

The Regulation “On the Order of Entry into the Customs Territory of the Customs Union and Removal of the Customs Territory of the Customs Union of Encryption (Cryptographic) Means” approved by Decision of the Collegium of the Eurasian Economic Commission No.134 “On Normative Legal Acts in the Area of Non-Tariff Regulation” of 16 August 2012

1. The Regulation on the importation into the customs territory of the Customs Union and export from the customs territory of the Customs Union of encryption (cryptographic) means (hereinafter: “the Regulation”) was developed in accordance with the Agreement “On the Rules of Licensing in the Area of Foreign Trade in Goods” of 9 June 2009 (hereinafter: “the Agreement”) and the Agreement “On the Procedures of Introduction and Implementation of Measures, Concerning Foreign Trade in Goods, on the Common Customs Territory of the Customs Union in Respect of Third Countries” of 9 June 2009.

2. The Regulation shall apply to the encryption (cryptographic) means or products containing in their composition encryption (cryptographic) means, specified in Section 2.19 of Common List of goods subject to bans or restrictions on importation or exportation by Parties of the Customs Union of the Eurasian Economic Community in trade with third countries (hereinafter: the cryptographic means).

3. Cryptographic means include:

a) means of encryption - the hardware, software and hardware - software means, systems and complexes that implement the algorithms for cryptographic transformation of data and are intended to protect information from unauthorized access in the transmission through communications channels and (or) during processing and storage;

b) means of simulation protection - hardware, software and hardware - software means, systems and complexes that implement the algorithms for cryptographic transformation of data and intended to protect against the imposition of false information;

c) means of digital signature - the hardware, software and hardware – software means, providing the basis for the implementation of cryptographic transformation of at least one of the following functions: creating the digital signature using a private key digital signature, confirmation using a public key digital signature of authentication digital signature, creation of private and public key digital signature;

d) coding means – means that implement the algorithms for cryptographic transformation of data from the implementation of the conversion by manual operations or by using automated tools based on such operations;

e) means of production of key documents (regardless of the type of information carriers);

f) key documents (regardless of the carrier of key information);

g) systems, equipment and components designed or modified to perform cryptanalytic functions;

h) systems, equipment and components designed or modified to use cryptographic techniques to generate the spreading code for the widening of the spectrum, including the hopping code for systems with frequency hopping structure;

i) system, equipment and components designed or modified to use cryptographic techniques for the formation of channels or codes to classify time modulated ultra-wideband systems.

Note: Normative and technical, engineering and maintenance documents for cryptographic means specified in subparagraphs "a" - "i" of this paragraph shall be considered an integral part of these means.

4. The Regulation shall apply to persons engaged in import and export of cryptographic means (hereinafter: "the applicant").

5. Import and export of cryptographic means shall be carried out on the basis of one-time licenses (hereinafter: "the license"), issued by an authorized body of Party of the Customs Union (hereinafter: the authorized body) where the applicant was registered.

6. To obtain the license the applicant shall submit to the authorized body documents under paragraph 3 Article 3 of the Agreement, as well as:

- A conclusion on the possibility of import or export of cryptographic means issued by the executive body in the field of national security of Party of the Customs Union (hereinafter: the coordinating body);

- Annex to the application for the license, including full names of all cryptographic means in the case of importation or exportation of several types of cryptographic means, corresponding to a single 10-digit classification code in accordance with the CCN FEA.

7. To obtain the conclusion in accordance with paragraph 6 of the Regulation the applicant shall submit to the coordinating body:

- Application for the issuance of conclusion on the import or export of cryptographic means, indicating its full name, identifying characteristics;

- Copy of license for a licensed activity associated with the cryptographic means;

- Technical documentation on the cryptographic means (submission of source code is not obligatory requirement. Denial to submit source code is not in itself a ground for refusal of an application);

- Samples of encryption means (on the requirement of the coordinating body for scientific and technical expertise);

- Other documents provided for in the national legislation of Party of the Customs Union.

Term of consideration of documents submitted to the coordinating body, as well as the need for scientific and technical expertise of cryptographic means shall be determined by Party of the Customs Union.

The conclusion on the cryptographic means is one time issued. At the same time, the coordinating bodies determine possibilities and conditions of use of the mentioned means.

8. The license is not required:

- a) import and export of encryption means for repair or replacement in accordance with obligations under the contract (contract, agreement);

- b) temporary import and export of cryptographic means in order to:

- carry out scientific and technical expertise;

- research;

- exhibit;

- c) import and export of cryptographic means in order to ensure own needs of organizations without the right for their distribution and the provision to third party of encryption services;

d) transit through the territory of Parties of the Customs Union of cryptographic means.

Import and export of cryptographic means in these cases is conducted by the applicant provided the presentation of the conclusion (permission) of the coordinating body to the customs authorities.

9. For obtaining of conclusion (permission) in accordance with paragraph 8 of the Regulation, the applicant shall submit to the coordinating body:

- Application on the issuance of conclusion (permission) to import or export of cryptographic means, indicating its full name, identifying characteristics, quantity and purpose of import or export;
- Technical documentation on the cryptographic means. Submission of source code is not obligatory requirement. Denial to submit source code is not in itself a ground for refusal of an application);
- Samples of cryptographic means (on the requirement of the coordinating body for scientific and technical expertise);
- A copy of the foreign trade contract, annexes, and (or) amendments thereto, and (or) a copy of a document confirming the intention of the parties.

For the import of cryptographic means for own needs of organizations, the applicant additionally indicate in the application details of the certificate for scientific and technical expertise of samples of cryptographic means, if its conduct is prescribed under the national legislation of Party of the Customs Union.

The general term of obtaining the license from the authorized body including conducting expertise and obtaining conclusion from the coordinating body shall not exceed 90 days from the date of registration of the application in the coordinating body.

10. Issuance of a license may be refused (the conclusion of the coordinating body) other than the grounds specified in paragraph 6 of Article 3 of the Agreement, if:

- Failure to provide the documents stipulated in paragraphs 6, 7 and 9 of these Regulation;
- Limitations in third countries on the import of cryptographic means to their customs territory;
- Potential for causing damage to the state security of Parties of the Customs Union, determined by results of scientific and technical expertise of cryptographic means and (or) documentation on them.

11. Import and export of cryptographic means specified in Annex 1 of this Regulation shall be conducted on the basis of information on registered notifications by the coordinating body without issuing any other documents (permits) provided for in this Regulation.

Notification filling out shall be carried out by the producer of products or a person authorized by the producer of products, one time for one type of cryptographic means on the basis of their own evidence.

Notification allows movement of cryptographic means through the customs border of the Customs Union by any person in any amount without re-applying to the coordinating body by the applicant and customs authorities.

Form of notification is provided in Annex 2 of this Regulation.

Regulation on the order of notification registration is provided in Annex 3 of this Regulation.

The term of notification registration and publication of its information on the web site of the Eurasian Economic Commission shall not exceed 10 days from the day of submission of notification for registration.

Registration of notification shall be provided automatically, unless the coordinating body contacts the applicant within 10 working days from the date of receipt of notification regarding the applicant's submission of the notification form.

Within the period of submission of documents for registration notification until the registration of notification, the applicant may introduce the changes in notification with the consent of the person signed the notification. At the same time, the date of introduction of changes shall be considered as the date of submission of the notification.

12. If the cryptographic means contain in their composition special technical devices, that are intended for secret gain of information, the decision on product category, which will be basis for issuance of the license, is defined by the coordinating body of Parties of the Customs Union.

13. The authorized body has the right to issue explanations (conclusions) on the matters of issuing licenses. Information on the issued explanations (conclusions) shall be sent to the Eurasian Economic Commission.

14. When evaluating documents submitted by the applicant, considering notification registration, conducting expertise of cryptographic means, the coordinating bodies shall protect the submitted confidential information and use it only for the purpose of evaluating goods.

ANNEX 1 to the Regulation
on the Order of Entry
Into the Customs Territory of
the Customs Union and
Removal of the Customs Territory
of the Customs Union of
Encryption (Cryptographic) Means

Categories of Goods which are Encryption (Cryptographic) Means or Containing thereof the Technical and Encryption Characteristics of which are Subject to Notification

1. Goods containing encryption technology which consist of any of the following components:

a symmetric cryptographic algorithm employing a key length not exceeding 56 bits long;
or

an asymmetric cryptographic algorithm based on one of the following methods:

- (a) factorization of integers not exceeding 512 bits; or
- (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.

Remark: (1) Bites of parity are not included in the length of a key.
 (2) The term "cryptography" does not refer to fixed methods of compression or coding of data.

2. Goods containing encryption with the following limited functions:

- (a) authentication, including all the aspects of access control without encryption of files and texts, except encryption related to passwords and identification or other similar data protection from unauthorized access;
- (b) electronic digital signature.

Remark: Functions of authentication and electronic digital signature include connected with them function of keys distribution.

3. Encryption (cryptographic) means, which are the components of programme of operations systems, cryptographic abilities of which cannot be altered by users, which are developed for installation by the user individually without further substantial support by the provider and technical documentations (the description of algorithms of cryptographic changes, protocols on interactions, description of interfaces, etc.) on which is available.

4. Personal smart-cards (intellectual cards):

- (a) cryptographic abilities of which are limited by use in equipment and systems, referred to in paragraphs 5-8 of the present Categories;
- (b) for wide, publicly available use, cryptographic abilities of which are not available for use and which as a result of special development have limited abilities of protection of stored personal information on them.

Remark: If a smart-card can perform few functions, then the control status of each of them is defined separately.

5. Receiving equipment for radio-broadcasting and commercial TV broadcasting or analogue commercial equipment for broadcasting to limited audience without encryption of digital signal, except for the cases of use of encryption solely for management of video or audio-channels and sending of bills or return of information connected to the programme to the providers of broadcasting.

6. Equipment encryption functionality of which are not available to the user, specially developed or limited to the use with any of the following:

- (a) software is protected from copy;
- (b) access to any of the following:
 - data protected from copy stored on the medium available for read only;
 - information, stored in encrypted form on media, when these media are offered for sale to public in identical kits;
- (c) control of copying of audio- and video-information protected by the copyrights.

7. Encryption (cryptographic) equipment specially designed and limited for banking use and financial operations.

Remark: Financial operations include duties and charges for transport services and crediting.

8. Portable or mobile radio electronic devices for civil use (for example, for use with commercial civil cellular radio communication systems) that are not capable of transmitting encrypted data directly to another radiotelephone or equipment (e.i. from subscriber to subscriber).

9. Wireless radio-electronic equipment, that encrypts information only radio channel with a maximum range of cordless operation without amplification and retransmission of less than 400 m in accordance with the manufacturer's specifications.

10. Encryption (cryptography) means used for protection of technological channels of information-telecommunication systems and communication networks.

11. Goods whose encryption function is disabled by the manufacture.

ANNEX 2 to the Regulation
On the Order of Entry
Into the Customs Territory of
the Customs Union and
Removal of the Customs Territory
of the Customs Union of
Encryption (Cryptographic) Means

Format of Notification

Registered in the Register " ____ " ____ 20__ . N ____

Place for Seal

(signature of a person of authorized body) (Name)

NOTIFICATION

on characteristics of goods (products), which contain encryption means

1. Name of a good (product)

2. Use of a good (product)

3. Requisites of a producer of a good (product)

4. Used encryption algorithms: _____ N of a good
category _____
from Annex 1
- a) _____
b) _____
c) _____
5. Presence of functional ability in a good (product), which is not described in a
provided exploitation documents to the user _____
6. Period of validity of notification till " ____ " ____ 20__.
7. Requisites of the applicant _____
8. Requisite of the document of a producer, who provided to the authority's
representative the rights for drafting of notification (if necessary)

9. The date of adaptation of notification " ____ " ____ 20__ .
Place for Seal _____
(signature of applicant) (Name)

ANNEX 3 to the Regulation
On the Order of Entry
Into the Customs Territory of
the Customs Union and
Removal of the Customs Territory
of the Customs Union of
Encryption (Cryptographic) Means

The Regulation on the order of notification registration

1. The Regulation shall establish the order of:
 - Documentation of notification on characteristics of goods (products), containing encryption (cryptographic) means;
 - Submission of the notification for the registration to the coordinating body of Parties of the Customs Union;
 - Formation and submission of the coordinating bodies of Parties of the Customs Union to the Eurasian Economic Commission (hereinafter: “the Commission”) information on registered notification;
 - Publication on the official web site of the Commission information on single register of notifications registered in the coordinating bodies as well as excess to the information.

2. Notification is a notice of the producer on the technical and cryptographic characteristics of goods (products) which are encryption (cryptographic) means or containing encryption (cryptographic) means, which fall into Annex 1 to the Regulation On the Order of Entry into the Customs Territory of the Customs Union and Removal of the Customs Territory of the Customs Union of Encryption (Cryptographic) Means.

3. Notification shall be filled out in accordance with paragraph 11 of the Regulation On the Order of Entry into the Customs Territory of the Customs Union and Removal of the Customs Territory of the Customs Union of Encryption (Cryptographic) Means in the form stipulated in Annex 2 of the said Regulation.

Notification shall be filled out in the Russian language. The use of Latin letters of the technology names, protocols, cryptographic algorithms and their common used abbreviation, requisites of the producer of goods are allowed.

4. Notification shall be filled out by the producer of goods or the person authorized by the producer (hereinafter: “the applicant”) on the basis of own evidence one time for one type of encryption means. The applicant shall fill out paragraphs 1-9 of the notification.

5. Information on one item of goods or on the group of similar goods (products) containing identical encryption means.

Identical encryption means – functionally finished goods (products), implementing the same cryptographic algorithm, having similar maximum allowed length of working cryptographic key, which have the same exit sequences when inserting the same cryptographic key and the same entry sequences.

6. When filling out the notification, words “Annex 2”, “Notification Form”, and “Note: use of turnover of the form is permitted” shall be omitted.

7. Trade, commercial and (or) other traditional name of goods (products) or the group of similar goods (products) containing identical encryption means, and (or) information on trademarks, marks, models, articles, standards or other technical and commercial characteristics shall be indicated in requisite 1 “Name of a good (product)”.

8. The description of goods (products) and their functions shall be indicated in requisite 2 “Use of a good (product)”.

9. The name and juridical address of the organizations, producing the goods, juridical address of head office, telephone numbers, fax numbers, and e-mail (upon availability).

Producers of Parties of the Customs Union shall also indicate information on registration of organizations (registering body, date of registration, registration number, identification number of taxpayer), other necessary information as well as requisite of the producer.

10. The following shall be indicated in requisite 4 “Used encryption algorithms”:
- The name of cryptographic protocol;
 - Name and use of cryptographic algorithms, maximum length of cryptographic key;
 - The version of programme products;
 - Maximum length of wireless operation without amplification or retranslation in accordance with technical conditions of the producer (in the case of use of cryptographic algorithms in wireless radio electronic equipment);
 - Cryptographic function which is disabled by the producer (upon availability).

The name of protocol and cryptographic algorithms shall be indicated separately for operation of every function.

Description of cryptographic algorithms shall be indicated in table with mentioning number of the corresponding paragraph to Annex 1 to the Regulation On the Order of Entry Into the Customs Territory of the Customs Union and Removal of the Customs Territory of the Customs Union of Encryption (Cryptographic) Means:

No.	Cryptographic algorithms	Number of the paragraph of Annex 1 to the Regulation on the order of import and export of encryption goods
a)		
b)		
...		

11. In requisite 5 “Presence of functional ability in a good (product), which is not described in a provided exploitation documents to the user” there shall be indicated non declaration abilities (upon availability) in use of which the following may occur:

- Trouble in confidentiality, accessibility or integrity of the processed information;

- Trouble in the authentication process;
- Interference in the process of use of electronic digital signature.

In this paragraph information on the availability or non availability of means for conducting operative investigation activities (“police” mode) shall be indicated.

12. The applicant shall indicate the period of validity of notification in the form: day, month, year in requisite 6 “Period of validity of notification”.

13. The name of producer, position, name and surname of the person authorized for filling out notification, juridical address of head office, telephone numbers, fax numbers, and e-mail (upon availability) shall be indicated in requisite 7 “Requisites of the applicant”.

Producers of Parties of the Customs Union shall also indicate information on registration of organizations (registering body, date of registration, registration number, identification number of taxpayer), other necessary information as well as requisite of the producer.

14. Requisite 8 “Requisite of the document of a producer, who provided to the authority's representative the rights for drafting of notification” shall be filled out if the notification are filled out and submitted by the representative. Information on the document of the producer authorizing the rights of representative for drafting notification shall be indicated (warranty of authority, contract, agreement, etc.; number and the date of signature of the document).

15. The date of fulfillment of the notification shall be indicated in the form of day, month, year in requisite 9 “The date of adaptation of notification”.

16. All presented information shall be certified by the signature of the applicant, which confirms credibility and completeness of the presented information and by the stamp of the organization (upon availability). The signature of the applicant shall be identified.

In the case of the large amount of information, turnover of the form of notification may be used. At the same time, every additional list of the notification shall be signed and stamped (upon availability) by the applicant.

17. Software for the fulfillment of the form of notification and form of electronic copy of the notification (electronic sample of documents) are provided on the official web site of the coordinating bodies of Parties of the Customs Union and (or) on the official web site of the Commission.

18. Software, specified in paragraph 18 of the Regulation, allows the applicant:

- To fulfill the form of notification in accordance with the Regulation;
- To form printed copy of the form of notification and printed it out;
- To form electronic copy of notification in accordance with Annex 1 to the Regulation;
- To save formed printed form and electronic copy of notification.

19. For the registration of notification along with enclosed letter the applicant shall submit to the coordinating body of Parties of the Customs Union the following documents:

Form of notification in two copies fulfilled and performed in accordance with the Regulation;

Electronic copy of notification in two copies on data bearing devices (disk, hard disks) in the form specified in Annex 1 to the Regulation;

Legalized document (apostil, consular legalization) authorizing the representative the right to submit the document on behalf of the producer. In case of submission of the mentioned documents in foreign language, the applicant shall also provide the translation in the state language performed in accordance with the established legislation of Parties of the Customs Union.

In case of submission of notification by the producer of the third country, notification shall be legalized.

20. The term of notification registration and publication of the information on it in the single register of notifications, registered in the coordinating bodies of Parties of the Customs Union, on the official web site of the Commission shall not exceed 10 business days from the date of submission of the notification for registration.

21. The coordinating body of Parties of the Customs Union shall conduct evaluation and registration of notification.

22. The coordinating body of Parties of the Customs Union shall regularly but not later than 7 business days from the date of submission of documents by the applicant submit to the Commission the file (information) on registered notification in accordance with Annex 2 to the Regulation. The file (information) shall contain information on the registered notifications since the moment of last submission to the Commission.

The coordinating bodies of Parties of the Customs Union shall bear responsibility for credibility and completeness of information on registered notifications.

23. The Commission shall publish the information on notifications submitted by the coordinating bodies within 3 business days from the date of getting such information.

The Commission shall bear responsibility for credibility and completeness of information on registered notifications published on the official web site.

24. The Commission shall establish the order of submission of information on registered notifications by the coordinating bodies of the Customs Union.

25. The Commission shall update the single data of notifications and publish notifications on its official web site.

Update of the single data of notifications shall be carried out on the basis of information submitted by the coordinating bodies of Parties of the Customs Union within three business days from the date of getting such information.

26. The form of publication of the information in the single data of notifications on the official web site of the Commission is provided in Annex 3 to the Regulation.

The Structure of the File of notification submitted to the coordinating body

The file shall be submitted in the format *.xls. The description of the structure of data file of notification shall be presented to the coordinating body as prescribed in Table 1

Table 1 The description of the structure of data file of notification submitted to the coordinating body

No.	Name	The type of field	Logic content	Obligatoriness
1	number	symbol	Registration number	No
2	name of goods (products)	symbol	The name of goods (products)	Yes
3	producer of goods (products)	symbol	producer of goods (products)	Yes
4	Date of notification registration	Date in the format: day, month, year	Date of notification registration	No
5	Term of validity	Date in the format: day, month, year	Term of validity of notification	Yes
6	Status	Logic	The status of notification has the meaning: Valid/Terminated	No
7	Identifier*	symbol	Identifier of goods (products) 11 symbol code	Yes

*Field “Identifier” shall be filled out on the basis of information described in 4 “Used cryptographic algorithms” of the notification form specified in Annex 2 to the Regulation On the Order of Entry into the Customs Territory of the Customs Union and Removal of the Customs Territory of the Customs Union of Encryption (Cryptographic) Means. The meaning consists of 11 symbols, each symbol is checked in accordance with specified number of paragraph of Annex 1 to the Regulation On the Order of Entry into the Customs Territory of the Customs Union and Removal of the Customs Territory of the Customs Union of Encryption (Cryptographic) Means. If the meaning of the number of symbol of identifier corresponds to the meaning of number of paragraph Annex 1 to Regulation On the Order of Entry into the Customs Territory of the Customs Union and Removal of the Customs Territory of the Customs Union of Encryption (Cryptographic) Means, symbol will be assigned the meaning “one”, otherwise – “null”.

**The structure of data file on notifications submitted to the Eurasian Economic
Commission**

The file shall be submitted in the format *.xls. The description of the structure of data file of notification shall be presented to the coordinating body of Party of the Customs Union as prescribed in Table 2.

Data file on registered and terminated notifications shall have the following name:
nXX_DD_MM_YYYY.XLS, where

N –notification;

XX – Parties of the Customs Union:

BY – the Republic of Belarus,

KZ – the Republic of Kazakhstan,

RU – the Russian Federation;

DD_MM_YYYY – numeral of the calendar day of the submission of the data, where DD – day, MM – month, YYYY – year.

For example, data file of the registered notification of 15 March 2010, submitted by the coordinating body of the Russian Federation should have the following name:
nRU_14_03_2010.xls.

The file shall contain data on registered and terminated notifications from the date of last submission of the Eurasian Economic Commission.

Table 2 The description of the structure of the information on notification

o.	Name	Type of field	Logic content	Obligatoriness
	number	Symbol, in the format: XXNNNNNNNNNNNN, where XX – CU Party, NNNNNNNNNNNN - Number	Registration number, the meaning of the field must be unique.	Yes
	name of goods (products)	symbol	The name of goods (products)	Yes
	Head producer of goods (products)	symbol	producer of goods (products)	Yes (in case of registration)
	Date of notification registration	Date in the format: day, month, year	Date of notification registration	Yes (in case of registration)
	Term of validity	Date in the format: day, month, year	Term of validity of notification	Yes (in case of registration)
	Identifier *	symbol	Identifier of goods (products) 11 symbol code	Yes (in case of registration)
	Status	Logic	The status of notification has the meaning: Valid/Terminated	Yes
	Date of termination	Date in the format: day, month, year	The date of termination of notification	Yes (in case of termination)

Annex 3
to the Regulation
on the order of
notification registration

**The form of publication of notification of the single register of notifications on the
official web site of the Eurasian Economic Commission**

o.	oods (products) name	ead producer of goods (products)	e of notification registration	rm of validity	entifier Id	atus St	e of termination Dat

*Column “Status” has the meaning: “Valid”/”Terminated”. In case of indicating in column “Status” the meaning “terminated”, in column “Date of termination” date of publication of the information on the official web site of the Customs Union shall be indicated. The line shall be highlighted with the color (grey)