



**U.S. Department of Justice**

United States Attorney

*District of Columbia*

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**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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