

January 25, 2021

The Honorable Gina Raimondo
Secretary-Designate
U.S. Department of Commerce
1401 Constitution Ave, NW
Washington, DC 20230

Dear Secretary-Designate Raimondo:

On behalf of SEMI, I write to congratulate you on your nomination to be Secretary of Commerce and express our strong interest in working with you and your staff on policies to advance innovation and strengthen U.S. leadership in the microelectronics industry.¹ SEMI strongly supports the Biden Administration's goals of revitalizing American manufacturing and investing in research and development (R&D). Driving large-scale innovation is the industrial strategy America needs. Manufacturing incentives, research programs, and innovation partnerships in the semiconductor industry will help preserve American technological leadership, secure these vital supply chains, grow well-paying jobs, and ensure both our national security and economic competitiveness. A careful review of current U.S. export control policy – administered by the Commerce Department – is needed to ensure current policy has been implemented in a manner that reflects our values as a country, our national security interests, and the considerations set forth by Congress in the 2018 Export Control Reform Act.

Export controls are powerful national security tools that are best used strategically, in a manner that is integrated in a unified strategy with other tools of national policy, narrowly tailored to address specific national security concerns and implemented multilaterally with allies who are equivalent competitors in the global market. When used instead as a unilateral tool of U.S. industrial policy, any potential short-term benefit to national security is likely to erode over time as the global competitiveness of the controlled industry is ultimately weakened. Additionally, these measures leave U.S. exporters and their customers vulnerable to similar unilateral actions retaliating against U.S. measures, such as the recent order from China's Ministry of Commerce to counteract "unjustified extraterritorial application of foreign measures."

SEMI has consistently maintained that multilateral controls – where items of concern are controlled by all major producing nations – create a level playing field, maximize effectiveness, and minimize harm to U.S. national security and economic competitiveness. Unilateral U.S. controls over items for which there are comparable non-U.S.-origin items are generally ineffective in supporting national security goals and are likely to erode any technological advantages enjoyed by U.S.-origin items. Global customers who are unable to procure U.S.-controlled items will be incentivized to purchase comparable foreign-origin substitutes that are not similarly restricted or simply design out U.S.-origin technology altogether. Increasingly, foreign competitors are marketing their non-U.S. origin substitutes as "free from U.S. export controls" which has become a key differentiator. History has shown that such unilateral controls are detrimental to U.S. competitiveness, as exemplified by the adverse impact on the commercial satellite industry from the International Traffic in Arms Regulations (ITAR). Over time, unilateral controls will stifle innovation in the U.S. by reducing the financial resources U.S. exporters need to perform R&D and maintain our technological competitiveness and/or by forcing companies to shift production and R&D outside the

¹ SEMI is the leading industry association working to advance the technology and business of the global electronics manufacturing supply chain. SEMI has more than 2,400 members worldwide, including over 400 members in the United States, and represents the full range of U.S. semiconductor companies, including device manufacturers, equipment makers, materials producers, software designers and subcomponent suppliers. While SEMI's membership includes many large companies, more than 85 percent of SEMI members are considered small businesses. Our member companies are the foundation of the \$2 trillion electronics industry. This vital supply chain supports 350,000 high-skill and high-wage jobs across the United States.

United States. In addition, as U.S.-origin items are removed from the global supply chain, the U.S. Government's visibility into the technological prowess and roadmaps of global producers is reduced.

The prior administration implemented broad, ambiguous unilateral controls on semiconductor-related items through a highly unusual process to revise the Commerce Department's Export Administration Regulations (EAR), with little or no public input, and without a clear articulation of the overarching policy. The most significant of these, the unprecedented August 2020 expansion of EAR General Prohibition Three and the April and December 2020 regulations related to Chinese military end users, were implemented as final rules with no opportunity for industry comment – before or since implementation. We respectfully request Commerce perform a comprehensive review of recent policies and formally seek industry input via publication of a Notice of Inquiry (NOI), giving industry its first formal opportunity to provide its views on these significant regulations. Similarly, an NOI would provide Commerce its first opportunity to receive industry's comments, questions, and suggestions via a transparent and formal process.

In addition to the NOI, SEMI asks the Department to prioritize two actions in the short term. First, due to the lack of advance consultation with industry prior to the public release of the August 2020 expansion of General Prohibition Three, this regulation resulted in unintended differences in the scope of controls over certain foreign-made semiconductor production and test equipment and other semiconductor devices. We respectfully request the Department expeditiously publish regulations to correct these unintended controls. Second, there is a backlog of licenses and classification requests pending review that is adversely impacting our global competitiveness. Long delays operate as de facto license denials and create uncertainty that contributes further to the design-out of U.S. technology. We request the incoming Administration act promptly to reduce this backlog and ensure process delays do not harm competitiveness of U.S.-origin items.

We welcome an opportunity to brief you and your team on these critical issues and stand ready to assist the Department's efforts by providing industry insights and information.

Thank you for your attention to these important, time-sensitive concerns.

Sincerely,



Ajit Manocha
President and Chief Executive Officer

SEMI

CC: Secretary of Defense Lloyd Austin
Secretary-Designate of State Antony Blinken
Secretary-Designate of Energy Jennifer Granholm
Secretary-Designate of Treasury Janet Yellen
National Security Advisor Jake Sullivan