

Import and Export Order (Control of Chemical, Biological and Nuclear Exports), 5764-2004

In my capacity according to Article 2 of the Import and Export Ordinance [New Version] 5739-1979 (hereinafter the Ordinance) and with the authorization of the Economics Committee of the Knesset according to Article 21 (a) of Basic Law: the Knesset and Article 2 (b) of the Penal Code 5737-1977. I hereby order as follows:

Definitions 1. In this Order -

The Authority	the Director of the Chemistry and Environment Administration in the Ministry of Industry, Trade and Labor, or his Deputy;
The Lists	lists in the chemical, biological and nuclear field, headings of which are specified in the First Schedule –source materials ¹ , and in the Second Schedule - dual use materials, based on lists, established by international regimes and conventions in the above-mentioned field, that Israel has decided to act upon, a copy of which is made available to the public at the district offices of the Ministry of Industry, Trade and Labor and on its website;
The Committee of Director-Generals	the Director General of the Ministry of Industry, Trade and Labor, with the Director General of the Ministry of Defense and the Director General of the Ministry of Foreign Affairs;
Goods	materials, biological agents, equipments and equipment systems, including their components and parts;
Technology	specific information required for the development, production, or use of any item included in the First and Second Schedule, except for information which is in the public domain and basic scientific research; this information may take the form of technical data or technical assistance;
Export	including the transfer to territories under Palestinian civil responsibility, within their meaning under the Currency Control Regulations (Definition of a Foreign Resident), 5758-1998;
Production	including , production engineering, integration, assembly, inspection, testing and quality assurance;
Medical Institution	as defined in Article 24 of the Public Health Ordinance, 1940;
Higher Education Institution	within the meaning of Article 9 of the Council for Higher Education Law, 5718-1958;

¹ Including nuclear source material, chemical precursors and biological agents and pathogens.

- Unofficial translation -

Basic Scientific Research	experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena and observable facts, not primarily directed toward a specific practical aim or objective;
Information in the Public Domain	technology that has been made available without restrictions upon its further dissemination; copyright restrictions do not remove technology from being in the public domain;
Technical Data	including blueprints, plans, diagrams, models, formulae, engineering designs and specifications, manuals and instructions written or recorded on magnetic media, optical or all other media;
Technical Assistance	including instruction, skills, training, working knowledge, consulting services, including the transfer of technical data;
Development	including phases before production such as design, design research, design analysis, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, and layouts;
Use	including operation, installation, maintenance, repair and refurbishing.
Objectives	<p>2. The objectives of this Order, as a part of Israel's efforts to assist in keeping world peace and stability and in preventing the proliferation of non-conventional weapons and non-conventional terrorism, are:</p> <p>(1) the prohibition of exports from Israel of goods, technology and services intended for use in the development and the production of chemical, biological and nuclear weapons;</p> <p>(2) the control of exports from Israel of goods, technology and services which may be used in the development and the production of chemical, biological and nuclear weapons;</p>
Prohibition of Export	<p>3. A person shall not export goods, technology or services knowing that they are intended for use in the development or the production of chemical, biological and nuclear weapons.</p>
Export License	<p>4. (a) A person shall not export goods specified in the lists, or technology and services related to such goods, whether for consideration or not, unless according to a license granted by the Authority pursuant to this Order (hereinafter "the License").</p> <p>(b) An entity that is a medical institution or a higher education institution, exporting from Israel biological agent, including technology related to that exported biological agent, or chemical material, to be used for diagnostics, for medical or veterinarian treatment or for medical or veterinarian research, to a country listed in the Third Schedule, is exempted from the license requirement set forth in sub-paragraph (a).</p>

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| License Application | 5. | <p>(a) The applicant shall submit an application to the Authority using the form provided for by the Authority, which is available on the website of Ministry of Industry, Trade and Labor.</p> <p>(b) The Authority may require any information, document or item necessary for the review of the application, including those indicating the end use and the end user of the goods, technology or services.</p> <p>(c) The Authority shall give its reply to the applicant within 20 working days from the receipt of an application according to sub-paragraph (a) or from the fulfillment of all additional requirements according to sub-paragraph (b), whichever is later.</p> <p>(d) Without derogating from any powers vested in it pursuant to any legislation, the Authority may refuse to grant a license, grant a license subject to the satisfactory submission of certificates and documents, and to suspend and revoke the license after it has been granted.</p> |
| Granting of License | 6. | <p>(a) A license may be granted to a certain applicant for certain goods, technology and services, for a type of goods, technology and services or for a certain shipment of goods.</p> <p>(b) The Authority may require a letter of undertaking or a security, from the applicant, to guarantee that the export is conducted according to the license; if the Authority required such a letter of undertaking or a security, the provisions of Article 2 (b) to the Export Order (Securities from Exporters), 5719-1959 shall apply, as if they were a letter of undertaking or a security required by an authorized authority as provided for therein.</p> |
| Submitting Request for Review | 7. | <p>(a) Upon receiving the license application, the Authority shall submit it to the Ministry of Defense and the Ministry of Foreign Affairs;</p> <p>(b) The Ministry of Defense shall notify the Authority of its position within 10 working days from the receipt of the license application.</p> <p>(c) If, after reviewing the license application, the Ministry of Foreign Affairs considers that the license application has implications on the foreign relations of the State of Israel, it shall notify the Authority of its position within 10 working days from the receipt of the license application.</p> |
| Decision | 8. | <p>(a) The Authority shall decide with regard to an application after considering the position of the Ministry of Defense, and as appropriate, the position of the Ministry of Foreign Affairs, unless criteria have been established by the Authority and the Ministries.</p> <p>(b) If the Ministry of Defense and the Ministry of Foreign Affairs have agreed to grant the license, or have not made their opinion known as provided for in Article 7 within the time limit specified therein, the Authority shall decide in the matter of granting the license on its own.</p> <p>(c) The Authority's decision regarding items included in the headings specified in the First Schedule shall be given in accordance with the position of the Ministry of Defense and the Ministry of Foreign</p> |

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Affairs shall be informed of such decision.

- (d) If the Authority decides to grant a license regarding items included in the headings specified in the Second Schedule, after considering, as provided for in sub-paragraph (a), the positions of the Ministry of Defense and the Ministry of Foreign Affairs, if given, it shall inform the Ministries of its intention to grant a license, excluding cases provided for in sub-paragraph (b).
- (e) If the Authority disagrees with the Ministry of Defense's objection regarding items included in the headings specified in the First Schedule, or if the Ministry of Foreign Affairs objects to the Authority's intention to grant a license regarding such items, or if the Ministry of Defense or the Ministry of Foreign Affairs object to the intention notified by the Authority to grant a license regarding items included in the headings specified in the Second Schedule, the Authority, the Ministry of Defense or the Ministry of Foreign Affairs, as appropriate, shall submit the dispute to the Committee of Director-Generals for decision, within seven working days from the receipt of the position of the Ministry of Defense or the Ministry of Foreign Affairs, or the Authority's notification, as appropriate. If the Committee of Director-Generals does not reach a decision, the dispute shall be submitted to the Prime Minister for his decision.
- (f) The decision of the Committee of Director-Generals shall be taken by the Director-Generals of the Ministry of Industry, Trade and Labor and the Ministry of Defense, in agreement, after consultation with the Director General of the Ministry of Foreign Affairs, and if the application concerns materials included in the lists which are used in medicine or agriculture- in consultation with the Director General of the Ministry of Health or the Director General of the Ministry of Agriculture and Rural Development, respectively; if such a dispute has been submitted to the Committee of Director-Generals, then the time limit specified in Article 5 (c) shall be extended by 15 additional working days.

Appeal	9.	The applicant may appeal the Authority's decision before the Committee of Director-Generals within 14 days from the date of the receipt of the Authority's decision.
Mandatory Reporting	10.	Every license holder shall report to the Authority at the end of every year, and an entity mentioned in Article 4 (b) shall report to the Authority every six months, on the export performance within the above-mentioned period, regarding technology, goods and services covered by this Order.
Powers of the Authority	11.	<ul style="list-style-type: none">(a) For the implementation of this Order, the Authority shall initiate instruction, supervision and enforcement activities, including inspections.(b) The Authority may require from any person with regard to whom exists a reasonable suspicion of committing an offence in violation of this Order, to provide it with any information, document or item relating to such offence.

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- Violations 12. Each of the following shall be considered a violation of this Order, as provided for in Article 7 (a) of the Ordinance:
- (1) Violation of Article 3;
 - (2) Export without a license;
 - (3) Export in violation of a license;
 - (4) Non-compliance with the mandatory reporting requirement of Article 10.
- Preservation of Law 13. This Order shall supplement any other legislation rather than derogate from it.
- Entry into force 14. This Order shall enter into force on the 1st day of the third month after its publication.

First Schedule

Articles 1& 8 (c), (e)

Types of source items²

- a. Plants Pathogens
- b. Biological Agents
- c. Animal Pathogens
- d. Nuclear Equipment and Materials Trigger List
- e. Schedule 1 of the CWC

Second Schedule

Articles 1& 8 (d), (e)

Types of dual- use items

- a. Dual- Use Chemical Manufacturing Facilities and Equipment
- b. Chemical Weapons Precursors
- c. Dual- Use Biological Equipment
- d. Nuclear Related Dual- Use Equipment, Materials, Software and Related Technology

Third Schedule

Article 4 (b)

Export Countries for Medical or Veterinarian Diagnosis or Research

Austria, Australia, Italy, Iceland, Ireland, Argentina, the United States of America, Bulgaria, Belgium, Great Britain, Germany, Denmark, Holland, Hungary, Greece, Japan, Luxembourg, Norway, New Zealand, Slovakia, Spain, Poland, Portugal, Finland, the Czech Republic, France, South Korea, Canada, Cyprus, Romania, Sweden, Switzerland, Turkey.

Ehud Olmert, Minister of Industry, Trade and Labor
4 April 2004

² see footnote 1
