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The Department of Commerce's Easing of Export Controls on India Presents Opportunities in Civil Space, Defense, and High Technology Trade

On January 25, 2011, the Department of Commerce's Bureau of Industry and Security (BIS) issued a Final Rule amending the Export Administration Regulations (EAR) to implement the U.S.-India Bilateral Understanding issued by President Obama and Indian Prime Minister Singh on November 8, 2010.

The stated objectives of the Final Rule are to realign U.S. export policy toward India to reflect the strategic partnership between the two countries and to expand U.S.-India cooperation in civil space, defense, and other high-technology sectors. This effort is part of President Obama's National Export Initiative to double exports within five years.

The Final Rule amends the EAR in the following ways:

Removes Nine Indian Space and Defense Organizations from the Entity List. BIS maintains a list of entities that it has determined are involved in activities that are contrary to the national security or foreign policy of the United States or pose a risk of becoming involved in such activities. Exports, reexports, and transfers to entities on the list are subject to licensing requirements. Thus, BIS' removal of the following nine Indian space and defense organizations from the Entity List eliminates the existing licensing requirements for exports, reexports, and transfers to these organizations: Armament Research and Development Establishment (ARDE); Defense Research and Development Lab (DRDL); Missile Research and Development Complex; Solid State Physics Laboratory; Liquid Propulsion Systems Center; Solid Propellant Space Booster Plant (SPROB); Sriharikota Space Center (SHAR); and Vikram Sarabhai Space Center (VSSC).

- **Removes India from Country Groups D:2, D:3, and D:4.** Countries listed in Country Groups D:2, D:3, and D:4 are subject to certain end-use restrictions for reasons of nuclear nonproliferation, chemical and biological weapons

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nonproliferation, and missile technology controls, respectively. India's removal from these Country Groups eliminates certain existing licensing requirements for the export, reexport, or transfer of certain items to India or for certain end-uses in India and expands the available license exceptions.

- **Adds India to Country Group A:2.** This Country Group only consists of members of the Missile Technology Control Regime (MTCR). India will now be the only country in Country Group A:2 who is not a member of the MTCR.

The day before the Final Rule was issued, BIS Under Secretary Eric Hirschhorn spoke at an American Bar Association event on Defense Procurement in India. Under Secretary Hirschhorn noted that as part of India's commitments to expand its strategic partnership with the United States, India has agreed to harmonize several components of its own export control regime to make international trade and transactions between the two countries easier. Under Secretary Hirschhorn also stated that the United States will support India's full membership into the four multilateral export control regimes: the Wassenaar Arrangement, the Nuclear Suppliers Group, the Australia Group, and the Missile Technology Control Regime.

According to Under Secretary Hirschhorn, these changes in U.S. export control policy presented real opportunities for the U.S. aerospace and defense sectors to increase business with India. Finally, Under Secretary Hirschhorn noted that during February 6-11, 2011, U.S. Secretary of Commerce Gary Locke will lead a High Technology Business Development Mission to three cities in India: New Delhi, Bangalore, and Mumbai, which will highlight export opportunities for U.S. businesses in the civil-nuclear, defense and security, civil aviation, and information and communications sectors.