

# **United Kingdom Strategic Export Controls Annual Report 2016**

Presented to Parliament pursuant to Section 10 of the  
Export Control Act 2002  
Ordered by the House of Commons to be printed on 20 July 2017



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Print ISBN 9781474147613

Web ISBN 9781474147620

ID P002888169 07/17

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

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# Ministerial Foreword

This is the British Government's twentieth "Annual Report on Strategic Export Controls".

Transparency and accountability are at the heart of Britain's approach to export controls. This report covers the period from January to December 2016, and gives details of our policy and licensing decisions.

Rigorous export controls are vital. They:

- **safeguard Britain's national security** by reducing the risk that military or dual use equipment may fall into the wrong hands or be used to undermine peace and stability;
- **strengthen our prosperity** by enabling responsible British exports; and
- **uphold our values** by taking account of potential risks to human rights, international humanitarian law and sustainable development.

In 2016, we again faced complex challenges in export licensing because of the range of conflicts worldwide, the efforts by states and non-state groups to acquire illicit or dangerous weapons, and some states' repression of their own citizens.

The Government continues to assess each export licence application on a case-by-case basis against the Consolidated EU & National Arms Export Licensing Criteria. In 2016, we monitored political, military and technological developments across the world and reflected these in our licensing decisions.

In July 2016, the Government set up a new Export Controls Joint Unit (ECJU), hosted by the Department for International Trade. ECJU now processes all export licence applications. The new Unit brings together staff from the Department for International Trade, the Foreign & Commonwealth Office and the Ministry of Defence. The creation of ECJU has centralised expertise and removed duplication, helping us to provide a high quality service to business. ECJU works closely with other staff involved in export controls and enforcement, especially the Department for International Development (who advise on Criterion 8) and the National Cyber Security Centre, the Department for Business, Energy & Industrial Strategy, Her Majesty's Revenue & Customs, Border Force, and the Crown Prosecution Service.

We have continued to improve service standards. In 2016, we processed 17,870 applications for Standard Individual Export Licences, of which 82% were completed within 20 working days, against a published target of 70%. As this report sets out, we also provided a wide range of training to help exporters understand what they need to do, as well as carrying out enforcement action where necessary.

Internationally, strengthening arms control remains a high priority. In 2016, Britain was once again a leading supporter of the Arms Trade Treaty. We have pressed for the universalisation of the Treaty and have encouraged more States to accede, in particular major arms exporters such as China, India, Russia, and the US. There are now 91 States Party to the Treaty.

We commend this report to Parliament and to all those with an interest in export controls.

11 July 2017



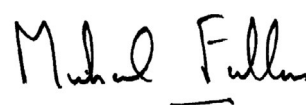
Boris Johnson (FCO)



Priti Patel (DFID)



Liam Fox (DIT)



Michael Fallon (MOD)

# Section 1

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## UK and EU Policy Developments in 2016

### 1.1 Legislation

This section sets out changes to legislation and related policy developments.

Annex A provides an overview of legislation applying to the export of strategic goods, software, and technology from the UK.

Annex B provides information on the country-specific export restrictions applied by the Government.

There were no amendments to the Export Control Order 2008 in 2016.

Two Parliamentary Statutory Orders implementing changes to UN and EU sanctions came into force in 2016, namely:

- The Export Control (Libya Sanctions) Order 2016 (2016 No 787), which in particular provides for offences, enforcement and penalties in relation to breaches of sanctions on Libya; and
- The Export Control (Iran Sanctions) Order 2016 (2016 No 503), which in particular provides for offences, enforcement and penalties in relation to breaches of sanctions on Iran.

Council Regulation (EC) 428/2009 of 5 May 2009, which establishes a Community regime for the control of exports, transfer, brokering, and transit of dual-use items – the so-called “EU Dual-Use Regulation” – was amended once during 2016. Regulation (EU) No 2016/1969 of the Council and of the European Parliament of 12 September 2016 amended the Dual-Use Regulation to update (by Delegated Act) the list of dual-use items requiring authorisation for export outside the customs territory of the EU (ie amending Annex I of Regulation 428/2009). This list must be updated “in conformity” with the obligations and commitments accepted by the Member

States of the EU as members of the international export control regimes and as States Parties to the Chemical Weapons Convention.

The European Commission continues to take forward its review of EU export controls for dual-use items. This started with the publication in June 2011 of a Green Paper entitled “The dual-use export control system of the European Union: ensuring security and competitiveness in a changing world”. In 2015 the Commission embarked on an impact assessment in order to determine the costs and benefits associated with the various options outlined in its Commission Communication of 24 April 2014, (<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1063>), notably with regard to potential regulatory simplification and burden reduction. As part of the impact assessment, the Commission organised an online public consultation from 15 July to 15 October 2015. On 23 November 2015, the Commission published the results of this consultation: [http://trade.ec.europa.eu/doclib/docs/2015/november/tradoc\\_154003.pdf](http://trade.ec.europa.eu/doclib/docs/2015/november/tradoc_154003.pdf). And on 28 September 2016, the Commission published its proposals for a modernisation of the EU export control system, along with an impact assessment [http://eur-lex.europa.eu/procedure/EN/2016\\_295](http://eur-lex.europa.eu/procedure/EN/2016_295)

The Commission describes these proposals as making export controls for dual use goods:

- **more efficient** – by simplifying the administration of controls by optimising licensing processes, introducing EU General Export Authorisations, and simplifying controls on technology transfers, while ensuring a high level of security and adequate transparency to prevent illicit use of the exported items;
- **more consistent** – by avoiding divergent levels of controls throughout the EU, eg by harmonising controls on brokering, technical assistance and transit of dual-use items; and

- **more effective** – by introducing specific provisions preventing the misuse of dual-use items in relation to terrorism.

The Government submitted an Explanatory Memorandum on the proposals on 17 October 2016: [http://europeanmemoranda.cabinetoffice.gov.uk/files/2016/10/EM\\_12785.16\\_Commission\\_proposal\\_for\\_the\\_recast\\_of\\_the\\_regulations\\_covering\\_the\\_export\\_of\\_Dual\\_Use\\_Goods\\_\(2\).pdf](http://europeanmemoranda.cabinetoffice.gov.uk/files/2016/10/EM_12785.16_Commission_proposal_for_the_recast_of_the_regulations_covering_the_export_of_Dual_Use_Goods_(2).pdf)

Substantial discussion on the proposal between the Commission and Member States started in December 2016.

## 1.2 Policy developments

### Machinery of government changes

On 14 July 2016, a number of machinery of government changes took place. A Department for International Trade (DIT) was established; the Export Control Organisation (ECO) became part of this new Department. On the same day, the Department for Business, Innovation & Skills (BIS) and the Department of Energy & Climate Change (DECC) merged to form a Department for Business, Energy & Industrial Strategy (BEIS).

### Creation of the Export Control Joint Unit

In July 2016, the Government established an Export Control Joint Unit (ECJU), hosted by DIT. ECJU co-locates DIT staff in the ECO and export licensing teams from the Foreign & Commonwealth Office (FCO) and Ministry of Defence (MOD). ECO remains the Government's regulatory body for military and dual use exports, and the Secretary of State for International Trade remains responsible for decisions to grant or refuse export licences. The FCO and MOD teams continue to provide advice to DIT on whether to grant or refuse licences based on assessments using the Consolidated EU & National Arms Export Licensing Criteria. DIT, FCO and MOD staff in ECJU continue to report to their own departmental Ministers, but co-location has improved communications and facilitated more efficient decision making.

Another joint unit, the Counter Proliferation & Arms Control Centre (CPACC), hosted by the MOD, was also established in July 2016, and consolidates expertise and policy-making on international counter proliferation and arms control issues.

## Judicial Review of licensing of military exports to Saudi Arabia

In June 2016, the High Court granted permission for a Judicial Review of export licensing decisions relating to the sale or transfer of arms and military equipment to Saudi Arabia for possible use in the conflict in Yemen.

The case was brought by the Campaign Against Arms Trade (CAAT), with interventions by other NGOs, following allegations that the Saudis had breached international humanitarian law (IHL) as part of coalition military action in Yemen<sup>1</sup>. CAAT challenged two decisions by the Government:

- Decisions to continue to grant new licences for the sale or transfer of arms or military equipment to Saudi Arabia; and
- Decisions not to suspend extant licences for the sale or transfer of arms and military equipment to Saudi Arabia for possible use in the conflict in Yemen.

The case was heard by the Court in open and closed proceedings from 7 to 10 February 2017. On 10 July 2017, the Court handed down its judgment, dismissing CAAT's claim. The judgment recognises the rigorous processes in place across Government to ensure that UK defence exports are licensed consistent with the Government's Consolidated EU & National Arms Export Licensing Criteria. It describes the Government's decision-making about export licensing as "highly sophisticated, structured and ... multi-faceted" and points to "the essential rationality and rigour of the process". We will continue to keep the situation in Yemen under close scrutiny and base our export licensing assessments on the most up-to-date information and analysis available. We will not grant a licence if to do so would be contrary to the Criteria.

### Transparency and accountability

New reporting requirements for the use of Open General and Open Individual Export Licences that came into force in 2014 require exporters to provide information on their use of these licences. During 2015, the Government reviewed these new reporting requirements to ensure their effectiveness, but as data is only gathered at the end of the calendar year, work to check the consistency and integrity of the data collected from 2016 is still continuing.

<sup>1</sup> International humanitarian law (IHL) regulates the conduct of war. It seeks to limit the effects of armed conflict by protecting persons who are not participating in hostilities, and by restricting and regulating the means and methods of warfare available to combatants.

In 2015, export control licensing statistics were, for the first time, produced in compliance with the UK Statistics Authority's Code of Practice for Official Statistics. The statistics are accompanied by a range of data tables and a statistical commentary that aims to provide a brief overview of recent trends in the data presented in the data tables. The statistical data can be found at: <https://www.gov.uk/government/collections/strategic-export-controls-licensing-data>. In addition, a searchable database is provided that allows bespoke searches of published data. This database can be accessed at: <https://www.exportcontroldb.trade.gov.uk/sdb2/fox/sdb/SDBHOME>. Users must register in order to make use of the full functionality of the site, but this only takes a few minutes. Comprehensive help and guidance on using the site is also available from the home page.

The Parliamentary Committees on Arms Export Controls (CAEC) were re-established in February 2016 to scrutinise export licensing decisions and policy.

In March 2016, the CAEC launched an inquiry into the use of UK-manufactured arms in Yemen. The inquiry looked at the volume of arms sales to the Persian Gulf region and asked questions about the role the trade plays in advancing UK interests there. It also examined whether weapons manufactured in the UK had been used by the Royal Saudi Armed Forces in Yemen, if any arms export licensing criteria had been infringed, and what action might be taken in such cases.

<http://www.parliament.uk/business/committees/committees-a-z/other-committees/committee-on-arms-export-controls/inquiries/parliament-2015/uk-arms-yemen-15-16/>

After taking written and oral evidence, the CAEC published two reports in September 2016: one from the Joint Business, Innovation & Skills and International Development Committees, and one from the Foreign Affairs Committee. Both reports made similar recommendations to the Government, but there were some differences between the two. The Defence Committee did not issue a report.

The report of the Business, Innovation & Skills Committee and the International Development Committee called for arms export licenses to Saudi Arabia to be suspended immediately, and not resumed until after an independent, UN-led inquiry into allegations of breaches of International Humanitarian Law (IHL) by Saudi Arabia. The report of the Foreign Affairs Committee argued that it should be for the UK courts to determine whether our exports to Saudi Arabia are compliant with our legal obligations, and we should wait for the outcome of the Judicial Review.

The full reports can be found at: [https://www.publications.parliament.uk/pa/cm201617/cmselect/cmbis/679/67902.htm?utm\\_source=679&utm\\_medium=fullbullet&utm\\_campaign=modulereports](https://www.publications.parliament.uk/pa/cm201617/cmselect/cmbis/679/67902.htm?utm_source=679&utm_medium=fullbullet&utm_campaign=modulereports), and: <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmfa/688/68802.htm>

The Government responded separately to each report in November 2016. In its replies, the Government said that it was not opposing calls for an international independent investigation, but, first and foremost, wanted to see the Saudi-led Coalition investigate allegations of breaches of IHL which are attributed to them; and for their investigations to be thorough and conclusive. Saudi Arabia has publicly stated that it is investigating reports of alleged violations of IHL, and that any lessons learned will be acted upon.

The Government disagreed with the recommendation to suspend licences for arms exports to Saudi Arabia. We are confident in our robust case-by-case assessment and satisfied that extant licences for Saudi Arabia are compliant with the UK's export licensing criteria.

The Government's responses in full can be found at: <https://www.gov.uk/government/publications/government-response-to-parliamentary-committee-reports-on-the-use-of-uk-manufactured-arms-in-yemen>.

In April 2016, the CAEC launched an inquiry into the Arms Trade Treaty (ATT). The inquiry looked at the impact that the Treaty has had on the arms trade and how it could be made more effective. The CAEC also examined how the UK has applied the Treaty to its defence exports and the effect this has had on UK businesses.

This inquiry did not conclude during the period covered by this report, although the evidence the CAEC collected can be found at: <http://www.parliament.uk/business/committees/committees-a-z/other-committees/committee-on-arms-export-controls/inquiries/parliament-2015/the-arms-trade-treaty-15-16/>.

### 1.3 Awareness

In 2016, the Government continued extensive efforts to raise awareness of export controls among companies and organisations around the UK. This included:

- public events with partners and stakeholders;
- dedicated training courses for businesses;
- web-based guides and licensing tools; and
- notices to exporters



## Public events with partners and stakeholders

ECJU staff attended a range of events for exporters across the country to deliver the messages that:

- i) export controls should not be seen as a barrier to legitimate exports; and
- ii) there is a wide range of assistance available to facilitate the licence application process.

ECJU also continued to work in close partnership with DIT's Defence & Security Organisation (DSO) at regional events for small and medium-sized enterprises (SMEs). These helped ECJU to explain export control requirements directly to defence and security businesses, reaching around 200 people, around 20% of whom were new to exporting. Following industry requests for further advice about trading with Iran, ECJU shared a platform at two regional events and participated in a webinar.

## Dedicated training courses for business

In 2016 the Government organised 53 dedicated training sessions, which were attended by over 900 delegates nationwide. The sessions helped convey to industry specific legislative and operational information about export control obligations. The course topics included:

- beginners' workshops for those new to export controls;
- intermediate-level seminars, covering technology exports, the different licences available, compliance with export control legislation, and the UK control lists;
- workshops to help companies classify their items on the Military and Dual-Use Strategic Export Control Lists; and
- help for companies to improve the quality of their licence applications, thus reducing the need for the ECO to request further information and enabling a licensing decision to be made more quickly.

The course objectives more generally were to:

- improve export control knowledge;
- provide information about industry responsibilities in relation to export controls;
- advise which export licences are best for the exporters, including the use of Open Licences and;
- advise on how to apply for export licences on SPIRE (the electronic licensing system).

On-site training was also delivered to 20 businesses across the UK that requested bespoke training to address their specific market issues. In total, this training reached nearly 400 people. These programmes not only included staff with responsibilities for licence applications, but also shipping, procurement, sales, legal, and technical personnel.

Over 200 companies new to ECJU training registered for the full range of training courses. Many of these were SMEs. ECJU continued to work closely with the Awareness, Policy and Compliance sub-committees of the ADS<sup>2</sup> Export Group for Aerospace, Defence & Dual-Use (EGADD) to agree industry needs and the focus for support.

## Web-based guides and licensing tools, and e-newsletters

Web-based information about export controls is hosted on gov.UK. In 2016, we conducted a major overhaul of gov.UK content and introduced a new main guide: <https://www.gov.uk/guidance/export-military-or-dual-use-goods-services-or-technology-special-rules>

## Webinars

Taking advice from industry, we worked in partnership with the Institute of Export to deliver four webinars using their "Open to Export" IT Platform. Topics covered were: Background to Export Controls; Goods Classification; Licence Types; Using SPIRE. The four webinars were made available to view on the Open To Export website and in total over 1,000 people signed up to the live webinars.

## Notices to Exporters

The Government continued to encourage industry to sign up to receive Notices to Exporters (NTEs) and in 2016 the number of subscribers increased to over 13,500 (compared to 8,300 in 2014 and 5,000 in 2012). A total of 25 NTEs were issued with the latest information, including updates to the Consolidated Control Lists; licence changes, eg the revised Maritime Anti-Piracy Open General Trade Control Licence, and updates to other Open General Export licences; export control legislation updates, eg changes to the dual use regulation EU 428/2009; and the trading position for sanctioned destinations eg Russia.

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<sup>2</sup> ADS is the Trade Association of Aerospace Defence and Dual Use industries

## Checker tools

Exporters continued to make use of ECO's two web-based search tools which help to identify which products need a licence (Goods Checker) and, if licensable, whether an Open General Export Licence<sup>3</sup> (OGEL) potentially covers the proposed exports (OGEL Checker).

The Goods Checker tool provides a web-based search function across the Consolidated UK Strategic Export Control List.

The OGEL Checker tool assists users who know the rating (Control List classification) of their goods and the destination for the proposed export to find out which OGEL(s) may cover the export, provided all the conditions can be met. Both of these tools can be accessed at [www.ecochecker.trade.gov.uk](http://www.ecochecker.trade.gov.uk) as well as on SPIRE.

## Cross-Departmental working

The Government recognises the need to ensure that all officials involved in export control are well briefed on key policies and operations. During 2016 ECJU delivered four training courses specifically for officials in Whitehall departments engaged in arms export control policy with key roles in licence decision-making and enforcement. ECJU also delivered a training session dedicated to DSO staff.

## International Outreach

The Government contributed to the EU Dual-Use Long-Term Programme, providing expertise about UK export controls to a number of participating countries. In addition, tailored training was delivered in collaboration with other EU Export Control Authorities to a delegation from Pakistan.

## 1.4 Advisory services

### The End-User Advice Service

Exporters can use this service to request advice on whether ECO has Weapons of Mass Destruction (WMD) or Military End-Use concerns in relation to specific organisations or persons with whom they wish to do business.

As it is a non-statutory advisory service, there are no published targets for End-User Advice Service enquiries. However, during 2016 DIT received 4,475 enquiries, with 80% being completed within five working days, and 98% within 20 working days.

## 1.5 The European Union

On 23 June 2016, the British people voted in a referendum to leave the EU. Until we have left the EU, the UK will remain a member of the EU with all of the rights and obligations that membership entails. We will continue to abide by the Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, which is implemented in the UK through the Consolidated EU & National Arms Export Licensing Criteria.

<sup>3</sup> A full explanation of the different UK export licences currently available is included in Section 4 of this report

# Section 2

## Other International Developments in 2016

### 2.1 Arms Trade Treaty (ATT)

The ATT is a legally-binding Treaty regulating the international trade in conventional arms. The UK ratified the ATT on 2 April 2014; it entered into force on 24 December 2014.

In 2016, the UK continued to play a leading role in the ATT. Our diplomats took part in the Second Conference of States Party (CSP2) held in Geneva, where they supported the appointment of Mr Dumisani Dladla (South Africa) as the first permanent Head of Secretariat. The Conference finalised key structures and processes of the ATT – which should help States Party to achieve the Treaty's overall aims and vision.

At the Conference, the States Party also agreed Terms of Reference for a Voluntary Trust Fund (VTF), which should support implementation of the Treaty. The UK is a member of the VTF Selection Committee. The Conference also finalised the format of reporting templates and agreed to create Working Groups on Universalisation, Implementation and Reporting/Transparency.

The Government has funded ATT projects through its Counter-Proliferation Programme Fund. We have pressed for universalisation of the Treaty and encouraged more States to accede, particularly major arms exporters, such as China, India, Russia, and the US.

In accordance with Article 13 (3) of the Treaty, the UK submitted an Annual Report to the Secretariat by the 31 May 2016 deadline. This report covers authorised or actual exports and imports of conventional arms covered under Article 2(1) of the Treaty made during the calendar year 2015.

### 2.2 Small arms, light weapons and their ammunition

In 2016, the UK remained at the forefront of international efforts to combat the illicit proliferation of small arms and light weapons. Most illicit small arms are diverted as a result of theft, unregulated transfers including in breach of arms embargoes, and trafficking across porous borders. The UK has supported the universalisation and full implementation of international agreements such as the UN Programme of Action (UNPoA) to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects, the International Tracing Instrument (ITI), the UN Firearms Protocol<sup>4</sup>, and the Wassenaar Arrangement. These politically-binding agreements provide a common set of standards for establishing effective national controls over the full life-cycle of small arms and light weapons, including through regulating production, ownership, transfer, storage, and disposal.

The Government regularly reports on the UK's implementation of the international instruments in order to promote transparency and as a confidence-building measure. Previous and current UK national reports are published and available at <http://www.poa-iss.org/poa/poahtml.aspx>.

The Government has encouraged other countries to strengthen their control over small arms, and has funded projects through the Counter-Proliferation Programme Fund. We have also supported the work carried out by the EU as part of its Small Arms & Light Weapons Strategy to combat the illicit accumulation and trafficking of small arms. The EU produces six-monthly and annual reporting to reflect all the work being done to implement the Strategy, which are available at: [http://eeas.europa.eu/non-proliferation-and-disarmament/salw/index\\_en.htm](http://eeas.europa.eu/non-proliferation-and-disarmament/salw/index_en.htm)

<sup>4</sup> UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (Firearms Protocol)

## 2.3 UN Convention on Certain Conventional Weapons (CCW)

The purpose of the CCW is to prohibit or restrict the use of conventional weapons that are considered to cause unnecessary suffering or to have indiscriminate effects, for example, weapons with non-detectable fragments, mines, booby-traps, incendiary weapons, and blinding laser weapons.

The Convention itself contains only general provisions, with annexed Protocols – a structure adopted to allow flexibility and the inclusion of other types of conventional weapon in the future. Prohibitions or restrictions on the use of specific weapons or weapon systems are contained in five Protocols which cover:

- Non-Detectable Fragments - Protocol I;
- Mines, Booby Traps and Other Devices - (Amended) Protocol II;
- Incendiary Weapons - Protocol III;
- Blinding Laser Weapons - Protocol IV; and
- Explosive Remnants of War - Protocol V.

The UK is a High Contracting Party to the first four Protocols, and has signed but not yet ratified Protocol V.

The UK attended the Meeting of the High Contracting Parties to Protocol V as a Signatory State on 29 August 2016, the Meeting of the High Contracting Parties to (Amended) Protocol II on 30 August 2016, and the CCW Review Conference on 12-16 December 2016.

The CCW Review Conference, which takes place every five years, allowed High Contracting Parties to review the status and operation of the Convention and to consider new issues for discussion. The meeting decided, by consensus, to include the following issues for discussion in 2017: Mines other than Anti-Personnel Mines, incendiary weapons, and developments in the field of science and technology that may be relevant to the Convention. At the Review Conference the UK was elected as President of the CCW for 2017.

The UK also took part in informal meetings of experts on 11-15 April 2016 to discuss Lethal Autonomous Weapons Systems. These discussions continued to develop understanding regarding the potential implications of autonomous lethal weapons. The CCW Review Conference (12-16 December 2016) agreed, by consensus, to establish a formal Group of Government Experts to continue discussions on Lethal Autonomous Weapons Systems for a period of 10 days during 2017.

## 2.4 The Anti-Personnel Mine Ban Convention (APMBC – Ottawa Treaty)

Anti-personnel mines (APMs) have caused suffering and casualties in many parts of the world, causing serious humanitarian and developmental problems.

The Ottawa Convention was adopted on 18 September 1997, and entered into force on 1 March 1999. 162 States are now parties to the Convention. The Convention bans the use, stockpiling, production, and transfer of APMs. In addition, States that accede to the Convention are required to destroy stockpiled APMs and clear mined areas under their jurisdiction or control, and to assist the victims of APMs, where they are in a position to do so.

The UK took part in the 15th Meeting of States Party to the Convention in Santiago, Chile, from 28 November to 2 December 2016. The meeting reviewed the operation and status of the Convention against the goals stated in the Maputo Action Plan, which was agreed at the 3rd Review Conference held in Maputo in June 2014. The Action Plan's goals include universalisation of the Convention, stockpile destruction, mine clearance, victim assistance, and international cooperation and assistance.

Article 5 of the Convention obliges States Party to ensure the destruction of all APMs in areas under their jurisdiction or control. For the UK, the only such area is the Falkland Islands. The fourth phase of mine clearance operations in the Falkland Islands, which began in January 2015, concluded in March 2016, clearing a total of 25 mined areas and taking the total number of cleared areas to 35. In September 2016, the UK announced the commitment of a further £20 million for demining in the Falkland Islands. Phase 5 began in October 2016 and aims, in its first two years, to clear 46 minefields and conduct Technical Surveys in a further 27, demonstrating significant progress towards meeting the UK's obligations under the Convention.

In 2016 the Government continued to engage in mine action work in situations of humanitarian need across the world and expanded the geographical spread of the Global Mine Action Programme (GMAP) to include Burma, Somalia, South Sudan, and Zimbabwe. GMAP is a £30 million Department for International Development programme that runs from July 2014 to August 2017, and aims to reduce the humanitarian and development impact of landmines and other Explosive Remnants of War (ERW), including Cluster Munitions (CM). Through GMAP the safety and security of local communities and internally displaced people who are living, working, or transitioning through hazardous areas will be improved.

In total eight GMAP countries received funding in 2016: Burma, Cambodia, Laos, Somalia, South Sudan, Sri Lanka, Vietnam, and Zimbabwe. In 2016, GMAP delivered the following results: 14,758,278m<sup>2</sup> of land cleared, 4,795,484m<sup>2</sup> of land reduced, 89,068,438m<sup>2</sup> of land cancelled, and 113,132 direct beneficiaries of mine risk education.

In addition, the UK funds mine action programmes in Afghanistan, running during 2016-2020, at a value of £7m and delivered by the HALO Trust, AfghanAid, and the Danish Committee for Aid to Afghan Refugees. It is anticipated that the programme will clear 10km<sup>2</sup> and deliver more than 2,000 mine risk education sessions to affected communities. In Sri Lanka, our programme will run from 2015 to 2019 and cost £1.3m. It is a two phase project implemented by HALO for the removal of mines, unexploded ordinance and explosive remnants of war from high priority areas within the former high security zones.

## 2.5 The Convention on Cluster Munitions (CCM – Oslo Treaty)

Cluster munitions can have a devastating humanitarian impact on civilian populations, both at the time of use and subsequently. Unexploded sub-munitions can both threaten the lives of civilians and hamper post-conflict reconstruction and development for years afterwards.

In 2008, a number of Governments, including the UK, agreed the CCM, which prohibits the use, development, production, acquisition, stockpiling, and transfer of cluster munitions. The Government became the 32nd State Party to the CCM in 2010. At the end of 2016, the Convention had 119 members, of which 100 were State Parties.

The UK has continued to play an active role in international cooperation and assistance to countries affected by cluster munitions as part of its mine action work, as detailed in section 2.4 above.

The Government attended the Meeting of States Party to the Convention in Geneva from 5-7 September 2016.

## 2.6 The United Nations Register of Conventional Arms (UN Register)

The UN Register is a voluntary reporting instrument, intended to create greater transparency in international arms transfers and help to identify any excessive build-up of arms in countries or regions.

The UN Register currently covers seven categories of conventional weapons:

- Battle tanks;
- Armoured combat vehicles;

- Large-calibre artillery systems;
- Combat aircraft;
- Attack helicopters;
- Warships (including submarines); and
- Missiles and missile-launchers (including Man-Portable Air Defence Systems).

Countries can also use the Register to report voluntarily on national holdings of small arms and light weapons.

The UK submits an annual report to the UN Register on all exports of military equipment in these categories. The Government has actively encouraged all UN Member States to make reports with similar levels of transparency. Transparent systems are less vulnerable to manipulation by groups that view rigorous export controls as an impediment to their aims. Previous and current UK national reports are available at: <http://www.un.org/disarmament/convarms/Register/>.

## Export Control Regimes

### 2.7 Nuclear Suppliers Group (NSG)

The NSG seeks to prevent the proliferation of nuclear weapons through the application of national export controls on nuclear and nuclear-related material, dual-use material, equipment, software, and technology, without hindering international cooperation on peaceful uses of nuclear energy. It also promotes effective safeguards and the protection of existing nuclear materials.

The UK attended the 26th Plenary Meeting of the NSG in the Republic of Korea on 23-24 June 2016. NSG members agreed a number of proposals to clarify and update NSG Control Lists. The Group discussed membership by non-NPT States; the South Korean Chair proposed that Argentina, as the previous Chair, should continue informal discussions with all members of the Group on this issue.

### 2.8 Australia Group (AG)

The Australia Group, established in 1985, is an informal group of countries, which seeks to ensure, through the harmonisation of export controls, that exports do not contribute to the development of chemical or biological weapons. Co-ordination of national export control measures assists Australia Group participants to fulfil their obligations under the Chemical Weapons Convention (CWC) and the Biological and Toxin Weapons Convention (BTWC). There are currently 42 participants, including all EU Member States and the European Commission.



The UK has always placed a high value on the work of the Australia Group and works hard to help ensure its Control Lists are kept up-to-date. At the June 2016 Annual Plenary Meeting, participants agreed to focus efforts on impeding chemical and biological weapons terrorism, proliferators' procurement of unlisted items, proliferation financing, and sharing approaches to tackle the challenge of intangible technology transfer. Australia Group outreach, to build understanding and wider support for the group, is being expanded to include work in relevant international fora such as UN Security Council Resolution 1540 meetings, as well as with industry and academic bodies, and with a number of non-member countries.

## **2.9 Missile Technology Control Regime (MTCR)**

The MTCR is a voluntary association of 35 countries that work together by co-ordinating national export licensing efforts in order to prevent the proliferation of unmanned delivery systems capable of delivering weapons of mass destruction. India joined in June 2016, becoming the MTCR's latest member. The UK is a founding member and plays a leading role, including in the MTCR's Technical Experts Group.

The MTCR held its 30th Plenary Meeting from 17-21 October 2016 to review and evaluate its activities, and to intensify further the efforts of Partners towards the MTCR's goals. Partners discussed global missile proliferation activities, including ongoing missile programmes in the Middle East, Northeast Asia, and South Asia (and, in particular, DPRK and Iran), and the impact on proliferation activities elsewhere. Partners also considered procurement activities and techniques in support of such programmes; rapid technological change; the role of intangible technology, brokering, and transshipment in facilitating proliferation; and key technology trends in the proliferation of missile programmes.

Technical changes to the MTCR export control list were agreed by the Technical Experts Meeting, which was held during the week of the Plenary. Partners also agreed that additive manufacturing or 3D-printing poses a major challenge to international export control efforts, and that the topic should remain an item for discussion in future.

## **2.10 Wassenaar Arrangement (WA)**

The Wassenaar Arrangement celebrated its 20th anniversary in 2016. It has 41 Participating States, including Canada, Japan, Mexico, Russia, the USA, and all EU Member States except Cyprus, and was established to contribute to regional and international security and stability by promoting transparency and helping to prevent destabilising accumulations of conventional arms. Members held Assessment and General Working Group meetings in May and October 2016, ahead of

the 22nd Plenary Meeting in December 2016. The strength of the Wassenaar Arrangement continues to be in its technical outputs, specifically the Control Lists, which underpin the arms export control regimes of all Participating States and many non-participating States. The Wassenaar Arrangement produces two Control Lists – one for conventional weapons (the Munitions List) and one for dual-use goods and technologies. Participating States report to Wassenaar Arrangement members if they export controlled arms, goods, or technology to non-members.

UK experts play a key role in the Technical Working Groups. At the 2016 Plenary, a Department for International Trade official was appointed Chair of the Licensing and Enforcement Officers Meeting (LEOM). The Plenary Meeting in December 2016 approved a number of amendments to Wassenaar Arrangement Export Control Lists, adopting new export controls in a number of areas, including a new hydrogen-free high-power explosive, materials used in reactive armour, and specific electronic components (non-volatile memories/MRAMs) able to withstand extreme environment conditions. Existing controls were further clarified regarding biological and radioactive agents, information security, and the concept and use of "technology". Some controls were relaxed, such as for lasers used in industry, digital computers, and voice coding equipment. For those products, performance thresholds were updated taking into account the rapidly evolving performance of civil market products. This work to ensure lists are appropriate and implemented also enhances the Government's prosperity agenda by ensuring a level playing field for industry.

## **2.11 Academic Technology Approval Scheme (ATAS)**

The ATAS student vetting scheme was introduced in November 2007. It seeks to protect certain sensitive technologies relating to weapons of mass destruction and their means of delivery from possible misuse by proliferators. It is operated with the cooperation of Higher Education Institutions at which sensitive subjects are studied at postgraduate level. Any overseas student, except those from the European Economic Area or Switzerland, seeking to study such subjects must first obtain an ATAS certificate. The applicant makes an application online at no cost. Correctly completed applications are usually processed with 20 working days of receipt. This can take longer during busy periods such as the summer months. In 2016, ATAS approved 108,494 applications and denied clearance on 13 occasions.

# Section 3

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## Export Licensing Case Studies

This section contains a selection of examples that illustrate the range of issues taken into consideration when the Government is applying export control policy.

### PHILIPPINES

The Philippines faces persistent conflict, multiple insurgencies, and a high threat from terrorism, including from groups who have pledged allegiance to Da'esh. In addition, piracy and kidnap-for-ransom are significant problems.

The authorities are waging a high-profile campaign against illegal drugs. The UK Government is concerned by the death toll associated with this campaign, and continues to urge the Philippine Government to pursue law and order in a manner commensurate with due legal process and respect for human rights.

The UK Government assesses all export licence applications for the Philippines on a case-by-case basis against the Consolidated Criteria, paying particular attention to goods destined for the military and security forces that might be used for internal repression (Criterion 2). We consider carefully both the need to uphold human rights and the Philippines' legitimate counter-terrorism and counter-piracy objectives.

### COLOMBIA

In November 2016, the Government of Colombia signed a peace agreement with the FARC, an armed group, after years of fighting. The Colombian authorities have made major efforts to support the peace process, but problems remain. In March 2017, the UN Office of the High Commissioner for Human Rights reported that 59 human rights defenders had been killed in 2016; the Colombian authorities and civil society estimate that in fact the number could be as high as 125. Many appear to have died at the hands of illegal armed groups in areas left vacant by FARC forces.

In assessing export licence applications for Colombia on a case-by-case basis against the Consolidated Criteria, we consider in particular Criterion 3 (internal situation) including the possible impact on the peace process and Criterion 2 (respect for human rights), including, where the end user is a part of the law enforcement forces, the Colombian Government's legitimate security interests. Applications for small arms and other military equipment are closely scrutinised.

## SOUTH AFRICA

South Africa is a major manufacturer and exporter of defence equipment. A number of companies based in Britain export components to South African defence firms for incorporation into goods, which may be sold to the South African military or exported.

In August 2012, the South African Police Service (SAPS) shot more than 40 striking miners at Marikana. Following the conclusion in June 2015 of a Commission of Inquiry into the incident, the South African Government set up a panel of experts to investigate crowd control tactics and reform SAPS' approach to public order policing, including the use of lethal force. Recent demonstrations, such as protests at universities about student fees, have been well managed, but the UK Government continues to monitor unrest in South Africa and SAPS' response. When the UK Government considers licence applications for South Africa, it considers carefully the risk that the goods might be used for internal repression (Criterion 2).

South Africa is a popular destination for hunting, and a number of exporters wish to sell hunting rifles or sporting shotguns to stockists in South Africa. When assessing licence applications, the UK Government considers carefully the risk of diversion (Criterion 7), taking into account South Africa's firearms import process and export control system, which help to lower the risk of diversion.

## BURMA

The European Union first imposed sanctions against Burma in 1996, citing concerns "at the absence of progress towards democratisation and at the continuing violation of human rights" (EU Common Position 1996/635/CFSP).

Since then, Burma has witnessed considerable change. In 2013 the EU lifted all restrictions with the exception of an arms embargo and an embargo on the export of dual use equipment that might be used for internal repression, such as body armour, thermal imaging equipment, or vehicles for water cannon (Council Decision 2013/184/CFSP).

We continue to have concerns about the violation of human rights in Burma. Over the past year, the Burmese armed forces have intensified attacks against armed groups in several regions, resulting in the violation of the rights of civilians and the displacement of civilian populations.

In line with the Consolidated Criteria (Criterion 1), the UK Government will not grant an export licence for Burma if to do so would be inconsistent with EU sanctions. The UK Government therefore refuses licences for goods on the UK Military List because of the EU arms embargo. The UK Government also refuses licences for dual use goods listed in Annex I of EU Council Regulation No 401/2013 because of the embargo on dual use goods that might be used for internal repression. Where goods do not appear on either of these lists, the UK Government assesses carefully the risk that they might be used for internal repression (Criterion 2).

## AZERBAIJAN

Azerbaijan has a large energy sector. British companies export a number of controlled goods to that sector, such as inertial equipment for the oil industry.

In 2016, the authorities arrested critics of the government, including political activists and bloggers. Some have been released but others remain in prison. There are also restrictive laws that prevent NGOs from operating independently.

In 1992, the OSCE introduced an arms embargo for Nagorno-Karabakh. In 2014, the UK refined its interpretation of the embargo: the Government includes all goods and items on the UK Military List where this equipment could be used in Nagorno-Karabakh, or on the land border between Azerbaijan and Armenia. There are some exemptions to the embargo for peacekeeping, media, or humanitarian organisations.

In line with the Consolidated Criteria, the UK Government assesses all licence applications for Azerbaijan on a case-by-case basis, paying particular attention to the OSCE arms embargo as well as to Criterion 2 (human rights) and Criterion 7 (diversion), including the risk of diversion to a third country if that would contravene the UK's wider responsibilities under Criterion 1 or within Azerbaijan – this could include for example the risk of Military List rated equipment going to stockists who are unregistered or have links with countries of concern.



# Section 4

## Export Licensing Data for 2016 and Performance Against Targets

### 4.1 Information on licences processed during 2016

Types of licence available include the Standard Individual Export Licence (SIEL), Open Individual Export Licence (OIEL), Standard Individual Trade Control Licence (SITCL), Open Individual Trade Control Licence (OITCL), and Standard Individual Transshipment Licence (SITL<sup>1</sup>). The following tables provide details of the numbers for each of the main types of licence processed during 2016. Any data referred to as "Issued", "Refused," "Rejected," or "Revoked" is taken from Official Statistics available on gov.uk <https://www.gov.uk/government/collections/strategic-export-controls-licensing-data> All other data is taken from the licensing database SPIRE (as at 23 March 2017).

Issued	13,723
Revoked	1
Refused	353
NLR**	2,592
Withdrawn/Stopped***	1,202

\* SIEL Transshipments (SITLs) are permanent licences, but counted separately from Standard SIELs in Table 4.II.

\*\* NLR = No Licence Required. For Tables 4.I - 4.III the number quoted is based on licensing decisions where an application is only for goods not requiring a licence

\*\*\* In Tables 4.I - 4.V. Withdrawn / Stopped / Unsuitable applications have not been completed either because an application was withdrawn, generally by the exporter, or stopped because an exporter has not provided adequate information in response to a Request for Information (RFI), to allow the application to proceed.

Issued	12
Revoked	0
Refused	1
NLR	1
Withdrawn/Stopped	14

Issued	334
Revoked/Reduced/Removed	5
Rejected*****	39
NLR	11
Withdrawn, Stopped or Unsuitable (where an exporter does not meet the criteria for an OIEL)	140

\*\*\*\* Includes Dealer-to-Dealer, Cryptographic & Continental Shelf OIELs.

\*\*\*\*\* In many cases where OIEL applications are rejected, exporters are asked to apply for SIELs because these allow closer scrutiny of individual exports, but this does not necessarily mean that this closer scrutiny will result in a refusal.

**Table 4.IV Number of SITCLs**

Issued	268
Revoked	0
Refused	12
NLTR*****	37
Withdrawn/Stopped	74

\*\*\*\*\*NLTR = No Trade Licence Required. For Tables 4.IV and 4.V the number quoted is based on licensing decisions where an application is only for goods not requiring a licence.

**Table 4.V Number of OITCLs**

Issued	21
Revoked	0
Rejected	2
NLTR	2
Withdrawn, Stopped or Unsuitable (where an exporter does not meet the criteria for an OIEL)	21

## 4.2 Information on SIELs, SITLs, OIELs, SITCLs and OITCLs

The Official Statistics publications contain data with respect to the following licences. Bespoke data reports are also published by the Government and available from the "Strategic Export Controls: Report and Statistics" website: <https://www.exportcontroldb.trade.gov.uk>

For SIELs:

- The data includes the total value of all applications in respect of which a SIEL was issued for the export of items to the destination concerned during the period, whether the export concerned was permanent or temporary. However, as licences usually cover a two year period, the value of the proposed exports does not indicate the actual value of exports shipped during the reporting period. Some of these licences will not be used to carry out all of the exports authorised, and others will not be used at all. In addition, some items are exported only temporarily and later returned to the UK within the validity of the licence.
- The data includes the number of licences issued, refused, or revoked, split into Military List, dual-use items, and both (covering licences with military and dual use goods). A "T" at the beginning of a line in the "country pivot report" indicates a temporary export licence.

For incorporation:

- Information on goods licensed under SIELs for incorporation into a larger platform and onward export from the destination country is provided in the same format as that for all other SIELs, and includes the same level of information. An aggregated summary of the ultimate destinations for the goods after incorporation is also provided.

For items covered by Council Regulation 1236/2005 (the 'Torture' Regulation):

- Information provided under this heading is displayed in the same way as for standard SIELs.

For SITLs:

- Information on SITLs is provided in the same format as for SIELs. The licensing information can be found within each destination, under "SIELs – Transshipments" As the items covered by SITLs only pass through the UK, it would be misleading to compare the "value" for these licences with the value of items originating in the UK.

For OIELs:

- The data includes the number of licences issued, refused or revoked. "T" indicates a temporary export licence in the "country pivot report".
- As OIELs cover multiple shipments of specified goods to specified destinations or specified consignees, exporters holding OIELs are not asked to provide details of the value of goods they propose to ship, and it is therefore not possible to provide information on the total value of goods licensed under OIELs. However, companies are required (as of 1 January 2014) to submit annual open licence returns about the use of each of their OIELs.

For SITCLs:

- A summary of the items or activities authorised by the licence is given.
- As SITCLs cover the trading of specific goods between overseas source and destination countries, there is no physical export from the UK and traders are not asked to provide information on values.

For OITCLs:

- A summary of the items or activities authorised by the licence is provided.
- As OITCLs cover the trading of specific goods between an overseas source and destination countries, exporters holding OITCLs are not asked to provide details of the value of goods they propose to

trade, and it is therefore not possible to provide information on the total value of goods to which those trading activities related.

Other OIELs:

**Media OIELs** authorise the export of protective clothing and equipment, mainly for the protection of aid agency workers and journalists in areas of conflict. In addition to military helmets and body armour, these OIELs include Nuclear, Biological, and Chemical (NBC) protective items, non-military four-wheel drive civilian vehicles with ballistic protection, and specially-designed components for any of these items. The OIELs permit these items to be exported to all destinations on a temporary basis only, ie the items must be returned to the UK when no longer required. In 2016, six Media OIELs were issued and none were rejected or revoked.

**Continental Shelf OIELs** authorise the export of controlled goods to the UK sector of the Continental Shelf for use only on, or in connection with, offshore installations and associated vessels. In 2016, four Continental Shelf OIELs were issued, and none were rejected or revoked.

**Cryptographic OIELs** authorise the export of specified cryptography hardware or software and the transfer of specified cryptography technology to the destinations specified in the licence. These OIELs do not cover hardware, software, or technology that includes certain types of cryptanalytic functions. In 2016, 17 Cryptographic OIELs were issued, one was refused, and none were revoked.

**Dealer-to-Dealer OIELs** authorise UK-registered firearms dealers to export certain categories of firearms and ammunition solely to other registered firearms dealers in the EU only. In 2016, 25 Dealer-to-Dealer OIELs were issued, and none were rejected or revoked.

### 4.3 Other licence types

#### Technical Assistance Licences

Standard Individual Technical Assistance Licences (SITALs) are issued for separate ad hoc requirements, eg repair of a single item, simple maintenance tasks. Open Individual Technical Assistance Licences (OITALs) cover wide-ranging contractual issues which may form the basis of a rolling programme of work.

Under Article 19 of the Export Control Order 2008, as amended, licences are required for the provision of technical assistance for anything with weapons of mass destruction (WMD) purposes. In 2016, no WMD SITALs were issued, refused or revoked. Four WMD OITALs were issued and none were rejected or revoked.

Licences are also issued for the provision of technical

assistance relating to military or dual-use items and activities where this is permitted under exemptions to international sanctions and embargoes. In 2016, no sanctions SITALs were issued, refused or revoked. No sanctions OITALs were issued, rejected or revoked.

The EU imposed sanctions on Russia in 2014. These include the requirement for licences for technical assistance relating to technologies in the oil and gas industries. In 2016, no SITALs were issued, refused or revoked under the Russia sanctions. 64 OITALs were issued, three were rejected, and none were revoked. All licences issued were in line with EU Sanctions rules.

#### Financial Assistance Licences

EU sanctions usually contain prohibitions or restrictions on the provision of financing or financial assistance related to the sale, supply, transfer, or export of goods and services prohibited or restricted under the sanctions. In cases where the provision of such financing or financial assistance is subject to prior authorisation, a Financial Assistance Licence may be granted. As a result of the sanctions imposed on Russia in 2014, there is now a requirement for licences for financial assistance relating to the supply of technologies used in the oil industry. In 2016, 27 SIFALs (Standard Individual Financial Assistance Licences) were issued, but no OIFALs (Open Individual Financial Assistance Licences) were issued. No SIFALs under the Russian sanctions were refused or revoked. (Note: Under sanctions, DIT is the competent authority for financing and financial assistance related to prohibited or restricted trade transactions. HM Treasury is the competent authority for all other financial sanctions, including asset freezes and counter-terrorist financing.)

#### Licences for drugs used in execution by lethal injection

In 2016, the EU amended an EU-wide control on the export of certain drugs that can be used in execution by lethal injection. This is subject to regular review by the EU.

Under Council Regulation (EC) 1236/2005, as amended, licences are required from national export control authorities to export to any destination outside the EU 'short and immediate-acting barbiturate anaesthetic agents including, but not limited to,' the following:

- amobarbital (CAS RN 57-43-2)
- amobarbital sodium salt (CAS RN 64-43-7)
- pentobarbital (CAS RN 76-74-4)
- pentobarbital sodium salt (CAS 57-33-0)
- secobarbital (CAS RN 76-73-3)
- secobarbital sodium salt (CAS RN 309-43-3)
- thiopental (CAS RN 76-75-5)

- thiopental sodium salt (CAS RN 71-73-8), also known as thiopentone sodium.

SIEL applications must be submitted for the following 11 destinations for ad hoc requirements of these drugs:

- American Samoa
- People's Republic of China
- Guatemala
- Guam
- Northern Mariana Islands
- Thailand
- Taiwan
- United States minor outlying islands
- United States of America
- United States Virgin Islands
- Vietnam

OIEL applications may be submitted which cover multiple exports of these drugs to consignees in all destinations other than the 11 destinations specified above.

In addition to the EU-wide controls on drugs, the UK also controls pancuronium bromide and propofol under the listing of human and veterinary medicinal products that are prohibited for export to the US where they are in a form suitable for injection or for preparation of an injection.

In 2016, eight SIELs for these items were issued and none were refused or revoked. No OIELs were issued for these items, and none were rejected or revoked.

### Global Project Licences (GPLs)

GPLs are a form of licence introduced by Framework Agreement Partners (France, Germany, Italy, Spain, Sweden, and the UK) to streamline the arrangements for licensing military goods and technologies between Partner States where these transfers relate to their participation in specific collaborative defence projects. In relation to the collaborative project, each Partner State will, as appropriate, issue their own GPLs to permit transfers of specified goods and technology where these are required for that programme. The GPLs operate on a similar basis to UK OIELs. Applications for GPLs are assessed against the Consolidated EU and National Arms Exporting Licensing Criteria (known as the Consolidated Criteria) in the UK, and against the EU Common Position in other Framework Partner countries. In 2016, no GPLs were issued, rejected, or revoked.

### Open General Export Licences (OGELs)

OGELs allow the export or trade of specified controlled goods, removing the need for exporters to apply for an individual licence, providing the shipment and destinations are eligible under the OGEL and that certain conditions are met. Most OGELs require the exporter or trader to register with the Export Control Organisation (ECO) before they use them, and the companies are subject to compliance visits from the ECO to ensure that all the conditions are being met. A requirement to submit annual open licence returns about usage of OGELs was introduced on 1 January 2014. Section 1.3 of this Report details our commitments in terms of transparency and reporting related to OGELs. This confirms that the Government reviewed the new reporting requirements to ensure their effectiveness, but as data is only gathered at the end of the calendar year, work to check the consistency and integrity of the data collected will continue into 2017.

Failure to meet the specified licence conditions can result in the eligibility of an exporter or trader to use an open licence being withdrawn. All OGELs remain in force until they are revoked.

There is also a small number of Open General Transshipment Licences for which registration is not required.

Two new OGELs were introduced in 2016; the Open General Export Licence (PCBs [printed circuit boards] and Components for military goods) and the Open General Export Licence (PCBs and Components for dual-use items). A number of OGELs were republished as a result of updates to the UK Strategic Export Control Lists and/or due to changes to the general terms and conditions or permitted destinations. Open General Export Licence (international non-proliferation regime de-controls: dual-use items) was revoked 16 November 2016. The complete list of OGELs in force in 2016 is at Table 4.VI.

In addition, Council Regulation (EC) No 428/2009 (known as the EU Dual-Use Regulation), which establishes an EU-wide regime for the control of exports of dual-use items, software, and technology, includes six General Export Authorisations (GEA). These EU GEAs, which permit the export of certain specified dual-use items to the specified non-EU destinations, are valid in all EU Member States, and are the EU equivalent of UK OGELs.

The EU GEAs are as follows:

- EU001 (previously known as the CGEA) - Exports to Australia, Canada, Japan, New Zealand, Norway, Switzerland, Liechtenstein, and the United States
- EU002 – export of certain dual-use items to certain destinations

- EU003 – export after repair/replacement
- EU004 – temporary export for exhibition or fair
- EU005 – telecommunications
- EU006 – chemicals

Also, Council Regulation (EC) No 1236/2005, concerning trade in certain goods which could be used for capital punishment, torture, or other cruel, inhuman or degrading treatment or punishment, includes a General Export Authorisation. This covers the goods listed in any entry in Annex IIIa of the Regulation to certain destinations that have abolished capital punishment.

**Table 4.VI List of OGELs in force in 2016:**

**Dual-Use Goods OGELs:** dual-use items are goods and technology with both military and civilian applications.

1. Chemicals
2. Cryptographic Development
3. Export After Exhibition: Dual-Use Items
4. Export After Repair/replacement under warranty: Dual-Use Items
5. Export For Repair/replacement under warranty: Dual-Use Items
6. Dual-Use Items: Hong Kong Special Administrative Region
7. International Non-Proliferation Regime Decontrols: Dual-Use Items
8. Low Value Shipments
9. Oil and Gas Exploration: Dual-Use Items
10. Technology for Dual-Use Items
11. Turkey
12. Specified Dual-Use Items (X)
13. Military and Dual-Use: UK Forces deployed in embargoed destination
14. Military and Dual-Use goods: UK Forces deployed in non-embargoed destinations
15. Exports of non-lethal military and dual-use goods: to UK Diplomatic Missions or Consular posts
16. PCBs and Components for dual-use items

**Military Goods OGELs:** permit the export of certain controlled military goods.

1. Access Overseas to Software and Technology for Military Goods: Individual Use Only
2. Certified Companies
3. Export After Exhibition or Demonstration: Military Goods
4. Export for Exhibition: Military Goods
5. Export after Repair/replacement under warranty: Military goods
6. Exports for Repair/replacement under warranty: Military goods
7. Exports or transfers in Support of UK Government Defence Contracts
8. Exports under the US-UK Defence Trade Cooperation Treaty
9. Historic Military Goods
10. Historic Military Vehicles and Artillery Pieces
11. Military Components
12. Military Goods, Software and Technology
13. Military Goods: Collaborative Project Typhoon
14. Military Goods: For Demonstration
15. Military Goods, Software and Technology: Government or NATO end use
16. Military Surplus Vehicles
17. Software and Source Code for Military Goods

**Table 4.VI List of OGELs in force in 2016: (continued)**

18. Technology for Military Goods
19. Vintage Aircraft
20. Exports of non-lethal military and dual-use goods: to UK Diplomatic Missions or Consular Posts
21. Military and Dual-Use Goods: UK Forces deployed in embargoed destinations
22. Military and Dual-Use Goods: UK Forces deployed in non-embargoed destinations
23. Exports in Support of Joint Strike Fighter: F-35 Lightning II
24. Military goods: A400M Collaborative Programme
25. PCBs and Components for Military Goods
<b>Open General Transshipment Licences (OGTLs):</b> allow, subject to certain conditions, controlled goods to be exported from one country to another via the UK.
1. Sporting Guns
2. Postal Packets
3. Transshipment Licence
4. Dual-Use Goods: Hong Kong Special Administrative Region
<b>Open General Trade Control Licences (OGTCLs):</b> control trafficking and brokering activity between one third country and another where the transaction or deal is brokered in the UK or by a UK person.
1. Category C Goods
2. Trade and Transportation: Small Arms and Light Weapons
3. Insurance or Re-Insurance
4. Maritime Anti-Piracy
<b>Other types of Open General Export Licences:</b>
1. Government of Sierra Leone
2. Iraq
3. Radioactive sources

#### 4.4 Refusals and revocations

There were 366 refusals or revocations of SIELs and SITCLs in 2016. Table 4.VII provides an overview of

the number of times each Criterion of the Consolidated Criteria was applied under the Consolidated Criteria, justifying the refusal of an export licence application.

**Table 4.VII Reasons for Refusals and Revocations of SIEL & SITCL applications\***

Reason**	Number
Criterion 1 – UK’s international obligations and commitments under non-proliferation Treaties and Conventions and export control regimes, particularly with regard to proliferation of weapons of mass destruction or ballistic missiles.	157
Criterion 1 – UK’s commitments and obligations to observe UN, EU or OSCE arms embargoes.	57
Criterion 1 – Existence of national embargoes or policy commitments.	1
Criterion 1 – UK’s obligations under the Ottawa Convention and the 1998 Land Mines Act.	0
Criterion 2 – Risk of use for internal repression.	15
Criterion 3 – Risk of contributing to internal tensions or conflict in the recipient country.	14
Criterion 4 – Preservation of regional stability.	6
Criterion 5 – National security of the UK, of allies, EU Member States and other friendly countries.	48

\* Data taken from SPIRE as at 23 March 2017.

\*\* In a number of cases, the refusals/revocations were made for more than one reason. Therefore the Criteria that are quoted may exceed the number of refused cases.



**Table 4.VII Reasons for Refusals and Revocations of SIEL & SITCL applications\***

Reason**	Number
Criterion 6 – Behaviour of the buyer country with regard to the international community.	0
Criterion 7 – Risk of diversion or re-export to undesirable end-users.	122
Criterion 8 – Compatibility of the arms exports with the technical and economic capacity of the recipient country.	0

\* Data taken from SPIRE as at 23 March 2017.

\*\* In a number of cases, the refusals/revocations were made for more than one reason. Therefore the Criteria that are quoted may exceed the number of refused cases.

The information above does not include decisions to refuse OIELs or OITCLs in full or in part, to amend the coverage of an OIEL to exclude particular destinations and/or goods, or to revoke an OIEL. This is because a decision to exclude a particular destination from OIELs or OITCLs does not preclude a company applying for SIELs or SITCLs covering some or all of the goods concerned to specified consignees in the relevant destinations.

#### 4.5 Appeals

This section provides information on all appeals against a decision to refuse an application for a SIEL or SITCL, or against a decision to revoke a SIEL or SITCL. An appeal is based on the date on which it was received in the ECO, not the date of the original application. During 2016, the government processed 47% of appeals within 20 working days from receipt of all relevant information from the appellant, and 84% in 60 working days. Decisions to refuse licences are not taken lightly and are only made in those cases where refusal is clearly justified. In this context, appeals against refusals will often raise difficult and complex issues.

Appeals are considered at a more senior level than the original licence application, by an official not involved in the original refusal decision. Any new information not available at the time of the application will be taken into account. Every effort is made to deal with all appeals as expeditiously as possible. However, the time taken to decide an appeal can be lengthy because of the need to examine afresh all relevant information. Officials continue to review procedures to streamline the handling of appeals, including additional resources and revised arrangements for consulting Ministers and advisers in other Government Departments.

There is no provision in the licensing procedure for a formal appeal against refusal or revocation decisions on OIELs or OITCLs. This is because such decisions do not prevent a company from applying for SIELs or SITCLs.

In 2016, 38 appeals were determined against the original decision to refuse an application for a SIEL. Of these, 37 decisions to refuse were maintained, and one was overturned and issued.

**Table 4.VIII Appeals performance\***

	2016	2015	2014
Appeals finalised within 20 working days	47%	57%	47%
Appeals finalised within 60 working days	84%	89%	76%

\*Data is based on management information records.

The Government has a target of processing 60% of appeals within 20 working days from receipt of all relevant information from the appellant, and 95% in 60 working days. These targets do not apply to appeals concerning goods that are controlled solely because of UN Sanctions. Of the 38 appeals decided in 2016, none fell into this category.

#### 4.6 Performance in processing licence applications

ECO sets out the Government's commitments to exporters in a Service and Performance Code. The performance targets are to finalise 70% of applications for SIELs within 20 working days, and 99% within 60 working days. The targets apply as soon as the applicant has supplied the full documentation necessary to support their application. Table 4.IX gives a breakdown of the performance of Government in the period against these two main published SIELs and SITCLs targets. The Table also highlights the number of applications processed compared to previous years, and presents the number of applications completed within the specified timeframes in 2016.

**Table 4.IX SIELs and SITCLs Processing Performance\***

	2016		2015		2014	
	SIELs	SITCLs	SIELs	SITCLs	SIELs	SITCLs
No of applications completed in 20 working days	14,608	245	12,148	231	12,394	152
% applications completed in 20 working days	82%	63%	69%	63%	74%	53%
No of applications completed in 60 working days	17,611	377	1,159	358	16,618	278
% applications completed in 60 working days	99%	96%	98%	97%	99%	96%
Median processing times	13 days	16 days	17 days	17 days	16 days	20 days

\*Data taken from SPIRE as at 23 March 2017.

The targets do not apply to applications for:

- OIELs – because of the very wide variation in the goods and destination coverage of such licences.
- OITCLs – because of the wide variation in goods or activities, sources and destinations covered by such licences.



# Section 5

## Compliance and Enforcement

### 5.1 Compliance

In 2016, the Export Control Organisation's (ECO) Compliance Team continued to inspect companies and individuals holding Open Individual and Open General Licences for both exports and trade activities. The primary purpose of these inspections is to establish whether the terms and conditions of licences are being adhered to, but they also serve to raise awareness of export controls. Inspections fall within four main categories:

1. First Contact. These are telephone calls made to all first-time registrants of Open Licences to ensure they are aware of all the terms and conditions of the licences they hold. Calls are followed up by an explanatory email explaining key elements of export controls that they need to consider. The target is that all new users of these licences will be contacted within 6 weeks of the company being allocated an inspector;
2. First time visits. The business is usually inspected within three months of their first use of the licence(s);
3. Routine visits. For businesses that have had a first inspection and continue to hold Open Licences. The time interval between routine inspections depends on a risk assessment and whether changes in circumstances have arisen, such as a business take-over or change in staff;
4. Revisits. Revisits arise when a company has been found non-compliant at an inspection and, as a result, is inspected again within six to eight months.

The Compliance Team use predefined criteria, agreed with Her Majesty's Revenue and Customs (HMRC), to determine the level of compliance and to ensure a consistent approach to all companies. The majority of inspections involve a site visit, although sometimes they are carried out by correspondence and telephone, for instance when an exporter is located overseas.

The "First Contact" process continues to be a successful element of the inspection process for both Compliance Inspectors and business alike. In 2016, 128 exporters were engaged as part of this process. The benefits have included raising the awareness of exporters, which has, in some instances, resulted in them surrendering the licence and avoided potential non-compliance with their licence(s). The impact on Inspectors, although increasing their workload, has been to enable them to manage the risks better within their portfolios and engage with more businesses over the year.

"Compliance Certificates", awarded to companies with a good compliance track record, act as an incentive, by offering lighter-touch auditing requirements and remain popular with business as something to aim for. They continue to be tightly controlled and only apply to the exports covered by a specific inspection. 50 were issued in 2016. ECO recently undertook a review of the exporters holding these certificates and is currently analysing the results.

The Compliance Team carried out a total of 572 inspections in 2016. Table 5.I shows the compliance levels for companies inspected.

**Table 5.I Compliance levels (%) of licence holders in companies audited in 2015**

		2016	2015
Number of inspections where no audit undertaken or inconclusive		3	4
% of first visits	compliant	50%	46%
	generally compliant	11%	16%
	not fully compliant	14%	19%
	non-compliant	25%	19%
% of Routine visits	compliant	53%	53%
	generally compliant	14%	14%
	not fully compliant	19%	18%
	non-compliant	14%	15%
% of revisits	compliant	71%	65%
	generally compliant	15%	20%
	not fully compliant	11%	7%
	non-compliant	3%	8%

84 warning letters were issued to Company Directors during 2016 where breaches of licence conditions were identified. This is a 1.7% increase on the previous year when compared against the number of audits undertaken. Four non-compliant exporters surrendered their licences, as they did not cover the goods being exported, and one licence was suspended because of a repeat infraction.

## 5.2 Enforcement activity undertaken by HMRC, Border Force, and the Crown Prosecution Service

HMRC continued to work with Border Force and the Crown Prosecution Service (CPS) to undertake a wide range of enforcement activity throughout 2016. Previous HMRC statistics have been reported on a financial year basis; the figures below refer to the calendar year 2016 to align with the rest of this report. Enforcement activity included:

- 183 seizures of strategic goods in breach of licensing requirements or sanctions and embargoes (see Table 5.II);
- 258 end-use “catch-all” cases, where non-listed items were stopped from leaving the UK because there was a risk that the goods would be put to an illicit military or Weapons of Mass Destruction end-use;
- Two compound penalties totalling £34,576.

HMRC assesses all alleged breaches of arms export controls and sanctions. Where serious or deliberate breaches are identified, or where there are aggravating features, cases may proceed to a full criminal investigation. If appropriate, they may be referred to the CPS, who will determine whether there is sufficient evidence to prosecute and whether prosecution is in the public interest.

Any decision by HMRC to conduct a criminal investigation will depend on a number of factors. They include: the seriousness of the offence, the likely impact and outcome of a criminal investigation compared to other forms of enforcement action, and the need to prioritise investigations in line with wider Government policies and strategies.

HMRC continues to receive and process voluntary disclosures of errors made by exporters. These are assessed by HMRC and appropriate action taken. Actions may range from an educational visit or a written warning, through to compound penalties and, in the most serious cases, an investigation with a view to criminal prosecution. HMRC also continues to work with the Department for International Trade and other agencies to contribute to raising awareness of export controls through educational outreach to business.

HMRC participates in international outreach and capacity-building events. This activity strengthens links with other enforcement agencies. HMRC also contributes to expert groups, for example supporting and contributing to the enforcement expert meetings of the Australia Group, Missile Technology Control Regime, Nuclear Suppliers Group, and Wassenaar Arrangement. HMRC has contributed to the Proliferation Security Initiative, working alongside the US and other partners to strengthen capabilities to prevent the smuggling of illicit goods.

**Table 5.II Prosecutions for Strategic Export Control Offences**

Financial Year	Number of HMRC Strategic Exports and Sanctions Seizures
2006-07	44
2007-08	55
2009-10	50
2008-09	115
2010-11	134
2011-12	141
2012-13	280
2013-14	450
2014-15	225
2015-16	232
Calendar Year 2016	183

## Section 6

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# Gifted Controlled Equipment

The Government may occasionally gift equipment in support of its wider security and foreign policy aims. All proposals to gift controlled military equipment and dual-use equipment are assessed against the Consolidated EU & National Arms Export Licensing Criteria in the same way as commercial applications and with the same degree of rigour. The Ministry of Defence (MOD) manages the assessment process and seeks advice on gifting proposals from advisers in the MOD, the Foreign & Commonwealth Office (FCO), and the Department for International Development (DFID). Where controlled military equipment gifts are approved these are exported under a Crown exemption letter and therefore do not require an export or trade licence. Where gifts exceed £300,000 in value, they are notified to Parliament before the gift is made. Where dual-use equipment gifts are approved, export licence coverage must be in place using the open licence for the export of dual-use goods by the Crown.

**Table 6.I** Equipment assessed against the Consolidated Criteria by the Government and approved to be gifted in 2016<sup>5</sup>

Country	End-User	Goods Description	Sponsoring HMG Department	Value £
Bulgaria	Bulgarian Interior Ministry	Defender Tithonus Land Rovers	MOD	£238,000
Iraq	Ministry of Peshmerga Affairs	Heavy machine guns and sniper ammunition	MOD	£1,164,500
Lebanon	Lebanese Armed Forces	Border observation post equipment, modular ballistic vests, ballistic plates, ballistic helmets, helmet covers, heavy duty equipment bags, combat trauma pouches fully stocked, medium size carabena (climbing gear), combat knee pads, under armour, tactical gloves, ballistic glasses, Close Quarter Battle rigger belts, Lebanon velcro flags, Lebanese Border Regiment patches	FCO	£5,835,115
Nigeria	United Nations Organisation for Humanitarian Affairs	Toyota Landcruiser 200 armoured vehicles.	DfID	£541,436
Oman	Ministry of Defence Oman	Challenger tank spare parts	MOD	£1,289,578
Somalia	Djibouti National Police Counter Terrorism Unit	IT server equipment	FCO	£66,935
Somalia	Somali Police Counter Terrorism Unit	Soft body armour with ceramic inserts, tactical ballistic helmets	FCO	£12,744
Syria	Syrian Civil Defence	Firing devices, thermal image cameras, de-armers (with slugs), thermite flares, Personal Protective Equipment apron, electric matches	FCO	£152,803
Syria	Free Syria Police	Personal issue incapacitant spray, explosive detectors	FCO	£110,000

<sup>5</sup> It should be noted that the table represents equipment assessed and approved to be gifted by the Government against the Consolidated Criteria. It does not represent definitively whether it resulted in the equipment being delivered.

# Section 7

## Government-to-Government Exports and Projects

### 7.1 Government to Government Exports

The Disposal Services Authority of the Ministry of Defence may dispose of certain military equipment that is surplus to the requirements of the UK Armed Forces. UK export licensing coverage for this is obtained either by industry or by the customer. Tables 7.I and 7.II give, by destination, the equipment type and quantity of such exports in 2016.

**Table 7.I Disposals to Foreign Armed Forces**

Country	Type of Equipment	Quantity*
Austria	Ammunition	12,660
Belgium	Ammunition via NATO Support Procurement Agency	25,000
Denmark	Lordless mounts	3 Kits
Gibraltar	Vehicle spare parts & misc	
Jordan	Cobra- counter battery radar system	5
Kenya	Vehicle spare parts & misc	
New Zealand	Pyrotechnics (various)	1,800
Norway	Sea King spare parts	
Norway	Culprit mine detectors	3

\* Where there is no quantity given this is due to the item consisting of spare parts.

**Table 7.II Other Overseas Transfers to Commercial Entities**

Country	Type of Equipment	Quantity
Turkey	HMS Illustrious (Dido Shipping Co)	1
Turkey	HMS Endurance (Dido Shipping Co)	1

## 7.2 Government to Government projects

The UK has a longstanding Government to Government defence cooperation programme with the Kingdom of Saudi Arabia, under which the UK has provided Typhoon, Tornado, and Hawk aircraft, mine countermeasure vessels, and associated munitions, infrastructure, logistics and manpower support packages. During 2016, the UK continued to provide support for equipment already in service and delivered Typhoon aircraft to the Royal Saudi Air Force under the arrangements for the eventual supply of 72 Typhoon aircraft.

The following table is a summary of the exports that arose in 2016 under projects supported by the Ministry of Defence Saudi Armed Forces Projects (MODSAP). All goods were exported under export licences obtained by industry. Where a Standard Individual Export Licence was issued, that information is included in the corresponding DIT Strategic Export Controls: Quarterly Report. The Government makes these reports available at: <https://www.gov.uk/government/collections/strategic-export-controls-licensing-data#quarterly-reports>

**Table 7.III Government-to-Government transfers of equipment to Saudi Arabia between 1 January and 31 December 2016**

Type of Equipment	Quantity
Typhoon aircraft and initial in-service support.	11
Component repair and re-provisioning, munitions and training support for aircraft and their systems.	-
Component repair and re-provisioning, and training support for naval vessels and their systems.	-
Missiles and missile launchers	186

# Annex A

## Export Controls: Process and Responsibilities

### A.1 Overview

A number of Government departments contribute to the UK's export controls system, including:

- Department for International Trade (DIT);
- Foreign & Commonwealth Office (FCO);
- Ministry of Defence (MOD);
- Department for International Development (DFID);
- Department for Business, Energy & Industrial Strategy (BEIS);
- National Cyber Security Centre (NCSC);
- Her Majesty's Revenue & Customs (HMRC);
- Border Force (BF);
- Crown Prosecution Service (CPS).

#### EXPORT LICENSING COMMUNITY JOINT MISSION STATEMENT

*"Promoting global security through strategic export controls, facilitating responsible exports"*

#### Guiding Principles

We shall implement effectively the UK's framework of strategic export controls, to ensure that sensitive goods and technology are kept out of the wrong hands, by assessing all export licence applications against the Consolidated EU & National Arms Export Licensing Criteria (known as the Consolidated Criteria). By doing so, we shall facilitate responsible defence exports, as these depend on a sound controls regime.

We shall administer the licensing system efficiently so that we keep the compliance burden on UK exporters to a minimum; for example, we shall:

- Using our case-by-case approach, ensure maximum predictability for exporters by taking decisions which are consistent with the Consolidated Criteria and our policy statements;
- Aim to meet our published performance indicators, which set us challenging targets for processing applications in a timely manner;
- Be transparent about our performance and operations, including publishing an Annual Report and quarterly Official Statistics;
- Establish a dialogue with exporters - our customers - to enable us to understand their concerns and to help them to understand our export control requirements. We shall support them in complying with the licensing process through services such as gov.uk online content and awareness-raising activities;
- Keep our licence products under review to ensure they remain appropriate as circumstances change; and measure our performance against others, capture best practice via our outreach visits with other licensing authorities and attendance at international export control seminars, and through feedback from UK industry.

Broadly speaking, export controls apply to:

- items that have been specially designed or modified for military use, including components;
- dual-use items (those that can be used for both civil or military purposes), including those listed under EC Regulation 428/2009 or on the UK Dual-Use List, as well as items caught by Military and Weapons of Mass Destruction (WMD) end-use controls;
- transfers of software and technology, including transfers by electronic means eg by email, and in some circumstances the provision of technical assistance, related to the above;
- goods that might be used for capital punishment, torture or internal repression; and
- items and activities which are destined for entities or persons subject to UN, EU, OSCE and UK sanctions and embargoes.

### A.2 UK export licensing authority

The Export Control Organisation (ECO), which is part of DIT, is the licensing authority for strategic exports in the UK. The Secretary of State for International Trade takes the formal decision to issue or refuse export licence applications and, where necessary, to suspend or revoke extant licences in accordance with the applicable legislation and announced policy.

The FCO, MOD, and DFID have advisory roles, providing ECO with advice and analysis on the foreign policy, human rights, defence, and international development policy aspects relevant to consideration of export licence applications against the Consolidated Criteria and other relevant policies. Compliance with international commitments and sanction regimes and respect for international humanitarian law in the country of final destination are also considered.

The National Cyber Security Centre (NCSC), part of GCHQ, is the Government's national technical authority for information security. It assesses goods involving sensitive communications or computer technology.

BEIS plays a key role in the Government's biological, chemical, and nuclear non-proliferation policy, for example, by making sure the Government continues to meet its obligations under the Chemical Weapons Convention (CWC). The Department assesses goods if there are proliferation concerns.

HMRC has responsibility for the enforcement of export and trade controls, as well as sanctions and embargoes. HMRC works with Border Force to prevent, detect, and investigate breaches. Any criminal prosecutions will be undertaken by the Central Fraud Group within the Crown Prosecution Service.

The Export Control Joint Unit (ECJU), established in July 2016, brings together operational and policy expertise from DIT's Export Control Organisation, FCO, and MOD, to facilitate better communications and more effective decision-making.

### A.3 Export control legislation

The statutory framework for export controls is set out in the Export Control Act 2002 (the 2002 Act). The 2002 Act and supporting secondary legislation were the culmination of efforts to address failings identified by Lord Scott in his 1996 *Report of the Inquiry into Export of Defence Equipment and Dual-Use Goods to Iraq and Related Prosecutions*. The 2002 Act includes powers to:

- impose controls on exports from the UK;
- impose controls on the transfer of technology from the UK and by UK persons anywhere by any means (other than by the export of goods);
- impose controls on the provision of technical assistance overseas;
- impose controls on the acquisition, disposal or movement of goods or on activities which facilitate such acquisition, disposal or movement (this is often referred to as trafficking and brokering or simply as "trade");
- apply measures in order to give effect to EU legislation on controls on dual-use items (ie items with a civil and potential military application).

There are restrictions on the imposition of these controls, which are specified in Section 5 of the Act. In particular, the 2002 Act sets out the purposes for which controls can be imposed, although controls may be applied in other circumstances, provided the Control Order imposing them expires within 12 months. The Act also specifies the Parliamentary procedures which must be followed in making secondary legislation, and requires the Secretary of State to publish guidance on the operation of the controls and to lay an Annual Report before Parliament.

The Secretary of State has made a number of individual Orders under the 2002 Act, which are now consolidated into the Export Control Order 2008 (SI 2008/3231) (the 2008 Order) which came into force on 6 April 2009, so that domestic legislation on strategic controls could be found in one place. As well as consolidating previous legislation, the 2008 Order also made some changes following the Government's 2007 post-implementation review of export control legislation. These changes were described in the 2009 Annual Report.

The 2008 Order is now the main piece of domestic export control legislation. It covers export and transfer controls (Part 2), technical assistance controls (Part 3) and trade ("trafficking and brokering") controls (Part 4). It deals



with licensing in Part 5. Part 6 sets out provisions for enforcement of the controls, including offences and penalties.

There are a number of important pieces of EU legislation applying directly to strategic export controls, where regulation of the export from the EU of these items falls within the EU's Common Commercial Policy. In some cases, elements of this legislation are implemented or supplemented by provisions of the 2008 Order. The most important EU legislation includes:

- Council Regulation (EC) 428/2009 for setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (the "Dual-Use Regulation") which sets out the rules for controlling exports from the EU, and transit and brokering, of items listed in Annex I (the "EU Dual-Use List") which is compiled from the control lists of the international export control regimes and the Chemical Weapons Convention; and sets out the rules for transfers within the EU of items listed in Annex IV. The Dual-Use Regulation also contains controls on non-listed items where they are, or may be, intended for use in connection with WMD or for certain military end-uses – the so-called WMD and Military End-Use controls. On 28 September 2016 the commission published its proposal for a modernisation of the EU export control system in the form of a recast of the existing regulations;
- Council Regulation (EU) No 258/2012, which establishes export authorisation, import and transit measures for firearms, their parts and components and ammunition, in respect of export from the customs territory of the Union to or through third countries. This Regulation sets out the prior approval procedures that need to be followed before export and transit licences can be granted. The Regulation also contains some simplified procedures for the temporary export or re-export of firearms that cover exports by sport shooters and hunters, and where the export or re-export is for the purpose of exhibition or repair. During 2017, in accordance with Article 21(3) of the Regulation, the Commission will carry out a review to consider the implementation of this Regulation;
- Council Regulation (EC) 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture, or other cruel, inhumane or degrading treatment or punishment (the "Torture Regulation");
- EU Decisions and Regulations giving effect to United Nations Security Council Resolutions in relation to sanctions against individual countries (e.g. Iran, Libya) and/or giving effect to EU sanctions against individual countries (e.g. Syria, Belarus).

There is also a body of EU internal market measures dealing with intra-EU trade in strategic goods:

- The Intra-Community Transfers (ICT) Directive 2009/43/EC covering the transfer of defence equipment within the EU aims to facilitate the movement of defence goods within the EU while recognising that such transfers must remain subject to national controls. The Directive provides Member States with simplified licensing options and promotes their use. Member States are required to publish at least four general licences: (i) to the armed forces of a Member State or a body purchasing on their behalf; (ii) to a certified company; (iii) for demonstration, evaluation or exhibition; and (iv) for maintenance and repair of previously-supplied items. The Directive provides for a system of certification for companies, as a confidence building measure, to ensure that companies exporting items to certified companies in other Member States under the Certified Company General Licence can be confident that end-users will have provisions in place to ensure compliance with any re-export type provisions. The provisions giving effect in the UK to the requirements of the Directive came into force on 10 August 2012 through an amendment to the Export Control Order 2008. During 2016, in accordance with Article 17 of the Directive, the Commission carried out a review to consider the implementation of the Directive across Member States. The Commission have published their evaluation:

<http://ec.europa.eu/DocsRoom/documents/20630/attachments/1/translations/en/renditions/native>

which is based on assessment of their detailed report:

<http://ec.europa.eu/DocsRoom/documents/20630/attachments/2/translations/en/renditions/native>

The Commission concluded that no amendment of the Directive was required. Instead, the Commission said that they would look to improve its implementation, produce guidance and recommendations as well as promoting use of the Directive.

- Council Directive 91/477/EEC on control of the acquisition and possession of weapons, as amended by Directive 2008/51/EC (the "Weapons Directive"). The Weapons Directive sets out simplified procedures for transfers of civilian firearms by sport shooters in possession of a European Firearms Pass (implemented through Article 15 of the 2008 Order) and for transfers between authorised dealers in different Member States (implemented through the "Dealer-to-Dealer" licence described in A.7 below). During 2016, prompted by the terrorist attacks in

Europe, a Commission proposal to amend this Directive has been discussed extensively with Member States with a provisional political agreement for an amendment agreed with the European Parliament and the Council. [http://europa.eu/rapid/press-release\\_IP-16-4464\\_en.htm](http://europa.eu/rapid/press-release_IP-16-4464_en.htm)

Where the powers of the Export Control Act 2002 are insufficient to give effect to international export control requirements – which occasionally happens in the context of UN or EU sanctions – it is possible to rely on the powers of the United Nations Act 1946 or, if the controls stem from EU legislation, Section 2(2) of the European Communities Act 1972.

UK legislation may be viewed at [www.legislation.gov.uk](http://www.legislation.gov.uk). EU legislation is published in the Official Journal of the European Union, which can be found at: <http://eur-lex.europa.eu/en/index.htm>

On 23 June 2016, the British people voted in a referendum to leave the EU. Until we have left the EU, the UK will remain a member of the EU with all of the rights and obligations that membership entails. We will continue to abide by the Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, which is implemented in the UK through the Consolidated EU & National Arms Export Licensing Criteria.

#### **A.4 Categories of items and activities subject to control**

In assessing applications for individual licences on the basis of the information supplied by the exporter, ECO officials will first determine whether or not the items are controlled and, if so, under which entry in the relevant legislation; the relevant alphanumeric entry is known as the “rating” of the items. Items and activities subject to control are as follows:

- Exports of items listed in Schedule 2 of the Export Control Order 2008 (the UK Military List). The rating will be of the format “MLxx” or “PL5xxx”;
- Exports of items listed in Schedule 3 of the Export Control Order 2008 (UK Dual-Use List). The rating will be of the format “PL800x” or “PL900x”;
- Trade activities as specified in Articles 20 to 25 of the Export Control Order 2008. The three risk-based categories of goods (A, B and C) are specified in Article 2 and Schedule 1 of the Export Control Order 2008, and “embargoed destinations” are specified in Parts 1 and 2 of Schedule 4 of the Export Control Order 2008;
- Exports of items listed in Annex I to Council Regulation (EC) 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (EU Dual-Use List). The

EU Dual-Use List is divided into 10 Categories (numbered 0 to 9) and 5 sub-Categories (denoted by A to E), with each unique item identified by at least a further 3-digit numeric code. The rating is therefore of the form 0A002 or 7E101;

- Brokering services for items listed in Annex I of the Dual-Use Regulation where the broker has been informed by the competent authorities of the EU Member State where the broker is established that the items are, or may be, intended for “WMD purposes”.<sup>6</sup> If the broker is aware of such an end-use, the broker must contact the relevant national authorities which will decide whether or not it is expedient to make the transaction subject to a licence;
- Items that the exporter has been told, knows or suspects are, or may be, intended for “WMD purposes”. This is the “WMD end-use” or “catch-all” control and goods controlled for these reasons are given the rating “End-Use”;
- The transfer of technology by any means is controlled where the person making the transfer knows, or has been made aware, that the technology is for “WMD purposes” outside the EU;
- The provision of technical assistance is controlled where the provider knows, or has been made aware, that the technical assistance will be used for “WMD purposes” outside the EU;
- Components or production equipment that the exporter has been told, knows or suspects are, or may be, intended for a military end-use<sup>7</sup> in a country subject to arms embargo, or for use as parts or components of military list items which have been exported in breach of United Kingdom export controls. This is the “Military End-Use” control and these items are given the rating “MEND;”
- On 23 November 2016, the EU adopted new rules concerning goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.
  - The list of these goods was most recently amended in July 2014 and the current versions of Annex II and Annex III can be found here: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0775>

<sup>6</sup> “WMD purposes” means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

<sup>7</sup> In other words:  
a: incorporation into military items listed in the military list;  
b: use of production, test or analytical equipment and components therefore, for the development, production or maintenance of military list items; or  
c: use of any unfinished products in a plant for the production of military list items.

- The newly revised EU rules are contained in Regulation (EU) 2016/2134 of the European Parliament and of the Council: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R2134> amending Council Regulation (EU) No. 1236/2005: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32005R1236> concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.
- As a result of these changes there are new prohibitions on:
  - i. Transit within the customs territory of the EU of Annex II goods and, in certain circumstances, Annex III and Annex IIIa goods.
  - ii. The provision of brokering services related to Annex II goods.
  - iii. The provision of training related to Annex II goods.
  - iv. The display or offering for sale of any Annex II goods at an exhibition or fair taking place within the EU (unless such display/sale does not promote the sale or supply of the goods to a person or entity in a third country).
  - v. The sale or purchase of advertising time or space for Annex II goods
- In addition, the new legislation allows for:
  - i. More flexible licensing of Annex III goods as they may have legitimate uses.
  - ii. More flexible licensing of drugs primarily used in medicines but which are controlled because they may potentially be used for execution by lethal injection; such goods were previously listed under Annex III and are now listed in a separate Annex IIIa.
  - iii. A new European Union General Export Authorisation (or "EU GEA"), which is a pre-published form of licence, to all destinations that have prohibited capital punishment. This licence is contained in the new Annex IIIb of the Regulation.
  - iv. The option to grant a 'global authorisation' for repeat exports of Annex III and Annex IIIa goods (which are referred to as Open Individual Export Licences (OIEL) under the UK's export control procedures).

Where an item or activity is controlled, the exporter or trader must apply to ECO for an export or trade control licence.

#### **A.5 Assessment of export licence applications**

The Export Control Act 2002 requires the Secretary of State to publish guidance on the operation of the controls. The main guidance applying in 2016 was the Consolidated EU & National Arms Export Licensing Criteria (known as the Consolidated Criteria), first announced to Parliament on 26 October 2000 by the then Minister of State for Foreign and Commonwealth Affairs, the Rt Hon Peter Hain MP, and updated on 25 March 2014 by the then Secretary of State for Business, Innovation and Skills, the Rt Hon Vince Cable MP. This sets out eight criteria against which export licence applications (ELA) are assessed.

The Consolidated Criteria are not applied mechanistically; rather, each application is assessed on a case-by-case basis taking into account all the relevant facts and circumstances of that particular case. A licence would not be granted if doing so would be a breach of the Criteria. The full text of the updated Consolidated Criteria as announced to Parliament in March 2014 is given in Section A.9.

On 8 December 2008, the EU adopted Common Position 944/2008/CSFP defining common rules governing the control of exports of military technology and equipment. The Common Position replaces the Code of Conduct on control of exports of military technology and equipment agreed in 1991 and 1992. It establishes that each Member State must assess, on a case-by-case basis, the export licence applications made to it for items on the EU Common Military List, and for dual-use items where "there are serious grounds for believing that the end-user is the armed forces or internal security forces in the recipient country." There are only minor differences between the eight criteria of the Common Position and the Consolidated Criteria. The Common Position does not prevent Member States from adopting more restrictive policies. The UK, for instance, applies the Common Position to both military and dual use goods.

From time to time other policies are announced to Parliament. Examples include the Written Ministerial Statements of 9 February and 6 July 2012 by the then Parliamentary Under Secretary at the Foreign and Commonwealth Office, the Rt Hon Alastair Burt MP, regarding export of TASER stun guns; and the Written Ministerial Statement of 26 April 2012 by the then Secretary of State for Business, Innovation and Skills, the Rt Hon Dr Vincent Cable MP, regarding the export and trade of controlled goods to Argentina.

## A.6 Strategic export licence application process

Applications for Export, Trade (“brokering”), or Transshipment Licences for strategically controlled goods are submitted electronically to ECO via the SPIRE licensing database. Other Government Departments are then consulted as appropriate before a decision is reached on whether to issue or refuse a licence.

The FCO licensing team in ECJU conducts a case-by-case risk assessment of each application, taking account of the possible uses of the equipment to be exported, the destination country, and the end-user. Detailed political and human rights reporting and advice is sought as necessary from other FCO departments and the FCO’s network of diplomatic posts overseas. Finely balanced and sensitive applications are referred to FCO Ministers for a final recommendation.

MOD advice on export licence applications similarly reflects the results of an internal case-by-case risk assessment process that brings together advice from a number of areas. This involves seeking the views of those responsible for protecting the capability of the UK’s Armed Forces and specialists from the security and intelligence fields. Separately, MOD coordinates a security procedure (the MOD Form 680 process) for the Government to control the release of classified equipment or information to foreign entities. Generally, the same advisers that consider export licence applications assess MOD Form 680 applications.

DFID considers a financial threshold for each country it assesses, with reference to a series of development indicators to high-value export licence applications against Criterion Eight, (ie whether the proposed export would seriously undermine the recipient country’s economy and whether the export would seriously hamper the sustainable development of the recipient country). DFID may also ask to see applications in respect of other countries of concern, as the Department has a significant interest in exports that might contribute to conflict or human rights violations.

Further detail on the role of different departments in making assessments against the Consolidated Criteria are given in the table below:

### Criterion 1

When assessing an Export Licence Application (ELA) under Criterion One, the International Organisations Department at the FCO is consulted to confirm whether the country of final destination is currently subject to any embargoes or other relevant commitments.

### Criterion 2

When assessing an ELA under Criterion Two, British Diplomatic Posts, Geographical Desks, Legal Advisers and the Human Rights & Democracy Department at the FCO are consulted on whether the end destination of a proposed export is of concern.

### Criterion 3

When assessing an ELA under Criterion Three, British Diplomatic Posts and Geographical Desks at the FCO are consulted to assess the risk of a potential export provoking or prolonging armed conflict or aggravating existing tensions or conflicts in the country of final destination.

### Criterion 4

When assessing an ELA under Criterion Four, the views from staff at the British Diplomatic Post(s) in the country of destination and Geographical Desks at the FCO are sought to assess the peace, security and stability of the region.

### Criterion 5

When assessing an ELA under Criterion Five, the MOD is consulted to consider whether a proposed export could have an impact on the security of the UK, UK assets overseas, and the security of allies, EU member states and other friendly countries.

### Criterion 6

When assessing an ELA under Criterion Six, the FCO is consulted to assess the behaviour of the buyer country with regard to the international community, in particular its attitude to terrorism, the nature of its alliances and respect for international law.

### Criterion 7

When assessing an ELA under Criterion Seven, the MOD and FCO are consulted on whether the proposed export could have a military end-use or if there are concerns about the military capabilities of the importing country. An assessment is also made of whether the goods could be diverted to an undesirable end-user in either the importing country or in another state.

### Criterion 8

When assessing an ELA under Criterion Eight, DFID is consulted to establish if the importing country is on the World Bank’s International Development Association list (see Annex C), and the value of the application exceeds the threshold set by the Criterion Eight methodology. DFID then considers the potential impact of the proposed export on the sustainable development of the recipient country.

## A.7 Types of licence

The types of licence available are the:

- Standard Individual Export Licence (SIEL);
- Open Individual Export Licence (OIEL);
- Open General Export Licence (OGEL);
- Standard Individual Trade Control Licence (SITCL);
- Open Individual Trade Control Licence (OITCL);
- Open General Trade Control Licence (OGTCL);
- Standard Individual Transshipment Licence (SITL);
- Open General Transshipment Licence (OGTL).

This section gives a general description of these different types of licence.

**SIELs** generally allow shipments of specified items to a specified consignee up to the quantity specified by the licence. Where the export will be permanent, SIELs are generally valid for two years or until the quantity specified has been exported, whichever occurs first. Where the export is temporary, for example for the purposes of demonstration, trial or evaluation, a SIEL is generally valid for one year only and the items must be returned to the UK before the licence expires.

**OIELs** are licences that are specific to an individual exporter and cover multiple shipments of specified items to specified destinations and/or, in some cases, specified consignees. OIELs are generally valid for a period of five years. The exceptions are OIELs for the transfer of military items to destinations in other EU Member States, which are valid for three years but may be renewed at the exporter's request; and "Dealer-to-Dealer" OIELs which allow firearms dealers to export certain categories of firearms and ammunition solely to other gun dealers in the EU and which are valid for three years. It should be noted that the rejection of an application for an OIEL, amendment to exclude particular destinations and/or items, or the revocation of an OIEL, does not prevent a company from applying for SIELs covering some or all of the items concerned to specified consignees in the relevant destinations. The factors that led to the original decision on the OIEL would be taken into account in the decision on any such SIEL application.

**OGELs** are pre-published licences that permit the export of specified controlled goods by any qualifying company or person, removing the need for exporters to apply for an individual licence, provided the shipment and destinations are eligible under the OGEL and that the terms and conditions set out in the licence are met. Most OGELs require the exporter to register with ECO in advance of using an OGEL, and the licence holders are subject to compliance visits from ECO to ensure that

all the conditions are being met. Failure to meet the conditions can result in the exporter's ability to use the licence being withdrawn. All OGELs are published on the [www.gov.uk](http://www.gov.uk) website. There are also six EU General Export Authorisations (EUGEAs) under the dual use regulations. These permit the export from the EU of certain specified dual-use items to specified destinations, subject to the terms and conditions of the licences. They are equivalent to OGELs and are available for use by any exporter in the EU. The EUGEAs are contained in Annexes II(a) to II(f) of the Dual-Use Regulation. OGELs generally remain in force until they are revoked. There is also one EUGEA under the regulations for goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

A **SITCL** is specific to a named trader and covers involvement in the trading of a specified quantity of specific goods between a specified overseas source country, and between a specified consignor, consignee and end-user in an overseas destination country. SITCLs will normally be valid for two years. Upon expiry, either by time or because the activity has taken place, the licence ceases to be valid. Should further similar activity need to take place, a further licence must be applied for. Trade Controls only apply to Category A, B and C goods as specified in Article 2 and Schedule 1 of the Export Control Order 2008. They do not apply to software and technology.

An **OITCL** is specific to a named trader and covers involvement in the trading of specific goods between specified overseas sources and overseas destination countries and/or specified consignor(s), consignee(s) and end-user(s). OITCLs are generally valid for two years. It should be noted that the refusal of an application for an OITCL, amendment to exclude particular destinations and/or items, or the revocation of an OITCL, does not prevent a company from applying for SITCLs covering some or all of the items concerned to specified consignees in the relevant destinations. The factors that led to the original decision on the OITCL would be taken into account in the decision on any such SITCL application.

An **OGTCL** is a pre-published licence that permits the supply of specified goods from specified source countries to specified destination countries, subject to the specific terms and conditions of the licence. There are currently four OGTCLs<sup>8</sup>.

<sup>8</sup> The four are, Open General Trade Control Licence (Category C Goods), Open General Trade Control Licence (Trade and Transportation: Small Arms and Light Weapons), Open General Trade Control Licence (Insurance or Re-Insurance) and Open General Trade Control Licence (Maritime Anti-Piracy). Details of these can be found at: <https://www.gov.uk/government/collections/open-general-export-licences-ogels>



A licence is not required for the majority of controlled goods being transhipped through the UK en route from one country to another **pre-determined** destination as these are exempt from control provided the conditions set out in Article 17 of the 2008 Order are met. Where these conditions cannot be met, a transshipment licence will be required. A transshipment may be made under the provisions of one of the Open General Transshipment Licences (OGTLs) provided that, in all cases, the relevant licence conditions are met including **goods or destinations restrictions**. If the OGTL cannot be used, a SITL must be applied for (there is no Open Individual Transshipment Licence).

#### **A.8 Enforcement by HM Revenue & Customs (HMRC), Border Force and Crown Prosecution Service (CPS)**

HMRC, Border Force, and the CPS work together to enforce the Government's strategic export controls.

##### **HMRC**

HMRC is the UK Customs authority and is responsible for the enforcement of strategic export controls and trade sanctions.

HMRC has a team that develops and manages strategic export controls, trade controls and sanctions enforcement policy, as well as liaising with the wider cross-Government counter-proliferation community. HMRC also has two specialist operational teams carrying out criminal investigations and intelligence management in this area. Checks on intra-EU transfers of controlled goods, customs export declarations, and supporting documentation for exports from the UK, are conducted by HMRC staff at the National Clearance Hub (NCH).

UK exporters are audited by HMRC staff from the Large Business and the Individual and Small Business Compliance (ISBC) functions.

HMRC assesses any breach of strategic export controls and takes a range of enforcement actions based on the factors surrounding each individual case. HMRC pursues investigation with a view to prosecution in cases where serious and/or deliberate breaches of export controls occur. These may include cases involving deliberate exports to sensitive destinations, or involving particularly sensitive goods, or other aggravating circumstances, for example repeat offences.

These types of case will be referred to the CPS, who will determine whether there is sufficient evidence to prosecute, and whether prosecution is in the public interest. Other compliance action may include:

- Offering a compound penalty as an alternative to prosecution;
- Restoring goods for a fee; and/or
- Issuing a warning letter.

In addition, HMRC investigates breaches of trade controls where restricted or controlled goods have been moved from one third country to another without a trade license. Such breaches may involve businesses or individuals operating in the UK, or UK nationals operating anywhere in the world.

##### **Border Force**

Border Force has responsibility for anti-smuggling checks at the UK border. To achieve this, Border Force conducts an extensive range of checks on people and freight entering and leaving the UK, including the physical examination of cargo.

Strategic export controls continue to feature as a very high priority in the Border Force Control Strategy. Border Force officers have been trained to detect the illicit export of military and dual-use goods and will detain, disrupt and seize unlicensed or sanctions-breaching goods. These seizures and disruptions may result in criminal investigations by HMRC, depending on the circumstances.

##### **CPS**

The CPS is an independent prosecuting authority reporting directly to the Attorney General. Specialist CPS prosecutors are responsible for prosecuting cases referred to it by HMRC in respect of export and trade controls or sanctions breaches.

#### **A.9 Consolidated EU & National Arms Export Licensing Criteria (the Consolidated Criteria)**

The Government's policy on the Consolidated Criteria was first set out to Parliament on 26 October 2000 by the then Minister of State for Foreign and Commonwealth Affairs, the Rt Hon Peter Hain MP (Official Report, Column 200W). An updated version of the Consolidated Criteria was announced to Parliament on 25 March 2014 by Written Ministerial Statement by the then Secretary of State for Business, Innovation and Skills, the Rt Hon Vince Cable MP:

## WRITTEN MINISTERIAL STATEMENT

RT HON DR VINCE CABLE, SECRETARY OF STATE  
FOR BUSINESS, INNOVATION AND SKILLS;  
DEPARTMENT FOR BUSINESS INNOVATION AND  
SKILLS

### THE CONSOLIDATED EU AND NATIONAL ARMS EXPORT LICENSING CRITERIA

25 MARCH 2014

The UK's defence industry can make an important contribution to international security, as well as provide economic benefit to the UK. The legitimate international trade in arms enables governments to protect ordinary citizens against terrorists and criminals, and to defend against external threats. The Government remains committed to supporting the UK's defence industry and legitimate trade in items controlled for strategic reasons. But we recognise that in the wrong hands, arms can fuel conflict and instability and facilitate terrorism and organised crime. For this reason it is vital that we have robust and transparent controls which are efficient and impose the minimum administrative burdens in order to enable the defence industry to operate responsibly and confidently.

The Government's policy for assessing applications for licences to export strategic goods and advance approvals for promotion prior to formal application for an export licence was set out on behalf of the then Foreign Secretary on 26 October 2000, Official Report, column 199W. Since then there have been a number of significant developments, including:

- The entry into force of the Export Control Act 2002;
- The application of controls to electronic transfers of software and technology and to trade (brokering) in military goods between overseas destinations;
- The adoption by the EU of Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment;
- Further development of EU export control law, including: the adoption of Council Regulation (EC) 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment; Directive 2009/43/EC of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community; and the re-cast Council Regulation (EC) 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;
- The adoption by the UN General Assembly on 2 April 2013 of an international Arms Trade Treaty, which the Government signed on 3 June 2013.

The Government believes that the procedures for assessing licence applications and our decision-making processes are robust and have stood the test of time. We also believe that the eight criteria continue to adequately address the risks of irresponsible arms transfers and are fully compliant with our obligations under the EU Common Position and the Arms Trade Treaty. Nevertheless it is appropriate to update these criteria in light of developments over the last 13 years. In particular: the list of international obligations and commitments in Criterion 1 has been updated; there is explicit reference to international humanitarian law in Criterion 2; and the risk of reverse engineering or unintended technology transfer is now addressed under Criterion 7 rather than Criterion 5. There are also minor changes to improve the clarity and consistency of the language used throughout the text. None of these amendments should be taken to mean that there has been any substantive change in policy.

These criteria will be applied to all licence applications for export, transfer, trade (brokering) and transit/transshipment of goods, software and technology subject to control for strategic reasons (referred to collectively as "items"); and to the extent that the following activities are subject to control, the provision of technical assistance or other services related to those items. They will also be applied to MOD Form 680 applications and assessment of proposals to gift controlled equipment.

As before, they will not be applied mechanistically but on a case-by-case basis taking into account all relevant information available at the time the licence application is assessed. While the Government recognises that there are situations where transfers must not take place, as set out in the following criteria, we will not refuse a licence on the grounds of a purely theoretical risk of a breach of one or more of those criteria. In making licensing decisions I will continue to take into account advice received from FCO, MOD, DFID, and Other Government Departments and agencies as appropriate. The Government's Strategic Export Controls Annual Reports will continue to provide further detailed information regarding policy and practice in strategic export controls.

The application of these criteria will be without prejudice to the application to specific cases of specific criteria as may be announced to Parliament from time to time; and will be without prejudice to the application of specific criteria contained in relevant EU instruments.

This statement of the Consolidated Criteria is guidance given under section 9 of the Export Control Act. It replaces the Consolidated Criteria announced to Parliament on 26 October 2000.

## CRITERION ONE

*Respect for the UK's international obligations and commitments, in particular sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.*

The Government will not grant a licence if to do so would be inconsistent with, inter alia:

- a. The UK's obligations and its commitments to enforce United Nations, European Union and Organisation for Security and Cooperation in Europe (OSCE) arms embargoes, as well as national embargoes observed by the UK and other commitments regarding the application of strategic export controls;
- b. The UK's obligations under the United Nations Arms Trade Treaty;
- c. The UK's obligations under the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention;
- d. The UK's obligations under the United Nations Convention on Certain Conventional Weapons, the Convention on Cluster Munitions (the Oslo Convention), the Cluster Munitions (Prohibitions) Act 2010, and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the Ottawa Convention) and the Land Mines Act 1998;
- e. The UK's commitments in the framework of the Australia Group, the Missile Technology Control Regime, the Zangger Committee, the Nuclear Suppliers Group, the Wassenaar Arrangement and The Hague Code of Conduct against Ballistic Missile Proliferation;
- f. The OSCE Principles Governing Conventional Arms Transfers and the European Union Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

## CRITERION TWO

*The respect for human rights and fundamental freedoms in the country of final destination as well as respect by that country for international humanitarian law.*

Having assessed the recipient country's attitude towards relevant principles established by international human rights instruments, the Government will:

- a. Not grant a licence if there is a clear risk that the items might be used for internal repression;
- b. Exercise special caution and vigilance in granting licences, on a case-by-case basis and taking account of the nature of the equipment, to countries where serious violations of human rights have been established by the competent bodies of the UN, the Council of Europe or by the European Union;
- c. Not grant a licence if there is a clear risk that the items might be used in the commission of a serious violation of international humanitarian law.

For these purposes items which might be used for internal repression will include, inter alia, items where there is evidence of the use of these or similar items for internal repression by the proposed end-user, or where there is reason to believe that the items will be diverted from their stated end-use or end-user and used for internal repression.

The nature of the items to be transferred will be considered carefully, particularly if they are intended for internal security purposes. Internal repression includes, inter alia, torture and other cruel, inhuman and degrading treatment or punishment; summary or arbitrary executions; disappearances; arbitrary detentions; and other major violations of human rights and fundamental freedoms as set out in relevant international human rights instruments, including the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

In considering the risk that items might be used for internal repression or in the commission of a serious violation of international humanitarian law, the Government will also take account of the risk that the items might be used to commit gender-based violence or serious violence against women or children.

## CRITERION THREE

*The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.*

The Government will not grant a licence for items which would provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination.



#### CRITERION FOUR

*Preservation of regional peace, security and stability.*

The Government will not grant a licence if there is a clear risk that the intended recipient would use the items aggressively against another country, or to assert by force a territorial claim.

When considering these risks, the Government will take into account, inter alia:

- a. The existence or likelihood of armed conflict between the recipient and another country;
- b. A claim against the territory of a neighbouring country which the recipient has in the past tried or threatened to pursue by means of force;
- c. The likelihood of the items being used other than for the legitimate national security and defence of the recipient;
- d. The need not to affect adversely regional stability in any significant way, taking into account the balance of forces between the states of the region concerned, their relative expenditure on defence, the potential for the equipment significantly to enhance the effectiveness of existing capabilities or to improve force projection, and the need not to introduce into the region new capabilities which would be likely to lead to increased tension.

#### CRITERION FIVE

*The national security of the UK and territories whose external relations are the UK's responsibility, as well as that of friendly and allied countries.*

The Government will take into account:

- a. The potential effect of the proposed transfer on the UK's defence and security interests or on those of other territories and countries as described above, while recognising that this factor cannot affect consideration of the criteria on respect of human rights and on regional peace, security and stability;
- b. The risk of the items being used against UK forces or against those of other territories and countries as described above;
- c. The need to protect UK military classified information and capabilities.

#### CRITERION SIX

*The behaviour of the buyer country with regard to the international community, as regards in particular to its attitude to terrorism, the nature of its alliances and respect for international law.*

The Government will take into account, inter alia, the record of the buyer country with regard to:

- a. Its support for or encouragement of terrorism and international organised crime;
- b. Its compliance with its international commitments, in particular on the non-use of force, including under international humanitarian law applicable to international and non-international conflicts;
- c. Its commitment to non-proliferation and other areas of arms control and disarmament, in particular the signature, ratification and implementation of relevant arms control and disarmament instruments referred to in criterion one.

#### CRITERION SEVEN

*The existence of a risk that the items will be diverted within the buyer country or re-exported under undesirable conditions.*

In assessing the impact of the proposed transfer on the recipient country and the risk that the items might be diverted to an undesirable end-user or for an undesirable end-use, the Government will consider:

- a. The legitimate defence and domestic security interests of the recipient country, including any involvement in United Nations or other peace-keeping activity;
- b. The technical capability of the recipient country to use the items;
- c. The capability of the recipient country to exert effective export controls;
- d. The risk of re-export to undesirable destinations and, as appropriate, the record of the recipient country in respecting re-export provisions or consent prior to re-export;
- e. The risk of diversion to terrorist organisations or to individual terrorists;
- f. The risk of reverse engineering or unintended technology transfer.

## CRITERION EIGHT

*The compatibility of the transfer with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defence with the least diversion for armaments of human and economic resources.*

The Government will take into account, in the light of information from relevant sources such as United Nations Development Programme, World Bank, IMF and Organisation for Economic Cooperation and Development reports, whether the proposed transfer would seriously undermine the economy or seriously hamper the sustainable development of the recipient country.

The Government will consider in this context the recipient country's relative levels of military and social expenditure, taking into account also any EU or bilateral aid, and its public finances, balance of payments, external debt, economic and social development and any IMF- or World Bank-sponsored economic reform programme.

## OTHER FACTORS

Article 10 of the EU Common Position specifies that Member States may, where appropriate, also take into account the effect of proposed exports on their economic, social, commercial and industrial interests, but that these factors will not affect the application of the criteria in the Common Position.

The Government will thus continue when considering licence applications to give full weight to the UK's national interest, including:

- a. The potential effect on the UK's economic, financial and commercial interests, including our long-term interests in having stable, democratic trading partners;
- b. The potential effect on the UK's international relations;
- c. The potential effect on any collaborative defence production or procurement project with allies or EU partners;
- d. The protection of the UK's essential strategic industrial base.

In the application of the above criteria, account will be taken of reliable evidence, including for example, reporting from diplomatic posts, relevant reports by international bodies, intelligence and information from open sources and non-governmental organisations.

# Annex B

## International Commitments Including Sanctions Regimes

**Table B.I**

The following table lists the Government's non-proliferation commitments and their areas of coverage. The list also includes UK international commitments due to membership of organisations involved directly in export controls.

Areas of coverage	Commitment
Nuclear	<ul style="list-style-type: none"> <li>• Treaty on the Non-Proliferation of Nuclear Weapons</li> <li>• The Zangger Committee</li> <li>• Nuclear Suppliers Group</li> </ul>
Chemical and Biological	<ul style="list-style-type: none"> <li>• The Chemical Weapons Convention</li> <li>• The Biological and Toxin Weapons Convention</li> <li>• The Australia Group</li> <li>• The Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (known as the 1925 Geneva Protocol)</li> </ul>
Weapons of Mass Destruction Delivery Systems	<ul style="list-style-type: none"> <li>• The Missile Technology Control Regime</li> </ul>
Conventional Weapons	<ul style="list-style-type: none"> <li>• The Wassenaar Arrangement On Export Controls for Conventional Arms and Dual-Use Goods and Technologies</li> <li>• The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (known as the Ottawa Treaty)</li> <li>• The UN Convention on Certain Conventional Weapons</li> <li>• The Convention on Cluster Munitions (known as the Oslo Treaty)</li> <li>• The Arms Trade Treaty</li> <li>• The UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects</li> </ul>
Other Organisations involved directly in Strategic Export Controls	<ul style="list-style-type: none"> <li>• United Nations (UN), including the UN Security Council (UNSC)</li> <li>• G7</li> <li>• European Union (EU)</li> <li>• Organisation for Security and Co-operation in Europe (OSCE)</li> </ul>

**Table B.II**

The following table shows countries, territories and individuals which are subject to UN, EU, OSCE and other restrictions on the export of items. This is provided for information only; anyone involved in export will need to seek information to ensure they are aware of all relevant restrictions. Further information is available online at: <https://www.gov.uk/sanctions-embargoes-and-restrictions>

Country	Source	Instrument
Al-Qaeda	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1333 (2000), 1363 (2001), 1390 (2002), 1822 (2008), 1989 (2011), 1904 (2009), 2083 (2012), 2161 (2014), 2170 (2014), 2178 (2014), and 2199 (2015).</li> <li>Common Position 2022/402/CFSP, as amended.</li> <li>Council Regulation (EC) No 2002/881, as amended.</li> </ul>
Afghanistan	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1988 (2011), 2082 (2012), and 2160 (2014).</li> <li>Council Decision 2011/486/CFSP, as amended.</li> <li>Council Regulation (EU) No 753/2011, as amended.</li> </ul>
Armenia & Azerbaijan	OSCE	<ul style="list-style-type: none"> <li>Decision of the Committee of Senior Officials of the OSCE 28/02/92.</li> </ul>
Belarus	EU	<ul style="list-style-type: none"> <li>Council Decision 2012/642/CFSP, as amended.</li> <li>Council Regulation (EC) No 765/2006, as amended.</li> </ul>
Burma	EU	<ul style="list-style-type: none"> <li>Council Decision 2013/184/CFSP, as amended.</li> <li>Council Regulation (EU) No 401/2013, as amended.</li> </ul>
Central African Republic	UN EU	<ul style="list-style-type: none"> <li>UNSCR 2127 (2013), 2134 (2014), 2262 (2016), and 2239 (2017).</li> <li>Council Decision 2013/798/CFSP, as amended.</li> <li>Council Regulation (EU) No 224/2014, as amended.</li> </ul>
China	EU	<ul style="list-style-type: none"> <li>Declaration by the Madrid European Council 27/06/89.</li> </ul>
Democratic People's Republic of North Korea	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1718 (2006), 1874 (2009), 2087 (2013) 2094 (2013), 2270 (2016), and 2321 (2016)</li> <li>Council Decision 2016/849/CFSP, as amended.</li> <li>Council Regulation (EC) No 329/2007, as amended.</li> </ul>
Democratic Republic of Congo	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1493 (2003), 1596 (2005), and 1807 (2008). Most recently renewed by UNSCR 2198 (2015).</li> <li>Council Decision 2010/788/CFSP, as amended.</li> <li>Council Regulation (EC) No 889/2005, as amended.</li> </ul>
Eritrea	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1907 (2009), 2023 (2011), 2060 (2012), 2111 (2013), and 2317 (2016).</li> <li>Council Decision 2010/127/CFSP, as amended.</li> <li>Council Regulation (EU) No 667/2010, as amended.</li> </ul>
Guinea	EU	<ul style="list-style-type: none"> <li>Council Decision 2010/638/CFSP, as amended.</li> <li>Council Regulation (EU) No 1284/2009, as amended.</li> </ul>
Iran (Nuclear)	EU	<ul style="list-style-type: none"> <li>Council Decision 2010/413/CFSP, as amended.</li> <li>Council Regulation (EU) No 267/2012, as amended.</li> </ul>
Iran (Human Rights)	EU	<ul style="list-style-type: none"> <li>Council Decision 2011/235/CFSP, as amended.</li> <li>Council Regulation (EU) No 359/2011, as amended.</li> </ul>
Iraq	UN EU	<ul style="list-style-type: none"> <li>UNSCR 661 (1990), 1483 (2003), and 1546 (2004).</li> <li>Common Position 2003/495/CFSP, as amended.</li> <li>Council Regulation (EC) No 1210/2003, as amended.</li> </ul>

Country	Source	Instrument
Lebanon	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1701 (2006).</li> <li>Common Position 2006/625/CFSP.</li> <li>Council Regulation (EC) No 1412/ 2006, as amended.</li> </ul>
Libya	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1970 (2011), 1973 (2011), 2009 (2011), 2040 (2012), 2095 (2013), and 2174 (2014).</li> <li>Council Decision 2011/137/CFSP, as amended.</li> <li>Council Regulation (EU) No 204/2011, as amended.</li> </ul>
Russian Federation	EU	<ul style="list-style-type: none"> <li>Council Decision 2014/512/CFSP, as amended</li> <li>Council Regulation (EU) No 833/2014, as amended.</li> </ul>
Somalia	UN EU	<ul style="list-style-type: none"> <li>UNSCR 733 (1992), 1356 (2001), 1425 (2002), 1744 (2007), 1772 (2007), 1844 (2008), 1846 (2008), 1851 (2008), 2036 (2012), 2093 (2013), 2111 (2013), 2142 (2013), 2244 (2015), and 2317 (2016).</li> <li>Council Decision 2010/231/CFSP, as amended.</li> <li>Council Regulation (EC) No 147/2003, as amended.</li> <li>Council Regulation (EU) No 356/2010, as amended.</li> </ul>
South Sudan	EU	<ul style="list-style-type: none"> <li>UNSCR 2206 (2015)</li> <li>Council Decision 2015/740/CFSP, as amended.</li> <li>Council Regulation (EU) No 735/2015, as amended.</li> </ul>
Sudan	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1556 (2004), 1591 (2005) and 1945 (2010).</li> <li>Council Decision 2014/450/CFSP.</li> <li>Council Regulation (EU) No 747/2014.</li> </ul>
Syria	EU	<ul style="list-style-type: none"> <li>Council Decision 2013/255/CFSP, as amended.</li> <li>Council Regulation (EU) 36/2012, as amended.</li> </ul>
Ukraine	EU	<ul style="list-style-type: none"> <li>Council Decision 2014/386/CFSP, as amended.</li> <li>Council Regulation (EU) No 692/2014, as amended.</li> </ul>
Yemen	UN	<ul style="list-style-type: none"> <li>UNSCR 2216 (2015)</li> <li>Council Decision (CFSP) 2015/882</li> </ul>
Zimbabwe	EU	<ul style="list-style-type: none"> <li>Council Decision 2011/101/CFSP, as amended.</li> <li>Council Regulation (EC) No 314/2004, as amended.</li> </ul>

- In addition, Government policy has been to take into account the moratorium by the Economic Community of West African States (ECOWAS) on the import, export and manufacture of small arms and light weapons when considering licence applications to export small arms and light weapons to ECOWAS Member States (Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo). The ECOWAS moratorium applies to pistols, rifles, shotguns, sub-machine guns, carbines, machine guns, anti-tank missiles, mortars and howitzers up to 85mm, as well as ammunition and spare parts for the above. The moratorium was declared on 1 November 1998 and a code of conduct on its implementation was agreed on 24 March 1999.

# Annex C

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## Additional Information

Prior to 2014, the Government's returns to the **EU Annual Report on Arms Exports** and the **UN Register of Conventional Arms** were published in this Report.

In line with a cross-Government drive for efficiencies, we no longer reproduce these returns in this Report as the EU and UN bodies place all the information that the Government provides in the public domain through their websites.

- **EU Annual Reports on Arms Exports** are available online through the following link:  
[https://eeas.europa.eu/headquarters/headquarters-homepage/8465/arms-export-control\\_en#Common+Position+on+arms+export+controls](https://eeas.europa.eu/headquarters/headquarters-homepage/8465/arms-export-control_en#Common+Position+on+arms+export+controls)
- **The UN Register of Conventional Arms** is available online through the following link:  
<http://www.un.org/disarmament/convarms/Register/>
- **A List of International Development Association Eligible Countries** is available through the following link:  
<http://ida.worldbank.org/about/borrowing-countries>

NB The Department for International Development (DFID) does not use the World Bank list to assess countries against Criterion 8, but applications may come through to them from all countries who are on the World Bank list for the International Development Association, the part of the World Bank that helps the world's poorest countries, and which is overseen by 173 shareholder nations.

DFID considers high-value licences for the poorest countries. A financial threshold is set for each country with reference to a series of development indicators. DFID improved the data and indicators used to calculate the Criterion 8 thresholds by excluding countries considered particularly low risk from the analysis. This has allowed DFID to focus on the higher risk licences in greater detail.