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July 27, 2015

Regulatory Policy Division
Bureau of Industry and Security
Room 2099B
U.S. Department of Commerce
Washington, DC 20230

Via email to publiccomments@bis.doc.gov

RE: RIN 0694-AG32

Dear Sir or Madam:

The University of Maryland Baltimore, one of twelve institutions of the University System of Maryland, is providing comments in response to the proposed rule on *Revisions to Definitions in the Export Administration Regulations*, RIN 0694-AG32.

BIS specifically solicits comment on "whether the revisions proposed in this rulemaking create gaps, overlaps, or contradictions between the EAR and the ITAR." We wish to comment on one specific instance of concern: that of prepublication review as related to fundamental research.

EAR 734.8(b)(2) provides that research subject to prepublication review is still "intended to be published" when such review is solely to insure that the publication would not inadvertently divulge proprietary information furnished by the sponsor to the researchers. ITAR 120.49(b) states that researchers must be free to publish "...without any restriction or delay, including U.S. government-imposed access and dissemination controls or research sponsor proprietary information review."

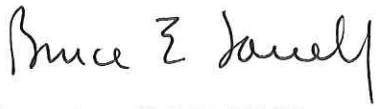
When universities work with industry partners, the research agreement routinely provides for prepublication review to prevent unintended disclosure of a sponsor's proprietary information. If the ITAR language stands, our industry sponsors will continue to expect the opportunity for prepublication proprietary information review. As such the university would be in a position of turning down or restricting access to research that would, except for the proprietary information review, be considered fundamental research.

We strongly urge that the ITAR language at 120.49(b) be modified to align with the proposed rule at EAR 734.8(b).

BIS solicits comment on "whether the questions and answers in existing Supplement No. 1 to part 734 proposed to be removed by this rulemaking have criteria that should be retained in part 734". The University of Maryland Baltimore has found the questions and answers very helpful. We would prefer that these be retained within the regulations rather than placed separately on a website. We have used these illustrative and interpretive materials in support of determinations and believe that, if removed and simply posted to a website, they will not have the same influence for decision-making.

We appreciate the export reform efforts undertaken by the Bureau of Industry and Security, and hope that these comments will be helpful in the harmonization process.

Sincerely yours,



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