

# United States Senate

WASHINGTON, DC 20510

October 5, 2020

The Honorable Wilbur Ross  
Secretary of Commerce  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Dear Secretary Ross,

We received your letter informing Congress of the Department of Commerce's approval to export to the People's Republic of China over 455,000 pounds of material critical to building missiles. Any export of materials to China that may enable it to further expand its missile forces should raise grave concerns and should never be approved.

While your letter states the exports "will not measurably improve the missile or launch capabilities of the People's Republic of China," given the sensitive nature of the material and China's clear efforts to build a larger and more threatening missile force, such an unsupported assertion is entirely inadequate and suggests the Trump administration may once again be sacrificing U.S. national security to promote short term business interests.

According to the Department of Defense China Military Power Report, released earlier this year, by the Department of Defense, China "will seek to develop a military by mid-century that is equal to—or in some cases superior to—the U.S. military, or that of any other great power that the PRC views as a threat." In particular, China is undertaking concerted efforts to modernize its nuclear forces, including diversifying and improving their missile forces to include silo, road- and rail-mobile missiles as well as ballistic missile submarines, and nuclear capable bombers.

As we hope you are aware, fine grain bulk graphite is a critical component in building missiles, including conventional ballistic and cruise missiles and space launch capabilities. With its potentially dangerous end-use as a component in these systems, there are serious questions regarding this decision, especially as your letter to Congress gave no mention of the exporter, the end-user, or end-use function – other than for the production of electronic discharge machines – for this sensitive material.

Prior to carrying out this export, we therefore urge the Commerce Department to further explain this decision, as it appears to us that the administration may be enabling or encouraging sales of material to the People's Republic of China that has the potential to be used to directly undermine and endanger the security of the United States and our allies and partners.

Specifically, at a minimum, we need answers to the following questions:

- 1) What entities are the sellers of this fine grain bulk graphite?
- 2) What Chinese entity or entities are the customers and/or end users?
- 3) Is the purchasing entity the Chinese government or a Chinese state-owned enterprise or an enterprise or individual with ties to either the Chinese Communist Party or the

People's Liberation Army? If not, does it have *any* connections to the Chinese government?

- 4) Can the Department certify that these entities are the ultimate recipients and it will not be resold within China or re-exported elsewhere?
- 5) What end-use verification measures are in place to assure that these exports will not be used in PRC military programs or other programs with detrimental effect for U.S. national security interests?
- 6) Did the Department of Commerce consult with appropriate elements of the intelligence community, Department of Defense, Space Force, STRATCOM, or INDOPACOM in making this decision? What were their views?

As you know, the Strom Thurmond National Defense Authorization Act for FY1999 specifically states that the Commerce Department must certify (1) the export of the equipment or technology is not detrimental to the United States space launch industry; and (2) the missile equipment or technology to be exported, including any indirect technical benefit that could be derived from the export of the items, will not measurably improve the missile or space launch capabilities of the PRC.

- 7) What specific facts and analysis factors support your certification that these exports will not be detrimental to our space launch industry?
- 8) What specific facts and analysis support your certification that the graphite will not measurably improve the missile or space launch capabilities of the PRC?

Given the grave urgency of this matter we request a response by October 6. Thank you for your prompt attention to this matter.

Sincerely,



Robert Menendez  
United States Senator



Charles E. Schumer  
United States Senator



Richard J. Durbin  
United States Senator



Jack Reed  
United States Senator



Sherrod Brown  
United States Senator