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January 30, 2012

Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
Washington, DC 20230

Re: RIN 0694-XA37

Dear Bureau of Industry and Security,

Thank you for this opportunity to provide comment with regard to the retrospective review of the Export Administration Regulations as provided in the August 5, 2011 Federal Register notice of inquiry, 76 FR 47527-29. The below comment seeks to address an aspect of the EAR that could be clarified or streamlined to be more effective or less burdensome, and specifically, to identify an unnecessary compliance burden caused by a rule that is inconsistent. This comment also seeks to identify a way to make one aspect of the EAR more effectively protect the national security interests of the United States.

This is to request consideration for changes to EAR Parts 758 and 772 with regard to "Routed Export Transactions". The ability to use "Routed Export Transactions" enables U.S. exporters to implement terms of sale so that assignment of seller and buyer responsibilities can be flexible in order to meet transaction requirements. U.S. exports are enhanced by the ability of U.S. exporters to use this type of transaction. The term "Routed Export Transaction" in the Foreign Trade Regulations (FTR) and the Export Administration Regulations (EAR) are not entirely compatible, however, thus, causing confusion for exporters.

In the FTR, a "Routed Export Transaction" must have two (2) components in order to meet the definition: the foreign buyer (FPPI) authorizes its U.S. agent to arrange the contract of carriage for the export of the goods <u>and</u> to be responsible for the export clearance. If both of these components are not met, then the transaction does not meet the definition. This definition is very useful to exporters because it allows the flexibility to assign responsibilities in the sale of goods according to contract terms.

EAR Part 772, however, requires only one component to meet the definition of a "Routed Export Transaction": the foreign buyer (FPPI) authorizes its U.S. agent to arrange the contract of carriage for the export of the goods.

It would be helpful if the EAR is revised to define a "Routed Export Transaction" with two (2) components to meet the definition: the foreign buyer (FPPI) authorizes its U.S. agent to arrange the contract of carriage for the export of the goods and to be responsible for determining and obtaining the export license authority.

In this way, the definition of a "Routed Export Transaction" would be compatible in the EAR and FTR. The meaning of the term would, thus, be easily understood by exporters. This revision would reduce confusion regarding the term as it could be explained by Bureau of Industry and Security representatives in a way that is compatible in both sets of regulations. In addition, export records would be more accurate because exporters would indicate the "Routed Transaction" block accurately on the Electronic Export Information form.

The requested revision would be beneficial because exporters will not relinquish authority over export licensing and export documents incorrectly. U.S. national security would be enhanced because the requirements of "Routed Export Transactions" will be easier to understand and implement. "Routed Export Transactions" will be implemented only when the FPPI provides the required written certification stated in EAR Part 758.3, thus, insuring that responsibility for export licensing is clearly identified in transactions.

Please feel free to contact me with questions. I would welcome the opportunity to work on a team dedicated to this clarification as it is such an important topic for industry. Thank you for your consideration.

Sincerely yours,

Catherine E. Thornberry
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