COMMENTS OF THE SATELLITE INDUSTRY ASSOCIATION TO THE BUREAU OF INDUSTRY AND SECURITY REGARDING IMPLEMENTATION OF EXPORT CONTROL REFORM (RIN 0694-AF65)

The Satellite Industry Association (SIA), on behalf of its Member Companies,[1] hereby files its comments concerning implementation of export control reform, in response to the U.S. Department of Commerce, Bureau of Industry and Security's proposed rule.[2] SIA is a U.S.-based trade association providing worldwide representation of the leading satellite operators, service providers, manufacturers, launch services providers, and ground equipment suppliers. Since its creation more than fifteen years ago, SIA has become the unified voice of the U.S. satellite industry on policy, regulatory, and legislative issues affecting the satellite business.

SIA supports rigorous, effective, predictable and transparent U.S. export control policies and practices that adequately reflect the current international trade environment. We continue to strongly support the President's Export Initiative and the Administration's Export Control Reform.

However, we must raise certain questions regarding the proposed transition rule that establishes a Congressional Notification requirement for USML items approved for transfer to the "600 series". As a threshold matter, the Export Administration Act ("EAA"), as currently authorized by the International Emergency Economic Powers Act ("IEEPA"), does not specifically authorize the Congressional Notification requirements, as proposed. That stated, we acknowledge the discretion of the Department of Commerce to craft regulatory language to implement such a requirement in the

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[1]SIA Executive Members include: Artel, Inc.; The Boeing Company; The DIRECTV Group; EchoStar Satellite Services LLC; Harris CapRock Communications; Hughes Network Systems, LLC; Intelsat, S.A.; Iridium Communications Inc.; Kratos Defense & Security Solutions; LightSquared; Lockheed Martin Corporation.; Northrop Grumman Corporation; Rockwell Collins Government Systems; SES S.A.; and Space Systems/Loral. SIA Associate Members include: ATK Inc.; Cisco; Cobham SATCOM Land Systems; Comtech EF Data Corp.; DRS Technologies, Inc.; Eutelsat, Inc.; GE Satellite; Globecomm Systems, Inc.; Glowlink Communications Technology, Inc.; iDirect Government Technologies; Inmarsat, Inc.; Marshall Communications Corporation.; MTN Government Services; NewSat America, Inc.; Orbital Sciences Corporation; Panasonic Avionics Corporation; Spacecom, Ltd.; Spacenet Inc.; TeleCommunication Systems, Inc.; Telesat Canada; Ultisat, Inc.; ViaSat, Inc., and XTAR, LLC. Additional information about SIA can be found at http://www.sia.org.

[2] *See* Proposed Revisions to the Export Administration Regulations: Implementation of Export Control Reform; Revisions to License Exceptions After Retrospective Regulatory Review, 77 Federal Register 37524 (2012).

interests of national security, should it choose to do so. Given the fact that the Administration's review and proposed transfer of certain items from the USML to the CCL, with the concurrence of Congress under the AECA's 38(f) provision, is predicated on the premise that these items are not of critical importance to U.S. national security, we strongly urge removing the need for the Congressional notification requirement.

Should the Department of Commerce move forward with the implementation of this notification requirement, we recommend consideration of the following amendment to the proposed language. Because the proposed rule's language on this subject matches the parallel provision in the ITAR, the dollar value thresholds for triggering Congressional Notification are based on the ***contract value*** under which the EAR-controlled exports would occur. Instead, the dollar value threshold should be based on the ***EAR license application value***.

For many SIA member companies, a single contract can include of the sale of one or more complete items or spacecraft, as well as additional items for shipping, storage, testing, or other purposes. In such situations, the relevant ITAR application will normally require Congressional Notification, due to the high dollar value of the contract. Because companion EAR license applications for components would be related to the same contract, EAR applications could inadvertently be subject to identical Congressional Notification requirements. This double-notification requirement would be an unnecessary regulatory burden for both government and industry. We recommend removal of the Congressional Notification language from the BIS proposed rule and that the provision be amended so as to base the notification requirement on the dollar threshold of the ***license application***, rather than the contract value. In this manner, parts and components subject to the EAR would not be inadvertently captured.

SIA thanks BIS for the opportunity to comment on the ongoing export control reform process, and would welcome further opportunity to do so if more detailed discussions would be of value.

Respectfully Submitted,

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