Request for Comments:

RIN 0694-XC025

Email to publiccomments@bis.doc.gov

Airbus Group offers the following comments in response to BIS request for comments related to controls on Military Vehicles, Vessels of War, Submersible Vessels, Oceanographic Equipment and Auxiliary and Miscellaneous Military Equipment

Encryption of TT&C for commercial telecommunication satellites:

We believe that the controls of the USML for encryption of TT&C for commercial telecommunication satellites are only warranted for encryption that a) is classified or b) meets the requirements of CNSSP12 (i.e. approved by the National Security Agency for satellites providing services to the U.S. Government).

Therefore, we suggest that commercial telecommunication satellites encryption which is not classified and does not meet the requirements of CNSSP12 be moved from the USML to the EAR. We believe that this change, once enacted in the ITAR, would not require change of text in the corresponding sections of the EAR:

- The corresponding Space segment hardware would be controlled as 9A515.x and would not require a change of text,
- The corresponding ground segment hardware would be controlled as 9A515.b and would not require a change of text,
- The encryption software (including keys) would be controlled under 9D515.a and would not require a change of text.

Comments on how to improve the implementation of "600 series" ECCNs on the CCL:

Airbus Group is submitting the comments below, to enhance the implementation of the "600 series" and in particular the ability for non-US companies to comply with the requirements related to "600 series" items:

SNAP-R Approvals:

Approvals generated from SNAP-R applications do not provide all of the information necessary for a non-U.S. party to make determinations regarding licensing and compliance requirements concerning re-exports.

1) Full ECCN: The SNAP-R form does not include the subparagraph of the ECCN classification. The full ECCN is essential in determining the controls on the item and license requirements for the country of ultimate destination.

2) All BIS licenses state that "Unless limited by a condition set forth below, the export, reexport . . . authorized by this license is for the item(s), end-use(s), and parties described in the license application and any letters of explanation. . ." However, the license approval provided to the applicant does not repeat the applicant's statements regarding End-Use in Blocks 21 and 24 of the 748P form.

Without a full ECCN or a complete end-use statement, the non-U.S. party is unable to determine licensing or other compliance requirements associated with a re-export. Furthermore, many license applications include letters of explanation and other supporting documentation that may contain proprietary information that the U.S. applicant is reluctant to share with their non-U.S. customer or partner.

We recommend that BIS harmonizes the SNAP-R (748P) form to include the same that is provided on ITAR DSP authorizations level and type of information to include:

- Expand Block 22(a) to include the subparagraph of the ECCN
- Repeat the information provided by the applicant in Blocks 21 and 24 as an End-Use statement in the approval.

STA and De Minimis:

Items exported pursuant to license exception STA must remain under the terms and conditions of STA and therefore the item remains 'subject to the EAR' until all conditions of the Prior Consignee statement are met. The impact on 600 series items is a restriction on the availability of De Minimis per §734.4 since a condition of the Prior Consignee statement is the item is destined for end-use by an A5 government.

On the other hand, for 600 series items received under an approved BIS license, the non-U.S. party is able to "de minimize" the content and re-export to a non-A5 country.

Thus, there is little incentive for larger programs using multiple suppliers to use STA.

A more significant compliance risk occurs when the same items are received via different shipments with some using STA and some using a BIS license. In this case, the non-U.S. party must then establish two tracking mechanisms for the same part to ensure compliance with the conditions of STA. This is not only costly, but compounds the likelihood of compliance mistakes and results in a general reluctance to use STA.

We recommend that BIS allows use of De Minimis for items received under STA. This will harmonize the conditions on 600 series content received either under a BIS license or under STA as well as the compliance conditions under which a non-U.S. company must manage its 600 series inventory. In any case, the restrictions on exports and re-exports to D5 countries remain.

We recommend the following amendment to 740.20:

740.20 e) Limitations on subsequent export, reexports or in country transfers

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If a commodity has been exported, reexported or transferred in country pursuant to this section and is incorporated into a Foreign made items, the provisions of 734.4 apply

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For further information, please contact Corinne Kaplan at 703-466-5741 or Corinne.Kaplan@eads-na.com.

Respectfully,

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