THE US-CHINA BUSINESS COUNCIL
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US-China Business Council Comment on End-Use and End-User Based Export Controls, Including US Persons Activities Controls: Military and Intelligence End Uses and End Users (Docket No. 240923-0249) (RIN 0694-AJ43); Export Administration Regulations: Crime Controls and Expansion/Update of US Persons Controls (Docket No. 240923-0250) (RIN 0694-AI35)

The US-China Business Council welcomes the opportunity to submit comments to the Department of Commerce regarding two notices of proposed rulemaking preceding the implementation of regulations on Military, Military Support, and Intelligence End Users and Foreign Security End Users. USCBC fully supports BIS's efforts to protect US national security and human rights and prevent the proliferation of technologies with clearly defined national security and foreign policy implications, such as technologies with mass-surveillance applications. At the same time, it is critical that BIS narrow these regulations to address security and human rights concerns in a targeted, implementable way.

USCBC's membership comprises more than 270 American companies that do business in China. Our membership includes some of the largest and most iconic American brands, in addition to small- and medium-sized enterprises. US trade with and sales of US goods and services in China bring many important benefits to the US economy and American workers.

Many US companies depend on China's market to enhance and undergird their global competitiveness, such as through globally integrated supply chains that improve efficiency and lower costs for American consumers. According to our annual survey, 91 percent of respondents say China is important for their global competitiveness, among which 23 percent of respondents say their firm would not be competitive without China. It is crucial that BIS and the administration evaluate export controls with these considerations to ensure that they do not inadvertently damage US competitiveness, and, by extension, US national security.

We appreciate the administration's consultations with our organization and its ongoing efforts with our member companies to ensure that they acquire export licenses in a timely manner. USCBC members have longstanding, sophisticated due diligence and compliance mechanisms to prevent their products, software, and technology from furnishing the development of a sanctioned entity, end user, or military end-use technology. These mechanisms also provide rare visibility and insight into the progress and intentions of China's technological development.

However, USCBC is concerned that the proposed rules, and the implementation thereof, will substantially expand the jurisdiction of existing US export controls to areas with minimal national security risks and will unilaterally disadvantage American companies in multiple ways. We are concerned that the rules' inclusion of low-tech goods represents a departure from the administration's "small yard, high fence" framework and could ultimately result in commercial decoupling from China.

Capturing all items subject to the EAR represents a considerable expansion of scope, including for items which do not have national security and foreign policy implications. Revisions to the NPRM, as suggested in our comments, are needed prior to the promulgation of a final rule to ensure that the rules are clear, implementable, and appropriately scoped to only cover transactions with clear and identifiable foreign policy and national security risks.

USCBC members have made considerable investments in their compliance architectures to acquire export licenses and perform due diligence. While absorbing more costs and uncertainty around customer relationships, companies have dutifully integrated EAR compliance metrics into their contracts with Chinese customers and suppliers and developed complex IT systems to perform worldwide compliance and due diligence. However, should controls be implemented to the extent outlined in the proposed rule, they will place severe bandwidth constraints on both corporate due diligence and government license processing capacity.

We suggest that adjustments to scope be made to limit degradation to corporate and government bandwidth and therefore permit effective implementation. According to our survey, 75 percent of member companies consider due diligence a main export controls compliance challenge. Another 41 percent said delayed or unclear administrative processes were a challenge. To maintain a workable export controls system from both a compliance and processing standpoint, BIS should work in consultation with industry to narrow its rules and focus on areas of national security and foreign policy concern.

Such controls will unilaterally disadvantage American firms by furthering a perception among Chinese customers that they are unreliable suppliers. In our survey, 48 percent of respondents said they had lost sales to Chinese competitors due to the impact of export controls—a strong indication of increased Chinese indigenization—and a loss to visibility of technology ecosystems and national security. It is essential that BIS continue to assess foreign availability, including availability in China, before imposing additional export controls. Without multilateral coordination, US firms will be replaced by foreign suppliers as well. In our survey, 30 percent of respondents said export controls caused them to lose sales to international, third-country firms, underscoring the importance of multilateralism and the ineffectual nature of unilateral tools. This is especially pronounced for US companies with products that are widely commercially available and not controlled by any other country, as is the case with EAR99 items.

Export controls have also reduced room for progress on diplomacy with China in other important commercial issues, such as China's industrial policies and nonmarket practices. We urge the administration to maintain an economic security posture that balances regulating the most impactful transactions that are directly related to foreign policy, national security, military diversion, and human rights concerns, while providing ample opportunities to stabilize the relationship through commerce. China's own supply chain security initiatives, including its "Delete A" campaign, coincide with the rise of US export controls and are resulting in lost sales for American firms in China. According to our 2024 member survey, 45 percent of our survey respondents have said that US-China tensions caused them to lose sales due to customer uncertainty of continued supply. We believe this sentiment is partially attributable to export controls.

As a matter of principle, USCBC supports the Biden administration's efforts to protect US national security and promote a robust bilateral commercial relationship with China. However, we are concerned that the scale and magnitude of these controls will undermine the administration's diplomatic priorities with China in other areas—in particular, healthcare. The proposed controls could have direct negative impacts on bilateral efforts to ensure global health security by severely disrupting cross-border drug development and clinical trials, delaying access to needed medical therapies in the United States. When assessing national security and foreign policy implications, equal measure should be given to the potential harmful effects these proposed rules could impose on global public health.

I. Executive Summary

To improve compliance with the final rule, provide necessary clarification to companies, and maintain an appropriate scope that achieves the administration's national security and foreign policy objectives, USCBC shares following:

Recommendations on regulatory scope:

- Licensing requirements for exports, re-exports, and in country transfers to Military End Users (MEU), Military Support End Users (MSEU), Intelligence End Users (IEU), and Foreign Security End Users (FSEU) should be limited to entities designated on the Entity List.
- The product scope for exports, re-exports, and in country transfers to MEUs and IEUs should be limited to the Commerce Control List (CCL). Absent this change, BIS should only restrict EAR99 items to MEUs and IEUs with Entity List designations.
- License requirements for US persons support activities for MEUs and IEUs should, like requirements on MSEUs and FSEUs, be limited to entities designated on the Entity List.
- The product scope for license requirements on US persons support activities to MEUs and IEUs should be limited to the foreign-produced equivalents of items on the CCL. Absent this change, a licensing requirement for US persons support for foreign produced items should only apply to entities designated on the Entity List.
- Should BIS forego the establishment of a license regime that is solely dependent on Entity List designations, BIS should provide additional definitional clarity on the rules, as outlined in our letter below, and provide interpretative guidance for classifying entities that potentially fall into multiple end user categories, such as MEUs and IEUs, or MEUs and MSEUs.
- BIS should exempt hospitals and other medical facilities from the proposed rules.

Definitional recommendations:

- Absent the establishment of a license regime solely based on Entity List designations, BIS should provide further guidance to help companies determine whether an entity is performing functions for or on the behalf of MEUs or IEUs. Terms such as perform, function, and behalf require clear definitions.
- The definition of support is overly broad and should be narrowed to only encompass activities that contribute directly to the acquisition or development of covered items. For example, BIS should define "facilitation" within 744.6(1)(C).
- Within the definition of support, section 744.6(1)(D) requires companies to determine whether contracts, services, and employment may benefit or assist the four end uses. BIS should clarify the meaning of benefit and assist, rather than providing a non-finite list of broad business activities, many of which have little to do with acquiring products, technology, and software.
- Within 744.6(1)(D), BIS should specify exactly what due diligence is required to "know" if support activities constitute the provision of assistance or a benefit to the end uses or end users described in the regulations.
- BIS should clarify what constitutes "of" and "from" a D:5 country.

Suggestions for implementation:

- BIS should provide sample end use certificates that can be used to, in addition to other due diligence activities, help companies establish bona fides that demonstrate a lack of diversion to covered end users and end uses under these rules.

- BIS should ensure that active licenses to Military End Users under section 744.21 will not be interrupted under the new rules and clarify how future license applications will change for military end users designated under footnotes 5 and 6.
- Should BIS enact controls on EAR99 items, it is essential that a robust, expedient process be established, in conjunction with the interagency and Chinese government counterparts, to revitalize the validated end user (VEU) program to allow for license-free exports for entities that establish bona fides with BIS, especially with EAR99 items that are readily available from non-US sources.
- BIS should, in conjunction with the interagency, work with Chinese government counterparts to ensure that US firms are permitted to conduct due diligence for these rules.
- BIS should consider identifying a prospective implementation date and/or grace period after final implementation of the rule so that companies may honor existing contracts and re-configure internal operations to comply with new restrictions.

II. Recommendations on Regulatory Scope

End user controls should only apply to entities designated on the Entity List

In principle, USCBC believes that end user controls on MEUs, MSEUs, IEUs, and FSEUs should only apply to firms with footnote 3 and 5, 6, 7, or 8, respectively. This is because, as currently defined, there are countless scenarios in which it is unclear to US exporters whether non-designated firms are in fact covered end users, particularly with respect to other entities "performing functions for or on behalf of such entities." For MEUs and IEUs, for which a license is required for any product subject to the EAR and to support activities for the foreign production of equivalent items, the proposed rules apply to countless items which do not have national security or foreign policy implications.

Additionally, EAR-wide applicability and the lack of definitional clarity will likely result in significant disruptions in non-sensitive areas and will encumber both government and corporate decision-making processes. To provide clarity to industry and optimize bandwidth for both BIS and industry, BIS should solely assume responsibility for designating entities under this program and only require an export license to firms designated on the Entity List. Indeed, we believe that controls related to US persons under CFR section 4812(a)(2)(F) are implementable through a list-based approach and should therefore be adjusted.

A list-based approach is also the most effective at ensuring a level playing field in compliance and enforcement. Given the broad ambiguity within the rule, many companies will elect to "over comply" based on their risk tolerance, which risks shutting these companies off from large swathes of the commercial market and limit their revenue potential. This would in turn leads to reduced R&D expenditure and future market share and ultimately undermine US economic competitiveness and national security.

BIS should also apply a complementary change to its rules on US persons support for MEUs and IEUs by only scoping licensing requirements on support to firms on the Entity List, as is already the case for support-related licensing requirements for MSEUs and FSEUs.

An additional benefit of the list-based approach is that there are other countries that follow US lists or, at a minimum, identify companies on US lists as higher risk. By making the rule list-based, BIS may get partial multilateral buy-in from partner countries which may provide a more level playing field for US companies.

Alternative approach: limit controls to non-designated entities to CCL items

There are other ways BIS could limit the scope of the program while maintaining a narrow focus on the most important transactions should it forego our first and preferred approach. BIS should consider limiting the product scope of items to non-designated MEUs and IEUs to items on the CCL. To the extent that BIS assesses other items have national security and foreign policy implications, it should add those products to the CCL or to Supplemental No. 2 Part 744, rather than mandate a broad restriction on all mass-market items subject to the EAR, including items such as medical products, which are essential to civilian populations and do not have direct military applications. To match this change, the product scope for US persons restrictions to MEUs and IEUs should also be narrowed to items on the CCL, as it is for MSEUs and FSEUs, where the regulations are already limited to the CCL and to designated entities in the case of restrictions on support activities for MSEUs and FSEUs.

III. Definitional Concerns

Support

The proposed restrictions on specific activities of US persons for "support," which was previously used for a narrow range of WMD-related applications, has been expanded to include all items that would have otherwise been subject to the EAR for MEUs and IEUs. For MSEUs and FSEUs, license requirements on support now applies to all items on the CCL as if they had come from the US. Such controls on foreign origin items are also unilateral and will place US industry at a disadvantage vis-à-vis foreign entities that do not have to comply with these restrictions. Ambiguous and broad terms within these aspects of the rules create confusion around wholly commercial transactions that have no bearing on national security. It is therefore essential that BIS narrow the definition so that restrictions are focused and only apply to the most impactful transactions.

Beyond our first two recommendations, which suggest applying support restrictions only to designated entities on the Entity List and only to items on the CCL, BIS should also take the following measures to provide greater clarity to industry regarding the definition of support:

- BIS should define "facilitating" within 744.6(b)(6)(iii) and apply a narrow definition which relates facilitation to the direct acquisition of covered products.
- 744.6(b)(6)(iv) also requires further clarification. It defines support as "performing any contract, service, or employment you know may assist or benefit" a covered end use. It is not clear what assist or benefit mean. We suggest that BIS narrow the definition of support by tying assist and benefit to the development of items on the CCL that have heightened national security and foreign policy implications.
- Alternatively, BIS should consider using the definition of support from the semiconductor manufacturing equipment rules. A second alternative could be to add a qualifier such as "substantial support" to the definition of support to give industry a brighter rule to use when screening such transactions.
- It is also unclear if "support" includes activities conducted overseas by foreign person employees or agents of a US company. We request clarity on this point.

Military End User: Hospitals

As written, the proposed rule does not clarify whether hospitals with military designations that primarily serve civilians should be classified as MEUs, MSEUs, or neither. It is common for Chinese hospitals to

have military identifiers in their names, yet many of these institutions primarily serve civilian populations, offering healthcare services, diagnostics, and disease treatment. For Chinese patients, the name is the only distinction between such hospitals. The lack of distinction between hospitals that predominantly fulfill civilian healthcare needs and those actively supporting military operations creates significant compliance uncertainty. While such entities would appear on the surface to constitute an MEU or MSEU, they do not fit into the proposed definition, namely that their actions or functions do not support military end uses.

We suggest that BIS exempt hospitals from the MEU and MSEU rule. Such institutions should be considered outside the scope of MEU and MSEU classification unless it can be shown that they are solely engaged in military-specific activities or support. Absent such an exclusion, US providers of life saving medicine and equipment will immediately be required to seek licenses, which on average, take 90 days for China according to BIS statistics. The volume of export license applications will surge, covering tens of thousands of medicines, medical devices, reagents, spare parts, and accessories required for hospitals across China. This volume would exceed, by several orders of magnitude, the number of export license applications for Russia. These delays could potentially spark a healthcare crisis, as major hospitals may be unable to conduct routine procedures, such as blood tests, or perform more complex diagnostics and treatments, like cancer care. It is difficult to imagine a scenario where a patient is denied necessary treatment simply because they sought care at the "wrong" hospital.

If BIS does not create an exemption or limit the scope the rules to designated entities, it should limit the scope of MEU-related items to items on the CCL, with a separate general license for CCL items to hospitals. A similar exclusion for industries producing medical products is also important to avoid unnecessary disruptions to civilian infrastructure.

An exemption for hospitals is also important to prevent disruptions to drug development and R&D. China is a significant contributor to global drug development and has a large patient population of treatment naïve people who have never been previously treated for certain illnesses and can meet eligibility criteria to participate in a range of clinical trials. Hospitals, including PLA hospitals, are part of China’s clinical trial infrastructure, and there are some instances in which a PLA hospital may be the only high-quality institution in a particular jurisdiction with the right specialty for a planned trial in China. Disruptions to this process risk delaying access to needed medical therapies in the United States. A second-order impact would be that PLA hospitals simply purchase more European and Japanese products, as PLA hospitals have higher budgets and are less inclined to follow domestic substitution initiatives.

Military End User: Universities

US companies work with Chinese universities and vocational schools on the development of commercial products and technologies and public goods. Many universities have ROTC or ROTC-like programs with active-duty students or students that are training for military service. And, like hospitals, there are some educational institutions that have a relationship with the PLA or the intelligence services. BIS should clarify whether such universities and institutions are military end users.

Even if the relationship to the PLA is tangential or insubstantial, there is a question of whether the entire educational institution would be designated as a military end user. If so, the rule could prohibit cooperative non-dual use research because of definitional capture. BIS should clarify how the knowledge standard presented in 772.1 applies to the university affiliations in question for the purpose of determining whether institutions are MEUs under the new rule. Clarification is necessary for compliance and to prevent an unnecessary hinderance to collaborative research on benign commercial activities.

Military End User: Meaning of "From a Destination"

The proposed definition of "military end user" in 744.6(b)(5) defines MEU as "in or from a destination specified in Country Group D:5 or Macau." However, BIS has not defined which entities are considered to be "from" a restricted country. Due to the ambiguity associated with this definition, we suggest that BIS define "from" as geographically located in restricted destinations or to designated, list-based entities anywhere in the world. In the designation-based alternative, BIS should tie the identification to corporate or entity headquarters. Absent this definition, BIS should clarify what it means to be "from" a destination. BIS must use a consistent definition that can be applied uniformly throughout the EAR instead of using new concepts and terminology specific to regulatory amendments.

Military Support End User

Absent a list-based approach, BIS should outline the types of scenarios or thresholds under which entities would be considered an MSEU. As written, any company that markets or sells a dual-use item for both consumer and military use could be evaluated as an MSEU, even if sales to military entities are only a negligible fraction of overall sales. In other words, a company with 0.1% sales to the military would be classified as an MSEU. We suggest that BIS clarify whether there is a threshold that can be applied for largely consumer focused companies.

The definition of "support" for MSEUs also remains undefined, and as such, would cover an unclear range of business activities if implemented as written. To provide predictability for industry and to streamline implementation, BIS should clarify the meaning of "support" for MSEUs and whether the definition is the same as the definition proposed in 744.6(a)(1), or whether there is a specific definition in the context of MSEUs. Practical examples of what support is with respect to the MSEU rules would also assist industry in conducting more efficient due diligence reviews and ensuring regulatory compliance. Without this clarification, it is possible that every entity in a country where the government is inextricably linked with industry, like China, would be considered an MSEU.

Current MEU-Proposed MEU/MSEU License Overlap

For certain companies which possess active licenses under the MEU rules in section 744.21, it is not clear if their licenses will remain active following the promulgation of a final rule. It is also unclear if licenses under 744.21 will change if current MEUs are reclassified as MSEUs under the new rule. To provide consistency and predictability to industry, BIS should maintain all relevant extant licenses through their expiry periods without change.

Intelligence End User

With respect to IEUs, by transferring the responsibility to identify foreign intelligence services and their affiliates to companies—whereas this has historically been the responsibility of the intelligence community—BIS has started a paradigm shift in the way companies are required to act as an extension of US national security and foreign policy. We ask that BIS fully assess the implications of this decision before implementing the rules. We believe that maintaining a list-based approach with new footnotes to designate IEUs, to include licensing requirements on support, is a more reasonable way to accomplish the national security and foreign policy objectives of these regulations without requiring a complete overhaul of corporate compliance operations.

At a minimum, BIS should clarify what "performing functions" means under the IEU definition. As written, this term could be interpreted to mean indirect functions, like heating and cooling systems, which are not related to intelligence, surveillance, or reconnaissance. Such a broad definition makes it difficult,

time consuming, and uncertain for companies to reach clear conclusions during due diligence. We also seek further guidance on the surveillance aspect of the definition, specifically whether CCTV operators not affiliated with foreign government organizations are included.

Foreign Security End User

We suggest that BIS provide greater clarity on "analytic and data centers" ties to FSEUs. The example of genomic data centers is helpful, but more practical examples highlighting the connection between a data center and security authority activities or affiliations would assist industry in conducting more efficient due diligence reviews and ensuring regulatory compliance.

Additionally, there may be FSEU-linked facilities that carry out standards testing and certification for commercial items. We suggest that BIS issue a general license for domestic standards-setting processes—just as it has done for international standards-setting processes under changes to 734.10 to allow companies to utilize such facilities for the testing and certification of commercial products—as they are not being provided for use by the FSEU-linked facility but are provided for the purpose of allowing products to meet requirements to be sold into the Chinese market.

End User Overlap

As previously mentioned, the requirement for industry to self-determine whether their customers are covered end users presents myriad compliance complications. Such complexity is further compounded by the fact that certain end users could fall into multiple categories. For example, 744.24(f) defines IEU as foreign government intelligence, surveillance, or reconnaissance organizations or other entities performing functions on their behalf. However, it could also be the case than an MEU or MSEU performs surveillance or reconnaissance. Additionally, it is not clear whether contractors, raw material suppliers, or manufacturers supporting military end users through certain, but not all, business lines, are covered. We request that BIS provide further definition, through a subsequent rule, guidance document, or FAQ that provides a detailed definition of each end user and provides clear delineation between categories. BIS should also provide guidance on which end user classification takes precedence if exporters determine than an end user could be classified into multiple categories.

New ECCNs

As drafted, the proposed ECCN 3D980 will control facial recognition software that does not have the capability to be used for the "mass surveillance and crowd scanning" applications BIS intends to target. BIS should amend this ECCN to clarify that only software "specially designed" for facial recognition for mass surveillance and crowd scanning is covered. Helpfully, the ECCN clarifies that it does not control software that is solely for "authentication to individual access to personal devices or facilities." However, software used for facial recognition to authenticate access to a bank account would be controlled. BIS should expand this carveout to cover facial recognition that is used by a variety of services and not just for personal devices and facilities.

It is also not clear if "person detection" is different from "facial recognition." BIS should clarify if facial recognition refers to the ability to detect a person without determining their identity. Such clarification will help companies appropriately scope their compliance operations and will only impact technologies BIS intends to target.

Should BIS opt for a CCL-only approach, we respectfully request that BIS consider adding an additional Note and carveout for the use of certain ECCN technologies in civil applications. Such a carveout would

ensure that BIS controls are narrow, targeted, and only impact products with national security implications. Examples include:

- Note: 3A001.a.2 does not apply to integrated circuits designed for civil automobile or railway train applications
- Note: 3A001.h does not apply to switches, diodes, or "modules," incorporated into equipment designed for civil automobile, civil railway, or civil aircraft applications.
- Note: 6A002.f does not apply to read-out integrated circuits "specially designed" for civil automotive applications.
- Note: 6A008 does not control: Secondary surveillance radar (SSR); Civil Automotive Radar; Displays or monitors used for air traffic control (ATC); Meteorological (w weather) radar; - Precision Approach Radar (PAR) equipment conforming to ICAO standards and employing electronically steerable linear (1-dimensional) arrays or mechanically positioned passive antennas.

IV. Suggestions for implementation

Clarification for due diligence expectations

While BIS states that exporters should have reason to "know" that their products are destined for a covered end use or end user, as defined in section 772.1 of the EAR, obtaining knowledge needed for compliance is highly subjective given the rules' vast product scope, vague set of covered end users, and individual company capabilities and resources. Because of how broad the proposed rules are, the knowledge standard creates a paradox where companies that invest in greater compliance resources can end up restricting more of their own business. To provide further clarity to industry and minimize the likelihood of self-blinding, BIS should publish further guidance for companies in various sectors, such as medical goods, where specific products like medical devices may be implicated, and aerospace, industrial manufacturing, semiconductors, and energy, about what companies should be looking for in their interactions with customers and during certification processes.

It is critical that BIS provide sample templates for end use certifications that companies can use, in conjunction with other screening processes, to establish bona fides. Additionally, such templates would facilitate otherwise legitimate and permissible inter-company transactions by eliminating discord around conflicting due diligence practices.

To further streamline due diligence processes, BIS must publish the list of newly designated entities in electronic files that are digestible by electronic screening systems. The current system of designating entity through minute footnotes on the Entity List will hinder incorporation of lists into compliance screening systems and introduce human error into identifying restricted entities. Should BIS utilize third party-supplied information in making listing designations, it should a high standard of review to such information. Doing so will ensure that designations are not influenced by commercial and competitive considerations and are solely limited to national security and diversionary reasons.

VEU program revitalization and transparency

Currently, there are only two Chinese companies on the validated end user (VEU) list that are not the China-based subsidiaries of American or third-country firms. Given the potentially wide range of covered end users and products under the proposed rules and the expected increase in license applications, it is imperative that BIS improve bandwidth for the VEU program so that business with entities with

established bona fides is unimpeded. A revitalized VEU program is doubly needed given the rules' applicability to EAR99 items should BIS not adopt our proposed changes.

Similarly, should BIS issue a private advisory opinion to an exporter regarding an end user under this program, we request that such opinions be made public. Doing so will assist firms in applying an appropriate scope to their compliance architectures and will build a level playing field for exporters.

Socializing controls with PRC counterparts

BIS should take steps, through the Export Enforcement Information Exchange, the Commercial Issues Working Group, or other bilateral fora, to ensure that law enforcement and trade authorities in China are aware of the new rules and of the due diligence obligations required under US law. Critically, it is essential that US companies can safely conduct due diligence in China without incurring penalties under Chinese law. According to USCBC's survey, 34 percent of respondents who were impacted by export controls said controls caused legal conflicts between US and Chinese regimes.

BIS should, either through an update to the End Use Visit Understanding, or through consultations through the working groups, pursue the promulgation of a public statement from the relevant authorities in China stating that US firms and their Chinese business partners are free to conduct due diligence and other processes necessary for EAR compliance. Doing so would increase opportunities for Chinese firms to establish themselves as reliable partners for US exporters rather than choosing to abrogate their business partnerships with US firms because they face unknown regulatory exposure under Chinese law.

V. Conclusion

USCBC appreciates the opportunity to comment on the NPRMs and hopes to continue to work with the administration to craft targeted policies that are effective, implementable, and promote the United States' national security and US companies' long-term global competitiveness. Applying an appropriate, balanced scope to export controls will streamline the administration's goals of preventing countries of concern from developing sensitive technologies with military, intelligence, and security end uses, while simultaneously providing a predictable framework in which US companies can compete globally.

Clarity in the proposed rules is essential to ensuring they are implementable and do not result in inconsistent compliance. Controls should be limited in cases where there is domestic and international availability to ensure that US companies are not placed on an uneven playing field. Prior to implementation, BIS should provide a grace period and ample time for companies to adjust screening and due diligence programs to the new requirements.