ION Comments on Export Control Modernization: Tiers and Strategic Trade Authorization License Exception

Re: RIN 0694-AF03
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Email to: Via e-mail to publiccomments@bis.doc.gov

DEPARTMENT OF COMMERCE
Bureau of Industry and Security
15 CFR Parts 732, 738, 740, 743, 758 and 774
[Docket No. 100923470-0569-01]
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Export Control Modernization: Tiers and Strategic Trade Authorization License Exception

"The proposed Export Control Reform Initiative is designed to enhance U.S. national security and strengthen the United States ability to counter threats such as the proliferation of weapons of mass destruction. The description of items on the Commerce Control List could be (1) More Clear and Positive and (2) Tiered based on their (a) significance and (b) availability outside of certain countries. Items on the CCL will be identified within the scope of Tier 1, Tier 2 or Tier 3. Any item to be within the scope of Tier 1 are classified as critical to maintaining a military or intelligence advantage to the United States and exclusively available from within the United States – will not be within the scope of License Exception STA."

Comments on Tiers

As per the reform initiative specific ECCNs are excluded from STA in whole or in part are not eligible for License Exception STA. In general these ECCNs cover Nuclear Materials, Chemical, Biological and Toxins, Missile Technology, Aerospace and Space Qualified components, Submersible propulsion, Night Vision and Thermal Imaging, computer systems with encryption technology but also Commercial Marine Seismic Equipment, i.e. 6A001. Therefore Marine Seismic Equipment along with the above is being "pre-selected" by U.S. BIS DOC as being part of Tier 1. ION was assured by BIS DOC in 2010 that this would not be the case.

The potential negative economic impact to U.S. companies would be immense if items controlled as 6A001 are classified into Tier 1. Commercial equipment used in marine oil and gas exploration is of vital economic importance to the U.S. and the global economy. The advancement and drive for new technology is based on the increasing global demand for energy and ever diminishing oil reserve replenishment rates. US investment into new technology, manufacturing and operations is required to image deep and complex reservoirs to meet current and future energy needs. The U.S. will be at a competitive disadvantage to other countries if higher walls are created to further limit access to these products and services.

We are requesting that Marine Seismic Equipment is excluded from Tier 1 or Tier 2. Our seismic products are not "critical to maintaining military or intelligence advantage to the United

States" nor are they "almost exclusively available from regime partners or adherents and provide a substantial military or intelligence advantage to the United States." At the very least, a comprehensive evaluation of the 6A001 Marine Seismic Equipment must be performed to determine if any substantial military and intelligence advantage exists before further action is taken that would restrict the export or re-export of these items.

Comments on STA

I/O Marine Systems Inc. with parent company ION Geophysical Corporation (ION) is a supplier of marine seismic equipment, services and solutions to geophysical contractors and their customers, the oil and gas companies. The customers for ION's marine seismic acquisition systems are geophysical services companies, oilfield services companies, and petroleum companies that perform civilian geophysical research and mapping of the structures under the surface of the seabed to locate hydrocarbon deposits using specially equipped marine vessels. These vessels operate throughout the world on cruises that last months or longer, and may make port calls at any location with a coastline during such cruises. Due to the nature of ION's customers' operations and the transitory nature of the vessels upon which ION's equipment is used, ION often does not know far in advance when a particular vessel will need additional controlled equipment (e.g., to provide replacement or repaired towed equipment) or where such vessels will be when the equipment is needed.

Almost all of the export licenses that ION continually applies for are to allow our customers' vessels to pull into a country port, remove the damaged goods and re-export damaged goods back to ION from that country. In turn, the export licensing also then allows ION to ship the replacement or repaired goods back to our customers' vessels in various international ports. For example, our U.S. new sale exports are made to Norwegian customers - No License Required - to Norway or other A1 countries so that no export licensing is initially required.

The export licensing burden to handle the re-exports of these repairs is heavy, and the export licensing turnaround time is lengthy. For example some of our export licenses for 6A001 products with logistical requirements as outlined above have taken as much as 5-6 months to be approved and issued. The time-consuming licensing burden makes U.S. product noncompetitive when ships are waiting in port to receive replacement or repaired products.

Upon review of STA however, we found that ION Compass Birds (ECCN: 6A001.a.2.d.1), Digistreamer Active Sections (6A001.a.2.b.7) and VSO Interstation Cables (6A001.a.2.e.1) were listed as not eligible to use STA (please see page 76661 of Federal Register dated December 9, 2010).

ION is currently using License Exception RPL (RPL) to ship repairs to/from vessels that are located in various ports worldwide, and of course, abiding by the conditions stated within the U.S. Export Administration Regulations. We have concerns that STA may replace RPL, and if 6A001 products are not eligible for STA, then we will suffer exponentially - ION and its customers will be at a severe disadvantage.

We can sell more of our U.S. products to new marine seismic customers – legitimate civil end-users of our products - if we could garner approval to use the STA license exception. Currently our foreign competitors have an advantage over us, and we would like your help to change that. If STA can be applicable for export of our products, it will go a long way to increase exports and support the National Export Initiative (NEI).

We know that simplification and focusing controls on the most sensitive items are two of the administration's primary goals. Making 6A001.a.2 seismic products eligible to use license exception STA would be a huge step in simplification in an industry where proliferation has not been an issue thus far. Our products have been around for over 30 years and to our knowledge, no instances of misuse have occurred.

It is also important to note that the 6A001.a.2 products that ION exports to provide repairs and replacements do not enter the commerce of the countries to which shipment is made. We need to simply receive and ship repairs and replacements back to customers' vessels located in these country ports. The goods are loaded onto the vessel in the country's port, and then the vessel pulls into the ocean to perform marine seismic surveys in international waters. Given that this equipment is neither used nor able to be used commercially in the countries, risk of diversion is minimal. The marine seismic industry needs some relief to remain competitive internationally. We request that BIS consider allowing the use of license exception STA for marine seismic equipment (6A001.a.2 goods) especially considering the situations described above. Alternatively, we request that BIS consider carving out another exception for U.S. marine seismic companies that addresses the needs of our industry.

We request the opportunity to meet with you in Washington, DC to develop an approach that would meet the needs of BIS and also serve the needs of our industry. Thank you for your consideration.

Sincerely,

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