

pending"); *United States v. SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1, 8 (D.D.C. 2007) (noting that the transaction closed over a year prior to entry of the Final Judgment "in keeping with [DOJ's] standard practice that neither stipulations nor pending proposed final judgments prohibit the closing of the mergers"); *United States v. Pearson plc*, 55 F. Supp. 2d 43, 44–45 (D.D.C. 1999) (observing that the transaction was consummated and divestitures completed prior to the public interest determination under the Tunney Act).<sup>86</sup> Of course, the United States retains the right to withdraw its consent to the decree or the settlement could be rejected by the Court. Defendants, by choosing to close prior to entry of the Final Judgment, have accepted the risk of undoing the merger should it be necessary.

## CONCLUSION

After reviewing the public comments, the United States continues to believe that the proposed Final Judgment, as drafted, provides an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is therefore in the public interest. Upon publication of this Response to Comments in the **Federal Register**, the United States will file a certification that all of the requirements of the APPA have been satisfied, and will file a motion with this Court to enter the proposed Final Judgment. The United States submits that a hearing is not necessary.

Dated: March 10, 2014.

Respectfully submitted,

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<sup>86</sup>The Bankruptcy Court hearing the AMR case specifically rejected as "based on a faulty assumption" the private plaintiff's argument that the Tunney Act bars consummation of a merger pending entry of a proposed Final Judgment. Memorandum of Decision and Order at 22–23, *In re AMR Corp. & Fjord v. AMR Corp.*, (Bankr. S.D.N.Y. Nov. 27, 2013) (11–15463 & Adv. Pr. No. 13–01392), available at [http://www.amrcaseinfo.com/pdf/lib/72\\_01392.pdf](http://www.amrcaseinfo.com/pdf/lib/72_01392.pdf). The Bankruptcy Court denied plaintiff's request to enjoin the closing of the merger. *Id.*

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993; Sematech, Inc. d/b/a International Sematech

Notice is hereby given that, on February 6, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Sematech, Inc. d/b/a International Sematech ("SEMATECH") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ebara Corporation, Tokyo, JAPAN; Inficon, Syracuse, NY; Micron, Manassas, VA, and TowerJazz, Migdal Haemek, ISRAEL, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SEMATECH intends to file additional written notifications disclosing all changes in membership.

On April 22, 1988, SEMATECH filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 19, 1988 (53 FR 17987).

The last notification was filed with the Department on November 12, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 9, 2013 (78 FR 73884).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Armaments Consortium

Notice is hereby given that, on February 6, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993,

15 U.S.C. 4301 *et seq.* ("the Act"), National Armaments Consortium ("NAC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Bulova Technologies Group Inc., Tampa, FL; Colt Defense LLC, Hartford, CT; D&S Consultants, Inc. (DSCI), Eatontown, NJ; Defense Research Associates, Inc. (DRA), Beavercreek, OH; Innovative Materials and Processes, LLC, Rapid City, SD; Quantum Technology Consultants, Inc., Franklin Park, NJ; South Dakota School of Mines and Technology, Rapid City, SD; The Charles Stark Draper Laboratory, Inc., Cambridge, MA; Touchstone Research Laboratory, LTD, Triadelphia, WV; University of Louisiana at Lafayette, Lafayette, LA; and Vingtech, Biddeford, ME, have been added as parties to this venture.

Also, NAVSYS Corporation, Colorado Springs, CO; Thales USA Defense & Security, Inc, Arlington, VA; Tiburon Associates, Inc., Alexandria, VA; Vermillion Incorporated, Wichita, KS; and Wilkes University, Wilkes-Barre, PA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NAC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NAC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 30, 2000 (65 FR 40693).

The last notification was filed with the Department on November 14, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 9, 2013 (78 FR 73884).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

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