



January 17, 2024

**Public Comment**

*Via Online Submission:* <https://www.regulations.gov/docket/BIS-2022-0025>

The Honorable Thea Kendler  
Assistant Secretary for Export Administration  
Bureau of Industry and Security  
U.S. Department of Commerce  
1401 Constitution Ave  
Washington, D.C. 20230

**Re: Comment on Exclusion of Deemed Exports and Deemed Reexports from Licensing Requirements in Section 742.6(a)(6)(iv) of the EAR**

**Ref: RIN 0694-AI94**

Dear Ms. Kendler,

We acknowledge that the Bureau of Industry and Security's ("BIS") Rule on Implementation of Additional Export Controls: Certain Advanced Computing Items; Supercomputer and Semiconductor End Use; Updates and Corrections [88 FR 73458, 10/25/23] addresses a very important, and very difficult problem. Cerebras Systems Inc. supports BIS in its efforts to implement regulations that protect the national security of the United States, while also supporting the U.S. Department of Commerce's strategic goals, such as driving U.S. innovation and global competitiveness, and fostering inclusive capitalism and equitable economic growth. This comment addresses Request No. 4 in the Rule regarding the future exclusion of deemed exports and deemed reexports in Section 742.6(a)(6)(iv) of the Export Administration Regulations ("EAR", 15 CFR 730 *et seq.*). In the Rule, BIS requested comments on the following matter:

*4. Deemed exports and deemed reexports.*

*BIS specifically seeks public comment on the applicability of deemed exports and deemed reexports in § 742.6(a)(6)(iv). Commenters are asked to provide feedback regarding the impact of this provision on their business and operations, in particular, what if any impact companies would experience if a license were required for deemed exports and deemed reexports. Commenters are also asked to provide guidance on what, if any, practices are utilized to safeguard technology and intellectual property and the role of foreign person employees in obtaining and maintaining U.S. technology leadership.*

According to the Rule, deemed exports and reexports will be excluded from the license requirements related to regional stability reasons for control in Section 742.6(a)(6)(iv) of the EAR:



*(iv) Deemed exports and reexports.*

*The license requirements in paragraphs (a)(6)(i) through (iii) of this section do not apply to deemed exports or deemed reexports.*

We respectfully suggest that it is important to support U.S. commercial innovation and leadership by allowing companies to continue to recruit and retain the best and brightest talent, and avoiding overly broad restrictions on the nationalities of available talent. On October 30, 2023, the Biden Administration published the Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence. In Section 5.1, the order outlines an objective of “attracting AI talent to the United States” as part of its effort to promote innovation and competition. See: <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/>. We respectfully suggest that excluding deemed exports in the Rule supports this initiative of attracting key talent to the U.S. semiconductor industry as promoted by President Biden.

Additionally, according to the Semiconductor Industry Association (“SIA”):

*One of the key factors driving growth and innovation in the U.S. semiconductor industry and across the broader tech sector is the availability of highly educated professionals – from both the U.S. and abroad – to create jobs and develop new technologies.*

See: <https://www.semiconductors.org/policies/workforce/>.

In the semiconductor industry, workforce talent is available globally, and non-U.S. persons represent a large percentage of the workforce. Many of these non-U.S. persons desire to work in and contribute to the U.S. technology sector, and eventually immigrate permanently to and become productive members of U.S. society. We need only look to key industry leadership, including the chief executive officers of many of our largest companies, to see the enormous impact of immigrants on U.S. semiconductor leadership. Therefore, BIS should consider the negative implications of limiting the ability of foreign nationals to have access to the technology that is necessary to develop and grow U.S. companies.

Furthermore, there is a workforce gap between the number of U.S. persons qualified for technical positions in the semiconductor industry and the number of positions U.S. companies need to fill in order to support a competitive global business model. In order to bridge the workforce gap, U.S. companies should have access to the best talent, which may be a non-U.S. person.

In July 2023, the SIA and Oxford Economics published the report, Chipping Away: Assessing and Addressing The Labor Market Gap Facing The U.S. Semiconductor Industry. In the report, Recommendation 3 is to retain and attract more international advanced degree students within the U.S. economy, for the following reasons, among others:

*The process of growing the domestic pipeline of U.S.-citizen students pursuing advanced degrees in STEM fields will take years or decades to bear fruit. In the meantime, we estimate that approximately 16,000 master’s- and PhD-level international engineers are leaving the U.S. each year. For the semiconductor industry alone, these departures contribute to a projected total gap of approximately 17,000 master’s and PhD engineers*



*by the end of the decade. Simply put, the workforce gap for individuals with advanced engineering and computer science degrees cannot be realistically addressed for the foreseeable future solely with U.S.-citizen graduates.*

See: <https://www.semiconductors.org/chipping-away-assessing-and-addressing-the-labor-market-gap-facing-the-u-s-semiconductor-industry/>.

If BIS implemented a license requirement for nationals from Country Groups D:1, D:4, and D:5 (excluding those also listed as A:5 and A:6 countries) to access certain source code and technology, similar to the regional stability controls for specified items on the Commerce Control List, then U.S. companies would be at a significant competitive disadvantage in the semiconductor industry, as a license would be required for nationals from forty-five (45) countries. Even if the licensing policy was a presumption of approval for nationals from Country Groups D:1 and D:4, the licensing process would produce a chilling effect on the hiring of nationals from these countries, as well as create significant business and operational delays in an industry that is quickly evolving due to the extended timeline from persons being hired to actively working.

Therefore, we respectfully suggest that the exclusion of deemed exports and deemed reexports from the regional stability controls in Section 746.6(a)(6)(iv) supports U.S. commercial innovation and leadership through the ability of companies to recruit and retain the best talent for developing and producing the next generation of technologies. Thank you for this opportunity to comment on the Rule.

Sincerely,

DocuSigned by:  
  
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Andrew Feldman  
Founder and CEO  
Cerebras Systems Inc.