January 28, 2013

Mr. Timothy Mooney
Regulatory Policy Division
Room 2099B
Bureau of Industry and Security
U.S. Department of Commerce
14th Street & Pennsylvania Ave., N.W.
Washington, D.C. 20230

Re: Revisions to the Export Administration Regulations (EAR) To Make the Commerce Control List (CCL) Clearer (Federal Register Notice of November 29, 2012; RIN 0694-AF37)

Dear Mr. Mooney:

The Semiconductor Industry Association ("SIA") is the premier trade association representing the U.S. semiconductor industry. Founded in 1977 by five microelectronics pioneers, SIA unites over 60 companies that account for nearly 90 percent of the semiconductor production of this country. The semiconductor industry accounts for a sizeable portion of U.S. exports.

SIA is pleased to submit the following public comments in response to the request for public comments issued by the Commerce Department's Bureau of Industry and Security ("BIS") on a proposed revisions to the Export Administration Regulations ("EAR") to make the Commerce Control List ("CCL") clearer ("Proposed Revisions").[1]

Central to the Proposed Revisions are the definitions of "specially designed" and "component," respectively. Indeed, it is difficult to gauge the impact of the Proposed Revisions without knowing the definitions of those terms. SIA would like to incorporate herein its comments set forth in its response to RIN 0694-AF64. See Attachment.

I. "Component" Definition

The definition of "component" put forward by BIS is unduly open-ended and liable to capture items, such as ICs, that are properly classified as parts, not components. Properly defined, a "component" should have three distinguishing characteristics: (1) it is an assembled item; (2) it is used in another item; and (3) it has functionality or performance capability on a stand-alone basis.

Furthermore, items that fail to meet all three criteria within the revised definition of "component,"-- and, in particular, items (such as ICs) that have no functionality or performance capability on a stand-alone basis, but only when incorporated into another item and that cannot be disassembled -- should be classified as "parts." This distinction may be critically important for purposes of the "specially designed" definition.

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[1] Revisions to the Export Administration Regulations (EAR) to Make the Commerce Control List (CCL) Clearer, 77 Fed. Reg. 71,214 – 71,257 (Nov. 29, 2012) ("Proposed Revisions").

SIA appreciates the opportunity to comment on the Proposed Revisions and looks forward to continuing its cooperation with the U.S. Government on this subject. Please feel free to contact the undersigned or SIA's counsel, Clark McFadden of Orrick, Herrington & Sutcliffe LLP, if you have questions regarding these comments.

Cynthia Johnson
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Committee

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