

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

\_\_\_\_\_  
In the Matter of: )  
 )  
Toll Global Forwarding (USA) Inc. )  
1 Cross Island Plaza )  
Suite 203 )  
Rosedale, New York 11422 )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO TOLL GLOBAL FORWARDING (USA) INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Toll Global Forwarding (USA) Inc. (“Toll Global”) of its intention to initiate an administrative proceeding against Toll Global pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),<sup>2</sup> through the issuance of a Proposed Charging Letter to Toll Global that alleges that Toll Global, as successor to Baltrans Logistics, Inc.,<sup>3</sup> committed nine violations of the Regulations. Specifically, the charges are:

**Charges 1-8                    15 C.F.R. § 764.2(b): Causing, Aiding and Abetting an Act Prohibited by the Regulations**

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2005 through 2007. The Regulations governing the violations at issue are found in the 2005 through 2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005-07)). The 2011 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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

<sup>3</sup> In 2008, after the violations detailed herein occurred, Toll Global Forwarding (USA) Inc. acquired Baltrans Logistics, Inc.

On eight occasions between on or about August 12, 2005 and on or about September 28, 2006, Toll Global caused, aided, and abetted acts prohibited by the Regulations. Specifically, Toll Global, acting as a freight forwarder, arranged for the export of electronic components designated as EAR99 items<sup>4</sup> and subject to the Regulations, from the United States to Bharat Dynamics Limited, an entity in India listed on BIS's Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Toll Global's actions caused, aided and abetted the export of the electronic components without the Department of Commerce licenses required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Toll Global committed eight violations of Section 764.2(b) of the Regulations.

**Charge 9                    15 C.F.R. § 764.2(b): Causing, Aiding and Abetting an Act Prohibited by the Regulations**

On or about November 29, 2007, Toll Global caused, aided, and abetted acts prohibited by the Regulations. Specifically, Toll Global, acting as a freight forwarder, arranged for the export of platinum pellets, designated as EAR99 items<sup>5</sup> and subject to the Regulations, from the United States to Solid State Physics Laboratory, an entity in India listed on BIS's Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Toll Global's actions caused, aided and abetted the export of the platinum pellets without the Department of Commerce license required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Toll Global committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, BIS and Toll Global 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, Toll Global shall be assessed a civil penalty in the amount of \$200,000, which shall be paid to the U.S. Department of Commerce within 90 days of the date of this Order.

Payment shall be made in the manner specified in the attached instructions.

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<sup>4</sup> EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2005-06).

<sup>5</sup> EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2007).

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 any payment is not made in full by the due date set forth herein, Toll Global 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.

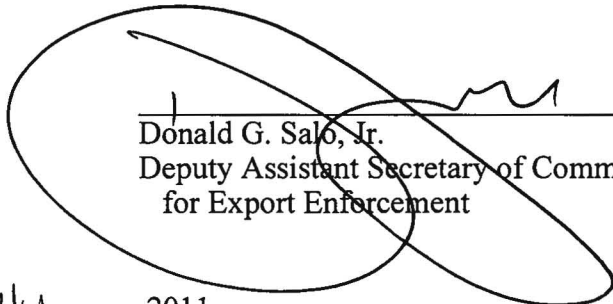
THIRD, Toll Global shall complete an external audit of its export controls compliance program, as set forth in this paragraph. The results of the audit, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, Suite 725, 160 W. Santa Clara Street, San Jose, CA 95113 (“BIS San Jose Field Office”). The audit shall cover the 12-month period beginning on the date of this Order, and the related report shall be due to the BIS San Jose Field Office no later than fourteen (14) months from the date of this Order. Said audit shall be in substantial compliance with the EMS sample audit module, and shall include an assessment of Toll Global’s compliance with the Regulations. The EMS sample audit module is available on the BIS web site at [http://www.bis.doc.gov/complianceandenforcement/revise\\_emcp\\_audit.pdf](http://www.bis.doc.gov/complianceandenforcement/revise_emcp_audit.pdf). In addition, where said audit identifies actual or potential violations of the Regulations, Toll Global must promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation.

FOURTH, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth above, and the timely completion and submission of the results of the audit set forth above, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Toll Global. Accordingly, if Toll Global should fail to pay the civil penalty in a

timely manner or fail to complete and submit the results of the audit in a timely manner, the undersigned may issue an Order denying all of Toll Global's export privileges under the Regulations for a period of one year from, respectively, the date the penalty payment is due or the date by which the results of the completed audit are to be submitted.

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.<sup>6</sup>



Donald G. Salo, Jr.  
Deputy Assistant Secretary of Commerce  
for Export Enforcement

Issued this 28 day of July, 2011.

<sup>6</sup> Review and consideration of this matter have been delegated to the Deputy Assistant Secretary for Export Enforcement.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
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Toll Global Forwarding (USA) Inc. )  
1 Cross Island Plaza )  
Suite 203 )  
Rosedale, New York 11422 )  
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Respondent )  
\_\_\_\_\_

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Toll Global Forwarding (USA) Inc. (“Toll Global”), as successor to Baltrans Logistics, Inc.,<sup>1</sup> 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 (the “Regulations”),<sup>2</sup> issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).<sup>3</sup>

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

<sup>1</sup> In 2008, after the violations detailed herein occurred, Toll Global acquired Baltrans Logistics, Inc.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2005 through 2007. The Regulations governing the violations at issue are found in the 2005 through 2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005-07)). The 2011 Regulations set forth the procedures that apply to this matter.

<sup>3</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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

WHEREAS, BIS has issued a Proposed Charging Letter to Toll Global that alleges that Toll Global committed nine violations of the Regulations, specifically:

**Charges 1-8            15 C.F.R. § 764.2(b): Causing, Aiding and Abetting an Act Prohibited by the Regulations**

On eight occasions between on or about August 12, 2005 and on or about September 28, 2006, Toll Global caused, aided, and abetted acts prohibited by the Regulations. Specifically, Toll Global, acting as a freight forwarder, arranged for the export of electronic components designated as EAR99 items<sup>4</sup> and subject to the Regulations, from the United States to Bharat Dynamics Limited, an entity in India listed on BIS's Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Toll Global's actions caused, aided and abetted the export of the electronic components without the Department of Commerce licenses required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Toll Global committed eight violations of Section 764.2(b) of the Regulations.

**Charge 9                15 C.F.R. § 764.2(b): Causing, Aiding and Abetting an Act Prohibited by the Regulations**

On or about November 29, 2007, Toll Global caused, aided, and abetted acts prohibited by the Regulations. Specifically, Toll Global, acting as a freight forwarder, arranged for the export of platinum pellets, designated as EAR99 items<sup>5</sup> and subject to the Regulations, from the United States to Solid State Physics Laboratory, an entity in India listed on BIS's Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Toll Global's actions caused, aided and abetted the export of the platinum pellets without the Department of Commerce license required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Toll Global committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, Toll Global 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;

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<sup>4</sup> EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2005-06)

<sup>5</sup> EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2007).

WHEREAS, Toll Global 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, Toll Global enters into this Agreement voluntarily and with full knowledge of its rights after having consulted with counsel;

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

WHEREAS, Toll Global neither admits nor denies the allegations contained in the Proposed Charging Letter;

WHEREAS, Toll Global wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

WHEREAS, Toll Global agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Toll Global, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against Toll Global in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:
  - a. Toll Global shall be assessed a civil penalty in the amount of \$200,000, which shall be paid to the U.S. Department of Commerce within 90 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.

b. Toll Global shall complete an external audit of its export controls compliance program, as set forth in this paragraph. The results of the audit, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, Suite 725, 160 W. Santa Clara Street, San Jose, CA 95113 ("BIS San Jose Field Office"). The audit shall cover the 12-month period beginning on the date of the Order, and the related report shall be due to the BIS San Jose Field Office no later than fourteen (14) months from the date of the Order. Said audit shall be in substantial compliance with the EMS sample audit module, and shall include an assessment of Toll Global's compliance with the Regulations. The EMS sample audit module is available on the BIS web site at [http://www.bis.doc.gov/complianceandenforcement/revise\\_emcp\\_audit.pdf](http://www.bis.doc.gov/complianceandenforcement/revise_emcp_audit.pdf). In addition, where said audit identifies actual or potential violations of the Regulations, Toll Global must promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation.

c. The full and timely payment of the civil penalty in accordance with the payment schedule agreed to in Paragraph 2.a above, and the timely completion and submission of the results of the audit agreed to in Paragraph 2.b above, are hereby made conditions to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Toll Global. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Toll Global's export privileges for a period of one year from the date on which the payment is due. Failure to complete and submit the results of the audit agreed to in Paragraph 2.b above within the deadline established in



that Paragraph also may result in the denial of all of Toll Global's export privileges for a period of one year from the date on which the results of the completed audit are to be submitted.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Toll Global 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 issued), 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 issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Toll Global also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, for the time period from the date of the Order, if issued, until the later of the date Toll Global pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement or the date Toll Global submits the results of the completed compliance audit agreed to in Paragraph 2.b of this Agreement, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter, or in connection with collection of the civil penalty or enforcement of the Agreement and Order, if issued.

4. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, and timely completion and submission of the results of the audit as set forth in Paragraph 2.b above, BIS will not initiate any further administrative proceeding against Toll Global in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, 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 issued; 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 issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

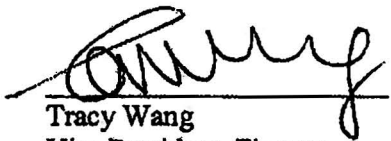
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Douglas R. Hassebrock  
Director  
Office of Export Enforcement

Date: 28 Jul, 2011



Tracy Wang  
Vice President, Finance  
Toll Global Forwarding (USA) Inc.

Date: July 27, 2011

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Toll Global Forwarding (USA) Inc.  
1 Cross Island Plaza  
Suite 203  
Rosedale, New York 11422

*Attention: David Wai, President*

Dear Mr. Wai:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Toll Global Forwarding (USA) Inc., of Rosedale, New York (“Toll Global”), 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 Toll Global committed the following violation:

**Charge 1                      15 C.F.R. § 764.2(b): Causing, Aiding and Abetting an Act Prohibited by the Regulations**

On one occasion on or about October 22, 2009, Toll Global caused, aided, and abetted an act prohibited by the Regulations. Specifically, Toll Global, acting as a freight forwarder, arranged for the export of electronic components designated as EAR99 items,<sup>3</sup> subject to the Regulations and valued at \$6,041, from the United States to Solid State Physics Lab, an entity in India that is listed on BIS’s Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Toll Global’s actions caused, aided and abetted the export of the electronic components without the Department of Commerce licenses required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Toll Global committed one violation of Section 764.2(b) of the Regulations.

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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 (2011). The violation charged occurred in 2009. The Regulations governing the violation at issue are found in the 2009 version of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2009). The 2011 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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. § 1701 *et seq.*).

<sup>3</sup> EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2009).

Accordingly, Toll Global 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 Toll Global fails to answer the charge 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 (2011). If Toll Global defaults, the Administrative Law Judge may find the charge alleged in this letter to be true without a hearing or further notice to Toll Global. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty based on the charge in this letter.

Toll Global is hereby 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 (2011). Toll Global 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 (2011).

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

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2011). Should Toll Global have a proposal to settle this case, Toll Global or its 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, Toll Global'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 Toll Global's answer must be served on BIS at the following address:

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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).

Toll Global Forwarding (USA) Inc.  
Proposed Charging Letter  
Page 3 of 3

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

Thea Kendler is the attorney representing BIS in this case; any communications that Toll Global may wish to have concerning this matter should occur through her. Ms. Kendler may be contacted by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock  
Director  
Office of Export Enforcement