



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

REGISTERED MAIL - RETURN RECEIPT REQUESTED

China National Aero-Technology Import and Export Corporation
CATIC Plaza, 18 Beichen Dong Street
Chaoyang District
Beijing, People's Republic of China 100101,

CATIC USA, INC.
17800 Castleton Street
City of Industry, CA 91748

China National Aero-Technology International Supply Company
CATIC Plaza, 18 Beichen Dong Street
Chaoyang District
Beijing, People's Republic of China 100 101

Attention: Guo Lizhi, Esq.
Deputy General Counsel
CATIC

Dear Mr. Guo:

The Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), hereby charges that China National Aero-Technology Import and Export Corporation (hereinafter "CATIC"), and its affiliates, CATIC USA, Inc. (hereinafter "CATIC USA") and China National Aero-Technology International Supply Company (hereinafter "CATIC Supply"): have violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2000)) (hereinafter the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. IV 1998)) (hereinafter the "Act").²

¹ The alleged violations occurred in 1994 and 1995. The Regulations governing those violations are found in the 1994 and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1994 - 1995)) (hereinafter the "former Regulations"). The former Regulations define the violations that BXA alleges occurred. Since that time, the Regulations have been reorganized and restructured; the Regulations establish the procedures that apply to the matters set forth herein.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701- 1706 (1994 & Supp. IV 1998)) until November 13, 2000, when the Act was reauthorized. See Pub. L. No. 106-508, 114 Stat. 2360.



Facts constituting the violations:

Charge 1

Beginning in 1992 and continuing into 1995, CATIC, CATIC USA, and CATIC Supply conspired and acted in concert with one another as well as others to violate the Act and former Regulations. The goal of the conspiracy was to obtain Department of Commerce export licenses authorizing the export of machine tools from the United States to the CATIC Machining Company, Ltd. in Beijing, China for use in the machining of parts and components of civil aircraft that were planned for a joint project with the McDonnell Douglas Corporation (hereinafter the "Trunkliner program") and then to divert the machine tools to unauthorized end-users in China, including the Nanchang Aircraft Manufacturing Company. To accomplish the goal of the conspiracy, the conspirators, including CATIC, CATIC USA, and CATIC Supply, took actions in furtherance of the conspiracy, primarily by making or causing to be made false and misleading representations of material facts, directly and indirectly, to BXA and other U.S. Government agencies. The false and misleading statements, included but were not limited to, stating that the end-user of the machine tools would be the CATIC Machining Company, Ltd. in Beijing, China and the end-use for the machine tools was the machining of parts and components of civil aircraft that were planned for a joint project with the McDonnell Douglas Corporation (hereinafter the "Trunkliner program"). The CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee of the machine tools, and the machine tools were not for use in the Trunkliner program.

BXA alleges that by conspiring and acting in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the Act, or any regulation, order, or license issued thereunder, CATIC, CATIC USA, and CATIC Supply each violated Section 787.3 of the former Regulations.

Charges 2- 11

As further described in Schedule A, which is enclosed herewith and incorporated herein by reference, CATIC, CATIC USA, and CATIC Supply, in connection with 10 separate export license applications, made or caused to be made false and misleading representations of material facts to BXA and other U.S. Government agencies. More specifically, on or about May 26, 1994, 10 license applications were submitted to BXA by Douglas Aircraft (the McDonnell Douglas Corporation) for the export of machine tools from the United States to China. For each of these 10 license applications, CATIC, CATIC USA, and CATIC Supply gave assurances and represented on export control documents as defined in Section 770.2 of the former Regulations, namely end-user and ultimate consignee statements, that CATIC Machining Company, Ltd. in Beijing, China would be the end-user of the machine tools and the end-use was for machining the parts and components of civil aircraft in the Trunkliner program. However, the CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee,

and the machine tools were not for use in the Trunkliner program.

BXA alleges that by making or causing to be made false or misleading statements of material fact directly or indirectly to a United States government agency in connection with the preparation, submission, issuance or use of an export control document, CATIC, CATIC USA, and CATIC Supply each committed 10 violations of Section 787.5(a)(1) of the former Regulations.

Charges 12-2 1

On or about September 14, 1994, BXA issued ten export licenses to the McDonnell Douglas Corporation that authorized the export of machine tools to China for use in the Trunkliner program. The export licenses named China National Aero-Technology International Supply Company as the purchaser, China Aviation Supply and Marketing Corporation, North China Branch, as the intermediate consignee, and CATIC Machining Company, Ltd. as the ultimate consignee.

The licenses further contained a number of conditions, including:

“3. The machine tools approved under the licenses included in this [Trunkliner] program will be installed at the CATIC Machining Company Ltd. . . . Should the CATIC facility not be ready when the equipment arrives, the equipment will be stored [at China Aviation Supply and Marketing Corporation, North China Branch].”

“7. This equipment is licensed exclusively for the civil use of implementing the MD80/90 series McDonnell Douglas design for the development of the Chinese Trunkline and offset from McDonnell Douglas Corporation.”

As further described in Schedule A, which is attached hereto and incorporated herein by reference, between on or about November 12, 1994 and on or about February 18, 1995, the machine tools were exported from the United States and then, in contravention of the terms and conditions of the licenses: the machine tools were diverted to unauthorized destinations in China, including the Nanchang Aircraft Manufacturing Company.

BXA alleges that, by exporting, diverting or directing items to any person or destination in violation of or contrary to the terms, provisions or conditions of any export control document, any prior representation, or any provision of the Act, or any regulation, order, or license issued thereunder, CATIC, CATIC USA, and CATIC Supply each committed 10 violations of Section 787.6 of the former Regulations.

Charges 22-23

On or about June 7, 1994 and on or about June 23, 1994, CATIC, CATIC USA, and CATIC Supply, through the McDonnell Douglas Corporation, falsely represented to BXA and other U.S. government agencies that the machine tools were to be exported to the CATIC Machining Company, Ltd. in Beijing, China, they were for use in the Trunkliner program, and the Trunkliner program was being carried out in accordance with the 1992 contract. However, the CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee, the machine tools were not for use in the Trunkliner program, and the Trunkliner program had been delayed and was not being carried out in accordance with the 1992 contract.

BXA alleges that by making or causing to be made false or misleading statements of material fact directly or indirectly to a United States government agency in connection with the preparation, submission, issuance or use of an export control document, CATIC, CATIC USA, and CATIC Supply each committed two violations of Section 787.5(a)(1) of the former Regulations.

Charge 24

On or about June 5, 1995, CATIC, CATIC USA, and CATIC Supply submitted a letter to BXA falsely representing that the machine tools authorized for export to the CATIC Machining Center Ltd., in Beijing, China and diverted to the Nanchang Aircraft Manufacturing Company in Nanchang, China in violation of the terms and conditions of the export licenses would not be unpacked until CATIC, CATIC USA and CATIC Supply received authorization from the U.S. Department of Commerce. However, the stretch press had been unpacked and placed in a building in Nanchang, China.

BXA alleges that by making false or misleading statements of material fact directly or indirectly to a United States government agency in the course of an investigation or other action instituted under the Act, CATIC, CATIC USA, and CATIC Supply each violated Section 787.5(a)(1) of the former Regulations.

Based upon the foregoing, BXA alleges that CATIC, CATIC USA, and CATIC Supply each committed 24 violations of the former Regulations (one violation of Section 787.3, 10 violations of Section 787.6, and 13 violations of Section 787.5(a)(1) of the former Regulations).

Accordingly, CATIC, CATIC USA, and CATIC Supply are hereby notified that administrative proceedings are instituted against them 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:

CATIC

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The maximum civil penalty allowed by law of \$100,000 per violation for national security violations, or \$10,000 per violation for all other violations (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If CATIC, CATIC USA or CATIC Supply fail to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7 of the Regulations.

CATIC, CATIC USA, and CATIC Supply are further notified that they are entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with their answer. CATIC, CATIC USA, and CATIC Supply are also entitled to be represented by counsel and to seek a settlement of the charges,

Pursuant to an Interagency Agreement between BXA 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 matters set forth in this letter. Accordingly, CATIC's, CATIC USA's, and CATIC Supply's answers should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of the answers should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Melissa B. Mannino, Esq." below the address. Ms. Mannino may be contacted by telephone at (202) 482-5304.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosures

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matters of:)
)
China National Aero-Technology)
Import and Export Corporation)
CATIC Plaza, 18 Beichen Dong Street,)
Chaoyang District,)
Beijing, People's Republic of China 100 10 1,)
)
CATIC USA, INC.)
17800 Castleton Street)
City of Industry, California 91748,)
)
and)
)
China National Aero-Technology)
International Supply Company)
CATIC Plaza, 18 Beichen Dong Street,)
Chaoyang District,)
Beijing, People's Republic of China 10010 1,)
)

Respondents)

SETTLEMENT AGREEMENT

This Agreement is made by and between China National Aero-Technology Import and Export Corporation (hereinafter "CATIC"), its affiliates, CATIC USA, Inc. (hereinafter "CATIC USA") and China National Aero-Technology International Supply Company (hereinafter "CATIC Supply"), and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2000)) (hereinafter the "Regulations"),' issued under the Export Administration

¹ The alleged violations occurred in 1994 and 1995. The Regulations governing those violations are found in the 1994 and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1994 -1995)) (hereinafter the "former Regulations"). The former Regulations define the violations that BXA alleges occurred. Since that time, the Regulations have been

Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. IV 1998)) (hereinafter the “Act”).²

WHEREAS, the Bureau of Export Administration (hereinafter “BXA”) has notified CATIC, CATIC USA, and CATIC Supply of its intention to initiate administrative proceedings against them pursuant to the Act and the Regulations based upon allegations that CATIC, CATIC USA, and CATIC Supply each committed 24 violations of the former Regulations, *to wit*, 1 violation of Section 787.3(b), 13 violations of Section 787.5(a)(1), and 10 violations of Section 787.6 of the former Regulations, as follows:

1. *15 CFR 787.3(b): Conspiracy*: Beginning in 1992 and continuing into 1995, CATIC, CATIC USA, and CATIC Supply, each committed 1 violation of Section 787.3 of the former Regulations, by conspiring and acting in concert with one another as well as others to violate the Act and former Regulations. The goal of the conspiracy was to obtain Department of Commerce export licenses authorizing the export of machine tools from the United States to the CATIC Machining Company, Ltd. in Beijing, China for use in the machining of parts and components of civil aircraft that were planned for a joint project with the McDonnell Douglas Corporation

reorganized and restructured; the Regulations establish the procedures that apply to the matters set forth herein.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (1991 & Supp. IV 1998)) until November 13, 2000 when the Act was reauthorized. See Pub. L. No. 106-508, 114 Stat. 2360.

Machining Company, Ltd. in Beijing, China would be the end-user of the machine tools and the end-use of the machine tools was for machining the parts and components of civil aircraft in the Trunkliner program. However, the CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee, and the machine tools were not for use in the Trunkliner program.

b. On or about June 7, 1994 and on or about June 23, 1994, CATIC, CATIC USA, and CATIC Supply, through the McDonnell Douglas Corporation, each committed two violations of section 787.5(a)(1) of the former Regulations, by falsely representing to BXA and other U.S. government agencies that the machine tools were to be exported to the CATIC Machining Company, Ltd. in Beijing, China, they were for use in the Trunkliner program, and the Trunkliner program was being carried out in accordance with the 1992 contract. However, the CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee, the machine tools were not for use in the Trunkliner program, and the Trunkliner program had been delayed and was not being carried out in accordance with the 1992 contract.

c. On or about June 5, 1995, CATIC, CATIC USA, and CATIC Supply, each committed one violation of Section 787.5(a)(1) of the former Regulations, by submitting a letter to BXA falsely representing that the machine tools that were authorized for export to the CATIC Machining Company, Ltd. in Beijing, China and diverted to the Nanchang Aircraft Manufacturing Company in Nanchang, China in violation of the terms and conditions of the licenses would not be unpacked until CATIC, CATIC USA, and CATIC Supply received

authorization from the U.S. Department of Commerce. However, the stretch press had been unpacked and placed in a building in Nanchang, China.

3. 15 CFR 787.6: Export, Diversion, Reexport, and Transshipment: Between on or about November 12, 1994 and on or about February 18, 1995, CATIC, CATIC USA, and CATIC Supply, each committed 10 violations of Section 787.6 of the former Regulations, by violating or causing the violation of the terms and conditions of 10 separate Department of Commerce export licenses. The 10 export licenses named China National Aero-Technology International Supply Company as the purchaser, China Aviation Supply and Marketing Corporation, North China Branch, as the intermediate consignee, CATIC Machining Company, Ltd. as the ultimate consignee, and the Trunkliner program as the end-use. CATIC, CATIC USA, and CATIC Supply violated terms and conditions of each of the 10 export licenses by diverting the machine tools to unauthorized end-users in China, including the Nanchang Aircraft Manufacturing Company.

WHEREAS, CATIC, CATIC USA, and CATIC Supply have reviewed the proposed charging letter and are aware of the allegations made against them and the administrative sanctions that could be imposed against them if the allegations are found to be true;

WHEREAS, CATIC, CATIC USA, and CATIC Supply fully understand the terms of this Settlement Agreement and the appropriate Order; they enter into this Settlement Agreement voluntarily and with full knowledge of their rights, and they state that no promises or representations have been made to them other than the agreements and considerations herein expressed;

WHEREAS, CATIC, CATIC USA, and CATIC Supply have designated the undersigned as duly authorized to enter into this Settlement Agreement and to bind CATIC, CATIC USA, and CATIC Supply to the terms and conditions set forth herein;

WHEREAS, CATIC, CATIC USA, and CATIC Supply neither admit nor deny the allegations contained in the proposed charging letter;

WHEREAS, CATIC, CATIC USA, and CATIC Supply wish to settle and dispose of all matters alleged in the proposed charging letter by entering into this Settlement Agreement; and

WHEREAS, CATIC, CATIC USA, and CATIC Supply agree to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered;

NOW THEREFORE, CATIC, CATIC USA, CATIC Supply and BXA agree as follows:

1. BXA has jurisdiction over CATIC, CATIC USA, and CATIC Supply, under the Act and the Regulations, in connection with the matters alleged in the proposed charging letter.

2. BXA, CATIC, CATIC USA, and CATIC Supply agree that CATIC's, CATIC USA's and CATIC Supply's U.S. export privileges shall be denied for a period of five years from the date of the appropriate Order in this case (hereinafter the "denial periods"), as further described below and in the appropriate Order, in complete settlement of the alleged violations of the Act and the former Regulations as set forth in the proposed charging letter:

- a. CATIC, CATIC USA, and CATIC Supply and all of their successors, assigns, officers, representatives, agents, and employees, may not, for a period of five years from the entry of the appropriate Order, participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology

(hereinafter “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

1. Applying for, obtaining, or using any license, License Exception or export control document;
 2. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
 3. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- b. BXA agrees that, as authorized by Section 766.18(c) of the Regulations, the five year denial periods against CATIC, CATIC USA, and CATIC Supply set forth in paragraph 2a. shall be suspended for a period of five years from the entry of the appropriate Order in this matter, and shall thereafter be waived, provided that during the periods of suspension, CATIC, CATIC USA, and CATIC Supply, do the following:
1. upon BXA’s request, permit BXA to review CATIC’s, CATIC USA’s or CATIC Supply’s purchase orders for items on the Department of

Commerce Control List, currently codified at 15 CFR Part 774 (2000),
that are exported or to be exported from the United States;

2. upon BXA's request, CATIC, CATIC USA, and CATIC Supply shall produce to the Department of Commerce any documents, in their custody, care or control, that were supplied to the United States in the case of U.S v. CATIC, et al., No. 99-353 (PLF), and CATIC, CATIC USA, and CATIC Supply hereby certify that these documents are all the documents that are relevant to the sale, licensing or diversion of the machine tools from the McDonnell Douglas plant in Columbus, Ohio that were allegedly to be used in the Trunkliner program;
3. for the purposes of authenticating documents and as otherwise agreed to by the parties, CATIC, CATIC USA, and CATIC Supply shall, at their own expense, make their appropriate employees, representatives, officers or agents available to the Department of Commerce to testify at any administrative proceeding initiated by BXA in connection with the sale, licensing and diversion of the machine tools from the McDonnell Douglas plant in Columbus, Ohio that were allegedly to be used in the Trunkliner program; and
4. have not committed a violation of the Act or any regulation, order or license issued.

3. CATIC, CATIC USA, and CATIC Supply agree that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, they hereby waive all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered) including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed charging letter; and (b) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of the appropriate Order, it will not initiate any administrative proceedings against CATIC, CATIC USA, and CATIC Supply, or any of their past or present employees, in connection with any violation of the Act or the former Regulations arising out of the transactions identified in the proposed charging letter.

5. CATIC, CATIC USA, and CATIC Supply understand that BXA will make the proposed charging letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

6. BXA, CATIC, CATIC USA, and CATIC Supply agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement, BXA, CATIC, CATIC USA, and CATIC Supply agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. 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 appropriate Order, when entered, nor shall this Settlement 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 Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

CHINA NATIONAL AERO-TECHNOLOGY
IMPORT AND EXPORT CORPORATION

By: Mark D. Menefee
Mark D. Menefee
Director
Office of Export Enforcement

By: Guo Lizhi
Guo Lizhi Esq.
Deputy General Counsel
and Director of Legal Affairs of CATIC

Date: 5/11/01

Date: May 9, 2001

CHINA NATIONAL AERO-TECHNOLOGY
INTERNATIONAL SUPPLY COMPANY

CATIC USA, INC

By: Guo Lizhi
Guo Lizhi, Esq.
Deputy General Counsel
and Director of Legal Affairs of CATIC

By: Gou Lizhi
Gou Lizhi, Esq.
Deputy General Counsel
and Director of Legal Affairs of CATIC

Date: May 9, 2001

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UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matters of:)
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China National Aero-Technology)
Import and Export Corporation)
CATIC Plaza, 18 Beichen Dong Street,)
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Beijing, People's Republic of China 100101,)
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CATIC USA, INC.)
17800 Castleton Street)
City of Industry, California 91748,)
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and)
)
China National Aero-Technology)
International Supply Company)
CATIC Plaza, 18 Beichen Dong Street,)
Chaoyang District,)
Beijing, People's Republic of China 100101,)
)

Respondents)

ORDER

The Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), having notified China National Aero-Technology Import and Export Corporation (hereinafter "CATIC") and its affiliates, CATIC USA, Inc. (hereinafter "CATIC USA") and China National Aero-Technology International Supply Company (hereinafter "CATIC Supply"), of its intention to initiate administrative proceedings against them pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (I 994 & Supp. IV 1998)) (hereinafter the "Act"),¹ and the Export Administration

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect

Regulations (currently codified at 15 C.F.R. Parts 730-774 (2000)) (the "Regulations"),² based on allegations that CATIC, CATIC USA, and CATIC Supply each committed 24 violations of the former Regulations, *to wit*, 1 violation of Section 787.3(b), 13 violations of Section 787.5(a)(1), and 10 violations of Section 787.6 of the former Regulations, as follows:

1. *15 CFR 787. 3(b): Conspiracy*: Beginning in 1992 and continuing into 1995, CATIC, CATIC USA, and CATIC Supply, each committed 1 violation of Section 787.3 of the former Regulations, by conspiring and acting in concert with one another as well as others to violate the Act and former Regulations. The goal of the conspiracy was to obtain Department of Commerce export licenses authorizing the export of machine tools from the United States to the CATIC Machining Company, Ltd. in Beijing, China for use in the machining of parts and components of civil aircraft that were planned for a joint project with the McDonnell Douglas Corporation (hereinafter the "Trunkliner program") and then to divert the machine tools to unauthorized end-users in China, including the Nanchang Aircraft Manufacturing Company. To accomplish the goal of the conspiracy, the conspirators, including, CATIC, CATIC USA, and CATIC Supply, took actions in furtherance of the conspiracy, primarily by making or causing to be made false

under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (1994 & Supp. IV 1998)) until November 13, 2000 when the Act was reauthorized. See Pub. L. No. 106-508, 114 Stat. 2360.

² The alleged violations occurred in 1994 and 1995. The Regulations governing those violations are found in the 1994 and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1994 -1995)) (hereinafter the "former Regulations"). The former Regulations define the violations that BXA alleges occurred. Since that time, the Regulations have been reorganized and restructured; the Regulations establish the procedures that apply to the matters set forth herein.

and misleading representations of material fact, directly and indirectly, to BXA and other U.S. Government agencies. The false and misleading representations included misrepresentations about the end-user and end-use of the machine tools. The conspirators, including CATIC, CATIC USA, and CATIC Supply represented that the CATIC Machining Center, Ltd. in Beijing, China would be the end-user of the machine tools and the end-use of the machine tools was for the Trunkliner program. However, the CATIC Machining Company, Ltd. in Beijing, China was not the end-user nor the ultimate consignee of the machine tools, and the machine tools were not for use in the Trunkliner program.

2. 15 CFR 787. j(a)(1): Misrepresentation and Concealment:

a. On or about May 26, 1994, CATIC, CATIC USA, and CATIC Supply, each committed 10 violations of Section 787.5(a)(1) of the former Regulations, by making or causing to be made false or misleading representations of material fact to BXA and other U.S. Government agencies in connection with 10 separate export license applications submitted to BXA by Douglas Aircraft (the McDonnell Douglas Corporation) for the export of machine tools to China. For each of these 10 license applications, CATIC, CATIC USA, and CATIC Supply falsely gave assurances and represented on end-user and ultimate consignee statements, export control documents as defined in Section 770.2 of the former Regulations, that the CATIC Machining Company, Ltd. in Beijing, China would be the end-user of the machine tools and the end-use of the machine tools was for machining the parts and components of civil aircraft in the Trunkliner program. However, the CATIC Machining Company, Ltd. in Beijing, China was

neither the end-user nor the ultimate consignee, and the machine tools were not for use in the Trunkliner program.

b. On or about June 7, 1994 and on or about June 23, 1994, CATIC, CATIC USA, and CATIC Supply, through the McDonnell Douglas Corporation, each committed two violations of section 787.5(a)(1) of the former Regulations, by falsely representing to BXA and other U.S. government agencies that the machine tools were to be exported to the CATIC Machining Company, Ltd. in Beijing, China, they were for use in the Trunkliner program, and the Trunkliner program was being carried out in accordance with the 1992 contract. However, the CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee, the machine tools were not for use in the Trunkliner program, and the Trunkliner program had been delayed and was not being carried out in accordance with the 1992 contract.

c. On or about June 5, 1995, CATIC, CATIC USA, and CATIC Supply, each committed one violation of Section 787.5(a)(1) of the former Regulations, by submitting a letter to BXA falsely representing that the machine tools that were authorized for export to the CATIC Machining Company, Ltd. in Beijing, China and diverted to the Nanchang Aircraft Manufacturing Company in Nanchang, China in violation of the terms and conditions of the licenses would not be unpacked until CATIC, CATIC USA, and CATIC Supply received authorization from the U.S. Department of Commerce. However, the stretch press had been unpacked and placed in a building in Nanchang, China.

3. 15 CFR 787.6: *Export, Diversion, Reexport, and Transshipment*: Between on or about November 12, 1994 and on or about February 18, 1995, CATIC, CATIC USA, and CATIC Supply. each committed 10 violations of Section 787.6 of the former Regulations, by violating or causing the violation of the terms and conditions of 10 separate Department of Commerce export licenses. The 10 export licenses named China National Aero-Technology International Supply Company as the purchaser, China Aviation Supply and Marketing Corporation, North China Branch, as the intermediate consignee, CATIC Machining Company, Ltd. as the ultimate consignee, and the Trunkliner program as the end-use. CATIC, CATIC USA, and CATIC Supply violated terms and conditions of each of the 10 export licenses by diverting the machine tools to unauthorized end-users in China. including the Nanchang Aircraft Manufacturing Company.

BXA. CATIC, CATIC USA, and CATIC Supply having 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 the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that, for a period of five years from the date of this Order, the China National Aero-Technology Import and Export Corporation, CATIC Plaza, 18 Beichen Dong Street, Chaoyang District, Beijing, People's Republic of China 100101 (hereinafter "CATIC"), CATIC USA, Inc., 17800 Castleton Street, City of Industry, California 91748. U.S.A. (hereinafter "CATIC USA"). and the China National Aero-Technology International Supply Company,

CATIC Plaza, 18 Beichen Dong Street, Chaoyang District, Beijing, People's Republic of China 100101 (hereinafter "CATIC Supply"), shall be denied their U.S. export privileges as described herein (hereinafter the "denial periods"). CATIC, CATIC USA, and CATIC Supply, and all of their successors, assigns, officers, representatives, agents, and employees, may not participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document:
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of CATIC, CATIC USA, or CATIC Supply, or their successors, assigns, officers, representatives, agents, and employees (hereinafter the “denied persons”) any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by any of the denied persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby any of the denied persons acquire or attempt to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any of the denied persons of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from any of the denied persons in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by any of the denied persons, or service any item, of whatever origin: that is owned, possessed or controlled by any of the denied persons if such service involves the use of any item subject to the Regulations that has been or will be

exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that. after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person firm, corporation, or business organization related to any of the denied persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

FIFTH, that. as authorized by Section 766.18(c) of the Regulations, the denial periods set forth above shall be suspended in their entirety for five years from the date of entry of this Order, and shall thereafter be waived, provided that, during the period of suspension, CATIC, CATIC USA, and CATIC Supply do the following:

- A. upon BXA's request, permit BXA to review CATIC's, CATIC USA's and CATIC Supply's purchase orders for items on the Department of Commerce Control List, currently codified at 15 CFR Part 774 (2000). that are exported or to be exported from the United States;
- B. upon BXA's request, CATIC, CATIC USA, and CATTC Supply shall produce to the Department of Commerce any documents, in their custody, care or control, that were supplied to the United States in the case of U.S v. CATIC. et al., No. 99-353 (PLF), and CATIC, CATIC USA, and CATIC Supply hereby certify that

these documents are all the documents that are relevant to the sale, licensing or diversion of the machine tools from the McDonnell Douglas plant in Columbus, Ohio that were allegedly to be used in the Trunkliner program;

- C. for the purposes of authenticating documents and as otherwise agreed to by the parties, CATIC, CATIC USA, and CATIC Supply shall, at their own expense: make their appropriate employees, representatives, officers or agents available to the Department of Commerce to testify at any administrative proceeding initiated by BXA in connection with the sale, licensing and diversion of the machine tools from the McDonnell Douglas plant in Columbus, Ohio that were allegedly to be used in the Trunkliner program: and
- D. have not committed a violation of the Act or any regulation, order or license issued thereunder.

SIXTH, 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 these matters, is effective immediately.



Dexter M. Price
Acting Assistant Secretary
for Export Enforcement

Entered this 1st day of May, 2001.



U.S. Department of Justice

United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St. N.W.
Washington, D.C. 20001*

FOR IMMEDIATE RELEASE
Friday, May 11, 2001

Contact: Monty Wilkinson
(202) 307-6045

PRESS RELEASE

**PEOPLE'S REPUBLIC OF CHINA CORPORATE ENTITY WAIVES SOVEREIGN
IMMUNITY AND ENTERS PLEA TO FELONY
EXPORT VIOLATION; SENTENCED TO PAY \$1 MILLION CRIMINAL
FINE AND 5 YEAR TERM OF CORPORATE PROBATION**

Washington, D.C. - United States Attorney Kenneth L. Wainstein, John Dion, Acting Chief of the Internal Security Section at the United States Department of Justice, and the United States Department of Commerce, Office of Export Enforcement, announced that TAL Industries, Inc., a wholly owned subsidiary of the China National Aero-Technology Import and Export Corporation (CATIC), a People's Republic of China (PRC) government owned corporation, today entered a plea of *nolo contendere* to a felony violation of the Export Administration Act for making false and misleading statements in connection with an application submitted by the McDonnell Douglas Corporation and CATIC for a license to export machine tools to the PRC. Pursuant to the plea, TAL was sentenced to pay a criminal fine of \$1 million and to the maximum 5-year period of corporate probation. TAL and related Chinese entities were indicted by a federal grand jury in October, 1999.

Today's plea marks the first time in U.S. history that a corporate entity, wholly owned by the PRC, has waived sovereign immunity and been convicted of a criminal offense against the United States. As part of the agreement, TAL and its related Chinese entities also entered into a separate

civil settlement agreement with the Department of Commerce.

During today's plea hearing before United States District Judge Paul L. Friedman, a TAL representative did not contest that at trial, the United States would be able to prove beyond a reasonable doubt that TAL falsely certified in an export application filed by MDC and CATIC with the Commerce Department that an export-controlled piece of machinery would be shipped and stored at a Beijing location when, in fact, it intended and did ship the machine to an unapproved location in Nanchang, PRC.

During the 1980's and early 1990's, the McDonnell Douglas Corporation (MDC) operated a plant in Columbus, Ohio that manufactured, among other things, specialized aircraft parts. In the early 1990's, McDonnell Douglas decided to close this Columbus plant and sell off equipment and other items in it. Among the items available for sale were certain "machining tools," large sophisticated pieces of equipment used in the production of aircraft parts. In 1993, CATIC began negotiating with McDonnell Douglas to purchase certain machine tools and other equipment. Among other items, CATIC ultimately agreed to purchase from the McDonnell Douglas Columbus plant a machine tool known as a Wheelon (Verson) hydraulic isostatic stretch press ("the stretch press"), a large machine used to bend and shape metal. As part of the agreement to sell this stretch press, CATIC agreed to assist McDonnell Douglas in obtaining the required export license from the United States Department of Commerce. As part of this agreement, defendant TAL assisted CATIC in providing information to McDonnell Douglas and the Department of Commerce in connection with the export licenses.

The commercial export from the United States of the stretch press was governed by the Export Administration Act of 1979, 50 U.S.C. App. Sections 2401-2420 and the Export

Administration Regulations, 15 C.F.R. Parts 768-799. Pursuant to the Export Administration Regulations, a person or company desiring to export certain designated commodities to the PRC was required to obtain an IVL from the Bureau of Export Administration of the United States Department of Commerce (Commerce). In the application for an export license, the exporter of record, MDC, was required to state, among other things, a description of the equipment to be exported, the end user of the equipment, the country of ultimate destination, and the end use for which the equipment was being exported. These factors, together with other information, were material to the Bureau of Export Administration and other government bodies and agencies in determining whether the export of the items would conflict with the national security, nuclear non-proliferation, or the foreign policy of the United States.

In addition to the application for the export licenses prepared by the exporter MDC, the purchaser of the press, CATIC, was required to file an end user certificate known as a BXA-629P. This end user certificate is a statement by the ultimate consignee and purchaser identifying the end user and intermediate consignee of the licensable item. The Export Administration Regulations prohibit any person from making a false or misleading representation, statement, or certification and concealing any material fact to prescribed government agencies or officials.

On or about April 29, 1994, CATIC and defendant TAL submitted to MDC a completed BXA-629P that related to the export of the stretch press. TAL manager Jing Xia, acting in her capacity as an authorized corporate representative of defendant TAL, signed this BXA-629P on behalf of TAL and certified to Commerce that the stretch press would be “warehoused at: North China Branch China Aviation Supply and Marketing Corp., No. 10 Shifang Yuan, Desheng Men, Beijing, People’s Republic of China until factory construction is complete . . .” On or about May

26, 1994, MDC submitted a completed IVL application for the stretch press to the United States Department of Commerce in the District of Columbia. This IVL application for the stretch press, Application Control No. C771637, included the BXA-629P submitted by defendant TAL. On or about September 14, 1994, Commerce granted this IVL based in part on the representations set forth by defendant TAL on the BXA-629P.

The stretch press in fact was never stored at a warehouse in Beijing. Instead, pursuant to instructions from CATIC and defendant TAL, the stretch press was shipped in or about February, 1995, to an unapproved facility in Nanchang, PRC. Defendant TAL knowingly and wilfully certified, and caused others to certify falsely the intermediate consignee on the stretch press IVL to be the Beijing location. TAL knew this certification was false and misleading at the time the applications were filed with Commerce. CATIC and TAL returned the stretch press to an approved location in the PRC in 1996 after the unlawful shipment was discovered by the U.S. government.

In related administrative cases, the Bureau of Export Administration of the U.S. Department of Commerce has entered into settlement agreements with CATIC, CATIC USA, CATIC Supply, and TAL Industries to resolve allegations that each of these companies committed 24 violations of the Export Administration Regulations in connection with the export of the machine tools from the United States to China. The violations are for conspiracy, making or causing to be made false and misleading representations of material facts to the U.S. government, and violating the terms and conditions of ten Department of Commerce export licenses. To resolve its administrative case, TAL has agreed to pay an administrative penalty in the amount of \$1.32 million dollars and have its export privileges denied for 10 years. CATIC, CATIC USA and CATIC Supply have agreed to a five-year denial of their export privileges, which period shall be suspended in its entirety provided that CATIC

and CATIC Supply comply with the terms of the Order and do not violate the Export Administration Act or Regulations during that time. Further, CATIC, CATIC USA, CATIC Supply and TAL have agreed to cooperate with the Department of Commerce in any other administrative proceedings related to the export of the machine tools to China.

In announcing the plea and sentence, United States Attorney Wainstein and Mr. Dion praised the cooperative effort of the U.S. Attorney's Office, the Department of Commerce, Office of Export Enforcement, and the United States Customs Service, Office of Investigations. They commended Special Agent John McKenna of the Office of Export Enforcement and former Assistant United States Attorneys Eric Dubelier and Lisa Prager who investigated the case. They commended paralegal specialists Karen Cariddi and Colleen Bunner. They further commended Assistant United States Attorneys William Blier, Steven J. Durham, and Chrisellen R. Kolb, and Department of Justice Senior Trial Attorney Michael Liebman of the Internal Security Section.

This plea resolves the charges in the indictment against the CATIC entities. The case against MDC and Douglas Aircraft remains pending before Judge Friedman.

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