

EXPORT LICENCE

Open General Export Licence (Military Components) dated 22nd March 2010 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Article 26 of the Export Control Order 2008^(a) ("the Order"), hereby grants the following Open General Export Licence:

Licence

1. Subject to the following provisions of this Licence, components specified in Part A of Schedule 1 hereto, other than any specified in Part B, may be exported from the United Kingdom to any destination in a country specified in the Schedule 2 providing the components are:

- (1) intended for use as an integral part of goods ("the original goods") whose export was authorised by a valid export licence ("the original licence") granted under this or a previous Order or which were supplied by Her Majesty's Government in the United Kingdom;

and are either:

- (a) exported to the same consignee and Government end-user to whom the original goods were exported as identified in the original licence or in documents relating to the sale by Her Majesty's Government providing both are located in a country specified in Schedule 2;

or:

- (b) if the components are not going via the same consignee, but still located in a country specified in Schedule 2, or are sourced from a supplier other than the supplier of the original goods, the Government end-user, in a country specified in Schedule 2, shall provide assurances

to the UK exporter that the original goods, for which these components will be used, were exported from the UK under an export Licence or supplied by the UK Government; and

- (2) do not improve the performance of the original goods; and
- (3) the original licence must not have been revoked prior to its normal expiry.

Exclusions

2. This licence does not authorise the export of goods:

- (1) if the exporter has been informed by a competent authority that they are or may be intended, in their entirety or in part for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons, or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons,
- (2) if the exporter is aware that the goods are intended, in their entirety or in part, to be used in connection with any of the activities referred to in sub-paragraph (1);
- (3) if the exporter has grounds for suspecting that the goods are or may be intended, in their entirety or in part, for any of the uses referred to in sub-paragraph (1), unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that the items will not be so used;
- (4) if the exporter has been informed by a competent authority, or is otherwise aware (e.g. from information received from the manufacturer), that they have been classified by the Ministry of

^(a) S.I. 2008/3231, as amended

Defence as having a protective marking of CONFIDENTIAL or above;
unless,

- a. they are exported in accordance with the procedures laid down in the Manual of Protective Security, issued by the Cabinet Office, appropriate to the grading of the material (this includes technology in tangible form)
- (5) In the case of intangible technology transfers it is prohibited to export technology with a protective marking of Restrictive or above **unless:**
- (a) the transmission medium is protected by approved encryption appropriate to the protective marking of the data, and
 - (b) the exporter holds a clearance from a government accreditation authority which can be produced to the Compliance Officer.
- (6) which fall within the scope of Council Directive 91/477/EEC on Control of the Acquisition and Possession of Weapons^(a) ; or
- (7) to a destination within a Customs Free Zone;
- (8) where the exporter has, at the time of export, been served with a notice which suspends or revokes his ability to use this Licence pursuant to article 32(1) of the Order, unless the period of suspension or revocation has expired.

Conditions and Requirements

3. The authorisation in paragraph 1 above is subject to the following conditions:
- (1) before an exporter first exports goods under this Licence, he shall have informed the Secretary of State of his intention to export goods under this Licence, specifying the name of the exporter and the address at which copies of records of their export may be inspected under condition 3(2) below;

- (2) subject to condition 3(3) below, the exporter shall maintain the following records in respect of the export of goods under this Open General Export Licence:
- (a) the date and destination of each export;
 - (b) the name and address of the consignee to whom the goods are to be exported;
 - (c) a description of the components exported;

any such records shall be maintained for at least six years after the date of the relevant export and the exporter shall permit the records to be inspected and copied by any person authorised by the Secretary of State;

- (3) in the case of components which have any of the functions or characteristics of information security described in Category 5 Part 2 of Annex 1 to Council Regulation (EC) No.428/2009^(a), a copy of the records specified in condition 3(2)(a) and 3(2)(b) shall be presented to the Secretary of State for inspection every twelve months;
- (4) on exportation of any components pursuant to this licence, the exporter shall produce to an officer of UK Border Agency, if so requested, either:
- (a) a copy of the original licence or evidence of UK Government sale under which the original goods, for which these components will be used, were exported from the UK; or
 - (b) if not the original supplier or consignee an assurance from the Government end-user that the original goods, for which these components will be used, were exported from the UK under a valid licence or supplied by the UK Government;

^(a) O.J. No.L256, 13.9.1991, p.51

- (5) official and commercial export documentation accompanying the goods shall include a note stating either:
- (a) "the goods are being exported under the OGEL (Military Components)"; or
 - (b) the SPIRE reference (in the form 'SPIRE reference GBOGE 20XX/XXXXX') of the exporter's registration in respect of this licence

which shall be presented to an officer of UK Border Agency if so requested;

- (6) the exporter shall notify the Secretary of State of any change in the address referred to in paragraph 3(1) above within 30 days of that change.
- (7) Where the exporter has received a warning letter sent on behalf of the Secretary of State which identifies failure to comply with this Licence or a provision of applicable export control legislation, the exporter shall take such steps as are identified in that warning letter (within the timescale stated) in order to restore compliance with the Licence. Without prejudice to article 34 of the Order, failure to comply with this condition may result in this Licence being revoked or suspended until the exporter can show compliance to the satisfaction of the Export Control Organisation. The exporter will be notified in writing of any such suspension or revocation and the initial period of such suspension or revocation. Where at the end of this initial period, the exporter has not shown compliance to the satisfaction of the Export Control Organisation, the period of suspension or revocation may be extended. The exporter will be notified of such an extension in writing.

Overlapping Descriptions

^(a) O.J. L134, 29.5.2009

4. Where the export of any goods is controlled by virtue of any entry specified in Schedule 2 to the Order not specified in paragraph 1 of this Licence, the export of such goods is not authorised by this Licence.

Prohibitions not affected by this Licence

5. Nothing in this Licence shall affect any prohibition or restriction on the exportation or the carrying out of any act with respect of the exportation of any goods concerned under, or by virtue of, any enactment other than a prohibition or restriction in the legislation under which this licence was issued, as set out in the licence itself.

Interpretation

6. For the purpose of this Licence:
 - (1) “cluster munitions” means conventional munitions designed to disperse or release “explosive submunitions”;
 - (2) “explosive submunitions” means conventional munitions, weighing less than 20 kilograms each, which in order to perform their task are dispersed or released by another conventional munition and are designed to function by detonation of an explosive charge prior to, on or after impact;
 - (3) “explosive bomblets” means conventional munitions, weighing less than 20 kilograms each, which are not self propelled and which, in order to perform their task, are specially designed to be dispersed or released by a dispenser affixed to an aircraft, and are designed to function by detonating an explosive charge prior to, on or after impact;
 - (4) sub paragraphs (1) and (2) above do not include the following conventional munitions,

- (a) a munition or submunition designed to disperse flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
- (b) a munition or submunition designed to produce electrical or electronic effects;
- (c) a munition that has all of the following characteristics:
 - (i) each munition contains fewer than ten “explosive submunitions”;
 - (ii) each “explosive submunition” weighs more than four kilograms;
 - (iii) each “explosive submunition” is designed to detect and engage a single target object;
 - (iv) each “explosive submunition” is equipped with an electronic “self destruction mechanism”;
 - (v) each “explosive submunition” is equipped with an electronic “self deactivating feature”.

- (5) a "Customs Free Zone" is a part of the territory of a country where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the Customs territory of that country, and are not subject to the Customs controls that would otherwise apply;

- (6) "entry" includes part of an entry;

- (7) “government” includes any person appointed by a government to act on its behalf;

- (8) “do not improve the performance of” allows the use of modern replacement components or use of a later standard for reliability or safety reasons, providing they do not result in any enhancement to the functional capabilities of the goods or provide the goods with new or additional functions;

- (9) “MANPADS” – Man-Portable Air Defence Systems – surface-to-air missile systems designed to be man-portable and carried and fired by a single individual; and other surface-to-air missile systems designed to be operated and fired by more than one individual acting as a crew and portable by several individuals
- (10) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it bears in the Export Control Act 2002^(a) or in the Order.

Entry into Force

7. This Licence shall come into force on 26th March 2010.
8. The Open General Export Licence (Military Components) dated 18th March 2009 is hereby revoked.

**An Official of the Department for Business,
Innovation and Skills authorised
To act on behalf of the Secretary of State**

^{a)} 2002 c.28

SCHEDULE 1

GOODS CONCERNED

PART A

Components for any goods specified in Part 1 of Schedule 2 to the Order:

PART B

Components for any goods specified below:

1. Goods falling within entry ML3 as follows:
 - (1) “Cluster munitions”, “explosive submunitions”, and specially designed components therefor;

2. Goods falling within entry ML4 as follows:
 - (1) Anti-personnel landmines and specially designed components therefor;
 - (2) Complete 'MANPADS' systems (with or without missiles, including related launching equipment and rockets) and specially designed components therefor;
 - (3) Missiles for MANPAD systems (including missiles which can be used without modification in other applications).
 - (4) “Cluster munitions” and specially designed components therefor;
 - (5) “explosive bomblets” and specially designed components therefor;
 - (6) “explosive submunitions” and specially designed components therefor;

3. Goods falling within entry ML10.c.;

4. Goods falling within entry ML11, as follows:
 - (1) Test equipment for MANPAD systems.
 - (2) Goods insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets;

5. Goods falling within entry ML14, as follows:
 - (1) Training equipment for MANPAD systems.
6. Goods falling within ML16 insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets.
7. Goods falling within ML17.f, as follows:
 - (1) Libraries for MANPAD systems;
8. Goods falling within ML17.n insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets ;
9. Goods falling within PL5017, as follows:
 - (1) Equipment and test models for MANPAD systems;
10. Goods falling within PL5001. c., d., g., h., and i.;
11. Technology, equipment and software specified in entries ML18, ML21 or ML22, related to equipment specified in 1 to 10 of Part B of this Schedule.

SCHEDULE 2

DESTINATIONS CONCERNED

This export authorisation is valid for exports to the following destinations:

Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Estonia, Finland, France, Germany, Gibraltar, Greece, Hungary, Iceland, Ireland (Republic of), Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovenia, Slovakia, Spain, Sweden, Switzerland, Turkey, and USA.

EXPLANATORY NOTE

(This Note is not part of the Licence)

This Licence has been amended to remove cluster munitions and related equipment software and technology from the scope of the licence.

2. This Open General Export Licence permits, without further authority but subject to certain conditions, the export of components specified in Part A of Schedule 1 to the licence, other than those specified in Part B of that Schedule, to any destination in any country listed in the Schedule 2 to the Licence.

3. The components may only be exported under this Licence if they satisfy certain conditions. These include: that they are intended for use as an integral part of goods which had themselves been previously exported under a valid export licence granted under the Order or supplied by the UK Government; the components do not improve the performance of the original goods; the components are being exported to the same government end-user as the original goods in a country specified in Schedule 2, and the goods do not carry a UK protective marking of CONFIDENTIAL or above unless the exporter has approval in writing from the Ministry of Defence.

MOD application forms can be obtained from:

(a) Security Transportation Plan approvals can be obtained from:

Ministry of Defence
DE&S Security Advisers Office
Poplar - 1#3
Abbey Wood
Bristol
BS34 8JH
Tel: 0117 913 3677
Fax: 0117 913 0629

4. Advice on approval for associated technology transfers in intangible form at a protective marking of Restricted or above may be obtained from D DEF SY INFO SY COMSEC, Floor 6 Zone B, Main Building, London SW1A 2HB

5. An exporter who exports goods under the authority of this Licence shall produce, if so requested, a copy of the original Licence or evidence of Government sale, under which the original goods were exported from UK or an assurance from the Government end-user that the original goods were supplied from the UK in accordance with the laws and regulations relating to the export of goods, and must retain for a period of six years copies of certain records relating to each export made under this Licence.

6. An exporter who exports components which have any of the functions or characteristics of information security described in Category 5 Part 2 of Annex 1 to Council Regulation (EC) No.428/2009 shall present a copy of the export records to the Secretary of State every twelve months. This notification should be given in writing or by facsimile transmission to:

Export Control Organisation,
Customer Service and Compliance Unit
Department for Business, Innovation and Skills
3rd Floor
1 Victoria Street
London
SW1H 0ET
Fax: 020 7215 3830

7. An exporter who exports goods under the authority of this Licence must before his first exportation under the Licence, inform the Secretary of State of his intention to export goods under this Licence and of the address where copies of the said records may be inspected.

This notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at www.spire.bis.gov.uk.

8. The Secretary of State has the power to suspend or revoke licences at any time and in such circumstances and on such terms as he thinks fit. If an exporter receives written notice to this effect, he will be prevented from relying on this Licence. The power to suspend may be used in addition to criminal prosecution or as an alternative. Suspension may occur for example where an exporter is being investigated or prosecuted in relation to a possible criminal offence, or has been found guilty of a criminal offence under the export control legislation. It may also be used in situations where an exporter has breached the conditions of the Licence and failed to take corrective action within a reasonable period (see condition 3(7)).

9. Where, the ECO identifies failures in compliance with licence conditions or the legislation during a compliance visit, the ECO may send a warning letter to the exporter listing the improvements that need to be made to ensure compliance. The letter will set out the timeframe within which these improvements must be completed. Failure to complete these improvements may lead to the exporter's ability to use the licence being suspended for a period of time.

10. The exporter may apply for Standard Individual Export Licences during the period of suspension. Suspension will not automatically prevent him from using another OGEL so long as he meets all its terms and conditions and that he has not received a letter suspending or revoking his ability to use that licence.

11. The provisions of this Licence only apply for the purposes of the Export Control Order 2008. They do not affect the need to obtain other consents that may be required for the export of particular military goods, whether under other statutory provisions (such as the Official Secrets Act 1989) or otherwise (such as under contractual obligations). In addition, this Licence does not extend to prohibitions in other legislation implementing United Nations Sanctions.