

To All Exporters

**THE DUAL-USE ITEMS (EXPORT CONTROL) REGULATIONS 2000 –  
("THE UK REGULATIONS")**

The UK Regulations give effect in the United Kingdom to Council Regulation (European Community) No. 1334/2000 ("the EC Regulation") of 22<sup>nd</sup> June 2000, both EC Regulation and UK Regulations come into force on 28<sup>th</sup> September 2000. A version of the EC Regulation is available on the DTI Export Control website ([www.dti.gov.uk/export.control](http://www.dti.gov.uk/export.control))

The significant changes from the 1996 Regulations are as follows:

**Intangibles**

The UK Regulations apply not just to export of goods (including software and technology) in tangible form, but also to the transmission of software and technology by fax, telephone (subject to certain limits) or other electronic means. This is reflected in the use of the word "items" rather than "goods" throughout, as in the new EC Regulation.

**Community General Export Authorisation ("CGEA")**

To achieve a degree of harmonisation among Member States and remove the requirement on EU exporters to apply for an individual licence to make exports that are not likely to raise concerns, provision is made in Article 6(1) and Annex II of the EC Regulation for use of the Community General Export Authorisation ("CGEA"). This operates as a general authorisation for the exports of most controlled dual-use items from anywhere in the European Community to the destinations listed in Part 3 of that Annex, subject to certain conditions set out in that Annex and in the UK Regulations. Exporters established in the United Kingdom who wish to make an export from the United Kingdom under the authority of the CGEA must on first doing so, register by giving the notice in writing (see regulation 9 (1)(i) and (ii) of the UK Regulations) to the Secretary of State at the Applicant Services and Compliance Unit, Department of Trade and Industry, 4 Abbey Orchard Street, London SW1P 2HT. The notice may be sent by post or delivered to that address. The CGEA will permit the export of all dual-use items listed in Annex I to the Regulation with the exception of entries 0C001, 0C002, 0D001, 1A102, 7E104, 9A009.a and 9A117 and items also listed in Annex IV to any of the following 10 destinations:

Australia, Canada, Czech Republic, Hungary, Japan, New Zealand, Norway, Poland, Switzerland and USA.

## **Military end-use control**

The two new military end-use controls in Article 4 of the EC Regulation will only apply to items, not otherwise subject to control, if the exporter has been informed that they are or may be intended, in their entirety or in part:

- 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 Organisation for Security and Co-operation in Europe (OSCE) or imposed by a binding resolution of the Security Council of the United Nations. For the purpose of this control “military end use” is defined as:

(a) incorporation into military items listed in the military list of Member States;

(b) use of production, test or analytical equipment and components therefor, for the development, production or maintenance of military items listed in (a); and

(c) use of any unfinished products in a plant for the production of military items listed in (a).

The countries to which this will apply are subject to change but currently are:

Angola, Armenia, Azerbaijan, Bosnia & Herzegovina, Burma, Burundi, Ethiopia, Eritrea, FR Yugoslavia, Iraq, Liberia, Libya, Rwanda, Sierra Leone, Sudan, Somalia, Tanzania, Uganda

- 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, to any destination, without authorisation or in violation of an authorisation proscribed by national legislation of that Member State.

Where an exporter is aware that dual-use items not listed in Annex I, are intended in their entirety or in part, for uses referred to above he must notify the competent authorities who will decide whether or not to make the export concerned subject to authorisation.

The new Regulation puts exporters under a legal obligation to inform us if they are aware that their export may be caught by the military end-use controls.

## **Cryptographic Items**

Cryptographic items, other than equipment designed or modified to perform cryptoanalytic functions; software having the characteristics, or performing or simulating the functions, of such equipment; and technology for the development, production or use of such goods or software, are no longer subject to control when they are exported from the United Kingdom to other Community Member States, but exporters of those items to other Member States are required to keep records

containing certain information in relation to such items, details of which are contained in Schedule 3 of the UK Regulations and duplicated below:

1. A general description of the item, such as might be contained in a product brochure.
2. Descriptions of all relevant encryption algorithms and key management schemes, and descriptions of how they are used by the item (for example, which algorithm is used for authentication, which for confidentiality and which for key exchange); and details (for example, source code) of how they are implemented (for example, how keys are generated and distributed, how key length is governed and how the algorithm and keys are called by the software).
3. Details of any measures taken to preclude user modification of the encryption algorithm, key management scheme or key length.
4. Details of pre-or post processing of data, such as compression of plain text or pocketization of encrypted data.
5. Details of programming interfaces that can be used to gain access to the cryptographic functionality of the item.
6. A list of any standards or protocols to which the item adheres.

This same information must be given to the Secretary of State on the first instance of exportation of any item in Part 2 of Category 5 in Annex 1 exported under authority of the Community General Export Authorisation ("CGEA") "....., unless the item meets all of the following criteria:

- (1) it is generally available to the public by being sold, without restriction, from stock at retail selling points by means of:
  - (a) over the counter transactions,
  - (b) mail order transactions,
  - (c) electronic transactions, or
  - (d) telephone order transactions;
- (2) its cryptographic functionality cannot easily be changed by the user;
- (3) it is designed for installation by the user without further substantial support by the supplier; and
- (4) details of it are accessible and will be provided, upon request, to the Secretary of State in order to enable him to ascertain whether the conditions in paragraphs (1) to (3) of this Part are satisfied."

#### **Annex IV Changes**

The following table is a guide to the main changes to Annex IV of The Regulations. It outlines those entries that have transferred from Annex V, those removed from The Regulation, those subject to reduction or increase in scope and additional entries. Please note that the table is for guidance only.

<b><u>Annex IV entries reduced in scope</u></b>	<b><u>Annex I entries remaining unchanged in Annex IV or transferred in from Annex V</u></b>	<b><u>Annex I entries removed from Annex IV</u></b>
Reduced scope of existing intra community controls	No change in intra community control	Removal from intra community control
5A002	0B001	3A002.g.1.
5D002	0B002	4A001.b.
5E002	0B004	4D003.c.
6A001	0B006	5B002
9A005	0B007	9D001
9A007.a.	1C001	9D103
9A008.d.	1C239	
9A108.c.	1C351.d.4.	
9A119	1C351.d.5	
9B115	1D103	
9B116	3A002.g.2.	
9D101	3A229	
9E001	3A232	
9E002	6B008	
9E101	6B108	
	6D003.a.	

<b><u>Annex I entries added to Annex IV</u></b>		<b>Annex IV entries increased in scope</b>
<b>Additional intra community controls</b>		<b>Increased scope of existing intra community controls</b>
0A001	6A203	0C002
0B003	6A225	0D001
0B005	6A226	0E001
0C001	6E201	
0C003	7A117	
0C004	7B001	
0C005	7B003	
1B226	7B103	
1B231	7D101	
1B233	7E001	
1C012	7E002	
1C101	7E101	
1C233	8A002.o.3.	
1C235	8A002.p.	
1E001	8D002	
1E101	8E002.a.	
1E102	9A004	
1E201	9A104	
3A201	9A105.a.	
3A228	9A106.c.	
3A231	9A116	
3E201	9E102	

## **SUMMARY OF CONTENTS OF EC AND UK LEGISLATION**

EC Regulation – 1334/2000

Articles 1 – 24

Annex I	List of Dual-Use items and technology
Annex II	Community General Export Authorisation
Annex III	(a) model form of Licence (b) Common elements for publication of general export authorisations
Annex IV	List of Annex 1 items that require authorisation (licence) for intra-community transfers

UK Regulations – Dual-Use Items (Export Control) Regulation 2000

Regulations 1 – 14

Schedule 1	Regulations revoked (Dual-Use Regulation (EC) Regs 1996 and amendments)
Schedule 2	Prohibited items – Any Destination (list of Dual-Use items subject to National Export Controls).
Schedule 3	Part I List of items to which the requirements in EC Regulation 9 (3) does not apply Part II Information to be kept in relation to certain items listed in Part 2 of category 5 in EC Regulation Annex 1

The information provided is for guidance only and has no force in law. If exporters are uncertain or require advice as to the meaning or effect of the UK Regulation they should seek advice from their own legal or other advisers.

EXPORT CONTROL ORGANISATION  
DECEMBER 2000