

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

WASHINGTON, D.C. 20230

EG 11-7  
BUREAU OF  
EXPORT  
ADMINISTRATION

FOR IMMEDIATE RELEASE:  
February 26, 1999  
www.bxa.doc.gov

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

**COMMERCE DEPARTMENT PENALIZES MEXICAN  
FIRM TO SETTLE CHARGES OF ILLEGAL EXPORTS**

WASHINGTON -- The Commerce Department's Bureau of Export Administration today imposed a \$60,000 civil penalty on a Mexican chemical company to settle charges it violated Export Administration Regulations in connection with the export of potassium fluoride from the United States to Mexico, Assistant Secretary for Export Enforcement F. Amanda DeBusk announced.

The Department alleged that PPG Industries de Mexico, S.A. de C.V., was responsible for exporting the chemical without the required Commerce Department licenses on eight separate occasions between July 1993 and March 1995. The Department also alleged that, on two of those occasions, PPG Mexico knew that violations would occur. The company neither admitted nor denied the charges, but agreed to pay the penalty to settle the allegations. A portion of the penalty, \$20,000, will be suspended for one year, then waived if PPG Mexico commits no violations during that time.

Potassium fluoride is controlled for export by multilateral agreement with the 30-nation Australia Group of chemical producers because, in addition to its legitimate commercial uses, the chemical has the potential to serve as a precursor in a chemical weapons program.

The Bureau of Export Administration's Chicago Field Office conducted the investigation.

The Department of Commerce, through its Bureau of Export Administration, administers and enforces export controls for reasons of national security, foreign policy, nonproliferation and short supply. Criminal penalties, as well as administrative sanctions, can be imposed for violations of the Regulations.



REGISTERED MAIL - RETURN RECEIPT REQUESTED

PPG Industries de Mexico, S.A. de C.V.

JUL 13 1998

with addresses at

Avenida Presidente Juarez No. 1978  
Tlalnepantla, Edo de Mexico  
Mexico

and

Libramiento Tequixquiapan No. 66  
Zona Industrial Jardiens de la Montaña  
San Juan del Rio, Queretaro  
Mexico

Dear Sir/Madam:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, PPG Industries de Mexico, S.A. de C.V. (PPG Industries) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (the Act).

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<sup>1</sup>The alleged violations occurred in 1993, 1994 and 1995. The Regulations governing the violations at issue are found in the 1993, 1994 and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993, 1994 and 1995)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters set forth in this letter.

<sup>2</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)).



Facts constituting violations:

Charges 1-8

On eight separate occasions between on or about July 13, 1993 and on or about March 30, 1995, PPG Industries caused, aided and abetted the export of U.S.-origin potassium fluoride from the United States to Mexico without the validated licenses that were required by Section 772.1(b) of the former Regulations. Each of these eight transactions is described more fully on the attached schedule, which is incorporated herein by this reference. BXA alleges that PPG Industries, by causing, aiding, or abetting the doing of an act prohibited, or the omission of any act required, by the Act, or any regulation, order, or license issued thereunder, violated Section 787.2 of the former Regulations in connection with each of the eight shipments.

Charges 9-10

In connection with two of the shipments referred to in Charges 1-8 above, those that occurred on or about February 7, 1995 and on or about March 30, 1995 and identified on the attached schedule, PPG Industries knew that an export license was required and knew that no export license would be obtained. Despite this knowledge, PPG Industries ordered the U.S.-origin potassium fluoride and financed its export from the United States to Mexico. By ordering and financing the export of a U.S.-origin commodity with knowledge or reason to know that a violation of the Act, or any regulation, order, or license issued thereunder occurred, was about to occur, or was intended to occur in connection with the transaction, PPG Industries violated Section 787.4(a) of the former Regulations in connection with each of the two shipments referenced above and in the enclosed schedule.

BXA alleges that PPG Industries committed eight violations of Section 787.2 and two violations of Section 787.4(a), for a total of 10 violations of the former Regulations.

Accordingly, PPG Industries 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);

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

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

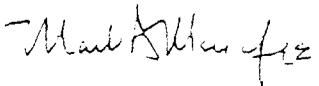
Copies of relevant Parts of the Regulations are enclosed.

If PPG Industries 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.

PPG Industries 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. PPG Industries is also entitled to be represented by counsel and to seek a 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, PPG Industries' answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of PPG Industries' answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Lorie B. Whitaker, Esq." below the address. Ms. Whitaker may be contacted by telephone at (202) 482-5311.

Sincerely,



Mark D. Menefee  
Acting Director  
Office of Export Enforcement

Enclosures

SCHEDULE OF VIOLATIONS  
PPG INDUSTRIES DE MEXICO, S.A. DE C.V.

| CHARGE NO. | EXPORT DATE (ON OR ABOUT) | COMMODITY          | DESTINATION | INVOICE   | FORWARD NO. |
|------------|---------------------------|--------------------|-------------|-----------|-------------|
| 1          | 07/13/93                  | Potassium Flouride | Mexico      | 020521201 | SR14826     |
| 2          | 11/19/93                  | Potassium Flouride | Mexico      | 020010388 | SR15848     |
| 3          | 12/22/93                  | Potassium Flouride | Mexico      | 020902702 | SR16131     |
| 4          | 01/06/94                  | Potassium Flouride | Mexico      | 020902700 | SR16055     |
| 5          | 01/17/94                  | Potassium Flouride | Mexico      | 020011791 | SR16332     |
| 6          | 08/24/94                  | Potassium Flouride | Mexico      | 020018750 | SR18165     |
| 7, 9       | 02/07/95                  | Potassium Flouride | Mexico      | 020023682 | SR19337     |
| 8, 10      | 03/30/95                  | Potassium Flouride | Mexico      | 022043201 | SR19695     |

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

In the Matter of: )  
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PPG INDUSTRIES de MEXICO, S.A. de C.V. )  
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with addresses at )  
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Avenida Presidente Juarez No. 1978 )  
Tlalnepantla, Edo de Mexico )  
Mexico )  
 )  
and )  
 )  
Libramiento Tequixquiapan No. 66 )  
Zona Industrial Jardiens de la Montaña )  
San Juan del Rio, Queretaro )  
Mexico, )  
 )  
Respondent )

Docket No.  
98-BXA-07

*Original*  
*SA*

SETTLEMENT AGREEMENT

This Agreement is made by and between PPG Industries de Mexico, S.A. de C.V. (PPG Mexico) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(b) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).<sup>2</sup>

<sup>1</sup> The alleged violations occurred in 1993, 1994, and 1995. The Regulations governing the violations at issue are found in the 1993, 1994, and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993, 1994, and 1995)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential

WHEREAS, on July 13, 1998, the Office of Export Enforcement, Bureau of Export Administration (BXA), initiated an administrative proceeding against PPG Mexico pursuant to the Act and the Regulations by issuing a Charging Letter alleging that, on eight separate occasions between on or about July 13, 1993 and on or about March 30, 1995, PPG Mexico caused, aided and abetted the export of U.S.-origin potassium fluoride from the United States to Mexico without the validated licenses that were required by Section 772.1(b) of the former Regulations, in violation of Section 787.2 of the former Regulations, and, in connection with two of the shipments, PPG violated Section 787.4(a) of the former Regulations by ordering and financing the export of a U.S.-origin commodity with knowledge or reason to know that a violation of the Act, or any regulation, order, or license issued thereunder occurred, was about to occur, or was intended to occur in connection with the transactions;

WHEREAS, PPG Mexico received notice of issuance of the Charging Letter on August 3, 1998, pursuant to Section 766.3(b) of the Regulations;

WHEREAS, PPG Mexico has reviewed the 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

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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)).

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, PPG Mexico neither admits nor denies the allegations contained in the Charging Letter;

WHEREAS, PPG Mexico and BXA wish to settle and dispose of all matters alleged in the Charging Letter by entering into this Settlement Agreement; and

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

NOW THEREFORE, PPG Mexico and BXA agree as follows:

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

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

a. PPG Mexico shall be assessed a civil penalty in the amount of \$60,000, \$40,000 of which shall be paid within 30 days from the date of entry of the appropriate Order. Payment of the remaining \$20,000

shall be suspended for a period of one year from the date of entry of the appropriate Order and shall thereafter be waived, provided that, during the period of suspension, PPG Mexico has committed no violation of the Act, or any regulation, order, or license issued thereunder.

- b. As authorized by Section 11(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 PPG Mexico. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of PPG Mexico's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. PPG Mexico 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 Charging Letter; (b) to request a refund of any civil penalty paid 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 deliver a copy of that Order to the United States Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022. The Order notifies that office that the case is withdrawn from adjudication, as provided by Section 766.18(b) of the Regulations.

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

6. BXA and PPG Mexico 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(b) of the Regulations, BXA and PPG Mexico 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.

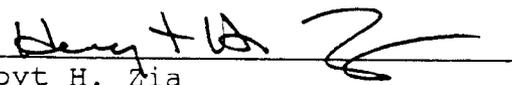
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit

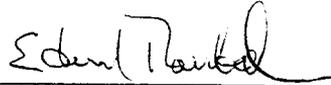
any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

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

PPG Industries de Mexico,  
S.A. de C.V.

  
Hoyt H. Zia  
Chief Counsel  
for Export Administration

  
Edward Rosebach  
President

Date: 2/22/99

Date: 1-22-99

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

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| In the Matter of:                      | ) |            |
|  | ) |            |
| PPG INDUSTRIES de MEXICO, S.A. de C.V. | ) | Docket No. |
|  | ) | 98-BXA-07  |
| with addresses at                      | ) |            |
|  | ) |            |
| Avenida Presidente Juarez No. 1978     | ) |            |
| Tlalnepantla, Edo de Mexico            | ) |            |
| Mexico                                 | ) |            |
|  | ) |            |
| and                                    | ) |            |
|  | ) |            |
| Libramiento Tequixquiapan No. 66       | ) |            |
| Zona Industrial Jardiens de la Montaña | ) |            |
| San Juan del Rio, Queretaro            | ) |            |
| Mexico,                                | ) |            |
|  | ) |            |
| <u>Respondent</u>                      | ) |            |

Original  
Order

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having initiated an administrative proceeding against PPG Industries de Mexico, S.A. de C.V. (PPG Mexico) pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act),<sup>1</sup> and the Export Administration Regulations (15 C.F.R. Parts

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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)), 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)).

730-774 (1998)) (the Regulations),<sup>2</sup> alleging that, on eight separate occasions between on or about July 13, 1993 and on or about March 30, 1995, PPG Mexico caused, aided and abetted the export of U.S.-origin potassium fluoride from the United States to Mexico without the validated licenses that were required by Section 772.1(b) of the former Regulations, in violation of Section 787.2 of the former Regulations, and, in connection with two of the shipments, PPG violated Section 787.4(a) of the former Regulations by ordering and financing the export of a U.S.-origin commodity with knowledge or reason to know that a violation of the Act, or any regulation, order, or license issued thereunder occurred, was about to occur, or was intended to occur in connection with the transactions;

BXA and PPG Mexico 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;

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<sup>2</sup> The alleged violations occurred in 1993, 1994, and 1995. The Regulations governing the violations at issue are found in the 1993, 1994, and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993, 1994, and 1995)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

## IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$60,000 is assessed against PPG Mexico, \$40,000 of 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. Payment of the remaining \$20,000 is suspended for a period of one year from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension PPG Mexico has committed no violation of the Act, or any regulation, order or license issued thereunder.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 & 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, PPG Mexico will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

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

FOURTH, 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.

  
\_\_\_\_\_  
F. Amanda DeBusk  
Assistant Secretary  
for Export Enforcement

Entered this 26<sup>th</sup> day of February, 1999.