

**Exports under the US-UK
Defence Trade Co-operation
Treaty**

MAY 2012

The Secretary of State grants this Open General Export Licence in exercise of the powers conferred by article 26 of the Export Control Order 2008 (SI 2008/3231 as amended).

Dated: 16 May 2012

In Force: 28 May 2012

1. Purpose

- a) The purpose of this Open General Export Licence (OGEL) is to permit the export or transfer of military goods or technology under the US-UK Defence Trade Cooperation Treaty (the "Treaty") from the UK to the US.
- b) However, as with any OGEL, there are limits to its scope. It is limited to exports or transfers from the United Kingdom by UK exporters to US consignees where both parties are part of the **'Approved Community'**, and provided that the **ultimate end-user** of the goods or technology is the **US Government or UK Government**.
- c) You should therefore only register to use this OGEL if you have **fully considered** the terms and conditions that follow and are able to meet them **ALL**.

2. Goods, technology and software that can be exported or transferred under this licence

- a) This licence permits exports of any military or dual use goods and technology (including software) **covered by the Treaty**.
- b) The permitted goods are listed in Schedule 2 and 3 of the Export Control Order 2008 (as amended).

You **may not export or transfer** any goods, technology or software under any of the following:

Classification	Description
MILITARY GOODS	
ML3	<p>Ammunition and fuze setting devices, and their specially designed components,.</p> <ul style="list-style-type: none"> • Ammunition for weapons specified in ML2 and ML12 • fuze setting devices for ammunition specified in ML 3a
ML 4	<p>The following goods:</p> <ul style="list-style-type: none"> • Missiles for Man Portable Air Defence Systems ("MANPADS") (including missiles which can be used without modification in other applications); <p>And the following goods and specially designed components of these goods:</p> <ul style="list-style-type: none"> • Anti-personnel landmines and their components; • "Cluster munitions", "explosive bomblets" and "explosive submunitions" • Rockets, missiles • Torpedoes • Complete "MANPADS" (with or without missiles, including related launching equipment and rockets);
ML5 b, c	<p>Fire control equipment and related alerting and warning equipment.....</p> <ul style="list-style-type: none"> • ML5b: in relation to signature suppression or multiple autonomous unmanned systems
ML 7	Chemical or biological toxic agents, toxic chemicals and mixtures, related equipment, components and materials
ML8 a23, a33, C5a2, f11, f13	Energetic materials, and related substances
ML9	<p>"Vessels", special naval equipment and accessories... The following goods and specially designed components of these goods</p> <ul style="list-style-type: none"> • Naval Nuclear Propulsion Plant • Submersible vehicles & vessels (manned or unmanned) • Underwater detection devices.
ML10 c, d	Unmanned aerial vehicles (UAVs) and aero-engines, their equipment and related goods listed, where specially designed or modified for military use and have specially designed components

You **may not export or transfer** any goods, technology or software under any of the following:

Classification	Description
ML11	The Electronic equipment goods specified under ML11 and specially designed components of these goods <ul style="list-style-type: none"> • “Guidance sets”; • Test equipment for MANPADS • Global Navigation Satellite Systems (GNSS) jamming equipment. • Satellites and payloads • Cryptographic, Comsec and Tempest equipment
ML12	High Velocity Kinetic Energy Weapon (KEW) systems and related equipment, listed, and their specially designed components
ML13 a	Armoured plate, listed, and their specially designed components
ML14	Specialised equipment for military training or for simulating military scenarios, simulators specially designed for training in the "use" of any “goods” in this table. This includes training equipment for MANPAD systems
ML15f.	Imaging or countermeasure equipment <ul style="list-style-type: none"> • ML15f: in relation to signature suppression
ML16	Forgings, castings and other unfinished goods, which are specially designed for any of the goods specified within this table
ML17 c., f., g. and h.	Miscellaneous goods, material and 'libraries', listed, and their specially designed components goods
ML18	Production equipment and components for MANPAD systems
PL5017	Equipment and test models or specially designed or modified for the “development” or “use” of MANPAD systems
ML19	Directed Energy Weapon (DEW) systems, related or countermeasure equipment and test models, listed, and their specially designed components
ML20	Cryogenic and "superconductive" equipment, listed, and their specially designed components and accessories
ML21 a, b2,c	Software <ul style="list-style-type: none"> • For ML21a.: for any entries specified in this table • For ML21b.2. & c.: all software specified
PL5001	Other security and para-military police goods
ML22	Technology for any entries specified in this table
Dual Use Goods	
PL9002	The export of the following goods is prohibited to any destination: "Energetic materials", as follows, and their mixtures containing one or more <ul style="list-style-type: none"> • PL9002e

3. Permitted destinations or countries covered by this licence

This OGEL is only valid for export or transfer to the United States of America, for U.S. Government or UK Government end use.

4. To whom can you export goods, technology and software

This licence is only applicable to Approved Community consignees (members) in the approved community as specified in the Treaty.

5. Other restrictions applying to exports or transfers against this licence

For Protectively marked goods and software

- a) You may not export or transfer goods or software which carry a UK protective marking of RESTRICTED or above unless you also have written approval to the export from the Ministry of Defence. MOD application forms and further information can be obtained from <http://www.mod.uk/DefenceInternet/AboutDefence/WhatWeDo/SecurityandIntelligence/PSyA>
- (i) For tangible goods or technologies, you have:
- obtained approval from the Ministry of Defence (MOD) under the MOD Form 680 procedure and a written letter of clearance has been issued <http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/EquipmentandLogisticsPublications/Form680>
- or
- the proposed export is for sub-contracting, teaming or collaborating on protectively marked work where the approval has been provided by:
 - the Ministry of Defence under the F1686 procedure and a written letter of clearance has been issued
- or
- the Ministry of Defence Contracting Authority letter delegating authority up to a RESTRICTED level to an identified company Security Controller,
- or
- where collaboration is with U.S. Government as agreed in the Project Security Instructions (PSI) and the consignee has been cleared to the appropriate level through the MOD DE&S Principal Security Adviser - www.mod.uk/despsya

- ii) For intangible goods or technologies, you have:
 - the approvals as given above,
and
 - the method of transmission is protected by “approved encryption” appropriate to the protective marking of data,
and
 - the transferor holds clearance from a government accreditation authority which can be produced to the Compliance Inspector.

b) **Weapons of mass destruction (WMD)**

- (i) You **MAY NOT** export or transfer goods or software in their entirety or in part, if you are aware they may be used for a WMD purpose. You may become aware in the following ways—
 - ♦ You have been informed by a competent authority;
 - ♦ You are already aware of this intended use;
 - ♦ You have grounds for suspecting this intended use, unless you have made all reasonable enquiries as to the proposed use and satisfied yourself that the goods or software will not be used for a WMD purpose;
- (ii) If you have any concerns over the end use, you should contact the ECO’s End User Advice Service.

6. **Actions you must undertake to use this licence: before exporting or transferring goods, technology or software**

- a) You must satisfy yourself that you and your proposed exports or transfers can meet all the requirements set out in the licence.
- b) You **MUST** register for this licence, prior to its use, via the Export Control Organisation's (“ECO”) electronic Licensing system, “SPIRE” (www.spire.bis.gov.uk), specifying where the records of exports and transfers will be maintained and may be inspected.
- c) You **MUST** first obtain **any** necessary written approval from MOD (F680 or F1686) prior to exporting any goods or technology pursuant to this licence where;
 - (i) Any authorisation must be in date (at the time the export takes place) and the ‘goods’, ‘technologies’ or ‘software’ are identical to those listed within the written approval;
- d) Be an ‘Approved Community’ member as registered with MOD DE&S Infrastructure Security (DE&S Infra Sy).

7. Actions you must undertake to use this licence: when exporting or transferring goods, technology or software

- a) **For all tangible transfers** you must ensure that the commercial documentation accompanying the goods or software includes a note stating either:
- i) "the goods are being exported under the OGEL (Military Goods: Exports under the US-UK Defence Trade Co-operation Treaty)";
 - or
 - ii) the SPIRE reference (in the form "SPIRE reference GBOGE 20XX/XXXXX") for this licence.

This documentation should be presented to officials of HM Revenue and Customs when asked together with the information and documents listed in Section 8 a). (vi) or (vii) listed below.

8. Records that you must keep

- a). The following records, in respect of exports or transfers, both tangible and intangible, against this licence, must be kept for a **period of 4 years** and must be made available for inspection by any person authorised by the Secretary of State. The detailed requirements are set out in article 29 of the Export Control Order 2008. In summary you must keep a record of:
- i. date and destination of each export or technology transfer
 - ii. name and address of the consignee to whom the goods or technology are to be exported or transferred
 - iii. a description of the components exported or transferred
 - iv. categories in the Military List (<http://www.bis.gov.uk/assets/biscore/eco/docs/control-lists/uk-military-list.pdf>) which refer to goods, software or technology exported or transferred against this licence;
 - v. documentation referred to in Section 7 above that includes either of the notes described at Section 7(1)(a) or (b);
 - vi. MOD F680 or F1686 clearance letters or proof of PSI clearance referred to under paragraph 5.
 - vii. letter of confirmation of 'Approved Community Membership' from DE&S Infra Sy.

9. Other legal requirements

- a) You are required to complete in full the pre-visit questionnaire which you will receive before an audit visit by the ECO to your company. You must return it to ECO by the date given in the accompanying letter.

- b) In addition to complying with the requirements of this licence, you must also comply fully with any other applicable legislation which is in force. Other legislation may impose restrictions or prohibitions on the export of particular goods or software.

10. If you fail to comply

- a) Your authorisation to use this licence may be suspended or withdrawn if you do not comply with all its requirements. In addition, you or your transferor of goods may also be liable to prosecution.
- b) If, following an audit visit, the ECO sends you a "failure to comply" warning letter, you must take the steps required by that letter (within the timescale stated) in order to restore compliance with this licence. If you do not your authorisation to use this licence may be suspended or withdrawn until you can satisfy the ECO that you are complying.
- c) You **MAY NOT** export or transfer goods or software under this licence at any time when your authorisation to use this Licence is suspended or revoked following a notice served on you under article 32(1) of the Export Control Order.
- d) You **MAY NOT** export goods or software under this licence if the licence for the export of the original goods or software has been withdrawn.

11. Glossary

The following is a glossary of the terms and acronyms used in this document

1. For the purpose of this Licence

Expressions which are used in this Licence and in the Export Control Act 2002 (2002 C.28) or in the Export Control Order 2008 have the same meaning here as they do in the Act and Order or the Treaty. The legislation referred to in this licence is updated from time to time and you will need to check for the up to date legislation when using this licence. UK Export control legislation can be found on www.legislation.gov.uk.

The unamended Export Control Order can be found at <http://www.legislation.gov.uk/ukxi/2008/3231/contents/made>

And:

- Schedule 2 (Military Goods, Software and Technology):
<http://www.legislation.gov.uk/ukxi/2008/3231/schedule/2/made>
- Schedule 3 (UK Controlled Dual Use Goods Software and Technology):
<http://www.legislation.gov.uk/ukxi/2008/3231/schedule/3/made>

2. Purpose

- a) US-UK Defence Trade Co-operation Treaty was signed by the US and UK respective Governments in 2008. The aim of the Treaty is to speed up the supply of US made equipment to the UK Government as well as UK equipment to US Government:
<http://www.pmdtcc.state.gov/treaties/index.html>
- b) “Approved Community” means entities or facilities accredited and approved by the UK and or U.S. Government to receive and handle goods and technology in accordance with the Treaty.
- c) In this licence “you” refers to someone who has registered as a user with SPIRE, the electronic Licensing system of the Export Control Organisation part of the Department of Business, Innovation and Skills;
- d) Export Control Organisation (ECO) of the Department for Business, Innovation and Skills

3. Goods, technology and software

- a) “cluster munitions” means conventional munitions designed to disperse or release “explosive submunitions”
- b) Rockets, missiles capable of a range of at least 300km
- c) Anti-personnel landmines components usable as follows:
 - i) individual rocket stages;
 - ii) re-entry vehicles and components therefor as follows:

- ♦ Heat shields and components therefor;
 - ♦ heat sinks and components therefor;
 - ♦ electronic equipment for re-entry vehicles
- iii) Rocket engines
- iv) Thrust vector control systems
- v) Weapon or warhead safing, arming, fuzing and firing
- d) “MANPADS” (Man-Portable Air Defence Systems) are 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.
- e) “Guidance sets” capable of achieving a system accuracy of 3.33% or less of range, usable in rockets or missiles capable of a range of at least 300km.
- f) “Armoured plate”, having any of the following characteristics:
 - vi) Manufactured to comply with a military standard or specification; or
 - vii) Suitable for military use

4. Other restrictions applying

- a) Approved encryption is encryption that has been evaluated and accredited by CESG. CESG are the National Technical Authority for information assurance within the UK
- b) Accreditation authority is Chief Information Officer Information Security Policy, Ministry of Defence, Level 1, Zone 1, MOD Main Building, Whitehall, London SW1A 2HB. email: DBR_DefSy-InfoSy6@mod.uk
- c) “Tangible goods” are a physical item capable of being touched.
- d) “Intangible goods” - are incapable of being touched, immaterial e.g. emails (not printed), telephone calls, software (not loaded onto a CD).
- e) “Sub-contracting” means a contract entered into by a prime contractor with another contractor (i.e., the sub-contractor) for a provision of goods or services.
- f) “Teaming” means the involvement of two or more companies combining resources to act together.
- g) “Collaborating” means work between two or more entities on a joint project.
- h) “MOD Form 680” is the means by which the Government assesses proposals by companies to release protectively marked (classified) information or goods to foreign entities.
- i) “MOD Form 1686” is the means by which exporters can obtain clearance to sub-contract, collaborate or team on projects with overseas companies.
- j) “Project Security Instructions (PSI)” are a compilation of security regulations/procedures, based upon relevant Security Policies which are applied to a specific project or programme in order to standardise security procedures. The PSI

may constitute an Annex to the prime contract, and may be revised throughout the programme lifecycle.

- k) “WMD purposes” means used 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 as defined in article 2(1) of the 2008 Order.
- l) “Competent Authority” means the Secretary of State or any authority empowered by another Member State to grant export authorisations for dual use items under the Regulation
- m) “End User Advice Service” - provided by the Government through the ECO for companies who have concerns about overseas entities. The service is accessed through SPIRE.

5. Before exporting or transferring

“SPIRE” is the UK licensing authority’s online licence application and registration system. You will need to register yourself and your business on SPIRE before you can apply for a licence to export controlled goods. <https://www.spire.bis.gov.uk>