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January 24, 2013

Mr. Timothy Mooney
Regulatory Policy Division
Bureau of Industry and Security, U.S. Department of Commerce
Room 2099B, 14th Street and Pennsylvania Avenue N.W.
Washington, D.C. 20230

Subject: RIN 0694–AF37, Revisions to the Export Administration Regulations (EAR) To Make the Commerce Control List (CCL) Clearer

Dear Mr. Mooney:

Thank you for the opportunity to comment on the proposed rule referenced above. The Boeing Company (hereinafter referred to as "Boeing") commends and fully supports the effort by the Bureau of Industry and Security (BIS) to modify the Commerce Control List (CCL) in order to make all sections consistent and the CCL easier to read and interpret. The resulting increase in clarity will enhance industry's ability to comply with the intent of the Export Administration Regulations (EAR).

In general, Boeing supports the proposed changes. We particularly appreciate the following:

- Defining and distinguishing the terms "parts" and "components". This should resolve ambiguities about ECCN coverage and enable companies to correctly classify items falling under each of these designations;
- Aligning eligibility of License Exception TSR with the STA-eligible countries;
- Structural changes such as explicit references to Part 740, License Exceptions, references to the Country Chart, and adding a Reporting Requirements section to affected ECCNs. These changes will increase understanding of license exceptions, and the standardized structure will make it easier for exporters to use and comply with the EAR.
- Removal of fourteen ECCNs subject to the exclusive jurisdiction of the Nuclear Regulatory Commission. This will avoid regulatory confusion, and eliminate the need for BIS to continually update controls administered by a different agency.
- Increased CCL conformity with the control lists of the multilateral export control regimes.

Boeing appreciates all changes to make CCL language consistent with the MTCR Annex. In this respect, we provide the following comments for purposes of confirming our interpretation of those changes:

- We understand that the defined term "*missiles*" is being replaced with *rockets, missiles, and UAVs,* to ensure that both Category 1 and Category 2 UAVs are captured in order to be consistent with the MTCR Annex. "Missiles", as defined in Part 772, includes only Category 1 items (*i.e.*, those with a range of at least 300 km and a payload of 500 kg.).
- Only UAV range (as opposed to payload) is specified in ECCNs 1A101 and 9D105 to ensure consistency with the MTCR Annex by capturing both Category 1 and Category 2 items.
- Both UAV range and payload are specified in ECCN 1D103 to ensure consistency with the MTCR Annex by limiting those items captured to only Category 1 subsystems.
- UAVs are not included in the language changes made to ECCN 7E104 because the MTCR Annex control is specific to the optimization of rocket system trajectory, and does not include a control related to UAVs.

Additionally, Boeing offers the following comments and observations:

- ECCN 9A118 uses the phrase *capable of achieving a "range" equal of 300 Km or greater than 300Km".* We believe it should read *capable of achieving a "range" equal to or greater than 300 Km.*
- The term "*accessories*" appears without quotation marks in many locations, including ECCN 1B001. The BIS June 17, 2011 Proposed Rule provided a definition for "*accessories and attachments*". To eliminate confusion, we recommend that BIS clarify whether the definition of "*accessories*" is intended to be the same as the definition provided for "*accessories and attachments*". If it is, we believe that the defined term "*accessories*" should be shown in the listing inside of parentheses. If the definition is not the same, we recommend a separate definition of "*accessories*" be provided.
- The term "*specially designed"* does not consistently appear in quotation marks, as exemplified in 1A005. We believe all use of the term should be in quotes.
- The current description for ECCN 1C002.c.1.a states *10^9 alloy particles*, but the proposed control states *109 alloy particles*. We believe the value should be 10^9 throughout.
- The term *"components*" is being replaced with *"parts" and "components"* within the description for ECCN 1C007. Boeing suggests the term *"components*" be replaced with *ingredients,* which makes sense in this materials category.
- The current description for ECCN 2B352.d.2 states "*0.2 square meters (0.2 m^2)*," but the proposed control states "*0.2 square meters (0.2 m2)*". We believe the value should be m^2 throughout.
- The term, *parts,* has only one quotation mark under the ECCN 7A004 description.
- In the Related Control section under ECCN 9A004, the terminology *specifically designed "parts" and "components"* is used as opposed to "*specially designed.*" For purposes of consistency, we recommend that "specially designed" be used at all times.

Once again, thank you for offering industry the opportunity to provide input on this proposed rule. Boeing agrees with BIS that the cumulative impact of the proposed changes should improve the clarity, and hence understanding, of the CCL. This increased ease of use will especially benefit exporters whose items may transfer to the CCL as a result of Export Reform. Should you have questions or require further information, please feel free to contact me at (703) 465-3505 or via email at stephanie.a.reuer@boeing.com.

Sincerely,

Stephanie A. Reuer
Director, Global Trade Controls
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