Rolls-Royce North America Holdings Inc.
Rolls-Royce North America
450 South Meridian Street, MC-N2-02
Indianapolis, IN 46225-1103 USA

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

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Reference: RIN 0694-AF64 [Docket No. 120330233-3326-02]
Proposed Rule

Subject: **Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)**

Regulatory Policy Division:

As mentioned several times at the recent BIS Update conference, the goals of Export Control Reform may be hindered by EAR provisions that are outdated, but not directly under review. One of these items is the recordkeeping requirement for NLR exports, which clearly has a negative effect on the control of Military Electronic Equipment and related items. As suggested by Update organizers, we are taking this opportunity to raise this issue.

Statement of Issue
BIS takes the view that EAR recordkeeping requirements apply to all transactions described in section 762.1 of the EAR, including those transactions that are completed without a license, under a License Exception, or pursuant to individual license issued by BIS. Recording intangible transfers of NLR technology may have made sense when technology limited such transactions to a few central fax machines or long-distance telephone lines. However, the same recordkeeping requirement for intangible transfers of NLR technology now applies to email, individual phones, VOIP and teleconferences. A global company collaborating in this space generates thousands of records annually. IT expenses, server space and agile work environments make the creation and storage of these documents extremely difficult.

The benefit of NLR is largely negated by this recordkeeping requirement, with no obvious corresponding benefit to national security. This also seems to contradict the goals of Export

Control Reform – previously licensed technology will become NLR, but records of unlicensed, intangible transfers still need to be kept.

Roll-Royce suggests that BIS take this opportunity to review the value of industry maintaining records of transfers of technologies for which no license is required. BIS might be guided by its approach to EAR §732.5(b) which states that exports from the United States of items on the Commerce Control List that are classified as EAR99 and generally do not require a Destination Control Statement, even though such items are "subject to the EAR." Similar flexibility in interpreting what is subject to the EAR could be usefully applied to NLR recordkeeping.

Rolls-Royce appreciates the DOCs willingness to take into consideration regulatory changes that could enhance business and still safeguard the "crown jewel" technologies of the United States. Feel free to contact William J. Merrell, Vice President - Strategic Export Control Americas at (703) 621-2751 if you have any questions about these suggestions.

Sincerely,

Leslie A. Farrell
Manager,
Strategic Export Control Americas
Rolls-Royce North America Inc.