

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

In the Matter of:

Chemical Partners Europe S.A.
Boulevard Leopold II-184D
B-1080 Brussels, Belgium

Respondent

ORDER RELATING TO
CHEMICAL PARTNERS EUROPE S.A.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Chemical Partners Europe S.A. (“CPE”), of Brussels, Belgium, of its intention to initiate an administrative proceeding against CPE pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to CPE that alleges that CPE committed six violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The charged violations occurred in 2010-2011. The Regulations governing the violations at issue are found in the 2010-2011 versions of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2010-2011). The 2015 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>). 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 7, 2015 (80 Fed. Reg. 48,233 (Aug. 11, 2015)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2006 & Supp. IV 2010)).

Charges 1-6 15 C.F.R. § 764.2(h) – Evasion

On six occasions between on or about January 3, 2010, and on or about March 20, 2011, CPE took actions with the intent to evade the Regulations in connection with the export of coatings, pigments and paints (“the items”) from the United States to Iran via Belgium, including items that are suitable for use in nuclear facilities or have marine applications. The items were subject to the Regulations,³ and valued at approximately \$244,358. The items also were subject to the Iranian Transactions Regulations (“ITR”).⁴

Pursuant to Section 746.7 of the Regulations, no person may export or reexport an item subject to both the Regulations and the ITR without prior authorization by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Under Section 560.204 of the ITR,⁵ the exportation, reexportation, sale or supply, directly or indirectly, from the United States of any goods to Iran was prohibited at all times pertinent hereto, including the exportation, reexportation, sale or supply of items from the United States to a third country, such as Belgium, undertaken with knowledge or reason to know that the items were intended for supply, transshipment, or reexportation, directly or indirectly, to Iran.

CPE concealed the fact that the items were destined to Iran when ordering and/or buying the items directly from the United States. Consequently, no OFAC authorization was obtained in connection with these exports and the shipper’s export declarations filed with the U.S. Government falsely listed CPE as the ultimate consignee and Belgium as the country of ultimate destination. Nonetheless, once the items arrived in Belgium from the United States, CPE took possession or custody of the items and thereafter transferred and/or forwarded them to Iran.

In so doing, CPE committed six violations of Section 764.2(h) of the Regulations.

WHEREAS, BIS and CPE 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;

³ The items were designated EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 772.1 (2010-2011).

⁴ 31 C.F.R. Part 560 (2010-2011).

⁵ Administered by OFAC, the ITR were renamed the Iranian Transactions and Sanctions Regulations (“ITSR”) and reissued in their entirety by OFAC on October 22, 2012. *See* 77 Fed. Reg. 64,664 (Oct. 22, 2012). Section 560.204 remains unchanged in pertinent part. *See* 31 C.F.R. §560.204 (2010-2011 and 2015).

IT IS THEREFORE ORDERED:

FIRST, CPE shall be assessed a civil penalty in the amount of \$350,000. CPE shall pay the U.S. Department of Commerce in two installments of: \$175,000 not later than April 15, 2016, and \$175,000 not later than July 15, 2016. If the first installment payment, due April 15, 2016, is not fully and timely made, the remaining scheduled installment payment may become due and owing immediately.

SECOND, 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, CPE 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, the full and timely payment of the civil penalty in accordance with the payment schedule 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 CPE. Accordingly, if CPE should fail to pay the civil penalty in a full and timely manner as set forth above, the undersigned may issue an order denying all of CPE's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, CPE shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect CPE's testimonial obligations in any

Chemical Partners Europe S.A.
Order
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proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

FIFTH, 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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 14th day of March, 2016.

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

In the Matter of:

Chemical Partners Europe S.A.
Boulevard Leopold II-184D
B-1080 Brussels, Belgium

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Chemical Partners Europe S.A. ("CPE"), of Brussels, Belgium, 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"),¹ issued pursuant to the Export Administration Act of 1979, as amended (the "Act").²

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

WHEREAS, BIS has issued a Proposed Charging Letter to CPE that alleges that CPE committed six violations of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The violations alleged occurred in 2010-2011. The Regulations governing the violations at issue are found in the 2010-2011 versions of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2010-2011). The 2015 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>). 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 7, 2015 (80 Fed. Reg. 48,233 (Aug. 11, 2015)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2006 & Supp. IV 2010)).

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Charges I-6 15 C.F.R. § 764.2(h) – Evasion

On six occasions between on or about January 3, 2010, and on or about March 20, 2011, CPE took actions with the intent to evade the Regulations in connection with the export of coatings, pigments and paints (“the items”) from the United States to Iran via Belgium, including items that are suitable for use in nuclear facilities or have marine applications. The items were subject to the Regulations,³ and valued at approximately \$244,358. The items also were subject to the Iranian Transactions Regulations (“ITR”).⁴

Pursuant to Section 746.7 of the Regulations, no person may export or reexport an item subject to both the Regulations and the ITR without prior authorization by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Under Section 560.204 of the ITR,⁵ the exportation, reexportation, sale or supply, directly or indirectly, from the United States of any goods to Iran was prohibited at all times pertinent hereto, including the exportation, reexportation, sale or supply of items from the United States to a third country, such as Belgium, undertaken with knowledge or reason to know that the items were intended for supply, transshipment, or reexportation, directly or indirectly, to Iran.

CPE concealed the fact that the items were destined to Iran when ordering and/or buying the items directly from the United States. Consequently, no OFAC authorization was obtained in connection with these exports and the shipper’s export declarations filed with the U.S. Government falsely listed CPE as the ultimate consignee and Belgium as the country of ultimate destination. Nonetheless, once the items arrived in Belgium from the United States, CPE took possession or custody of the items and thereafter transferred and/or forwarded them to Iran.

In so doing, CPE committed six violations of Section 764.2(h) of the Regulations.

WHEREAS, CPE has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

³ The items were designated EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 772.1 (2010-2011).

⁴ 31 C.F.R. Part 560 (2010-2011).

⁵ Administered by OFAC, the ITR were renamed the Iranian Transactions and Sanctions Regulations (“ITSR”) and reissued in their entirety by OFAC on October 22, 2012. *See* 77 Fed. Reg. 64,664 (Oct. 22, 2012). Section 560.204 remains unchanged in pertinent part. *See* 31 C.F.R. §560.204 (2010-2011 and 2015).



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

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

WHEREAS, CPE neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, CPE 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 CPE, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against CPE in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. CPE shall be assessed a civil penalty in the amount of \$350,000.

CPE shall pay the U.S. Department of Commerce in two installments of:

\$175,000 not later than April 15, 2016, and \$175,000 not later than July 15, 2016.

Payment shall be made in the manner specified in the attached instructions. If the first installment payment, due by April 15, 2016, is not fully and timely made, the



remaining scheduled installment payment may become due and owing immediately.

b. The full and 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, license exception, permission, or privilege granted, or to be granted, to CPE. Failure to make full and timely payment of the civil penalty in accordance with the payment schedule set forth in Paragraph 2.a may result in the denial of all of CPE's export privileges under the Regulations for a period of one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, CPE 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) receive 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. CPE also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, 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 this Agreement and the Order, if issued, from the date of the Order until CPE pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.



4. CPE shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect CPE's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a, BIS will not initiate any further administrative proceeding against CPE in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

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. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

10. 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 of Export Enforcement

CHEMICAL PARTNERS EUROPE S.A.



Ralph Raffoui
Chief Executive Officer
Chemical Partners Europe S.A.


Chemical Partners Europe S.A.

Date: 14 MAR 16

Date: March 04, 2016

PROPOSED CHARGING LETTER
BY REGISTERED MAIL – RETURN RECEIPT REQUESTED

Chemical Partners Europe S.A.
Boulevard Leopold II-184D
B-1080 Brussels, Belgium

Attention: Mr. Ralph Raffoul
Chief Executive Officer

Dear Mr. Raffoul,

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Chemical Partners Europe (“CPE”), of Brussels, Belgium, has committed six violations of the Export Administration Regulations (the “Regulations”),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS alleges that CPE committed the following violations:

Charges 1-6 15 C.F.R. § 764.2(h) – Evasion

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on six occasions between on or about January 3, 2010, and on or about March 20, 2011, CPE took actions with the intent to evade the Regulations in connection with the export of coatings, pigments and paints (“the items”) from the United States to Iran via Belgium, including items that are suitable for use in nuclear facilities or have marine applications. The items were subject to the Regulations,³ and valued at approximately \$244,358. The items also were subject to the Iranian Transactions Regulations (“ITR”).⁴

Pursuant to Section 746.7 of the Regulations, no person may export or reexport an item subject to both the Regulations and the ITR without prior authorization by the U.S. Department of the

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The violations alleged occurred in 2010 and 2011. The Regulations governing the violations at issue are found in the 2010 and 2011 versions of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2010-2011). The 2015 Regulations govern the procedural aspects of this case.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>). 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 7, 2015 (80 Fed. Reg. 48,233 (Aug. 11, 2015)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2006 & Supp. IV 2010)).

³ The items were designated EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 772.1 (2010-2011).

⁴ 31 C.F.R. Part 560 (2010-2011).

Treasury's Office of Foreign Assets Control ("OFAC"). Under Section 560.204 of the ITR,⁵ the exportation, reexportation, sale or supply, directly or indirectly, from the United States of any goods to Iran was prohibited at all times pertinent hereto, including the exportation, reexportation, sale or supply of items from the United States to a third country, such as Belgium, undertaken with knowledge or reason to know that the items were intended for supply, transshipment, or reexportation, directly or indirectly, to Iran.

CPE concealed the fact that the items were destined to Iran when ordering and/or buying the items directly from the United States. Consequently, no OFAC authorization was obtained in connection with these exports and the shipper's export declarations filed with the U.S. Government falsely listed CPE as the ultimate consignee and Belgium as the country of ultimate destination. Nonetheless, once the items arrived in Belgium from the United States, CPE took possession or custody of the items and thereafter transferred and/or forwarded them to Iran.

In so doing, CPE committed six violations of Section 764.2(h) of the Regulations.

* * * * *

Accordingly, CPE is hereby notified that an administrative proceeding is instituted against them 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 \$250,000 per violation or twice the value of the transaction that is the basis of the violation;⁶
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

If CPE 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 CPE defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to CPE. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

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

⁵ Administered by OFAC, the ITR were renamed the Iranian Transactions and Sanctions Regulations ("ITSR") and reissued in their entirety by OFAC on October 22, 2012. *See* 77 Fed. Reg. 64,664 (Oct. 22, 2012). Section 560.204 remains unchanged in pertinent part. *See* 31 C.F.R. §560.204 (2010-2011 and 2015).

⁶ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

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

CPE is further notified that under the Small Business Regulatory Enforcement Flexibility Act, CPE 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 U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, CPE'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 CPE's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Gregory Michelsen Esq.
Room H-3839
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

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

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement

**Chemical Partners Europe S.A.
Schedule of Violations**

Charge	Export Date	Commodity	ECCN	Value/Item	Destination	Violation
1	1/3/2010	Paints, Pigments, Coatings	EAR99	\$21,874	Iran	15 CFR 764.2(h)
2	4/18/2010	Paints, Pigments, Coatings	EAR99	\$43,747	Iran	15 CFR 764.2(h)
3	6/20/2010	Paints, Pigments, Coatings	EAR99	\$64,695	Iran	15 CFR 764.2(h)
4	8/15/2010	Paints, Pigments, Coatings	EAR99	\$43,130	Iran	15 CFR 764.2(h)
5	10/12/2010	Paints, Pigments, Coatings	EAR99	\$43,129	Iran	15 CFR 764.2(h)
6	3/20/2011	Paints, Pigments, Coatings	EAR99	\$27,783	Iran	15 CFR 764.2(h)
				\$244,358		