Hello,

Please find the attached REVISED comments from the Massachusetts Institute of Technology in response to RIN 0694-AF17 Proposed Revision to the EAR Control of Items the President Determines No Longer Warrant Control under the USML.

Thanks very much,

Gail Monahan

Gail Monahan
Senior Administrative Assistant
to Professor Claude R. Canizares
Vice President for Research and Associate Provost
Massachusetts Institute of Technology
77 Massachusetts Avenue
Bldg. 3-234
Cambridge, MA 02139-4307
Tel: 617-253-6495
Fax: 617-253-3193
e-mail: gmonahan@mit.edu

Email secured by Check Point

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

**Claude R. Canizares**
*Vice President for Research and Associate Provost*
*Bruno Rossi Professor of Physics*

77 Massachusetts Avenue, Building 3-234
Cambridge, Massachusetts 02139–4307
Phone 617–253-3206
Fax 617–253-3193

September 12, 2011

Regulatory Policy Division
Bureau of Industry and Security
Room 2099B
U.S. Department of Commerce
14th St. and Pennsylvania Avee NW
Washington, DC 20230
by email to: publiccomments@bis.doc.gov

Re: RIN 0694-AF17 Proposed Revision to the EAR Control of Items the President Determines No Longer Warrant Control under the USML

To Whom It May Concern:

MIT appreciates the opportunity to provide input into the revisions to the Export Administration Regulations through the Proposed Rule RIN 0694-AF17.

We enthusiastically support the efforts of the Departments of Commerce and State to simplify the overall process of complying with the policies governing export controls. We recognize that this rule demonstrates significant progress in transforming statements of direction and intent into concrete regulations, and substantial thought and analysis has gone into its creation.

As suggested, we'll follow the structure of the proposed changes outlined in the Proposed Revisions document.

> **1(A):** The addition of the "600 series" is a reasonable solution to a complicated problem, addressing the needs of US laws and WAML, including adoption of WAML numbering for last two characters . This harmonization with WAML will continue to be helpful even when the "one list" goal is achieved,
>
> **1(A)(iv):** The reference to "generic 'parts', 'components'...moved from the USML", as distinguished from "Former USML 'parts', 'components',...", is

unclear, and the word "generic" should be a defined term. It would be best if it were defined in a positive way, like the positive list, as opposed to "not specially designed".

**1(A)(v):** Sub-paragraph "y" items are defined as "specially designed for but not military significant", which seems to be in reaction to the traditional USML usage – items captured by "specially designed" but then specifically excluded. This will become dated as we move toward a single list, and it would be more in the spirit of a positive list if they were assumed to be excluded unless demonstrated to be both specially designed and militarily significant.

**3(i)(e):** The definition of specially designed **items** in (a) is clear and appropriate, and excludes parts and components. The definition of specially designed **parts or components** in (b) seems to identify all parts/components of any item enumerated in the CCL as "specially designed", unless carved out by one of the exclusions 1-4.

We suggest that the definition of specially designed parts and components focus on those that have properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions of a specially-designed item.

In the same section, Exclusions (2) – (4) are well articulated, sound like a positive list, and would continue to have a place in the future single list. Exclusion (1) sounds like a reaction to traditional extremes of ITAR "specially designed". We suggest that its scope should not be limited to mechanical hardware. For instance, simple electronic components (resistors, etc.) are equally devoid of significant military value and should be excluded. The Note to Exclusion Paragraph Number 1 currently relies on the use of these items in multiple USML and CCL categories. We would suggest that these items should not be controlled because they're simple modifications to standard, readily-available catalog items, which may require a tweak to some parameters that may meet the EAR 772.1 definition of "development" but do so at a minimal level (higher resistance, different thread pitch).

Note 3 to Definition [of "Specially designed"], "enumerated" is defined as "controlled for more than AT-only reasons". Similar references to "other than AT" are made in several other places. This distinction between AT-only controls and other, more substantive controls accentuates the already very subtle difference between AT-only list-based controls and EAR99 controls. It would be very helpful to clarify the deemed export license requirements for AT-only technology, as the EAR99 requirements were clarified in "Questions and Answers to Supplement Clarification of Deemed Export Related Regulatory Requirements", and it seems that it would be reasonable for the requirements to be similar.

Thank you again for the opportunity to comment. My staff and I would be happy to discuss this further at your convenience.

Sincerely yours,

Claude R. Canizares

Gail Monahan gmonahan@MIT.EDU

RECALL request of Public comment 10 for MIT RIN 0694-AF17

Mon 9/12/2011 4:37 PM

Hello,

I apologize for the inconvenience, but I would like to recall the below email with its attached letter. I will be resubmitting MIT's revised response shortly.

Regards, Gail

Gail Monahan
Senior Administrative Assistant
to Professor Claude R. Canizares
Vice President for Research and Associate Provost
Massachusetts Institute of Technology
77 Massachusetts Avenue
Bldg. 3-234
Cambridge, MA 02139-4307
Tel: 617-253-6495
Fax: 617-253-3193
e-mail: gmonahan@mit.edu

------ Forwarded Message
From: Gail Monahan <gmonahan@mit.edu>
Date: Fri, 9 Sep 2011 10:07:12 -0400
To: "publiccomments@bis.doc.gov" <publiccomments@bis.doc.gov>
Cc: David Quimby <dquimby@mit.edu>, Michelle Christy <mchristy@MIT.EDU>, Gail Monahan <gmonahan@mit.edu>
Subject: Comments from Massachusetts Institute of Technology on RIN 0694-AF17 Proposed Revision to the EAR Control of Items the President Determines No Longer Warrant Control under the USML

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Tel: 617-253-6495
Fax: 617-253-3193
e-mail: gmonahan@mit.edu

------ End of Forwarded Message

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**The following comments were requested to be withdrawn:**

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

**Claude R. Canizares**
*Vice President for Research and Associate Provost*
*Bruno Rossi Professor of Physics*

77 Massachusetts Avenue, Building 3-234
Cambridge, Massachusetts 02139–4307
Phone 617–253-3206
Fax 617–253-3193

September 9, 2011

Regulatory Policy Division
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*by email to: publiccomments@bis.doc.gov*

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**1(A):** The addition of the "600 series" is a reasonable solution to a complicated problem, addressing the needs of US laws and WAML, including adoption of WAML numbering for last two characters. This harmonization with WAML will continue to be helpful even when the "one list" goal is achieved,

**1(A)(iv):** The reference to "generic 'parts', 'components'...moved from the USML," as distinguished from "Former USML 'parts', 'components,'....," is unclear, and the word "generic" should be a defined term. It would be best if it were defined in a positive way, like the positive list, as opposed to "not specially designed".

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**3(i)(e):** The definition of specially designed **items** in (a) is clear and appropriate, and excludes parts and components. The definition of specially designed **parts or components** in (b) seems to identify all parts/components of any item enumerated in the CCL as "specially designed", unless carved out by one of the exclusions 1-4. This would mean that all parts or components of any item in the CCL would be "specially designed" even if they are only used as parts of CCL items that are **not** "specially designed".
Two possible clarifications follow – We believe that (1) is unnecessarily broad, because it includes all parts or components of "specially designed" items. The advantage of (2), which is in keeping with the export control reform principles, is that it focuses "specially designed" control levels on parts and components that enable the attributes of "specially designed" items that necessitate control.

> (1) A "specially designed" "part or "component" is a "part" or "component" of a "specially designed" item.
> (2) A "specially designed" "part" or "component" is a "part" or "component" of a "specially designed" item and, as a result of "development", has properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics or functions of a "specially designed" item.

We suggest that the definition of specially designed parts and components focus on those that have properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions of a specially-designed item.

In the same section, Exclusions (2) – (4) are well articulated, sound like a positive list, and would continue to have a place in the future single list. Exclusion (1) sounds like a reaction to traditional extremes of ITAR "specially designed". If the definition of "part" or "component" is changed as suggested above, Exclusion (1) might become unnecessary and could be made a note instead. Either way, we suggest that its scope should not be limited to mechanical hardware. For instance, simple electronic components (resistors, etc.) are equally devoid of significant military value and should be excluded. The Note to Exclusion Paragraph Number 1 currently relies on the use of these items in multiple USML and CCL categories. We would suggest that these items should not be controlled because they're simple modifications to standard, readily-available catalog items, which may require a tweak to some parameters that may meet the EAR 772.1 definition of "development" but do so at a minimal level (higher resistance, different thread pitch).

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