NATIONAL ASSOCIATION OF Manufacturers

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Vice President
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January 20, 2012

The Honorable Kevin Wolf
Assistant Secretary of U.S. Department of Commerce
Bureau of Industry and Security
Washington, DC 20230

Re: Proposed Revisions to the EAR – Congrol of Gas Turbine Engines and Related Items the President Determines No Longer Warrant Control on the USML (RIN 0694-AF21)

Via email: publiccomments@bis.doc.gov

Dear Mr. Wolf:

The National Association of Manufacturers (NAM) welcomes the opportunity to comment on revisions to Export Administration Regulations (EAR) that would create new Export Control Classification Numbers (ECCNs) for certain gas turbine engines and related items that no longer warrant control on the United States Munitions List (USML).

The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. Our members play a critical role in protecting the security of the United States. Some are directly engaged in providing the technology and equipment that keep the U.S. military the best in the world. Others play a key support role, developing the advanced industrial technology, machinery and information systems necessary for our manufacturing, high tech, and services industries.

We commend the Commerce Department and its partners for undertaking this significant list review exercise and moving articles that no longer warrant stringent controls under the International Traffic in Arms Regulations (ITAR) to the Commerce Control List (CCL). We hope these changes will better focus limited resources on protecting those items that truly need it, end jurisdictional confusion, bolster interoperability with our allies, and provide greater clarity for both the exporters who need to comply with the regulations and for the government officials who administer and enforce them.

We appreciate the Administration's stated objective to excise from the U.S. Munitions List (USML) generic parts, components, accessories and attachments that do not provide a significant military advantage to the United States on their own, even if they are specifically designed or modified for a defense article. The new 600-series ECCNs, including those in CCL Category 9 that will take on items that were previously controlled under USML, will continue to provide appropriate and robust controls on those items that warrant review.

Clarity and consistency have been key tenets in the Administration's Export Control Reform efforts. We strongly recommend that the proposed rule harmonize definitions between the CCL and USML, with emphasis on clarity and consistency. As an example, the definition of "military gas turbine engines" as defined in this proposed rule should be adopted in the USML as well.

There is also a lack of clarity regarding where the engine ends and the airframe begins. Those features which are developed by the aircraft manufacturer to install an engine on an aircraft must not be confused with the system features of the engine that are fundamental to independent engine operation.

The NAM looks forward to further detail from the Commerce Department on how the new controls will be implemented and how the transition will be facilitated. As one example of the inconsistencies between the two systems that may cause confusion and frustration for manufacturers, there are several exemptions currently available in the ITAR that do not yet seem to be available in the proposed 600 series ECCNs of the CCL. For example, Section 123.16(b)(9) of the ITAR includes an exemption for the temporary export of unclassified parts, components, and test equipment to a U.S. company's foreign subsidiary if the item will be used for manufacture, assembly, testing production or modification. There is no parallel in the EAR for such intra-company transfers. We urge the Administration to review the inconsistencies and address them in a final version of the CCL 600 series.

The NAM also recommends that the Department reconsider its proposed *de minimis* level of ten percent for the 600-series parts and components incorporated into foreign end items. This *de minimis* level, which is inconsistent with other EAR obligations, would increases the complexity of compliance. We recommended the Administration adopt a standard *de minimis* calculation of 25 percent for all destinations except proscribed countries identified in the International Traffic in Arms Regulations, §126.1.

The NAM commends the Administration for moving forward with an ambitious export control reform initiative. As the interagency task force continues its work on identifying appropriate levels of control for goods and technologies, we also encourage the Administration to move forward simultaneously on reforming and streamlining the mechanisms used to manage licensing. Specifically, we recommend that the Administration continue to recalibrate the controls on encryption-related items and revisit the Intra-Company Transfer (ICT) license exception. The NAM continues to support the creation of a framework to facilitate low-risk trade between corporate entities that maintain strong internal compliance programs and technology control plans. Such a licensing mechanism need not be contingent upon tier placement, except for a small group of sensitive items, and instead should be based on a risk-management system that will allow the government to focus on truly sensitive items and technologies.

The NAM appreciates this opportunity to provide comments on the proposed rule regarding controls on the export of gas turbine engines. We look forward to continuing to work with the Commerce Department and its partners on this initiative.

Thank you,

Frank Vargo

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