

**INTRODUCTION TO THE
EXPORT CONTROL
ORGANISATION AND TO
EXPORT
CONTROLS**

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CONTENTS

What the Export Control Organisation does	4
The UK's strategic export controls	4
Export Control Act 2002	5
What do export controls cover?	6
Main Licences	7
Standard Individual Export Licence (SIEL)	
Open General Transshipment Licence (OGTL)	
Open Individual Export Licence (OIEL)	
Global Project Licence (GPL)	
Open General Export Licence (OGEL)	
Community General Export Authorisation (CGEA)	
Trade Control Licences	8
Open General Trade Control Licence (OGTCL)	
Standard Individual Trade Control Licence (SITCL)	
Open Individual Trade Control Licence (OITCL)	
Rating Advice Service	9
Government Targets	9
SIEL processing	
Rating Service	
Appeals	
Complaints	
ECO Performance	
Quarterly and annual published reports on the licensing process	11
The licensing process	12
How can I decide if I need a licence?	
How do I apply	
When should I submit my application	
How long will it take to process?	
Are applications sometimes refused?	
Appealing against a refusal	
Are licences ever revoked or varied?	
What happens if I export without a licence?	
Do controls ever change	

Can I get help setting up export control procedures in my company

Where can I find out about the export controls not administered by ECO?	16
ECO Helpline and website	16

INTRODUCTION TO THE ECO AND EXPORT CONTROLS

The Export Control Organisation (ECO) is part of the Export Control and Non-Proliferation Directorate (XNP) which, in turn, is part of the Department of Trade and Industry (DTI). Its chief task is to process applications for licences to export strategic goods from the UK. It also

- runs a Rating Service which advises exporters on whether or not a licence is required in a particular instance
- provides help for exporters, via a Helpline, a website, a DVD and video, and programmes of seminars and workshops. There are also several industry liaison groups
- enforces compliance with the terms of "open" licences through regular company visits
- records data about licence applications for the Government's annual report on strategic export controls details of which are available on the Foreign and Commonwealth Office (FCO) website
<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xc-elerate/ShowPage&c=Page&cid=1007029395474>
- These reports are now also produced quarterly and are available on the ECO website
<http://www.dti.gov.uk/europeandtrade/strategic-export-control/licensing-rating/statistics/index.html>
- takes part in the work of the international arms control regimes, updates the UK Strategic Export Control Lists
<http://www.dti.gov.uk/europeandtrade/strategic-export-control/legislation/control-lists/index.html> develops new open general licences and contributes to government export licensing policy
- takes part in FCO-led international outreach work to promote good export licensing practice in other countries, particularly those which have recently joined the European Union
- works with other government departments on counter-proliferation activities

THE UK'S STRATEGIC EXPORT CONTROLS

The UK's strategic export controls are based on national and international commitments on transfers of conventional weapons, missiles, chemical and biological weapons and nuclear-related goods and technology, and components thereof.

These commitments are enshrined in the UK Strategic Export Control Lists made up of the UK Military List (for goods/technology designed specifically for military use) and the Dual-Use List (for goods/ technology which may have military or civil applications). Control lists are updated periodically to reflect changes in these regimes. The UK also controls goods which are not on the Dual-Use List but which may be used in connection with a WMD programme.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/legislation/control-lists/index.html>

Controlled goods cannot be exported without a licence issued by the Secretary of State for Trade and Industry. The ECO circulates licence applications to Foreign and Commonwealth Office (FCO), the Ministry of Defence (MoD) and the Department for International Development (DfID) and the ECO issues, or refuses licences on the basis of their advice. Decisions are taken in accordance with the guidelines and policy statements which the Government may make.

The main current guidelines are known as the Consolidated EU and National Arms Export Licensing Criteria and can be found on the FCO web site

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1014918697565>

HM Revenue and Customs enforces the licensing regime and is responsible for prosecutions where breaches have occurred.

In addition ECO administers controls on exports to countries which are subject to UN or EU trade sanctions or arms embargoes.

THE EXPORT CONTROL ACT 2002

The Export Control Act 2002 (ECA 2002) represented the most comprehensive overhaul of the UK's strategic export control regime for over 60 years, and implemented recommendations of the 1996 Scott Report which called for more transparency and accountability. It was implemented through secondary legislation which came into effect on 1 May 2004. The new law took the form of various Orders: The Export of Goods, Transfer of Technology and Provision of Technical Assistance Order 2003; and the Trade in Goods (Control) Order 2003. Additional controls introduced under the Trade in Controlled Goods (Embargoed Destinations) Order 2004 came into effect on 3 March 2004.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/legislation/export-control-act-2002/index.html>

It consolidates previous export controls on the export of both military and dual-use goods, software and technology and licenses granted under the previous legislation also remain valid under the new legislation.

It also introduced significant new controls on the trade in overseas military goods (aka trafficking and brokering), the transfer of military technology by electronic means, and additional WMD end-use controls on the transfer of technology by any means and the provision of technical assistance.

The overarching objective of the Government's strategic export control policy is to promote global security whilst facilitating responsible defence exports. But where appropriate the Government, through the DTI and ECO, issues Open General Licences where they are consistent with the consolidated EU and national arms export licensing criteria, in order to minimise the burden on industry.

[http:// dti.gov.uk/europeandtrade/strategic-export -control/licensing-rating/licences/ogels/index.html](http://dti.gov.uk/europeandtrade/strategic-export-control/licensing-rating/licences/ogels/index.html)

WHAT DO THE CONTROLS COVER?

Strategic export controls apply to a wide range of goods, components and spare parts, and technology, including the following:

- **military equipment** such as arms, ammunition, bombs, tanks, imaging devices, military aircraft and warships;
- **nuclear related items** including nuclear materials, nuclear reactors and nuclear processing plant;
- **dual-use items**, ie items designed for civil use but which can be used for military purposes such as certain materials, machine tools, electronic equipment, computers, telecommunication equipment, cryptographic goods, sensors and radar, navigation and avionics equipment, marine equipment and space and propulsion equipment;
- **chemical weapons** precursors, and related equipment and technology;
- certain **micro-organisms, biological equipment and technology**;
- goods used in programmes involved in **weapons of mass**

destruction and missiles used for their delivery.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/legislation/control-lists/index.html>

Some exports and other activities are only controlled where particular destinations are involved, for example where a UN arms embargo, EU or UN trade sanctions apply.

MAIN LICENCES

Detailed below is a summary of the main types of export licence. SIELs, OTGLs, OIELs, GPLs, OGELs and the CGEA cover the export of controlled goods and technology **from the UK**. The Trade Control Licences which are described later cover trading of goods **from one overseas destination to another**.

Standard Individual Export Licences (SIELs) generally allow shipments of specified goods to a specified consignee up to the quantity specified by the licence. They are generally valid for two years where the export will be permanent; where it is temporary, for instance, for demonstration purposes, trial or evaluation, the licence is generally valid for one year only and the goods must be returned before the licence expires.

A licence is not required for the majority of transhipments through the UK from one country to another. Most other transhipments can be made under one of the **Open General Transhipment Licences** in force, provided that the relevant conditions are met; where this is not the case, an individual transhipment licence is required.

An **Open Individual Export Licence (OIEL)** is specific to an individual exporter and covers multiple shipments of specified goods to specified destinations and/or, in some cases, specified consignees. OIELs are normally valid for 2 years for military goods or technology, and 3 years for dual use goods or technology, although longer periods can be agreed on a case by case basis

A **Global Project Licence (GPL)** is similar in nature to an OIEL. It simplifies the arrangements for licensing military goods and technologies between Framework Agreement partners (ie France, Italy, Sweden, Spain and Germany) participating in collaborative defence projects. They can be used for exports involving both Government or industrial collaborative projects and will generally be valid for the length of the particular project.

Open General Export Licences (OGELs) allow 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. Exporters must register with ECO before they make use of most OGELs. There are also a small number of Open General Transshipment Licences (OGTLs), for which registration is not required. All Open General Licences remain in force until they are revoked, although their provisions may be varied at any time.

Community General Export Authorisation (CGEA) is the Community equivalent of an OGEL. The licence, like the OGEL, is subject to the exporter being able to satisfy the conditions contained within the licence or specified in national legislation. As with OGELs exporters must register with ECO before they use the CGEA.

Trade Control Licences

These were introduced as a result of the Export Control Act 2002 which made the trading (commonly referred to as trafficking and brokering) of goods **from one overseas destination** to another a licensable activity.

An **Open General Trade Control Licence (OGTCL)** allows trade in most activities in respect of military and paramilitary goods on the UK Military List moved to or from specified countries. As with OGELs, exporters must register with ECO before they use the OGTCL.

This licence is likely to cover about 90% of situations. If you can't use the OGTCL you are likely to need one of the two following licences.

A **Standard Individual Trade Control Export Licence (SITCL)** is specific to a named trader and covers involvement in the trading (commonly referred to as "trafficking and brokering") of a set quantity of specific goods, ie a one-off deal which specifies where the goods are coming from and where they are going to, between a specified overseas source and overseas destination country with a specified consignor, consignee and end-user.

SITCLs are normally valid for two years. On expiry, either by time or because the activity has taken place, the licence ceases to be valid and must be returned to the Export Control Organisation. A further licence must be applied for if a similar trading arrangement is made.

Trade Controls only apply to goods on the UK Military List and not to software and technology.

An **Open Individual Trade Control Export Licence (OITCL)** is specific to a named trader and covers involvement in the trading (commonly referred to as “trafficking and brokering”) of specific goods between specified overseas sources and overseas destination countries and/or specified consignor(s), consignee(s) and end-user(s).

It is a type of general permit to do things and allows a range of activities, eg sourcing goods from a number of places which then go to a number of other countries. For instance if a UK company that deals in long-range missiles wants to move components from, say the United States, to, say, Germany, it would in this case use an OITCL.

OITCLs are generally valid for two years. Trade Controls only apply to goods on the UK Military List and not to software and technology.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/licensing-rating/licences/index.html>

RATING ADVICE SERVICE

This service provides advice to exporters on whether or not a licence is required in a particular instance.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/licensing-rating/rating/index.html>

GOVERNMENT TARGETS

Government targets for the work of the ECO are published in a Service and Performance Code (click on the link below). Summaries of targets and performance is provided below.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/about-eco/page10942.html>

SIEL Processing

Substantive response within 20 working days of receipt of application to 70% of applications.

Substantive response within 60 working days of receipt of application to 95% of applications.

Most SIEL applications are circulated to other Government Departments.

Where consultation with other Government Departments is not required, full response within 10 working days of receipt of request.

Rating Service

Where consultation with other Government Departments is required, full response within 20 working days of receipt of request.

Appeals against refusal of a SIEL application

The appeal must be submitted within 28 working days of the date of the refusal letter.

The current published target is to process appeals within 30 working days. Performance on appeals was much improved in 2005 compared with previous years, with two-thirds of cases being completed within this period and at a median time of 18 days. However, this is a poorly-designed target because it carries no incentive to deal with appeals which go beyond that time, and also gives the impression that all appeals will be dealt with within 30 working days.

In 2005 we have been working towards completing 60% of appeals within 20 working days and 95% within 60 working days.

The target of processing 60% of appeals within 20 working days and 95% within 60 working days will replace the existing published target from the start of 2006.

Responding to complaints

To provide a substantive response to written complaints within 15 days of receipt.

ECO PERFORMANCE

The Government’s performance against its targets for processing export licensing applications and ratings enquiries from 2003 to 2006 was as follows:

Application	Target	2005	2004	2003
SIEL/SITCL*	Process 70% of applications in 20 working days	73%	79%	76%
OIEL/OITCL**	Process 95% of applications in 60 working days	97%	98%	n/a

Rating Enquiries	Process 90% of non-circulated rating enquiries in 10 days. Process 90% of circulated rating enquiries in 20 days	98% (combined)	93% (combined)	74%
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Target/ Performance Measure	2005	2004	2003
SIELs			
Median Processing Times for SIELs	14 working days	13 working days	n/a
Median Processing Times for SIELs processed within the 20 working day target	11 working days	11 working days	n/a
Median Processing Times for SIELs processed outside 20 working day target	30 working days	30 working days	n/a
OIELs/ OITCLs**			
Median Processing Times for OIELs	51 working days	54 working days	n/a

* *SIEL: Standard Individual Export Licence*
SITCL: Standard Individual Trade Control Licence

** *OIELs: Open Individual Export Licences*
OITCL: Open Individual Trade Control Licence

QUARTERLY AND ANNUAL REPORTS ON THE LICENSING PROCESS

Details of the FCO/ECO quarterly reports on SIELs and OIELs issued, refused or revoked within the period are available on the ECO website, as are SIEL processing times and refusals by destination.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/licensing-rating/statistics/index.html>

Annual reports on strategic export controls are available on the FCO website

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029395474>

THE LICENSING PROCESS

How can I decide if I need a licence?

You should seek legal advice, as necessary, irrespective of the export's destination. You should compare the specifications of the product concerned with the descriptions set out in the legislation to determine whether or not they are listed as "controlled goods". Some controls apply to certain destinations only and where this is the case it says so in the legislation.

In addition unlisted goods and technology are subject to control if you are aware or suspect that they are intended to be used in connection with weapons of mass destruction or missiles to deliver them, or, if you have been informed that they are or may be intended to be used for such purposes.

You might wish to seek advice from us by completing an export rating request form, which is available on the website. Completed forms should be sent to the ECO, together with all relevant technical information and specifications of the products and details of the intended destinations. We will then advise you whether or not in our view, on the information provided, the products are controlled.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/licensing-rating/rating/index.html>

Where UN trade sanctions or a binding UN arms embargo applies, the supply or delivery to the country concerned of arms and related materiel and any other prohibited goods may be subject to control whether the goods are exported from the UK or anywhere else in the world. Such embargoes may also include a prohibition on related activities such as acts calculated to promote the supply or delivery of such goods. You should check the current position on the ECO website.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/sanctions-embargoes/index.html>

How do I apply for a licence?

You can apply for a **SIEL** via ELVIS (Electronic Licensing via the Internet System). To submit your ELVIS application electronically, you can either register with the DTI's Business Link sign-up manager at <http://www.businesslink.gov.uk/gwenrolelvis> or with the Government Gateway at <http://www.gateway.gov.uk/>.

The software is also available on CD-ROM.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/licensing-rating/elvis/index.html>

An electronic form on CD-ROM is also available for **OIEL** applications. It is known as OLLIE (Open Licensing Liaising with Industry Electronically). We will continue to accept paper applications.

Where UN trade sanctions apply, there is no standard application form given the range of activities that may be controlled. You should first contact the ECO's Special Casework and Licensing Unit (tel 020 7215 4544, fax 020 7215 4539, or email lu3.eca@dti.gsi.gov.uk)

When should I submit my application?

You should submit your licence application as early as possible and, where the export or supply of goods/technology is likely to be involved, as soon as there is a possibility that you will secure the relevant contract, but before you make any contractual commitment.

Where a UN trade or arms embargo apply, you may need to apply for a licence to communicate even before entering into contractual discussions.

How long will it take to process my application?

Standard Individual Export Licence (SIELs) applications are circulated to other government departments, principally the FCO and MoD. The Government's aim is to provide a substantive response within 20 working days of receipt of the application. However, some cases will take longer to process than others; there will be occasions when these targets cannot be reached, and the ECO's aim therefore is to process 70% of cases within this period.

We will also aim to process 95% of all applications within 60 working days. These targets apply as soon as full documentation in support of the application has been provided by the applicant. All applications are processed expeditiously and with care.

These timings do not apply to applications for Open Individual Export Licences because of the very wide variation in the goods and country coverage of such licences, nor do they apply to goods which are subject to UN sanctions.

Are applications sometimes refused?

Once we have received your application, and all necessary supporting information, it will be considered carefully. A licence may or may not be issued.

All applications for a licence to export arms and other goods on the Military List are considered against the criteria announced by the then Foreign Secretary in July 1997 and, since June 1998, the EU Code of Conduct on Arms Exports. Both sets of criteria are also used to assess applications for licences to export dual-use goods where there are grounds for believing that the end-user would be the armed forces or internal security forces of the recipient country. Applications which do not meet the criteria are refused.

An export licence will not be issued if there is a clearly identifiable risk that the proposed export might be used for internal repression or international aggression. Among the factors taken into account will be the destination, the parties involved and the nature of the goods or technology concerned, and the use to which they could be put.

Appealing against a refusal

If your application is refused you may appeal. It must be submitted within 28 calendar days of the date of the refusal letter and should, where possible, 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 are circulated to advisory departments to be considered independently at a more senior level than the original application.

The current published target is to process appeals within 30 working days. Performance on appeals was much improved in 2005 compared with previous years, with two-thirds of cases being completed within this period and at a median time of 18 days. However, this is a poorly-designed target because it carries no incentive to deal with appeals which go beyond that time, and also gives the impression that all appeals will be dealt with within 30 working days.

In 2005 we have been working towards completing 60% of appeals within 20 working days and 95% within 60 working days.

The target of processing 60% of appeals within 20 working days and 95% within 60 working days will replace the existing published target from the start of 2006.

The target does not apply to appeals concerning goods which are subject to UN sanctions. If you have any questions about the appeal system please contact the ECO Helpline (see details at the end of this document).

Are licences ever revoked or varied?

Licences can be revoked or varied if there is a war or political upheaval in a country, or if an arms embargo is imposed against a particular destination, or if new information comes to light about a particular export.

What happens if I export without a licence?

Exporting controlled goods or technology without a valid licence is a criminal offence. They can be seized by HM Revenue and Customs and offenders can be fined and/or imprisoned. Making false statements is also a criminal offence.

In addition licences for the export of military goods and dual-use and related goods issued on the basis of false information are not valid. If you export goods or undertake an activity subject to UN trade sanctions or a UN arms embargo, without the necessary licence, you will also have committed an offence.

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 changes to UK export controls are made by statutory instruments, whilst changes to EC export control legislation or EU trade sanctions are published in the Offi-

cial Journal of the European Communities. Details of any changes are published on the ECO website.

You can receive electronically all future ECO announcements about export control including any changes to the rules, new guidance material, new and revised Open General Licences and ECO promotional material <http://www.dti.gov.uk/europeandtrade/strategic-export-control/about-eco/page8849.html>

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

Yes. The Export Control Compliance Code of Practice gives more information on this.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/about-eco/page10965.html>

WHERE CAN I FIND OUT ABOUT THE EXPORT CONTROLS NOT ADMINISTERED BY ECO?

Exports may be subject to control under legislation other than that administered by the ECO including antiques, animals, chemicals, drugs, food plants and wildflowers.

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/help-advice/page8851.html>

ECO HELPLINE

Export Control Organisation
3rd Floor, Kingsgate House
66-74 Victoria Street
London SW1E 6SW

tel (020) 7215 8070

fax (020) 7215 0531

email eco.help@dti.gsi.gov.uk

The help-line facility provides advice on export licence types as well as general enquiries and details of other ECO services.

ECO WEBSITE

The ECO website provides access to information on the ECO's services, current legislation and other related topics. The main URL is

<http://www.dti.gov.uk/europeandtrade/strategic-export-control/index.html>

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