



EXPORT CONTROL FOR 128T

Abstract

This document captures export control restrictions for 128T platform

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CONTENTS

- Revision History 1**
- Introduction 2
- embargoed countries 2
- Export classification for 128T 2
- APPENDIX A: Less sensitive Government End User (A-U list) 4**
- APPENDIX B: More sensitive government end user list (A-Q list)..... 6**

REVISION HISTORY

Version	Author	Description	Date
Draft 01	Prashant Kumar	Initial Draft	March 31, 2016
Draft 02	Prashant Kumar	Changes based on KK comments	March 31, 2016
Draft 03	Prashant Kumar	Added CCAT number	May 3, 2016

INTRODUCTION

Export Administration Regulations (EAR) classification is the exercise of understanding whether an item or technology falls on the **Commerce Control List (CCL)**. An export classification will determine whether an export license is required based on the destination country the item or technology is shipped to.

Determination as to whether or not authorization to export to a country (or a specific Enterprise or Government Organization within the country) is required is determined by the following criteria in the transaction:

- (1) What the **Export Control Classification Number (ECCN)** is of the item
- (2) Where it is going
- (3) Who is the end-user
- (4) What is the end-use

EMBARGOED COUNTRIES

Embargoed country list includes **Iran, Sudan, Syria, N. Korea, and Cuba**. 128 Technologies should not have any business transactions in these Embargoed countries.

EXPORT CLASSIFICATION FOR 128T

128 Technologies have filed for Export Classification with Bureau of Industry and Security (BIS) under the following classification.

ECCN: 5D002

Encryption Restricted (ENC-R) 740.17.b.2

CCATS # G165177

ENC-R means that 128T cannot be exported to (downloaded by) Government end-users¹ outside of the EU + 7 (Japan, Australia, New Zealand, Canada, Norway, Switzerland, and Turkey) without an export license.

Once we get a CCAT number, we can minimize the impact of this license requirement by getting an Encryption Licensing Arrangement (ELA). There are two types of ELA's; a world-wide ELA for "less sensitive" end-users (A-U list, given in Appendix A), and a country-specific ELA for the "more sensitive" end-users (A-Q list, given in Appendix B). The ELA's will let us ship unlimited quantities of identified products to government end-users without further export authorization. Majority of the customers we sell to will fall under ELA for "less sensitive" end user category allowing us sell using the world-wide ELA.

POLICIES AND RESTRICTION FOR ELECTRONIC DISTRIBUTION OF 128T SOFTWARE

Given the fact that the 128T image will be hosted on publicly accessible Yellowdog Updater, modified (YUM) server, strict access control should be put in place to make sure that:

1. Image is not downloaded by an entity in the Embargoed countries
2. Image is downloaded by less sensitive Government user with a world-wide ELA
3. Image is downloaded by more sensitive Government user with country-specific ELA
4. Image is not downloaded by a black listed or banned Enterprise
5. Image is not downloaded by bad guys – proliferators, terrorists, terrorist organizations and etc.

¹ Definition of Government end-user is given in Appendix A

APPENDIX A: LESS SENSITIVE GOVERNMENT END USER (A-U LIST)

A government end-user is any:

- Foreign central, regional or local government department, agency, or other entity performing governmental functions
- Governmental research institutions
- Governmental corporations, or their separate business units, which are engaged in the manufacture or distribution of items or services controlled on the Wassenaar Munitions List
- International governmental organizations

This term does not include:

- Utilities (including telecommunications companies and Internet service providers)
- Banks and financial institutions
- Transportation
- Broadcast or entertainment
- Educational organizations
- Civil health and medical organizations
- Retail or wholesale firms
- Manufacturing or industrial entities not engaged in the manufacture or distribution of items or services controlled on the Wassenaar Munitions List.

A-U less sensitive gov't end-users list

- a) Census and statistics services
- b) Civil public works infrastructure services (construction, maintenance, repair, regulation and administration) as follows: buildings, public transportation, roads and highways, trucking
- c) Civil service administration and regulation, including human resources and personnel/labor management
- d) Clean water infrastructure services (treatment, supply and testing)
- e) Economic (trade/commerce/investment), business and industrial development, promotion, regulation and administration, excluding the following end-users/end-uses:
- f) Agencies, departments, boards and councils for science and technology

- g) Research, development and national laboratories (other than as authorized in paragraphs 4k (measurements and standards) and 4l (meteorology/weather/atmospheric services) below)
- h) National telecommunications and information technology agencies, boards, councils and development authorities (including national information center, and information communications technology (ICT) / telecommunications infrastructure / spectrum planning, policy, regulation and testing)
- i) Elections, balloting and polling services
- j) Energy regulation and administration, including oil, gas and mining sectors
- k) Environmental/natural resources regulation, administration and protection, including wildlife, fisheries and national parks
- l) Food/agriculture regulation and administration
- m) Labor/community/social services planning, regulation and administration, including: housing and urban development, municipality and rural affairs
- n) Measurements and standards services
- o) Meteorology (weather, atmospheric) services
- p) National archives/museums
- q) Patents
- r) Pilgrimage and religious affairs
- s) Postal services
- t) Public and higher education (excluding government research institutions and any agency, institution or affiliate engaged in the manufacture or distribution of items or services controlled on the Wassenaar Munitions List²)
- u) Public health and medicine/pharmaceutical regulation and administration
- v) Public libraries
- w) Sports/culture (includes film, commercial broadcasting and the arts) promotion, regulation and administration
- x) Travel/tourism promotion, regulation and administration.

² <http://www.wassenaar.org/control-lists/>

APPENDIX B: MORE SENSITIVE GOVERNMENT END USER LIST (A-Q LIST)

- a) Agencies, departments, boards and councils for science and technology (including research, development and state / national laboratories, but not including measurements and standards)
- b) Currency and monetary authorities (including departments and offices of the national / federal / royal reserve)
- c) Executive agents of state (including offices of president / vice president / prime minister, royal courts, national security councils, cabinet / council of ministers / supreme councils / executive councils, crown princes and other deputies of the rulers, departments and offices of political / constitutional / mainland affairs)
- d) Legislative bodies responsible for the enactment of laws
- e) Import/export control, customs and immigration
- f) Intelligence
- g) Judiciary (including supreme courts and other national / federal / regional / royal high courts and tribunals)
- h) Maritime, port, railway and airport authorities
- i) Military and armed services (including national guard, coast guard, security bureaus and paramilitary)
- j) Ministries, departments and garrisons of defense (including defense technology agencies)
- k) Ministries and departments of finance and taxation (including national / federal / royal budget and revenue authorities)
- l) Ministries and departments of foreign affairs / foreign relations / consulates / embassies
- m) Ministries of interior, internal / home / mainland affairs, and homeland security
- n) State / national telecommunications and information technology agencies, boards, councils and development authorities (including national information / critical infrastructure data centers, and information and communications technology (ICT) /telecommunications infrastructure / spectrum planning, policy, regulation and testing)
- o) Police, investigation and other law enforcement (including digital crime / cybercrime / computer forensics, counter narcotics / counter terrorism / counter proliferation)
- p) Prisons

- q) Public safety (including national / federal / royal agencies and departments of civil defense, emergency management, and first responders).