

EXPORT LICENCE

Open General Export Licence (Military Goods: For Demonstration) dated 2 July 2012 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, goods specified in Schedule 1 hereto, may be exported from the United Kingdom to any destination in a country specified in the Schedule 2 hereto providing the goods are for demonstration in the country to which they are exported .

Exclusions

2. This licence does not authorise the export of goods:
- (1) if the exporter has been informed by a competent authority that the goods are or may be intended, in their entirety or in part, to be 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;
 - (2) if the exporter knows that the goods are intended, in their entirety or in part, to be used in connection with one of the activities referred to in sub-paragraph (1); or
 - (3) if the exporter has grounds for suspecting that the goods might be used, in their entirety or in part, in connection with an activity referred to in sub-paragraph (1), unless he has made all

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

reasonable enquiries as to their proposed use and satisfied himself that they will not be so used;

- (4) to a destination within a Customs Free Zone;
- (5) if the exporter 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. They are exported in accordance with procedures laid down in the Manual of Protective Security, issued by the Cabinet Office, appropriate to the grading of the material (this includes technology in tangible form).
- (6) 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.
- (7) 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 exporter shall comply with the following Conditions and Requirements:

- (1) before an exporter first exports goods under this Licence, he shall have informed the Secretary of State of his intention to export goods under this Licence, specifying the name of the exporter and the address at which copies of records of their export may be inspected under condition 3(3) below;
- (2) the exporter **must** obtain prior to exporting **any** goods pursuant to this licence written approval from MOD (Form F680) to demonstrate the goods to the country of destination for which the export is intended;
- (3) the exporter shall maintain the following records in respect of the export of goods under this Open General Export Licence:
 - (a) the date and destination of each export ;
 - (b) the name and address of the consignee to whom the goods are to be exported;
 - (c) a description of the goods exported;
 - (d) date of return (where applicable – see 3(8) below);
 - (e) MOD F680 clearance letter referred to in 3(2) above;

and any such records shall be maintained for at least four years after the date of the relevant export and the exporter shall permit the records to be inspected and copied by any person authorised by the Secretary of State;

- (4) except in the case of an export of technology by telephone, fax or other electronic media, official and commercial export

documentation accompanying the goods shall include a note stating either:

- (a) "the goods are being exported under the OGEL (Military Goods: For Demonstration)"; or
- (b) the SPIRE reference (in the form 'SPIRE reference GBOGE 20XX/XXXXX') of the exporters registration in respect of this licence

which shall be presented to an officer of UK Border Agency if so requested;

- (5) the exporter shall notify the Secretary of State of any change in the address referred to in paragraph 3(1) above within 30 days of that change.
- (6) quantities should be reasonable and consistent with the requirement of the proposed export and in line with that agreed under MOD F680 agreement;
- (7) the goods must remain under the control of the exporter or under prior agreed criteria as defined under MOD(F680) approval; and
- (8) the goods shall be returned to the United Kingdom within 12 months of the date of exportation from the United Kingdom. In the case of software the exporter can choose to limit the validity of the software to 12 months, by:
 - (a) technically adapting the computer programme so that it expires at a pre-determined time (time bombing); or
 - (b) issuing a time-limited demonstration contract to the end-user.

Where the MOD (F680) approval has stipulated one of the above three methods, the exporter must adhere to this. In all circumstances, the exporter must retain adequate records to

demonstrate subsequently, on inspection, that the chosen method as above was put into operation.

- (9) 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 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);

^(b) 2002 c.28

- (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”;
 - (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, 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;
- (7) "entry" includes part of an entry;
- (8) “goods” include software and technology;
- (9) “government” includes any person appointed by a government to act on its behalf;
- (10) “MANPADS” – Man-Portable Air Defence Systems – 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;
- (11) "MOD F680" procedure is a means by which exporters can become informed of any objections or problems associated with the marketing or supply of particular military goods, and to be advised of the protective security grading of the "Goods";
- (12) “demonstration” shall **not** include evaluation but **will** includes on-route support e.g., refuelling , providing it is not in a country specified in Schedule 2;
- (13) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it has in the Act or the Order.

Entry into Force

6. This Licence shall come into force on 6 July 2012.
7. The Open General Export Licence (Military Goods: For Demonstration to Governments) dated 28 June 2011 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

GOODS CONCERNED

Equipment, components, materials, unfinished products, forgings and castings, software or technology specified in the following entries in Part 1 of Schedule 2 to the Order:

1. ML4, other than:
 - (1) Anti-personnel landmines and specially designed components therefor;
 - (2) Complete MANPAD systems (with or without missiles, including related launching equipment and rockets) and specially designed components therefore ¹
 - (3) Missiles for MANPAD systems (including missiles which can be used without modification in other applications) ¹
 - (4) “Cluster munitions” and specially designed components therefor;
 - (5) “explosive bomblets” and specially designed components therefor;
 - (6) “explosive submunitions” and specially designed components therefor.
2. ML5;
3. ML6;
4. ML9;
5. ML10, other than:
 - (1) any goods specially designed or modified for unmanned air vehicles;
6. ML11, other than:
 - (1) Test equipment for MANPAD systems ¹;

¹ *unless for demonstration to the government, and only in cases where the demonstration will be of a basic nature, involve no live firing and no transfer of sensitive data, and not enhance the recipients capability to operate MANPADS.*

- (2) Goods insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets.
- 7. ML13.c and d;
- 8. ML14, **other than**
 - (1) training equipment for MANPAD systems and related software ¹
- 9. ML15;
- 10. ML17, **other than:**
 - (1) ML17.f – libraries for MANPAD systems ¹
 - (2) ML17.g;
 - (3) ML17.n insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets.
- 11. PL5017 , only insofar as it covers equipment specially designed or modified for the use of military goods specified in Schedule 1 to the licence, **other than:**
 - (1) Equipment and test models for MANPAD systems ¹
- 12. ML18, (as it relates to above listed entries);
- 13. ML21, (as it relates to above listed entries);
- 14. ML22, (as it relates to above listed entries).

SCHEDULE 2

DESTINATIONS CONCERNED

This export authorisation is valid for demonstration only in the following destinations:

All destinations other than in:

Afghanistan, Argentina, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Burma (Myanmar), Burundi, Democratic Republic of the Congo, Guinea, Iran, Iraq, Ivory Coast, Liberia, Libya, North Korea, Occupied Palestinian Territories, People's Republic of China (including Macau SAR but excluding Hong Kong SAR), Rwanda, Sierra Leone, Somalia, Sri Lanka, Sudan, Syria, Taiwan, Uzbekistan, Yemen and Zimbabwe.

EXPLANATORY NOTE

(This Note is not part of the Licence)

1. This licence has been amended to add Cyprus as a permitted destination. Schedule 2 (Destinations concerned) specifically lists destinations that are not permitted under the licence (ie 'all destinations other than an in'). Therefore, Cyprus has been removed from this listing. This change to the permitted destinations is in preparation for the UK's implementation of the European Union Directive 2009/43/EC of 6 May 2009 (also known as the 'Intra-Community Transfer' or ICT Directive).
2. This Open General Export Licence permits, without further authority but subject to certain conditions, the export of goods specified in Schedule 1 to the licence, for demonstration in any country other than those listed in the Schedule 2 to the Licence.
3. The goods may only be exported under this Licence if they satisfy certain conditions. These include;
 - remain under the control of the exporter or its agent at all times or other arrangements agreed in advance via MOD;
 - goods must be returned within 12 months of their exportation or in the case of software made time limited;
 - exporter must have obtained in writing approval from the Ministry of Defence to demonstrate the goods.

Application forms for approvals referred to above can be obtained from:

(a) Reference MOD F680:

Ministry of Defence
Export Policy and Assurance
Level 2, Zone D

Main Building, MOD, Whitehall
London SW1A 2HB

(b) Security Transportation Plan approvals can be obtained from:

Principal Security Adviser
Industrial Security Section
Defence Equipment and Support
Facilities Management Group
Ministry of Defence
Poplar – 1#2005
Abbey Wood
Bristol BS34 8JH
Tel: 0117 913 3677
Fax: 0117 913 0629

4. Advice on approval for associated technology transfers in intangible form at a protective marking of RESTRICTED or above may be obtained from DEF SY, Level 1, Zone 1, Main Building, MOD, Whitehall, London SW1A 2HB.

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(9)).

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 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.