

THE WHITE HOUSE

WASHINGTON

December 21, 2009

PRESIDENTIAL STUDY DIRECTIVE/PSD-8

MEMORANDUM FOR THE VICE PRESIDENT

THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF COMMERCE
THE SECRETARY OF ENERGY
THE SECRETARY OF HOMELAND SECURITY
ASSISTANT TO THE PRESIDENT AND CHIEF OF STAFF
DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET
UNITED STATES TRADE REPRESENTATIVE
REPRESENTATIVE OF THE UNITED STATES OF AMERICA
TO THE UNITED NATIONS
CHAIR OF THE COUNCIL OF ECONOMIC ADVISERS
DIRECTOR OF NATIONAL INTELLIGENCE
NATIONAL SECURITY ADVISOR
ASSISTANT TO THE PRESIDENT FOR ECONOMIC POLICY
AND DIRECTOR, NATIONAL ECONOMIC COUNCIL
COUNSEL TO THE PRESIDENT
DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY
POLICY
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
ADMINISTRATOR OF THE NATIONAL AERONAUTICS
AND SPACE ADMINISTRATION
CHAIR OF THE NUCLEAR REGULATORY COMMISSION

SUBJECT: Export Control Reform

The current United States export control system is the most robust in the world, but its foundation is over 50 years old, originally designed during the Cold War for a bipolar world. Its structure generally reflects the military nature of the primary threat we faced in the past, with separate licensing and enforcement systems for munitions and dual-use items when civil and military uses could be clearly and easily segregated.

The world has changed -- the threats we face are different, including global terrorism and the proliferation of weapons of mass destruction (WMD), their delivery systems, and advanced

conventional weapons. These threats come not from a single bloc of countries, but from individuals, organizations, and countries located throughout the world.

The current system was also designed when the United States economy was largely self-sufficient in developing technologies, and the manufacture of items from these technologies, that the United States controlled for national security reasons. Much of the system protected an extensive list of unique technologies and items which, if used in the development or production of weapons by the former Soviet bloc, posed a national security threat to the United States.

The economy has also changed. It is now a global one in which many countries now possess research, development, and manufacturing capabilities. Moreover, many advanced technologies are no longer predominantly developed for military applications with eventual transition to commercial uses, but the exact opposite. Yet, in the name of controlling the technologies used in the production of advanced conventional weapons, our system continues to control many that are widely available and remains designed to control such items as if Cold War economic and military-to-commercial models continue to apply.

The United States has made continuous incremental improvements to its export control system, particularly in adding controls against the proliferation of WMD and their delivery means.

The United States has also been a leader in international export controls, creating and improving the multilateral export control regimes made up of U.S. allies and trading partners -- and thus controlling what they export to countries of concern to the United States, not just what the U.S. controls. The regimes also have become a global control standard via United Nations Security Council Resolutions. This helps ensure that key technologies and items available in multiple countries are controlled multilaterally to prevent their acquisition by those who would use them contrary to U.S. national security and foreign policy interests, including our nonproliferation goals.

The U.S. export control system itself today, however, poses a potential national security risk based on the fact that its structure is overly complicated, contains too many redundancies,

and tries to protect too much. As a result, the system encourages foreign customers to seek foreign suppliers and U.S. companies to seek foreign partners not subject to U.S. export controls. Furthermore, the United States Government is not adequately focused on protecting those key technologies and items that should be protected and ensuring that potential adversaries do not obtain crucial technical data for the production of sophisticated weapons systems.

Nonetheless, export controls are an important tool to promote U.S. national security and foreign policy; the system must be revised to ensure that they are more effective.

For these reasons, I direct the National Security Advisor and the Assistant to the President for Economic Policy and Director, National Economic Council, to jointly lead a broad-based interagency review of the current U.S. export control system. Principles for the review are:

- Controls should focus on a small core set of key technologies and items that are capable of being used to pose a serious national security threat to the United States, which includes items related to global terrorism and the proliferation of WMD, their delivery systems, and conventional weapons;
- Controls should be fully coordinated with the multilateral export control regimes. Export controls must be multilateral to be effective, and the United States should seek to ensure that the multilateral regimes focus on controls over the core set of key items and technologies that are either available almost exclusively from the United States and its regime partners, or for which the United States and its partners have a profound, quantifiable advantage;
- Controls applied unilaterally to items that are widely available from foreign sources generally are ineffective in preventing end-users from acquiring those items. Controls should not be applied to these items unless the controls are required by law, are essential to furthering U.S. foreign policy goals, are necessary to U. S. munitions or intelligence

systems, or are prudent for certain dual-use and munitions items even if comparable items are foreign available;

- It must be clear both inside and outside the United States Government which technologies and items are controlled, and a process should be created to easily update the controls both to remove items and add them;
- A structure for the system must be created to ensure that it is transparent, predictable, and timely, has the flexibility to be adapted to address new threats in the future, and allows seamless access to and sharing of export control information among all relevant agencies;
- Implementation and enforcement capabilities must be enhanced to improve capabilities in monitoring, intelligence, and investigation, and allow for greater penalties for violations and a greater ability to interdict unapproved transfers; and
- Controls should be balanced with U.S. counterterrorism policy to ensure the ability to export items and technology in support of counterterrorism, critical infrastructure, and other Homeland Security priorities.

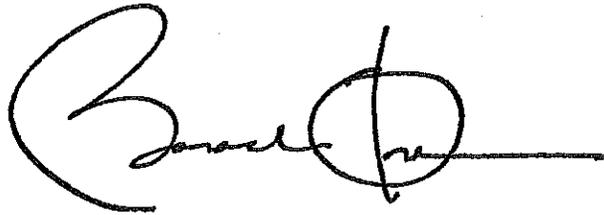
The National Security Advisor and the Assistant to the President for Economic Policy and Director, National Economic Council will create a task force, chaired by a dedicated member of the National Security Staff, with dedicated representatives from the Departments of Commerce, Defense, Energy, Homeland Security, Justice, State, and the Treasury and the Office of the Director of National Intelligence, which will conduct the review and prepare the recommendations.

In conducting this review, the task force will consider the recommendations of the numerous studies that have already examined the U.S. export control system and draw upon expertise in both the executive and legislative branches, in industry, and among our allies and trading partners who have strong and effective export control systems.

The results of this review shall be used to prepare a comprehensive set of recommendations to create a new U.S. export control system. The recommendations shall include statutory and regulatory steps necessary for implementation.

Status reports will be provided to Deputies and Principals at least once during the review period, and issues shall be considered by the Deputies, Principals, and as appropriate by the National Security Council and National Economic Council for decision and action as necessary.

The results should be ready for consideration as soon as possible, but no later than January 29, 2010.

A handwritten signature in black ink, appearing to be "Barack Obama", written in a cursive style. The signature is positioned in the lower center of the page.