

Tom Cotton

AMENDMENT NO. _____ Calendar No. _____

Purpose: To reinstate certain penalties imposed on certain Chinese telecommunications companies and to extend the prohibition on certain telecommunication services and equipment to all executive agencies and to loan and grant funds.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

H. R. 5515

To authorize appropriations for fiscal year 2019 for military

AMENDMENT N^o 2514

By COTTON

To: Amnd No 2282

6

Page(s)

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, for military of the Department of Defense for military personnel for other purposes.

and

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COTTON (for himself, Mr. VAN HOLLEN, Mr. SCHUMER, Mr. RUBIO, Mr. BLUMENTHAL, Ms. COLLINS, and Mr. NELSON) to the amendment (No. 2282) proposed by Mr. INHOFE

Viz:

- 1 Strike section 1727 and insert the following:
- 2 **SEC. 1727. PROHIBITION ON MODIFICATION OF CIVIL PEN-**
- 3 **ALTIES UNDER EXPORT CONTROL AND SANC-**
- 4 **TIONS LAWS AND PROHIBITION ON CERTAIN**
- 5 **TELECOMMUNICATIONS EQUIPMENT.**
- 6 (a) PROHIBITION ON MODIFICATION OF PEN-
- 7 ALTIES.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, no Federal official may modify any
3 penalty, including a penalty imposed pursuant to a
4 denial order, implemented by the Government of the
5 United States with respect to a Chinese tele-
6 communications company pursuant to a determina-
7 tion that the company has violated an export control
8 or sanctions law of the United States until the date
9 that is 30 days after the President certifies to the
10 appropriate congressional committees that the com-
11 pany—

12 (A) has not, for a period of one year, con-
13 ducted activities in violation of the laws of the
14 United States; and

15 (B) is fully cooperating with investigations
16 into the activities of the company conducted by
17 the Government of the United States, if any.

18 (2) REINSTATEMENT OF PENALTIES OR SUS-
19 PENDED ORDER.—

20 (A) IN GENERAL.—If, before the date of
21 the enactment of this Act, any penalty imposed
22 pursuant to the order of the Acting Assistant
23 Secretary of Commerce for Export Enforcement
24 entitled “Order Activating Suspended Denial
25 Order Relating to Zhongxing Telecommuni-

1 cations Equipment Corporation and ZTE
2 Kangxun Telecommunications Ltd.” (83 Fed.
3 Reg. 17644), and dated April 15, 2018, is re-
4 duced or eliminated, or that order is suspended,
5 on such date of enactment, that penalty shall be
6 reinstated to the penalty in place before such
7 reduction or elimination, or that order shall be
8 reinstated, as the case may be.

9 (B) ADDITIONAL MODIFICATIONS.—Any
10 modification to a penalty imposed pursuant to
11 the order described in subparagraph (A) on or
12 after the date of the enactment of this Act shall
13 be subject to the requirements of paragraph
14 (1).

15 (b) PROHIBITION ON USE OR PROCUREMENT.—The
16 head of an executive agency may not—

17 (1) procure or obtain or extend or renew a con-
18 tract to procure or obtain any equipment, system, or
19 service that uses covered telecommunications equip-
20 ment or services as a substantial or essential compo-
21 nent of any system, or as critical technology as part
22 of any system; or

23 (2) enter into a contract (or extend or renew a
24 contract) with an entity that uses any equipment,
25 system, or service that uses covered telecommuni-

1 cations equipment or services as a substantial or es-
2 sential component of any system, or as critical tech-
3 nology as part of any system.

4 (c) PROHIBITION ON LOAN AND GRANT FUNDS.—

5 The head of an executive agency may not obligate or ex-
6 pend loan or grant funds to procure or obtain, extend or
7 renew a contract to procure or obtain, or enter into a con-
8 tract (or extend or renew a contract) to procure or obtain
9 the equipment, services, or systems described in subsection
10 (b).

11 (d) EFFECTIVE DATES.—The prohibitions under sub-
12 section (b)(1) and subsection (c) shall take effect 180 days
13 after the date of the enactment of this Act and the prohi-
14 bition under subsection (b)(2) shall take effect three years
15 after the date of the enactment of this Act.

16 (e) RULE OF CONSTRUCTION.—Nothing in sub-
17 section (b) or (c) shall be construed to—

18 (1) prohibit the head of an executive agency
19 from procuring with an entity to provide a service
20 that connects to the facilities of a third-party, such
21 as backhaul, roaming, or interconnection arrange-
22 ments; or

23 (2) cover telecommunications equipment that
24 cannot route or redirect user data traffic or permit

1 visibility into any user data or packets that such
2 equipment transmits or otherwise handles.

3 (f) DEFINITIONS.—In this section:

4 (1) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term “appropriate congressional com-
6 mittees’ ” means—

7 (A) the Committee on Banking, Housing,
8 and Urban Affairs and the Committee on For-
9 eign Relations of the Senate; and

10 (B) the Committee on Financial Services
11 and the Committee on Foreign Affairs of the
12 House of Representatives.

13 (2) COVERED FOREIGN COUNTRY.—The term
14 “covered foreign country” means the People’s Re-
15 public of China.

16 (3) COVERED TELECOMMUNICATIONS EQUIP-
17 MENT OR SERVICES.—The term “covered tele-
18 communications equipment or services” means any
19 of the following:

20 (A) Telecommunications equipment pro-
21 duced by Huawei Technologies Company or
22 ZTE Corporation (or any subsidiary or affiliate
23 of such entities).

24 (B) Telecommunications services provided
25 by such entities or using such equipment.

1 (C) Telecommunications equipment or
2 services produced or provided by an entity that
3 the Secretary of Defense, in consultation with
4 the Director of the National Intelligence or the
5 Director of the Federal Bureau of Investiga-
6 tion, reasonably believes to be an entity owned
7 or controlled by, or otherwise connected to, the
8 government of a covered foreign country.

9 (4) EXECUTIVE AGENCY.—The term “executive
10 agency” has the meaning given the term in section
11 133 of title 41, United States Code.

12 (g) TREATMENT OF PROVISION RELATING TO PRO-
13 HIBITION ON CERTAIN TELECOMMUNICATIONS EQUIP-
14 MENT.—Section 891, relating to a prohibition on certain
15 telecommunications equipment, shall have no force or ef-
16 fect.