

MARKET BULLETIN

REF: Y4536

Title	Open General Trade Control Licence (Insurance or Reinsurance) related to UN mandated/authorised missions
Purpose	To inform the Lloyd's Market of the release of the above OGTC
Type	Event
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INTRODUCTION

This guidance supplements Market Bulletin [Y4412](#) and has been prepared in consultation with the Lloyd's Market Association ("LMA") and the London International Insurance Brokers Association ("LIIBA"). This guidance is for information only and does not constitute legal advice or have any force in law. This bulletin is to inform the Lloyd's Market that BIS has now released an Open General Trade Control Licence (OGTCL) (Insurance or reinsurance) in relation to UN mandated or authorised missions/operations involving the movement of controlled goods from one overseas country to another that is an embargoed destination. The controlled goods are specified in the Schedule to the OGTCL, a copy of which is attached at Appendix 1. A link will be available from the export control pages of the Business Links website in due course. The licence is dated 28 November 2011 and in force from 28 November 2011. It removes the need for the broker to apply for an individual licence each time there is a re/insurance transaction involving the movement of controlled goods relating to a UN operation, as long as the UN mission/operation falls within the eligibility of the OGTCL.

OPEN GENERAL TRADE CONTROL LICENCE

The salient points of the licence are that:

- Instead of submitting an application to obtain a licence, a head licensee registers to use the OGTCL and in doing so may also register on behalf of all subscribing UK re/insurers (Lloyd's and/or companies) involved in the relevant re/insurance activity.
- Market Bulletin Y4412 sets out how it has been agreed that for placements made in the Lloyd's Market, the head licensee is most likely to be the first UK broker in the chain. In certain cases, this may not be the London broker if a UK retail broker is in the chain.
- The head licensee is referred to in the OGTCL as "a head insurance party" and the subscribing re/insurers or additional brokers in the chain as "additional insurance parties".
- The head insurance party must register on the SPIRE system www.spire.berr.gov.uk and within 30 days of the licence being used must also provide details to BIS of the name and address where copies of the records can be inspected by BIS at audit time. This notification must also be made via the SPIRE system.
- The registration by the head insurance party has the effect of also registering subscribing re/insurers as additional insurance parties for re/insurance transactions that fall within the terms and conditions of the OGTCL.
- A re/insurer's stamp on the Market Reform Contract will serve as evidence of the re/insurer's status as an additional insurance party. Where the head insurance party is a UK retail broker rather than a Lloyd's broker, then the provision of evidence of cover, including security to show the subscribing re/insurers, will serve as evidence of the placing broker and re/insurers' status as additional insurance parties. A copy of the complete Market Reform Contract can also be provided to BIS prior to audit to show the identities of the subscribing market.
- The head insurance party must ensure that additional insurance parties are supplied with a copy of the licence within 14 days of the date of the licence or receiving details of the participation of additional insurance parties, whichever is the later. Confirmation of the licence, once registration is complete, should therefore form part of the documentary evidence of the Market Reform Contract, for re/insurers to note during the broking process and satisfy themselves that the transaction is compliant before confirming their agreement to re/insure.
- The documentation kept on record by the broker and re/insurers should evidence that the re/insurance relates to UN mandated or authorised missions or operations such as a purchase order issued by a UN body, pages from a contract agreed with a UN body or other equivalent form of documentary evidence, which in the opinion of BIS can sufficiently show that the re/insurance relates to a UN mandated or authorised mission or operation
- The head insurance party can, on its own behalf, and on behalf of the additional insurance parties, if so agreed, keep records of the participation in the re/insurance activity but such an agreement **will not prevent liability to prosecution** to any of the parties to the Licence if records are not kept. Records should be kept for a minimum of 4 years.

- The unique SPIRE reference and licence name should be quoted on any correspondence with HMT.

To satisfy the terms of the licence, certain restrictions apply and it can only be used to arrange/provide re/insurance for:

- UN mandated or authorised missions or operations involving the movement of the controlled goods specified in the Schedule to the Licence and not for use in connection with Weapons of Mass Destruction (WMD);
- It cannot be used in connection with exports of goods located in the UK or Isle of Man;
- It cannot be used if the transaction may be contrary to the law of the exporting or importing third country;
- The registrant should ensure that it keeps up to date with any changes to the licence via the Export Control Organisation notices to Exporters' update service in case that amendments to permitted/excluded destinations and goods are made and also in case the licence is revoked. <http://www.bis.gov.uk/policies/export-control-organisation/eco-notices-exporters>
- There are legal penalties for providing re/insurance for controlled goods which are not permitted by an OGTCL.

If further information on this subject is required, please contact Andy Wragg at andy.wragg@lloyds.com or on 020 7327 6387 or Rachael Penny at Rachael.penny@lloyds.com or on 020 7327 6380 or LITA at LITA@lloyds.com or on 020 7327 6677.

APPENDIX 1

TRADE LICENCE**Open General Trade Control Licence (Insurance or Re-insurance)** dated 28 November 2011 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Article 26 of the Export Control Order 2008 ¹ ("the 2008 Order") and the powers to licence trade in goods subject to trade controls under subordinate legislation made pursuant to the United Nations Act 1946 in relation to embargoed destinations as defined in article 2 of the 2008 Order ("embargoed destination"), hereby grants the following Open General Trade Control Licence:

Licence

1. Subject to the following conditions set out below, this Licence authorises the Head Insurance Party and any Additional Insurance Party (as defined in paragraph 11 below) to arrange or provide insurance or reinsurance in relation to UN mandated or authorised missions or operations involving the movement of the goods specified in the Schedule to this Licence, which are subject to trade controls, from one third country to another third country that is an embargoed destination.

The arrangement and provision of such insurance is described in this licence as "the insurance activity".

Exclusions

2. This Licence does not apply:

¹ S.I.2008/3231

- (a) if the Head Insurance Party and/or Additional Insurance Party are aware or suspect that the goods to which the insurance activity relates are or may be intended, in their entirety or in part for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons, or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;
- (b) if the Head Insurance Party and/or Additional Insurance Party know or have reason to believe that the action in paragraph 1 above will or may result in the removal of the goods specified in the Schedule to a non-embargoed destination, or to an embargoed destination to which the conditions in paragraph 1 above do not apply;
- (c) if the Head Insurance Party and/or Additional Insurance Party have been informed by a competent UK authority, or are aware that the transaction will be carried out contrary to the export or import law or regulations of the exporting or importing country;
- (d) where the Head Insurance Party and/or Additional Insurance Party have, at the time of act, been served with a notice which suspends or revokes their ability to use this Licence, unless the period of suspension or revocation has expired.

Conditions and Requirements

3 The authorisation in paragraph 1 above is subject to the following conditions:

- (a). Nothing in this Licence authorises any activity outside the United Kingdom which is prohibited by the law of any of the territories where

that activity is to be carried out, or any exportation of any goods from the United Kingdom.

- (b). In order to remain within the terms of the Licence, the Head Insurance Party and Additional Insurance Party will need to be able to provide evidence of the linkage between the transport of the goods for which insurance/reinsurance is required and the specific UNSR to which such transport relates in the manner provided in paragraph 7 below.

4. No Additional Insurance Party may participate in the insurance activity unless it informs, or has already informed the Head Insurance Party, in writing, of the following:-

- (a) The Additional Insurance Party's name and address;
- (b) The Additional Insurance Party's intention to participate or continue participating in the insurance activity;

5. Where the Head Insurance Party receives, or has already received, the information specified in paragraph 4 in relation to an Additional Insurance Party, the Head Insurance Party shall send a copy of this licence to the relevant Additional Insurance Party.

The Head Insurance Party must comply with this requirement before the end of the period of [14] days beginning with the later of the date of this licence and the date the Head Insurance Party received the information specified in paragraph 4 in relation to the relevant Additional Insurance Party.

6. The provisions of Article 28 (**registration**) of the 2008 Order shall apply to any act under the authority of this Licence. However, the Head Insurance Party and the Additional Insurance Party may agree that the Head Insurance Party complies with the provisions of Article 28 in his own name and/or on behalf of the Additional Insurance Parties. However, no such arrangement will exempt any of

them from having to comply with the remaining conditions of this licence and or from being liable to prosecution if such conditions are not met.

7. The provisions of Article 29 (***record keeping***) of the 2008 Order do not apply to any act under the authority of this Licence; but the Head Insurance Party and each Additional Insurance Party shall keep the following records in relation to the insurance activity:

- (a) a description of their participation in it;
- (b) the dates of their participation in it; and
- (c) records containing sufficient details to demonstrate the insurance/reinsurance being arranged or provided is in relation to UN mandated or authorised missions or operations. “For the purposes of this record keeping requirement, “sufficient details” shall include a purchase order issued by a UN body, pages from a contract agreed with a UN body or other equivalent form of documentary evidence which in the opinion of the Export Control Organisation can sufficiently show that the insurance or reinsurance relates to a UN mandated or authorised mission or operation.

For the avoidance of doubt, the Head Insurance Party and the Additional Insurance Parties may agree that the records required by this licence will be kept by one or more of them on behalf of the rest. However, no such arrangement will prevent any of them from being liable to prosecution if the records are not kept.

8. The records required by this licence must be kept for at least 4 years from the end of the calendar year in which the insurance activity concluded and the Head Insurance Party and the Additional Insurance Party must permit them to be inspected and copied by any person authorised by the Secretary of State or the Commissioners.

9. Where the Head Insurance Party has received a warning letter sent on behalf of the Secretary of State which identifies failure to comply with this Licence or a provision of applicable export control legislation, the Head Insurance Party shall send a copy of the notice to each of the Additional Insurance Parties and take such steps as are identified in that warning letter (within the timescale stated) in order to restore compliance with the Licence. Without prejudice to article 34 of the 2008 Order or any other relevant offences under subordinate legislation made pursuant to the United Nations Act 1946 in relation to embargoed destinations, failure to comply with this condition may result in this Licence being revoked or suspended until the Head Insurance Party can show compliance to the satisfaction of the Export Control Organisation. The Head Insurance Party will be notified in writing of any such suspension or revocation and the initial period of such suspension or revocation. The Head Insurance Party shall send a copy of the notice to each of the Additional Insurance Parties. Where at the end of this initial period, the Head Insurance Party has not shown compliance to the satisfaction of the Export Control Organisation, the period of suspension or revocation may be extended. The Head Insurance Party will be notified of such an extension in writing.

Prohibitions not affected by this Licence

10. Nothing in this Licence shall affect any prohibition or restriction on the trade or the carrying out of any act with respect to the trade of any goods concerned under, or by virtue of, any enactment other than a prohibition or restriction in the legislation under which this Licence was issued, as set out in the Licence itself.

Interpretation

11. For the purpose of this Licence:

- (1) A “Head Insurance Party” means –

- (a) any insurer, insurance broker or reinsurer operating from within the UK; or
 - (b) an insurer, insurance broker or reinsurer which is a United Kingdom person as defined in article 11(1) of the Export Control Act 2002 operating anywhere in the world, who is a party to the insurance activity (as defined in paragraph 1) and also acts on behalf of the Additional Insurance Party for the purposes of this Licence.
- (2) An “Additional Insurance Party” means-
- (a) any insurer, insurance broker or reinsurer operating from within the UK; or
 - (b) an insurer, insurance broker or reinsurer which is a United Kingdom person as defined in article 11(1) of the Export Control Act 2002 operating anywhere in the world, who is a party to the insurance activity (as defined in paragraph 1) and fulfils the requirements in paragraph 4 of this Licence.
- (3) unless the context otherwise requires, any other expression used in this Licence shall have the meaning it bears in the Export Control Act 2002, or in the 2008 Order.

Entry into Force

12. This Licence shall come into force on 28 November 2011.

**An Official of the Department for Business,
Innovation and Skills authorised
to act on behalf of the Secretary of State**

SCHEDULE

GOODS CONCERNED

Goods specified in Schedule 1 & 2 to the Export Control Order 2008 **other than:**

- (a) goods specified in Part 1 of Schedule 1 (Category A Goods);
- (b) goods specified in paragraph's 14, 15, and 16 of Part 2 of Schedule 1 (certain Category B Goods - MANPADS, Long-Range Missiles, Anti-vehicle landmines);
- (c) components specially designed for goods falling within paragraph (b) above;
- (d) anti personnel landmines and specially designed components therefore specified by entry ML4 of Schedule 2.

EXPLANATORY NOTE

(This Note is not part of the Licence)

1. This Open General Trade Control Licence permits, without further authority but subject to certain conditions, the provision of insurance or reinsurance in relation to UN mandated or authorised missions or operations consisting of the transfer of goods specified in the Schedule, which are subject to trade controls from a third country to another third country which is an embargoed destination as defined in article 2 of the Export Control Order 2008 ("2008 Order").
2. Subject to its conditions, the Licence is available for use by any "Head Insurance Party" or "Additional Insurance Party" as defined in paragraph 11 of the Licence (which includes the insurer, insurance broker or reinsurer) operating from the UK and/or an Head Insurance party or Additional Insurance Party which is a UK person, as defined in article 11(1) of the Export Control Act 2002 irrespective of where in the world they carry out their operations (since UK trade controls apply to these categories of Insurance Parties).

3. The insurance/reinsurance cover may only be arranged or provided under this Licence if such insurance or reinsurance satisfy certain restrictions. These include;

- Are in respect of UN mandated or authorised missions or operations and not for use in connection with Weapons of Mass Destruction (WMD);
- not for use in connection with exports of goods located in the UK or Isle of Man;
- not for use if the Head Insurance party and/or Additional Insurance Party have been informed by a competent UK authority, or are otherwise aware that the transaction may be contrary to the law of the exporting or importing third country;

4. The provisions of this Licence only apply for the purposes of the trade controls specified by legislation made under the Export Control Act 2002 or the United Nations Act 1946 in relation to embargoed destinations. They do not affect the need to obtain other consents that may be required for the export of particular military goods, whether under other statutory provisions (such as the Official Secrets Act 1989) or otherwise (such as under contractual obligations). In addition, this Licence does not extend to prohibitions (other than the trade controls pursuant to the legislation mentioned above) in other legislation.

5. The issue of this Licence does not remove the requirement to obtain permission of the authorities of the appropriate country to remove or receive goods from or to that territory as necessary.

6. If the Head Insurance Party or/and Additional Insurance Party has been informed by a competent authority or is otherwise aware (e.g. from information received from the manufacturer) that trade in controlled goods includes goods

subject to a protective marking, appropriate security transportation arrangements (in accordance with national practices of the exporting country) must be made.

7. The 2008 Order contains certain registration and record keeping requirements which apply to the Head Insurance Party and Additional Insurance Party using this Licence, as follows,

(a) Under Article 28 of the 2008 Order, any person (in the context of this Licence the Head Insurance Party or the Additional Insurance Party) who does any act under the authority of this Licence must, before or within 30 days after the first occasion he makes use of the Licence, provide details to the Secretary of State of his name and address where copies of the records referred to below may be inspected. This notification must be made via the Export Control Organisation's electronic licensing system, SPIRE, at www.spire.berr.gov.uk

However, paragraph 6 of this Licence provides that the Head Insurance Party and the Additional Insurance Parties may agree that the Head Insurance Party complies with the provisions of Article 28 in his own name and/or on behalf of the Additional Insurance Parties. It further clarifies that where this arrangement is in place, they will all continue to be bound by the conditions of the licence and may be liable to prosecution if such conditions are not met.

(b) Under Article 29 of the 2008 Order, any person (in the context of this Licence the Head Insurance Party or Additional Insurance Party who does any act under the authority of this Licence must maintain and retain certain records relating to each such acts for at least 4 years from the end of the calendar year in which the authorised act takes place, and must permit such records to be inspected and copied by any person authorised by the Secretary of State. In accordance with paragraph 7 of this Licence, Article 29 only applies in respect of this Licence, so as to only require that the Head Insurance Party and/or Additional Insurance Party keep the limited records specified in that paragraph

8 The Secretary of State has the power to suspend or revoke licences at any time and in such circumstances and on such terms as he thinks fit. If a Head Insurance Party and/or Additional Insurance Party receive written notice to this effect, they shall be prevented from relying on this Licence. The power to suspend may be used in addition to criminal prosecution or as an alternative. Suspension may occur for example where a Head Insurance Party or Additional Insurance Party are being investigated or prosecuted in relation to a possible criminal offence, or have been found guilty of a criminal offence under the export control legislation. It may also be used in situations where a trader has breached the conditions of the Licence and failed to take corrective action within a reasonable period.

9. Where the Export Control Organisation identifies failures in compliance with Licence conditions or the applicable legislation during a compliance visit, the Export Control Organisation may send a warning letter to the Head Insurance Party listing the improvements that need to be made to ensure compliance. The letter will set out the timeframe within which these improvements must be completed. Failure to complete these improvements may lead to the Head Insurance Party and Additional Insurance Party's ability to use the Licence being suspended for a period of time.