DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

B-64–2016

Foreign-Trade Zone (FTZ) 21—Dorchester County, South Carolina, Authorization of Limited Production Activity, Volvo Car US Operations, Inc., (Motor Vehicles and Related Parts), Ridgeville, South Carolina

On September 9, 2016, Volvo Car US Operations, Inc. (Volvo) submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within FTZ 21, in Ridgeville, South Carolina.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the Federal Register inviting public comment (81 FR 66257–66259, September 27, 2016). The FTZ Board has determined that further review of part of the proposed activity is warranted at this time. The production activity described in the notification is authorized on a limited basis, subject to the FTZ Act and the Board’s regulations, including Section 400.14, and further subject to a restriction requiring that the following foreign-status materials/components be admitted to the subzone in privileged foreign status (19 CFR 146.41): upholstery leather (HTSUS 4107.99); leather cases/bags (HTSUS 4202.11); felt strips (HTSUS 5602.10); mammal fiber felt shapes (HTSUS 5602.90); felt damping strips (HTSUS 5602.90); netting of twines or ropes (HTSUS 5608.19); mammal fiber twine/cordage/rope nettings (HTSUS 5608.90); nylon carpets (HTSUS 5703.20); tufted other mammal textile carpets/mats (HTSUS 5703.30); felt carpets (HTSUS 5704.90); mammal fiber tufted and non-tufted carpets/mats (HTSUS 5705.00); velcro straps (HTSUS 5806.10); vent pads of polyester fleece (HTSUS 5911.90); textile child seat protector covers (HTSUS 6708.99); textile sun shade curtains (HTSUS 6708.99); mammal fiber cargo nets (HTSUS 6708.99); textile seats/seat belts and related parts (HTSUS 9401.90 and HTSUS 9403.90); and, textile child safety seat covers (HTSUS 9401.90).

On November 1, 2016, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Greater Dayton Foreign-Trade Zone, Inc., grantee of FTZ 100, requesting an expansion of Subzone 100D subject to the existing activation limit of FTZ 100, on behalf of Thor Industries, Inc., in Jackson Center, Ohio.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the Federal Register inviting public comment (81 FR 78773–78774, November 9, 2016). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 100D is approved, subject to the FTZ Act and the Board’s regulations, including Section 400.13, and further subject to FTZ 100’s 2,000-acre activation limit.

Dated: January 9, 2017.
Andrew McGilvray, Executive Secretary.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–153–2016]

Approval of Expansion of Subzone 100D; Thor Industries, Inc.; Jackson Center, Ohio

On October 12, 2016, the Bureau of Industry and Security (BIS) published a final rule entitled “Revisions to the Export Administration Regulations (EAR): Control of Fire Control, Laser, Imaging, and Guidance Equipment the President Determines No Longer Warrant Control Under the United States Munitions List (USML).” This notice of inquiry is published to request comments from the public on the impact of further increasing certain controls implemented by that final rule.

DATES: Comments must be received by BIS no later than March 14, 2017.

ADDRESSES: Comments on this rule may be submitted to the Federal rulemaking portal (www.regulations.gov). The regulations.gov ID for this rule is: BIS–2017–0001. Please refer to RIN 0694–XC035 in all comments.

FOR FURTHER INFORMATION CONTACT: For questions regarding the ECCNs included in this rule, contact Christopher Costanzo at 202–482–0716 or Email Christopher.Costanzo@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 2016, the Bureau of Industry and Security (BIS) published a final rule entitled “Revisions to the Export Administration Regulations (EAR): Control of Fire Control, Laser, Imaging, and Guidance Equipment the President Determines No Longer Warrant Control Under the United States Munitions List (USML).” This final rule was preceded by two proposed rules published on May 5, 2015 (80 FR 25798) (“May 5, 2015 proposed rule”) and February 19, 2016 (81 FR 8421) (“February 19, 2016 proposed rule”). Revisions made by the October 12 final rule became effective on December 31, 2016. During the course of public comment and interagency discussion on the rule that became effective at the end of 2016, several ideas for new types of controls under the ITAR arose. Because these controls were not proposed earlier and not subject to public comment, they were not included in the October 12 final rule. Thus, the Department of State is publishing a notice of inquiry addressing those controls. Along with those possible new controls under the ITAR, this notice of inquiry requests comments from the public on the potential impact of increasing certain EAR controls established in the October 12 final rule. Items controlled in certain Export Control Classification Numbers (ECCNs) in Category 6 of the Commerce Control List (CCL) can be incorporated into foreign military commodities. To provide greater visibility into exports, reexports, and in-country transfers of such items, the October 12 final rule increased the scope of controls described in § 744.9 (Restrictions on
exports, reexports, and transfers of certain cameras, systems, or related components) and the scope of Export Control Classification Number (ECCN) 0A919 (“Military Commodities”)

Located and Produced Outside the United States . . . ). This Notice of Inquiry seeks public comment on the impact of imposing additional license requirements for certain transactions, including the effect such controls would have on: The national security or foreign policy interests of the United States; the export performance of the United States; the competitive position of the United States in the international economy; the international reputation of the United States as a supplier of goods and technology; or the economic well-being of individual United States companies. This includes comments addressing the competitive advantage of U.S. companies vis-à-vis non-U.S. companies, any impacts to the technological edge of U.S. companies, and whether these changes would influence assembly and integration activities inside and outside of the United States. Public comments should also state whether or not foreign availability exists for items subject to potential additional controls and, to the extent such foreign availability exists, describe such foreign availability in detail.

Section 734.4 “De Minimis U.S. Content” for 0A919 Foreign Military Commodities

Prior to December 31, 2016. Section 734.4(a)(5) of the EAR provided that there is no de minimis level for non-U.S. made military commodities, as described in ECCN 0A919, that incorporate uncooled thermal imaging cameras controlled in 6A003.b.4.b. The May 5, 2015 proposed rule maintained that standard in § 734.4(a)(5), but proposed to increase the scope of incorporated infrared detection items in ECCN 0A919 to include ECCNs 6A002, 6A003, 6A990, or 6A993.a (having a maximum frame rate equal to or less than 9 Hz and thus meeting the criterion of Note 3.a to 6A003.b.4) and limited the destinations subject to the no de minimis provision to Group D:5 countries.

Potential Revision. Expand the destinations subject to the no de minimis provision to “any destination, except Canada,” for non-U.S. military commodities (0A919) to those that incorporate any of the following: (1) Image intensifier tubes having a figure of merit (FOM) exceeding 1,400 lp/mm (line pairs per millimeter); (2) an infrared focal plane array (FPA) with format exceeding 75,000 detector elements, or (3) related infrared focal plane array read-out integrated circuit having more than 75,000 unit cells.

Potential Revision. Remove STA eligibility for infrared imaging cameras controlled in ECCN 6A003.b.4 that: (i) Are being exported to be embedded into a higher level assembly, system or equipment; and (ii) incorporate two dimensional FPAs specified in either ECCN 6A002.a.3.c or ECCN 6A002.a.3.f, and that have more than 328,000 detector elements.

Rationale. Removing STA eligibility for such items will ensure that those infrared imaging cameras to be embedded (e.g., kits, cores, modules) that could exceed the size of those incorporated in military fielded systems, receive U.S. Government review when exported for incorporation into commercial/civil equipment and systems.

include incorporated infrared detection items in ECCNs 6A002, 6A003, 6A990, or 6A993.a (having a maximum frame rate equal to or less than 9 Hz and thus meeting the criterion of Note 3.a to 6A003.b.4) and limited the destinations subject to the no de minimis provision to Group D:5 countries.

Potential Revision. Expand the destinations subject to the no de minimis provision to “any destination, except Canada,” for non-U.S. military commodities (0A919) to those that incorporate any of the following: (1) Image intensifier tubes having a figure of merit (FOM) exceeding 1,400 lp/mm (line pairs per millimeter); (2) an infrared focal plane array (FPA) with format exceeding 75,000 detector elements, or (3) related infrared focal plane array read-out integrated circuit having more than 75,000 unit cells.

Potential Revision. Remove STA eligibility for infrared imaging cameras controlled in ECCN 6A003.b.4 that: (i) Are being exported to be embedded into a higher level assembly, system or equipment; and (ii) incorporate two dimensional FPAs specified in either ECCN 6A002.a.3.c or ECCN 6A002.a.3.f, and that have more than 328,000 detector elements.

Rationale. Removing STA eligibility for such items will ensure that those infrared imaging cameras to be embedded (e.g., kits, cores, modules) that could exceed the size of those incorporated in military fielded systems, receive U.S. Government review when exported for incorporation into commercial/civil equipment and systems.
ECCN 6A993

Prior to December 31, 2016. The Export, reexport or in-country transfer of cameras in ECCN 6A993.a (meeting the criteria of Note 3 to ECCN 6A003.b.4) require a license if destined to a country designated as a state sponsor of terrorism (Country Group E-1). The May 5, 2015 and February 19, 2016 proposed rules expanded the license requirement in §744.9 to include those cameras when destined to a military end-user or to be incorporated into a military commodity.

As of December 31, 2016. Consistent with those proposed rules, the October 12 final rule expanded the license requirement to those cameras when destined to a military end-user or to be incorporated into a military commodity.

Potential Revision. Require a license for the export, reexport or in-country transfer, to or in a D:5 country, of cameras that meet the criteria of Note 3 to ECCN 6A003.b.4 and incorporate a microbolometer FPA with greater than 75,000 detector elements and that are being exported to be incorporated into a higher level assembly, equipment or system.

Rationale: Section 744.9 does not cover camera cores to be incorporated in imaging cameras for civil end-users of civil commodities. These cores can also be incorporated into night vision thermal monoculars that are not regarded as weapon sights but that could be used as such. These cores can also be incorporated into civil UAVs that could provide day and night surveillance of U.S. and coalition forces.

Supplement No. 1 to Part 774 (Commerce Control List)

ECCN 3C001

Current control status. ECCN 3C001 has NS Column 2 and AT Column 1 controls. ECCN 3C001 is not eligible for License Exceptions GBS and CIV. Neither the May 5, 2015 nor the February 19, 2016 proposed rules included changes to the control status of ECCN 3C001.

Potential Revision. Add RS Column 1 controls (worldwide except Canada) to items in 3C001 that are III–V compounds of gallium or indium, and aluminum, antimony, or arsenic forming a strained layer superlattice having a photoluminescence signal maxima originating from the superlattice in the wavelength range exceeding 3,000 nm but not exceeding 15,000 nm at a temperature less than 200 K. RS Column 1 controls apply to all destinations except Canada. License review policy for RS:1 controls are found in §744.9 to include those cameras when destined to a military end-user or to be incorporated into a military commodity.

Rationale: Section 744.9 does not cover camera cores to be incorporated in imaging cameras for civil end-users of civil commodities. These cores can also be incorporated into night vision thermal monoculars that are not regarded as weapon sights but that could be used as such. These cores can also be incorporated into civil UAVs that could provide day and night surveillance of U.S. and coalition forces.

ECCNs 6E001, 6E002 and 6E990

Prior to December 31, 2016 and current control status. The May 5, 2015 proposed rule included a new worldwide RS control for commodities controlled under ECCNs 6A002 and 6A990, as well as for related software and technology controlled under 6D002, 6D003.c, 6D991, 6E001, and 6E002. The proposed worldwide RS control would have introduced a new license requirement for such items for exports or reexports to Canada. After receiving extensive public comments opposing the inclusion of the worldwide RS control, the February 19, 2016 proposed rule did not retain that proposal, and as such, the final rule maintained the current controls in place for such items.

Proposed Revision. Add a worldwide RS control for specific technology related to components controlled under ECCN 6A002 or 6A990, as follows:

(i) 6E001 development technology or 6E002 production technology for image intensifier tubes controlled in 6A002.a.2.a or 6A002.a.2.b and their specially designed components controlled in 6A002.a.2.c, except those tubes having a multialkali photocathode.

(ii) 6E001 development technology or 6E002 production technology for microbolometer infrared focal plane arrays controlled in 6A002.a.3.f and two-dimensional infrared focal plane arrays controlled in 6A002.a.3.c.

(iii) 6E990 development and production technology for read-out integrated circuits specially designed for those focal plane arrays specified in ii, above (i.e., microbolometer infrared focal plane arrays controlled in 6A002.a.3.f and two-dimensional infrared focal plane arrays controlled in 6A002.a.3.c).

Rationale. This proposed revision, while similar to proposals from the May 5, 2015 proposed rule, would add new license requirements for Canada for a narrower range of items than those previously proposed. Thus, this one potential revision would be limited to that development or production technology required for the most sensitive items controlled in ECCNs 6A002 or 6A990. Given the close relationship between the U.S. and Canadian industrial bases and the very limited license requirements for exports of dual-use items to Canada in the EAR, BIS also requests comments on how this potential change would affect the U.S.-Canada trade and defense relationship and whether this potential revision would further the collective North American security.

Request for Comments

BIS is seeking comments on foreign availability, as well as the impact these potential revisions may have designed for: The national security or foreign policy interests of the United States; the export performance of the United States; the competitive position of the United States in the international economy; the international reputation of the United States as a supplier of goods and technology; or on the economic well-being of individual United States companies. As stated under the DATES caption to this notice, comments should be received no later than March 14, 2017.

Dated: January 9, 2017.

Kevin J. Wolf,
Assistant Secretary for Export Administration.