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EXELIS

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To: Regulatory Policy Division
Bureau of Industry and Security
Room 2099B
U.S. Department of Commerce
14th Street and Pennsylvania Ave. NW.
Washington, D.C. 20230

Subject: RIN 0694-AF64 - 15 CFR Part 744, Supplement No. 1, Category 3A611

Comments on Proposed Rule: EAR Part 774 [RIN 0694-AF64]

Exelis Inc. appreciates the opportunity to submit comments on the subject second proposed rule. Exelis Inc. recommends specific revisions to the proposed Commerce Control List (CCL) Category 3A611, in particular to 3A611 .x and y and to the proposed prohibition on the use of the STA Exception for this Category.

The revisions recommended to 3A611 .x and y are critical to ensure alignment of the scope and intent of the proposed CCL Category 3 Military Electronics consistent with:

(a) the overall objectives of export control reform;
(b) descriptions of the functional distinction between items controlled under .x and .y levels as outlined in the July 15 (framework) rule and later in the April 16, 2013 revised implementation rule, as referenced more specifically in section II. C. "Items Paragraph" of this rule; and
(c) previously published CCL Category entries for "parts," "components," "accessories," and "attachments" which are "specially designed" for articles controlled within the new "600 Series" entries **or** the United States Munitions List (USML).

Discussion: EAR Part 774, Supplement No. 1, Category 3, Items 3A611.x and .y

The April 16, 2013 Revised Initial Implementation rule summarizes the intended scope of the .y paragraph and relationship to the .x entry as follows (in relevant excerpt, pg. 22663):

> "The .y paragraph of **each "600 series"** would control specific types of "parts"...that, even if "specially designed" **for a defense article or "600 series" end item**, warrant no more than AT-only controls. Thus one would not need to review the .x paragraph if a "part"...is described in the .y paragraph." [emphasis added]

Under the current wording, 3A611.y items would be restricted exclusively to items **"specially designed for a commodity subject to control in this entry and not elsewhere specified in any 600-series ECCN."** This means, by way of example, that a "speaker" (y.19) "specially designed" for a USML item would necessarily be classified as a 3A611.x item, despite the positive enumeration of "speakers" within 3A611y. and the clear intent that .y items are intended to constitute a positive list of "specially designed" items which warrant no more than AT-only controls, whether "specially designed" for ECCN 3X600 series items **or USML items**.

To ensure consistency of interpretation and preservation of the mutually exclusive operation of .x and .y, we recommend that the heading terms of the proposed 3A611.x and 3A611.y entries be revised as proposed below:

3A611.x item heading as currently stated in the Proposed Rule:

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity controlled by ECCN 3A611 or for an article controlled by USML Category XI, and not enumerated in a USML Category.

3A611.x item heading with recommended revisions for the Final Rule:

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity controlled by ECCN 3A611 or for an article controlled by USML Category XI, **and not elsewhere specified on the USML or the CCL.**

3A611.y item heading as currently stated in the Proposed Rule:

y. Specific ''parts,'' ''components,'' ''accessories'' and ''attachments'' ''specially designed'' for a commodity subject to control in this entry and not elsewhere specified in any 600-series ECCN as follows:...

3A611.y item heading with recommended revisions for the Final Rule:

y. Specific ''parts,'' ''components,'' ''accessories'' and ''attachments'' ''specially designed'' for a commodity subject to control in this entry **or for an article controlled by USML Category XI,** and not elsewhere specified in any 600-series ECCN **or enumerated in any USML category** as follows:...

Other administrative revisions to 3A611.y:

1. Amplification/clarification of 3A611.y.3 as follows:

y.3 Electrical connectors, **cables, and cable assemblies**

2. Amplification of .y24 as follows:

y.24 Waveguides **and antennas**

Exelis also requests that the use of the STA exception be made available for any 600 series item. This would allow for control by the regulator of the applicability, or not, of the exception and would provide more flexibility in the event that an unanticipated item is inadvertently captured. The control would still remain with Commerce to deny applicability. Exelis requests consideration of the following language for all 600 series items:

STA Exception applicability as currently stated in the Proposed Rule:

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 3A611.

STA Exception applicability with recommended revisions for the final Rule:

STA:
Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 3A611, unless determined by BIS to be eligible for License Exception STA in accordance with § 740.20(g) (License Exception STA eligibility requests for "600 series" end items). Discussion: EAR Part 774, Supplement No. 1, Category 3, Military Electronics, Item 3A611.y

Regards,

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