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January 25, 2010

Mr. Charles Shotwell  
Department of State, Directorate of Defense Trade Controls  
Office of Defense Trade Controls Policy  
Attn: Regulatory Change, Section 125.4  
SA-1, 12th Floor  
Washington, D.C. 20522-0112  
Re: RIN 1400—AC59; Export Exemption for Technical Data

Dear Mr. Shotwell:

The Association of University Export Control Officers (“AUECO”), on behalf of its members, appreciates the opportunity to comment on the proposed exemption for ITAR 125.4(b)(9) found in RIN 1400-AC59. AUECO is an association of senior export practitioners with export compliance responsibilities at sixteen accredited institutions of higher learning in the United States. AUECO, in part, monitors legislative, executive, and judicial changes in export laws and regulations that could affect international transactions and collaborations in academia.

AUECO welcomes and supports State/DDTC’s efforts to clarify the scope of the ITAR 125.4(b)(9) exemption to include technical data regardless of media or format that is sent or taken by a U.S. person who is an employee of a U.S. corporation to a U.S. person employed by that corporation outside the United States. The proposed rule, however, is unclear as to whether any organization other than a U.S. corporation or U.S. Government agency could use the exemption. AUECO offers the following explanation and recommendations in order to resolve any potential ambiguity and to promote consistent application of the exemption.

U.S. institutions of higher learning have noteworthy differences in their structure and organization resulting in a variety of public and private institutions. Some are formally organized as corporations, while others are trusts, political subdivisions of state governments, or other legal entities. It is important to recognize that as written, the proposed rule could allow some accredited institutions of higher learning to benefit from the exemption while preventing others from doing the same. It is our belief that any disparate treatment between institutions of higher education is not intended.

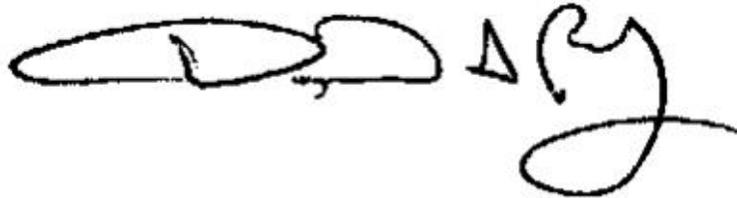
In order to promote consistent application of the proposed rule, we recommend modifying the text such that entities eligible to use the ITAR 125.4(b)(9) include “any entity, organization, or group incorporated or organized to do business in the United

States.” Alternatively, we suggest modifying the language to specify that U.S. persons who are employees of U.S. corporations, U.S. Government agencies, *or accredited institutions of higher learning in the U.S.* are eligible to use the exemption. Under either of these proposed modifications, U.S. institutions of higher learning should clearly be eligible to use the exemption regardless of a given legal structure or organization.

AUECO does not stand alone in its position that modified language is necessary. The first recommendation described above is consistent with the comments provided by the Council on Government Relations in its letter to State/DDTC dated January 14, 2010.

AUECO appreciates the opportunity to provide input and commends State/DDTC’s efforts to clarify the exemption found in ITAR 125.4(b)(9). The ITAR has long recognized the importance of university-based research, and we believe that our recommendations reinforce this position by allowing for greater utilization of this exemption. We respectfully request that the final rule include modified language as described above in order to ensure consistent application of this exemption to all U.S. institutions of higher learning.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Brady". The signature is stylized with a large, sweeping initial "D" and a long, horizontal stroke extending to the right.

David A. Brady  
Chair