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6 August 2012

Mr. Timothy Mooney
Regulatory Policy Division
Bureau of Industry and Security, Room 2705
U.S. Department of Commerce
14th and Pennsylvania Avenue
Washington, DC 20230

Subject: Response to Proposed Revisions to the Export Administration Regulations: Implementation of Export Control Reform; Revisions to License Exceptions After Retrospective Regulatory Review, 77 FR 37524, RIN 0694-AF65

Dear Mr. Mooney,

DRS Technologies, Inc. is fully supportive of the U.S. Government efforts to reform the regulations and systems for controlling exports. As an 8,000+ employee company with products and customers in both the international commercial and defense markets, we are very familiar with the current export control systems. The reforms are much needed to help the U.S. export control apparatus stay in step with the ever evolving and changing global markets and national security climates.

We appreciate the effort by the Administration to address this issue and its recognition that there are very practical issues that must be addressed in order for the export control reform effort to work in a 21st century international economy. We commend the Administration's efforts on export control reform and agree with the overall proposed structure for a smooth and seamless transition. However, we do have concerns with some aspects of the proposed rule. We believe certain requirements should be reconsidered and that some additional clarification is required in other areas to ensure these concepts are practical once reform is finalized.

Congressional Notification Requirements: There is no statutory basis for applying the Congressional Notification requirements of the Arms Export Control Act to items controlled under the jurisdiction of the Export Administration Act (as currently authorized by the International Emergency Economic Powers Act). These articles will have been decisively transferred from the USML to the CCL because the Administration has determined that these items no longer require control under the AECA and the Congress will be consulted and notified of the determination at that time in accordance with Section 38(f) of the AECA. We recognize and acknowledge the legal discretion of the Department of Commerce to craft regulatory language to implement such a requirement in the interests of national security, but there are no national security implications associated with the transition of articles from the USML to the CCL. Accordingly, we strongly urge the Department to delete this proposed requirement.

While we urge the deletion of this requirement, if the Department proceeds with implementation we recommend consideration of the following amendment to the proposed language. The proposed rule matches the parallel provision in the ITAR, hence the dollar value threshold triggering Congressional Notification is based on the *contract value* under which the EAR-controlled exports would occur rather than the dollar value of the EAR license application. In most cases, a single contract will consist of the sale of a number of complete end-items (*e.g.* an attack helicopter) along with various spare parts and components for maintenance purposes. In such situations, the relevant ITAR application will normally require Congressional Notification due to the high dollar value of the contract. The companion EAR license application for spare parts and components would be related to the same large contract, and as a result this application would also be subject to Congressional Notification requirements. This situation would be an unnecessary regulatory burden for both government and industry to fulfill. We recommend that the provision be amended so as to base the notification requirement on the stated amount in the *license application*, not the contract value. With this revision, parts and components subject to the EAR would not be unnecessarily subjected to Congressional Notification.

Entry Into Force: We strongly urge the Department to ensure the effective date for a final version of this rule is at least 120 days from its publication. There will be a significant level of effort required to prepare for implementation of this rule, including product jurisdiction and classification review and training. Most other actions associated with implementation should be able to be accomplished during the proposed 2-year transition period.

License Exception TMP: The proposed changes to the Temporary Export exception will create an undue burden on employers by introducing additional logging requirements for data previously authorized to the traveling user, if the user is a non-US person. In order for a non-US person to have access to the data at issue, BIS would have granted a deemed export license or authorized its use under another license exception in the first place. It would be onerous to impose additional requirements for data that has already been licensed just because its non-US user is traveling. If the concern driving this paragraph is due to potential unauthorized transfers, BIS should rest assured that companies currently invest in encryption software and other data loss prevention tools to ensure their proprietary information stored on employees' devices is protected. Therefore, a requirement to demonstrate the need to travel with each piece of technology stored on the device is not only impractical, but creates non-compliance risk, even if such requirement is only for non-US persons. We recommend this paragraph be deleted.

600-Series Unique Destination Control Statement: We are concerned that the proposed new destination control statement specific for 600-items will add confusion to company export control efforts while not achieving the apparent goal of the proposal, to raise awareness of the restrictions on reexport of 600-series items. We believe that it is appropriate to impose a requirement that the exporter notify the recipient in writing of the items that are subject to the 600 series and the associated limitations on re-export of those items as a condition for using a license exception for any item under the 600-series. A written notification requirement will achieve the awareness goal desired without forcing exporters to reprogram shipping systems for a custom destination control statement applicable to only certain items. This approach would also ensure the continued use of a single EAR destination control statement, something that

would greatly reduce confusion as well as manpower needed to process multiple and varied control statements.

With the exception of the above comments, the proposed rule is fairly positive. We enthusiastically support the export control reform initiative and are excited to see it draw to a successful conclusion.

Should you have any questions in this matter or require additional information, please contact Mr. Greg Hill at (703) 412-0288, ghill@drs.com.

Sincerely,

Heather C. Sears
Vice President, Trade & Security Compliance
& Associate Corporate Counsel
DRS Technologies, Inc.