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Comments in Response to 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)

Comment 1

Comment 1 is provided in order to clarify the timing of “serial production” (i.e. current, or past):

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

Specially designed.—

(d) Items that are not so separately ‘enumerated’ for purposes of this definition, are also not considered ‘‘specially designed’’ in any category of

the CCL if they are:

(3) A ‘‘part’’ or ‘‘component’’ used as a ‘‘part’’ or ‘‘component’’ of an end item in ‘‘serial production’’ and not ‘enumerated’ on the USML or CCL (i.e., the end item is an EAR99 item), and the part’s or component’s form, fit, and function have not been altered for use in another end item enumerated on the USML or CCL after ‘‘serial production’’ of the end-item not enumerated on the USML or CCL has begun;

The exclusion to the definition of “specially designed” should be amended to allow a “part” or “component” of an end item which was formerly in serial production, in addition to a “part” or “component” of an end item which is currently in serial production. A “part” or “component” should be considered not “specially designed” if it has been used in an obsolete or discontinued end item which had at one time been in “serial production”. We suggest language such as “… an end item which has been, or is currently in “serial production”…”

Comment 2

Comment 2 is provided in order to clarify the term “large scale production” in the definition of “Serial production”:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

Serial production. A type of production where the ‘‘items’’ being produced are no longer in ‘‘development.’’ In this type of production the ‘‘items’’ have passed production readiness testing (i.e., an approved, standardized design ready for large scale production) and are being or have been produced based on the approved, standardized design, including and especially on assembly lines.

The term “large scale production” is ambiguous and should be clarified or amended. “Large scale production” at a large company or any size company manufacturing complex and/or expensive items will be considerably different to “large scale production” at a small company or any size company manufacturing small inexpensive items. We suggest the term “volume production.”

Regards,

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