



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

May 27, 2004

Dear Ms. []:

This is in response to the letter dated [] submitted to the Bureau of Industry and Security (BIS) by you for [] on behalf of [] a company acquired by []. In that letter, [] asked, as suggested by BIS Office of Export Enforcement in February 2004, that BIS provide an advisory opinion to []. Specifically, [] asked BIS to determine the appropriateness of [] past use of License Exception RPL section 740.10 of the Export Administration Regulations (EAR) to export German-manufactured parts and components back to Germany for servicing then return them to the United States.



ated that it believes that use of RPL to export the parts and components to Germany, as described above, could be viewed as consistent with the definition of the term 'Servicing' as set forth in section 740.10(b)(2)(i) of the EAR. That section defines 'Servicing' to mean "inspection, testing, calibration or repair, including overhaul and reconditioning. That servicing shall not have improved or changed the basic characteristics, e.g., as to accuracy, capability, performance, or productivity of the commodity or software as originally authorized for export or reexport."

BIS finds that although reference to the definition of 'Servicing' seems to be consistent with the work said to be performed on the items by the German subsidiary, RPL is intended and would be available to cover the return of an item repaired in the United States to its foreign owner. RPL is not intended to be used for the export of an item to be repaired and the return of that item to the United States. **BIS notes that License Exception TMP would have been appropriate for such a purpose. Now, section 740.2(a)(5) of the EAR restricts the export of MT items under License Exception TMP.**

If you have additional questions regarding this matter, please contact Sheila Quarterman, Export Policy Analyst, at phone number 202/482-2440 or at e-mail address squarte@bis.doc.gov.

Sincerely,



Hillary Hess,
Director
Regulatory Policy Division