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February 10, 2017

General Michael T. Flynn
Assistant to the President for National Security Affairs
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear General Flynn:

I write today to urge you in your capacity as National Security Advisor to take seriously the problem posed by the current language of the intrusion software provisions in the Wassenaar Arrangement. The inclusion and enforcement of these poorly-drafted controls threatens American economic and security interests by creating unnecessary barriers to the export of critical defensive cybersecurity technologies used by businesses around the world. You are receiving a separate letter from my colleagues in the House of Representatives regarding this issue, and I would like to strongly echo their concerns.

Under the previous Administration, the Department of Commerce showed admirable restraint, both by seeking public comments and then by withdrawing the flawed draft rule after it received comments by companies, the public interest community, and independent experts. The Administration, including the State Department, subsequently attempted to renegotiate the intrusion software language, but, unfortunately failed in its efforts at the December meeting of the 41 countries who have agreed to abide by the Wassenaar agreement.

I urge you to place the highest priority in seeking the modifications necessary to ensure that defensive cybersecurity technologies are not subjected to flawed export controls. I encourage you to act immediately on this issue by continuing the interagency process that was started by the previous Administration, and seeking the input of private sector and civil society stakeholders to ensure that the necessary modifications are included for consideration under the 2017 Wassenaar negotiations. Your attention and diligence is essential insofar as the deadline for proposing agenda items is quickly approaching.

Sincerely,



Ron Wyden

United States Senator

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