

## **EXPORT LICENCE**

**Open General Export Licence (Export For Repair/replacement under warranty: Military Goods)** dated 11 June 2008 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Articles 12 of the Export of Goods, Transfer of Technology and Provision of Technical assistance (Control) Order 2003<sup>(a)</sup> ("the Order") hereby grants the following Open General Export Licence:

### *Licence*

1. Subject to the following provisions of this Licence, any goods specified in Part A of Schedule 1 hereto, other than any goods specified in Part B, may be exported from the United Kingdom to any destination except a destination in a country specified in Schedule 2 provided the goods are being exported for the purpose of repair, and are to be returned to the United Kingdom after such repair, or for replacement under warranty; or being returned as unwanted goods, and are to:

- (i) a Government which sent them to the United Kingdom; or
- (ii) the NATO Maintenance and Supply Agency provided that they had been previously sent to the United Kingdom by or on behalf of the said Agency; or
- (iii) the original manufacturer, stockists or licensed manufacturer who first supplied them ("the original supplier"); or
- (iv) an Approved Repair Centre.

### *Exclusions*

2. This Licence does not authorise the export of goods:

- (1) if the exporter has been informed by a competent authority that they are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation,

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<sup>(a)</sup> S.I. 2003/2764; as amended .

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;

- (2) if the exporter is aware that the goods are intended, in their 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 goods are or may be intended, in their entirety or in part, for any uses referred to in sub-paragraph (1), unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied himself that the goods will not be so used;
- (4) if the exporter has been informed by a competent authority, or is otherwise aware (e.g. from information received from the manufacturer), that they have been classified by the Ministry of Defence as having a protective marking of CONFIDENTIAL or above; unless
  - a. the proposed export has been approved by the Ministry of Defence under F680 or F1686 and a written letter of clearance has been issued under the appropriate procedure, 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 and
  - b. the exporter has a current written Security Transportation Plan and has applied for and obtained a current written letter of clearance issued by MOD DPA Security Advisor's which relates to all the goods which are protectively marked at CONFIDENTIAL or above.

- c. Technology in tangible form protectively marked CONFIDENTIAL or above is exported against procedures laid down in the UK Government Manual of Protective Security appropriate to the grading of the material.
- (5) In the case of intangible technology transfers it is prohibited to export technology with a protective marking of Restricted or above **unless:**
- i) the transmission medium is protected by approved encryption appropriate to the protective marking of data, and
  - ii) the exporter holds a clearance from a government accreditation authority which can be produced to the Compliance Officer.
- (6) which fall within the scope of Council Directive 91/477/EEC on Control of the Acquisition and Possession of Weapons<sup>(b)</sup>;
- (7) technology specified in Part I of Schedule 1 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. 1334/2000<sup>(c)</sup>; or
- (8) to a destination within a Customs Free Zone;

### *Conditions and Requirements*

3. The authorisation in paragraph 1 is subject to the following conditions:
- (1) before an exporter first exports goods under this Licence, he shall have informed the Secretary of State of his intention to export goods under this Licence, specifying the name of the exporter and the address at which copies of records of their export may be inspected under condition 3(6) below;

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<sup>(b)</sup> O.J. No. L256, 13.9.91, p.51

<sup>(c)</sup> O.J. No.L159 30.6.00, as amended

- (2) on exportation of any goods pursuant to this Licence the exporter shall produce to an officer of HM Revenue and Customs, if so requested, documentary evidence of the date of their importation into the United Kingdom ;
- (3) on exportation of any goods pursuant to paragraph 1(iii) of this Licence the exporter shall produce to an officer of HM Revenue and Customs, if so requested:
  - (i) documentary evidence that the goods are being exported to the manufacturer, original supplier or Approved Repair Centre for repair or replacement under warranty and return to the United Kingdom; or as unwanted goods.
- (4) except in the case of an export of technology by telephone, fax or other electronic media, official and commercial export documentation accompanying the goods shall include a note stating that "the goods are being exported under the Open General Export Licence (Export For Repair/replacement under warranty: Military Goods)" and shall be presented to an officer of HM Revenue and Customs, if so requested;
- (5) in respect of the export of goods under this Open General Export Licence, the exporter shall maintain the following records:
  - (i) the date and destination of each export;
  - (ii) confirmation that:
    - (a) they are being returned to the manufacturer or original supplier as identified in 1(iii); or
    - (b) they are going to an Approved Repair Centre, including a copy of their certification.
  - (iii) MOD F680 or F1686 clearance letter referred to in 2(4)(a) above (in the case of CONFIDENTIAL goods or above);
  - (iv) MOD DPA Security Advisors Office clearance letter (in the case of CONFIDENTIAL goods or 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; and

- (6) the exporter shall notify the Secretary of State of any change in the address referred to in paragraph 3(1) above within 30 days of that change.

*Prohibitions not affected by this Licence*

4. Nothing in this Licence shall affect any prohibition or restriction on the exportation or the carrying out of any act with respect of the exportation 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) "the Act" means the Export Control Act 2002<sup>(a)</sup> ;
- (b) "Approved Repair Centre" means facility approved by the original equipment manufacturer and/or relevant national authority to repair/overhaul the goods being exported under this licence;
- (c) a "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;
- (d) "entry" includes part of an entry;
- (e) "government" includes any person appointed by a Government to act on its behalf;
- (f) "MOD F680 or F1686 procedure" is a means by which exporters can become informed of any objections or problems associated with the marketing

or supply of particular military goods, and to be advised of the protective security grading of the goods and provide clearance to sub contract or team on projects with overseas companies;

(g) “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; provided that this does not result in any enhancement to the functional capability of the goods or provide the goods with new or additional functions. It may involve improvements of a purely cosmetic nature, e.g. paint finish;

(h) “replacement under warranty” shall not include any enhancement to the functional capability of the original goods or provide new or additional functions;

(i) 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 on 20 June 2008.

7. The Open General Export Licence (Export For Repair/replacement under warranty: Military Goods) dated 29<sup>th</sup> September 2006 is revoked.

**An Official of the Department for Business,  
Enterprise and Regulatory Reform authorised  
to act on behalf of the Secretary of State**

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<sup>(a)</sup> 2002 c.28.

# **SCHEDULE 1**

## **GOODS CONCERNED**

### **PART A**

Any goods specified in Part I of Schedule 1 to the Order:

### **PART B**

- (i) Goods falling within entry ML4 as follows:
  - anti-personnel landmines and specially designed components therefor;
- (ii) Goods falling within ML10 c. as follows:
  - Unmanned aerial vehicles (UAVs) and goods specially designed or modified for unmanned aerial vehicles;
- (iii) Goods falling within entry PL5001 c., d., g., h., and i.;
- (iv) Technology equipment and software specified in entries ML18, ML21 or ML22, related to equipment specified in (i) to (iii) of Part B of this Schedule.

## **SCHEDULE 2**

### **DESTINATIONS CONCERNED**

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

***All destinations other than in:***

Afghanistan, Argentina, Armenia, Azerbaijan, Bosnia and Herzegovina, Burma (Myanmar), Burundi, Cyprus, Democratic Republic of the Congo, Indonesia, Iran, Iraq, Ivory Coast, Lebanon, Liberia, Libya, Nigeria, North Korea, People's Republic of China (including Macau Special Administrative Region but excluding Hong Kong Special Administrative Region), Rwanda, Sierra Leone, Somalia, Sudan, Uzbekistan and Zimbabwe.

## **EXPLANATORY NOTE**

(This Note is not part of the Licence)

This Licence has been amended by adding PL5001.i. to the list of excluded goods listed in Part B of Schedule 1 to the Licence. This follows the recent introduction of new controls in the export control legislation.

2. This Licence permits, without further authority but subject to certain conditions, exportation to certain destinations of goods specified in Part A of Schedule 1 to the licence, other than those specified in Part B of that Schedule, which have been previously imported into the United Kingdom and subsequently exported for the purpose of repair/replacement under warranty and return to the UK, or as unwanted goods.

3. 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 protective marking of CONFIDENTIAL or above unless the exporter has approval in writing from the Ministry of Defence.

MOD application forms can be obtained from:

**(a) Reference MOD F680:**

Ministry of Defence  
DESO  
St. George's Court  
2-12 Bloomsbury Way  
London WC1A 2SH

**(b) Overseas Government site clearances, F1686 and Security Transportation Plan approvals can be obtained from:**

Principal Security Adviser  
Industrial Security Section

Defence Procurement Agency  
Facilities Management Group  
Ministry of Defence  
Poplar - 1#2005  
Abbey Wood  
Bristol  
BS34 8JH  
Tel: 0117 913 3677  
Fax: 0117 913 0629

4. Advice on approval for associated technology transfers in intangible form at a protective marking of RESTRICTED or above may be obtained from D DEF SY INFO SY COMSEC, Floor 6 Zone B, Main Building, London SW1A 2HB.

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

Export Control Organisation  
Customer Service and Compliance Unit  
Department for Business, Enterprise and Regulatory Reform  
3<sup>rd</sup> Floor,  
1 Victoria Street  
London SW1H 0ET  
Fax No: 020-7215 3830

6. The provisions of this Licence only apply for the purposes of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003. 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 United Nations Sanctions.