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

March 6, 2023

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

Dear Under Secretary Estevez:

We are writing to request clarification of the Biden Administration’s licensing policy regarding Huawei, as you potentially consider halting the issuance of new export control licenses to the company.¹ Your comment at the House Foreign Affairs Committee hearing on February 28 that Huawei’s licensing policy is still “under assessment” is concerning because the current practice appears to deny few if any licenses to Huawei—even for items on the Commerce Control List.

As you know, Huawei has been repeatedly recognized as a significant threat to U.S. national security and foreign policy interests and the U.S. government has taken numerous actions to mitigate that threat. In 2012, a bipartisan investigative report by the Permanent Select Committee on Intelligence found that “Huawei...pose[s] a security threat to the United States and to our systems.”² In 2019, the Department of Commerce Bureau of Industry and Security (BIS) designated Huawei on its Entity List and later applied a Foreign Direct Product Rule (FDPR) “because there is reasonable cause to believe that Huawei has been

¹ Karen Freifeld et al., U.S. Stops Granting Export Licenses for China’s Huawei, Reuters (Jan. 31, 2023, 1:05 PM), <https://www.reuters.com/technology/us-stops-provision-licences-export-chinas-huawei-ft-2023-01-30/>.

² See U.S. House of Representatives Permanent Select Committee on Intelligence, Investigative Report on the U.S. National Security Issues Posed by Chinese Telecommunications Companies Huawei and ZTE, (Oct. 8, 2012), [https://intelligence.house.gov/sites/intelligence.house.gov/files/documents/huawei-zte%20investigative%20report%20\(final\).pdf](https://intelligence.house.gov/sites/intelligence.house.gov/files/documents/huawei-zte%20investigative%20report%20(final).pdf).

involved in activities contrary to the national security or foreign policy interests of the United States.”³ Also in 2019, Congress passed Section 889 of the John S. McCain National Defense Authorization Act to prohibit the federal government and its contractors from procuring Huawei equipment or services.⁴ In 2020, the Department of Defense labeled Huawei on a list of “Communist Chinese military companies operating in the United States.”⁵ The same year, the Federal Communications Commission concluded that “Huawei poses a national security threat to our nation’s communications networks and the communications supply chain.”⁶ In February 2020, the Department of Justice charged Huawei with conspiracy to violate the Racketeer Influence and Corrupt Organizations Act.⁷

While we commend BIS for using the Entity List and FDPR to curtail Huawei’s unconstrained march to dominate 5G telecommunications systems globally, public data, however, suggests BIS’s use of export controls towards Huawei must be strengthened significantly, as the company can still buy significant amounts of U.S. technology. In October 2021, the House Foreign Affairs Committee released data from BIS stating that from November 9, 2020, to April 20, 2021, it approved licenses authorizing at least \$61 billion in exports of technology to Huawei. In August 2021, Reuters reported that BIS approved licenses authorizing exports of chips to Huawei for in-vehicle technologies, such as video screens and sensors.

In the absence of any further reporting or posting on the Federal Register, we seek clarification of BIS’s licensing policy and actions toward Huawei. We request the following information no later than March 16, 2023:

1. Has the Administration halted the issuance of new export licenses for Huawei, and, if yes, when did that policy take effect?
2. If there is a new licensing policy, will current licenses be revoked?

³ Addition of Entities to the Entity List, 84 Fed. Reg. 22,961 (May 21, 2019) (to be codified at 15 CFR § 744), <https://www.bis.doc.gov/index.php/documents/regulations-docs/2394-huawei-and-affiliates-entity-list-rule/file>.

⁴ See John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, § 889, 132 Stat. 1636 (2018).

⁵ Department of Defense, Qualifying Entities Prepared in Response to Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 (PUBLIC LAW 105-261) (Jun. 12, 2020), https://media.defense.gov/2020/Aug/28/2002486659/-1/-/1/1/LINK_2_1237_TRANCHE_1_QUALIFYING_ENTITIES.PDF.

⁶ In the Matter of Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs – Huawei Designation, 35 FCC RCD 6604 (8) (Jun. 30, 2020).

⁷ Department of Justice, Chinese Telecommunications Conglomerate Huawei and Subsidiaries Charged in Racketeering Conspiracy and Conspiracy to Steal Trade Secrets (Feb. 13, 2020), <https://www.justice.gov/opa/pr/chinese-telecommunications-conglomerate-huawei-and-subsidiaries-charged-racketeering>.

3. If current licenses are not revoked, how many licenses will remain in effect?
4. What is the duration and monetary value these licenses?
5. Will these licenses be renewed?
6. If a change to the Huawei licensing policy is still under assessment, when will that assessment conclude?

The Export Control Reform Act of 2018 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.”⁸

We look forward to your prompt responses.

Sincerely,



Michael T. McCaul
Chairman
House Foreign Affairs Committee

⁸ Foreign Investment Risk Review Modernization Act, 58 U.S.C. § 4820.