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July 8, 2013

Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce

By email to publiccomments@bis.doc.gov

Subject: RIN 0694-AF87 (Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the USML)

To Whom It May Concern,

MIT appreciates the opportunity to comment on the proposed EAR Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the USML. MIT enthusiastically supports comments being provided by the Association of University Export Control Officers (AUECO), the Council on Government Relations (COGR), and the Association of American Universities.

We continue to applaud the efforts of the Departments of Commerce, Defense, and State to rationalize, clarify, and focus U.S. export controls, and we appreciate the progress so far. MIT supports and appreciates the effort to move some satellites and spacecraft from the U.S. Munitions List (USML) to the Commerce Control List (CCL). We appreciate the consideration that spacecraft and related items that are commercial items with no military or intelligence applications are ill suited to the "600 series" ECCNs that have been designated for other items being moved from the USML to the CCL, and thus the creation of the 9X515 series ECCNs. We disagree that separating out those items with no military or intelligence applications (e.g. commercial communications satellites) from those that do would be unnecessarily complicated and confusing in the context of the resulting higher levels of control than would otherwise be required for the purely commercial items. We are disappointed that this consideration has resulted in a lack of flexibility in licensing requirements and are concerned about the implications to the performance of fundamental academic research and teaching related to spacecraft and related articles at U.S. universities.

MIT notes specifically that, as in the case with the establishment of the "600 series" for other items moving from the USML to the CCL, ECCNs 9D515 (software) and 9E515 (technology) include sweeping catchalls of" "development", "production", operation, installation, maintenance, repair, overhaul, ***or*** refurbishing of "spacecraft" and related commodities" (emphasis added). This is in contrast to "use" as defined in EAR Part 772.1, which is defined as "operation, installation….,

maintenance…, repair, overhaul **and** refurbishing" (emphasis added). On university campuses, equipment subject to the EAR and enumerated on the CCL is operated by a wide variety of individuals, including foreign national students and trainees in a variety of classroom and research settings without information related to the additional elements of "use" being conveyed. As a result, these activities result in a low licensing burden to both the universities and to BIS, which we believe is appropriate when foreign national students, technicians, visitors, faculty, and research staff simply have access to these items in the conduct of fundamental research or teaching activities on our campuses.

MIT is concerned that the proposed definitions in 9D515 and 9E515 will force a choice between a substantially increased administrative burden for us and for BIS, or dramatically restricted participation by foreign nationals who would be able to make significant contributions, with no clear national security benefit.

Fundamental research projects involving 500 or 600 series controlled items will require deemed export licenses in order for foreign students, faculty, visitors, technicians and other research staff to participate, including merely operating equipment. Without licenses, these people will be excluded from participating. Either way, security will have to be implemented to ensure that non-licensed foreign members of the campus community will not have access to controlled equipment for any one of these purposes. This will require substantial investment of staff and resources, with no clear national security benefit.

We are further concerned that these requirements will diminish the ability of universities, including MIT, and their faculty to conduct important space science research and to train students in related subjects.

MIT recommends that BIS revisit the burden of separating spacecraft systems and related items that do have military or intelligence applications from those that do not in an effort to minimize the licensing burden associated with purely commercial applications. We also suggest that BIS specifically address the rationale for the decision to deviate from the well understood concept of "use" for those items in the "600 series" and especially for those items in the "500 series" with purely commercial applications.

MIT would like to express appreciation for the opportunity to provide comments on these proposed changes.

Sincerely,

Michelle D. Christy