

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

In the Matter of:

GrafTech USA LLC
f/k/a C/G Electrodes LLC
800 Theresia Street
St. Mary's, PA 15857

Respondent

ORDER RELATING TO GRAFTECH USA LLC

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified GrafTech USA LLC, of St. Mary’s, Pennsylvania (“GrafTech”), formerly known as C/G Electrodes LLC, of its intention to initiate an administrative proceeding against GrafTech 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 GrafTech that alleges that GrafTech committed 23 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 (2011). The charged violations occurred in 2007-2008. The Regulations governing the violations at issue are found in the 2007-2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

² 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, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

**Charges 1-12 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by
Exporting Graphite Electrodes Controlled for Nuclear Non-
Proliferation Reasons to Libya Without the Required Licenses**

On 12 occasions between on or about January 29, 2008 and on or about December 3, 2008, GrafTech engaged in conduct prohibited by the Regulations by exporting graphite electrodes, items subject to the Regulations, classified under Export Control Classification Number 1C298 and controlled for nuclear non-proliferation reasons, and valued at approximately \$6.8 million in total, from the United States to Libya without the Department of Commerce licenses required by Section 742.3 of the Regulations. In so doing, GrafTech committed 12 violations of Section 764.2(a) of the Regulations.

**Charges 13-23 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by
Exporting Graphite Electrodes Controlled for Nuclear Non-
Proliferation Reasons to Libya Without the Required Licenses**

On 11 occasions between on or about July 27, 2007 and on or about July 25, 2008, GrafTech engaged in conduct prohibited by the Regulations by exporting graphite electrodes, items subject to the Regulations, classified under Export Control Classification Number 1C298 and controlled for nuclear non-proliferation reasons, and valued at approximately \$1.15 million in total, from the United States to Libya through Canada without the Department of Commerce licenses required by Section 742.3 of the Regulations. Pursuant to Section 734.2(b)(6) of the Regulations, the export or reexport of items subject to the Regulations that will transit through a country or be transshipped in a country to a new country or is intended for reexport to the new country, is deemed to be an export to the new country. In so doing, GrafTech committed 11 violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and GrafTech 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, GrafTech shall be assessed a civil penalty in the amount of \$275,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order.

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, GrafTech 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 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 GrafTech. Accordingly, if GrafTech should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an Order denying all of GrafTech's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 28th day of March, 2012.

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

In the Matter of:

GrafTech USA LLC
f/k/a C/G Electrodes LLC
800 Theresia Street
St. Mary's, PA 15857

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between GrafTech USA LLC, of St. Mary's, Pennsylvania, ("GrafTech"), formerly known as C/G Electrodes LLC, 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, GrafTech filed a voluntary self-disclosure with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

¹ 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 2007-2008. The Regulations governing the violations at issue are found in the 2007-2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

² 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, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

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

WHEREAS, BIS has issued a Proposed Charging Letter to GrafTech that alleges that GrafTech, as successor to C/G Electrodes LLC,³ committed 23 violations of the Regulations, specifically:

Charges 1-12 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by Exporting Graphite Electrodes Controlled for Nuclear Non-Proliferation Reasons to Libya Without the Required Licenses

On 12 occasions between on or about January 29, 2008 and on or about December 3, 2008, GrafTech engaged in conduct prohibited by the Regulations by exporting graphite electrodes, items subject to the Regulations, classified under Export Control Classification Number 1C298 and controlled for nuclear non-proliferation reasons, and valued at approximately \$6.8 million in total, from the United States to Libya without the Department of Commerce licenses required by Section 742.3 of the Regulations. In so doing, GrafTech committed 12 violations of Section 764.2(a) of the Regulations.

Charges 13-23 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by Exporting Graphite Electrodes Controlled for Nuclear Non-Proliferation Reasons to Libya Without the Required Licenses

On 11 occasions between on or about July 27, 2007 and on or about July 25, 2008, GrafTech engaged in conduct prohibited by the Regulations by exporting graphite electrodes, items subject to the Regulations, classified under Export Control Classification Number 1C298 and controlled for nuclear non-proliferation reasons, and valued at approximately \$1.15 million in total, from the United States to Libya through Canada without the Department of Commerce licenses required by Section 742.3 of the Regulations. Pursuant to Section 734.2(b)(6) of the Regulations, the export or reexport of items subject to the Regulations that will transit through a country or be transhipped in a country to a new country or is intended for reexport to the new country, is deemed to be an export to the new country. In so doing, GrafTech committed 11 violations of Section 764.2(a) of the Regulations.

³ On Nov. 30, 2010, after the violations detailed herein occurred, GrafTech International Ltd. acquired C/G Electrodes LLC through a series of mergers that resulted in C/G Electrodes LLC as the surviving entity. Effective the same day, C/G Electrodes LLC changed its name to GrafTech USA LLC.

WHEREAS, GrafTech 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;

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

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

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

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

WHEREAS, GrafTech 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 GrafTech under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanction shall be imposed against GrafTech in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. GrafTech shall be assessed a civil penalty in the amount of \$275,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.

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 GrafTech. Failure to make full and timely payment of the civil penalty may result in the denial of all of GrafTech's export privileges under the Regulations for 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, GrafTech 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. GrafTech 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.

4. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, BIS will not initiate any further administrative proceeding against

GrafTech in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. 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.

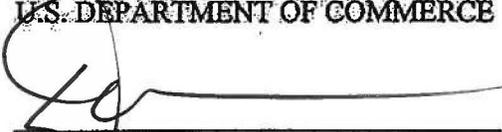
6. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

7. 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.

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

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 of Export Enforcement

Date: 3/27/2012

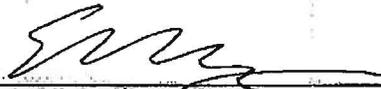
GRAFTECH USA LLC



Craig S. Shular ^{10th}
President

Date: March 26, 2012

Reviewed and approved by:



Eric McClafferty, Esq.
Kelley Drye & Warren LLC
Counsel for GrafTech USA LLC

Date: 3/26/2012

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

GrafTech USA LLC
f/k/a C/G Electrodes LLC
800 Theresia Street
St. Mary's, PA 15857

Attention: Craig S. Shular
President

Dear Mr. Shular:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that GrafTech USA LLC of St. Mary's, Pennsylvania ("GrafTech"), formerly known as and successor to C/G Electrodes LLC,¹ has committed 23 violations of the Export Administration Regulations (the "Regulations"),² which issued under the authority of the Export Administration Act of 1979, as amended (the "Act").³ Specifically, BIS charges that GrafTech committed the following violations:

**Charges 1-12 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by
Exporting Graphite Electrodes Controlled for Nuclear Non-
Proliferation Reasons to Libya Without the Required Licenses**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 12 occasions between on or about January 29, 2008 and on or about December 3, 2008, GrafTech engaged in conduct prohibited by the Regulations by

¹ On Nov. 30, 2010, after the violations detailed herein occurred, GrafTech International Ltd. acquired C/G Electrodes LLC through a series of mergers that resulted in C/G Electrodes LLC as the surviving entity. Effective the same day, C/G Electrodes LLC changed its name to GrafTech USA LLC.

² 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 2007 through 2008. The Regulations governing the violations at issue are found in the 2007 through 2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2007-2008)). The 2011 Regulations govern the procedural aspects of this case.

³ 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001, the Act has been in lapse and 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 being that of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

exporting graphite electrodes, items subject to the Regulations, classified under Export Control Classification Number 1C298 and controlled for nuclear non-proliferation reasons, and valued at approximately \$6.8 million in total, from the United States to Libya without the Department of Commerce licenses required by Section 742.3 of the Regulations. In so doing, GrafTech committed 12 violations of Section 764.2(a) of the Regulations.

Charges 13-23

15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by Exporting Graphite Electrodes Controlled for Nuclear Non-Proliferation Reasons to Libya Without the Required Licenses

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 11 occasions between on or about July 27, 2007 and on or about July 25, 2008, GrafTech engaged in conduct prohibited by the Regulations by exporting graphite electrodes, items subject to the Regulations, classified under Export Control Classification Number 1C298 and controlled for nuclear non-proliferation reasons, and valued at approximately \$1.15 million in total, from the United States to Libya through Canada without the Department of Commerce licenses required by Section 742.3 of the Regulations. Pursuant to Section 734.2(b)(6) of the Regulations, the export or reexport of items subject to the Regulations that will transit through a country or be transshipped in a country to a new country or is intended for reexport to the new country, is deemed to be an export to the new country. In so doing, GrafTech committed 11 violations of Section 764.2(a) of the Regulations.

* * * * *

Accordingly, GrafTech 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 and any other liability, sanction, or penalty available under law, including but not limited to 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;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

If GrafTech 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. 15 C.F.R. §§ 766.6 and 766.7 (2011). If GrafTech defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to GrafTech. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

GrafTech 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. 15 C.F.R. § 766.6 (2011). GrafTech 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).

The Regulations provide for settlement without a hearing. 15 C.F.R. § 766.18 (2011). Should GrafTech have a proposal to settle this case, GrafTech or its representative should transmit it through the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, GrafTech'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 GrafTech's answer must be served on BIS at the following address:

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

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

Sincerely,

Doug R. Hassebrock
Director
Office of Export Enforcement

Enclosure

GRAFTECH USA LLC - Schedule of Violations

Charge Number	Shipment Date	Order	Destination	Item	ECCN	Quantity	Value	Violation
1	1/29/2008	E27132H-K; O-T	Libya	Electrode	1C298	160	\$1,109,400	15 C.F.R. § 764.2(a)
2	2/5/2008	E27157A-E	Libya	Electrode	1C298	80	\$556,791	15 C.F.R. § 764.2(a)
3	2/23/2008	E27157K-T	Libya	Electrode	1C298	160	\$1,112,516	15 C.F.R. § 764.2(a)
4	2/10/2008	E27157F-J	Libya	Electrode	1C298	80	\$557,381	15 C.F.R. § 764.2(a)
5	5/22/2008	E27204F-G	Libya	Electrode	1C298	32	\$229,839	15 C.F.R. § 764.2(a)
6	5/24/2008	E27204H-J	Libya	Electrode	1C298	48	\$347,523	15 C.F.R. § 764.2(a)
7	9/14/2008	E27206A-C; F	Libya	Electrode	1C298	64	\$413,490	15 C.F.R. § 764.2(a)
8	9/16/2008	E27206D-E; G-J	Libya	Electrode	1C298	96	\$619,453	15 C.F.R. § 764.2(a)
9	11/13/2008	E27207A-F	Libya	Electrode	1C298	96	\$549,551	15 C.F.R. § 764.2(a)
10	11/16/2008	E27207G-J	Libya	Electrode	1C298	64	\$372,617	15 C.F.R. § 764.2(a)
11	12/1/2008	E27286A-E	Libya	Electrode	1C298	80	\$461,619	15 C.F.R. § 764.2(a)
12	12/3/2008	E27286F-J	Libya	Electrode	1C298	80	\$461,680	15 C.F.R. § 764.2(a)
13	7/27/2007	E26987A	Libya (via Canada)	Electrode	1C298	16	\$90,992	15 C.F.R. § 764.2(a)
14	7/30/2007	E26987D	Libya (via Canada)	Electrode	1C298	16	\$90,799	15 C.F.R. § 764.2(a)
15	7/31/2007	E26987F	Libya (via Canada)	Electrode	1C298	16	\$90,864	15 C.F.R. § 764.2(a)
16	8/1/2007	E26987I	Libya (via Canada)	Electrode	1C298	16	\$90,469	15 C.F.R. § 764.2(a)
17	1/11/2008	E27132B	Libya (via Canada)	Electrode	1C298	16	\$110,180	15 C.F.R. § 764.2(a)
18	1/14/2008	E27132F	Libya (via Canada)	Electrode	1C298	16	\$110,934	15 C.F.R. § 764.2(a)
19	1/22/2008	E27132N	Libya (via Canada)	Electrode	1C298	16	\$112,000	15 C.F.R. § 764.2(a)
20	5/6/2008	E27204D	Libya (via Canada)	Electrode	1C298	16	\$114,932	15 C.F.R. § 764.2(a)
21	7/23/2008	E27205C	Libya (via Canada)	Electrode	1C298	16	\$114,441	15 C.F.R. § 764.2(a)
22	7/24/2008	E27205F	Libya (via Canada)	Electrode	1C298	16	\$114,437	15 C.F.R. § 764.2(a)
23	7/25/2008	E27205I	Libya (via Canada)	Electrode	1C298	16	\$114,625	15 C.F.R. § 764.2(a)