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Comments to BIS-2011-0015

RIN 0694-AF17

Arent Fox, LLP respectfully submits the following comments to the Proposed Revisions to the Export Administration Regulations (EAR): Control of Items the President Determines No Longer Warrant Control Under the United Stats Munitions List (USML) on behalf of its client, a manufacturer of wheels for various types of commercial and military vehicles.

(1) "600 Series"

(1)(A)(v) Sample "600 series" entry:

Under the new proposed category 0A606 for Ground Vehicles, "Parts" and "Components", sub-category "y" controls the following:

Specific "parts", "components" "accessories and attachments" "specially designed" for a commodity subject to control in this ECCN or a defense article in USML Category VII but which have little or no military significance (see list of items controlled).

The entry goes on to list seventeen items or categories of items (0A606y.1 through 0A606y.17) which are controlled under this sub-category. We understand this category would include items currently controlled under ECCN 9A018.b as well as certain items currently under USML Category VII(g). Wheels are not included on this list. We understand this is a sample list at this point. However, we would like to suggest that wheels designed for vehicles controlled by ECCN 0A606 or a defense article in USML Category VII are items that have little or no military significance and thus, should be included as an additional category in 0A606.y (e.g. 0A606y.18). In particular, wheels currently controlled under ECCN 9A018.b as specially designed for non-combat military ground transport vehicles have little or no military significance and are similar to the types of items currently listed in 0A606y.1 through 0A606y.17, such as axles, bearings, and blackout lights.

Additionally, understanding that there may be other specially designed parts and components to ground transport vehicles and non-combat armored vehicles covered by ECCN 0A606 that are of little or no military significance, we would request that the Department of Commerce consider adding a mechanism to allow for "Additional "parts", "components" "accessories and attachments" "specially designed" for a commodity subject to control in ECCN 0A606b.4 and 0A606b.5 but determined to have little or no military significance" to be classified under 0A606y even if they are not specifically called out in the final list of items covered by this sub-category. Our understanding is that 0A606b.4 and 0A606b.5 would be where items currently under 9A018.b would be controlled under the proposed rule. Thus, these items and their specially designed parts and components are already subject to the jurisdiction of the Department of Commerce and therefore distinct from items being moved from USML Category VII.

With respect to related technology controls, we believe that the technology required for the development, production, or use of parts, components, and accessories controlled by ECCN 0A606.y should not be controlled at the same level as items controlled under the remainder of 0A606. In the current draft proposed rule, ECCN 0E606 does not differentiate the level of control for technology relating only to 0A606.y items. If the end-item is not militarily significant then the related technology should also not be considered militarily significant and should be subject to control at the same level as the item itself. Therefore, we would suggest that ECCN 0E606 be clarified to note that technology relating to ECCN 0A606.y items is only subject to AT Column 1 controls.

Thank you for your consideration of the above comments. Please do not hesitate to contact the undersigned should there be any questions with respect to this submission.

Sincerely,

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