

Congress of the United States

Washington, DC 20510

January 24, 2020

The Honorable Mark Esper
Secretary of Defense
United States Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Esper,

We write regarding recent public reports that the Defense Department objected to a proposed change to Commerce Department regulations that would have made it more difficult for U.S. companies to sell to Huawei from their overseas facilities. Given the national security risks surrounding Huawei's technology and operations, concerns which resulted in the addition of Huawei and its affiliates to the Department of Commerce's Entity List in May 2019, we respectfully ask for a member-level briefing on the Department's rationale for its reported objection.

Huawei is an arm of the Chinese Communist Party and should be treated as such. It is difficult to imagine that, at the height of the Cold War, the Department of Defense would condone American companies contracting with KGB subsidiaries because Moscow offered a discount. We are concerned that the Defense Department is not appropriately weighing the risks.

Based on public reporting, pursuant to a Department of Commerce proposal, the Office of Management and Budget circulated a proposed rule change that would reduce the maximum percentage of U.S.-origin content, from 25 percent to 10 percent, in permitted sales to Huawei. This change to the De Minimis Rule for sales to Huawei would have effectively disrupted the supply chain of the Chinese Communist Party's tech puppet, which depends on valuable contracts with American companies. The Department reportedly objected over concerns about how the rule would affect U.S. companies' competitiveness and their ability to continue to invest in research and development which allows the United States to maintain a technological edge over our adversaries.

We respectfully request that within 60 days you provide a briefing to discuss the following:

1. Whether the Department issued a nonconcurrency to the proposed change as publicly reported.
2. The rationale for the reported nonconcurrency, including an assessment of the benefits and costs of the Commerce Department proposal on our ability to maintain a technological edge over our adversaries as outlined in either official memoranda and interagency discussion.
3. How the Department's reported nonconcurrency affects the Department's simultaneous attempts to persuade allies and partners to bar Huawei from their networks.

Additionally, we respectfully ask that you produce or summarize, either in classified or unclassified form, the conclusions in the official memoranda that informed the Administration's consideration of this course of action.

Thank you for your consideration of our request and we look forward to this briefing.

Sincerely,

A handwritten signature in blue ink that reads "Ben Sasse". The signature is written in a cursive style with a horizontal line underneath.

Ben Sasse
United States Senator

A handwritten signature in blue ink that reads "Tom Cotton". The signature is written in a cursive style with a horizontal line underneath.

Tom Cotton
United States Senator

A handwritten signature in blue ink that reads "Marco Rubio". The signature is written in a cursive style with a horizontal line underneath.

Marco Rubio
United States Senator