

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

In the Matter of: )  
)  
DHL Holdings (USA), Inc. )  
1200 S. Pine Island Road, )  
Suite 600 )  
Plantation, FL 33324 )  
)  
Respondent )  
)

ORDER

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified DHL Holdings (USA), Inc. (“DHL”), of Plantation, FL, of its intention to initiate an administrative proceeding against DHL 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 DHL that alleged that DHL committed one violation of the Regulations, specifically:

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<sup>1</sup> The violation charged occurred in 2006. The Regulations governing the violation at issue are found in the 2006 version of the Code of Federal Regulations. *See* 15 C.F.R. Parts 730-774 (2006). The 2007 Regulations govern the procedural aspects of this 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. 46,137 (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 an unlicensed transaction.**

On or about August 25, 2006, DHL aided and abetted the doing of an act prohibited by the Regulations. Specifically, DHL forwarded an export of 11 tiltometers, items subject to the Regulations and designated as EAR99,<sup>3</sup> to Mayrow General Trading in the United Arab Emirates. The export of these items was a violation of the Regulations because, pursuant to General Order No. 3 of June 5, 2006, found in Supp. No. 1 to Part 736 of the Regulations, a license is required to export or reexport any item subject to the Regulations to Mayrow General Trading and no export license had been obtained for the export of these items. In aiding and abetting an unlicensed export to Mayrow General Trading, DHL committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, BIS and DHL 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, that a civil penalty of \$37,500 is assessed against DHL, 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, DHL 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 DHL. Accordingly, if DHL should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order

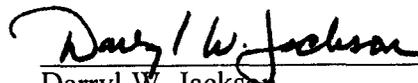
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<sup>3</sup> Under the Regulations, items designated as “EAR99” are items that are subject to the Regulations but which do not fall in any specific entry on the Commerce Control List.

denying all of DHL'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 14<sup>th</sup> day of March, 2008.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
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In the Matter of: )  
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DHL Holdings (USA), Inc. )  
1200 S. Pine Island Road, )  
Suite 600 )  
Plantation, FL 33324 )  
)  
Respondent )  
)

SETTLEMENT AGREEMENT

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

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

WHEREAS, BIS has issued a proposed charging letter to DHL that alleged that DHL committed one violation of the Regulations, specifically:

<sup>1</sup> The violation charged occurred in 2006. The Regulations governing the violation at issue are found in the 2006 version of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2006). The 2007 Regulations govern the procedural aspects of this 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. 46,137, 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 an unlicensed transaction.**

On or about August 25, 2006, DHL aided and abetted the doing of an act prohibited by the Regulations. Specifically, DHL forwarded an export of 11 tiltometers, items subject to the Regulations and designated as EAR99,<sup>3</sup> to Mayrow General Trading in the United Arab Emirates. The export of these items was a violation of the Regulations because, pursuant to General Order No. 3 of June 5, 2006, found in Supp. No. 1 to Part 736 of the Regulations, a license is required to export or reexport any item subject to the Regulations to Mayrow General Trading and no export license had been obtained for the export of these items. In aiding and abetting an unlicensed export to Mayrow General Trading, DHL committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, DHL has reviewed the proposed charging letter and is aware of the allegation made against it and the administrative sanctions which could be imposed against it if the allegation is found to be true;

WHEREAS, DHL 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, DHL enters into this Agreement voluntarily and with full knowledge of its rights;

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

WHEREAS, DHL neither admits nor denies the allegation contained in the proposed charging letter;

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

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<sup>3</sup> Under the Regulations, items designated as “EAR99” are items that are subject to the Regulations but which do not fall in any specific entry on the Commerce Control List.

WHEREAS, DHL agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over DHL, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against DHL in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the proposed charging letter:
  - a. DHL shall be assessed a civil penalty in the amount of \$37,500, all of which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
  - 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 DHL. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of DHL'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, DHL 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, BIS will not initiate any further administrative proceeding against DHL in connection with any violation of the Act or the Regulations arising out of the transaction 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.

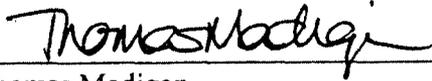
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial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

BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE



Thomas Madigan  
Acting Director  
Office of Export Enforcement

Date: 3/5/8

DHL HOLDINGS (USA), INC.



Jon E. Olin  
Executive Vice President, General  
Counsel & Secretary

Date: 3-1-08

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DHL Holdings (USA), Inc.  
1200 S. Pine Island Road,  
Suite 600  
Plantation, FL 33324

*Attn: Mr. Jon E. Olin  
Executive Vice President, General Counsel & Secretary*

Dear Mr. Olin:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that DHL Holdings (USA), Inc., of Plantation, FL (“DHL”), has committed one violation 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 DHL committed the following violation:

**Charge 1 15 C.F.R. §764.2(b) – Aiding and abetting an unlicensed transaction.**

On or about August 25, 2006, DHL aided and abetted the doing of an act prohibited by the Regulations. Specifically, DHL forwarded an export of 11 tiltometers, items subject to the Regulations and designated as EAR99,<sup>3</sup> to Mayrow General Trading in the United Arab Emirates. The export of these items was a violation of the Regulations because, pursuant to General Order No. 3 of June 5, 2006, found in Supp. No. 1 to Part 736 of the Regulations, a license is required to export or reexport any item subject to the Regulations to Mayrow General Trading and no export license had been obtained for the

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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 violation charged occurred in 2006. The Regulations governing the violation at issue are found in the 2006 version of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2006). The 2007 Regulations govern the procedural aspects of this case.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001 the Act has been in lapse. However, 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. 46,137, Aug. 16, 2007), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

<sup>3</sup> Under the Regulations, items designated as “EAR99” are items that are subject to the Regulations but which do not fall in any specific entry on the Commerce Control List.

export of these items. In aiding and abetting an unlicensed export to Mayrow General Trading, DHL committed one violation of Section 764.2(b) of the Regulations.

\* \* \* \* \*

Accordingly, DHL 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 up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;<sup>4</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If DHL 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 (2007). If DHL defaults, the Administrative Law Judge may find the charge alleged in this letter to be true without a hearing or further notice to DHL. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty based on the charge in this letter.

DHL 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 (2007). DHL is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. 15 C.F.R. §§ 766.3(a) and 766.4 (2007).

DHL is additionally notified that under the Small Business Regulatory Enforcement Flexibility Act, it may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2007). Should DHL have a proposal to settle this case, DHL's representative should transmit it through the attorney representing BIS, who is named below.

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

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<sup>4</sup> *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

DHL Holdings (USA), Inc.  
Proposed Charging Letter  
Page 3

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

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

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

Charles Wall is the attorney representing BIS in this case; any communications that DHL may wish to have concerning this matter should occur through him. Mr. Wall may be contacted by telephone at (202) 482-8046.

Sincerely,

Thomas Madigan  
Acting Director  
Office of Export Enforcement