

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

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In the Matter of: )  
 )  
Elettronica Aster S.p.A. )  
Via Longoni, 108-110 )  
20030 Barlassina (Milano) Italy )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO ELETTRONICA ASTER S.P.A.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Elettronica Aster S.p.A. (“E-ASTER”), of its intention to initiate an administrative proceeding against E-ASTER pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup> through the issuance of a proposed charging letter to E-ASTER that alleged that E-ASTER committed 2 violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violations alleged occurred in 2003. The Regulations governing the allegations at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2007 Regulations govern the procedural aspects of the case.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charge 1: 15 C.F.R. § 764.2(b): Aiding and Abetting the Export of Items Without the Required Department of Commerce License**

On or around March of 2003, E-ASTER aided and abetted the export of an instrument landing system, an item subject to the Regulations and classified under Export Control Classification Number ("ECCN") 7A994, from the United States through Italy to Iran, without the required license from the Department of Commerce as required by Section 746.7 of the Regulations. Pursuant to Section 734.2(b)(6) of the Regulations, items that are exported to a country that will be transshipped to a third country are deemed to be exports from the United States to the third country. In this case, the instrument landing system was exported from the United States and E-ASTER transshipped the instrument landing system through Italy to Iran. In so doing, E-ASTER committed one violation of Section 764.2(b) of the Regulations.

**Charge 2: 15 C.F.R. § 764.2(e): Transportation of Items with Knowledge that a Violation of the Regulations Was About to Occur**

On or around March of 2003, E-ASTER exported an instrument landing systems, an item subject to the Regulations and classified under ECCN 7A994, from Italy to Iran with knowledge that a violation of the Regulations was about to occur in connection with the item. At all times relevant hereto, E-ASTER knew that a license application was pending for the transportation of the instrument landing system from Italy to Iran, that the U.S. Government had not taken any action on the license application, and E-ASTER was informed that the instrument landing system could not legally be exported to Iran without the required license, and E-ASTER transported the instrument landing system to Iran anyway. In so doing, E-ASTER committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, BIS and E-ASTER have 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

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, E-ASTER shall be assessed a civil penalty in the amount of \$18,000 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.

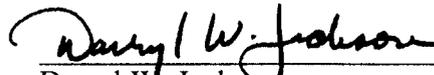
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, E-

ASTER will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that 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 E-ASTER. Accordingly, if E-ASTER should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of E-ASTER's export privileges under the Regulations 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.



\_\_\_\_\_  
Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 3<sup>rd</sup> day of December, 2007.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

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In the Matter of: )  
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Electronica Aster S.p.A. )  
Via Longoni, 108-110 )  
20030 Barlassina (Milano) Italy )  
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 )  
Respondent )  
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Electronica Aster S.p.A. (“E-ASTER”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup>

WHEREAS, BIS has notified E-ASTER of its intention to initiate an administrative proceeding against E-ASTER, pursuant to the Act and the Regulations;

<sup>1</sup> The violations alleged to have been committed occurred in 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2007 Regulations establish the procedures that apply to this matter.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R. 2001 Comp. p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1706 (2000)).

WHEREAS, BIS has issued a proposed charging letter to E-ASTER that alleged that E-ASTER committed 2 violations of the Regulations, specifically:

**Charge 1: 15 C.F.R. § 764.2(b): Aiding and Abetting the Export of Items Without the Required Department of Commerce License**

On or around March of 2003, E-ASTER aided and abetted the export of an instrument landing system, an item subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 7A994, from the United States through Italy to Iran, without the required license from the Department of Commerce as required by Section 746.7 of the Regulations. Pursuant to Section 734.2(b)(6) of the Regulations, items that are exported to a country that will be transshipped to a third country are deemed to be exports from the United States to the third country. In this case, the instrument landing system was exported from the United States and E-ASTER transshipped the instrument landing system through Italy to Iran. In so doing, E-ASTER committed one violation of Section 764.2(b) of the Regulations.

**Charge 2: 15 C.F.R. § 764.2(e): Transportation of Items with Knowledge that a Violation of the Regulations Was About to Occur**

On or around March of 2003, E-ASTER exported an instrument landing systems, an item subject to the Regulations and classified under ECCN 7A994, from Italy to Iran with knowledge that a violation of the Regulations was about to occur in connection with the item. At all times relevant hereto, E-ASTER knew that a license application was pending for the transportation of the instrument landing system from Italy to Iran, that the U.S. Government had not taken any action on the license application, and E-ASTER was informed that the instrument landing system could not legally be exported to Iran without the required license, and E-ASTER transported the instrument landing system to Iran anyway. In so doing, E-ASTER committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, E-ASTER 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;

WHEREAS, E-ASTER fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, E-ASTER enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, E-ASTER states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, E-ASTER neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, E-ASTER wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, E-ASTER agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over E-ASTER, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against E-ASTER in complete settlement of the alleged violations of the Regulations relating to the transactions detailed in the proposed charging letter:

a. E-ASTER shall be assessed a civil penalty in the amount of \$18,000 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.

b. The timely payment of the civil penalty agreed to in paragraph 2.a 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 E-ASTER. Failure to make timely payment of the civil penalty set forth above may

result in the denial of all of E-ASTER's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, E-ASTER hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$18,000 civil penalty, BIS will not initiate any further administrative proceeding against E-ASTER in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

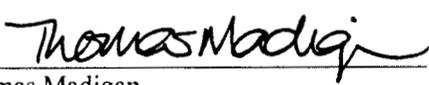
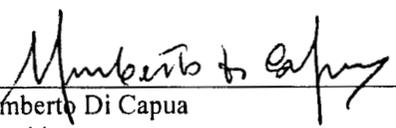
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this

Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

<p>BUREAU OF INDUSTRY AND SECURITY U.S. DEPARTMENT OF COMMERCE</p> <p></p> <p>Thomas Madigan Acting Director Office of Export Enforcement</p> <p>Date: <u>November 20, 2007</u></p>	<p>ELETTRONICA ASTER S.P.A.</p> <p></p> <p>Umberto Di Capua President</p> <p>Date: <u>November 19th 2007</u></p>
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PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Elettronica Aster S.p.A  
Via Cino Del Duca 2  
20122 Milano (MI)  
Italy

Attn: *Umberto Di Capua*  
*President*

Dear Mr. Di Capua:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Elettronica Aster SPA, of Milan, Italy (“E-Aster”), has committed two violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup> Specifically, BIS charges that E-Aster committed the following violations:

**Charge 1: 15 C.F.R. § 764.2(b): Aiding and Abetting the Export of Items Without the Required Department of Commerce License**

On or around March of 2003, E-Aster aided and abetted the export of an instrument landing system, an item subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 7A994, from the United States through Italy to Iran, without the required license from the Department of Commerce as required by Section 746.7 of the Regulations. Pursuant to Section 734.2(b)(6) of the Regulations, items that are exported to a country that will be transhipped to a third country are deemed to be exports from the United States to the third country. In this case, the instrument landing system was exported from the United States and E-

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The charged violations occurred in 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2006 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2006 (71 Fed. Reg. 44,551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”).

Aster transshipped the instrument landing system through Italy to Iran. In so doing, E-Aster committed one violation of Section 764.2(b) of the Regulations.

**Charge 2: 15 C.F.R. § 764.2(e): Transportation of Items with Knowledge that a Violation of the Regulations Was About to Occur**

On or around March of 2003, E-Aster exported an instrument landing systems, an item subject to the Regulations and classified under ECCN 7A994, from Italy to Iran with knowledge that a violation of the Regulations was about to occur in connection with the item. At all times relevant hereto, E-Aster knew that a license application was pending for the transportation of the instrument landing system from Italy to Iran, that the U.S. Government had not taken any action on the license application, and E-Aster was informed that the instrument landing system could not legally be exported to Iran without the required license, and E-Aster transported the instrument landing system to Iran anyway. In so doing, E-Aster committed one violation of Section 764.2(e) of the Regulations.

\* \* \* \*

Accordingly, E-Aster 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 \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If E-Aster fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If E-Aster defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to E-Aster. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

E-Aster is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. E-Aster is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should E-Aster have a proposal to settle this case, E-Aster or its representative should transmit it to the attorney representing BIS named below.

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<sup>3</sup> 15 C.F.R. § 6.4(a).

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, E-Aster's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

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

In addition, a copy of E-Aster's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security  
Attention: Peter R. Klason, Esq.  
Room H-3839  
United States Department of Commerce  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

Peter R. Klason is the attorney representing BIS in this case; any communications that E-Aster may wish to have concerning this matter should occur through him. Mr. Klason may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner  
Director  
Office of Export Enforcement