

EXECUTIVE OFFICE OF THE PRESIDENT  
THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

NOV 19 2006

H.E. German Gref  
Minister  
Ministry of Economic Development  
and Trade of the Russian Federation

Dear Minister Gref:

I was pleased to receive your letter of this date which reads as follows:

“In recognition of our mutual obligation to provide most-favoured nation and national treatment to exports from the territory of our respective countries and the obligations of the Agreement Establishing the World Trade Organization (WTO), I have the honor to confirm that the delegation of the Government of the Russian Federation and delegation of the Government of the United States have reached an understanding in respect of the following principles to be applied in connection with the establishment of import licensing procedures for imports of goods containing encryption technology:

1(a) The Government of the Russian Federation will apply any procedures or other requirements relating to licensing imports of goods containing encryption technology on a non-discriminatory basis, consistent with Articles I and III of GATT 1994. The procedures related to the notification, evaluation, approval, and licensing of goods containing encryption technology, and the process for exempting goods will be transparent and predictable and will not impose unreasonable or burdensome requirements on such goods.

1(b) The conditions for importation of goods containing encryption technology subject to current and any future exemptions indicated in all of the Notes, to Category 5 Part 2 “Information Security” of the Wassenaar Arrangement Dual Use List will not be more restrictive than those in effect as of the date of this letter.<sup>1</sup>

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<sup>1</sup> This includes mobile phones currently sold at retail in the Russian Federation.

2(a) The Government of the Russian Federation will eliminate any existing restrictions and not apply any new restrictions, such as experts evaluations, approvals, and licenses, for the importation of the following categories of goods:

- I. goods containing encryption with the following limited functions:
  - (a) authentication including all aspects of access control without encryption of files and texts, except encryption related to passwords and identification and other similar data protection from unauthorized access; and
  - (b) electronic digital signature with any encryption function;
- II. goods containing encryption technology which consist of any of the following components;
  - (a) a symmetric cryptographic algorithm employing a key length not exceeding 56 bits long; or
  - (b) an asymmetric cryptographic algorithm based on one of the following methods:
    - (A) factorization of integers not exceeding 512 bits;
    - (B) computation of discrete logarithms in multiplicative group of a finite field of a size not exceeding 512 bits; or
    - (C) the discrete logarithm in group other than in item B hereof not exceeding 112 bits;
- III. goods covered under Note 3 ("Cryptography Note") to Category 5 Part 2 "Information Security" of the Wassenaar Arrangement Dual Use List relating to mass market goods;
- IV. components of software (including operating systems) implementing an encryption functionality that cannot be modified by a user and require no substantial supplier support for installation and for which supporting documentation on these characteristics is publicly available, or if not publicly available, is provided;
- V. goods with an encryption functionality used to protect the technological channels of communication networks or to manage communication networks or systems;

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- VI. wireless equipment performing the encryption of data within a radio channel only with a maximal range of wireless operation without strengthening and re-translation of less than 400 meters according to manufacturer's specifications; and
- VII. goods for which the encryption functionality is disabled by the manufacturer.

2(b)

- I. For goods covered under sub-paragraph 2(a), the Government of the Russian Federation will permit the importation of such goods based on a one-time submission of a notification to the federal executive body in the field of security that the goods are exempted from control for encryption purposes. To comply with this requirement, the manufacturer of the good will submit a completed paper copy of a form containing information specified in the attachment to this letter. Goods covered by sub-paragraph 1(b) and 2(a) will not require a license for reasons of encryption.
- II. If proprietary information is submitted in the notification, the manufacturer will identify that information and the federal executive body in the field of security will protect such information. When an algorithm is proprietary information, a manufacturer will only be required to include the name of the owner of the algorithm to the federal executive body in the field of security as the description of the algorithm.
- III. Confirmation of notification will be automatic, unless the federal executive body in the field of security contacts the manufacturer within ten working days after submission of the notification regarding its compliance with the requirements of sub-paragraph 2(a). A manufacturer will have an opportunity to cure minor errors in its declaration.
- IV. The federal executive body in the field of security will maintain a public internet site where it will post such confirmations. Any importer or shipper may rely on a relevant confirmation. Once a good is notified and confirmed, an

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importer/shipper shall only be required to indicate that the good appears on the internet site in the relevant customs declaration. This notification procedure is intended to facilitate the entry of the goods listed above and will not result in any delays or additional approval procedures.

Goods that have previously been subject to examination under import procedures related to encryption, and are covered by the scope of sub-paragraph 2(a), will be automatically posted on the internet site without going through the procedures in sub-paragraph 2(b).

3. Goods containing encryption technology that need an import license shall undergo expert evaluation and approval only once. If an expert evaluator needs additional information for its evaluation, it shall notify the manufacturer and request such information within 10 working days of the application. Manufacturers will not be obligated to submit source code and failure to submit such code alone, will not result in denial of an application. After the good is approved, the same or like good can be imported into the Russian Federation with a license issued in a manner consistent with Article 2 of the WTO Agreement on Import Licensing Procedures. The time period for completing import licensing procedures, including the time required to obtain an experts' evaluation and to receive approval of the federal executive body in the field of security and Ministry of Economic Development and Trade import license shall not exceed three months. Fees for experts evaluations and licensing will be transparent and based on the costs of services rendered.

4. Within 90 days after the date of this letter, the Russian side will establish an interim system for the implementation of paragraphs 1 through 3 of this letter.

5. The Russian side also will include in the regulation a list of criteria based on the technical capability of the goods to further limit the scope of goods subject to the procedures in paragraph 3. Goods meeting these criteria will be covered under the procedures and requirements set out in paragraph 2(b).

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6. These agreed principles will be reflected in the Working Party Report on the Russian Federation's accession to the WTO with language to be elaborated between the Government of the Russian Federation and all interested WTO members.
7. As the Government of the Russian Federation continues its work to complete the multilateral negotiations on accession to the WTO, Russia will engage the Government of the United States and other interested Members in a review of the operation of this interim system. The purpose of this review will be to clarify and refine procedures for notification, confirmation, and licensing of goods with encryption capabilities and, where possible, to further improve and expand the coverage of sub-paragraphs 1(b) and 2(a).
8. As interim procedures are being developed, the Government of the Russian Federation will also engage in further bilateral discussions with the Government of the United States on the treatment of mobile handsets, routers, switches, and trusted platform technologies.
9. Given their technical capabilities, Russian side will consider including the following goods in the draft decree and under sub-paragraph 2(a): semiconductors, semiconductor modules or printed circuit assemblies with encryption capability; and items with cryptography that cannot be removed, but cannot work without special software, such as in telecommunications equipment.

In addition, in terms of bilateral work, we agree on the following:

1. The Government of the Russian Federation will continue to consult with the Government of the United States on regulations or legislation under consideration regarding the rules for importing goods containing encryption technology into the territory of the Russian Federation. The Government of the Russian Federation and the Government of the United States will also consult on the coverage of regulations, including development of objective criteria for determining those goods that are subject to regulation and those goods that are excluded entirely.

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2. The Government of the Russian Federation will apply any procedures or other requirements relating to licensing imports of goods containing encryption technology on a non-discriminatory basis, consistent with Article I of the Agreement on Trade Relations between the Government of the Russian Federation and the United States of America (June 17, 1992). To this end, the Russian side will not issue or use orders, instructions, or other measures that identify specific U.S. companies or their goods and subject those companies or goods to enhanced scrutiny in relation to regulations on import licensing procedures for goods containing encryption technology.

I look forward to working with you bilaterally and in Russia's WTO accession negotiations on these issues. Please accept, dear Ambassador Schwab, the assurances of my deepest respect."

I am pleased to confirm that the delegation of the United States shares this understanding of the principles set out in your letter. We also look forward to working with you and your colleagues on this important issue.

Please accept the assurances of my deepest respect.



Susan C. Schwab

## ANNEX

The notification by the producer of goods containing encryption technology, will contain: the name of the applicant; name of goods (goods or software, product family); purpose of use (executable functions); cryptographic algorithms used (name and description of the cryptographic algorithm and maximum key length); category of exemptions; cryptographic functions disabled by the manufacturer; effective range of wireless operation (only for radio electronic devices); date of filling in the notification; stamp/signature.

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