

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

GrafTech USA LLC  
f/k/a C/G Electrodes LLC  
800 Theresia Street  
St. Mary's, PA 15857

*Attention:* Craig S. Shular  
President

Dear Mr. Shular:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that GrafTech USA LLC of St. Mary's, Pennsylvania ("GrafTech"), formerly known as and successor to C/G Electrodes LLC,<sup>1</sup> has committed 23 violations of the Export Administration Regulations (the "Regulations"),<sup>2</sup> which issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>3</sup> Specifically, BIS charges that GrafTech committed the following violations:

**Charges 1-12            15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by  
Exporting Graphite Electrodes Controlled for Nuclear Non-  
Proliferation Reasons to Libya Without the Required Licenses**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 12 occasions between on or about January 29, 2008 and on or about December 3, 2008, GrafTech engaged in conduct prohibited by the Regulations by

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<sup>1</sup> On Nov. 30, 2010, after the violations detailed herein occurred, GrafTech International Ltd. acquired C/G Electrodes LLC through a series of mergers that resulted in C/G Electrodes LLC as the surviving entity. Effective the same day, C/G Electrodes LLC changed its name to GrafTech USA LLC.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2007 through 2008. The Regulations governing the violations at issue are found in the 2007 through 2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2007-2008)). The 2011 Regulations govern the procedural aspects of this case.

<sup>3</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 13,222 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 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

exporting graphite electrodes, items subject to the Regulations, classified under Export Control Classification Number 1C298 and controlled for nuclear non-proliferation reasons, and valued at approximately \$6.8 million in total, from the United States to Libya without the Department of Commerce licenses required by Section 742.3 of the Regulations. In so doing, GrafTech committed 12 violations of Section 764.2(a) of the Regulations.

Charges 13-23            **15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by Exporting Graphite Electrodes Controlled for Nuclear Non-Proliferation Reasons to Libya Without the Required Licenses**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 11 occasions between on or about July 27, 2007 and on or about July 25, 2008, GrafTech engaged in conduct prohibited by the Regulations by exporting graphite electrodes, items subject to the Regulations, classified under Export Control Classification Number 1C298 and controlled for nuclear non-proliferation reasons, and valued at approximately \$1.15 million in total, from the United States to Libya through Canada without the Department of Commerce licenses required by Section 742.3 of the Regulations. Pursuant to Section 734.2(b)(6) of the Regulations, the export or reexport of items subject to the Regulations that will transit through a country or be transshipped in a country to a new country or is intended for reexport to the new country, is deemed to be an export to the new country. In so doing, GrafTech committed 11 violations of Section 764.2(a) of the Regulations.

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Accordingly, GrafTech 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 and any other liability, sanction, or penalty available under law, 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;<sup>4</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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<sup>4</sup> See International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

If GrafTech 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. 15 C.F.R. §§ 766.6 and 766.7 (2011). If GrafTech defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to GrafTech. 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.

GrafTech 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. 15 C.F.R. § 766.6 (2011). GrafTech 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 (2011).

The Regulations provide for settlement without a hearing. 15 C.F.R. § 766.18 (2011). Should GrafTech have a proposal to settle this case, GrafTech or its representative should transmit it through 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, GrafTech'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 GrafTech's answer must be served on BIS at the following address:

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

Parvin R. Huda is the attorney representing BIS in this case; any communications that GrafTech may wish to have concerning this matter should occur through her. Ms. Huda may be contacted by telephone at (202) 482-5301.

Sincerely,

Doug R. Hassebrock  
Director  
Office of Export Enforcement

Enclosure