

Statement of
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Chairman Brown, Ranking Member Scott, distinguished members of the Senate Banking Committee, thank you for inviting me to testify about the ongoing efforts of the Commerce Department, Bureau of Industry and Security’s (BIS’s) Export Administration to administer U.S. export controls to protect U.S. national security and foreign policy interests. We remain laser-focused on addressing the challenges posed by the People’s Republic of China (PRC’s) Government’s military modernization and human rights abuses and the Russian Federation’s (Russia’s) efforts to obtain dual-use technologies to further its illegal, unjust, and unprovoked aggression against Ukraine. We have been navigating these immense challenges by reinvigorating our multilateral efforts and by employing export controls in new ways. Now more than ever, our work hinges on deep collaboration with allies and partners. We are also making every effort to ensure that BIS’s Export Administration (EA) is positioned to successfully counter the national security challenges of the future, starting with those related to misuse of artificial intelligence (AI).

BIS is responsible, along with interagency partners, for protecting U.S. national security and foreign policy interests by ensuring that U.S. technology is not obtained by foreign countries and entities of concern to harm the United States. The bureau also works to promote American technological leadership. This responsibility stems from BIS’s authorizing statute, the Export Control Reform Act of 2018 (ECRA), which describes the policy goals for BIS’s administration and enforcement of its export control system. While I lead the regulatory and licensing functions of BIS, my colleague in Export Enforcement (EE), Assistant Secretary for Export Enforcement Matthew S. Axelrod, leads the bureau’s law enforcement agents and analysts in the exercise of administrative and criminal enforcement authorities for alleged violations of our export controls.

Through the Export Administration arm of BIS, which I lead, we identify sensitive U.S. technologies of national security and foreign policy concern, develop policies and strategies for protecting these technologies, and review licenses applications submitted by exporters to determine whether specific transactions are consistent with U.S. national security and foreign policy interests. We also analyze data, industry information, and classified reporting to assess the effectiveness of our controls, the availability of foreign technology (including identifying sensitive technologies developed by ally and partner countries), and foreign end users that require extra scrutiny before receiving U.S. technology.

In administering U.S. export controls in close coordination with the Departments of State, Defense, and Energy, we endeavor to take a multilateral approach. To be sure, there are times where unilateral export controls are necessary, however, as ECRA notes, “[e]xport controls that are multilateral are most effective[.]” Accordingly, coordinating with our allies and partners on export controls is a longstanding BIS priority.

In today’s testimony, I will discuss the long-standing controls we have in place for the PRC, enhanced controls adopted under the Biden-Harris Administration, the targeting of PRC entities of concern, the efforts we have taken to support our closest allies and partners, and the need for increased funding to support our mission.

I. PRC Dual-Use Export Controls and Licensing

BIS maintains comprehensive controls on the exports of sophisticated technologies to the PRC. BIS also controls low level technologies to preclude exports to untrusted end users, PRC military activities, and weapons of mass destruction (WMD) programs. This includes the imposition of license requirements for:

- all military and spacecraft items under BIS jurisdiction (which are subject to a statutory policy of denial);
- all multilaterally-controlled dual-use items;
- a large number of dual-use items with extensive commercial applications if the item is knowingly intended, entirely or in part, for a military end use or military end user in the PRC;
- all items under our jurisdiction if the item is exported knowing it will be used in certain WMD programs;
- all items under our jurisdiction if the item is exported knowing it is intended, entirely or in part, for military-intelligence end uses or end users in the PRC; and
- all items under our jurisdiction if the item is destined for a party on BIS's Entity List.

In addition, BIS prohibits certain U.S. person activities that would support WMD-related activities or military-intelligence end use or end users in the PRC, even if no items subject to our jurisdiction are involved, absent authorization.

With our interagency partners, we review all of the license applications for the PRC to determine a risk of diversion to military end uses or end users, WMD end uses, or abuses of human rights. We evaluate license applications—taking into account open source and intelligence information—based on the technology at issue, the country at issue, the entity using the item, other parties involved in the transaction, and how the item will be used. One of the primary factors we consider is the risk of diversion of the technology from the transaction details articulated in the license application instead to a country, end user, or end use of concern. License applications are reviewed with a presumption of denial where there is evidence of a substantial risk of diversion.

As Secretary Raimondo has stated: “China today poses a set of growing challenges to our national security. It is deploying its military in ways that undermine the security of our allies and partners and the free flow of global trade. . . .” The Chinese Communist Party (CCP) under President Xi Jinping has set a goal to develop the People’s Liberation Army (PLA) into a “world class military” and overtake the United States and its allies and partners by dominating certain advancing technology sectors such as AI; autonomous systems; advanced computing, semiconductors and microelectronics; quantum information sciences; biotechnology; space systems; and advanced materials and manufacturing.

To fulfill this vision, the PRC Government is going to great lengths to obtain key advanced technologies with military potential. Export controls generally operate by trying to control military uses while allowing civilian uses of technology. The PRC Government’s military-civil fusion (MCF) strategy deliberately blurs lines between commercial sectors and the PRC’s defense industrial base. This strategy is even more concerning where the PRC’s Government structure gives leadership the power to coerce information and assistance from companies that have little choice but to comply. Accordingly, the goals of the PRC’s MCF strategy, situated within the PRC’s Government system, have necessitated stronger export controls by the U.S. that target predominantly commercial items that can be used in military applications.

In the face of the PRC’s challenges to global peace and security, the United States and our allies and partners must safeguard our core technologies by continuously and proactively reviewing and updating our export control policies.

BIS has long restricted access by PRC entities to dual-use items of national security and foreign policy concern, including emerging technologies. Together with our interagency partners in the Defense Department's Defense Technology Security Administration, the Energy Department's National Nuclear Security Administration, and the State Department's Bureau of International Security and Nonproliferation, we work to address national security threats and foreign policy concerns posed by the PRC Government. These efforts include U.S. control list proposals to the appropriate multilateral export control regimes, amendments to the Export Administration Regulations (EAR), review of export license applications, and identifying specific end users of concern. Because each agency brings different considerations and understanding, BIS relies on the interagency for its varied perspectives to ensure decisions that best protect U.S. national security and foreign policy interests.

License applications submitted by exporters and reexporters to send items to the PRC receive close scrutiny by BIS and our interagency partners. In calendar year (CY) 2023, license applications for the PRC had an average processing time (APT) of approximately 92 days. This APT is significantly longer than the CY 2023 APT for non-PRC cases of approximately 31 days. Compared to CY 2021 APT for PRC cases of approximately 76 days, we see a 21% increase in just two years. As evidenced by this data, BIS with its interagency colleagues, is taking the time to ensure that PRC licenses are carefully reviewed. We prioritize comprehensive review of relevant open source and intelligence information over speed.

In CY 2023, licenses reviewed for the PRC comprised approximately 11 percent of all applications reviewed by BIS. For items, including commodities, software, and technology (including domestic technology transfers, known as deemed exports), BIS and our interagency partners reviewed approximately 4,494 export and reexport license applications. Of these, approximately 30 percent were denied or returned without action.

In general, statistics regarding the interagency licensing process must be considered in light of the inherent restraint exercised by U.S. companies that generally do not waste time or resources applying for licenses they know will be denied or subject to lengthy interagency review. U.S. exporters should, before filing license applications know the parties in their transactions, including intermediaries and the end user, as well as the end user's intended use of the item. Exporters who do not do this risk either a return of rejection or return without action of their license application. After reviewing BIS's extensive know-your-customer and red flags guidance, many U.S. exporters do not submit license applications for transactions they contemplate are likely to be rejected. In fact, applications for exports to the PRC dropped by 10.7 percent between CY 2022 and CY 2023 (although volumes are still higher than during the height of the pandemic).

BIS's approach to the PRC is calibrated and targeted. Using a scalpel approach, we seek to restrict the PRC's military modernization efforts by restricting key, sensitive technologies without undercutting U.S. technology leadership and unduly interfering with commercial trade that doesn't undermine our national security and foreign policy.

We remain focused on aggressively and appropriately using our tools to contend with the long-term strategic competition with the PRC. Since the last time I was before this Committee in May 2023, we have strengthened the U.S. dual-use export controls policy toward the PRC:

Artificial Intelligence Item Controls

- In October 2023,¹ we updated the advanced computing and the semiconductor manufacturing equipment rule, which was published in October 2022. A core component of imposing export controls is continually assessing their overall effectiveness and keeping pace with technological changes. The October 2023 update revised the control parameters for advanced integrated circuits, and broadened the destination-based controls to cover additional destinations of concern. We also imposed worldwide license requirements for certain advanced integrated circuits and related specified end-uses when done for entities headquartered in, or with an ultimate parent company headquartered in Macau or a destination subject to an arms embargo such as China.
- Many of the updates were done to address the PRC's vast and aggressive efforts to undercut our controls through sophisticated evasion and circumvention tactics. Our policy intent remained the same. We sought to target the PRC's ability to acquire or produce the most advanced chips with direct AI applications for the development of advanced weapons systems, malicious cyber activity, and other military and intelligence applications. At the same time, we sought to minimize unintended impact on trade flows and on the economies of our partners and allies.

U.S. Participation in International Standards Setting Bodies

- Last week, to ensure robust U.S. participation and leadership in international standard-setting bodies, we amended the EAR to ensure that export controls and associated compliance concerns do not continue to impede and jeopardize U.S. participation and leadership in legitimate standards-related activities. Certain export control-related factors in the standards-making process led to an environment of regulatory uncertainty and decreased participation of U.S. companies in critical standards-related activities. This decrease in participation is a national security concern as it not only limits U.S. leadership in standards development, but also leads to the PRC racing to replace U.S. participation with their own leadership and standards. This uncertainty contributes to the potential of a global standards environment that works in opposition to U.S. technological leadership and broader interests. The changes made by last week's rule help ensure that U.S. participation and leadership in the development of critical and emerging technology standards with our allies and partners remains strong.

In addition to its technology-based controls, BIS increasingly has used entity-specific restrictions, primarily through the Entity List, to restrict trade to actors of concern in the PRC. Through the interagency End User Review Committee (ERC), BIS and our interagency partners review PRC companies, both state-owned and commercial, to determine if they are reliable recipients of U.S. technology.

Currently, we have over 800 PRC parties (i.e., businesses, research institutions, government and private organizations, individuals, and other types of legal persons) on our Entity List and are therefore subject to restrictions on the items they can receive. Over 300 of those were added during the Biden-Harris Administration, which has added more PRC parties to the Entity List than any prior administration. They have been added for reasons including supporting the PRC's military modernization and WMD programs, supporting Iran's WMD and military programs, facilitating human rights abuses in Xinjiang, and providing restricted items to Russia. These parties include those involved in AI, surveillance, biotechnology, microelectronics, and quantum computing.

¹ <https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3355-2023-10-17-bis-press-release-acs-and-sme-rules-final-js/file>.

II. Engaging International Partners

The United States has relied on and acted in close cooperation with its allies and partners to bring together the international community to address military aggression, threats to sovereignty, and human rights abuses around the world. These last few years, we have doubled down on efforts to invigorate our international partnerships and taken broad efforts to liberalize controls for our allies and partners.

While we address the challenges posed by the PRC, Russia's brutal invasion of Ukraine has reinvigorated our close and continuing international partnerships. Technology supply chains span across borders, and technological expertise is dispersed throughout the world. The best way to truly keep potentially dangerous technologies and know-how out of the hands of bad actors is to work together. Coordinated controls reduce instances of evasion or backfill by other suppliers from other countries, ensuring that our controls remain effective over the long term.

Global Export Control Coalition

This is the approach we have adopted in building the Global Export Control Coalition, focused on using all aspects of export controls to degrade Russia's military capabilities, as well as those of enablers such as Belarus and Iran. This coalition – led by the European Commission, Japan, the United Kingdom and the United States – enabled us to drive new approaches to lower-level commodity controls on Russia and its partners, using Harmonized Systems codes to parse EAR99 items (i.e., low technology consumer goods). Further, through this partnership we have coordinated outreach to other countries in order to more forcefully combat illegal diversion. We have worked together to track data, identify priorities, and provide a unified message against Russia's unlawful war.

To date, the Biden-Harris Administration has added 925 entities in Russia, Belarus, and numerous third countries for reasons related to Russia's war on Ukraine.² Of those, over 200 parties have been added in the last year, including dozens of parties in China. BIS has virtually cut off these entities from U.S. trade, shutting down established Russian diversion routes and making it easier for law-abiding industry to avoid selling their commodities into high-risk diversion markets. In addition, we have imposed Entity List restrictions on all Specially Designated Nationals (SDNs) that have been identified by the Department of the Treasury in certain Russia-related programs to ensure that U.S. items are not sent to SDNs by foreign parties acting outside the scope of Treasury controls.

In addition, we have added new export controls to combat circumvention, such as by adding addresses used by the industry supporting offshore transshipment in Hong Kong to the Entity List, thereby incentivizing the corporate services industries to better scrutinize their offshore clients. We have expanded controls on previously uncontrolled business software for design and management. We have calibrated our controls to achieve our stated objectives—by narrowing a license exception used to facilitate civil telecommunication so that it is harder to abuse, or by adding a new License Exception for medical device exports serving humanitarian needs. We have simplified and harmonized our expanding Russia-related regulations so that they are easier to find and understand. We now require a license for most trade going to Russia, with export controls on thousands of classes of items, including all items described in 22 entire chapters of the harmonized tariff code. We have also reached out repeatedly to industry to better understand their supply chains and the challenges of export compliance.

² <https://www.bis.gov/press-release/department-commerce-announces-additional-export-restrictions-counter-russian#:~:text=BIS%20is%20adding%20controls%20on,of%20HTS%20codes%20to%20Russia.>

Facilitating Exports and Reexports to Close Allies and Partners

In recognition of key allies' and partners' support of our efforts against Russia, along with their leadership in the areas of chemical and biological weapons nonproliferation and the promotion of human rights, EA removed license requirements for certain items going to close partners and allies, making it easier to facilitate exports and reexports involving these countries, and allowing BIS to apply its resources toward reviewing and monitoring more sensitive exports and higher-risk transactions. Related to that, we expect to publish a final rule streamlining license exception Strategic Trade Authorization (STA) in the coming months to realize the original goal of Export Control Reform in making STA a key facilitator of secure technology transfer and interoperability with allies and partners. This will build off the proposed rule published last year.³ These rules will also free up licensing resources to focus on higher-risk transactions.

To complement the State and Defense Department's ongoing work to implement a broad defense trade exemption to advance the goals of the Australia-UK-U.S. Enhanced Trilateral Security Partnership, or "AUKUS," we have already incorporated the premise of AUKUS into our export controls. We recognize the importance of the enhanced export control and technology protection measures enshrined in the United Kingdom's National Security Act of 2023 and Australia's Defence Trade Controls Amendment and Securing Australia's Military Secrets Acts of 2024. Accordingly, effective April 19, 2024,⁴ we amended our export controls to remove nearly all remaining list-based license requirements for exports to Australia and the United Kingdom, expanded the availability of license exceptions, and eliminated certain end-use and end-user controls. These reforms will facilitate defense trade and technology cooperation with two of our closest allies and reduce burdens associated with licenses valued at up to \$7.5 billion per year.

III. Defense Priorities and Allocations System Title I of the Defense Production Act (DPA)

In addition to its export control functions, the Commerce Department has several responsibilities in implementing non-permanent provisions of the Defense Production Act (DPA).

First, under Title I, the Commerce Department administers the Defense Priorities and Allocations System (DPAS). Second, under Title VII, the Commerce Department analyzes the health of U.S. industrial base sectors. Finally, also under Title VII, BIS submits an annual report to Congress on offsets in defense trade. All three DPA authorities will expire if not reauthorized before September 30, 2025.

The DPAS establishes procedures for the placement, acceptance, and performance of priority rated contracts and orders for industrial resources, and for the allocation of materials, services, and facilities in support of approved national defense programs. The DPAS is regularly used to support the acquisition of industrial resources needed to support U.S. national defense requirements, especially by the Department of Defense. The Commerce Department works closely with the Department of Defense to support the U.S. Armed Forces through the DPAS to ensure the timely delivery of industrial resources needed to support critical operational requirements and ensure our national security goals are met. We are very proud of the role we play to support our servicemembers through the DPAS.

The Commerce Department may also authorize other government agencies, foreign governments, owners and operators of critical infrastructure, or U.S. or foreign companies to place priority ratings on contracts or orders on a case-by-case basis upon request. In response to these challenges, the Commerce Department, in

³ <https://www.federalregister.gov/documents/2023/12/08/2023-26681/proposed-enhancements-and-simplification-of-license-exception-strategic-trade-authorization-sta>

⁴ <https://www.bis.gov/press-release/commerce-significantly-streamlines-export-controls-australia-and-united-kingdom>.

coordination with the appropriate interagency partners, has responded to a significant increase in requests for assistance under the DPAS regulation.

For example, in 2023, the Commerce Department undertook 59 official actions in response to DPAS assistance requests, which is the highest number of official actions undertaken by the Department in the last 34 years. Fifteen of these rating authorizations were issued in support of U.S. Government Agencies, including three in support of Department of Defense programs and one in support of U.S. Government support to Ukraine. An additional 12 rating authorizations were issued in support of Commerce’s memorandum of understanding with Canada to provide reciprocal military priorities support, eight of which were in support of Canadian defense procurements and four of which were in indirect support of Department of Defense programs. Within these 2023 activities, the Commerce Department, in coordination with the Department of Defense, also issued two rating authorizations in support of NATO and 26 rating authorizations in support of our foreign military partners, including 24 rating authorizations in support of Department of Defense’s Security of Supply Arrangement partners, such as Israel, Italy, and the Republic of Korea. One of the rating authorizations issued to a Department of Defense Security of Supply Arrangement partner was ultimately in support of defense systems that would be transferred to the Ukrainian Ministry of Defense.

If the DPA’s Title I authority were to lapse, the Commerce Department would no longer be able to support procurement on behalf of an entity other than the U.S. Armed Forces. Without DPA Title I, Commerce would rely only on the limited priority authority delegated to it under the Selective Service Act of 1948 to administer the DPAS.

The DPAS continues to facilitate the timely delivery of industrial resources to support U.S. national defense needs, including military and emergency preparedness programs, coalition partners, and increasingly, our federal interagency partners. The Department of Commerce is eager to work with Congress to reauthorize the non-permanent provisions of the Defense Production Act.

IV. A Modern Export Administration

BIS is now at the center of strategic competition with the PRC over technologies that are critical to military advances. It plays a pivotal role in preventing foreign countries and entities of concern from leveraging American technology to develop items that can be used for strategic overmatch against the United States. There are more U.S. exports generally, more U.S. exports requiring a BIS license, and more export license applications submitted to BIS to be reviewed by the bureau and its interagency partners.

The emergence of adversaries with vastly more sophisticated tactics for evading or circumventing U.S. export controls has necessitated further calibration of export controls, which has further expanded the scope of BIS’s work.

Accordingly, we have repositioned ourselves organizationally to match our substantially growing responsibilities. We implemented a new EA leadership framework to ensure we continue to effectively protect national security and appropriately manage policy engagement and implementation. Our internal review recognized two main channels of activity: strategic trade, which includes our licensing functions, as well as our outreach and training mission; and technology security, including our defense industrial base and Section 232 responsibilities, and all of the analytic work we do on licensing and trade data, industry research, and intelligence. Accordingly, we formally created a Principal Deputy Assistant Secretary (PDAS) to oversee all of this work and two Deputy Assistant Secretaries (DAS) – one for Strategic Trade (ST) and one for Technology Security (TS).

In office organizational terms, the DAS/ST oversees the Offices of: Exporter Services, National Security Controls, and Non-proliferation and Foreign Policy Controls. The DAS/TS is responsible for EA's Offices of: Strategic Industries and Economic Security; and Technology Evaluation (OTE).

ECRA Section 1758 charges us with identifying and implementing appropriate controls on emerging and foundational technologies essential to national security. This critical part of our mission that demands dedicated resources and attention. This work, as well as foreign technology analysis and other research efforts designed to help assess the effectiveness of our export controls is being formalized under the DAS/TS. OTE leads EA's Section 1758 work, including through proactive research, analysis, collaboration and consultation with interagency partners and key industry and academic stakeholders, as well as supporting engagements with allies and partners at the regimes. Our nonproliferation experts, notably in the Chemical and Biological Controls Division have provided critical leadership in this space, through proposed rules on new technologies like peptide synthesizers. Formalizing a Technology Security branch of EA is essential for moving BIS from its historic focus on export control regulations towards a holistic approach of assessing the intersection of technology ecosystems, export control authorities, and national security and foreign policy goals.

Further enhancing this approach, under our new PDAS, we have formed an International Policy Office (IPO). Our vision for EA requires consistent and proactive engagement with our allies and partners to achieve mutual goals, as well as increased focus on the activities and plans of nations that challenge global peace and security. IPO leads EA's increasing focus on engaging on a plurilateral and bilateral basis to address evolving threats. This Office is furthering and deepening BIS's many plurilateral and bilateral relationships, and enabling country-specific analysis not necessarily tied to a specific technology or multilateral regime.

BIS's national security mission is more important than ever in an era of dynamic strategic competition with the PRC and rapid technological advancement. However, funds appropriated by Congress for the bureau have remained flat -- \$191 million -- over fiscal years 2023 and 2024 despite the following challenges:

- From 2013 to 2023, total U.S. exports were up approximately 28 percent, and exports under BIS licenses are up approximately 222 percent.
- BIS license applications have also nearly doubled in the last decade; in recent years, BIS is processing more than 42,000 licenses per year, in contrast to just under 26,000 licenses annually in 2013.
- Our staff are relying on foundational systems for both license adjudication and enforcement work that were put in service in 2006 and 2008, respectively.
- License review timelines continue to increase, particularly to the PRC, as licenses become more complex, particularly for exports of electronic components.
- BIS's law enforcement arm, the Office of Export Enforcement, employs only 150 agents to counter the threat posed by nation state actors, which means an increase in sworn law enforcement officers and analysts is overdue.

With the support of additional resources, BIS would be better able to meet the needs of the current geopolitical environment by enhancing these two channels of effort. Specifically, BIS has identified areas that would most benefit from additional resources, including:

- **Information Technology (IT) systems and security modernization** to secure and enhance BIS's infrastructure (including modernized digital management systems).

IT modernization would augment EA's ability to factor in all-source data during license application, including data generated by U.S. government and the private sector. These updates would bolster the

capabilities, capacity, and security of BIS data servers, facilitating comprehensive improvements to all aspects of BIS work that involve data intake and analysis – from evaluating the effectiveness of U.S. export controls to deploying supply chain analytic software to proactively identify and trace downstream supply chain diversion.

- **Data & analytics**, such as proprietary datasets and a modern data analytics system, to broaden BIS’s understanding of how critical supply chains interact and the intricacies of entity-business relationships.

Access to more fulsome data would improve BIS’s ability to analyze how trade flows, assess control efficacy and impact, and identify new technologies at their inception. Improving EA’s analytic capabilities in OTE and IPO, in particular, would strengthen and streamline impact across all bureau equities.

- **Specialized, in-house expertise**, including experts across critical fields and contracts with national labs and other relevant entities, to ensure that BIS stays up-to-date with cutting-edge technology and markets, as well as economics and supply chain management.
- **Domestic and international policy engagement**, including more cohesive interagency policy coordination and a new international engagement focus to continue building upon the multilateral partnerships that arose in the wake of Russia’s full-scale invasion of Ukraine and that also support coordinated actions related to the PRC’s semiconductor industry.

The need for new bilateral and multilateral partnerships will continue for the foreseeable future as the PLA aims to reinforce and consolidate its influence in critical global supply chains that span the Middle East, the African continent, Southeast Asia, and beyond. In order to sufficiently counter the threats posed by the PRC, BIS requires a significant and sustained increase in resources to further support accomplishing its critical national security mission. Such an investment by Congress in BIS is, fundamentally, an investment in U.S. national security. This investment will yield tangible results, and, in terms of importance, should be regarded in the same vein as the military and other traditional tools of power.

The status quo has shifted, as demonstrated by the unparalleled technological advances that have dramatically increased the need for national security and foreign policy controls and enforcement of violations. Agencies across the U.S. government have ramped up capacity to tackle the concerns regarding China, and BIS needs additional resources and authorities to follow suit. With additional funding and authorities over the next five years, BIS could more effectively execute its mission and keep critical technologies out of the hands of foreign countries and entities of concern.

Conclusion

Dual-use export controls have never been more relevant or more effective at protecting our national security. We are focused on aggressively and appropriately contending with the strategic technology threat posed by the PRC and will continue to appropriately and aggressively use the tools at our disposal to counter PRC efforts to outpace the United States and our allies.

Thank you for inviting me to appear today. I look forward to continuing to work with you, and I am happy to answer your questions.