

EXPORT LICENCE

Open General Export Licence (International Non-Proliferation Regime Decontrols: Dual-Use Items) 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 item specified in the Schedule 1 hereto, 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 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) O.J. No. L134 29.5.09. p.1 as amended by Regulation (EU) 1232/2011 of the European Parliament and of the Council of 16 November 2011, O.J. No. L326 8.12.2011 p26.

(b) S.I. 2008/3231

- (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 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) if their export is controlled by virtue of any entry in Annex I to the Regulation not specified in Schedule 1; or

- (5) 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) before first using this Licence, the exporter shall inform the Secretary of State of their intention to do so, specifying their name and the address at which copies of records maintained pursuant to paragraph 4(2) may be inspected; this notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at www.spire.bis.gov.uk;
- (2) the exporter or transferor shall maintain the following records in respect of all their exports and transfers of items under this Open General Export Licence:
- a) the date and destination of each;
 - b) the name and address of the consignee and, where known, the
 - c) end-user;
 - d) a description of the items exported or transferred;
 - e) the quantity of goods exported;

and any such records shall be maintained for at least 3 years after the end of the calendar year in which the export or transfer took place, and the exporter or transferor shall permit the records to be

inspected and copied by any person authorised by the Secretary of State;

- (3) 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 Open General Export Licence (International Non-Proliferation Regime Decontrols: Dual-Use Items)”; or
 - (b) the SPIRE reference (in the form ‘GBOGE 20XX/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.

- (4) 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

5. Nothing in this Licence affect 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

6. For the purpose of this Licence:
 - (1) “entry” includes part of an entry;
 - (2) 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

7. This Licence comes into force on 15 June 2012.
8. The Open General Export Licence (International Non-Proliferation Regime Decontrols: Dual-Use Items) dated 9 February 2012 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

ITEMS CONCERNED

Items subject to de-control as a result of review of the Wassenaar Arrangement (WA), Missile Technology Control Regime (MTCR) Technical Annexes, Australia Group (AG) or the Nuclear Suppliers Group (NSG) during 2011.

Items specified in the following control entries in Annex I to Council Regulation (EC) No. 428/2009 as amended by Council Regulation (EU) No 388/2012.

Note 1: Where definitions for items in quotation marks are not listed in each relevant Category these can be found in Annex I to Council Regulation (EC) No. 428/2009 as amended by Council Regulation (EU) No 388/2012.

Category 1

1A005., **as follows**

Body armour designed to provide protection from knife, spike, needle or blunt trauma only.

1C006.d., **as follows**

Materials specified by 1C006.d. when specified and packaged as medical products.

1C008.a.4., **except**

Aromatic polyetherimides having a 'glass transition temperature (Tg)' exceeding 563 K (290° C).

1C008.f., **except**

Polybiphenylenethersulphone having a 'glass transition temperature (Tg)' exceeding 563 K (290° C).

1C351.b.2.

1C351.b.4.

- 1E001. "Technology" according to the General Technology Note for the "Development" or "production" of materials specified above in, 1C008.a.4., 1C008.f., 1C351.b.2 or 1C351.b.4.

Category 2

2B009., **except**

Spin-forming machines and flow-forming machines, which, according to the manufacturer's technical specifications, can be equipped with "numerical control" units or a computer control and having all of the following:

- a. Three or more axes which can be coordinated simultaneously for "contouring control"; and
- b. A roller force more than 60 kN.

- 2D001. "Software", other than that specified in 2D002, specially designed or modified for the "development", "production" or "use" of equipment specified above in 2B009.

- 2E001. "Technology" according to the General Technology Note for the "development" of equipment specified above in 2B009. or "software" specified above in 2D001.

- 2E002. "Technology" according to the General Technology Note for the "production" of equipment specified above in 2B009.

Category 3

3A001.e.1.b, **except**

'Secondary cells' having an 'energy density' exceeding 300 Wh/kg at 20° C.

3A002.d., **except**

Frequency synthesized signal generators producing output frequencies, the accuracy and short term and long term stability of which are controlled, derived from or disciplined by the internal master reference oscillator and specified to generate pulses having all of the following, anywhere within the synthesized frequency range exceeding 31.8 GHz but not exceeding 70 GHz:

- a. 'Pulse duration' of less than 100 ns; and
- b. On/off ratio equal to or exceeding 65 dB;

3B001.d.

3C001.d., **as follows**

"Substrates" having one or more P-type epitaxial layers of GaN, InGaN, AlGaN, InAlN, InAlGaN, GaP, InGaP, AlInP or InGaAlP, independent of the sequence of the elements, except if the P-type epitaxial layer is between N-type layers.

3D001. "Software" specially designed for the "development" or "production" of equipment specified above in 3A001.e.1.b, 3A002.d., or 3B001.d.

3E001. "Technology" according to the General Technology Note for the "development" or "production" of equipment specified above in 3A001.e.1.b, 3A002.d., 3B001.d. or 3C001.d..

Category 4

4A003.a.

4D001.a. "Software" specially designed or modified for the "development", "production" or "use" of equipment specified above in 4A003.a

4E001.a. "Technology" according to the General Technology Note, for the "development" or "production" or "use" of equipment specified above in 4A003.a or "software" specified above in 4D001.a.

Category 5 Part 1

5A001.b.3.b., **as follows**

Radio equipment specially designed for use with fixed or mobile satellite Earth stations for commercial civil telecommunications.

5B001.b.5.

5D001.a. "Software" specially designed or modified for the "development", "production" or "use" of equipment, functions or features, specified in 5A001.b.3.b.

5D001.b. "Software" designed or modified to support "technology" specified below in 5E001.c.1.

5D001.c. Specific "software" specially designed or modified to provide characteristics, functions or features of equipment, specified above in 5A001.b.3.b. or 5B001.b.5.

5E001.a. "Technology" according to the General Technology Note for the "development", "production" or "use" (excluding operation) of equipment functions or features specified above in 5A001.b.3.b. or "software" specified above in 5D001.a.

5E001b.4., **as follows**

"Technology" for the "development" of "spread spectrum" techniques, including "frequency hopping" techniques, for fixed or mobile satellite Earth stations for commercial civil telecommunications.

5E001.c.1., **except**

"Technology" according to the General Technology Note for the "development" or "production" of the following:

1. Equipment employing digital techniques designed to operate at a "total digital transfer rate" exceeding 120 Gbit/s.

5E001.c.5.

Category 5 Part 2

5A002., **as follows**

Hardware components, as follows, required for the purpose of being a component of systems, equipment, assemblies and modules specified in Category 5 part 2, Note 3:

1. Original Equipment manufacturer (OEM) components;
2. Aftermarket components having the same functionality only as the OEM components in 1. above.

Meeting all of the following:

- a, Does not result in any enhancement to the systems, equipment, assemblies or modules, or provide the items with new or additional functions.
- b, The cryptographic functionality is fixed and cannot easily be changed.
- c, The components are not modified.

Additional conditions and requirements

- 1, The export of the hardware components must have previously been authorised by a valid Standard Individual Export Licence or Open Individual Export Licence to the same end-user prior to the use of this OGEL.
- 2, Details of the hardware components and any goods into which the components are incorporated, known by the exporter or the manufacturer, are accessible and will be

provided, upon request, to the appropriate authority in the exporter's country, in order to ascertain compliance with conditions described above.

Category 6

6E101., "Technology" according to the General Technology Note for the "use" of equipment specified in 6A002.

Note 2: This licence does not permit the export of "technology" specified in 6E101 for the "use" of equipment designed for airborne applications and usable in missiles.

Category 7

7E004.a.1.

Category 8

8A002.c., **except**

Fibre optic pressure hull penetrators.

8D001. "Software" specially designed or modified for the "development" or "production" or "use" of equipment specified above in 8A002.c.

8E001. "Technology" according to the General Technology Note for the "development" or "production" of equipment specified above in 8A002.c.

Category 9

9D004.d.

9E001. "Technology" according to the General Technology Note for the "development" of "software" specified above in 9D004.d.

SCHEDULE 2

DESTINATIONS CONCERNED

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

All destinations other than in:

- The customs territory of the EU;
- Australia, Canada, Japan, New Zealand, Norway, Switzerland including Liechtenstein, USA;
- Iran, North Korea.

NOTE:

1. Exports of items covered by this licence may be made under the authority of the European Union General Export Authorisation (EU GEA 001), subject to conditions and restrictions, to the following destinations:

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

2. An export licence is NOT required for dual-use goods being exported to EU destinations BUT you must state on export documents that your items require a licence if exported outside the EU) and must keep records (as specified in Articles 22(10) and 22(8) of the EU Dual Use Regulation).

EXPLANATORY NOTE

(This note is not part of the licence)

1. This Open General Export Licence permits, without further authority but subject to certain conditions, the export of dual-use items described in Schedule 1 to the licence 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 Schedule 2 to the Licence.

2. Amendments have been made to this licence 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.

3. The licence is intended to allow the export of items which were the subject of a review in any of the international non-proliferation regimes (WA, MTCR, AG or NSG) in 2011.

4. The Export Control Order 2008 (“the Order”) contains 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 they makes use of the licence, provide details to the Secretary of State of their 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, they 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(4)).

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 them from using another OGEL so long as they meet all its terms and conditions and they have not received a letter suspending or revoking their 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.