

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
GENERAL CHEMICAL CORPORATION)
90 East Haley Road)
Parsippany, New Jersey 07054,)
)
Resondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (**BXA**), having notified General Chemical Corporation (GCC) of its intention to initiate an administrative proceeding against GCC pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the **Regulations**),² based on allegations that, on or about

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (**1995**)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (**1996**)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (**1997**)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (**1998**)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 Fed. **Reg.** 44101 (August 13, **1999**)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & supp. 1999)).

² The violations at issue occurred in 1996 and 1997. The Regulations governing the violations at issue are found in the 1996 and 1997 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (**1996**), as amended (61 **Fed. Reg.** 12714, March 25, 1996) (hereinafter “the former Regulations”) and 15 C.F.R. Parts 730-774 (1997)). The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts **768A-799A**. In addition, **the** March 25, 1996 **Federal Register** publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations and the Regulations **define** the violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

December 12, 1996 and on or about December 30, 1996, CCC exported U.S.-origin commodities to a distributor in Hong Kong, knowing or having reason to know that the distributor would then transfer the commodities to Hua Ko Electronics Co. Ltd. (**Hua Ko**), a person denied all U.S. export privileges by Order dated November 29, 1989 (hereinafter referred to as “the 1989 Order”) in violation of Section 787A.6 of the former Regulations, and that, on five separate occasions between on or about February 24, 1997 and on or about May 30, 1997, **GCC** exported U.S. -origin commodities to a distributor in Hong Kong, knowing or having reason to know that the distributor would then transfer the commodities to Hua Ko, a person denied all U.S. export privileges by the 1989 Order in violation of Section 764.2(a) of the Regulations, and;

BXA and CCC having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$77,000 is assessed against CCC which shall be paid to the U. S. Department of Commerce within 30 days from the date of this Order. Payment shall be made in the manner specified in the attached instructions.

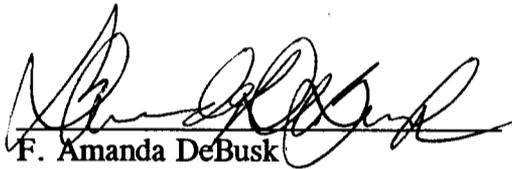
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1999)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, **GCC** will be assessed, in addition to interest, a penalty charge

and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 1 l(d) of the Act, 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, permission, or privilege granted, or to be granted, to CCC. Accordingly, if **GCC** should fail to pay the civil penalty set forth above, the undersigned will enter an Order under the authority of Section 1 l(d) of the Act denying all of **GCC's** export privileges for a period of one year from the date of this Order.

FOURTH, that the proposed Charging Letter, 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.


F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered th 23rd day of December 9 9 .

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D . C . 20230

In the Matter of:)
)
GENERAL CHEMICAL CORPORATION)
90 East Haley Road)
Parsippany, New Jersey 07054,)
)
)

Resnondent)

SETTLEMENT AGREEMENT

This Agreement is made by and between General Chemical Corporation (GCC) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).²

¹The violations at issue occurred in 1996 and 1997. The Regulations governing the violations at issue are found in the 1996 and 1997 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996), as amended (61 **Fed. Reg.** 12714, March 25, 1996) (hereinafter “the former Regulations”) and 15 C.F.R. Parts 730-774 (1997)). The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 **Federal Register** publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations and the Regulations define the violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

²The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 **Fed. Reg.** 44101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & supp. 1999)).

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (**BXA**), has notified CCC of its intention to initiate an administrative proceeding against **GCC** pursuant to the Act and the Regulations, based on allegations that on or about December 12, 1996 and on or about December 30, 1996, CCC exported U.S.-origin commodities to a distributor in Hong Kong, *knowing or having reason to know that the distributor would then transfer the commodities to Hua Ko Electronics Co. Ltd. (**Hua Ko**), a person denied all U.S. export privileges by Order dated November 29, 1989 (hereinafter referred to as “the 1989 Order”) in violation of Section 787A.6 of the former Regulations, and that, on five separate occasions between on or about February 24, 1997 and on or about May 30, 1997, CCC exported U.S.-origin commodities to a distributor in Hong Kong, knowing or having reason to know that the distributor would then transfer the commodities to Hua Ko, a person denied all U. S . export privileges by the 1989 Order in violation of Section 764.2(a) of the Regulations;

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

WHEREAS, CCC neither admits nor denies the allegations contained in the proposed Charging Letter;

WHEREAS, GCC wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement, and;

WHEREAS, GCC agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, GCC and BXA agree as follows:

1. BXA has jurisdiction over GCC, under the Act and the Regulations, in connection with the matters alleged in the Charging Letter.

2. BXA and GCC agree that the following sanction shall be imposed against GCC in complete settlement of all alleged violations of the Act, the former Regulations and the Regulations set forth in the proposed Charging Letter:

(a) GCC shall be assessed a civil penalty of \$77,000 which shall be paid to the U.S. Department of Commerce within 30 days of the date of entry of an appropriate Order.

(b) As authorized by Section 1 l(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2a. 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 GCC. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of **GCC's** export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. GCC agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of the appropriate Order, it will not initiate any administrative proceeding against GCC or any of its officers, shareholders, directors, agents, employees or former employees in connection with any violations of the Act, the former Regulations or the Regulations arising out of the transactions that were the subject of the investigation leading to the proposed Charging Letter (including the transactions identified in the proposed Charging Letter).

5. GCC understands that BXA will make the proposed Charging Letter, this Settlement Agreement and the appropriate Order, when entered, available to the public.

6. BXA and GCC agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and GCC agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms

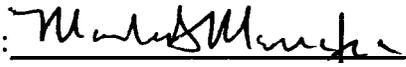
contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

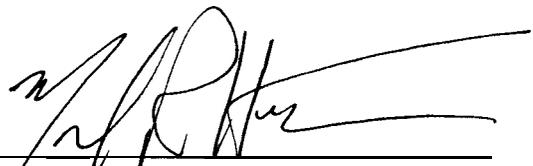
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise 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 Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

GENERAL CHEMICAL CORPORATION

BY: 
Mark D. Menefee |
Director
Office of Export Enforcement

BY: 
Michael R. Herman
V&President & General Counsel

Date: 12/20/99

Date: December 17, 1999



CERTIFIED MALL - RETURN RECEIPT REQUESTED

General Chemical Corporation
90 East Haley Road
Parsippany, New Jersey 07054

Attention: Michael R. Herman
Vice President & General Counsel

Dear Mr. Herman:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described in detail below, General Chemical Corporation (CCC) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).*

¹ The violations at issue occurred in 1996 and 1997. The Regulations governing the violations at issue are found in the 1996 and 1997 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996) (hereinafter "the former Regulations") and 15 C.F.R. Parts 730-774 (1997)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations and the Regulations define the violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 Fed. Reg. 44101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & supp. 1999)).



Facts constituting violations:

charges 1-2

As is described in **greater** detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on or about December **12, 1996** and on or about December **30, 1996**, **GCC** exported U.S.-origin commodities to a distributor in Hong Kong, knowing or having reason to know that the distributor would then transfer the commodities to Hua Ko Electronics Co. Ltd. (**Hua Ko**), a person denied all U.S. export privileges by Order dated November 29, 1989 (hereinafter referred to as "the 1989 Order"). GCC's involvement in these transactions was **contrary** to the terms of the 1989 Order denying Hua Ko's export privileges. BXA alleges that, by exporting any commodity from the United States, in violation of or contrary to any provision of the Act or any regulation, order or license issued thereunder, GCC violated Section 787A.6 of the former Regulations in connection with the two shipments for a total of two violations.

Charges 3-7

As is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on five separate occasions between on or about February **24, 1997** and on or about May **30, 1997**, GCC exported U.S.-origin commodities to a distributor in Hong Kong, knowing or having reason to know that the distributor would then transfer the commodities to Hua Ko, a person denied all U.S. export privileges by the 1989 Order. GCC's involvement in these transactions was contrary to the terms of the **1989** Order denying Hua Ko's export privileges. BXA alleges that, by engaging in conduct prohibited by or contrary to the Act, the Regulations, or any order, license or authorization issued thereunder, **GCC** violated Section 764.2(a) of the Regulations in connection with each of the shipments, for a total of five violations.

BXA alleges that GCC committed two violations of Section 787A.6 of the former Regulations and five violations of Section 764.2(a) of the Regulations, for a total of seven violations.

Accordingly, GCC 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 \$10,000 per violation (**see** Section 764.3(a)(1) of the **Regulations**);³

Denial of export privileges (**see** Section 764.3(a)(2) of the **Regulations**); and/or

³ The maximum civil penalty for any violation committed after October 23, 1996 is \$11,000 per violation. **See** 15 C.F.R. § 6.4(a)(3) (1999).

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations). Copies of relevant Parts of the Regulations are enclosed.

If GCC fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

GCC is further **notified** that it is entitled to an agency hearing on the record as provided by Section 13(c) of the ~~Act and~~ Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a consent settlement.

Pursuant to an Interagency Agreement between BXA 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 matters set forth in this letter. Accordingly, **GCC's** answer should be filed with the U.S. Coast Guard **ALJ** Docketing Center, **40** S. Gay Street, Baltimore, Maryland **21202-4022**, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of **GCC's** answer should be served on BXA at the address set forth in Section 766.5(b), adding "**ATTENTION: Mi-Yong Kim, Esq.**" below the address. Ms. Kim may be contacted by telephone at (202) **482-5311**.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosures

SCHEDULE A

