

TRADE LICENCE

Open General Trade Control Licence (Category C Goods)

dated 25 September 2008 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Article 5 of the Trade in Goods (Control) Order 2003¹ ("the Order"), hereby grants the following Open General Trade Control Licence:

Licence

1. Subject to the following provisions of this Licence, any person may;
 - (1) arrange the transfer, acquire or dispose of, or agree to acquire or dispose of any goods specified in Schedule 1; or
 - (2) arrange or negotiate, or agree to arrange or negotiate, a contract for the acquisition or disposal of any goods specified in Schedule 1; or
 - (3) do any act, or agree to do any act calculated to promote the arrangement or negotiation of a contract for the acquisition or disposal of any goods specified in Schedule 1,

from any country, other than a country or individual specified in Schedule 2(1), to any country specified in Schedule 2(1) Part A; or from any country specified in Schedule 2(1) Part A to any other country, other than a country specified in Schedule 2(2) Part B hereto, providing the goods are not located in the UK or Isle of Man, unless they are goods in transit.

Exclusions

2. This licence does not apply:
 - (1) if the trader is aware or suspects that the goods are or may be intended, in their entirety or in part 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,

- (2) if the trader knows or has reason to believe that the action in paragraph 1 above will or may result in the removal of the controlled goods to a country not authorised in Schedule 2;
- (3) if the trader has been informed by a competent UK authority, or is aware that the transaction will be carried out contrary to the export or import law or regulations of the exporting or importing country;
- (4) if the goods are to be supplied from DPRK (North Korea), Iran, Zimbabwe or any individual to which the Al Qa'ida and Taliban Sanctions² apply; or
- (5) to a destination within a Customs Free Zone;
- (6) where the trader has, at the time of act, been served with a notice which suspends or revokes his ability to use this Licence pursuant to article 5(3) of the Order, unless the period of suspension or revocation has expired.

Conditions and Requirements

3. The authorisation in paragraph 1 above is subject to the following conditions:
 - (1) The provisions of Article 6 (**registration**) of the Order shall apply to any act under the authority of this licence;
 - (2) The provisions of Article 7 (**record keeping**) of the Order shall apply to any act under the authority of this licence;

¹ S.I.2003/2765, as amended

² Al Qa'ida and Taliban (United Nations Measures) Order 2002 (S.I.111/2002).

(3) Where the trader 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 trader 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 9 of the Order, failure to comply with this condition may result in this Licence being revoked or suspended until the trader can show compliance to the satisfaction of the Export Control Organisation. The trader 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 trader has not shown compliance to the satisfaction of the Export Control Organisation, the period of suspension or revocation may be extended. The trader will be notified of such an extension in writing.

Prohibitions not affected by this Licence

4. Nothing in this Licence shall affect any prohibition or restriction on the trade or the carrying out of any act with respect to the trade 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:

- (1) “any person” means any person operating from within the UK;
- (2) a “Customs Free Zone” is 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;

- (3) "goods in transit" shall not be considered to be located in the UK or Isle of Man;
- (4) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it bears in the Export Control Act 2002, Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003³ or in the Order.

Entry into Force

6. This Licence shall come into force on 1st October 2008.
7. The Open General Trade Control Licence dated 12th September 2008 is hereby revoked.

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

³ S.I. 2003/2764, as amended

SCHEDULE 1

GOODS CONCERNED

PART A

Any goods, excluding software and technology, specified in Schedule 1 to the Export of Goods, Transfer of Technology and Provisions of Technical Assistance (Control) Order 2003 **except** goods in Part B of this Schedule

PART B

Goods falling within Schedule 1 of the Trade in Goods (Control)

Order 2003 (Category A) as follows:

- (i) Goods falling within PL5001. c., d., g., h., and i.;
- (ii) Missiles capable of a range of 300km or more, and specially designed components therefor.
- (iii) Conventional munitions designed to disperse or release explosive submunitions (“cluster munitions”). “Cluster munitions do not include those munitions described at paragraph (vii) below;
- (iv) Conventional munitions, weighing less than 20 kilograms each, which in order to perform their task are dispersed or released by a “cluster munition” and are designed to function by detonating an explosive charge prior to, on or after impact (“explosive submunitions”). “Explosive submunitions” do not include those submunitions described at paragraph (vii) below;
- (v) Conventional munitions, weighing less than 20 kilograms each, which are not self propelled and which, in order to perform their task, are specially designed to be dispersed or released by a “dispenser”, and are designed to function by detonating an explosive charge prior to, on or after impact (“explosive bomblets”). “Dispenser” means a container

that is designed to disperse or release “explosive bomblets” and which is affixed to an aircraft at the time of dispersal or release.

- (vi) Components specially designed for goods listed in paragraphs (iii), (iv) and (v) above;
- (vii) Goods listed in paragraphs (iii) and (iv) above do not include the following conventional munitions,
 - (a) a munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
 - (b) a munition or submunition designed to produce electrical or electronic effects;
 - (c) a munition that has all of the following characteristics:
 - (i) each munition contains fewer than ten “explosive submunitions”;
 - (ii) each “explosive submunition” weighs more than four kilograms;
 - (iii) each “explosive submunition” is designed to detect and engage a single target object;
 - (iv) each “explosive submunition” is equipped with an electronic “self-destruction mechanism”. “Self-destruction mechanism” is an incorporated, automatically-functioning mechanism which is in addition to the primary initiating mechanism of the munition and which secures the destruction of the munition into which it is incorporated;
 - (v) each “explosive submunition” is equipped with an electronic “self-deactivating feature”. “Self-deactivating feature” is one which automatically renders a munition inoperable by means of the irreversible exhaustion of a component (e.g. a battery) that is essential to the operation of the munition.

Goods falling within Schedule 2 of the Trade in Goods (Control)

Order 2003 (Category B) as follows:

- (viii) ML1 - Smooth-bore weapons with a calibre of less than 20mm, other firearms and automatic weapons with a calibre of 12.5 mm (calibre 0.50 inches) or less and accessories;
- (ix) ML2.a and ML2.c - Smooth-bore weapons with a calibre of at least 20mm, but no more than 30mm and accessories ;
- (x) ML3.a - Ammunition for weapons in paragraphs (viii) and (ix) above;
- (xi) Components specially designed for any weapon, accessory or ammunition listed in paragraphs (viii), (ix) and (x) above;
- (xii) Man-portable air defence systems (MANPADS), as follows,
 - (a) Surface-to-air missile systems designed to be man-portable and carried and fired by a single individual;
 - (b) Surface-to-air missile systems designed to be operated and fired by more than one individual acting as a crew and portable by several individuals;
- (xiii) Missiles for MANPADS;
- (xiv) “Production equipment” specially designed for MANPADS. “Production equipment” means all production stages (e.g., product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance);
- (xv) Field test equipment specially designed for MANPADS;
- (xvi) Specialised training equipment and simulators for MANPADS;
- (xvii) Components specially designed for goods described in paragraphs (xii) – (xvi) above.

***Goods falling within Schedule 3 of the Trade in Goods (Control)
Order 2003 (Category C)***

(xviii) Goods falling within entry ML4 as follows:

- a. anti-personnel landmines and specially designed components therefor;

(xix) Goods falling within entry ML17.f as follows:

- a. Libraries for MANPAD systems;

SCHEDULE 2

COUNTRIES CONCERNED

This authorisation is valid for the following:

(1). From any country, other than DPRK (North Korea), Iran, Zimbabwe or any individual to which the Al'Qa'ida and Taliban Sanctions apply, to any country specified in Part A of this Schedule.

PART A:

Australia, Austria, Belgium, Canada, Channel Islands, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland (Republic of), Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Slovenia Spain, Sweden, Switzerland, USA; and

(2). From any country in Part A of this Schedule to any country other than a country specified in Part B of this Schedule.

PART B

Angola, Argentina, Armenia, Azerbaijan, Benin, Bosnia & Herzegovina, Burkina Faso, Burma, Burundi, Cape Verde, China (excluding SARs), DRC, Gambia, Ghana, Guinea, Guinea Bissau, Iran, Iraq, Ivory Coast, Lebanon, Liberia, Libya, Macau SAR, Mali, Namibia, Niger, Nigeria, North Korea, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Taiwan, Tanzania, Togo, Uganda, Uzbekistan and Zimbabwe.

EXPLANATORY NOTE

(This Note is not part of the Licence)

This Licence has been amended by adding small arms and associated ammunition, accessories and components, cluster munitions, explosive submunitions, explosive bomblets and specially designed components to the list of excluded goods listed in Part B of Schedule 1 to the licence. This follows the recent introduction of new trade controls on small arms in export control legislation and reclassification of goods categories and the creation of the new Small Arms OGTCL.

2. This Open General Trade Control Licence permits, without further authority but subject to certain conditions, involvement in the transfer of goods in Part A of Schedule 1 to the licence, other than those specified in Part B of that Schedule, from any country, other than DPRK (North Korea), Iran, Zimbabwe or individuals to which Al Qa'ida and Taliban Sanctions apply, to any country specified in Schedule 2 Part A and from any country in Part A to any country other than a country specified in Part B of that Schedule and any act or arrangement associated with that transfer.

3. Subject to its conditions, the licence is available for use by any person operating from the UK.

4. 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 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.

5. 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 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.

6. The issue of this licence doesn't remove the requirement to obtain permission of the authorities of the appropriate country to remove or receive goods from or to that territory as necessary.

7. The provisions of this licence does not apply to any person whose sole involvement, in respect of paragraph 1(1), (2) and (3) of the licence, is to provide or agree to provide:

- (a) transportation services;
- (b) financial or financial services;
- (c) insurance or re-insurance services; or
- (d) general advertising or promotional services.

these activities are not subject to control.

8. if the trader 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.

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

- (a) Under Article 6 of the Order, any person who does any act under the authority of this licence must, before or within 30 days after

the first occasion he makes use of the licence, provide details to the Secretary of State of his name and address where copies of the records referred to below may be inspected.

This notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at www.spire.berr.gov.uk

(b) Under Article 7 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.

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 thinks fit. If a trader receives written notice to this effect, he 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 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 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 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's ability to use the licence being suspended for a period of time.