



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

January 13, 2023

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

Dear Secretary Raimondo:

I write to reissue the enclosed requests sent prior to the 118th Congress in furtherance of the legislative branch's constitutional duty to conduct oversight of the executive branch. Please provide all documents, information, and any other request contained within them no later than January 27, 2023.

Export controls, currently under the authority of the Bureau of Industry and Security (BIS), are critical to safeguarding U.S. national security and foreign policy objectives. The United States needs a whole-of-government approach to protect sensitive and military-useful technology from foreign adversaries, such as the People's Republic of China.

BIS, however, has failed to uphold its legal obligation to produce requested documents and information pursuant to the Export Control Reform Act of 2018, which states, "[a]ny information obtained at any time under any provision of the Export Administration Act of...under the Export Administration Regulations, or under this part...shall be made available to a committee or subcommittee of Congress of appropriate jurisdiction, upon the request of the chairman or ranking minority member of such committee or subcommittee."¹

For example, in response to a November 9, 2020 request for licensing data, BIS has only produced one small tranche of documents to date in May 2021 – more than six months after the initial request – and provided nothing further since then.

¹ Foreign Investment Risk Review Modernization Act § 1761(h)(2)(B)(i)

BIS's dereliction in providing basic transparency and accountability is a contributing factor for my forthcoming 90-day review. A principal objective for this review is to determine if the Department of Commerce should continue to lead implementation of the export control system.

It is vital that the Commerce Department provide complete and expeditious responses to these requests. The initial deadlines for the enclosed letters passed long ago – in some cases more than a year – without acceptable responses. In the event of noncompliance, the Committee will use the authorities available to it to enforce these requests as necessary, including through compulsory process.

I look forward to your prompt responses.

Sincerely,

A handwritten signature in blue ink, reading "Michael T. McCaul". The signature is fluid and cursive, with the first name "Michael" and last name "McCaul" being more prominent than the middle initial "T".

Michael T. McCaul
Chairman
House Foreign Affairs Committee

Enclosure

CC: Rep. Gregory Meeks, Ranking Member
House Foreign Affairs Committee

Date	Request Subject	Response to Date
11/09/20	Request for information on BIS Licensing, with recurring updates	5/18/21 initial tranche of documents that included licensing data for only SMIC and Huawei. The formal request was licensing data for all PRC companies on the Entity List. No further productions since.
03/18/21	Request for all license decisions pursuant to the SMIC Entity List	No Response.
08/06/21	Letter calling on BIS to designate Honor Device Co. Ltd. on the Entity List, including request for written response and briefing	9/20/21 response was incomplete, providing a letter just over one page. BIS never provided a briefing by the End-User Review Committee about Honor.
03/17/22	Request for all SMIC license determinations on a monthly basis as long as SMIC is on Entity List; update on discussions with allies/partners on blocking technology sales to SMIC; information on BIS's bandwidth to ensure FDPR adherence given that it only has nine export control officers overseas	12/5/22 two-page response letter, with no requested licensing data produced.
07/24/22	Questions for the Record following 7/19/22 hearing with U/S Estevez.	No response.
11/01/22	Document request on 10/7/22 requirements, 'Is Informed' letters, U.S. GPU licensing/transfers, end-use checks, and other issues	11/22/22 initial response including two-page response letter with limited info on 'is informed' process and end-use checks and initial tranche of 13 'is informed' letters. No further productions since.

ELIOT L. ENGEL, NEW YORK
CHAIRMAN

JASON STEINBAUM
STAFF DIRECTOR



MICHAEL T. MCCAUL, TEXAS
RANKING REPUBLICAN MEMBER

BRENDAN P. SHIELDS
REPUBLICAN STAFF DIRECTOR

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

November 9, 2020

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

Dear Secretary Ross,

We applaud your efforts in making needed updates to our Export Administration Regulations (EAR), pursuant to requirements set forth in the Export Control Reform Act of 2018 (ECRA), to address the unique and dangerous risks in our technology trade with the People's Republic of China (PRC).

As you know, the PRC is aggressively advancing industrial policies in several critical and emerging technology sectors that use unfair trade and investment practices to realize market and supply chain dominance. Policies such as Made in China 2025 aim to hollow out the technological and industrial capabilities of the PRC's main trading partners with a concentrated focus on those that have leading capabilities such as the United States. The Chinese Communist Party (CCP) has intertwined its military into its industrial and innovation base, most recently termed Military-Civil Fusion, to extract technology obtained through commercial and civil licensing, partnerships, and trade interaction to achieve military superiority over its adversaries. Moreover, PRC policies that give law enforcement and regulatory authorities the right to in-person and remote access to corporate information technology systems call into question the ability of any company with operations in the PRC to safeguard licensed technology or have confidence in an end-use or end-user agreement. In concert, these reinforcing CCP policies amount to an unprecedented attack on the foundation of our open and international trading system.

This Administration has rightfully reframed our posture toward the CCP-led PRC to one of strategic competition. Notably, the Administration is turning that high-level strategic guidance into concrete policies. Recent policy updates to the rules on military end-use and end-user and civilian exemption, as well as the Foreign Direct Product Rule (FDPR) in the EAR are necessary responses to PRC policies that intentionally attempt to evade ECRA and the EAR. By enhancing

visibility into the end-use and end-users of controlled technology that is licensed to PRC entities or developed with U.S.-origin technology, these measures support our duty to protect U.S. national security.

As Ranking Member of the House Foreign Affairs Committee, I request the Bureau of Industry and Security keep me apprised of implementation of these critically important measures. Congress and the Administration must work collaboratively to fully implement requirements in ECRA to confront the generational threat CCP policies and actions pose to the American people and our companies.

Consequently, every three months, please provide my office with the following information for the rules on military end-use/end-user, civilian exemption, entity listings, and FDPR:

- All license applications with the name of the entity submitting the application (both parent company as well as the subsidiary directly involved), a brief description of the item (including ECCN if applicable), the name of the end-user in both English and Chinese characters, the end-user's location (not confined only to entities operating in the PRC), a value estimate, licensing decision, and the date of submission;
- Aggregate statistics on all licenses, including approvals, denials, and returned without action or approval, ECCN or item type, applicant, end-user, and total value;
- The decision for each license application and what other administrative agencies were consulted on the license (CCATS determination, all determinations by administrative agencies including when a determination was made that a license was not required, level at which determination or decision was made, cases noted that are still pending, when cases were elevated to the Operating Committee for decision and why, and all "is informed" letters sent during this period);
- For those companies on the Entity List or the Department of Defense CCP military companies list, a list of all products in the EAR99, AT controls, or CCL that do not typically require a license for which a license was requested and status of these requests; and
- The date, location, and result of site inspections, monitoring, and enforcement actions to ensure compliance with the terms of the license.

Finally, 60 days after the end of every calendar year, please provide my office with an annual assessment of key licensing and enforcement themes and a strategic plan for the following year to address ever changing tactics to evade U.S. export controls by PRC entities around the world. Should you have any questions, please contact me or have your staff reach out to Dan Markus on my staff at (202) 226-8467.

Sincerely,



MICHAEL T. McCAUL
Ranking Member
House Foreign Affairs Committee

Congress of the United States
Washington, DC 20515

March 18, 2021

The Honorable Gina Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, D.C. 20230

Dear Secretary Raimondo:

Earlier this month, the Dutch company ASML Holdings NV announced that it would continue its sales of deep ultraviolet lithography (DUV) tools to China's Semiconductor Manufacturing International Corporation (SMIC) through 2021, extending a volume purchase agreement that expired in December 2020.

Although these tools were decontrolled by the Wassenaar Arrangement in 2014, DUV technology still remains highly advanced and only one other company can provide such sophisticated manufacturing equipment. DUV is a vital tool for the mass production of advanced chips—such as those used for artificial intelligence and the military—that threaten our national security and foreign policy interests.

Working directly with allied governments is the best approach to mitigate this threat. We ask that you work with the Dutch government to persuade them to block the ASML sales to SMIC. Further, we need to reach a comprehensive agreement with these allies to unify export control policies and licensing decisions and restrict future sales of technologies like DUV and also extreme ultraviolet lithography. As you may be aware, the independent U.S. National Security Commission on Artificial Intelligence just recommended in its report that the United States coordinate with the Netherlands and Japan to deny export licenses to China for key chipmaking equipment, such as DUV.

Because of its designation as a Chinese Communist Party military company and integration into the defense establishment of the PRC and its national strategy for military-civil fusion, SMIC is a clear threat to U.S. national security. It is in the U.S. national security interest to prohibit the transfer of goods that might support SMIC's production of semiconductors, due to the company's role in helping the CCP military's pursuit of "[displacing] the United States to achieve global preeminence in the future."

To this end, we reiterate our request to the U.S. Department of Commerce on December 21, 2020 to apply the Foreign-produced Direct Product Rule (FDPR) to the SMIC Entity Listing. The United States should apply the same lessons from the Huawei Entity Listing and expand the FDPR for SMIC to cover any semiconductor manufacturing equipment that is built with or incorporates any U.S.-origin technology. We must ensure that SMIC is unable to access vital semiconductor manufacturing equipment from any location in the world. Moreover, DUV and

other semiconductor manufacturing equipment should be strongly considered for inclusion on the statutorily mandated foundational technology list, which you oversee.

We also wrote to your predecessor requesting that the SMIC Entity List rule be rewritten to close dangerous loopholes that would allow nearly all sales to SMIC to continue without restriction. The United States should not be supporting the companies that underpin the CCP's stated goal of military preeminence. The specific request was to amend the SMIC rule to set the threshold at 16 nanometers and replace the phrase "uniquely required" with "capable of producing." This would mark an important step in preventing the CCP from insulating its military modernization program against pressure from the United States as well as our allies and partners.

Getting the SMIC Entity Listing correct would be an early opportunity for you to follow through on your commitment to "leverage the full breadth of the authorities of the Department of Commerce in order to protect U.S. national economic security interest." Facing this generational threat will require close and candid cooperation with Congress.

We ask that you provide our offices, as well as the committees of jurisdiction, all license decisions pursuant to the SMIC Entity List as soon as possible. We look forward to working with you and others in the administration to adjust our approach to SMIC and best ensure U.S. national security.

Thank you for your attention to these important matters.

Sincerely,



Marco Rubio
U.S. Senator



Michael T. McCaul
Member of Congress

CC:
U.S. Secretary of Defense
U.S. Secretary of State
Director of National Intelligence
U.S. Secretary of Energy
U.S. Secretary of Treasury

Congress of the United States
Washington, DC 20515

August 6, 2021

The Honorable Gina Raimondo
Secretary
Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

Dear Secretary Raimondo,

We write to request that the End-User Review Committee (ERC) immediately consider designating Honor Device Co. Ltd. to the Department of Commerce Entity List. In many respects, the Department of Commerce's Entity Listing of Huawei—notably its extensive designation of entities connected to Huawei and application of the Foreign Direct Product Rule—should be a template for the ERC in addressing the export control challenges with the People's Republic of China (PRC). However, by not designating Honor to the Entity List following its divestiture from Huawei, U.S. technology and software can flow to a company that should be restricted.

In May 2019, the ERC, composed of representatives of the Departments of Commerce, State, Defense, and Energy, determined that Huawei Technologies Co., Ltd. (Huawei) has been involved in activities contrary to U.S. national security and foreign policy interests. This action, which received bipartisan support, requires Huawei and its affiliates to obtain a Bureau of Industry and Security (BIS) issued license for all items subject to the Export Administration Regulation, such as semiconductors.

With its access to U.S. technology and software cut off,¹ Honor was sold to a PRC state-led consortium, including majority ownership by the Shenzhen government. Analysts have noted that selling Honor gave it access to the semiconductor chips and software it relied on and would have presumably been blocked had the divestiture not gone through.² The Center for Strategic and International Studies suggests that the PRC state with guidance from the Chinese Communist Party (CCP) stepped in as an “investor of first resort” to rescue a national asset in a strategic sector from U.S. sanctions. The visible hand of the Party-state intervened to shield Honor from U.S. export controls.

This coordinated divestiture and acquisition reveal the extent to which nominally private entities, such as Honor, are deeply embedded within a PRC ecosystem that leverages interconnections among the CCP, state-owned banks, local governments, and venture capital for strategic objectives. The sale of Honor was not a market-based outcome, but rather orchestrated by the Party-state. The same concerns about technology exports to Honor when it was part of Huawei should apply under its current state-backed ownership structure. If we move too slowly and focus only on discrete entities rather than networks and ecosystems, the CCP's novel Party-state economy can outmaneuver U.S. sanctions.

Therefore, we request a response in two weeks and would also like to request a briefing with the ERC to ensure the Administration is moving with enough speed to counter CCP attempts at export control evasion.

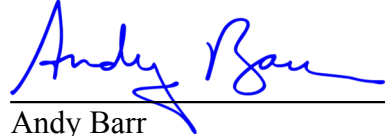
¹ Honor reportedly accounted for one-third of all the mobile phone chips imported by Huawei

² <https://www.thewirechina.com/2021/01/24/whats-behind-huaweis-deal/>

Sincerely,



Michael T. McCaul
Member of Congress



Andy Barr
Member of Congress



Liz Cheney
Member of Congress



Mike Gallagher
Member of Congress



Michael Waltz
Member of Congress



Anthony Gonzalez
Member of Congress



Darin LaHood
Member of Congress




Guy Reschenthaler
Member of Congress



Chris Stewart
Member of Congress



Mark E. Green, MD
Member of Congress



Mike Garcia
Member of Congress



Austin Scott
Member of Congress



Diana Harshbarger
Member of Congress



Young Kim
Member of Congress

Congress of the United States
Washington, DC 20515

March 17, 2022

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

Dear Secretary Raimondo:

We write to express our continued concern with your ineffective export control licensing policy for the Semiconductor Manufacturing International Corporation (SMIC)—a Chinese Communist Party (CCP) military company. This company is a top actor in the CCP’s Military-Civil Fusion Strategy as well as a Chinese state-owned enterprise. Because SMIC is integral to CCP military and technological ambitions, closing loopholes in its licensing policy is critical to combating Beijing. A serious U.S. export control policy should be predicated on denying foreign adversaries’ efforts to supplant American economic, technological, and military leadership.

Although SMIC’s designation on the Entity List is hampering its ability to make the most bleeding-edge semiconductors, it is having little to no effect on its overall production capability. On a bipartisan basis, the House Foreign Affairs Committee has released licensing data that BIS is denying less than one percent of applications to sell technology to SMIC. Because of the failure to fully tamp down on this CCP-controlled company, SMIC is selling its products at record rates around the world and bringing in money. Moreover, there is heightened concern that SMIC may divert technology to Russia, despite U.S. sanctions.

We therefore ask that the Department of Commerce rewrite SMIC’s Entity List rule to close dangerous loopholes that appear to allow nearly all sales to SMIC to continue without restriction. Our specific request was and remains to amend the SMIC rule to set the threshold at 16 nanometers, as well as replace the phrase “uniquely required” with “capable of producing.” We additionally request that all items “capable of producing” at 16 nanometers have a licensing policy of denial and all other items subject to the Export Administration Regulation—including deep ultraviolet lithography—have a presumption of denial. We request all license determinations to SMIC be given to our offices, in accordance with section 1761 of the Export Control Reform Act of 2018, on a monthly basis until SMIC is removed from the Entity List.

Furthermore, we reiterate our request that the Department of Commerce apply the Foreign-produced Direct Product Rule (FDPR) to this updated SMIC Entity Listing, which would cover any semiconductor manufacturing equipment that is built with or incorporates any U.S.-origin technology. Absent clear, substantially similar rules by our trading partners, the Department of Commerce must use its authorities to restrict SMIC’s ability to acquire foreign-produced items that are the direct product of U.S.-origin technology.

We have written to the Commerce Department twice to express these concerns, imploring the department to take all steps necessary to strengthen American economic security. Since our last communication on the topic in March 2021, SMIC has posted record earnings, announcing soaring profits and sales up 39 percent during calendar year 2021. It was the company's strongest growth in annual revenue since 2010.¹ But, as of December 2021, reporting² suggests that the Biden Administration had not yet resolved whether to block additional sales of American technology to SMIC and instead was mulling working with partners and allies in reaching such a decision. We request an update on the state of these discussions if they are indeed occurring, especially in light of SMIC's record profits, by March 25, 2022.

Finally, as the Biden Administration implements updated export controls on the Russian Federation for its further invasion of Ukraine, it must use all tools necessary to monitor potential evasions or violations by the People's Republic of China's (PRC). We are deeply concerned that Assistant Secretary Matthew Axelrod recently acknowledged that BIS has nine export control officers posted overseas, including only two in the PRC and zero in Russia. Considering the PRC's Anti-Sanctions Law and Blocking Statute, we request information from the department about its bandwidth to ensure that foreign companies such as SMIC are in fact adhering to the FDPR, as an inability to do so would render the rule impotent.

Adopting a stronger export control approach vis-à-vis SMIC would fortify American industry, weaken a malign CCP competitor, and further cut off the flow of critical technology to Russia as it upends the rules-based international order and invades a neighboring democracy. Given the CCP's tacit support for Vladimir Putin's further invasion of Ukraine and Beijing's clear alignment with Moscow, the department should act immediately. Thank you for your attention to these important matters, and we look forward to a detailed response.

Sincerely,



Marco Rubio
U.S. Senator



Michael McCaul
U.S. Representative

¹ <https://www.reuters.com/world/china/chinas-smic-earns-record-revenue-2021-boosted-by-global-chip-shortage-2022-02-11/>

² <https://www.reuters.com/technology/us-still-undecided-further-restricting-chinas-smic-sources-2021-12-17/>

1. Chairman Milley of the Joint Chiefs of Staff has called China's hypersonic test "a Sputnik moment" that is "concerning."
 - a. Do you agree that China's advancements in hypersonics and hypersonic weapons are a threat to U.S. national security?
 - b. Chinese companies such as Phytium ("Feiteng Information Technology Co., Ltd") and Higon¹ that your department has placed on the entity list for designing semiconductor chips for supercomputers that helped directly and in no uncertain terms advance China's hypersonics missiles. Are you aware of this fact?
 - c. These companies are People's Liberation Army-run Chinese semiconductor firms. While these companies are on the entity list, they face zero restrictions in using manufacturing facilities in Taiwan, which use some of the world's most advanced semiconductor technology. Your department has regulatory tools it can use to prohibit companies on the entity list—and other Chinese semiconductor design firms—from using manufacturing facilities outside the United States, if those manufacturing facilities use U.S.-origin items or technology. Because of the ubiquity of U.S. semiconductor manufacturing tools in semiconductor fabrication facilities globally, this "foreign direct product rule" can be highly effective. It was used extremely successfully for Huawei to choke off their access to 5G semiconductors. The U.K. government cited the FDPR for Huawei as a reason it decided not to use Huawei in its 5G systems. As a result, the FDPR was critical to stemming the advance of Huawei's 5G systems globally. Moreover, the FDPR for Huawei did not appear to harm the U.S. economy, or U.S. suppliers to Huawei.
 - i. Can you explain why you don't think it's a good idea to use the foreign direct product rule to ban a PLA company clearly linked to China's

¹ Higon is also tied to China's national microelectronics efforts, including the China Academy of Science Institute of Microelectronics which is a member of U.S. open source platforms, such as RISC-V. Phytium and Higon also both participate in the O-RAN alliance.

hypersonics program, or any other PRC-based semiconductor company on the Entity List, from accessing the most advanced chip technology, when you could do this with a stroke of a pen today?

- ii. How many licenses has BIS received, approved, and denied for Phytium and Higon?
 - iii. What threshold must be met for BIS to use the FDPR?
 - iv. On April 9, 2021, the Washington Post reported on Phytium's connection to the PLA and use of U.S. technology. On April 15, 2021, Ranking Member McCaul and Senator Cotton wrote the Department of Commerce a letter urging tighter restrictions on Phytium, including using the FDPR. In the July 19, 2022 hearing before our committee, you repeatedly commented that you would use all tools available to combat risks associated with China. However, in the case of Phytium and Higon BIS has not used all the tools available to it. Why is BIS waiting so long to use the FDPR on Phytium and Higon?
 - v. You told Rep. Green that you are "...all about the end goal which is precluding the Chinese military from enhancing their capability." If this is the case, why is BIS not using the FDPR on these Chinese military companies from accessing technology and capabilities globally?
2. In late 2020, BIS added SMIC—China's largest semiconductor foundry company—to the Entity List, applying a presumption of denial for items "uniquely required to produce semiconductors at advanced technology nodes 10 nanometers or below." This overly narrow licensing policy likely allowed SMIC to get semiconductor tools capable of producing 14nm chips. As you know doubt understand, Mr. Estevez, once a foundry is able to make 14nm chips, it is able to make FinFET—a 3D transistor technology. And it is a fairly similar architecture from 14nm to 7nm. Moreover, the vast majority of semiconductor manufacturing equipment are compatible within this range. Indeed it's

reported that from node-to-node, 90%-95% of tools are compatible. Essentially the BIS licensing policy restricts very little to no technology to SMIC. Moreover, our committee received licensing data from BIS that \$100 billion worth of licenses were approved to SMIC—and less than 1% were denied—over a six month period. On three occasions (in 2020, 2021, and 2022), Senator Rubio and Ranking Member McCaul wrote letters to the Department of Commerce calling on BIS to update the SMIC licensing policy. Recent news that SMIC is shipping 7nm foundry Application Specific Integrated Circuit's (i.e. an integrated circuit chip customized for a specific purpose) confirms that BIS' licensing policy for SMIC is an utter failure—as Senator Rubio and Ranking Member McCaul predicted in 2020. Now, SMIC is shipping a foundry process with commercially available chips in the open market which are more advanced than any American company.

- a. Will BIS subject SMIC to a presumption of denial for all items subject to the Export Administration Regulations immediately?
 - b. What credible reasons exist to let this loophole continue?
 - c. Will BIS use a foreign direct product rule and lower *de minimus* thresholds to remove SMIC's access to items and technology outside the United States?
3. Over many years, the United States has adopted lenient export controls and licensing policies for technology transfer and export of items to the PRC. The goal of this loose export control policy with China was to a great extent to allow U.S. companies to export critical technologies to China in return for money they earn in sales that can be applied to more advanced R&D in the hopes that they are able to accelerate technological development much faster than China. This approach overlooks China's massive industrial subsidies which exceed any level that a market-driven economy is ever able to match. It also overlooks China's own approach to research and development that takes advantage of ties to U.S. research, induces U.S. participation in R&D in China, and massive state-support and funding for R&D. Indeed, China is now using U.S. technologies, and its tremendous size and scale of subsidies to catch up, run faster, and in many respects, such

as hypersonics, AI, and genomics, race ahead of America and the rest of the world. Moreover, U.S. firms are providing the resources, know-how, and expertise to develop PRC firms as suppliers.

- a. During your time as Under Secretary will you reexamine the costs and benefits to an approach of exporting technology to China in exchange for revenue, knowing that China is actually capable of outrunning and outspending us?
 - b. Can you provide this Committee with another approach to protecting U.S. technology, or is this “run faster” strategy the only plan?
4. Georgetown Center for Security and Emerging Technology wrote that “in 2018, only seven license applications [for semiconductor manufacturing equipment] were filed and all were approved” and the data suggested that “export controls covered almost no semiconductor manufacturing equipment.”²
 - a. Does seven license applications for such a critical, enabling technology make sense, when we all agree that semiconductors are critical to national security, China has a stated plan to dominate the supply chain, and all the tools are made either by the United States or two of its allies?
 - b. Can you provide this Committee with all the license applications and decisions to China for semiconductor manufacturing equipment over the previous 18 months?
 - c. Can you provide this Committee with a breakdown of semiconductor equipment that is on the Commerce Control List versus EAR99, and provide the licensing policy for each tool with respect to China?
5. In May it was reported that the National Science Foundation is indirectly funding research involving an entity on the Entity List. A senior official at NSF said the U.S.

² <https://cset.georgetown.edu/publication/u-s-semiconductor-exports-to-china-current-policies-and-trends/>

awardee told NSF that the grant was legal because “this is fundamental research and so the Entity List doesn’t apply here.” The Chinese company develops visual recognition technology used to identify Muslim minorities.

- a. This partnership is apparently legal, but do you think it’s ethical?
 - b. Should a company on the entity list be able to participate in U.S. fundamental research? Yes or no?
 - c. Will you commit to working with congress to update export controls on fundamental research within your tenure as Under Secretary?
6. The most talented scientists in the U.S. are researching critical emerging technologies at major American universities funded by taxpayer dollars, and yet BIS’s fundamental research exception allows any research conducted at these universities that are “intended” to be published to fall outside of the jurisdiction of export controls. This means that if the results of the research project are “intended” to be published, any foreign national from an adversarial nation can absorb the tremendous amount of know-how transfer that occurs from working in a lab.
 - a. Why is BIS allowing the hands-on, unpublished input, knowledge, and experience that goes into conducting research in collaborative environments and is not easily replicable through passive reviews of published literature to be uncontrolled?
 - b. Why would China devote so much effort and resources -- such as through its talent programs that recruit individuals who had placement and access to U.S. research -- if they can just read the published literature at home and “use” it themselves?
7. BIS maintains lists of dozens of companies that have been placed on the Entity List for surveillance activities associated with the forced labor camps in China, including the

drone company DJI, and tech companies like Hikvision and IFLYTEK. The Uyghur Forced Labor Prevention Act effectively sets a regional ban on importing certain items to the United States unless the Chinese company can prove its products don't use forced labor.

- a. Why is BIS not applying a similar “rebuttable presumption of denial” to China for U.S. items that could support genocide and forced labor?
 - b. The Atlantic Council recently published an article arguing that the “rebuttable presumption” offers a unique tool for policymakers and legislators to close export control loopholes.³ Do you agree with that assessment?
8. As you know, SenseTime—a Chinese AI company—was added to the Entity List in October 2019 for enabling human rights violations against Muslim minorities. But in June 2020, BIS made a tweak to the SenseTime entity listing, changing its name from “SenseTime” to “Beijing SenseTime,” one of its subsidiaries. In September 2021, it was reported that in an IPO filing in Hong Kong, SenseTime said the BIS action, “has not had a material adverse impact on the business.”
 - a. Why did BIS make this a change in June 2020?
 - b. Since October 19, how many license applications has BIS received to export to SenseTime? How many applications has BIS approved or denied? And what is the value of the applications?
 - c. Why has BIS taken no action since September 2021 to correct this change, considering SenseTime has said it has not had a material adverse effect on its business?

³ <https://www.atlanticcouncil.org/blogs/geotech-cues/the-next-phase-of-us-china-economic-and-tech-decoupling/>

- d. Supplement No. 5 to Part 744 of the EAR explains that only the chairperson of the End User Review Committee—i.e. the Department of Commerce—can circulate a proposal for an entity listing. Once the Department of Commerce circulates a proposal, the members of the End-User Review Committee (Department of State, Department of Commerce, Department of Defense, and Department of Energy) must vote no later than 30 days. Given the 30-day timeline and the fact that it's been approximately 10 months since SenseTime publicly stated that the rule has had no material impact, is it correct to assume that the Department of Commerce has not circulated a proposal to update the entity listing—something only the Department of Commerce is allowed to do?
 - e. Isn't it more prudent to designate the corporate parent entity—capturing all subsidiaries and affiliates—rather individual affiliates?
9. On a bipartisan basis, the House Foreign Affairs Committee publicly released export control licensing information on Huawei and SMIC that our committee received, which revealed that BIS approved \$100 billion worth of license applications and denied less than 1 percent of license applications over a six month period from November 2020-April 2021.
- a. How can you explain such a huge volume of approvals despite a presumption of denial?
 - b. How many licenses that were approved for Huawei and SMIC before being put on the Entity List were revoked after the companies were put on the Entity List?
 - c. Are you satisfied with those numbers, and what will you do to correct this problem?
10. In November 2020, China's government, acting through the Shenzhen branch of the State-owned Assets Supervision and Administration Commission of the State Council

(SASAC), took control of Huawei's smartphone business, Honor. Honor inherited Huawei's R&D teams from Shenzhen, Beijing, and Xi'an, together with the "highest quality assets of the Huawei system," including the most advanced technology and design. Honor, having been restructured as a separate entity, appears to fall outside current U.S. export control restrictions on Huawei. In August 2021, the Chair of the House GOP's Task Force on China and some of its Members sent a letter to Commerce Secretary Gina Raimondo asking that the End-User Review Committee (ERC) designate Honor Device Co. Ltd. to the Department of Commerce Entity List. In mid-September 2021, media reports indicated that U.S. agency participants in the ERC had considered whether to add Honor to the Entity List, but the decision was split at a staff level and would be escalated to a higher policy level, likely the Advisory Committee on Export Policy.

- a. Since November 2020, how many license applications has BIS received for Honor? How many licenses were approved and how many were denied?
 - b. If BIS knows the intent of an acquisition or sale by a Chinese company is to avoid export controls (which is clearly the case with Honor), then is that grounds for the spun off company to be put on the Entity List?
11. Generally, when a specific type of technology is available abroad, BIS tends either to NOT control it or BIS approves license requests to export the U.S.-origin technology abroad. This is the so-called "foreign availability" policy. But foreign availability does not necessarily mean foreign willingness to sell. Also, many times, products that are available abroad are not of the same quality level as the products that are the subject of an export license before BIS.
 - a. Section 1754 of the Export Control Reform Act of 2018 requires the establishment of "a process for an assessment to determine whether a foreign item is comparable in quality to an item controlled under this part, and is available in sufficient quantities to render the United States export control of that item or the

denial of a license ineffective, including a mechanism to address that disparity.”

Can you provide our committee with several case studies on the granular mechanics for how this process works and how decisions are made?

- b. Does BIS consult with foreign governments about their willingness to control a technology before it uses the foreign availability policy to approve a license?
 - c. Will BIS provide HFAC with copies of its “foreign availability” assessments for all items subject to Commerce Control Categories 3 and 4 for exports to China, where licenses were approved in the second quarter of 2022?
 - d. The Export Administration Act of 1979 required the Secretary of Commerce and the Secretary of Defense to “cooperate in gathering information relating to foreign availability, including the establishment and maintenance of a jointly operated computer system.” Do Commerce and Defense share a computer system to gather information to make foreign availability assessments? Can you provide our committee a site-visit to view this system?
12. Multiple times during our hearing, you said an Entity Listing must withstand a lawsuit. You told Representative Perry, that the “Department of Defense list has different rationales than our list...now DoD’s list has had people sue them and get off the list.” You noted that there has been at least one successful suit against DoD out of “hundreds” of companies on the list. As you correctly stated, the legal risk for DoD and its Chinese military company list is not the same as the BIS entity list requirement and should not be conflated. In one such case regarding the DoD list, the D.C. District Court’s preliminary injunction cited the Administrative Procedure Act in finding that DOD did not develop sufficient evidence to support its designation of Xiaomi as a military company.

Based on our research, BIS has not lost a court case for entity listing a Chinese company. In fact, in two recent cases when BIS was taken to court by Chinese companies, BIS won.

BIS successfully argued that the Export Control Reform Act authorizes it to take “any” actions that would be “necessary to carry out” the objectives of the statute that are not prohibited by law.

- a. How many court cases has BIS lost with respect to an entity listing for a Chinese company?
 - b. It appears the Administrative Procedure Act has contributed to legal risks for the DoD list. Doesn’t the Export Control Reform Act of 2018 preclude the courts from engaging in an Administrative Procedure Act review of BIS? If that is the case, can you please provide more details of your legal risk?
 - c. If we consider that the Courts concur that BIS has quite broad authority, can you give clear examples of your legal risk and why BIS is not more aggressively designating Chinese companies or applying technology controls—especially considering the PRC’s genocide, pervasive forced labor, and Military-Civil Fusion Strategy should give abundant cause for more designations?
 - d. If there is a risk of legal action, can you provide our committee with the statutory gaps that Congress should seek to fill to lower your risks?
 - e. Is there a risk that one successful PRC legal challenge of DoD is preventing the use of U.S. export controls to protect and advance U.S. national security interests?
13. BIS appears to be undermining the effectiveness of its Entity List by using so-called “case-by-case” review, instead of a “presumption of denial” or “policy of denial” that actually means what it says for all items subject to the EAR. We all understand that a “case-by-case” review is in many ways understood as a “presumption of approval.”
- a. What is the rationale for presuming approval for any export licenses to an entity that is acting contrary to U.S. national security and foreign policy risks?

- b. What quantifiable thresholds must be met for BIS to use a case-by-case review for certain items instead of a “presumption of denial?”

14. Nearly four years since the passage of the Export Control Reform Act, we still have virtually no meaningful controls on emerging technologies, as required by Section 1758. Although ECRA 1758(c)(2) makes clear that these emerging and foundational controls should initially be unilateral controls and later pursued at multilateral fora, almost all of the “emerging” controls BIS has issued have originated through multilateral export control regimes.

- a. Of the “emerging controls” published by BIS, how many items were initially proposed by the U.S. government for control at the multilateral regimes versus items that other countries proposed and were later adopted by BIS as an “emerging” control?
- b. Please provide to us (1) a list of emerging technology proposals by all countries through the multilateral regimes, and (2) provide a description of the positions that the U.S. took on each control proposal since 2018, when ECRA was enacted?
- c. What is the difference between a emerging control under Sec. 1758 and a 0Y521 control?
- d. Since the establishment of the 0Y521 ECCN, how many products and technologies have been placed in this category? How many of these products or technologies have been considered “emerging”? To which ECCNs were these products or technologies shifted? How many of these products and technologies were shifted to EAR99 classifications?

15. We are deeply concerned that BIS has not identified a single foundational technology. Foundational means that those technologies are well established, so presumably BIS

knows what they are. In many cases these are likely technologies that at one point BIS may have decontrolled.

- a. What's your timeline for correcting this problem?
- b. Can you commit to share with our committee all the technologies that are under review on a quarterly basis?

16. According to Reuters, BIS is apparently poised to let a Chinese company called WuXi Biologics off the Unverified List because WuXi allowed BIS to conduct a single end-use inspection at a facility in China. Of course, these types of inspections are pre-approved and pre-scheduled with the Chinese Communist government, specifically the Ministry of Commerce. One would be foolish to think that the Chinese do not carefully prepare the facility to show BIS what it wants you to see, but nothing more.

- a. Is it realistic to think that these types of pre-approved, pre-scheduled end-use checks on Chinese soil actually accomplish any useful objectives or otherwise enhance our national security?
- b. Why do we continue to grant licenses for dual-use exports to China when we cannot be sure that the license conditions have been adhered to (i.e. BIS is restricted from end-use checks)?
- c. Why would we believe that Chinese entities have any desire to adhere to U.S. export control laws when the CCP's anti-foreign sanctions laws and national security laws demand that the Chinese entities don't comply with our laws, but rather act in the CCP's best interest?
- d. How many licenses to China require end-user checks?
- e. How many license to China rely on verified end-users?

- f. How many end-user checks does BIS conduct in China on an annual basis over the past five years?
 - g. How many hours does an end-use inspector spend on site at a PRC location when conducting an end use check?
 - h. What length of time does a repient of licensed technology receive to come into compliance with an end-use check before a license is revoked?
17. During a CFIUS review, BIS can mitigate concerns about a transaction through the use of an export control.
- a. Does BIS keep track of how many CFIUS transactions it has attempted to address through the use of export controls?
 - b. Whenever BIS reviews export licenses to entities that had previously come under CFIUS review and where BIS had proposed to address national security risks through export controls rather than CFIUS, does BIS share that licensing information with the rest of the CFIUS agencies for input or approval, given that export controls were proposed as a mechanism to address the CFIUS national security threat?
 - c. If BIS does share licensing information with the rest of the CFIUS agencies, can you provide our committee with all such instances over the past two years?
18. Secretary Estevez, five of my Senate colleagues recently wrote a letter to Secretary Janet Yellen in her capacity as chair of the Committee on Foreign Investment in the United State, or “CFIUS,” urging CFIUS to take a close look at a Canadian company’s attempt to acquire a U.S.-based company that is a leading developer of connectivity technology. There are legitimate concerns that this acquisition is one of several recent efforts by a Chinese private equity fund to defy U.S. export control policies by acquiring and transferring sensitive U.S. intellectual property to power the Chinese Communist Party’s

efforts in 5G, data networking, supercomputing, and other critical industries. The Canadian company is Alphawave. The U.S.-based company is OpenFive. And the Chinese equity fund is Wise Road Capital.

Alphawave depends on financing and market access in China on a select number of Chinese firms, particularly Wise Road Capital. Wise Road is no stranger to CFIUS, which last year refused to approve Wise Road's attempt to acquire Magnachip, a South Korean semiconductor company, citing what CFIUS called "risks to the national security of the United States." Wise Road has an agreement with Alphawave to license Alphawave technology to Chinese companies in order to develop integrated circuits containing Alphawave's advanced semiconductor design IP. Alphawave's move to acquire OpenFive's intellectual property is a recent chapter in Wise Road's efforts to cultivate investments and ownership stakes in non-Chinese semiconductor enterprises, acquiring their cutting-edge assets and IP, and, in most cases, relocating them to customers in China whose identities and activities cannot be monitored reliably.

So, knowing that the Commerce Department is a member of CFIUS, I would urge you and your colleagues to take a close look at Alphawave's acquisition of OpenFive. However, I do think a more extensive investigation is needed by BIS with respect to Wise Road Capital, which is very much a critical player in creating a leading-edge, indigenous supply chain in China. The downstream recipients of sensitive U.S. technology and IP in this supply chain funneled by Wise Road could be or should be on the U.S. Entity List or other export control lists, circumventing the letter and spirit of U.S. export control laws and regulations. The nature of this effort by Wise Road, and their national security impacts warrant a look not just by BIS alone, but also by its counterparts in Canada, as well as the UK, where Alphawave also has a presence, and even the Australians.

19. In March, I was joined by eleven of my colleagues on the House Republican China Task Force writing to National Security Advisor Jake Sullivan, raising our grave concerns and recommending urgent action to address the People's Republic of China's (PRC) ongoing collection and misuse of genomic data. The leading edge of this threat is Beijing

Genomics Institute (BGI), the world's largest genomics company, which has deep ties to the PRC government and its industrial programs, the Chinese Communist Party's (CCP) military, and its genocide in Xinjiang.

The Commerce Department's Entity List is used to restrict exports to any entity that is "reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States." Although two BGI subsidiaries are currently on the Entity List, other parts of BGI's corporate nexus have unrestricted access to American goods and technology, including DNA sequencing instruments, components, and semiconductors. Therefore, the Commerce Department at the very least must expand these designations to include Shenzhen BGI Technology Co., Ltd (Shenzhen BGI); BGI Genomics Co. Ltd. (BGI Genomics); Shenzhen BGI Forensic Tech Co., Ltd. (BGI Forensics); MGI Tech Co. Ltd.; Wuhan MGI Tech Co., Ltd.; Shenzhen BGI Biomedical Engineering Co., Ltd.; and BGI Tech Solutions (HongKong) Co., Limited.

As the Under Secretary for Industry and Security, do you share our concerns regarding the collection and misuse of genomic data by the PRC? Do you commit to expand the Entity List designation of BGI to include the subsidiaries listed? If not, can you explain the process through which you made this determination? Does your office have the authorities and resources to follow through on this recommended action?

20. You stated that one reason BIS did not apply updated export controls on Russia in advance of its invasion of Ukraine was the need to get the support of other countries.
 - a. This rationale seems to imply that the potential negative affect on U.S. revenue gained from continued access to sell items to Russia was more important than the benefit of preventing sales to the Russian military. What was the basis for this consideration when the Russian market for many U.S. companies was insignificant?

21. When asked about imposing the same MEU rule on China as are currently in place on Russia, you said you didn't set China policy. However, as our government's most senior export control official, you do set the administration's export control policy.

- a. Aren't you, as Under Secretary, able to lead the update of a MEU rule for China? Or does BIS need the approval of another agency to do that?

22. You mentioned that the Biden administration has put more than 100 Chinese entities on the Entity List.

- a. How many of the Chinese entities designated by the Biden administration were affiliates, subsidiaries, or other parts of a company currently on the Entity List versus a entirely different company?

23. Please provide our committee with the following information:

- a. Outcomes for each licensing decision made at the operating committee, including the final disposition and vote records, which doesn't disclose how each agency voted.
- b. Data over the past five years to assess if BIS is properly following section 750.3 of the E-A-R? That is documentation that BIS properly consulted the Department of Defense, Department of State, and Department of Energy before approving a license or making a CCATS determination.

24. You mentioned several times that BIS is doing all it can do with respect to controls on Russia and China. The recent news on SMIC clearly indicates that BIS is not using all its authorities to protect national security.

- a. How will you benchmark and quantify your progress in controlling technology from our adversaries?

25. You mentioned that the list of PRC firms on the Entity List is long. The list of Russian entities subject to current U.S. export controls is also long.
- a. Could you please explain why BIS seems to have adopted an actor-based approach to restrictions in using the Entity List and a focus on certain military-end users with regard to both Russia and China?
 - b. Why has BIS not adopted a countrywide approach to restrictions on Russia and China more generally?
 - c. Would a countrywide restriction be easier to enforce and involve more comprehensive controls?
26. How effective are military end-use and end-user controls in the current context of Russia and China? How does BIS enforce controls on in-country transfers and ensure that licensed technology trade is used only by or for the intended end-user and end-use in Russia and in China? Please describe how the end-user check process works generally. How many end-user checks have been conducted annually in Russia since its invasion of Crimea in 2014? How many end-user checks have been conducted annually in China over this same period?
27. China's leaders have not condemned Russia's invasion of Ukraine—instead largely blaming the United States and NATO—and they have criticized and refused to join U.S.-led sanctions on Russia. The Biden Administration has said that it expects China not to substantially support Russia.
- a. In your view, should the Administration apply greater pressure on China to impose new export controls and sanctions on Russia or require China to provide evidence that its firms are adhering to U.S. export controls?

- b. Why has BIS not imposed any new licensing requirements on U.S. technology exports to China to require China's compliance with U.S. controls on Russia as a condition of receiving U.S. dual use technology?
- 28. The current approach toward China seems to require the U.S. government to prove first that Chinese firms are violating sanctions in a consequential way to justify any new actions or restrictions on China.
 - a. Could you please explain how BIS is monitoring technology trade flows between China and Russia, including direct and indirect trade through third countries?
 - b. How many BIS personnel are focused on China's technology exports in this regard?
 - c. How comprehensive or effective do you think such efforts are in being able to monitor and counter any trade or transactions of concern?
- 29. BIS placed restrictions on five Chinese trading companies earlier this month.
 - a. Have Chinese companies been abiding by U.S. export controls, particularly those related to foreign direct-products of controlled U.S. technologies?
 - b. Are there other signs of diversion or non-compliance? If so, could you provide the details of this cooperation, and how you assess this cooperation to be occurring?
 - c. What are your potential gaps in being able to identify circumvention or non-compliance?
- 30. Please provide the Committee with quarterly licensing data starting with Q1 and Q2 2021 to show how BIS is handling U.S. exports to Russia and China, including a breakdown by licenses that have been granted, excepted, denied, not required (all CCATs

determinations), or returned without action by sectoral breakdowns. For RWA items please identify the instances when proposed transactions came back to BIS for review and which ones should be effectively considered as no license required. As part of these quarterly reports, we would also like to see breakouts by Commerce Control List categories (ECCNs) and EAR99 items for all companies listed on the EL and MEU, broken down by country (China, Hong Kong, Russia) and by parent firm on the EL (e.g. Huawei, SMIC, AVIC, CETC). For semiconductors and aerospace, we would like to see a separate report that shows all U.S. trade, including EAR99 items, to Russia and China, in these two areas and how this trade were categorized and handled from a licensing perspective by BIS according to the same categories highlighted above in the first sentence. Would you please commit that BIS will provide all of this this information outlined above to the Committee on a regular quarterly basis going forward? When should we expect such reports so that we can prepare to review and respond on a regularized basis?

31. We would also like to understand more about the duration of a typical license and how existing licenses are treated when new restrictions such as an EL listing or MEU designation are imposed.
 - a. How does BIS go back over these licenses?
 - b. If a firm has an existing contract with a company newly added to the EL or MEU list would licenses apply to existing or only new contracts?
32. Relatedly, licensing data in BIS' 2021 annual report shows a sharp uptick in license applications, approvals, and denials for trade with China since 2020. It is our understanding that this increase may be due to the increase in PRC firms added to the EL since 2019 for which trade now requires licenses. The total amount of these license amounts, however, appears to dwarf the numbers shown for U.S. goods and services trade flows with China. We surmise that some of this discrepancy may be because BIS

values licenses over their duration or may reflect technologies traded or transferred from third markets.

- a. Could you please explain what these licensing amounts represent and why they are so different from U.S. goods and services data on technology flows to China?
- b. It there is a significantly greater amount of U.S. technology flowing to China than current U.S. trade data suggests?

33. Please provide a list of all PRC firms on the EL by parent, excluding the multiple subsidiaries or institutes tied to the parent as well as individuals that are listed. If BIS counts firms in such a way, how many PRC firms are on the EL? Please explain why BIS EL listings of firms of concern such as Huawei and firms identified by DoD as military firms such as AVIC and CETC are not listed in their entirety, and only listed partially? Why has Honor and Sense Time's Beijing office not been added to the EL as a workaround to the Huawei EL listing? Why does BIS only include certain business units, institutes or subsidiaries when the firm is known to be of concern to the U.S. government? It seems strange that BIS only lists them partially and then counts all of the sub-institutes or subsidiaries as separate PRC listings? This seems to create serious gaps in the effectiveness of controls. It also seems to make the list of PRC firms on the EL seem longer than it is. Wouldn't a shorter list that includes the parent and any entity tied to that firm allow for stronger controls?

34. You told our committee that you are "all-in" to break and squeeze the Russian militaries capabilities. However, your recent Entity Listing of certain Chinese entities reveals that China continues to support Russia's aggression in Ukraine and reporting by the Wall Street Journal shows that Chinese firms are selling Russia goods its military needs. Your department could expand the country-wide restrictions on Russia to all items subject to the Export Administration Regulations or put more restrictive licensing requirements on China, considering trade may be diverted through China to Russia. However, these actions have not been taken.

- a. How will you operationalize your “all-in” commitment to fill regulatory holes to squeeze Russia further?
35. What is the average length of time from start to end of an investigation into a violation of export controls? Please provide us with regular updates on the investigation of YMTC and notify our committee when that investigation has ended and inform us of the outcome.



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,



Michael McCaul
Ranking Member
House Foreign Affairs Committee