
STATUTORY INSTRUMENTS

2003 No. 2764

Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003

Interpretation

2.—(1) In this Order the following expressions have the meanings given to them below, save where an expression is also defined in a Schedule where it has, for the purposes of that Schedule, that meaning—

“the Act” means the Export Control Act 2002;

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

“the Commissioners” means the Commissioners of Customs and Excise;

“the Community General Export Authorisation” means the authorisation constituted by Article 6(1) of “the Regulation” and Annex II to “the Regulation”;

“Community Licence” means an authorisation granted by a “competent authority” (whether before or after commencement of this Order) under “the Regulation” [^{F1}or the 2005 Regulation];

“competent authority” means in respect of the United Kingdom, the Secretary of State, and, in respect of another Member State, any authority empowered by that Member State to grant “exportation” or “transfer” authorisations under “the Regulation” [^{F2}or the 2005 Regulation];

“country” includes territory;

“customs and excise Acts” has the same meaning as in section 1 of the Customs and Excise Management Act 1979 ^{M1};

“dual-use” in relation to “goods” or “technology”, means “goods” or “technology” which can be used for both civil and military purposes, and includes any “goods” or “technology” which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices;

“the European Community” means the customs territory of the European Community as defined in article 3(3) of Council Regulation (EEC) No 2913/92 of 12th October 1992 ^{M2};

“exportation” includes “shipment” as “stores” and, unless the context otherwise requires, means exportation from the United Kingdom to any destination outside the United Kingdom and the Isle of Man, except “export” in relation to the exportation from “the European Community” of dual-use “goods”, “software” and “technology”, which has the same meaning as in Article 2(b) of “the Regulation”;

“exporter” and other cognate expressions shall be construed accordingly;

“goods” means tangible goods, both used and unused and includes any goods on which “software” or “technology” is recorded;

“importation” and “exportation” in relation to a “vessel”, “vehicle”, submersible vehicle or “aircraft” includes the taking into or out of the United Kingdom of the “vessel”, “vehicle”, submersible vehicle or “aircraft”, notwithstanding that the “vessel”, “vehicle”, submersible

vehicle or “aircraft” is conveying “goods” or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“microprogramme” means a sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register;

“normal commercial journey” means a journey providing transport services in the ordinary course of business;

“prescribed sum” and “proper” have the same meanings as in the Customs and Excise Management Act 1979;

“programme” means a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer;

“in the public domain” means available without restriction upon further dissemination (no account being taken of restrictions arising solely from copyright);

“the Regulation” means Council Regulation (EC) No. 1334/2000 of 22nd June 2000 (as amended by the Council Regulations listed in Schedule 5 to this Order) setting up a Community regime for the control of exports of “dual-use” “goods” and “technology”^{M3};

[^{F3}“the 2005 Regulation” means Council Regulation (EC) No 1236/2005 of 27th June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.]

“any relevant use” means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons;

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such manner that its benefits are available to members of the public from time to time seeking to take advantage of it;

“shipment”(and cognate expressions) and “stores” have the same meanings as in the Customs and Excise Management Act 1979;

“software” means one or more “programmes” or “microprogrammes” fixed in any tangible medium of expression;

“surface effect vehicle” means any air cushion “vehicle”(whether side wall or skirted) and any “vehicle” using the wing-in-ground effect for positive lift;

“technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, “use”, maintenance or any other technical service;

“technology” means information (including but not limited to information comprised in software and documents such as blueprints, manuals, diagrams and designs) that is capable of use in connection with the development, production or use of any goods;

“transfer”, in relation to any “software” or “technology”, means the “transfer by any electronic” or “transfer by non-electronic means”(or any combination of electronic and non-electronic means) from a person or place within the United Kingdom [^{F4}except in articles 8 and 9 to the extent that those articles make provision in respect of transfers other than from a person or place within the United Kingdom];

“transferor” and other cognate expressions shall be construed accordingly (except that where the transfer is to a destination outside “the European Community”, transferor has the same meaning as “exporter” in the definition in Article 2(c) of “the Regulation” to the extent that that definition applies);

“transfer by any electronic means”, in relation to any “software” or “technology”, means a transmission of “software” or “technology” by facsimile, telephone or other electronic media (except that oral transmission of “technology” by telephone is included only where the “technology” is contained in a document the relevant part of which is read out over the telephone, or is described over the telephone in such a way as to achieve substantially the same result as if it had been so read);

“transfer by any non-electronic means”, in relation to any “software” or “technology”, means a disclosure of “software” or “technology” by any means (or combination of means), including oral communication, other than as the “exportation” of “goods” or the “transfer by any electronic means”;

“in transit” means any “goods” imported into the United Kingdom for “transit or transhipment” and includes “goods” which only pass through “the European Community” within the meaning of Article 3(4) of “the Regulation” and “goods” being exported to another Member State which are not being exported from the United Kingdom to that other Member State within the meaning of Article 21 of “the Regulation”;

“transit or transhipment” means transit through the United Kingdom or transhipment with a view to re-exportation of the “goods” in question or transhipment of those “goods” for use as “stores”;

“vehicle” includes a railway carriage;

“vessel” includes any ship, “surface effect vehicle”, vessel of small waterplane area or hydrofoil and the hull or part of the hull of a vessel.

(2) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day after that event.

(3) Except where this Order otherwise provides, expressions used in the Regulation which are also used in this Order have the same meaning in this Order as they have in the Regulation.

Textual Amendments

- F1** Words in art. 2(1) inserted (30.7.2006) by [The Export Control \(Security and Para-military Goods\) Order 2006 \(S.I. 2006/1696\)](#), arts. 1, **3(a)**
- F2** Words in art. 2(1) inserted (30.7.2006) by [The Export Control \(Security and Para-military Goods\) Order 2006 \(S.I. 2006/1696\)](#), arts. 1, **3(b)**
- F3** Words in art. 2(1) inserted (30.7.2006) by [The Export Control \(Security and Para-military Goods\) Order 2006 \(S.I. 2006/1696\)](#), arts. 1, **3(c)**
- F4** Words in art. 2 added (28.3.2005) by [The Export of Goods, Transfer of Technology and Provision of Technical Assistance \(Control\) \(Amendment\) Order 2005 \(S.I. 2005/468\)](#), arts. 1, **3**

Marginal Citations

- M1** 1979 c. 2.
- M2** O.J. No. L 302, 19.10.92, p. 1. as amended by the Act of Accession of Austria, Sweden and Finland (O.J. c. 241, 29.08.1994, p. 21.)
- M3** O.J. No. L 159, 30.06.2000, p. 1.

Changes to legislation:

There are currently no known outstanding effects for the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003, Section 2.