

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

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In the Matter of )  
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Gates Europe, NV )  
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Case No. 05-17

ORDER

The Office of Antiboycott Compliance, Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), following voluntary disclosure of certain information by Gates Europe, NV (“GENV”), 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 (2001)) (the “Act”)<sup>1</sup> and the Export Administration Regulations (currently codified at 15 C.F.R Parts 730-774 (2005)) (the “Regulations”), against GENV, a wholly-owned subsidiary of The Gates Corporation, a domestic concern resident in the State of Colorado, based on allegations set forth in the Proposed Charging Letter, dated June 26, 2006, that alleged that GENV committed fifty-seven violations of the Regulations.

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<sup>1</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 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. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 Fed. Reg. 45273 (August 5, 2005)), continues the Regulations in effect under IEEPA. The Regulations are available on the Government Printing Office Website at: [www.access.gpo.gov/bis/](http://www.access.gpo.gov/bis/).

Specifically, the charges are:

1. *Fifty-five Violations of 15 C.F.R. §760.2(d) - Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons:*

During the period July, 2001, through December , 2003, GENV engaged in transactions involving the transfer of goods and information from the United States to persons in Syria. By providing that information, GENV therefore, with intent to comply with, further or support an unsanctioned foreign boycott, knowingly furnished information about its business relationships in a boycotted country, an activity prohibited by Section 760.2(d) of the Regulations, and not excepted.

2. *Two Violations of 15 C.F.R. §760.5-Failing to Report in a Timely Manner a Request to Engage in a Restrictive Trade Practice or Foreign Boycott of a Country Friendly To the United States:* In June, 2002, GENV received two requests to engage in restrictive trade practices or boycotts as described in paragraph one above, which it failed to report in a timely manner to the Department of Commerce as directed by the Regulations.

BIS and GENV 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:

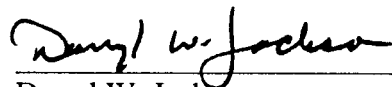
FIRST, a civil penalty of \$91,000 is assessed against GENV, \$5000 of which shall be paid to the U.S. Department of Commerce within 30 days from the date of receipt of service of this Order, and the balance of \$86,000 on January 15, 2007. Payment shall be made in the manner specified in the attached 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, GENV 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 \$91,000 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 GENV. Accordingly, if GENV 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 GENV'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 GENV.

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



\_\_\_\_\_  
Darryl W. Jackson  
Assistant Secretary for Export Enforcement

Entered this 11<sup>th</sup> day of October, 2006

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 Glover

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

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In the Matter of ) )  
) ) Case No. 05-17  
Gates Europe, NV ) )  
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SETTLEMENT AGREEMENT

This agreement is made by and between Gates Europe, NV (“GENV”), a wholly-owned subsidiary of The Gates Corporation, a domestic concern resident in Denver, Colorado, 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 (2005)) (the “Regulations”), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2001)) (the “Act”).<sup>1</sup>

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<sup>1</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 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. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been by successive Presidential Notices, the most recent being that of August 2, 2005 (70 Fed. Reg. 45273 (August 5, 2005)), continues the Regulations in effect under IEEPA. The Regulations are available on the Government Printing Office Website at: [www.access.gpo.gov/bis/](http://www.access.gpo.gov/bis/).

WHEREAS, GENV, following a voluntary self audit, disclosed certain information to BIS and implemented remedial measures to its compliance program while cooperating fully with a BIS review, and

WHEREAS, BIS has notified GENV of its intention to initiate an administrative proceeding against GENV, pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter dated June 26, 2006, a copy of which is attached hereto and incorporated herein by this reference; and

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

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

NOW, THEREFORE, GENV and BIS agree as follows:

1. Under the Act and the Regulations, BIS has jurisdiction over GENV with respect to the matters alleged in the Proposed Charging Letter.
2. BIS will impose a civil penalty in the amount of \$91,000. GENV will pay to the U.S. Department of Commerce, within 30 days of receipt of service of the Order, when entered, the amount of \$5,000 and the balance of \$86,000 on January 15, 2007, 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 GENV. Failure to make payment of this amount shall result in the denial of all of GENV’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, GENV 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 GENV 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 GENV 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. GENV understands that BIS will disclose publicly the Proposed Charging Letter, Settlement Agreement, and the Order, when entered.
  
7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by GENV 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 GENV 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 GENV'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.

Gates Europe, NV



by Richard Bell

DATE: 9/29/06

U.S. DEPARTMENT OF COMMERCE



DATE: 10-6-06

Edward O. Weant III  
Director  
Office of Antiboycott Compliance

Attachment



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

PROPOSED CHARGING LETTER

June 26, 2006

Gates Europe NV  
Dr. Carlierlaan 30, B-9320  
Erembodegem, Belgium

Case No. 05-17

Gentlemen/Ladies:

In view of your voluntary disclosure of information we have reason to believe and charge that you have committed 57 violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (the "Regulations"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999)) ("the Act").<sup>2</sup>

We charge that you committed forty-seven violations of Section 760.2(d) of the Regulations, in that, with intent to comply with, further or support an unsanctioned foreign boycott, you furnished fifty-one items of information about your business relationships with or in a boycotted country.

We further charge that you committed eight violations of Section 760.2(d) of the Regulations, in that, with in intent to comply with, further or support an unsanctioned foreign boycott, you furnished eight items of information about other persons' relationships with or in a boycotted country.

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

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<sup>1</sup> The alleged violations occurred in 2002-2003. The Regulations governing the violations at issue are found in the 2002-2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). They are substantially the same as the 2006 version of the Regulations which govern the procedural aspects of this case.

<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 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. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being of August 5, 2005 (69 *Fed. Reg.* 48763 (August 5, 2005)), continues the Regulations in effect under the IEEPA.



We allege that:

The Gates Corporation is, and at all times relevant was, a domestic concern resident in the State of Colorado, and, as such, is a United States person as defined in Section 760.1(b) of the Regulations.

You, Gates Europe NV (“GENV”), are and at all times relevant were, a company registered under the laws of Belgium and a wholly-owned subsidiary of The Gates Corporation. Accordingly, you are a controlled-in-fact foreign subsidiary of a domestic corporation, 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 June, 2001 through January, 2004, you engaged in activities involving the transfer of goods and/or services, including information, between the United States and Syria, activities in the interstate or foreign commerce of the United States as defined in Section 760.1(d) of the Regulations.

**Charges 1-5 (15 C.F.R. §760.2(d)-Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons )**

In connection with the activities described in paragraph 2 above, during the period July, 2001 through October, 2001, you furnished to persons in Syria five documents containing the following statement:

“WE CERTIFY THAT GOODS MENTIONED HEREIN ARE NOT OF ISRAELI ORIGIN AND THAT NO ISRAELI MATERIALS WERE USED IN THEIR PRODUCTION OR MANUFACTURE.”

By providing the above information you, with intent to comply with, further or support an unsanctioned foreign boycott, provided eight items of information about your business relationships with or in a boycotted country, an activity prohibited by Section 760.2(d) of the Regulations, and not excepted. We therefore charge you with five (5) violations of Section 760.2(d).

**Charges 6-27 (15 C.F.R. §760.2(d)-Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons)**

In connection with the activities described in paragraph 2 above, during the period December, 2001 through August, 2003, you furnished to persons in Syria twenty-two documents containing the following statement:

“WE HEREBY CERTIFY THAT THE GOODS CONTAINED IN THIS INVOICE ARE NOT OF ISRAELI ORIGIN NOR DO THEY CONTAIN ISRAELI MATERIALS AND ARE NOT BEING EXPORTED FROM ISRAEL.”

By providing the above information you, with intent to comply with, further or support an unsanctioned foreign boycott, provided twenty-six items of information about your business relationships with or in a boycotted country, an activity prohibited by Section 760.2 of the Regulations, and not excepted. We therefore charge you with twenty-two (22) violations of Section 760.2(d).

**Charges 28-35 (15 C.F.R. §760.2(d)-Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons)**

In connection with the activities described in paragraph 2 above, during the period August, 2003 through December, 2003, you furnished to persons in Syria eight documents containing the following statement:

“WE CERTIFY THAT THE GOODS MENTIONED HEREIN ARE NOT OF ISRAELI ORIGIN AND THAT NO ISRAELI MATERIALS WERE USED IN THEIR PRODUCTION OR MANUFACTURE.”

By providing the above information you, with intent to comply with, further or support an unsanctioned foreign boycott, provided eight items of information about your business relationships with or in a boycotted country, an activity prohibited by Section 760.2 of the Regulations, and not excepted. We therefore charge you with eight (8) violations of Section 760.2(d).

**Charges 36-43 (15 C.F.R. §760.2(d)-Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons**

In connection with the activities described in paragraph 2 above, during the period August, 2003 through December, 2003, you furnished to persons in Syria eight documents containing the following statement:

“WE CERTIFY THAT THE VESSEL CARRYING THE GOODS...IS NOT BANNED ENTRY TO THE PORT OF ARAB STATES FOR ANY REASON WHATSOEVER UNDER THE LAWS AND REGULATIONS OF SUCH STATES...”

By providing the above information you, with intent to comply with, further or support an unsanctioned foreign boycott, provided eight items of information about other persons' relationships with a boycotted country, an activity prohibited by Section 760.2 of the Regulations, and not excepted. We therefore charge you with eight (8) violations of Section 760.2(d).

**Charges 44-45 (15 C.F.R. §760.2(d)-Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons**

In connection with the activities described in paragraph 2 above, during the period March 19-20, 2002, you furnished to persons in Syria in two separate documents the following statements, respectively:

“WE CERTIFY THAT THE GOODS MENTIONED HEREIN ARE NOT OF ISRAELI ORIGIN AND THAT NO ISRAELI MATERIALS WERE USED IN THEIR PRODUCTION OR MANUFACTURING.”

and

“WE HEREBY CERTIFY THAT THE GOODS MENTIONED IN THIS INVOICE ARE NOT OF ISRAELI ORIGIN NOR DO THEY CONTAIN ISRAELI MATERIALS AND ARE NOT BEING EXPORTED FROM ISRAEL.

By providing the above information you, with intent to comply with, further or support an unsanctioned foreign boycott, provided two items of information about your business relationships with a boycotted country, an activity prohibited by Section 760.2 of the Regulations, and not excepted. We therefore charge you with two (2) violations of Section 760.2(d).

**Charges 46-55 (15 C.F.R. §760.2(d))-Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons**

In connection with the activities described in paragraph 2 above, during December, 2002, you furnished to persons in Syria ten documents containing the following statement.

“WE DECLARE THAT NO RAW MATERIALS OF ISRAELI ORIGIN HAVE BEEN USED FOR THE PRODUCTION OR THE PREPARATION OF THE GOODS.”

By providing the above information you, with intent to comply with, further or support an unsanctioned foreign boycott, provided ten items of information about your business relationships with a boycotted country, an activity prohibited by Section 760.2 of the Regulations, and not excepted. We therefore charge you with ten (10) violations of Section 760.2(d).

**Charges 56-57 (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**

In June, 2002, in connection with the activities referred to above, you received two requests 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 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.<sup>3</sup>

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.

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<sup>3</sup> 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  
Director  
Office of Antiboycott Compliance