

**OPEN GENERAL EXPORT LICENCE**

**Military Goods: A400M  
Collaborative Programme**

OCTOBER 2015

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## **Open General Export Licence (Military Goods: A400M Collaborative Programme)**

**The Secretary of State grants this Open General Export Licence under article 26 of the Export Control Order 2008 (SI 2008/3231 as amended).**

This licence comes into force on 19 October 2015. This replaces the licence dated 23 April 2014.

This licence has been changed to make Ministry of Defence (MOD) security requirements clearer, including references to the MOD Form 680 and F1686.

### **Section 1. Purpose**

- (1) The purpose of this Open General Export Licence (OGEL) is to allow you to export military goods, software and technology for the production, development or 'use' of the A400M aircraft.
- (2) However, as with any OGEL, there are limits to what it covers. It is limited to a number of low-risk destinations. Some goods are excluded, and you will have to provide certain documents before exporting items, and keep records so that the Export Control Organisation (ECO) can carry out audits to confirm you have used the OGEL correctly. **If you fail to use this OGEL correctly, the ECO may suspend or take away your authorisation to use this licence.**
- (3) You should only register to use this licence if you have **fully considered** the terms and conditions that follow and are able to meet them **all**.

**Section 2. Goods, software and technology you can export or transfer under this licence**

- (1) The description of the goods, software or technology listed in the table below has the same meaning as those described in Schedule 2 (Military Goods) to the Export Control Order 2008 as amended.
- (2) You **may only export or transfer** the following goods, software or technology, listed in the first column unless we tell you otherwise in the second column. **The licence covers listed goods, software or technology which may form part of the A400M, but it does not cover** complete aircraft.

Control list classification	
ML4 b	All goods under this category
ML5	All goods under this category
ML10 a ML10 d ML10 e ML10 f ML10 g	All goods under these categories
ML11a	All goods under this category
ML14	All goods under this category
ML15	All goods under this category
ML16	All goods under this category
ML17 c ML17 f ML17 h ML17 i	All goods under these categories
ML18 a ML18 b	All goods under these categories
PL5017	All goods under this category
ML21a	Software listed in classification ML21a (software) related to any equipment (or components), <b>but not including software for:</b> <ul style="list-style-type: none"> <li>any items relating to goods whose export is not allowed in this table.</li> </ul>
ML 22a	Technology listed in classification ML22a related to any equipment (or components), <b>but not including technology for:</b> <ul style="list-style-type: none"> <li>any items relating to goods whose export is not allowed in this table.</li> </ul>

- (3) You **must not** export or transfer under this licence goods (either complete items or components of items) which fall within the scope of the Directive on the Control of the Acquisition and Possession of Weapons (Council Directive 91/477/EEC as amended).

### Section 3. Countries or destinations allowed under this licence

(1) **Partner nations:**

Belgium  
France  
Germany  
Luxembourg  
Spain  
Turkey  
United Kingdom

(2) **Permitted export customer**

Malaysia

(3) **Contractors and sub-contractors supplying into the programme**

Australia, Austria  
Belgium  
Canada, Croatia, Czech Republic  
Denmark  
Estonia  
Finland, France  
Germany, Greece  
Hungary  
Iceland, India, Indonesia, Italy  
Japan  
Latvia, Lithuania, Luxembourg  
Malta  
Malaysia  
Netherlands, New Zealand, Norway  
Poland, Portugal  
Romania  
Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland  
Turkey  
United Kingdom, USA

**Note:** The United Kingdom is included in 3(1) and 3(3) as a destination for goods, software or technology which have been initially exported from the UK to one of the destinations listed above and are then re-exported to the United Kingdom.

- (4) You **must not** export or transfer goods, software or technology to a 'customs free zone'. A 'customs free zone' is a part of the territory of a country where any goods introduced are generally regarded, as far as import duties and taxes are concerned, as being outside the customs territory of that country, and so the usual customs controls do not apply.

#### Section 4. Who you can export goods, software and technology to

- (1). You **must only** export or transfer goods, software or technology for the production or development or 'use' of the A400M:
  - a. to a **partner nation** (section 3(1)) **or** their entities (consignees) in that or other **partner nations** (section 3(1)), where the goods, software and technology are necessary for 'use' of the A400M aircraft; **or**
  - b. for **exports to a permitted export customer** (section 3(2)), **only if**:
    - i. you are exporting to the A400M 'operator' in the **permitted export customer** destination; **or**
    - ii. you are exporting to companies based in the **permitted export customer destination** for the production or 'use' of the A400M when the end-user is the A400M 'operator' in that destination; **or**
  - c. to a **contractor or sub-contractor** (section 3(3)) where the goods, software and technology are necessary for the A400M collaborative programme. (for example a letter of confirmation from MOD Arms Control and Counter-Proliferation Policy (ACP)).

#### Section 5. Other restrictions that apply

- (1) You **must not** export or transfer goods, software or technology to be incorporated into other goods, software or technology that is to be exported, re-exported or transferred to a person or company (consignee) in a country or destination **other than** one specified in section 3 of this licence.
- (2) All exports or transfers of Organisation Conjointe de Cooperation en matiere d'Armement (OCCAR) A400M security classified goods, software and technology **must keep to** both the OCCAR security regulations for the release of security classified goods, software and technology, and the A400M collaborative programme security instructions (PSI).
- (3) The goods, software or technology **must be** exported to support A400M. For exports to companies which support the main programme (contractors or sub-contractors) or **partner nations**, you must get confirmation of this from the Arms Control and Counter-Proliferation Policy (ACP) – Ministry of Defence (MOD), in the form of an A400M project confirmation letter, see section 6(3).
- (4) **Security classified goods, software and technology**
  - a. You **must only** export or transfer goods, software or technology that carries a security classification of **OCCAR 'Restricted' or above** if you have the correct written approvals. There are different approvals needed depending on the destinations and consignees receiving the goods, software or

technology, and these are detailed below.

- i. **For exports or transfers to Airbus Military Sociedad Limitada (AMSL), a partner nation or a permitted export customer, contractor or sub-contractor**, for the A400M collaborative programme, **you must make sure that**, in the case of goods that are classified as **OCCAR 'Confidential'** or above, the facility you are exporting or transferring to has an appropriate 'facility security clearance' to at least the same level as the goods, software or technology being exported or transferred. You should check this with the Defence Equipment and Support (DE&S) Principal Security Advisor. If the goods are classified as **OCCAR 'Restricted'**, you must check with DES Security Advice Centre whether a 'facility security clearance' is needed. Please see the **note** below for their contact details.
  - ii. For companies supplying without a main contract or purchase order (for example, providing goods as part of a tender), you will need to meet 5(4)a.i and you will also need **MOD Form 680 approval**. You can apply for a MOD Form 680 through SPIRE: <https://www.spire.trade.gov.uk/>
  - iii. **For permitted export customers**, you will need MOD Form 680 approval for the release of goods, software or technology which is classified as **OCCAR 'Restricted'** or above. You can apply for a MOD Form 680 through SPIRE: <https://www.spire.trade.gov.uk/>
- b. For all exports and transfers of goods, software and technology classified as **OCCAR 'Confidential' or above**, to any destination, you will need a Security Transportation Plan that must be approved by the DE&S Principal Security Advisor. Please see the **note** below for their contact details.

A table showing the **permission needed** is provided in **Annex B** of this licence.

**Note:** To apply for permission and clearances, 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](mailto:desinfra-securityadvicecentre@mod.uk)

- (5) You **must not** transfer software or technology electronically that is security classified **OCCAR 'Restricted' or above** unless:
- a. the equipment, or software you use to transfer it, is protected by approved encryption appropriate to the security classification marking of the

- b. you hold 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.

**(6) Weapons of mass destruction (WMD)**

- a. You **must not** export or transfer all or part of goods, software or technology if you are aware or suspect they may be used, in whole or in part, for a WMD purpose. You may become aware or suspect this in the following ways:
  - i. A 'competent authority' tells you.
  - ii. You are already aware of this intended use.
  - iii. You have grounds for suspecting that the goods, software or technology will be used for this purpose unless you have made all reasonable enquiries about what the goods or software will be used for, and are satisfied that they will not be used for a WMD purpose.
- b. If you have any concerns over the end use of the goods, software or technology, you should contact the ECO's End User Advice Service.

- (7)** 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.

**Section 6. Actions you must take before exporting or transferring goods, software or technology under this licence**

- (1) You must be satisfied that you and the goods, software or technology you plan to export or transfer can meet all the requirements set out in this licence.
- (2) Before using this licence, you **must** register through the ECO's electronic licensing system, 'SPIRE' (<https://www.spire.trade.gov.uk/>), stating where you will keep records of the exports or transfers and where ECO may inspect them.



- (3) You **must get a letter of confirmation** that the work is for A400M, from ACP in the MOD, in one of the following cases.
- a. If the ultimate end-user is a **partner nation** (see section 3(1)), or a **contractor** or **sub-contractor** (see section 3(3)).
  - b. If the ultimate end-user is a **permitted export customer** (section 3(2)), or a company supplying **without** a main contract or purchase order and the goods, software or technology **are not** security classified **OCCAR 'Restricted', or above**.

**Note:** You will need to provide the ACP with confirmation that you are involved with work on the A400M. For more information on the process of how to get this confirmation, please see Annex A.

You can get confirmation letters from:

ACP  
Export Licensing Casework 3  
Letter of Confirmation (A400M)  
Arms Control & Counter Proliferation Policy  
Ministry of Defence  
Level 2, Zone D, Desk 19  
MOD Main Building  
Whitehall  
London  
SW1A 2HB.

Phone: 0207 218 0122

**Email:** [ECJU-MODTeam@mod.uk](mailto:ECJU-MODTeam@mod.uk)

- (4) You **must get MOD Form 680 approval**, through SPIRE (<https://www.spire.trade.gov.uk/>), in one of the following cases.
- a. If the goods, software or technology are security classified **OCCAR 'Restricted'** or above, **and** the ultimate end-user is a **permitted export customer** (section 3(2)).
  - b. If a company is supplying goods, software or technology **without** a main contract or purchase order, and the goods, software or technology are security classified **OCCAR 'Restricted'**.
- (5) If goods, software or technology are classified as **OCCAR 'Restricted' or above**, you must follow the instructions in 5(4).
- (6) For software or technology transferred electronically, classified as **OCCAR 'Restricted' or above**, you must follow the instructions in 5(5).

- (7) You must provide documents as evidence (for example, a purchase order, excerpt of contract, an undertaking). The documents must include the contract number and the name of the goods, software or technology that can be checked against the control list classification of the goods, software or technology being exported.

Please check the table provided in **Annex A** of this licence that summarises all the **permission that is needed**.

### **Section 7. Actions you must take when exporting or transferring goods, software or technology under this licence**

- (1) For all physical exports of goods or software, you must make sure that the commercial documents that go with the goods, software or technology include a declaration stating either:
- a. 'the goods (software or technology) are being exported under the OGEL (Military Goods: A400M Collaborative Programme)'; **or**
  - b. your SPIRE licence reference (in the form 'GBOGE 20??/?????').
- (2) You should present these documents to officials of HM Revenue & Customs when asked, together with the information and documents listed in section 8(1) e or f below.
- (3) 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**.

## Section 8. Records that you must keep

- (1) You must keep the following records relating to exporting or transferring goods and software under this licence for **four years** and you must make them available for any person authorised by the Secretary of State to inspect. The detailed requirements are set out in article 29 of the Export Control Order 2008. In summary, you must keep a record of the following.
  - a. The date and destination of export.
  - b. The name and address of the person or entity (the consignee) you are exporting or transferring the goods or software to.
  - c. A description of the goods or software.
  - d. The classification of the goods from the list in Schedule 2 to the Export Control Order.
  - e. Documents referred to in section 7 above that include either of the declarations described in section 7(1) a or b.
  - f. The written approvals from the Ministry of Defence, if this is needed to meet the requirements of sections 5(3) to 5(4).
  - g. Documents described in section 6(7) (for example, a purchase order, an excerpt of the contract).
- (2) For goods, software and technology which have any of the functions or characteristics of information security described in Category 5 Part 2 of Annex 1 to Council Regulation (EC) No.428/2009 (as amended), every 12 months you must present a copy of the records set out in section 8(1) a, b and c above to a representative of the Secretary of State (in this case, the CESG, and send a copy to the ECO) for inspection. You can contact the CESG at the following email address: [intrelexport@cesg.gsi.gov.uk](mailto:intrelexport@cesg.gsi.gov.uk)

## Section 9. Other legal requirements

- (1) You must complete, in full, the pre-visit questionnaire (PVQ) which you receive before an audit visit by the ECO and return it by the date given in the letter that came with it.
- (2) You **must not** export or transfer goods, software or technology if their use would be inconsistent with the terms of a United Nations (UN), Organisation for Security and Co-operation in Europe (OSCE) or European Union (EU) embargo or any other embargo which is accepted by the UK Government.
- (3) As well as keeping to the requirements of this licence, you must also keep to any other relevant laws and acts which are in force. There may be restrictions or limits under other laws which apply when exporting these goods or software.

## Section 10. If you fail to meet the terms and conditions of this licence

- (1) If, following an audit visit, the ECO send you a 'failure to comply' warning letter, you must take the steps set out in that letter and within the timescale given. If you do not do this, the ECO may **suspend or take away your authorisation** to use this licence until you can satisfy the ECO that you are able to meet the terms and conditions of this licence.
- (2) The ECO may **suspend or take away** this licence if you do not satisfy the requirements of all the terms and conditions of this licence. If this is the case, you may (along with anyone who has exported or transferred goods, software or technology for you) be prosecuted.
- (3) You **must not** export or transfer goods, software or technology under this licence at any time once the ECO have suspended or withdrawn your authorisation to use this licence by serving a notice on you under article 32(1) of the Export Control Order 2008.

## Glossary

Expressions used in this licence and in the Export Control Act 2002 (2002 C.28) or in the Export Control Order 2008 (S.I. 2008/3231) have the same meaning here as they do in that Act and Order. The legislation referred to in this licence is updated from time to time and you will need to check that you have the most up-to-date version when using this licence. For the legislation that applies to UK exports, please visit: [www.legislation.gov.uk](http://www.legislation.gov.uk).

You can see the original Export Control Order 2008 at [www.legislation.gov.uk/uksi/2008/3231/contents/made](http://www.legislation.gov.uk/uksi/2008/3231/contents/made).

You can see the original Schedule 2 to that Order at [www.legislation.gov.uk/uksi/2008/3231/schedule/2/made](http://www.legislation.gov.uk/uksi/2008/3231/schedule/2/made).

The following terms and acronyms used in this licence have the following meanings.

### Section 1 – Purpose

- 1 'Use' means operation, installation (for example, on-site installation), maintenance, checking, repair, overhaul and refurbishment.
- 2 'A400M' is the military transport aircraft designed, developed and produced by Airbus Military Sociedad Limitada (AMSL).
- 3 'You' means someone who has registered as a user with SPIRE, the electronic licensing system of the Export Control Organisation (ECO), a part of the Department for International Trade.

### Section 3 – Countries or destinations allowed under this licence

- 1 A '**partner nation**' is one of the governments that agreed to take part in the A400M collaborative programme.

**Note:** For the purposes of this OGEL, Luxembourg is a **partner nation** which you can export goods and services to, although it is not officially a **partner nation**.

- 2 A '**permitted export customer**' is a country, other than one of the **partner nations**, that has ordered the A400M.
- 3 A 'contractor' is a person entering into a contract to provide goods or services.
- 4 A 'sub-contractor' is a person entering into a contract with a contractor to provide goods or services to, falling within the contractor's contract.

## Section 4. Who you can export goods, software and technology to

1. An 'operator' means an end-user of the A400M aircraft.

## Section 5 - Other restrictions that apply

- 1 'Organisation Conjointe de Cooperation en matiere d'Armement (OCCAR)' is an international organisation whose main business is managing joint defence equipment programmes throughout the life of the programmes.
- 2 'Security classified' is the international equivalent of the UK protective marking scheme. In this case it means any information, document or material which, if revealed to someone not authorised to see it, could damage the interests of OCCAR, its member states or any other state which is taking part in an OCCAR Programme. Security classified can apply whether the information originally comes from within OCCAR or is received from its member states or from states taking part in an OCCAR Programme.
- 3 'A400M programme security instructions (PSI)' are the specific security instructions for the A400M collaborative programme.
- 4 'Arms Control and Counter-Proliferation Policy (ACP)' in the Ministry of Defence manage the Government's assessment of MOD Form 680 applications and the ACP approval letters.
- 5 'AMSL' is the main contractor for the A400M.
- 6 A 'facility security clearance' refers to a company site that has been approved by a national security authority to manage work or store classified information marked 'Confidential' or above on the specific company premises.
- 7 'MOD Form 680' is the way in which the Government assesses proposals by companies to release protectively marked (classified) goods, software and technology to foreign organisations (for example, individuals, companies, partnerships or governments). An MOD Form 680 is not an approval to use an Open General Export Licence or to export without a licence; it is a separate security requirement.
- 8 'Transferring software or technology electronically' means, in relation to this licence, sending software or technology by fax, phone, email or other electronic media. (Sending software or technology by phone is included only where the technology is contained in a document and the relevant part of the document is read out over the phone, or is described over the phone in such a way as to achieve substantially the same result as if it had been read.)
9. 'Approved encryption' is encryption that has been evaluated and accredited by the CESG or the National Technical Authority of another A400M collaborative programme **partner nation**. The CESG is the UK Government's national technical authority for information assurance (the security measures the CESG considers necessary to make sure that information systems will protect the information they handle and will function as they need to, when they need to, under the control of legitimate users).

- 10 For the UK MOD, the 'accreditation authority' is the Chief Information Officer. Their contact details are as follows.  
Chief Information Officer  
Information Security Policy  
Ministry of Defence  
Level 2, Zone M  
MOD Main Building  
Whitehall  
London  
SW1A 2HB  
Email: CIO-InfoSyPol@mod.uk
- 11 'Government' as it relates to a contract includes direct contracts with governments, armed forces of a government, government agencies and companies working on behalf of government (and there is evidence of them doing so).
- 12 'WMD purposes', as defined in article 2(1) of the Export Control Order 2008, means used in connection with developing, producing, handling, operating, maintaining, storing, detecting, identifying or spreading (disseminating) chemical, biological or nuclear weapons or other nuclear explosive devices, or developing, producing, maintaining or storing missiles capable of delivering such weapons.
- 13 'Competent authority' means, in the UK, the Secretary of State or anybody acting under their authority and, in the EU, anyone authorised by a member state to grant export or trade licences for military goods, software or technology or dual-use items.
- 14 The 'End User Advice Service' is provided by the UK Government and can be accessed through SPIRE. The Service is the process by which you can obtain advice from the ECO about any concerns you may have with the overseas entities (businesses or individuals) involved with your export transactions.

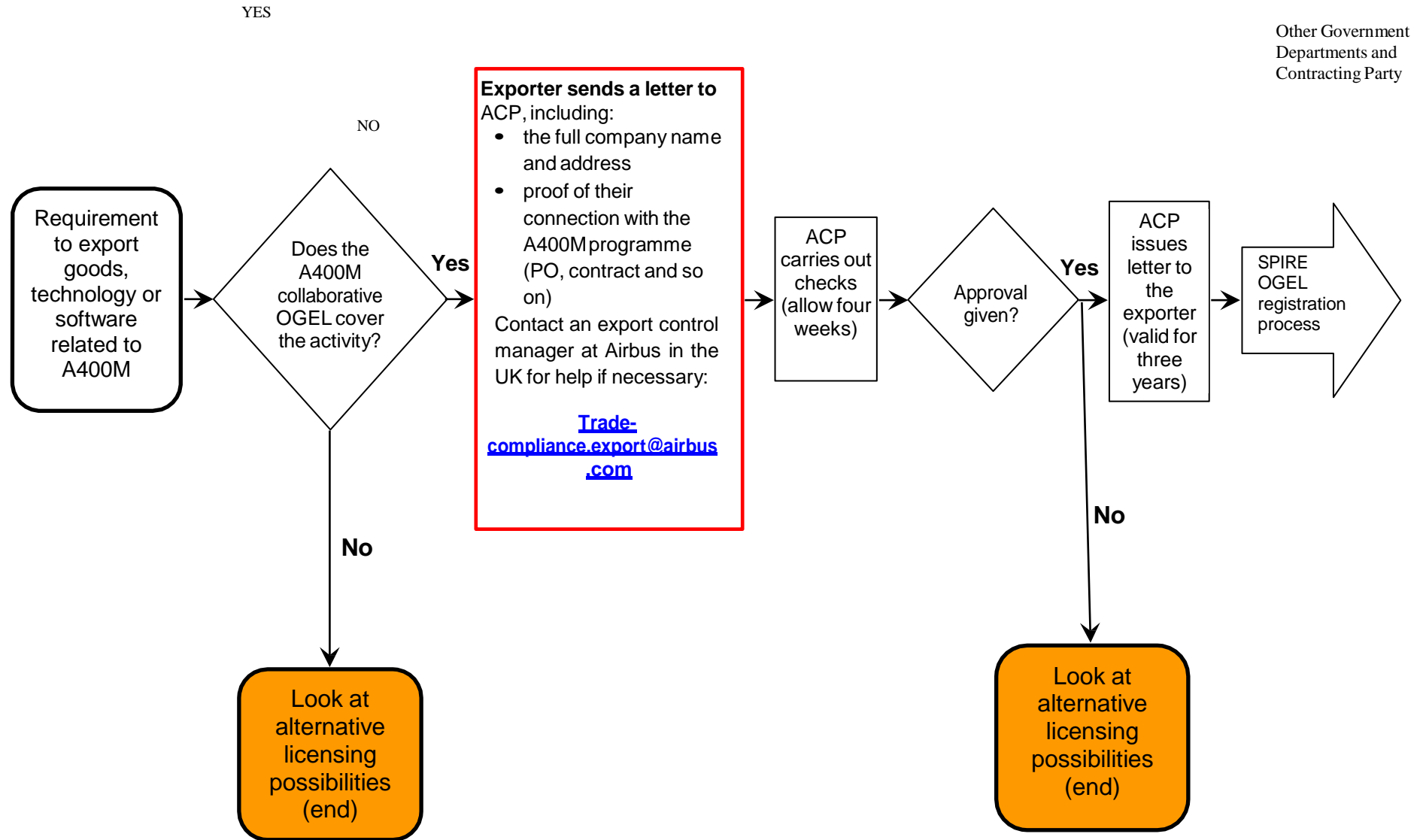
### **Section 6 - Before exporting or transferring goods, software or technology**

- 1 '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 controlled goods.  
Website: <https://www.spire.trade.gov.uk/>

### **Section 7 - When exporting or transferring goods, software or technology**

- 1 'Declaration' means a commercial document completed for an official of Her Majesty's Government (HMG) which meets the conditions set out in section 7(1) of this licence.

Exporter





	Requirements:					
Scenario: Exports to.....	Facility security clearance if the goods, software and technology are security classified as OCCAR 'Restricted'	Facility security clearance if the goods, software and technology are security classified as OCCAR 'Confidential' or above	Project security instructions and OCCAR security regulations to be followed	Approved security transport plan if the goods, software and technology are security classified as OCCAR 'Confidential' or above	MOD Form 680 approval if the goods, software and technology are security classified as OCCAR 'Restricted' or above	Letter of confirmation of involvement in A400M project from MOD ACP
Companies in support of the main programme (contractors or sub-contractors)	Check with SAC	Yes	Yes	Yes	No	Yes
Partner nations	No	No	Yes	Yes	No	Yes
Permitted export customer	No	No	Yes	Yes	Yes	Yes (see note below)
Companies supplying without a main contract or purchase order (for example, providing goods as part of a tender)	Check with SAC	Yes	Yes	Yes	Yes	Yes (see note below)

Note: **only** if the goods, software and technology are **not** security classified as OCCAR 'Restricted' or above.

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