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United States Senate
COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

RICHARD D. DEBOBES, STAFF DIRECTOR
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August 6, 2012

The Honorable Leon E. Panetta
Secretary of Defense
1000 Defense Pentagon, Room 3E880
Arlington, VA 20301-1000

The Honorable Hillary Rodham Clinton
Secretary of State
2201 C Street, NW
Washington, D.C. 20520

Dear Secretary Panetta and Secretary Clinton:

A few weeks ago, defense contractor Pratt & Whitney Canada (P&WC) pleaded guilty to illegally exporting to China military software, knowing that it would be used by China to develop its first modern attack helicopter. Also, under agreements with the Department of Justice and the Department of State, prosecutions for illegal false statements or belatedly reporting a large number of administrative violations of the Armed Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR) against P&WC, its parent United Technologies Corporation (UTC) and another UTC subsidiary, Hamilton Sundstrand Corporation (HSC) have been deferred—subject to these companies' paying $75 million; implementing certain remedial measures; and retaining an independent monitor to assess their compliance with export laws for two years.

As we am sure you do, we find the crime to which P&WC pleaded guilty enormously troubling. According to the Justice Department, P&WC took what it described internally as a "calculated risk," because it wanted to become the exclusive supplier for a civil helicopter market in China with projected revenues of up to $2 billion. Moreover, several years after the violations were known, UTC, HSC and P&WC disclosed the violations to the government but apparently made false statements in doing so. While the Justice Department obtained a guilty plea from P&WC for illegally exporting software to China, no individual manager or employee has been held personally accountable for criminal misconduct.

Also of considerable concern is the large number of administrative violations to which these companies admitted in this case and the fact that they, too, were not timely discovered and reported. While the State Department has partially debarred P&WC from ITAR licensing privileges, to deter similar conduct by other U.S. defense contractors, we believe that the Defense Department should itself evaluate this case for the appropriateness of contract suspension or debarment.

The nature and number of these export control violations and the length of time during which they occurred raise the concern that they may have caused significant harm to our national security. We, therefore, ask that you provide the Committee with a full assessment of the extent of the harm caused to national security by all of these violations. If any aspect of that harm is unknown, please explain why you have not been able to assess that harm fully.

Finally, the widespread nature of these violations by just this one major defense contractor raises the possibility of systemic deficiencies with the oversight and enforcement of federal export controls. Therefore, please also explain how the Defense Department and the State Department will work more closely together to ensure compliance with these important requirements as the Defense Department pursues measures to further foreign sales of U.S.-origin equipment to our allies and friends.

Thank you for your attention to this serious matter.

Sincerely,

John McCain
Ranking Member

Carl Levin
Chairman