



One Hundred Seventeenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

The Honorable Gina Raimondo
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Secretary Raimondo,

I am writing regarding the Administration's announcement on October 7 of new license requirements on certain semiconductor and high-performance computing-related exports, re-exports, and in-country transfers to the People's Republic of China (PRC) and end-use checks. These rules appear aimed at addressing long-standing gaps in U.S. export controls exploited by entities in the PRC to access American technology in support of its high-performance computing sector. These gaps have reportedly contributed to the modernization of the PRC's military, including its successful hypersonics test last year.

Export control rules are only as strong as their licensing policy. The House Foreign Affairs Committee uncovered that during a 6-month period spanning 2020-2021 the Bureau of Industry and Security (BIS) denied less than 1 percent of licenses for Huawei and SMIC—despite being designated on the Entity List. This indicates that even after announcing a new control, BIS has continued to approve licenses for designated entities.

To perform its oversight duties, Congress needs access to this licensing data to assess how BIS is implementing controls and whether restrictions are applied fairly across all market players. Consequently, exercising statutory authority under Section 1761 of the Export Control Reform Act of 2018, I am requesting the following no later than November 15, 2022:

- All documents and communications, including but not limited to all 'is-informed' letters and other correspondence sent to U.S. and foreign entities, referring or relating to new license requirements issued on October 7 for exports to the PRC, including for high-end graphics processors and AI accelerators used in high-performance computing and semiconductor manufacturing equipment.
- Explain in detail why some firms that have products in the market or under development appear to have received letters but not others. Please explain:


- Why do some firms appear to have certain carve outs and grace periods and not others?
- A detailed description of how the “is informed process” works in practice, including:
 - How does BIS identify recipients of such a letter?
 - Are these letters only for firms who are already under other license agreements?
 - Does a technology have to already be in the PRC market or be poised for export to the PRC to receive such a letter?
- Documents sufficient to show the legal and regulatory authorities that establish the mechanism in which BIS may use an ‘is informed’ letter, and what is required in such letters, as well as any related standard operating procedures, practices, and guidelines for their use. Please address:
 - Is there a timeframe given during which the firm must apply for a license to comply?
 - Is there a timeframe set for review of such application?
 - Does the licensing process required by the “is informed” letter require the recipient to provide a full list of its customers and partners (i.e. end-users) in the PRC?
 - If an ‘is-informed’ letter requires the recipient to provide a full list of its end-users in China, please provide us with the full list of customers for the companies receiving letters with respect to the October 7 rules.
- For each authorization or license request from and decision given to any company for exports, reexports, and in-country transfers, including U.S. persons controls, to the PRC related to these new licensing requirements, please provide:
 - the date the license was submitted, and the date a final decision was rendered,
 - the name of the entity submitting the application,
 - the Export Control Classification Number and type of control, if applicable, for the item being exported,
 - a brief description of the item and its proposed end use,
 - the name of the end-user/s,

- a value estimate for the license application,
 - the duration and terms of the license, and
 - the licensing decision and level at which the decision was made.
- Documents sufficient to show:
 - what agencies were consulted on commodity classifications, which is required by Section 1764 of the Export Control Reform Act of 2018,
 - a description of the review and disposition by BIS and other government agencies and departments on each license or authorization request,
 - a catalogue of recommendations by the Departments of Defense, State, and Energy, including voting breakdown, for each license at the operating committee,
 - the administration's rationale for granting or denying an authorization or license, and,
 - the steps BIS takes to ensure that any license or authorization in the PRC does not result in a diversion to a military end-user or support its Military-Civil Fusion Strategy.
 - All information available to BIS regarding U.S. operations, sales, and technology licensing and transfer in China that involves high-end graphics processing units, or GPUs, including:
 - how these operations in the PRC support the development, production, distribution, or refurbishment of high-end chips,
 - how many U.S. companies operate or use facilities, as well as the number of facilities, in the PRC that are supporting the development, production, distribution, or refurbishment of high-end chips,
 - all BIS authorizations or licenses granted, including license waivers and exceptions or instances in which technology was considered EAR99 and no license was required, to establish these operations and facilities,
 - the number and instances of U.S. government end-use checks, on a monthly basis, for authorized operations since it was established, and
 - the end-uses for items that leave these authorized operations.

- Detailed information, on a monthly basis, regarding end-use checks, including those for entities on the Unverified List, in the PRC, including
 - The date an end-use check was requested,
 - The date the end-use check was conducted,
 - Each instance in which a lack of cooperation by the host government prevented an end-use check,
 - The name of the end-user undergoing an end-use check and the terms of the license or authorized for the export of that item,
 - A summary of the findings for the end-use check, and
 - Whether the Department of Defense, State, and Energy affirmatively concurred with the findings and disposition of the end-use checks.

Further, please provide any updates to the requests above to my office on a continuing basis every 30 calendar days thereafter.

Sincerely,

A handwritten signature in blue ink that reads "Michael T. McCaul". The signature is written in a cursive style and is positioned above a horizontal line.

Michael McCaul
Ranking Member
House Foreign Affairs Committee