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United Technologies

February 1, 2012

Regulatory Policy Division
Bureau of Industry and Security
Room 2099B
U.S. Department of Commerce
14th St and Pennsylvania Ave., NW
Washington, D.C. 20230

Attn: RIN 0694-XA37

Re: Retrospective Regulatory Review under E.O. 13563 (76 Fed. Reg. 47527, August 5, 2011)

Dear Ms. Hess:

United Technologies Corporation ("UTC")[1] appreciates the opportunity to submit these comments on the Bureau of Industry and Security's ("BIS") in response to its solicitation on how the Regulations might be clarified or streamlined to be more effective or less burdensome. BIS specifically seeks comments on aspects of the Export Administration Regulations ("EAR"), not immediately affected by the ongoing Export Reform initiative, that cause an unnecessary compliance burden because they are unduly complex, outmoded, inconsistent, or overlapping. These comments cover the following items:

Clarification of Missile Technology as Reason for Control under 9B Entries
Licensing alignment with Department of State Agreements

I. Clarification of Missile Technology as Reason for Control Under 9B Entries

ECCNs 9B001 through 9B004 include "MT Column 1" license requirements, but state "MT applies only to equipment for engines that meet the characteristics described in 9A001." This can be interpreted to mean that MT1 applies to 9B equipment for any 9A001 engine, or only for those 9A001 engines controlled for MT reasons, i.e., those that meet the characteristics listed in 9A101. We believe the second interpretation is correct, but are concerned that the imprecise reason for control language causes confusion.

[1] UTC is a global, diversified corporation based in Hartford, Connecticut, supplying a broad range of high technology products and services to the aerospace, power generation, security, transportation, and building systems industries. UTC's companies are industry leaders, among them Hamilton Sundstrand aerospace and industrial systems; Pratt & Whitney aircraft engines, space propulsion systems and industrial turbines; Sikorsky helicopters; Carrier heating, air conditioning and refrigeration systems; Otis elevators and escalators; UTC Fire & Security electronic security and fire safety systems; and UTC Power fuel cell and power systems.

As clarification, we suggest that the License Requirements for 9B001 through 9B004 be modified to state:

> *"MT applies only to equipment for engines that meet the characteristics listed in 9A101."*

We believe this language is clearer and does not change the intended license requirements.

II. Licensing alignment with Department of State Agreements

In general, BIS licenses are simpler to prepare than their Directorate of Defense Trade Controls ("DDTC") counterparts. BIS licenses are not split into Technical Assistance Agreements ("TAA") and Manufacturing License Agreements ("MLA"), and also do not need supporting DSP-5 and DSP-73 licenses. However, DDTC agreements and licenses have useful features absent in BIS licenses – longer terms and the ability to amend.

As part of the Administration's export control reform proposals, items the President determiners no longer warrant control on the U.S. Munitions List ("USML"), and their associated "technology", will be transferred to the Commerce Control List ("CCL"). However, in many cases, some items will end up with their constituent components on both control lists. As an example, under the proposed rules the High Pressure Turbine components for a F100 gas turbine engine would be controlled under ITAR Part 121.1 Category XIX(f)(2), while the Low Pressure Turbine components for the same engine would be controlled under ECCN 9A619. This will require some items now covered by a MLA with a given supplier to move to a new BIS license.

Although it is not explicitly stated in the regulations, BIS policy is to grant licenses for a two-year period, up to five years. Recently, we have been informed that applicants should request a five year term in order to reduce the number of applications. UTC strongly supports this change. However, five years is still far short of the typical ten years for a DDTC agreement. Many aircraft support programs require long-term agreements to ensure the supply of parts to the military, and to keep prices in check.

We recommend that BIS formally establish the policy of granting licenses for a term of at least five years, and where there is a BIS license associated with a DDTC agreement, a term of up to ten years in order to align the renewal process. This would decrease the burden on both industry and the licensing officers, as it would require fewer licenses to be written and processed.

In addition, the DDTC process supports amending agreements as necessary to address changes in parties, scope, or value. This is reasonable, as DDTC agreements can run for ten years or more, and it is impossible to capture events like name changes, mergers, and shifting delivery needs a decade out. If the terms are extended, then an amendment process for BIS licenses would also be useful.

The ability to amend a BIS license would streamline both the granting and management of licenses. Instead of having to submit a whole new application for the addition

of a consignee, for example, an applicant could address the issue via a simple amendment. Today, even minor changes to a license require it to be cancelled and replaced with a new license with a new identifying number. This requires a burdensome administrative process, because from a workload standpoint even a minor change is indistinguishable from a new license. It would be a significant benefit to both industry and government if minor BIS license changes, including addressing such things as typographical errors, could be dealt with via a streamlined amendment process.

We recommend that BIS establish the policy of granting licenses for terms of at least five years, and up to ten years when associated with a DDTC agreement. Additionally, we recommend that some form of amendment process be made available for BIS licenses. This would also be a positive first step in establishing a single licensing process.

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For additional information, please contact the undersigned at (202) 336-7467, Jim Lemon at UTC at (202) 336-7462, or Ari Novis at Pratt & Whitney at (860) 557-2353.

Sincerely,

Peter S. Jordan
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United Technologies Corporation