

# DRAFT



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Bureau of Industry and Security**  
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Valtex International Corporation  
1000 San Antonio Road  
Palo Alto, California 94303

*Attn: Vladimir Alexanyan*  
*President*

Dear Mr. Alexanyan:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that Valtex International Corporation of Palo Alto, California ("Valtex") has committed seven violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the "Act").<sup>2</sup> Specifically, BIS charges that Valtex committed the following violations:

**Charge 1      15 C.F.R. § 764.2(c) - Attempted Export of Germanium Coated Polyimide Film to the People's Republic of China Without the Required Department of Commerce License**

On or about October 28, 2002, Valtex attempted to violate the Regulations by attempting to export Germanium coated polyimide film ("film"), an item subject to the Regulations (ECCN

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The charged violations occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2004 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). 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 by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 *Fed. Reg.* 48763 (August 10, 2004)), continues the Regulations in effect under the IEEPA.



1A003),<sup>3</sup> from the United States to the People's Republic of China without obtaining the Department of Commerce license required by Section 742.4 of the Regulations. In so doing, Valtex committed one violation of Section 764.2(c) of the Regulations.

**Charge 2      15 C.F.R. § 764.2(e) - Buying an Item With Knowledge a Violation of the Regulations Would Occur**

On or about September 12, 2002, Valtex bought the film referenced in Charge One with knowledge that a violation of the Regulations would occur. Specifically, Valtex bought the film from a U.S. manufacturer when Valtex knew or had reason to know that it would attempt to export the film to the People's Republic of China without obtaining the required Department of Commerce license. In so doing, Valtex committed one violation of Section 764.2(e) of the Regulations.

**Charge 3      15 C.F.R. § 764.2(c) - Attempted False Statement on a Shipper's Export Declaration Concerning Authority to Export**

On or about October 28, 2002, in connection with the attempted export referenced in Charge One, Valtex attempted a violation of the Regulations by attempting to file or cause to be filed a Shipper's Export Declaration with the United States Government that stated the film qualified for export from the United States as G-DEST.<sup>4</sup> This statement was false because, as described in Charge One, a Department of Commerce license was required to export this item to the People's Republic of China. In so doing, Valtex committed one violation of Section 764.2(c) of the Regulations.

**Charge 4      15 C.F.R. § 764.2(e) - Knowingly Attempting to Make a False Statement on a Shipper's Export Declaration**

On or about October 28, 2002, in connection with the transaction referenced in Charge One, Valtex engaged in conduct prohibited by the Regulations by attempting to export the film with knowledge that a violation of the Regulations would occur. Specifically, Valtex completed a Shipper's Export Declaration and attempted to file it with the United States Government that

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<sup>3</sup> The term "ECCN" refers to an Export Control Classification Number. *See* Supp. 1 to 15 C.F.R. § 774.

<sup>4</sup> The term "G-DEST" was a term used in pre-1997 regulations and was a provision authorizing exports of items that appeared on the Commerce Control List but that did not require a validated license. *See* 15 C.F.R. § 771.3 (1996).

falsely stated the film qualified for export from the United States as G-DEST. At all times relevant hereto, Valtex knew or had reason to know that a Department of Commerce license was required to export the film to the People's Republic of China. In so doing, Valtex committed one violation of Section 764.2(e) of the Regulations.

**Charge 5      15 C.F.R. § 764.2(c) - Attempted False Statement on a Shipper's Export Declaration Concerning Identity of Ultimate Consignee**

On or about October 28, 2002, in connection with the attempted export referenced in Charge One, Valtex attempted to file or cause to be filed a Shipper's Export Declaration with the United States Government that falsely stated the true identity of the ultimate consignee. Specifically, Valtex attempted to file a Shipper's Export Declaration that stated the ultimate consignee was the China Great Wall Industry Corporation in the People's Republic of China. This statement was false because the actual ultimate consignee in the transaction was the Chinese Academy of Space and Technology in the People's Republic of China. In so doing, Valtex committed one violation of Section 764.2(c) of the Regulations.

**Charge 6      15 C.F.R. § 764.2(e) - Knowingly Attempting to Make a False Statement on a Shipper's Export Declaration**

On or about October 28, 2002, in connection with the attempted export referenced in Charge One, Valtex engaged in conduct prohibited by the Regulations by attempting to export the film with knowledge that a violation of the Regulations would occur. Specifically, Valtex completed a Shipper's Export Declaration and attempted to file it with the United States Government that falsely stated the identity of the ultimate consignee for the transaction as described in Charge Five. At all times relevant hereto, Valtex knew or had reason to know that the ultimate consignee for the film was the Chinese Academy of Space and Technology, not the China Great Wall Industry Corporation. In so doing, Valtex committed one violation of Section 764.2(e) of the Regulations.

**Charge 7      15 C.F.R. § 764.2(c) - Attempting to File a Shipper's Export Declaration that Failed to Provide Required Information**

On or about October 28, 2002, in connection with the attempted export referenced in Charge One, Valtex attempted to file or cause to be filed a Shipper's Export Declaration with the United States Government that failed to show the ECCN as required by Part 758 of the Regulations. In attempting to file a Shipper's Export Declaration that failed to show information required by Part 758 of the Regulations, Valtex committed one violation of Section 764.2(c) of the Regulations.

Accordingly, Valtex 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;<sup>5</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Valtex fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If Valtex defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Valtex. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on the each of the charges in this letter.

Valtex 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. *See* 15 C.F.R. § 766.6. Valtex is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Valtex have a proposal to settle this case, Valtex or its representative should transmit it to 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, Valtex'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

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<sup>5</sup> *See* 15 C.F.R. § 6.4(a)(2).

Valtex International Corporation  
Proposed Charging Letter  
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In addition, a copy of Valtex's answer must be served on BIS at the following address:

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

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

Sincerely,

Acting Director  
Office of Export Enforcement

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

\_\_\_\_\_) )  
In the Matter of: ) )  
 ) )  
Valtex International Corporation ) )  
1000 San Antonio Road ) )  
Palo Alto, California 94303, ) )  
 ) )  
Respondent. ) )  
\_\_\_\_\_)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Valtex International Corporation (“Valtex”), and the Bureau of Industry and Security, United States Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup>

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<sup>1</sup> The charged violations occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2004 Regulations set forth the procedures that apply to this matter.

<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 6, 2004 (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under the IEEPA.

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

WHEREAS, BIS has issued a proposed charging letter to Valtex that alleged that Valtex committed seven violations of the Regulations, specifically:

1. *15 C.F.R. § 764.2(c) - Attempted Export of Germanium Coated Polyimide Film to the People's Republic of China Without the Required Department of Commerce License:* On or about October 28, 2002, Valtex attempted to violate the Regulations by attempting to export Germanium coated polyimide film ("film"), an item subject to the Regulations (ECCN 1A003),<sup>3</sup> from the United States to the People's Republic of China without obtaining the Department of Commerce license required by Section 742.4 of the Regulations.
2. *15 C.F.R. § 764.2(e) - Buying an Item With Knowledge a Violation of the Regulations Would Occur:* On or about September 12, 2002, Valtex bought the film referenced in Paragraph One with knowledge that a violation of the Regulations would occur. Specifically, Valtex bought the film from a U.S. manufacturer when Valtex knew that it would attempt to export the film to the People's Republic of China without obtaining the required Department of Commerce license.

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<sup>3</sup> The term "ECCN" refers to an Export Control Classification Number. *See* Supp. I to 15 C.F.R. § 774.

3. *15 C.F.R. § 764.2(c) - Attempted False Statement on a Shipper's Export Declaration Concerning Authority to Export:* On or about October 28, 2002, in connection with the attempted export referenced in Paragraph One, Valtex attempted a violation of the Regulations by attempting to file or cause to be filed a Shipper's Export Declaration with the United States Government that stated the film qualified for export from the United States as G-DEST.<sup>4</sup> This statement was false because, as described in Paragraph One, a Department of Commerce license was required to export this item to the People's Republic of China.
4. *15 C.F.R. § 764.2(e) - Knowingly Attempting to Make a False Statement on a Shipper's Export Declaration:* On or about October 28, 2002, in connection with the transaction referenced in Paragraph One, Valtex engaged in conduct prohibited by the Regulations by attempting to export the film with knowledge that a violation of the Regulations would occur. Specifically, Valtex completed a Shipper's Export Declaration and attempted to file it with the United States Government that falsely stated the film qualified for export from the United States as G-DEST. At all times relevant hereto, Valtex knew that a Department of Commerce license was required to export the film to the People's Republic of China.

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<sup>4</sup> The term "G-DEST" was a term used in pre-1997 regulations and was a provision authorizing exports of items that appeared on the Commerce Control List but that did not require a validated license. *See* 15 C.F.R. § 771.3 (1996).



5. *15 C.F.R. § 764.2(c) - Attempted False Statement on a Shipper's Export Declaration Concerning Identity of Ultimate Consignee:* On or about October 28, 2002, in connection with the attempted export referenced in Paragraph One, Valtex attempted to file or cause to be filed a Shipper's Export Declaration with the United States Government that falsely stated the true identity of the ultimate consignee. Specifically, Valtex attempted to file a Shipper's Export Declaration that stated the ultimate consignee was the China Great Wall Industry Corporation in the People's Republic of China. This statement was false because the actual ultimate consignee in the transaction was the Chinese Academy of Space and Technology in the People's Republic of China.
  
6. *15 C.F.R. § 764.2(e) - Knowingly Attempting to Make a False Statement on a Shipper's Export Declaration:* On or about October 28, 2002, in connection with the attempted export referenced in Paragraph One, Valtex engaged in conduct prohibited by the Regulations by attempting to export the film with knowledge that a violation of the Regulations would occur. Specifically, Valtex completed a Shipper's Export Declaration and attempted to file it with the United States Government that falsely stated the identity of the ultimate consignee for the transaction as described in Paragraph Five. At all times relevant hereto, Valtex knew that the ultimate consignee for the film was the Chinese Academy of Space and Technology, not the China Great Wall Industry Corporation.

7. *15 C.F.R. § 764.2(c) - Attempting to File a Shipper's Export Declaration that Failed to Provide Required Information:* On or about October 28, 2002, in connection with the attempted export referenced in Paragraph One, Valtex attempted to file or cause to be filed a Shipper's Export Declaration with the United States Government that failed to show the ECCN as required by Part 758 of the Regulations.

WHEREAS, Valtex has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, Valtex fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

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

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

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

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

WHEREAS, Valtex agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Valtex, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanctions shall be imposed against Valtex in complete settlement of the violations of the Regulations set forth in the proposed charging letter:

- a. Valtex shall be assessed a civil penalty in the amount of \$77,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date on which Valtex enters a plea of guilty to related criminal charges at a Rule 11 hearing in the United States District Court for the District of Minnesota. Payment shall be made by wire transfer as specified in the attached instructions;
- 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, License Exception, permission, or privilege granted, or to be granted, to Valtex. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Valtex's export privileges for a period of one year from the date of imposition of the penalty.
- c. Valtex shall implement an Export Management System not later than 12 months from the date of entry of the Order. Said Export Management System shall be in substantial compliance with the Export Management Systems Guidelines, which are available from the BIS web site at <http://www.bis.doc.gov/ExportManagementSystems/EMSGuidelines.html>, which are incorporated herein by reference. A copy of said Export Management System shall be transmitted to the Office of Export Enforcement, U.S. Department of

Commerce, High Point Plaza, 4415 West Harrison Street, Hillside, Illinois, 60162, not later than December 31, 2005.

- d. For a period of five years from the date of this Order, Valtex International Corporation, 1000 San Antonio Road, Palo Alto, California 94303 (“Valtex”), its successors or assigns, and, when acting for or on behalf of Valtex, its officers, representatives, agents, or employees (“denied person”) may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as “item”) that is subject to the Regulations and that is exported or to be exported from the United States to the People’s Republic of China, or in any other activity subject to the Regulations that involves the People’s Republic of China, including, but not limited to:
- i. Applying for, obtaining, or using any license, License Exception, or export control document that involves exports to the People’s Republic of China;
  - ii. 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 that is subject to the Regulations and that is exported or to be exported from the United States to the People’s Republic of China, or in any other activity subject to the Regulations that involves the People’s Republic of China; or

- iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States to the People's Republic of China that is subject to the Regulations, or in any other activity subject to the Regulations that involves the People's Republic of China.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Valtex hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$77,000 civil penalty, BIS will not initiate any further administrative proceeding against Valtex in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement


in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if 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 if 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.

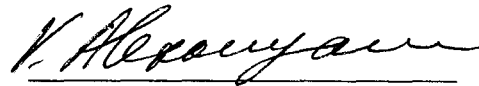
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

  
\_\_\_\_\_  
Acting Director  
Office of Export Enforcement

Date: 1/12/05

VALTEX INTERNATIONAL  
CORPORATION

  
\_\_\_\_\_  
Vladimir Alexanyan  
President

Date: Dec. 29/2004

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

In the Matter of )  
 )  
Valtex International Corporation )  
1000 San Antonio Road )  
Palo Alto, California 94303, )  
 )  
Respondent )

ORDER RELATING TO VALTEX INTERNATIONAL CORPORATION

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) has notified Valtex International Corporation (“Valtex”) of its intention to initiate an administrative proceeding against Valtex pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> by issuing a proposed charging letter to Valtex that alleged that Valtex committed seven violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The charged violations occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2004 Regulations set forth the procedures that apply to this matter.

<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 6, 2004 (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under the IEEPA.

1. *15 C.F.R. § 764.2(c) - Attempted Export of Germanium Coated Polyimide Film to the People's Republic of China Without the Required Department of Commerce License:* On or about October 28, 2002, Valtex attempted to violate the Regulations by attempting to export Germanium coated polyimide film ("film"), an item subject to the Regulations (ECCN 1A003),<sup>3</sup> from the United States to the People's Republic of China without obtaining the Department of Commerce license required by Section 742.4 of the Regulations.
2. *15 C.F.R. § 764.2(e) - Buying an Item With Knowledge a Violation of the Regulations Would Occur:* On or about September 12, 2002, Valtex bought the film referenced in Paragraph One with knowledge that a violation of the Regulations would occur. Specifically, Valtex bought the film from a U.S. manufacturer when Valtex knew that it would attempt to export the film to the People's Republic of China without obtaining the required Department of Commerce license.
3. *15 C.F.R. § 764.2(c) - Attempted False Statement on a Shipper's Export Declaration Concerning Authority to Export:* On or about October 28, 2002, in connection with the attempted export referenced in Paragraph One, Valtex attempted a violation of the Regulations by attempting to file or cause to be filed a Shipper's Export Declaration with the United States Government that stated the film qualified for export from the United States as G-DEST.<sup>4</sup> This statement was

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<sup>3</sup> The term "ECCN" refers to an Export Control Classification Number. *See* Supp. 1 to 15 C.F.R. § 774.

<sup>4</sup> The term "G-DEST" was a term used in pre-1997 regulations and was a provision authorizing exports of items that appeared on the Commerce Control List but that did not require Order



false because, as described in Paragraph One, a Department of Commerce license was required to export this item to the People's Republic of China.

4. *15 C.F.R. § 764.2(e) - Knowingly Attempting to Make a False Statement on a Shipper's Export Declaration:* On or about October 28, 2002, in connection with the transaction referenced in Paragraph One, Valtex engaged in conduct prohibited by the Regulations by attempting to export the film with knowledge that a violation of the Regulations would occur. Specifically, Valtex completed a Shipper's Export Declaration and attempted to file it with the United States Government that falsely stated the film qualified for export from the United States as G-DEST. At all times relevant hereto, Valtex knew that a Department of Commerce license was required to export the film to the People's Republic of China.
5. *15 C.F.R. § 764.2(c) - Attempted False Statement on a Shipper's Export Declaration Concerning Identity of Ultimate Consignee:* On or about October 28, 2002, in connection with the attempted export referenced in Paragraph One, Valtex attempted to file or cause to be filed a Shipper's Export Declaration with the United States Government that falsely stated the true identity of the ultimate consignee. Specifically, Valtex attempted to file a Shipper's Export Declaration that stated the ultimate consignee was the China Great Wall Industry Corporation in the People's Republic of China. This statement was false because the actual ultimate consignee in the transaction was the Chinese Academy of Space and Technology in the People's Republic of China.

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a validated license. *See* 15 C.F.R. § 771.3 (1996).

Order

Valtex International Corporation

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6. *15 C.F.R. § 764.2(e) - Knowingly Attempting to Make a False Statement on a Shipper's Export Declaration:* On or about October 28, 2002, in connection with the attempted export referenced in Paragraph One, Valtex engaged in conduct prohibited by the Regulations by attempting to export the film with knowledge that a violation of the Regulations would occur. Specifically, Valtex completed a Shipper's Export Declaration and attempted to file it with the United States Government that falsely stated the identity of the ultimate consignee for the transaction as described in Paragraph Five. At all times relevant hereto, Valtex knew that the ultimate consignee for the film was the Chinese Academy of Space and Technology, not the China Great Wall Industry Corporation.
7. *15 C.F.R. § 764.2(c) - Attempting to File a Shipper's Export Declaration that Failed to Provide Required Information:* On or about October 28, 2002, in connection with the attempted export referenced in Paragraph One, Valtex attempted to file or cause to be filed a Shipper's Export Declaration with the United States Government that failed to show the ECCN as required by Part 758 of the Regulations.

WHEREAS, BIS and Valtex 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 a civil penalty of \$77,000 is assessed against Valtex which shall be paid to the U.S. Department of Commerce within 30 days from the date on which Valtex enters a plea of

guilty to related criminal charges at a Rule 11 hearing in the United States District Court for the District of Minnesota. Payment shall be made by wire transfer as 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, Valtex 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 Valtex. Accordingly, if Valtex should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Valtex's export privileges for a period of one year from the date of entry of this Order.

FOURTH, Valtex shall implement an Export Management System not later than 12 months from the date of entry of the Order. Said Export Management System shall be in substantial compliance with the Export Management Systems Guidelines, which are available from the BIS web site at <http://www.bis.doc.gov/ExportManagementSystems/EMSGuidelines.html>, which are incorporated herein by reference. A copy of said Export Management System shall be transmitted to the Office of Export Enforcement, U.S. Department of Commerce, High Point Plaza, 4415 West Harrison Street, Hillside, Illinois, 60162, not later than December 31, 2005.

FIFTH, that for a period of five years from the date of this Order, Valtex International Corporation, 1000 San Antonio Road, Palo Alto, California 94303 (“Valtex”), its successors or assigns, and, when acting for or on behalf of Valtex, its officers, representatives, agents, or employees (“denied person”) may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as “item”) that is subject to the Regulations and that is exported or to be exported from the United States to the People’s Republic of China, or in any other activity subject to the Regulations that involves the People’s Republic of China, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document that involves exports to the People’s Republic of China;
- 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 that is subject to the Regulations and that is exported or to be exported from the United States to the People’s Republic of China, or in any other activity subject to the Regulations that involves the People’s Republic of China; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States to the People’s Republic of China that is subject to the Regulations, or in any other activity subject to the Regulations that involves the People’s Republic of China.

SIXTH, that no person may, directly or indirectly, do any of the actions described below with respect to an item that is subject to the Regulations and that has been, will be, or is intended to be exported or reexported to the People’s Republic of China:

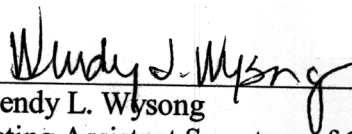
- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations from the United States to the People's Republic of China;
- B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States to the People's Republic of China, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States to the People's Republic of China;
- D. Obtain from the denied person 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 to the People's Republic of China;  
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 to the People's Republic of China and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States to the People's Republic of China. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

SEVENTH, 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 Valtex by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

EIGHTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the *Federal Register*.

NINTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

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

  
Wendy L. Wysong  
Acting Assistant Secretary of Commerce  
for Export Enforcement

Entered this 14th day of January 2007. 