

**Questions and Answers Concerning
the Import and Export (Strategic Commodities) Regulations
(Amendment of Schedule 1) Order 2006**

General

Q.1 Why is it necessary to amend the Import and Export (Strategic Commodities) Regulations?

A.1 *International non-proliferation control regimes including the Wassenaar Arrangement, the Missile Technology Control Regime and the Australia Group have earlier on revised their control lists. In order to reflect these new changes into Hong Kong's control list, we need to have corresponding amendments in the Import and Export (Strategic Commodities) Regulations.*

Q.2 What are the major changes involved in this amendment exercise?

A.2 *Of the various changes involved, the most significant ones should be:*

(a) the removal of control over microprocessors that have multiple data or instruction bus or serial communication ports, certain types of optical weapon sights, a non-fluorinated polymeric substance (PEEK) and some test equipment of semiconductor devices;

(b) the relaxation of control thresholds for digital computers from 190,000 million theoretical operations per second (Mtops) to 0.75 Weighted TeraFLOPS (WT) as well as analogue-to-digital (A/D) converter integrated circuits; and

(c) imposition of control on optical detectors that employ silicon focal plane arrays, infrared focal plane arrays based on microbolometer material, certain toxic chemical agents, certain plant pathogens and airborne spraying or fogging systems capable of dispersing biological agents in aerosol form.

Q.3 How will the changes affect us in applying for import/export licence?

A.3 *Items that are decontrolled after the amendment will not require a licence for import and export. On the other hand, items newly subject to control will hereafter be subject to licensing requirement.*

Q.4 Why is it necessary for Hong Kong to follow the control standards adopted by international control regimes?

A.4 *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.*

Q.5 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?

A.5 *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 need to contain information on the end-user as well as the end-use and to be submitted with a duly completed end-user statement. To complement the control requirements of the countries/places 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/places.*

Q.6 How do I know whether a product is subject to licensing control after the amendment?

A.6 *If you are not sure whether a particular product is subject to licensing control after reading Schedule 1 of the Import and Export (Strategic Commodities) Regulations, 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. Alternatively, you may also submit a pre-classification application electronically. The E-applications for Pre-classification Service can be made through companies' e-accounts in the Strategic Commodities Control System Website under the program of "Pre-classification of Products" provided at the E-application menu (please refer to STC Circular 5/04 for details). In general, a reply on whether the goods are controlled will be available in two clear working days.*

Q.7 I know that the goods are decontrolled but the carrier may not know and may request that I provide a licence to cover the shipment. What can I do?

A.7 *You may make use of the pre-classification service. For items confirmed to be non-strategic goods, the pre-classification result will indicate that no import/export licence is required if the item is not for a use in relation to nuclear, biological or chemical weapons or missile capable of delivering these weapons. The result can serve as a proof that the goods are not subject to control.*

General purpose integrated circuits

Q.8 What types of microprocessors are decontrolled in the amendment exercise?

A.8 *The amendment exercise removes the control on microprocessors that have multiple data or instruction bus or serial communication ports so that there is no control threshold on the number of data bus and their data transfer rate anymore. In general, all industrial and commercial graded microprocessors are exempted from control irrespective of their technical performance.*

However, microprocessor microcircuits, microcomputer microcircuits and microcontroller microcircuits remain to be under control if these devices meet one of the following conditions:

(a) *they are designed or rated as radiation hardened to withstand controlling thresholds;*

- (b) *they are rated to operate at extreme temperature ranges, ie $>125^{\circ}\text{C}$, $<-55^{\circ}\text{C}$ or the entire range from -55°C to 125°C ; or*
- (c) *they are manufactured from a compound semiconductor with a clock frequency operates above 40 MHz.*

Q.9 What is the relaxation on analogue-to-digital (A/D) converter integrated circuits?

A.9 *The amendment relaxes the control threshold of A/D converters with a resolution of 8 bit from an output rate greater than 200 million words per second to 500 million words per second.*

Computers

Q.10 What is the new control status of computers?

A.10 *The amendment relaxes the control threshold of digital computers from a Composite Theoretical Performance (CTP) exceeding 190,000 million theoretical operations per second (Mtops) to an Adjusted Peak Performance (APP) exceeding 0.75 Weighted TeraFLOPS (WT). Generally speaking, most of the computer systems for home use and commercial use will not exceed the new APP threshold.*

Q.11 What are Adjusted Peak Performance (APP) and Weighted TeraFLOPS (WT)? How can I get these figures?

A.11. *In general terms, APP is a measure of the computing power of computers expressed in Weighted TeraFLOPS (i.e. in units of 10^{12} adjusted floating point operations per second). You can obtain these figures from the computer manufacturers or dealers.*

Q.12 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?

A.12 *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 that exceeds controlling threshold.*

Q.13 Is there any control on computers which are specifically capable of operation at extreme temperature?

A.13 *Computers rated for operation at an ambient temperature below -45°C or above 85°C are considered as strategic commodities regardless of their APP levels. These types of computers fall into the import and export control list.*

Q.14 What are the other control parameters for digital computers?

A.14 *All the parameters for control purposes are stipulated in Schedule 1 of the Import and Export (Strategic Commodities) Regulations. As general guidelines, the followings are some key features that control digital computers :*

- (a) With cryptographic capability exceeding 56 bit DES on data for hardware or software;*
- (b) Designed for radiation hardened;*
- (c) Rated for operation at an ambient temperature below -45 °C or above +85 °C;*
- (d) Designed for fault tolerance;*
- (e) With analogue to digital conversion function; or*
- (f) With external interconnection of digital computer or associated equipment which allows communications at data rates exceeding 1.25 Gbytes/s.*

Information Security

Q.15 *Are there any major changes of control over encryption equipment in the amendment?*

A.15 *No. The minimum control limit for encryption equipment remains to be 56 bits DES or 512 bits RSA. Also, regardless of the number of key-length they employ, products are decontrolled 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. Normally, the manufacturers are required to complete a cryptography questionnaire and submit it together with an export control document issued by the country of origin in order to ascertain the compliance of all the criteria as shown below.*

Q.16 *What are the criteria set out in the Cryptography Note 3?*

A.16 *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.*

To fulfill the requirement in (d) above, the applicant is required to produce an export control document from the country of origin showing that the encryption product meets the Cryptography Note 3.

Q.17 Many of the encryption products come from the US. Will the control status of any of them be affected by the amendment?

A.17 *No. The present amendment does not have further relaxation on mass market products. Currently, all US-originated encryption products which have been classified by the US Department of Commerce as mass market commodities are considered to have met the Cryptography Note 3. Consequently, the commonly available mass market products like Microsoft Windows, Internet Explorer, Sun Solaris etc., Bluetooth and wireless LAN devices are still not required to be licensed for import into/export from Hong Kong.*

Q.18 What are typical examples of mass market products that meet the Cryptography Note 3?

A.18 *The following items are typical product groups that are considered to meet the Cryptography Note 3:*

- (a) *General purpose operating systems and desktop applications (e.g., e-mail, browsers, games, word processing, database, financial applications or utilities) designed for, bundled with, or pre-loaded on single CPU computers, laptops, or hand-held devices;*
- (b) *Commodities and software for client Internet appliances and client wireless LAN devices (e.g. wireless devices based on commercial standards as Bluetooth, Home Radio Frequency (HomeRF) and IEEE 802.11b ("WiFi"));*
- (c) *Home use networking commodities and software (e.g., personal firewalls, cable modems for personal computers, and consumer set top boxes);*
- (d) *Portable or mobile civil telecommunications commodities and software (e.g., personal data assistants (PDAs), radios, or cellular products), etc.*

The above products are not strategic commodities and they are not subject to licensing requirement.

Q.19 If the encryption product is only used for authentication or digital signature, what is its control status?

A.19 *The regulations do not control encryption products that are used for authentication or digital signature unless they contain encryption on data or files.*

Q.20 Is there any control on GSM portable set?

A.20 *No. All general purpose civilian cellular radiocommunications handsets that are not capable of end to end encryption are not controlled.*

Q.21 Is there any control on cryptography equipment that are used for banking use?

A.21 *As long as the cryptography equipment are specially designed and limited for banking use or money transactions, they are not controlled.*

Q.22 Do I need to apply for a licence in order to bring along a PC pre-loaded with encryption software overseas?

A.22 *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.*