



Department for
International Trade

Open General Export Licence

Export For Repair/ Replacement Under Warranty:

Dual-Use Items

November 2016

**Open General Export Licence
(Export For Repair/Replacement Under Warranty: Dual-Use
Items)** dated 16 November 2016, granted by the Secretary of State

The Secretary of State, in exercise of powers conferred by Articles 9(2) and (4) of Council Regulation (EC) No. 428/2009 ("the Regulation")¹ and Article 26 of the Export Control Order 2008 ("the Order")², hereby grants the following Open General Export Licence:

Union Licence

1. This is general export authorisation under the terms of Article 9(2) of Council Regulation (EC) No. 428/2009. This authorisation, in accordance with Article 9(2) of that Regulation, is valid in all Member States of the European Union and is a Union Licence for the purposes of the Order.
2. Subject to the following provisions of this licence, any items specified in Part A of Schedule 1 hereto, other than any specified in Part B of that Schedule, may be subsequently exported from the United Kingdom, or from any other Member State by any person established in the United Kingdom, to any destination except a destination in a country specified in Schedule 2 provided the item is being exported for:
 - (1) the purposes of repair, and are to be returned to the United Kingdom after such repair, or for replacement under warranty; or
 - (2) being returned as unwanted goods; and
 - (3) delivery to the manufacturer, or the person who first supplied them other than for re-sale ("original supplier"); and
 - (4) delivery to the country from which they were imported into the European Union.

Exclusions

3. This licence does not authorise the export of items:
 - (1) if the exporter has been informed by a competent authority of the Member State where they are established that they are or may be intended, in their entirety or in part;

¹ O.J. No. L134 29.5.09. p1.

² S.I. 2008/3231

- (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification 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) for a military end use and the purchasing country or country of destination is subject to an arms embargo imposed by a Decision or a Common Position adopted by the Council of the European Union or a decision of the OSCE or imposed by a binding resolution of the Security Council of the United Nations, or
 - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in violation of an authorisation prescribed by national legislation of that Member State;
- (2) if the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in sub-paragraph (1);
 - (3) if the exporter has grounds for suspecting that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in sub-paragraph (1)(a), unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that the items will not be so used;
 - (4) to a destination within a Customs Free Zone; or
 - (5) if their export is controlled by virtue of any entry in Annex I to the Regulation not specified in Schedule 1; or
 - (6) 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; or
 - (7) if the exporter has been informed by a competent authority, or is otherwise aware, that the goods or technology has been classified by the Ministry of Defence as OFFICIAL-SENSITIVE or above (including UK material classified RESTRICTED or above, graded prior to 2nd April 2014, and internationally security classified material), **unless:**
 - a. The proposed export has been approved by the Ministry of Defence under MOD Form 680 and a written letter of clearance has been issued, and

- (i). the clearance 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) and a written letter of clearance has been issued, **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.

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

- a. the method of transmission is protected by encryption appropriate to the classification of the data,

and

- b. the exporter holds any necessary clearance from a government

accreditation authority which can be produced to the Compliance Officer.

Conditions and Requirements

4. The authorisation in paragraph 1 is subject to the following conditions:
 - (1) on exportation of any items pursuant to this licence, the exporter shall produce to an officer of HM Border Agency, if so requested, documentary evidence that the items are being exported to the manufacturer or original supplier for repair and return to the United Kingdom, replacement under warranty or as unwanted goods;
 - (2) except in the case of an export of technology by telephone, fax or other electronic media, official and commercial export documentation accompanying the items shall include a note stating either:
 - (a) "These items are being exported under the OGEL (Export for Repair/Replacement under Warranty: Dual-Use Items)"; or
 - (b) the SPIRE reference (in the form 'GBOGE 20XX/XXXXX') of the exporter's registration in respect of this licence,which shall be presented to an officer of HM Border Agency if so requested;
 - (3) where the exporter has received a warning letter sent on behalf of the Secretary of State which identifies failure to comply with this licence or a provision of applicable export control legislation, the exporter shall take such steps as are identified in that warning letter (within the timescale stated) in order to restore compliance with the licence. Without prejudice to article 34 of the Order, failure to comply with this condition may result in this licence being revoked or suspended until the exporter can show compliance to the satisfaction of the Export Control Organisation. The exporter will be notified in writing of any such suspension or revocation and the initial period of such suspension or revocation. Where at the end of this initial period, the exporter has not shown compliance to the satisfaction of the Export Control Organisation, the period of suspension or revocation may be extended. The exporter will be notified of such an extension in writing.
 - (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.

- (5) 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.
- (6) in respect of the export of goods under this Open General Export Licence, the exporter shall maintain the following records:
 - (a) any MOD Form 680, F1686 or Security Transportation Plan clearance letters, MOD Contracting Authority letter, or proof of PSI clearance referred to in 3(7) to 3(8) above;

and any such records shall be maintained for at least four years after the date of the relevant export and the exporter shall permit the records to be inspected and copied by any person authorised by the Secretary of State.

Registration

5. The requirements of Article 28 of the Order **shall** apply to this licence.

Prohibitions not affected by this Licence

6. Nothing in this licence affect any prohibition or restriction on the export of any items other than under the Regulation or the Order, and this licence does not confer any licence or permission under, or for the purposes of, any enactment other than the Regulation and the Order.

Interpretation

7. For the purpose of this licence:
 - (1) "Customs Free Zone" means 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;
 - (2) "entry" includes part of an entry;

- (3) "repair" means making good any remediable defects, and work of maintenance or restoration. This may involve coincidental improvement upon the original goods, e.g. resulting from the use of modern replacement components or from use of a later standard for reliability or safety reasons. It may also involve improvements of a purely cosmetic nature e.g. paint work.
- (4) unless the context otherwise requires, any other expression used in this licence has the same meaning as in the Regulation or the Order as appropriate.
- (5) "MOD Form 680" is the means by which the Government assesses proposals by companies to release classified information or goods to foreign entities. A MOD Form 680 approval is not an approval to use an Open General Export Licence; it is a separate security requirement;
- (6) "F1686" is the means by which exporters can obtain clearance to sub contract or collaborate classified aspects on projects with overseas companies. F1686 approval is not an approval to use an Open General Export Licence; it is a separate security requirement.

Entry into Force

8. This Licence comes into force on 16 November 2016.
9. The Open General Export Licence (Export For Repair/Replacement under Warranty: Dual-Use Goods) dated 4 January 2016 is revoked.

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

SCHEDULE 1
ITEMS CONCERNED

PART A

Items specified in any entry in Annex I to Council Regulation (EC) No.428/2009 or Schedule 3 of the Order.

PART B

Items specified in any of the following entries in Annex I to Council Regulation (EC) No. 428/2009:

All entries in Category 0

1A004.d

1A006

1A007

1A008

1A102

1B226

1B231

1B233

1B234

1C001

1C012

1C101

1C233

1C235

1C239

1C351

1C352

1C353

1C354

1D003

1D103

1E001

1E002.g

1E101

1E102

1E201

2B352.h

2D003

3A001.a.13

3A001.b.10

3A001.h

3A002.g.1

3A201

3A228

3A229
3A231
3A232
3A234
3D225
3E201
3E225

4A005
4D004
4E001c

5A001.h
5A001.j
5E001.c.6
5E001.d
5E001.e

5A004a equipment designed or modified to perform cryptanalytic functions.

5D002.c.1. only software having characteristics, or performing or simulating the function, of equipment specified in 5A004a

5E002 only technology for the development, production, or use of goods specified in 5A004a or 5D002.c.1.

6A001.a.1.a
6A001.a.1.b
6A001.a.2.a.1
6A001.a.2.a.2
6A001.a.2.a.3.
6A001.a.2.a.5
6A001.a.2.a.6
6A001.a.2.b
6A001.a.2.c.
6A001.a.2.e.
6A001.a.2.f
6A001.a.2.g.
6A005.b.4.a
6A005.b.5.a
6A005.b.6.a
6A005.e.3
6A005.g
6A008.j.3
6A203

6A225
6A226
6B008

6B108
6C004.b
6C004.c
6D003.a
6D003.c
6D003.d6D203
6E201
6E203

7E004.b.7
7E004.b.8
7A117

7B001 Test, calibration or alignment equipment specially designed for equipment specified in 7A117.

7B003 Equipment specially designed for the production of equipment specified in 7A117.

7B103 Production facilities specially designed for equipment specified in 7A117.

7D005

7D101 Software specially designed for the use of equipment specified in 7B003 or 7B103.

7E001 Technology for the development of equipment or software specified in 7A117, 7B003, 7B103, 7D005 or 7D101.

7E001 Technology for the production of software specified in 7D005.

7E002 Technology for the production of equipment specified in 7A117, 7B003 and 7B103.

7E101 Technology for the use of equipment specified in 7A117, 7B003, 7B103 and 7D101.

7E104

8A002.0.3
8A002.p
8A002.r
8D002
8E002.a

9A004
9A005
9A007.a

- 9A008.d
 9A009.a
 9A104
 9A105.a
 9A106.c
- 9A108.c
 9A116
 9A117
 9A119
- 9B001.c
 9B115 Specially designed production equipment and production facilities for the systems, sub-systems and components specified in 9A005, 9A007.a., 9A008.d., 9A105.a., 9A106.c., 9A108.c., 9A116 and 9A119.
- 9B116 Specially designed production facilities for the systems, sub-systems and components specified in 9A004, 9A005, 9A007.a., 9A008.d., 9A104, 9A105.a., 9A106.c., 9A108.c., 9A116 and 9A119.
- 9D004.c Software specially designed to control directional-solidification or single-crystal material growth in equipment specified by 9B001.c
- 9D005
- 9D101 Software specially designed for the use of items specified in 9B116.
- 9E001 Technology for the development of equipment or software specified in 9A004, 9A005, 9A007.a., 9A008.d., 9B001.c., 9B115, 9B116, 9D004.c., 9D005. and 9D101.
- 9E002 Technology for the production of equipment specified in 9A004, 9A005, 9A007.a., 9A008.d., 9B001.c., 9B115 and 9B116.
- 9E003.j
 9E101 Technology for the development or production of equipment specified in 9A104, 9A105.a., 9A106.c., 9A108.c., 9A116 or 9A119.
- 9E102 Technology for the use of items specified in 9A004, 9A005, 9A007.a., 9A008.d., 9A104, 9A105.a., 9A106.c., 9A108.c., 9A116, 9A119, 9B001.c., 9B115, 9B116 or 9D101.

SCHEDULE 2 DESTINATIONS CONCERNED

This export authorisation is valid for exports to the following destinations:

All destinations other than in:

- Angola, Australia, Canada, Egypt, , Iran, Iraq, Japan, Libya, New Zealand, North Korea, Norway, Pakistan, , Sri Lanka, Switzerland, Syria and USA
- European Union Member States as follows: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.

An export licence is NOT required for dual-use goods being exported to EU destinations BUT you must state on export documents that your items require a licence if exported outside the EU and you must keep records (as specified in Articles 22(10) and 22 (8) of the EU Dual Use Regulation).

NOTE:

1. Exports of items covered by this licence may be made under the authority of the European Union General Export Authorisation (EU GEA 001), subject to certain conditions and restrictions, to the following destinations:

Australia, Canada, Japan, New Zealand, Norway, Switzerland (including Liechtenstein), USA

EXPLANATORY NOTE

(This note is not part of the licence)

1. This Open General Export Licence has been amended:
 - a. to updated the list of items in Schedule 1 in respect of rating entry code 5A004.a which replaces 5A002.a.2. This follows the updated to the EU Dual-Use List which was published in the EU Official Journal in November 2016.
 - b. update all references, where relevant to the Department for International Trade, of which Export Control Organisation now forms a part and update website links to SPIRE.
2. This Open General Export Licence permits, without further authority but subject to certain conditions, the export from the United Kingdom, or from any other Member State of the European Union (EU) where the exporter is established in the United Kingdom, to any destination other than one listed in Schedule 2 to the licence of items specified in Part A of Schedule 1 to the licence, other than those specified in Part B of that Schedule, which are being exported from the United Kingdom for the purposes of repair and return to the United Kingdom, replacement under warranty or as unwanted goods.
3. If the goods are exported under this licence and subsequently found to be beyond repair, the repairer shall issue an unequivocal statement that the goods were beyond repair and the exporter shall produce a copy of the statement to an officer of HM Border Agency or any other person authorised by the Secretary of State if so requested.
4. The Export Control Order 2008 (“the Order”) contain certain registration and record keeping requirements which apply to persons using this licence.
 - (a) Under Article 28 of the Order, an exporter who exports items under the authority of this licence must, before or within 30 days after the first occasion they make use of the licence, provide details to the Secretary of State of his name and the address where copies of the records referred to above 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>
 - (b) Under Article 29 of the Order, any person established in the United Kingdom who exports items from the United Kingdom or another Member State under the authority of this licence must maintain and retain certain records relating to each such export for at least three years from the end of the calendar year in which the export takes place, and must permit such records to be inspected and copied by any person authorised by the Secretary of State.
5. The Secretary of State has the power to suspend or revoke licences at any time

and in such circumstances and on such terms as he/she thinks 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 4(3)).

6. Where, the ECO identifies failures in compliance with licence conditions or the legislation during a compliance visit, the ECO may send a warning letter to the exporter listing the improvements that need to be made to ensure compliance. The letter will set out the timeframe within which these improvements must be completed. Failure to complete these improvements may lead to the exporter's ability to use the licence being suspended for a period of time.
7. Exporters 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.
8. This licence does not extend to any prohibition under legislation other than Council Regulation (EC) No.428/2009 or the Order: in particular it does not extend to prohibitions in other legislation implementing United Nations sanctions.
- 9 The licence does not permit exportation of any goods which fall within the scope of Council Directive 91/477/EEC on the control of the acquisition and possession of weapons or to any goods or technology; which have certain functions or characteristics of information security; or which carry a UK classification of OFFICIAL-SENSITIVE or above unless the exporter has approval in writing from the Ministry of Defence.

(a) Reference MOD F680:

Applications are to be submitted electronically via SPIRE.

The MOD Form 680 Authority is:
Export Control Joint Unit-MOD Team
Department for International
1 Victoria Street
London SW1H 0ET

(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,
B8JH
Tel: 030 67934378
Fax: 030 67934925
e-mail: desinfra-securityadvicecentre@mod.uk

10. F1686 Procedure:

“F1686” is the means by which exporters can obtain clearance to sub-contract or collaborate classified aspects on 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 sub-contract 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.

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