

EXPORT LICENCE

Open General Export Licence (Technology for Dual-Use Items)

dated 12th August 2009 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Articles 9(2) and (4) of Council Regulation (EC) No. 428/2009 ("the Regulation")^(a) and Article 26 of the Export Control Order 2008 ("the Order")^(b), hereby grants the following Open General Export Licence:

Community Licence

1. This is a general export authorisation under the terms of Article 9(2) of Council Regulation (EC) No. 428/2009. This authorisation, in accordance with Article 9(2) of that Regulation, is valid in all Member States of the European Community and is a Community Licence for the purposes of the Order.
2. Subject to the provisions of this licence, any item specified in Schedule 1 may be exported from the United Kingdom, or from any other Member State by any person established in the United Kingdom, to any destination specified in Schedule 2.

Exclusions

3. This licence does not authorise the export of items:
 - (1) if the exporter has been informed by a competent authority of the Member State where he is established that they are or may be intended, in their entirety or in part—
 - (a) 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,

(a) O.J. No. L134 29.5.09, p.1.

(b) S.I. 2008/3231

production, maintenance or storage of missiles capable of delivering such weapons,

- (b) for a military end use and the purchasing country or country of destination is subject to an arms embargo decided by a Common Position or Joint Action adopted by the Council of the European Union or a decision of the OSCE or imposed by a binding resolution of the Security Council of the United Nations, or
 - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in violation of an authorisation prescribed by national legislation of that Member State;
- (2) if the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in sub-paragraph (1);
 - (3) if the exporter has grounds for suspecting that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in sub-paragraph (1)(a), 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) to a destination within a Customs Free Zone; or
 - (5) if their export is controlled by virtue of any entry in Annex I to the Regulation not specified in Schedule 1; or
 - (6) 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

4. The authorisation in paragraph 1 is subject to the following conditions:
- (1) Except in the case of an export of technology by telephone, fax or other electronic media, official and commercial export documentation accompanying the items shall include a note stating either:
 - (a) "These items are being exported under the OGEL (Technology for Dual-Use Items)"; or
 - (b) the SPIRE reference (in the form 'GBOGE 200X/XXXXX') of the exporter's registration in respect of this licence,which shall be presented to an officer of HM Revenue and Customs if so requested;
 - (2) 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.

Registration

5. The requirements of Article 28 of the Order **shall** apply to this licence.

Prohibitions not affected by this licence

6. Nothing in this licence affects any prohibition or restriction on the export of any items other than under the Regulation or the Order, and this licence does not confer any licence or permission under, or for the purposes of, any enactment other than the Regulation and the Order.

Interpretation

7. For the purposes of this licence:
 - (1) "Customs Free Zone" means 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;
 - (2) "entry" includes part of an entry;
 - (3) unless the context otherwise requires, any other expression used in this licence has the same meaning as in the Regulation or the Order as appropriate.

Entry into Force

8. This licence comes into force on 27th August 2009.
9. The Open General Export Licence (Technology for Dual-Use Goods) dated 18th March 2009 is revoked.

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

SCHEDULE 1

ITEMS CONCERNED

This export authorisation covers the following items;

(1) Technology specified in any entry in Annex I to the Regulation which is necessary for the development or production or use of items specified in any of the following entries in that Annex:

1A003

1C003

1C004

1C005

1C006

1C008

1C009

2A001

2B003

2B005

3A001. a.3. to 3A001.a.12.

3A001.b. Other than entries 3A001.b.3.a., 3A001.b.3.b.,
3A001.b.4.a., 3A001.b.4.b., 3A001.b.9. and 3A001.b.10.

3A001.c.

3A001.d. Other than entry 3A001.d.1.

3A001.e.1. Other than entry 3A001.e.1.c.

3A001.f.

3A002.a.to 3A002.f. Other than entry 3A002.a.6.

3B001.a.1.

3B001.a.3.

3B001.b. to 3B001.h. Other than entry 3B001.f.2.

3B002 Other than entry 3B002.d.

3C001

3C002 Other than entry 3C002.e.

3C003

3C004

3D002 Other than in relation to entries 3B001.f.2. and 3B002.d.

4A004	
4D001	
4D002	
4D003.a.	
5A001	Other than entries 5A001.b.1.d., 5A001.b.4., 5A001.e., 5A001.f., 5A001.g. and 5A001.h.
5B001	Other than entry 5B001.b. and entry 5B001.a. in relation to entries 5A001.b.1.d., 5A001.b.4., 5A001.e., 5A001.f. and 5A001.g.
5D001.a. to 5D001.c.	Other than in relation to entries 5A001.b.1.d., 5A001.b.4., 5A001.e., 5A001.f. and 5A001.g.
6A004	Other than entry 6A004.e.
6A006.a.	Other than entry 6A006.a.3.
6A006.c.	Other than in relation to 6A006.a.3.
6B004	
6C004	
8A001	
8A002	Other than entry 8A002.a.4.
8B001	
8C001	
8D001	Other than in relation to entry 8A002.a.4.
8D002	
9A002	
9B001	
9B002	Other than in relation to entry 9E003.a.3.c.
9B003	
9B004	Other than in relation to entry 9E003.a.3.c.
9B005	
9B008	
9B009	
9D002	Other than in relation to entries 9B002. and 9B004., when applicable to entry 9E003.a.3.c.
9D003	
9D004.a. to 9D004.d.	

(2) Technology specified in the following entries in Annex I to the Regulation:

1E002 Other than entry 1E002.g.
2E003
3E003.a. to 3E003.d.
5E001.b.
6E003.d.
7E004.a.1. to 7E004.a.3.
7E004.b. Other than entry 7E004.b.5.
7E004.c.
8E002

SCHEDULE 2

DESTINATIONS CONCERNED

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

All destinations other than a destination in:

Afghanistan, Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Belarus, Bosnia and Herzegovina, Brazil, Bulgaria, Burma (Myanmar), Canada, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, India, Iran, Iraq, Ireland, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Luxembourg, the Former Yugoslav Republic of Macedonia, Malta, Moldova, Mongolian People's Republic, Netherlands, New Zealand, North Korea, Norway, Pakistan, People's Republic of China (including Special Administrative Regions), Poland, Portugal, Romania, Russian Federation, Serbia and Montenegro, Slovakia, Slovenia, Socialist Republic of Vietnam, South Korea, Spain, Sweden, Switzerland, Syria, Taiwan, Tajikistan, Turkmenistan, Ukraine, USA and Uzbekistan.

NOTE:

Exports of the items covered by this licence may be made under the authority of the Community General Export Authorisation (CGEA) subject to certain conditions and restrictions, to the following destinations;

Australia, Canada, Japan, New Zealand, Norway, Switzerland, USA.

EXPLANATORY NOTE

(This note is not part of the licence)

This Open General Export Licence has been amended following updates to Annex I and the adoption of a new Council Regulation.

2. This licence permits, without further authority but subject to certain conditions, the export of the items specified in Schedule 1 from the United Kingdom, or from any other Member State where the exporter is established in the United Kingdom, to any destination specified in Schedule 2. This includes the transmission of software or technology by fax, telephone or other electronic media.

3. The Export Control Order 2008 (“the Order”) contain certain registration and record keeping requirements which apply to persons using this Licence.

(a) Under Article 28 of the Order, an exporter who exports items under the authority of this Licence must, before or within 30 days after the first occasion he makes use of the licence, provide details to the Secretary of State of his name and the address where copies of the records referred to above may be inspected.

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

(b) Under Article 29 of the Order, any person established in the United Kingdom who exports items from the United Kingdom or another Member State under the authority of this Licence must maintain and retain certain records relating to each such export for at least three years from the end of the calendar year in which the export takes place, and must permit such records to be inspected and copied by any person authorised by the Secretary of State.

4. 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 4(2)).

5. 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.

6. 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.