

# MARKET BULLETIN

REF: Y4314

<b>Title</b>	Export Control Order 2008
<b>Purpose</b>	To inform Lloyd's Managing Agents and Lloyd's Brokers of the requirements of the Export Control Order 2008
<b>Type</b>	Event
<b>From</b>	<p>Andy Wragg International Regulatory Affairs 020 7327 6387 <a href="mailto:andy.wragg@lloyds.com">andy.wragg@lloyds.com</a></p> <p>Rachael Connor International Regulatory Affairs 020 7327 6380 <a href="mailto:rachael.connor@lloyds.com">rachael.connor@lloyds.com</a></p>
<b>Date</b>	14 September 2009
<b>Deadline</b>	N/A
<b>Related links</b>	See Appendix 1

## Introduction

This guidance has been prepared according to Lloyd's interpretation of the Export Control Order 2008 ("the Order") and how it applies to the Lloyd's Market only. It is not intended for external third parties or as general guidance on Export Control legislation and has not been formally approved by the Department for Business, Innovation and Skills ("BIS") who administer the licensing process for Export Controls. As explained later, it is intended that more specific insurance related guidance is issued on this subject in the near future.

## Summary of Legislation

Since March 2004 the movement of military goods between two overseas countries has been subject to UK legislation. The Order was introduced in April 2009 and effectively updates the legislation. It applies to the movement of arms and military goods between two overseas countries, (not to the import or export of such goods to and from the UK). It affects UK individuals and companies, anywhere in the World or persons acting within the UK who are involved in the promotion, supply and trade of these goods. It can also apply to UK persons whose sole involvement is the transportation, financing, provision of insurance and reinsurance, general advertising and promotion of these goods.

These goods are known as "controlled goods" as trading in them, including insurance, is permitted as long as, where appropriate, a licence has been obtained. Controlled goods are categorised into 3 types which have varying licensing requirements. Licences are administered by and obtained from

the Department for Business, Innovation and Skills ("BIS") (formerly BERR/DTI) and in particular the Export Control Organisation ("ECO") within BIS. Further information about obtaining a licence is set out later in the bulletin.

HM Revenue and Customs ("HMRC") are responsible for enforcing the legislation and investigating any breach. **Breaches of the legislation must be immediately notified to HMRC.** Details of how to report breaches are set out later in the bulletin.

**Trading (including where required the provision of insurance) without a valid licence is a criminal offence and could result in financial penalties or even imprisonment up to a maximum of 10 years.**

**Embargoed Destinations**

Some overseas countries are subject to arms embargoes under EU and UN legislation. The list of [embargoed destinations](#) is specified in the Order and below. The Order sets out that regardless of the category of controlled goods, any supply or delivery of such goods to these regions is prohibited unless a licence has been approved. As it is an embargoed country, it also means that a licence must be obtained (without exception) for the transport, financing, insurance/reinsurance, advertising and promotion of all categories of controlled goods.

Armenia	Azerbaijan	Burma	China	Democratic Republic of Congo
Democratic People's Republic of Korea	Iran	Iraq	Ivory Coast	Lebanon
Liberia	Sierra Leone	Somalia	Sudan	Uzbekistan
Zimbabwe				

**Controlled Goods**

The goods subject to the trade controls are categorised by 3 types and listed under categories A, B and C. The list of goods for each category are found in Schedule 1 (Categories A and B) and Part 1 (Category C) of the Order. For Category A goods (having the highest level of sensitivity), a UK person must obtain a licence to provide insurance or reinsurance for such goods, **with no exception.** This licence requirement applies to all countries not just embargoed countries."

For Category B and C goods (small arms, light weapons and other equipment), generally speaking a licence is only required to provide insurance **covering such goods for embargoed countries.** Our recommendation would be to discuss with the ECO if uncertain when referring to the Order.

**Licences**

Persons seeking a licence must contact BIS and apply for an on-line licence in advance of the transaction. A link to BIS' web page regarding licenses is at: <http://www.berr.gov.uk/whatwedo/europeandtrade/strategic-export-control/licences/index.html>.

There is a telephone helpline of 020 7215 4594 or email: [eco.help@berr.gsi.gov.uk](mailto:eco.help@berr.gsi.gov.uk). Enquiries can be directed to Paul Nott of BIS at 020 7215 4481 or to [lu3.eca@berr.gsi.gov.uk](mailto:lu3.eca@berr.gsi.gov.uk) but if uncertain whether the goods involved fall within the scope of the trade controls, i.e. if military, paramilitary or other special goods, these enquiries should be submitted via the ECO's electronic licensing system (SPIRE) as an Electronic Rating Enquiry. A link to SPIRE can be found at: <http://www.berr.gov.uk/whatwedo/europeandtrade/strategic-export-control/licensing-policy/spire/index.html>

If it is established that the good is a controlled good the matter will then be referred to the appropriate department in the Licensing Unit of the ECO to assess if a licence is required.

There is a requirement that each party subject to the transaction involving controlled goods and or embargoed countries obtains a licence. It has been indicated that one licence may be sufficient to cover all parties involved in an insurance transaction, however this is under consideration by BIS and further clarification will be provided in due course. For the time being therefore, advice should be sought from ECO as to the number of licences required.

### **Reporting**

The legislation dates back to March 2004 and managing agents and brokers should be aware of their duty to report breaches from that time period. In addition to the list of embargoed countries overleaf, Rwanda was listed as an embargoed country until 2008.

As referenced above, reports of breaches of the Order must be made immediately to HMRC. Reports, entitled "Project Brass" should be made in writing to Mr Vivian O'Horo, HMRC, 100 Parliament Street, Westminster, London SW1A 2BQ. Telephone: 020 7147 0476.

International Regulatory Affairs Department should also be advised of any potential breach. Please contact Andy Wragg on 020 7327 6387 or at [andy.wragg@lloyds.com](mailto:andy.wragg@lloyds.com).

The Market is also reminded that although there is no specific obligation in the FSA Handbook requiring firms to notify them of an ECO breach, Principle 11 requires firms to keep the FSA advised of any relevant issues of which they would normally expect notice.

### **SOCA referrals**

As referenced above, where unlicensed trade is identified, HMRC and the Serious Organised Crime Agency ("SOCA") inform that a report should be made to SOCA under Part 7 of the Proceeds of Crime Act 2002. This is because a breach of the Order is deemed a criminal offence and any money is received in relation to an illegal activity should be reported to SOCA. Advice and assistance on making a referral to SOCA can be obtained from IRA (see contact details below). SOCA referrals or any correspondence on this subject should be entitled PROJECT BRASS. SOCA's web site is [www.soca.gov.uk](http://www.soca.gov.uk).

In addition, HMRC and SOCA require that any transactions that are circulating without a valid licence should be reported to SOCA under the codeword "Project BRASS" in order that intelligence can be collated.

### **Further information**

It is appreciated that the above guidance may not cover every insurance eventuality and IRA are in the process of working alongside HMRC and BIS to produce more specific guidance about insurance related transactions. In due course, Lloyd's will be linking Crystal to the embargoed countries which fall outside current sanctions legislation.

The ECO has an informative [web site](#), which has detailed guidance regarding compliance, obtaining licences and frequently asked questions. Links to this web site and other relevant organisations are listed in appendix 1

An alert on this subject has also been issued by SOCA and HMRC which provides detail about the Order and compliance. A copy will be forwarded to all compliance officers by way of a separate email.

If further information on this subject is required, please contact Andy Wragg at [andy.wragg@lloyds.com](mailto:andy.wragg@lloyds.com) or on 020 7327 6387 or Rachael Connor at [Rachael.connor@lloyds.com](mailto:Rachael.connor@lloyds.com) or on 020 7327 6380.

**APPENDIX 1**

**Links to web sites:**

ECO's home page

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

ECO web site – list of embargoed countries

<http://www.berr.gov.uk/whatwedo/europeandtrade/strategic-export-control/sanctions-embargoes/by-country/index.html>

ECO web site – compliance and enforcement

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

HMRC's web site

[http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?\\_nfpb=true&\\_pageLabel=pageImport\\_Home](http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageImport_Home)

SOCA's web site

[www.soca.gov.uk](http://www.soca.gov.uk)