The Boeing Company
1200 Wilson Blvd
Arlington, VA 22209-1989

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Timothy Mooney
Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce, Room 2099B
14th Street and Pennsylvania Avenue NW
Washington, DC 20230

Subject: RIN 0694-AF68, Advanced Notice of Proposed Rulemaking
Feasibility of Enumerating "Specially Designed" Components

Dear Mr. Mooney:

Thank you for the opportunity to comment on the feasibility of positively identifying "specially designed" "components" on the Commerce Control List ("CCL") in order to decrease the use of the term "specially designed" as a catch-all control term.

The term "specially designed" is used throughout the Export Administration Regulations ("EAR"). For Boeing, the term is important when determining controls on "parts", "components", "accessories", and "attachments" that are controlled in catch-all language in a particular Export Control Classification Number. It has been the subject of historical discussion by exporters and regulators because it is not currently defined in the regulations. The Bureau of Industry and Security ("BIS") has recently proposed a new definition of the term, which was developed and reviewed through the interagency task force on export control reform, BIS's technical advisory committees, and the public rulemaking process. BIS and the Directorate of Defense Trade Controls worked together to generate a proposed definition that is essentially common to both the EAR and the International Traffic in Arms Regulations ("ITAR"). Boeing provided formal comments on this definition in our response to the proposed rule dated August 3, 2012. The harmonized definition suggested in the rule will strengthen compliance by increasing exporter understanding of what components are subject to U.S. export controls.

This proposed rule seeks to understand whether it would be possible to reduce or eliminate the use of the term "specially designed" in the EAR through the enumeration of a list of positively-identified components, or end-items. Generally, industry prefers the creation of an unambiguous positive list of controlled items. However, in this instance, there are several challenges that we foresee in achieving this objective:

- Differing technical viewpoints within industry, between industry and U.S. regulators, and within the multilateral control regimes, on what belongs on such a list;
- Challenges related to defining technical parameters or performance thresholds that would distinguish components for control;

- The potential need to divulge company proprietary information to positively describe components;
- A list so long as to be unwieldy and difficult to use;
- A requirement for constant review and updating, a process that would require significant resources and which would be expected to lag behind technical developments and foreign availability.

While enumeration may be feasible, Boeing believes it would constitute a significant effort, for which the benefits may be minimal. With so many aspects of export control reform currently in process at this time, such an effort would further complicate the compliance landscape for exporters. Given the recent effort, and the progress that has been achieved in establishing a definition of "specially designed", we believe an enumeration effort is not advisable at this time. Time and resources would be better spent, by both government and industry, on the following:

- Applying and implementing the upcoming revised "specially designed" definition;
- Consolidating and adapting to current export control reforms; and;
- Re-focusing efforts on timely reviews of export license applications.

There may be industries where an enumeration effort would be straightforward and result in improvements that clarify control requirements on specific "specially-designed" components. From the perspective of an aerospace company, however, we believe that implementation of the currently-proposed "specially designed" definition will contribute to improving understanding of the control requirements represented by this catch-all term in our industry. There may be a time in the future when industry and U.S. regulators will identify weaknesses in the proposed definition or opportunities for further refinement. We recommend implementing the "specially designed" definition for two years and review the lessons learned from that experience prior to conducing a "specially designed" enumeration exercise.

Thank you again for the opportunity to comment. Please do not hesitate to contact me if you have any questions or need additional information. I can be reached at (703) 465-3505 or via e-mail at stephanie.a.reuer@boeing.com.

Sincerely,

Stephanie A. Reuer
Director, International, Policy, and Licensing Administration
Global Trade Controls