Comments from United Technologies Corporation ("UTC") on November 28, 2012 Proposed Rule concerning "Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)"

3A611

UTC welcomes the proposed addition of the Note in Related Controls to 3A611 clarifying that electronic items ``specially designed'' for military use that are not enumerated in any USML Category but are within the scope of a ``600 series'' ECCN are controlled by that ``600 series'' ECCN. This will provide needed clarification.

However, the explanatory text of the proposed rule (FR page 70947, middle column, bottom paragraph) describes the note as applying to '…ECCN 3A611.x clarifying that electronic parts, components, accessories, and attachments that are ``specially designed'' for military use…' The proposed wording in Supplement No. 1 to Part 774 for 3A611 note (2) is not specific to '.x', and also uses the much broader 'items' than the explanatory text's more limited 'parts, components, accessories, and attachments.' UTC supports the more general wording in the proposed regulation text, and suggests revising the explanatory text to avoid confusion.

3A611.f 'Trusted devices.'

This entry would control items not necessarily made for military use, but for an otherwise crucial use (e.g., infrastructure, communications, or financial security, medical devices, etc.) It is reasonable that there is a National Security interest in making sure military devices are Trusted, but that does not imply that all Trusted devices should be in some way Military specific. Unlike encryption technology which is a direct impediment to authorized National Security activities, allowing the dissemination of Trusted devices does not adversely impact National Security activities. It is reasonable that having Trusted components being widely available would be a worthy goal.

If Trusted devices are not controlled under 3A611.f, then the "equipment", "software", and "technology" for such devices would also not be controlled. This is reasonable, as there is no performance difference between a Trusted and non-Trusted device; the difference is in the control of the processes used to produce the device.

Of note,

A ``trusted device'' is a produced under accredited defense microelectronics activity (DMEA) procedures at a ``trusted foundry,'' a ``trusted source,'' or an ``accredited supplier.''

A ``trusted foundry'' is a semiconductor foundry that is accredited through DMEA to be a trusted source for the following services: design, foundry services, packaging, assembly, ***and*** test. A ``trusted source,'' or DMEA ``accredited supplier,'' is a source or supplier that is accredited through DMEA to be a trusted source for the following services: design, foundry services, packaging, assembly, ***and*** test.

The DMEA Trusted IC supplier accreditation program has accreditation plans for many types of services, as listed above. It is common in the Industry for specialization of services, so it is unlikely, or at least unwieldy for a single source or supplier to provide all these services. Therefore, we recommend the wording be changed to “accredited through DMEA to be a trusted source for **any of** the following services: design, foundry services, packaging, assembly, **or** test.”