Rolls-Royce North America Holdings Inc.
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August 3, 2012

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

Submittal via Regulations.gov Portal

Reference: RIN 0694-AF66 [Docket No. 120403245-1034-01]
Proposed Rule

Subject: Revisions to the Export Administration Regulations (EAR): "Specially Designed" Definition

Dear Mr. Mooney,

On behalf of Rolls-Royce North America Holdings Inc. (the Company), I am pleased to respond to the June 19, 2012 Federal Register Notice requesting comments on the proposed *revisions to the EAR's Definition of "Specially Designed"*.

Rolls-Royce appreciates the difficulty and the time involved to work through this definition. We realize this is no simple task. Rolls-Royce has reviewed the proposed changes, and has the following observations.

We would prefer that Commerce use some of the wording used in the definition proposed in the December 2010 ANPRM (75 FR 76935). Language such as "distinguish it for certain predetermined purposes" and "directly related to the functioning of a defense article" as well as "used exclusively or predominantly in or with a defense article" gives a clearer view. We do agree the clarifiers in §722.1 definition of "Specially designed paragraph (b) are necessary.

In addition, Rolls-Royce offers the following detailed comments on the proposed definition:

- Proposed paragraph (b)(1) is redundant and will lead to confusion. If an item is enumerated in a USML paragraph then it is should be ITAR controlled. Including this language in the "release" portion of the definition would cause misclassifications or

additional burden on exporters and the Department with additional Commodity Jurisdictions.

- Proposed paragraph (b)(3) may need clarification. The reliance on form and fit is not necessarily the best determination. We understand that performance capabilities and function cannot be the sole determining factor, but form and fit do not necessarily mean capturing items that are insignificant and have performance characteristics that are equivalent to items that are not controlled on the CCL. The Department should consider language that would allow a part/component to fall within the (b)(3) release if differences are limited to dimensional variations.

Rolls-Royce appreciates the opportunity to comment on this proposed rule. Feel free to contact me if you have any questions about these comments.

William J. Merrell
Vice President,
Strategic Export Control – Americas
Rolls-Royce North America Inc.