

EXPORT LICENCE

Open General Export Licence (Cryptographic Development) dated 1 May 2004 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Articles 6(2) and (4) of Council Regulation (EC) No.1334/2000 (“the Regulation”)^(a) and Article 12 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (“the Order”)^(b), hereby grants the following Open General Export Licence:

Community Licence

1. This is a general export authorisation under the terms of Article 6(2) of Council Regulation (EC) No.1334/2000. This authorisation, in accordance with Article 6(2) of that Regulation, is valid in all Member States of the European Community and is a Community Licence for the purposes of the Order.

2. Subject to the following provisions of this licence, any item specified in Schedule 1 may be exported from the United Kingdom, or from any other Member State by any person established in the United Kingdom, to any country specified in Schedule 2, provided the item is only for use:
 - (a) by the exporter, or by any subsidiary or parent undertaking of the exporter in their own commercial cryptographic product development activities, or

 - (b) by a business or academic collaborator of the exporter

(a) O.J. No.L159 30.6.00, p1, as last amended by Council Regulation (EC)No.149/2003 (O.J.L30, 5.2.2003)

(b) S.I.2003/2764, as last amended by S.I.2004/1050

in his or their own commercial cryptographic product development activities and pursuant to the agreement establishing the collaboration.

Exclusions

3. This licence does not authorise the export of items if:
 - (1) the exporter has been informed by a competent authority of the Member State where he is established that the items in question are or may be intended, in their entirety or in part–
 - (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons; or
 - (b) for a military end-use and the purchasing country or country of destination is subject to an arms embargo decided by a Common Position or Joint Action adopted by the Council of the European Union or a decision of the OSCE or imposed by a binding resolution of the Security Council of the United Nations; or
 - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in violation of an authorisation prescribed by national legislation of that Member State;
 - (2) the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in sub-paragraph (1); or

- (3) the exporter has grounds for suspecting that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in sub-paragraph (1)(a), unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that the items will not be so used; or
- (4) to a destination within a Customs Free Zone; or
- (5) their export is controlled by virtue of any entry in Annex I to the Regulation not specified in Schedule 1; or
- (6) the items in question are intended for the development of military products.

Conditions and requirements

4. The authorisation in paragraph 1 is subject to the following conditions:
 - (1) Except in the case of an export of technology by telephone, fax or other electronic media, official and commercial export documentation accompanying the items shall include a note stating that “the items are being exported under the Open General Export Licence (Cryptographic Development)” and shall be presented to a Customs officer if so requested;
 - (2) Separate registration is required for use of this licence.

Prohibitions not affected by this licence

5. Nothing in this licence affects any prohibition or restriction on the export of any items other than under the Regulation or the Order, and this licence does not confer any licence or

permission under, or for the purposes of, any enactment other than the Regulation and the Order.

Interpretation

6. For the purposes of this licence:
- (a) “business or academic collaborator” means a person who is either working by way of business in research and development of cryptography or cryptographic products or is teaching, or undertaking research as a member of/at a university or institution of higher education into, cryptography or cryptographic products and with whom an exporter has previously entered into an agreement for the carrying out of work comprising or related to research into or development of cryptography or cryptographic products;
 - (b) “parent undertaking” and “subsidiary undertaking” have the same meanings assigned by sections 258 and 259 of the Companies Act 1985 (as substituted by sections 21 and 22 of the Companies Act 1989);
 - (c) “Customs Free Zone” means a part of the territory of a country where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the customs territory of that country, and are not subject to the customs controls that would otherwise apply;
 - (d) unless the context otherwise requires, any other expression used in this licence has the same meaning as in the Regulation or the Order as appropriate.

Entry into Force

9. This licence comes into force on 1 May 2004.

10. The Open General Export Licence (Cryptographic Development) dated 28 September 2000 is revoked.

*An Official of the Department of
Trade and Industry authorised to act
on behalf of the Secretary of State*

SCHEDULE 1

ITEMS CONCERNED

This export authorisation covers the following items:

1. Any cryptography development software in entry 5D002 of Annex I to the Regulation, other than software having the characteristics, or performing or simulating the functions, of equipment designed or modified to perform cryptanalytic functions.

2. Any cryptography development technology in entry 5E002 of Annex I to the Regulation, other than technology for the development, production or use of:
 - (a) equipment designed or modified to perform cryptanalytic functions, or

 - (b) software having the characteristics, or performing or simulating the functions, of equipment designed or modified to perform cryptanalytic functions.

SCHEDULE 2

DESTINATIONS CONCERNED

This export authorisation is valid for exports to the following destinations:

All destinations other than a destination in:

- Afghanistan, Angola, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Burma (Myanmar), Burundi, Croatia, Cyprus, Czech Republic, Denmark, Democratic Republic of the Congo, Estonia, Ethiopia, Eritrea, Finland, France, Germany, Greece, Hungary, Iran, Iraq, Ireland, Italy, Latvia, Liberia, Libya, Lithuania, Luxembourg, Malta, Netherlands, Nigeria, North Korea, Peoples Republic of China (excluding Hong Kong Special Administrative Region), Poland, Portugal, Rwanda, Serbia and Montenegro, Sierra Leone, Slovakia, Slovenia, Somalia, Spain, Sudan, Sweden, Tanzania, Uganda and Zimbabwe.

NOTE:

Exports of items covered by this licence may be made under the authority of the Community General Export Authorisation, subject to certain conditions and restrictions, to the following destinations:

Australia, Canada, Japan, New Zealand, Norway, Switzerland, and USA.

EXPLANATORY NOTE

(This note is not part of the Licence)

This Open General Export Licence has been amended to refer to new secondary legislation under which the licence has been issued and as a consequence of enlargement of the European Union changes have been made to the country list in Schedule 2 to the licence.

2. This Open General Export Licence permits, without further authority but subject to certain conditions, the export of the items specified in Schedule 1 from the United Kingdom, or from any other Member State if the exporter is established in the United Kingdom, to any destination specified in Schedule 2 .

3. The licence enables the exporter to collaborate through established relationships on commercial cryptographic product development.

4. The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (“the Order”) contain certain registration and record keeping requirements which apply to persons using this licence. Under Article 14 of the Order, any person established in the United Kingdom who exports items from the United Kingdom or another Member State under the authority of this licence must maintain and retain certain records relating to each such export for at least 3 years from the end of the calendar year in which the export takes place, and must permit such records to be inspected and copied by any person authorised by the Secretary of State. Under Article 13(1) of the Order, an exporter who exports items under the authority of this licence must, before or within 30 days after the first occasion he makes use of the licence, provide details to the Secretary of State of his name and address where copies of the records referred to above may be inspected. These details must be sent to the Export Control Organisation, Customer Service and Compliance Unit, DTI, 3rd Floor, Kingsgate House, 66-74 Victoria Street, London SW1E 6SW