PROPOSED CHARGING LETTER

Dr. Necip Sayiner
President, Chief Executive Officer and Director
Intersil Corporation
1001 Murphy Ranch Road
Milpitas, CA 95035

Re: Alleged Violations of the Arms Export Control Act and the International Traffic in Arms Regulations by Intersil Corporation

Dear Dr. Sayiner:

The Department of State ("Department") charges Intersil Corporation ("Intersil"), including its operating divisions, subsidiaries, and business units (collectively "Respondent") with violations of the Arms Export Control Act ("AECA") (22 U.S.C. §§ 2778-2780) and the AECA's implementing regulations, the International Traffic in Arms Regulations ("ITAR") (22 CFR Parts 120-130) in connection with the unauthorized export, retransfer, and re-export of defense articles. A total of 339 charges are alleged at this time.

The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend this proposed charging letter, including through a revision to incorporate additional charges stemming from the same misconduct of Respondent in these matters. Please be advised that this proposed charging letter, pursuant to 22 CFR § 128.3, provides notice of our intent to impose debarment or civil penalties or both in accordance with 22 CFR §§ 127.7 and 127.10.

When determining the charges to pursue in this matter, the Department considered various mitigating factors, including Respondent's voluntary disclosure, self-initiated remedial compliance measures implemented prior to and during the course of the Department's review, Respondent's cooperation with the Department during its review, Respondent's voluntary decision to enter into a statute of limitations tolling agreement with the Department, and that several of the transactions resulting in violations may have been

authorized by the Directorate of Defense Trade Controls ("DDTC") had Respondent submitted the appropriate export license or other approval requests.[1]

Based on information concerning the alleged violations disclosed and considering certain alleged violations were contrary to U.S. foreign policy and potentially caused harm to U.S. national security, the Department has determined to charge Respondent with 339 violations at this time. In the absence of the mitigating factors referenced above, the Department may have included additional charges.

I. JURISDICTION

Intersil is a corporation organized under the laws of the State of Delaware. Intersil is a U.S. person within the meaning of the AECA and § 120.15 of the ITAR, and is subject to the jurisdiction of the United States.

During the period covered by the alleged violations set forth herein, Intersil was engaged in the manufacture and export of defense articles and was registered as a manufacturer/exporter with DDTC in accordance with § 38 of the AECA and § 122.1 of the ITAR.

The defense articles associated with the alleged violations set forth herein are designated as controlled under Categories XV(d) and XV(e) of the United States Munitions List ("USML"), § 121.1 of the ITAR. None of the defense articles at issue is Significant Military Equipment as defined in § 120.7 of the ITAR.

II. STATEMENT OF FACTS

A. Background

[1] By letter, dated June 18, 2013, the Office of Defense Trade Controls Compliance ("DTCC") informed Intersil that DTCC was considering pursuing administrative proceedings for the alleged violations disclosed and requested Intersil execute a statute of limitations tolling agreement. On June 27, 2013, the tolling agreement was executed whereby Intersil agreed to suspend the running of the applicable statute of limitations for one (1) year.

1. Intersil designs and manufactures high-performance power management and precision analog technology for applications in the computing, consumer, and industrial markets, including mixed-signal and power management integrated circuits ("ICs") that support various products, including high-technology products such as satellites. Intersil is headquartered in Milpitas, California, and manufactures certain radiation tolerant and hardened products in a fabrication plant located in Palm Bay, Florida.

2. In 1980, Intersil, Inc., which is a separate legal entity from Intersil Corporation, was acquired by General Electric Company ("GE"), and Intersil, Inc. and another company were combined with GE's semiconductor operations. GE's semiconductor business was subsequently acquired by Harris Corporation ("Harris") in 1988. The product lines of Intersil, Inc. and other companies were combined with those of Harris. In 1999, Harris spun-off its entire semiconductor division, and Intersil became an independent company.

3. Intersil's products achieve radiation tolerance or hardness primarily due to the manufacturing process, but also due to other factors such as circuit design and process controls. According to Intersil, the articles in question were developed over 20 years ago and were understood by Intersil to be subject to the jurisdiction of the Department of Commerce ("DoC") and regulated by the Export Administration Regulations ("EAR") (15 CFR Parts 730-774). Intersil generally classified its ICs under Export Control Classification Number ("ECCN") 3A001.a.1 or 3A001.a.2 or as EAR99 and received licenses from DoC to this effect.

4. Over the course of a multi-year review and through information submitted by Intersil in connection with a full voluntary disclosure originally submitted in 2011 and in response to inquiries from the Office of Defense Trade Controls Compliance ("DTCC"), Intersil disclosed thousands of unauthorized exports of ICs controlled under the ITAR.

5. To demonstrate the breadth of violations, the following section presents a description of the types of violations disclosed. The Department, however, is not alleging charges at this time for all violations described in Section II. B. Only the violations specifically enumerated in Section IV are charged. The Department relied on information disclosed by Respondent, as

well as other information available to the Department, in developing this Proposed Charging Letter for the purposes of entering into a Consent Agreement with Respondent pursuant to § 128.11(b) of the ITAR. The Proposed Charging Letter sets forth a background for the alleged violations, including alleged violations not charged, and identifies specifically enumerated charges. Respondent is neither admitting nor denying the allegations herein.

B. Nature of Violations

6. Conduct disclosed by Intersil included violations of multiple ITAR sections and can be generally characterized as resulting from the same improper classification of defense articles as controlled under the EAR subject to the jurisdiction of the DoC, when, in fact, the defense articles were controlled under the AECA and the ITAR subject to the jurisdiction of the Department of State.

7. On September 2, 2010, Intersil submitted an initial notice of a voluntary disclosure to DTCC regarding potential unauthorized exports of radiation tolerant and hardened ICs. Prior to submitting the initial notice, a foreign customer of Intersil raised concerns with Intersil that the radiation tolerant ICs, such as those manufactured by Intersil may be controlled by Category XV(e) of the USML rather than the EAR. In subsequent communications in July 2010 with the Defense Technology Security Administration ("DTSA") at the Department of Defense ("DoD") and the Bureau of Industry and Security ("BIS") at DoC, Intersil was advised by DTSA and BIS that the interpretation applied at that time to radiation tolerant ICs was that any radiation tolerant part being sold predominately in the space market was considered to be classified as Category XV(e) of the USML unless a commodity jurisdiction ("CJ") determination ruled otherwise. According to Intersil, it was in July 2010 that the company became aware that its radiation tolerant and hardened products may not have been properly classified and were ITAR-controlled.

8. On November 10, 2010, Intersil submitted a CJ request to the Department for a Radiation Hardened Quad Voltage Comparator, Part No. HS-139RH, which was subsequently determined by the Department in ECJ 229-10 that the item was a defense article subject to the Department's jurisdiction under Category XV(e) of the USML. CJ determination ECJ 229-10 stated that Part No. HS-139RH is "radiation hardened and is used in

various higher level assemblies that are ultimately used in commercial aircraft and commercial satellites" and also "has exclusive use and sales in space applications."

9. On March 8, 2011, Intersil submitted a full voluntary disclosure to DTCC. The disclosure, along with subsequent documentation revealed, among other things, that ICs controlled under Categories XV(d) or XV(e) of the USML had been exported without authorization from DDTC by Intersil and re-exported and retransferred by Intersil's customers without authorization from DDTC.

10. Specifically, Intersil disclosed in its full voluntary disclosure that "approximately 3,152 export transactions of radiation hardened parts" controlled under Category XV(d) or XV(e) of the USML were carried out by Intersil without authorization from DDTC between the period of January 2005 and October 2010.[2] These exports were misclassified by Intersil as ECCN 3A001.a.1 or 3A001.a.2 or EAR99. On some occasions, Intersil erroneously obtained export licenses for ITAR-controlled ICs from DoC. The ICs were exported to customers, many of which were distributors, located in Belgium, France, Germany, Hong Kong, Italy, Japan, the Netherlands, Russia, Singapore, Spain, Sweden, and the United Kingdom ("UK").

11. Several of the unauthorized exports were subsequently re-exported or retransferred without authorization due in part to the misclassification of the ICs. On August 20, 2010, a DDTC official misinformed Intersil that for any ICs that "HAVE already been exported under EAR jurisdiction, these [ICs] ARE NOT retroactively subject to the retransfer provisions of 22 CFR 123.9." Intersil was further misadvised that Intersil did not need to inform its foreign customers to submit ITAR re-export authorization for these items and that this "decision to not retroactively apply USML controls for these already exported [ICs] will continue to be applicable even if a future formal CJ determination asserts USML controls apply." In response to this and similar contemporary correspondence, DDTC posted official guidance on its website regarding jurisdiction of defense articles on February 1, 2013, "supersed[ing]" the 2010 guidance. The 2013 official guidance, which was issued after the relevant conduct described in this Proposed Charging Letter, stated that an item within the scope of the USML

[2] The Department reiterates that not all violations disclosed by Respondent are charged herein, and notes that only certain violations that fall within the applicable statute of limitations time period are charged.

remains ITAR-controlled even if an error is made in a jurisdictional decision by a manufacturer or exporter, and emphasized that the correct jurisdictional status of an item is critical to avoiding potential violations of export control regulations. The 2013 official guidance further emphasized that seeking and receiving a CJ determination provides legal certainty of the jurisdictional status of an item and thereby reduces the risk of civil and criminal penalties for noncompliance. Here, because Intersil incorrectly determined the ICs were not ITAR-controlled, Intersil customers without authorization re-exported to or retransferred within Argentina, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, India, Israel, Italy, Japan, the Netherlands, Norway, Georgia, the Republic of Korea ("ROK"), Russia, Singapore, Spain, Sweden, Switzerland, and the UK.

12. Of significant concern to the Department, on at least 91 occasions, the ICs were re-exported by Intersil's customers without DDTC authorization to the People's Republic of China ("PRC"), a proscribed country under 22 CFR § 126.1, in part, because Intersil misclassified the ICs as ECCN 3A001.a.1 or 3A001.a.2 or EAR99. One particularly alarming end-user was the 771 Research Institute located in the PRC. The 771 Research Institute engages in research, development, and manufacturing of satellite- and missile-related computers and ICs. The 771 Research Institute obtained at least 520 Intersil ICs through re-exports from Hong Kong that were not licensed by DDTC.

13. Of further concern to the Department, ICs were exported, re-exported, or retransferred to foreign commercial entities located in France, Germany, Greece, Hong Kong, India, the ROK, Russia, and Singapore, and on DTCC's Watch List. The Watch List is a database maintained internally by DTCC and unclassified information is collected from publicly available sources. It is a list of over 120,000 persons (individuals and entities), foreign and domestic, who, among other matters, have been the subject of open source reporting on U.S. and foreign persons alleged or confirmed to have engaged in violations of U.S. export control laws.[3] The Watch List also includes a list of foreign persons subject of classified reporting alleged or confirmed to have engaged in violations of U.S. export control laws. Such

[3] Section 38(g) of the AECA requires the President to develop "appropriate mechanisms" to identify certain persons who may be statutorily barred from receiving a license to export or for whom discretionary authority to approve a license is provided, as well as providing discretionary authority to disapprove applications involving certain persons as parties to an export. The Department utilizes an electronic database named "Watch List" in the exercise of the statutory requirement and discretionary authority.

classified reporting is not available to the public. Requests for authorization or license applications to the Department including persons on the Watch List may be denied or returned without action for reasons of ineligibility and are otherwise subject to heightened scrutiny. Due in part to Intersil's failure to correctly classify the ICs, no such review was undertaken. Several of the entities that received Intersil ICs were known to the Department as front companies for proscribed destinations, including Iran and the PRC. Other entities were known to have engaged in diversion of ITAR-controlled items to proscribed destinations.

14. The transactions identified above in Paragraphs 12 and 13 were contrary to the Department's policy to deny licenses and other approvals for exports destined to certain countries in which the U.S. maintains an arms embargo or whenever an export would not otherwise be in furtherance of world peace or U.S. foreign policy or otherwise advisable. These transactions also potentially harmed U.S. national security.

15. Intersil began treating its radiation tolerant and hardened products as ITAR-controlled in early August 2010, upon receipt of guidance from DDTC. Although, in certain instances, Intersil continued to export ITAR-controlled ICs without authorization through October 2010. On 17 occasions from August through October 2010, Intersil exported without authorization ICs controlled under USML Category XV(e) but misclassified by Intersil as ECCN 3A001.a or 3A001.a.2 or EAR99 to Germany, the Netherlands, and Spain. Due in part to the misclassification of the ICs by Intersil, Intersil's customers subsequently re-exported the ICs to or retransferred the ICs within Austria, Belgium, Canada, France, Germany, Japan, the PRC, and Spain.

16. According to Intersil, the unauthorized exports and re-exports or retransfers of the ICs in question occurred due to Intersil's belief that its radiation tolerant and hardened products were controlled by the EAR rather than the ITAR. Intersil, however, should have known or had reason to know well before August 2010 that certain radiation tolerant and hardened products may be controlled by the ITAR.

17. The Department asserts, from 1996 to 1997, DoD, in conjunction with DoC, conducted a jurisdictional review of ICs manufactured by Harris, whose semiconductor business was subsequently purchased by

Intersil, to determine whether the ICs were controlled by the ITAR. Harris opined that the company no longer manufactured ITAR-controlled radiation hardened products. After giving Harris an opportunity to explain its IC manufacturing process and why its ICs were no longer ITAR-controlled, DoD concluded that certain ICs manufactured by Harris were likely ITAR-controlled. DoD provided the Department its review and conclusion.

18. The Department asserts DoD's conclusion was based in part on the appearance that Harris was only verifying IC performance at levels below the ITAR limits and underrating IC performance, which indicated the manufacturing process must yield ICs that by design perform at least equal to or better than the ITAR limits. During the review, Harris indicated to DoD that its ICs could functionally perform above the ITAR limits. Several IC performance data sheets also indicated such functional performance.

19. The Department further asserts DoD advised Harris that CJ determinations pursuant to 22 CFR § 120.4 were required to formally determine whether the products in question were ITAR-controlled. The proper classification of a particular article is critical to avoid potential export violations, and the CJ process is the only official U.S. government method of determining whether an article is covered by the USML.

20. The Department notes the jurisdictional review of the Harris IC product line occurred prior to acquisition by Intersil and includes the information set out in Paragraphs 17-19 above for purposes of explaining the jurisdictional history of the subject defense articles. Intersil's voluntary disclosure to the Department did not reference the jurisdictional review involving Harris, and Intersil officials asserted no knowledge of the review during the period in which violations are alleged.

21. Moreover, in March 1999, the Department published a Federal Register notice (64 Fed. Reg. 13679, Mar. 22, 1999) which informed the public the USML was amended pursuant to Public Law 105-261 (Oct. 17, 1998) to include communications satellites and related items. After acquiring Harris's semiconductor business in 1999, Intersil had the opportunity to avail itself of the CJ process to confirm whether any of its hardened and tolerant products were controlled by the USML.

22. Following Intersil's full disclosure in March 2011, and in consultation with DoD, the Department determined ICs exported by Intersil were controlled under Category XV(e) of the USML, with some ICs possibly controlled under Category XV(d). The ICs were manufactured to space operation standards associated with verifying and certifying parts for operation in the harsh space environment. These ICs also provided an increased level of reliability and capability over non-radiation hardened ICs.

23. While the exports of ICs to member countries of the European Union and other allied countries may have been approved, Intersil's customers' re-exports of the ICs to the PRC would likely not have been approved had they applied for a re-export license from DDTC. Intersil's customers' did not apply for re-export licenses from DDTC, however, because Intersil misclassified the ICs as falling under EAR jurisdiction. Moreover, the exports to the PRC may have contributed to the PRC commercial and military satellite programs, possibly diminished a critical DoD program, and potentially harmed U.S. national security. DoD was unable to render a full assessment, however, because Intersil did not maintain end-use records prior to August 2010.

III. RELEVANT ITAR REQUIREMENTS

24. Paragraphs 1-23 are hereby incorporated and re-alleged.

25. Part 121 of the ITAR identifies the items that are defense articles, including technical data, pursuant to § 38 of the AECA.

26. Section 123.1(a) of the ITAR provides that any person who intends to export a defense article must obtain the approval of DDTC prior to the export, unless the export qualifies for an exemption.

27. Section 126.1(a) of the ITAR provides that it is the general policy of the United States to deny, among other things, licenses and other approvals, destined for or originating in certain countries, including the PRC, or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States.

28. Section 127.1(a)(1) of the ITAR provides that without first obtaining the required license or other written approval from DDTC, it is unlawful to export any defense article for which a license or written approval is required.

29. Section 127.1(a)(4) of the ITAR provides it is unlawful to cause to be re-exported, retransferred, or furnished any defense article for which a license or written approval is required.

IV. CHARGES

30. Paragraphs 1-29 are hereby incorporated and re-alleged.

31. Charge 1: Respondent violated 22 CFR § 127.1(a)(1) when Respondent exported integrated circuits controlled under USML Category XV(d) or XV(e) to Belgium, France, Germany, Hong Kong, Italy, Japan, the Netherlands, Russia, Spain, Sweden, and the U.K. without first obtaining a license or written approval from DDTC as set forth in Paragraph 10. These transactions may have been approved on a case-by-case basis had Respondent sought authorization from DDTC.

32. Charges 2-170: Respondent violated 22 CFR § 127.1(a)(1) one hundred sixty-nine (169) times when Respondent exported integrated circuits controlled under USML Category XV(d) or XV(e) to persons on DTCC's Watch List located in Hong Kong, the ROK, and Singapore without first obtaining a license or written approval from DDTC as set forth in Paragraphs 10 and 13. These transactions would likely not have been approved had Respondent sought prior authorization from DDTC.

33. Charge 171: Respondent violated 22 CFR § 127.1(a)(4) when Respondent caused to be re-exported or retransferred integrated circuits controlled under USML Category XV(d) or XV(e) to or within Argentina, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, India, Israel, Italy, Japan, the Netherlands, Norway, Georgia, the ROK, Russia, Spain, Sweden, Switzerland, and the U.K. without first obtaining a license or written approval from DDTC due to Respondent's incorrect jurisdictional determination of the integrated circuits as set forth in

Paragraphs 11 and 15. These transactions may have been approved on a case-by-case basis had prior authorization from DDTC been requested.

34. Charges 172-248: Respondent violations 22 CFR § 127.1(a)(4) seventy-seven (77) times when Respondent caused to be re-exported or retransferred integrated circuits controlled under USML Category XV(d) or XV(e) to entities on the DTCC Watch List located in France, Germany, Greece, Hong Kong, India, the ROK, Russia, and Singapore without first obtaining a license or written approval from DDTC due to Respondent's incorrect jurisdiction determination of the integrated circuits as set forth in Paragraphs 11 and 13. These transactions would likely not have been approved had prior authorization from DDTC been requested.

35. Charges 249-339: Respondent violations 22 CFR § 127.1(a)(4) ninety-one (91) times when Respondent caused to be re-exported integrated circuits controlled under USML Category XV(d) or XV(e) to the PRC, a proscribed country under 22 CFR § 126.1, without first obtaining a license or written approval from DDTC due to Respondent's incorrect jurisdiction determination of the integrated circuits as set forth in Paragraphs 12 and 15. These transactions would likely not have been approved had prior authorization from DDTC been requested.

V. ADMINISTRATIVE PROCEEDINGS

Pursuant to Part 128 of the ITAR, administrative proceedings are instituted by means of a charging letter against a respondent for the purpose of obtaining an Order imposing civil administrative sanctions. The Order issued may include an appropriate period of debarment, which shall generally be for a period of three (3) years, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed $500,000 per violation, may be imposed as well in accordance with § 38(e) of the AECA and § 127.10 of the ITAR.

A respondent has certain rights in such proceedings as described in Part 128 of the ITAR. This is currently a proposed charging letter. However, in the event that you are served with a charging letter, you are advised of the following matters: You are required to answer the charging letter within 30 days after service. If you fail to answer the charging letter, your failure to answer will be taken as an admission of the truth of the charges. You are

entitled to an oral hearing by a written demand filed with the answer or within seven (7) days after service of the answer. You may, if so desired, be represented by counsel of your choosing.

Additionally, in the event that you are served with a charging letter, your answer, written demand for oral hearing, if any, and supporting evidence required by § 128.5(b) of the ITAR, shall be in duplicate and mailed to the administrative law judge ("ALJ") designated by the Department to hear this case. These documents should be mailed to the ALJ at the following address: United States Coast Guard, Office of Administrative Law Judges G-CJ, 2100 Second Street, SW Room 6302, Washington, D.C. 20593. A copy shall be simultaneously mailed to the Office of Defense Trade Controls Compliance, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, PM/DDTC, SA-1, 12th Floor, Washington, D.C. 20522-0112. If you do not demand an oral hearing, you must transmit within seven (7) days after the service of your answer, the original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue.

Please be advised that a charging letter may be amended from time to time, upon reasonable notice. Furthermore, pursuant to § 128.11 of the ITAR, cases may be settled through consent agreements, including after service of a proposed charging letter.

Be further advised that the U.S. Government is free to pursue civil, administrative, and/or criminal enforcement for violations of the AECA and the ITAR. The Department of State's decision to pursue one type of enforcement action does not preclude it, or any other department or agency, from pursing another type of enforcement action.

Sincerely,

Sue Gainor
Director
Office of Defense Trade Controls
Compliance