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April 15, 2005

VIA OVERNIGHT DELIVERY

Mr. C. Harvey Monk, Jr.
Foreign Trade Division
U.S. Census Bureau
Room 2104, Federal Building 3
Suitland, MD 20746

Re: Comments on Proposed Rule: Foreign Trade Regulations: Mandatory Automated Export System Filing for All Shipments Requiring Shipper's Export Declaration Information

Dear Mr. Monk:

On behalf of our client, Kmart Corporation, we submit the following comments regarding the U.S. Census Bureau's Proposed Rule: Foreign Trade Regulations: Mandatory Automated Export System Filing for All Shipments Requiring Shipper's Export Declaration Information, 70 Fed. Reg. 8200 (Feb. 17, 2005). Our comments relate specifically to the proposed amendment to the postdeparture filing status requirements in 15 C.F.R. § 30.5 and the U.S. Census Bureau's goal of ensuring that these requirements are "strengthened to address U.S. national security concerns and interests."

Kmart Corporation acknowledges the security risks inherent in international trade today and appreciates the U.S. Census Bureau's efforts to address this issue. Kmart Corporation is concerned, however, that the proposed rule might make the Government unnecessarily reluctant to approve applications for postdeparture filing of Electronic Export Information in cases that do not pose security risks. Kmart Corporation therefore suggests that the U.S. Census Bureau might include in its final rule not only a list of reasons for denial of postdeparture filing status, but also a list of reasons supporting expedited approval of postdeparture filing status.

For example, Kmart Corporation's only exports for which filing of a Shipper's Export Declaration currently is required are shipments to Puerto Rico and the U.S. Virgin Islands. These are relatively low-risk destinations from an international security

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perspective. Kmart Corporation suggests that the U.S. Census Bureau's final rule should provide for expedited approval of requests for postdeparture filing status to such low-risk destinations.

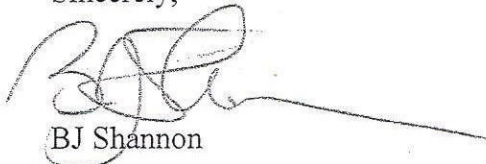
Moreover, Kmart Corporation exports goods destined only for its own store locations abroad, such that the ultimate consignee is always an entity owned by Kmart Corporation. These shipments pose a very low risk to security, and Kmart Corporation requests that the U.S. Census Bureau's final rule provide for expedited approval of postdeparture filing status for low-risk exports to wholly-owned foreign subsidiaries.

Finally, Kmart Corporation is a relatively high-volume exporter, such that its export volume is not grounds for denial of postdeparture filing status, pursuant to proposed 15 C.F.R. § 30.5(c)(1)(ii). While Kmart Corporation exports frequently, however, each individual shipment is generally a relatively small shipment, usually three containers of merchandise per store per week, for the purpose of restocking retail store inventory. Kmart Corporation asks the U.S. Census Bureau to clarify that an export record consisting primarily of small shipments, if the shipments are frequent, should not hinder an exporter's approval for postdeparture filing status.

As explained above, Kmart Corporation understands and supports the U.S. Census Bureau's attempt to define situations in which the security risk posed by an export should lead to denial of postdeparture filing status. Nonetheless, Kmart Corporation hopes that, in its final rule, the U.S. Census Bureau will also detail the types of situations in which expedited approval of postdeparture filing status is appropriate.

Please direct further inquiries to the undersigned at 202-756-3344 or bshannon@alston.com, or to Jonathan M. Fee at 202-756-3387 or jfee@alston.com.

Sincerely,



BJ Shannon

cc: Mr. Mark Shaffer, Kmart Corporation
Mr. Dan Drieselman, Kmart Corporation

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