

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 99-353 (07-08) (PLF)
)	
CHINA NATIONAL AERO-TECHNOLOGY)	
IMPORT AND EXPORT CORP., et al.)	
)	
Defendants)	

**REPORT #1 OF THE SPECIAL MASTER
[October 1, 2001]**

Pursuant to the Order of Reference to Special Master issued by the Court on July 2, 2001, the Special Master hereby files this Report to advise the Court on the status of the proceedings before the Special Master.

I. Motions Ruled Upon by the Special Master

The Special Master has ruled on the following Motions:

- On August 3, 2001 the Special Master issues Memorandum Opinion and Order #1 granting in part and denying in part the **Motion of McDonnell Douglas Corporation and Douglas Aircraft Company for a Bill of Particulars** and ordering the Government to provide particulars to certain enumerated requests. The parties did not object to this Order. On September 20, 2001 the Government filed and served on Defendants its Response to the Special Master’s Order Setting Forth Particulars. On September 26, 2001 the Defendants filed a Motion to Compel Compliance with Special Master Order #1.

- On September 17, 2001 the Special Master issued Memorandum Opinion and Order #2:
 - granting in part and denying in part the **Motion of Defendants McDonnell Douglas Corporation and Douglas Aircraft Company to Compel Discovery and Disclosure of Exculpatory and Other Information;**
 - granting the **Motion to File *Ex Parte* Memorandum of Points and Authorities in Support of Motion to Compel Production of Discovery Materials Relating to Dr. Leitner Under Seal;** and
 - granting the **Motion to Compel the Production of Materials Relating to Dr. Peter Leitner,** adopted by Defendants McDonnell Douglas Corporation and Douglas Aircraft Company.

The parties may object to Memorandum Opinion and Order #2 on or before October 1, 2001

- The Special Master is prepared to issue Memorandum Opinion and Order #3, which will render a decision on the **Motion of McDonnell Douglas Corporation and Douglas Aircraft Company for the Production of Classified Documents and to Establish Procedures Under Section 4 of the Classified Procedures Act.** The Special Master posed a request for additional information to the parties on September 26, 2001 and did not receive a response from the Government until October 1, 2001. Now that both sides have responded, the Special Master is prepared to rule on the Motion and Memorandum Opinion and Order #3 will be issued before the end of this week.

II. Motions Pending Before the Special Master

The following matters are currently pending before the Special Master:

A. Motions Relating to Classified Information:

- On March 31, 2000 Defendants filed a **Motion to Compel Discovery Access to Two Classified Documents.** In response to this Motion, the Government filed a **Consolidated Motion Pursuant to Section 4 of the Classified Information Procedures Act and Response to the Motion of McDonnell Douglas Corporation to Compel Discovery of Two Classified Documents.** Douglas filed an Opposition to the Motion for *Ex Parte* Consideration, and the Government filed a Reply, followed by an *Ex*

Parte Submission. The Court granted the Government's Motion to make the *ex parte* CIPA submission and ordered Douglas to file a Reply in support of its Motion to Compel and Opposition to the Government's Motion to authorize deletion of the specified items of classified information from discoverable documents. Douglas therefore filed a Combined Response in Opposition to the Government's Motion to Delete Specified Items of Classified Information from Discoverable Documents and a Reply to the Government's Opposition to Douglas's Motion to Compel. This filing was accompanied by an *Ex Parte* Submission in Opposition to the Motion to Delete Classified Information and a Motion requesting the Court's permission to make the *ex parte* submission. The Government filed a Consolidated Opposition to the Motion to Compel and the Motion to File *Ex Parte* and Douglas filed a Reply. The Government filed a Second (6/5/01) and Third (7/2/01) *Ex Parte* Submission, which were at issue in Douglas's Motion to Establish Procedures Under Section 4 of the Classified Information Procedures Act.

- On March 16, 2000 Douglas filed a **Motion to Compel Discovery and Disclosure of Information from the United States Intelligence Agencies**. The Government filed with an Opposition, and Douglas filed a Reply thereto.

B. Other Discovery Motions

- On February 12, 2001 Douglas filed a **Motion for Orders to (I) Compel Compliance with the Discovery Order; (II) Compel Disclosure of the Fact That Material Documents Are Missing, and to Provide Reasons Therefor; (III) Appoint a Special Master, (IV) Compel Production of Classified Documents; and (V) Establish a Schedule for Completion of Discovery, Briefing and Resolution of Motions, and Trial**. The Government filed an Opposition and Douglas filed a Reply. The Court ruled upon the portion of the Motion requesting appointment of a Special Master, and the remaining issues are pending before the Special Master.

C. Recently Filed Motions Before the Special Master

- On August 2, 2001 Douglas filed a **Motion to Compel Production of Information Relating to Altered Documents**. This Motion is ripe for resolution.

- Also on August 2, 2001 Douglas filed a **Motion to Compel Compliance with Paragraph 3 of the October 2, 2000 Discovery Order**. This Motion is ripe for resolution.
- On September 26, 2001 Douglas filed a **Motion to Compel Compliance with Special Master's Order #1** (ordering the Government to file particulars). This Motion is not yet ripe for resolution.

III. Security Clearances

The Special Master and his Associate have been interviewed by representatives of the Federal Bureau of Investigation and preliminarily were cleared for a low-level security clearance. The Special Master and Ms. Malinowski met with the Court Security Officer on July 30, 2001 for the initial clearance interview. Final security clearances have not yet been granted. The Special Master has been in touch with the Court Security Officer by electronic mail on September 12, 2001 and in person on September 25, 2001 to determine the status of the clearance procedures. The Court Security Officer is attempting to check on this issue.

Date: October 1, 2001

Hon. Richard A. Levie (Ret.)
Special Master

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