



Department for
International Trade

Open General Export Licence

Export of Dual-Use items to EU Member States

April 2019

**THIS LICENCE DOES NOT COME INTO FORCE UNTIL
THE UK LEAVES THE EU**

Open General Export Licence (Export of Dual-use items to EU Member States)

Dated 2 April 2019, 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, as retained by the European Union (Withdrawal) Act 2018 ("the Retained Regulation") and Article 26 of the Export Control Order 2008 ("the Order"), hereby grants the following Open General Export Licence:

Licence

1. This is a national general export authorisation under the terms of Article 9(2) of the Retained Regulation.
2. Subject to the following provisions of this licence, any items specified in Schedule 1 hereto, may be exported from the United Kingdom to any destination specified in Schedule 2.

Exclusions

3. This licence does not authorise the export of items:
 - (1) if the exporter has been informed by the Secretary of State that they 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 use as parts or components of military items listed in the schedule 2 of the Export Control Order 2008 that have been exported from the United Kingdom without authorisation or in violation of an authorisation set out in the UK legislation;
 - (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);
 - (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 sub-paragraph (1)(a), unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that the items will not be used for any of the uses referred to in sub-paragraph (1)(a);

- (4) to a destination within a Customs Free Zone; or
- (5) if the exporter knows that the final destination of the items concerned is outside the destinations listed in Schedule 2 and no processing or working is to be performed in a destination listed in Schedule 2, unless the direct export to the final destination would be permitted under a retained general authorisation, an open general export licence, or an individual export licence granted by the Secretary of State to the exporter.
- (6) 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

4. The authorisation in paragraph 1 is subject to the following conditions:
 - (1) 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 OGEL (Export of Dual-use items to EU Member States)"; or
 - (b) the SPIRE reference (in the form 'GBOGE 20XX/XXXXX') of the exporter's registration in respect of this licence,which shall be presented to an officer of HM Border Force if so requested;
 - (2) The requirements of Article 28 of the Order apply to this licence.
 - (3) You must keep records of each export or transfer made under this licence as set out in article 29 of the Order.
 - (4) You must complete, in full, the pre-visit questionnaire (PVQ) which you receive before an audit visit by the Department for International Trade (DIT) and return it by the date given in the letter that came with it.
 - (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) For exports of items covered by Category 0 made under the authority of this licence, notice must be given to the Department for Business, Energy and Industrial Strategy **prior to the export taking place (as early as known), and when each shipment is made**. These notifications should detail the items to be exported, the proposed date of export, consignee and end-user details, and the weight of any material being exported. Notification should be sent by email to nsg.transfers@beis.gov.uk. Additional information may be requested if required.

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 Retained Regulation or Order, and this licence does not confer any licence or permission under, or for the purposes of, any enactment other than the Retained Regulation and the Order.

Interpretation

6. For the purpose of this licence:
 - (1) "Customs Free Zone" means 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;
 - (2) "entry" includes part of an entry; and
 - (3) unless the context otherwise requires, any other expression used in this licence has the same meaning as in the Retained Regulation or the

Order as appropriate.

Entry into Force

7. This licence comes into force when the UK leaves the EU.

**An Official of the Department for International Trade,
authorised to act on behalf of the Secretary of State**

SCHEDULE 1
ITEMS CONCERNED

- All entries specified by Annex I of the Retained Regulation, other than those specified by Annex IIg of the Retained Regulation.

SCHEDULE 2
DESTINATIONS CONCERNED

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

- European Union Member States as follows: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden
- The Channel Islands

EXPLANATORY NOTE

(This note is not part of the licence)

1. This Open General Export Licence is open for registration but does not come into force until the UK leaves the EU.
2. This Open General Export Licence permits, without further authority but subject to certain conditions, the export from the United Kingdom, to any destination listed in Schedule 2, the items specified in Schedule 1 to the licence.
3. 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 he makes use of the licence, provide details to the Secretary of State of his 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 www.spire.trade.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.
4. The Secretary of State has the power to suspend, vary or revoke licences at any time and in such circumstances and on such terms as he/she 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 either in addition or as an alternative to criminal prosecution. 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(2)).

5. Where DIT identifies failures in compliance with licence conditions or the legislation during a compliance visit DIT 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.
6. 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.

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Department for International Trade
Export Control Joint Unit
2nd floor
3 Whitehall Place
London
SW1A 2AW
United Kingdom

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