Information Systems Technical Advisory Committee

Regulatory Policy Division
Room 2099B
U.S. Department of Commerce
14th Street and Pennsylvania Ave NW
Washington, DC 20230

Re: BIS-2012-0021 and BIS-2012-0022

Dear Sir/Madam:

On June 19, 2012, the Commerce Department's Bureau of Industry and Security (BIS) published a Proposed Rule entitled "Specially Designed Definition" and an Advanced Notice of Proposed Rulemaking entitled "Feasibility of Enumerating 'Specially Designed' Components". These items appeared in 77 FR 36409 and 77 FR 36419, respectively.

The Information Systems Technical Advisory Committee (ISTAC) is chartered by the Bureau of Industry and Security under Section 5(h) of the Export Administration Act (the "Act", 50 USC App 2401 et seq.) to advise the Secretary of Commerce, among others, with respect to actions designed to carry out the policy set forth in Section 3(2)(A) of the Act.

ISTAC members support the President's Export Control Reform initiative. ISTAC members also support the adoption of a common definition of the term "specially designed" for use in relevant sections of the EAR that may be affected by the proposed transfer of certain items from the United States Munitions List of the International Traffic in Arms Regulations (ITAR). However, ISTAC members do not support the adoption of a common definition of "specially designed" for the balance of the Commerce Control List.

Rather, ISTAC members believe that the preferred approach is to eliminate or replace the term "specially designed" where it currently appears in the Commerce Control List. To this end, ISTAC members currently are developing proposals to eliminate or replace the term "specially designed" in Categories 3B and Category 5, Part 2. Other proposals are receiving active consideration.

ISTAC members prefer eliminating or replacing the term "specially designed" for the following reasons, among others:

1. The definition published in the Proposed Rule is complicated and imprecise;

2. The definition published in the Proposed Rule has not been adopted by participating member states of the Wassenaar Arrangement or other multilateral regimes;

3. The approach suggested by the ISTAC goes beyond the immediate issue of parts and components, and eliminates or replaces "specially designed" throughout the relevant sections of the Commerce Control list.

Respectfully submitted,

Jonathan Wise
Chair
Information Systems Technical Advisory Committee