

UNITED STATES DEPARTMENT OF STATE  
BUREAU OF POLITICAL-MILITARY AFFAIRS  
WASHINGTON, D. C. 20520

In the Matter of: )  
)

THE BOEING COMPANY )  
Delaware )

Respondent )  
)

CONSENT AGREEMENT

This Agreement is made by and between The Boeing Company (and its successors) (Boeing) and the United States Department of State (Department), pursuant to § 128.11(b) of the International Traffic in Arms Regulations (22 C.F.R. Parts 120-130) (the Regulations).

WHEREAS, The Office of Defense Trade Controls (ODTC), Bureau of Political-Military Affairs, United States Department of State, has notified Boeing of its intention to initiate an administrative proceeding against Boeing pursuant to section 38(e) of the Arms Export Control Act (the Act) (22 U.S.C. 2778(e)) and § 128.3 of the Regulations, based on allegations that Boeing violated section 38 of the Act (22 U.S.C. 2778) and § 127.2 of the Regulations as set forth in the proposed Charging Letter of September 2, 1998, attached hereto and incorporated by reference herein, by exporting defense articles (specifically, technical data designated in the United States Munitions List, 22 C.F.R. § 121) and defense services without the required approvals by the Department and by exporting defense articles and defense services without Department approval and in violation of the terms of conditions of approvals that were provided by the Department.

WHEREAS, Boeing has reviewed the proposed Charging Letter and fully understands it and this Agreement, and enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, Boeing wishes to settle and dispose of all civil charges pursuant to section 38 identified in the proposed Charging Letter by entering into this Consent Agreement; and

WHEREAS, following the Department's direction in its letter dated January 5, 1998, Boeing conducted an investigation of this matter and cooperated in providing the results to the Department; and

WHEREAS, the Department and Boeing agree to be bound by this Agreement and a related administrative order ("Order") (attached) to be entered by the Acting Under Secretary of State for Arms Control and International Security Affairs;

Now, WHEREFORE, Boeing and the Department agree as follows:

Parties

(1) The Parties to this Agreement are the Department and The Boeing Company. The term "Boeing" includes The Boeing Company, its wholly owned subsidiaries, including Boeing Commercial Space Corporation (BCSC), its operating divisions, subsidiaries, assignees and successors.

Jurisdiction

(2) The Department has jurisdiction over Boeing under the Act and the Regulations in connection with the matters identified in the proposed Charging Letter.

Compliance Restructuring and Monitoring

(3) Boeing agrees that it will institute a compliance restructuring as described in the Annex, which will be completed within 45 days of the signing of the Order and will effect the changes and procedures and provide the assurances described in the Annex attached hereto and incorporated by reference herein in order to ensure comprehensive, continuous control and responsibility by Boeing's Office of General Counsel and its Executive Council over the totality of export compliance in Boeing's Sea Launch program, and to provide the United States Government with additional means to monitor and verify activities subject to the Regulations.

Penalty

(4) Boeing agrees that it shall pay the Department a civil penalty of \$7,500,000 (seven million five hundred thousand dollars) in complete settlement of alleged civil violations of the Regulations set forth in the Department's proposed charging letter. Boeing shall pay \$3,500,000 (three million five hundred thousand dollars) within 10 days of the signing of the relevant Order, and \$4,000,000 (four million dollars) in annual installments of \$800,000 (eight hundred thousand dollars) over a five year period, due each year on the anniversary of the signing of the Order. Boeing agrees that the effect of any statutory limitation to the collection of the civil penalty imposed by this Agreement shall be tolled until the last payment is made.

(5) An additional penalty of \$2,500,000 (two million five hundred thousand dollars) is hereby assessed but its payment shall be suspended and represents an amount that Boeing will apply over a three year period to pay the costs of the compliance measures specified in the Annex. Boeing will provide to the Department each year on the anniversary of the Order a written accounting of the expenditures associated with this additional penalty.

Miscellaneous

(6) Boeing understands that the Department will make the proposed Charging Letter, this Consent Agreement, and the relevant Order when entered, available to the public.

(7) For the purpose of assessing compliance with the provisions of the Act and Regulations, Boeing agrees to arrange and facilitate, with minimum advance notice, on-site audits of its Sea Launch facilities, wherever situated, by the Department during a five-year period commencing on the signing of the Order.

(8) The Department and Boeing agree that this Consent Agreement is for settlement purposes only. Boeing neither admits nor denies the allegations in the proposed Charging Letter. If this Consent Agreement is not approved, and the Order is not entered by the Acting Under Secretary of State for Arms Control and International Security Affairs, the Department and Boeing agree that they may not use this Consent Agreement in any administrative or judicial proceeding and that neither party shall be bound by the settlement terms contained in this Consent

Agreement in any subsequent administrative or judicial proceeding.

(9) No agreement, understanding, representation or interpretation not contained in this Consent Agreement may be used to vary or otherwise affect the terms of this Consent Agreement or the Order, when entered, nor shall this Consent

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.

(10) Boeing acknowledges and accepts the following conditions of this Consent Agreement: (a) Notwithstanding this settlement and Boeing's payment of the administrative penalties specified herein, the United States is free to pursue criminal investigations and/or prosecutions based on the same conduct that gave rise to those penalties; (b) The Department may at its sole discretion refer this matter and any information or evidence it has regarding this matter to any person or entity having criminal jurisdiction; (c) Boeing is aware of a current, ongoing criminal investigation into this matter; and (d) Boeing waives any claim that this settlement, or Boeing's payment of the administrative penalties specified herein, bars or precludes any criminal enforcement on the ground of double jeopardy or otherwise as a result of this settlement and payment of administrative penalties.

(11) The Department agrees that this Agreement resolves any civil penalties with respect to that information pertaining to possible violations of section 38 of the Act or the Regulations which Boeing has disclosed in writing to the Department between January 5, 1998 (the date of the Department's initial written direction in this matter to Boeing) and the signing of the Order.

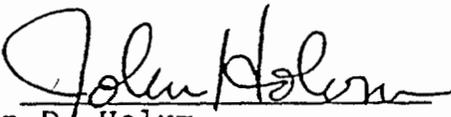
(12) The Department has determined that debarment is not appropriate at this time, but reserves the right to consider imposing additional civil administrative sanctions, including debarment, in the event that Boeing fails to fulfill the requirements of this Consent Agreement and of the Annex, or is responsible for other compliance or law enforcement concerns under the Act or other statutes specified in 22 C.F.R. § 120.27.

(13) Boeing agrees that, upon entry into force of the Order, it waives all rights to further procedural steps in the matter, including an administrative hearing pursuant to § 128 of the Regulations (except with respect to any alleged violations of this Agreement).

(14) This Consent Agreement shall become binding on the Department only when the Acting Under Secretary of State for Arms Control and International Security Affairs approves it by entering the Order which will have the same force and effect as a decision and Order after a full administrative hearing on the record.

U.S. DEPARTMENT OF STATE

THE BOEING COMPANY

By:   
John D. Holum  
Acting Under Secretary of State  
for Arms Control and International  
Security Affairs and Director,  
U.S. Arms Control and  
Disarmament Agency  
Department of State  
Authorized Representative

By:   
Jim Albaugh  
President, Space &  
Communications Group  
The Boeing Company  
Authorized Representative

9/29/98  
(Date)

9/26/98  
(Date)

## ANNEX

The Boeing Company, reflecting its commitment to conduct its Sea Launch program in full compliance with the Arms Export Control Act (the "Act") and the International Traffic in Arms Regulations (the "Regulations"), and in order to ensure, in particular, that there is no unauthorized technical assistance whatsoever to any foreign person, including foreign partners, that would assist in the design, development or enhancement of foreign space launch vehicles, missiles or facilities, agrees to implement the following measures and agrees that these measures will be honored for a five-year period as part of the Consent Agreement.

- (1) Boeing will institute strengthened export compliance procedures -- to include monthly reports on recent and upcoming developments and events -- so that all employees engaged in the Sea Launch program are thoroughly familiar with the Act, the Regulations, and their and the Company's responsibilities, thereunder, particularly pertaining to adherence to the specific terms and conditions of licenses that may be approved by the Department (ODTC).
- (2) Boeing will institute a comprehensive computerized document control system that ensures prior U.S. Government review pursuant to the terms and conditions of licenses and other approvals provided by the Department for all technical data and technical assistance in any form to foreign persons and complete archiving of all such releases. The system will be accessible by remote computer access to ODTC, DTSA and the Boeing General Counsel's Office. Boeing will archive all releases, indexed to reflect the details of specific U.S. Government approvals, every 90 days and provide copies in CD-ROM form to ODTC and DTSA. Boeing will complete the archiving of past releases within 90 days of the signing of the Order.
- (3) Boeing will restructure the reporting relationships of its export compliance and security staff for the Sea Launch program such that all such personnel report formally to the Office of General Counsel, which will be a full participant in their performance reviews (though they may remain part of their organizations for budgetary purposes and retain reporting responsibilities of an informational nature to Sea Launch program and functional managers). The Department will review these relationships from time to time, beginning on the first anniversary of the signing of the Order, following which they will remain in effect unless the Department deems them unnecessary.

- (4) To monitor implementation of the preceding measures and related measures specified in the Consent Agreement, Boeing will retain a recognized auditing firm acceptable to the Department to initiate an audit and provide Boeing's Office of General Counsel, its Executive Council and the Department with a report no later than 150 days after the signing of the Order referred to in the Consent Agreement. The report will review Boeing's record of implementation of these measures and, as appropriate, contain recommendations for correcting any weaknesses identified in the course of the audit, which Boeing will implement after consideration by the Department.
- (5) Boeing's Executive Council (which consists of senior executives of the Boeing Company, comprised currently of Boeing's Chairman and Chief Executive Officer, the President and Chief Operating Officer, the Chief Financial Officer, the General Counsel, the Chief Administrative Officer, the Presidents of the Operating Groups and the Vice President of the People Organization, and other senior executives), will provide an affidavit, through one of its members, to the Department within 45 days certifying that the measures set forth in paragraphs 1-3, above, have been implemented fully. Further, the Executive Council will be briefed on all of the aforesaid measures within 45 days of the signing of the Order. Thereafter, Boeing will provide periodic briefings to the Executive Council on the status of the Sea Launch program's compliance with the Act and the Regulations.