

JUL 15 2002



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

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Trane Taiwan
65-1, No. 338 Wen-Lin Road
ShisLin 111
Taipei 2391945
Taiwan, ROC 104

NC Chen
Taiwan Country Leader

Dear Mr. Chen:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”),¹ has reason to believe that The Trane Company, Inc. (“Trane”) violated the Export Administration Regulations (the “Regulations”), which are issued under the authority of the Export Administration Act of 1979, (the “Act”).² on 11 occasions. Specifically, BIS charges that Trane committed the following violations:

Charge 1: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

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. 67 *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 taken under the name BIS and all references to BXA are deemed to be to BIS. *Id.*

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 then in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (1994 & Supp. IV 1999)) (“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 783-784 (2002)), has continued the Regulations in effect under IEEPA.



On or about October 28, 1998, Trane Taiwan, a subsidiary of Trane, (“Trane Taiwan”), violated the terms of the Realtek Denial Order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance services on chillers, which had been exported from the United States, to Realtek, in Taiwan, using proprietary service manuals and information which originated in the United States and that was produced by Trane solely for maintenance of Trane equipment. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. BIS alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section 764.2(k) of the Regulations.

Charge 2: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On or about January 13, 1999, Trane Taiwan violated the terms of the Realtek Denial Order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance services on Trane chillers, which had been exported to Realtek, in Taiwan, using proprietary service manuals and information which originated in the United States and that was produced by Trane solely for maintenance of Trane equipment. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. BIS alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section 764.2(k) of the Regulations.

Charge 3: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On or about March 12, 1999, Trane Taiwan violated the terms of the Realtek Denial Order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance services on chillers, which had been exported from the United States to Realtek, in Taiwan, using proprietary service manuals and information which originated in the United States and that was produced by Trane solely for maintenance of Trane equipment. At the time, Realtek was a person denied all U.S. export privileges. BIS alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section 764.2(k) of the Regulations.

Charge 4: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On or about May 14-15, 1999, Trane Taiwan violated the terms of the Realtek Denial Order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance services on chillers, which had been exported from the United States to Realtek, in Taiwan. The equipment maintenance was performed by Trane Taiwan, using proprietary service manuals, information and replacement parts. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. BIS alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section

764.2(k) of the Regulations.

Charge 5: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On or about July 8, 1999, Trane Taiwan, violated the terms of the Realtek Denial order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance services on Trane chillers, which had been exported from the United States to Realtek, in Taiwan, using proprietary service manuals and information which originated in the United States and that was produced by Trane solely for maintenance of Trane equipment. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. BIS alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section 764.2(k) of the Regulations.

Charge 6: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On or about September 7, 1999, Trane Taiwan violated the terms of the Realtek Denial order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance service on Trane chillers, which had been exported from the United States, to Realtek, in Taiwan, using proprietary service manuals and information which originated in the United States and produced by Trane solely for the maintenance of Trane equipment. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. BIS alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section 764.2(k) of the Regulations.

Charge 7: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On or about November 4, 1999, Trane Taiwan, violated the terms of Realtek Denial Order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance services on the Trane chillers, which had been exported from the United States to Realtek, in Taiwan, using proprietary service manuals and information which originated in the United States, and was produced by Trane solely for the maintenance of Trane equipment. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. BIS alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section 764.2(k) of the Regulations.

Charge 8: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On January 14, 2000, Trane Taiwan, violated the terms of the Realtek Denial Order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance services on Trane chillers, which had been exported from the United States, to Realtek, in Taiwan, using proprietary service manuals and

information which was originated in the United States and was produced by Trane solely for maintenance of Trane equipment. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. BIS alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section 764.2(k) of the Regulations.

Charge 9: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On March 13, 2000, Trane Taiwan, violated the terms of the Realtek Denial Order by participating in a transaction with Realtek involving commodities that were subject to the on Regulations and that were exported from the United States. Trane provided maintenance services on Trane chillers, which had been exported from the United States, to Realtek, in Taiwan, using proprietary service manuals and information which was originated in the United States and was produced by Trane solely for maintenance of Trane equipment. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. **BIS** alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section 764.2 (k) of the Regulations.

Charge 10: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On or about May 20, 2000, Trane Taiwan violated the terms of the Realtek Denial Order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance services on Trane chillers, which had been exported from the United States, to Realtek, in Taiwan. the maintenance included the use of 12 gallons of oil, two oil filters and test/repair kits. The maintenance was performed by Trane Taiwan, using proprietary service manuals, information and replacement parts. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. BIS alleges that, by taking an action prohibited by a denial order, Trane committed one violation of Section 764.2(k) of the Regulations

Charge 11: Acting Contrary to the Terms of a Denial Order: EAR § 764.2(k)

On or about July 5, 2000, Trane Taiwan violated the terms of the Realtek Denial Order by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. Trane provided maintenance services on chillers, which had been exported from the United States to Realtek, in Taiwan, using proprietary service manuals and information which originated in the United States and that was produced by Trane Taiwan solely for maintenance of Trane Taiwan equipment. At the time, Realtek was a person denied all U.S. export privileges under the Realtek Denial Order. BIS alleges that, by taking an action prohibited by a denial order, Trane Taiwan committed one violation of Section 764.2(k) of the Regulations.

BIS alleges that Trane Taiwan committed 11 violations of Section 764.2 (k) of the Regulations.

Accordingly, Trane Taiwan 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 for each violation³;

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Trane Taiwan fails to answer the charging letter contained in this letter within 30 days after being served with notice of issuance of the letter, that failure will be treated **as** a default. (Regulations, Section 766.6 and 766.7). **If** Trane Taiwan defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to Trane Taiwan. The Under Secretary for Industry and Security may impose up to the maximum penalty on each **of** the charges in this letter. Trane Taiwan is **further** notified that it is entitled to an agency hearing on the record if Trane Taiwan files a written demand for one with its answer. (Regulation, Section 766.6). Trane Taiwan 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 you have a proposal to settle this case, you or your representative should transmit it to me through the attorney representing BIS named below.

The U.S. Coast Guard provides administrative law judge service in connection with the matters set forth in this letter. Accordingly, Trane Taiwan's answer should be filed pursuant to 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

A copy of Trane Taiwan's answer must be served on BIS at:
Chief Counsel for Industry and Security
Attention: Lairold M. Street, **Esq.**

³ Pursuant to the Federal Civil Penalties Adjustment Act of 1990, (28 U.S.C. 2461, note (1994 & Supp. V 1999)) and 15 C.F.R. §6.4(a)(2) the maximum civil penalty for each violation committed after October **23**, 1996 and before November 1, 2000 is \$11,000.

Room **H-3839**
U. **S.** Department **of** Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Lairoid M. Street **is** the attorney representing the BIS in this case. He may be contacted by telephone at (202) 482-5301.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Menefee". The signature is fluid and cursive, with the first name "Mark" and last name "Menefee" clearly distinguishable.

Mark D. Menefee
Director
Office **of** Export Enforcement

Enclosures

cc: Eric D. Brown, **Esq.**
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401

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

_____)	
In the Matter of:)	
TRANE TAIWAN DISTRIBUTION LIMITED)	Docket No. 02-BIS-12
65-1, No. 338 Wen-Lin Road)	
ShisLin 111)	
Taipei 2391945)	
Taiwan, ROC 104,)	
)	
Respondent.)	
_____)	

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Trane Taiwan Distribution Limited (“TTD”), and the Bureau of Industry and Security, United States Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“Regulations”), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),’

WHEREAS, BIS has initiated an administrative proceeding against TTD pursuant to the Act and the Regulations;

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 last of which was issued on 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 - 1707 (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 renewed by the Notice of August 14, 2002 (67 *Fed. Reg.* 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

WHEREAS, BIS has issued a charging letter to TTD that alleged that TTD committed eleven violations of the Regulations, specifically:

1. *11 Violations of 15 C.F.R. § 764.2(k) - Acting Contrary to the Terms of a Denial Order:* From on or about October 28, 1998 to on or about July 5, 2000, TTD violated the terms of an order denying all of the U.S. export privileges of Realtek Semiconductors Co., Ltd. (“Realtek”) by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. TTD provided maintenance services on chillers, which had been exported from the United States, to Realtek, in Taiwan, using proprietary service manuals and information which originated in the United States. At the time, Realtek was a person denied all U.S. export privileges by an Order of BIS (then known as the Bureau of Export Administration) dated August 3, 1995, and published in the *Federal Register* on August 9, 1995 (60 *Fed. Reg.* 40565-66) that was effective for five years.

WHEREAS, TTD has reviewed the 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;

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over TTD, under the Regulations, in connection with the matters alleged in the charging letter.
2. The following sanction shall be imposed against TTD in complete settlement of the violations of the Regulations set forth in the charging letter:
 - a. TTD shall be assessed a civil penalty in the amount of \$27,000 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, permission, or privilege granted, or to be granted, to TTD. Failure to

make timely payment of the civil penalty set forth above shall result in the denial of all of TTD'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, TTD 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 charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) 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 \$27,000 civil penalty, BIS will not initiate any further administrative proceeding against TTD in connection with any violation of the Act or the Regulations arising out the transactions identified in the charging letter.

5. BIS will make the 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.

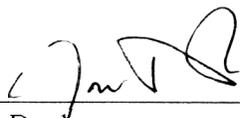
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department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

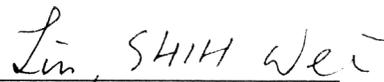
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE

TRANE TAIWAN DISTRIBUTION LIMITED



Jon A. Dyck
Chief Counsel
Office of Chief Counsel
for Industry and Security



Lin Shih Wei
Chairman

Date: 8/15/03

Date: 7/30/2003

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

_____)	
In the Matter of:)	
)	
TRANE TAIWAN DISTRIBUTION LIMITED)	Docket No. 02-BIS-12
65-1, No. 338 Wen-Lin Road)	
ShisLin 111)	
Taipei 2391945)	
Taiwan, ROC 104,)	
)	
Respondent.)	
_____)	

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having initiated an administrative proceeding against Trane Taiwan Distribution Limited (“TTD”) pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”), and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“Regulations”), based on the charging letter issued to TTD that alleged that TTD violated the Regulations on 11 occasions. Specifically, the charges are:

1. *11 Violations of 15 C.F.R. § 764.2(k) - Acting Contrary to the Terms of a Denial*

Order: From on or about October 28, 1998 to on or about July 5, 2000, TTD

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 last of which was issued on 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.

violated the terms of an order denying all of the U.S. export privileges of Realtek Semiconductors Co., Ltd. (“Realtek”) by participating in a transaction with Realtek involving commodities that were subject to the Regulations and that were exported from the United States. TTD provided maintenance services on chillers, which had been exported from the United States, to Realtek, in Taiwan, using proprietary service manuals and information which originated in the United States. At the time, Realtek was a person denied all U.S. export privileges by an Order of BIS (then known as the Bureau of Export Administration) dated August 3, 1995, and published in the *Federal Register* on August 9, 1995 (60 *Fed. Reg.* 40565-66) that was effective for five years.

BIS and TTD having entered into a Settlement Agreement pursuant to Section 766.18(b) 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 \$27,000 is assessed against TTD, 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,

Order
TTD
Page 3 of 3

TTD 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.

THTRD, 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 TTD. Accordingly, if TTD should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of TTD's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

FIFTH, that the 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.


for Lisa A. Prager
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 6th day of October 2003.