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March 12, 2007

Via Electronic Mail to publiccomments@bis.doc.gov

Assistant Secretary Christopher A. Padilla
Regulatory Policy Division,
Bureau of Industry and Security
Room H2707
U.S. Department of Commerce
Washington DC, 20230

RE: RIN 0694-AD93, TIA comments on proposed rulemaking

Dear Mr. Padilla:

In response to the Federal Register notice issued on February 26, 2007, the Telecommunications Industry Association (TIA) and its 600 member companies would like to thank you for the opportunity to comment on the proposed rulemaking for designating Country Group C for countries that are "Destinations of Diversion Concern." TIA is strongly opposed to this rulemaking because it could significantly affect compliance costs and delay the license approval process, ultimately eroding the international competitiveness of U.S. telecommunications equipment exports.

As presented in the Federal Register notice, the U.S. Commerce Department's Bureau of Industry and Security's (BIS) seeks to use its rulemaking to address the national security threat posed by illicit transshipment, reexport, and diversion in international trade of EAR-subject items, including telecommunications equipment covered under a range of export control classifications. Such classifications represent approximately 80 percent of the telecommunications business, ranging from cell phones to network infrastructure equipment. While TIA generally supports the BIS goal of furthering the national security interests of the United States, TIA is concerned about the significant impact in terms of costs that the proposed rulemaking would have on its members, many of which have comprehensive compliance programs already in place. Costs for such programs exceed $637 thousand annually for large firms, according to some estimates. Any government changes that affect these internal systems must be carefully analyzed and implemented. Accordingly, companies must understand the full scope of the new regulations, including the product and country coverage, before the full impact of the changes can be understood.

Further, as mentioned in BIS's Federal Register notice, the "result of (these) changes could mean that more license applications might be required; more stringent license review policies might be implemented, which could result in fewer approvals or more conditions on licenses; authorizations may be delayed because of increased end-user checks; or authorizations may decrease because of diversion risks for such countries." TIA's view is that any delay in time or excessive conditions in the license application process will reduce time-to-market in the subject countries, adversely affecting the international competitiveness of U.S. telecommunications exports. As a result, affected U.S. products will be replaced in the designated countries by potentially less secure competing foreign products, thereby undermining BIS' security goals and reducing revenues for TIA members in the process.

Additionally, TIA notes that some of its member companies maintain manufacturing and distribution "hubs" in potential Country Group C countries. Consequently, the proposed rulemaking may have broader regional implications as licensing delays in the United States disrupt supply chain operations, which rely on the efficient, timely delivery of finished products and intermediate inputs from the United States. Any such disruptions would have severe consequences for maintaining on-time deliveries to established customers throughout the region, potentially creating service deficiencies and further undermining U.S. companies' competitiveness in the region.

TIA encourages the Department of Commerce to continue working with other governments to strengthen international export control practices and to work with counterpart agencies to further develop export control regimes, promote information and data exchanges, and to strengthen cooperation and facilitate enforcement. Further, TIA encourages continued outreach to freight transportation carriers in order to facilitate information sharing and develop best practices to address transshipment issues. Such efforts will help promote secure supply chains and may ultimately facilitate exports of EAR-subject items.

TIA is proud that its members are the most competitive and efficient telecommunications equipment manufacturers in the world, and that the United States continues to lead the world in telecommunications revenue. Indeed, last year U.S. telecommunication revenues surpassed $900 billion, representing over 30 percent of global revenues. By the year 2010, U.S. revenues are expected to exceed $1.2 trillion. Increasingly, a significant share of such revenues is derived from foreign markets. In 2005, U.S. telecommunication equipment trade totaled $59.6 billion, the highest level ever achieved, and exports topped $15.7 billion, the highest level since 2001.

With these data in mind, I urge you to carefully analyze the impact that the proposed rulemaking on compliance costs and on the competitiveness of U.S. telecommunications equipment providers.

Thank you again for the opportunity to comment on the proposed rulemaking. If you have any questions about this filing, or if we can assist you further, please do not hesitate to contact Michael Nunes at 703.907.7725 or mnunes@tiaonline.org.

Sincerely,

Grant E Seiffert

Grant Seiffert
President