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RAFAEL
ADVANCED DEFENSE SYSTEMS LTD.

Corporate V.P. & General Counsel

Raf#13580232v

April 2, 2016

To: publiccomments@bis.doc.gov
Subject: RIN 0694-AF75
Bureau of Industry and Security
US Department of Commerce

Rafael Advanced Defense Systems ("Rafael") is hereby submitting this comment regarding the proposed revisions to the EAR "Control of Fire Control, Laser, Imaging, and Guidance and Control Equipment the President Determines No Longer Warrant Control Under the United States Munitions List" dated February 19, 2016. In particular, Rafael is forwarding below a comment it made to the Directorate of Defense Trade Controls (DDTC) in which it questioned whether the proposed Category XII revisions of February 19, 2016 would mean that certain Rafael electro optical pods used for surveillance, target detection and target acquisition for military use would no longer controlled on the USML, and if that was not DDTC's intention, to make that clearer in their final rule. You can see more information on Rafael products impacted by these rules in the product links embedded in the DDTC Category XII comment below.

We forward the DDTC comment to the Bureau of Industry and Security (BIS) as well, since if it was truly the US Governments intention to remove these items from the USML and to EAR "600 Series" control, we would request that the BIS more clearly enumerate these systems in the proposed 7A611 or elsewhere to help remove any ambiguity as to how they are controlled. For example, 7A611 or other "600 Series" ECCN like 3A611 could enumerate: "electro optical systems specially designed for military reconnaissance, military surveillance, target detection or target acquisition." We appreciate your consideration of this comment.

Best regards,

Chaim Gelfand

Chaim Gelfand, Adv.
Deputy General Counsel
Compliance
Rafael Advanced Defense Systems Ltd.

Proprietary of Rafael - Advanced Defense Systems Ltd.

RAFAEL
ADVANCED DEFENSE SYSTEMS LTD.

To: DDTCPublicComments@state.gov
Attn: Regulatory Change, USML Category XII

Dear Mr. Peartree:

Rafael Advanced Defense Systems ("Rafael") is hereby submitting this comment regarding the proposed revisions to the United States Munitions list of Category XII published by the Directorate of Defense Trade Controls (DDTC) as it pertains to electro optical surveillance, target detection and acquisition systems for military use. In its February 19, 2016 proposed rule revising Category XII, DDTC proposed adding several specific entries related to electro optical equipment, notably XII(a)(6) "Electro-optical missile or ordnance tracking systems", (a)(7) "Electro-optical ordnance guidance systems" and (a)(8) "Electro-optical systems that automatically detect and locate weapons launch or fire."

Rafael manufacturers a number of electro-optical systems that come close to these descriptions, and can include components and features that are enumerated on the USML, but the actual electro optical systems are higher level assemblies that are not accurately described by these paragraphs. Specifically, Rafael manufactures electro optical pods and systems that are mounted on various aircraft, vehicle or stationary platforms, including systems used by the US Department of Defense. Traditionally, Rafael has treated these systems as ITAR controlled. These pods include sensors and have the capability for surveillance, target detection and target acquisition, yet they are not specially designed for or are not missile, ordnance or fire detection systems in the proposed (a)(6) and (7). Nor are they ordnance guidance systems as described in the new XII(a)(8). Therefore, Rafael is unsure whether DDTC has intentionally determined that such systems no longer warrant control on the USML, or if DDTC continues to view these systems as still being under ITAR control in XII or elsewhere.

We note that the DDTC has viewed surveillance, target detection and sensor capabilities, which these Rafael systems provide, as meaningful in determining whether a higher level platform like a military vessel, vehicle or aircraft incorporates a mission system and is thus controlled on the USML – see e.g. the note to Category VI(b)(4), VII(c) and VIII(a)(11). Given that the capability provided by electro optical pods Rafael produces has ITAR meaning in other contexts, it further raises doubt that the DDTC actually intended for these systems to be moved to the "600 Series" of the EAR even if they are no longer clearly enumerated in the proposed XII or otherwise.

Therefore, Rafael is requesting that the final rule specifically address electro optical systems like those that Rafael produces (surveillance, target detection and target acquisition) if indeed it is DDTC's intention to retain these items on the USML. For example XII could include: "electro optical systems specially designed for military reconnaissance, military surveillance, target detection or target acquisition." We also note that the corresponding EAR proposed revisions also do not specifically enumerate or address these systems, though if not ITAR controlled, one possible ECCN is 3A611.a. We thank you in advance for your consideration of this comment.

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Below please find links to Rafael electro optical products for further information about their capabilities:

Litening http://www.rafael.co.il/Marketing/334-914-en/Marketing.aspx

Reccelite http://www.rafael.co.il/Marketing/334-915-en/Marketing.aspx

Toplite: http://www.rafael.co.il/Marketing/396-918-en/Marketing.aspx

Best regards,

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Compliance
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