

BIS | Department for Business
Innovation & Skills

**EXPORT CONTROL
ORGANISATION**

Guidance to industry on the
implementation of the
Export of Radioactive
Sources (Control) Order
2006

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1. Introduction

This note provides guidance to exporters on the new controls on the export of certain highly active radioactive sources. If you need further help with your export application please contact us at the address below. Please note however that the Guidance does not replace your own legal advice on whether your exports are within the scope of this control.

The Export Control Organisation (ECO) is part of the Department for Business, Innovation and Skills (BIS). ECO's chief task is to process applications for licences to export strategic goods from the UK. It will be responsible for processing applications for licences to export these high activity radioactive sources.

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2. Frequently Asked Questions

1. What is controlled under this Order?

This Order controls certain high-activity radioactive sources as set out in Annex 1.

2. How can I decide if I need a licence?

If the source(s) and their activity levels fall within the parameters listed in the Schedule to the Order then you will be required to obtain a licence prior to export from the UK. Guidance on what is in scope of the Order is set out in Annex 1. If you remain unsure please contact us at the address below or seek your own legal advice.

3. What if I am taking a controlled radioactive source for demonstration or marketing purposes only.

You will still require a licence in advance – most likely a temporary licence. Temporary licences are generally valid for one year only and the radioactive sources must be returned before the licence expires.

4. How do I apply for a licence?

You can apply for Standard Individual Export Licences (SIEL), Open Individual Export Licences (OIEL) and register to use the Open General Export Licence (OGEL) electronically through ECO's SPIRE export licensing system. SPIRE is available at <https://www.spire.bis.gov.uk>

5. When should I submit my application?

A. You should submit your licence application as early as possible, for example, as soon as there is a possibility that you will secure the relevant contract. An export licence may be refused regardless of any contractual commitment to export.

6. When can I use a SIEL, OIEL and OGEL?

A. Exporters will be able to apply for different types of licences depending on the destination and the category level of the radioactive sources to be exported. The Export Control Organisation (ECO) will be able to help exporters determine which type of export licence is most suitable for their circumstances.

7. There will be three licence types on offer:

- the Standard Individual Export Licence (SIEL);
- the Open Individual Export Licence (OIEL) and
- the Open General Export Licence (OGEL).

Descriptions of each and when they may be used are given in Annex 5. A copy of the OGEL, which is available when the new controls come into force, is set out at Annex 3. The OGEL will allow the export of specified items by any exporter to specified destinations, removing the need for them to apply for an individual licence.

8. Can I apply for more than one OIEL?

Yes. We encourage exporters to submit more than one OIEL application if it is apparent that putting all destinations in one application is likely to significantly delay a decision. You could therefore, for example, submit separate OIEL applications covering destinations on the basis of how often you do business with them or batch them in terms of the destinations in order of your priority markets. We are happy to provide further advice on proposed OIEL applications.

9. How do I register for the Open General Export Licence (OGEL)?

You can register to use the OGEL using ECO's web-based SPIRE export licensing system. SPIRE is available at <https://www.spire.bis.gov.uk>. Exporters must register with the Export Control Organisation before they make use of OGELs.

10. What documentation do I need to submit with my application?

A. Most applications (other than temporary licence applications) need to be accompanied by some documentation from the end-user country. In almost all cases this will be an end-user undertaking (EUU): see [Annex 6](#). In certain circumstances, we may be willing to accept one of the following two alternatives:

- If the foreign buyer is a government body, then a purchase order or a copy of relevant pages from contracts may be accepted in lieu of an EUU;
- If the foreign importer can supply an International Import Certificate, this may be accepted in lieu of an EUU.

If you are in any doubt about whether either of these would be acceptable for a specific export, please contact us.

11. What if I don't know the end-user?

We will consider this on a case-by-case basis but the exporter should explain on the application form why the end user is not known or cannot be known.

12. Who can I contact to discuss my application?

On receipt of your application we will send you an acknowledgement together with contact details of the person dealing with your case.

13. How long is a licence valid for?

A. SIELs will be generally valid for two years; but where the export is temporary i.e. for demonstration, marketing, trial or evaluation, the licence is generally valid for one year only and the radioactive sources must be returned before the licence expires.

OIELs are generally valid for five years but the term of validity may be different depending on the import authority's period of consent for the export.

The OGEL will remain in force until it is revoked, although its provisions may be varied at any time (we will publish any changes on our website,

so it is important that you check regularly when using the OGEL). You can also receive electronic updates on changes – please contact us if you wish to be added to the mailing list.

14. Are there any other conditions of use of the licence?

Yes. Conditions will be set on a case-by-case basis but standard conditions include, for example, record keeping (see Article 7 of the Order); and declaring and presenting the licence to officials upon request.

15. What do I do with a licence whose validity has expired?

Non-electronic (SPIRE) expired export licenses should be returned to the ECO.

16. Will the ECO be responsible for obtaining prior import consent from foreign authorities for exports of Category 1 radioactive sources?

ECO will consult with the importing authorities and take their response into account when deciding whether to issue an export licence. Exporters should provide all the necessary information including details of the consignee in the destination country. Exporters should note that consultation with foreign authorities may take time and should therefore submit their applications at the earliest opportunity.

Where foreign authorities require exporters to obtain prior import consents for Category 2 this will be the responsibility of the exporter.

17. Will ECO wish to receive copies of shipment notifications?

No. We will inspect these as part of our compliance audit visits.

18. How frequently will ECO compliance officers visit our premises?

We aim to visit at least once a year.

19. Can I get help with setting up export control procedures in my company?

Yes, please contact us at the address below.

20. On what basis are licence applications refused?

All applications for a licence to export the controlled radioactive sources are considered against **the assessment criteria** set out at [Annex 2](#). Applications that do not meet the criteria will be refused.

An export licence will not be issued if there is a risk that the proposed export might be diverted for terrorist purposes. Among the factors taken into account will be the destination, the parties involved and the nature of the goods concerned, and the use to which they could potentially be put.

Please also note that the OGEL may not be used when the exporter knows or has grounds to suspect or has been notified by the ECO that the export will or may lead to the carrying out anywhere in the world of acts of terrorism or serious crime.

21. Can one appeal against a refusal?

A. If your SIEL application is refused you may appeal. Appeals must be submitted within 28 calendar days of the date of the refusal letter and should include any additional information or arguments which may not have been available at the time of the original application and which could materially affect the refusal decision.

The appeal and any new information provided may need to be circulated to advisory departments to be considered independently at a more senior level than the original application. The current published target for appeals for strategic licences is to process 60% of appeals within 20 working days and 95% within 60 working days, and these will also apply to appeals for radioactive sources licences. Since OIELs are concessionary licences, you may not appeal against our decision to refuse one but may wish to submit a SIEL in its place.

22. Are licences ever revoked or varied?

Licences can be revoked or varied if new information comes to light about a particular export or other changes to circumstances at the time.

23. What happens if I export controlled radioactive sources without a licence?

Exporting controlled items without a valid licence is a criminal offence. The goods can be seized by HM Revenue and Customs at the ports, and offenders can be fined and/or imprisoned. Making false statements in support of obtaining an export licence is also a criminal offence.

24. Do the controls ever change?

Controls do change and you should always ensure that you comply with the requirements in place at the time. Details of any changes are published on the ECO website, so you should check this regularly. You can receive future ECO announcements electronically on export controls including any changes to the rules, new guidance material, new and revised Open General Licences and ECO promotional material. Please contact us at the address below to subscribe to this update service.

25. Why doesn't the Order include all of the radionuclides listed in the Code?

The Order introduces export controls only on radionuclides at activity levels that are not subject to other export controls. Californium-242, Curium-244, Plutonium-238, Plutonium-239 and Radium-266 are controlled under existing UK or European export control legislation at lower equivalent thresholds than the Code recommends.

26. My source is not listed or its activity falls below the IAEA Category 2 threshold; does it require an export licence?

Not under the Order however other export controls may apply. The Order is just one of a number of pieces of export control legislation. If you aren't sure whether a licence is needed you can submit a technical "rating" enquiry and we can advise you if a licence is required and under which legislation. Full details of the Rating Enquiry Service provided by the ECO are available on the export control pages on the Businesslink website at <http://www.businesslink.gov.uk/exportcontrol>

27. Can I apply for a SIEL or OIEL for Category 2 sources to countries covered by the OGEL?

Export licence applications for exports permissible under the OGEL will be rejected on receipt unless you can demonstrate that you are unable to meet the conditions of the OGEL.

Annex 1 – Scope of the Order

- 1 The Order prohibits the export from the UK of the specified radioactive sources at radioactivity levels defined as Category 1 and Category 2 without a valid export licence. This categorization is defined in the IAEA Code and the IAEA Categorization of Radioactive Sources (IAEA-TECDOC-1344¹), now published as Safety Guide RS-G-1.9.
- 2 The Schedule to the Order sets out the radionuclides at the activity levels at or above which they are subject to control – please note that those radioactive sources in the IAEA Code omitted from this Schedule are already controlled by existing legislation. The thresholds are set at the Category 2 minimum² and exporters will need to determine:
 - (a) whether their radioactive source is above the minimum levels in the Schedule; and if so
 - (b) whether it falls under Category 1 or Category 2 as defined under the IAEA Code.
- 3 The difference between Category 1 and Category 2 is essentially the difference in activity level. Category 1 has a greater radioactivity level than a Category 2 source.
- 4 The table below lists the activity levels at or above which a source becomes either Category 1 or 2. This is based on Annex 1 of the IAEA Code and where D denotes the D-value³ which defines the extent to which a source could, if not under control, give rise to exposure sufficient to cause severe harm. The primary values used in the Order are given in TBq. Curie values are provided here for practical usefulness only and are rounded after conversion.

¹ The IAEA document in fact describes 5 categories with Category 1 being the highest where the sources are most active (and considered to pose a high risk to human health if not managed safely and securely) and Category 5 being the least active and posing a low risk of harm.

² Though please note Am-241 is controlled within a range because from its upper limit it is controlled by other legislation

³ The D value is a normalising factor as detailed in IAEA-TECDOC-1344

Activities corresponding to thresholds of categories

Radionuclide	Category 1	Category 2
	1000 x D (TBq)	10 x D (TBq)
Co-60 (Cobalt 60)	3.E+01	3.E-01
Cs-137 (Caesium 137)	1.E+02	1.E+00
Gd-153 (Gadolinium 153)	1.E+03	1.E+01
Ir-192 (Iridium 192)	8.E+01	8.E-01
Pm-147 (Promethium 147)	4.E+04	4.E+02
Se-75 (Selenium 75)	2.E+02	2.E+00
Sr-90 (Y-90) (Strontium 90) (Yttrium 90)	1.E+03	1.E+01
Tm-170 (Thulium 170)	2.E+04	2.E+02
Yb-169 (Ytterbium 169)	3.E+02	3.E+00
Am 241 (Americium 241)	6.E-1 up to but not exceeding 1.27E+00	

5 The Order makes provision in respect of:

- (a) **Category 1 and Category 2 sources** (i.e. physical goods), as defined under the IAEA Code, as the controlled radioactive sources set out in the Schedule to the Order;
- (b) **Exports** of these sources from the UK to all destinations (including the EU), whether made by individuals or legal entities regardless of their ownership and which are prohibited without an export licence;
- (c) **Transshipment** of sources through the UK **except where** they meet the conditions set out in Article 4 of the Order i.e.
 - where the source remains on board a vessel or aircraft for the entire period that it remains in the UK; or
 - that the source is on a through bill of lading or through air waybill and in any event is exported within 30 days of its importation; or
 - the export destination has been determined in the country from which it was originally exported prior to its original exportation in connection with the transaction which has given rise to transit or transshipment and has not been changed prior to its exportation from the United Kingdom;
 - or the source is being returned to that country; and the controlled radioactive source in question was exported from that country in accordance with any laws or regulations relating to the exportation of goods applying therein at the time of the exportation of that source.

- (d) **Record keeping:** depending on the type of licence held, the Order requires the exporter to keep records and to provide information to any person specified in the Order.
- (e) **Offences and penalties:** offences for export in breach of a prohibition are contained in the Customs and Excise Management Act 1979. The Order makes provision for penalties. This is consistent with the penalties applying in respect to other strategic goods controlled under the Export Control Act.

- 6 The Order **does not** control:
- **Trafficking or brokering** i.e. the acquisition, disposal or movement of goods or activities which facilitate such acquisition, disposal or movement
 - **Intangible transfers** e.g. of technology or technical assistance related to the materials;
 - The **equipment** in which the sources may be incorporated (but note that in the case of an illicit export, any goods mixed packed or found with the radioactive source will be liable to seizure);
 - **Nuclear materials** (which are covered by the Convention on the Physical Protection of Nuclear Materials); and
 - Radioactive sources in the IAEA Code already covered by existing legislation e.g. Council Regulation 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology. This is to avoid duplication of controls.
 - Sources that individually fall below the threshold, but which if **aggregated** together in a single consignment exceed the threshold.
- 7 It should also be noted that this is a new Order and is not an amendment to any of the existing Orders under the Export Control Act 2002. The existing controls on military and dual-use goods/technology will be unaffected.

Annex 2 – The Assessment Criteria

Criteria for deciding whether to grant a licence

- 8 We propose to base the assessment for radioactive sources exports on the following criteria:
 - the risk of the sources being diverted to terrorist use. In assessing this we shall rely on any relevant secret and open source intelligence, the track record of the end-user and the capability and attitude of the importing State as regards the security of these sources;
 - Our assessment of the commitment demonstrated by the recipient country in implementing and adhering to the IAEA Code of Conduct on the Safety and Security of Radioactive Sources; and
 - Whether the importing State has provided an import consent, where appropriate, for Category 1 source exports.
- 9 These Criteria are published, in accordance with Section 9 of the Export Control Act. Assessments are made on a case-by-case basis and may vary in accordance with new information received and changing circumstances. Therefore an exporter should not assume that a decision sets a precedent, though of course we do try to ensure consistency.
- 10 A licence may be revoked at any time if new information comes to light or we consider the first decision was erroneous.
- 11 For exports of Category 1 sources ECO will consult with the importing State for exports before granting an export licence. This will be the case for SIELs and OIELs.
- 12 For Category 2 sources we would expect the exporter to have obtained an end user certificate before submitting an application. It will not be a necessary condition of obtaining an export licence for the exporter to have obtained in advance an import consent from the relevant authority. We may, however, impose notification conditions.

Annex 3 – Draft of Open General Export Licence

Export Licence

Open General Export Licence (Radioactive Sources) dated 2 October 2006 granted by the Secretary of State.

The Secretary of State, in exercise of the power conferred by Article 3 of the Export of Radioactive Sources (Control) Order 2006 ('the Order'), hereby grants the following Open General Export Licence (Radioactive Sources):

Licence

1. Subject to the following provisions of this licence, any item listed, and not exceeding its activity threshold specified, in Schedule 1 to this licence (that is "Category 2" sources), may be exported from the United Kingdom to any country specified in Schedule 2 to this licence.

Conditions and requirements

2. The authorisation in paragraph 1 is subject to the following conditions:
 - (1) this licence will not apply to an export where the exporter knows, has grounds to suspect or has been notified by the Secretary of State, that the export will or may lead to the carrying out anywhere in the world of acts of terrorism or serious crime, or acts which facilitate acts of terrorism or serious crime, anywhere in the world.
 - (2) official and commercial export documentation accompanying the items shall include a note stating that "the items are being exported under the Open General Export Licence (Radioactive Sources)" and shall be presented to a Customs officer if so requested;
 - (3) prior registration is required for use of this licence;
 - (4) not later than 30 days after an exporter first exports goods under this Licence, he shall inform the Secretary of State, specifying his name and the address at which copies of records of his export may be inspected under condition 2(6) below;
 - (5) for the purposes of record keeping, Article 7 of the Order shall apply.

Prohibitions not affected by this licence

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

Interpretation

4. For the purposes of this licence:

unless the context otherwise requires, any other expression used in this licence has the same meaning as in the Order.

Entry into Force

5. This licence comes into force on 2 October 2006.

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

Schedule 1

Items concerned

This export authorisation covers:

Radionuclide	Activity threshold below (TBq)
Co-60	3.E+01
Cs-137	1.E+02
Gd-153	1.E+03
Ir-192	8.E+01
Pm-147	4.E+04
Se-75	2.E+02
Sr-90 (Y-90)	1.E+03
Tm-170	2.E+04
Yb-169	3.E+02

And for:

Am-241 6.E-1 up to but not exceeding 1.27E+00

Schedule 2

Destinations concerned

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

Argentina, Austria, Australia, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, United States.

Explanatory Note

(This note is not part of the Licence)

1. This Open General Export Licence (Radioactive Sources) permits, without further authority but subject to certain conditions, the export of the items specified in Schedule 1 from the United Kingdom to any destination specified in Schedule 2.
2. The licence will not apply however if the exporter knows or has grounds to suspect or has been notified by the Secretary of State, that the export will or may lead to the carrying out anywhere in the world of acts of terrorism or serious crime.
3. Exporters must pre-register their intention to use this licence and retain appropriate records and allow those records to be inspected and copied on request.

Annex 4 – Step by Step process for SIEL and OIEL applications

- **Step 1: Receive Application:**

The exporter shall submit, via SPIRE, an application to ECO supplying all of the required information. This will cover details including recipient, destination, radioactive source description and a self-assessment of the Category the source(s) falls under and an end-user certificate. The form may be sent electronically or through the post.

- **Step 2: Administrative Check:**

Upon receipt ECO will conduct administrative checks to ensure that the application and supporting information is complete and clear. If not, we will advise the exporter to revise and re-submit.

- **Step 3: Technical Assessment of Source:**

ECO will satisfy itself that the sources to be exported are licensable i.e. that they are a controlled radioactive source and that they fall in either Category 1 or Category 2. This is particularly important during the early stages of the regime as we recognise that there are a number of different categorisations of high activity levels being used today (e.g. HASS, IAEA, industry's own).

- **Step 4: Request for Consent and country check/end-user status:**

For Category 1 sources, ECO will consult with the Importing State. We will ask the importing State to confirm the bona fides of the end-user and his right to hold such materials. The exporter will therefore need to provide ECO with the relevant information which should identify the recipient (end user where possible), destination, source and radioactivity level as well as the time by which the consent is required. Where this is not possible, but the export is needed for emergency or humanitarian reasons, the two States will consider whether the import or export may be authorised in "exceptional circumstances"

Please note that we will ask importing States to respond in a timely manner but we cannot guarantee that they will do so. We therefore urge all exporters to submit applications at the earliest opportunity and also to encourage their customer(s) to also contact their authority to ensure that consents are given within timescales.

As noted above, in the case of OIELs, we may make it a condition of the licence that the importing authority is notified before each shipment, or that the necessary consents are obtained if the import authority's consent is for a shorter period than the proposed OIEL. For SIELs we reserve the right to grant a licence where the import consent has not been obtained. Ultimately it is for the exporter to satisfy any import requirements separately.

- **Step 5: Decide:**

ECO will make a decision based on the information provided in the application form, any other information available to it, and its assessment against the criteria, including the risk of diversion to undesirable end use/users.

- **Step 6: Issue Licence/inform exporter:**

A licence will be issued or refused. Where a SIEL has been refused the exporter will have the right of appeal. As noted above, because an OIEL is a concessionary licence there is no right of appeal against refusal of an OIEL.

- **Step 7: Notify importing State:**

The exporter will notify the importing State up to 7 days in advance of shipment. There is no need for the exporter to copy this notification to ECO.

- **Step 8: Export**

The exporter must present non-Spire issued SIELs to Customs at the port of exit. Goods covered by the licence may be exported in multiple consignments. In such cases, the exporter deducts the quantities being exported and records the balance remaining. If using an OIEL or OGEL, the exporter must quote the number of the OIEL or title of the OGEL on the export documentation. For exports to other EU member states, SIELs must be presented to the inland Customs office up to 3 days before departure but simplified arrangements may be agreed with the local office. Exporters will need to maintain records of all items exported as required under whichever licence is used and allow them to be inspected and copied by any person authorised by the Secretary of State or the Commissioners for Her Majesty's Revenue and Customs.

HM Customs and Revenue may stop exports where a licence is not held, and will consult ECO about whether a licence is required. Used SIELs i.e. where the full quantity of the item has been shipped, should be returned to ECO.

Annex 5 – The Licence Types

Open General Export Licence (OGEL)

- 13 An Open General Export Licence (OGEL) allows the export of specified controlled goods by any exporter, removing the need for exporters to apply for an individual licence, providing the shipment and destinations are eligible and the conditions are met. The exporter may not use the OGEL where s/he knows or has grounds to suspect or has been notified by the ECO that the export will or may lead to the carrying out anywhere in the world of acts of terrorism or serious crime.
- 14 Exporters must register with ECO before they make use of most OGELs. All Open General Licences remain in force until they are revoked, although their provisions may be varied at any time. We aim to use an OGEL to cover Category 2 exports to certain destinations that we assess to be the least at risk of diversion to terrorists.
- 15 The **OGEL** in place is attached at [Annex 3](#). This OGEL, subject to conditions, will allow the export of specified **Category 2** radioactive sources by any exporter to specified destinations thus removing the need for an exporter to apply for an individual licence. Please note that the list of destinations that the OGEL covers is under constant review. Decisions on which destination is eligible to come under this OGEL is based on our assessment of the risk of diversion and the efficacy of the destination country's radioactive sources security and management infrastructure. The OGEL will remain in force unless it is revoked, although its provisions may be varied by the Secretary of State for Business, Enterprise and Regulatory Reform at any time.

Conditions of use of an OGEL

- 16 Before using the OGEL however the exporter must:
 - register with the Export Control Organisation (ECO) which is part of the Department of Business no later than 30 days of first using an OGEL (see article 6 of the Order);
 - ensure records of exports made under the OGEL are kept as specified in the Order and in the OGEL
 - ensure that the conditions of the OGEL are met. The OGEL will be limited to the export of certain sources to certain destinations. It will also impose additional conditions such

as a requirement to notify the importing State and obtain any consents from them which they require.

- Present records on request to ECO Compliance Officers and HM Customs and Revenue Officers.

- 17 Please note that the use of an OGEL for a licensable export which the OGEL does not cover amounts to export without a valid licence, which is a criminal offence.

Standard Individual Export Licence (SIEL)

- 18 Where an export is of a Category 1 radioactive source or the destination is not covered by an OGEL, exporters will need to apply for either a Standard Individual Export Licence (SIEL) or an Open Individual Export Licence (OIEL).
- 19 **What is a SIEL?** A Standard Individual Export Licence (SIEL) will generally allow shipments of specified radioactive sources to a specified consignee up to the quantity specified by the licence.
- 20 **Duration of SIELs:** They are generally valid for two years but this will be dependent on the consent given by the foreign licensing authority for imports; where the export is temporary i.e. for demonstration, trial or evaluation, the licence is generally valid for one year only and the radioactive sources must be returned before the licence expires
- 21 **Eligibility for SIELs:** The SIEL is the standard export licence. All exporters who propose to export the controlled radioactive sources but cannot use the OGEL or an OIEL will be able to use SIELs. Exporters should submit SIEL applications at the earliest opportunity especially when exporting Category 1 radioactive sources which require foreign authority prior consent which may take time to obtain.
- 22 **Amendments to a SIEL:** Amendments to issued SIELs will be considered in the following circumstances only:
- Exporter's change of name/address; and
 - Consignee's change of name/address.

Otherwise a new SIEL application must be made. Applications must be made in writing and must explain the reason for the request.

- 23 **Extension to the Validity Period of a SIEL:** SIELs are usually valid for two years however we will consider requests for extensions to the validity period– please contact us at the address below to discuss. The request must be submitted in writing at least twelve weeks before the existing licence is due to expire. An extension can be granted for any period of up to six months.
- 24 **Refusal/Revocation of a SIEL:** Exporters have the right to appeal against a refusal decision. They may make the appeal within 28 calendar days of the refusal letter. Where possible, they should include any additional information or arguments which may not have been available at the time of the original application and which could materially affect the refusal decision. SIELs may be revoked at anytime depending on new information about the export or a change in circumstances such as political upheaval.
- 25 **Important Conditions relating to a SIEL:** Exports of the controlled radioactive sources are not permitted under a SIEL where the exporter has been informed by the authorities, or is otherwise aware or suspects, that the items concerned may be intended to be used, in their entirety or in part, in connection with terrorist purposes.
- 26 You will be required to maintain records for at least three years from the end of the calendar year in which the transfer took place. In either case you must make them available for inspection by Department for Business, Enterprise and Regulatory Reform officials as required.
- 27 If a temporary export licence is granted (e.g. for demonstration or exhibition purposes) you must return to the UK any goods exported under it within 12 months of their date of export. The ECO has monitoring arrangements in place to verify compliance with this condition. If necessary, you may apply in writing to have this period extended.
- 28 You must not dispose of any items exported under a temporary licence while they are abroad. You may, however apply for a licence to permit permanent export of the items. All applications must be made in writing and must provide an explanation for the request.

- 29 The SIEL needs to be presented to HM Revenue & Customs (HMRC) at the point of export each time a shipment is made under that licence.

Open Individual Export Licence (OIEL)

- 30 **What is an OIEL?** An Open Individual Export Licence (OIEL) is specific to an individual exporter. It is different from a SIEL because it allows multiple shipments of specific goods to multiple specified destination(s) and/or multiple specified consignees/end-users.
- 31 **Duration of OIELS:** Usually for five years, but will be dependent on the consent given by the foreign licensing authority for imports.
- 32 **Eligibility for an OIEL:** OIELs are a concessionary form of export licensing for exporters with a proven track record of applications for SIELs and/or where the particular nature of their business makes SIELs inappropriate. OIELs will be appropriate where the nature of the trade is predictable and foreseen well in advance. Normally we require exporters to establish a track record of using SIELs before we would be prepared to grant an OIEL. In this new situation, for radioactive sources, we will be prepared to consider the previous trading history and standing of the exporter so that OIELs may at our discretion be granted from the outset of the regime. OIELs are a concessionary licence not a statutory right; therefore there is no right of appeal against the refusal of an OIEL. Exporters should contact ECO at an early stage to discuss whether an OIEL will be appropriate for them. Because of the wider permission it confers, an OIEL usually takes considerably longer to process than a SIEL, particularly where it is necessary to obtain the consent of the importing States. ECO proposes to begin processing OIEL applications as soon as is practicably possible after the Order has been laid and before the Order comes into force, with the aim that exporters have immediate licence coverage.
- 33 **Amendments to an OIEL:** Amendments to issued OIELs will be considered in the following circumstances only:
- Exporter's change of name/address; and
 - Consignee's change of name/address.
- Applications must be made in writing and must explain the reason for the request.

- 34 **Extension to the Validity Period of an OIEL:** OIELs are usually valid for five years however we will consider requests for extensions to the validity period– please contact us at the address below to discuss. The request must be submitted in writing at least twelve weeks before the existing licence is due to expire. An extension can be granted for any period of up to six months.
- 35 **Refusal/Revocation of an OIEL:** The refusal of an application for an OIEL or revocation of an issued OIEL does not prevent the exporter from applying for a SIEL covering some or all of the same items to any of the destinations concerned. However, the factors that led to the original decision would obviously be taken into account in the decision on any such application. There is no provision in the licensing procedure for appeals against refusal or revocation decisions on OIELs. This is because such decisions do not prevent a company from applying for SIELs.
- 36 **Important Conditions relating to an OIEL:** Exports of the controlled radioactive sources are not permitted under an OIEL where the exporter has been informed by the authorities, or is otherwise aware or suspects, that the items concerned may be intended to be used, in their entirety or in part, in connection with terrorist purposes.
- 37 An OIEL application can be submitted for ECO to consider prior to an End User Undertaking (EUU) being obtained. If the OIEL is issued, a condition of it will be that the exporter shall obtain from each consignee in respect of each exportation, preferably before but certainly not later than one month after the date of exportation, a written undertaking that the items are not intended for the re-export to a destination, export to which is not permitted by this Licence.
- 38 Where the exporter intends to make more than one exportation to the same consignee in any period of one year during which this Licence remains in force, the exporter may obtain from the consignee, preferably before but certainly not later than one month after the date of the first exportation to that consignee in that year, a written undertaking in the terms specified in the paragraph above expressed to apply to all exports to be made to that consignee during that year.

- 39 You will be required to maintain similar records for at least three years from the end of the calendar year in which the transfer took place. In either case you must make them available for inspection by Department for Business, Enterprise and Regulatory Reform officials as required.
- 40 If a temporary export licence is granted (e.g. for demonstration or exhibition purposes) you must return to the UK any goods exported under it within 12 months of their date of export. The ECO has monitoring arrangements in place to verify compliance with this condition. If necessary, you may apply in writing to have this period extended.
- 41 You must not dispose of any items exported under a temporary licence while they are abroad. You may, however apply for a licence to permit permanent export of the items. All applications must be made in writing and must provide an explanation for the request.
- 42 The OIEL need not be presented to HM Revenue & Customs (HMRC) at the point of export, but its Licence Number must be quoted on the official and commercial documentation on each and every occasion an export is effected under the licence.

Record Keeping

- 43 Exporters will be required to keep records and will cover for each shipment things such as:
- Exporter details
 - Consignee(s) / Destination(s)
 - Description of items including activity level and identify Cat 1 or Cat 2
 - Quantity of the items
 - End User (if different from consignee)
 - Agent / Representative (if different from exporter)
 - Customs Commodity Code – for sources in equipment the code of the equipment should be used
 - Currency and value of export
 - End use – i.e. the use of the source
 - Contract start and end date
 - Licence reference under which shipment is made.
 - Dates of each shipment
 - Any conditions of use e.g. return spent sources etc.

Annex 6 – Information on End-User Undertakings

End-User Undertakings (EUUs) For exports of Radioactive Sources under the Export of Radioactive Sources (Control) Order 2006.

The UK Government attaches great importance to ensuring that UK exports of highly active radioactive sources are not diverted or re-exported to undesirable end-users and asks exporters to help make sure this does not happen.

The Government believes the best way of minimising the risk of diversion is a thorough risk assessment at the licensing stage and this process includes careful examination of information about the proposed end-use and end-user of the goods. British diplomatic posts overseas routinely carry out checks in cases where we wish to confirm the accuracy of the information contained in end-user documentation.

This guidance note should help export licence applicants to know what sort of end-user undertaking (EUU) we need, and it offers some guidance to exporters and end-users or consignees on filling in the relevant Form.

Does my application need an EUU?

In general, an application for a licence for temporary export will not need an EUU. Every other application needs to be accompanied by some documentation from the end-user country. In almost all cases this will be an EUU. In certain circumstances, we may be willing to accept one of the following two alternatives:

- If the foreign buyer is a government body, then a purchase order or a copy of relevant pages from contracts may be accepted in lieu of an EUU
- If the foreign importer can supply an International Import Certificate, this may be accepted in lieu of an EUU.

Do I have to use this form?

Use of this form is optional. It is designed to be appropriate for most categories of exports to most countries. If you are able to use the form, we would advise you to do so - it will help us to deal with your application more efficiently. If you choose not to use it, you should obtain an original signed and dated undertaking from the end-user on their headed paper that contains all of the information required in the form, and gives the same assurances.

Does the end-user have to complete the form in English?

Each EUU, official purchase order, or copy of the relevant part of the contract covering the order, must be written in English or, if written in a

foreign language, must be accompanied by an English translation. Every English translation must be verified by the proprietor of the business applying for a licence, or a partner, director or company secretary of the firm, or anyone authorised to sign the licence application. Alternatively, if you prefer, translations may be verified by a member of the Institute of Translators or a Notary Public.

How should the end-user authenticate the form?

It is the exporter's responsibility to obtain an original form from their end user or consignee as appropriate. Each page of that form must contain an original signature and be dated. With each completed form, the end-user or consignee must provide a covering letter on their headed stationery. The letter must be signed and dated by the same signatory who has completed and signed the form.

When should the end-user complete the form?

If possible, you (the UK exporter) should send a copy of the completed form with your licence application. If you obtain the undertaking before you are ready to submit your application, we will normally accept EUUs as valid for up to six months after signature.

Original versions of the form

Although we no longer routinely require an original of an EEU to finalise an application, you should note the following:

- Exporters must obtain the original EEU and hold it in their records
- Copies of EUUs (including faxed or emailed versions) must be legible;
- We reserve the right to ask for an original EEU during the course of processing any application;
- We will not issue any licence if we have demanded an original EEU during the course of processing the application and the exporter does not provide it;
- We reserve the right to require an exporter to produce the original document within 5 working days after they have received a licence. We would expect to make such a request on rare occasions; however if the original document could not be produced at the time of asking we would consider revoking the relevant licence.

A sample EEU form is published on the export control pages on the Businesslink website at <http://www.businesslink.gov.uk/exportcontrol>