UNITED STATES DEPARTMENT OF
COMMERCE
NEWS
WASHINGTON, D.C. 20230

BUREAU OF
EXPORT
ADMINISTRATION

FOR IMMEDIATE RELEASE
February 28, 2001
www.bxa.doc.gov

CONTACT: Eugene Cottilli
202-482-2721

MARYLAND COMPANY SETTLES CHARGES OF UNLAWFUL EXPORTS OF BIOTOXINS

WASHINGTON, D.C.-- The U. S. Department of Commerce today imposed a $230,000 civil penalty on Life Technologies, a Division of Invitrogen Corporation (Life Technologies, Inc.) of Rockville, MD, to settle allegations that the company illegally exported biotoxins to Australia, Belgium, Germany, Hong Kong, Japan, Peru, and Scotland, Acting Assistant Secretary for Export Enforcement Lisa Prager announced.

The Department alleged that on 46 separate occasions in 1995 and 1996, Life Technologies, Inc. exported alpha-toxin and microcystin without the required licenses. The toxins are controlled because they can be used in the development or production of chemical and biological weapons.

Life Technologies voluntarily disclosed the violations to the Department and cooperated fully in the investigation. As part of today's settlement, $100,000 of the penalty was suspended. Commerce's Office of Export Enforcement Washington Field Office investigated the case.

The Department of Commerce, through its Bureau of Export Administration, controls and licenses exports and reexports of dual-use commodities, technology, and software 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 Export Administration Regulations.

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Life Technologies,
a Division of Invitrogen Corporation,
9800 Medical Center
Rockville, Maryland 20850

Attention: John A. Cottingham, Esq.
General Counsel

Dear Mr. Cottingham:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, Life Technologies, a Division of Invitrogen Corporation (formerly Life Technologies, Inc.) (hereinafter referred to as Life Technologies) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2000)) (the Regulations),[1] issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000)) (the Act).[2]

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[1] The alleged violations occurred in 1995 and 1996. The Regulations governing the violations at issue are found in the 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996) (hereinafter "the former Regulations")). 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 define the various 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)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)). The Act was reauthorized on November 13, 2000.

Facts constituting violations:

Charges 1 - 46

As is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, from on or about July 3, 1995 through on or about September 12, 1996, Life Technologies Inc. exported U.S.-origin alpha-toxins and microcystin from the United States to various countries without obtaining the validated export licenses required by Section 772.1(b) and Section 772A.1(b) of the former Regulations. BXA alleges that, by exporting U.S.-origin commodities to any person or to any destination in violation of or contrary to the provisions of the former Regulation, Life Technologies committed 30 violations of Section 787.6 and 16 violations of Section 787A.6 of the former Regulations for a total of 46 violations.

Accordingly, Life Technologies 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 Life Technologies 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.

Life Technologies 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, Life Technologies' 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 Life Technologies' 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

SCHEDULE OF VIOLATIONS
EXPORTS BY LIFE TECHNOLOGIES, INC.

Charge No.	Export Date (on or about)	Commodity	Destination	Invoice No.	Air Waybill No.
1	7/03/95	Alpha-Toxin	Belgium	561384	583505623 8
2	7/05/95	Alpha-Toxin	Scotland	562033	8212005491
3	7/14/95	Alpha-Toxin	Japan	575143/ 575144	933-1049-2171
4	7/28/95	Alpha-Toxin	Japan	593702	933-1049-2215
5	8/02/95	Alpha-Toxin	Scotland	601325	82120231794
6	8/18/95	Alpha-Toxin	Japan	620681/ 620684	933-1049-2252
7	8/25/95	Alpha-Toxin	Japan	629015	933-1049-2274
8	9/01/95	Alpha-Toxin	Japan	637859	933-1049-2296
9	9/06/95	Alpha-Toxin	Scotland	642955	3949254783
10	10/20/95	Alpha-Toxin	Japan	697072	933-1049-2440
11	11/10/95	Alpha-Toxin	Japan	033483	933-1049-2473
12	11/28/95	Alpha-Toxin	Scotland	052319	3949506886
13	12/05/95	Alpha-Toxin	Scotland	061342	8210283592
14	12/08/95	Alpha-Toxin	Japan	065426	933-6288-1044
15	12/20/95	Alpha-Toxin	Scotland	079071	074-6902-8013

SCHEDULE OF VIOLATIONS
EXPORTS BY LIFE TECHNOLOGIES, INC.

Charge No.	Export Date (on or about)	Commodity	Destination	Invoice No.	Air Waybill No.
16	1/02/96	Microcystin	Belgium	085624	Not available
17	1/02/96	Microcystin	Germany	085660/ 085661	584559624 0
18	1/03/96	Microcystin	Scotland	087482/087483/ 087484/087493	Not available
19	1/04/96	Microcystin	Hong Kong	088956/ 088957	01802123601
20	1/05/96	Microcystin	Japan	090596	933-6288-1103
21	1/18/96	Microcystin	Scotland	104841	Not available
22	1/23/96	Alpha-Toxin	Germany	110408	584559638 3
23	1/29/96	Microcystin	Belgium	117694	58455964
24	2/02/96	Alpha-Toxin	Japan	126913	933-6288-1184
25	2/08/96	Alpha-Toxin	Scotland	134538	018-0212-3903
26	2/09/96	Alpha-Toxin	Japan	136275	933-6288-1206
27	2/14/96	Microcystin	Scotland	142330	Not available
28	2/29/96	Microcystin	Hong Kong	161756	01802123866
29	3/05/96	Microcystin	Scotland	169486	80321533

SCHEDULE OF VIOLATIONS
EXPORTS BY LIFE TECHNOLOGIES, INC.

Charge No.	Export Date (on or about)	Commodity	Destination	Invoice No.	Air Waybill No.
30	3/18/96	Microcystin	Belgium	186031	016 BWI 5571 9263
31	4/24/96	Microcystin Alpha-Toxin	Scotland	234291/ 236022/ 236023	125 ROC 6952 8583
32	4/29/96	Alpha-Toxin	Belgium	241630/ 241627	016 BWI 6580 9516
33	4/29/96	Microcystin	Germany	241634/ 241639/ 241640	Unreadable
34	5/03/96	Alpha-Toxin	Japan	249363	933-6288-1361
35	5/06/96	Microcystin	Belgium	250929	Not available
36	5/06/96	Alpha-Toxin	Germany	250916	Not available
37	5/29/96	Microcystin	Scotland	279830	125 ROC 6952 8771
38	6/04/96	Microcystin	Germany	285989	016 BWI 6580 9726
39	6/10/96	Microcystin	Peru	776811	047-7084 3511

SCHEDULE OF VIOLATIONS
EXPORTS BY LIFE TECHNOLOGIES, INC.

Charge No.	Export Date (on or about)	Commodity	Destination	Invoice No.	Air Waybill No.
40	6/11/96	Microcystin	Scotland	297411	Not available
41	6/21/96	Microcystin	Japan	312688	933-6284-2010
42	7/01/96	Microcystin	Germany	324053	016-6680-9730
43	7/02/96	Alpha-Toxin	Scotland	326034/ 326020	Not available
44	7/25/96	Microcystin	Hong Kong	356857	Not available
45	7/26/96	Alpha-Toxin	Australia	358832	584361506 3
46	9/12/96	Alpha-Toxin	Australia	434308	584364211 2

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

In the Matter of:	)
	)
LIFE TECHNOLOGIES,	)
a Division of Invitrogen Corporation,	)
9800 Medical Center	)
Rockville, Maryland 20850,	)
	)
Respondent	)

SETTLEMENT AGREEMENT

This Agreement is made by and between Life Technologies, a Division of Invitrogen Corporation (formerly Life Technologies, Inc.) (hereinafter referred to as Life Technologies) 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 (2000)) (the Regulations),[1] issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000 and Pub. L. No. 106-508, November 13, 2000)) (the Act).[2]

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[1] The alleged violations occurred in 1995 and 1996. The Regulations governing the violations at issue are found in the 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996) (hereinafter "the former Regulations")). 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 define the various violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

[2] During the time of the Act's lapse (August 20, 1994 through November 12, 2000), the President, through Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)).

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified Life Technologies of its intention to initiate an administrative proceeding against Life Technologies pursuant to the Act and the Regulations, based on allegations that, from on or about July 3, 1995 through on or about September 12, 1996, Life Technologies exported U.S.-origin alpha-toxins and microcystin from the United States to various countries without obtaining the validated export licenses required by Section 772.1(b) and Section 772A.1(b) of the former Regulations, in violation of Section 787.6 and 787A.6 of the former Regulations;

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

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

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

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

NOW THEREFORE, Life Technologies and BXA agree as follows:

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

2. BXA and Life Technologies agree that the following sanctions shall be imposed against Life Technologies in complete settlement of all alleged violations of the Act and the former Regulations arising out of the transactions set forth in the proposed Charging Letter:

(a) Life Technologies shall be assessed a civil penalty of $230,000, $130,000 of which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the appropriate Order. Payment of the remaining $100,000 shall be suspended for a period of one year from the date of entry of the appropriate Order and thereafter shall be waived, provided that during the period of suspension, Life Technologies has committed no violation of the Act, or any regulation, order or license issued thereunder; and provided further that Life Technologies has made timely payment of $130,000 of the civil penalty.

(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 Life Technologies. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Life Technologies's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. Life Technologies 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 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 not initiate any administrative proceeding against Life Technologies in connection with any violation of the Act or the former Regulations arising out the transactions identified in the proposed Charging Letter.

5. Life Technologies 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 Life Technologies 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 Life Technologies agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not 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

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

Date: 2/15/01

LIFE TECHNOLOGIES,
a Division of Invitrogen Corporation

BY: John A. Cottingham
John A. Cottingham
General Counsel

Date: 4 February 2001

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

In the Matter of:	)
	)
LIFE TECHNOLOGIES,	)
a Division of Invitrogen Corporation,	)
9800 Medical Center	)
Rockville, Maryland 20850,	)
	)
Respondent	)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Life Technologies, a Division of Invitrogen Corporation (formerly Life Technologies, Inc.) (hereinafter referred to as Life Technologies) of its intention to initiate an administrative proceeding against Life Technologies pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000 and Pub. L. No. 106-508, November 13, 2000)) (the Act),[1] and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2000)) (the Regulations),[2] based on allegations that, from on or about July 3, 1995 through on or

[1] During the time of the Act's lapse (August 20, 1994 through November 12, 2000), the President, through Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)).

[2] The alleged violations occurred in 1995 and 1996. The Regulations governing the violations at issue are found in the 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996) (hereinafter "the former Regulations")). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations

about September 12, 1996, Life Technologies exported U.S.-origin alpha-toxins and microcystin from the United States to various countries without obtaining the validated export licenses required by Section 772.1(b) and Section 772A.1(b) of the former Regulations, in violation of Section 787.6 and 787A.6 of the former Regulations; and

BXA and Life Technologies 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, a civil penalty of $230,000 is assessed against Life Technologies, $130,000 of which shall be paid to the U.S. Department of Commerce within thirty 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 $100,000 shall be suspended for one year from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension, Life Technologies has committed no violation of the Act, or any regulation, license or order issued thereunder; and provided further that Life Technologies has made timely payment of $130,000 of the civil penalty.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 2000)), the civil penalty owed under this Order

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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 define the various violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Life Technologies 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 11(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, License Exception, permission, or privilege granted, or to be granted, to Life Technologies. Accordingly, if Life Technologies should fail to pay the civil penalty in a timely manner, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of Life Technologies' export privileges for a period of one year from the date of entry of this Order.

FOURTH, 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.

Lisa A. Prager
Acting Assistant Secretary
for Export Enforcement

Entered this 28th day of February, 2001.