

section may include, but are not limited to, measures that promote the use of strong encryption products and the development of a key recovery management infrastructure; and

(f) Regulation of encryption products described in this section shall be subject to such further conditions as the President may direct.

SEC. 2. *Effective Date.* The provisions described in section 1 shall take effect as soon as any encryption products described in section 1 are placed on the Commerce Control List in the EAR.

SEC. 3. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and to ensure the implementation of appropriate controls on the export and foreign dissemination of encryption products. It is not intended to, and does not, create any rights to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

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SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2404, 2406, 2409, 2411, 2413, 2414 of this Appendix.

§ 2403–1. Repealed. Pub. L. 103–199, title II, § 203(b), Dec. 17, 1993, 107 Stat. 2322

Section, Pub. L. 93–365, title VII, § 709, Aug. 5, 1974, 88 Stat. 408, related to review by Secretary of Defense of applications for export to controlled country of any goods, technology, or industrial techniques developed with Department of Defense funds for purpose of determining whether such export would significantly increase military capability of such country.

§§ 2403–1a, 2403a. Omitted

CODIFICATION

Section 2403–1a, Pub. L. 91–184, § 4A, as added Pub. L. 95–52, title II, § 201(a), June 22, 1977, 91 Stat. 244, which set forth provisions prohibiting United States persons from participating in foreign boycotts and administrative enforcement of such prohibitions, expired on Sept. 3, 1979.

Section 2403a, Pub. L. 91–184, § 4B, formerly § 4A, as added Pub. L. 93–500, § 8, Oct. 29, 1974, 88 Stat. 1554, renumbered Pub. L. 95–52, title II, § 201(a), June 22, 1977, 91 Stat. 244, which set forth procedures applicable for relief from export controls upon showing of hardship, expired on Sept. 30, 1979.

§ 2404. National security controls

(a) Authority

(1) In order to carry out the policy set forth in section 3(2)(A) of this Act [section 2402(2)(A) of this Appendix], the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection includes the authority to prohibit or curtail the transfer of goods or technology within the United States to embassies and affiliates of controlled countries. For purposes of the preceding sentence, the term “affiliates” includes both governmental entities and commercial entities that are controlled in fact by controlled countries. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appro-

priate, and shall be implemented by means of export licenses described in section 4(a) of this Act [section 2403(a) of this Appendix].

(2) Whenever the Secretary makes any revision with respect to any goods or technology, or with respect to the countries or destinations, affected by export controls imposed under this section, the Secretary shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

(3) In issuing regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to military use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States.

(4)(A) No authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States to any country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee, or pursuant to an agreement described in subsection (k) of this section. The Secretary may require any person reexporting any goods or technology under this subparagraph to notify the Secretary of such reexports.

(B) Notwithstanding subparagraph (A), the Secretary may require authority or permission to reexport the following:

- (i) supercomputers;
- (ii) goods or technology for sensitive nuclear uses (as defined by the Secretary);
- (iii) devices for surreptitious interception of wire or oral communications; and
- (iv) goods or technology intended for such end users as the Secretary may specify by regulation.

(5)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States from any country when the goods or technology to be reexported are incorporated in another good and—

- (i) the value of the controlled United States content of that other good is 25 percent or less of the total value of the good; or
- (ii) the export of the goods or technology to a controlled country would require only notification of the participating governments of the Coordinating Committee.

For purposes of this paragraph, the “controlled United States content” of a good means those goods or technology subject to the jurisdiction of the United States which are incorporated in the good, if the export of those goods or technology from the United States to a country, at the time that the good is exported to that country, would require a validated license.

(B) The Secretary may by regulation provide that subparagraph (A) does not apply to the re-