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Mr. Timothy Mooney
Office of Exporter Services
Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
1401 Constitution Avenue, N.W., Room 2705
Washington, DC 20230

Re: Notice of Inquiry—CCL [RIN 0694-XA34]

Via email: publiccomments@bis.doc.gov

Dear Mr. Mooney,

On behalf of General Electric Company (GE), we hereby provide the following comments in response to the Bureau of Industry and Security's (BIS) December 9, 2010 Advance Notice of Proposed Rulemaking, 75 Fed. Reg. 76,664. GE's comments focus on the question of whether to amend the lists of export controlled items and related licensing policies to accord with new criteria that focus controls on the most sensitive items.

Definitions of Tiers

While GE supports the Administration's Export Control Reform Initiative to amend the Commerce Control List (CCL) to focus controls on the most sensitive items, and to make the CCL "clearer" for exporters, we are concerned that the terminology associated with the proposed "tiered" system suffers from the same subjectivity that the reform initiative seeks to eliminate. Terms such as "critical," "grave," "significant" and "substantial" are subjective. The proposed definitions fail to provide much guidance beyond "sensitive," "very sensitive" and "very, very sensitive." GE acknowledges that the U.S. Government needs flexibility in order to ensure that the control lists achieve dynamic national security priorities, but industry and government entities would benefit from more specific criteria and definitions.

Furthermore, the tiers being structured with the conjunctive "and" creates a logical gap. Tier 1 items are almost exclusively available from the United States **AND** provide a critical advantage. Similarly, Tier 2 items are almost exclusively available from regime partners **AND** provide a substantial advantage; the same structure exists for Tier 3. If an item meets one criterion for a specific tier, but not

the other, it is unclear how the item would be classified. For example, if an item is almost exclusively available from the United States, but it only provides a significant or substantial advantage, it appears the item would not satisfy the criteria for any tier. There should be a more logical system for classifying items against both availability and capability criteria.

Foreign Availability

The foreign availability analysis should be based on a wide definition of comparable or competitive products that examines capabilities of products, in addition to their availability.

Licensing Policy

GE believes that changes to the export licensing policy under this initiative, to the extent that it differs from the current policy, should not impose new restrictions on previously authorized activities. For example, previously authorized exports of technology should continue to be authorized in the same manner, and not be subject to more stringent controls.

Application of the Tier Criteria

As will be discussed in more detail below, ECCNs 2B352, 2E001, 5A002, 5A992, 5D002, and 5D992, 9E003.a.2, 9E003.a.4, 9E003.a.8 and 9E003.h should not be treated as Tier 1 items. Because the products included thereunder are widely available in other parts of the world, they do not meet the Tier 1 criteria as "critical to maintaining a military or intelligence advantage for the United States and almost exclusively available from the United States."

a. ECCN 2B352.

Membrane filtration equipment, parts, and components: such items and related technology are available from Indian companies such as Bangalore Biotech Labs Pvt. Ltd., Millipore (INDIA) Pvt. Ltd., Pall India Pvt. Ltd.; Chinese companies such as Pall China (Changchun), Sartorius Stedim Biotech (Beijing) Co. Ltd., Millipore China Ltd., and Argentine companies such as MPH Eng. S.R.L.

b. ECCN 2E001.

Bioreactor units, parts, components, and technology: Such items and related technology are available from Indian companies such as Bangalore Biotech Labs Pvt. Ltd., Millipore (INDIA) Pvt. Ltd., Pall India Pvt. Ltd., Sartoris Stedim India Pvt. Ltd.; and Chinese companies such as Sartorius Stedim Biotech (Beijing) Co. Ltd., AmProtein-China Inc., and Thermol China Corp.

c. ECCNs 5A002, 5A992, 5D002, and 5D992.

Information security systems, equipment, and components, as well as encryption software/sourcecodes and other information security software: This equipment, particularly the light encryption products under ECCNs 5A992 and 5D992, are can be purchased in numerous other countries and a correspondingly low national security advantage.

d. ECCN 9E003.a.2.

- Multiple dome combustors: Engines with multiple dome combustors have similar performance to other types of combustors. Although multiple dome combustors are used on a single GE commercial engine line, they are not currently used on any U.S. military engines.

- Combustors incorporating thermally decoupled liners: While preferred by some engine manufacturers, inclusion of a thermally decoupled liner is driven by engineering design preference rather than operating performance. This type of combustor does not confer a military advantage and the technology is available to manufacturers outside of the United States (Rolls Royce).

- Combustors incorporating non-metallic liners or shells: Combustors incorporating non-metallic liners or shells may present additional performance capability in certain cases, but the primary combustor advantage is generated by the combustor liner material rather than the combustor design.

e. ECCN 9E003.a.4.

Uncooled turbine blades and associated components: The techniques for design of uncooled turbine blades and associated components are common to lower temperature parts, but use higher capability materials. The limiting technology is the single crystal/ directionally solidified alloys[1] used in the production of these components. Design techniques for uncooled turbine blades and associated components are widely available at various international turbomachinery companies, including SNECMA in France, Rolls Royce in Great Britain, MTU in Germany, AVIO in Italy and IHI and Honda in Japan.

f. ECCNs 9E003.a.5 and 9E003.c.

Heat transfer technology for cooling of hot gas flowpath components of land-based heavy-duty industrial gas turbines used for electricity generation: This technology is available outside the United States, particularly for power generation turbines. Most hardware geometry is currently not export controlled, as it is difficult to control access to the hardware once the machines are in the field and part/turbine exports normally do not require a license. GE Energy submits that this technology is likely available in other countries, such as India, Russia and China, with advanced technical competencies.

g. ECCN 9E003.h.

"Development" or "production" "technology" for deriving the components/functional requirements/control algorithms necessary for the "FADEC system" to regulate engine thrust or shaft power: Since the FADEC introduction in the 1980s most aircraft have been powered by engines controlled by FADEC and have been installed on aircraft made by engine manufacturers in the U.S., Europe, Canada, Brazil, and Asia. Similarly, engine development and technical data (both FADEC hardware and software) is also widely available throughout the world.

Further Opportunity to Comment

Finally, it is important to note that it is nearly impossible to evaluate the potential tiers without understanding the consequences of placement in individual tiers, i.e., the licensing policy. After the

[1] Controlled by 9E003.a.1, and 9E003.a.5.

proposed licensing policy for each tier has been published, GE respectfully requests that exporters be given an opportunity to comment on the specifics of the tiers in general, and with regard to the application on particular items.

In conclusion, we appreciate the opportunity to provide comments on the Proposed Rule. Please do not hesitate to contact the undersigned if you have any questions.

Sincerely,

/s/

Carol Fuchs
Counsel, International Trade Regulation
International Law & Policy
General Electric Company