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US Department of State
Directorate of Defense Trade Controls
Office of Defense Trade Controls Policy
ATTN: Regulatory Change, ITAR Section 121
SA-1, 12th Floor
Washington, DC 20522-0112

RE: Request for Public Comments per Federal Register Notice dated April 11, 2008 (Volume 73, Number 71, pp. 19778-19780)

Lockheed Martin Corporation ("Lockheed Martin") principally researches, designs, develops, manufactures, integrates, operates and sustains advanced technology systems and products, and provides a broad range of management, engineering, technical, scientific, logistic and information services. We serve both domestic and international customers with products and services that have defense, civil and commercial applications, with our principal customers being agencies of the US Government.

One of our principal lines of business, Aeronautics, is engaged in the design, research and development, systems integration, production, sustainment, support and upgrade of advanced military aircraft, air vehicles and related technologies. Our customers include various government agencies and the military services of the United States and allied countries. Major products and programs include design, development, production and sustainment of the F-35 stealth multi-role international coalition fighter; the F-16 international multi-role fighter; the C-130 tactical transport aircraft; and the T-50 supersonic jet trainer aircraft.

Lockheed Martin hereby offers comments on the Department of State's proposed amendments to Part 121 of the International Traffic in Arms Regulations (ITAR), which seek to clarify how the criteria of Section 17(c) of the Export Administration Act (EAA) are implemented in accordance with the Department of State's obligations under the Arms Export Control Act (AECA). We appreciate the substantial effort undertaken by the Department of State, and in particular the Directorate of Defense Trade Controls, to review this longstanding issue and craft the proposed rule.

In general, Lockheed Martin believes that, with a few modifications, the proposed rule would achieve the stated objective of clarifying the proper interpretation of Section 17(c) as it applies to the International Traffic in Arms Regulations (ITAR). As such, Lockheed Martin fully supports the proposed modifications set forth in the attached comments submitted by the Aerospace Industries Association (AIA).

At the same time, Lockheed Martin would like to comment directly on that part of the proposed rule that would change ITAR §121.1 Category VIII *(b), with respect to controls on certain parts and components of military engines. This proposal – to designate as significant military equipment (SME) certain military engine parts and components, as well as digital engine controls (hereinafter, "Items") – would impose expanded licensing and congressional notification requirements on producers of these Items.

Such requirements could result in supply chain disruptions for the following Lockheed Martin military aircraft programs: F-35, F-16, C130, and T-50. While the extent of such disruptions is not possible to quantify in the abstract, the risk is of sufficient concern to warrant our request that this part of the proposed rule be accorded further consideration and/or be modified as set forth below.

Following are our principal concerns:

- The SME designation would require producers of these items to obtain a DSP-83 "Non-transfer and Use Certificate" from foreign end users (i.e. Governments and/or repair depots) to support each transaction. This could result in significant delivery delays of critical parts, components or engine controls.
- In accordance with departmental guidance and practice for licensing spare parts and components, the newly designated SME Items could no longer be included within the scope of routine (non-SME) spare parts licenses. Thus, in some instances, two licenses for spare parts would be required, whereas only one is now required.
- In many cases, proposals for the manufacture of newly designated SME Items also would require prior approval in accordance with ITAR §126.8(a)(3).
- Any manufacturing license agreements associated with these newly designated SME Items would require congressional notification, regardless of value.

It is not clear to us that it was the State Department's intent to have these expanded licensing and notification requirements imposed by virtue of the proposed SME designation. The items in question have been licensed for export to friendly countries under non-SME ITAR rules for decades, without any apparent adverse impact on national security.

If it was the Department's intent only to clarify that these military engine parts and components and digital engine controls are not subject to Section 17(c), Lockheed Martin respectfully suggests that a minor revision to the proposed rule, as suggested in the attached AIA submission, would accomplish this – without mandating that these military items be designated as SME and therefore subject to the aforementioned expanded licensing and notification requirements. If, instead, the Department's intent is to change long-standing policy with respect to export control treatment of these military Items, then this matter should be removed from the proposed rule clarifying Section 17(c) and addressed in a separate rule-making process, as there are significant policy and procedural implications associated with such a change that were neither raised nor discussed in the Section 17(c) proceeding.

Sincerely,



Gerald Musarra