From: Andrew.R.Lange@usdoj.gov
Sent: Friday, June 06, 2014 5:55 PM
To: PublicComments
Subject: RIN 0694-AG00

June 6, 2014

Good afternoon,

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) submits the following comment in response to the Bureau of Industry and Security, Department of Commerce proposed rule, *Proposed Revisions to the Support Document Requirements of the Export Administration Regulations in Response to Executive Order 13563 Retrospective Regulatory Review*, 79 FR 19552 (Apr. 9, 2014):

The Bureau of Industry and Security (BIS), Department of Commerce proposed rule, Proposed Revisions to the Support Document Requirements of the Export Administration Regulations in Response to Executive Order 13563 Retrospective Regulatory Review provides that:

> This proposal [for BIS to cease issuing U.S. Import Certificates (ICs) when requested by a foreign government as part of a U.S. import transaction] would not impact the participation by other agencies of the U.S. Government in the IC/DV system. Currently, the Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives issues U.S. ICs for the permanent import of defense articles described on either the U.S. Munitions List (USML) in 22 CFR part 121 or the U.S. Munitions Import List in 27 CFR part 447.
>
> 79 FR 19552 at 19553-54.

This statement is overbroad. ATF only issues U.S. ICs for the permanent import of defense articles on the U.S. Munitions Import List (USMIL) in 27 CFR part 447—the defense articles for which ATF has permanent import authority under the Arms Export Control Act, 22 U.S.C. § 2778 (AECA). The AECA authorizes the President in furtherance of world peace and the security and foreign policy of the United States to control the import and export of defense articles and defense services. Under Executive Order 13637 (78 FR 16129), the President delegated a portion of this authority to the Attorney General who, in turn, delegated to ATF the authority to control the permanent import of defense articles and defense services. The defense articles subject to permanent import control are enumerated on the USMIL, 27 CFR 447.21. Further clarification of ATF's role in issuing U.S. ICs is provided in the regulations at 27 CFR 447.51:

> Pursuant to agreement with the United States, certain foreign countries are entitled to request certification of legality of importation of articles on the U.S. Munitions Import List. Upon request of a foreign government, the appropriate ATF officer will certify the importation, on Form ITA–645P/ATF–4522/DSP53, for the U.S. importer. Normally, the U.S. importer will submit this form at the time he applies for an import permit. This document will serve as evidence to the government of the exporting company that the U.S. importer has complied with import regulations of the U.S. Government and is prohibited from diverting, transshipping, or re-exporting the material described therein without the approval of the U.S. Government.

Accordingly, based on its AECA delegated authority, ATF issues ICs for defense articles enumerated on the USMIL for permanent importation, but not for items contained only on the USML in 22 CFR part 121.

Thank you.

Andrew

Andrew Lange
Chief, Office of Regulatory Affairs
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE, Room 6N-531
Washington, DC 20226
Direct: 202-648-7024
E-mail: Andrew.Lange@atf.gov

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