

EXPORT LICENCE

Open General Export Licence (Military and Dual Use Goods : UK Forces deployed in non- embargoed destinations) 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:
 - (1) goods, software or technology specified in Schedule 2 to the Order, other than any goods, software or technology specified in Schedule 1 to this Licence, may be exported or transferred by electronic means from the United Kingdom, to any UK armed forces, or the MOD notified civilian contingent, in any country other than one specified in Part A of Schedule 2 to this Licence;
 - (2) goods, software or technology specified in Part A of Schedule 1 to this Licence may be exported or transferred by electronic means from the United Kingdom, to any UK armed forces, or the MOD notified civilian contingent, in any country other than one specified in Schedule 2 to this Licence;
 - (3) exportation or transfer of goods, software or technology that would otherwise be prohibited by article 4, 5, 6, 7, 10, 11 or 12 of the Order is permitted to the extent that it is to any UK armed forces, or the MOD notified civilian contingent, in any country other than one specified in Part A of Schedule 2 to this Licence;

(a) S.I. 2008/3231

(4) any person may provide technical assistance, the provision of which would otherwise be prohibited by Article 19 of the Order, to any person or place in any country other than one specified in Part A of Schedule 2 to this licence; and

(5) any goods may be exported, technical assistance provided or software or technology transferred in a manner identified in paragraph 1(1) to (4) to any warship or Naval Auxiliary of the United Kingdom or Government Service ship provided the vessel confirms it is **not** in an unauthorised destination;

provided that the exporter, transferor or provider, as the case may be, knows at the time of export, transfer or provision that the goods, software or technology or technical assistance are for the sole use of UK armed forces, or the MOD notified civilian contingent, and not for use in an unauthorised destination.

Exclusions

2. This Licence does not authorise the export of goods, provision of technical assistance or transfer, by any means, of software or technology:

(1) if the exporter, provider or transferor 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 Defence as having a protective marking of CONFIDENTIAL or above, **unless** :

- a. the exporter has, where appropriate, a current written Security Transportation Plan and has obtained a written letter of clearance issued by MOD DPA Security Advisor's Office which relates to all "Goods" associated with the particular export of the protectively marked "Goods" which are CONFIDENTIAL or above;
- b. Technology in tangible form protectively marked CONFIDENTIAL or above is exported against procedures laid down in the manual of Protective Security , issued by

the Cabinet Office, appropriate to the grading of the material.

- (2) In the case of intangible technology transfers it is prohibited to export technology with a protective marking of Restricted or above **unless:**
 - (a) the transmission medium is protected by approved encryption appropriate to the protective marking of data; and
 - (b) the exporter holds a clearance from a government accreditation authority which can be produced to the Compliance Officer.
- (3) 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 exporter shall comply with the following conditions and requirements-

- (1) not later than 30 days after an exporter, provider or transferor first exports goods, provides technical assistance or transfers, by any means, software or technology under this Licence, he shall inform the Secretary of State, specifying his name and the address at which copies of records of his export or transfer or provision may be inspected under condition 3(2) below;
- (2) the exporter, provider or transferor shall maintain the following records under this Open General Export Licence:
 - (a) the date of the export, provision or transfer;
 - (b) the name and address of the individual to whom, or the Unit or ship to which, the goods, technical assistance or

software or technology are being exported, provided or transferred;

- (c) a description of the goods exported, technology transferred or technical assistance provided;
- (d) MOD DPA Security Advisor's Office clearance letter referred to in 2(1) above (in the case of CONFIDENTIAL "Goods" or above);
- (e) where appropriate the Operational Name/Code;
- (f) Unit (including UIN where known) that the goods are being exported to;
- (g) where appropriate a copy of UOR/MOD Contract,

and any such records shall be maintained for at least **three years** after the date of the relevant export or transfer or provision and the exporter, transferor or provider shall permit the records to be inspected and copied by any person authorised by the Secretary of State;

(3) official and commercial export documentation accompanying the export of goods or non-electronic transfer of software or technology shall include a note stating either:

- (a) "the goods are being exported under the OGEL (Military and Dual Use Goods: UK Forces deployed in non-embargoed destinations)"; 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;

(4) the exporter, transferor or provider 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.

(5) 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.

Prohibitions not affected by this Licence

4. This Licence shall not affect a prohibition or restriction in any legislation other than the legislation under which this licence was issued.

Interpretation

5. For the purpose of this Licence:

- (1) “the Act” means the Export Control Act 2002^(d)
- (2) “entry” includes part of an entry;
- (3) “MOD notified civilian contingent” means civil servants, deployed contractors, and those contractors with UK Government defence contracts including Contractors on

^(d) 2002 c.28

Deployed Operations (CONDO) or personnel directly employed or engaged by HMG ;

- (4) “unauthorised destination” means
- (a) in relation to goods, software or technology specified in Schedule 2 to the Order other than goods, software or technology specified in Schedule 1 to this Licence, any country specified in Part A of Schedule 2 to this Licence;
 - (b) in relation to goods, software or technology specified in Part A of Schedule 1 to this Licence, any country specified in Schedule 2 to this Licence;
 - (c) in relation to the provision of technical assistance, any any country specified in Part A of Schedule 2 to this Licence.
- (5) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it has in the Act or the Order (and in the event of any inconsistency, the meaning in the Order shall prevail).

Entry into Force

6. This Licence shall come into force on 26th March 2010.
7. The Open General Export Licence (Military and Dual-Use Goods: UK Forces deployed in non-embargoed destinations) dated 20th November 2009 is hereby revoked.

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

SCHEDULE 1

EXCLUDED MILITARY GOODS

PART A

1. Goods falling within paragraphs 11 to 14 of Schedule 1 to the Order;
2. Components specially designed for goods falling within paragraphs 11 to 14 of Schedule 1 to the Order;
3. Technology, equipment and software specified in ML18, ML21 or ML22, related to equipment specified in 1 or 2 of Part A of this Schedule.

PART B

1. Goods falling within paragraphs 6 to 9 of Schedule 1 to the Order;
2. Goods falling within entry ML4 as follows:
 - (1) Anti-personnel landmines and specially designed components therefor;
3. Goods falling within entry PL5001 c., d., g., h., and i.;
4. Technology, equipment and software specified in ML18, ML21 or ML22, related to equipment specified in 1, 2 or 3 of Part B of this Schedule.

SCHEDULE 2

DESTINATIONS CONCERNED

PART A

Those destinations that are subject to an arms embargo

Armenia
Azerbaijan
Burma (Myanmar)
China (People's Republic) (Including Macau but excluding Hong Kong
Special Administrative Region)
Democratic Republic of the Congo
Guinea
Iran
Iraq
Ivory Coast (Cote d'Ivoire)
Lebanon
Liberia
Rwanda (and Burundi, Tanzania, Uganda if the goods,
software or technology are for use in Rwanda)
Sierra Leone
Somalia
Sudan
Uzbekistan
Zimbabwe

PART B

Those destinations covered by the ECOWAS Moratorium

Benin
Burkina Faso
Cape Verde
Gambia
Ghana
Guinea
Guinea Bissau
Ivory Coast (Cote d'Ivoire)
Liberia
Mali
Niger
Nigeria
Senegal
Sierra Leone
Togo

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 certain goods, software or technology (including their transfer by electronic means) to UK armed forces, or the MOD notified civilian contingent. In particular it covers export and transfer of military and dual-use goods, software and technology except to the countries specified in Part A of Schedule 2; the provision of technical assistance for “any WMD purposes” except to the countries specified in Part A of Schedule 2; and the supply of goods and services to any warship or Naval Auxiliary of the United Kingdom or Government Service ship. There are certain military items that are completely outside the coverage of this Licence (anti-personnel landmines and certain items that could be used for inhuman or degrading treatment or punishment and related software and technology) and certain military items (small arms and light weapons and related software and technology) where there are additional restrictions on destination. **This licence does not authorise the export or transfer of dual-use goods, software or technology to the extent that their export or transfer is prohibited by the Council Regulation (EC) No.428/2009.**

3. The goods, software, technology or technical assistance may only be exported, provided or transferred under this Licence if certain conditions are satisfied. These include that the goods, software or technical assistance are intended for UK Forces, or the MOD notified civilian contingent including CONDO; and if the goods, software, technology or technical assistance are classified as CONFIDENTIAL or above prior written approval for the export, provision or transfer must have obtained in writing approval from the Ministry of Defence.

Application forms can be obtained from:

Security Transportation Plan approvals can be obtained from:

Principal Security Adviser
Industrial Security Section
Defence Procurement Agency
Facilities Management Group
Ministry of Defence
Poplar - 1#2005
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 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.berr.gov.uk.

6. 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(5)).

7. 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.

8. 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.