

EXPORT LICENCE

Open General Export Licence (Exports or transfers in Support of UK Government Defence Contracts) dated 22nd March 2010 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;
 - (1) goods specified in Part A of Schedule 1 hereto, other than any goods specified in Part B thereof, may be exported from the United Kingdom to a destination in any country specified in Schedule 2 to this Licence;
or
 - (2) any person may provide technical assistance for "any relevant use" to any person or place in a country specified in Schedule 3 to this licence;
or
 - (3) any UK person may provide technical assistance for "any relevant use" from a place outside the European Community to any person or place in a country specified in Schedule 3 to this licence; or
 - (4) any UK person may transfer, by any means, any software or technology to any person or place in the United Kingdom, where he is aware that such software or technology is intended for "any relevant use", and he has reason to believe such software or technology may be used in a country specified in Schedule 3 to this licence; or
 - (5) any UK person may transfer, by any means, software or technology from any place outside the European Community to a person or place

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

in a country specified in Schedule 3 to this licence where that United Kingdom person is aware that such software or technology is intended, in its entirety or in part, for “any relevant use”;

providing the export, provision or transfer is in relation to an eligible United Kingdom Government Defence Contract

Exclusions

2. This Licence does not authorise the export of goods, provision of technical assistance or transfer, by any means, of software or technology:

- (1) to a destination within a Customs Free Zone;
- (2) if the exporter, provider or transferor 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. for non-government consignees, the proposed export of goods, provision of technical assistance or transfer, by any means, of software or technology has been approved by the Ministry of Defence under F1686, or under a Project Security Instruction (PSI) issued by appropriate project office in the case of collaborative projects, and a written letter of clearance has been issued under the appropriate procedure, and
 - (i) the clearance approval is not time expired at the time the export takes place; and
 - (ii) the goods, technical assistance or software or technology are identical to those for which the clearance was given; and
 - b. the exporter, provider or transferor has a current written Security Transportation Plan and has applied for and obtained a current written letter of clearance issued by MOD DPA Security Advisers Office which relates to all goods associated with the

particular export of the protectively marked goods which are CONFIDENTIAL or above.

- c. Technology in tangible form protectively marked CONFIDENTIAL or above is exported against procedures laid down in the UK Government Manual of Protective Security appropriate to the grading of the material.

- (3) In the case of intangible technology transfers it is prohibited to export technology with a protective marking of Restricted or above **unless:**
 - (a) the transmission medium is protected by approved encryption appropriate to the protective marking of data, and
 - (b) the exporter holds a clearance from a government accreditation authority which can be produced to the Compliance Officer.
- (4) 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, provides technical assistance or transfers, by any means, software or technology 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, provider or transferor **must** obtain prior to making **any** export, providing any technical assistance or transferring, by any means, software or technology pursuant to this licence written approval from Ministry of Defence (DESP 2) that the export or transfer or provision will be made in relation to an eligible United Kingdom

Government Defence Contract and may be exported to the country of destination covered by this licence;

- (3) on making any export of goods or non-electronic transfer of software or technology pursuant to this Licence, the exporter shall produce to an officer of UK 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, technical assistance or software or technology are being exported, provided or transferred;
 - (c) MOD F1686 clearance letter referred to in 2(2)(a) above (in the case of CONFIDENTIAL goods or above);
 - (d) MOD DPA Security Advisors Office clearance letter referred to in 2(2)(b) above (in the case of CONFIDENTIAL goods or above);
 - (e) Original written MOD approval 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 or Transfers in Support of UK Government Defence Contracts)"; 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; 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) “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”;

^(b) 2002 c.28

- (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, 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;
- (7) "eligible UK Government Defence Contract" means a contract which is supported by prior written approval from the Ministry of Defence confirming eligibility under this licence. This may include contracts that have been let by Agencies such as OCCAR, NAMSA or NETMA where the UK Government is a recipient of the final finished goods, technical assistance or software or technology.;
- (8) “entry” includes part of an entry;
- (9) “technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, use, maintenance or other technical service;
- (10) “any relevant use” means 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;

- (11) 'by any means' in relation to transfer of software or technology means a transfer by any electronic or non-electronic means.
- (12) 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 26th March 2010.
7. The Open General Export Licence (Exports or transfers in Support of UK Government Defence Contracts) dated 18th March 2009 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

PART A - (goods authorised for export)

Any goods specified in Part 1 of Schedule 2 to the Order:

PART B - (goods not authorised for export)

1. Goods falling within entry ML3 as follows:
 - (1) “Cluster munitions”, “explosive submunitions”, and specially designed components therefor;
2. Goods falling within entry ML4 as follows:
 - (1) Anti-personnel landmines and specially designed components therefore;
 - (2) “Cluster munitions” and specially designed components therefor;
 - (3) “explosive bomblets” and specially designed components therefor;
 - (4) “explosive submunitions” and specially designed components therefor.
3. Goods falling within ML11 insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets;
4. Goods falling within ML16 insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets;
5. Goods falling within ML17.n insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive;
6. Goods falling within entry PL5001 c., d., g., h., and i.;
7. Technology equipment and software specified in entries ML18, ML21 or ML22, related to equipment specified in 1 to 6 of Part B of this Schedule.

SCHEDULE 2

DESTINATIONS CONCERNED

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

Exports of goods specified in Part A of Schedule 1 to this licence, other than those specified in Part B of Schedule 1 are authorised to the following destinations;

Algeria, Anguilla, Antigua & Barbuda, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Belize, Bermuda, Bolivia, Botswana, Brazil, British Virgin Islands, Brunei, Bulgaria, Cameroon, Canada, Cayman Islands, Channel Islands, Chile, Colombia, Costa Rica, Curacao, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Estonia, Falkland Islands, Faroe Islands, Finland, France, Georgia, Germany, Gibraltar, Greece, Grenada, Guatemala, Guyana, Honduras, Hungary, Iceland, Indonesia, Irish Republic, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, South Korea, Kuwait, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Madagascar, Malawi, Malaysia, Malta, Mauritania, Mauritius, Mexico, Monaco, Morocco, Mozambique, Netherlands, New Caledonia, New Zealand, Nicaragua, Norway, Oman, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Puerto Rico, Qatar, Romania, St Christopher & St Nevis, St Helena, St Lucia, St Vincent, San Marino, Saudi Arabia, Seychelles, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Trinidad & Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United States of America, Uruguay, US Virgin Islands, Venezuela, Zambia.

SCHEDULE 3

DESTINATIONS CONCERNED

This export authorisation is valid for provision of technical assistance or transfer of software or technology for “any relevant use” to the following destinations:

Algeria, Anguilla, Antigua & Barbuda, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Bermuda, Bolivia, Botswana, Brazil, British Virgin Islands, Brunei, Cameroon, Canada, Cayman Islands, Channel Islands, Chile, Colombia, Costa Rica, Curacao, Ecuador, Egypt, El Salvador, Falkland Islands, Faroe Islands, Georgia, Gibraltar, Grenada, Guatemala, Guyana, Honduras, Iceland, Indonesia, Israel, Jamaica, Japan, Jordan, Kazakhstan, Kenya, South Korea, Kuwait, Liechtenstein, Macedonia, Madagascar, Malawi, Malaysia, Mauritania, Mauritius, Mexico, Monaco, Morocco, Mozambique, New Caledonia, New Zealand, Nicaragua, Norway, Oman, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Puerto Rico, Qatar, St Christopher & St Nevis, St Helena, St Lucia, St Vincent, San Marino, Saudi Arabia, Seychelles, Singapore, South Africa, Sri Lanka, Switzerland, Thailand, Trinidad & Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United States of America, Uruguay, US Virgin Islands, Venezuela, Zambia.

EXPLANATORY NOTE

(This Note is not part of the Licence)

This Licence has been amended to remove cluster munitions and related equipment software and technology from the scope of the licence.

2. This Open General Export Licence permits, without further authority but subject to certain conditions, exportation of military goods specified in Schedule 1 Part A, excluding goods in Part B of this licence to any destination in Schedule 2; provision of technical assistance for any relevant use to destinations specified in Schedule 3; and the transfer of software and technology by any means to a person or place within the UK if he has reason to believe it is intended for any relevant use to a destination specified in Schedule 3; the transfer of software or technology by any means by a UK person for a relevant use from any country outside the EC to any country specified in Schedule 3, providing the export or transfer is for the purpose of an eligible United Kingdom Government Defence Contract.

3. The goods may only be exported, provided or transferred under this licence if they satisfy certain conditions. These include that the goods are the subject of prior written approval by Ministry of Defence (MOD) (EPA) confirming they are subject to an eligible UK Government Defence Contract and if classified as CONFIDENTIAL or above must have obtained in writing approval from the Ministry of Defence (MOD)(DE&S).

Confirmation of eligible status can be obtained from:

Export Policy and Assurance
Ministry of Defence
2nd Floor, Zone D
Main Building
Whitehall
London SW1A 2HB

Tel: 020 7218 9080

Fax: 020 7807 0428

e-mail: CapEPA-CW2C2@defence.gsi.gov.uk

When applying, exporters should allow 15 working days for your request to be processed as EPA Staff cannot guarantee that requests can be processed at short notice. You should also provide full details of proposed export together with details of any extant licences that they have in place for the goods in question, or licences for such that have recently expired.

Security Transportation Plan approvals Overseas Government site clearances and F1686 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

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

Defence Security (Scientific and Technical/Industry)
Zone I, 1st Floor
MOD Main Building
Whitehall
London, SW1A 2HB
Tel: 020 7218 0695
Fax: 020 7218 9078

5. 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.

This notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at www.spire.bis.gov.uk.

6. 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)).

7. 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.

8. 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.

9. the exporter shall produce to an officer of UK Border Agency, if so requested, documentary evidence in the form of the original of the current Ministry of Defence written approval.

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.