

September 3, 2024

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

Dear Secretary Raimondo:

I write to express concern with regard to major weaknesses in the U.S. Department of Commerce's export controls that are enabling companies with connections to the Chinese Communist Party's (CCP) armed wing, the People's Liberation Army (PLA), to access cutting-edge semiconductor technology made in the United States. Semiconductors remain the lifeblood of the 21st century's technological revolution. Cutting-edge chips are some of America's most advanced developments in computer hardware. As you know, these semiconductors have widespread military application, fueling capabilities such as artificial intelligence to provide militaries with an edge on the battlefield, something the CCP itself has written extensively on. Preventing America's adversaries from weaponizing these components for nefarious purposes is vital to our national security. America's government cannot afford to stand idly by as the CCP steals sensitive technologies and, through its military-civil fusion strategy, propels the growth of the PLA.

Nonetheless, semiconductor leakages in the Bureau of Industry and Security's (BIS) export regime persist. Despite current restrictions on advanced chips, a July 2024 report from the *Wall Street Journal* exposed 70 People's Republic of China (PRC)-based entities that annually import thousands of Nvidia's advanced artificial intelligence chips and distribute them to PLA affiliated entities that are restricted from obtaining such chips by BIS. Many of these entities can reportedly acquire dozens of advanced chips every month via third party vendors, and are reliable enough to offer preorder options to their customers weeks in advance. Concerningly, when the *Journal* requested a comment from the Department of Commerce, your agency failed to respond to the inquiry. The *New York Times* reported similarly on the semiconductor black market in early August, detailing an open electronics market in Shenzhen purveying high-end semiconductors. The *Times* cited procurement documents suggesting that more than a dozen PRC-affiliated entities, some with well-documented connections to the PLA, have purchased such chips in contravention of U.S. export controls. This is unacceptable.

When a reporter asked you in a recent interview about your agency's failures, you admitted that you are under "no illusions that we are doing it perfectly." While you have personally adopted an aggressive rhetorical posture on this issue, under your leadership, BIS has consistently failed to match this "tough talk" with strong measures that actually prevent sensitive U.S. technologies from falling into the hands of our adversaries. I worry that BIS' lethargic

posture stems from a problematic and deep-seated belief among bureaucrats that increased trade, of any kind, is universally good for American interests. It is your responsibility to change that culture.

Thankfully, a few simple steps could significantly improve BIS' ability to stop cutting-edge American semiconductors from empowering PLA military technologies. I have long called for BIS to adopt a blanket "presumption of denial" posture for export license applications that would send critical technology to *any* entity based in the PRC, due to the demonstrably high risk that such applications are intended to circumvent export controls. Last year, I introduced the *Depriving Enemy Nations of Integral Authorizations and Licenses (DENIAL) Act*, which would require BIS to adopt this approach for all entities in the PRC and the Russian Federation. However, you already have the authority under the Export Control Reform Act of 2018 to adopt these policies, and I urge you to do so immediately.

Any serious effort to deny America's adversaries access to powerful technologies mandates an unwavering export regime. As recent news reports demonstrate, BIS' current entity list approach is porous and ineffective. If you are serious about protecting American technology, the only effective solution is for BIS to aggressively deny licenses that would permit the export of advanced semiconductors to *any* entity that is based in the PRC. I urge you to direct BIS to address the semiconductor leakage at once.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Rubio", with a stylized flourish at the end.

Marco Rubio
U.S. Senator