Dear Secretary Pritzker, Secretary Kerry, and Secretary Carter:

We are writing to express our concern with the proposed Revision of U.S. Munitions List (USML) Category XII published in the Federal Register on May 5, 2015. We are supportive of the President’s Export Control Reform, but we believe the recent proposal to revise Category XII falls short of the stated objective of protecting our nation’s sensitive military commodities while providing relief to companies struggling with the outdated and overly burdensome regulations.

The purpose of the Export Control Reform initiative is to provide straightforward guidelines protecting national security and furthering U.S. foreign policy objectives while supporting American industry by reducing incentives for foreign manufacturers to “design-out” US-origin components. The new proposed rule, however, is considerably more complex than the current rule and would limit the ability of American companies to innovate and develop new technologies. We request that the proposal be rewritten following engagement with stakeholders from industry, academia, and relevant federal agencies.

The proposal needs to better account for the foreign availability of comparable products, specify military items, and take into account that commercial markets dominate the sales of many of the technologies described in the Category XII draft. Category XII encompasses military designed items
related to infrared technology, optical guidance and lasers. Examples of commercial uses for cooled infrared cameras which include hazardous gas emission testing, biomedical and hyperspectral imaging, and remote sensing for agricultural needs such as monitoring soil moisture or stress will potentially be hampered under the proposed rule changes.

We request that a new proposal bring the criteria of “specially designed” in the Category XII proposal in line with §120.41 of the USML, according to the definition agreed upon by the Department of Defense and Department of Commerce on October 15, 2013. Additionally, we request that the munitions list align with the Wassenaar Munitions List, which is accepted by 41 countries including the United States. Commodities and components that fall outside the “specially designed” criteria or the Wassenaar Munitions List should be controlled under the Commerce Control List (CCL), which provides greater flexibility and faster response time than other controls. Our priority should be to identify military sensitive items and apply appropriate controls, rather than apply broad parameter restrictions that target all cutting-edge technologies and act to restrict growth and investment in sectors where innovation and rapid advancement are critical. We must not adopt restrictions that disincentivize investment by U.S. companies in emerging technology and markets.

We urge you to support clear and sensible regulations that both protect the American people and support the ingenuity and economic competitiveness of U.S. companies.

Sincerely,

Michael M. Honda
Member of Congress

Zoe Lofgren
Member of Congress

Anna G. Eshoo
Member of Congress