

December 6, 2019

The Honorable Wilbur Ross
Secretary of Commerce
1401 Constitution Ave., NW
Washington, D.C. 20230

Dear Secretary Ross:

We, the undersigned U.S. trade associations, understand that the administration is considering significant changes to the Export Administration Regulations (EAR), specifically to existing *de minimis* and foreign direct product rules. The United States adopted rules in this area more than three decades ago to set careful limits for U.S. assertions of jurisdiction over non-U.S.-made items, based on the sensitivity of the items. In contrast, the proposed changes under consideration could negatively impact a wide range of commercial transactions involving items that are not sensitive for any national security reason.

Unilateral U.S. export restrictions in the face of foreign availability of interchangeable goods from non-U.S. sources harm companies with operations in the United States, without effectively restricting such items to end users of concern. Proposals to significantly expand the scope of items subject to the EAR, and the longstanding jurisdictional bounds of the EAR, could undermine the global competitiveness of U.S. firms by accelerating the design-out of U.S. technology by non-U.S. firms, while also imposing massive new compliance burdens for U.S. and non-U.S. companies alike. Moreover, creating a special rule for one set of targeted entities sets a dangerous precedent for future rules, while also increasing the compliance risk for U.S. exporters, big and small. Both proposed changes undermine the administration's national security objectives to promote American prosperity and preserve our nation's lead in research, technology, invention, and innovation.

Given the complexity of these issues, the stark departure from existing policy, and the potentially significant economic impacts that could result from such revisions, it is critical that any changes under consideration solicit, consider, and incorporate stakeholder input.

We stand ready to provide the Department further information on the potentially significant implications of these and other proposals. Thank you for your attention to this matter.

BSA | The Software Alliance
Computing Technology Industry Association (CompTIA)
Information Technology Industry Council (ITI)
IPC
National Association of Manufacturers (NAM)
National Foreign Trade Council (NFTC)
SEMI
Semiconductor Industry Association (SIA)
Software & Information Industry Association (SIIA)
U.S. Council for International Business (USCIB)

cc: Secretary of State Michael R. Pompeo
Secretary of Defense Mark T. Esper
Secretary of Treasury Steven Mnuchin
National Economic Council Director Larry Kudlow
National Security Advisor Robert C. O'Brien