

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

In the Matter of:

EGYPTAIR Airlines Company
EGYPTAIR Administrative Complex
North Building
3rd Floor Finger 3 Room No. 5
International Airport Road
Cairo, Egypt

Respondent

ORDER RELATING TO
EGYPTAIR AIRLINES COMPANY

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified EGYPTAIR Airlines Company, of Cairo, Egypt (“EGYPTAIR”), of its intention to initiate an administrative proceeding against EGYPTAIR 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 EGYPTAIR that alleges that EGYPTAIR committed two 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). The 2015 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 7, 2015 (80 Fed. Reg. 48233 (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 1-2 15 C.F.R. § 764.2(a): Reexport of Aircraft to Sudan Without
the Required Licenses**

Between in or about August 2010 and February 2011, EGYPTAIR engaged in conduct prohibited by the Regulations when it reexported items subject to the Regulations to Sudan without the required licenses. Pursuant to lease agreements between EGYPTAIR and Sudan Airways, EGYPTAIR reexported the items, two Boeing 737-566 aircraft, classified under Export Control Classification Number 9A991.b, and controlled for Anti-Terrorism reasons, from Egypt to Sudan without the U.S. Department of Commerce licenses required by Section 742.10 of the Regulations. The aircraft were flown under Sudan Airways flight numbers from August 2010 to February 2011.

In reexporting the items to Sudan without the required licenses, EGYPTAIR committed two violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and EGYPTAIR 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, EGYPTAIR shall be assessed a civil penalty in the amount of \$140,000. EGYPTAIR shall pay the U.S. Department of Commerce in four installments of: \$35,000 not later than February 1, 2016; \$35,000 not later than May 2, 2016; \$35,000 not later than August 1, 2016; and \$35,000 not later than November 1, 2016. If any of the four installment payments is not fully and timely made, any remaining scheduled installment payments 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, EGYPTAIR 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 EGYPTAIR. Accordingly, if EGYPTAIR 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 EGYPTAIR's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, EGYPTAIR 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 this Order. The foregoing does not affect EGYPTAIR'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.

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 23rd day of December, 2015.

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

In the Matter of:

EGYPTAIR Airlines Company
EGYPTAIR Administrative Complex
North Building
3rd Floor Finger 3 Room No. 5
International Airport Road
Cairo, Egypt

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between EGYPTAIR Airlines Company, of Cairo, Egypt ("EGYPTAIR"), 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 EGYPTAIR of its intentions to initiate an administrative proceeding against EGYPTAIR, pursuant to the Act and the Regulations;

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). The 2015 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 7, 2015 (80 Fed. Reg. 48233 (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)).



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

Charges 1-2 15 C.F.R. § 764.2(a): Reexport of Aircraft to Sudan Without the Required Licenses

Between in or about August 2010 and February 2011, EGYPTAIR engaged in conduct prohibited by the Regulations when it reexported items subject to the Regulations to Sudan without the required licenses. Pursuant to lease agreements between EGYPTAIR and Sudan Airways, EGYPTAIR reexported the items, two Boeing 737-566 aircraft, classified under Export Control Classification Number 9A991.b, and controlled for Anti-Terrorism reasons, from Egypt to Sudan without the U.S. Department of Commerce licenses required by Section 742.10 of the Regulations. The aircraft were flown under Sudan Airways flight numbers from August 2010 to February 2011.

In reexporting the items to Sudan without the required licenses, EGYPTAIR committed two violations of Section 764.2(a) of the Regulations.

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

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

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

WHEREAS, EGYPTAIR 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 EGYPTAIR, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanction shall be imposed against EGYPTAIR in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:
 - a. EGYPTAIR shall be assessed a civil penalty in the amount of \$140,000. EGYPTAIR shall pay the U.S. Department of Commerce in four installments of: \$35,000 not later than February 1, 2016; \$35,000 not later than May 2, 2016; \$35,000 not later than August 1, 2016; and \$35,000 not later than November 1, 2016. Payment shall be made in the manner specified in the attached instructions. If any of the four installment payments is not fully and timely made, any remaining scheduled installment payments 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 EGYPTAIR. Failure to make full and timely payment of the civil penalty as set forth in Paragraph 2.a may result in the denial of all of EGYPTAIR's export privileges under the Regulations for one year from the date of the failure to make such payment.

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3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, EGYPTAIR 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. EGYPTAIR 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 EGYPTAIR pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

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

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[Signature]

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.

Two handwritten signatures are present below the text of paragraph 9. The first signature is a stylized, cursive mark, and the second is a more complex, scribbled mark.

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.

[Handwritten signature]

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

[Handwritten signature]

Douglas R. Hassebrock
Director of Export Enforcement

EGYPTAIR AIRLINES COMPANY

[Handwritten signature]

Captain Hesham El-Nahas
Chairman and CEO
EGYPTAIR Airlines Company



Date: 23 Nov 15

Date: 17 November 2015

Reviewed and approved by:

[Handwritten signature]

John P. Barker, Esq.
Arnold & Porter LLP
Counsel for EGYPTAIR

Date: November 17, 2015

[Handwritten initials]

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

EGYPTAIR Airlines Company
EGYPTAIR Administrative Complex North Building
3rd Floor Finger 3 Room No. 5
International Airport Road
Cairo, Egypt

*Attention: Captain Hesham El-Nahas
Chairman and Chief Executive Officer*

Dear Mr. El-Nahas,

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that EGYPTAIR Airlines Company (“EGYPTAIR”) of Cairo, Egypt, has committed two violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS alleges that EGYPTAIR committed the following violations:

Charges 1-2 15 C.F.R. § 764.2(a) – Reexport of Aircraft to Sudan Without the Required Licenses

Between in or about August 2010 and February 2011, EGYPTAIR engaged in conduct prohibited by the Regulations when it reexported items subject to the Regulations to Sudan without the required licenses. Pursuant to lease agreements between EGYPTAIR and Sudan Airways, EGYPTAIR reexported the items, two Boeing 737-566 aircraft, classified under Export Control Classification Number 9A991.b, and controlled for Anti-Terrorism reasons, from Egypt to Sudan without the U.S. Department of Commerce

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 from 2010 to 2011. The Regulations governing the violation at issue are found in the 2010 and 2011 version 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. 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 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).

licenses required by Section 742.10 of the Regulations. The aircraft were flown under Sudan Airways flight numbers from August 2010 to February 2011.

In reexporting the items to Sudan without the required licenses, EGYPTAIR committed two violations of Section 764.2(a) of the Regulations.

* * * * *

Accordingly, EGYPTAIR 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, 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;³
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

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

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

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

EGYPTAIR is further notified that under the Small Business Regulatory Enforcement Flexibility Act, EGYPTAIR 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/>.

³ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

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

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

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

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement