

2006 No. 1696

CUSTOMS

**The Export Control (Security and Para-military Goods) Order
2006**

<i>Made</i> - - - -	<i>29th June 2006</i>
<i>Laid before Parliament</i>	<i>30th June 2006</i>
<i>Coming into force</i> - -	<i>30th July 2006</i>

The Secretary of State makes the following Order in exercise of the powers conferred by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002(a):

1. This Order may be cited as the Export Control (Security and Para-military Goods) Order 2006 and shall come into force on the 30th July 2006.

2. In this Order—

“the 2003 Order” means the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(b);

“the Trade Order” means the Trade in Goods (Control) Order 2003(c); and

“the 2004 Order” means the Trade in Controlled Goods (Embargoed Destinations) Order 2004(d).

Amendments to the 2003 Order

3. Article 2(1) of the 2003 Order shall be amended as follows—

(a) in the definition of “Community Licence” at the end insert, “or the 2005 Regulation”;

(b) in the definition of “competent authority” at the end insert the following, “or the 2005 Regulation”; and

(c) after the definition of “the Regulation” insert;

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

4. Article 3 of the 2003 Order shall be amended as follows—

(a) after paragraph 1 insert the following paragraph:

“(1A) Subject to the provisions of this Order, goods of a description in Schedule 1A to this Order are prohibited to be exported to any Member State.”; and

(a) 2002 c. 28.

(b) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561, 2004/2741, 2005/232, 2005/468, 2005/3257 and 2006/1331.

(c) S.I. 2003/2765 as amended by S.I. 2005/443 and 2006/1331.

(d) S.I. 2004/318 as amended by S.I. 2004/1049, 2004/2741, 2005/232, 2005/445, 2005/3257 and 2006/1331.

(e) O.J. No. L 200, 30.07.2005, p. 1.

- (b) in paragraph 2 after the words “Paragraph (1)” insert the words “or 1A”.
- 5.** For paragraph (11)(b) of Article 11 of the 2003 Order substitute—
- “(b) the following goods;
- (i) any goods falling within paragraph d., g. or h. of entry PL5001 in Part 1 of Schedule 1 to this Order;
- (ii) any goods falling within entry 1 or 2 in Schedule 1A to this Order; or
- (iii) any goods falling within entry 3 in Schedule 1A to this Order where those goods are in transit from one Member State to another Member State.”.
- 6.** For paragraph 2 of article 12 of the 2003 Order substitute—
- “(2) A Community Licence is the authorisation required by—
- (a) Article 3(1) of the Regulation, for the exportation or transfer from the European Community of any goods, software or technology specified in Annex 1 to the Regulation where the export or transfer is not subject to Article 6(1) of the Regulation;
- (b) Article 4(1), (2) and (3) of the Regulation for the exportation or transfer from the European Community, in the circumstances respectively described in those paragraphs, of any goods, software or technology not listed in Annex 1 to the Regulation where the export or transfer is not subject to Article 6(1) of the Regulation; or
- (c) Articles 3(2) and 5(1) of the 2005 Regulation.”.
- 7.** Article 16 of the 2003 Order shall be amended as follows—
- (a) in paragraph (1) insert “ or” at the end of sub-paragraph (b) and insert after that sub-paragraph—
- “(c) Article 3(1) of the 2005 Regulation, in respect of the supply of technical assistance, as defined in the 2005 Regulation,”;
- (b) after paragraph (5) insert—
- “(5A) Any person knowingly concerned in the provision of technical assistance, as defined in the 2005 Regulation, with intent to evade the prohibition on the provision of technical assistance in article 3(1) of the 2005 Regulation shall be guilty of an offence and liable to arrest.”; and
- (c) in paragraph 6 for “under paragraph (4) or (5)” substitute “under paragraph (4), (5) or (5A) ”.
- 8.** In article 21(2) of the 2003 Order insert at the end “and the 2005 Regulation in respect of the export of goods, and the provision of technical assistance as defined in the 2005 Regulation”.
- 9.** For article 21(6) of the 2003 Order substitute—
- “(6) In the case of any person who is guilty of any offence related to any prohibition or restriction in articles 3, 4 or 5 of this Order, Article 3(1), 4(1), (2), (3) or 21(1) of the Regulation, or Article 3(1) or 5(1) of the 2005 Regulation, sections 68(3)(b) and 170(3)(b) of the Customs and Excise Management Act 1979 shall have effect as if for the words “7 years” there shall be substituted “10 years”.”
- 10.** In article 21(8) of the 2003 Order for the words “article 16(4) or (5)” substitute “article 16(4), (5) or (5A)”
- 11.** For article 21(9) of the 2003 Order substitute—
- “(9) Section 77A of the Customs and Excise Management Act 1979(a) (provision as to information powers) shall apply to any person concerned in an activity requiring—

(a) Section 77A was inserted by section 10 of the Finance Act 1987 (c.16) and amended by S.I. 1992/3095.

- (a) a licence under this Order for the transfer of software or technology or the provision of technical assistance as it applies to any person who is concerned (in whatever capacity) in the exportation of goods for which an entry is required by or under that Act; or
- (b) an authorisation required by Article 3(1) of the 2005 Regulation in respect of technical assistance, as defined in that Regulation;

as it applies to any person who is concerned in the exportation of goods for which an entry is required by or under that Act and accordingly references in section 77A of the Customs and Excise Management Act to goods shall, as the context requires, be read as including software, technology and technical assistance, and references to exportation shall as the context requires, be read as including the transfer of technology or software or the provision of technical assistance.”.

12. Part 1 of Schedule 1 to the 2003 Order shall be amended as follows—

- (a) in Note 1 to entry ML7 after entry p. add “q. Pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4). N.B: See 3.2. of Annex III to the 2005 Regulation” and “r. Oleoresin capsicum (OC)(CAS 8023-77-6). N.B: See 3.3. of Annex III to the 2005 Regulation”; and
- (b) for the entries PL5001 c. to g. substitute the following entries—
 - “(c) Shackles designed for restraining human beings having an overall dimension including chain, when measured from the outer edge of one cuff to the outer edge of the other cuff, of between 240mm and 280mm when locked;
 - (d) Electric–shock belts designed for restraining human beings by the administration of electric shocks having a no-load voltage not exceeding 10 000 volts;
 - (e) Water cannon and specifically designed components therefor;
 - (f) Riot control vehicles which have been specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose;
 - (g) Electric-shock dart guns having a no load voltage not exceeding 10,000 volts;
 - (h) components specially designed or modified for portable devices designed or modified for the purposes of riot control or self-protection by the administration of an electric shock (e.g., electric-shock batons, electric-shock shields, stun-guns and electric-shock dart-guns).”.

13. After Schedule 1 to the 2003 Order insert, as Schedule 1A, the Schedule set out in Schedule 1 to this Order.

14. In Schedule 2 to the 2003 Order omit entry PL 9001.

Amendments to the Trade Order

15. In article 2 of the Trade Order for the definition of controlled goods substitute—

““controlled goods” means goods used and unused, specified in Schedule 1 to this Order, the transfer, acquisition or disposal of which are prohibited by this Order but does not include goods which are “restricted goods”. For the avoidance of doubt “controlled goods” does not include software and technology;”.

16. In article 2 of the Trade Order for the definition of restricted goods substitute—

““restricted goods” means goods, both used and unused, specified in Schedule 2 to this Order, including those which would otherwise be “controlled goods”, the supply or delivery of which are prohibited by this Order;”.

17. After paragraph (4) of article 3 of the Trade Order insert the following paragraph—

“(4A)(a) Paragraphs 1 and 2 shall not apply to the restricted goods listed in sub-paragraph (b) to the extent the actions will, or may, result in the removal of those goods from one Member State to another Member State.

- (b) The goods referred to in sub-paragraph (a) are as follows;
 - (i) the restricted goods listed in paragraph 1 of Schedule 2;
 - (ii) Individual Cuffs;
 - (iii) Shackles; except those shackles which have an overall dimension including chain, when measured from the outer edge of one cuff to the outer edge of the other cuff, of between 240 mm and 280 mm when locked and have not been modified to cause physical pain or suffering; and
 - (iii) the restricted goods in sub-paragraphs (b) to (d) of paragraph 2 and paragraph 4 of Schedule 2.”.

18. After paragraph (4) of article 4 of the Trade Order insert—

“(4A) Paragraphs 1, 2 and 3 shall not apply to the controlled goods listed at paragraph 2 of Schedule 1 to the extent the actions will, or may, result in the removal of those goods from one Member State to another Member State.”.

19. For the Schedule to the 2003 Trade Order substitute the Schedules 1 set out in Schedule 2 to this Order

Amendments to the 2004 Order

20. For the definition of controlled goods in article 2 of the 2004 Order substitute—

““controlled goods” means goods used and unused, specified in Part 1 of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance Order 2003(a) and paragraph 2 of Schedule 1 and paragraphs 1 to 4 of Schedule 2 to the Trade in Goods (Control) Order 2003(b). For the avoidance of doubt “controlled goods” does not include software and technology.”.

29th June 2006

Malcolm Wicks
Minister for Energy
Department of Trade and Industry

(a) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561, 2004/2741, 2005/232, 2005/468, 2005/3257 and 2006/1331.
(b) S.I. 2003/2765 as amended by S.I. 2005/443 and 2006/1331.

SCHEDULE 1

Article 13

CERTAIN PROHIBITED GOODS

“SCHEDULE 1A

Article 3

CERTAIN PROHIBITED SECURITY AND PARAMILITARY GOODS

Security and para-military police “ goods” as follows:

1. Gangchains and leg-irons specially designed for restraining human beings.
2. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (e.g., electric-shock batons, electric-shock shields, stun-guns and electric- shock dart-guns having a no load voltage exceeding 10,000 volts).
3. Electric–shock belts designed for restraining human beings by the administration of electric shocks having a no-load voltage exceeding 10 000 volts.”

SCHEDULE 2

Article 19

CONTROLLED AND RESTRICTED GOODS

“SCHEDULE 1

Article 2

CONTROLLED GOODS

The following are controlled goods for the purposes of this Order:

1. Goods, used and unused, specified in Schedules 1 and 1A to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003.
2. The following goods:
 - (a) portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance;
 - (b) Pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4);
 - (c) Oleoresin capsicum (OC) (CAS 8023-77-6).

SCHEDULE 2

Article 2

RESTRICTED GOODS

The following are restricted goods for the purposes of this Order:

Certain Security and Para-Military Police Equipment

1. Goods designed for the execution of human beings, as follows—
 - (a) Gallows and guillotines
 - (b) Electric chairs
 - (c) Air-tight vaults made of e.g. steel and glass, designed for the purpose of execution of human beings by the administration of lethal gas or substance
 - (d) Automatic drug injection systems designed for the purpose of execution of human beings by the administration of a lethal chemical substance.
2. Restraints specially designed for restraining human beings, as follows—
 - (a) Leg-irons, gangchains, shackles and individual cuffs or shackle bracelets except those that are ‘ ordinary handcuffs’. ‘Ordinary handcuffs’ are handcuffs which have an overall dimension including chain, measured from the outer edge of one cuff to the outer edge of the other cuff, between 150 and 240mm when locked and have not been modified to cause physical pain or suffering;
 - (b) Restraint chairs unless designed for disabled persons;
 - (c) Shackle boards;
 - (d) Thumb-cuffs and thumb-screws, including serrated thumb-cuffs;
 - (e) Electric shock belts.
3. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (e.g., electric-shock batons, electric-shock shields, stun-guns and electric- shock dart-guns).
4. Components specially designed or modified for the devices in paragraph 3.

Certain Missiles

5. Missiles capable of a range of 300km or more, and specially designed components therefor.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in respect of Council Regulation (EC) No 1236/2005 of 27th June 2005 ('the 2005 Regulation') concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. This Order amends the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 ('the 2003 Order'), the Trade in Goods (Control) Order 2003 and the Trade in Controlled Goods (Embargoed Destinations) Order 2004, to provide for licensing, enforcement and penalties in relation to goods controlled by the 2005 Regulation. It also makes further consequential amendments.

Article 3 amends article 2 of the 2003 Order to provide for references to the 2005 Regulation. Sub-paragraph (a) amends the definition of Community Licence to include an authorisation made under the 2005 Regulation. Sub-paragraph (b) amends the definition of competent authority to include any authority empowered to grant an authorisation under the 2005 Regulation. Sub-paragraph (c) inserts a definition of the 2005 Regulation.

Article 4 amends article 3 of the 2003 Order to provide for the licensing of goods in Schedule 1A for export to any Member State of the European Community.

Article 5 makes consequential amendments to the transit controls in paragraph 11(b) of article 11 of the 2003 Order in consequence of the 2005 Regulation.

Article 6 amends paragraph 2 of article 12 to provide that a Community Licence is an authorisation required by the 2005 Regulation.

Article 7 amends article 16 to provide offences and penalties in relation to the provision of technical assistance prohibited by the 2005 Regulation.

Articles 8, 9, 10 and 11 make provision for the application of the Customs and Excise Management Act 1979 in relation to the enforcement of the 2005 Regulation.

Article 12 amends Schedule 1 to the 2003 Order, Prohibited Goods, Software and Technology, to remove items controlled by the 2005 Regulation or controlled by new Schedule 1A to that Order.

Article 13 inserts new Schedule 1A into the 2003 Order.

Articles 15 and 16 amend the definitions of controlled and restricted goods in the Trade Order.

Articles 17 and 18 limits trade controls in relation to goods whose export is only controlled to a destination outside the European Community.

Article 19 inserts a new Schedule 1 of controlled goods and a new Schedule 2 of restricted goods to the Trade Order.

Article 20 amends the definition of controlled goods in article 2 of the 2004 Order.

A full regulatory impact assessment of the effect this Order will have on the costs of business is available from <http://www.dti.gov.uk/europeantrade/strategic-export-control> or the Export Control Organisation helpline-Telephone (020) 7215 8070 or E-mail:ECO.help@dti.gsi.gov.uk.

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2006**

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