



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

SETTLEMENT AGREEMENT

This settlement agreement (the “Agreement”) is made by and between the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) and Comtech Telecommunications Corp. (“Comtech”) and its subsidiaries and affiliates worldwide (collectively referred to hereafter as “Respondent”).

I. PARTIES

OFAC administers and enforces economic sanctions against targeted foreign countries, regimes, terrorists, international narcotics traffickers, and proliferators of weapons of mass destruction, among others. OFAC acts under Presidential national emergency authorities, as well as authority granted by specific legislation, to impose controls on transactions and freeze assets under U.S. jurisdiction.

Respondent is a publicly traded company headquartered in Melville, New York that sells advanced communications systems, including satellite-related goods, software, and services. Comtech conducts business through several wholly owned subsidiaries, including Comtech EF Data Corp. (“EF Data”), an Arizona-based subsidiary. Memotec, Inc. (“Memotec”) is a wholly owned subsidiary of EF Data located in Montreal, Canada. EF Data shares certain services and functions with Memotec, including compliance functions and sales order processing.

II. APPARENT VIOLATIONS

On October 24, 2014, Respondent submitted an initial disclosure to OFAC. OFAC opened an investigation into Respondent’s activities (ENF 42933) and requested additional information and documentation from Respondent, including via two administrative subpoenas. OFAC’s review of Respondent’s submissions identified conduct that appears to have violated the Sudanese Sanctions Regulations, 31 C.F.R. part 538 (SSR). Specifically, from on or about June 25, 2014 to on or about October 19, 2015, the Respondent appears to have violated §§ 538.201, 538.205, and 538.206 of the SSR when it exported, through its subsidiary EF Data, satellite equipment under warranty, facilitated ongoing telephone support, and facilitated training despite knowing that the end-user for the equipment and services was Sudan Civil Aviation Authority (SCAA), a Government of Sudan entity located in Sudan (referred to hereafter as the “Apparent Violations”).

III. FACTUAL STATEMENT

On or about February 12, 2014, EF Data and Memotec prepared a price quote for satellite equipment under warranty, ongoing telephone support, and technical training for a Canadian Company that develops and manufactures satellite communications equipment. An April 30, 2014 sales document issued by EF Data identified the destination of the equipment as Sudan.

ENF 42933
Comtech Telecommunications Corp.

On May 21, 2014, EF Data's Credit Manager received a letter of credit indicating that Sudan was the final destination for the goods. EF Data's Credit Manager responded to the letter of credit via email by stating, "I have reviewed the attached [Letter of Credit] and have several questions. What is the ultimate destination of this order? From the statement on page 5, it appears that it is Sudan. If so, we may have export issues with this." This email to the Canadian Company also copied (1) EF Data's then Director of Sales for Canada and the United States, (2) EF Data's former Director of Logistics and Export Compliance Official, and (3) EF Data's Inside Sales Manager.

On May 22, 2014 EF Data's former Director of Logistics and Export Compliance Official wrote in an email to an EF Data Order Entry Support employee, "We have received the letter of Credit that disclosed the end destination is SUDAN. Please update the [sales order]. [EF Data Credit Manager] and I are working directly with the customer to obtain all necessary assurance statements." On the same day, May 22, 2014, EF Data's former Director of Logistics and Export Compliance Official received an email from the Canadian Company which stated, *inter alia*, "It is difficult for us [the Canadian Company] to approach the end customer (Sudan Civil Aviation Authority) for the name of a [sic] official and his signature."

Through an email sent on May 22, 2014 to the Canadian Company, EF Data's former Director of Logistics and Export Compliance Official attempted to transfer OFAC compliance obligations from EF Data to the Canadian Company by sending an acknowledgment letter for the Canadian Company to complete indicating that it was informed of its responsibility to obtain all required authorizations.

On May 23, 2014, EF Data's former Director of Logistics and Export Compliance Official received a document from the Canadian Company that indicated the ultimate consignee of the shipment was SCAA. The same day, EF Data's former Director of Logistics and Export Compliance Official received an acknowledgment letter signed from the Canadian Company stating that "[Canadian Company] has been informed of the export restrictions and will be responsible to obtain all the proper authorizations and/or license(s)." On June 18, 2014, prior to shipment, EF Data's third-party screening software issued a warning of OFAC restrictions for exports to Sudan.

Despite this warning, EF Data shipped the satellite equipment to the Canadian Company in two shipments, one on June 25, 2014 and a second on June 27, 2014. In connection with the sale of the equipment, EF Data also sold telephone support and technical training to be provided by Memotec. The Canadian Company then integrated the satellite equipment into an Aeronautical V-SAT Network (the "V-SAT Network"), a system of satellite-enabled earth-based telecommunications stations. On July 31, 2014, the Canadian Company shipped the V-SAT Network to the SCAA at the Khartoum Airport for use at 14 locations in Sudan. From September 29, 2014 to October 2, 2014, Memotec provided training to seven SCAA employees in Montreal, Canada in connection with this equipment.

After sending a disclosure of the Apparent Violations to OFAC on October 24, 2014, the Senior Vice President of Comtech and President of EF Data sent an email to EF Data's former

ENF 42933
Comtech Telecommunications Corp.

Director of Logistics and Export Compliance Official with instructions to inform Memotec that an OFAC license was required to perform warranty services on the equipment shipped to SCAA. On November 18, 2014, EF Data applied for an OFAC license to provide SCAA service for the setup support, operation, and any troubleshooting that may be required pursuant to the purchase order, and refiled the license application on February 23, 2015 after its initial application was voided by OFAC.

Despite the pending OFAC license application, Memotec continued to provide routine telephone support for the equipment shipped to SCAA under EF Data's sales agreement with the Canadian Company until October 19, 2015. Additionally, in March 2015, while EF Data's license application was still pending with OFAC, EF Data's former Director of Logistics and Export Compliance Official approved Memotec's warranty request to loan (and export from the United States) four hardware units to the Canadian Company to understand and fix a problem SCAA was experiencing with its hardware. EF Data's OFAC license application was denied on March 13, 2016.

While reviewing documents provided by Comtech in response to OFAC's October 5, 2015 administrative subpoena, OFAC discovered that Comtech provided two versions of the same email with no supplemental explanation. The email appears to have been doctored by EF Data's former Director of Logistics and Export Compliance Official to minimize her knowledge of the end use destination of the equipment in subsequent discussions with her supervisor, the Comtech Vice President, Office of Trade Compliance. The manipulated email removed text that indicated the Canadian Company was open and upfront from the start about identifying Sudan as the end destination of the satellite equipment. The removal of this text indicates knowledge that the sale was likely prohibited and appears to have been an attempt to mislead parties involved in reviewing the conduct. The manipulation of this email required OFAC to expend significant time and resources to build an accurate administrative record.

IV. TERMS OF SETTLEMENT

OFAC and Respondent agree as follows:

1. In consideration of the undertakings of Respondent in paragraph 2 below, OFAC agrees to release and forever discharge Respondent, without any finding of fault, from any and all civil liability in connection with the Apparent Violations arising under the legal authorities that OFAC administers.
2. In consideration of the undertakings of OFAC in paragraph 1 above, Respondent agrees and represents:
 - A. Within fifteen (15) days of the date Respondent receives the unsigned copy of this Agreement, to:
 - (i) Sign, date, and send a digital copy of this agreement to [REDACTED]. Respondent should retain a copy of the signed Agreement and a receipt or other evidence that shows the

ENF 42933
Comtech Telecommunications Corp.

date that Respondent sent a digital copy of the signed Agreement to OFAC;
and

- (ii) pay or arrange for the payment to the U.S. Department of the Treasury the amount of **\$894,111**. Respondent's payment must be made either by electronic funds transfer in accordance with the enclosed "Electronic Funds Transfer (EFT) Instructions," or by cashier's or certified check or money order payable to the "U.S. Treasury" and referencing **ENF 42933**. Unless otherwise arranged with the U.S. Department of the Treasury's Bureau of the Fiscal Service, Respondent must either: (1) indicate payment by electronic funds transfer, by checking the box on the signature page of this Agreement; or (2) enclose with this Agreement the payment by cashier's or certified check or money order.

B. To waive (i) any claim by or on behalf of Respondent, whether asserted or unasserted, against OFAC, the U.S. Department of the Treasury, and/or its officials and employees arising out of the facts giving rise to the enforcement matter that resulted in this Agreement, including but not limited to OFAC's investigation of the Apparent Violations, and (ii) any possible legal objection to this Agreement at any future date.

C. **Compliance Commitments:** Respondent has terminated the conduct described above and has established, and agrees to maintain for at least five years following the date this Agreement is executed, sanctions compliance measures that are designed to minimize the risk of recurrence of similar conduct in the future. Specifically, OFAC and Respondent understand that the following compliance commitments have been made:

a. **Management Commitment:**

- i. Respondent commits that senior management has reviewed and approved Respondent's sanctions compliance program.
- ii. Respondent commits to ensuring that its senior management, including senior leadership, executives, and the board of directors, are committed to supporting Respondent's OFAC compliance program.
- iii. Respondent commits to ensuring that its compliance unit(s) are delegated sufficient authority and autonomy to deploy its policies and procedures in a manner that effectively controls Respondent's OFAC risk.
- iv. Respondent commits to ensuring that its compliance unit(s) receive adequate resources—including in the form of human capital, expertise, information technology, and other resources, as appropriate—that are relative to Respondent's breadth of operations, target and secondary markets, and other factors affecting its overall risk profile.

- v. Respondent commits to ensuring that senior management promotes a “culture of compliance” throughout the organization.
- vi. Specifically with respect to the conduct outlined above as reflective of senior management’s commitments, in April 2020 Respondent added a Vice President tasked with trade compliance at its Arizona facility, will add an additional trade compliance position in Arizona to support the new Vice President, and created a new position of Senior Trade and/or Chief Trade Compliance Officer at their New York headquarters.

b. Risk Assessment:

- i. Respondent represents that it will conduct an OFAC risk assessment in a manner, and with a frequency, that adequately accounts for potential risks. Such risks could be posed by its clients and customers, products, services, supply chain, intermediaries, counter-parties, transactions, and geographic locations, depending on the nature of the organization. The risk assessment will be updated to account for the root causes of any apparent violations or systemic deficiencies identified by Respondent during the routine course of business.
- ii. Respondent represents that it has developed a methodology to identify, analyze, and address the particular risks it identifies. The risk assessments will be updated to account for the conduct and root causes of any apparent violations or systemic deficiencies identified by Respondent during the routine course of business, for example, through a testing or audit function.

c. Internal Controls:

- i. Respondent has designed and implemented written policies and procedures outlining its sanctions compliance program. These policies and procedures are relevant to the organization, capture Respondent’s day-to-day operations and procedures, are easy to follow, and designed to prevent employees from engaging in misconduct.
- ii. The organization has implemented internal controls that adequately address the results of its OFAC risk assessment and profile. These internal controls should enable Respondent to clearly and effectively identify, interdict, escalate, and report to appropriate personnel within the organization transactions and activity that may be prohibited by OFAC. To the extent information technology solutions factor into Respondent’s internal controls, Respondent has selected and calibrated the solutions in a manner that is appropriate to address Respondent’s risk profile and compliance needs, and Respondent routinely tests the solutions to ensure effectiveness.

- iii. Respondent commits to enforcing the policies and procedures it implements as part of its sanctions compliance internal controls through internal or external audits.
- iv. Respondent commits to ensuring that its OFAC-related recordkeeping policies and procedures adequately account for its requirements pursuant to the sanctions programs administered by OFAC.
- v. Respondent commits to ensuring that, upon learning of a weakness in its internal controls pertaining to sanctions compliance, it will take immediate and effective action, to the extent possible, to identify and implement compensating controls until the root cause of the weakness can be determined and remediated.
- vi. Respondent has clearly communicated the sanctions compliance program's policies and procedures to all relevant staff, including personnel within the sanctions compliance function, as well as relevant gatekeepers and business units operating in high-risk areas (e.g., customer acquisition, payments, sales, etc.) and to external parties performing sanctions compliance responsibilities on behalf of Respondent.
- vii. Respondent has appointed personnel to integrate the sanction compliance program's policies and procedures into Respondent's daily operations. This process includes consultations with relevant business units and confirms that Respondent's employees understand the policies and procedures.
- viii. Specifically with respect to the conduct outlined above, the Respondent has updated its global trade compliance program to address compliance requirements under the OFAC regulations, as well as export control, anti-bribery/anticorruption and import requirements. The updated compliance program now requires that any indirect export to a comprehensive sanctioned destination requires both a copy of an OFAC license and each such export must now be reviewed and approved by Comtech's Office of Trade Compliance before shipment. Comtech's also now requires end-user and location screening for all international returns from customers who acquired Comtech equipment indirectly.

d. Testing and Audit:

- i. Respondent commits to ensuring that the testing or audit function is accountable to senior management, is independent of the audited activities and functions, and has sufficient authority, skills, expertise, resources, and authority within the organization.

- ii. Respondent commits to ensuring that it employs testing or audit procedures appropriate to the level and sophistication of its sanctions compliance program and that this function, whether deployed internally or by an external party, reflects a comprehensive and objective assessment of Respondent's OFAC-related risk assessment and internal controls.
 - iii. Respondent commits to ensuring that, upon learning of a confirmed negative testing result or audit finding pertaining to its sanctions compliance program, it will take immediate and effective action, to the extent possible, to identify and implement compensating controls until the root cause of the weakness can be determined and remediated.
- e. **Training:**
- i. Respondent commits to ensuring that its OFAC-related training program provides adequate information and instruction to employees and, as appropriate, stakeholders (for example, clients, suppliers, business partners, and counterparties) in order to support Respondent's sanctions compliance efforts.
 - ii. Respondent commits to providing OFAC-related training with a scope that is appropriate for the products and services it offers; the customers, clients, and partner relationships it maintains; and the geographic regions in which it operates.
 - iii. Respondent commits to providing OFAC-related training with a frequency that is appropriate based on its OFAC risk assessment and risk profile and, at a minimum, at least once a year to all relevant employees.
 - iv. Respondent commits to ensuring that, upon learning of a confirmed negative testing result or audit finding, or other deficiency pertaining to its sanctions compliance program, it will take immediate and effective action to provide training to relevant personnel.
 - v. Respondent's training program includes easily accessible resources and materials that are available to all applicable personnel.
 - vi. Specifically with respect to the conduct outlined above, Respondent is facilitating a number of training sessions tailored to senior management and line employees to enhance their understanding of OFAC's requirements.
- f. **Annual Certification:** On an annual basis, for a period of five years, starting from 180 days after the date the Agreement is executed, a senior-level executive or manager of Respondent will submit a certification confirming that Respondent has implemented and continued to maintain the sanctions compliance measures as committed above.

- D. Should OFAC determine, in the reasonable exercise of its discretion, that Respondent appears to have materially breached its obligations or made any material misrepresentations under Subparagraph C (Compliance Commitments) above, OFAC shall provide written notice to Respondent of the alleged breach or misrepresentations and provide Respondent with 30 days from the date of Respondent's receipt of such notice, or longer as determined by OFAC, to determine that no material breach or misrepresentations has occurred or that any breach or misrepresentation has been cured.
- E. In the event OFAC determines that a material breach of, or misrepresentation in, this Agreement has occurred due to a failure to perform the Compliance Commitments, OFAC will provide notice to Respondent of its determination and whether OFAC is re-opening its investigation. The statute of limitations applying to the Apparent Violations shall be deemed tolled until a date 180 days following Respondent's receipt of notice of OFAC's determination that a breach of, or misrepresentation in, this Agreement has occurred.
- F. Should the Respondent engage in any violations of the sanctions laws and regulations administered by OFAC—including those that are either apparent or alleged—OFAC may consider Respondent's sanctions history, or its failure to employ an adequate sanctions compliance program or appropriate remedial measures, associated with this Agreement as a potential aggravating factor consistent with the Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, Appendix A.
3. This Agreement shall not in any way be construed as an admission by Respondent that Respondent engaged in the Apparent Violations.
4. This Agreement has no bearing on any past, present, or future OFAC actions, including the imposition of civil monetary penalties, with respect to any activities by Respondent other than those set forth in the Apparent Violations.
5. OFAC may, in its sole discretion, post on OFAC's website this entire Agreement and/or issue a public statement about the factors of this Agreement, including the identity of any entities involved, the settlement amount, and a brief description of the Apparent Violations.
6. This Agreement consists of nine pages and expresses the complete understanding of OFAC and Respondent regarding resolution of OFAC's enforcement matter involving the Apparent Violations. No other agreements, oral or written, exist between OFAC and Respondent regarding resolution of this matter.
7. This Agreement shall inure to the benefit of and be binding on each party, as well as its respective successors or assigns.

ENF 42933
Comtech Telecommunications Corp.

Respondent accepts the terms of this Agreement on this 8th day of September, 2020.



Signature

Michael Porcelain
Respondent's Printed Name (or in the case of an
entity, the name of Respondent's Duly Authorized
Representative)

President & Chief Operating Officer
Printed Title of Respondent's Duly Authorized
Representative and Name of Entity (if applicable)

Please check this box if you have not enclosed payment with this Agreement and will instead be paying or have paid by electronic funds transfer (see paragraph 2(A)(ii) and the EFT Instructions enclosed with this Agreement).

Date: September 9, 2020

Andrea M. Gacki Digitally signed by Andrea M.
Gacki
Date: 2020.09.09 10:59:43 -04'00'

Andrea M. Gacki
Director
Office of Foreign Assets Control