From: Ines Coyle <Ines.Coyle@asml.com>
To: PublicComments@bis.doc.gov
Date: Mon, Feb 7, 2011 2:54 PM
Subject: RIN 0694-AF03

Please find attached letter containing ASML US Inc's comments on the proposed rule: Export Control Modernization: Strategic Trade Authorization License Exception

Best Regards,

Ines Coyle
Sr. US Trade and Customs Specialist
phone: 480-383-4334

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ASML

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Regulatory Policy Division
Bureau of Industry and Security, Room 2705
U.S. Department of Commerce
Washington, D.C. 20230
ATTENTION: RIN 0694–AF03

Date February 07, 2011
Reference Export Control Modernization: Strategic Trade Authorization License Exception (75 Fed. Reg. 76,653)

Ladies and Gentlemen:

ASML US, Inc. ("ASML US") headquartered in Tempe, Arizona, is a subsidiary of ASML Holding N.V. ("ASML"). ASML, which is headquartered in Veldhoven, The Netherlands, is the world's leading provider of semiconductor lithography tool systems for the semiconductor industry, manufacturing equipment that is central to the production of integrated circuits. ASML US welcomes the opportunity to respond to the Bureau of Industry and Security ("BIS") request for comments on the proposed rulemaking to add the Strategic Trade Authorization ("STA") License Exception to the Export Administration Regulations ("EAR").

ASML US supports the U.S. Government's ongoing Export Control Reform Initiative and believes that reform is particularly needed with respect to controls on semiconductor manufacturing equipment, materials, software and technology. ASML also supports the U.S. Commence Department's proposed rulemaking which would create a new license exception, License Exception STA, to permit the unlicensed export, reexport and transfer abroad of commodities, software and technology to countries that it believes pose little risk of unauthorized use or diversion. This represents a major step in the direction of streamlining export controls without compromising national security.

In order for exporters, reexporters and transferors to use License Exception STA, they must comply with a number of conditions and requirements. While ASML US believes License Exception STA can be of value to the company in a number of circumstances, it has some reservations about the requirements the license exception would impose on both exporters and consignees, especially the use of a new destination control statement. In particular, License Exception STA would impose conditions, such as the use of a transaction specific destination control statement and the receipt of written statements from consignees, which are not required under other export/reexport authorization. These conditions are of particular significance with respect to customers.

Many customers will find it objectionable to be required to submit to the extra-territorial jurisdiction of the United States. In addition, it is often difficult to get foreign customers to sign documents subjecting them to U.S. export control law. In order to avoid the principled objections of customer and to minimize the inconvenience to them, ASML US will more often than not apply for a validated export license or use other export authorization, rather than use License Exception STA and risk antagonizing customers.

ASML

Date February 07, 2011
Reference License Exception STA

Eliminate the Requirement for a New Destination Control Statement

ASML US believes that the requirement for a completely new destination control statement for those transactions undertaken pursuant to License Exception STA is unnecessary because: (i) all consignees who are party to the transactions have already been informed by the exporter or reexporter that the transaction will be conducted pursuant to License Exception STA and have agreed in writing to abide by U.S. export control laws and regulations and (ii) the new destination control statement provides no additional protections beyond that of the current destination control statement. Further, the addition of the Export Control Classification Numbers ("ECCNs") on all export control documents for a given transaction adds complexity and redundancy without expanding the obligations on the parties to the transactions.

The creation and subsequent use of a new destination control statement would impose new burdens on ASML US. In order to accommodate the new destination control statement, ASML's company-wide export software system would need to be modified to include the new language on all export-related documents – as well as all relevant ECCNs for a given transaction – and its staff trained on the circumstances under which the new destination control statement could be used. In addition, ASML US would be required to depend on outside agents (e.g., freight forwarders) to comply with the conditions of License Exception STA and select the correct destination control statement depending on the license exception used, to be included on all export documents related to the transaction.

In general, ASML US supports the creation of license exceptions that simplify the U.S. export control system, reduce administrative burdens and add flexible export, reexport and transport options. While ASML US supports the creation of License Exception STA in principle, it believes that a license exception that does not place extra burdens and undertakings on customers would be more attractive to exporters and reexporters.

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ASML US appreciates the opportunity to comment on the proposed rule making. Please do not hesitate to contact the undersigned if you have questions regarding these comments.

Sincerely,

Ines Coyle

Ines Coyle

Sr. US Trade and Customs Specialist