



Department
for Business
Innovation & Skills

OPEN GENERAL EXPORT LICENCE

International Non-Proliferation
Regime Decontrols: Dual-Use
Items

JANUARY 2015

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REVIEWED

The Secretary of State, in exercise of powers conferred by Articles 9(2) and (4) of Council Regulation (EC) No. 428/2009 (“the Regulation”)(a) and Article 26 of the Export Control Order 2008 (“the Order”)(b), hereby grants the following Open General Export Licence:

Open General Export Licence (International Non-Proliferation Regime Decontrols: Dual-Use Items) dated 2 February 2015 granted by the Secretary of State.

Union Licence

1. This is general export authorisation under the terms of Article 9(2) of Council Regulation (EC) No. 428/2009. This authorisation, in accordance with Article 9(2) of that Regulation, is valid in all Member States of the European Union and is a Union Licence for the purposes of the Order.
2. Subject to the following provisions of this Licence, any item specified in the Schedule 1 hereto, may be exported from the United Kingdom, or from any other Member State, by any person established in the United Kingdom, to any destination in Schedule 2.

Exclusions

3. This Licence does not authorise the export of items:
 - (1) if the exporter has been informed by a competent authority of the Member State where he/she is established 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 a military end use and the purchasing country or country of destination is subject to an arms embargo imposed by a Decision or Common Position adopted by the Council of the European Union or a decision of the OSCE or imposed by a binding resolution of the Security Council of the United Nations
 - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in violation of an authorisation prescribed by national legislation of that Member State.
 - (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)

^(a) O.J. No. L134 29.5.09. p.1 as amended by Regulation (EU) 1232/2011 of the European Parliament and the Council of 16 November 2011, O.J. L236 8.12.2011 p26.

^(b) S.I. 2008/3231

- (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 so used
- (4) if their export is controlled by virtue of any entry in Annex I to the Regulation not specified in Schedule 1
- (5) where the exporter has, at the time of export, been served with a notice which suspends or revokes their 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) before first using this licence, the exporter shall inform the Secretary of State of their intention to do so, specifying their name and the address at which copies of records maintained pursuant to paragraph 4(2) may be inspected; this notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at www.spire.bis.gov.uk;
 - (2) the exporter or transferor shall maintain the following records in respect of all their exports and transfers of items under this Open General Export Licence:
 - a) the date and destination of each
 - b) the name and address of the consignee and, where known, the
 - c) end-user
 - d) a description of the items exported or transferred
 - e) the quantity of goods exported.

and any such records shall be maintained for at least 3 years after the end of the calendar year in which the export or transfer took place, and the exporter or transferor shall permit the records to be inspected and copied by any person authorised by the Secretary of State;

- (3) 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 Open General Export Licence (International Non-Proliferation Regime Decontrols: Dual-Use Items)"; 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 Revenue and Customs if so requested.

- (4) 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.
- (5) 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.
- (6) 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.

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

Interpretation

6. For the purpose of this Licence:
 - (1) "entry" includes part of an entry
 - (2) unless the context otherwise requires, any other expression used in this Licence has the same meaning as in the Regulation or the Order as appropriate.

Entry into force

7. This Licence comes into force on 2 February 2015.
8. The Open General Export Licence (International Non-Proliferation Regime Decontrols: Dual-Use Items) dated 18 July 2014 is hereby revoked

An Official of the Department for Business, Innovation and Skills authorised to act on behalf of the Secretary of State.

REVOKED

SCHEDULE 1

ITEMS CONCERNED

Items subject to de-control as a result of review of the Wassenaar Arrangement (WA), Missile Technology Control Regime (MTCR) Technical Annexes, Australia Group (AG) or the Nuclear Suppliers Group (NSG) during 2013.

Items specified in the following control entries in Annex I to Council Regulation (EC) No. 428/2009 as amended by Council Regulation (EU) No 388/2012.

Note 1: Where definitions for items in quotation marks are not listed in each relevant Category these can be found in Annex I to Council Regulation (EC) No. 428/2009 as amended by Council Regulation (EU) No 388/2012.

Category 1

1C008.b.

1E001., as follows

"Technology" according to the General Technology Note for the "Development" or "production" of materials authorised above in 1C008.b.

1E002.d.

Category 2

None

Category 3

3A001.a.7., **except**

Field programmable logic devices having any of the following:

- a. A maximum number of single-ended digital input/outputs of greater than 700; or
- b. An 'aggregate one-way peak serial transceiver data rate' of 500 Gb/s or greater;

Note 3A001.a.7. includes:

- Simple Programmable Logic Devices (SPLDs)
- Complex Programmable Logic Devices (CPLDs)
- Field Programmable Gate Arrays (FPGAs)
- Field Programmable Logic Arrays (FPLAs)
- Field Programmable Interconnects (FPICs)

Technical Notes

1. *Maximum number of digital input/outputs in 3A001.a.7.a. is also referred to as maximum user input/outputs or maximum available input/outputs, whether the integrated circuit is packaged or bare die.*
2. *'Aggregate one-way peak serial transceiver data rate' is the product of the peak serial one-way transceiver data rate times the number of transceivers on the FPGA.*

3E001., **as follows**

"Technology" according to the General Technology Note for the "development" or "production" of equipment or materials authorised above in by 3A001.a.7.;

Category 4

None

Category 5 Part 1

5E001.c.1., **except**

"Technology" according to the General Technology Note for the "development" or "production" of equipment employing digital techniques designed to operate at a "total digital transfer rate" exceeding 560 Gbit/s;

Technical Note

For telecommunication switching equipment the "total digital transfer rate" is the unidirectional speed of a single interface, measured at the highest speed port or line.

Category 5 Part 2

5A002., **as follows**

1. Routers, switches or relays, where the "information security" functionality is limited to the tasks of "Operations, Administration or Maintenance" ("OAM") implementing only published or commercial cryptographic standards.
2. General purpose computing equipment or servers, where the "information security" functionality meets all of the following:
 - a. Uses only published or commercial cryptographic standards; and
 - b. Is any of the following:
 1. Integral to a CPU that meets the provisions of Note 3 to Category 5-Part 2;
 2. Integral to an operating system that is not specified by 5D002; or
 3. Limited to "OAM" of the equipment.

5D002.a., **as follows**

"Software" specially designed or modified for the "development", "production" or "use" of equipment authorised above in 5A002.

5D002.c., **as follows**

Software limited to the tasks of "OAM" implementing only published or commercial cryptographic standards.

5E002.a., **as follows**

"Technology" according to the General Technology Note for the "development", "production" or "use" of equipment authorised above in 5A002 or "software" authorised above in 5D002.a. or 5D002.c.

Definitions

"Operations, Administration or Maintenance" ("OAM")

Means performing one or more of the following tasks:

- a. Establishing or managing any of the following:
 1. Accounts or privileges of users or administrators;
 2. Settings of an items; or
 3. Authentication data in support of the tasks described in paragraphs a.1. or a.2.;
- b. Monitoring or managing the operating condition or performance of an item; or
- c. Managing logs or audit data in support of any of the tasks described in paragraphs a. or b.

Note "OAM" does not include any of the following tasks or their associated key management functions:

- a. Provisioning or upgrading any cryptographic functionality that is not directly related to establishing or managing authentication data in support of the tasks described in paragraphs a.1. or a.2. above; or
- b. Performing any cryptographic functionality on the forwarding or data plane of an item.

Category 6

None

Category 7

None

Category 8

8A001.f.
8A001.g.
8A001.h.
8A001.i.
8A002.k.
8A002.l.
8A002.m.
8A002.n.
8A002.o.1.

Category 9

9A012.a., **as follows**

"UAVs" or unmanned "airships", designed to have controlled flight out of the direct 'natural vision' of the 'operator' and having any of the following:

1. Having all of the following:
 - a. A maximum 'endurance' greater than or equal to 30 minutes but less than 1 hour; **and**
 - b. Designed to take-off and have stable controlled flight in wind gusts equal to or exceeding 46.3 km/h (25 knots); **or**
2. A maximum 'endurance' of 1 hour or greater;

Technical Notes

1. *For the purposes of 9A012.a., 'operator' is a person who initiates or commands the "UAV" or unmanned "airship" flight.*
2. *For the purposes of 9A012.a., 'endurance' is to be calculated for ISA conditions (ISO 2533:1975) at sea level in zero wind.*
3. *For the purposes of 9A012.a., 'natural vision' means unaided human sight, with or without corrective lenses.*

9A012.b.1.
9A012.b.2.

SCHEDULE 2

DESTINATIONS CONCERNED

This export authorisation is valid for exports to the following destinations: All destinations other than in:

- The customs territory of the EU
- Australia, Canada, Japan, New Zealand, Norway, Switzerland including Liechtenstein, USA
- Iran, North Korea.

NOTE:

1. Exports of items covered by this licence may be made under the authority of the European Union General Export Authorisation (EU GEA 001), subject to conditions and restrictions, to the following destinations:

Australia, Canada, Japan, New Zealand, Norway, Switzerland including Liechtenstein, USA.

2. An export licence is NOT required for dual-use goods being exported to EU destinations BUT you must state on export documents that your items require a licence if exported outside the EU) and must keep records (as specified in Articles 22(10) and 22(8) of the EU Dual Use Regulation).

EXPLANATORY NOTE

(This note is not part of the licence)

1. This Open General Export Licence has been republished to amend the list of items referred to in the Schedule following the update to the EU Dual-Use List (Commission Delegated Regulation (EU) No 1382/2014 of 22 October 2014) which was published on 30 December 2014.
2. This Open General Export Licence permits, without further authority but subject to certain conditions, the export of dual-use items described in Schedule 1 to the licence from the United Kingdom or from any other Member State of the European Union (EU), where the exporter is established in the United Kingdom, to any destination in Schedule 2 to the Licence.
3. This licence is intended to allow the export of items which were the subject of a review in any of the international non-proliferation regimes (WA, MTCR, AG or NSG) in 2014.
4. 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 they makes use of the licence, provide details to the Secretary of State of their 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 <https://www.spire.bis.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.
5. 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, they 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 4(4)).

6. 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.
7. The exporter may apply for Standard Individual Export Licences during the period of suspension. Suspension will not automatically prevent them from using another OGEL so long as they meet all its terms and conditions and they have not received a letter suspending or revoking their ability to use that licence.
8. This Licence does not extend to any prohibition under legislation other than Council Regulation (EC) No. 428/2009 or the Order: in particular it does not extend to prohibitions in other legislation implementing United Nations sanctions.

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