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Thank you Chairman Rubio, Chairman Smith, and Members of the Congressional-Executive Commission on China for convening this hearing today on this important topic. Today I will be discussing the role of the Bureau of Industry and Security in regards to export license requirements for China.

Under the Export Administration Regulations (the EAR), a Bureau of Industry and Security (BIS) license is required for the export or reexport of most items on the Commerce Control List (CCL) to China. Items on the CCL are identified by their individually assigned Export Control Classification Number (ECCN) according to their reasons for control. The CCL is comprised of items controlled by the multilateral export control regimes (Wassenaar Arrangement, Missile Technology Control Regime, Australia Group, and Nuclear Suppliers Group) as well as items controlled unilaterally for foreign policy reasons.

In support of U.S. foreign policy to promote the observance of human rights throughout the world, the United States unilaterally controls items on the CCL for crime control reasons, as required by Section 6(n) of the Export Administration Act of 1979, as amended¹ (the EAA). As set forth in the EAR, the U.S. Government requires a license to export most crime control and detection instruments, equipment, related technology, and software to all destinations other than Australia, India, Japan, New Zealand, and members of the North Atlantic Treaty Organization (NATO). Additionally, a license is required to export certain crime control items, including restraint type devices (such as handcuffs) and discharge type arms (such as stun guns), to all destinations except Canada.

The EAR imposes some limited controls on items not on the CCL. Items subject to Commerce licensing jurisdiction under the EAR but not specifically identified on the CCL are designated EAR99. Such items generally do not require a license for export or reexport to China unless destined for certain WMD-related end uses or end users, or unless the items are part of a transaction involving a restricted party identified on one of several lists of sanctioned or restricted entities maintained by agencies of the U.S. Government, including BIS, the Department of State, and the Department of the Treasury.

Items controlled for crime control reasons are added to or removed from the CCL based upon continuous review of the merits of maintaining the controls and the effectiveness of the controls. Section 6 of the EAA prohibits the imposition of foreign policy controls including crime controlled items unless certain determinations are made and certain factors reported to Congress, such as determinations that the controls are likely to achieve the intended foreign policy objective, descriptions of consultation efforts with industry and other supplier countries,

¹ 50 U.S.C. §§ 4601-4623 (Supp. III 2015).

determinations related to the economic impact on U.S. industry and efforts to achieve the purpose of the controls through alternative means, descriptions of foreign availability, and determinations regarding the ability to effectively enforce the controls.

Crime Control Licensing Review Policy

The U.S. Government considers applications to export or reexport most crime control items favorably, on a case-by-case basis, unless there is civil disorder in the country or the sale involves a region of concern, or there is evidence that the government may have violated human rights. The purpose of these controls is to deter the development of a consistent pattern of human rights abuses, distance the United States from such abuses, and avoid contributing to civil disorder in a country or region. The U.S. Government maintains a general policy of denial for specially designed implements of torture, regardless of the intended destination.

Applications to export crime control items to countries that are not otherwise subject to sanctions or comprehensive embargoes, but that are identified by the Department of State as human rights violators, receive additional scrutiny in the license review process. The Department of State reviews all license applications for these countries on a case-by-case basis and makes recommendations to Commerce.

Specific Licensing Review Policy for China for Crime Control Items

Following the 1989 military assault on demonstrators by the Chinese Government in Tiananmen Square, the U.S. Government imposed constraints on the export to China of crime control and detection instruments and equipment on the CCL under Section 902(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, Public Law 101-246.

In fiscal year 2017, the Department of Commerce approved 25 licenses to China of crime control items, 21 of which were for the return of defective riflescopes and one license for the return of defective shotguns to their original Chinese manufacturers for refund or replacement, and three were for biometric identification equipment for a third country's visa system operating at its own diplomatic facilities in China. There were nine denials, including applications for cattle prods and stun guns, optical sighting devices, pepper spray, fingerprint powder, dyes, and inks, and voice print software to Chinese security agencies, manufacturing and development firms, and resellers.

Thank you again for the opportunity to testify here today. I will be happy to take your questions.