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September 13, 2011

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

ATTN: Timothy Mooney

RE: RIN 0694-AF17 USML to CCL Transfer Methodology

Dear Mr. Mooney:

Northrop Grumman wishes to express our support for the reform of the existing U.S. export control system to enhance the national security of the United States, while providing clarity, predictability and transparency for the exporting community and foreign customers.

With regard to the specific provisions in the above referenced proposed rule, we found it difficult to complete a full analysis of the impact of this proposed rule without having additional proposed revisions to the United States Munitions List available, and a more thorough understanding of which items would move to 600-series ECCNs.

However, we offer the following initial comments based on our review of the proposed rule:

1. BIS would greatly enhance the implementation of this rule and the movement of low level USML articles to the CCL by publishing a rule proposing a consolidated license form. Applicants would submit the proposed form via a single interface portal to the U.S. Government, and then various agencies would issue authorizations, as required.
   This would enable visibility within the U.S. Government to all facets of the program, versus a stovepipe approach where each individual agency has visibility to only their activity. Otherwise, we are concerned that the initial effect would be to increase the licensing volume for both the U.S. Government agencies and U.S. exporters, especially with regard to a major program that delivers a combination of equipment, technical data/technology, and services to foreign customers. We applaud the effort to move low level USML articles to the CCL with respect to parts and components that are exported by small and medium size exporters to allow them to remain competitive in the global marketplace.

2. In the meantime, we urge each agency to continue to undertake export control reform efforts that result in incremental improvements that would facilitate an easier implementation of the more comprehensive reforms. For example, interagency support for the finalization of the Department of State proposed rule to create a license exemption in the ITAR for spare and replacement parts and components. In positioning for further alignment between the agencies on parts and components incorporated into foreign origin end items. A second interim step would be the inclusion of a "de

minimis" standard in the ITAR for USML parts and components incorporated into a foreign end item that do not result in enhancing the military capability of the end item. We believe this action would help to address the proliferation of the "ITAR free" movement by our foreign allies without jeopardizing national security interests.

3. Should this proposed rule be published as final and the appropriate notifications to Congress made for the items being transferred to the Commerce Control List from the United States Munitions List, we request there be a period during which existing DTC authorizations remain valid even though the item or technology has been transferred to the Commerce Department, without additional authorization from the Commerce Department.

4. We urge the Commerce Department to provide clarification within the final rule, or via website guidance, regarding the circumstances and timeline for a company to submit a CCATS to adjust treatment on the CCL for a 600 series item from an RS1 to AT or EAR99 control. We believe this process would be aligned with the Administration's efforts to control products and technologies in alignment with the capability and life cycle of the product/technology.

5. Review of the proposed rule's definition of "specially designed" by our engineering community resulted in feedback that the proposed definition is not a technical, objective, quantifiable standard for identification of items that meet specific criteria. While we appreciate the effort to further define the terminology, we believe the definition should identify specific objective and quantifiable criteria, or omit use of the term completely and rely strictly on the technical parameters to define controls. It would be confusing for practitioners, despite the best efforts to explain in the regulations, why U.S. Government agencies use the same term "specially designed" but ascribe two very different meanings.

6. We believe the Commerce Department should clarify in publication of the final rule that license exception GOV may be used for CCL items in the 600 series to be exported directly to a U.S. Government installation in any country group.

7. Within the current proposed rule, Part 740.2, license exception RPL may not be used for 600 Series items controlled for MT reasons. However, these same items are eligible under the ITAR for license exception 123.4(a). We request that the Commerce license exceptions applicable to the 600 series be consistent and achieve parity with treatment of that same item as currently controlled on the USML.

8. BIS should clearly state that the 0Y521 ECCNs will be used only in exceptional circumstances. We encourage BIS to contact exporters before adding any item to the CCL. Prior consultation with the company or university that created or knows the most about the subject technology is vitally important to ensure accurate information about technology is taken into consideration before an item is added to 0Y521.

9. The proposed de minimis level of 10% for the "600 series" parts and components incorporated into foreign end items increases the complexity and opportunity for error in the calculations by the foreign manufacturer. For example, if a foreign end item incorporates 600 series parts that are 8% of the value of the end item, and other Commerce controlled parts that are 8% of the value of the end item, is the foreign end item not controlled for re-export because it is less than the de minimis level for both of the two categories, or is it controlled for re-export because the total U.S. controlled content exceeds the 10% for the 600 series parts? We assume the proposed rule intends the de minimis exception to apply when U.S. origin controlled items are less than the specific de minimis

content applicable to each specific category of controlled goods. Further complexity in the de minimis standards may not address the "design out" of U.S. origin export controlled items by foreign manufacturers.

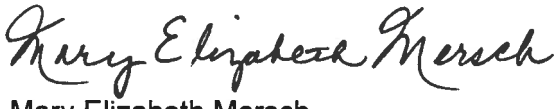
10. If this proposed rule becomes final, and is followed by notifications to Congress of items transferring from the USML to the CCL, it would represent a substantial shift for both the U.S. Government and U.S. exporters. Outreach, training and adequate resourcing is critical to the success of this export control reform effort. A consolidated interagency focus group should be established to train U.S. government personnel at DTC, BIS and DTSA about the rule, the new licensing and license exceptions, followed by outreach seminars to engage a wide spectrum of U.S. exporters. We would also support user guides and website FAQ's with scenarios, similar to the BIS website for the Anti-Boycott Regulations.

11. Lastly, given the increase in Department of Commerce licensing volume that will result from this regulatory change, we believe it is imperative that adequate resources in personnel and system enhancements occur , to assure processing timelines and visibility by industry into U.S. Government staffing points are in alignment with the prior NSPD-55 and 56 guidance.

If you have any questions or need clarification, please contact me at 703-280-4056 or beth.mersch@ngc.com.

We thank the Department for providing the opportunity for U.S. exporters to review and comment on the proposed regulatory change.

Sincerely,



Mary Elizabeth Mersch
Director, Export Operations