June 27, 2014

Reference RIN 0694-AF87

Submission by email publiccomments@bis.doc.gov

These comments are submitted by Airbus Defense and Space, Inc. on behalf of itself and of the Airbus Group Export Compliance Office. The Airbus Group consists in Airbus, Airbus Helicopters and Airbus Defense and Space, with main activities in France, Germany, Spain, the Netherlands and the United Kingdom.

The Airbus Group welcomes the proposed revisions to EAR Control of Spacecraft Systems and Related Items that the President Determines No Longer Warrant Control Under the United States Munition List (USML) as proposed in Federal Register Vol 79. N^{0}92, dated May 13, 2014, reference RIN 0694-AF87.

Part 734.4 De Minimis content:

- De Minimis and transitioning items
  Understanding that De Minimis is 0% for D5 countries, please confirm that a 500 (600) series item can be De Minimized whether it was received under a BIS license as well as if it was received under an ITAR authorization and has transitioned to 500 (600) series.

- Termination of license conditions:
  Commerce licenses very often include standard rider and condition as follows:

  "For Stated End Use Only – No resale, transfer or re-export without prior U.S. Government approval"

  Please confirm that if the corresponding 500 series item is integrated, in a foreign country, into a foreign-higher assembly and meets the De Minimis threshold criteria, then Part 750.7(i) is applicable, the license conditions are terminated, and the De Minimized item may be re-exported or retransferred without prior U.S. Government authorization in the form of a re-export license.

Part 740.20 STA:

- De Minimis and STA Prior Consignee Statement
  For 500 series items 9A515 .d, and .x, a license is required for export of these items from the U.S. to private or Government end-users. For private or Government end-users in country group A5, license exception STA is available.

  We understand from your response to comment 14, FR 27421 dated May 13, 2014, that for parts delivered under STA, all parties must ensure compliance with the statement of the Prior Consignee Statement, prior to applying De Minimis.

  For 500 series, there is no requirement that the end users be an A5 Government, thus we assume that all persons, governmental or non-governmental entities, located in A5 countries, who handle loose items, can transfer these loose parts in between themselves using STA.

  We assume that once these 9A515 .d, and .x items are integrated into a higher assembly by a governmental or non-governmental entity located in A5 countries, these items qualify for De Minimis. Please confirm.

  In order to ensure compliance of the subsequent transactions and ensure that 500 and 600 series items not be re-exported to D5 countries without a BIS authorization, we suggest that BIS extends the requirement of 758.6 and requires a Destination Control Statement. Will BIS issue guidance on this subject? We suggest:

  "This item contains de minimized EAR 500 (or 600) series content and may not be resold, diverted, transferred or otherwise disposed contrary to U.S. law."

- Prior Consignee Statement – additional language
  Per Part 740.20(d) (2), a Prior Consignee Statement is a requirement for conducting exports or re-exports pursuant to license exception STA.

  For 600 series, the regulations stipulate additional language be included in the Prior Consignee Statement certifying the item or end-item will only be transferred to a government end-user of an A5 country.

  Please confirm that it is not required to identify the specific end-user in the Prior Consignee Statement, would BIS amend the regulatory language under Part 740.20(d) (2)?

SPLIT Licenses Due to Limitations on the Number of End Users on SNAPR License Applications

Until such time when SNAP-R transitions to the USXports system, please clarify how applicants should identify and implement export / reexport transactions that are split over two or more licenses due to the fact that SNAPR has a limit on the number of end-users.

Can you provide specific language that would flag the split licenses and instructions on how to address AES?

Should you have any questions, please feel free to contact Corinne Kaplan at (703) 466-5741 (phone), (202) 230-1034 (mobile) or corinne.kaplan@eads-na.com (email).

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