



Department for
International Trade

Open General Export Licence

Exports in Support of Turkish Aerospace Industries (TAI)
TF-X Programme

July 2017

Revoked 31 December 2020

Open General Export Licence: (Exports in Support of Turkish Aerospace Industries (TAI) TF-X Programme) dated 26 July 2017, 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), hereby grants the following Open General Export Licence.

Entry into Force

This licence came into force on 28 July 2017.

Section 1. Purpose

- (1) The purpose of this Open General Export Licence (OGEL) is to allow you to export or transfer goods, software or technology for the Turkish Aerospace Industries (TAI) TF-X Programme from the United Kingdom to any of the destinations listed in this licence. This includes re-exporting goods, software or technology to and from permitted destinations, even if they have been incorporated into other products.
- (2) This OGEL can only be used by exporters who supply military goods, software and technology to:
 - a. any person or entity in Turkey, for the design, development, manufacture, trials or testing of TF-X ; or
 - b. any person or entity in a destination in Section 3 for processing, incorporation into other products and for re-export, provided they are for the design, development, manufacture, trials or testing of TF-X .
- (3) You must provide certain documents before export or transfer (see Sections 6 and 7 below) and keep records to enable the Export Control Organisation (ECO) to carry out audits to confirm you have used the OGEL correctly (see Section 8 below). **If you fail to use this OGEL correctly the ECO may suspend or withdraw your authorisation to use this licence.**
- (4) 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**.

¹ S.I. 2008/3231, as amended

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) of the Export Control Order 2008 as amended.
- (2) You may only use this licence to export or transfer the goods, software and technology listed in the first column below, unless noted otherwise in the second column, for design, development, manufacture, trials or testing of TF-X.

Control list classification	
ML4 b.1.	All goods under this category.
ML5	All goods under this category.
ML10a ML10d ML10e ML10f ML10g ML10h	All goods under these categories, but not including: <ul style="list-style-type: none"> • complete aircraft.
ML11	All goods under this category, but not including: <ul style="list-style-type: none"> • any items relating to goods whose export is not allowed in this table
ML14	Goods under this category for the TF-X to be used in: <ul style="list-style-type: none"> • training equipment; and • training simulators.
ML15	All goods under this category.
ML16	All goods under this category.
ML17c ML17d	All goods under these categories.

Control list classification	
ML17h ML17l ML17n	All goods under these categories.
ML18a ML18b	All goods under these categories.
ML21	For the design, development, manufacture, trials or testing of TF-X.
ML22a	For the design, development, manufacture, trials or testing of TF-X.
ML22b1	All technology under this category. <ul style="list-style-type: none"> The technology is to develop or produce installations for the equipment listed within this table.

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Section 3. Destinations allowed under this licence

- Turkey
- United Kingdom

Note: The UK is included as a destination for goods, software or technology which has initially been exported from the UK to one of the destinations listed above and are then re-exported to the United Kingdom including after being incorporated into other products.

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:

You must only export or transfer goods, software or technology:

- (1) to any person or entity in Turkey or any person or entity in one of the destinations listed in section 3 as long as the goods, software or technology is for design, development, manufacture, trials or testing of TF-X; or
- (2) to any person or entity (consignee) in one of the destinations listed in section 3 as long as the goods, software or technology will be re-exported to one of the destinations listed in section 3 for the design, development, manufacture, trials or testing of TF-X; or
- (3) to any person or entity (consignee) as long as they are in one of the destinations listed in section 3 **and** the items are for processing or incorporating into other products and then re-exporting to a destination listed in section 3 for the design, development, manufacture, trials or testing of TF-X.

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 are to be exported, re-exported or transferred to a person or company in a destination **other than** one specified in section 3 of this licence. You must make sure that you keep to any relevant project security instruction (PSI).
- (2) **Security classified goods, software and technology**
 - a. You **must only** export or transfer goods, software and technology classified **OFFICIAL-SENSITIVE or above** (including UK material classified RESTRICTED or above, graded prior to 2 April 2014, and internationally security classified material), if you have MOD Form 680 approval. You may only export these goods, software and technology to the **named end-user** stated in the MOD Form 680 and you will need to keep a record of that end-user for inspection as described in sections 8(1) a to g below. You can apply for a MOD Form 680 through the SPIKE online export licensing system (www.spire.trade.gov.uk).
 - b. For goods, software and technology classified CONFIDENTIAL, for material classified by the UK prior to 2 April 2014 and internationally security classified CONFIDENTIAL-equivalent material, or SECRET or above, you will need a current written approval for a Security Transportation Plan. A Security Transportation Plan approval can be obtained from MOD Defence Equipment and Support (DE&S) Principal Security Advisor (please see below for contact details).

Note: To apply for Security Transportation Plan clearances, please contact:
Defence Equipment & Support (DE&S)
Principal Security Advisor
Security Advice Centre
Poplar - 1
MOD Abbey Wood
Bristol
BS34 6JH
Tel: 0300 67934378
Fax: 0300 67934925
e-mail: desinfra-securityadvicecentre@mod.uk

You **must not** transfer software or technology **electronically** that is security classified '**OFFICIAL-SENSITIVE**' or above (including UK material classified RESTRICTED or above, graded prior to 2 April 2014, and internationally security classified material), unless:

- i. the method of transmission is protected by encryption appropriate to the security classification of the data; and
- ii. you hold any necessary 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.

(3) **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 of, 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 may 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, which may be accessed via the SPIRE online export licensing system (www.spire.trade.gov.uk).

- (4) 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 and 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' (www.spire.trade.gov.uk), stating where you will keep records of the exports or transfers and where the ECO may inspect them.
- (3) You must have documentary proof on file, and before first using this licence provide a copy to the Export Control Organisation at eco.help@trade.gsi.gov.uk, that the export or transfer is in support of the TF-X programme in the form of:

an **original undertaking** from the person or entity (consignee) receiving the goods, software or technology which confirms the export is for a **permitted use** (this undertaking must remain in force for the period of the contract) and **which confirms the export is for the design, development or manufacture (or, where appropriate, for trials and testing) of TF-X**; or

b. a document as evidence (for example, a purchase order, excerpt of contract) from the consignee receiving the goods, software or technology which **states** the export is for a **permitted use** (the document **must also include** the contract number and the name of the items which can be checked against the control list

classification of the goods, software or technology being exported and **confirm that the export is for the design, development or manufacture (or, where appropriate, for trials and testing) of TF-X**; or

c. **only** in the case of contracts directly from a **government in a destination** listed in section 3, provide documents as evidence (for example, a purchase order, excerpt of contract) that includes 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 and **which confirm that the export is for the design, development or manufacture (or, where appropriate, for trials and testing) of TF-X**.

Note: The undertaking is only valid as long as the circumstances under which the undertaking was given have not changed or modified over that period, including:

- the details of the person (consignee) receiving the goods, software or technology;
- the terms of the OGEL under which it was given;
- the destination of the goods, software or technology is not an embargoed destination; or
- for any reason which the ECO considers should result in that undertaking no longer being valid.

The ECO considers it best practice that end-user undertakings are renewed every 12 months.

- (4) If the condition given in Section 5(2) of this licence applies to your export, you must also have written approval from the Ministry of Defence before exporting goods, software or technology.

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

- (1) For all physical exports of goods, software or technology, 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 (Exports in Support of Turkish Aerospace Industries (TAI) TF-X Programme)'; or

b. your SPIRE licence reference (in the form GBOGE 20??/?????).

- (2) You should present these documents to officials of HM Border Force when asked, together with the information and documents listed in Section 8(1) f or g below.

- (3) You **must** update the '**Open licensing returns**' within the SPIRE online export licensing system (www.spire.trade.gov.uk), for **all** exports or trade carried out within each calendar year using this licence. 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 or transfer.
 - b. The name and address of the company (the consignee) you are exporting or transferring the goods, software or technology to.
 - c. A description of the goods, software or technology.
 - d. The **original undertaking** from the company (consignee) receiving the goods, software or technology, **or** documents described in 6(3) b or c above (for example a purchase order, an excerpt of the contract).
 - e. The classification in Schedule 2 of the Export Control Order.
 - f. Documents referred to in section 7 above that include either of the declarations described in section 7(1) a. or b.
 - g. The written approval from the Ministry of Defence, if this is needed to meet the requirements of sections 5(2) b. and c.

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) arms embargo or any other arms embargo.
- (3) As well as adhering to the requirements of this licence, you must also keep to any other relevant laws which are in force. There may be restrictions or limits under other laws which apply when exporting these goods, software or technology.

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 withdraw 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 withdraw 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.

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Glossary

Expressions used in this licence and in the Export Control Act 2002 (2002 C.28) or in the Export Control Order 2008 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/

You can see the original Export Control Order at;

<http://www.legislation.gov.uk/ukxi/2008/3231/contents/made>.

You can see the original Schedule 2 at;

<http://www.legislation.gov.uk/ukxi/2008/3231/schedule/2/made>

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

Section 1 - Purpose

1. 'TF-X programme' means the Turkish Aerospace Industries led programme to design, develop and manufacture a manned fifth generation fighter aircraft, i.e.: the air vehicle and its on-board systems, including propulsion; maintenance and test equipment and facilities; production tooling; required software and technology. For the purposes of this definition, 'fifth' generation means an air vehicle with low observable characteristics, super-cruise and high agility.
2. 'Re-export' means to export goods, software or technology listed in section 2, from an allowed destination, listed in section 3, back to the UK or to another destination allowed under this licence, including after processing or incorporating the goods, software or technology into other products or for trial and testing purposes.
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 2 - Other restrictions that apply

1. 'Security classified' means that information or other assets are given a security classification marking when assessed against a security classification marking scheme. A security classification marking scheme is an administrative system to make sure that access to information and other assets is correctly managed and that assets are protected to an agreed and proportionate security classification level throughout their life. Other governments and organisations such as NATO and OCCAR have their own security classification marking schemes.
2. 'Project security instructions' are the specific security instructions for a particular project. They are generated either after the signature of a project memorandum of understanding (MoU) involving more than one country or as part of a contractual arrangement. They bring together the security regulations of everyone involved in the project and often provide extra security instructions on classification, marking,

release and other security arrangements for that project. A MoU is a document describing an agreement between more than one individual or organisation. It sets out the intended common line of action but does not imply a legal commitment.

3. 'MOD Form 680' is the way in which the Government assesses proposals by companies to release security classified marked goods, software and technology to foreign organisations (for example, individuals, companies partnerships or governments). An MOD Form 680 approval is not an approval to use an Open General Export Licence or to export without a licence. It is a separate security requirement.
4. '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).
5. '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.
6. '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.
7. 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 3 - Before exporting or transferring goods or software

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: www.spire.trade.gov.uk
2. 'consignee' may be an individual, a company, organisation, a government or NATO.
3. An 'original undertaking' means one that has a person's original signature and has not been copied, faxed or converted into an electronic format. For an undertaking template, please visit:
<https://www.gov.uk/government/publications/military-goods-ogel-undertaking-template>
4. '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).

5. 'Permitted use' means use of the items specified in section 2 of this licence, by a person or entity (for example, company or partnership) in a destination specified in section 3 and which meets the conditions set out in sections 4, 5, and 9(2) and other relevant conditions, restrictions or requirements set out in this licence.

Section 4 - When exporting or transferring goods of software

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

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