

**House Committee on Foreign Affairs
Subcommittee on Oversight and Accountability**

**“Reviewing the Bureau of Industry and Security, Part I U.S. Export Controls in an
Era of Strategic Competition”**

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Chairman Mast, Ranking Member Crow, and other members of the subcommittee. Thank you for asking me to testify. I am happy to help the subcommittee with its oversight role however I can. Although I am now a partner in the international trade group at Akin Gump Strauss Hauer & Feld LLP and a non-resident Senior Fellow at Georgetown University’s Center for Security and Emerging Technology, the views I express today are my own. I am not advocating for or against any potential changes to legislation or regulations on behalf of another. My views are influenced by my 30 years of work in the area, which includes my service as the Assistant Secretary of Commerce for Export Administration during both terms of the Obama Administration.

I. Summary of Recent BIS Actions and Their Policy Objectives

To help set the stage for this hearing, I will summarize the major export control actions the Bureau of Industry and Security (BIS), in coordination with the other export control agencies, has taken since the beginning of 2022. On the one hand, the changes are novel in that they focus on responding to strategic national security threats created by specific countries (i.e., China and Russia) as opposed to the more classical country-agnostic multilateral regime-based controls that are largely focused on dual-use items identified as having a more direct relationship to the development, production, or use of weapons of mass destruction or conventional weapons. They also use a combination of novel (and quite complex) end-use, end-user, and extraterritorial controls. That is, even when basic commercial items or foreign-made items not normally subject to export controls are involved, the controls apply to activities by US persons and trade with specific foreign entities of concern.

On the other hand, the actions are not new in that BIS’s mission has always been to administer an interagency export control regulatory and enforcement system that governs activities involving lists of specific items, specific end uses, and specific end users of concern to advance and protect US national security and foreign policy interests. The difference is that the national security and foreign policy objectives of export controls, and the practical difficulties of enforcement, have evolved considerably since the foundations of the existing US and allied country export control systems were created soon after the end of the Cold War. The evolution in policy thinking about these broader strategic national security objectives is most clearly described in two speeches of the National Security Advisor, the National Security Strategy, and in the preambles to the primary Russia- and China-specific rules BIS published in 2022. In essence, with

respect to export controls, the national security objectives now clearly include broader China- and Russia-specific *strategic* objectives with respect to specific types of “force multiplying” or “enabling” emerging and foundational technologies.

As I described in far more detail in earlier testimony, there are two keys to making these and follow-on such controls both more effective and less counter-productive. By “more effective,” I mean that the rule actually stops or hinders the end users of concern from getting the items at issue *from any source*. My reference to “not counterproductive” means to ensure that foreign competitors of US companies do not get the income from sales of commercial items US companies are prohibited from receiving (as a result of the unilateral export controls) that will allow the foreign competitor to out-innovate, out-compete, or even displace entirely the US company. (I am not referring to controls to address human rights issues or over items bespoke for military applications, which should have different standards.) My “not counterproductive” point also refers to the reality that if the policy objectives and the direction of extraterritorial US export controls are too uncertain, then the uncertainty itself creates incentives for foreign customers to design out benign US-origin content and equipment in order to ensure that they have stable supply chains.

The first key to success is that the allied countries that have producers of the items at issue must agree that it is in our common security interests to impose similar controls as part of plurilateral and, eventually, a new multilateral regime system. I am not saying that all unilateral controls are bad, only that they (as described in ECRA section 4811(6)) become ineffective and counterproductive over different periods of time. The second key to success is that BIS and the other export control policy and enforcement agencies need massively larger authorizations and appropriations. They are doing great work, but the demands the issues of the day imposed on them are far greater than the resources they have to address them completely and quickly -- in addition to just running efficiently the legacy interagency export control licensing system that now processes well over 40,000 applications and other requests a year.

A. Russia

In response to Russia’s continued and brutal invasion of Ukraine, and Belarus’ enabling of it, BIS has been imposing significant, novel, and complex controls on the export and reexport to, and transfer within Russia and Belarus of a wide-range of previously uncontrolled U.S.- and foreign-made items. The BIS website has a detailed list of all the new controls and related enforcement actions that I would encourage you to read. The purpose of the new controls is “to protect US national security and foreign policy interests by restricting Russia’s access to items that it needs to project power and fulfill its strategic ambitions.” The new rules do this, in part, by leveraging the global dominance of US-origin items and equipment to largely block the export and reexport of US- and foreign-produced items that are essential inputs for sectors important to the Russia and Belarusian economies, primarily their defense, aerospace, and maritime sectors.

The rules also reflect an extraordinary amount of export control cooperation and coordination among close allies and partner countries that has not been seen since the end of the Cold War. This coalition of 38 countries (which includes Taiwan) is effectively a fifth export control regime. As a result, the plurilateral coalition is far more effective than if the US had imposed alone extraterritorial controls over foreign-made items. That is, with allied controls in place, foreign-made items that are not produced from US technology or equipment are also controlled. Such plurilateral controls help to remove the economic incentive for companies in allied countries to design out US-origin technology and equipment in order to avoid tainting their products.

In addition, BIS has imposed controls on any type of item subject to US jurisdiction when there is knowledge that it is intended for, entirely or in part, a military end-use or user in Russia or Belarus. There are also controls on the export, reexport, and transfer of “luxury goods” to Russia or Belarus, or to Russian or Belarusian oligarchs wherever located. In February 2023, BIS expanded and revised existing controls against Russian oil, gas, commercial, industrial, chemical, and luxury goods sectors to align with those of our allies. In February 2023 BIS also expanded the scope of extraterritorial controls over foreign-made items to address Russian use of Iranian-made UAVs. BIS has been regularly adding to the Entity List those that provide support to the Russian security services, military and defense sectors, and defense research and development.

There is little left to control other than basic commercial items, and even many such items are becoming subject to US and allied controls if they are of a type that could be re-purposed to help Russia’s war machine. Thus, the main issue is enforcement of US controls and allied controls. As evidence of the Administration’s efforts to make this issue a priority, BIS and the Justice Department announced in March 2023 that they had significantly expanded enforcement and prosecution resources focused on export control enforcement. In February 2023, BIS and the Justice Department launched their Disruptive Technology Strike Force. This effort will bring together experts from throughout the government to help enforce export controls. A significant focus of these efforts is identifying and stopping evasion by third-party intermediaries. As I have described in more detail in other testimony, it is also critical that the US work with allies to help them enhance both their intra-government and inter-government enforcement coordination efforts. (With one minor exception, BIS is unique among export control agencies in that it has both export control policy/licensing and enforcement resources in a single bureau.)

B. China

In October 2022, BIS imposed a series of significant new export controls designed to limit the development and production in China of (a) advanced node semiconductors; (b) semiconductor production equipment; (c) advanced computing items; and (d) supercomputers. The Biden-Harris Administration determined that the existence of indigenous capabilities to develop or produce such items in China is a national security

threat. To achieve these policy objectives, the new rules impose not only traditional controls on the export of listed commodities, software, and technology, but also novel controls on (a) activities of US corporations and individual US citizens; (b) exports of unlisted items for specific end uses; and (c) shipments from outside the US (including from China) of non-US-origin items produced with specific types of US technology, software, or equipment.

The stated policy bases for the new controls reflect the Administration's significant concerns about China's development and production of WMD and conventional military items, and the use of these technologies to enable human rights abuses. However, the new controls differ in scope from most previous export controls because they are unilateral (i.e., US only), targeted at one country (China), and applied to essentially commercial items that are several stages earlier in the development and production supply chain than the types of items traditionally subject to export controls.

For context, the US has imposed for decades a complete embargo against China on the export of any type of item, regardless of sophistication, that is in any way designed or modified for military, intelligence, or space-related applications. The US also prohibits the unlicensed export of many types of otherwise essentially uncontrolled commercial items if there is knowledge that they are for a military end use or a military end user in China, or for the production or development of WMD in China. In coordination with multilateral export control regime participating states, the US has also imposed for decades controls on "dual-use" items -- items that have both commercial and military (or WMD) applications. The U.S. also unilaterally controls a limited number of items for use in human rights abuses, such as instruments of torture.

Thus, the material difference in tone and scope of the new rule is that it, more so than any other post-Cold War export control rule, expansively considers "the impact of advanced computing integrated circuits, supercomputers, and semiconductor manufacturing equipment on enabling military modernization, including the development of WMD and human rights abuses" in one specific country, i.e., China. This policy and regulatory scope is why compliance with the rule will have a significant impact on otherwise commercial activities. BIS's policy response to these concerns is that they are appropriate because the government of China "has mobilized vast resources to support its defense modernization, including the implementation of its military-civil fusion development strategy, in ways that are contrary to U.S. national security and foreign policy interests." BIS also stated in its preamble that the "PRC government expends extensive resources to eliminate barriers between China's civilian research and commercial sectors, and its military and defense industrial sectors. It also is developing and producing advanced integrated circuits (packaged or unpackaged) for use in weapons systems."

The new controls are not designed to have an impact on the production or development in China of mature node semiconductors or less capable computing applications. Indeed, Administration officials have been making a particular point in recent weeks that

these and other China-specific actions are part of a “de-risking” strategy toward China as opposed to a broader “de-coupling” effort. That said, the Administration has made it clear that this is not the end of China-specific controls over “force multiplying” or “enabling” technologies. They routinely refer to new controls coming with respect to AI, quantum computing, and other applications. I will, of course, defer to BIS to describe such planned actions to the subcommittee. I can say, however, that, given the complexity of these technologies, identifying what should be controlled and in a way that could potentially also be acceptable to allied control efforts to make them more effective and less counter-productive is extraordinarily difficult. This is yet another reason why BIS and the other export control agencies need massively more resources to hire technical and policy experts to analyze such issues.

Consistent with my main theme that plurilateral controls are more effective and less counterproductive, there has been regular coverage of whether and, now, the extent to which the Japanese and Dutch governments will (separately and independently) impose comparable controls over exports to China of semiconductor production equipment specific to the production of advanced node semiconductors. Although such actions, when they occur, will be more effective in limiting the ability of Chinese companies to produce advanced node semiconductors, they will still not likely level the playing field for US competitors because the Japanese, Dutch, and all other allied countries do not have the same broad legal authorities the Export Control Reform Act (ECRA) provides BIS to impose controls (i) on items outside the multilateral regime system, (ii) over activities of their citizens not directly related to WMD-development, and (iii) against specific entities for broad national security or foreign policy reasons. Thus, Japanese and Dutch companies will still be able to export to China items and services that US competitor companies cannot. But, again, the new controls are apparently just a start of an ongoing process, I expect and hope. This is a key issue for subcommittee oversight.

BIS has continued to aggressively use the Entity List as a tool to sanction foreign entities that engage in a broad range of acts contrary to US national security and foreign policy interests, including human rights. It has evolved considerably from its creation in 1997 as a tool focused on addressing nuclear- and missile-proliferation-related concerns. The Center for New American Security has created detailed (but now slightly dated) commentary on the rates and types of growth of BIS’s use of the Entity List with respect to China. In October 2022, BIS significantly expanded the extraterritorial reach of the Entity List designations by creating new “footnote 4” entities and a related foreign direct product rule applicable to entities in China that develop supercomputers for use in WMD or military applications. With respect to enforcement of BIS’s extraterritorial Entity List controls pertaining to China, the subcommittee should study the details of the recent \$300 million penalty imposed against a US company and a non-US affiliate with respect shipments of foreign-made items to Huawei. It is the largest stand-alone administrative penalty in BIS history. It shows that BIS takes its Entity List-related enforcement obligations seriously.

II. Recommendations for How Make BIS and US Export Controls More Effective and Less Counterproductive

My primary recommendations to the subcommittee for making export controls more effective and less counterproductive, particularly with respect to issues involving China and Russia, are the following:

1. Support Administration efforts to work with the allies to develop and articulate together a significantly expanded vision for export controls to address contemporary common strategic security and human rights issues that are outside the scopes of the existing post-Cold-War-era multilateral export control regimes.
2. To ensure that such a vision can be implemented and updated in allied country domestic regulations and policies over the long-term, support Administration efforts to create a new, additional multilateral export control regime to identify:
 - (i) items of classical non-proliferation and conventional military concerns that cannot be addressed by the existing regimes given Russia's membership (which gives it a veto);
 - (ii) items outside the scopes of the existing regimes' mandates that warrant strategic trade controls, particularly with respect to China and Russia;
 - (iii) items used to commit human rights abuses anywhere in the world; and
 - (iv) unlisted items to, and activities in support of, end uses and end users of concern to enhance the effectiveness of such controls.
3. Support Administration efforts to work with the allies to create and announce in 2023 standards describing the legal authorities and resources necessary for an allied country's export control agencies to (i) control such items and activities, and (ii) effectively enforce such controls.
4. Once such standards are developed, even in draft, support Administration efforts to work with allied legislatures and executive branches to create for their export control agencies such authorities and resources to enable the quick and effective creation of plurilateral controls over items and activities to address contemporary common security and human rights issues.
5. Echo in a regular and bipartisan way that a new regime, the proposed new way of thinking about strategic export controls, and the creation of new

legal authorities in allied countries are in the common security interests of the allies. To help overcome the current allied skepticism of these ideas, make it clear that the ideas are not part of a mercantilistic plan to advantage US companies to the economic detriment of allied country companies. To enhance this message, create incentives and benefits, such as significant reductions in unnecessary trade barriers and increased market access opportunities, for allied participants in a new regime and plurilateral strategic trade control arrangements.

6. Support Administration efforts to work with the allies to create formal export control-focused and dramatically better-resourced data mining, investigation, and enforcement coordination efforts, with particular attention to global distributor and re-seller networks. New rules without robust data analysis and enforcement are wildly less effective.
7. As part of the AUKUS security partnership, Congress should support and encourage Administration efforts to radically simplify and harmonize defense and dual-use trade rules by and among the US, Canada, Australia, the United Kingdom, and, later, other very close allies.
8. In addition to providing the Administration with all the resources necessary to implement these recommendations, fund and require the Administration to create within the departments of Commerce or State (or in the NSC) a senior position (e.g., a “Special Envoy”), with all the necessary expertise, staff, and resources, to devote their full-time and attention to doing the hard, time-consuming work with the allies necessary to help the US export control agencies convert these recommendations into actual regulations, policies, and arrangements.
9. Similar to what the Treasury Department is doing with respect to sanctions, and to better implement section 4811(3) of the Export Control Reform Act of 2018 (ECRA), Congress should fund the creation of a Commerce Department office focused on studying and regularly reporting to Congress on the effectiveness of old and new export controls, and identifying those that are counterproductive for US industry and national security and foreign policy objectives. It may surprise the subcommittee to learn that BIS does not have resources to evaluate properly the effectiveness of any of its controls.

III. Resources Resources Resources

BIS's budget grew materially during the Trump Administration. I compliment Congress and my Commerce Department successors for these increases. That said, I was rather surprised to see that the BIS FY 2024 budget for export control policy and enforcement efforts remains flat after one factors out basic operations such as IT and new resources for BIS's administration of the Information and Communications Technology and Services Supply Chain (ICTS) rule. (See page 10.) I do not know the background to any budget discussions, but this is a topic worthy of subcommittee oversight given the subject of this hearing. Everyone agrees that BIS and export controls are central to strategic (and classical) national security and foreign policy objectives. BIS's budget should reflect that position and be equally serious.

There is a simple equation -- more rules, more complexity, and more country-specific engagements require more policy, more licensing, more compliance, and more enforcement resources. On top of the legacy BIS licensing system that is already beyond full capacity, BIS is responsible for administering the interagency system and other issues I have just summarized. This interagency system, however, was largely built around working with the allies through the regularly scheduled multilateral regime meetings. To deal with Russia-, China- and other country-specific issues, there is a need for multiple bilateral and plurilateral dialogues, both public and private. Such diplomacy requires more resources, more travel, more preparation, and more time commitments. There are now several formal bilateral arrangements to develop common export control policies an information sharing arrangements, including with the European Union, Japan, and South Korea. There will be more, each requiring their own level of staff support.

The Russia- and China-specific controls require more time analyzing data about diversion, more time studying impacts and supply chains, more time working with allies to analyze components that make their way into Russian military systems or the proscribed applications in China. The controls also require more time working with countries that are transshipment and diversion hubs in order to enhance the effectiveness of the allied controls. The significantly expanded Entity List controls, and the more frequent use of the control for multiple reasons, require more resources to evaluate information about the targeted companies, their affiliates, their activities, and the reasons to list them or not. More words in the regulations require more industry and government staff time to understand how they are to be interpreted and applied, which generates more informal and formal requests for clarifications, classifications, and opinions. As more new emerging technologies are studied for possible controls, the demand for experienced engineers and scientists (who can earn higher incomes in industry) in these complex and highly specialized areas grows. As more parts of the US and allied governments discover export controls and consider them to be part of their agencies' policy planning, more meetings and more briefing papers are required. More controls that are not common across allies require more outreach to allies and allied companies to try to prevent "backfilling" (i.e., foreign competitors selling substitutes for

what US companies are no longer allowed to sell). As export controls take center stage in more geo-political and trade issues, more time is needed with more countries to counter more propaganda about US export controls spread by the Russian and Chinese governments.

The increase in resources should include the relevant agencies in the Intelligence Community so that they can better share their collections and assessments with the relevant offices with export control responsibilities in a more robust and regular way. This is not to suggest that there is not now Intelligence Community support for BIS compliance and licensing efforts. In 2013, BIS created the interagency Information Triage Unit, which works with ODNI and other agencies to assemble and properly disseminate classified and unclassified intelligence information to help BIS make better decisions on proposed exports and other export control issues. Rather, I am saying the resources for and interagency participation in such efforts should be, through appropriations, made significantly more robust given the rise in the complexity of issues and the responsibilities of BIS. In addition, there should be a career incentive and benefit for intelligence community staff to provide support to non-Title 50 agencies such as BIS.

In addition to more resources for capacity building with allies, BIS needs more advanced technical resources -- as well as an accompanying technical workforce -- to meet today's enforcement and policy analysis needs. More data, in addition to data science expertise, would help give BIS enforcement and policy analysts the resources they need to more effectively enforce and study the impact of export controls. This does not need to be an overly expensive feat. A Center for Strategic and International Studies estimate claims that "an appropriation of \$25 million annually for the next five years will help significantly enhance immediate enforcement capabilities and also improve the speed and accuracy of export licensing." A universe of commercially available datasets (that I have identified in other testimony) exist that could, in conjunction with classified and internal US government data resources, massively lessen the burden on enforcement analysts.

Databases alone will not be enough to help BIS's enforcement capabilities. Data scientists (particularly those with foreign language capabilities), software engineers, and data visualization specialists will be required to transform these commercial and proprietary datasets into useful tools for BIS and interagency analysts and policymakers. Without this expertise in-house, a massive influx in datasets will only increase the burden on the already-burdened enforcement team. Experts with these data-relevant backgrounds can help to translate complicated databases to non-technical audiences. They can also work to combine datasets and create in-house user-friendly platforms that will likely increase BIS's efficiency and capabilities.

More novel export control requirements impose more novel compliance requirements for exporters. BIS has a compliance office with staff trained at helping companies create compliance programs and systems. This office, however, is extremely small

given the compliance training that is required to ensure companies have systems in place to ensure compliance with legacy and (the very complex) new controls. As a compliance practitioner and also as an independent Special Compliance Officer monitoring a large US company's compliance with a consent agreement for export control violations, I know first-hand how difficult (and expensive) it is for companies to create and run systems to prevent inadvertent violations. More compliance training for US and non-US industry (and counsel) from BIS will directly help the government's mission of ensuring compliance. The difficulty of these efforts is compounded by the reality that there is a relatively small pool of experienced export control practitioners for company and government compliance offices to recruit from.

Congress should also devote oversight attention to, and resources and personnel for, the BIS sister export control agencies, namely the Defense Technology Security Administration (DTSA), the Bureau of International Security and Nonproliferation (ISN), the Directorate of Defense Trade Controls (DDTC), and the National Nuclear Security Administration (NNSA). As described below, BIS cannot do its job without the full support and input from these agencies. Finally, there should be more resources dedicated to enhanced DDTC/BIS compliance coordination. This would help with investigations involving items subject to both the ITAR and the EAR.

IV. Responding to a Few Misunderstandings About BIS

BIS does not have the authority to issues licenses without cooperation of the other export control agencies at the departments of Defense, State, and Energy. That is, BIS administers an interagency licensing process consistent with the requirements and standards in the Export Administration Regulations. It is indeed the case that in a small percentage of the total cases the first layer of staff at each of the agencies disagree, sometimes strongly, on whether particular types of licenses should be granted. When there is disagreement among the agencies, the regulations authorize an agency to escalate the decision to more senior career staff for review at the Operating Committee. Its purpose is to resolve the interagency disagreements based on a better understanding of the facts at issue, and regulatory standards in the EAR and precedent for when a license should be denied, granted, or conditioned.

If an agency does not agree with the determination of the Operating Committee chair, then it has the authority to escalate the case to the Advisory Committee on Export Policy (ACEP), which consists of Assistant Secretary-level (or designees) from the departments of Commerce, State, Energy, and Defense. Each agency has one vote. Even still, an agency has the authority to escalate any licensing decision of the ACEP to a cabinet-level Export Administration Review Board (EARB). Appeals to the EARB are rare. Thus, it is correct to say that all licenses issued by BIS were agreed to, or not escalated, by the departments of Defense, Energy, and State. (EARB decisions can be appealed to the President, but that has not happened for decades, I suspect.)

To put this process and the numbers in context, according to the 2021 annual report, in

FY 2021, BIS processed 41,446 licenses. 568 of those applications were escalated to the Operating Committee for review. 80 of those cases were escalated to the ACEP for resolution. Although the data are not public on the process thereafter, I would suspect that only a very small fraction were resolved at the ACEP with interagency difficulty. When I chaired the ACEP from 2010 to 2017, almost all decisions on licenses (to approve or to deny) were unanimous.

In any event, it is healthy for there to be disagreements among the agencies, each of which is staffed with people with diverse backgrounds, expertise, and equities. The interagency review ultimately results in a better understanding of the facts, regulations, and concerns so that final decisions can be consistent with Administration policy, the law, and, of course, national security and foreign policy objectives. Under the current system set up in the 1990's, if any one agency ever were to be inappropriately influenced by outside pressure, the checks and balances of the other agencies' involvement would prevent any applicable license from being issued. This is yet another reason why the process would be harmed if any one agency had a veto or the authority to issue a license over the objections of the other agencies.

Also, the EAR contain many different licensing policies for different types of exports. Some policies require denial. Some require case-by-case consideration. Some state that applications are presumptively approved. The EAR's licensing policies contain many other variations depending upon the item, the destination, the end use, and the end user. My point is that decisions about whether to approve or deny a license are based on regulatory standards that govern BIS's and the other agency's decisions. If someone does not like that BIS issues, after the interagency review, any particular license, then the attack should not generally be on the bureau's (and its interagency colleagues') individual decision (assuming there was a correct and complete understanding of the facts). Rather, attention should be paid to the licensing policy in the regulation describing which exports to which destinations, end uses, and end users should or should not be approved. If the policy does not properly address a current national security or foreign policy issue, then the applicable licensing policy in the regulations should be changed in a transparent way.

In addition, license approval percentages will always be high because companies generally do not apply for licenses they suspect will be denied. That is, exporters do not usually apply for licenses they know or suspect will be denied based on a review of the licensing policies in the regulations or statements from BIS. (For business and contractual reasons, exporters will occasionally apply for a license knowing it will be denied in order to demonstrate to the counterparty why it could not perform under a contract.) They generally make such decisions to avoid the cost and burden of preparing applications that are not likely to be granted. This means that the numerator in any approval statistic will be based on applications where the exporter generally believed that the license would likely be approved based on the licensing policies in the regulations. For example, applicants rarely, if ever, apply for licenses to export to China items that are military-related, satellite-related, would involve a known human-rights

abuse, or are for a military end use or end user. Such applications will be denied under long-standing licensing policies, and are thus not included in any numerator. This result is not unique to BIS. DDTC has a high approval rate for licenses it issues authorizing the export of defense articles for the same reason. My sense is that when the approval percentages get below 90% (and return without action (RWA) rates increase) this means that the US government is taking a more restrictive licensing policy than the one described in the regulations.

Another comment I hear is that the issuance of a license is a “waiver” of controls. This is not correct. The issuance of a license is, to the contrary, evidence that the export is *consistent* with US policy, not an exception to it. If one does not like a particular policy, then the focus should be on the standard in the regulations for when such licenses should be issued or denied. That is, of course, fair game for a policy discussion. But the issuance of an individual license is not evidence of a “waiver” from or an exception to a prohibition against exports. To get a license, a company must submit an application to the government explaining why approval would be consistent with the regulations and Administration policy. The application must describe the items, end uses, end users, destinations, and other facts involved. A license application is thus evidence of compliance, not evasion. Indeed, BIS trains people how to submit such applications as part of its formal compliance outreach and education efforts. In addition, BIS trains exporters on (and has online decision trees to explain) which activities are and are not subject to the regulations. Indeed, the regulations themselves contain decisions trees describing when an item is and is not subject to controls. Thus, providing advice on which items and activities are and are not subject to the regulations is not evidence of evasion. It is literally evidence of compliance with the law and, thus, US government policy. If a policymaker does not like the answer, then the policymaker should work to change the regulations.

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I look forward to answering your questions during and after the hearing, and to help your oversight role however I can. I am a true believer in how export controls can advance and protect our national security and foreign policy interests. I am thus pleased that the subcommittee is holding this hearing and otherwise thinking of ways to make the export control system more effective and not counter-productive.