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Before the

**Committee on Small Business
Subcommittee on Agriculture, Energy, and
Trade**

Statement of

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Introduction

Chairman and members of the House Committee, thank you for inviting BPE Global to testify before you today. My name is Andrea Appell. I am a Director at BPE Global.

BPE Global is an 11 year old San Francisco-based professional services firm specializing in export, customs, and security compliance. BPE Global is a women-owned and operated small business with five employees. BPE Global assists exporters in facilitating trade under the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR).

Through BPE Global I assist companies of all sizes, from Fortune 50 companies to small, family owned businesses engaged in international trade. In addition, I am extremely active in the trade community as a member of American Association of Exporters and Importers, CompTIA, and a number of other trade groups, including serving a five year term on the Board of Directors of Women in International Trade, Northern California, three of which as Vice President of the organization.

I thank you for the opportunity to participate in this forum. My testimony will focus on the area of facilitating U.S. exports.

Facilitating U.S. Exports

Thank you to Eric Hirschhorn and Kevin Wolf for their leadership in the Export Control Reform. BPE Global strongly supports the reform and we are appreciative of the huge undertaking and the accomplishments to-date to modernize the U.S. export control system.

It was only a few years ago that an interagency review determined that the former system was overcomplicated, inefficient, and could not keep pace with the constant evolution of technology. Exporters of all sizes, including our clients, were losing competitiveness in the global marketplace. BPE Global strongly supports the Administration's efforts to facilitate exports while fulfilling its national security mission and we have participated in many outreach events to educate, prepare and facilitate the transition to export control reform.

The Administration is implementing export reform in three phases. During Phase I we reviewed our client's products and provided assessments on the impact of reform on our customers. We submitted comments regarding the impact of the proposed rules on our customers to BIS as part of industry groups. During Phase II we reviewed the export jurisdiction and classification of our clients' products – in some instances this represented tens of thousands of items. The creation of a positive list has greatly improved our ability to more efficiently classify products, software and technology.

As of today, we and our clients must understand both the ITAR and the EAR and be able to classify items under both the U.S. Munitions List (USML) and the Commodity Control List (CCL). For our clients who were subject only to the ITAR, some of their products have moved to the EAR and they can now ship under expanded license authorizations instead of always having to obtain a Department of State License.



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While the movement of products and technology from the State Department to Commerce has been advantageous, it has not come without some drawbacks related to determining the level of control on a product and timeliness related to license requests. When an exporter moves from being subject only to the ITAR to a business subject to both the EAR and ITAR, regulatory complexity and administrative burden increases. For example, under the EAR, exporters must provide information on end users and end use that they previously did not have to provide under the ITAR. Another example is that the audit trail for export classifications has been expanded to include the “Order of Review” and the 600 and 500 series review detail. Though a majority of our clients have benefited from the reform effort moving their products to the CCL, a few have actually moved from the Commerce Department’s jurisdiction to the State Department’s jurisdiction.

To further explain the complexity under the EAR, exporters must consult several different sections of the EAR in order to:

- a. Determine if the commodity is subject to the EAR (Part 734.2-5);
- b. Assign the required Export Control Classification Number (ECCN) (Supplement No. 1 to Part 774);
- c. Check if general prohibitions apply (Part 736.2);
- d. Identify the reason for control (Supplement No. 1 to Part 738);
- e. Assess whether or not the reason for control triggers a license requirement for the destination country (Part 740); and
- f. Determine if a license exception is available (also Part 740).

The ability to read and interpret multiple sections of a set of regulations requires exporters to be comfortable with legal/regulatory language and ultimately become self-taught experts on the classification and controls related to the products and technologies with which they work. Because mastery of a new set of regulations is now incumbent on these same exporters, we have found that companies prefer the pain they are most familiar with – licensing products under the much more straightforward administration of the ITAR.

If, during the review of regulatory requirements, an exporter determines that a license is required to export the commodity, the turnaround times for response from either the State Department or Bureau of Industry and Security often delays the export of the item especially when requests are volleyed between the two agencies and the other agencies they consult. Delays are troublesome for companies of all sizes, but are particularly hard to absorb for small businesses. Fulfillment of orders for small businesses is key to their survival. If small business are unable to meet their contracted demands, they face not only a financial risk, but the risk of losing the valuable business to another, often larger, U.S. based supplier or potentially to a foreign provider.

Other areas where our clients struggle is with missing, incomplete, or contradictory definitions of underlying export principles. This work is still in progress and the lack of clear definitions can create a roadblock for exporters which often results in assigning a classification which is overly conservative and accompanied by higher controls. BPE Global supports and encourages more training on definitions in the EAR and ITAR and the application of these definitions to real-life examples. The final area which would significantly increase exporter education would be the publication of the legal analysis of



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commodity classification determinations by BIS and Commodity Jurisdictions by the DDTC. This would provide the trade community with a tremendous educational tool.

BPE Global supports continued outreach by BIS on consulting and understanding the EAR to guide businesses through obstacles related to exporting, ease the transition from the ITAR to the EAR, and encourage competitiveness in the global marketplace. In addition, we support the efforts by the State Department and Commerce to reduce the turnaround time on jurisdiction, classifications, license requests, and advisory opinions.

Conclusion

Again, I wish to recognize the Bureau of Industry and Security for its work on export reform. In general the reform seeks to provide increased competitiveness, predictability, and efficiency for the export community. BPE Global shares these objectives and welcomes the opportunity to be a partner as the process moves forward, contributing to our mutual goals of promoting exports, enhancing trade facilitation, and protecting our nation's security.

Thank you for the opportunity to speak to you today. I welcome any questions.