

U.S. DEPARTMENT OF COMMERCE
EMERGING TECHNOLOGY AND RESEARCH ADVISORY COMMITTEE

NOTICE OF DETERMINATION

In response to a request from representatives of a segment of the U.S. high technology industry and the academic research community and consistent with the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420) (Act), the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (2000)), and the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. app. 2), the Secretary of Commerce established the Emerging Technology and Research Advisory Committee (ETRAC). ETRAC advises the Department of Commerce's Bureau of Industry and Security on: (i) the identification of emerging technologies and research and development activities that may be of interest from a dual-use perspective; (ii) the prioritization of new and existing controls to determine which are of greatest consequence to national security; (iii) the potential impact of dual-use export control requirements on research activities; and (iv) the threat to national security posed by unauthorized exports of technologies and any other questions relating to actions designed to carry out the policy set forth in Section 3(2)(A) of the Act.

Committee members represent industry, academia, and research laboratories. U.S. Government agencies that will participate in ETRAC meetings may include, but are not limited to, the Departments of Commerce, Defense, State, and Energy, and the White House Office of Science and Technology Policy.

Committee activities are conducted consistent with the provisions of FACA and the FACA Regulations, 41 C.F.R. Part 102-3. Title 5 U.S.C. app. 2 § 10(d) provides that advisory committee meetings, or portions thereof, may be exempt from the open meeting and public participation requirement of FACA if the head of the agency to which the advisory committee reports determines such meetings may be closed to the public in accordance with the Government in the Sunshine Act (5 U.S.C. § 552b(c)).

Title 5 U.S.C. § 552b(c)(1) permits closure of a meeting that will likely disclose matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order. The Committee will meet in closed session to discuss classified information on sensitive technologies and related matters, the unauthorized disclosure of which could reasonably be expected to cause damage to U.S. national security.

Additionally, Title 5 U.S.C. § 552b(c)(4) permits closure of a meeting that will likely disclose trade secrets and commercial or financial information obtained from a person that is privileged or confidential. The Committee will meet in closed session to hear presentations from company executives on processes for identifying emerging technologies, which will include confidential commercial or financial information.

Accordingly, I hereby determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portions of the October 21-22 and December 13-14, 2010 meetings of the Committee dealing with the matters discussed in either of the proceeding two paragraphs shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

This determination shall be effective from the date of its signing.

Chief Financial Officer and
Assistant Secretary for Administration

Date

Concurrence:

Brian D. Dufresne

for Assistant General Counsel
for Administration

9-30-10

Date