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

May 24, 2004

[Redacted]

Dear [Redacted]:

I am responding to your [Redacted] request for an advisory opinion on behalf of [Redacted] Inc. and its wholly owned Dutch subsidiary [Redacted]. The issue is whether a heat exchanger that is used in a certain pumping system becomes incorporated into that system and, thus, would take on the classification of the pumping system rather than the classification of the individual heat exchanger for purposes of determining export license requirements under the Export Administration Regulations (EAR).

You indicated that the heat exchanger, by itself, is classified under Export Control Classification Number 2B350.d. You also indicated that the heat exchanger is not connected to the pumps at the time of shipment. The customer handles on-site installation, which consists, at least in part, of connecting the heat exchanger to zirconium tubing via ANSI standard flanges. The zirconium tubing connects the heat exchanger to the pump(s) and to the flush seal supply. The customer furnishes the zirconium tubing and the seal flush supply.

After review of the information that you supplied by both the Regulatory Policy Division of the Office of Exporter Services, and the Office of Non-proliferation and Treaty Compliance, we have concluded that, given the facts as you describe them, we would consider the heat exchanger to be a distinct item at the time of export. In determining export license requirements, the classification of the heat exchanger rather than the pumping system would govern. We also conclude that the heat exchanger would not be incorporated into a system containing the pumps for purposes of calculating *de minimis* values under Supplement No. 2 to Part 734 of the EAR.

Sincerely,

Hillary Hess  
Director, Regulatory Policy Division

