

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

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In the Matter of)
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Mitsubishi International Corporation)
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Mitsubishi International Corporation

Case No. 18.05 (A)

ORDER

The Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce (“BIS”), has determined to initiate an administrative proceeding pursuant to the Export Administration Regulations (currently codified at 15 C.F.R Parts 730-774 (2019) (the “Regulations”)¹, against Mitsubishi International Corporation (“MIC”), a domestic concern, organized under the laws of the United States and doing business in the State of New York, based on allegations set forth in the Proposed Charging Letter, dated 3 December 2018, that alleged that MIC committed three violations of the Regulations.

¹The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent of which was August 8, 2018 (83 Fed. Reg. 39871 (August 13, 2018)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701, *et seq.* (2012)) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Pub. L. 115-232 (“ECRA”). The Anti-Boycott Act of 2018, Title XVII, Subtitle B, Part II of Pub. L. 115-232, is a subpart of ECRA. ECRA provides permanent authority for the Regulations. While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulation that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of the date of enactment of ECRA (August 13, 2018), shall continue in effect according to their terms until modified, superceded, set aside or revoked through action undertaken pursuant to the authority provided under ECRA.

Specifically, the charges are:

1. *One Violation of 15 C.F.R. §760.2(d) - Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons*

During the period June 2013 through January 2014, MIC engaged in transactions involving the sale and/or transfer of goods or services (including information) from the United States to Bahrain and Oman, activities in the interstate or foreign commerce of the United States, as defined in Section 760.1(d) of the Regulations.

In connection with these activities, on one occasion, MIC, with intent to comply with, further or support an unsanctioned foreign boycott, furnished information, concerning another person's business relationships with other persons known or believed to be restricted from having any business relationship with or in a boycotting country, an activity prohibited by Section 760.2(d) of the Regulations, and not excepted.

2. *Two Violations of 15 C.F.R. §760.5 - Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States*

During the period June 2013 through January 2014, MIC engaged in transactions involving the sale and/or transfer of goods or services (including information) from the United States to Bahrain and Oman, activities in the interstate or foreign commerce of the United States, as defined in Section 760.1(d) of the Regulations.

In connection with these activities, MIC, on two occasions, received a request to take an action which would have the effect of furthering or supporting a restrictive trade practice or unsanctioned foreign boycott. MIC failed to report its receipts of these requests to the Department of Commerce, as directed by Section 760,5 of the Regulations.

BIS and MIC have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby the parties have agreed to settle this matter in accordance with the terms and conditions set forth therein and the terms of the Settlement Agreement have been approved by me.

IT IS THEREFORE ORDERED THAT:

FIRST, a civil penalty of \$ 5,000 is assessed against MIC and shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment of this sum shall be made in the manner specified in the attached instructions.

SECOND, pursuant to the Debt Collections Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (1983 and Supp. 2001)), 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, MIC will be assessed, in addition to the full amount of the penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, the timely payment of the sum of \$ 5,000 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 MIC.

Accordingly, if MIC should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of MIC's export privileges for a period of one year from the date of the entry of this Order.

FOURTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon MIC.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Douglas R Hassebrock
Director, Office of Export Enforcement,
Performing the nonexclusive functions and duties of the
Assistant Secretary of Export Enforcement

Entered this 13th day of June, 2019

Attachments

NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collections Act of 1982, as amended (31 U.S.C. §§3701 – 3702E (1983 and Supp. 2001)) and the Federal Claims Collection Standards (65 Fed. Reg. 70390 – 70406, November 22, 2000, to be codified at 31 C.F.R. Parts 900 – 904), 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. §3717 and 31 C.F.R. §901.9.

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. §3717 and 31 C.F.R. §901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with Section 901.2 of the Federal Claims Collections Standards (31 C.F.R. §901.2(b)).

INSTRUCTION FOR PAYMENT OF SETTLEMENT AMOUNT

1. The 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 Industry and Security
Room 6520

14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Attention: Christine Wheeler

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

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In the Matter of)
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Mitsubishi International Corporation)
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Case No. 18.05 (A)

SETTLEMENT AGREEMENT

This agreement is made by and between Mitsubishi International Corporation (“MIC”), a domestic concern, organized under the laws of the United States and doing business in the State of New York, and the Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce (“BIS”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2019)) (the “Regulations”), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. §§ 4601-4623 (Supp. III 2015)) (the “Act”).¹

¹The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent of which was August 8, 2018 (83 Fed. Reg. 39871 (August 13, 2018)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701, *et seq.* (2012)) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Pub. L. 115-232 (“ECRA”). The Anti-Boycott Act of 2018, Title XVII, Subtitle B, Part II of Pub. L. 115-232, is a subpart of ECRA. ECRA provides permanent authority for the Regulations. While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulation that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of the date of enactment of ECRA (August 13, 2018), shall continue in effect according to their terms until modified, superceded, set aside or revoked through action undertaken pursuant to the authority provided under ECRA.

WHEREAS, MIC has voluntarily disclosed information concerning certain of its transactions to BIS; and

WHEREAS, BIS has notified MIC of its intention to initiate an administrative proceeding against MIC pursuant to the Act and the Regulations by issuing the Proposed Charging Letter dated 3 December 2018, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, MIC has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; MIC fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and MIC states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, MIC neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, MIC agrees to be bound by the appropriate Order ("Order") when entered;

NOW, THEREFORE, MIC and BIS agree as follows:

1. Under the Act and the Regulations, BIS has jurisdiction over MIC with respect to the matters alleged in the Proposed Charging Letter.

2. BIS will impose a civil penalty in the amount of \$ 5,000. MIC will pay to the U.S. Department of Commerce, within 30 days from the date of entry of the Order, and in accordance with the terms of the Order, when entered, the amount of \$ 5,000 in complete settlement of all matters set forth in the Proposed Charging Letter.

3. The timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to MIC.

Failure to make payment of this amount shall result in the denial of all of MIC's export privileges for a period of one year from the date of entry of the Order.

4. Subject to the approval of this Settlement Agreement, pursuant to paragraph 9 hereof, MIC hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the Order, when entered) including, without limitation, any right to:
 - A. An administrative hearing regarding the allegations in the Proposed Charging Letter;
 - B. Request a refund of the funds paid by MIC pursuant to this Settlement Agreement and the Order, when entered; or
 - C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.

5. BIS, upon entry of the Order, will not initiate any administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against MIC with respect to any violation of Section 8 of the Act or Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by BIS in the course of its investigation.

6. MIC understands that BIS will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.

7. **This Settlement Agreement is for settlement purposes only, and does not constitute an admission by MIC that it has violated the Regulations, or an admission of the truth of any allegation contained in the Proposed Charging Letter or referred to in this Settlement Agreement.**

Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, BIS may not use this Settlement Agreement against MIC in any administrative or judicial proceeding.

8. **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 Order, when entered, nor shall this Settlement Agreement 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 herein addressed.**

This paragraph shall not limit MIC's right to challenge any action brought by any other agency based on a referral by BIS or any employee thereof, in contravention of paragraph 5 of this Settlement Agreement.

9. This Settlement Agreement will become binding on BIS only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

MITSUBISHI INTERNATIONAL CORPORATION



DATE: May 31, 2019

U.S. DEPARTMENT OF COMMERCE



Cathleen Ryan
Director
Office of Antiboycott Compliance

DATE: 12 June 2019

Attachment



PROPOSED CHARGING LETTER

3 December 2018

Mitsubishi International Corporation
655 Third Avenue
New York, NY 10017

Attention : Jason Stevens,
President and CEO

Case No. 18.05(A)

Gentlemen/Ladies:

We, the Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce ("BIS"), have reason to believe that you, Mitsubishi International Corporation, on three occasions, have violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2018)) (the "Regulations").¹

¹ The violations alleged occurred during the years 2013 through 2014. The Regulations governing the violations at issue are found in the 2013 and 2014 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2013 and 2014)). The 2018 Regulations currently govern the procedural aspects of this matter.

The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) ("the EAA"), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent of which was August 8, 2018 (83 Fed. Reg. 39871 (August 13, 2018)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701, *et seq.* (2012)) ("IEEPA").

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Pub. L. 115-232 ("ECRA"). The Anti-Boycott Act of 2018, Title XVII, Subtitle B, Part II of Pub. L. 115-232, is a subpart of ECRA. ECRA provides permanent authority for the Regulations. While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of the date of enactment of ECRA (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside or revoked through action undertaken pursuant to the authority provided under ECRA.



We charge that you committed one violation of Section 760.2(d) of the Regulations, in that, on one occasion, with intent to comply with, further or support an unsanctioned foreign boycott, you furnished information concerning another person's business relationships with other persons known or believed to be restricted from having any business relationship with or in a boycotting country.

We also charge that you committed two violations of Section 760.5 of the Regulations, in that, on two occasions, you failed to report to the Department of Commerce ("Department") your receipt of a request to engage in a restrictive trade practice or boycott, as required by the Regulations.

We allege that:

You, Mitsubishi International Corporation, are, and at all times relevant were, a domestic concern, organized under the laws of the United States and doing business in the State of New York; as such, you are a United States person, as defined in Section 760.1(b) of the Regulations.

During the period June 2013 through January 2014, you engaged in transactions involving the sale and/or transfer of goods or services (including information) from the United States to Bahrain and Oman, activities in the interstate or foreign commerce of the United States, as defined in Section 760.1(d) of the Regulations.

Charge 1 (15 C.F.R. § 760.2(d) - Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons)

In connection with the activities referred to above, on one occasion, on or about 19 January 2014, you furnished to persons in Japan, information, as described in Table A, which is attached and incorporated herein by this reference, concerning another person's business relationships with other persons known or believed to be restricted from having any business relationship with or in a boycotting country.

Providing the information described in Table A, with intent to comply with, further or support an unsanctioned foreign boycott, is an activity prohibited by Section 760.2(d) of the Regulations, and not excepted. We therefore charge you with one violation of Section 760.2(d).

Charges 2 - 3 (15 C.F.R. § 760.5 - Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States)

In connection with the activities referred to above, on two occasions, on or about 17 June 2013, and 6 January 2014, you received a request, as described in Table B, which is attached and incorporated herein by this reference, to take an action which would have the effect of furthering or supporting a restrictive trade practice or unsanctioned foreign boycott.

Section 760.5 of the Regulations requires United States persons to report to the Department their receipts of such requests. You failed to report to the Department your receipts of these requests.

By failing to report your receipts of these requests, as directed by Section 760.5 of the Regulations, you are in violation of Section 760.5. We therefore charge you with two violations of Section 760.5 of the Regulations.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions.²

You are entitled to an agency hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for one with your answer. You are entitled to be represented by counsel or other authorized representative who has power of attorney to represent you. See Sections 766.3(a) and 766.4 of the Regulations. You may also seek a settlement agreement without a hearing. See Section 766.18 of the Regulations.

² The alleged violations occurred prior to 13 August 2018, the date of enactment of ECRA. Consequently, the potential sanctions are provided for in IEEPA.

Administrative sanctions may include any or all of the following:

- a. A maximum civil penalty of the greater of \$295,141 per violation or twice the value of the transaction that is the basis of the violation (see 15 C.F.R. § 6.3(b)(4), and § 6.4, and 83 Fed. Reg. 706, 707 (January 8, 2018)). The amount is subject to annual increases pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74, enacted on November 2, 2015. (See also International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007));
- b. Denial of export privileges (see § 764.3(a)(2) of the Regulations);
- c. Exclusion from practice before BIS (see § 764.3(a)(3) of the Regulations); and/or
- d. Any other liability, sanction or penalty available under law.

Under the Small Business Regulatory Enforcement Flexibility Act, you may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter.³

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

As provided in Section 766.3 of the Regulations, we are referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between BIS 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.

Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

U.S. Coast Guard ALJ Docketing Center
40 South Gay Street
Baltimore, Maryland 21202-4022

Attention: Administrative Law Judge

Also, in accordance with the instructions in Section 766.5(b) of the Regulations, a copy of your answer should also be served on the Bureau of Industry and Security at:

Office of the Chief Counsel for Industry and Security
Room H-3839
Bureau of Industry and Security
U.S. Department of Commerce
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230

Sincerely,

Cathleen Ryan
Director
Office of Antiboycott Compliance

Enclosures

³ To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman>.

TABLE A

**Schedule of Alleged Violations of Section 760.2(d)
Furnishing Prohibited Business Information**

**Mitsubishi International Corporation
Case No. 18.05A**

Item	Mitsubishi Reference/ Document Furnished	On or About	Boycotting Country	Information Furnished
1	Contract No CZPA/OX3049 / Certificate	01.19.14	Oman	WE CERTIFY THAT: 3. THE VESSEL IS ALLOWED TO ENTER ARABIAN PORTS.

TABLE B

**Schedule of Alleged Violations of Section 760.5
Failure to Report Receipts of Boycott Requests**

**Mitsubishi International Corporation
Case No. 18.05A**

Item	Mitsubishi Reference/ Shipping Instructions	Date Request Received	Date Reporting Violation*	Boycotting Country	Boycott Request
1	Contract No CZPA/ OX3015	06.17.13	07.31.13	Bahrain	CERTIFICATE ISSUED BY THE SHIPPING COMPANY, CARRIER OR FROM MASTER/OWNER OR ITS AGENT... WE HEREBY CERTIFY THAT...VESSEL...IS ALLOWED BY ARAB AUTHORITIES TO CALL AT ARABIAN PORTS AND IS NOT SCHEDULED TO CALL AT ANY ISRAELI PORTS...
2	Contract No CZPA/ OX3049	01.06.14	04.30.14	Oman	CERTIFICATE ISSUED BY SHIPPING COMPANY OR ITS AGENT...WE CERTIFY THAT...THE VESSEL IS ALLOWED TO ENTER ARABIAN PORTS.

* Where the person receiving the request is a United States person located in the United States, each report of requests must be postmarked by the last day of the month following the calendar quarter in which the request was received (§ 760.5(b)(4)(i)).