



Department
for Business
Innovation & Skills

**EXPORT CONTROL
ORGANISATION**

Guidance for the transport
sector: 'trafficking and
brokering' (trade controls)

(Review of Export Control
Legislation 2007)

MARCH 2010

Contents

1.	Introduction	4
1.3.	How will this affect the provision of transport?.....	4
1.4	How to use this guidance.....	4
2.	Are the goods controlled?	5
3.	Do the goods fall within Category A of the Trade Controls?	5
	Rationale	5
	Goods.....	6
	What activities are controlled for this category?	6
4.	Is the destination country embargoed?	7
5.	Do the goods fall within Category B of the Trade Controls?	7
	Rationale	7
	Goods.....	7
6.	What is my role in this activity?	8
	What activities are controlled?.....	8
7.	Do the goods fall within Category C of the UK Trade Controls?	8
	Rationale	8
	Goods.....	8
	What activities are controlled?.....	9
8.	Licensing.....	9
	The licensing authority	9
	Types of licences available	9
	Standard Individual Trade Control Licence (SITCL).....	9

Open Individual Trade Control Licence (OITCL)	9
Open General Trade Control Licence (Trade and Transportation: Small Arms and Light Weapons) (OGTCL)	10
Important Note.....	10
How to apply for a licence or make a rating enquiry.....	10
Compliance	10
9. Enforcement of the Controls.....	10
HMRC: Enforcing the controls.....	10
Penalties for breaches.....	11
10. Frequently Asked Questions	11
General questions	11
Freight Forwarder questions.....	14
Transport Provider questions	15
UK employees and self-employed persons working overseas	16
11. Export Control Organisation – Contacts for further advice.....	18
ANNEX – Do I require a licence to move goods between two overseas countries?	20

1. Introduction

1.1 In 2004 the Government implemented secondary legislation under the Export Control Act 2002. This legislation broke new ground by introducing, for the first time, a framework of controls on the trading of certain military and para-military goods. The Government undertook to review these controls after three years. On the 18th of June 2007 the Government launched a public consultation document "2007 Review of Export Control Legislation". Following a three month consultation period, the Government reviewed the responses received and in February and July 2008 and January 2009 issued its responses. These announced agreed changes, including a restructuring of the UK's trade controls into three tiers, and extra controls on the provision of transport in limited circumstances.

1.2 The Government has concluded that since the provision of transport is more closely connected to trading than other ancillary services - in effect it is an essential element to enable the trade to take place - it is appropriate to control it where the circumstances and risk justify. The new legislation relating to the provision of transport took effect from 6 April 2009. It links controls on transport to the new three tiered structure of trade controls, as these categories reflect the relative sensitivity of the goods they cover. As a result, we now control the provision of transport between two third countries for Category A goods - which are inherently undesirable - in all circumstances; but for Category B goods – which are the subject of heightened concerns but are nevertheless traded legitimately in some circumstances – the coverage of the controls is more limited. The provision of transport for Category C goods, those of the lowest sensitivity, is not controlled except where it is provided as part of an integral package that includes the trading of the goods, or the destination country is subject to international sanctions or embargoes.

1.3. How will this affect the provision of transport?

- Changes are to UK trade controls and therefore only affect transport between **two overseas countries**; they do not affect the transport of goods from or within the UK.
- Because of their sensitivity, the full range of controls apply to Category A goods, but Category B controls concentrate on the main provider; the Order does not cover supplies from a UK transport provider acting as a sub-contractor to a UK company whose supply is itself controlled under this legislation affecting transport and transport related companies (such as a freight forwarder).

These new controls came in to effect on 6th April 2009

1.4 How to use this guidance

This guidance covers step by step the various questions that those involved with the transport sector need to consider when assessing whether a trade control licence is

required for the activity with which you are or may become involved. These steps are intended to mirror as closely as possible those set out in the flow chart attached at the Annex of this document. Where, due to the nature of your involvement or the Category of goods concerned, a particular section is unlikely to be relevant to you, the guidance will recommend that you move forward to the next section.

2. Are the goods controlled?

2.1. In determining this, your starting point must be the legislation. The vast majority of goods to which the UK Trade Controls apply are military items. The main exceptions are certain para-military goods whose export the UK Government has already banned because of evidence of their use in torture, and some explosive related goods. The lists of goods subject to trade controls are set out in schedules 1 and 2 of the Export Control Order 2008. Ammunition and related Material is at Schedule 2 Part 1 of the Export Control Order 2008. Schedule 2 Part 2 of the Order sets out the explosive-related materials which are controlled. The Order can be downloaded either from <https://www.gov.uk> or from <https://www.legislation.gov.uk>.

2.2. Where, after consulting the legislation and/or using the ECO's online self-rating facility ("Goods Checker" – <http://www.ecochecker.co.uk/goodschecker>), you are unable to determine the licensable status of the goods, we recommend that you seek further advice and guidance from the Export Control Organisation. The easiest method of doing this is to submit a rating enquiry via our electronic SPIRE system which can be accessed via the following link <https://www.spire.bis.gov.uk>. Alternatively use the contact details in paragraph 10 of this guidance, but please note ECO staff are unable to provide formal verbal advice on the licensable status of goods

2.3. If the goods are not listed in Schedule 1 or 2 to the Order it means that they are not subject to UK Trade Controls and there is no requirement to obtain a UK trade control licence. However, it is important to remember that even if a UK trade control licence is not required, you must still adhere to the import/export/transit and transshipment controls of the two third countries between which the goods are being moved and any country through which they will be transiting or transshipping

2.4. Where you have assessed or been advised that the goods are controlled, the next step is to determine which Category of the trade controls they come in to, as the controls which apply to the provision of transport and related activities vary depending on the category of goods. The next parts of the guidance summarise the goods covered by each category, which related trade activities are also controlled, and the rationale for this level of control.

3. Do the goods fall within Category A of the Trade Controls?

Rationale

3.1. This category involves goods whose supply the UK considers inherently undesirable. Such goods are of the greatest concern and there is little or no

legitimate trade in them. Therefore, as transport is a fundamental part of any supply we believe it is right to control all levels of involvement of transport providers and those involved in transport related activity.

Goods

3.2. The goods which currently come within Category A of the UK Trade Controls are:

- Torture Equipment – Certain para-military goods whose export the UK Government has already banned because of evidence of their use in torture.
- Cluster munitions and specially designed components therefor.

Further details of Category A goods is set out in Schedule 1 Part 1 to the Export Control Order 2008. The Order can be downloaded either from <https://www.gov.uk> or from <http://www.legislation.gov.uk>.

What activities are controlled for this category?

3.3. For Category A goods, controls apply to the actual act of transporting the goods, to agreeing to move them, and to any act calculated to promote their supply or delivery. The following are typical of the activities that will be controlled where they will or may result in the movement of Category A goods between two third countries:

- Transporting the goods
- Any involvement in making arrangements for the movement of the goods
- Any supporting services being provided to the transport provider
- Ancillary services, including the sole provision of finance, insurance/re-insurance
- Any act calculated to promote the supply or delivery of Category A goods – this will include general advertising and promotion services (for example, displaying the products at trade fairs or advertising them in magazines).
- Agencies providing drivers, pilots and administrative staff to transport providers
- Individuals involved in the loading/unloading of goods
- Driving/piloting/crewing a mode of transport used to move these goods
- Companies renting vehicles and/or trailers to transport providers

The above activities will also be controlled where they will or may result in the movement of Category B or C goods to (and occasionally, where separate sanctions legislation applies, from) an embargoed country (see paragraph 4.1 of this guidance).

3.4. The controls will apply whether or not you receive payment for the service you are providing. They apply to all persons of any nationality who are within the UK when they undertake any controlled activity, and to all UK persons located anywhere within the world when they undertake any controlled activity. See [paragraph 10](#) of this guidance - Frequently Asked Questions – General – for definition of a 'UK Person'.

3.5. *If the goods you are being asked to transport or are involved in the arranging the transport of, do not come within Category A, then go to paragraph 4 of this guidance.*

3.6. If you are transporting, making arrangements for the movement or providing any ancillary or supporting service which may contribute to the movement of any Category A goods from one third country to another third country, or any Category B or C goods, to an embargoed country, you will require a trade control licence. Please see the guidance on applying for a licence at [paragraph 8.7](#) of this guidance.

4. Is the destination country embargoed?

4.1. The supply of any controlled military goods (regardless of whether they are classified as coming within Category A, B or C of the UK Trade Controls), to an embargoed destination will be subject to essentially the same controls as goods in Category A (see separate guidance for details). The type of transport related activities which will be controlled are set out in Paragraph 3 of this guidance.

5. Do the goods fall within Category B of the Trade Controls?

Rationale

5.1. Whilst goods in this category are of heightened concern, there is legitimate international trade in them. Consequently, we wish to control the activities of the main players in such deals, but consider the involvement of individual or entities providing ancillary services to be of lesser concern.

Goods

5.2. The goods which currently come within Category B of the UK Trade Controls are:

- Long Range Missiles (including Unmanned Air Vehicles - UAVs) – i.e. those with a range in excess of 300km
- Man Portable Air Defence Systems (MANPADs) and specially designed components therefor
- Small Arms and Light Weapons
- Specially designed components for the above

Further details of Category B goods are set out in Schedule 1 Part 2 of the Export Control Order 2008. The Order can be downloaded either from <https://www.gov.uk> or from <http://www.legislation.gov.uk>.

5.3. If the goods you are being asked to transport or are involved with do not come in to Category A or B and are not military goods being supplied to an embargoed destination please go to [paragraph 7](#) of this guidance.

6. What is my role in this activity?

6.1. For Category B goods, the range of support and ancillary activities controlled is not as extensive as for Category A goods. To ascertain whether the activity you are involved in or intend to undertake is controlled it is necessary to clarify what your role is in the context of the overall transaction.

What activities are controlled?

6.2. Some activities are always controlled for Category B goods. The arranging of transport is always controlled, either on its own or as part of a larger package. However, the stand alone provision of transport (ie the provision of transport in isolation from any other activities relating to the transaction) is only controlled in limited circumstances. Since the level of control that we apply to companies in the transport sector is dependent upon the activity which you are undertaking, the controls will apply to you differently depending on whether you are a:

- Freight Forwarder
- Transport Provider
- UK employees and self-employed persons working overseas

In the 'Frequently Asked Questions' area of this guidance ([Section 10](#)), we have tried to cover different situations that companies related to the transport of controlled goods may encounter.

7. Do the goods fall within Category C of the UK Trade Controls?

Rationale

7.1. Category C covers goods on the UK Military List which are not covered within Categories A and B. Trading of these goods between two third countries is controlled when it takes place wholly or in part within the UK, but the Government does not consider it necessary to impose controls on UK persons operating overseas, or to exert any further degree of control in respect of supporting or ancillary services.

Goods

7.2. Category C consists of all goods, except those falling within Categories A and B above, contained within schedules 1 and 2 to the Export Control

Order 2008. Further details can be found in Schedule 2 of the Order. The Order can be downloaded either from <https://www.gov.uk> or from <http://www.legislation.gov.uk>.

What activities are controlled?

7.3 The sole provision of ancillary services, including the provision or arranging of transport, is not a controlled activity in respect of Category C goods. However, controls will apply:

- where the transport is being provided as an integral part of an overall package including activities that are caught by the trade controls (see separate guidance). In these circumstances the individual or entity arranging the overall package will require a trade control licence to cover trading and associated activities if they are undertaken from within the UK;
- where any Category C goods are being traded to an embargoed destination. These will then be subject to the essentially same level of control as goods in category A (see separate guidance for details).

8. Licensing

The licensing authority

8.1. The Department for Business Innovation and Skills (BIS) is the licensing authority with responsibility for issuing export licences, trade control licences, and transit and transshipment licenses. BIS operates this responsibility through its Export Control Organisation (ECO) which issues licences after assessment of an application against a set of risk criteria and, where appropriate, in consultation with other Government Departments, namely FCO, MoD, and the Department for International Development (DFID).

Types of licences available

8.2. Depending upon the circumstances, there are three types of trade control licences which, from 6 April 2009, are available for use by transport providers involved in the movement of Category A, B or C goods between two third countries. Each licence has its own specific conditions of use. These are as follows:

Standard Individual Trade Control Licence (SITCL)

8.3. This licence is issued to, and can only be used by, a named entity, trader, individual, transport provider, etc. In the context of transport, a SITCL will authorise the physical movement or involvement in the movement of a set quantity of goods (Category A and/or B, or Category C if an embargoed destination is involved) from a named consignor in one third country to a named consignee in another third country. The ECO would expect the applicant, when submitting the SITCL application, to be able to include details of the intended routing. SITCLs will normally be valid for two years. Upon expiry either by time, or because the activity has taken place, the licence ceases to be valid. A further licence must be applied for to continue with the activity.

Open Individual Trade Control Licence (OITCL)

8.4. An OITCL is specific to a named trader and covers involvement in trading specific goods between specific source and destination countries and/or consignors,

consignees and end-users, but is not normally quantity specific. OITCLs are generally valid for two years.

Open General Trade Control Licence (Trade and Transportation: Small Arms and Light Weapons) (OGTCL)

8.5. OGTCLs are not issued to specific entities/traders/individuals, instead they are available for anyone to use provided that the conditions of use can be met. Registration with the ECO to use OGTCLs must be made within 30 days of the first use of the licence. All Open General Licences, including the OGTCLs, remain in force until they are suspended or revoked, although the provisions may be varied at any time and the ECO can also suspend a user's right to use any of the Open General Licences. Where you are unable to comply with the conditions of use of the specific Open General Licence which you wish to use, you must apply for an OITCL or SITCL as appropriate.

Important Note

8.6. Possession of a UK trade control licence does not remove the requirement to adhere to the import/export/transit and transshipment controls of the two third countries between which the goods are being moved and any country through which they will be transiting or transshipping

How to apply for a licence or make a rating enquiry

8.7. All applications for a SITCL or an OITCL or to register to use any of the Open General Licences should be made via SPIRE (ECO's fully electronic system for processing licence applications). Details about how to register to use SPIRE can be found at <https://www.spire.bis.gov.uk/>

8.8. Guidance on whether either of the OGTCLs will cover the proposed activity and whether you are able to comply with their conditions of use is available on <https://www.gov.uk>.

Compliance

8.9. The ECO's Compliance Unit visit open licence holders to monitor compliance with the conditions relating to the use of these licences. Further information on the unit's role and how it undertakes visits is available on <https://www.gov.uk>

9. Enforcement of the Controls

HMRC: Enforcing the controls

9.1. Although the Export Control Organisation, is responsible for preparing and implementing export control legislation, processing applications and issuing licences, enforcement of the controls is the responsibility of the HM Revenue and Customs (HMRC)

9.2. HMRC will investigate situations where a breach of the legislation is believed to have occurred. Once HMRC's enquiries are complete they, in conjunction with the Revenue and Customs Prosecution Office (RCPO), will decide what action should be taken, including whether to proceed with a prosecution.

9.3. HMRC also has responsibility for ensuring that UK Persons and entities adhere to UK obligations in complying with sanctions and embargoes imposed by international bodies and organisations. This also extends to persons of other nationalities who are located in the UK at the time they undertake the controlled activity.

Penalties for breaches

9.4. It is a criminal offence to engage in controlled activity without a licence. Failure to comply can lead to a fine and maximum sentence of 10 years in prison. Please refer to part 6 of the Order which sets out the maximum level of penalties for offences under different parts of the Order.

10. Frequently Asked Questions

As explained in [Paragraph 6.2](#) of this guidance, how the controls apply to different parts of the transport sector will be dependent upon what activity you are undertaking. We have therefore placed the following Question and Answers into four themed groups:

- General – Information which is likely to be applicable to the whole transport sector
- Freight Forwarders.
- Transport providers
- UK employees and self-employed persons working overseas

General questions

Q. Why does the Government consider it necessary to control the involvement of the transport sector?

A. Because the provision of transport is more closely connected to trading than other ancillary services - in effect it is an essential element to enable the trade to take place – therefore it is appropriate to control it where the circumstances and risk justify.

Q. What is meant by a 'UK Person'

A. The term "United Kingdom person" as used in the Order, is defined in s.11 of the Export control Act 2002 as a United Kingdom national, a Scottish partnership or a body incorporated under the law of any part of the United Kingdom. A United Kingdom national is an individual who is –

(a) a British Citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

(b) a person who under the British Nationality Act 1981 (c.61) is a British subject ; or

(c) a British protected person within the meaning of that Act

Q. So does that mean that, as a UK or dual national, I have to apply for licences even though I no longer live in the UK

A. Yes. If you are a UK national, even if you hold other nationalities, the trade controls apply to you. However, please bear in mind that there may be open licence coverage for the activity which you are undertaking

Q. Do I need to make sure that the goods I am transporting have an export licence from the country of export?

A. No. Although the exporter in the country of export will need to obtain any necessary permissions to export, whether the service you are providing requires a UK licence is determined by UK legislation and not by decisions taken by other countries. If you are unsure, you need to work through this guidance and the flowchart (in the Annex).

Q. How do I find out whether the goods I am transporting are controlled and if so what category they come under?

A. If you have full information available on the goods to be transported, you can make your own self-rating assessment using the description set out in the legislation. For more information see the guidance on <https://www.gov.uk>.

If after consulting the legislation you are unable to decide on the licensable status of the goods or whether your involvement constitutes a controlled activity, you should seek further advice and guidance from the Export Control Organisation. The easiest method of doing this is to submit a rating enquiry via our electronic SPIRE system which can be accessed via the following link <https://www.spire.bis.gov.uk> . Alternatively use the contact details in paragraph 11 of this guidance, but please note ECO staff are unable to provide formal verbal advice on the licensable status of goods.

Q. Am I expected to physically check the goods I am transporting to see what Category they fall under?

A. Not as a matter of course. We accept that as a transport provider you are unlikely to receive a single document which details everything that you are being asked to carry, especially where groupage is involved. However, from the various goods related documents available to you (CMRs, inventories) we would anticipate the transporter having some knowledge of what is in the consignment, even allowing for the use of some general descriptions for security purposes. You may – for reasons unconnected with these controls – choose to verify the information you have received by inspecting the load. But we do not insist that you do this. Our requirement is simply for you to consider, based on the commercial documentation made available to you, whether the goods fall into any of the three categories, and apply for licence cover as necessary. If however, there are indications that the goods you are carrying are not as described, then as a responsible transporter you will wish to make further enquiries. The requirement for a licence will be triggered if you have reason to believe that you are carrying goods falling within the controls (or, in the context of the embargoed destinations controls, if you have reason to suppose that you are carrying controlled goods that will end up in such a destination).

Q. I am moving Category B goods between two EU Member States. As this is an intra-EU movement and I am not required to inform HMRC about it, I assume that I do not need to obtain a trade control licence?

A. Even though you are not required to inform HMRC about intra-EU movements, it is still a transfer between two third countries and as such is a controlled activity that requires a licence. However, since EU countries generate a low level of risk, extensive open licence coverage will be available.

Q. What if I am approached but cannot provide the service, so pass the lead or enquiry on to another person or entity?

A. If no payment (except for your normal wages or salary) or benefit is gained for passing on the lead, and if the goods concerned come within Category B or C, then the activity would not be controlled. It would be controlled though for Category A goods, or for any supply to an embargoed destination.

Q. Is a retainer considered to be a payment?

A. Yes – In the Order “Payment” is defined as including a payment in money or money’s worth or in kind whether referable to particular act or made from time to time but not including a payment made by way of wages or salary.

Freight Forwarder questions

Q. How do these controls affect UK freight forwarders?

- A.** As a freight forwarder you are more likely to be involved in ‘arranging’ transport between two third countries - including: preparation of documentation; finding and engaging a transport provider; or agreeing the routing.
- Category A and B goods – Making such arrangements is a controlled activity, irrespective of whether you are making the arrangement on behalf of another UK company or individual or directly on behalf of the overseas customer.
 - Category C goods – We do not control stand-alone transportation services. However, if these arrangements are provided as part of a larger package which includes the trading of Category C goods, you will still require a licence for that package.
 - Embargoed destination – All categories of controlled military goods – A licence will also be required if the destination country is subject to international sanctions or an embargo. The controls on any military goods to an embargoed country are essentially the same as those for Category A goods (see separate guidance for details).

Q I am arranging for the transportation of goods between two third countries – Does it matter whether or not I get paid for providing my services?

- A** Whether your activity is controlled will be determined by the goods themselves and their destination only. It is only in cases where your sole involvement is in what the legislation calls “contract promotion activity” (e.g. introducing someone whose goods need to be moved to a transport provider without any involvement in negotiations, etc.) that the fact of payment matters (see below). Otherwise:

- For Category A goods to any destination or Category B or C goods to a country subject to sanctions or an embargo, any involvement in their supply or delivery will be controlled irrespective of whether or not payment is received for any activity you undertake.
- For Category B goods, this activity is controlled and requires a licence, but to minimise the business impact in low risk situations, we will amend one of the existing Open General Licences (OGLs) to include some transport related activities. Details of country coverage of this licence and the activities it authorises can be accessed via the link at Paragraph 8.4 of this guidance.

- For Category C Goods which are not going to a country subject to international sanctions or an embargo the arrangement of transport is not a controlled activity.

Transport Provider questions

Q. I am a transport provider and I have been asked by another UK company to *move* goods between two third countries. Do these controls affect me?

- **Category A goods – Yes**, any involvement in their supply or delivery will be controlled, irrespective of whether you are providing the service direct or via another UK or non-UK company.
- **Category B goods – No** – Your activity will not be controlled as you are providing your service to another UK company whose supply is controlled under this legislation. An example would be where a UK haulage firm is supplying road vehicles and drivers in their role as a sub-contractor to another UK firm which has the contract to supply services to the overseas customer. Only the UK firm with the contract with the overseas customer would have their activity controlled
- **Category C goods – No** – The provision of transport is not a controlled activity for this category of goods
- **Embargoed destination – Yes** – Category B and C goods going to a country which is subject to international sanctions or an embargo are subject to the same level of control as Category A goods, therefore any involvement in their supply or delivery is a controlled act.

Q. I am a transport provider and I have been approached by an overseas company to *move* goods between two third countries. Is this a controlled activity?

A. Category A and B goods and goods to an embargoed destination – Yes – As the UK company most closely associated with the supply to the overseas customer your activity will be controlled

Q. Am I expected to physically check the goods I am transporting to see what Category they fall under?

A. Not as a matter of course. We accept that as a transport provider you are unlikely to receive a single document which details everything that you are being asked to carry, especially where groupage is involved. However, from the various goods related documents available to you (CMRs, inventories), we would anticipate the transporter having some knowledge of what goods are in the consignment, even allowing for the use of some general descriptions for security purposes. You may – for reasons unconnected with these controls – choose to verify the information you have received by inspecting the load. But

we do not insist that you do this. Our requirement is simply for you to consider, based on the commercial documentation made available to you, whether the goods fall into any of the three categories, and apply for licence cover as necessary. If however, there are indications that the goods you are carrying are not as described, then as a responsible transporter you will wish to make further enquiries. The requirement for a licence will be triggered if you have reason to believe that you are carrying goods falling within the controls (or, in the context of the embargoed destinations controls, if you have reason to suppose that you are carrying controlled goods that will end up in such a destination).

UK employees and self-employed persons working overseas

Q. I am a UK expatriate employed by a UK transport company or freight forwarder. How do these controls affect me?

A If the company that employs you is subject to the UK controls then it is their responsibility to apply for the appropriate licence and you need not apply in your own right.

Q I am an UK expatriate employed by a non-UK transport company or freight forwarder. How do these controls affect me?

A. This will depend on which Category of goods is being transported.

Category A – Any involvement in the supply or delivery of Category A Goods is controlled and you will need to apply for a licence before undertaking such activity. Applications should be submitted via SPIRE accessible at <https://www.spire.bis.gov.uk/>

Category B – If the tasks you are carrying out do or may result in the supply or delivery of Category B weapons between two third countries, you will be undertaking a controlled activity (minor acts such as loading or refuelling trucks or doing paperwork do not result in supply or delivery, but merely contribute to it, and so are not controlled) However, we acknowledge that these goods can be traded legitimately and many of these tasks are of low significance to the overall deal. Therefore, where such tasks are undertaken as part of a waged or salaried employment, we will, where the risk allows, licence such your involvement through open licences (see section 8 of this guidance). Information on which open licences are available and their conditions of use is available on www.gov.uk.

Category C – With the exception below, the arrangement or provision of transport is not a controlled activity for Category C Goods.

Embargoed Destinations – If the goods, irrespective of whether they come within Category A, B, or C of the controls, are going to a country which is subject to an embargo or sanctions, they will be subject to essentially the same level of control as Category A goods. Any involvement in their supply or

delivery is controlled and you will require a licence before undertaking such activity. Applications should be submitted via SPIRE accessible at <https://www.spire.bis.gov.uk/>

Q. I am a 'UK Person' arranging a complete package including: trading weapons; making arrangements for their transport; and actually transporting them between two third countries. Which, if any, of my activities are controlled?

A. You need a licence regardless of the category of the goods. Exemptions relating to transport only apply when it is supplied as a stand alone service, not when it is supplied as part of a package including the trading itself.

The only exception to this is where Category C goods are traded by a UK person operating from **outside the UK**. This is not controlled, unless the destination country is embargoed

Q. I am a 'UK person' who is a self employed aircraft pilot/ship's captain/driver working overseas. How do these controls affect me?

A. This will depend on the category of goods you are being asked to transport and who you are providing your services to:

- Category A Goods – You will always be undertaking a controlled activity if the goods you are being asked to move come within Category A.
- Category B goods – You will not be undertaking a controlled activity if you are providing your services to another UK company or individual whose activity is itself controlled under the trade control legislation. An example of this would be where a self-employed UK pilot invoices a UK airline for his or her flying services and the airline then invoices the overseas recipient. Only the supply by the airline could be controlled in this situation.
- For Category C Goods which are not going to a country subject to international sanctions or an embargo the provision of transport is not a controlled activity.

Q. I am not arranging or providing transport but I am involved in the deal in other ways. Does it matter whether or not I get paid for providing my services?

A. This will depend upon the Category of goods involved and which stage the contract has reached.

For Category A goods to any destination or Category B or C goods to a country subject to sanctions or an embargo, any involvement in their supply or delivery will be controlled irrespective of whether or not payment is received for any activity you undertake.

For Category B or C Goods if your involvement is prior to the agreement of a contract to supply or move the goods, it may fall within a range of activities termed 'contract promotion' activity, which is defined as "any act calculated to promote the arrangement or negotiation of a contract for the acquisition, disposal or movement of goods or any agreement to do such an act". These services are quite a long way divorced from the actual act of trading and are provided prior to the transaction taking place; they might for example include pre-contract legal or marketing advice or passing on sales leads or enquiries to other concerns. In these cases the activity will only be controlled where payment is received.

Where you do not become involved until after the contract to move or supply the goods is in already place, you will not have contributed to the making of the contract and it is unlikely that your involvement will fall into the description of 'contract promotion activity'.

11. Export Control Organisation – Contacts for further advice

11.1 .Further information and help on export and trade controls can be obtained online from <https://www.gov.uk>

11.2 Alternatively you can contact:

Export Control Organisation
3rd Floor
1 Victoria Street
London
SW1H 0ET

Tel: 020 7215 4594

Fax: 020 7215 0531

Email: eco.help@bis.gsi.gov.uk

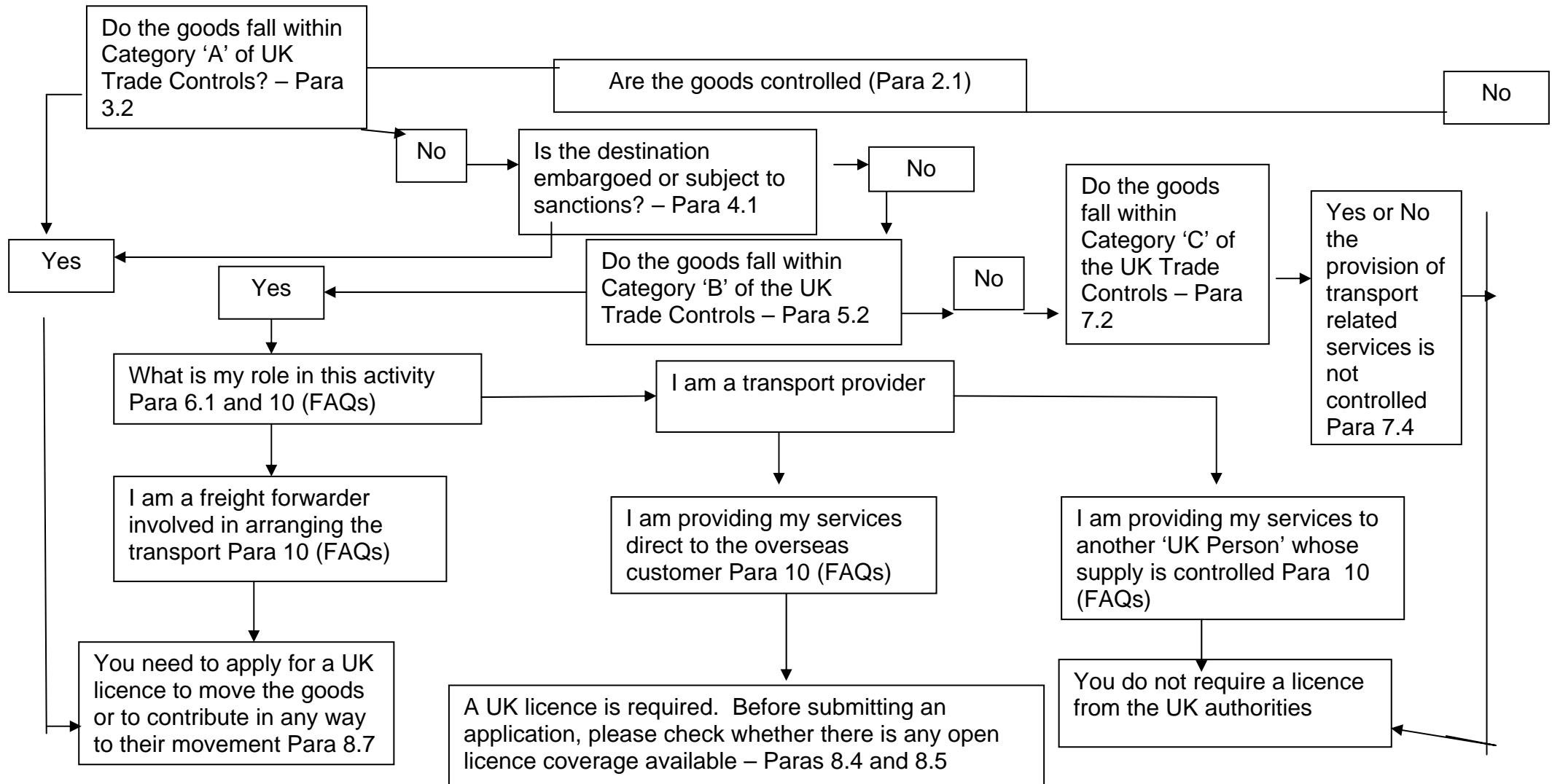
The general enquiry telephone helpline is usually available between 09:00 – 12:00 and 14:00 – 17:00 Monday to Friday. Outside of these hours voicemail will be available and if you leave your contact details we will call you back.



Department
for Business
Innovation & Skills

ANNEX – Do I require a licence to move goods between two overseas countries?

Please note this is only guidance on whether a licence is required from UK licensing authorities. It is your responsibility to ascertain the licensing requirements of the consignor and consignee countries and any intermediary countries. Where transport is being provided as part of a larger package of activities, the controls applicable to the other activities will also apply to the provision of transport. In addition to the paragraph referenced in individual boxes, further information in the form of answers to particular scenarios is contained in the frequently asked questions section (Para 10) of the guidance.



© Crown copyright 2010

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This publication is also available on our website at <https://www.gov.uk>

Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

URN 10/657