

EXPORT LICENCE

Open General Export Licence (Dual-Use Items: Hong Kong Special Administrative Region) dated 13 June 2012 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:

Union Licence

1. This is 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 Union and is a Union Licence for the purposes of the Order.
2. Subject to the following provisions of this Licence, any items specified in Part A of the Schedule hereto, other than any specified in Part B of that Schedule, may be exported from the United Kingdom, or from any other Member State by any person established in the United Kingdom, to any destination in Hong Kong Special Administrative Region.

Exclusions

3. This Licence does not authorise the export of items:

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

(b) S.I. 2008/3231

- (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, 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 imposed by a Decision or a Common Position 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) if the export is for any military purpose.
- (7) 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 (Dual-Use Items: Hong Kong Special Administrative Region)"; 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 purpose 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 15 June 2012.
9. The Open General Export Licence (Dual-Use Goods: Hong Kong Special Administrative Region) dated 12 August 2009 is revoked.

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

SCHEDULE

ITEMS CONCERNED

PART A

Items specified in any entry in Annex I to Council Regulation (EC) No.

428/2009:

PART B

Items specified in any of the following entries in Annex I to Council Regulation

(EC) No. 428/2009:

All entries in Category 0

1A004.d.

1A006

1A007

1A008

1A102

1B226

1B231

1B233

1C001

1C012

1C101

1C233

1C235

1C239

1C350.1-3, 5-9, 11-13, 17-19, 21-22, 26-28, 30-36, 38, 46, 51-52, 54-57, 59 and 63.

1C351

1C352

1C353

1C354

1C450

1D003

1D103

1E001

1E002.g

1E101

1E102

1E201

3A001.b.10

3A001.h

3A002.g.1.
3A201
3A228
3A229
3A231
3A232
3A233
3E201

5A001.h
5E001.c.6
5E001.d
5E001.e

All entries in Category 5 (Part 2 – Information Security)

6A001.a.1.a
6A001.a.1.b
6A001.a.2.a.1
6A001.a.2.a.2
6A001.a.2.a.3.
6A001.a.2.a.5
6A001.a.2.a.6.
6A001.a.2.b
6A001.a.2.c.
6A001.a.2.e.
6A001.a.2.f.
6A005.g
6A008.j.3
6A203
6A225
6A226
6B008
6B108
6D003.a
6D003.c
6E201

7A117

7B001 Test, calibration or alignment equipment specially designed for equipment specified in 7A117.

7B003 Equipment specially designed for the production of equipment specified in 7A117.

7B103	Production facilities specially designed for equipment specified in 7A117
7D101	Software specially designed for the use of equipment specified in 7B003 or 7B103.
7E001	Technology for the development of equipment or software specified in 7A117, 7B003, 7B103 or 7D101.
7E002	Technology for the production of equipment specified in 7A117, 7B003 and 7B103.
7E101	Technology for the use of equipment specified in 7A117, 7B003, 7B103 and 7D101.
7E104	
8A002.o.3	
8A002.p	
8A002.r	
8D002	
8E002.a	
9A004	
9A005	
9A007.a	
9A008.d	
9A009.a	
9A104	
9A105.a	
9A106.c	
9A108.c	
9A116	
9A117	
9A119	
9B115	Specially designed production equipment and production facilities for the systems, sub-systems and components specified in 9A005, 9A007.a., 9A008.d., 9A105.a., 9A106.c., 9A108.c., 9A116 and 9A119.
9B116	Specially designed production facilities for the systems, sub-systems and components specified in 9A004, 9A005, 9A007.a., 9A008.d., 9A104, 9A105.a., 9A106.c., 9A108.c., 9A116 and 9A119.
9D101	Software specially designed for the use of items specified in 9B116.

- 9E001 Technology for the development of equipment or software specified in 9A004, 9A005, 9A007.a., 9A008.d., 9B115 , 9B116 and 9D101.
- 9E002 Technology for the production of equipment specified in 9A004, 9A005, 9A007.a., 9A008.d., 9B115 and 9B116.
- 9E101 Technology for the development or production of equipment specified in 9A104, 9A105.a., 9A106.c., 9A108.c., 9A116 or 9A119.
- 9E102 Technology for the use of items specified in 9A004, 9A005, 9A007.a., 9A008.d., 9A104, 9A105.a., 9A106.c., 9A108.c., 9A116, 9A119, 9B115, 9B116 or 9D101.

EXPLANATORY NOTE

(This note is not part of the licence)

1. This Open General Export Licence has been amended as a result of Council Regulation (EU) No 388/2012 which amends Council Regulation (EC) No 428/2009 (the EU Dual-Use Regulation). The amending Council Regulation is dated 19 April 2012 and was published in the Official Journal of the European Union (OJ L 129, 16.5.2012) on 16 May 2012. It comes into force 30 days after publication, on 15 June 2012. The amendments include:

- Addition of control list entry codes in Schedule 1 (Part B) – 6A001.a.1.a, 6A005.g and 8A002.r
- Removal of control list entry code in Schedule 1 (Part B) – 6A001.c

This licence has also been amended to update text references to ‘Community’ and ‘CGEA’ to refer to ‘Union’ and ‘EU GEA’ as appropriate and to amend text references to an arms embargo which is ‘decided by a Common Position or Joint Action’ to the text: ‘imposed by a Decision or a Common Position’.

2. This Open General Export Licence permits, without further authority but subject to certain conditions, the export from the United Kingdom, or from any other Member State of the European Union (EU) where the exporter is established in the United Kingdom, to any destination in Hong Kong Special Administrative Region for non-military use^(a) of items specified in Part A of the Schedule to the Licence, other than those specified in Part B of that Schedule.

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

(a) Exporters are advised that items covered by this Licence are subject to HKSAR import licensing requirements. Exporters should request a copy of the relevant HKSAR import licence for verification. The Hong Kong system requires importers in Hong Kong to submit an end-use undertaking for all imports of dual-use items.

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 <https://www.spire.bis.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.

7 This Licence does not extend to any prohibition under legislation other than Council Regulation (EC) No.428/2009 or the Order: in particular it does not extend to prohibitions in other legislation implementing United Nations sanctions.