



Reports from the Defence, Foreign Affairs, International Development and Trade and Industry Committees

Session 2004-05

Strategic Export Controls: HMG's Annual Report for 2003, Licensing Policy and Parliamentary Scrutiny

Response of the Secretaries of State
for Defence, Foreign and
Commonwealth Affairs, International
Development and Trade and Industry

*Presented to Parliament by the Secretaries of State for Defence, Foreign and
Commonwealth Affairs, International Development and Trade and Industry
by Command of Her Majesty
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REPORTS FROM THE DEFENCE, FOREIGN AFFAIRS,
INTERNATIONAL DEVELOPMENT AND TRADE AND INDUSTRY
COMMITTEES

SESSION 2004-2005

ANNUAL REPORT ON STRATEGIC EXPORT CONTROLS 2003

RESPONSE OF THE SECRETARIES OF STATE FOR DEFENCE, FOREIGN AND
COMMONWEALTH AFFAIRS, INTERNATIONAL DEVELOPMENT AND TRADE
AND INDUSTRY

This Command Paper sets out the Government's response to the Quadripartite Select Committee's Report of 24 March 2005 into the Government's Annual Report on Strategic Export Controls 2003. The Committee's recommendations are set out in bold. Unless otherwise indicated, references are to paragraphs in the Committee's Report (HC145).

We expect to publish the 2004 Annual Report on Strategic Export Controls, covering export licensing decisions and policy developments in 2004, before Parliament rises for the summer recess. We look forward to discussing it with the new Committee.

Introduction

- 1. Much has been achieved in the area of strategic export control, but there is a great deal more to do. We believe that our sustained scrutiny has resulted in a focus on this area which has enabled real progress to be made, in the context of a high level of constructive debate among policy makers, NGOs, industry and legislators. We recommend that the Defence, Foreign Affairs, International Development and Trade and Industry Committees should continue the Quadripartite Committee arrangement in the new Parliament. (Paragraph 6)**

Please see the response to Recommendation 2 below.

The Work of the Committees

- 2. We have a unique scrutiny function. Our work includes looking at high-level policies and the issues arising from them. But the end product of the system is thousands of individual licensing decisions, each of which is crucially important. We test only a very small fraction of those decisions, and digging into this detail is an essential part of our job; if we did not do this, we would be unable to test how the Government is carrying out its policies in practice. We appreciate that our work adds to that of the Government, but effective scrutiny cannot be cost-neutral. We conclude that this dual-track approach to scrutiny of strategic export licensing should continue. (Paragraph 10)**

The Government will respond to the Committee's recommendations 1 and 2 together.

The Government welcomes the high level scrutiny the Committee has applied in the area of strategic export controls. We are committed to ensuring our export licensing system remains one of the most effective and transparent in the world. We greatly value our dialogue with the Committee, and believe that its constructive criticism has helped the United Kingdom achieve this position. The Government agrees with the Committee that the Defence, Foreign Affairs, International Development and Trade and Industry Committees should continue the Quadripartite Committee arrangement in the new Parliament.

We agree that the Committee's unique function of examining policy, as well as individual licensing decisions, is important and should continue. The Government would like the new Committee to be aware that its necessary duties add significantly to the running costs of the Government's export controls. The staff time involved in answering the Committee's requests is quite significant. The Government hopes that the new Committee will try to balance these costs with the level of scrutiny that it feels is necessary to ensure the Government's policy on strategic export controls is both effective and efficient.

- 3. We recommend that those devising new Government information systems for strategic export controls should be given an objective of ensuring that data can be supplied much more simply and quickly to the Committees on, for example, end use, open licences (OIELs) involving incorporation, refusals and appeals. (Paragraph 12)**

The Government already provides the Committee with extensive additional information on end-use, refusal and appeals, on request. From this year the Government will provide this information as a matter of course in the Committee's confidential report, accompanying the Government's Quarterly Report. As the Committee is aware, however, there are difficulties with providing certain information, which are not software related.

- 4. We are disappointed that, yet again, the Government has missed an agreed deadline for the provision of information to the Committees. The fact that these questions are directed to multiple departments is no excuse for agreeing to provide information by a certain date and then failing to do so. This second-class service has been obstructive to effective scrutiny of Government policy. (Paragraph 15)**

The Government strives to meet any deadlines agreed with the Clerk of the Committee but would point out that the deadline in question was imposed by the Committee without consultation. Nonetheless, the Government worked hard to meet the extremely tight deadline. It is important to bear in mind, as the Foreign Secretary made clear in his letter to the Committee of November 2004, that the process of agreeing a thorough response to any enquiry directed to four departments consumes more time and resources than a question to one department, involving Ministers in all the departments. The Government would note that all evidence was provided in time for the Committee's meetings and print deadlines.

- 5. The inability of the Foreign Secretary and his officials to answer our questions about the Export Control Organisation is a disappointing sign of the limitations of ‘joined up government’. We are surprised that the Foreign Secretary was not accompanied by government officials able to respond to our lines of inquiry on a key topic. It would be a poor use of time—both ours and the Government’s—if the Committees in future were to have to hold multiple evidence sessions with government representatives on a single policy area because the subjects under discussion fell under the responsibility of different Departments. (Paragraph 18)**

The Foreign Secretary is fully aware of his department’s responsibility as the lead department in giving evidence to the Committee. The question related to the internal staffing of another Government Department, where no concrete decisions have been taken. It would therefore have been inappropriate for the Foreign Secretary or his officials to comment.

- 6. While any decision on working patterns will be a matter for our successor Committees in the next Parliament, we would suggest that in future the Committees hold oral evidence sessions at least every six months, as well as submitting written questions to the Government on a quarterly basis. (Paragraph 19)**

The Government takes this opportunity to reaffirm its aim to maintain one of the most effective arms export licensing systems in the world, and to ensure British-made arms are not misused overseas. In proposing additional evidence sessions and written questions, the Government would like the new Committee to be mindful of the considerable effort and resources that are invested in preparing for these, and balance any requests with the need to allow the Government to devote the attention necessary to provide effective and efficient strategic export controls.

- 7. We will ensure that a website dedicated to our joint work on strategic export controls goes live on the Parliament site as soon as possible, with an entry for the Committee in the main alphabetical Committee List. The site will include the text of our previous reports, press notices, future programme and transcripts of oral evidence sessions, as well as those of our predecessor Committees in the last Parliament. (Paragraph 20)**

The Government welcomes this development.

- 8. We believe that a prior scrutiny model for certain sensitive arms export decisions could be developed, which would allay the Government’s fears of delay and the need for additional resources. We are disappointed with the Government’s resolute opposition to any form of prior parliamentary scrutiny, and believe that the reasoning for its position is flawed. We intend to press vigorously for this change to be made in the next Parliament. (Paragraph 23)**

The Government remains opposed to prior Parliamentary scrutiny of export licence applications for the reasons previously given.

The Government has nonetheless shown its commitment to going as far as it can to meet the Committees' request for enhanced scrutiny of export licensing decisions by introducing, in 2004, quarterly reporting on its licensing decisions. This means that licensing data is published much sooner than ever before: the newest information will be 3 months old and the oldest 6 months old, compared to 6 months and 18 months respectively under annual reporting. We also provide the Committees with a quarterly confidential report which, from this year, will contain enhanced information on refusal decisions, appeals, and incorporation SIELs to particular countries as agreed with the Committee. In addition, we publish quarterly information on refusal percentages and SIEL application processing times by destination. These steps have greatly enhanced the transparency of the UK's strategic export licensing system and have facilitated the Committees' scrutiny of the Government's export licensing decisions.

Strategic Export Controls Annual Report 2003 and Quarterly 2004 Reports

- 9. We are pleased to note that information on incorporation SIELs and gifts of military equipment is now available in the Government's Annual Report, and commend the effort made by the Government to produce SIEL incorporation data for the whole of 2003. (Paragraph 24)**

The Government is pleased to be able to provide additional information to the Committee in areas where it has proved practicable to do so.

- 10. We recommend that the Government sets out in its response to this Report the progress that has been made on publication of information about Global Project Licences across the Framework Agreement States. (Paragraph 25)**

Following detailed discussion of this issue in the relevant Framework Agreement (FA) Working Group on Export Procedures, the meeting held on 9 February 2005 concluded that it was not possible to reach agreement on a harmonised approach to reporting Global Project Licences (GPLs). However, it was established that all FA Partners will report on GPLs in their national reports. There was no agreement to the publication of Permitted Export Destination Lists (PEDS) among the Partners, as these were considered to be commercially sensitive.

In view of the outcome of these discussions, the Government agrees to publish information about its GPLs in its Quarterly/Annual Reports in a similar manner to the way on which OIELs are reported. The Government cannot publish information on other Partners' GPLs, which are a matter for them. The Government would note that to date only one UK GPL has been issued; in January 2004 to the French Government (amended in September 2004 to include the governments of Finland and Greece as destinations on this licence).

- 11. Taking these developments in reporting as a package, we give praise where praise is due. The UK is now one of the most timely publishers of information on arms exports in the EU. Furthermore, its work on incorporation licences and the publication of country of origin and destination for 'trafficking and brokering licences' is precedent-setting. We congratulate the Government on this work. (Paragraph 29)**

The Government welcomes the Committee's conclusion. This development reflects the Government's continuing commitment to being one of the most transparent arms exporting states.

- 12. We recommend that the Government expedite work on resolving the practical and policy barriers to publishing information on categories of end user. We hope that the practical problems can be overcome during the next software upgrade. We look forward to learning of the progress of this project; we recommend that the Government considers inviting the Committees in the next Parliament to assist with reviewing or commenting on the specifications for new information systems. (Paragraph 37)**

The publication of information about end-users is primarily a policy rather than an IT issue (although, as the Committee is aware, the ECO's current IT would not in any case allow for storage of this data). We do not believe that categorisation of end-users into broad groups will be meaningful or helpful. It would also place more demands on ECO in devising and implementing appropriate definitions and in consulting with end-users on the release of data (e.g. where it is a Government end-user).

- 13. We infer from the Government's response to our last Report that fuller information on SITCLs and OITCLs will be provided in the 2004 Annual Report than in Quarterly Reports. The Committees look to the Government to confirm that this is still its intention and invite it to indicate whether it would consider providing this greater level of detail on a quarterly basis. (Paragraph 41)**

The new trade controls implemented under the Export Control Act 2002 apply to the early stages of negotiating a contract. To publish details of licences covering those transactions could damage companies' commercial interests by revealing current information that could be exploited by competitors. The Government is therefore unable to agree to publish fuller information on SITCLs and OITCLs in the Quarterly Reports on Strategic Export Control. Information on the goods summaries licensed under SITCL and OITCL in the reporting year will, however, be published in the Annual Report on Strategic Export Controls.

- 14. The lack of information about incorporation OIELs is worrying, as it means we only have a partial picture of how British components and technology are being used abroad. We hope that the software upgrade currently underway can be configured so that this information can be made available to us on a confidential basis. (Paragraph 43)**

Our existing software package records whether or not goods on an OIEL are for incorporation abroad into a larger platform. Most OIELs covering military rated goods permit exports of components and spares as part of continuing service support for goods supplied under a SIEL, not for incorporation into larger platforms for onward export from the destination third country to other countries.

Where the larger platforms are however being exported to other countries, the UK exporter of components or technology may not know at time of export the full list of final destinations of the larger platforms into which his goods are going to be incorporated. In such cases we take into account what we know about the likely final destinations, the export control record of the destination country in which incorporation occurs, and the sensitivity and nature of the larger platform in deciding whether to issue an open licence to the British exporter.

If, as a result of our rigorous risk assessment at the time of an OIEL application, we had concerns about possible final destinations, we simply would not issue an OIEL. And, if having issued an incorporation OIEL, we subsequently became aware that a larger platform, into which UK goods had been incorporated, might in turn be exported to an undesirable destination, we would expect to withdraw the OIEL for those goods to that destination unless and until we were satisfied to the contrary.

It would be impracticable for the UK exporter or the Government to attempt to publish where each and every component that is exported under an OIEL ends up. Nor do we consider it necessary, because we only issue OIELs to responsible exporters for goods and destinations where we do not have concerns about undesirable re-export of the incorporated goods. The question of the capability of our OIELs software is therefore irrelevant.

As the Government has previously made clear to the Committee, should it request further information on a particular OIEL in the course of its scrutiny of the Government's decisions, we will of course, where possible, provide the Committee with relevant additional information, in confidence where appropriate.

- 15. We recommend that the Government should keep open the possibility of asking industry to gather data on actual exports. While this would impose an extra burden on companies it would enable further and more accurate information to be made available. (Paragraph 45)**

We do not believe that it is appropriate to impose additional burdens on industry in order to collect information which is not of direct relevance to the licence application procedure.

- 16. The fact that the number of SITCL licences issued is much lower than predicted in the revised RIA is not necessarily a matter of concern, and it is too early to tell what the reasons for it might be. However, the evidence we have received shows the importance of the ECO's outreach work, and the need to remain vigilant for arms dealers relocating abroad to avoid the new controls. (Paragraph 55)**

We agree with the Committee's assessment.

- 17. On the basis of the evidence we have received from the Department for Trade and Industry, and the statistics from the Government, it appears that there is now an active drive for open licensing. We are dismayed that this is happening in the context of resource cuts at the Export Control Organisation, and uncertainty about its future, which we discuss later in this Report. As we have noted in the past, single licences are inherently more transparent and a stricter form of regulation. We recommend that the Government should conduct an immediate review of the scope of open licensing, and that our successor Committees should examine the results of this as soon as possible. (Paragraph 62)**

The Government's policy of using Open General and Open Individual Export Licences (OGELs and OIELs) is a long-standing one, which has been developed, in particular, since the late 1980s. It is not true that resource pressures on ECO are causing the Government now to engage in an active drive for open licensing. We have always encouraged exporters to use open licences where possible, as this reduces burdens on them as well as on us. Furthermore, OGELs allow the Government to target its resources on SIEL and OIEL applications by taking out of the system processing of the lowest risk exports to the lowest risk destinations. Companies using OGELs are subject to compliance checks.

We do not agree that OIELs are less safe than SIELs. They are basically an amalgamation of SIELs and are only issued following very careful and detailed risk assessment (reflected in the longer processing times for OIELs compared with SIELs).

The ECO is developing a software programme on compliance and OGELs, which should be available to exporters by end 2005/6.

- 18. The fact that there are so many uncertainties about the WMD export control provisions is a matter of concern and we urge industry and the Government to resolve these issues as soon as possible. (Paragraph 68)**

Some of the new end-use controls are complex but we do not accept that there is widespread uncertainty about them. Officials from ECO have met with those most affected by the new controls and have advised them how to make use of the considerable flexibilities offered by open general and open individual licences. We have maintained a close dialogue with the sectors of industry most affected in order to deal with any problems and queries quickly, as they arise. We have previously submitted detailed comments to the Committees on issues raised by some exporters.

- 19. The Government concluded in response to written questions that "It is too soon to draw any firm conclusions but so far the new controls appear to be working as intended and at the same time do not appear to have caused any major difficulties for either industry or government". On the basis of the evidence we have received this seems to be a reasonable, although slightly rose-tinted, assessment. We note that much has been done by the ECO to ensure that the new controls are operating well, and recommend that our successor Committees conduct a full assessment of the new export control system once more information is available. (Paragraph 69)**

The Government notes the Committee's initial assessment and will continue to monitor closely the application of the new controls.

Future of the Export Control Organisation

- 20. It is unfortunate that the export control system, which has only just been subject to a major efficiency exercise, and has important additional responsibilities arising from the Export Control Act 2002, is suffering cutbacks. We are concerned that ECO work that is seen as more peripheral, such as seminars for industry, outreach to other countries to improve their export control systems and, dare we say it, provision of information to us, may suffer. This would be very shortsighted. It seems to us that there is also a possibility that the current encouragement for open licensing is resource-driven. There is a very fine line between optimal efficiency and needless risk and the Government must not cross it. (Paragraph 77)**

The Government is committed to maintaining, and if possible improving, the quality, efficiency and integrity of export licensing in the UK. The service to industry over the last two years has in fact improved, both in terms of the speed of licence processing and the range and quality of awareness work. The ECO, in common with the rest of the DTI, is required to meet new financial and head count limits. The Government is therefore considering how best to deliver export licensing services to industry with a view to maintaining both recent efficiency gains and also effective levels of control.

- 21. We welcome the Secretary of State's undertaking to keep us closely informed about plans to involve the private sector in parts of the Export Control Organisation's work. We trust that no changes will occur until our successor Committees in the next Parliament have had an opportunity to take evidence on the proposals. (Paragraph 78)**

The Government reiterates its undertaking to keep the Committee informed of developments in this respect and accepts this is an issue of great interest to them.

The EU Code of Conduct

- 22. We await publication of the revised European Union Code of Conduct on Arms Exports, and welcome the Foreign Secretary's comments that provisions relating to licensed production overseas, arms brokering and intangible technology transfers will be included. We wait to see what impact the revision of the Code will have in practice on strategic export controls across the EU. (Paragraph 86)**

The final version of the revised EU Code of Conduct on Arms Exports has still to be agreed. However, the Government shares the Committee's welcome of the inclusion of these additional provisions.

- 23. We wait to see how the new version of the Users' Guide, and the final revisions to the Code of Conduct, will affect transparency and the exchange of information between EU member states. We agree with the Foreign Secretary that sharing information in this way is a key tool to develop a convergent approach across the EU (Paragraph 90)**

Please see response to Recommendation 25 below.

- 24. We hope that the final stages of the negotiation of the Code of Conduct will include provisions to increase the quality of reporting on arms exports across all member states. (Paragraph 92)**

Please see response to Recommendation 25 below.

- 25. The future level of undercuts and denial notifications will be an important indicator of how the revisions to the EU Code of Conduct improve consistency of the Code's application across member states. We recommend that our successor Committees return to this issue as soon as possible. (Paragraph 95)**

The Government will respond to Recommendations 23 through to 25 together.

The Government shares the Committee's desire for increased transparency and convergence in the use of the EU Code of Conduct across member states, and welcomes the Committee's continued interest in these issues. The Government will propose measures aimed at increasing transparency and coherence during our Presidency of the EU in the latter half of this year.

- 26. We note that the legal status of the EU Code of Conduct on Arms Exports is to be reviewed shortly. We look forward to learning the outcome of this review. (Paragraph 97)**

A proposal to make the EU Code of Conduct a Common Position is under active consideration by member states. There is also a proposal that the name of the Code should be changed. The Government will inform the Committee on the outcome of these deliberations.

- 27. We recommend that our successor Committees keep under review the application of the Code of Conduct across the EU, with particular reference to any differences in interpretation by member states. (Paragraph 98)**

We welcome the Committee's continuing attention to this issue.

- 28. We look forward to learning of the results of the review of Criterion 8 of the Code of Conduct, and recommend that our successor Committees monitor how the new guidelines for its application affect the issuing of licences across the EU, particularly in the UK. (Paragraph 101)**

No agreement has yet been reached between member states on the content of additional guidance on Criterion 8 for inclusion in the User's Guide. It is likely that discussion of this issue will continue under the UK Presidency of the EU in the second half of this year. The Government remains fully committed to securing early agreement.

- 29. We recommend that the Government uses its Presidency of the EU to initiate a review of Criterion 2 of the EU Code of Conduct on Arms Exports, along similar lines to that conducted of Criterion 8 of the Code. (Paragraph 103)**

The Government plans to use its Presidency to initiate discussion on additional guidance for inclusion in the User's Guide covering Criterion 2 and at least one other Criterion.

- 30. We urge the UK Government to use its Presidency of the EU to ensure that there is a focus on the importance of sharing best practice on enforcement of the EU Code of Conduct on Arms Exports, and export control more broadly, across all member and accession states, and potential future members. It is important that older EU member states continue to give newer states assistance to build robust systems if the integrity of EU export controls is to be maintained. (Paragraph 109)**

The Government agrees with the Committee's recommendation and will be actively pursuing such an agenda.

- 31. We welcome the development of an EU-wide system to manage the transition for states coming out of arms embargo controls. (Paragraph 111)**

The Government shares the Committee's welcome for this development.

- 32. The European Council has stated that if the EU arms embargo to China is lifted, this should not result in either a qualitative or quantitative increase in arms exports to China. Close attention will have to be paid to this test, which is highly complex and subjective. We therefore recommend that before the embargo is lifted the Council should spell out how the assessment will be made. We would welcome in particular clarification on whether this means that there should be no increase in arms exports to China at all or no increase as a result of the lifting of the embargo, as these are very different tests. (Paragraph 127)**

Please see response to Recommendation 33 below.

- 33. Although we believe that the embargo is an imperfect tool, there are risks associated with its removal. It is possible that there could be major EU-US trade repercussions from an EU arms 'export drive' to China, or that EU member states enhance China's military capability in a worrying way, or that the Chinese Government uses arms**

exported from the EU for internal repression. The prospect of the UK securing the ITAR waiver might be severely jeopardised. Those risks must be mitigated by member states taking the Council's 'no qualitative or quantitative increase' pledge extremely seriously. As we have already observed, however, this pledge is in itself imperfect. In view of the importance of this issue for future transatlantic relations we recommend that absolute assurances are given by the European Union and each member state, that there will be no qualitative or quantitative increase in arms exports to China as a result of lifting the arms embargo and that sensitive technologies will not be transferred to China as a result of this change of policy. If such assurances cannot be obtained we recommend that the Government opposes lifting the arms embargo and any other change of EU policy with regard to arms sales to China. (Paragraph 139)

This statement by the European Council represents a commitment by EU Heads of State and Government, and is therefore taken extremely seriously by EU Member States. It is therefore doubtful that further assurances in this area would strengthen that statement and although the Government agrees that a common interpretation of this part of the statement would be useful, we consider it more important to be able to monitor adherence to the statement. To this end, the Government has played a leading role in developing measures which would allow for mutual monitoring of Member States' defence exports to countries released from an EU embargo and consultation at Council level should a Member State consider changing its policy with regard to such exports.

We also note the Committee's concern about a possible defence "export drive" by EU Member States to China. However, the major EU defence exporting countries have not been engaged in such an "export" drive. The EU Code of Conduct, which is to be made into a legally binding measure at EU level will remain the principal means of control for defence exports to China, whatever decisions on the embargo are taken.

- 34. Whether or not the embargo is lifted we expect our successor Committees to monitor the UK's arms exports to China carefully. In order to do this, they will require full information on refusals, appeals, incorporation SIELs and OIELs and type of end user for licences granted, on a quarterly basis. We also recommend that the Government puts pressure on the Chinese Government during the negotiations to pledge its support for the proposed International Arms Trade Treaty. (Paragraph 140)**

Once agreed, the Government undertakes to share in full with the Committee the UK's quarterly returns that we will issue under the proposed "Toolbox" of additional measures for countries emerging from an EU embargo. China will, of course, remain fully covered in the existing quarterly returns provided to the Committee.

The Government has already lobbied the Chinese Government to support an international treaty on the arms trade. China was an active participant in the meeting of experts on Arms Trade Treaty proposals hosted by the UK in London on 26 May 2005.

- 35. We strongly endorse the UK Government’s position that the controls of the proposed EU Regulation on trade in equipment related to torture and capital punishment should not be weaker than those currently applied by the UK. We still have concerns about the export of oversized handcuffs and recommend that our successor Committees return to this issue in the next Parliament. (Paragraph 146)**

The Government has successfully negotiated the addition of an optional clause, which will enable us to maintain our current level of control on oversized handcuffs.

- 36. The Committees recommended last year that “the Government should reconsider which types of trafficking and brokering activity it subjects to extra-territorial control to identify more accurately those which are of most pressing and genuine concern— in particular those weapons most likely to be used by terrorists or in civil wars. We recommend that trade in such weapons, including MANPADS, rocket-propelled grenades and automatic light weapons, should be subject to extra-territorial control where they are intended for end use by anyone other than a national government or its agent, and where the country from which the trade is being conducted or from which the export will take place does not itself have adequate trade or export controls consistent with the British Government’s policy on arms exports.” We make the same recommendation in this Report. We also recommend that the Government should conduct a review of extra-territorial controls along the lines suggested in our last report once the Export Control Act 2002 has been fully in force for a year. Furthermore, we recommend that the conclusions of that review should be published before the end of the year. (Paragraph 156)**

As the Government stated in its response to the Committee last year (Cm 6357) the Export Control Act has been a very significant step in helping to stop the United Kingdom being used as a base for undesirable arms transfers. The Act has introduced comprehensive and effective controls on the brokering of all equipment on the UK’s Military List, which includes MANPADS, rocket propelled grenades and automatic weapons, where any part of the activity takes place in the UK.

The UK fully meets the commitments on MANPADS agreed in the G8 and the Wassenaar Arrangement in the context of their potential use in terrorist attacks (Hansard 29WS 18 May 2003). By adhering to these commitments, the Government will only licence the export of MANPADS to foreign governments, or agents specifically authorised to act on behalf of a government.

In addition, as our response last year stated, Section 57 of the Terrorism Act 2000 makes it an offence for a person to possess an article for a purpose connected with the commission, preparation or instigation of an act of terrorism. Furthermore, there are UN sanctions in place to prevent brokering to Al-Qaida members and their associates. These measures apply to the activities of UK nationals abroad as well as any person in the UK.

- 37. While we cannot realistically expect an International Arms Trade Treaty to happen immediately, the UK's language and action must keep the pressure on other nations to add their weight to this initiative. This is the start of a long road, and the UK will need to be a vital driving force if the endeavour is to be successful. We urge the UK Government to use its influence as President of the G8 in 2005 to lobby other countries, particularly fellow G8 members, to support the proposed International Arms Trade Treaty. (Paragraph 161)**

The Foreign Secretary's speech of 15 March made clear the Government's support for an international Arms Trade Treaty covering all conventional weapons (<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391647&a=KArticle&aid=1109173912107>). This was discussed at the meeting of G8 Foreign Ministers on 23 June. It will also be pursued as part of the agenda for the UK's EU Presidency, which starts in July.

- 38. We conclude that it is extremely disappointing that the US Congress has for a second time deleted provisions that would enact an ITAR waiver for the UK. (Paragraph 167)**

In November 2004, Congress once again deleted the necessary legislative provision for an amendment to the US International Traffic in Arms Regulations. Had the provision been enacted, it would have permitted certain unclassified but controlled items to be exported without a US export licence to any UK companies pre-approved by the US Government for this purpose. The Government continues to attach high importance to close co-operation on defence equipment and technology across the Atlantic, and is therefore continuing to discuss with the US the way in which controls are applied to such transfers.

- 39. Effective enforcement of the export control regime is needed if all the checks and balances of the export control licensing system are to be of any purpose at all. We hope that the reorganisation of Customs and the Inland Revenue will ensure that the export control system becomes more effective. (Paragraph 169)**

The Government agrees that effective enforcement is essential and is confident that HM Revenue and Customs will continue to develop its effectiveness and high standards for the detection of irregularities and enforcement of strategic export controls, consistent with its obligation to deliver against PSA 3. The measure of success for effective enforcement is not solely the number of prosecutions mounted as various factors ultimately determine whether a case is suitable for such action. The effective detection and investigation of breaches in itself sends a strong signal to the export community about HMRC's resolve and is a positive factor in improving compliance. HMRC works closely with the export control community to foster a culture of compliance amongst exporters, and with UK and overseas Government Departments to disrupt the supply of materials to sensitive destinations. There is no evidence of widespread abuse by UK industry, or that the current system is not effective.

40. We repeat our recommendation that the secondary legislation regulating licensed production facilities should be reviewed by May 2006. (Paragraph 171)

The Government does not accept that there is any defect in our export control legislation in respect of licensed production overseas and does not agree that the secondary legislation implemented under the Export Control Act needs to be reviewed in this respect. Exports from the UK of licensable goods or technology, and (following the implementation of new controls under the Export Control Act) electronic transfers of licensable technology for use in licensed production all require a licence before they can be delivered to the facility. Overseas trade in military equipment is also controlled. In addition, we specifically ask all licence applicants whether the proposed export is for use in an overseas production facility, and take this into account in the decision making process.

41. We believe that the UK's export control system has improved substantially in this Parliament. As a result of the legislation passed in 2002, subsequent delegated legislation, changes in reporting practice and the JEWEL review, we now have generally efficient and reliable export controls. Exchanges between the Government and the Committees, while sometimes candid, are founded on a shared commitment to continuous improvements in this process. (Paragraph 172)

The Government thanks the Committees for their recognition of the success of the UK's strategic export licensing system and the progress made in this area. The Government acknowledges that the thorough scrutiny exercised by the Committees acts as a spur to effective and efficient administration. We are committed to continuing our close and productive relationship with the Committees in the interests of furthering the cause of UK export control.

42. We take the view that there are considerable opportunities at present both in high level world policy—as the UK holds the Presidencies of the G8 and the EU, and as support for an Arms Trade Treaty becomes widespread—and for more detailed licensing scrutiny, as information systems within Government are improved. We hope that our successor Committees in the next Parliament continue to play their part in encouraging the Government to take advantage of these opportunities. (Paragraph 173)

The Government thanks the Committee for another comprehensive report. The United Kingdom operates one of the most effective and transparent strategic export licensing systems in the world, and we are committed to continuing its improvement.

We look forward to working with the new Committee as they take over the work of scrutinising both our policy and our practice.



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