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OFFICE OF THE VICE PRESIDENT FOR RESEARCH AND GRADUATE STUDIES

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Publiccomments@bis.doc.gov
Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
Room 2099B, 14th Street and
Pennsylvania Avenue NW
Washington, DC 20230

VIA: www.Regulations.gov

RE: Comments on Proposed Amendment to the International Traffic in Arms Regulations:
Revision of U.S. Munitions List (USML) Category XI RIN [1400-AD25]– -And –
Revision to the Export Administration Regulations (EAR) RIN [0694-AF64]

Dear DDTC Response Team and Regulatory Policy Division:

The University of California appreciates the opportunity to respond to the July 25th, 2013 Federal Register notice seeking comments on Revisions to the US Munitions List Category XI and Revisions to the Export Administration Regulations.

The University of California (UC) the University of California system, comprising research universities at Berkeley, Davis, Irvine, Los Angeles, Merced, Riverside, San Diego, San Francisco, Santa Barbara, and Santa Cruz), and the University of California-managed Department of Energy-funded Lawrence Berkeley National Laboratory, encourages and supports the export reform effort initiated by the administration to align U.S. export control policy while improving efficiency in licensing and reducing unintended consequences.

From the outset of the Export Control Reform (ECR) process, the intent has been to establish "higher walls around fewer items." Steps taken toward the single control list, the objective of making lists "positive," "aligned," and "tiered" are to be encouraged. Also encouraged is the Defense Department-led review of the USML, which concluded that multiple types of items no longer warrant control on the USML and that their jurisdictional status should be changed so that they become subject to the EAR and its controls. To

this end, we wish to wholeheartedly support the revisions which move in this direction and comment in the following areas:

1. Harmonizing the definition of "Export" should be considered insofar as academic research efforts conducted in International Waters are concerned. Under ITAR an export is currently triggered when ITAR items are temporarily carried by US Nationals into International Waters off the coast of the United States. In contrast, in the same situation under the EAR, an export is not triggered unless another country is involved or the items are brought into a foreign destination. The conduct of academic research in International Waters performed by the University of California often requires the time consuming and costly process of obtaining ITAR licenses for Category XI electronics used in support of fundamental research. For example, under the ITAR, even a simple day long voyage from our facilities into International Waters to study marine life using ITAR controlled equipment cannot be made without first going through the ITAR application process. Harmonizing the ITAR definition of exports into international waters with the EAR or allowing such voyages to claim an exemption would support important University research, while achieving the aims of export control reform.

2. We also wish to point out that technologies listed under CAT XI (a(1)) include those often used by universities in support of fundamental research programs conducted in International Waters. Such studies range from acoustic monitoring on the ocean floor to the study of marine life, and are frequently funded by the US National Science Foundation or the US Office of Naval Research. Underwater electronic hardware, such as acoustic arrays, may have a dual-use purpose and should be vetted for consideration for control under the EAR when serving a non-military purpose in support of fundamental research.

Thank you for this opportunity to comment. Our San Diego campus performs many oceanographic studies and is providing further detail on specific items that should be considered for control under the EAR via separate letter. We greatly appreciate your efforts to seek stakeholder input regarding export control regulations, especially where there is a stated goal of avoiding unintended consequences such as those which may affect the academic community in performing fundamental research.

Sincerely yours,

Steven Beckwith

Steven V.W. Beckwith
Vice President for Research and Graduate Studies