

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

In the Matter of:	)
	)
REALTEK SEMI-CONDUCTOR CO. LTD.,	)
	)
with addresses at	)
	)
3F, 56, Wu-Kung 6 Rd.	)
Wu-Ku Industrial Park	)
Taipei Hsien, Taiwan	)
Republic of China,	)
	)
1F, No. 11 Industry E. Rd. IX	)
Science-Based Industrial Park	)
Hsinchu, 300 Taiwan	)
Republic of China,	)
	)
and	)
	)
6F, No. 4 Fu-Shon Street	)
Taipei, Taiwan	)
Republic of China,	)
	)
Respondent	)
	)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), having notified Realtek Semi-Conductor Co. Ltd. (hereinafter "Realtek") of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (hereinafter the "Act"),<sup>1</sup> and the

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<sup>1</sup> 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)), and August 13, 1997 (62

Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997)) (hereinafter the "Regulations"), based on allegations that, on or about September 6, 1996, Realtek, a denied person, ordered items to be exported from the United States, with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder occurred, was about to occur, or was intended to occur in connection with the items, in violation of Section 764.2(e) and 764.2(k) of the Regulations; and

BXA and Realtek having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agree 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 \$20,000 is assessed against Realtek, which shall be paid to the United States Department of Commerce within 30 days of the date of this Order. Payment shall be made in the manner specified in the attached instructions. Pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1997)), 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, respondent will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

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*Fed. Reg.* 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).

SECOND, that, for a period of one year from August 3, 2000, Realtek and all its successors or assigns, officers, representatives, agents and employees, may not participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

THIRD, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby

the denied person acquires or attempts to acquire such ownership, possession or control:

- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States;
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

FOURTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

FIFTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

SIXTH, that as authorized by Section 766.18 of the Regulations, the denial period set forth in paragraph SECOND above shall be suspended in its entirety for a period of one year beginning on August 3, 2000, and shall thereafter be waived, provided that, during the period of suspension, Realtek commits no violation of the Act or any regulation, order or license issued thereunder.

SEVENTH, 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.

  
Amanda DeBusk  
Assistant Secretary  
for Export Enforcement

Entered this 2<sup>nd</sup> day of March, 1998.

## INSTRUCTIONS FOR PAYMENT OF CIVIL PENALTY

1. The civil penalty 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 Export Administration  
Export Enforcement Team  
Room H-6622  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

ATTN: Miriam Cohen

## 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 respondent 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. 1997)), and the Federal Claims Collection Standards (4 C.F.R. Parts 101-105 (1997)), 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 respondent 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 respondent 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 respondent in accordance with section 102.2(b) of the Federal Claims Collection Standards (4 C.F.R. § 102.2(b)).

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

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Hsinchu, 300 Taiwan	)
Republic of China.	)
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and	)
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6F, No. 4 Fu-Shon Street	)
Taipei, Taiwan	)
Republic of China.	)
	)
Respondent	)
	)

SETTLEMENT AGREEMENT

This Agreement is made by and between Realtek Semi-Conductor Co. Ltd. (hereinafter "Realtek") 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 (1997)) (hereinafter the "Regulations"), issued pursuant to the Export

Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (hereinafter the "Act").<sup>1</sup>

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), has notified Realtek of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that, on or about September 6, 1996, Realtek, a denied person, ordered items to be exported from the United States, with knowledge that a violation of the Act, the Regulations, or any order, license, or authorization issued thereunder occurred, was about to occur, or was intended to occur in connection with the items, in violation of Sections 764.2(e) and 764.2(k) of the Regulations;

WHEREAS, Realtek 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 were found to be true; it fully understands the terms of this Settlement Agreement and the proposed 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, Realtek neither admits nor denies the allegations contained in the proposed Charging Letter;

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<sup>1</sup> 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)), and August 13, 1997 (62 *Fed. Reg.* 43629, August 15, 1997) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).

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

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

WHEREAS, Realtek is currently subject to a Decision and Order of Default, by which all of its U.S.-export privileges have been denied until August 3, 2000;

NOW THEREFORE, Realtek and BXA agree as follows:

1. BXA has jurisdiction over Realtek, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.
2. BXA and Realtek agree that the following sanctions shall be imposed against Realtek in complete settlement of all alleged violations of the Act and the Regulations, arising out of the transaction set forth in the proposed Charging Letter:
  - (a) Realtek shall be assessed a civil penalty of \$20,000, which shall be paid within 30 days of the date of entry of an appropriate Order;
  - (b) Realtek and all its successors or assigns, officers, representatives, agents and employees, may not, for a period of one year from August 3, 2000, participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:
    - I. Applying for, obtaining, or using any license, License Exception, or export control document;

- ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
  - iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- (c) BXA agrees that, pursuant to Section 766.18 of the Regulations, the denial period set forth in paragraph 2(b) shall be suspended in its entirety, and shall thereafter be waived, provided that, during the period of suspension, Realtek commits no violation of the Act or any regulation, order or license issued thereunder.

3. Realtek 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 violations 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 an appropriate Order, it will not initiate any administrative proceeding against Realtek in connection with any violation of the Act or the Regulations arising out of the transaction identified in the proposed Charging Letter.

5. Realtek 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 Realtek 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 Realtek 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.

Office of Export Enforcement  
Bureau of Export Administration

Realtek Semi-Conductor Co. Ltd.

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

BY: Nan Horng Yeh  
Nan Horng Yeh  
Vice President  
Realtek Semi-Conductor Co. Ltd.

Date: 11/26/97

Date: Nov. 19, 1997



E574-14  
UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Export Administration  
Washington, D.C. 20230

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Realtek Semi-Conductor Co. Ltd.

with addresses at

3F, 56, Wu-Kung 6 Rd.  
Wu-Ku Industrial Park  
Taipei Hsien, Taiwan  
Republic of China,

1F, No. 11 Industry E. Rd. IX  
Science-Based Industrial Park  
Hsinchu, 300 Taiwan  
Republic of China,

and

6F, No. 4 Fu-Shon Street  
Taipei, Taiwan  
Republic of China

Gentlemen/Ladies:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), hereby charges that, as described in detail below, Realtek Semi-Conductor Industrial Co. Ltd. (hereinafter "Realtek") has violated the Export Administration Regulations (15 C.F.R. Parts 730-774 (1997)), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (hereinafter the "Act").<sup>1</sup>

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<sup>1</sup> 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)), and August 13, 1997 (62 *Fed. Reg.* 43629, August 15, 1997) continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).



Facts constituting violations:

Charge 1

On or about September 6, 1996, Realtek, a person denied all U.S. export privileges by Order dated August 3, 1995 (60 *Fed. Reg.* 40565-40566, August 9, 1995) (hereinafter the "Denial Order"), submitted a purchase order to a Taiwanese affiliate of a U.S. company for a Universal 50 ohm probe card interface assembly and mounting ring. These items were replacement parts for a tester set Realtek purchased in 1995 from that U.S. company. The Taiwanese affiliate accepted the order and sent it to the corporate headquarters in the United States for processing. BXA alleges that, by ordering items exported or to be exported from the United States, Realtek engaged in conduct prohibited by the Denial Order, in violation of Section 764.2(k) of the Regulations.

Charge 2

In connection with the events described in Charge 1 above, Realtek knew that, because it was subject to a denial order, it could not participate, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States and subject to the Regulations. BXA alleges that, by ordering items to be exported from the United States, with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, occurred, was about to occur, or was intended to occur in connection with the items, Realtek violated Section 764.2(e) of the Regulations.

Accordingly, Realtek is hereby notified that an administrative proceeding is instituted against it pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

- a. The maximum civil penalty of \$10,000 per violation (*see* Section 764.3(a)(1));
- b. Denial of export privileges (*see* Section 764.3(a)(2)); and/or
- c. Exclusion from practice (*see* Section 764.3(a)(3)).

Copies of relevant Parts of the Regulations are enclosed.

If Realtek 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.

Realtek is further notified that it is entitled to an agency hearing on the record as provided by 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 charging letter. Accordingly, Realtek'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 of the Regulations. In addition, a copy of Realtek's answer should be served on BXA at the address set forth in Section 766.5, adding "ATTENTION: Jeffrey E.M. Joyner, Esq." below the address. Mr. Joyner may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee  
Acting Director  
Office of Export Enforcement

Enclosure

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UNITED STATES DEPARTMENT OF  
**COMMERCE**  
**NEWS**

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WASHINGTON, D.C. 20230

BUREAU OF  
EXPORT  
ADMINISTRATION

FOR IMMEDIATE RELEASE:  
March 2, 1998  
bxa.doc.gov

CONTACTS: Eugene Cottilli  
Susan Hofer  
(202) 482-2721

### **TAIWANESE COMPANY SETTLES EXPORT CHARGES**

WASHINGTON -- The Commerce Department today imposed a \$20,000 civil penalty on Realtek Semi-conductor Co. Ltd. of Hsinchu, Taiwan, for allegedly violating the terms of a 1995 Commerce Department order denying its U.S. export privileges for five years, F. Amanda DeBusk, assistant secretary for Export Enforcement, announced. Realtek's export privileges were also denied for one additional year.

The Department alleged that during 1996 Realtek ordered items to be exported from the United States, knowing that it was violating the terms of an order that denied all of its U.S. export privileges until August 3, 2000. Realtek agreed to pay the civil penalty to settle the allegations. As part of the settlement, the Department agreed to suspend the additional one-year period of denial, and thereafter waive it, provided that, during the period of suspension, Realtek does not violate the Export Administration Act or Regulations, or any order or license issued thereunder.

Commerce's Bureau of Export Administration administers and enforces export controls for reasons of national security, foreign policy, nonproliferation and short supply.