

EXPORT LICENCE

Open General Export Licence (Military and Dual-Use Goods: UK Forces deployed in embargoed destinations)

dated 6 October 2015 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by article 26 of the Export Control Order 2008¹ ('the Order'); Articles 5 and 6 of the Iraq (United Nations Sanctions) Order 2003² ('the Iraq Sanctions Order'); Articles 3 and 4 of the Liberia (United Nations Sanctions) Order 2004³ ('the Liberia Sanctions Order'); Article 3 or 4 of Council Regulation (EC) No 234/2004⁴ ('the EU Liberia Regulation'); Article 1b of Council Regulation (EC) No 1183/2005⁵ ('the EU Democratic Republic of Congo Regulation') ; Article 3 of Council Regulation (EU) No 747/2004⁶ ('the EU Sudan Regulation') ; and Article 3 of Council Regulation (EC) No 1412/2006 ('the EU Lebanon Regulation')⁷ and Regulation 3 of the Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006⁸ hereby grants the following Open General Export Licence:

¹ S.I. 2008/3231 as amended

² S.I. 2003/1519 as amended

³ S.I. 2004/348

⁴ OJ L 40, 12.1.2004, p1, as amended by Council Regulation (EU) No 262/2014 (OJ L 76, 15.3.2014, p9)

⁵ OJ L 193, 23.7.2005, p1, as amended by Council Regulation (EU) 2015/613 (OJ L 102, 21.4.2015, p3)

⁶ OJ L 203, 11.7.2014, p106

⁷ OJ L 267, 27.9.2006, p2 as amended by Council Regulation (EU) 517/2013 (OJ L 158, 10.6.2013, p1)

⁸ S.I. 2006/2681

Licence

1. Subject to the following provisions of this Licence:

- (1) goods, software or technology specified in Schedule 2 to the Order, other than any goods, software or technology specified in Schedule 1 to this Licence, may be exported or transferred by electronic means from the United Kingdom to any UK armed forces, or the MOD notified civilian contingent, in a country specified in Schedule 2 to this Licence;
- (2) exportation or transfer of goods, software or technology that would otherwise be prohibited by article 4, 5, 6, 7, 10, 11 or 12 of the Order is permitted to the extent that it is to any UK armed forces, or the MOD notified civilian contingent, in a country specified in Schedule 2 to this Licence;
- (3) any person may provide technical assistance, the provision of which would otherwise be prohibited by Article 19 of the Order, to any person or place in a country specified in Schedule 2 to this Licence; and
- (4) any goods may be exported, technical assistance provided or software or technology transferred in a manner identified in paragraph 1(1) to (3) to any warship or Naval Auxiliary of the United Kingdom or Government Service ship provided the vessel confirms it is in the territorial waters of a country specified in Schedule 2 to this Licence;

provided that the exporter, transferor or provider, as the case may be, knows at the time of export, transfer or provision that the goods, software or technology or technical assistance are for the sole use of UK armed forces or the MOD notified civilian contingent in a country specified in Schedule 2 to this Licence.

2. Subject to the other provisions of this Licence:

Democratic Republic of Congo

- (1) a person may carry out an act otherwise prohibited by Article 20(2)(b) or (c) of the Order if at the time of the act that person knows the supply or delivery of the goods subject to trade controls is to UK armed forces or the MOD notified civilian contingent in Democratic Republic of Congo;

Iraq

- (2) a person may carry out an act otherwise prohibited by Article 5(1)(b) or (c) of the Iraq Sanctions Order if at the time of the act that person knows the supply or delivery of the prohibited goods (as defined in that Order) is to UK armed forces or the MOD notified civilian contingent in Iraq;

Lebanon

- (3) a person may carry out an act otherwise prohibited by Article 20(2)(b) or (c) of the Order if at the time of the act that person knows the supply or delivery of the goods subject to trade controls is to UK armed forces or the MOD notified civilian contingent in Lebanon;

Liberia

- (4) a person may carry out an act otherwise prohibited by Article 3(1)(b) or (c) of the Liberia Sanctions Order if at the time of the act that person knows the supply or delivery of the prohibited goods (as defined in that Order) is to UK armed forces or the MOD notified civilian contingent in Liberia;

Sudan

- (5) a person may carry out an act otherwise prohibited by Article 20(2)(b) or (c) of the Order if at the time of the act that person knows the supply or delivery of the goods subject to trade controls is to UK armed forces or the MOD notified civilian contingent in Sudan;

provided the goods supplied or delivered are goods referred to in paragraph 1(1) of this Licence.

3. Subject to the provisions of this Licence:

Democratic Republic of Congo

- (1) A person may carry out an act falling within the prohibition in Article 2 of the EC Democratic Republic of Congo Regulation, provided that:
 - (a) the person knows at the time of the act that:
 - (i) it is only in relation to goods referred to in paragraph 1(1) of this Licence; and
 - (ii) the goods are for use by UK armed forces or the MOD notified civilian contingent in the Democratic Republic of Congo; and
 - (b) Article 3 of the Regulation allows an authorisation to be granted.

Lebanon

- (2) A person may carry out an act falling within the prohibition in Article 2 of the EC Lebanon Regulation, provided that:
 - (a) the person knows at the time of the act that:
 - (i) it is only in relation to goods referred to in paragraph 1(1) of this Licence; and

- (ii) the goods are for use by UK armed forces or the MOD notified civilian contingent in Lebanon; and
- (b) Article 3 of the Regulation allows an authorisation to be granted.

Liberia

- (3) A person may carry out an act falling within the prohibition in Article 2 of the EC Liberia Regulation, provided that:
 - (a) the person knows at the time of the act that:
 - (i) it is only in relation to goods referred to in paragraph 1(1) of this Licence; and
 - (ii) the goods are for use by UK armed forces or the MOD notified civilian contingent in Liberia; and
 - (b) Article 3 or 4 of the Regulation allows an authorisation to be granted.

Sudan

- (4) A person may carry out an act falling within the prohibition in Article 2 or 3 of the Sudan Regulation, provided that:
 - (a) the person knows at the time of the act that:
 - (i) it is only in relation to goods referred to in paragraph 1(1) of this Licence; and
 - (ii) the goods are for use by UK armed forces or the MOD notified civilian contingent in Sudan;
 - (b) Article 4 of the Regulation allows an authorisation to be granted.

Exclusions

4. This Licence does not authorise the export of goods, provision of technical assistance or transfer, by any means, of software or technology:

(1) For exports of goods or software and technology in tangible form, if the exporter, provider or transferor 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 CONFIDENTIAL, for material classified by the UK prior to 2nd April 2014, or internationally security classified CONFIDENTIAL-equivalent material, or SECRET or above **unless** the exporter has a current written Security Transportation Plan that has been approved in a written letter of clearance issued by the MOD Defence Equipment and Support (DE&S) Security Advisor for those goods;

(2) In the case of intangible technology transfers it is prohibited to export technology classified OFFICIAL-SENSITIVE or above (including UK material classified RESTRICTED or above, graded prior to 2nd April 2014, and internationally security classified material), **unless:**

- (a) the method of transmission is protected by encryption appropriate to the classification of the data, and
 - (b) the exporter holds any necessary clearance from a government accreditation authority which can be produced to the Compliance Officer.
- (3) 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

5. The exporter shall comply with the following conditions and requirements:
- (1) not later than 30 days after an exporter, provider or transferor first exports goods, provides technical assistance or transfers, by any means, software or technology under this Licence, they shall inform the Secretary of State, specifying their name and the address at which copies of records of their export, transfer or provision may be inspected under condition 5(2) below;
 - (2) the exporter, provider or transferor shall maintain the following records under this Open General Export Licence:
 - (a) the date of the export, provision or transfer;
 - (b) the name and address of the individual to whom, or the Unit or ship to which, the goods, technical assistance or software or technology are being exported, provided or transferred;
 - (c) a description of the goods exported, technology transferred or technical assistance provided;
 - (d) MOD DE&S Security Advisor clearance letter referred to in 4(1) above (in the case of classified CONFIDENTIAL, for material classified by the UK prior to 2nd April 2014, or internationally security classified CONFIDENTIAL-equivalent material, or SECRET or above);
 - (e) where appropriate the Operational Name/Code;
 - (f) Unit (including UIN where known) that the goods are being exported to;
 - (g) where appropriate a copy of UOR/MOD Contract
 - (3) any such records shall be maintained for at least **four years** after the date of the relevant export or transfer or provision and the

exporter, transferor or provider shall permit the records to be inspected and copied by any person authorised by the Secretary of State;

- (4) official and commercial export documentation accompanying the export of goods or non-electronic transfer of software or technology shall include a note stating either:
- (a) "the goods are being exported under the OGEL (Military and Dual Use Goods: UK Forces deployed in embargoed destinations)"; or
 - (b) the SPIRE reference (in the form 'SPIRE reference GBOGE 20??/????') of the exporter's registration in respect of this licence

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

- (5) prior to audit, the Export Control Organisation (ECO) will issue a pre-visit questionnaire (PVQ). This must be completed, in full, and returned by the date given
- (6) the exporter, transferor or provider shall notify the Secretary of State of any change in the address referred to in paragraph 5(1) above within 30 days of that change.
- (7) 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 ECO. 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 ECO, the period of suspension or revocation may be extended. The exporter will be notified of such an extension in writing.

- (8) 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.

Prohibitions not affected by this Licence

6. This licence shall not affect a prohibition or restriction in any legislation other than the legislation under which this licence was issued.

Interpretation

7. For the purpose of this Licence:
- (1) "the Act" means the Export Control Act 2002⁹
 - (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

⁹ 2002 c.28
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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) "entry" includes part of an entry;
- (7) "MOD notified civilian contingent" means civil servants, deployed contractors, and those contractors with UK Government defence contracts including Contractors on Deployed Operations (CONDO) or personnel directly employed or engaged by HMG;
- (8) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it has in the Act or the Order (and in the event of any inconsistency, the meaning in the Order shall prevail).

- (9) “cluster munitions” means conventional munitions designed to disperse or release “explosive submunitions”;
- (10) “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;
- (11) “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;
- (12) 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”.

- (13) "entry" includes part of an entry;

- (14) "MOD notified civilian contingent" means civil servants, deployed contractors, and those contractors with UK Government defence contracts including Contractors on Deployed Operations (CONDO) or personnel directly employed or engaged by HMG;
- (15) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it has in the Act or the Order (and in the event of any inconsistency, the meaning in the Order shall prevail).

Entry into Force

1. This Licence shall come into force on 19 October 2015.
2. The Open General Export Licence (Military Goods: UK Forces deployed in embargoed destinations) dated 13 June 2014 is hereby revoked.

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

SCHEDULE 1

GOODS CONCERNED

1. Goods falling within entry ML3 as follows:
 - (1) “Cluster munitions”, “explosive submunitions”, and specially designed components therefor;
2. Goods falling within entry ML4 as follows:
 - (1) Anti-personnel landmines and specially designed components therefor;
 - (2) “Cluster munitions” and specially designed components therefor;
 - (3) “explosive bomblets” and specially designed components therefor;
 - (4) “explosive submunitions” and specially designed components therefor.
3. Goods falling within ML11 insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets;
4. Goods falling within ML16 insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets;
5. Goods falling within ML17.n insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets;
6. Goods falling within entry PL5001 c. and f.;
7. Technology, equipment and software specified in ML18, ML21 or ML22, related to equipment specified in (1) to (6) of this Schedule

SCHEDULE 2

DESTINATIONS CONCERNED

This export authorisation is valid for UK forces deployed to the following destinations:

Democratic Republic of Congo

Iraq

Lebanon

Liberia

Sudan

REVOKED

EXPLANATORY NOTE

(This Note is not part of the Licence)

1. This Open General Export Licence has been amended to clarify MOD security requirements including references to the Form 680. It has also been amended to:
 - a. update the reference to the rating code PL5001 which is listed under Schedule 1 (Goods concerned). This change is as a result of an update to Schedule 2 of the Export Control Order 2008 which came into force via the Export Control (Amendment) Order 2015 (SI 2015/351) on 24 March 2015.
 - b. include an additional clause about the requirement for completion of a pre-visit questionnaire (PVQ).
 - c. change the date that records shall be kept (as listed in clause 5(3) to four years for consistency.
 - d. update references in the opening paragraph to the relevant EU instruments and domestic implementing legislation and to remove provisions relating to Sierra Leone as the Security Council lifted arms embargo against Sierra Leone in 2010.
2. This Open General Export Licence permits, without further authority but subject to certain conditions, the export of certain goods, software or technology, including their transfer by electronic means, and various acts calculated to promote the supply and delivery of such goods to UK armed forces, or MOD notified civilian contingent. In particular it covers exports and transfers of military and dual-use goods, software and technology to the countries specified in Schedule 2; the provision of technical assistance for “WMD purposes” to a country specified in Schedule 2; and provision of goods or services to any warship or Naval Auxiliary of the United Kingdom or Government Service ship. There are certain military items that are completely outside the coverage of this Licence (anti-personnel landmines and certain items that could be used for inhuman or degrading treatment or

punishment and related software and technology). **The licence does not authorise the export or transfer of dual-use goods, software or technology to the extent that their export or transfer is prohibited by the Council Regulation (EC) No.428/2009.**

3. The goods, software, technology or technical assistance may only be exported, provided or transferred under this Licence if certain conditions are satisfied. These include that the goods, software or technical assistance are intended for use by UK Forces or the MOD notified civilian contingent including CONDO; and, if the goods, software, technology or technical assistance are classified as CONFIDENTIAL, for material classified by the UK prior to 2nd April 2014, or internationally security classified CONFIDENTIAL-equivalent material or SECRET or above, prior written approval of the Security Transportation Plan for their export, provision or transfer must have been obtained from the Ministry of Defence:

Security Transportation Plan approvals can be obtained from:

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

4. An exporter who exports goods under the authority of this Licence must before their first exportation under the Licence, inform the Secretary of State of their 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 <https://www.spire.trade.gov.uk/>

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 they think 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 has failed to take corrective action within a reasonable period (see condition 5(5)).
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 that they have not received a letter suspending or revoking their ability to use that licence.

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