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VIA ELECTRONIC MAIL

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

Re: Comments on BIS Advanced Notice of Proposed Rule: Harmonization of Export Clearance Provisions; RIN 0694-AG51

To whom it may concern:

The Chemours Company appreciates the opportunity to submit comments regarding the Advanced Notice of Proposed Rulemaking (ANPR) published in the May 22, 2015, Federal Register. The proposed regulatory changes seek to harmonize the export clearance requirements of §758 of the EAR with corresponding requirements under the ITAR. While Chemours supports efforts to harmonize and streamline the regulations, we caution that the suggestions for harmonization would cause significant resource and financial burden on industry and would ultimately create inconsistencies for exporters.

A. Inclusion of "Contractual Documentation"

The term "contractual documentation" referred to in the proposed rule is vague and is not otherwise used anywhere in the EAR or the ITAR. The ANPR explains that the proposed rule would require the DCS "on the commercial invoice and contractual documentation because these two documents are the most likely to travel with the item from its time of export from the United States to its ultimate destination and ultimate consignee" However, we note particularly that none of these types of documentation customarily accompany a shipment. Neither the contract or invoice customarily accompany any shipment.

B. Requiring ECCNs on Export Control Documents

Requiring ECCNs on export control documentation does not serve a meaningful purpose in ensuring compliance with the EAR or preventing diversion. Buyers receiving exports are generally non-U.S. persons for whom a detail such as the ECCN is not very meaningful. Furthermore, this requirement exceeds the ITAR (§123.9), which does not require the USML category. Thus, this proposal creates an inconsistency that does not currently exist. In addition, the proposed requirement exceeds the current EAR requirement for exporting "500" and "600" ECCN exports under license exception STA, which requires a notification to the consignee of the ECCN, though not one necessarily with every shipment. We submit that the Destination Control Statement on the export control documents is instructive and sufficiently informs the recipient of obligations under the EAR. The proposed rule change is unnecessary.

C. Requiring Country of Ultimate Destination on Export Control Documents

We suspect that at least one purpose of this proposal is to achieve consistency with the ITAR requirement in §123.9. However, in this case, the difference between the ITAR and the EAR is justified.

Most defense exports are either direct to the ultimate consignee or for incorporation within another foreign-made military item. Since all ITAR exports require a State Department license, defense exporters know the country of ultimate destination. This is not true for many dual-use exporters, who often sell to distributors. The U.S. exporter may not know the country of ultimate destination, especially where the distributor is located in a country for which no export license is required. The proposed requirement will impose an additional burden on exporters to ascertain the county of ultimate destination. Compliance with this rule would further be hampered by the fact that distributors are reluctant to identify their customers, for fear the U.S. exporter will sell directly to the customers.

D. Requiring License Numbers or Export Authorization Symbol on Export Control Documents

For the same reasons noted above, Chemours does not see sufficient value to justify the cost to exporters to reprogram systems or otherwise change current export processes to provide information that does little to assist customers or prevent diversion and is already available to BIS.

E. Requiring AES Filing for Exports to Canada for Items Controlled for NS, MT, NP & CB

Chemours also counsels against requiring AES filing for exports to Canada for items controlled for NS, MT, NP and CB. Canada is one of our largest trading partners with readily accessible road and rail deliveries. Requiring AES filing for such exports would add an unnecessary administrative burden to exporters. Many exporters such as Chemours are able to use the Canadian exemption (15 CFR 30.36) for items not on the ITAR or EAR and therefore their electronic systems are not set up to notify their freight forwarder.

Each of the proposed changes discussed in sections B through E above pose unique challenges and would necessitate specific changes to electronic systems across multiple ERP systems; both internally and externally for shipping partners. Without greater detail regarding programming requirements, we roughly estimate that costs to analyze, program and implement the proposed changes would be tens of thousands of dollars.

Additionally, the proposed changes would require a significant amount of time to implement. We estimate that at least six (6) months would be required between the time a final rule is published and the effective date for implementation. Defining the solutions, identifying all affected systems in the sales and delivery process, and determining how much outside programming resources are needed must be considered. Furthermore, we suggest BIS survey the ERP system support industry to gauge the strain on resources the proposed rule may cause and the ability to provide the IT services broadly across all U.S. exporters.

For the foregoing reasons, Chemours submits that the proposed rule changes are largely unnecessary, would cause significant burdens on industry, would create inconsistencies for exporters, and should, therefore, not be pursued. Thank you for your consideration of these comments. Please do not hesitate to contact me if you have any questions at 302-773-1318.

Sincerely,

/s/ PEDRO DE LA TORRE

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International Trade Counsel &
Global Compliance Officer
The Chemours Company