



Department for
International Trade

Open General Export Licence

Exports under the US-UK Defence Trade Cooperation Treaty

April 2018

Open General Export Licence (Exports under the US-UK Defence Trade Cooperation Treaty)

The Secretary of State grants this Open General Export Licence in exercise of the powers conferred by article 26 of the Export Control Order 2008¹.

This licence shall come into force on 11 April 2018; it replaces the licence dated 5 March 2018.

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:

¹ SI 2008/3231 as amended

Classification Description	
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 ML3a
ML4	<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; • 'Cluster munitions', explosive bomblets and explosive sub-munitions • Rockets, missiles • Torpedoes • Complete "MANPADS" (with or without missiles, including related launching equipment and rockets);
ML5b, ML5c	<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
ML7	<p>Chemical or biological toxic agents, toxic chemicals and mixtures, related equipment, components and materials</p>
ML8a	<p>Explosive co-crystals</p>
ML8a23, ML8a33 – 41, ML8c5a2, ML8f11, ML8f13	<p>Energetic materials, and related substances</p>
ML8h	<p>Reactive material</p>
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.
ML10c, ML10d	<p>Unmanned aerial vehicles (UAVs) and UAV aero-engines, their equipment and related goods listed, where specially designed or modified for military use and have specially designed components</p>

ML11	The following electronic 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
ML18	Production equipment and components for 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 mixtures containing such materials <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 security classified goods and software:

a) You can only export or transfer goods, software or technology which carry a classification of OFFICIAL-SENSITIVE or above (including UK material classified RESTRICTED or above, graded prior to 2 April 2014, and internationally security classified material) if you have the correct written approval. The different types of approval are explained below.

i. If the export is in support of any sub-contracting or collaboration activity which directly contributes towards a United Kingdom Government defence contract, a Ministry of Defence approval has to be provided by either:

A. the 'F1686' (Application to sub-contract or collaborate with an overseas contractor on work involving OFFICIAL-SENSITIVE and above classified information on classified work) procedure, in accordance with the requirements identified in the Security Policy Framework issued by the Cabinet Office (and included in the UK Government OFFICIAL-SENSITIVE Security Conditions); or

B. the UK MOD Contracting Authority for the work that the export relates to under a letter delegating authority up to an OFFICIAL-SENSITIVE level to an identified company Security Controller to approve the export; or

C. where collaboration is with the 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 Advisor – desinfra; or

ii. If the export is not in support of any sub-contracting or collaboration activity which directly contributes towards a United Kingdom Government defence contract, approval has to be provided by the MOD Form 680 procedure.

b) You must not transfer software or technology electronically that has been classified OFFICIAL-SENSITIVE or above (including UK material classified RESTRICTED or above, graded prior to 2 April 2014, and internationally security classified material) unless:

- i. you have the approvals as given in section 5 a.
- ii. the method of transmission is protected by “encryption” appropriate to the classification of the data; and
- iii. you hold any necessary clearance from a government accreditation authority and you can make the clearance document available for inspection by any person authorised by the Secretary of State

c) For goods, software and technology classified CONFIDENTIAL, for material classified by the UK prior to 2 April 2014 or internationally security classified

CONFIDENTIAL-equivalent material, or SECRET or above, you will need a current written approval for a Security Transportation Plan. A Security Transportation Plan approval can be obtained from the MOD Defence Equipment and Support (DE&S) Principal Security Advisor. More information is available from the Principal Security Advisor (please see below for their contact details).

Note: To apply for Security Transportation Plan approval, or F1686 approval for material classified CONFIDENTIAL by the UK prior to 2 April 2014 or internationally security classified CONFIDENTIAL-equivalent material, or SECRET or above, please contact:

Defence Equipment & Support
(DE&S) Principal Security Advisor
Security Advice Centre
Poplar - 1
MOD Abbey Wood
Bristol,
BS34 8JH
Tel: 030 67934378
Fax: 030 67934925
e-mail: desinfra-securityadvicecentre@mod.uk

To apply for F1686 approval for material classified OFFICIAL-SENSITIVE (including UK material classified RESTRICTED, graded prior to 2 April 2014, and internationally security classified material please contact your Ministry of Defence Contracting Authority using the details on the applicable Security Aspects Letter for the work.

d) 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.dit.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 (as required by section 5a) prior to exporting any goods or technology pursuant to this licence;

Note: Any approval 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) You MUST 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 20??/?????") for this licence.

This documentation should be presented to officials of UK Border Force when asked, together with the information and documents listed in Section 8a) (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 (<https://www.gov.uk/government/publications/uk-strategic-export-control-lists-the-consolidated-list-of-strategic-military-and-dual-use-items-that-require-export-authorisation>) 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 (i) or (ii)
- vi. MOD approval letters or proof of PSI clearance referred to under section 5a
- 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 the 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.
- c) 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.
- d) 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.

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.

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/uksi/2008/3231/contents/made>

And:

- Schedule 2 (Military Goods, Software and Technology): <http://www.legislation.gov.uk/uksi/2008/3231/schedule/2/made>
- Schedule 3 (UK Controlled Dual Use Goods Software and Technology): <http://www.legislation.gov.uk/uksi/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.pmdtc.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, which is part of the Department for International Trade;

3. Goods, technology and software

a) “cluster munitions” means conventional munitions designed to disperse or release “explosive sub-munitions”

b) Rockets, missiles capable of a range of at least 300km

c) Anti-personnel landmines components usable as follows:

- i) individual rocket stages;
- ii) e-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) Encryption is the means or method for the transformation of data in order to hide its information content. 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 4, Zone K, MOD Main Building, Horse Guards Avenue, 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) “Collaborating” means work between two or more entities on a joint project.

g) “MOD Form 680” is the means by which the Government assesses proposals by companies to release classified information or equipment to foreign entities. An MOD Form 680 approval is not an approval to use an Open General Export Licence. It is a separate security requirement.

h) ‘F1686’ is the means by which exporters can obtain clearance or subcontract or collaborate on MOD projects with overseas companies. F1686 approval is not an approval to use an Open General Export Licence. It is a separate security requirement.

i) “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.

j) “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.

k) “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.

l) “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. “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 or transfer controlled goods

<https://www.spire.trade.gov.uk>

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