



May 12, 2008

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: Public Notice 6187: Proposed Amendment to ITAR

Pursuant to the Federal Register notice published on April 11, 2008, Airbus Americas submits this letter that contains the comments of Airbus SAS on the proposed amendment to the International Traffic in Arms Regulations to clarify the implementation of Section 17(c) of the Export Administration Act of 1979.

Airbus first wishes to express its appreciation for the efforts of the Directorate of Defense Trade Controls (DDTC) to address the problems experienced by the aerospace industry when parts, components or materials subject to the International Traffic in Arms Regulations (ITAR) have been inadvertently incorporated into civil aircraft. As DDTC knows, the licensing requirements of the ITAR make it highly impractical to use ITAR-controlled components in any commercial aircraft that is flown outside the United States. Airbus follows a strict policy of forbidding its suppliers from providing ITAR-controlled items for use in civil aircraft programs, but has nonetheless found that questions still arise from time to time regarding whether U.S. origin parts for civil aircraft are subject to the ITAR or the Export Administration Regulations.

When Airbus has become aware that an item potentially subject to the ITAR has found their way into its supply chain, Airbus has promptly notified DDTC and worked with the U.S. manufacturer to obtain prompt clarification of the item's status. However, these situations typically result in substantial burdens for Airbus, the U.S. suppliers, and airlines operating the aircraft. Moreover, virtually all of the situations we have experienced have involved relatively low-value products that ultimately were determined to be under the jurisdiction of the Export Administration Regulations. Accordingly, we believe that the establishment of clear guidelines that would reduce the instances in which commodity jurisdiction rulings are needed would be extremely helpful to the industry as a whole. Such guidelines would also support the ability of Airbus to source parts and components from U.S. manufacturers.

We understand that various suggestions have been made for the purpose of clarifying the language of the proposal, and Airbus supports adjustments that would make the scope of the amendment even clearer. In this letter, we are commenting on one aspect of the proposal that relates to its application to the export from the United States of parts and components for civil aircraft.



Specifically, the proposed new “Note” includes as the third criterion for determining whether an item is subject to the ITAR without the need for a commodity jurisdiction (CJ) determination a requirement that the item be an “integral part” of civil aircraft. The Note states that “Integral is defined as a part or component that is installed in the aircraft”, which could be interpreted to mean that the part or component must already be physically installed on an aircraft to be considered “integral” within the meaning of the Note. That interpretation, in turn, could suggest that the exact same parts and components would not be considered “integral” when exported separately, either as parts to be assembled into new aircraft or as spare parts.

Other parts of the Note suggest that the word “integral” is intended to refer to the status of a part or component as an item related to the main functions of standard civil aircraft, as opposed to whether the part or component is leaving the country physically installed into an aircraft. For example, the sentence that states “... a CJ determination is always required, except where an SME part or component was integral to civil aircraft prior to [the effective date of this rule],” would not make sense if “integral” meant that an item would not qualify for this grandfathering provision if it were exported as a part, rather than as already incorporated into an aircraft. Similarly, the statement that “unique application parts or components not integral to the aircraft would also not qualify” suggests that physical installation into an aircraft was not intended by DDTC to be the applicable criterion, since such unique application parts could be physically installed on aircraft but not be considered “integral” to the it.¹

For the avoidance of confusion, Airbus recommends that the definition of “integral” be modified to read as follows: “Integral is defined as a part or component that is approved for permanent installation in civil aircraft by the Federal Aviation Authority.”

Thank you for providing the opportunity for the presentation of comments on the proposal.

Respectfully submitted,

Kenneth G. Lyons

Empowered Official

Director, Trade Controls

¹ Presumably DDTC did not intend to indicate that the determination of jurisdiction could vary depending on whether a part or component is incorporated into another product.