

EXPORT LICENCE

Open General Export Licence (Exports of non-lethal military and dual-use goods: To UK Diplomatic Missions or Consular Posts) dated 8 August 2012 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Article 9(2) and (4) of Council Regulation (EC) No.428/2009 ("the Regulation")^(a) as amended by Council Regulation (EU) No 388/2012 and Article 26 of the Export Control Order 2008^(b) ("the Order"), hereby grants the following Open General Export Licence:

Licence

1. Subject to the following provisions of this Licence goods specified in Schedule 1 hereto may be exported from the United Kingdom to a UK Diplomatic mission or Consular post overseas for exclusive use of HMG personnel, providing the export is in relation to an eligible United Kingdom Government Contract.

Exclusions

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

- (1) to a destination within a Customs Free Zone;
- (2) 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 Defence as having a protective marking of CONFIDENTIAL or above **unless:**
 - a. the exporter has a current written Security Transportation Plan and has applied for and obtained a current written letter of clearance issued by MOD Defence Equipment and Support (DE&S) Security Adviser which relates to all goods associated with the particular export

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

^(b) S.I. 2008/3231

of the goods which have a protective marking of CONFIDENTIAL or above.

- (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 authorisation in paragraph 1 above is subject to the following conditions:

- (1) before any exporter, provider or transferor first exports goods, under this licence, he shall have informed the Secretary of State of this intention under this licence, specifying the name of the exporter, provider or transferor and the address at which copies of the records of their export or transfers may be inspected under condition 3(4) below;
- (2) the exporter **must** obtain prior to making **any** export pursuant to this licence written approval from the Mission, in the form of a Purchase Order, issued against an eligible United Kingdom Government Contract which identifies the goods and consignee.
- (3) on making any export of goods, the exporter shall produce to an officer of HM Border Agency, if so requested, documentary evidence in the form of a copy of the current written approval referred to in sub-paragraph 3(2);
- (4) the exporter, provider or transferor shall, in addition to provisions of sub-paragraph 3(1) above, maintain records of;
 - (a) date and destination of each export, provision or transfer;
 - (b) name and address of the consignee to whom the goods, are being exported;

- (c) MOD DE&S Security Advisers Office clearance letter referred to in 2(2)(a) above (in the case of goods with a protective marking of CONFIDENTIAL or above);
- (d) original written Mission approval that the goods supplied are in relation to the contract referred to in 3(2) above,

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

- (5) 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 (Export of non-lethal Military and Dual-Use goods: to UK Diplomatic Missions or Consular Posts)"; 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 HM Border Agency if so requested; and

- (6) the exporter shall notify the Secretary of State of any change in the address referred to in 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.

Prohibitions not affected by this Licence

4. Nothing in this Licence shall affect any prohibition or restriction on the exportation or carrying out of any other act with respect of the exportation or transfer 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

5. For the purpose of this Licence:

- (1) "the Act" means the Export Control Act 2002^(b)
- (2) a "Customs Free Zone" is a part of the territory of a country where any goods introduced are generally regarded, in so far 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;
- (3) "eligible UK Government Contract" means a contract which is supported by a Purchase Order issued by a UK Diplomatic Mission for the supply of goods for the exclusive use of HMG personnel;
- (4) "entry" includes part of an entry;

^(b) 2002 c.28
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- (5) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it bears in the Act or the Order as appropriate. .

Entry into force

6. This Licence shall come into force on 10 August 2012.

7. The Open General Export Licence (Exports of non-lethal military and dual-use goods: To UK Diplomatic Missions or Consular Posts) dated 12 October 2010 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

EXPORTS CONCERNED

SUPPLY DIRECT TO UK DIPLOMATIC MISSIONS OR CONSULAR POSTS FOR USE OF HMG STAFF

Military list items

- ML4.b.1 - explosive disposal equipment for military bombs, usually operated by the military;
- ML4.b.2 – explosive disposal equipment for non-military
 - bombs (e.g., suicide bombers) but usually
 - operated by the military;
- ML6.b.1 - armoured all wheel drive civilian vehicles
- ML6.b.2 – components providing ballistic protection and specially designed for vehicles specified in ML6.b.1
- ML7.f and g – Military standard NBC protective equipment (e.g., against chemical or gas attack)
- ML13.c and d – military helmets and higher specification body armour

Dual use items intended primarily for civilian use

- 1A006 – explosive disposal equipment for non-military bombs (e.g., suicide bombers) but usually operated by civilian and police bodies.
- PL8001.a.4 – other explosive disposal equipment usually operated by civilian and police bodies
- 1A005 – dual use (lower specification) body armour
- 1A004 – civilian standard CBRN protective and detection or identification equipment (e.g. against chemical or gas attack)

EXPLANATORY NOTE

(This Note is not part of the Licence)

1. This Open General Export Licence has been amended by changes made to the following item entries listed in Schedule 1:

- entry ML.6.b is amended to ML6.b.1
- entry PL5035 is deleted and replaced by entry ML6.b.2
- entry 1A004 is amended to refer to 'CBRN protective and detection or identification equipment'

These amendments are being made in conjunction with the publication of a new version of the UK Military List which comes into force on 10 August 2012.

2. This Open General Export Licence permits, without further authority but subject to certain conditions, exportation of non-lethal military and dual use goods specified in Schedule 1 of this licence for use by HMG staff in UK Diplomatic Missions or Consular Posts in any destination providing the export is for the exclusive use of HMG personnel.

3. The goods may only be exported under this licence if they satisfy certain conditions. These include that the goods are the subject of prior written approval by the Mission, in the form a Purchase Order, issued against an eligible UK Government Contract which identifies the goods and consignee, and if classified as CONFIDENTIAL or above must have obtained in writing approval from the Ministry of Defence (MOD)(DE&S).

4. **Security Transportation Plan approvals Overseas Government site clearances can be obtained from:**

Principal Security Adviser
Security Advice Centre
Defence Equipment and Support
Ministry of Defence
Popular - 1#2004
Abbey Wood

Bristol BS34 8JH
Tel: 030 679 34378
Fax: 0117 913 4925

5. An exporter who exports goods under the authority of this Licence must before his first exportation under this 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

6. The exporter shall produce to an officer of HM Border Agency, if so requested, documentary evidence in the form of the original of the Purchase Order issued by the Mission which should identify both the goods and consignee.

7. 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)).

8. 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 improvement 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.

9. 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.

10. The provisions of this licence only apply for the purposes of the Export Control Order 2008, in particular, this licence does not extend to prohibitions in other legislation implementing United Nations sanctions.