycotting country, pursuant to a requirement of or a request from, or on behalf of, a boycotting

country, an activity prohibited by Section 760.2(a) of the Regulations and not excepted.

4. *Two Violations of 15 C.F.R. §760.5-Failing to Report a Request to Engage in a Restrictive Trade Practice or Foreign Boycott of a Country Friendly To the United States:* During 2000 and 2001, St. Jude Medical Export engaged in transactions involving the sale of United States-origin goods and services to Iraq. In connection with these activities, St. Jude Medical Export received three requests to engage in restrictive trade practices or boycotts, two of which St. Jude Medical Export failed to report to the Department in a timely manner as directed by Section 760.5 of the Regulations.

BIS and St. Jude Medical Export having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby the parties have 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 THAT:

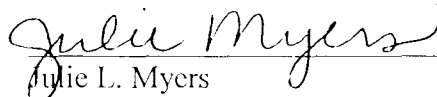
FIRST, a civil penalty of \$30,000 is assessed against St. Jude Medical Export which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collections Act of 1982, as amended (31 U.S.C. §§ 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, St. Jude Medical Export will be assessed, in addition to the full amount of the penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, as authorized by Section 11(d) of the Act, the timely payment of the sum of \$30,000 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 St. Jude Medical Export. Accordingly, if St. Jude Medical Export should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order under the authority of Section 11(d) of the Act denying all of St. Jude Medical Export's export privileges for a period of one year from the date of the entry of this Order.

FOURTH, that 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 St. Jude Medical Export.

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 30th day of September, 2004

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 6881
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. 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. §§ 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. §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. §3717 and 4 C.F.R. §901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with Section 901.2 of the Federal Claims Collection Standards (31 C.F.R. §901.2(b)).

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

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)
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In the Matter of)
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St. Jude Medical Export GmbH)
)
_____)

Case No. 01-07

SETTLEMENT AGREEMENT

This agreement is made by and between St. Jude Medical Export GmbH (St. Jude Medical Export), 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 ("BIS"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2001)) (the "Act").¹

¹ 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. §§ 1701-1706 (2000)) ("IEEPA"). On November 13, 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 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

WHEREAS, St. Jude Medical Export has voluntarily disclosed certain information concerning its activities to BIS; and

WHEREAS, BIS has notified St. Jude Medical Export of its intention to initiate an administrative proceeding against St. Jude Medical Export, pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter dated September 29, 2004, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, St. Jude Medical Export 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; St. Jude Medical Export fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and St. Jude Medical Export states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, St. Jude Medical Export 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, St. Jude Medical Export agrees to be bound by the appropriate Order (“Order”) when entered;

NOW, THEREFORE, ST. JUDE MEDICAL EXPORT and BIS agree as follows:

1. Under the Act and the Regulations, BIS has jurisdiction over St. Jude Medical Export with respect to the matters alleged in the Proposed Charging Letter.
2. BIS will impose a civil penalty in the amount of \$30,000. St. Jude Medical Export will pay to the U.S. Department of Commerce, within 30 days of receipt of service of the Order, when entered, the amount of \$30,000 in complete settlement of all matters set forth in the Proposed Charging Letter.
3. As authorized by Section 11(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 St. Jude Medical Export. Failure to make payment of this amount shall result in the denial of all of St. Jude Medical Export’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, St. Jude Medical Export 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 St. Jude Medical Export 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. BIS, upon entry of the Order, will not initiate any administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against St. Jude Medical Export 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 BIS in the course of its investigation.

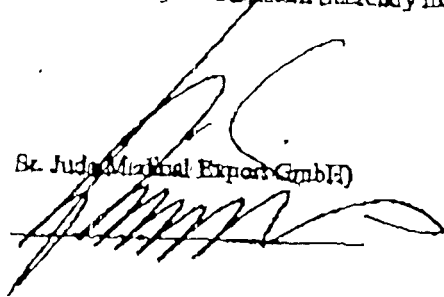
6. St. Jude Medical Export understands that BIS will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.

7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by St. Jude Medical Export 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, BIS may not use this Settlement Agreement against St. Jude Medical Export 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. This paragraph shall not limit St. Jude Medical Export's right to challenge any action brought by any other agency based on a referral by BIS or any employee thereof, in contravention of paragraph 5 of this Settlement Agreement.

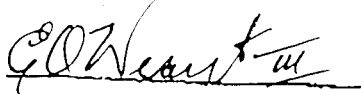
9. This Settlement Agreement will become binding on BIS only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

Sz. Judo Medical Export GmbH



DATE: 30/9/04

U.S. DEPARTMENT OF COMMERCE



DATE: 9-30-04

Edward O. Weant III
Acting Director
Office of Antitrust Compliance

Attachment



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

PROPOSED CHARGING LETTER

September 29, 2004

St. Jude Medical Export GmbH
Business Park Vienna Teil D, 3, OG
Wienerbergstrasse 7, A-1100
Vienna, Austria

Case No. 01-07

Gentlemen/Ladies:

In view of your voluntary disclosure of information we have reason to believe and charge that you, St. Jude Medical Export GmbH, have committed seven violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (the "Regulations"),¹ 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

We charge that you committed four violations of Section 760.2(a) of the Regulations, in that, with intent to comply with, further or support an unsanctioned foreign boycott, you, on four occasions, knowingly agreed to refuse to do business with persons known or believed to be restricted from having any business relationship with or in a boycotting country, pursuant to a requirement or request from, or on behalf of, a boycotting country.

We further charge that you committed three violations of Section 760.5 of the Regulations in that you failed to report to the Department in a timely manner your receipt of requests to engage in restrictive trade practices or boycotts.

¹ The alleged violations occurred in 1999-2001. The Regulations governing the violations at issue are found in the 1999, 2000 and 2001 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1999-2001) and define the violations that we allege occurred. They are substantially the same as the 2004 version of the Regulations which govern the procedural aspects of this case.

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 13, 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 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by Notice of August 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), has continued the Regulations in effect under the IEEPA.



We allege that:

St. Jude Medical, Inc. is, and at all times relevant was, a domestic concern resident in the State of Minnesota and, as such, is a United States person as defined in Section 760.1(b) of the Regulations.

You, St. Jude Medical Export GmbH, are, and at all times relevant were, a company registered under the laws of Austria and a wholly-owned subsidiary of St. Jude Medical, Inc. 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.

During the period November, 1999, through February, 2001, you engaged in activities involving the transfer of goods and/or services, including information, between the United States and Iraq, activities in the interstate or foreign commerce of the United States as defined in Section 760.1(d) of the Regulations.

Charge 1 (15 C.F.R. §760.2(a)-Agreeing to Refuse to do Business with Boycotted Persons)

In connection with the activities described in paragraph 3 above, on or about November 1, 1999, you executed and provided to persons in Iraq a document containing the following statement:

“The transportation ship...should not be blacklisted.”

By executing and providing that document you, with intent to comply with, further or support an unsanctioned foreign boycott, knowingly agreed to refuse to do business with persons known or believed to be restricted from having any business relationship with or in a boycotting country, pursuant to a requirement of or a request from, or on behalf of, a boycotting country, an activity prohibited by Section 760.2(a) of the Regulations, and not excepted. We therefore charge you with one (1) violation of Section 760.2(a).

Charge 2 (15 C.F.R. § 760.5)-Failing to Report, as Required by the Regulations, a Request to Engage in a Restrictive Trade Practice or Foreign Boycott of a Country Friendly to the United States

During 1999, in connection with the activities referred to above, you received a request to engage in restrictive trade practices or boycotts, which you failed to report to the Department in a timely manner. We therefore charge you with one (1) violation of Section 760.5.

Charges 3-5 (15 C.F.R. §760.2(a)-Refusal to Do Business)

In connection with the activities described above, on or about December 2, 2000, December 17, 2000, and February 5, 2001, you received, executed and provided to persons in Iraq documents containing the following statement:

“We hereby confirm the transportation ship should not
...be blacklisted.”

By executing and providing those documents you, with intent to comply with, further or support an unsanctioned foreign boycott, knowingly agreed to refuse to do business with persons known or believed to be restricted from having any business relationship with or in a boycotting country, pursuant to a requirement of or a request from, or on behalf of, a boycotting country, an activity prohibited by Section 760.2(a) of the Regulations, and not excepted. We therefore charge you with three (3) violations of Section 760.2(a).

Charges 6-7 (15 C.F.R. §760.5)-Failing to Report, as Required by the Regulations, Requests to Engage in a Restrictive Trade Practice or Foreign Boycott of a Country Friendly to the United States.

During 2000 and 2001, and in connection with the activities described above, you received three requests to engage in a restrictive trade practice or boycott, two of which you failed to report to the Department in a timely manner as directed by Section 760.5 of the Regulations. We therefore charge you with two (2) violations of Section 760.5.

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 \$11,000 per violation (see § 764.3(a)(1) of the Regulations and 15 C.F.R. §6.4(a)(4), 2004);
- b. Denial of export privileges (see § 764.3(a)(2) of the Regulations); and/or
- c. Exclusion from practice before BIS (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 Industry and Security 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 Industry and Security at:

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

Sincerely,

Ned Weant
Acting Director
Office of Antiboycott Compliance