

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

In the Matter of:)
)
Telogy International NV)
Wayenborstraat 27)
Mechelen 2800)
Belgium)
)
Respondent)

ORDER RELATING TO TELOGY INTERNATIONAL NV

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Telogy International NV (“TI”), of its intention to initiate an administrative proceeding against TI 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 issuance of a proposed charging letter to TI that alleged that it committed 23 violations of the Regulations. Specifically, these charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violations occurred between 2003 and 2007. The Regulations governing the violations at issue are found in the 2003 through 2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2007)). The 2009 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. 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 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. §§ 1701 et seq).

Charges 1-22 15 C.F.R. § 764.2(a) – Unlicensed Reexports of Oscilloscopes to Israel

On 22 occasions between on or about April 29, 2003 and on or about March 23, 2007, TI engaged in conduct prohibited by the Regulations when it reexported oscilloscopes³ controlled for nuclear non-proliferation reasons from Belgium to Israel without the Department of Commerce license required by Section 742.3 of the Regulations. By engaging in this conduct, TI committed 22 violations of Section 764.2(a) of the Regulations.

Charge 23 15 C.F.R. § 764.2(a) – Unlicensed Reexport of Spectrum Analyzer to South Africa

On or about May 17, 2007, TI engaged in conduct prohibited by the Regulations when it reexported a spectrum analyzer⁴ controlled for national security reasons from Belgium to South Africa without the Department of Commerce license required by Section 742.4 of the Regulations. By engaging in this conduct, TI committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, BIS and TI 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 \$437,000 is assessed against TI. TI shall pay \$75,000 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. Payment of the remaining \$362,000 shall be suspended for a period of one (1) year from the date of issuance of the Order, and thereafter shall be waived, provided that during the period of suspension, TI has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$75,000 as set forth above.

³ The items are subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 3A292.

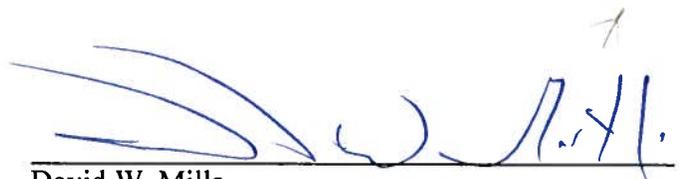
⁴ The item is subject to the Regulations and classified under ECCN 3A002.

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, TI 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 TI. Accordingly, if TI should fail to pay the civil penalty in a timely manner, the undersigned may issue an Order denying all of TI's export privileges for a period of one year from the date 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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 18 day of March, 2010.

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

In the Matter of:)
)
Telogy International NV)
Wayenborstraat 27)
Mechelen 2800)
Belgium)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Telogy International NV ("TI") 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, TI 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 (2009). The charged violations occurred between 2003 and 2007. The Regulations governing the violations at issue are found in the 2003 through 2007 versions of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2003-2007). The 2009 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. 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 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. §§ 1701 *et seq.*).

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

WHEREAS, BIS has issued a Proposed Charging Letter to TI that alleged that TI committed 23 violations of the Regulations, specifically:

Charges 1-22 15 C.F.R. § 764.2(a) – Unlicensed Reexports of Oscilloscopes to Israel

On 22 occasions between on or about April 29, 2003 and on or about March 23, 2007, TI engaged in conduct prohibited by the Regulations when it reexported oscilloscopes³ controlled for nuclear non-proliferation reasons from Belgium to Israel without the Department of Commerce license required by Section 742.3 of the Regulations. By engaging in this conduct, TI committed 22 violations of Section 764.2(a) of the Regulations.

Charge 23 15 C.F.R. § 764.2(a) – Unlicensed Reexport of Spectrum Analyzer to South Africa

On or about May 17, 2007, TI engaged in conduct prohibited by the Regulations when it reexported a spectrum analyzer⁴ controlled for national security reasons from Belgium to South Africa without the Department of Commerce license required by Section 742.4 of the Regulations. By engaging in this conduct, TI committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, TI 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;

WHEREAS, TI 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;

³ The items are subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 3A292.

⁴ The item is subject to the Regulations and classified under ECCN 3A002.

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

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

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

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

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

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

a. TI shall be assessed a civil penalty in the amount of \$437,000. TI shall pay \$75,000 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. Payment of the remaining \$362,000 shall be suspended for a period of one (1) year from the date of issuance of the Order and thereafter shall be waived, provided that during the period of suspension, TI has committed no

violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$75,000 as set forth above.

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 TI.

Failure to make timely payment of the civil penalty set forth above may result in the denial of all of TI'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, TI 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.

4. BIS agrees that, upon issuance of the Order, it will not initiate any further administrative proceeding against TI 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 it respective party to the terms and conditions set forth herein.

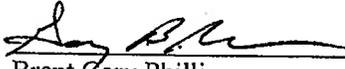
BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



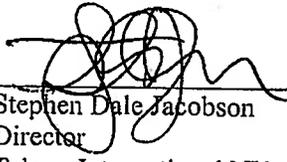
John Sonderman
Acting Director
Office of Export Enforcement

Date: 3/15, 2010

TELOGY INTERNATIONAL NV



Brent Gary Phillips
Director
Tely International NV



Stephen Dale Jacobson
Director
Tely International NV

Date: 9 MAR, 2010

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Telogy International NV
Wayenborstraat 27
Mechelen 2800
Belgium

Attention: Mr. Brent Gary Phillips, Director

Dear Mr. Phillips:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Telogy International NV, of Belgium (“TI”), committed 23 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 charges that TI committed the following violations:

Charges 1-22 15 C.F.R. § 764.2(a) – Unlicensed Reexports of Oscilloscopes to Israel

As further described in the attached Schedule of Violations, which is incorporated herein by reference, on 22 occasions between on or about April 29, 2003 and on or about March 23, 2007, TI engaged in conduct prohibited by the Regulations when it reexported oscilloscopes³ controlled for nuclear non-proliferation reasons from Belgium to Israel without the Department of Commerce license required by Section 742.3 of the Regulations. By engaging in this conduct, TI committed 22 violations of Section 764.2(a) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The violations charged occurred between 2003 and 2007. The Regulations governing the violation at issue are found in the 2003 through 2007 versions of the Code of Federal Regulations. *See* 15 C.F.R. Parts 730-774 (2003-2007). The 2009 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. 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 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).

³ The items are subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 3A292.

Charge 23 **15 C.F.R. § 764.2(a) – Unlicensed Reexport of Spectrum Analyzer to South Africa**

As further described in the attached Schedule of Violations, which is incorporated herein by reference, on one occasion on or about May 17, 2007, TI engaged in conduct prohibited by the Regulations when it reexported a spectrum analyzer⁴ controlled for national security reasons from Belgium to South Africa without the Department of Commerce license required by Section 742.4 of the Regulations. By engaging in this conduct, TI committed one violation of Section 764.2(a) of the Regulations.

* * * * *

Accordingly, TI is hereby notified that an administrative proceeding is instituted against TI 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;⁵
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If TI 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 (2009). If TI defaults, the Administrative Law Judge may find the charges alleged in this letter to be true without a hearing or further notice to TI. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty based on the charge in this letter.

TI is further notified that it is entitled to an agency hearing on the record if he files a written demand for one with its answer. *See* 15 C.F.R. § 766.6 (2009). TI 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 (2009).

TI is additionally notified that under the Small Business Regulatory Enforcement Flexibility Act, it may be eligible for assistance from the Office of the National

⁴ The item is subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 3A002.

⁵ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Telogy International NV
Proposed Charging Letter
Page 3

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. *See* 15 C.F.R. § 766.18 (2009). Should TI have a proposal to settle this case, TI 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, TI'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 TI's answer must be served on BIS at the following address:

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

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

Sincerely,

John Sonderman
Acting Director
Office of Export Enforcement

Telogy International Schedule of Violations

Charge	Date of Re-Export	End User	Commodity	S/N	ECCN	Value
1	4/29/03	Israel	Tektronix TDS 7104	B020764	3A292	\$20,900
2	8/12/03	Israel	Tektronix TDS 7404	B010486	3A292	\$60,500
3	11/4/03	Israel	Tektronix TDS 540B	B010471	3A292	\$3,027
4	12/16/03	Israel	Tektronix TDS 7104	B020520	3A292	\$16,380
5	12/23/03	Israel	Tektronix TDS 380	B015709	3A292	\$1,705
6	1/16/04	Israel	Tektronix TDS 520D	B032158 B040328	3A292	\$7,400
7	9/2/04	Israel	Tektronix TDS 784D	B010246	3A292	\$10,410
8	1/13/05	Israel	Tektronix TDS 5054B	B010378	3A292	\$12,500
9	1/31/05	Israel	Tektronix TDS 794D	B031869	3A292	\$13,882
10	2/11/05	Israel	Tektronix TDS 3054	B014295	3A292	\$5,482
11	3/1/05	Israel	Tektronix TDS 784C	B010780	3A292	\$9,400
12	4/8/05	Israel	Tektronix TDS 520D	B010098	3A292	\$5,058
13	4/20/05	Israel	Agilent 54835A	US40020129	3A292	\$6,995
14	4/20/05	Israel	Tektronix TDS 744A	B020980	3A292	\$3,675
15	5/24/05	Israel	Tektronix TDS 784C	B010663	3A292	\$7,710
16	11/3/05	Israel	Agilent 54846B	MY41000207	3A292	\$11,000
17	2/8/06	Israel	Tektronix TDS 5054	B021184	3A292	€ 6,000
18	4/21/06	Israel	Tektronix TDS 7254B	B010053	3A292	\$15,315
19	9/22/06	Israel	Tektronix TDS 794D	B010273	3A292	\$9,800
20	10/24/06	Israel	Lecroy LC534AL	2510	3A292	\$4,000
21	12/22/06	Israel	Agilent 54846A	MY40000187	3A292	\$10,500
22	3/23/07	Israel	Tektronix TDS 540C	B010673	3A292	\$2,155
23	5/14/07	South Africa	Agilent 8565E	3650A00572	3A002.c	\$26,500