



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

JUL 27 2001

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Automated Systems, Ltd.
15/F Topsail Plaza
11 on Sum Street
Sha Tin, New Territories
Hong Kong

Attention: *Peter Kuo*
Director

Dear Mr. Kuo:

The Bureau of Export Administration, United States Department of Commerce ("BXA"), has reason to believe that Automated Systems, Ltd. ("ASL") violated the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979 (the "Act").² Specifically, BXA charges that ASL committed the following violations:

Charge 1 (15 C.F.R §764.2(b) - Causing, Aiding or Abetting a Violation - Aiding and Abetting an Export to a Military End-User)

From on or about December 24, 1996 through on or about March 19, 1997, ASL aided and abetted the export of a Sun E5000 server with an operating capability of approximately 2,700 MTOPS ("HPC"), an item subject to the Regulations, from the United States to a military end-user in People's Republic of China without a license from the Department of Commerce as required by Section 742.12(b)(3) of the Regulations. In doing so, ASL committed one violation of Section 764.2(b) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2001). The violations charged occurred in 1997. The Regulations governing the violations are codified at 15 C.F.R. Parts 730-774 (1997). They are substantially the same as the 2001 version of the Regulations which govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401-2420 (1994 & Supp. IV 1998), as reauthorized by Act of November 13, 2000, Pub. L. No. 106-508, 114 Stat. 2360. The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (1994 & Supp. IV 1998)) until the Act was reauthorized on November 13, 2000. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bxa/>.



Charge 2 (15 C.F.R. §764.2(e) - Acting with Knowledge - Knew or had Reason to Know the End-User was a Military End-User)

On or about March 19, 1997, in connection with the export described in Charge 1, ASL forwarded or caused to be forwarded the HPC to the Changsha Institute of Science and Technology in Changsha, China, a military end-user. At that time, ASL knew or had reason to know that a license was required from the Department of Commerce before the HPC could go to a military end-user in China. In doing so, ASL committed one violation of Section 764.2(e) of the Regulations.

Accordingly, ASL 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:

The maximum civil penalty allowed by law of \$11,000 per violation;³

Denial of export privileges; and/or

Exclusion from practice before BXA.

If ASL 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 ASL defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to ASL. The Under Secretary for Export Administration may then impose up to the maximum penalty on each of the charges in this letter.

ASL is further notified that it is entitled to an agency hearing on the record if ASL files a written demand for one with its answer. (Regulations, Section 766.6). ASL 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).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should you have a proposal to settle this case, you or your representative should transmit it to me through the attorney representing BXA named below.

³Pursuant to the Federal Civil Penalties Adjustment Act of 1990 (28 U.S.C. §2461, note (1994 & Supp. V 1999)) and 15 C.F.R. §6.4(a)(2), the maximum penalty for each violation committed after October 23, 1996 and before November 1, 2000 is \$11,000.

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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, ASL'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 ASL's answer must be served on BXA at the following address:

Chief Counsel for Export Administration
Attention: Melissa B. Mannino
Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Melissa B. Mannino is the attorney representing BXA in this case. She may be contacted by telephone at (202) 482-5304.

Sincerely,



Mark D. Menefee
Director
Office of Export Enforcement

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

In the Matter of:) Docket No. 01-BXA-14
)
Automated Systems (H.K.) Limited)
15th Floor, Topsail Plaza)
11 On Sum Street)
Sha Tin, New Territories)
Hong Kong,)
)
Respondent.)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Automated Systems (H.K.) Limited (“ASL”), and the Bureau of Industry and Security, United States Department of Commerce (“BIS”), (collectively referred to as “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2002)) (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).²

¹ The violations charged occurred in 1997. The Regulations governing the violations are codified at 15 C.F.R. Parts 730-774 (1997). The 1997 Regulations are substantially the same as the 2002 Regulations which govern the procedural aspects of this case.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. 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 renewed by the Notice of August 14, 2002 (67 *Fed. Reg.* 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

WHEREAS, BIS has initiated an administrative proceeding against ASL pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a charging letter to ASL that alleged that ASL committed two violations of the Regulations, specifically:

1. *One Violation of 15 C.F.R §764.2(b) - Aiding and Abetting an Export to a Military End-User:* From on or about December 24, 1996 through on or about March 19, 1997, ASL aided and abetted the export of a Sun E5000 server with an operating capability of approximately 2,700 MTOPS ("HPC"), an item subject to the Regulations, from the United States to a military end-user in People's Republic of China without a license from the Department of Commerce as required by Section 742.12(b)(3) of the Regulations.
2. *One Violation of 15 C.F.R. §764.2(e) - Knew or had Reason to Know the End-User was a Military End-User:* On or about March 19, 1997, in connection with the export described in Charge 1, ASL forwarded or caused to be forwarded the HPC to the Changsha Institute of Science and Technology in Changsha, China, a military end-user. At that time, ASL knew or had reason to know that a license was required from the Department of Commerce before the HPC could go to a military end-user in China.

WHEREAS, ASL has reviewed the 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, ASL fully understands the terms of this Agreement and the Order of the Assistant Secretary of Commerce for Export Enforcement that will implement this Agreement (“Order”);

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

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

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

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

WHEREAS, ASL agrees to be bound by the Order, when entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over ASL, under the Regulations, in connection with the matters alleged in the charging letter.
2. The following sanctions shall be imposed against ASL in complete settlement of the alleged violations of the Regulations set forth in the charging letter:
 - a. ASL shall be assessed a civil penalty in the amount of \$22,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.

Settlement Agreement

ASL

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- 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 ASL. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of ASL's export privileges for a period of one year from the date of imposition of the penalty.
- c. For a period of one year from the date of this Order, ASL will not engage in any activity subject to the Regulations, including an activity such as repair, maintenance or in-country transfer of an item, that involves the Changsha Institute of Science and Technology located in Changsha, People's Republic of China without prior written consent from BIS.
- d. Within 13 months of the date of this Order, ASL shall provide a report to the Special Agent in Charge, San Jose Field Office, Office of Export Enforcement, BIS, concerning ASL's exports or reexports to the People's Republic of China (exclusive of the Hong Kong Special Administrative Region) of computers and related parts and equipment that are subject to the Regulations made during the one year period from the date of this Order.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, ASL hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Agreement or the Order, when entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the charging letter; (b) request a

refund of any civil penalty paid pursuant to this Agreement and the Order, when entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, when entered.

4. BIS agrees that, upon entry of the Order, it will not initiate any administrative proceeding against ASL in connection with any violation of the Act or the Regulations arising out of the transactions identified in the charging letter.

5. ASL understands that BIS will make the charging letter, this Agreement, and the Order, when entered, available to the public.

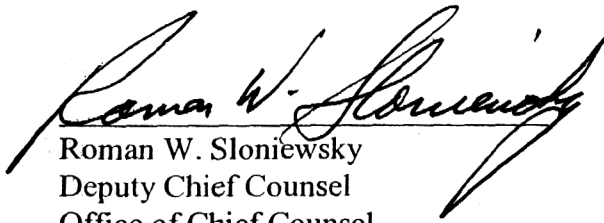
6. BIS and ASL agree that this Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(b) of the Regulations, BIS and ASL agree that they may not use this Agreement in any administrative or judicial proceeding and that 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, when entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on BIS only when 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.

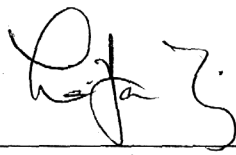
9. Each signatory affirms that he has authority to enter into this Agreement and to bind his respective party to the terms and conditions set forth herein.

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


Roman W. Sloniewsky
Deputy Chief Counsel
Office of Chief Counsel
for Industry and Security

Date: March 31, 2003

AUTOMATED SYSTEMS (H.K.)
LIMITED


Lai Yam Ting
Director

Date: March 12, 2003

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

_____)	Docket No. 01-BXA-14
In the Matter of:)	
)	
Automated Systems (H.K.) Limited)	
15 th Floor, Topsail Plaza)	
11 On Sum Street)	
Sha Tin, New Territories)	
Hong Kong,)	
)	
_____ Respondent.)	

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), having initiated an administrative proceeding against Automated Systems (H.K.) Limited (“ASL”), pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² based on the charging letter issued to ASL that alleged that ASL violated the Regulations on two

¹ The violations charged occurred in 1997. The Regulations governing the violations are codified at 15 C.F.R. Parts 730-774 (1997). The 1997 Regulations are substantially the same as the 2003 Regulations which govern the procedural aspects of this case.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508, and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222, which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 *Fed. Reg.* 47833 (August 11, 2003)), has continued the Regulations in effect under IEEPA.

occasions. Specifically, the charges are:

1. *One Violation of 15 C.F.R §764.2(b) - Aiding and Abetting an Export to a Military End-User:* From on or about December 24, 1996 through on or about March 19, 1997, ASL aided and abetted the export of a Sun E5000 server with an operating capability of approximately 2,700 MTOPS (“HPC”), an item subject to the Regulations, from the United States to a military end-user in People’s Republic of China without a license from the Department of Commerce as required by Section 742.12(b)(3) of the Regulations.
2. *One Violation of 15 C.F.R. §764.2(e) - Knew or had Reason to Know the End-User was a Military End-User:* On or about March 19, 1997, in connection with the export described in Charge 1, ASL forwarded or caused to be forwarded the HPC to the Changsha Institute of Science and Technology in Changsha, China, a military end-user. At that time, ASL knew or had reason to know that a license was required from the Department of Commerce before the HPC could go to a military end-user in China.

BIS and ASL having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$22,000 is assessed against ASL, 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, ASL 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 ASL. Accordingly, if ASL should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of ASL's export privileges for a period of one year from the date of entry of this Order.

FOURTH, for a period of one year from the date of this Order, ASL will not engage in any activity subject to the Regulations, including an activity such as repair, maintenance or in-country transfer of an item, that involves the Changsha Institute of Science and Technology located in Changsha, People's Republic of China without prior written consent from BIS.

FIFTH, that within 13 months of the date of this Order, ASL shall provide to the Special Agent in Charge, San Jose Field Office, Office of Export Enforcement, BIS, a report concerning

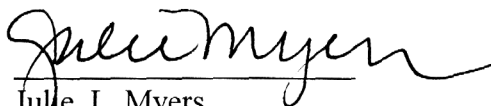
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ASL's exports or reexports to the People's Republic of China (exclusive of the Hong Kong Special Administrative Region) of computers and related parts and equipment that are subject to the Regulations made during the one year period from the date of this Order.

SIXTH, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

SEVENTH, that the 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.


Julie L. Myers
Assistant Secretary of Commerce
for Export Enforcement

Entered this 15th day of December 2003.