



One Hundred Eighteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515

February 16, 2023

The Honorable Alan F. Estevez
Under Secretary of Commerce for Industry and Security
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, D.C. 20230

Dear Under Secretary Estevez:

We write to request information about the Department of Commerce's implementation of U.S. export control laws regarding exports by the People's Republic of China (PRC) to designated State Sponsors of Terrorism (SSTs).

The Secretary of State has designated Cuba, North Korea, Iran, and Syria as SSTs. Section 1754(c) of the Export Control Reform Act of 2018 (ECRA) mandates enhanced export licensing requirements for countries determined by the Secretary of State to be supporting acts of international terrorism. A license is generally required—and exceptions are largely prohibited—for any export or reexport of most items on the Commerce Control List (CCL) to a country designated as a SST. Furthermore, countries designated as SSTs are typically subject to a 10 percent *de minimis* threshold for exports of controlled U.S.-origin content.

We are concerned the PRC's economic and trade ties with SSTs are undermining U.S. national security and foreign policy interests. For instance, between 2010 and 2016, ZTE illegally exported tens of millions of dollars worth of U.S.-origin equipment—including controlled dual-use goods on the CCL—to Iran in violation of U.S. sanctions and export control laws, which was a contributing factor to the entity listing of Huawei and ZTE. Further, recent open-source reporting suggests the PRC is supplying Iran with counterfeit copies of Western-origin commodities, which are used to produce combat drones such as those being transferred to Russia for use in its illegal war of aggression in Ukraine.

In addition to clear violations of U.S. export laws, the PRC is establishing a legal system designed to counter foreign sanctions, including U.S. export controls. For example, the Standing Committee of the 13th National People's Congress and Ministry of Commerce recently passed legislation that legally mandates companies operating in the PRC to violate U.S. export control

law, or face penalties by PRC authorities. There is serious concern this type of legislation may be weaponized by the PRC against firms that comply with U.S. sanctions and export control laws.

Furthermore, despite recent reports, the PRC does not generally allow proper export control inspections, such as on-site end-use checks, necessary to ensure compliance with U.S. export licenses. Consequently, the U.S. government, namely the Bureau of Industry and Security (BIS), may not have sufficient visibility and access to guarantee the PRC's compliance with restrictions on trade with SSTs. Moreover, without a foreign direct product rule or a 0 percent *de minimis* threshold for SSTs, BIS undermines its own enforcement efforts through rules that become unworkable.

By March 2, 2023, please respond in writing to the following questions:

1. Please describe in detail how BIS, in coordination with other agencies, monitors and enforces the PRC's compliance with *de minimis*, foreign direct product rules, and other enhanced controls on SSTs.
2. How many violations of U.S. export controls involving the PRC, or affiliated persons or entities, have occurred since 2016, and how many of these cases were referred to the Department of Justice? Has BIS applied targeted enforcement actions against specific violators, and if so, which ones and were the violators state or private-owned entities?
3. Has BIS applied an updated licensing regime for any country based on their trade with SSTs? What factors would be considered in this decision?
4. How have the PRC's anti-sanctions laws and blocking measures factored into BIS determinations regarding violations of U.S. export laws and regulations?
5. From January 1, 2021 through December 31, 2021 how many pre-license or end-use checks did BIS conduct in the PRC to confirm compliance with *de minimis*, foreign direct product rules, and other enhanced controls on SSTs? How many checks did BIS request during this timeframe? Of the checks BIS requested during this timeframe, how many have been concluded?

Sincerely,



MICHAEL T. McCAUL
Chairman



MICHAEL V. LAWLER
Member of Congress