

THE WHITE HOUSE
WASHINGTON

January 22, 2008

NATIONAL SECURITY PRESIDENTIAL DIRECTIVE/NSPD-55

MEMORANDUM FOR THE VICE PRESIDENT
SECRETARY OF STATE
SECRETARY OF DEFENSE
SECRETARY OF COMMERCE
SECRETARY OF HOMELAND SECURITY
CHIEF OF STAFF TO THE PRESIDENT
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
DIRECTOR OF NATIONAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY
AFFAIRS
CHAIRMAN, JOINT CHIEFS OF STAFF

SUBJECT: Dual-use Trade Reform (U)

The United States faces new and unprecedented security challenges. Weapons of mass destruction (WMD) in the possession of hostile states and terrorists represent the greatest national security threat. In addition, the spread of conventional weapons and continued instability in important regions of the world threaten U.S. foreign policy and national security interests. To address these threats, the United States must make effective use of its diplomatic, economic, intelligence and other capabilities. This includes ensuring that dual-use items -- commodities, software, and technologies -- that are primarily for civilian uses but also have military applications, are not used against U.S. interests. (U)

The current U.S. export control system was designed for the Cold War when there was a more visible international consensus on the security threat and a country-based focus to the controls. Today, there are additional threats and in many cases more diffuse threats. In particular, terrorists and other proliferators often are not part of or under the control of a state, do not reveal their intentions, and are not limited in their quest for deadly weapons, including WMD, by a country's borders. They may operate within and across states, and even within the open societies of friendly nations. (U)

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Furthermore, national perceptions of security risks are no longer as consistent among the United States and its partners as they were during the Cold War. While members of the multilateral export control regimes coordinate on common control lists and on certain regulatory policies, there are significant disparities between U.S. export policies and those implemented by our allies. These disparities can have a direct and significant effect on the ability of U.S. companies to compete in the global market. U.S. dual-use export control policy must ensure that U.S. national security interests are met, while facilitating U.S. technological leadership, which in turn furthers the long-term national security interests of the United States. (U)

Equally important, relationships with emerging powers are becoming more complex. United States export controls must reflect the duality of the policy of working to expand and promote trade, peaceful development, and economic integration, while prudently addressing the uncertainties of potentially destabilizing foreign military buildups. (U)

Finally, the globalization of research and development, the rise of new economic competitors, and the diffusion of global supply networks challenge our economic and technological competitiveness. (U)

In recognition of these new realities, U. S. export controls must take account of both state-based threats and other threats and become more focused on distinguishing between end-users who are trusted and those who engage in activities detrimental to U.S. national security. (U)

To implement the policy set forth above, I direct appropriate executive branch agencies to refocus and refine dual-use export controls as follows:

(1) Develop a More End-User Based Export Control System. To reflect more clearly the changing nature of threats facing the United States, as well as the increasingly interconnected global economy, export control policy must become more focused on specific end-users and trade networks to better address the wide variety of threats to U.S. interests. The United States must actively seek to facilitate trade in controlled items when appropriate to trusted end-users, while denying sensitive technologies to end-users engaged in WMD activities, conventional arms proliferation, support for terrorism, or other

activities detrimental to U.S. national security and foreign policy interests. To this end, the Secretary of Commerce shall:

- Implement the Validated End-User (VEU) program for China and India, with appropriate interagency coordination;
- Assess the effectiveness of the VEU program, in coordination with relevant heads of executive branch agencies and submit a report thereon to me, through the Assistant to the President for National Security Affairs within 30 days after issuance of this directive; and
- Initiate discussions on the potential extension of the VEU program to other countries with heads of relevant executive branch agencies no later than 90 days following issuance of this directive, and keep the Assistant to the President for National Security Affairs appropriately informed. (U)

(2) Intelligence Support to the Licensing Process. An effective export control system is a key part of our national counterproliferation strategy to prevent controlled items from falling into the hands of U.S. adversaries. The continued provision to licensing agencies of timely, accurate, and insightful intelligence information and analyses of end-users and technologies of concern in a usable format is essential in assisting these agencies to fulfill their legal obligations. Therefore, within 30 days after issuance of this directive, the Assistant to the President for National Security Affairs, working with the appropriate heads of executive branch agencies, shall develop a plan for continued intelligence support to the export licensing process to ensure an equivalent level of intelligence support is provided. This plan should complement those steps that the licensing agencies are taking to receive and use intelligence information related to licensing issues. The Assistant to the President for National Security Affairs shall submit the plan to me for approval within 60 days after issuance of this directive. In the interim, the Director of National Intelligence shall work closely with the heads of all relevant executive branch agencies to help ensure that the current level of intelligence support is maintained. ~~(C)~~

(3) Ensure Continued U.S. Global Technological and Economic Competitiveness. Ensuring America's economic and technological competitiveness is critical to the long-term national security interests of the United States. Export controls must constantly be reassessed to ensure that they control the export and re-export of sensitive items while minimizing their impact on U.S. economic competitiveness and innovation. Toward this end, the Secretary of Commerce shall:

- Assess recommendations on revisions to the Commerce Control List (CCL) currently being developed by its six Technical Advisory Committees (TACs) within 30 days after issuance of this directive;
- Develop a regularized process, taking appropriate account of public comments and TAC input, to review and update the CCL and publish that process on the Bureau of Industry and Security (BIS) website within 60 days after issuance of this directive;
- Circulate to heads of appropriate executive branch agencies a draft regulation to revise the *de minimis* requirements for U.S. re-exports to ensure that these requirements reflect global market conditions, within 30 days after issuance of this directive;
- Circulate to heads of appropriate executive branch agencies a draft regulation establishing a license exception for intra-company transfers of items for interagency review within 30 days after issuance of this directive, with the aim to publish a proposed regulation within 30 days of the conclusion of the interagency review and a final rule thereafter;
- Circulate to heads of appropriate executive branch agencies a draft rule encompassing changes to the U.S. controls on encryption items for interagency review within 45 days after issuance of this directive; and
- Circulate to heads of appropriate executive branch agencies a draft proposal to modify certain Wassenaar Arrangement controls on encryption within 30 days after issuance of this directive. (U)

To ensure that U.S. companies are not precluded from participating in global markets open to foreign competition, heads of executive branch agencies shall take foreign availability into account in reaching licensing and control decisions. Foreign availability assessments shall take into account the availability of foreign items and the relative controls placed on these items that are available from the multilateral export control regime members and from countries outside of the regimes. In order to define "foreign availability," the Secretary of Commerce shall:

- Work with heads of relevant executive branch agencies to determine the criteria that should be used to establish, within 30 days after issuance of this directive, the "foreign availability" of a given item. (U)

(4) Enhance Procedural Transparency in the Licensing Process.

United States companies must be sensitive to transactions and end-users that are suspect when competing in the global market. The United States Government must assist U.S. exporters by providing as much information as practicable, consistent with the Nation's security, while also ensuring that the export control system is efficient, predictable, and transparent. To support industry in its efforts, the Secretary of Commerce shall continue to post on the BIS website the following information:

- Advisory opinions that would be of interest to a wide range of parties; and
- Lists of foreign parties warranting higher scrutiny, including the Unverified List, Entity List, General Orders, and Denied Persons List. (U)

In addition, the Secretary of Commerce shall, within 30 days after issuance of this directive:

- Finalize a proposed regulation to expand the Entity List to provide information for exporters beyond end-users engaged in WMD activities to include a range of other activities contrary to U.S. interests, including conventional arms proliferation and support for terrorism;
- Circulate a draft proposal among heads of relevant executive branch agencies that would introduce a standard format for all United States Government screening lists; and
- Complete a review of the feasibility of other transparency recommendations made by U.S. industry, such as publishing commodity classifications on the BIS website. The Secretary of Commerce shall report on the findings of this review to the National Security Council, and shall take action on these findings as appropriate. (U)

This directive shall be implemented consistent with applicable law and subject to the availability of appropriations. Nothing in this directive shall be construed to impair or otherwise affect (a) authority vested by law in an agency or head thereof, or (b) the authority of the Director of the Office of Management and Budget, in relation to budget, administrative, and legislative proposals. (U)

