Perry A. Smith
Director, Export and Import Compliance
Office of the General Counsel

Rockwell Collins

400 Collins Road NE
Cedar Rapids, IA 52498
319.295.5396 Fax 319.295.6966
pasmith@rockwellcollins.com

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Department of Commerce
Regulatory Policy Division
Bureau of Industry and Security
Room 2099B, 14th St. and Pennsylvania Ave. NW.
Washington, DC 20230

ATTN: Mr. Brian Baker
Director, Electronics and Materials Division

Subject: Notice of Proposed Rulemaking, RIN 0694-AF64 (November 28, 2013)

Dear Mr. Baker

Rockwell Collins appreciates the opportunity to provide comments on the proposed rules issued by the U.S. Department of Commerce (DOC), Bureau of Industry and Security (RIN 0694-AF64), and by the U.S. Department of State (DOS) (RIN-1400-AD25), published in the Federal Register on November 28, 2012. The proposed rules describe the articles that warrant continued control under Category XI (Military Electronic Equipment) of the U.S. Munitions List (USML) and address how articles that are no longer controlled under Category XI would be controlled under the Commerce Control List (CCL).

I. Corporate Background and Interest in Category XI Proposed Changes

Rockwell Collins, Inc. is a leader in the design, production and support of communications and aviation electronics for commercial and military customers worldwide. While our products and systems are primarily focused on aviation applications, our Government Systems business also offers products and systems for ground and shipboard applications. The integrated system solutions and products we provide to our served markets are oriented around a set of core competencies: communications, navigation, automated flight control, displays/surveillance, simulation and training, integrated electronics and information management systems. We also provide a wide range of services and support to our customers through a worldwide network of service centers, including equipment repair and overhaul, service parts, field service engineering, training, technical information services and aftermarket used equipment sales. We are headquartered at 400 Collins RD NE, Cedar Rapids, Iowa 52498 and employ

approximately 20,000 individuals worldwide. Our 2012 sales totaled almost $5 billion.

Rockwell Collins appreciates the opportunity to provide comments and supports the stated intent of the proposed regulatory amendments which is to make the USML and the CCL a more positive list by creating a clearer "bright line" regarding articles controlled between the USML and CCL. These changes are intended to advance the national security objectives of the U.S. by creating greater interoperability with U.S. allies, enhancing the defense industrial base and allowing the government to focus its resources on controlling and monitoring the export and re-export of more significant products and technology.

Given the majority of Rockwell Collins' defense products are captured within Category XI of the USML, we are very much interested in ensuring the changes being proposed not only further the national security objectives of the export control reform initiatives, but also allow for efficient international trade activities in the future.

II. Comments

Overall, while we believe the changes to Category XI of the USML create a clearer "bright line" between what should be controlled under the USML and CCL, many of our products will continue to require licensing in the future. A key change being made within the proposal is the move of parts, components and accessories from category XI(c) of the USML to the CCL 600 series which will generally require a DOC license (or EAR exception) to export. We view this change only as a shift in licensing from one agency (DOS) to another (DOC). Rockwell Collins has a significant number of category XI(c) items that we believe will move to the CCL 600 series. As discussed further below, we believe the proposed changes will cause a significant increase in our overall licensing volume. This scenario runs counter to the stated objectives of export control reform.

A. Licensing

For items moving from USML Category XI – Military Electronics to the CCL, Rockwell Collins has reviewed the impact of the proposed changes on its licensing activities. While we recognize that parallel efforts are underway to revise the regulations to address dual licensing and ITAR exemption/EAR exception differences, these revisions have not yet become effective. Therefore, our analysis was based upon how the proposed ITAR changes to USML Category XI articles would affect Rockwell Collins given the EAR as it exists today.

Our analysis led us to conclude that:

- The total number of licensing actions required by Rockwell Collins' Export Licensing Department would increase by ~30%. This takes into account the number of DOS licenses that would still need to be processed, the number of

DOC licenses that would be required under the proposed reforms (assuming no change to the EAR as it is written today) and the number of transactions (or partial transactions) that would qualify for processing under the STA exception. The STA exception, while reducing the number of DOC licenses required, would still require administrative effort by Rockwell Collins' Export Licensing Department to satisfy all the documentation requirements of the exception. Therefore, this additional administrative effort was treated as a "licensing action" for each transaction to which it was applicable.

- "Systems" (made up of both ITAR-controlled equipment and the new CCL 600 series items) could face dual licensing requirements in the future. An ITAR-controlled item that remains in Category XI after the proposed reforms become effective would continue to require a DOS license, while CCL 600 series items that make up the remainder of the system may require a DOC license.

- In the situation described above, many of Rockwell Collins' foreign customers could be negatively impacted. This conclusion was based upon our analysis that for the time period studied, DOS hardware license requests experienced a 15-day approval cycle, while DOC hardware license requests experienced a 45-day approval cycle. Unless DOC license cycle times are dramatically reduced, Rockwell Collins' customers could have to wait, on average, an additional 30 days to receive their complete systems. This would be particularly troublesome in cases where Rockwell Collins is responding to certain customers' "AOG" (Aircraft on Ground) situations. Today, the Category XI articles that Rockwell Collins exports in these situations require DOS licenses that are often approved in less than one week. In the future, unless the same transactions qualify for the STA (or some other EAR) exception, it could take more than a month to receive approval of comparable DOC licenses, given current DOC processing times.

- Many items that Rockwell Collins exports today under either the "Repair Exemption" (ITAR § 123.4(a)(1)) or the "Low Dollar Value Exemption" (ITAR § 123.16(b)(2)) would move to the CCL. Because corresponding equivalent license exceptions do not currently exist under the EAR (though we recognize some changes have been proposed), a majority of these transactions that do not require a license today would, in the future, either require a DOC license or qualify for the STA exception (which is more administratively burdensome than the current ITAR exemptions).

To the extent that the Departments of State and Commerce have not already addressed these concerns, Rockwell Collins recommends the following:

- DOS allow license requests it receives to include CCL "license required" articles that are part of the same order as the ITAR articles being licensed, thereby eliminating the need for dual (DOS and DOC) licensing on one transaction. This would reduce the burden on both the U.S. Government and on industry when licensing USML articles and associated CCL parts and components.

- Increase staffing levels and/or make enhancements to licensing processes at the DOC in order to reduce the current approval cycle times, and to prepare for an expected increase in the number of license requests it receives. U.S. Government agencies involved in the review and approval of DOC licenses should be included in any efforts by the DOC to streamline their processes. To the extent possible, leverage lessons learned and best practices from the DOS, as they have significantly reduced their cycle times over the past six years.

- Regarding the STA exception, give consideration to one or both of these recommendations:

    - Provided national security concerns are appropriately addressed, expand the list of countries for which the STA exception would be available to help minimize the number of DOC license applications required.

    - Eliminate the "consignee statement" requirement entirely (or at least for exports to NATO countries) to significantly reduce the administrative burden on industry when using this exception. The statement is similar to a DSP-83 "Nontransfer and Use Certificate" form, which is required today for the export of Significant Military Equipment (SME), but not for non-SME articles (XI(c) items), the majority of which are slated to move to the CCL 600 series.

- Ensure that all license exemptions available under the ITAR today (particularly ITAR § 123.4(a)(1) and ITAR § 123.16(b)(2)) have reciprocal licensing exceptions under the EAR. Another, perhaps simpler, option may be to create one DOC license exception that authorizes the use of existing ITAR exemptions to export 600-series CCL parts and components.

B. Category XI USML Changes

Rockwell Collins believes the proposed reforms to the USML Category XI – Military Electronics (RIN-1400-AD25), goes a long way towards the government's goal of establishing a positive list that draws a "bright line" between the USML and the CCL. We believe the changes set forth in the Department of State's proposed rule (RIN 1400–AD25), for the most part, articulate the equipment and technologies the government feels

warrant the more stringent controls offered by the ITAR. We believe this will lead to more accurate export classifications and license applications by the defense industries impacted by the proposed changes.

However, we have some concerns on the language of "specially designed". Like many other categories of the USML, the proposed changes to Category XI contain extensive use of the phrase "specially designed". The proposed definition of "specially designed" is only in draft form, so our comments hinge on the final definition of this phrase and how clearly it articulates the articles it encompasses. The current proposed definition continues to be too broad in that it would allow items to be captured unintentionally as defense articles. We believe that the definition should focus more precisely on changes that relate directly to the 'unique military functionality/capability' of the defense article. Form or fit differences only should not cause the item to be captured as a defense article.

C. CCL Changes

Rockwell Collins believes the proposed reforms to the Export Administration Regulations (EAR) CCL (RIN 0694-AF64) are, by and large, positive; but believe some changes will lead to confusion and the potential for misclassification of certain commodities. Our specific comments on the proposed changes follow.

- We believe including computers, telecommunications equipment, radar "specially designed" for military use, parts, components, accessories, and attachments "specially designed" therefor, and related software and technology in the new 3A611, 3B611, 3D611, and 3E611 categories will lead to confusion and misclassification/licensing of controlled items. Rockwell Collins believes military computers, telecommunication devices, and radars should be placed in the appropriate existing CCL categories as 611 items. For example, military computers and related test equipment, software and technology that no longer warrant ITAR controls should be moved to ECCN 4A611, 4B611, 4D611 and 4E611. Likewise, telecommunication devices no longer controlled by the ITAR should be transferred to CCL in category 5A611, and radars in CCL category 6A611.

- Rockwell Collins believes the proposed CCL category 3A611.c, controlling microwave monolithic integrated circuit (MMIC) power amplifiers, and 3A611.d controlling discrete radio frequency transistors is a positive move that clearly defines the articles covered.

- As stated previously, we believe the proposed CCL category 3A611.e controlling high frequency (HF) surface wave radar capable of "tracking" surface targets on oceans will lead to confusion and misclassification. We believe a better move would be to control these device in a new ECCN in category 6 (ECCN 6A611).

- Rockwell Collins believes the proposed CCL category 3A611.f, controlling microelectronic devices and printed circuit boards that are certified to be a "trusted device" from a defense microelectronics activity (DMEA) accredited supplier is a positive move that clearly defines the articles covered.

- Rockwell Collins believes the proposed note in CCL category 3A611.x, clarifying that electronic parts, components, accessories, and attachments that are "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 appears contrary to the reasoning used to include Military Computers, Telecommunication devices , and Radars in category 3A611, and further clouds exactly where electronic components should be classified.

- Rockwell Collins believes the proposed CCL category 3A611.y, controlling items of little or no military significance and imposing AT1 controls is not needed. We believe items of little or no military significance should be controlled in existing categories of the CCL that are appropriate to the particular device(s).

- Rockwell Collins believes the proposed changes to ECCN 3A101.a covering analog-to-digital converters is a positive change, however it seems to be inconsistent with the other proposed reforms which move military electronics in ECCN 3A611, and will add confusion if other reforms are implemented as proposed.

- Rockwell Collins believes the proposed rule revising the Related Controls paragraph in ECCN 5A001 to provide more detailed references to telecommunications equipment subject to the ITAR under USML Categories XI and XV, while maintaining references to ECCNs 5A101, 5A980, and 5A991 is a positive move, that is clearly and well defined. However, this change seems inconsistent with the proposed changes putting military telecommunications equipment that no longer warrant ITAR controls into category 3A611.

- Rockwell Collins believes the proposed addition of three new cross reference ECCNs, created to alert readers that computers, telecommunications equipment, and radar—and parts, components, accessories and attachments "specially designed" therefor are controlled by ECCN 3A611 (if specially designed for military use) in CCL Categories 4, 5 (Part 1) and 6, respectively (new cross reference ECCNs and the Categories in which they would appear are: 4A611, Category 4; 5A611, Category 5, Part 1; and 6A611, Category 6) would not be needed if these devices were placed there . We believe placing these devices in their appropriate categories of the CCL is the best way to reduce confusion and misclassification of these articles.

D. Grace Period

Rockwell Collins' assessment of the proposed changes to category XI shows we have a significant number of parts, components and accessories currently captured within category XI(c) of the USML. We believe the majority of these category XI(c) items will be moving to the new CCL 600 series. The task of evaluating each of these items to determine the appropriate CCL classification they should be moved to once final rules are published will be significant. To allow adequate time to address these changes, along with licensing and other related process changes required, a minimum grace period of at least six months would help ensure that industry has the time necessary to properly comply with the new regulations.

III. Conclusion

As drafted, the proposed changes to Category XI represent a positive step forward in establishing a clearer/bright line between the USML and CCL. However, as noted above, unless further changes are made in other parts of the regulations to 1) clarify the "specially designed" definition, 2) create a mechanism to eliminate dual licensing, and 3) create comparable license exceptions within the EAR, we believe the proposed changes have the effect of only shifting licensing from one agency to another, and potentially increasing the overall licensing and administrative effort required to conduct defense trade.

Rockwell Collins is fully committed to supporting the Administration's efforts in moving export control reform forward. We greatly appreciate the opportunity to provide comments to the proposed changes.

If you have any questions or would like to discuss the comments provided above, feel free to contact me directly at 319-295-5396, or via email at pasmith@rockwellcollins.com.

Sincerely,

Perry A. Smith
Director, Export and Import Compliance
Rockwell Collins, Inc.