Rolls-Royce

**Rolls-Royce North America Inc.**
Vice President, Global Trade Compliance
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September 13, 2011

**Via Email**

Mr. Charles Shotwell
Director, Directorate of Defense Trade Controls Policy
Department of State
SA-1, 12th Floor
Washington, D.C. 20522-0112

**ATTN:** Proposed Rule (15 CFR Parts 730, 732, 734, 738, 740, 742, 743, 744, 746, 748, 756, 762, 770, 772 and 774)

**RE:** Regulatory Changes – USML to CCL
(Fed Reg Volume 76, Number 136) (Docket No. 110310188-1335-01)

Dear Mr. Shotwell:

On behalf of Rolls-Royce North America Holdings Inc. (RRNAHI) I am pleased to respond to the July 15, 2011 Federal Register Notice requesting comments on the 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).*

Rolls-Royce has reviewed the proposed changes, and has the following comments.

Rolls-Royce agrees in principle with the changes to the EAR and the USML, moving items from the USML to the Commerce Control List (CCL), and is looking forward to the revision of relevant terms such as "specially designed" and "end items" as long as it does not impose license requirements for many technologically insignificant parts, components, and accessories. Please see the Rolls-Royce comments below on individual proposed changes to the rule, as outlined in "Structure of the Discussion of the Proposed Changes in This Rule."

Rolls-Royce believes that the concept of moving USML items to the CCL using the 600 series arrangement is a positive step for export compliance.

**(1) "600 series"**:
(A)(i) Rolls-Royce notes that the structure of the series consolidates items into a "Commerce Munitions List," which allow for easier identification of licensing requirements that make applications for export authorizations easier.

(A)(ii) Rolls-Royce believes that aero gas turbine 600 series items that have a civil counterpart (anti-ice valves, fuel nozzles, etc.) should only be controlled for Anti-Terrorism (AT) column 1 reasons. See comments below referencing classification under (A)(v).

(A)(iii) No comment.

(A)(iv) No comment.

(A)(v) Rolls-Royce welcomes subparagraph .y - to have parts, components, accessories and attachments warrant no more than AT–only controls. Whether the change benefits Rolls-Royce is dependent on the definition of "specially designed". A simpler definition of "specifically designed" is needed. The proposed rule does not provide a process for companies to petition BIS to have their products added to subparagraph y. In contrast, under the current ITAR, companies may submit a request for a Commodity Jurisdiction determination that confirms an item is not subject to the ITAR.

Rolls-Royce proposes a reconsideration of the definition of "specially designed", specifically section (d)(4) which notes "…without modification to the form, **fit** and function of the EAR99…" We would request that the definition be changed to remove "fit" when fit is no more than making an identical part smaller or larger to fit into a military application, similar to enlarging a drawing on a copy machine. The larger, or smaller, part/component adds no additional benefit to the end item and has no significance beyond sizing.

(A)(vi) As a global organization, Rolls-Royce believes that creating a Commerce Munitions List (CML) combining Wassenaar Arrangement Munitions List (WAML) and former USML items together will aid global export compliance and communications efforts.

(A)(vii) No comment.

(B) No comment.

(C)(i) No comment.

(C)(ii) No comment

(C)(iii)(a) 740.20 already contains many restrictions for Rolls-Royce commodities. Rolls-Royce believes that that the present 740.20(b)(2)(vii) effectively denies the company the authority to use the exception in almost any case for the export of 9E003 "technology."

The proposed change to 740.20(g)(1) states that one can only request using the STA exception as part of a BIS license request. Why would Rolls-Royce ask for the exception after already having a license in place? Renewing a license is usually an easier process than complying with the onerous requirements of the STA exception.

740.20(g)(4) - Rolls-Royce welcomes a review of items allowed to be authorized to use the STA exemption and would welcome an opportunity to provide input to that process. The key is the determination of standards of "whether an item will provide a critical military or intelligence

advantage to the United States or is otherwise available in countries that are not regime partners or close allies."

(C)(iv) Rolls-Royce believes clear, concise, enforceable and reasonable guidance for exporters to use and comply with the STA exemption would make it more attractive and ease license submission numbers. The addition of "Know Your Customer" and "Red Flag" guidance should simplify use of the STA exemption.

(C)(iv)(a) Please see 1(A)(v) above. Rolls-Royce agrees that the definition of "specially designed" must be single, clear, and objective. This proposed rule does not seem to fill that description.

(C)(iv)(e) Rolls-Royce is particularly concerned that the Specifically Designed definition "Not result in an increase in the current control level to ``600 series" control or other higher end controls of items (i.e., not moving items currently subject to a lower control status to a higher level control status), particularly current EAR99 items, that are now controlled at lower levels; and Not, merely as a result of the definition, cause historically EAR controlled items to become ITAR controlled." Rolls-Royce believes that it is possible for some Rolls-Royce gas turbine engine components and technology could be misclassified to a higher level of control.

Sincerely,

W. J. Merrell /af

William J. Merrell
Vice President, Global Trade Compliance
Rolls-Royce North America Inc.