

**Questions and Answers Concerning
the Import and Export (Strategic Commodities) Regulations
(Amendment of Schedules 1 and 2) Order 2001**

General

- Q1. Why is it necessary to amend the Import and Export (Strategic Commodities) Regulations?
- A1. *International non-proliferation control regimes including the Wassenaar Arrangement, the Missile Technology Control Regime, the Australia Group and Nuclear Suppliers Group had earlier revised their control lists. In order to have Hong Kong's control list followed those under the international control regimes, it is necessary for us to amend the Import and Export (Strategic Commodities) Regulations which govern the control over strategic commodities in Hong Kong.*
- Q2. What are the major changes involved in this amendment exercise?
- A2. *Of the various changes involved, the most significant ones should be (i) the relaxation of control thresholds on computers and microprocessors; and (ii) the de-control of retail encryption products provided that they can satisfy certain conditions.*
- Q3. How will the changes affect us in licence application requirements and procedures?
- A3. *Items that are decontrolled after the amendment will not need a licence for import and export. On the other hand, items newly subject to control will hereafter be subject to licensing requirement.*
- Q4. Why is it necessary for Hong Kong to follow the control standards adopted by international control regimes?
- A4. *Hong Kong needs to maintain the highest international standards in controlling trade in strategic commodities. Such controls are essential in maintaining the confidence of our trading partners in our system so that we may have continued access to the advanced technologies we need to sustain our economic development.*
- Q5. After the amendment, will there be any change in the information required on licence applications and the supporting documentary requirements for import and export of computers and encryption products?

- A5. *Other than the relaxation of the control threshold, there is basically no change to the information to be declared on licence applications and the supporting document required. In general, all licence applications covering computers and encryption products need to contain information on the end-user and the end-use and submitted with a duly completed end-user statement. To complement the control requirements of the countries from which the goods originate, we may need licence applicants to confirm and provide supporting document to prove that the exports concerned are authorised by the originating countries.*
- Q6. How do I know whether a product is subject to licensing control after the amendment?
- A6. *If you are unable to tell after reading Schedules 1 and 2 of the Import and Export (Strategic Commodities) Regulations whether a particular product is subject to licensing control, you may submit a pre-classification application together with details of the technical specifications of the product to our Customer Service Counter at Room 516B, 5/F of Trade and Industry Department. Usually, a reply on whether the goods are controlled will be available in two clear working days.*
- Q7. I know that the goods are decontrolled but if the carrier may not know and may request that I provide a licence to cover the shipment. What can I do?
- A7. *You may make use of the pre-classification service. For items confirmed to be non-strategic goods, the pre-classification reply will contain a "no-licence required" chop which can serve as a proof that the goods are not subject to control.*

Computers

- Q8. What is the new control status of computers?
- A8. *The amendment relaxes the minimum control level of Composite Theoretical Performance (CTP) of computers from the previous 6,500 Mtops to 28,000 Mtops. You could now import and export most of the computers without the need to apply for a licence.*
- Q9. What are CTP and Mtops? How can I get these figures?
- A9. *In general terms, CTP is a measure of the computing power of computers expressed in Million Theoretical Operations per Second (Mtops). You can obtain these figures from the computer manufacturers or dealers.*
- Q10. Where can I get the information about whether or not the computer or computer-related equipment requires a licence?

A10. *You can obtain an information sheet from our Customer Service Counter showing examples of computers and computer-related equipment that normally require no licence.*

Q11. My computer has local area network (LAN) ports and wide area network (WAN) ports for connection to high-speed data communication network. Is the equipment affected by the new amendment?

A11. *The new regulations do not control data communication equipment, routers and switches. Therefore LAN and WAN equipment are excluded from the control list provided that they do not have any cryptographic functionality.*

Q12. Is there any control on computers which are specified capable of operation at extreme temperature?

A12. *Computers rated for operation at an ambient temperature below -45 °C or above 85 °C are considered as strategic commodities regardless of their CTP levels. These types of computers fall into the import and export control list.*

Q13. What are the other parameters that control the trading of digital computers?

A13. *All the parameters for control purposes are stipulated in Schedule 1 of the Import and Export (Strategic Commodities) Regulations. As a general guideline, the followings are some key features that controlling digital computers :*

- (1) With cryptographic capability exceeding 56 bit DES on data for hardware or software;*
- (2) Designed for radiation hardened;*
- (3) Rated for operation at an ambient temperature below -45 °C or above +85 °C;*
- (4) Designed for fault tolerance;*
- (5) With analogue to digital conversion function; or*
- (6) With external interconnection of digital computer or associated equipment which allows communications at data rates exceeding 1.25 Gbytes.*

Information Security

Q14. What are the changes of control over encryption equipment?

A14. *The minimum control limit for encryption equipment remains to be 56 bits DES or 512 bits RSA. However, products, regardless of the number of key-length they employ, are decontrolled by the new regulation provided that they meet all the criteria set out in the **Cryptography Note 3** set out under Category 5 Part II – Information Security in Schedule 1 of the Import and Export (Strategic Commodities) Regulations.*

Q15. What are the criteria set out in the Cryptography Note 3?

A15. *They include :*

(a) *Generally available to the public by being sold, without restriction, from stock at retail selling points by means of any of the following :*

(i) *Over-the-counter transactions;*

(ii) *Mail order transaction;*

(iii) *Electronic transactions; or*

(iv) *Telephone call transactions;*

(b) *The cryptographic functionality cannot easily be changed by the user;*

(c) *Designed for installation by the user without further substantial support by the supplier; and*

(d) *When necessary, details of the items are accessible and will be provided, upon request, to the appropriate authority in the exporter's country in order to ascertain compliance with conditions described in paragraphs (a) to (c) above.*

Q16. Many of the encryption products come from the US. Will any of them be decontrolled after the amendment?

A16. *All US-originated encryption products which have been classified by the US Department of Commerce as retail commodities are considered to have met the Cryptography Note 3. Consequently, the commonly available retail software like Microsoft Window, Internet Explorer, iPlanet server etc., will not need to be licensed any more for import into/export from Hong Kong.*

Q17. If the encryption product is only used for authentication or digital signature, what is its new control status?

A17. *The regulations do not control encryption products that are used for authentication or digital signature unless they contain encryption on data or files.*

Q18. My equipment is for a one-time copying of copy-protected video data. Is it still under control?

A18. *For equipment where the cryptographic capability for the protection of intellectual property rights is not user accessible, they are not controlled under the new regulations.*

Q19. Is there any control on GSM portable set?

A19. *No. All general-purpose civilian cellular radiocommunications handsets that are not capable of end to end encryption are not controlled.*

Q20. Do I need to apply for a licence in order to bring along a PC pre-loaded with encryption software overseas?

A20. *No, there is no need for you to apply for such a licence provided that the PC and the encryption software are accompanying you and for your own personal use.*

Electronics

Q21. What is the updated control threshold of microprocessors?

A21. *Under the new regulations, the minimum control level for microprocessors will increase to 6,500 Mtops. Traders however should note that licences will still be required for microprocessors with CTP below 6,500 Mtops if they are radiation hardened or rated with an operating ambient temperature below -55°C or above 125°C or for the entire range from -55°C to 125°C .*

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