PUBLIC SUBMISSION

As of: 7/8/15 11:24 AM
Received: July 06, 2015
Status: Pending_Post
Tracking No. 1jz-8jts-o0jd
Comments Due: July 06, 2015
Submission Type: Web

Docket: BIS-2015-0013
Revisions to the Export Administration Regulations (EAR): Harmonization of the Destination Control Statements

Comment On: BIS-2015-0013-0001
Export Administration Regulations: Destination Control Statements; Harmonization

Document: BIS-2015-0013-DRAFT-0004
Comment on FR Doc # 2015-12298

Submitter Information

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General Comment

The first sentence of the proposed destination control statement in 758.6(a)(1) seems to impose an additional requirement to identify the end user(s) on the commercial invoice and, to the extent it exists, the contractual documentation. However, in many instances, the end user(s) normally would not be identified on the commercial invoice or contractual documentation. A requirement to list all of the end users on the commercial invoice or contractual documentation would impose an excessive burden on the exporter, especially in the case of a shipment to a distributor or similar consolidated shipment.

In addition, many exporters of all sizes place the destination control statement on the commercial invoice and other documents for every export shipment, even when it is not required. The main reasons for doing this are: (1) As a trade compliance best practice, exporters wish to alert or remind their customers of the EAR requirements; and (2) To ensure the destination control statement appears on the necessary documents when it is required, it is placed all commercial invoices whether required or not as a precaution to avoid an inadvertent violation. Indeed, many times the exporters business system is programmed to print the destination control statement on the commercial invoice and other documents for exports of all EAR items, including those classified as EAR99. The apparent requirement to list all end user (s) on the commercial invoice or contractual documentation will discourage exporters from continuing or adopting this sensible practice.

With the above in mind, our recommendation is to make the following revision to the first sentence of the proposed destination control statement: Insert ultimate consignee or

immediately before end-user herein identified so the first sentence reads These items are controlled and authorized by the U.S. Government for export only to the specified country of ultimate destination for use by the ultimate consignee or end-user herein identified.

Thank you for your consideration.