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March 24, 2023

The Honorable Gina Raimondo
Secretary, Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Secretary Raimondo,

I am writing today to express frustration at the End-User Review Committee's (ERC) failure to list the subsidiaries of PRC cloud computing and supercomputing firm Inspur on the Department of Commerce's Entity List. As you know, on March 2 the Department of Commerce placed Inspur Group Co., Ltd on the Entity List¹ with enhanced licensing restriction established by the Department of Commerce on October 7, 2022. Within days of the listing, reporting revealed U.S. technology firms bypassing the restrictions by shipping to Inspur subsidiaries, along with indications that Inspur had changed the address of their headquarters to potentially avoid increased scrutiny created by their addition to the Entity List.²

The Inspur Group is one of the largest designers of supercomputers located in the PRC and is critical to PRC industry and government efforts to develop an advanced artificial intelligence and supercomputing ecosystem.³ The ERC must take immediate and regular actions to ensure companies like Inspur and its subsidiaries do not use U.S. technology to advance their interests.

¹ Bureau of Industry and Security, Final Rule, "Additions and Revisions of Entities to the Entity List," Federal Register 88 (Mar. 2, 2023): 13673, <https://www.federalregister.gov/documents/2023/03/06/2023-04558/additions-and-revisions-of-entities-to-the-entity-list>.

² Jenny Leonard and Ian King, "US Races to Close Loophole in Ban on China Tech Firm Inspur," Bloomberg News, Mar. 9, 2023, <https://www.bloomberg.com/news/articles/2023-03-10/us-races-to-close-loophole-in-ban-on-chinese-server-maker-inspur?leadSource=uverify%20wall#xj4y7vzkg>; Che Pan and Ben Jiang, "Tech war: China-listed unit of server maker Inspur on US trade blacklist changes domicile to a location 2km from parent," *South China Morning Post*, Mar. 8, 2023, <https://www.scmp.com/tech/tech-war/article/3212796/tech-war-china-listed-unit-server-maker-inspur-us-trade-blacklist-changes-domicile-location-2km>.

³ Inspur Group, "Inspur Releases Powerful Scale-Up AI Super-Server AGX-5 Accelerated by NVIDIA Tensor Core GPUs," Top 500, Nov. 20, 2018, <https://www.top500.org/news/inspur-releases-powerful-scale-up-ai-super-server-agx-5-accelerated-by-nvidia-tensor-core-gpus/>; Ben Jiang, "Tech war: US decision to add AI server firm Inspur to its trade black list will hinder China's computing power," *South China Morning Post*, Mar. 3, 2023,

Despite early indication that the U.S. government was preparing to address the subsidiary loophole,⁴ to date, the ERC has taken no action to add Inspur's subsidiaries to the Entity List nor made any public statement indicating U.S. policy intentions to extend licensing restrictions to Inspur. The Department of Commerce's own regulations state that if there is evidence "a subsidiary is facilitating transactions that would otherwise not be permissible with the listed entity, the company is likely in violation of Export Administration Authority 764.2(b)."⁵ Why has the Department of Commerce failed to enforce its own prohibitions?

When the Department of Commerce added Huawei to the Entity List, we saw Huawei stockpile years' worth of U.S.-designed chips in an attempt to blunt the impact of the listing.⁶ Why has the Department of Commerce failed to learn from this precedent? When a PRC high-altitude surveillance platform violated our airspace in February, the Department of Commerce added the entities involved in a little over a week.⁷ Yet over half a month has passed and the ERC has failed to take action on what should be a national security priority.

We know there is precedent for the ERC making licensing changes and entity list additions in as little as 24 hours. With the addition of the parent company Inspur to the Entity List and the previous DoD designation of Inspur as a "Chinese military company,"⁸ there is a clear and convincing legal basis to add Inspur subsidiaries to the entity list.

I look forward to hearing the ERC's justification for why it has been unable to close a critical loophole in our export control policy in a timely fashion.

Sincerely,



Mike Gallagher,
MEMBER OF CONGRESS

<https://www.scmp.com/tech/tech-war/article/3212281/tech-war-us-decision-add-ai-server-firm-inspur-its-trade-black-list-likely-hinder-chinas-computing>.

⁴ Leonard & King, "US Races to Close Loophole," <https://www.bloomberg.com/news/articles/2023-03-10/us-races-to-close-loophole-in-ban-on-chinese-server-maker-inspur?leadSource=uverify%20wall#xj4y7vzkg>.

⁵ 15 C.F.R. 764.2, <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-C/part-764/section-764.2>.

⁶ Cheng Ting-Fang, Lauly Li, and Coco Liu, "Exclusive: Huawei stockpiles 12 months of parts ahead of US ban," *Nikkei Asian Review*, May 17, 2019, <https://asia.nikkei.com/Economy/Trade-war/Exclusive-Huawei-stockpiles-12-months-of-parts-ahead-of-US-ban>.

⁷ Alexandra Alper and Karen Freifeld, "U.S. adds six Chinese entities tied to balloon program to export blacklist," Reuters, Feb. 11, 2023, <https://www.reuters.com/world/us/us-add-chinese-entities-tied-balloon-program-export-blacklist-source-2023-02-10/>.

⁸ "Entities Identified as Chinese Military Companies Operating in the United States in Accordance with Section 1260H of the William M. ("Mac") Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283), Department of Defense, <https://media.defense.gov/2022/Oct/05/2003091659/-1/-1/0/1260H%20COMPANIES.PDF>.

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