The Boeing Company
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March 18, 2013

Mr. Dennis Krepp
Director
Nuclear and Missile Technology Controls Division
Office of Nonproliferation and Treaty Compliance
Bureau of Industry and Security
U.S. Department of Commerce, Room 2099B
14th Street and Pennsylvania Avenue NW
Washington, DC 20230

Subject: **Revisions to the Export Administration Regulations (EAR): Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML) that are Related to Launch Vehicles, Missiles, Rockets, and Military Explosive Devices**

Reference: **RIN 0694-AF56**
Federal Register/Vo. 78, No 21/Thursday, January 31, 2013

Dear Mr. Krepp,

The Boeing Company ("Boeing") welcomes the opportunity to comment on the referenced Proposed Rule. Boeing fully supports the Export Control Reform Initiative. Moving to clearer and more positive control lists, together with the movement of less-significant items to the more flexible Commerce Control List, is an important and worthwhile effort that will both focus industry and government resources on areas of most significant risk and enhance industry compliance.

We note with appreciation the use of "specially designed" in many instances in the ECCN heading or in the subcategories. This should assure that items that are common to civil applications are not captured. The use of "required" in ECCN 0E604 and 9E604 is also important, as this serves to focus controls on the critical technology elements, and is well understood by exporters of dual-use items.

Boeing has raised a specific concern with the companion Proposed Rule on USML Category IV issued by the Department of Defense Trade Controls. We share that comment here in the event it is useful to the Bureau of Industry and Security.

Paragraph (c): *Apparatus and devices ''specially designed'' for the handling, control, activation, monitoring, detection, protection, discharge, or detonation of the articles enu-*

merated in paragraphs (a) and (b) of this category (MT for those systems enumerated in paragraphs (a)(1), (a)(2), and (b)(1) of this category). Commercial aircraft operators are increasingly concerned about threats posed by misuse of Man Portable Air Defense Systems (MANPADS). To respond to this threat, companies are already offering for commercial application countermeasure systems which would necessarily have monitoring and detection capability for MANPAD systems that would be captured by this paragraph. The use of ITAR-controlled items on commercial transport systems would require ITAR level protection of those platforms, which is impractical for the civil transport case. Considering the increasing commercial need for missile detection, monitoring, and countermeasure systems on civil aircraft, we request DDTC establish a policy that addresses this issue. Possible options include transferring these items to the "600-Series", establishing a flexible licensing structure for instances where such systems are installed on civil aircraft platforms, or adding a note to this paragraph that articulates a different control structure under a defined set of circumstances. We recognize the challenges in developing such a policy and would support, through the DTAG or TAC, efforts to address it.

Thank you again for the opportunity to comment. We appreciate the Bureau of Industry and Security's continued engagement with industry during this reform process. Please do not hesitate to contact me if you have any questions or need additional information. I can be reached at (703) 465-3505 or via e-mail at stephanie.a.reuer@boeing.com.

Sincerely,

Stephanie A. Reuer
Director, Global Trade Controls