

EXPORT LICENCE

Open General Export Licence (Military Goods) dated
8 August 2012 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, items specified in Schedule 1, may be exported or transferred from the United Kingdom to;
 - (a) any persons or entities in a destination specified in Schedule 2 Part A to this Licence for a permitted use, or
 - (b) the armed forces of a destination specified in Schedule 2 Part A that are deployed outside that destination, insofar as those items are;
 - (i) For deployment only by those armed forces; and
 - (ii) do not fall within entry ML7.g. in Schedule 2 to the Order or within entries ML21 or ML22 as they relate to entry ML7.g.

Exclusions

2. This licence does not authorise the export or transfer of items:
 - (1) if the exporter or transferor has been informed by a competent authority that the items are or may be intended, in their entirety or in part, for a use **other than** a permitted use or the purposes specified in paragraph 1(b);

(a) S.I. 2008/3231, as amended

- (2) if the exporter or transferor knows that the items are intended, in their entirety or in part, for a use **other than** a permitted use or the purposes specified in paragraph 1(b);
- (3) if the exporter or transferor has grounds for suspecting that the items might be used, in their entirety or in part, for a use **other than** a permitted use or the purposes specified in paragraph 1(b), unless he has made all reasonable enquiries as to their proposed use and satisfied himself that they will not be so used;
- (4) Except in the case of an export of technology by telephone, fax or other electronic media, to a Customs Free Zone within a destination specified in Schedule 2;
- (5) in the case of exports of goods or technology in tangible form, 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 proposed export has been approved by the Ministry of Defence under F680 or F1686 and a written letter of clearance has been issued under the appropriate procedure or work for which the export is required has been agreed under the Project Security Instruction (PSI) and the consignee company has been cleared to the appropriate level through DE&S Security Advisers Office, and
 - (i) the clearance approval is not time expired at the time the export takes place, and
 - (ii) the "Goods" are identical to those for which the clearance was given; and

- (b) they are exported in accordance with the procedures laid down in the Security Policy Framework, issued by the Cabinet Office, appropriate to the grading of the material;
- (6) in the case of intangible technology transfers, if the technology has a protective marking RESTRICTED or above **unless:**
- (a) the transmission medium is protected by approved encryption appropriate to the protective marking of data, and
 - (b) the transferor holds clearance from a government accreditation authority which can be produced to the Compliance Officer.
- (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

3. The exporter or transferor shall comply with the following Conditions and Requirements:
- (1) before first using this Licence, he shall inform the Secretary of State of his intention to do so, specifying the his name and the address at which copies of records maintained pursuant to paragraph 3(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) subject to paragraph 3(3), the exporter or transferor shall maintain the following records in respect of all his 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 end-user;
- (c) a description of the items exported or transferred;
- (d) a written undertaking from the consignee, or documentation (e.g. a purchase order, excerpt of contract etc.) which confirms the export is for a “permitted use” or for the purposes specified in paragraph 1(b);
- (e) MOD F680 or F1686 clearance letter or proof of PSI clearance referred to in paragraph 2(5)(a) (in the case of "Goods" protectively marked CONFIDENTIAL or above, MOD F680 or F1686 clearance letter or proof of PSI clearance referred to in paragraph 2(5)(a));
- (f) the clearance from a government accreditation authority referred to in paragraph 2(6)(b) (in the case of intangible technology transfers where the technology has a protective marking RESTRICTED or above);

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

- (3) in the case of goods and/or technology specified in Schedule 2 to the Order which have any of the functions or characteristics of information security described in Category 5 Part 2 of Annex 1 to Council Regulation (EC) No. 428/2009^(c), a copy of the records

(c) O.J.L134 29.5.2009

specified in paragraph 3(2)(a) and 3(2)(b) shall be presented to the Secretary of State for inspection every twelve months;

- (4) Except in the case of a transfer of technology by telephone, fax or other electronic media, official and commercial export documentation accompanying the goods or technology shall include a note stating either:

- (a) "the goods/technology are being exported under the OGEL (Military Goods)"; 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;

- (5) the exporter or transferor shall notify the Secretary of State of any change in the address referred to in paragraph 3(1) within 30 days of that change. This notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at www.spire.bis.gov.uk
- (6) 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 transfer or carrying out of any other act with respect of the exportation or transfer of any items 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) "cluster munitions" means conventional munitions designed to disperse or release "explosive submunitions";
 - (3) "explosive submunitions" means conventional munitions, weighing less than 20 kilograms each, which in order to perform their task are dispersed or released by another conventional munition and are designed to function by detonation of an explosive charge prior to, on or after impact;
 - (4) "explosive bomblets" means conventional munitions, weighing less than 20 kilograms each, which are not self propelled and which, in order to perform their task, are specially designed to be dispersed or released by a dispenser affixed to an aircraft, and

are designed to function by detonating an explosive charge prior to, on or after impact;

- (5) sub paragraphs (2) and (3) above do not include the following conventional munitions,
 - (a) a munition or submunition designed to disperse flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
 - (b) a munition or submunition designed to produce electrical or electronic effects;
 - (c) a munition that has all of the following characteristics:
 - (i) each munition contains fewer than ten “explosive submunitions”;
 - (ii) each “explosive submunition” weighs more than four kilograms;
 - (iii) each “explosive submunition” is designed to detect and engage a single target object;
 - (iv) each “explosive submunition” is equipped with an electronic “self destruction mechanism”;
 - (v) each “explosive submunition” is equipped with an electronic “self deactivating feature”.
- (6) a "Customs Free Zone" is 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;
- (7) "MOD F680" procedure is a means by which exporters can become informed of any objections or problems associated with the marketing or supply of particular military goods or technology;

^(b) 2002 c.28

"MOD F1686" procedure is a means by which exporters can obtain clearance to sub contract or team on MOD projects with overseas companies.

- (8) "MANPADS" – Man-Portable Air Defence Systems – surface-to-air missile systems designed to be man-portable and carried and fired by a single individual; and other surface-to-air missile systems designed to be operated and fired by more than one individual acting as a crew and portable by several individuals;
- (9) "permitted use" means use of the items specified in Schedule 1 (including for testing or trial purposes) by a person or entity in a destination specified in Schedule 2 **but does not include:**
 - (a) use in connection with the development, production, handling, operation, maintenance, storage, 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) use that would be inconsistent with the terms of a UN, OSCE or EU arms embargo or any other arms embargo observed by the UK;
 - (c) incorporation in goods or technology that are to be exported, re-exported or transferred to a person or entity in a destination **other than** one specified in Schedule 2 ;
 - (d) re-export or transfer of goods in Schedule 1 Part A to a person or entity in a destination **other than** one specified in Schedule 2 ; or
 - (e) export or transfer of goods in Schedule 1 Part B **other than** where the **ultimate** end-user is to a Government or NATO Headquarters in a destination specified in

Schedule 2, for which the requirements in paragraph 3(2)(a-c) should be met in all cases;

- (10) Where the end-user is an entity in a Schedule 2 Part A destination, Security-cleared companies (List X contractors) are considered to know the identify of that entity for goods or technology protectively marked RESTRICTED or above, by virtue of having to have a valid MOD Form 680 approval for supply in place, and in respect of such items should maintain a record of the end-user, as required under Paragraph 3(2)(a-c), which should correspond with the F680 and be in a destination in Schedule 2.
- (11) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it has in the Act or the Order.

Entry into Force

- 6. This Licence shall come into force on 10 August 2012.
- 7. The Open General Export Licence (Military Goods) dated 2 July 2012 is now revoked.

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

SCHEDULE 1

GOODS CONCERNED

Equipment, components, materials, unfinished products, forgings and castings specified in the following entries in Schedule 2 to the Order:

PART A

1. ML4.a., ML4.b.1., and ML4.c., **other than**:
 - (1) Anti-personnel landmines, and specially designed components therefor ;
 - (2) Anti-vehicle mines, and specially designed components therefor ;
 - (3) Rockets, missiles capable of a range of at least 300 km;
 - (4) Components usable in item (3) above as follows:
 - (a) Individual rocket stages;
 - (b) Reentry vehicles, and components therefor as follows:
 - (i) Heat shields and components therefor;
 - (ii) Heat sinks and components therefor; or
 - (iii) Electronic equipment for reentry vehicles;
 - (c) Rocket engines;
 - (d) Thrust vector control systems;
 - (e) Weapon or warhead safing, arming, fuzing and firing;
 - (5) Complete 'MANPAD' systems (with or without missiles, including related launching equipment and rockets) and specially designed components therefor;
 - (6) Missiles for MANPAD Systems (including missiles which can be used without modification in other applications);
 - (7) Cluster munitions and specially designed components therefor;
 - (8) Explosive bomblets and specially designed components therefor;
 - (9) Explosive submunitions and specially designed components therefor;

2. ML5;
3. ML6 (**other than complete vehicles**);
4. ML7.g. **other than** when deployed in conformity with para 1(b) of the licence;
5. ML9 (**other than complete vessels**);
6. ML10, **other than**:
 - (1) Complete aircraft;
 - (2) Complete unmanned airborne vehicles and any components specially designed or modified for unmanned airborne vehicles;
7. ML11, (**as it relates to entries specified in this Schedule**), **other than**:
 - (1) Guidance sets capable of achieving a system accuracy of 3.33% or less of the range, usable in rockets or missiles capable of a range of at least 300 km;
 - (2) Test equipment for MANPAD systems;
8. ML14, **other than** training equipment for MANPAD systems;
9. ML15;
10. ML16, as it relates to entries specified in this Schedule;
11. ML17, **other than**:
 - (1) ML17.f., and g;
 - (2) ML17.n insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets;
12. PL5017 , only insofar as it covers equipment specially designed or modified for the use of military entries specified in this Schedule ;

13. ML18, **other than**;
 - (1) Production equipment for MANPAD systems.
 - (2) Production equipment for cluster munitions, explosive submunitions and explosive bomblets;
14. ML21, software as follows, as it relates to entries specified in this Schedule,
 - (1) ML21.a., **other than**;
 - (a) Development or up-dating of software embedded in military weapon systems;
 - (2) ML21.b.1.;
 - (3) ML21.c.,
 - (4) ML21.d.;
15. ML22, Technology as it relates to entries specified in this Schedule – Source Code can only be exported where it relates to permitted software listed above (e.g., does not apply to Source Code relating to ML17.f.).

PART B

1. ML4.b.2;
2. ML13.c. and d.;
3. ML22 Technology as it relates to entries specified in Part B of this Schedule.

SCHEDULE 2

DESTINATIONS CONCERNED

Part A:

This export authorisation is valid for any end-user in the following destinations:

Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Iceland, Ireland (Republic of), Italy, Japan, Netherlands, New Zealand, Norway, Spain, Sweden, United Kingdom and USA.

Part B:

(a) For the purposes of paragraphs 5(9)(c) and (d) and subject to conditions and restrictions as set out in OGEL (Government and NATO End-use) and paragraph (b) below, this export authorisation is valid for onward re-export or transfer to the Government or NATO Headquarters end-user only in, the following destinations

Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Switzerland

(b) the destinations specified in the previous paragraph do not include any Custom Free Zone within the territory of that destination.

EXPLANATORY NOTE

(This Note is not part of the Licence)

Background and scope of the OGEL

This licence is designed to allow the export of a wide range of items which feature on the Military List to any person or entity within a limited list of countries. The UK is willing to grant OGEL coverage for any person or entity in these countries – which are listed at Schedule 2 Part A - for any of the goods that are listed at Schedule 1 Part A. However, safeguards are necessary to deal with subsequent supplies made from those countries, to ensure that goods exported from the UK do not subsequently find themselves in destinations or for use in ways which concern us. These safeguards take two forms;

- I. Where the exporter knows, at the time of export, that the equipment to be exported from the UK will be subsequently re-exported outside of the destinations listed in Schedule 2, whether in the same form in which it was exported from the UK or following incorporation into a larger piece of equipment, the OGEL may not be used; and
- II. For more sensitive equipment, listed at Schedule 1, Part B, the exporter cannot use the OGEL if, at the time of export, the recipient cannot prove that the export, re-export or transfer will be to a government or NATO end user in a destination listed in Schedule 2

This new OGEL works in tandem with the existing Government and NATO End Use OGEL. You will need to choose between the two OGELs to find the one applicable to your initial export from the UK. However, where you know that your export will be subsequently re-exported from its original destination, you can still use this OGEL where that re-export is for Government or NATO Headquarters end use in the wider list of countries which are covered by the GNEU: these are listed at Schedule 2 Part B.

In addition to these specific clauses, the OGEL also contains a number of conditions relating to record keeping and similar requirements, all of which you should be satisfied that you can honour before using the OGEL.

Detail

1. This licence has been amended by removing the entry to PL5035 listed in Schedule 1. This amendment is 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, the export or transfer of items specified in Schedule 1 to the licence, to any person or entity in any destination listed in the Schedule 2 Part A to the Licence or to the armed forces of those destinations when deployed overseas or to the Government or NATO Headquarters end-use in a destination listed in Schedule 2 Part B to the licence.

3. The conditions include restrictions on end-use. If goods are classified as CONFIDENTIAL or above the export must have obtained written approval from the Ministry of Defence. To meet the F680 requirement, List X company sites require written approval for the release of information or goods protectively marked RESTRICTED or above, which should be for supply, as set out by the Cabinet Office Security Policy Framework.

Application forms can be obtained from:

**(a) F680 applications can now be made via
Export Control Organisation's electronic
Licensing System, SPIRE, at:
www.spire.bis.gov.uk**

(b) Overseas Government site clearances, F1686

**and Security Transportation Plan approvals can
be obtained from:**

Principal Security Adviser
Security Advice Centre
Defence Equipment and Support

Ministry of Defence
Poplar - # 2004
Abbey Wood
Bristol
BS34 8JH

Tel: 030 6793 4378 Fax: 0117 913 4925

4. F1686 Procedure:

This procedure is applicable to List X companies and is laid out in the Cabinet Office Security Policy Framework, Appendix 5 to Contractual Process Chapter - Application to Subcontract or collaborate on protectively marked work.

5. Advice on approval for associated technology transfers in intangible form at a protective marking of RESTRICTED or above may be obtained from:

Defence Security,
Floor 1 Zone I,
Main Building,
London, SW1A 2HB.

6. Security-cleared company sites (List X contractors) are considered to know the end-user of goods or technology which is protectively marked RESTRICTED or above, by virtue of having to have a valid MOD Form 680 approval in place, which should be for supply, and in respect of such items should maintain a record of the end-user

as required under Paragraph 3(2)(b), in the form of documentation required under 3(2)(d).

7. 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. The same applies to transfers of technology. This notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at www.spire.bis.gov.uk

8. 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(6)).

9. 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.

10. 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.

11. An exporter who exports goods which have any of the functions or characteristics of information security described in Category 5 Part 2 of Annex 1 to Council Regulation (EC) No. 428/2010 shall present a copy of the export records to the Secretary of State every twelve months. The same applies to transfers of technology. This notification should be given in writing or by facsimile transmission to:

Export Control Organisation
Compliance Unit
Department for Business, Innovation and Skills
3rd Floor
1 Victoria Street
London SW1H 0ET
Fax: 020 7215 3830

12. 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.