

## United States Senate

WASHINGTON, DC 20510

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October 19, 2016

The Honorable Ashton B. Carter  
Secretary of Defense  
U.S. Department of Defense  
1400 Defense Pentagon  
Washington, D.C. 20301

Dear Secretary Carter;

I was disturbed to learn of charges recently brought in U. S. District Court against the leadership of Tennessee-based Wellco Enterprises alleging that the company defrauded the U.S. government by selling mislabeled footwear. According to the indictment, Wellco—a major supplier to the Department of Defense—received at least \$138 million in government contracts to provide U.S.-made boots to our military personnel. Evidence suggests, however, that Wellco fraudulently imported boots made in China and other countries, labelling them as made in the USA. In some cases, a tear-away “Made in China” label was removed once the product arrived in the United States. I’m sure you agree that these allegations are seriously troubling, and I hope that the perpetrators of this fraud, if guilty, will be punished appropriately.

Compounding my concern about this case is that this fraud was committed with the express purpose of skirting the Berry Amendment. As you know, this critical statute for American manufacturers was established generations ago to ensure that U.S. service members wore uniforms made entirely in the United States. To this day, this law requires that 100% of manufactured goods purchased by the federal government be made within the United States. The Berry Amendment is a critical piece of our economic and national security. The express purpose of the Berry Amendment and the Buy American Act is to protect our domestic manufacturing supply chain for items that our military needs. Wellco’s alleged actions violate the law and undermine that decades-old compact between industry and government.

If the allegations are proven true, Wellco’s scheme was a deliberately fraudulent way to appear to be compliant with the Berry Amendment while ultimately costing U.S. jobs and endangering our industrial base. Last month, I voiced my concern to Undersecretary of Defense Frank Kendall, and pledged my support in helping the Department with whatever resources are needed from Congress to ensure compliance by contracting personnel and to crack down on purposeful fraud.

As I’ve communicated to you and your predecessors several times, I am very concerned about the amount of items purchased by the Department of Defense that are manufactured overseas. My belief, as I have outlined in the past, is that too many loopholes exist in current statutes that the Department has used to justify the purchase of goods made overseas. I am working to amend those statutes and tighten those loopholes.

In the meantime, I want to commend the great interagency work that uncovered this fraud. Specifically, I applaud the diligence of the Defense Criminal Investigative Service, Air Force Office of Special Investigation, and the Defense Contracts Audit Agency, and I hope justice in this case will be swift. I ask that you outline to me the resources needed to continue these enforcement actions in order to help bring to light similar cases of fraud. As a member of the Senate Committee on Appropriations, I am eager to be a partner with you in enforcing and improving the laws on the books that exist to help grow and protect our industrial base.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. S. Murphy', with a stylized, cursive script.

Christopher S. Murphy