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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