

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

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In the Matter of)
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Deutsche Bank AG)
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Case No. 98-17

ORDER

The Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce ("Department"), 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 (1991 and Supp. 1998)) (the "Act")¹ and the Export Administration Regulations (currently codified at 15 C.F.R Parts 730-774 (1998))(the "Regulations"), against Deutsche Bank AG ("Deutsche Bank"), a domestic concern resident in the State of New York, based on allegations set forth in the Proposed Charging Letter, dated April 28, 1999, attached hereto and incorporated herein by this reference;

¹The 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)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

The Department and Deutsche Bank having entered into a Settlement Agreement, incorporated herein by this reference, whereby the parties have agreed to settle this matter; and

I, the Assistant Secretary for Export Enforcement, having approved the terms of the Settlement Agreement:

IT IS ORDERED THAT,

FIRST, a civil penalty of \$5,000 is assessed against Deutsche Bank;

SECOND, Deutsche Bank shall pay to the Department in complete settlement of this matter the sum of \$5,000 within thirty days of service upon it of this Order, as specified in the attached instructions.

THIRD, pursuant to the Debt Collections Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1998)), 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, Deutsche Bank will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

FOURTH, as authorized by Section 11(d) of the Act, the timely payment of the sum of \$5,000 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 Deutsche Bank. Accordingly, if Deutsche Bank should fail to pay the sum of \$5,000 in the manner prescribed by this Order, I will enter an Order under the authority of Section 11(d) of the Act denying all of Deutsche Bank's export privileges for a period of one year from the date of the entry of this Order; and

FIFTH, 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 Deutsche Bank.

This Order is effective immediately.



F/ Amanda DeBusk
Assistant Secretary for Export Enforcement
Bureau of Export Administration

Entered this 14th day of June, 1999

INSTRUCTIONS FOR PAYMENT OF SETTLEMENT AMOUNT

1. The checks should be made payable to:

U.S. DEPARTMENT OF COMMERCE

2. The checks should be mailed to:

U.S. Department of Commerce
Bureau of Export Administration
Room 6881
14th & Constitution Avenue, N.W.
Washington, D.C. 20230

Attention: Ms Zoraida Vazquez

NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty and the rights, if any, that Deutsche Bank may have to seek review, both within the U.S. Department of Commerce and the courts. 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.A. §§ 3701-3720E (1983 and Supp. 1998)) and the Federal Claims Collection Standards (4 C.F.R. Parts 101-105 (1998)), 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 Deutsche Bank 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.A. § 3717 and 4 C.F.R. § 102.13.

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 Deutsche Bank 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.A. § 3717 and 4 C.F.R. § 102.13.

The foregoing constitutes the initial written notice and demand to Deutsche Bank in accordance with Section 102.2(b) of the Federal Claims Collection Standards (4 C.F.R. § 102.2(b)).

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

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Deutsche Bank AG)	
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SETTLEMENT AGREEMENT

This agreement is made by and between Deutsche Bank AG (“Deutsche Bank”), a domestic concern resident in the State of New York, and the Office of Antiboycott Compliance, Bureau of Export Administration, United States Department of Commerce (“Department”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (the “Regulations”), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 and Supp. 1998)) (the “Act”).¹

¹The 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)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

WHEREAS, the Department has notified Deutsche Bank of its intention to initiate an administrative proceeding against Deutsche Bank pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter dated April 28, 1999, a copy of which is attached hereto and incorporated herein by this reference; and

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

WHEREAS, Deutsche Bank 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, Deutsche Bank agrees to be bound by the appropriate Order ("Order") when entered;

NOW, THEREFORE, Deutsche Bank and the Department agree as follows:

1. Under the Act and the Regulations, the Department has jurisdiction over Deutsche Bank with respect to the matters alleged in the Proposed Charging Letter.

2. The Department will impose a civil penalty on Deutsche Bank in the amount of \$5,000. Deutsche Bank will pay to the Department, within 30 days of service upon it of the Order, when entered, the amount of \$5,000 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 Deutsche Bank. Failure to make payment of this amount shall result in the denial of all of Deutsche Bank'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, Deutsche Bank 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 Deutsche Bank 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. The Department, 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 Deutsche Bank, with respect to any violation of Section 8 of the Act or Part 769 or redesignated 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 the Department in the course of its investigation.
6. Deutsche Bank understands that the Department 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 Deutsche Bank 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, the Department may not use this Settlement Agreement against Deutsche Bank 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 Deutsche Bank's right to challenge any action brought by any other agency based on a referral by the Department or any employee thereof, in contravention of paragraph 5 of this Settlement Agreement.

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

Deutsche Bank ~~NAAG~~ *NAAG New York Branch*

Gernot Ujtin-Berger
Director & Compliance Officer

DATE: May 14, 1999

U.S. DEPARTMENT OF COMMERCE

Dexter M. Price

Dexter M. Price
Director
Office of Antiboycott Compliance

DATE: June 11, 1999



PROPOSED CHARGING LETTER

April 28, 1999

Deutsche Bank
P.O. Box 890
New York, N.Y. 10101-0890

Attention: Ms Pamela Wojta-Berger
Vice President

Case No. 98-17

Gentlemen/Ladies:

We have reason to believe and charge that you, Deutsche Bank, have committed one violation of the Export Administration Regulations, currently codified at 15 C.F.R. Parts 730-774 (1998), (the "Regulations") issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998))(the "Act").¹ We charge that you committed one violation of Section 760.2(f) of the Regulations, in that, with intent to comply with, further or support an unsanctioned foreign boycott, you implemented a letter of credit containing a condition or requirement compliance with which is prohibited by the Regulations.

We allege that:

1. You are a branch of Deutsche Bank AG, headquartered in Germany. You are resident in the State of New York. Therefore, you are a branch of a foreign concern and a resident in the United States. As such, you are a United States person as defined in Section 760.1(b) of the Regulations.
2. During July and August 1998, you engaged in a letter of credit transaction in favor of a United States beneficiary involving the sale of goods from the United States to Lebanon, an activity in the interstate or foreign commerce of the United States as defined in Section 760.1(d) of the Regulations.

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. 1998)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



3. On or about August 3, 1998, pursuant to letter of credit reference number 839ELA9800170, you confirmed letter of credit number 21932CI opened by Banque Europeene Pour le Monde Orient S.A.L. in Beirut, Lebanon which contained the following requirement:

“DOCUMENTS REQUIRED...COMMERCIAL INVOICE..
THE INVOICE MUST BEAR THE FOLLOWING
ATTESTATIONS:...

WE DECLARE THAT NO MATERIALS OF ISRAELI
ORIGIN HAVE BEEN USED FOR THE PRODUCTION OR
PREPARATION OF THE GOODS MENTIONED IN THIS
INVOICE AND THAT THE GOODS SHIPPED ARE NOT
OF ISRAELI ORIGIN.”

4. By confirming the letter of credit containing the requirement quoted in paragraph 3 above, you implemented a letter of credit containing a condition or requirement compliance with which is prohibited by the Regulations, an activity prohibited by Section 760.2(f) of the Regulations and not excepted. We therefore charge you with one violation of Section 760.2(f) of the Regulations.

Accordingly, administrative proceedings are instituted against you pursuant to Section 11(c) of the Act and Part 788 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions.²

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.

² /Administrative sanctions may include any or all the following:

- a. The maximum civil penalty of \$10,000 per violation (see § 764.3(a)(1) of the Regulations);
- b. Denial of export privileges (see § 764.3(a)(2) of the Regulations); and/or
- c. Exclusion from practice (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 Export Administration 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 Export Administration at:

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

Sincerely,

Dexter M. Price
Director
Office of Antiboycott Compliance