

EXPORT LICENCE

Open General Export Licence (Access Overseas to Software and Technology for Military Goods: Individual Use Only) dated 4th April 2007 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Article 12 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003^(a) ("the Order"), hereby grants the following Open General Export Licence:

Licence

1. Subject to the following provisions of this Licence, any software and technology specified in Part A of Schedule 1 hereto, other than any specified in Part B thereof, may be transferred or exported from the United Kingdom to any destination other than a destination in any country specified in Schedule 2 hereto by an individual who has authorisation to access the same information remotely (under 1(i) below), providing;

- (i) the person who it is intended will access the information from outside the UK is;
 - (a) employed in the UK but temporarily outside the UK, for a period not exceeding three calendar months, on business for his UK employer; and
 - (b) authorised by the employer to use the employer's technology and information technology systems within the UK, and
- (ii) the person exporting the information from the UK is authorised by their UK employer to do so; and

^(a) S.I.2003/2764, as amended

- (iii) the software and technology, as described in 1(i) and (ii) above, will not be passed or disclosed at the time or subsequently to any other person other than another person, as authorised in 1(i) above, without first obtaining an appropriate licence from the Secretary of State.

Exclusions

- 2. This licence does not authorise the transfer or export of software and technology;
 - (1) if the exporter has been informed by a competent authority that the software and technology is or may be intended, in its entirety or in part, to be used in connection with the development, production, 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.
 - (2) if the exporter is aware that the software and technology is intended, in its entirety or in part, to be used in connection with one of the activities referred to in sub-paragraph (1).
 - (3) if the exporter has grounds for suspecting that the software and technology is or may be intended, in its entirety or in part, for any uses referred to in sub-paragraph (1), unless he has made all reasonable enquiries as to their proposed use and satisfied himself that the goods will not be so used.
 - (4) for the immediate purpose of upgrading or production of goods or software overseas, without first obtaining an appropriate licence from the Secretary of State.

Conditions and Requirements

3. The authorisation in paragraph 1 is subject to the following conditions:
 - (1) The information software and technology systems on which the transfer or export takes place must be such that all transfers or exports are protected from being received by any unauthorised users;
 - (2) All transfers or exports at the UK protective marking of RESTRICTED or above must be carried out in accordance with the Cabinet Office Manual of Protective Security (MOPS).
 - (3) before an exporter first transfers or exports software and technology under this licence, he shall have informed the Secretary of State of his intention to transfer or export software and technology under this Licence, specifying the name of the exporter and the address at which records may be inspected under condition 3(4) below;
 - (4) the exporter shall, in so far as the following information is known to him, maintain records made under this Licence, to demonstrate that he has in place systems and procedures that adequately control access to his information software and technology systems, including the following information as a minimum:
 - (i) records of the names of those persons, who travel overseas, and who have been authorised to access the information software and technology systems;

- (ii) records of any countries which have been visited by any authorised persons on business for their UK employer and from which the software and technology may have been accessed;

and any such records shall be kept for at least 3 years and the exporter shall permit them to be inspected, and copied, by any person authorised by the Secretary of State;

- (5) The exporter shall notify the Secretary of State of any change in the address referred to in paragraph 3(3) above within 30 days of that change; and
- (6) An internal compliance procedure must be in place (refer to compliance Guidance).

Prohibitions not affected by this Licence

4. Nothing in this Licence shall affect any prohibition or restriction on the exportation, transfer or carrying out of any other act with respect of the exportation or transfer of any goods 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:
 - (a) "competent authority" means the Secretary of State or any other competent authority empowered by a Member State to issue export authorisations for the purposes of Council Regulation (EC) No. 1334/2000;
 - (b) "entry" includes part of an entry;

- (c) "technology" means specific 'information' necessary for the "development", "production" or "use" of "goods" or "software", ('Information' may take forms including, but not limited to: blueprints, plans, diagrams, models, formulae, tables, 'source code', ('Source code' (or source language) is a convenient expression of one or more processes which may be turned by a programming system into equipment executable form), engineering designs or specifications, manuals or instructions written or recorded on other media or devices (e.g., disk, tape, read-only memories)), except:
- (i) any document the information within which is "in the public domain" or relates to "basic scientific research";
 - (ii) any application for the grant of a patent (or any other form of protection for an invention) or for the registration of a design, or a semiconductor topography, in each case under the law of the United Kingdom or of any other country or under any treaty or international convention;
 - (iii) any document necessary to enable any application in 5(c)(ii) above to be filed, made or pursued.
- (d) "upgrading" means resulting in enhancement to the functional capabilities of the goods or provide goods with new or additional functions;
- (e) "individual use" means access by the person authorised to access the information in the UK or to other UK employees overseas with similar authorisation. (does not include demonstration or discussing in anyway with 3rd parties or

allowing it to be placed on IT equipment that is controlled or owned by a 3rd party).

- (f) "information technology systems" means any electronic method for processing, storing, transferring or exchanging technology in intangible form to another country, including, but not limited to: intranets, shared data environments, file servers, telephones and e-mail;
- (g) "authorised by the employer" means any person who has been individually authorised by the employer to access its technology and information technology systems (e.g. by the issuing of a user name and password, digital token, digital certificate, etc.)
- (h) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it bears in the Export Control Act 2002^(b) or in the Order.

Entry into Force

- 6. This Licence shall come into force on 23rd April 2007.
- 7. The Open General Export Licence (Access Overseas to Technology for Military Goods: Individual Use Only) dated 29th September 2006 is hereby revoked.

**An Official of the Department of
Trade and Industry authorised to act on
behalf of the Secretary of State**

^(b) 2002c.28

**SCHEDULE 1
GOODS CONCERNED**

PART A

Any software and technology, other than any specified in Part B of this Schedule, whose transfer is controlled by virtue of any of the following entries in Part I, Schedule 1 to the Order:

ML21
ML22

PART B

Technology or software specified in Part A of this Schedule which relates to any of the following goods in Part I of Schedule 1 to the Order:

1. Goods falling within entry ML4 as follows:
 - a. anti-personnel landmines, and specially designed components therefor.

2. Goods falling within entry PL5001.c., d., g., and h.

SCHEDULE 2

DESTINATIONS CONCERNED

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

All destinations other than in:

Armenia

Azerbaijan

Bosnia and Herzegovina

Burma (otherwise known as the Union of Myanmar)

Iran

Iraq

Ivory Coast

Korea, Democratic People's Republic of (otherwise known as North Korea)

Lebanon

Liberia

Libya

Rwanda

Sierra Leone

Sudan

Somalia

Syria

Uzbekistan

Zimbabwe

EXPLANATORY NOTE

(This Note is not part of the Licence)

1. This Licence has been amended by clarifying “individual use” and adding software to Schedule 1. This follows a review of the coverage and scope of the licence.

2. This Open General Export Licence permits, subject to certain conditions, the transfer or export to any destination other than in any country specified in Schedule 2 to the Licence of software or technology specified in Part A of Schedule 1, excluding software or technology specified in Part B thereof, where it is accessed from overseas by persons, whilst temporarily abroad (for a period not exceeding three calendar months) but who would normally be based within the UK, authorised by their employer to access their technology and information technology systems in the UK, includes where necessary the export of licensable software or technology on a portable computing device (e.g. a laptop), and for individual use in connection with the business of the exporter and will not be further disseminated to any unauthorised parties.

3. It is a condition of the Licence that, before making first use of the Licence, the exporter shall tell the Secretary of State of his intention to transfer or export technology, which falls under its control. This notification should be given in writing or by facsimile transmission to:

Export Control Organisation
Customer Service and Compliance Unit
Department of Trade and Industry
3rd Floor, Kingsgate House
66-74 Victoria Street
London SW1E 6SW

Fax No.: 020 7215 0531

4. The provisions of this Licence only apply for the purposes of the Order . They do not affect the need to obtain other consents that may be required for the transfer or export of particular software or technology, 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 United Nations sanctions.