

**EXPORT CONTROL  
ORGANISATION**

Review of Export Control  
Legislation (2007)  
Supplementary Guidance  
Note on Trade "Transit and  
Transshipment" Controls

MARCH 2010

## **Contents**

<b>1. Introduction</b>	<b>3</b>
<b>2. Definition of “Transit” and “Transshipment” activities</b>	<b>3</b>
<b>3. The new controls on “transit and transshipment”</b>	<b>4</b>
<b>4. How to decide whether a transit or transshipment licence is needed</b>	<b>4</b>
<b>5. Types of licence and when and how to apply for them</b>	<b>7</b>
<b>6. Enforcement of the controls</b>	<b>10</b>
<b>7. Frequently asked questions</b>	<b>11</b>
<b>8. Contacts for further advice</b>	<b>14</b>
<b>ANNEX A: FLOW CHART: IS A TRANSHIPMENT LICENCE NEEDED?</b>	<b>16</b>
<b>ANNEX B - TRANSIT AND TRANSHIPMENT LEGISLATION</b>	<b>17</b>

## 1. Introduction

The UK strategic export control legislation, in the form of an exception for transit and transshipment, allows goods on the Military and Dual Use lists to pass through the UK en route to another pre-determined destination without the need for a UK licence, provided that the exporter has complied with the conditions described in Section 4.3 of this guidance. There are however, limitations to the exception; it does not apply to a range of sensitive goods, or certain sensitive destinations. Article 17 of the Export Control Order 2008 covers the transit and transshipment exception and sets out conditions for its use in full.

The transit/transshipment legislation is therefore designed to facilitate legitimate trade by allowing goods to pass through the UK<sup>1</sup> when they are not the subject of controls or have been appropriately approved in the originating country, whilst enabling the UK to intervene, and potentially halt, the onward movement in the case of goods or destinations of concern. This guidance explains how export controls apply specifically to transit and transshipment activities.

***Note:** This guidance refers only to transit/transshipment of items passing through the UK; UK transportation companies involved in transiting/transshipping items through non-UK territory should check the guidance on the trade controls to see where they require a licence.*

## 2. Definition of “Transit” and “Transshipment” activities

For the purposes of the Export Control Order 2008, “transit or transshipment” means transit through the United Kingdom or transshipment with a view to re-exportation of the goods in question or transshipment of those goods for use as stores.

Whether a movement through the UK is a transit or transshipment can be important in determining which Customs procedures apply and what permissions you therefore need to obtain from HMRC. **Further information can be found under Section 6.1 below.** However, this distinction is irrelevant from the export licensing point of view. Any movement of goods from another country through the UK and on to an overseas destination may need a transit or transshipment licence from the Export Control Organisation. The guidance that follows will help you determine whether a licence is needed for your particular transaction.

---

<sup>1</sup> The UK means Great Britain and Northern Ireland as defined in the Interpretation Act 1978

*Note: Any movement of “controlled” goods through the UK that clears Customs will require an export licence before the goods can be transferred from the UK.*

### **3. The new controls on “transit and transshipment”**

As part of the recent review and public consultation exercise, the Government considered whether:

*“The coverage of the export control legislation should be altered, so that a broader range of goods transiting or being transhipped via the UK require an export licence.”*

Having considered the responses that it received to the public consultation and liaised with industry and Non-Government Organisation representatives, the Government concluded that the controls on transit and transshipment should be aligned with the new trade controls. This led us to restructure the transit and transshipment provisions, so that:

- Category A goods – which consist of cluster munitions, and specially designed components thereof; and certain paramilitary goods whose export the Government has already banned because of evidence of their use in torture - always require a licence to transit or transship the UK.
- Category B goods – which consist of Small Arms, Light Weapons and Man Portable Air Defence Systems (MANPADS) and accessories, ammunition, and specifically designed components thereof, and Long Range Missiles (LRMs) with a range over 300km (Note: this includes Unmanned Air Vehicles (UAVs)) - require a transit or transshipment licence for the 74 destinations of concern; and
- Category C goods – which consist of all goods contained within Schedule 1 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 that do not fall into the previous two categories, plus certain substances for the purpose of riot control or self-protection and related portable dissemination equipment - require a transit or transshipment licence for the list of 22 embargoed destinations.

This is the foundation of the new transit and transshipment provisions which are explained in greater detail in the guidance that follows.

### **4. How to decide whether a transit or transshipment licence is needed**

The flow chart at Annex A outlines the questions that you need to address to determine whether a transit or transshipment transaction needs a licence, and, if so, what kind of licence to apply for. The following

sections provide a more detailed account of each of the steps described in this flow chart.

#### **4.1 Are the goods in “transit/transshipment” strategically controlled?**

When considering undertaking a transit or transshipment activity you should first consider whether the goods in question are strategically controlled – i.e. are they specifically listed on the Military or Dual Use List. If they are listed, then they will require a transit or transshipment licence unless one of the exceptions that are set out later can be used.

The Export Control Organisation provides a web-based search tool called “Goods Checker,” which helps exporters decide whether goods, software or technology are controlled by UK or EC strategic control legislation. “Goods Checker” and more information on the system can be accessed at <http://www.ecochecker.co.uk/goodsChecker/>

If you are unable to find the goods you are transiting/transshipping on Goods Checker, it does not mean that they are definitely not controlled. As a precaution, you should check that you have run the correct search. If still in doubt, the Export Control Organisation provides a “Rating Service” through SPIRE, through which the ECO's Technical Assessment Unit is able to give guidance to as to whether or not the goods are subject to control at the time of the advice.

If the goods are not listed, then they may still be controlled if they are being transited or transhipped for use in a WMD programme of concern in the destination country. For more guidance on this aspect see 4.4 below.

#### **4.2 Excluded goods and destinations**

Subject to the provisions set out in the UK’s strategic export control legislation, goods on the Military and Dual Use lists are allowed to pass through the UK en route to another pre-determined destination without the need for a UK transit or transshipment licence, provided that the exporter has complied with the conditions covered in Section 4.3.

However, where either the goods, the destination country, or a combination of these factors generate a sufficient degree of risk, a transit/transshipment licence will be required. You therefore need to consider whether your transaction requires a licence because of these factors.

Circumstances when an export licence is required are:

- (i) **Military List** goods are dealt with under this structure as follows:

- **Category C Goods** require a transshipment licence for a list of 22 countries identified as of concern, including all those subject to an embargo.
- **Category B Goods** require a transshipment licence for all the countries that require a licence for Category C goods, plus an extra 52 countries of specific Category B concern.
- **Category A Goods** require a transshipment licence for any destination.

(ii) **Dual-use List goods** require a transshipment licence when they are destined for Iran or North Korea.

If your goods are covered by any of the above situations, they will require a Standard Individual Transshipment Licence (SITL). If they are not covered, then move on to consider whether you can meet the other conditions that will enable you to transit or tranship without a licence, and to consider the WMD provisions (see 4.4).

### 4.3 The three conditions

If the goods in “transit/transshipment” do not fall under the controls described in Section 4.2, an export licence may still be required, dependent on whether three practical export control conditions can be met. These conditions are that:

- the goods in question remain on board a vessel or aircraft for the entire period that they remain in the United Kingdom, or are goods on a through bill of lading or through air waybill, and in any event are exported before the end of the period of 30 days beginning with the date of their importation
- the destination of the goods in question following exportation from the United Kingdom has been determined in the country from which they were originally exported prior to their original exportation in connection with the transaction which has given rise to transit/transshipment and has not been changed prior to their exportation from the United Kingdom, or the goods are being returned to that country
- The goods in question were exported from that country in accordance with any laws or regulations relating to the exportation of goods applying therein at the time of exportation of the goods.

If you are unable to meet all these conditions a licence will be required.

#### 4.4 The WMD provisions

Transit and Transshipment legislation contains a number of conditions to guard against the risk of goods passing through the UK for the relevant use in a Weapons of Mass Destruction (WMD) programme of concern<sup>2</sup>. A licence will be required where:

- a. the exporter (or, if the exporter is not within the United Kingdom, any agent of the exporter with the United Kingdom concerned in the exportation or intended exportation) has been informed by a competent authority that the goods are or may be intended, in their entirety or in part, for WMD purposes;
- b. the exporter is aware that the goods are intended, in their entirety or in part, for WMD purposes; or
- c. the exporter has grounds for suspecting that the goods are or may be intended, in their entirety or in part, for WMD purposes, unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used.

These provisions apply to any goods that are transiting or transshipping, regardless of whether they are listed on the Military or Dual Use Lists, or are not listed at all and so not normally subject to control. Separate guidance on how to determine whether your transaction is or may be destined for a use in a WMD programme of concern can be found [on](http://www.businesslink.gov.uk/exportcontrol) the export control pages on the Businesslink website at <http://www.businesslink.gov.uk/exportcontrol>

#### 5. Types of licence and when and how to apply for them

Transshipment Licences allow controlled goods to be exported from one country to another in transit via the UK. In other words the licence allows for the import and subsequent export of these goods.

There are 2 categories of transshipment licence:

---

<sup>2</sup> "Relevant Use" is defined in the appropriate legislation as: – "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 and/or other system capable of delivery such weapons".

## 5.1 The Open General Transshipment Licences (OGTLs)

These allow controlled goods to be exported from one country to another in transit via the UK without requiring a specific licence, provided the shipment and destinations are eligible.

There are four types of OGTL as follows:

- I. **OGTL** – this licence allows, subject to certain conditions, the importation for transshipment and the subsequent exportation from the UK of certain Military List goods that fall within Category C and other Dual Use goods, provided the destination does not feature on the list of 22 embargoed countries. Due to the heightened concern in relation to Category A and B goods a Standard Individual Export Licence will always be required.
- II. **OGTL (Dual-Use Goods: Hong Kong Special Administrative Region)** – this licence allows, subject to certain conditions, dual-use goods to be imported into, and subsequently exported from, the UK to any part of the Hong Kong Special Administrative Region (HKSAR).
- III. **OGTL (Postal Packets)** - allows, subject to certain conditions, postal packets to be exported from one country to another via the UK.
- IV. **OGTL (Sporting Guns)** - allows, subject to certain conditions and where they are to be used for sporting or recreational purposes, rifles, pistols, related ammunition and telescopic sights for use with them, to be exported from one country to another via the UK.

There is a time limit for exporting goods under these OGTLs. Goods must be re-exported within 30 days of their importation, or such a longer period as the Commissioners of HMRC may permit. If the permitted period has been exceeded, the goods movement is not considered transshipment and you will have to apply for a specific export licence unless there is an Open General Export Licence in place for the destination

You can view copies of the OGTLs on the export control pages on the Businesslink website at <http://www.businesslink.gov.uk/exportcontrol> You need to register and ensure that you meet all the specified terms and conditions of the licence before you are entitled to use the licence. If you cannot meet all the conditions then you need to apply for a SITL.

## 5.2 The Standard Individual Transshipment or Export Licence (SITL)

This is specific to a named transit/transshipment provider, and covers transit/transshipment of a set quantity of specific goods between a specific source and destination country with a specified consignor, consignee and end-user. SITLs will normally be valid for two years. Upon expiry - either by time or because the activity has taken place - the licence ceases to be valid. Should further similar activity take place, a new licence must be applied for.

***Note:** There are no Open Individual Transshipment Licences. If you cannot meet the conditions of the OGTL, a SITL is the only licence available to you.*

More information on the types of licences that are available and the specific conditions that apply to each licence is provided on the export control pages on the Businesslink website at <http://www.businesslink.gov.uk/exportcontrol>

### **5.3 How do I apply?**

You do not need to register to use the OGTLs. All SITL applications should be made via SPIRE (ECO's fully electronic system for processing licence applications). [You](https://www.spire.bis.gov.uk) can register for SPIRE at <https://www.spire.bis.gov.uk> . **As SPIRE is a web based system you can apply or register for a licence from anywhere in the world with access to the World Wide Web.**

***Note:** Anybody can apply for a transshipment licence via SPIRE; an application is not dependent on an exporters/transit or transshipment provider's location.*

### **5.4 Points to bear in mind when applying for a SITL**

Remember to give as much notice as possible prior to any licensable activity and to include as detailed a description as possible of the proposed activity, equipment and transaction details together with relevant technical specifications and end-user documentation as appropriate.

When applying for licence coverage for controlled activities remember to ensure that your application covers all your potential requirements. You may need to apply for more than one licence (e.g. physical exports of goods, intangible transfers of technology, trafficking and brokering activities) to catch all aspects of a particular project or venture if the transit or transshipment is just one aspect of it. Where more than one type of licence is required it would be advantageous for processing purposes if they could be applied for simultaneously with a covering letter and cross-referenced.

## 5.5 How we assess applications

Applications for SITLs will be considered on a case by case basis, against The Consolidated EU and National Arms Export Licensing Criteria (which is available from the export control pages on the Businesslink website at <http://www.businesslink.gov.uk/exportcontrol> ). If you are intending to transit or tranship Category "A" Goods, or any controlled goods to an embargoed destination you should apply for SITLs. Such applications will tend to be refused, but there might be rare circumstances in which a licence might be granted, (e.g. for the transit/ transhipment of torture or execution equipment for museum or exhibition display; or of military equipment for humanitarian use or use by a peacekeeping force).

## 6. Enforcement of the controls

The Export Control Organisation is responsible for export control legislation, for the processing of licence applications, and compliance and awareness activity. Enforcement and prosecutions are carried out HM Revenue and Customs (HMRC) in conjunction with Revenue and Customs Prosecution Office (RCPO).

The main legislation enabling HMRC to enforce controls on goods subject to export prohibitions and restrictions is contained under the Customs and Excise Management Act, which provides that if goods are exported, shipped as stores or brought to any place in the UK for the purpose of being exported or shipped as stores and the exportation is or would be contrary to any prohibition or restriction for the time being in force, the goods shall be liable to forfeiture.

An offence will have been committed if the goods have been presented for export or transhipment and either there is no valid licence for the goods or there is a valid licence and one of the conditions of the licence has not been complied with.

### 6.1 Customs definitions of Transit and Transhipment.

The distinction between transit and transhipment is irrelevant from an export licensing point of view. However for customs purposes we differentiate between goods 'transhipping' and goods under 'transit'.

A brief guide to import procedures on the link below, gives a basic overview of transit and transhipment movements with details on where to find additional information.

[http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageVAT\\_ShowContent&id=HMCE\\_CL\\_000279&propertyType=document](http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageVAT_ShowContent&id=HMCE_CL_000279&propertyType=document)

Where non-Community goods are to be transhipped from one aircraft to another or one ship to another for direct delivery to a non-community country and the **goods do not leave** airside or portside environments these goods are under 'transhipment'.

Where goods are going to be transhipped from one aircraft to another or one ship to another for direct delivery to a non-community country and the **goods do leave** airside or portside environment for movement between airports or ports these goods are under 'transit' and will be required to be placed under the New Computerised Transit System (NCTS).

Guidance on Transit movements of goods under NCTS can be found at [http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageImportInfoGuides&propertyType=document&id=HMCE\\_CL\\_001179](http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageImportInfoGuides&propertyType=document&id=HMCE_CL_001179)

Further guidance for on Customs procedures at CCS-UK locations can be found under the following links, which cover reporting transit/transhipment goods.

[http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageVATShowContent&id=HMCE\\_CL\\_000236&propertyType=document](http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageVATShowContent&id=HMCE_CL_000236&propertyType=document)

All goods that are to be unloaded or transhipped at an airport or port must be reported to customs using a summary declaration, for goods that are to be moved between airport or port environments as part of a transhipment must be placed under the NCTS customs procedure as described above.

## **7. Frequently asked questions**

### **Why were changes to controls on transit and transhipment needed?**

Because it was necessary to more closely align them to the risks posed by the goods or destinations, based on the new trade control structure. Having reached a more detailed risk categorisation primarily for the purposes of trade controls, it was logical to align transit and transhipment controls with it, to ensure that those goods/destinations recognised as of higher concern could not pass through the UK without licences.

### **What are the countries subject to stricter trade controls?**

The table below represents destinations where a licence would be required for certain goods to certain destinations. Licences will be required regardless of whether the listed country is the end use destination (ie the place where the goods will go having been

transhipped) or a destination through which the goods will be transhipped before reaching that end use destination.

<b>PART 1 - EMBARGOED AND NO EXCEPTION</b>	<b>GOODS ALWAYS REQUIRING A LICENCE</b>
Democratic People's Republic of Korea, Iran	All Dual Use List  All Military List
<b>PART 2 - EMBARGOED AND SUBJECT TO CONTROL FOR MILITARY GOODS</b>	
Armenia, Azerbaijan, Burma (Myanmar), Democratic Republic of the Congo, Ivory Coast (Côte d'Ivoire), Lebanon, Sudan, Uzbekistan, Zimbabwe	All Military List
<b>PART 3 - SUBJECT TO CONTROL FOR MILITARY GOODS</b>	
Afghanistan, Argentina, Burundi, China (People's Republic), Iraq, Liberia, Macau Special Administrative Region) Rwanda, Sierra Leone, Somalia, Tanzania, Uganda	All Military List
<b>PART 4 - SUBJECT TO CONTROL FOR CATEGORY B GOODS</b>	
Albania, Belarus, Benin, Bosnia/Herzegovina, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Colombia, Congo (Brazzaville), Dubai, East Timor (Timor-Leste), Eritrea, Ethiopia, Gambia, Georgia, Ghana, Guinea, Guinea Bissau, Haiti, Hong Kong Special Administrative Region, Jamaica, Kenya, Kyrgyzstan, Libya, Macau Special Administrative Region, Mali, Mauritania, Moldova, Montenegro, Morocco, Nepal, Niger, Nigeria, Oman, Pakistan, Russia, Senegal, Serbia, Sri Lanka, Syria, Taiwan, Tajikistan, Togo, Trinidad & Tobago, Turkmenistan, Ukraine, Venezuela, Yemen	Category B goods only

#### **How was the destination list for Category B Goods compiled?**

The destination exclusion list for Category B goods has been compiled, following consultations between Government departments, specifically

on the basis of countries that cause concern for the goods in question (predominantly Small Arms and Light Weapons) either as a destination or for reasons of potential diversion.

**Who needs to apply for a transshipment licence? The overseas exporter or the UK person organising the transit or transshipment?**

Either can apply for a transshipment licence via SPIRE; an application is not dependent on where the exporter or transit or transshipment provider is located.

It is up to the exporter and the UK registered individual/company providing the transport services, to jointly decide who is best positioned for business purposes to apply for a licence. An overseas exporter may prefer a UK based transport provider or agent to apply for a licence due to its location within the licence authority's jurisdiction. However, ECO has no preference – as long as the appropriate licence is applied for.

**How do UK persons organising the transit or transshipment check whether the conditions apply? What degree of proof or evidence do they need from the overseas exporter?**

Through checking a combination of (i) information provided by the exporter that confirms that the export is taking place in accordance with any laws or regulations relating to the exportation from the exporter's host country, such as an approved export licence; and (ii) information that is available as part of the transaction i.e. a air way bill. There is a risk that the person organising the transit or transshipment will be prosecuted if the transit exception does not apply so it is in their interest to obtain enough evidence to satisfy themselves that the conditions are satisfied.

**How do I apply for a licence from overseas?**

Licence applications are processed on SPIRE. This is a web based system so you can apply for a licence from anywhere in the world with access to the World Wide Web.

**How long will applications take to process?**

All licence applications will be processed in the usual way with the aim currently of completing the process within 20 working days on 70% of SITL. There is no 'processing' associated with Open General Transshipment Licences (OGTLs).

**Can applications be refused?**

Yes. All applications are considered on a case-by-case basis by our various advisers against the Consolidated EU and National Arms Export Licensing Criteria and other announced policy, and taking into account

the Government's commitments and international obligations. Among the factors taken into account in assessing applications will be the destinations and parties involved, the nature of the goods concerned, and the uses to which they could be put, as well as any other relevant information. There have been and will continue to be occasions when applications will be refused following the assessment process.

### **If an application is refused, is there a right of appeal?**

If a SITL is refused, a reason for the refusal will be provided, and the right to appeal will be offered.

### **Can licences be granted for embargoed destinations?**

Licences would not normally be granted for transit or transshipment to an embargoed destination. However, as with exports, there will be very rare circumstances in which a licence might be issued, for instance for military equipment for humanitarian use or peacekeeping forces.

### **What happens if I undertake a transit/transshipment activity without a licence?**

Where a licence is required, the provision of transit/transshipment services without a valid licence is a criminal offence. Offenders can be fined and/or imprisoned. In addition, making false statements in connection with a licence application is also a criminal offence. The maximum penalty for the most serious offences is now set at 10 years (previously 7).

If you find that you have inadvertently transited or transhipped goods without appropriate licence cover you should let the ECO know as soon as possible. The ECO will normally advise that you make a voluntary declaration about the mistake to HMRC. It is, therefore, important that companies and individuals take advantage of the various training opportunities that the ECO provide and ensure that they themselves have adequate training, awareness, procedural and security strategies in place.

## **8.     Contacts for further advice**

Further information and help on export and trade controls can be obtained from:

Special Casework Licensing Unit  
3rd Floor  
1 Victoria Street  
London SW1H 0ET  
Fax: 020 7215 4539

Email: [lu3.eca@bis.gsi.gov.uk](mailto:lu3.eca@bis.gsi.gov.uk)

or;

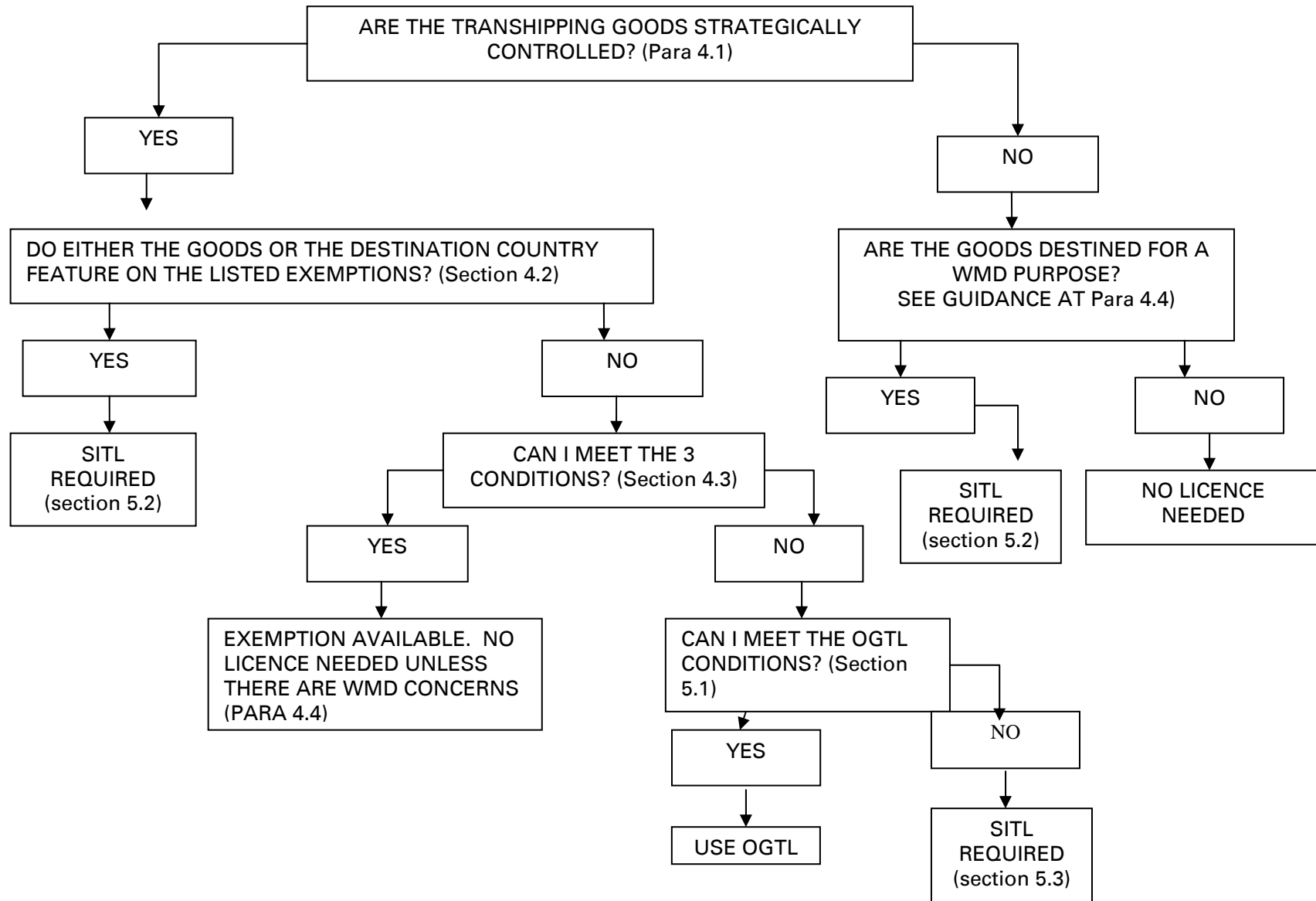
Export Control Organisation Helpline  
3rd Floor  
1 Victoria Street  
London SW1H 0ET  
Tel: 020 7215 4594  
Fax: 020 7215 0531  
Email: [eco.help@bis.gsi.gov.uk](mailto:eco.help@bis.gsi.gov.uk)

(The general enquiry telephone helpline service is usually available between 9:30am and 5:30pm Monday to Friday but a voicemail will be available outside those times. We will ring you back if you leave your details.)

For queries on using SPIRE contact:

Tel: 020 7215 4594  
email: [spire@bis.gsi.gov.uk](mailto:spire@bis.gsi.gov.uk)

**ANNEX A: FLOW CHART: IS A TRANSHIPMENT LICENCE NEEDED?**



## ANNEX B - TRANSIT AND TRANSHIPMENT LEGISLATION

The following is an extract from the new legislation covering the provision of transit of transhipment. The full export control order can be viewed on the Export control Organisation's website which can be accessed via the export control pages on the Businesslink website at <http://www.businesslink.gov.uk> or via the Office of Public Sector Information website at <http://www.opsi.gov.uk>

### STATUTORY INSTRUMENTS

2008 No. 3231  
CUSTOMS

The Export Control Order 2008

*Made - - - - 15th December 2008*  
*Laid before Parliament 17th December 2008*  
*Coming into force - - 6th April 2009*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972<sup>3</sup> in relation to—

- (a) measures relating to trade in dual-use items, including the transmission of software or technology in intangible form<sup>4</sup>; and
- (b) matters relating to trade in certain goods, including technical assistance, which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment<sup>5</sup>.

It appears to the Secretary of State that it is expedient for the references in this Order to Council Regulation [\(EC\) No 1334/2000](#)<sup>6</sup> (Council Regulation [\(EC\) No 1236/2005](#)<sup>7</sup>, Article 3 of [Council Regulation \(EEC\) No 2913/92](#)<sup>8</sup> and Article 3 of Council Regulation [\(EC\) No 450/2008](#)<sup>9</sup> to be

<sup>3</sup> [1972 c. 68](#); section 2(2) was amended by the Legislative and Regulatory Reform Act [2006 \(c. 51\)](#), section 27(1).

<sup>4</sup> S.I. 2000/1813.

<sup>5</sup> S.I. 2006/1461.

<sup>6</sup> OJ No L 159, 30.6.2000, p1; relevant amending instruments are Council Regulation [\(EC\) No 2432/2001](#) (OJ No L 338, 20.12.2001, p1) and Council Regulation [\(EC\) No 1167/2008](#) (OJ No L 325, 3.12.2008, p1).

<sup>7</sup> OJ No L 200, 30.7.2005, p1, to which there are amendments not relevant to this Order.

<sup>8</sup> OJ No L 302, 19.10.1992, p1; relevant amending instruments are the Act of Accession of Austria, Sweden and Finland (OJ No C 241, 29.8.1994, p21) adapted by Council Decision [95/1/EC](#), Euratom, ECSC (OJ No L 1, 1.1.2005, p1), Regulation [\(EC\) No 82/97](#) of the European Parliament and of the Council (OJ No L 17, 21.1.1997, p1), the Act concerning the conditions of accession of the Czech Republic and others and Council Regulation [\(EC\) No 1791/2006](#) (OJ No L 363, 20.12.2006, p1).

<sup>9</sup> OJ No L 145, 4.6.2008, p1.

construed as references to those instruments and provisions as amended from time to time.

To the extent that this Order regulates any of the activities listed in section 8(1) of the Export Control Act 2002<sup>10</sup>, the Secretary of State, having considered the reasons for the relevant controls and the need to respect the freedom to carry on the relevant activities, has determined that such regulation is necessary in the circumstances prevailing at the time of this Order.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>11</sup>, by paragraph 1A of Schedule 2 to that Act<sup>12</sup> and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002<sup>13</sup>, makes the following Order:

## PART 1 INTRODUCTORY

### Citation and commencement

1. This Order may be cited as the Export Control Order 2008 and shall come into force on 6th April 2009.

### Interpretation

2.—(1) In this Order, the following expressions have the meanings given below, save where an expression is also defined in a Schedule where it has, for the purposes of that Schedule, that meaning—

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing vehicle or helicopter;

“category A goods” means goods specified in Part 1 of Schedule 1;

“category B goods” means goods specified in Part 2 of Schedule 1;

“category C goods” means—

(a) military goods other than goods specified in Schedule 1;

(b) portable devices for the purpose of riot control or self-protection by the

administration or dissemination of an incapacitating chemical substance;

---

<sup>10</sup> [2002 c. 28.](#)

<sup>11</sup> [1972 c. 68.](#)

<sup>12</sup> Paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006, section 28.

<sup>13</sup> [2002 c. 28.](#)

“the customs and excise Acts” has the same meaning as in section 1 of CEMA;

“the customs territory” means the customs territory described in Article 3 of [Council Regulation \(EEC\) No 2913/92](#) as amended from time to time until its repeal by Council Regulation [\(EC\) No 450/2008](#) and then the customs territory described in Article 3 of the latter Regulation as amended from time to time;

“embargoed destination” means a country listed in Part 1 or 2 of Schedule 4;

“in transit” means imported into the United Kingdom for transit or transshipment;

“transit or transshipment”, in relation to goods, means transit through the United Kingdom or transshipment with a view to re-exportation of the goods or transshipment of the goods for use as stores;

“vehicle” includes a railway carriage;

“vessel” includes any ship, surface effect vehicle, vessel of small waterplane area or hydrofoil, and the hull or part of the hull of a vessel;

“WMD purposes” means 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.

## SCHEDULE 1

Articles 2, 24

### GOODS SUBJECT TO STRICTER EXPORT AND TRADE CONTROLS

#### PART 1 CATEGORY A GOODS

##### **Certain Security and Para-Military Police Equipment**

1. Goods designed for the execution of human beings, as follows—
  - (a) Gallows and guillotines;
  - (b) Electric chairs;
  - (c) Air-tight vaults made of eg, steel and glass, designed for the purpose of execution of human beings by the administration of lethal gas or substance;

(d) Automatic drug injection systems designed for the purpose of execution of human beings by the administration of a lethal chemical substance.

**2.** Restraints specially designed for restraining human beings, as follows—

(a) Leg-irons, gangchains, shackles and individual cuffs or shackle bracelets except those that are “ordinary handcuffs”;

(b) Restraint chairs unless designed for disabled persons;

(c) Shackle boards;

(d) Thumb-cuffs and thumb-screws, including serrated thumb-cuffs;

(e) Electric shock belts.

**3.** Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (eg, electric-shock batons, electric-shock shields, stun-guns and electric-shock dart-guns).

**4.** Components specially designed or modified for the devices in paragraph 3.

**5.** Hand-held, spiked batons.

#### **Cluster munitions, explosive submunitions and explosive bomblets**

**6.** “Cluster munitions” other than those munitions described at paragraph 10.

**7.** “Explosive submunitions” other than those submunitions described at paragraph 10.

**8.** “Explosive bomblets”.

**9.** Components specially designed for “cluster munitions”, “explosive submunitions” or “explosive bomblets”.

**10.** Paragraphs 6 and 7 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”;
- (v) each “explosive submunition” is equipped with an electronic “self-deactivating feature”.

## **PART 2 CATEGORY B GOODS**

### **Small arms and light weapons within ML1 and ML2**

**11.** “Goods” specified in entry ML1.a., ML1.b., ML1.c. or ML2 in Schedule 2 that are designed to be carried, operated and fired by an individual or by three or fewer individuals acting together, other than—

- (a) “goods” specified in entry ML2.b. in that Schedule; and
- (b) mortars with a calibre of 100mm or more.

### **Accessories and ammunition for small arms and light weapons within ML1 and ML2**

**12.** The following “goods” —

- (a) accessories specified in entry ML1.d. that are capable of being used in connection with weapons falling within paragraph 11; and
- (b) ammunition that is capable of being fired or launched by weapons falling within paragraph 11.

### **Light weapons within ML4**

**13.** Equipment specified in entry ML4.b. in Schedule 2 that is—

- (a) specially designed for firing or launching rockets, grenades, missiles or other explosive devices; and
- (b) designed to be carried, operated and fired by an individual or by three or fewer individuals acting together.

### **Ammunition for light weapons within ML4**

**14.** Rockets, grenades, missiles and other explosive devices that are—

- (a) specified in entry ML4 in Schedule 2; and
- (b) capable of being fired or launched from equipment falling within paragraph 13.

### **Hand grenades**

**15.** Grenades specified in entry ML4 in Schedule 2 that are designed to be thrown.

**MANPADS, missiles for them, associated equipment and their specially designed components**

16. To the extent they do not fall within paragraph 13 or 14, the following “goods” —

- (a) man-portable air defence systems (MANPADS), as follows:
  - (i) surface-to-air missile systems designed to be man-portable and operated and fired by a single individual;
  - (ii) 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;
- (b) missiles for MANPADS;
- (c) “production” equipment specially designed for MANPADS;
- (d) field test equipment specially designed for MANPADS;
- (e) specialised training equipment and simulators for MANPADS.

**Long-range missiles**

17. Missiles capable of a range of 300km or more that fall within Schedule 2.

**Components for “goods” within this Part**

18. Components specially designed for “goods” falling within any of paragraphs 11 to 17.

**PART 2  
EXPORT AND TRANSFER CONTROLS**

**Transit or transshipment exception**

17.—(1) Subject to paragraphs (2) and (3), nothing in articles 3, 4, 5, 7 or 8(1) shall be taken to prohibit the exportation of any goods which are goods in transit provided that the conditions in paragraph (4) are met.

(2) Paragraph (1) does not apply to—

- (a) anti-personnel landmines and components specially designed for them;
- (b) category A goods;
- (c) equipment, software or technology falling within entry ML18, ML21 or ML22 in Schedule 2, specifically related to anti-personnel landmines or Category A goods;
- (d) goods being exported to a destination specified in Part 1 of Schedule 4;

(e) military goods being exported to any country or destination specified in Part 2 or 3 of Schedule 4;

(f) category B goods being exported to any country or destination specified in Part 4 of Schedule 4.

(3) Paragraph (1) does not apply to the extent that—

(a) the exporter (or, if the exporter is not within the United Kingdom, any agent of the exporter within the United Kingdom concerned in the exportation or intended exportation) has been informed by a competent authority that the goods are or may be intended, in their entirety or in part, for WMD purposes;

(b) the exporter is aware that the goods are intended, in their entirety or in part, for WMD purposes; or

(c) the exporter has grounds for suspecting that the goods are or may be intended, in their entirety or in part, for WMD purposes, unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used.

(4) The conditions are that—

(a) the goods in question remain on board a vessel or aircraft for the entire period that they remain in the United Kingdom or are goods on a through bill of lading or through air waybill and in any event are exported before the end of the period of 30 days beginning with the date of their importation;

(b) the destination of the goods in question following exportation from the United Kingdom has been determined in the country from which they were originally exported prior to their original exportation in connection with the transaction which has given rise to transit or transshipment and has not been changed prior to their exportation from the United Kingdom, or the goods are being returned to that country; and

(c) the goods in question were exported from that country in accordance with any laws or regulations relating to the exportation of goods applying there at the time of exportation of the goods

## **PART 5 LICENCES, ETC**

### **Person authorised by UK licence to export goods**

**27.—**(1) For the purpose of article 26(1), but subject to paragraph (2) below, the exportation of goods to any destination outside the customs territory shall be regarded as being under the authority of a UK licence to, or for the benefit of, a particular person (“the licence holder”) only if—

(a) the licence holder is the person on whose behalf the exportation declaration is made; and

(b) the licence holder is established within the customs territory and either—

(i) the licence holder is the owner of the goods or has a similar right of disposal over them; or

(ii) if no person who is the owner of the goods or has a similar right of disposal over them is established within the customs territory, the licence holder is a party to one or more contracts under which the ownership of the goods or a similar right of disposal over them has passed to a person not established within the customs territory and pursuant to which the goods are to be, are being or have been exported from the customs territory.

(2) Paragraph (1) does not apply if no person falls within subparagraph (b) of that paragraph or if the exportation is of goods imported into the United Kingdom for transit or transshipment.

**ANNEX C: The following is an extract from the new legislation covering the countries and destinations subject to stricter export or trade controls. The full export control order can be viewed on the Export control Organisation's website which can be accessed via the export control pages on the Businesslink website at <http://www.businesslink.gov.uk> or via the Office of Public Sector Information website at <http://www.opsi.gov.uk>**

**SCHEDULE 4     Articles 2, 13, 14, 16 and 17  
COUNTRIES AND DESTINATIONS SUBJECT TO STRICTER EXPORT OR  
TRADE CONTROLS**

**PART 1  
EMBARGOED AND NO EXCEPTION FOR TRANSIT**

Democratic People's Republic of Korea

Iran

**PART 2  
EMBARGOED AND SUBJECT TO TRANSIT CONTROL FOR MILITARY  
GOODS**

Armenia

Azerbaijan

Burma (Myanmar)

Democratic Republic of the Congo

Ivory Coast (Côte d'Ivoire)

Lebanon

Sudan

Uzbekistan

Zimbabwe

**PART 3  
SUBJECT TO TRANSIT CONTROL FOR MILITARY GOODS**

Afghanistan

Argentina

Burundi

China (People's Republic other than the Special Administrative Regions)

Iraq

Liberia  
Macao Special Administrative Region  
Rwanda  
Sierra Leone  
Somalia  
Tanzania  
Uganda

**PART 4**  
**SUBJECT TO TRANSIT CONTROL FOR CATEGORY B GOODS**

Albania  
Belarus  
Benin  
Bosnia/Herzegovina  
Burkina Faso  
Cameroon  
Cape Verde  
Central African Republic  
Chad  
Colombia  
Congo (Brazzaville)  
Dubai  
East Timor (Timor-Leste)  
Eritrea  
Ethiopia  
Gambia  
Georgia  
Ghana  
Guinea  
Guinea Bissau  
Haiti  
Hong Kong Special Administrative Region  
Jamaica  
Kenya

Krygyzstan  
Libya  
Mali  
Mauritania  
Moldova  
Montenegro  
Morocco  
Nepal  
Niger  
Nigeria  
Oman  
Pakistan  
Russia  
Senegal  
Serbia  
Sri Lanka  
Syria  
Taiwan  
Tajikistan  
Togo  
Trinidad & Tobago  
Turkmenistan  
Ukraine  
Venezuela  
Yemen