

# BUREAU OF INDUSTRY AND SECURITY

## UPDATE CONFERENCE ON EXPORT CONTROLS AND POLICY

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1

## BUREAU OF INDUSTRY AND SECURITY UPDATE CONFERENCE ON EXPORT CONTROLS AND POLICY

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# Small Yard, High Fence and China's Policy of Military-Civil Fusion

Gabriella  
Carney  
Senior Policy  
Advisor  
International  
Policy Office

Zane Zovak  
Policy Advisor  
International  
Policy Office

Miranda Sieg  
Compliance  
Specialist  
Strategic  
Intelligence  
Division



Joanna  
Stelnicki  
Export Control  
Officer  
Export Control  
Officer  
Program

Jose  
Rodriguez  
Export Control  
Officer  
Export Control  
Officer  
Program

Lorand Laskai  
Senior Advisor  
Office of the  
Undersecretary

2

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## Session Outline

1. BIS's policy response to PRC military-civil fusion (MCF)
2. Identifying red flags and using best practices to avoid supporting actions that support China's military modernization, human rights abuses, and third-country diversion
3. Panel Q&A session to discuss more nuanced issues including academia, Hong Kong, and Russia diversion

3

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3

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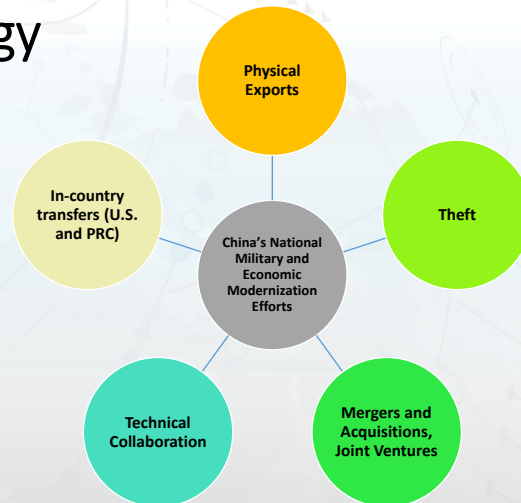
## BIS Policy Approach

4

4

## China's Technology Strategy

- Military-civil fusion → national power
  - Procurement above and below licensing threshold
  - Use of elaborate fronts, in the U.S. and abroad
  - Increased academic/scientific collaboration



5

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5

## Xi Jinping's vision for MCF

"We will consolidate and enhance integrated national strategies and strategic capabilities. We will better coordinate strategies and plans, align policies and systems, and share resources and production factors between the military and civilian sectors. We will improve the system and layout of science, technology and industries related to national defense and step up capacity building in these areas."

-20th Party Congress (2022)



6

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6

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**How BIS is responding: The EAR and the PRC**

**Multilateral Controls**

BIS authorization (i.e., license, license exception) is required to export/reexport any item subject to a multilateral control regime

- Certain license exceptions are ineligible if a party is on the Unverified List

Applications will be denied if the transaction would make a material contribution to military capabilities

**Unilateral Controls**

Entity List: License requirements imposed generally for any item subject to the EAR destined for a party on the Entity List with a review policy of presumption of denial

Military end use/end user: A license is required for specific AT-controlled items if there is a demonstrated military end use or military end user

- Certain non-Wassenaar microprocessors
- 47 ECCNs under Supp. 2 to Part 744
- Military End-User List
- Controls on all EAR items/foreign-origin items/U.S. persons' activities for China's Intelligence Bureau of the Joint Staff Dept.

Weapons of Mass Destruction: A license is required to export any item if destined for certain WMD (i.e., nuclear, missile, chem/bio) end use

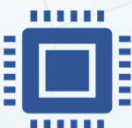

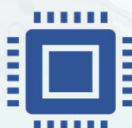
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7

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**Restrictions on chips used in military applications**

**Oct 7, 2022 Rule**

- Export controls on certain advanced computing semiconductor chips, transactions for supercomputer end-uses, and transactions involving certain entities on the Entity List
  - Logic <16/14 nanometers
  - Memory of >128 layers
  - DRAM < 18 nm half-pitch
- New controls on semiconductor manufacturing items and transactions for particular end uses

**Oct 17, 2023 Rules**

- Reinforce Oct 7 controls to restrict the PRC's ability to both purchase and manufacture certain high-end chips critical for military advantage
- Focus on semiconductor manufacturing equipment essential to advanced weapons systems + advanced AI chips

8

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8



## Future Export Controls



**Secretary of Commerce Gina M. Raimondo:**

"In October of last year [2022], BIS run by Under Secretary Estevez, did a historic rule: First time ever that we denied an entire country, China, access to a suite of semiconductors and equipment. We're going to continue to go in that direction."

"Technology is changing faster than ever, which means we have to wake up every day and ask ourselves, 'are we doing enough?' " (Mar 2024)



**Under Secretary of Commerce for Industry and Security Alan F. Estevez:**

"Export controls are a powerful national security tool, and the updates released today [Oct 17, 2023] build on our ongoing assessment of the U.S. national security and foreign policy concerns that the PRC's military-civil fusion and military modernization present. BIS will continue to assess the security environment and technology landscape and will not hesitate to act as appropriate."

9

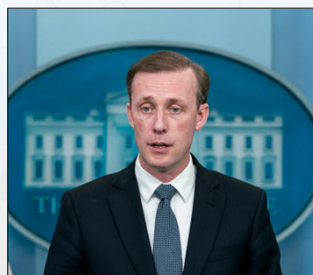
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9



## "Small Yard, High Fence"

- Biden National Security Strategy: to implement the **small yard, high fence** approach to protecting critical technologies.



**National Security Advisor Jake Sullivan:**



- "Chokepoints for foundational technologies have to be inside that yard, and the fence has to be high—because our strategic competitors should not be able to exploit American and allied technologies to undermine American and allied security."
- "Our export controls will remain narrowly focused on technology that could tilt the military balance. We are simply ensuring that U.S. and allied technology is not used against us. We are not cutting off trade."


10

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### What BIS is doing:

- ✔ Taking a careful and calibrated approach to dual-use export controls
- ✔ Working with interagency partners to evaluate controls and update as warranted
- ✔ Working with allies and partners to multilateralize export controls thus improving their effectiveness
- ✔ Protecting sensitive U.S. technology from contributing to activities of national security concern and violations of human rights
- ✔ Supporting and promoting responsible commercial trade in areas that do not compromise national security



### What BIS is NOT doing:

- ✘ Making policy based on economic competition with the PRC. We aren't taking actions to impede China's economic development or to favor U.S. companies.
- ✘ Seeking to place every PRC entity on Entity List – we're only concerned with those at the most advanced edge that may be facilitating the PRC's military modernization or violating human rights.
- ✘ Acting unilaterally and without consultation with the interagency or our allies and partners
- ✘ Seeking to decouple from China

11
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11

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# Red Flags and Best Practices

12

12

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**Export Enforcement (EE) Mission**  
*"Securing America's Trade"*

- EE protects U.S. national security, foreign policy and economic security by:
  - Educating exporters and academia on due diligence and best compliance practices.
  - Evaluating transactions to ensure compliance.
  - Detecting, investigating, preventing and deterring, as appropriate, export violations.
  - Interdicting illegal exports.
  - Pursuing criminal and/or administrative sanctions for violations.

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13

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**Common Acquisition Tactics, Techniques, and Procedures**

Use of third countries (inc. Europe).

Masking defense affiliation.

Obfuscating location.

Omitting website military references.

Targeted collaborative research.

Foreign ownership, control, influence.

Generic technology applications.

Ostensible commercial shareholders.

**7-10**

设计新一代航空电子产品

**UPLET** 北京新晋能科技股份有限公司

新产品	关键技术
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14



## Diversion – obfuscation techniques

### Surface level:

- Similar name/address to Entity Listed party [<https://legacy.export.gov/csl-search>]
- Masking USPP: high-end tech sent by company/person that doesn't manufacture anything
- Masking end user: consignee is trading company
- Unrealistic or generic terms for end use
  - "seabed mapping"
  - "target tracking"
- English, foreign name variants don't match
- Country codes/phone number country codes don't match
- Abnormal/inconvenient shipping routes
- Paperwork has inconsistencies for specified item

15

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15



## Diversion – obfuscation techniques

### One level deeper:

- Use of commercial alias and subsidiaries for state-owned research institutes and factories
- Co-location with entities of concern, including university campuses
- Ownership structure reflects ostensibly commercial shareholders and holding companies
- Little/no web presence

16

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16



## Diversion – obfuscation techniques

### Hong Kong:

- Use of Company Secretaries, company not actually in Hong Kong
  - Possibly share address with party on Entity or Unverified Lists
- Shipping through multiple freight forwarders and trading companies to hide destination

17

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17



## The Problem: Simplified

- To whom are you selling?
- **To what country is it going?**
- What are you selling?
- What will they use it for?
- EL party?
- **Hong Kong? Or PRC? Does it matter?**
- General purpose analyzer? Or rocket propellant optimizer?
- Pedestrian physics? Or military quantum?

18

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18

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**Data Visualization** Data Intelligence Investigation Services

**CSL SEARCH**

Search the Consolidated Screening List (CSL)

Search all [the screening lists](#) at one time by filling in the search boxes below. If you get too many results, try including more information to the additional fields. If you get too few results, try including more information to the additional fields. If you get too few results, try including more information to the additional fields. If you get too few results, try including more information to the additional fields.

**Name**  
Search for an entity's name or one of its alternative names.

**Fuzzy Name**  
When set to "off", the spelling of the name you search for must be correct to get results. When set to "on", the spelling of the name you search for may be slightly off from the exact spelling. Check the score for each result to determine the entity's name or its alternative names. A score of 100 is an exact match. Results are returned with fuzzy search filters and the following common words: co, company, corp, corporation, inc, incorporated, organization, sa, sas, llc, university, and uni.

**Address**  
Search for the street address, city, province, and postal code of an entity.

**Sources**  
Choose which of the screening lists that you want to search.

**Countries**  
Choose which countries that you want to search. Note, the Nonproliferation Sanctions and ITAR Debarred country with an entity. If you choose to search for entities by country then you will not be searching the...

[www.trade.gov/data-visualization/csl-search](http://www.trade.gov/data-visualization/csl-search)  
[www.federalregister.gov](http://www.federalregister.gov)

## Lists of Parties of Concern – Consolidated Screening List

**Consolidated Screening List (CSL) includes:**

- Department of Commerce
  - Entity List
  - Unverified List
  - Military End-User List
  - Denied Persons List
- Department of State
  - AECA Debarred List
  - Nonproliferation Sanctions
- Department of the Treasury
  - Specially Designated Nationals List (SDN)
  - Foreign Sanctions Evaders List
  - Sectoral Sanctions Identifications List (SSI)
  - Palestinian Legislative Counsel List (PLC)
  - Correspondent Account or Payable-Through Account Sanctions (CAPTA)
  - Non-SDN Menu-Based Sanctions List
  - Non-SDN Chinese Military-Industrial Complex Companies

19
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19

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## BIS Lists of Parties of Concern

- **Entity List**
  - A list of foreign parties for which an exporter, reexport, or transferor must obtain a license to export, reexport, or transfer (in country) all items subject to the EAR or a subset thereof. These parties have been determined to present a greater risk of diversion to WMD programs, terrorism, or other activities contrary to U.S. national security and/or foreign policy interests. By publicly listing such parties, the Entity List is an important tool to prevent unauthorized trade in items subject to the EAR. See Section 744.11 of the EAR.
- **Unverified List**
  - Parties whose bona fides BIS has been unable to verify. No license exceptions may be used. A statement must be obtained from such parties prior to shipping items not otherwise subject to a license requirement. See Section 744.15 of the EAR.

20
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20

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## BIS Lists of Parties of Concern

- **Military End User List**
  - The Military End User List identifies foreign parties that are prohibited from receiving items described in Supplement No. 2 of Part 744 of the EAR unless the exporter, reexporter, or transferor secures a license. These parties have been determined by the U.S. Government to be “military end users”, as defined in Section 744.21(g) of the EAR, and represent an unacceptable risk of uses in or diversion to a “military end use” or “military end user” in China, Venezuela, Burma, Nicaragua, or Cambodia.
- **Denied Persons List**
  - A list of individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of its denial order are prohibited. See Section 764.3(a)(2) of the EAR.

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21

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西北工业大学  
NORTHWESTERN POLYTECHNICAL UNIVERSITY

宁波研究院

## Independent or Affiliated Research Institute?

- Ningbo Research Institute claims to be independent research organization
  - Autonomous entity to use market advantages in other cities
  - Separate business registration (legally-distinct entity?)

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22



## Independent or Affiliated Research Institute?

- Chinese name is Northwestern Polytechnical University Ningbo Research Institute; calls itself "Ningbo Institute of NPU" on its website
  - Inaugurated as "Ningbo Research Institute of NPU" in official press releases
- Website is a subdomain of NPU website (ningbo.nwpu.edu.cn)
- Legal representative, Sheng Qijie, is Dean of Ningbo Research Institute and Professor of NPU
- NPU "will spare no effort to do a good job at the Ningbo Institute"
- Has NPU's school motto
- Has Weapons Equipment Quality Management System Certification, military research, classified research (just like NPU)
- First major task outlined in registration is flexible electronics
  - Major focus for NPU through Institute of Flexible Electronics and Key Laboratory of Flexible Electronics Materials and Devices



23

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23



## Case Study: Military Semiconductor Production

- BIS focused on targeting foundries tied to military end users/uses
- China Electronics Technology Group Corporation (CETC) responsible for:
  - Air base early warning
  - Integrated electronic information system
  - Radar
  - Communication and navigation
  - Electronic warfare
- Subordinate foundries:
  - Chengdu GaStone, CETC 13, CETC 55
- Entity List actions:
  - August 2014
  - August 2018

2014年公司完成GaInP/GaAs/InGaAs三代半导体太阳能电池组件开发。2015年取得上海空间电源研究所（简称“上海811所”）的产品认证。2016年取得中国电子科技集团公司第十八研究所（简称“天津18所”）的产品认证。目前为止公司已实现2万片空间电源芯片的生产与销售，量产平均转换效率达到31%，打破了此前产品部分进口的局面。为国防航天领域半导体芯片技术进口替代做出了贡献。

五十五所始建于1958年，主要从事固态功能器件、微系统集成电路等专业技术的研发和生产，研制的核心芯片和关键元器件在我军战略预警、防空反导、精确打击、机载火控等信息化装备和航天等国家重点工程中发挥了举足轻重的作用；科研进入了国家科技发展的“主渠道”，是国家科技重大专项核心器件领域的主要承担单位之一，目前在三代半导体领域处于国内领先水平；积极推动军民融合发展，民品产业进入国民经济信息化建设的主战场，形成了射频电子、功率电子两大支柱产业板块，2015年全所主营业务收入突破40亿元。

中电科29所是我国最早建立、专业从事电子战技术研究、装备型号研制和生产的国家一类系统工程研究所，多年来一直承担着国家重点工程、国家重大基础、国家重大安全等工程任务，能够设计开发和生产陆、海、空、天、弹等各种平台的电子信息系统装备。中电科29所和中电科14所（国睿科技大股东）、中电科38所（四创电子大股东）齐名。海特高新通过控股海威华芯进入高端半导体集成电路芯片研制领域，我们判断海威华芯产品前期将主要应用于29所高端电子装备中，是“中国制造2025”中新一代信息技术领域重点发展的集成电路及专用装备，事关国防信息安全，具有极高的战略地位和重要性，未来市场前景看好。

北京时代民芯科技有限公司在发展中秉承“用芯创造、精芯服务”的经营理念，以市场为导向，以技术为基础，以产品为核心，为广大用户提供全面的芯片技术解决方案，提供优质的产品和服务。同时，公司将以中、高端集成电路为主导产品，以赶超国际先进水平、跻身中国知名品牌的世界级集成电路供应商为目标，为航天、航空、兵器、船舶、核工业、通讯、消费电子等行业客户提供一流的产品、技术和服

24

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24

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Panel Q&A



25