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Mr. Timothy Mooney
Regulatory Policy Division
Bureau of Industry and Security, Room 2099B
U.S. Department of Commerce
14th and Pennsylvania Ave., NW
Washington, DC 20230

Subject: **RIN 0694-AF66, "Specially Designed" Definition**

Dear Mr. Mooney:

Alliant Techsystems Inc. (ATK) appreciates the opportunity to comment on the subject advanced notice of proposed rulemaking (ANPR) to provide a clear, concise, and common definition of "specially designed" for use across EAR and ITAR. The iterative revisions to the definition have resulted in a succinct definition which is easy to follow and understand.

ATK believes the decision tree process, outlined on page 36412, will be very helpful in working through the definition and encourages the Bureau to create an interactive tool similar to the tool on the Bureau's web site for STA eligibility. Also, ATK finds the explanation in **Note to paragraph (a)(1)** very useful in explaining 'peculiarly responsible.'

Not to detract from the quality and positives of the current definition but ATK provides the following comments for areas of further refinement based on our review of the ANPR.

- **Burden for Original Design Intent** – The first column on page 36415 of the ANPR contains the following sentence: "These exclusion paragraphs (b)(4) and (b)(5) would not create a burden to know the original design intent, but they would allow those who know the original design intent to exclude those "parts," "components," "accessories," or "attachments" from being controlled as "specially designed." Not knowing or possessing the records that illustrate the original design intent of a commodity creates a burden on industry (and the Department) to treat those items as "specially designed." This would result in obsolete technology that cannot qualify under the proposed paragraph (b) exclusions being treated as "specially designed," while newer, more capable items are excluded. ATK recommends a process (possibly through the commodity classification process) or an additional exclusion under proposed paragraph (b) to address parts, components, accessories, and attachments that are less capable than parts, components, accessories, and attachments already excluded from the definition of specially designed.

- **Part, component, system** – All three terms are used throughout the definition of "specially designed" and on occasion in quotation marks; however, no definition is provided for those terms within Part 772 or within the definition of "specially designed." ATK recommends inclusion of definitions for those terms, all three of which are currently defined in the ITAR Section 121.8.

- **Proposed paragraph (b)(2)** – Proposed paragraph (b) addresses "part," "component," "accessory," and "attachment" but proposed paragraph (b)(2) uses 'part' within the exclusion. Read together, a "component," "accessory," or "attachment" would be excluded by proposed paragraph (b)(2) if it is a 'part', which by definition they are not. To avoid this confusion, ATK recommends revising proposed paragraph (b)(2) by removing the following phrase from the definition: "Is a single unassembled 'part' that".

- **Proposed paragraph (b)(3)** – Limiting proposed paragraph (b)(3) to "the same form, fit, and performance capabilities…" will needlessly catch parts, components, accessories, and attachments. ATK recommends proposed paragraph (b)(3) be revised to read, in part, as follows: "Has the same or similar form and fit and the same performance capabilities…" This will allow parts, components, accessories, and attachments with minor form, fit variations to still be released under proposed paragraph (b)(3).

- **Note to paragraph (b)(3)** – The note differentiates between development activities for "feature enhancements" versus those "that change the basic performance or capability". ATK requests clarification, definition, and examples to differentiate between the two types of development activities.

ATK again thanks the Bureau for the opportunity to comment on the ANPR and applauds the Bureau's continued efforts to clarify and update the Regulations.

Sincerely,

Robert Schuettler
Director, Corporate Export Licensing
Alliant Techsystems Inc.