United Technologies Corporation
1101 Pennsylvania Avenue, N.W.
10th Floor
Washington, D.C. 20004-2545

Submitted Via Email

July 6, 2015

Mr. Timothy Mooney
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

Attn: RIN 0694-AG47

Re: Proposed Rule; Export Administration Regulations (EAR): Harmonization of the Destination Control Statements (80 Fed. Reg. 29551, May 22, 2015)

Dear Mr. Mooney:

United Technologies Corporation ("UTC")[1] appreciates the opportunity to submit these comments to the Bureau of Industry and Security ("BIS") on the proposed revisions to the Destination Control Statement ("DCS") in the EAR to harmonize the statement required for the export of items with the DCS in the International Traffic in Arms ("ITAR"). UTC supports the harmonization of the DCS language in the EAR and the ITAR and encourages further efforts to align other aspects of the regulations' respective export clearance requirements. We believe one standard requirement under both regulations best supports Export Control Reform harmonization efforts.

I. DCS Language

On May 22, BIS and the Directorate of Defense Trade Controls ("DDTC") concurrently published proposed rules to amend the DCS in EAR § 758.6 and ITAR § 123.9(b)(1), respectively.[2] UTC supports harmonization of the DCS language between the two regulations because it eliminates confusion as to which statement to use for shipments that include both

[1] UTC is a global, diversified corporation based in Hartford, Connecticut, supplying high technology products and services to the aerospace and building systems industries. UTC's companies are industry leaders, among them Pratt & Whitney, Sikorsky, UTC Aerospace Systems, UTC Building & Industrial Systems, and United Technologies Research Center.

[2] Amendment to the International Traffic in Arms Regulations: Exports and Temporary Imports Made to or on Behalf of a Department or Agency of the U.S. Government; Procedures for Obtaining State Department Authorization to Export Items Subject to the Export Administration Regulations; Revisions to the Destination Control Statement; and Other Changes. 80 Fed. Reg. 29565 (May 22, 2015).

items subject to the ITAR and items subject to the EAR. It also makes automation easier because the same DCS will be used for EAR and ITAR shipments.

UTC notes that the proposed DCS language published by BIS and DDTC had minor inconsistencies – DDTC added "be" before "disposed of" and BIS included the word "specified" before "country of ultimate destination." UTC recommends deletion of these extra words. Also, given the use of the words "may not" in the second sentence of the DCS, it would be clearer to use the word "unless" rather than "or as" before "otherwise authorized by U.S. law and regulations." UTC recommends that the DCS language in EAR § 758.6(a)(1) be modified to read as follows:

> These items are controlled and authorized by the U.S. Government for export only to the country of ultimate destination for use by the end-user herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized end-user or consignee(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government unless otherwise authorized by U.S. law and regulations.

II. Contractual Documentation

According to the preamble, BIS has determined that the commercial invoice and "contractual documentation" are "most likely to travel with the item" from export from the United States until it reaches its ultimate destination/consignee. UTC applauds BIS' decision to reduce the number of documents requiring DCS to the two documents it determined are most likely to accompany an export. We agree that this change is consistent with the objective to ensure that the DCS is received by the ultimate consignee and appreciate the effort to reduce the burden on the exporter.

In our experience, the following documents typically accompany an export: packing list, commercial invoice, and bill of lading. Some shipments also include a Shipper's Letter of Instruction and perhaps additional paperwork that is specific to the item being exported (*e.g.*, technical data, reports, certificates of conformance). UTC agrees that the commercial invoice is typically included in the export, but we would not consider any of the remaining types of documents we identified to be "contractual documentation." Further, we note that "contractual documentation" is not a defined term in the EAR and there was no proposed definition for this term. Therefore, UTC recommends that BIS specify the precise document(s) in Part 758.6(a) that it considers contractual documentation to ensure consistent interpretation and implementation of this requirement by exporters.

* * *

For additional information, please contact the undersigned at (202) 336-7458 or christine.lee@utc.com.

Sincerely,

Christine Lee
Director, Compliance
International Trade Counsel