

16/F, Strategic Trade Controls Branch
Trade and Industry Department
Trade and Industry Department Tower
3 Concorde Road
Kowloon City
Kowloon
Hong Kong

Import and Export Ordinance, Cap. 60
Import and Export (Strategic Commodities) Regulations, Cap. 60, Sub Leg.

**Undertaking and Declaration on Compliance with Conditions of
Approval-in-Principle Arrangement for Bulk Users of Strategic Commodities Licensing Service
("Approval-in-Principle Arrangement")
and the Use of the Related Facilitation**

Part A - Particulars of the Company (i.e. the Applicant referred to hereafter)

1. Name of Company/Registered Business : _____
(In Block Letters)
2. Registered Business Address : _____

3. Telephone No. : _____
4. Business Registration No. : _____
5. Approval-in-Principle Reference No(s) : _____

Part B - Declaration and Undertaking

The signatory declares on behalf of the Applicant and to the best of his knowledge and belief that all the information lodged by the Applicant for requesting Approval-in-Principle Arrangement for Bulk Users of Strategic Commodities Licensing Service ("Approval-in-Principle Arrangement") is true and correct. The signatory and/or the Applicant understands that the Approval-in-Principle Arrangement is part of the licence application procedures. It is an offence if one makes or causes to be made any statement or furnishes or causes to be furnished any information which is false or misleading in a material particular or omits any material particular in relation to the request for the Approval-in-Principle Arrangement, or the lodgement of licence application with reference to the Approval-in-Principle Arrangement.

The signatory and/or the Applicant understands that the grant of Approval-in-Principle Arrangement and the use of the related facilitation shall be subject to the conditions listed below. The signatory hereby agrees on behalf of the Applicant that he has read and understood the following conditions and undertakes to comply with them.

- (1) The Approval-in-Principle Arrangement in respect of the shipment details to be specified by Director-General of Trade and Industry (DGTI) does not exempt the Applicant from the need to lodge licence applications to cover the import and export of the strategic commodities as required under Section 6A of the Import and Export Ordinance (Cap. 60). The Applicant

should lodge application and obtain a valid strategic commodities licence from the Trade and Industry Department before effecting the related import or export shipment. In other words, shipment of the products covered by the Approval-in-Principle Arrangement must be effected only after the issue of the valid licence. Also, the Approval-in-Principle Arrangement only facilitates the processing of the related licence applications. There is no necessary implication that applications for licences covering shipments that have gone through the Approval-in-Principle Arrangement will be granted as a matter of course.

- (2) It is the responsibility of the Applicant to ensure that all licence applications under the Approval-in-Principle Arrangement are lodged electronically at Strategic Commodities Control System Website (www.stc.tid.gov.hk) and cover the same products, foreign exporters/consignees, end-users, foreign exporting countries (places), destinations and enduses to be specified by DGTI. In this connection, a declaration that ***"I declare that the consignment under application is within the scope of the relevant Approval-in-Principle Agreement which is still valid at the time of application as granted by the Trade and Industry Department"*** would be added in all related licence applications. Any misuse of the Approval-in-Principle Arrangement, or misrepresentation of information on the related licence application constitutes a serious offence under the Import and Export Ordinance (Cap. 60), and may render the applicant to legal and/or administrative action, and suspension/revocation of licensing facilities and the facilitation granted.
- (3) All licence applications lodged in relation to the Approval-in-Principle Arrangement should cover goods imported/exported/transferred for civilian uses only. The shipment/goods should not be of a use in relation to nuclear, biological or chemical weapons or missile capable of delivering these weapons.
- (4) The Applicant should take all precautionary measures to ensure that the anticipated shipments under the Approval-in-Principle Arrangement are in full compliance with the export/re-export control laws, regulations and arrangement of foreign supplier/technology-originating/destination countries (places) of the goods. These measures may involve, but shall not necessarily be confined to, screening against persons and destinations denied by the foreign supplier/technology-originating/destination countries (places) for export as set out in the relevant export laws and regulations of those governments. In case of discovery of contravention to such export laws and regulations, either arising from misrepresentation of information by the Applicant when the application for the Approval-in-Principle Arrangement was made, or subsequent changes of export control laws, regulations and requirements by the foreign supplier/technology-originating/destination countries (places), or other circumstances, the Applicant must immediately inform the Trade and Industry Department in writing of the details of the findings. The same precautionary measures should also be taken in lodging licence applications under the Approval-in-Principle Arrangement. The Applicant should not make an application under the Approval-in-Principle Arrangement to cover a shipment which he knows is not consistent with the export control laws and regulations of the foreign supplier/technology-originating/destination countries (places) or he knows is prohibited under such export control laws and regulations. The Trade and Industry Department reserves the right to suspend or refuse processing of licence applications lodged under the Approval-in-Principle Agreement even though the shipments concerned have gone through the screening under the Approval-in-Principle Arrangement.
- (5) The Applicant should also keep records of all shipments made under the Approval-in-Principle Arrangement for no less than two years after the date of import/export, and make them available for inspection by officers of the Customs and Excise Department. The records should include technical specifications, data sheets or brochures/catalogues of the products, full description of each item imported/exported, the quantities shipped, copies of the relevant import/export licences, dates of the transactions/import/export, the name and address of the

foreign exporters/consignees/ end-users and any other additional information as may be requested by DGTI.

- (6) The Applicant should comply with the relevant provisions of the Import and Export Ordinance (Cap. 60) and its subsidiary legislation concerning strategic commodities controls and should note that the letter issued by the Trade and Industry Department stating that specified shipments have gone through the Approval-in-Principle Arrangement does not relieve him from the need to comply with the above legislation. Breach of any of the provisions of the Import and Export Ordinance (Cap. 60) and its subsidiary legislation is an offence.
- (7) The Trade and Industry Department may, together with the Customs and Excise Department, conduct reviews or checks on the Applicant. They may involve interviews with company officers, inspection of records and the companies' internal operations etc. If the Trade and Industry Department or the Customs and Excise Department suspects that the Applicant has improperly made use of the Approval-in-Principle Arrangement or the related facilitation, or has failed to comply with the conditions imposed by DGTI in relation to the Approval-in-Principle Arrangement including conditions specified in this Undertaking and Declaration, more in-depth reviews and checks on the Applicant will be conducted.
- (8) DGTI may take administrative actions against the Applicant if the latter contravenes or fails to comply with any of the conditions imposed by DGTI in relation to the Approval-in-Principle Arrangement including conditions specified in this Undertaking and Declaration, independent and irrespective of any prosecution actions which may be instituted against him. Such administrative actions may involve but shall not necessarily be confined to :
 - suspension of the facilitation provided in relation to the Approval-in-Principle Arrangement, in whole or in part, or imposition of other restrictions;
 - revocation of facilitation provided in relation to the Approval-in-Principle Arrangement in whole or in part;
 - suspension, revocation or cancellation of licences granted in relation to the Approval-in-Principle Arrangement; and/or
 - refusal or suspension of processing other applications lodged in relation to the Approval-in-Principle Arrangement.
- (9) DGTI may, whether at the time of processing a request for Approval-in-Principle Arrangement or subsequently, impose such conditions as he thinks fit, and the Applicant shall comply with all the conditions so imposed. The conditions may involve, but shall not necessarily be confined to, restrictions on eligible products, countries (places), end-uses, foreign exporters, consignees or end-users, or that certain sales/transfers/disposal of products covered by the Approval-in-Principle Arrangement and related licence applications are subject to prior notification to and approval from DGTI.
- (10) DGTI may suspend, revoke or cancel the Approval-in-Principle Arrangement in whole or in part and its related licences at any time he deems appropriate, without regard to any contracts or agreements that may have been made.
- (11) The Applicant, if wishes to request **additions/amendments** in respect of the products, consignees/foreign exporters/endusers, foreign exporting countries (places) or destination countries (places) covered by the Approval-in-Principle Arrangement, should make the request in writing with relevant supporting documents to the Trade and Industry Department. Only with written approval from DGTI can the **additions/amendments** be included in the Approval-in-Principle Agreement and the relevant licence applications be lodged accordingly.
- (12) Prior approval from DGTI for removing any products, consignees/foreign exporters/endusers, foreign exporting countries (places) or destination countries (places) from the scope of the

Approval-in-Principle Arrangement is not required but the Applicant should notify the Trade and Industry Department of such deletions in writing as soon as practicable.

- (13) The Applicant should provide DGTI with up-to-date supporting documents for the Approval-in-Principle Arrangement as soon as practicable. These documents may include, but shall not necessarily be confined to, technical specifications and export authorisations issued by the authorities of the supplier/technology-originating/destination countries (places).
- (14) All or any of the information provided in an application for the Approval-in-Principle Arrangement may be disclosed by the Trade and Industry Department to third parties either in Hong Kong or elsewhere provided that such disclosure facilitates the consideration or processing of the application, facilitates enforcement by enforcement agencies, is in the interests of Hong Kong, is authorised by law, or explicit consent to such disclosure has been given by the applicant or relevant parties.
- (15) Any licensing facilitation to be granted in relation to the Approval-in-Principle Arrangement is given on the merits of individual cases and should not in any way be quoted as a precedent for similar treatment for other cases. The scope of the Approval-in-Principle Arrangement, the conditions that it is subject to, and the related facilitation, is subject to modification, revision and revocation at any time as warranted by changes in circumstances. DGTI reserves the right to change the scope of the Approval-in-Principle Arrangement, suspend or cancel it if he has doubt on the reliability and eligibility of the Applicant, foreign exporter, consignee, end-user, foreign exporting countries (places), destination countries (places), or products covered therein.
- (16) The Approval-in-Principle Arrangement is valid for a period to be specified by DGTI. Extension request should be lodged in writing to the Trade and Industry Department **two months before the expiry date of the Arrangement** (Or if the Arrangement covers a number of agreements with different validity period, it would mean two months before the expiry date of the respective agreement.) Late application will not be considered. Only with written approval by DGTI of the extension request can the Applicant regard this Approval-in-Principle Arrangement be extended and lodge licence applications in relation to this Approval-in-Principle Arrangement within the new validity period as specified by DGTI.

[For applications covering encryption products which are supported by US Licence Exception ENC pursuant to Section 740.17(b)(2) of the US Export Administration Regulations]

- (17) The Applicant should take all precautionary measures to ensure that the goods covered by the licence applications lodged under the Approval-in-Principle Arrangement will not be used by or transferred to any government end-user except under the authorisation of the original exporting government.

_____ Signature	_____ Name of Signatory (in block letters)	_____ Company/Business Chop
_____ Date		_____ Position of Signatory