



Department for
International Trade

Open General Export Licence

Military Goods: A400M Collaborative Programme

September 2022

REVOKED 1 MARCH 2023

Open General Export Licence (Military Goods: A400M Collaborative Programme)

Dated 30 September 2022

The Secretary of State grants this Open General Export Licence under article 26 of the Export Control Order 2008¹.

Section 1: Purpose

(1) The purpose of this Open General Export Licence (OGEL) is to allow you to export military goods, software and technology for the production, development or use of the A400M aircraft.

(2) However, as with any OGEL, there are limits to what it covers. It is limited to a number of low-risk destinations. Some goods are excluded, and you will have to provide certain documents before exporting items, and keep records so that the Department for International Trade (DIT) can carry out audits to confirm you have used the OGEL correctly. **If you fail to use this licence correctly, the DIT may suspend or take away your authorisation to use it.**

(3) 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**.

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) to the Export Control Order 2008 as amended.

(2) You **may only export or transfer** the following goods, software or technology, listed in the first column unless stated otherwise in the second column. **The licence covers listed goods, software or technology which may form part of the A400M, but it does not cover complete aircraft.**

¹ SI 2008/3231 as amended

Control list classification

ML4 b	All goods under this category
ML5	All goods under this category
ML10 a ML10 d ML10 e ML10 f ML10 g	All goods under these categories
ML11a	All goods under this category
ML14	All goods under this category
ML15	All goods under this category
ML16	All goods under this category
ML17 c ML17 f ML17 h ML17 l	All goods under these categories
ML18a ML18 b	All goods under these categories
ML21a	Software listed in classification ML21a (software) related to any equipment (or components), but not including software for: <ul style="list-style-type: none">• any items relating to goods whose export is not allowed in this table.
ML 22a	Technology listed in classification ML22a related to any equipment (or components), but not including technology for: <ul style="list-style-type: none">• any items relating to goods whose export is not allowed in this table.

(3) You **must not** export or transfer under this licence goods (either complete items or components of items) which in relation to export from:

- a. England, Wales and Scotland, fall within Council Regulation (EC) No 258/2012 of 14 March 2012 implementing Article 10 of the UN Firearms Protocol (EUR 2012/258, as amended).
- b. Northern Ireland, fall within the scope of Council Regulation (EC) No 258/2012 of 14 March 2012 implementing Article 10 of the UN Firearms Protocol (EUR 2012/258, as amended) and Council Directive 91/477/EEC on the control of the acquisition and possession of weapons (OJ No. L 256, 13.9.1991, p. 51-58, as amended) as those instruments have effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

Section 3. Countries or destinations allowed under this licence

(1) **Partner nations:** Belgium, France, Germany, Luxembourg, Spain, Turkey, United Kingdom

(2) **Permitted export customer:** Malaysia

(3) **Contractors and sub-contractors supplying into the programme:**

Australia, Austria, Belgium, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Indonesia, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Malaysia, Netherlands, New Zealand, Norway Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom, USA

Note: The United Kingdom is included in 3(1) and 3(3) as a destination for goods, software or technology which have been initially exported from the UK to one of the destinations listed above and are then re-exported to the United Kingdom.

(4) 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;

(1) You **must only** export or transfer goods, software or technology for the production or development or use of the A400M:

(a) to a **partner nation** (section 3(1)) **or** their entities (consignees) in that or other **partner nations** (section 3(1)), where the goods, software and technology are necessary for use of the A400M aircraft; **or**

(b) for **exports to a permitted export customer** (section 3(2)), **only if:**

(i) you are exporting to the A400M operator in the **permitted export customer** destination; **or**

(ii) you are exporting to companies based in the **permitted export customer destination** for the production or use of the A400M when the end-user is the A400M operator in that destination; **or**

(c) to a **contractor or sub-contractor** (section 3(3)) where the goods, software and technology are necessary for the A400M collaborative programme (for example a letter of confirmation from ECJU MOD).

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 is to be exported, re-exported or transferred to a person or company (consignee) in a country or destination **other than** one specified in section 3 of this licence.

(2) All exports or transfers of Organisation Conjointe de Cooperation en matiere d'Armement (OCCAR) A400M security classified goods, software and technology **must keep to** both the OCCAR security regulations for the release of security classified goods, software and technology, and the A400M collaborative programme security instructions (PSI).

(3) The goods, software or technology **must be** exported to support A400M. For exports to companies which support the main programme (contractors or sub- contractors) or **partner nations**, you must get confirmation of this from the Export Control Joint Unit Ministry of Defence (ECJU MOD), in the form of an A400M project confirmation letter, see section 6(3).

(4) Security classified goods, software and technology

a. You **must only** export or transfer goods, software or technology that carries a security classification of **OCCAR 'Restricted' or above** if you have the correct written approvals. There are different approvals needed depending on the destinations and consignees receiving the goods, software or technology, and these are detailed below.

(i) **For exports or transfers to Airbus Military Sociedad Limitada (AMSL), a partner nation or a permitted export customer, contractor or sub-contractor**, for the A400M collaborative programme, **you must make sure that**, in the case of goods that are classified as **OCCAR 'Confidential'** or above, the facility you are exporting or transferring to has an appropriate 'facility security clearance' to at least the same level as the goods, software or technology being exported or transferred. You should check this with the Defence Equipment and Support (DE&S) Security Advice Centre (SAC). If the goods are classified as **OCCAR 'Restricted'**, you must check with DES Security Advice Centre whether a 'facility security clearance' is needed. Please see the **note** below for their contact details.

(ii) For companies supplying without a main contract or purchase order (for example, providing goods as part of a tender), you will need to meet 5(4)a.i and you will also need **MOD Form 680 approval**. You can apply for a MOD Form 680 through SPIRE. www.spire.trade.gov.uk.

(iii) **For permitted export customers**, you will need MOD Form 680 approval for the release of goods, software or technology which is classified as **OCCAR 'Restricted'** or above. You can apply for a MOD Form 680 through SPIRE. www.spire.bis.gov.uk.

b. For all exports and transfers of goods, software and technology classified as **OCCAR 'Confidential' or above**, to any destination, you will need a Security Transportation Plan that must be approved by the Security Advice Centre (SAC). Please see the **note** below for their contact details.

A table showing the **permission needed** is provided in **Annex B** of this licence.

Note: To apply for permission and clearances, please contact:

Principal Security Adviser

Security Advice Centre (SAC)

Defence Equipment & Support Principal Security Adviser (DE&S PSy

A) Ministry of Defence

Poplar - # 2004 Abbey Wood

Bristol

BS34 8JH.

Phone: 030 6793 4378

Email: desinfra-securityadvicecentre@mod.uk

(5) You **must not** transfer software or technology electronically that is security classified **OCCAR 'Restricted' or above** unless:

(a) the equipment, or software you use to transfer it, is protected by approved encryption appropriate to the security classification marking of the information being transferred; **and**

(b) you hold 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.

(6) 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 or suspect this in the following ways:

(i) The Secretary of State tells you

(ii) You are already aware of this intended use

(iii) You have grounds for suspecting that the goods, software or technology will 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 Export Control Joint Unit (ECJU) End User Advice Service.

(7) 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 or 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 DIT digital licensing system, 'SPIRE' (www.spire.trade.gov.uk), stating where you will keep records of the exports or transfers and where DIT may inspect them. 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.

(3) You **must get a letter of confirmation** that the work is for A400M, from the ECJU MOD, in one of the following cases.

(a) If the ultimate end-user is a **partner nation** (see section 3(1)), or a **contractor** or **sub-contractor** (see section 3(3)).

(b) If the ultimate end-user is a **permitted export customer** (section 3(2)), or a company supplying **without** a main contract or purchase order and the goods, software or technology **are not** security classified **OCCAR 'Restricted', or above**.

Note: You will need to provide the ECJU MOD with confirmation that you are involved with work on the A400M. For more information on the process of how to get this confirmation, please see Annex A. You can get confirmation letters from:

Export Control Joint Unit - MOD
Team
Old Admiralty Building
Admiralty Place
London
SW1A 2BL
United Kingdom

Email ecju-modteam@mod.gov.uk

(4) You **must get MOD Form 680 approval**, through SPIRE (www.spire.trade.gov.uk), in one of the following cases.

(a) if the goods, software or technology are security classified **OCCAR 'Restricted' or above**, **and** the ultimate end-user is a **permitted export customer** (section 3(2)).

(b) If a company is supplying goods, software or technology **without** a main contract or purchase order, and the goods, software or technology are security classified **OCCAR 'Restricted'**.

(5) If goods, software or technology are classified as **OCCAR 'Restricted' or above**, you must follow the instructions in 5(4).

(6) For software or technology transferred electronically, classified as **OCCAR 'Restricted' or above**, you must follow the instructions in 5(5).

(7) You must provide documents as evidence (for example, a purchase order, excerpt of contract, an undertaking). The documents must include 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.

Please check the table provided in **Annex A** of this licence that summarises all the permission that is needed.

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

(1) For all physical exports of goods or software, 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 (Military Goods: A400M Collaborative Programme)'; **or**

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

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

(3) 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**.

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.
 - (b) The name and address of the person or entity (the consignee) you are exporting or transferring the goods or software to.
 - (c) description of the goods or software.
 - (d) The classification of the goods from the list in Schedule 2 to the Export Control Order.
 - (e) Documents referred to in section 7 above that include either of the declarations described in section 7(1) a or b.
 - (f) The written approvals from the Ministry of Defence, if this is needed to meet the requirements of sections 5(3) to 5(4).
 - (g) Documents described in section 6(7) (for example, a purchase order, an excerpt of the contract).
- (2) For goods, software and technology 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), every 12 months you must present a copy of the records set out in section 8(1) a, b and c above to a representative of the Secretary of State (in this case, the National Cyber Security Centre (NCSC) and send a copy to the ECJU) for inspection. You can contact the NCSC at the following email address:
export.returns@ncsc.gov.uk

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 DIT 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 a United Kingdom national embargo.
- (3) As well as keeping to the requirements of this licence, you must also keep to any other relevant laws and acts which are in force. There may be restrictions or limits under other laws which apply when exporting these goods or software.

Section 10: If you fail to meet the terms and conditions of this licence

(1) If, following an audit visit, the DIT 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 DIT may **suspend or take away your authorisation** to use this licence until you can satisfy the DIT that you are able to meet the terms and conditions of this licence.

(2) The DIT may **suspend or take away** 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 DIT 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.

Entry into Force

1. This licence shall come into force on 30 September 2022.
2. The Open General Export Licence (Military Goods: A400M Collaborative Programme) dated 31 December 2020 is hereby revoked.

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

Glossary

Expressions used in this licence and in the Export Control Act 2002 (2002 C.28) or in the Export Control Order 2008 (S.I. 2008/3231) 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 2008 at www.legislation.gov.uk/ukxi/2008/3231/contents/made

You can see the original Schedule 2 to that Order at 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) ‘Use’ means operation, installation (for example, on-site installation), maintenance, checking, repair, overhaul and refurbishment.
- (2) A400M’ is the military transport aircraft designed, developed and produced by Airbus Military Sociedad Limitada (AMSL).
- (3) You’ means someone who has registered as a user with SPIRE, the electronic licensing system of the Department for International Trade.

Section 3: Countries or destinations allowed under this licence

- (1) A ‘**partner nation**’ is one of the governments that agreed to take part in the A400M collaborative programme.

Note: For the purposes of this OGEL, Luxembourg is a **partner nation** which you can export goods and services to, although it is not officially a **partner nation**.

- (2) A ‘**permitted export customer**’ is a country, other than one of the **partner nations**, that has ordered the A400M.
- (3) contractor’ is a person entering into a contract to provide goods or services.
- (4) sub-contractor’ is a person entering into a contract with a contractor to provide goods or services to, falling within the contractor’s contract.

Section 4: Who you can export goods, software and technology to

(1) An 'operator' means an end-user of the A400M aircraft.

Section 5 - Other restrictions that apply

(1) 'Organisation Conjointe de Cooperation en matiere d'Armement (OCCAR)' is an international organisation whose main business is managing joint defence equipment programmes throughout the life of the programmes.

(2) 'Security classified' is the international equivalent of the UK protective marking scheme. In this case it means any information, document or material which, if revealed to someone not authorised to see it, could damage the interests of OCCAR, its member states or any other state which is taking part in an OCCAR Programme. Security classified can apply whether the information originally comes from within OCCAR or is received from its member states or from states taking part in an OCCAR Programme.

(3) 'A400M programme security instructions (PSI)' are the specific security instructions for the A400M collaborative programme.

(4) 'Export Control Joint Unit' in the Ministry of Defence manage the Government's assessment of MOD Form 680 applications and the ECJU MOD approval letters.

(5) 'AMSL' is the main contractor for the A400M.

(6) A 'facility security clearance' refers to a company site that has been approved by a national security authority to manage work or store classified information marked 'Confidential' or above on the specific company premises.

(7) 'MOD Form 680' is the way in which the Government assesses proposals by companies to release protectively marked (classified) goods, software and technology to foreign organisations (for example, individuals, companies, partnerships or governments).

(8) '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.)

(9) 'Approved encryption' is encryption that has been evaluated and accredited by the CESG or the National Technical Authority of another A400M collaborative programme **partner nation**. The CESG is the UK Government's national technical authority for information assurance (the security measures the CESG considers necessary to make sure that information systems will protect the information they handle and will function as they need to, when they need to, under the control of legitimate users).

(10) For the UK MOD, the 'accreditation authority' is the Chief Information Officer. Their contact details are as follows.

Chief Information Officer
Information Security Policy
Ministry of Defence
Level 4, Zone K
MOD Main Building
Horse Guards Avenue
London
SW1A 2HB

Email: CIO-InfoSyPol@mod.uk

(11) '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).

(12) '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.

(13) 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 Export Control Joint Unit about any concerns you may have with the overseas entities (businesses or individuals) involved with your export transactions.

Section 6 - Before exporting or transferring goods, software or technology

(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: <https://www.spire.trade.gov.uk/>

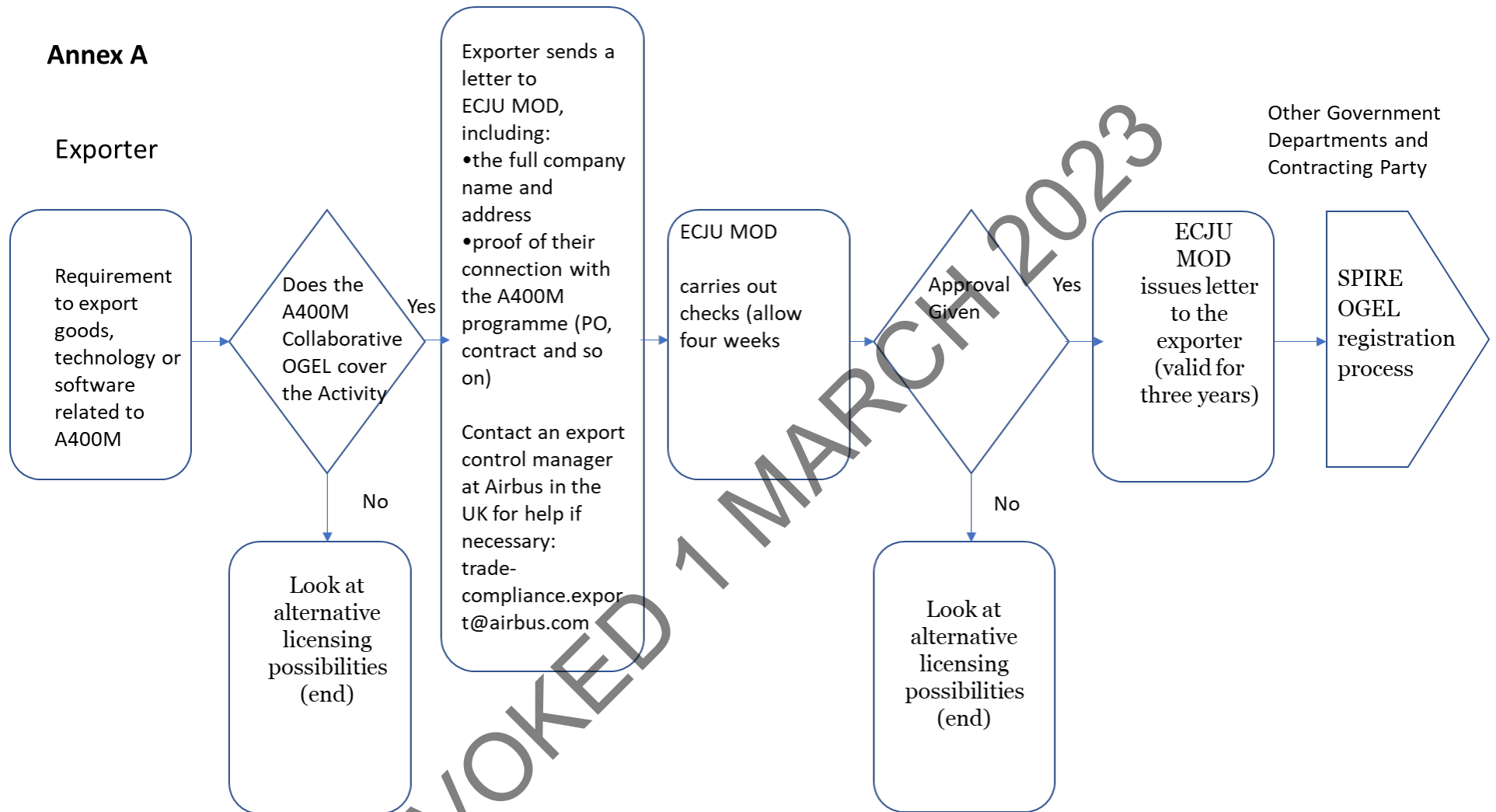
(2) Persons who registered to use previous versions of this licence do not need to re-register. Registrations are carried over to the current in force version of this licence.

Section 7 - When exporting or transferring goods, software or technology

(1) 'Declaration' means a commercial document completed for an official of Her Majesty's Government (HMG) which meets the conditions set out in section 7(1) of this licence.

Annex A

Exporter



Annex B

Scenario: Exports to.....	Facility security clearance if the goods, software and technology are security classified as OCCAR 'Restricted'	Facility security clearance if the goods, software and technology are security classified as OCCAR 'Confidential' or above	Project security instructions and OCCAR security regulations to be followed	Approved security transport plan if the goods, software and technology are security classified as OCCAR 'Confidential' or above	MOD Form 680 approval if the goods, software and technology are security classified as OCCAR 'Restricted' or above	Letter of confirmation of involvement in A400M project from ECJU MOD
Companies in support of the main programme (contractors or sub-contractors)	Check with SAC	Yes	Yes	Yes	No	Yes
Partner nations	No	No	Yes	Yes	No	Yes
Permitted export customer	No	No	Yes	Yes	Yes	Yes (see note below)
Companies supplying without a main contract or purchase order (for example, providing goods as part of a tender)	Check with SAC	Yes	Yes	Yes	Yes	Yes (see note below)

Note: **only** if the goods, software and technology are **not** security classified as OCCAR 'Restricted' or above.

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