2/24/11

The Bureau of Industry and Security (BIS) conducted a series of public Q&A sessions over a seven week period from December 22, 2010 through February 2, 2011. The purpose of these Q&A sessions was to allow any interested member of the public to submit questions regarding the two publications the Commerce Department published on December 9, 2010. The purpose of these Q&A sessions was to answer basic questions the public may have had about the two publications in order to better inform the public comments on these two publications.

In this Q&A forum some members of the public submitted questions that BIS determined needed to be characterized as comments on the publications. Instead of addressing those types of comments in the public Q&A sessions, BIS included those comments here in a consolidated format to allow other members of the public to see these comments that were submitted during the public Q&A sessions. BIS will evaluate these comments, along with the other public comments submitted in response to the two December 9 publications. These comments below are specific to the ANPR published on December 9, 2011, "CCL Commerce Control List: Revising Descriptions of Items and Foreign Availability".

(1) If the statement in lithium 1C233 Related Controls re NRC jurisdiction for separation of lithium isotopes were moved to lithium isotope separation 1B233, where it appears to belong, would any portion of 1B233 remain subject to the EAR?

(2) An item on the CCL does not meet the definitions of Tiers 1, 2, or 3, thereby implying that it should not be in an ECCN controlled for NS, MT, NP, CB, CW, or IAEA Trigger List (there are six multilateral control regimes, not four)?

(3)All items on the CCL marked as controlled only for AT are empty boxes for AT reasons, because all countries with an x in an AT column in the Country Chart are subject to total embargoes so that, if the item were downgraded to EAR99, the controls to those countries would not change?

(4) Bearing in mind that most ECCNs annotated as wholly subject to ITAR do not use USML wording, is it permissible to recommend that such ECCNs be revised to include technical, objective, characteristics to describe the USML portion, thereby bringing the remaining portion under EAR jurisdiction, in some cases necessarily so for consistency with public comment on the related USML Category?

(5) Is there any effort to remove the MT controls on items that may have been exclusively "Missile Tech" 20-30 years ago but are now ubiquitous across many industries and used for such items as bicycles, automobiles, wind mill blades, commercial aircraft and many, many other products? I refer specifically to Carbon Fiber materials and machinery designed to make things from it. In many instances 1B001 classified machines are made in countries such as China and Macedonia and are freely available on the web from companies in those countries. This puts US companies at extreme disadvantage.