

# United States Senate

WASHINGTON, DC 20510

July 6, 2020

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

Dear Secretary Esper:

We write to you concerned about the pace at which the Department of Defense is working to remove Turkey from the supply chain of the F-35 Lighting II Joint Strike Fighter. As you know, the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92) prohibits Turkey from providing any “material support necessary for, or related to, any maintenance or support of the F-35 aircraft.” Unfortunately, Turkish manufacturers are still producing and delivering key components of the aircraft despite the statutory prohibition on such participation in manufacturing line of the program. We believe more urgency is needed and hope you will accelerate the process to ensure a more prompt removal.

As you know, we have worked together in the Senate on issues of U.S.-Turkey relations for several years and remain concerned about the direction Turkey is taking under the leadership of President Erdogan. From human rights violations in Syria and Iraq to arbitrary arrests of Americans in Ankara to defense cooperation with Russia, Turkey is not behaving like a responsible actor or working collaboratively with the West at the level we expect from a NATO ally.

These concerns have compelled us to introduce several bills in recent years aimed at ensuring appropriate consequences for Turkey’s behavior. On April 26, 2018, we introduced a bill to prevent the transfer of the F-35 Joint Strike Fighter aircraft to Turkey.<sup>1</sup> Later that year, we authored a provision in the FY2019 National Defense Authorization Act that directed the Department to develop a plan for removing Turkey from participation in the F-35 program. On March 29, 2019, we introduced a bill to prohibit the transfer of F-35 Joint Strike Fighter aircraft to Turkey until the US certifies that Turkey would not purchase Russian S-400 air defense system<sup>2</sup>, which was ultimately included in the FY2020 National Defense Authorization Act.<sup>3</sup> We were pleased that Acting Secretary Patrick Shanahan announced July 31, 2019 as the date of Turkey’s suspension from the F-35 program, with the intention to complete the supply chain transition by early 2020.<sup>4</sup>

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<sup>1</sup> <https://www.congress.gov/bill/115th-congress/senate-bill/2781>

<sup>2</sup> <https://www.congress.gov/bill/116th-congress/senate-bill/922>

<sup>3</sup> <https://www.congress.gov/bill/116th-congress/senate-bill/1790>

<sup>4</sup> <https://www.defense.gov/Explore/News/Article/Article/1870207/dod-sets-date-to-begin-unwinding-turkey-from-f-35-program/>

In June 7, 2019, Under Secretary Ellen Lord said the Department would be pursuing “a very disciplined and graceful wind-down” of Turkey’s participation in the program “in early 2020.”<sup>5</sup> As evidenced by the delays, the wind-down has been neither disciplined nor punctual. The Department’s postponements of this expulsion has undermined the effectiveness of our clear national message to the Turks on this matter.

Unfortunately, the Pentagon announced in January that Turkey would continue to manufacture some components of the F-35 supply chain well past the March 2020 deadline the Department had previously set.<sup>6</sup> Turkey’s leadership has taken note of this delay, as evidenced by Defense Industry Director Ismail Demir’s statement on May 7: “There was an understanding in the United States that nothing would be bought from Turkey for the F-35s after March 2020, but that approach is no longer there. Our companies continue their production and delivery.”<sup>7</sup>

On February 21, 2020, a Contracting Officer for the F-35 Joint Program Office informed Lockheed Martin “that it may continue receiving and utilizing deliveries necessary to complete Lot 12-14 requirements, as well as other awarded F-35 contracts that have been issued for development, sustainment and, with the exception of the Lot 15 Advance Acquisition Contract, production requirements.” This notification expressly allowed Lockheed Martin to continue making new purchase orders up until March 31, 2020. Fulfilling Lots 12-14 requirements would mean a final exit from Turkey would not occur until 2022—two years after the original deadline expressed by DOD.

Congress has always understood that removing Turkey from the supply chain would create additional expense for the Department and the taxpayers. However, this financial disruption is necessary in order to preserve the integrity of the program and affirm our nation’s diplomatic commitments under NATO. To aid the Department in this transition, Congress included a provision in the NDAA authorizing an additional \$30 million of FY 2020 funds in order to “terminate Turkey’s status as a member of the F-35 program.” Additionally, the FY 2020 appropriations legislation directs the Department towards a funding source of \$250.4 million “in order to fund the alternate sourcing of F-35 parts manufactured in the Republic of Turkey.”<sup>8</sup>

It is clear from these statutes that Congress intended for this transition to take place in a period of months, not a period of years. Furthermore, the plan submitted by your predecessor outlined a full detachment by the end of 2019. Based on recent revelations, it is clear that the Pentagon is not following its own timeline or the intent of Congress in this matter. We encourage you to reexamine the present approach and take action to ensure an expedited removal of Turkey from the manufacturing line as required by law.

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<sup>5</sup> <https://www.defense.gov/Newsroom/Transcripts/Transcript/Article/1870286/departments-of-defense-off-camera-press-briefing-on-turkeys-participation-in-the/>

<sup>6</sup> <https://www.defenseone.com/politics/2020/01/turkey-will-make-f-35-parts-longer-anticipated/162426/>

<sup>7</sup> <https://www.reuters.com/article/us-usa-turkey-defence/turkey-says-it-is-still-delivering-parts-for-u-s-f-35-jets-idUSKBN22J1Y7>

<sup>8</sup> <https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/HR%201158%20-%20Division%20A%20-%20Defense%20SOM%20FY20.pdf>

The legislation passed by Congress and signed into law by President Trump sent a clear diplomatic message to Turkey about the consequences of moving forward with Russian defense systems and technology. Unfortunately, that strong message is being undermined by the Department's repeated delays in removing Turkey from the supply chain. By keeping Turkish manufacturers in the supply chain two years after the initial statute took effect and well beyond the Pentagon's self-imposed deadline, the Department is impeding our nation's diplomatic and geopolitical efforts to pressure Turkey to reverse course.

We fervently support the Administration's plans to impose sanctions against Turkey under the Countering America's Adversaries Through Sanctions Act (CAATSA) (P.L. 115-44; 22 USC 9525) for its engagement in a statutorily-defined "significant transaction" with the Russian Federation for the S-400. We also commend the Department's swift action to ensure no F-35 aircraft are operating in Turkey. Nevertheless, we remain concerned about the delays to the supply chain transition and urge you to accelerate the process of removing all Turkish manufacturers in compliance with P.L. 116-92.

Therefore, we respectfully request that your team provide us with information as to who directed the February 21, 2020 order and why this program has not followed Congressional direction to end Turkey's involvement in this program immediately. We also ask that your response include a list of all active contracts with Turkish manufacturers, as well as the dates that such contracts entered into force and the dates that all contracts will expire.

Thank you for your attention to this matter and we look forward to hearing from you.

Sincerely,



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James Lankford  
United States Senator



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Jeanne Shaheen  
United States Senator



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Thom Tillis  
United States Senator

/s/ Chris Van Hollen

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Chris Van Hollen  
United States Senator