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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 Proposed Rule: Harmonization of Destination Control Statement; RIN 0694-AG47

To whom it may concern:

The Chemours Company appreciates the opportunity to submit comments regarding the Proposed Rule published in the May 22, 2015, Federal Register. The proposed rule would revise §758.6 of the EAR to harmonize the text with §123.9(b)(1) of the ITAR. While Chemours supports efforts to harmonize export control requirements under the EAR and ITAR, we caution that the proposed rule would simply create a different inconsistency for exporters.

Section 758.6 of the EAR states, "The Destination Control Statement (DCS) must be entered on the invoice and on the bill of lading, air waybill, or other export control document that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end-user abroad." References to "export control documents" are clarified as those "that accompany[y] the shipment from its point of origin in the United States to the ultimate consignee or end-user abroad." The intent of including detailed U.S. export control information on export control documents is, of course, to prevent diversion. To do so, the export control documents should accompany the items being shipped. Examples of "export control documents" would be a bill of lading or an air waybill.

Section 758.6 of the EAR further states that, "The DCS is required for all exports from the United States of items on the Commerce Control List that are not classified as EAR99, unless the export may be made under License Exception BAG or GFT (see part 740 of the EAR)." Unless the item is being shipped NLR, an export license has been obtained by the exporter, who is required to inform all parties on the license of the license conditions. All export licenses forbid resale, re-export, or transfer of items by parties on the license to other parties without U.S. government authorization. Informing the parties on the license of the license conditions is the primary way to prevent diversion. The DCS is a reminder to all parties in the shipping chain that the items may not be diverted from the intended recipient.

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. A contract does not accompany any shipment.

Moreover, commercial invoices do not accompany items during shipment. In today's business processes, invoices are sent either electronically (the preferred method) or in hard copy directly to the buyer's accounts payable department. The invoice is not sent to those who might divert the items. In compliance with the EAR, the DCS is currently printed on the invoice, but doing so arguably does not serve the purpose BIS intends.

In conclusion, we suggest that BIS apply the new wording of the DCS to "the bill of lading, air waybill, or other export control document that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end-user abroad." Applying the DCS to the invoice should be reconsidered, since it does not serve the intended purpose. Additionally, the DCS should not be applied to "contractual agreements" for the reasons stated above.

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

Pedro de la Torre
International Trade Counsel &
Global Compliance Officer
The Chemours Company