

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