

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

In the Matter of:

Arkema Rotterdam B.V.
Tankhoofd 10
Haven 3255
3196 Ke Vondelingenplaat
Rotterdam, Netherlands

Respondent

ORDER RELATING TO
ARKEMA ROTTERDAM B.V.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Arkema Rotterdam B.V. of Rotterdam, Netherlands (“Arkema Rotterdam”), of its intention to initiate an administrative proceeding against Arkema Rotterdam pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Arkema Rotterdam that alleges that Arkema Rotterdam committed one violation of the Regulations. Specifically, the charge is:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2009. The Regulations governing the violation at issue are found in the 2009 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 Fed. Reg. 49107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

Charge 1 **15 C.F.R. § 764.2(a) – Unlicensed Reexport from the Netherlands to Syria**

On or about July 17, 2009, Arkema Rotterdam reexported 33 long tons of ethyl mercaptan from the Netherlands to Syria without the required U.S. Government authorization. Arkema Rotterdam initially ordered the items to be exported from the United States to the Netherlands in or around March 2009 from its sister company in the United States. On or about July 17, 2009, Arkema Rotterdam subsequently reexported the items from the Netherlands to Syria without informing its U.S. sister company of the items' destination. The items are subject to the Regulations and designated as EAR99.³ Pursuant to General Order No. 2 of May 14, 2004, set forth in Supplement No. 1 to Part 736 of the Regulations, BIS authorization was required before the items could be reexported to Syria. No such authorization was obtained for the reexport described herein. In so doing, Arkema committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Arkema Rotterdam have 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

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, Arkema Rotterdam shall be assessed a civil penalty in the amount of \$16,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

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, Arkema Rotterdam will be assessed, in addition to the full

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

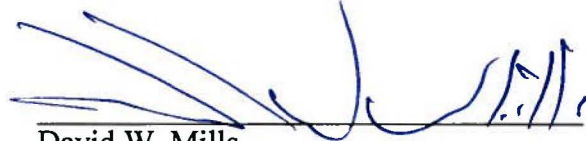
amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the full and timely payment of the civil penalty in accordance with the payment schedule 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 Arkema Rotterdam. Accordingly, if Arkema Rotterdam should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an order denying all of Arkema Rotterdam's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, Arkema Rotterdam shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Arkema Rotterdam's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

FIFTH, that the Proposed 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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 21st day of March, 2014.

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

In the Matter of:

Arkema Rotterdam B.V.
Tankhoofd 10
Haven 3255
3196 Ke Vondelingenplaat
Rotterdam, Netherlands

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Arkema Rotterdam B.V. of Rotterdam, Netherlands ("Arkema Rotterdam"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (the "Act").²

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2009. The Regulations governing the violation at issue are found in the 2009 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 Fed. Reg. 49107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

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WHEREAS, BIS has notified Arkema Rotterdam of its intentions to initiate an administrative proceeding against Arkema Rotterdam, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to Arkema Rotterdam that alleges that Arkema Rotterdam committed one violation of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(a) – Unlicensed Reexport from the Netherlands to Syria

On or about July 17, 2009, Arkema Rotterdam reexported 33 long tons of ethyl mercaptan from the Netherlands to Syria without the required U.S. Government authorization. Arkema Rotterdam initially ordered the items to be exported from the United States to the Netherlands in or around March 2009 from its sister company in the United States. On or about July 17, 2009, Arkema Rotterdam subsequently reexported the items from the Netherlands to Syria without informing its U.S. sister company of the items' destination. The items are subject to the Regulations and designated as EAR99.³ Pursuant to General Order No. 2 of May 14, 2004, set forth in Supplement No. 1 to Part 736 of the Regulations, BIS authorization was required before the items could be reexported to Syria. No such authorization was obtained for the reexport described herein. In so doing, Arkema committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, Arkema Rotterdam has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, Arkema Rotterdam fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

WHEREAS, Arkema Rotterdam enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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

WHEREAS, Arkema Rotterdam neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, Arkema Rotterdam agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Arkema Rotterdam, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanction shall be imposed against Arkema Rotterdam in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:
 - a. Arkema Rotterdam shall be assessed a civil penalty in the amount of \$16,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.
 - b. The full and 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, license exception, permission, or privilege granted, or to be granted, to Arkema Rotterdam. Failure to make full and timely payment of the civil penalty may result in the denial of all of Arkema

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Rotterdam's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Arkema Rotterdam 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 issued), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Arkema Rotterdam also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until Arkema Rotterdam pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

5. Arkema Rotterdam shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Arkema Rotterdam's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a, BIS will not initiate any further administrative proceeding against Arkema

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Rotterdam in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

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 issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing 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. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

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

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



Douglas R. Hassebrock
Director of Export Enforcement

Date: 3/21/2014


ARKEMA ROTTERDAM B.V.



Melt De Haas
Managing Director
Arkema Rotterdam B.V.

Date: March 14 2014

Reviewed and approved by:



Lindsay B. Meyer, Esq.
Venable, LLP
Counsel for Arkema Rotterdam B.V.

Date: March 14, 2014

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Arkema Rotterdam B.V.
Tankhoofd 10
Haven 3255
3196 Ke Vondelingenplaat
Rotterdam, Netherlands

*Attention: Philippe Chartres
Managing Director, Thiochemicals*

Dear Mr. Chartres:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Arkema Rotterdam B.V. (“Arkema Rotterdam”) of Rotterdam, Netherlands has committed one violation of the Export Administration Regulations (the “Regulations”),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS alleges that Arkema Rotterdam committed the following violation:

Charge 1 15 C.F.R. § 764.2(a) – Unlicensed Reexport from the Netherlands to Syria

On or about July 17, 2009, Arkema Rotterdam reexported 33 long tons of ethyl mercaptan from the Netherlands to Syria without the required U.S. Government authorization. Arkema Rotterdam initially ordered the items to be exported from the United States to the Netherlands in or around March 2009 from its sister company in the United States. On or about July 17, 2009, Arkema Rotterdam subsequently reexported the items from the Netherlands to Syria without informing its U.S. sister company of the items’ destination. The items are subject to the Regulations and designated as EAR99.³ Pursuant to General Order No. 2 of May 14, 2004, set forth in Supplement No. 1 to Part 736 of the Regulations, BIS authorization was required before the items could be reexported to Syria. No such authorization was obtained for the reexport described herein. In so doing, Arkema committed one violation of Section 764.2(a) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The violation alleged occurred in 2009. The Regulations governing the violation at issue are found in the 2009 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2009). The 2013 Regulations establish the procedures that currently apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 Fed. Reg. 49,107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701 *et seq.*) (2006 & Supp. IV 2010).

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

* * * * *

Accordingly, Arkema Rotterdam 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, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Arkema Rotterdam fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If Arkema Rotterdam defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Arkema Rotterdam. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Arkema Rotterdam is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Arkema Rotterdam is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Arkema Rotterdam have a proposal to settle this case, Arkema Rotterdam should transmit it to the attorney representing BIS named below.

Arkema Rotterdam is further notified that under the Small Business Regulatory Enforcement Flexibility ACT, Arkema Rotterdam may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Arkema Rotterdam's answer must be filed in accordance with 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

⁴ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

In addition, a copy of Arkema Rotterdam's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Adrienne Frazier
Room 3845
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Adrienne Frazier is the attorney representing BIS in this case; any communications that Arkema Rotterdam may wish to have concerning this matter should occur through her. Ms. Frazier may be contacted by email at afrazier@doc.gov or by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement