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Subject: Proposed Revisions to the Export Administration Regulations (EAR): control of Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML) - July 15th, 2011.

The Defense MOU Attachés Group (DMAG), a DC-based network of 21 countries with reciprocal defense trade MOUs with the U.S., appreciates the opportunity to comment on the above revision to the Export Administration Regulations. At the outset, DMAG wishes to make it clear that we recognize the sovereignty of the United States in determining and modifying its export control regime. We therefore share your objective of retaining robust export controls while welcoming the move towards implementation of aligned and tiered control lists. It is in this context that we offer the following comments.

Our history of cooperation on export control reform

We applaud the initiative by President Obama to reform US export controls and commend the progress to date. One of four main principles identified by then-Secretary Gates was to create a single export control list. The DMAG is encouraged to see that the Administration is moving toward this goal in proposing the subject revision that will facilitate the alignment of the USML and the CCL.

The DMAG has been working with the Administration, industry associations, academia and Congressional staffers since 2006 on export control reform, with particular emphasis on the ITAR. Officials from the Task Force on Export Control Reform have been very generous in taking the time to meet with us and have a dialogue on our issues, concerns and suggestions for improvements. We have seen many improvements over the years, such as substantially reduced licensing times, enhancements to processes and systems, increased automation, and much greater responsiveness and sensitivity to the needs of US allies. We look forward to a continuing productive partnership.

DMAG supports the proposed revision

The proposed creation of the 600 series ECCNs and the new ECCN 0Y521 for miscellaneous items is supported by the DMAG. These structural changes will permit the continued tracking for these militarily less significant items but allow the administration to be more appropriately managed within the CCL. We believe this to be a well-planned step in support of reducing the number of items unnecessarily controlled on the USML and will be critical in preparing for the development of a single control list. By establishing the 600 series ECCNs the task of creating a tiered control list will be greatly facilitated. These positive changes will ultimately lead to an improved export control regime that is both more effective and less costly.

The only area of concern that we have is the continued use of the term “specially designed” as a control parameter. It is our belief that this will reduce the effectiveness of the re-alignment by reducing the “positive” control of sensitive technology. It is recognized that efforts have been made to mitigate this impact by clarifying the definition of “specially designed” and harmonizing its application to assist with jurisdictional determinations. However, it is the DMAG position that the long term goal should be the elimination of this criterion as a control parameter.

We look forward to continuing our dialogue with the Task Force on proposed changes to export control regulations. Your efforts to improve this critical economic and national security process are greatly appreciated.

Respectfully,

Ronald E. Genemans
Chairman, Defense MOU Attaches Group