From: <terry.h.jones@l-3com.com>
To: PublicComments@bis.doc.gov
Date: Mon, Feb 7, 2011 2:52 PM
Subject: Notice of Inquiry - CCL (Federal Register / Vol. 75, No. 236) Dated December 9, 2010 Proposed Rules

To whom it may concern:

L-3 Communications has completed its review of the proposed changes to the Commerce Control List in Federal Register dated 9 December 2010 and offer the following comments:

- Based on L-3's understanding that the Commerce Control List (CCL) only includes commercial and dual-use commodities, software and technology and the fact that the definitions for Tier 1 and Tier 2 (restated below) both specifically identify military/intelligence capability which is controlled under the U.S. Munitions List (USML), L-3 does not understand how any CCL commodities, software or technology could be considered Tier 1 or Tier 2.

1. Tier 1 - "(a) Weapons of mass destruction (WMD); (b) WMD-capable unmanned delivery systems; (c) plants, facilities, or items specially designed for producing, processing or using WMDs, special nuclear materials, or WMD-capable unmanned delivery systems; or (d) items almost exclusively available from the U.S. and which provide a critical military or intelligence advantage to the United State." L-3 believes that any items that fall within this definition would be controlled under the USML.

2. Tier 2 - "almost exclusively available from regime partners or adherents and provide a substantial military or intelligence advantage to the United States, or make a substantial contribution to the indigenous development, production, use or enhancement of a Tier 1 or Tier 2 item."

- L-3 recommends that specific controls for ECCN's be migrated from the sub-paragraph level to the full ECCN. Currently the CCL imposes different levels of controls for a single ECCN based on the subparagraph level. However, when L-3 is exporting other companies' products, L-3 is only notified of the ECCN and is usually not provided information on the subparagraph, which causes confusion when evaluating whether a specific proposed export requires a license or not. For example, 3A001 has MT control for 3A001.a.1.a when usable in "missiles"; and for 3A001.a.5.a when "designed or modified" for military use, hermetically sealed and rated for operation in the temperature range from below -54°C to above +125°C. These controls require a license to United Kingdom. However, the remaining subparagraphs of ECCN 3A001 can be exported to United Kingdom without a license.

- L-3 recommends that all references to Not Elsewhere Specified (N.E.S.) within the description of ECCN's be removed. Any items of concerns for DOC should be identified in a positive manner or otherwise be controlled as EAR99 similar to most ECCN's that do not state N.E.S.

- Based on L-3's understanding, other countries control Image Intensifier Tubes (IIT) and Focal Plane Arrays as commercial/dual-use items (6A002.a.2 or

6A002.a.3) when for end-use in a commercial item, whereas the same IIT's and FPA's are controlled under the USML if not already incorporated into a commercial end-item. Although L-3 does not recommend end-use based jurisdiction, L-3 does recommend that IIT's and FPA's be evaluated so that based on performance, some are controlled under the USML and lesser capable items are controlled under the CCL. For example, IIT's with less than a FOM of 1250 would be controlled under the CCL. Specific parameters would have to be provided for FPA's that would be controlled under the CCL. This also agrees with the principles of the Administration's Export Reform efforts of performance based jurisdiction and classification.

If you have any questions, please contact me at 703-236-7457 or email at terry.h.jones@l-3com.com.

Regards,

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