

**Alliance for Network Security
AMT – The Association for Manufacturing Technology
Business Software Alliance
Coalition for Employment Through Exports
Computer Coalition for Responsible Exports
Information Technology Industry Council
National Association of Manufacturers
National Foreign Trade Council
Semiconductor Industry Association
Semiconductor Equipment and Materials International
Software & Information Industry Association
TechAmerica
U.S. Chamber of Commerce**

June 24, 2009

The Honorable Keith B. Alexander
Director, National Security Agency/
Chief, Central Security Service
NSA/CSS
Fort George G. Meade, MD 20755-5999

The Honorable Dennis C. Blair
Director of National Intelligence
Office of the Director of National Intelligence
Washington, DC 20511

The Honorable Rahm Emanuel
White House Chief of Staff
The White House
Washington, DC 20502-0001

The Honorable Dr. Robert M. Gates
Secretary of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

The Honorable General James L. Jones
National Security Advisor
The White House
Washington, DC 20500-0005

The Honorable Gary Locke
Secretary of Commerce
1401 Constitution Ave NW
Washington, DC 20230-0001

The Honorable Leon E. Panetta
Director of the Central Intelligence Agency
Central Intelligence Agency
Washington, DC 20505-0001

The Honorable Lawrence H. Summers
Director of the National Economic Council and
Assistant to the President for Economic Policy
The White House
Washington, DC 20500-0005

Dear Sirs:

We are writing to enlist your active support for major reform of US encryption export control regulations. Over the last two years, industry has increasingly sought such reform, given the expanding collision between US encryption export controls and the rapidly surging deployment of cryptographic capability in commodity software and hardware products. Many commercial products are facing increased burdens and shipment delays as the result of this collision, a trend that threatens to harm US competitiveness and innovation.

In January 2008, the White House responded to the need for encryption reform by announcing a US export control directive (NSPD 55) aimed at encryption and numerous other reforms intended to “help ensure proper levels of control for continued US economic competitiveness and innovation while protecting national security.” The directive was a positive development and reflected recognition that the focus of export controls should be on those technologies that are truly sensitive, i.e. likely to have a significant negative impact upon national security.

In response to the NSPD, the Bureau of Industry and Security (BIS) issued an interim final rule on October 3, 2008 which made very minor changes to “simplify and clarify” the encryption regulations. While these minimal reforms represent a step in the right direction, US encryption controls continue to be unduly burdensome, hugely complex and substantially unilateral. Far-reaching changes to US encryption export controls are therefore needed in the very near future. Such changes should take account of key encryption trends and related export control implications raised by various high technology industry executives, including:

1. Encryption is a critical enabling technology for widely available Information and Communications Technology (ICT) products, including telecommunications, computer, software, semiconductor and other commodity items. In response to demands to increase the integrity of ICT products, and to maintain the confidentiality of information, consumers, government customers and companies are increasingly using cryptographic capability available in these products as well as in certain parts of global communications networks. Customers are demanding strong encryption and will get it from open or foreign sources if not from US sources.
2. ICT products are increasingly being reclassified for export control purposes as “encryption items,” due to their rapidly growing incorporation of encryption capability as a commodity feature, albeit usually a minor one. This designation is intensifying export controls on many ICT products by imposing highly disruptive licensing or license-like requirements such as mandatory product reviews, end user restrictions and post-export reporting. The reclassification trend is already producing a serious rise and backlog in encryption licensing cases at BIS.
3. The burdens and delays associated with the controls are not merely an administrative nuisance; indeed, the controls can hurt US competitiveness and technology leadership by disrupting product development and production cycles, introduction of new products, and

supply chain stability. The controls can also steer foreign manufacturing partners and customers away from products with US origin technology.

4. US companies must participate in the global market place to remain viable. Many countries possess and encourage development and use of indigenous encryption capabilities as well as software and hardware development capabilities that are competitive with US technologies. At the same time, the unilateral nature of many US encryption controls cedes competitive advantage to countries that are unconstrained by such controls.

These points are relevant to both US economic and national security interests. US national security depends upon an economically vibrant high-tech industry that is at the leading edge of technological advancement. To the extent encryption controls harm US industry, the benefits of this symbiotic relationship will deteriorate. The worldwide availability of ICT products with encryption capability, moreover, renders unilateral efforts to control them ineffective from a national security standpoint.

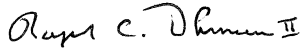
We call upon the Administration to pursue structural encryption control reforms that take full account of today's technological, global and security realities. In particular, we ask the Administration to commit to fundamental changes that address the concerns raised in this letter and, consistent with the January 2008 export control directives, ensure that encryption controls only focus on the most sensitive items. The reform process should involve serious consideration of removing product review requirements for mass market and other commodity products and components, ensuring mass market treatment for components that are designed for use in mass market products or are otherwise widely available, eliminating reporting requirements, and ending unilateral encryption controls in general (such as controls on products containing Open Cryptographic Interfaces and the remaining controls on publicly available items, e.g., open source, software).

We believe that such reforms are not only consistent with NSPD 55, they also comport with the findings of the recent National Academies study *Beyond "Fortress America," National Security Controls on Science and Technology in a Globalized World* (2009). This study states:

The national security controls that regulate access to and export of science and technology are broken. As currently structured, many of these controls undermine our national and homeland security and stifle American engagement in the global economy, as well as research in science and technology. Fixing these controls does not mean putting an end to them, but implementing reforms based on the realities of the risks and opportunities of today's threats to the nation.

In sum, a major overhaul of US encryption export controls is urgently needed. Our associations stand ready to work with you to achieve an encryption export control model that maintains the critical link between national security and US competitiveness and innovation.

Sincerely,



Roszel C. Thomsen II
Counsel
Alliance for Network Security



Douglas K. Woods
President
AMT – The Association For Manufacturing
Technology



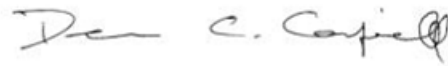
Robert W. Holleyman, II
President and CEO
Business Software Alliance



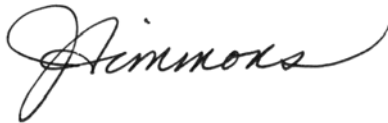
Edmund B. Rice
President
Coalition for Employment Through Exports



Dan Hoydysh
Chairman
Computer Coalition for Responsible Exports



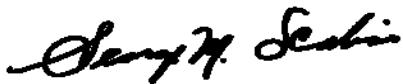
Dean Garfield
President & CEO
Information Technology Industry Council (ITI)



Jay Timmons
Executive Vice President
National Association of Manufacturers



William A. Reinsch
President
National Foreign Trade Council



George M. Scalise
President
Semiconductor Industry Association



Jonathan Davis
President, SEMI North America
Semiconductor Equipment and Materials
International



Ken Wasch
President
Software & Information Industry Association



Christopher W. Hansen
Chief Executive Officer
TechAmerica



R. Bruce Josten
Executive Vice President
Government Affairs
U.S. Chamber of Commerce