



Department for
International Trade

Open General Export Licence

Certified Companies

December 2020

Revoked 7 June 2021

EXPORT LICENCE

Open General Export Licence (Certified Companies)

dated 31 December 2020 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:

Licence

1. Subject to the following provisions of this Licence, items specified in Schedule 1, may be exported or transferred from Northern Ireland to:
 - (1) certified companies in European Union Member States that have been established under the certification procedures in Article 9 of Directive 2009/43/EC for a "permitted use".

Exclusions

2. This licence does not authorise the export or transfer of items:
 - (1) if the exporter or transferor has been informed by the Secretary of State that the items are or may be intended, in their entirety or in part, for a use **other than** a permitted use;
 - (2) if the exporter or transferor knows that the items are intended, in their entirety or in part, for a use **other than** a permitted use;
 - (3) if the exporter or transferor has grounds for suspecting that the items might be used, in their entirety or in part, for a use **other than** a permitted use unless they have made all reasonable enquiries as to their proposed use and satisfied themselves that they will not be so used;

¹ S.I. 2008/3231, as amended

- (4) Except in the case of an export of technology by telephone, fax or other electronic media, to a Customs Free Zone within a destination specified in Schedule 2;
- (5) if the exporter has been informed by the Secretary of State, or is otherwise aware, (for example, from information received from the manufacturer), that they have been classified by the Ministry of Defence as OFFICIAL-SENSITIVE or above (including UK material classified RESTRICTED or above, graded prior to 2 April 2014, and internationally security classified material), **unless**:
- (a) the proposed export has been approved by the Ministry of Defence under an MOD Form 686 and
- (i) the clearance approval is not time expired at the time the export takes place, and
- (ii) the "goods" are identical to those for which the clearance was given;

or

- (b) if the proposed export is in support of any sub-contracting or collaboration activity that directly contributes towards a United Kingdom Government defence contract where the approval has been provided by:
- (i) the Ministry of Defence under 'F1686' (Application to sub-contract or collaborate with an overseas contractor on work involving OFFICIAL-SENSITIVE and above classified information) as identified in the Security Policy Framework issued by the Cabinet Office (and included in the UK Government OFFICIAL-SENSITIVE Security Conditions), **or**

- (ii) the Ministry of Defence Contracting Authority under a letter delegating authority up to an OFFICIAL-SENSITIVE level to an identified company Security Controller to approve the export, **or**
- (iii) any written letter of approval as identified in any applicable Project Security Instructions (PSI) approved by collaborating partner nations governments.

and

- (c) for all goods classified CONFIDENTIAL, for material classified by the UK prior to 2nd April 2014, or internationally security classified CONFIDENTIAL-equivalent material, or SECRET or above, 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) Principal Security Advisor.
- (6) 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 2 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 transferor holds any necessary clearance from a government accreditation authority which can be produced to the Compliance Officer.

- (7) 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

3. The exporter or transferor shall comply with the following Conditions and Requirements:
- (1) before first using this Licence, they shall inform the Secretary of State of their intention to do so, specifying the name and the address at which copies of records maintained pursuant to paragraph 3(3) 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/spire>
 - (2) the exporter **must** obtain prior to exporting **any** goods classified OFFICIAL-SENSITIVE or above (including UK material classified RESTRICTED or above, graded prior to 2 April 2014, and internationally security classified material) pursuant to this licence, written approval from MOD (MOD Form 680) to demonstrate the goods to the country of destination for which the export is intended
 - (3) the exporter or transferor shall maintain the following records in respect of the export of goods under this Open General Export Licence:
 - (a) the date and destination of each;
 - (b) the name and address of the certified company and end- user;
 - (c) a description of the items exported or transferred;
 - (d) MOD Form 680 or F1686 clearance letter referred to in paragraph 2(5) *(in the case of "goods" security classified OFFICIAL-SENSITIVE or above (including*

UK material classified RESTRICTED or above, graded prior to 2 April 2014, and internationally security classified material);

- (e) a Security Transportation Plan written letter of clearance from the MOD authority referred to in 2(5)(c) above for the transportation of any goods classified CONFIDENTIAL, for material classified by the UK prior to 2 April 2014 or internationally security classified CONFIDENTIAL-equivalent material, or SECRET or above.
 - (f) any necessary clearance from a government accreditation authority referred to in paragraph 2(6) (b);
 - (g) all documentation obtained pursuant to paragraph 1(1); and any such records shall be maintained for at least four years after the date of the relevant export or transfer and the exporter or transferor shall permit the records to be inspected and copied by any person authorised by the Secretary of State;
- (4) in the case of goods and/or technology specified in Schedule 2 to the Order which have any of the functions or characteristics of information security described in Category 5 Part 2 of Annex 1 to Council Regulation (EC) No. 428/2009 (EUR 2009/428, as amended) , a copy of the records specified in paragraph 3(3)(a) and 3(3)(b) shall be presented to the Secretary of State for inspection every twelve months;
- (5) Except in the case of a transfer of technology by telephone, fax or other electronic media, official and commercial export documentation accompanying the goods or technology shall include a note stating either:
- (a) "the goods/technology are being exported under the OGEL (Certified companies)"; 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 Force if so requested;

- (6) prior to audit, the Department for International Trade (DIT) will issue a pre-visit questionnaire (PVQ).

This must be completed, in full, and returned by the date given

- (7) the exporter or transferor shall notify the Secretary of State of any change in the address referred to in paragraph 3(1) within 30 days of that change. This notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at <https://www.spire.trade.gov.uk/spire/fox/espire/LOGIN/login>

- (8) 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 DIT. 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 DIT, the period of suspension or revocation may be extended. The exporter will be notified of such an extension in writing.

- (9) 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.

- (10) 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

4. Nothing in this Licence shall affect any prohibition or restriction on the exportation or transfer or carrying out of any other act with respect of the exportation or transfer of any items concerned under, or by virtue of, any enactment other than a prohibition or restriction in the legislation under which this licence was issued, as set out in the licence itself.

Interpretation

5. For the purpose of this Licence:

- (1) "the Act" means the Export Control Act 2002³
- (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

³ 2002 c.28

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 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) a "Customs Free Zone" is a part of the territory of a country where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the Customs territory of that country, and are not subject to the Customs controls that would otherwise apply;

- (7) “MOD Form 680” is the means by which the Government assesses proposals by companies to release classified information or equipment to foreign entities. An MOD Form 680 approval is not an approval to use an Open General Export Licence; it is a separate security requirement;
- (8) “MOD Form 1686” is the means by which exporters can obtain clearance to sub contract or collaborate on aspects classified OFFICIAL-SENSITIVE or above on MOD projects with overseas companies. F1686 approval is not an approval to use an Open General Export Licence; it is a separate security requirement. An approved F1686 can be considered a written letter of clearance from MOD;
- (9) “MANPADS” – Man-Portable Air Defence Systems means – surface-to-air missile systems designed to be man-portable and carried and fired by a single individual; and other surface-to-air missile systems designed to be operated and fired by more than one individual acting as a crew and portable by several individuals;
- (10) "permitted use" means use of items specified in Schedule 1 by certified companies established in accordance with the procedures set out in Article 9 of Directive 2009/43/EC on the control of the acquisition and possession of weapons (OJ No. L 256, 13.9.1991, p. 51-58, as amended) as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, for incorporation in their own production of final defence equipment or for use as spares or replacement parts; and the re- export or re-transfer of items specified in Schedule 1 is not permitted as such unless for incorporation by certified companies in Member States. Items can be re-exported or re- transferred in circumstances where they are for the purpose of maintenance or repair of previously exported equipment that had already been supplied under this licence and incorporated by a certified

company.

Permitted use does not include

- (a) use in connection with the development, production, handling, operation, maintenance, storage 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) use that would be inconsistent with the terms of a UN, OSCE or EU arms embargo or any other arms embargo observed by the UK; or
 - (c) incorporation in goods or technology that:
 - (i) are to be exported, re-exported or transferred to a person or entity destination **other than** one specified in Schedule 2.
- (11) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it has in the Act or the Order.

Entry into Force

6. This Licence shall come into force at 23:00 on 31 December 2020.
7. The Open General Export Licence (Certified Companies) dated 24 July 2018 is hereby revoked.

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

SCHEDULE 1

GOODS CONCERNED

Equipment, components, materials, unfinished products, forgings and castings specified in the following entries in Schedule 2 to the Order:

1. ML4.a., ML4.b.1., ML4.b.2., and ML4.c., other **than**:
 - (1) Anti-personnel landmines, and specially designed components therefor;
 - (2) Anti-vehicle mines, and specially designed components therefor;
 - (3) Rockets, missiles capable of a range of at least 300 km;
 - (4) Components usable in item (3) above as follows:
 - (a) Individual rocket stages;
 - (b) Re-entry vehicles, and components therefor as follows:
 - (i) Heat shields and components therefor;
 - (ii) Heat sinks and components therefor; or
 - (iii) Electronic equipment for re-entry vehicles;
 - (c) Rocket engines;
 - (d) Thrust vector control systems;
 - (e) Weapon or warhead safing, arming, fuzing and firing;
 - (5) Complete MANPAD systems (with or without missiles, including related launching equipment and rockets) and specially designed components therefor;
 - (6) Missiles for MANPAD Systems (including missiles which can be used without modification in other applications);

- (7) Cluster munitions and specially designed components therefor;
- (8) Explosive bomblets and specially designed components therefor;
- (9) Explosive submunitions and specially designed components therefor;
2. ML5;
3. ML6 **(other than complete vehicles);**
4. ML7.g.; **other than** when deployed in conformity with para 1(2)(b) of the licence;
5. ML9 **(other than complete vessels);**
6. ML10, **other than**;
- (1) Complete aircraft;
- (2) Complete unmanned airborne vehicles and any components specially designed or modified for unmanned airborne vehicles;
7. ML11, **other than**;
- (1) Guidance sets capable of achieving a system accuracy of 3.33% or less of the range, usable in rockets or missiles capable of a range of at least 300 km;
- (2) Goods relating to entries excluded by this Schedule (for example, Test equipment for MANPAD systems);
8. ML13.c. and d.;
9. ML14, **other than**;
- training equipment for MANPAD systems;
10. ML15;

11. ML16, as it relates to entries specified in this Schedule;

12. ML17, other than;

- (1) ML17.f., and g;
- (2) ML17.n insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets;

13. ML18, other than;

- (1) Production equipment for MANPAD systems.
- (2) Production equipment for cluster munitions, explosive submunitions and explosive bomblets;

14. ML21, software as follows, as it relates to entries specified in this schedule,

(1) ML21.a., other than;

- (a) “Development” or up-dating of “software” embedded in military weapon systems;

(2) ML21.b.1.;

(3) ML21.c.,

(4) L21.d.;

15. ML22 Technology as it relates to entries specified in this schedule – Source Code can only be exported where it relates to permitted software listed above (for example, does not apply to Source Code relating to ML17.f.).

SCHEDULE 2
DESTINATIONS
CONCERNED

This export authorisation is only valid for those certified companies in European Union Member States and Norway listed here: <http://ec.europa.eu/growth/tools-databases/certider/> for re-transfer in the EU or re-export from the EU for the ultimate end-use to a government of the following countries;

Australia, Austria,
Belgium, Bulgaria,
Canada, Croatia, Cyprus, Czech
Republic, Denmark,
Estonia,
Finland, France,
Germany, Greece,
Hungary,
Iceland, Ireland (Republic of), Italy,
Japan,
Latvia, Lithuania,
Luxembourg, Malta,
Netherlands, New Zealand, Norway,
Poland,
Portugal,
Romania,
Slovakia, Slovenia, Spain, Sweden,
Switzerland, United Kingdom
USA.

Other than for the authorised purposes set out in paragraph 2(4), the destinations specified in the previous paragraph do not include any Custom Free Zone within the territory of that destination.

EXPLANATORY NOTE

(This Note is not part of the Licence)

1. This Open General Export Licence has been revised to take into account changes in legislation following the end of the transition period.
2. This Open General Export Licence permits, without further authority but subject to certain conditions, the export or transfer of items specified in Schedule 1 to the licence, from Northern Ireland to those certified companies listed here: <http://ec.europa.eu/growth/tools-databases/certider/> in Schedule 2 which have been established in accordance with Article 9 of Directive 2009/43/EC on the control of the acquisition and possession of weapons (OJ No. L 256, 13.9.1991, p. 51-58, as amended) as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, by individual Member States, for the ultimate end- use of a government listed in Schedule 2.
3. The licence allows the certified companies in Schedule 2 to use the items received under this licence for the purpose of incorporation in their own production of final defence equipment. Items can also be used by these certified companies for use as spares or replacement parts. Items cannot be re- exported or re-transferred as such unless for use in maintenance or repair of previously supplied main equipment.
4. There are a number of conditions on the licence which an exporter must comply with before making use of this licence. These include where the goods are classified as OFFICIAL- SENSITIVE or above the export must have obtained written approval from the Ministry of Defence.

Application forms can be obtained from:

- (a) **MOD Form 680 applications can be made via Export Control Organisation's electronic Licensing System, SPIRE, at: <https://www.spire.trade.gov.uk/spire>**
- (b) **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

5. F1686 Procedure:

"F1686" is the means by which exporters can obtain clearance to sub-contract or collaborate on aspects OFFICIAL-SENSITIVE or above on MOD projects with overseas companies. This procedure is laid out in the Security Policy Framework, issued by the Cabinet Office (and included in the UK Government OFFICIAL-SENSITIVE Security Conditions). It is properly known as, "Application to subcontract or collaborate with an overseas contractor on work involving OFFICIAL-SENSITIVE and above classified information (also known as F1686)." For more information contact the DE&S Principal Security Advisor.

- 6. Companies are considered to know the end-user of goods or technology which is security classified OFFICIAL-SENSITIVE or above, by virtue of having to have a valid MOD Form 680 approval in place, and in respect of such items should maintain a record of the end-user as required under Paragraph 3(2).

7. 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. The same applies to transfers of technology. This notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at <https://www.spire.trade.gov.uk/spire>
8. Persons who registered to use previous versions of this licence do not need to re-register. Registrations are carried over to the current in force version of this licence.
9. 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 failed to take corrective action within a reasonable period (see condition 3(6)).
10. Where DIT identifies failures in compliance with licence conditions or the legislation during a compliance visit, DIT 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.

11. 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.
12. An exporter who exports goods which have any of the functions

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or characteristics of information security described in Category 5 Part 2 of Annex 1 to Council Regulation (EC) No. 428/2010 (EUR 2009/428, as amended) shall present a copy of the export records to the Secretary of State every twelve months. The same applies to transfers of technology. This notification should be given in writing or by facsimile transmission to:

Export Control Organisation
Compliance Unit
Department for International Trade
2nd Floor
3 Whitehall Place
London SW1A 2AW
Fax: 020 7215 3830

13. The provisions of this Licence only apply for the purposes of the Export Control Order 2008, in particular, this Licence does not extend to prohibitions in other legislation implementing United Nations sanctions.

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