

Open General Export Licence (International Non-Proliferation Regime Decontrols: Dual-Use Items) dated 20 June 2016 (Revoked 16 November 2016) 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”)¹ and Article 26 of the Export Control Order 2008 (“the Order”)², 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 you have been informed by a competent authority of the Member State where you are established, that the items 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 Common Position adopted by the Council of the European Union or a decision of the Organization for Security and Co-operation in Europe (OSCE) or imposed by a binding resolution of the Security Council of the United Nations
 - (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)

¹ O.J. No. L134 29.5.09 p.1 as amended by Regulation (EU) 1232/2011 of the European Parliament and the Council of 16 November 2011 O.J. L236 8.12.2011 p26

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- (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 subparagraph (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
- (5) where the exporter has, at the time of export, been served with a notice which suspends or revokes their 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 (ECO)'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 four years, and the exporter or transferor shall permit the records to be inspected and copied by any person authorised by the Secretary of State. The detailed requirements are set out in article 29 of the Export Control Order 2008;

- (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 20??/?????') 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) prior to audit, the ECO will issue a pre-visit questionnaire (PVQ). This must be completed, in full, and returned by the date given.
- (5) 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.
- (6) the Secretary of State has the power to vary or withdraw export licences at any time. If you do not use this licence within any 24-month period for an export allowed by this licence, your entitlement to use it will **automatically run out** at the end of that 24-month period and your registration details will be removed from SPIRE. However, you can register for this licence again if you want to use it after your registration has ended.
- (7) you **must** update the 'Open licensing returns' within SPIRE, for **all** exports or trade carried out within each calendar year. You **must** update the returns by the last day of the following January at the latest (for example, you would need to update the January to December returns by the end of the following January) and include **all** the information required. You do **not** have to report on technology transfers.

Prohibitions not affected by this licence

5. 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

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 came into force on 23 June 2016.
8. The Open General Export Licence (International Non-Proliferation Regime Decontrols: Dual-Use Items) dated 4 March 2016 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 2015

Items specified in the following control entries in Annex I to Council Regulation (EC) No. 428/2009 as amended by Council Regulation (EU) No 2015/2042 of 12 October 2015.

Note 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 2015/2420 of 12 October 2015.

Category 1

1A001.b.

1A001.c.

1C006.a.1.

1C006.a.2.

1C009.a.

1E001., **as follows**

"Technology" according to the General Technology Note for the "development" or "production" of materials authorised above in 1C006.a.1., 1C006.a.2. or 1C009.a.

Category 2

2B001.a., **as follows**

Bar machines (Swissturn), limited to machining only bar feed thru, if maximum bar diameter is equal to or less than 42 mm and there is no capability of mounting chucks. Machines may have drilling and/or milling capabilities for machining parts with diameters less than 42 mm.

2D001., **as follows**

- a. "Software" specially designed or modified for the "development" or "production" of equipment authorised above in 2B001.a.
- b. "Software" specially designed or modified for the "use" of equipment authorised above in 2B001.a.

2E001., **as follows**

"Technology" according to the General Technology Note for the "development" of equipment or "software" authorised above in 2B001.a. or 2D001.

2E002., **as follows**

"Technology" according to the General Technology Note for the "production" of equipment authorised above in 2B001.a.

Category 3

3A001.a.5.a., **except**

Analog-to-Digital Converter (ADCs) having any of the following:

1. A resolution of 8 bit or more, but less than 10 bit, with an output rate greater than 1 billion words per second;
2. A resolution of 10 bit or more, but less than 12 bit, with an output rate greater than 500 million words per second;
3. A resolution of 12 bit or more, but less than 14 bit, with an output rate greater than 200 million words per second;
4. A resolution of 14 bit or more, less than 16 bit, with an output rate greater than 250 million words per second; or
5. A resolution of 16 bit or more with an output rate greater than 65 million words per second.

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

'Secondary cells' having an 'energy density' exceeding 350 Wh/kg at 20°C.

3B001.c.

3D001., **as follows**

"Software" specially designed for the "development" or "production" of equipment authorised above in 3A001.e.1.b. or 3B001.c.

3D002., as follows

"Software" specially designed for the "use" of equipment authorised above in 3B001.c.

3E001., **as follows**

"Technology" according to the General Technology Note for the "development" or "production" of equipment authorised above in 3A001.a.5.a. or 3B001.c.

Category 4

4A003.e., **except**

"Electronic assemblies", modules or equipment, specified to perform all of the following:

1. Analogue-to-digital conversions meeting any of the following:
 - a. A resolution of 8 bit or more, but less than 10 bit, with an input sample rate greater than 1.3 billion samples per second;
 - b. A resolution of 10 bit or more, but less than 12 bit, with an input sample rate greater than 1.0 billion samples per second;
 - c. A resolution of 12 bit or more, but less than 14 bit, with an input sample rate greater than 1.0 billion samples per second;
 - d. A resolution of 14 bit or more but less than 16 bit, with an input sample rate greater than 400 million samples per second; or
 - e. A resolution of 16 bit or more with an input sample rate greater than 180 million samples per second; and
2. Any of the following:
 - a. Output of digitised data;
 - b. Storage of digitised data; or
 - c. Processing of digitised data.

Technical Note

For multiple-channel "electronic assemblies" or modules, control status is determined by the highest single-channel specified performance.

4D001.b.1., **except**

"Digital computers" having an 'Adjusted Peak Performance' ('APP') exceeding 6.0 Weighted TeraFLOPS (WT).

4E001.b.1., **except**

"Digital computers" having an 'Adjusted Peak Performance' ('APP') exceeding **6.0** Weighted TeraFLOPS (WT).

Category 5 Part 1

5A001.d., **except**

"Electronically steerable phased array antennae" as follows:

1. Rated for operation above 31.8 GHz, but not exceeding 57 GHz, and having an Effective Radiated Power (ERP) equal to or greater than +20 dBm (22.15 dBm Effective Isotropic Radiated Power (EIRP));
2. Rated for operation above 57 GHz, but not exceeding 66 GHz, and having an ERP equal to or greater than +24 dBm (26.15 dBm EIRP);
3. Rated for operation above 66 GHz, but not exceeding 90 GHz, and having an ERP equal to or greater than +20 dBm (22.15 dBm EIRP);
4. Rated for operation above 90 GHz.

5B001.b.2.b.

5B001.b.4., **except**

Radio equipment employing Quadrature-Amplitude-Modulation (QAM) techniques above level 1,024.

5D001.a., **as follows**

"Software" specially designed or modified for the "development", "production" or "use" of equipment authorised above in by 5A001.d.

5D001.d.4., **as follows**

Radio equipment employing Quadrature-Amplitude-Modulation (QAM) techniques above level 1,024.

5E001.a., **as follows**

"Technology" according to the General Technology Note for the "development", "production" or "use" (excluding operation) of equipment authorised above by 5A001.d., or "software" authorised above by 5D001.a.

5E001.c.2.b.

5E001.c.4.a., **except**

Radio equipment having Quadrature-Amplitude-Modulation (QAM) techniques above level 1,024.

Category 5 Part 2

None

Category 6

6A002.a.3., **as follows**

Thermopile arrays having less than 5,130 elements.

6A004.a.2. and 6A004.a.3., **as follows**

Mirrors specially designed to direct solar radiation for terrestrial heliostat installations.

6A005.b.6.a.2., **except**

Lasers having an "average output power" exceeding 30W.

6A005.b.6.b.2., **except**

Lasers having an "average output power" exceeding 50W.

6D001., **as follows**

"Software" specially designed for the "development" or "production" of equipment authorised above in 6A004.a.2., 6A004.a.3., 6A005.b.6.a.2. or 6A005.b.6.b.2.

6E001., **as follows**

"Technology" according to the General Technology Note for the "development" of equipment or "software" authorised above in 6A004.a.2., 6A004.a.3., 6A005.b.6.a.2., 6A005.b.6.b.2. or 6D001.;

6E002., **as follows**

"Technology" according to the General Technology Note for the "production" of equipment authorised above in 6A004.a.2., 6A004.a.3., 6A005.b.6.a.2. or 6A005.b.6.b.2.

6E101., **as follows**

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

***Note** 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

None

Category 8

8A002.d., **except**

Underwater vision systems specially designed or modified for remote operation with an underwater vehicle, employing techniques to minimise the effects of back scatter and including range-gated illuminators or "laser" systems.

8A002.e.

8D001., as follows

"Software" specially designed or modified for the "development", "production" or "use" of equipment authorised above in 8A002.d. or 8A002.e.

8E001., as follows

"Technology" according to the General Technology Note for the "development" or "production" of equipment authorised above in 8A002.d. or 8A002.e.

Category 9

None

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, Russia, Syria

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 of these transfers (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 has been republished to remove rating code 2B006.b.1.c from the list of items referred to in Schedule 1 (Items Concerned).
2. 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.
3. This licence is intended to allow the export of items which were the subject of a review in any of the international non-proliferation regimes (**Wassenaar Arrangement** (WA), Missile Technology Control Regime (MTCR), The Australia Group (AG) or The Nuclear Suppliers Group (NSG)) in 2015.
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.
5. 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)).

6. 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.
7. 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.
8. 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.

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