

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

\_\_\_\_\_  
In the Matter of: )  
 )  
Hardinge, Inc. )  
One Hardinge Drive )  
Elmira, NY 14902-1507 )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO HARDINGE, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Hardinge, Inc. (“Hardinge”), of its intention to initiate an administrative proceeding against Hardinge pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup> through issuance of a proposed charging letter to Hardinge that alleged that Hardinge committed one violation of the Regulations. Specifically, the charge is:

<sup>1</sup> The violation charged occurred in 2003. The Regulations governing the violation at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2007 Regulations govern the procedural aspects of this case.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”).

**Charge 1                    15 C.F.R. § 764.2(i): Failure to Comply with Recordkeeping Requirements.**

On or about October 23, 2003, Hardinge failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Hardinge failed to retain documents including export control documents, memoranda, notes, correspondence, contracts, invitations to bid, books of account, financial records, and/or other pertinent documents, in connection with an export of metalworking and/or machine tools, items subject to the Regulations, to Israel. In so doing, Hardinge committed one violation of Section 764.2(i).

WHEREAS, BIS and Hardinge have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$3,000 is assessed against Hardinge, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

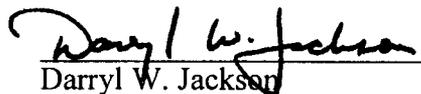
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Hardinge will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Hardinge. Accordingly, if Hardinge should fail to pay the civil penalty in a timely manner, the

undersigned may enter an Order denying all of Hardinge's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



\_\_\_\_\_  
Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 8<sup>th</sup> day of November, 2007.

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

In the Matter of: )  
 )  
Hardinge, Inc. )  
One Hardinge Drive )  
Elmira, NY 14902-1507 )  
 )  
Respondent )

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Hardinge, Inc. (referred to hereinafter as “Hardinge”) 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 (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup>

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

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

<sup>1</sup> The violation charged occurred in 2003. The Regulations governing the violation at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2007 Regulations govern the procedural aspects of this case.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”).

**Charge 1                    15 C.F.R. § 764.2(i): Failure to Comply with Recordkeeping Requirements.**

On or about October 23, 2003, Hardinge failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Hardinge failed to retain documents including export control documents, memoranda, notes, correspondence, contracts, invitations to bid, books of account, financial records, and/or other pertinent documents, in connection with an export of metalworking and/or machine tools, items subject to the Regulations, to Israel. In so doing, Hardinge committed one violation of Section 764.2(i).

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

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

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

WHEREAS, Hardinge neither admits nor denies the allegations contained in the proposed charging letter;

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1.     BIS has jurisdiction over Hardinge, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against Hardinge in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

a. Hardinge shall be assessed a civil penalty in the amount of \$3,000, all of which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.

b. The timely payment of the civil penalty agreed to in paragraph 2.a is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Hardinge. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Hardinge's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Hardinge hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$3,000 civil penalty, BIS will not initiate any further administrative proceeding against Hardinge in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

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

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the 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 entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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

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

HARDINGE, INC.



Thomas Madigan  
Acting Director  
Office of Export Enforcement

Date: November 5, 2007



J. Patrick Ervin  
President

Date: NOVEMBER 2, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Hardinge, Inc.  
One Hardinge Drive  
Elmira, NY 14902-1507

Attention: *J. Patrick Ervin*  
*President*

Dear Mr. Ervin:

The Bureau of Industry and Security, U. S. Department of Commerce ("BIS"), has reason to believe that Hardinge, Inc., of Elmira, New York, ("Hardinge") 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 Hardinge committed the following violation:

**Charge 1                    15 C.F.R. § 764.2(i): Failure to Comply with Recordkeeping Requirements.**

On or about October 23, 2003, Hardinge failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Hardinge failed to retain documents including export control documents, memoranda, notes, correspondence, contracts, invitations to bid, books of account, financial records, and/or other pertinent documents, in connection with an export of metalworking and/or machine tools, items subject to the Regulations, to Israel. In so doing, Hardinge committed one violation of Section 764.2(i).

\* \* \* \* \*

Accordingly, Hardinge 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:

---

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violation charged occurred in 2003. The Regulations governing the violation at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2007 Regulations govern the procedural aspects of this case.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA").

The maximum civil penalty allowed by law of up to \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Hardinge 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. (Regulations, Sections 766.6 and 766.7). If Hardinge defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Hardinge. 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.

Hardinge 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. (Regulations, Section 766.6). Hardinge is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

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

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Hardinge have a proposal to settle this case, Hardinge's representative should transmit it to 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, Hardinge'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

---

<sup>3</sup> See 15 C.F.R. § 6.4 (2001-2005), as supplemented by 68 Fed. Reg. 4,380 (Jan. 29, 2003), and 68 Fed. Reg. 69,001 (Dec. 11, 2003).

Hardinge, Inc.  
Proposed Charging Letter  
Page 3 of 3

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

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

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

Sincerely,

Kevin Delli-Colli  
Director  
Office of Export Enforcement