

augment its existing R&D-related data, identify data quality issues arising from reporting differences in the Census Bureau and BEA surveys, and improve its survey sample frames.

### Statistical Purposes for the Shared Data

The data collected from the Benchmark Survey of Foreign Direct Investment in the United States—1997 and the Benchmark Survey of U.S. Direct Investment Abroad—1999 are used to estimate expenditures on research and development performed by U.S. affiliates of foreign companies and U.S. parent companies, R&D employment, and other statistics on the financial structure and operations of these companies. Statistics from the Benchmark Survey of Foreign Direct Investment in the United States—1997 were published in *Foreign Direct Investment in the United States: Final Results From the 1997 Benchmark Survey*; statistics from the Benchmark Survey of U.S. Direct Investment Abroad—1999 will be published in *U.S. Direct Investment Abroad: Final Results From the 1999 Benchmark Survey* (forthcoming). All data are collected under sections 3101–3108, of Title 22 U.S.C.

### Data Access and Confidentiality

Title 22, U.S.C. 3104 protects the confidentiality of these data. These data may be seen only by persons sworn to uphold the confidentiality of the information. Access to the shared data will be restricted to specifically authorized personnel and will be provided for statistical purposes only. Any results of this research are subject to BEA disclosure protection. All Census Bureau employees with access to these data will become BEA Special Sworn Employees—meaning that they, under penalty of law, must uphold the data's confidentiality. Selected NSF employees will provide BEA with expertise on the aspects of R&D performance in the United States and by U.S. companies abroad; these NSF consultants assisting with the work at the BEA also will become BEA Special Sworn Employees. No confidential data will be provided to the NSF. To further safeguard the confidentiality of these data, BEA will conduct an Information Technology security review of the Census Bureau prior to the commencement of the project. Any results of this research are subject to BEA disclosure protection.

Dated: November 4, 2003.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

[FR Doc. 03–28612 Filed 11–17–03; 8:45 am]

**BILLING CODE 3510–06–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Action Affecting Export Privileges; Ralph Michel

In the Matter of: Ralph Michel, Vice President, Omega Engineering, Inc., One Omega Drive, Stamford, Connecticut 06907, Respondent.

#### Order

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), having notified Ralph Michel of its intention to initiate an administrative proceeding against him pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–2420 (2000)) (“Act”),<sup>1</sup> and the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2003)) (“Regulations”),<sup>2</sup> based on allegations in a proposed charging letter issued to Ralph Michael that alleged that Ralph Michel committed six violations of the Regulations. Specifically, the charges are:

1. *Four Violations of § 764.2(a): Prohibited Conduct:* Ralph Michel made or caused to be made a series of exports of laboratory equipment, including shipments on or about June 25, 1997, July 3, 1997, July 11, 1997, and July 16, 1997, that were routed from Omega Engineering, Inc. (Omega) in the United States to Pakistan via Newport Electronics GmbH (Newport) in Germany. This laboratory equipment included load cells, load bolts, strain

<sup>1</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During the period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 7, 2003 (68 FR 47833, August 11, 2003)), has continued the Regulations in effect under IEEPA.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2003). The current version of the Regulations govern the procedural aspects of this case. The charged violations occurred in 1997. The Regulations governing the charged violations are found in the 1997 version of the Code of Federal Regulations (15 CFR parts 730–774 (1997)).

gauges and related parts. By that means, Ralph Michel conducted or caused to be conducted the same export transaction for which the Department of Commerce had denied authorization in response to an export license application previously submitted by Omega. On or about April 9, 1997, the Department of Commerce denied export license application Z097230, which Omega had submitted for the export of certain laboratory equipment from the United States to Pakistan. Omega appealed this denial pursuant to Section 756.2 of the Regulations. On or about May 5, 1997, the Under Secretary of Commerce for Export Administration sustained the denial of the license application. In making or causing to be made the shipments on the dates specified above, Ralph Michel engaged in conduct prohibited by or contrary to the denial of export license application Z097230 and the Under Secretary's upholding of that denial, thereby committing four violations of Section 764.2(a) of the Regulations.

2. *One Violation of 15 CFR 764.2(e): Acting With Acknowledge of a Violation:* In making or causing to be made the above-described exports, Ralph Michel acted with knowledge that such exports were prohibited by or contrary to the Department of Commerce's denial of Omega's export license application and the Under Secretary's sustaining of that denial, as described above. By selling and transferring the items described above with knowledge that such violation was about to occur and was intended to occur in connection with the items, Ralph Michel violated Section 764.2(e) of the Regulations.

3. *One Violation of 15 CFR 764.2(b): Causing False Statement Violations:* On or about June 25, July 3, July 11, and July 16, 1997, and in connection with each of the shipments described above, Omega, through an employee, submitted or caused to be submitted a Shipper's Export Declaration (SED). Ralph Michel knew that items ultimately destined for Pakistan were included in such shipments to Newport in Germany, and then were to be shipped from Germany to Pakistan. Each such SED falsely identified Newport as the ultimate consignee and Germany as the country of ultimate destination. It also stated that the export qualified for export pursuant to “NLR” (no license required), when in fact a license was required for this export, as the Department of Commerce had previously advised Omega. Ralph Michel knew of the applicable license requirement and of the actual ultimate destination and ultimate consignee, but

caused, induced, and permitted the submission of the SED's containing these false statements. By so doing, Ralph Michel violated Section 764.2(b) of the Regulations.

BIS and Ralph Michel 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, that for a period of five years from the date of this Order, Ralph Michel, and when acting for or on behalf of him, his representatives, agents, assigns or employees ("Denied Persons") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") that is subject to the Regulations and that is exported or to be exported from the United States to Pakistan, or in any other activity subject to the Regulations that involves Pakistan, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document that involves export to Pakistan;

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 that is subject to the Regulations and that is exported or to be exported from the United States to Pakistan, or in any other activity subject to the Regulations that involves Pakistan; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States to Pakistan that is subject to the Regulations, or in any other activity subject to the Regulations that involves Pakistan.

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

A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations to Pakistan;

B. Take any action that facilitates the acquisition or attempted acquisition by a 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 to Pakistan, including financing or other support activities related to a transaction whereby a 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 a Denied Person of any item subject to the Regulations that has been exported from the United States to Pakistan;

D. Obtain from a 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 to Pakistan; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States to Pakistan and that is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a 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 to Pakistan. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

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

Fourth, 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.

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.

Entered this 12th day of November 2003.

**Julie L. Myers,**

*Assistant Secretary of Commerce for Export Enforcement.*

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**BILLING CODE 3510-DT-M**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Action Affecting Export Privileges; Omega Engineering, Inc.

In the Matter of: Omega Engineering, Inc., One Omega Drive, Stamford, Connecticut 06907, Respondent.

## Order

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), having notified Omega Engineering, Inc. ("Omega") 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. app. §§ 2401-2420 (2000) ("Act"),<sup>1</sup> and the Export Administration Regulations (currently codified at 15 CFR parts 730-774 (2003)) ("Regulations"),<sup>2</sup> based on allegations in a proposed charging letter issued to Omega that alleged that Omega committed 17 violations of the Regulations. Specifically, the charges are:

1. *Four Violations of § 764.2(a): Prohibited Conduct:* Omega made a series of exports of laboratory equipment, including shipments on or about June 25, 1997, July 3, 1997, July 11, 1997, and July 16, 1997, that were routed from the United States to Pakistan via Newport Electronics GmbH (Newport) in Germany. This laboratory equipment included load cells, load bolts, strain gauges and related parts. By that means, Omega, through its Vice President Ralph Michel (Michel), conducted or caused to be conducted the same export transaction for which the Department of Commerce had denied authorization in response to an export license application previously submitted by Omega. On or about April 9, 1997, the Department of Commerce denied export license application Z097230, which Omega had submitted for the export of certain laboratory equipment from the United States to Pakistan. Omega appealed this denial pursuant to Section 756.2 of the Regulations. On or about May 5, 1997, the Under Secretary of Commerce for Export Administration sustained the

<sup>1</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 7, 2003 (68 FR 47833, August 11, 2003)), has continued the Regulations in effect under IEEPA.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2003). The current version of the Regulations govern the procedural aspects of this case. The charged violations occurred in 1997. The Regulations governing the charged violations are found in the 1997 version of the Code of Federal Regulations (15 CFR parts 730-774 (1997)).