Export Control Reform
Reshaping the Regulations

• Explain the impact that certain proposed changes would have on university research and scientific communication

• University community supports export control reform, however:
  ▫ Concerned with treatment of fundamental research
  ▫ Concerned about lack of reciprocal license exceptions
  ▫ Concerned with pace of reforms
Key issue: harmonized definition of fundamental research

• Without having the proposed revisions to FR available, it is impossible to fully evaluate the potential impact of proposed changes to the control lists
Reciprocal license exceptions

• BIS recognized the need to provide reciprocity for license exemptions in the EAR before items and technologies were moved over the CCL

• In particular
  ▫ 123.16*
  ▫ 125.4(b)(7)
  ▫ 125.4(b)(9)
  ▫ 125.4(b)(10)

*See next slide
Timing of proposed reforms

- Comment period on BIS Retrospective Review closed *prior* to changes in satellite controls
  - Couldn’t make the case for license exemptions specific to satellites to be carried over to the EAR before the NDAA clarified changes in regulatory jurisdiction
- Reciprocity for 123.16 can now be pursued

Need to avoid ITAR roll backs
Changes to TSU

• Appear to incorporate 125.4(b)(10)
• However. . .
• Interpretive guidance from DDTC
  ▫ “Permanent abode throughout period of employment”
• Concerns with:
  ▫ “Bona fide”, “regular”, “full time”
  ▫ “Establishing or producing items”
  ▫ MT and EI control limitations
    • MT and EI limit many, many more countries than 126.1 does

Need to avoid ITAR rollbacks
Category XI

• Concerns about impact on fundamental research, lack of performance parameters, imprecise definitions
• Concerns about “bright line” between USML and CCL jurisdiction
  ▫ XI(a)(1)(ii) and 6A001(a)(2)(a-c), 6D001, 6A991
  ▫ XI(a)(1)(iii) and 5A001(b)(1)
  ▫ XI(a)(3) and 6A008(d)
  ▫ XI(a)(4)(i) and 5A001(i), 5A980
  ▫ XI(a)(4)(iii) and 5A001(f)
  ▫ XI(b)(1) and 5A001(i), 5A980

Need to avoid ITAR rollbacks