

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

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In the Matter of )  
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) Case No. 04-08  
Sumitomo Corporation of America )  
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ORDER

The Office of Antiboycott Compliance, Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), following voluntary disclosure of certain information by Sumitomo Corporation of America (“Sumitomo”), having determined to initiate an administrative proceeding pursuant to Section 11(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2001)) (the “Act”)<sup>1</sup> and the Export Administration Regulations (currently codified at 15 C.F.R Parts 730-774 (2005))(the “Regulations”), against Sumitomo Corporation of America (“Sumitomo”), a domestic concern resident in the State of Texas, based on allegations set forth in the Proposed Charging Letter, dated July 26, 2006, that alleged that Sumitomo committed two violations of the Regulations.

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<sup>1</sup>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 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 extended by the Notice of August 3, 2006 (71 FR 44551 (August 7, 2006)), has continued the Regulations in effect under the IEEPA. The Regulations are available on the Government Printing Office Website at: [www.access.gpo.gov/bis/](http://www.access.gpo.gov/bis/).

Specifically, the charges are:

1. *One Violation of 15 C.F.R. §760.2(d) - Furnishing Information about Business Relationships with Boycotted Countries of Blacklisted Persons:*

On or about May 7, 2003, Sumitomo engaged in a transaction involving the sale of United States-origin goods between the United States to Oman.

In connection with these activities, on or about May 7, 2003, Sumitomo furnished to persons in Oman a document containing the following statement:

“We hereby certify that the goods are not of Israeli origin, have not been exported from Israel and do not contain any Israeli materials.”

By providing that information, Sumitomo, with intent to comply with, further or support an unsanctioned foreign boycott, knowingly furnished one item of information about its and other persons' business relationships with or in a boycotted country, an activity prohibited by Section 760.2(d) of the Regulations, and not excepted.

2. *One Violation of 15 C.F.R. §760.5-Failing to Report in a Timely Manner a Request to Engage in a Restrictive Trade Practice or Foreign Boycott of a Country Friendly To the United States:* On or about May 7, 2003, Sumitomo received a request to engage in the restrictive trade practice or boycott as described in paragraph one above, which it failed to report in a timely manner to the Department of Commerce as directed by the Regulations.

BIS and Sumitomo having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby the parties have 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 THAT:


FIRST, a civil penalty of \$3,000 is assessed against Sumitomo 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 Collections Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (1983 and Supp. 2001)), 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, Sumitomo will be assessed, in addition to the full amount of the penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, as authorized by Section 11(d) of the Act, the timely payment of the sum of \$3,000 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 Sumitomo. Accordingly, if Sumitomo should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order under the authority of Section 11(d) of the Act denying all of Sumitomo's export privileges for a period of one year from the date of the entry of this Order.

FOURTH, that the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon Sumitomo.

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

  
\_\_\_\_\_  
Darryl Jackson  
Assistant Secretary for Export Enforcement

Entered this 29<sup>th</sup> day of September, 2006

Attachments

INSTRUCTIONS FOR PAYMENT OF SETTLEMENT AMOUNT

1. The check should be made payable to:

U.S. DEPARTMENT OF COMMERCE

2. The check should be mailed to:

U.S. Department of Commerce  
Bureau of Industry and Security  
Room 6881  
14th & Constitution Avenue, N.W.  
Washington, D.C. 20230

Attention: Sharon Gardner

## NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (1983 and Supp. 2001)) and the Federal Claims Collection Standards (65 Fed. Reg. 70390-70406, November 22, 2000, to be codified at 31 C.F.R. Parts 900-904), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed respondent is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C. §3717 and 31 C.F.R. §901.9.

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and respondent will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a penalty charge of six percent per year. However, although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date. See 31 U.S.C. §3717 and 4 C.F.R. §901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with Section 901.2 of the Federal Claims Collection Standards (31 C.F.R. §901.2(b)).

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

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In the Matter of ) )  
) ) Case No. 04-08  
Sumitomo Corporation of America ) )  
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SETTLEMENT AGREEMENT

This agreement is made by and between Sumitomo Corporation of America (“Sumitomo”), a domestic concern resident in the State of Texas, and the Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce (“BIS”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (the “Regulations”), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2001)) (the “Act”).<sup>1</sup>

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<sup>1</sup> 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 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 extended by the Notice of August 3, 2006 (71 FR 44551 (August 7, 2006)), has continued the Regulations in effect under the IEEPA. The Regulations are available on the Government Printing Office Website at: [www.access.gpo.gov/bis/](http://www.access.gpo.gov/bis/).



WHEREAS, Sumitomo has voluntarily disclosed certain information concerning its activities to BIS; and

WHEREAS, BIS has notified Sumitomo of its intention to initiate an administrative proceeding against Sumitomo, pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter dated July 26, 2006, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, Sumitomo has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Sumitomo fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and Sumitomo states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, Sumitomo neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Sumitomo agrees to be bound by the appropriate Order (“Order”) when entered;

NOW, THEREFORE, Sumitomo and BIS agree as follows:

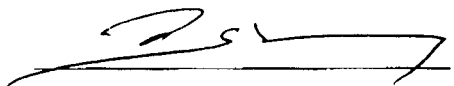
1. Under the Act and the Regulations, BIS has jurisdiction over Sumitomo with respect to the matters alleged in the Proposed Charging Letter.
2. BIS will impose a civil penalty in the amount of \$3,000. Sumitomo will pay to the U.S. Department of Commerce, within 30 days of receipt of service of the Order, when entered, the amount of \$3,000 in complete settlement of all matters set forth in the Proposed Charging Letter.
3. As authorized by Section 11(d) of the Act, timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Sumitomo. Failure to make payment of this amount shall result in the denial of all of Sumitomo’s export privileges for a period of one year from the date of entry of the Order.

4. Subject to the approval of this Settlement Agreement, pursuant to paragraph 9 hereof, Sumitomo hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the Order, when entered) including, without limitation, any right to:
  - A. An administrative hearing regarding the allegations in the Proposed Charging Letter;
  - B. Request a refund of the funds paid by Sumitomo pursuant to this Settlement Agreement and the Order, when entered; or
  - C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.
  
5. BIS, upon entry of the Order, will not initiate any administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against Sumitomo with respect to any violation of Section 8 of the Act or Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by BIS in the course of its investigation.

6. Sumitomo understands that BIS will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.
  
7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by Sumitomo that it has violated the Regulations, or an admission of the truth of any allegation contained in the Proposed Charging Letter or referred to in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, BIS may not use this Settlement Agreement against Sumitomo in any administrative or judicial proceeding.
  
8. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement 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 herein addressed. This paragraph shall not limit Sumitomo's right to challenge any action brought by any other agency based on a referral by BIS or any employee thereof, in contravention of paragraph 5 of this Settlement Agreement.

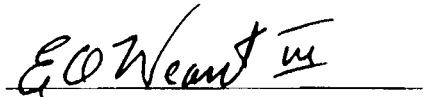
9. This Settlement Agreement will become binding on BIS only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

Sumitomo Corporation of America

  
TATSUYA SUTO  
GM & SDP, CHEMICALS GROUP

DATE: 9/5/2006

U.S. DEPARTMENT OF COMMERCE



DATE: September 25, 2006

Edward O. Weant, III  
Director  
Office of Antiboycott Compliance

Attachment



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Assistant Secretary for Export Enforcement**  
Washington, D.C. 20230

CERTIFIED MAIL RETURN RECEIPT REQUESTED  
PROPOSED CHARGING LETTER

July 26, 2006

Sumitomo Corporation of America  
600 Third Avenue  
New York, New York 10016-2001

Case No. 04-08

Gentlemen/Ladies:

We have reason to believe and charge that you, Sumitomo Corporation of America, have committed two violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (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>

We charge that you committed one violation of Section 760.2(d) of the Regulations, in that, with intent to comply with, further or support an unsanctioned foreign boycott, you furnished one item of information about your and other persons' business relationships with or in a boycotted country.

We further charge that you committed one violation of Section 760.6 of the Regulations in that you failed to report to the Department in a timely manner your receipt of requests to engage in restrictive trade practices or boycotts.

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<sup>1</sup> The alleged violations occurred in 1999. The Regulations governing the violations at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1999)) and define the violations that we allege occurred. They are substantially the same as the 2005 version of the Regulations which govern the procedural aspects of this case.

<sup>2</sup> 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 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 extended by the Notice of August 3, 2006 (71 FR 44551 (August 7, 2006)), has continued the Regulations in effect under IEEPA. The Regulations are available on the Government Printing Office Website at: [www.access.gpo.gov/bis/](http://www.access.gpo.gov/bis/).



We allege that:

Sumitomo Corporation of America (“SCOA”) is, and at all times relevant was, a domestic concern resident in the State of Texas and, as such, is a United States person as defined in Section 760.1(b) of the Regulations.

On or about May 21, 2003, you engaged in a transaction involving the sale of United States-origin goods to Oman, an activity in the interstate or foreign commerce of the United States as defined in Section 760.1(d) of the Regulations.

**Charge 1 (15 C.F.R. §760.2(d)-Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons)**

In connection with the activities described above, on or about May 7, 2003, you furnished to persons in Oman a document containing one item of information as described below:

We hereby certify that the goods are not of Israeli origin, have not been exported from Israel and do not contain any Israeli materials.”

By furnishing that information, you, with intent to comply with, further or support an unsanctioned foreign boycott, provided one item of information about your and other persons’ business relationships with or in a boycotted country, an activity prohibited by Section 760.2(d) of the Regulations, and not excepted. We, therefore, charge you with one (1) violation of Section 760.2(d).

**Charge 2 (15 C.F.R. § 760.5)-Failing to Report, as Required by the Regulations, a Request to Engage in a Restrictive Trade Practice or Foreign Boycott of a Country Friendly to the United States)**

During 2003, in connection with the activities referred to above, you on one occasion received the following request from persons in Oman:

“[Submit] 2 copies of certificate issued by the shipping company/agent certifying that the ship is not...blacklisted by the Arab League Boycott Committee....”

In connection with this activity, you received one request to engage in restrictive trade practices or boycotts, which you failed to report to the Department in a timely manner as directed by Section 760.6 of the Regulations. Therefore we charge you with one (1) violation of Section 760.5.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions.<sup>3</sup>

You are entitled to a hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel and, under Section 766.18 of the Regulations, to seek a settlement agreement.

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

As provided in Section 766.3, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between the Bureau of Industry and Security and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matter set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

U.S. Coast Guard ALJ Docketing Center  
40 South Gay Street  
Baltimore, Maryland 21202-4022

Attention: Administrative Law Judge

Also, in accordance with the instructions in Section 766.5(b) of the Regulations, a copy of your answer should also be served on the Bureau of Industry and Security at:

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<sup>3</sup> Administrative sanctions may include any or all the following:

- a. A civil penalty of \$11,000 per violation (see § 764.3(a)(1) of the Regulations and 15 C.F.R. §6.4(a)(3), 2003);
- b. Denial of export privileges (see § 764.3(a)(2) of the Regulations); and/or
- c. Exclusion from practice before BIS (see § 764.3(a)(3) of the Regulations).



Office of the Chief Counsel for Industry and Security  
U.S. Department of Commerce  
Room H-3839  
14th Street & Constitution Avenue, N. W.  
Washington, D.C. 20230

Sincerely,

Edward O. Weant, III  
Director  
Office of Antiboycott Compliance