

United States Senate

WASHINGTON, DC 20510

March 23, 2026

The Honorable Howard Lutnick
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Secretary Lutnick:

We write to request immediate action on a serious and documented national security concern: the large-scale diversion of advanced American AI chips to China through Southeast Asian intermediaries. We urge all necessary and appropriate actions – including the immediate pausing, suspension, or other reconsideration of all active export licenses covering advanced Nvidia AI chips and server systems destined for the People's Republic of China as well as for intermediaries in Southeast Asia, including Malaysia, Thailand, Vietnam, and Singapore.

This week, the Department of Justice indicted three individuals linked to Super Micro Computer, Inc. (Supermicro), including a company co-founder, for conspiring to export over approximately \$510 million in servers loaded with restricted Nvidia chips to China. Prosecutors allege the scheme operated through shell companies and overseas front entities designed to obscure the true end users.¹ The U.S. Attorney for the Southern District of New York described the operation as built on a web of lies, obfuscation, and concealment.² The alleged diversion was not a gap in the rules. It appears to have been a deliberate effort to evade export control laws. Indeed, even before the announcement of this indictment, a Financial Times investigation had already estimated that China secured at least \$1 billion in advanced AI processors in the three months immediately after the Trump Administration tightened export controls.³

In May 2025, while actively lobbying against export restrictions, the Chief Executive Officer of Nvidia, Jensen Huang, told reporters: "There's no evidence of any AI chip diversion. These are massive systems. The Grace Blackwell system is nearly two tons, and so you're not going to be putting that in your pocket or your backpack anytime soon."⁴ He went further, suggesting that Nvidia's customers could be trusted to police themselves: "The important thing is that the countries and the companies that we sell to recognize that diversion is not allowed and

1 NBC News, "Three men charged with illegally smuggling advanced AI chips into China," Brian Cheung, Jonathan Dienst and Tom Winter, March 20, 2026, <https://www.nbcnews.com/tech/tech-news/three-men-charged-illegally-smuggling-advanced-ai-chips-china-rcna264371>.

2 Wall Street Journal, "Tech Exec Accused of Smuggling Nvidia Chips to China Resigns From Board," Raffaele Huang and Katherine Hamilton, March 20, 2026, <https://www.wsj.com/tech/super-micro-computer-employees-arrested-for-alleged-sales-to-china-45a2bd73>.

3 Financial Times, Nvidia AI chips worth \$1bn smuggled to China after Trump export controls, Zijing Wu and Eleanor Olcott, July 24, 2025, <https://www.ft.com/content/6f806f6e-61c1-4b8d-9694-90d7328a7b54?syn-25a6b1a6=>.

4 Fortune, "Nvidia CEO sees no evidence of AI chip diversion into China," Annabelle Droulers, May 17, 2025, <https://fortune.com/article/nvidia-ceo-jensen-huang-ai-chip-diversion-china-blackwell-diffusion-rule/>.

everybody would like to continue to buy Nvidia technology. And so they monitor themselves very carefully."⁵

Those statements were not simply wrong in hindsight. They were contradicted by reporting available at the time and potentially misled U.S. officials. Singaporean authorities were already investigating chip diversion.⁶ Malaysian GPU import figures had spiked more than 3,000 percent in a single year. The Wall Street Journal reported on Chinese engineers arriving in Malaysia carrying hard drives. None of this was secret.⁷ Claims that there was no evidence of diversion appear to have been part of a public relations posture designed to protect Nvidia's export licenses.

The stakes here are not abstract. The Chinese Communist Party's Military-Civil Fusion policy means that chips acquired for commercial AI work can be redirected to serve the People's Liberation Army. Advanced processors power the surveillance networks, autonomous weapons systems, and military command infrastructure that China is building to challenge American power. Every chip that reaches Beijing through a Malaysian shell company or a Thai front entity is a chip that should never have left the country. We are concerned about these revelations, and the implication that the Bureau of Industry and Security can no longer base licensing decisions on assurances from executives who have a financial stake in the outcome.

Additionally, the scale of alleged fraud and diversion in Southeast Asia among key Nvidia partners raises serious concerns that the company's compliance and monitoring processes may be grossly inadequate to protect cutting-edge American technology from foreign adversary access. Under the alleged scheme, not only did defendants sell servers containing H200 AI chips to end-users in China without a license, they also illegally sold even more advanced B200 GPUs—which are not legally available to export to *any* customer *anywhere* in China.⁸ If Nvidia could not detect and prohibit non-China customers from allegedly illegally diverting GPUs bound for Southeast Asia to China, it is extremely implausible that it can meet existing end user/use control requirement for chips shipped directly to China. Nvidia's due diligence responsibilities under the EAR cannot be waived or outsourced. As BIS "Know Your Customer" Guidance makes clear, "[s]elf-blinding" or taking steps to avoid "bad" information do not insulate a company from liability. To the contrary, it would be an aggravating factor in an enforcement proceeding.⁹

We respectfully request that the Department of Commerce take the following steps without delay:

⁵ *Id.*

⁶ Bloomberg, "Singapore Probes Potential Fraud in Nvidia AI Chip Shipments, Gao Yuan and Mackenzie Hawkins, March 3, 2025, www.bloomberg.com/news/articles/2025-03-03/singapore-probes-potential-fraud-in-nvidia-ai-chip-shipments.

⁷ Tom's Hardware, "Nvidia CEO Jensen Huang says 'There's no evidence of any AI chip diversion,'" May 19, 2025, <https://www.tomshardware.com/tech-industry/artificial-intelligence/nvidia-ceo-jensen-huang-says-theres-no-evidence-of-any-ai-chip-diversion> (noting 3,400% surge in Malaysian GPU shipments and Wall Street Journal reporting on Chinese engineers arriving in Malaysia with hard drives).

⁸ *Supra* note 1.

⁹ Supplement No. 3 to Part 732, Title 15. Also see 15 C.F.R. § 764.2(e) ("acting with knowledge of a violation," whereas "knowledge" is defined in § 772.1 as including "an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts"]

1. Pause and conduct a full review of all active export licenses covering advanced Nvidia AI chips and server systems destined for China and intermediaries in Southeast Asia, including Malaysia, Thailand, Vietnam, and Singapore. BIS should not reauthorize any licenses until BIS has conducted independent, in-person end-user verification, confirmed that adequate controls against further diversion are in place, and ensured Nvidia's compliance program is strengthened and capable of meeting existing end user/use requirements;
2. Require that all future license applications for Nvidia advanced AI chip sales to Southeast Asian intermediaries include binding, independently auditable end-user commitments, with license revocation as the automatic consequence of verified breach; and
3. Determine whether representations, statements, or certifications made by Nvidia's leadership to Federal officials and to the public regarding the absence of chip diversion were materially false or misleading, and whether those representations, statements, or certifications influenced licensing decisions in a way that warrants further investigation or referral.

American export controls exist to protect American national security. They only work if the companies subject to them follow the law and meaningfully, aggressively monitor their supply chains. We are concerned that the recent Supermicro indictments raise serious questions about Jensen Huang's public assurances and the Department of Commerce should treat them accordingly.

Thank you for your attention to this matter.

Sincerely,



Jim Banks
U.S. Senator



Elizabeth Warren
Ranking Member
Committee on Banking,
Housing, and Urban Affairs