TRADE LICENCE

Open General Trade Control Licence (Maritime Anti-Piracy)

This Open General Trade Control Licence is granted by the Secretary of State in exercise of powers conferred by Article 26 of the Export Control Order 2008 (SI 2008/3231, as amended,) (the "2008 Order")[1].

This licence comes into force on 17 June 2016.

The licence dated 14 August 2014 is now revoked.

Section 1.

Purpose

1. The purpose of this Open General Trade Control Licence is to permit those who have registered to use it, to do any act, the effect of which is to supply, deliver or "transfer" any of the "controlled goods" listed in Schedule 1, to an "overseas territory" or between any two overseas territories (or within one overseas territory if that territory is international waters) that is/are not listed in Schedule 2, for a purpose listed in paragraph 2.

2. The purposes referred to in paragraph 1 are:

a. providing "Maritime Anti-Piracy Services" that traverse the "High Risk Area";

b. transferring controlled goods to an "approved armoury" at the conclusion of a transfer for the purpose listed in paragraph (a); and

c. transferring controlled goods between approved armouries in order to:
   i. make them available for subsequent transfers for the purpose listed in paragraph (a); or
   ii. prevent the number of firearms that are stored in an armoury from exceeding the limits set out in Section 2.2.g.

3. Transfers for purpose specified in Section 1.2.a may additionally transit the territorial waters of, or temporarily enter the ports of, the overseas territories specified in Schedule 3, provided that the goods remain at all times on board the vessel, on which they arrive and are protected against unauthorised re-transfers, loss, theft or diversion.

4. Transfers for a purpose specified in Section 1.2.a or 1.2.b may transit the Bab-el-Mandeb (Mandeb Strait) or territorial waters of countries specified in Schedule 2 only where it is necessary to do so for navigational reasons, provided the goods remain at all times on board the vessel and are protected against unauthorised re-transfers, loss, theft or diversion. This does not authorise the vessel to enter the ports of any of the countries listed in Schedule 2.

[1] http://www.legislation.gov.uk/uksi/2008/3231/contents/made

Eligibility

5. To be eligible to use this licence, you must be either:

a. a UK national employed by a "private security company" that does not fall within paragraphs (b) or (c) below to undertake Maritime Anti-Piracy Services;

b. a Private Security Company carrying out your business activities in the UK; or

c. a Private Security Company which is run by UK persons.

6. You must comply with the principles in the International Code of Conduct for Private Security Providers (ICoC) by providing a declaration, printed on your company headed paper, signed by a company director, which confirms that you have read and agree to abide by the principles in the International Code of Conduct for Private Security Providers and you must be able to demonstrate how this will be implemented, including through management system, policies and procedures.

7. You should only register to use this licence if you can meet all of the requirements listed in Section 2 and none of the exclusions listed in Section 3 apply.

8. If you are not eligible to use this licence or you fail to satisfy any of the conditions or requirements below, this may result in your licence being suspended or withdrawn and you may be liable to prosecution.

Section 2.

Terms and Conditions

1. Before you use this licence to supply, deliver or transfer any controlled goods you must:

a. have registered for this licence using the Export Control Organisation's (ECO) electronic licensing system, SPIRE (www.spire.bis.gov.uk) providing an address where the records of all transfers carried out under this licence may be inspected;

b. have supplied copies of the following documentation to the ECO;
   i. Evidence of compliance with the International Code of Conduct for Private Security Providers (ICoC), as described in Section 1.6.;
   ii. Your standard operating procedures;
   iii. Your rules of engagement (force);
   iv. Your policy on the storage and disposal of firearms;
   v. Your drugs and alcohol policy
   vi. A list of third parties, including your in-country representatives, who will have access to the controlled goods being transferred;
   vii. A list of the armouries you propose to use;

c. have received notification from the ECO that each of the documents listed in Section 2.1.b have been approved.

2. This licence only authorises the supply, delivery or transfer of controlled goods listed in Schedule 1 where all of the following conditions are met:

a. controlled goods transferred under this licence must be transferred aboard "vessels that are registered to a Flag State". Controlled goods transferred under this licence for a purpose specified by Section 1.2.c, may additionally be transferred by air, or by land, provided this is not through the territory of a country listed in Schedule 2 of this licence;

b. controlled goods being transferred under this licence must be <u>used</u> by your personnel only and are <u>to be used</u> <u>only</u> for the purpose listed in section 1.2.a;

c. controlled goods transferred under this licence for a purpose listed in section 1.2 must not be shared, exchanged, loaned, rented, leased, transferred or otherwise made available for <u>use,</u> on either a temporary or permanent basis, to or from any other person or entity, including but not limited to, any other person providing Maritime Anti-Piracy Services, other vessel crew or any person or entity similarly registered to provide Maritime Anti-Piracy Services (e.g. as a joint venture);

d. at all times, controlled goods must remain in the possession of:
   i. your personnel or the personnel of a subsidiary over which you have 100% ownership and control and which is a Private Security Company; or
   ii. an approved in-country representative;
   iii. an approved armoury; or
   iv. a designated national security organisation;

e. whether in use, in transit or in storage, controlled goods must be protected against unauthorised re-transfers, loss, theft or diversion;

f. for transfers under Section 1.2.a and 1.2.b, you may transfer a maximum of four firearms, of which a maximum of two firearms may be rifles, for each member of your personnel in any single transfer;

g. you may store a maximum of 125 firearms in any approved armoury at any time.

h. The Secretary of State has the power to vary or withdraw trade licences at any time. If you do not use this licence within any 24-month period for a supply, delivery or transfer 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.

i. You **must** maintain records and update the 'Open licensing returns' as set out in Section 4.

Section 3.

Exclusions

1. This licence will **not** apply:

a. if you know, or have reason to believe, that as a result of transferring "controlled goods", those goods will be disembarked in a destination listed in Schedule 2; or

b. if you know or have reason to believe, that the supply, delivery or transfer being carried out is contrary to the export or import legislation of the exporting or importing country; or

c. if at the time you do any act, the effect of which is to supply, deliver or transfer controlled goods, you have been served with a notice which suspends or revokes your ability to use this Licence under article 32(1) of the 2008 Order, unless the period of suspension has expire

2. The transfers may only be made under this Licence if they satisfy the following restrictions;

a. not for use in connection with weapons of Mass Destruction (WMD);

b. not for use in connection with exports of goods located in the UK or Isle of Man;

c. not for use if the trader or transporter has been informed by a competent UK authority, is aware that the transaction was contrary to the law of the exporting or importing country;

d. not for use if the goods are to be supplied from DPRK (North Korea), Iran, Zimbabwe or any individual to which the Al Qa'ida and Taliban Sanctions apply.

Section 4.

Records

1. All transfers carried out under this licence will be inspected.

2. You must maintain the following records in respect of the goods transferred under this licence, for each transfer:

a. The source, overseas territory, embarkation country, armoury or vessel based armoury from which the goods were transferred;

b. the name and address of the consignee, the destination, overseas territory or disembarkation country, armoury or vessel based armoury to which the goods were transferred;

c. the flag state and IMO registration number of the vessel of transfer (where applicable);

d. the date that the transfer begins on and the date that it is completed on;

e. a description of the goods transferred;

f. the purpose, as set out in Section 1.2, for transferring the goods.

3. Additionally, where Maritime Anti-Piracy Services are being provided on a vessel that enters a port within a country specified in Schedule 3, a record must be kept that identifies the name of the port, the date and time of arrival, and the date and time of departure.

4. These records must be kept for a period of 4 years from the end of the calendar year in which the transfer takes place and you must make these records available for inspection by any person authorised by the ECO at any time.

5. You **must** update the 'Open licensing returns' within SPIRE, for **all** 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.

Section 5.

Other prohibitions

1. In addition to complying with the requirements of this licence, you must also comply with any other relevant legislation which applies. This may include restrictions, prohibitions or other licensing requirements in respect of the goods to which this licence applies.

Section 6.

Glossary

1. For the purpose of this Licence:

a. "Maritime Anti-Piracy Services" means the provision of armed on-board security services to the maritime sector, or protection against acts of piracy.

b. "Approved armoury" means a land or vessel based armoury nominated by the licence holder, which ECO have approved for use with this licence.

c. "Controlled goods" means any goods listed in Schedule 1.

d. "High Risk Area" means the area at high risk of piracy. This is set by the International Chamber of Shipping. Up-to-date data can be found on their website at http://www.ics-shipping.org/docs/default-source/Piracy-Docs/hra-revisions-and-supporting-guidance.pdf?sfvrsn=0

e. "Overseas territory" means international waters or a third country that is not the United Kingdom or the Isle of Man.

f. “Private Security Company” means a private company who provides armed Maritime Anti-Piracy Services. This includes those employed by or operating under different legal entities but within the same overall corporate group, where the overall corporate group is the Private Security Company registered to use this licence.

g. “Transfer” means embarking controlled goods aboard a vessel in one overseas territory, for a purpose specified in Section 1.2 and disembarking the same controlled goods in another overseas territory, or the same overseas territory if the transfer begins and ends in international waters. This includes transfers that begin in international waters and traverse territorial waters and re-enter international waters. Transfers for a purpose specified by Section 1.2.c may additionally be carried out by air.

h. “Vessels that are registered to a Flag State” means a vessel that is flying the flag of a state under whose laws that vessel is registered or licensed and which state has the authority and responsibility to enforce regulations over that vessel.

Date: 15 June 2016

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

SCHEDULE 1

GOODS CONCERNED

1. Weapons, accessories and ammunition falling within control entries **ML1a**, **ML1b**, **ML1d, ML3a** and **PL5017** as follows:

   Semi-automatic and bolt-action rifles with a calibre of 12.7mm (0.50 inches) or less, shotguns, pistols, revolvers, gun-mountings, weapon sights (**excluding those incorporating Generation 3 Image Intensifiers or above**), clips and flash suppressors. Their specially designed components (including magazines) and ammunition. Weapon cleaning equipment and sight mounts, specially designed for military use.

2. Communications equipment falling within control entries **ML6a**, **ML9a** and **ML11a** as follows:

   Personal role, naval and vehicle communications equipment specially designed or modified for military use, and their specially designed components.

3. Helmets, body armour, plates for body armour and ballistic protective garments, manufactured according to military standards or specifications falling within control entries **ML13c** and **ML13d (excluding those in service with UK Armed Forces, such as Osprey).**

4. Night vision equipment falling within control entries **ML15c** and **ML15d** as follows:

   Image intensifier, infrared or thermal imaging equipment specially designed for military use (**excluding Generation 3 Image Intensifier equipment or above**), and their specially designed components.

5. Long range acoustic devices suitable for riot-control purposes, as falling within control entry **PL5001a**, and their specially designed components**.**

SCHEDULE 2

COUNTRIES CONCERNED

This licence cannot be used to export or transfer goods from, or to, any of the following countries:

Armenia
Azerbaijan
Belarus
Burma (Myanmar)
China
Democratic People's Republic of Korea (North Korea)
Democratic Republic of the Congo
Eritrea
Iran
Iraq
Ivory Coast (Côte d'Ivoire)
Lebanon
Liberia
Libya
Russia
Somalia
South Sudan
Sudan
Syria
Yemen
Zimbabwe

SCHEDULE 3

COUNTRIES CONCERNED

Transfers for purposes specified in Section 1.2.a may transit the territorial waters or temporarily enter the ports of the following overseas territories, provided the goods remain at all times on board the vessel on which they arrive and are protected against unauthorised re-transfers, loss, theft or diversion:

Somalia

EXPLANATORY NOTE

(This Note is not part of the Licence)

1. This Open General Trade Control Licence permits, without further authority but subject to certain conditions, the provision of Maritime Anti-Piracy Services that traverse the High Risk Area, through the supply, deliver or transfer any of the controlled goods listed in Schedule 1.

2. Subject to its conditions, the licence is available for use by any Private Security Company operating from within the UK, by any Private Security Company run by UK persons, and by any UK national who is employed by a Private Security Company that is not eligible to use this licence.

3. The transfers may only be made under this Licence if they satisfy certain restrictions. These include;

- not for use in connection with weapons of Mass Destruction (WMD);
- not for use in connection with exports of goods located in the UK or Isle of Man;
- not for use if the trader or transporter has been informed by a competent UK authority, is aware that the transaction was contrary to the law of the exporting or importing country;
- not for use if the goods are to be supplied from DPRK (North Korea), Iran, Zimbabwe or any individual to which the Al Qa'ida and Taliban Sanctions apply.

4. The provisions of this Licence only apply for the purposes of the 2008 Order. They do not affect the need to obtain other consents that may be required for the export of particular military goods, whether under other statutory provisions (such as the Official Secrets Act 1989) or otherwise (such as under contractual obligations). In addition, this Licence does not extend to prohibitions in other legislation implementing European Union or United Nations Sanctions.

5. The issue of this licence does not remove the requirement to obtain the permission of the authorities of any other country concerned in the removal or receipt of the goods as necessary.

6. If the trader or transporter has been informed by a competent authority or is otherwise aware (e.g. from information received from the manufacturer) that trade in controlled goods includes goods subject to a protective marking, appropriate security transportation arrangements (in accordance with national practices of the exporting country) must be made.

7. The Order contains certain registration and record keeping requirements which apply to persons using this licence, as follows,

a. Before you use this licence to supply, deliver or transfer any controlled goods you must satisfy the terms and conditions set out in Section 2, which include a requirement to provide certain documentation for approval. Under Article 28 of the Order, any person who does any act under the authority of this licence must, provide details to the Secretary of State of his name and address where copies of the records referred to below may be inspected before it is first used.

b. This notification must be made via the Export Control Organisation's electronic licensing system, SPIRE at, https://www.spire.bis.gov.uk

c. Under section 4.4 of this Licence and Article 29 of the Order, any person who does any act under the authority of this licence must maintain and retain certain records relating to each such acts for at least 4 years from the end of the calendar year in which the authorised act takes place, and must permit such records to be inspected and copied by any person authorised by the Secretary of State.

8. Questions or enquiries about Open Licencing Returns should be addressed to:-

Export Control Organisation
3rd Floor
1 Victoria Street
London
SW1H 0ET
Email: eco.help@bis.gsi.gov.uk
Telephone 020 7215 4594
Fax 020 7215 2635

9. Email enquiries specifically related to Export Licencing of Maritime Anti-Piracy Services should be addressed to: eco.antipiracy@bis.gsi.gov.uk

10. The Secretary of State has the power to suspend or revoke licences at any time and in such circumstances and on such terms as he/she thinks fit. If a trader or transporter 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 a trader or transporter 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 a trader or transporter has breached the conditions of the Licence and failed to take corrective action within a reasonable period (see condition 3(3)).

11. 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 trader or transporter 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 trader or transporter's ability to use the licence being suspended for a period of time.

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