

The Value of Understanding International Encryption Regulation

Overview

Encryption technology offers both substantial benefits (by protecting the confidentiality, integrity, and availability of business and personal information) and substantial risks (by making it easier for criminals and terrorists to conceal communications regarding illegal behavior). While most countries recognize the benefits of encryption, the associated risks have led many governments to impose controls on the import, sale, use, and/or export of encryption software, hardware and technical information. Companies that operate in a multinational environment can pay a significant price if they are not familiar with these controls.

For instance, in the United States encryption controls cover export, but not import, domestic sale, or use, of encryption products. A violation of regulations related to the export of encryption may be punishable by civil monetary penalties, denial of export privileges, and criminal fines. US law may be violated not only if a US-origin product is exported from the United States without authorization, but also if it is “re-exported” from another country to a third country.

Outside the United States, numerous governments restrict the import, use, sale, and/or export of encryption. Some countries impose severe sanctions for a violation of their restrictions. Others use informal sanctions to address perceived misuse of encryption technology. In other instances, governments have blocked communications or confiscated encryption hardware or software. Finally, many companies have encountered substantial delays or the inability to deploy or sell encryption products in countries with established control regimes—typically because of a lack of familiarity with recent changes in local regulations and procedures.

An accurate understanding of international encryption regulations is critical for both manufacturers and multinational users of encryption products, helping such companies avoid costs and delays and ensure compliance with local laws. In addition, an appreciation of the application and approval processes can allow companies to plan ahead on a global basis.

Steptoe’s subsidiary, InternatLaw L.L.C., offers a comprehensive, online guide to worldwide encryption regulations, the “Country-by-Country Guide to Encryption Regulations,” colloquially known as the “Cryptoguide.” This unique resource contains detailed reports on the encryption regulations of over 130 countries. Each report discusses applicable laws and regulations regarding the import, use, and export of encryption, including rules on “internal” corporate use, “intangible” imports and exports (i.e., Internet downloads or uploads), and temporary imports of encryption by business travelers on laptops or other mobile devices. Each report also covers applicable penalties and provides local points of contact for additional information. A list of countries currently covered by the guide follows. The Cryptoguide is available on an annual subscription basis, which entitles subscribing companies to unlimited access to the guide by its employees and one hour of free consultation per month with Steptoe personnel regarding the contents of the guide.

Scope of Country-by-Country Guide to Encryption Regulation



Africa

Algeria
Angola
Botswana
Burkina Faso
Cameroon
Congo, Dem. Republic
Congo, Republic of
Egypt
Ethiopia
Gabon
Ghana
Ivory Coast
Kenya
Libya
Mauritius
Morocco
Mozambique
Namibia
Niger
Nigeria
Senegal
Seychelles
South Africa
Swaziland
Tanzania
Togo
Tunisia
Uganda
Zimbabwe

Asia

Afghanistan
Armenia
Azerbaijan
Bahrain
Bangladesh
Brunei
Cambodia
China
Georgia
Hong Kong, S.A.R.
India
Indonesia
Iran
Iraq
Israel
Japan
Jordan
Kazakhstan
Kuwait
Kyrgyzstan
Laos
Lebanon
Macau, S.A.R.
Malaysia
Myanmar (Burma)
Oman
Pakistan
Philippines
Qatar

Russia
Saudi Arabia
Singapore
South Korea
Sri Lanka
Taiwan
Tajikistan
Thailand
Turkey
Turkmenistan
United Arab Emirates
Uzbekistan
Vietnam
Yemen

Europe

Albania
Austria
Belarus
Belgium
Bosnia and Herzegovina
Bulgaria
Croatia
Cyprus
Czech Republic
Denmark
Estonia
European Union
Finland
France

Germany
Greece
Hungary
Iceland
Ireland
Italy
Latvia
Liechtenstein
Lithuania
Luxembourg
Macedonia
Montenegro
Netherlands
Norway
Poland
Portugal
Romania
Serbia
Slovakia
Slovenia
Spain
Sweden
Switzerland
Ukraine
United Kingdom

North America

Canada
Costa Rica
Dominican Republic

El Salvador
Guatemala
Honduras
Mexico
Nicaragua
Panama
Trinidad & Tobago
United States

Oceania

Australia
Fiji
Marshall Islands
New Zealand
Samoa

South America

Argentina
Bolivia
Brazil
Chile
Colombia
Ecuador
Paraguay
Peru
Uruguay
Venezuela

For more information on the Guide, or to set up a demonstration, contact [Alexandra Baj](#), telephone 202.429.6478, or [Sally Albertazze](#), telephone 202.429.3062.

Encryption Practice

Overview

Encryption regulatory issues have been, and will continue to be, a hazardous area for companies attempting to comply with varying regulations around the world. In addition to offering access to the Cryptoguide through its subsidiary, InternatLaw L.L.C, on an annual subscription basis, Steptoe's encryption practice group provides counsel to clients seeking to navigate worldwide cryptography regulations. We have an international team of lawyers based in the United States, Europe, and Asia, whose combined experience spans decades.

As well as being leaders in encryption regulatory issues, Steptoe has also developed a broad network of information sources around the world, including government agencies, multilateral organizations such as the OECD, local embassies, commercial networks and organizations, and local counsel. These contacts give us the unique ability to send quick inquiries to numerous countries and to obtain formal or informal guidance about encryption regulations. Our contacts are particularly useful in countries that do not publish the details of their encryption policies. With the help of our extended network, we provide both counseling on country-by-country requirements and assistance in obtaining import, export, sale, and/or use licenses around the world.

Steptoe also represents leading financial institutions, information and telecommunications services, hardware and software manufacturers, and other multinational organizations on a wide array of issues concerning privacy, data security, telecommunications regulation, and electronic commerce. This includes litigation, dealings with law enforcement or security agencies, regulatory compliance, internal investigations, and strategic planning.

Alexandra Baj is a partner in Steptoe's Washington office. She is a deputy chair of Steptoe's International Trade and Regulatory Compliance group. She advises on export controls and economic sanctions laws and regulations, anti-corruption investigations and compliance, international trade, and security clearance issues. Her practice covers encryption export controls, sanctions, and anti-corruption internal investigations and enforcement matters, regulatory analysis, compliance program development and implementation, licensing, export control jurisdictional and classification analysis, restricted party export and sanctions advice (including complex Entity List matters and sanctions de-listing), and mergers and acquisitions due diligence. She represents clients in many industries, from aerospace and defense to metals and mining, telecommunications, software, energy, and food processing and medical devices.

Stewart Baker is a senior legal expert advising on issues related to technology and information security in Steptoe's Washington, DC office, having served previously as the first Assistant Secretary for Policy at the Department of Homeland Security. Once described by The WashingtonPost as "one of the most techno-literate lawyers around," Mr. Baker's practice covers national security, electronic surveillance, law enforcement, export control, and related technology issues. He has been a key advisor on US export controls and on foreign import controls on technology. He has also advised companies on the requirements imposed by the Committee

on Foreign Investment in the United States (CFIUS). In addition, he was responsible for spearheading the government-private sector coalition that permitted major telecommunications equipment manufacturers and carriers to break the decade-long deadlock with law enforcement on wiretapping of modern technology, permitting successful implementation of the Communications Assistance for Law Enforcement Act (CALEA).

Pete Jeydel guides clients on the complexities of US export controls, economic sanctions, and other areas at the intersection of international trade and national security. His focus is on understanding clients' objectives and helping them navigate legal, commercial, and reputational risks under the Commerce Department's Export Administration Regulations (EAR), the State Department's International Traffic in Arms Regulations (ITAR), and the economic sanctions of the Department of the Treasury's Office of Foreign Assets Control (OFAC).

Evan Abrams counsels financial institutions, multinational corporations, and individuals on a variety of international regulatory and compliance matters. He regularly advises clients on issues related to anti-money laundering (AML), economic sanctions, export controls, foreign anti-corruption, the Committee on Foreign Investment in the United States (CFIUS), and the Defense Counterintelligence and Security Agency (DCSA). Among other sectors, his practice focuses on emerging technology, including financial technology (FinTech) where he leverages his deep understanding of business trends and technological developments to help clients achieve their commercial objectives while complying with complex regulatory regimes.

Maury Shenk is a Technology, Media & Telecommunications consultant and adviser to the London office of Steptoe & Johnson and is a dual-qualified US/UK lawyer. He has extensive experience on regulatory, commercial, transactional and policy matters involving electronic commerce, representing many leading technology companies from the United States and Europe. He advises clients on the legal aspects of business on the Internet, including online agreements, data protection, information security, intellectual property and competition. Maury frequently handles technology transactions, including M&A and outsourcing agreements. He works with Steptoe & Johnson's leading encryption export/import team, and is experienced in encryption licensing proceedings in the US, UK, France, Russia, China and other jurisdictions.

Jingchun (Cherry) Huang assists clients with the international legal and regulatory aspects of trade and investment, including anti-bribery, anti-corruption, anti-money laundering, export controls (including encryption-related controls), US economic sanctions, and corporate governance. She also advises clients on their cross-border mergers and acquisitions and direct investments in China, and is experienced in assisting Chinese companies in connection with their outbound investment projects.

Sally Albertazzie is a paralegal specialist in Steptoe's International Trade and Regulatory Compliance Group. She has managed the firm's Country-by-Country Guide to Encryption Regulations since its inception in 1999 and has substantial experience on a wide range of high-tech issues, including encryption, data privacy, data security, and lawful intercepts. In addition, she prepares and files with the U.S. Department of Commerce export and reexport license applications, classification review requests, and encryption licensing arrangements, and she assists in the preparation and submission to the Commerce Department of responses to antidumping and countervailing duty questionnaires and requests for information. Sally is a graduate of Georgetown University's Paralegal Institute.

Our clients include some of the world's most prominent companies in a variety of business endeavors:

- Internet service providers
- Communications providers
- Voice over Internet Protocol providers
- Numerous software and hardware companies
- Global investment and commercial banks
- Energy companies
- Other technology companies