From: Jennifer Stewart <Jennifer.Stewart@tpsgc-pwgsc.gc.ca>
To: PublicComments@bis.doc.gov
Date: 2/7/2011 4:06:09 PM
Subject: Notice of Inquiry -- CCL: Revising Descriptions of Items andForeign Availaibility

The Defense MOU Attachés Group (a Washington DC-based network group of 21 countries with reciprocal defense procurement MOUs with the U.S.) and the Foreign Procurement Group (33 countries that purchase defense items from the U.S. Government and/or buy commercially from U.S. suppliers) appreciate the opportunity to comment on the above notice of inquiry.

Comments on how to make the CCL more clear and "positive"

To begin with a caveat, as representatives of our respective governments, we do not often have the visibility into direct commercial sales export issues or the technical expertise of the vendors who apply for export licenses on our behalf. Nonetheless, we endorse the idea of a "positive" list, which, in our opinion, should eliminate confusion by clarifying jurisdictional responsibility and hence speed up processing. We believe the CCL already uses "positive" criteria - such as units of measure and qualities such as speed and wavelength. The new list will build on this foundation to add clarity for these vendors, so should work well from a U.S. exporter's perspective, although it may make it more difficult for government officials to conduct some of the export control "issues management" that we are asked to do today.

Comments on the "tiering" of Items on the CCL

The "tiered" approach is another good idea. Looking at past, largely unsuccessful, attempts, it is hard to think of an alternate way to remove items from control lists or classify at lower levels. However, we would hope that the licensing arrangements for Tier 1 items do not end by being noticeably more onerous than current licensing for the U.S.' more critical articles and technology. In other words, the introduction of a tiered system should not become a barrier to making critical technology available to U.S. allies (within of course the appropriate national security framework).

Similarly, we support the concept of creating a "bright line" between both current control lists to help "clarify jurisdictional determinations and reduce government and industry uncertainty." The end objective of "structurally aligning" the USML and Commerce Control List so as to eventually combine into a single control list, needs to take account of the fact that countries participating in the Wassenaar Arrangement will continue to use two lists (one for dual-use goods and technology and another one for conventional arms). It will be important not to lose the current correspondence between the U.S. unified list and the different single country lists that are derived from the Wassenaar. Many countries have integrated their defense industries with those of the U.S. Some have even aligned their control lists, and may hence need to modify these lists in line with U.S. revisions.

If we understand correctly, the new approach will also result in less individual licensing transactions and more "blanket" approvals, one of the longstanding priorities of the Foreign Procurement and Defense MOU Attachés Groups. Currently, precious time and resources are wasted on processing thousands of export authorizations for routine items. By reducing the number of items that need licenses and "putting a higher fence around a smaller yard", the resources can be put to better use. This would be particularly relevant when it comes to ongoing support items. For example, if a company has already received approval to export a particular platform to a country's Defense Force, what possible value is added by them going through the resource intense process of getting export approval every time they send the same customer the items they need to support that platform in operation? In this context, we would hope that the same philosophy could be extended to include re-transfer approvals, which are key to enabling coalition forces to exchange, integrate and repair U.S.-controlled items (dual-use included) within an allied user community.

Finally, we agree with the Department of Commerce that if an item is determined not to be within the scope of any of the three tiers, it should not be on a control list. Furthermore, we support the suggestion that items that do not represent a significant military or intelligence advantage, but nonetheless must be

controlled for a separate foreign policy, statutory or multilateral obligation, be identified in Tier 3 with a required licensing policy.

Our respective networks seek to engage with the U.S. government, defense industries and other stakeholders to find common solutions to common defense materiel cooperation issues. In this vein, we hope that our comments serve to underline our collective support for the U.S. Administration's export control reform initiatives.

For your consideration,

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