

# **United Kingdom Strategic Export Controls Annual Report 2018**

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# Contents

<b>Foreword</b>	<b>1</b>
<b>Section One – Export licensing process and basics</b>	<b>2</b>
<b>Section Two – Export licensing data</b>	<b>9</b>
<b>Section Three – EU/UK legislation and Brexit</b>	<b>20</b>
<b>Section Four – Court of Appeal judgment about military exports to Saudi Arabia</b>	<b>23</b>
<b>Section Five – Outreach to industry and stakeholders</b>	<b>24</b>
<b>Section Six – UK support to Allies and partners</b>	<b>26</b>
<b>Section Seven – International policy developments</b>	<b>29</b>
<b>Section Eight – Compliance and enforcement</b>	<b>34</b>
<b>Section Nine – Case studies</b>	<b>37</b>
<b>Annex A – Consolidated EU &amp; National Arms Export Licensing Criteria</b>	<b>40</b>

# Foreword

This is the 22nd edition of the UK Government's Annual Report on Strategic Export Controls. The report provides details of strategic export controls policy and export licensing decisions for the period January to December 2018.

Robust and effective export controls are vital to safeguard Britain's national security, to uphold our values and to strengthen our prosperity by enabling responsible British exports. In 2018 we continued to face complex challenges in export licensing, with ongoing conflict in the Middle East, continued cyber, non-state actor and other threats, and concern over internal repression and human rights violations. Sanctions regimes were strengthened, with further restrictions on dual-use items to Myanmar, and renewed sanctions on Russia. We also took measures to ensure that export controls will continue to work effectively after the UK leaves the European Union.

The UK is committed to safeguarding Britain's national security by countering the transfer of illicit arms and proliferation of weapons of mass destruction and their means of delivery. We remain at the forefront of international efforts to champion the role of the rules-based international system in ensuring stability.

Over the past year, this has included committing new funds to tackle the diversion of small arms and light weapons and chairing the Wassenaar Arrangement, a group of 42 states working to prevent destabilising accumulations of conventional arms. Under our Chairmanship the Wassenaar Arrangement continued a systematic review of its Control Lists to add further clarity for licensing authorities and exporters. In March 2018, the UK hosted an Intersessional Meeting of the Australia Group, which seeks to ensure exports do not contribute to the development or proliferation of chemical and biological weapons. During

the meeting, participants agreed to undertake further outreach to states in the Middle East in 2019. We have also worked with global partners to strengthen implementation of the Arms Trade Treaty (ATT) and committed £84.4 million to support global de-mining efforts to protect some of the most vulnerable communities in the world. We also strengthened our powers to stop people engaged in illicit activities, in breach of export controls or sanctions, applying for licences for legitimate export or brokering activities.

During 2018 the Government processed over 16,500 Standard Individual Export Licence applications, 83% within 20 working days (against the published target of 70%). We assess every export licence application against the Consolidated EU and National Arms Export Licensing Criteria on a case-by-case basis, taking into account all relevant information at the time. The criteria provide a thorough risk assessment framework and require detailed consideration about the capabilities and impact of the equipment to be licensed. The Government will not grant an export licence if to do so would be inconsistent with the Consolidated Criteria, including respect for human rights and International Humanitarian Law.

The Government has one of the most transparent licensing regimes in the world. We publish quarterly and annual statistics on all export licensing decisions, including details of export licences granted, refused and revoked. This Annual Report demonstrates the commitment to transparency and accountability. We commend this report to Parliament.

July 2019

**The Rt Hon Jeremy Hunt MP**  
Secretary of State for Foreign and Commonwealth Affairs

**The Rt Hon Dr Liam Fox MP**  
Secretary of State for International Trade and President of the Board of Trade

**The Rt Hon Penny Mordaunt MP**  
Secretary of State for Defence

**The Rt Hon Rory Stewart MP**  
Secretary of State for International Development

# Section 1

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## Export licensing process and basics

### 1.1 The need for Export Licensing

The purpose of the UK's export controls is to promote global security and facilitate responsible exports.

Our export controls help ensure that goods exported from the UK do not contribute to the proliferation of weapons of mass destruction or a destabilising accumulation of conventional weapons; they protect the UK's security and our expertise by restricting who has access to sensitive technologies and capabilities. Export controls also help ensure that controlled items are not used for internal repression or to commit serious violations of international humanitarian law.

They are the means by which we implement a range of commitments including the Arms Trade Treaty and those resulting from United Nations arms embargoes or trade sanctions.

The Export Control Act (2002) and the Export Control Order (2008) provide the legal framework for UK export controls. A body of EU legislation is also relevant. Some of this EU legislation applies directly, and some is transposed through the Order.

Through this legislative framework, the Government controls the export of a range of military and "dual-use"<sup>1</sup> items.

A product needs an export licence if it is included on:

- Lists of controlled items derived from the international export control regimes, which are:
  - The Nuclear Suppliers Group;
  - The Missile Technology Control Regime;

- The Australia Group; and
- The Wassenaar Arrangement
- The UK Military List or national control list;
- The list of goods covered by 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;
- The list of goods covered by the Export of Radioactive Sources (Control) Order 2006.

Even if an item does not appear on one of these lists, it may still require an export licence under Article 4 of Council Regulation 428/2009 if there are concerns about its end-use. "End-use" or "catch all" controls aim to prevent the proliferation of weapons of mass destruction and their delivery systems, or the supply of items intended for a military end-use in an embargoed destination.

### 1.2 The Export Control Joint Unit

In July 2016, the Government established the Export Control Joint Unit (ECJU). It is hosted by the Department for International Trade (DIT). ECJU administers the UK's system of export controls, and brings together policy and operational expertise from DIT, the Foreign & Commonwealth Office (FCO) and Ministry of Defence (MOD). The individual Departments within the Unit have distinct roles, and these are outlined in the following section.

---

<sup>1</sup> Dual-use items are goods, software, technology, documents and diagrams which can be used for both civil and military applications. They can range from raw materials to components and complete systems, such as aluminium alloys, bearings, or lasers. They could also be items used in the production or development of military goods, such as machine tools, chemical manufacturing equipment and computers.

## The export licensing community

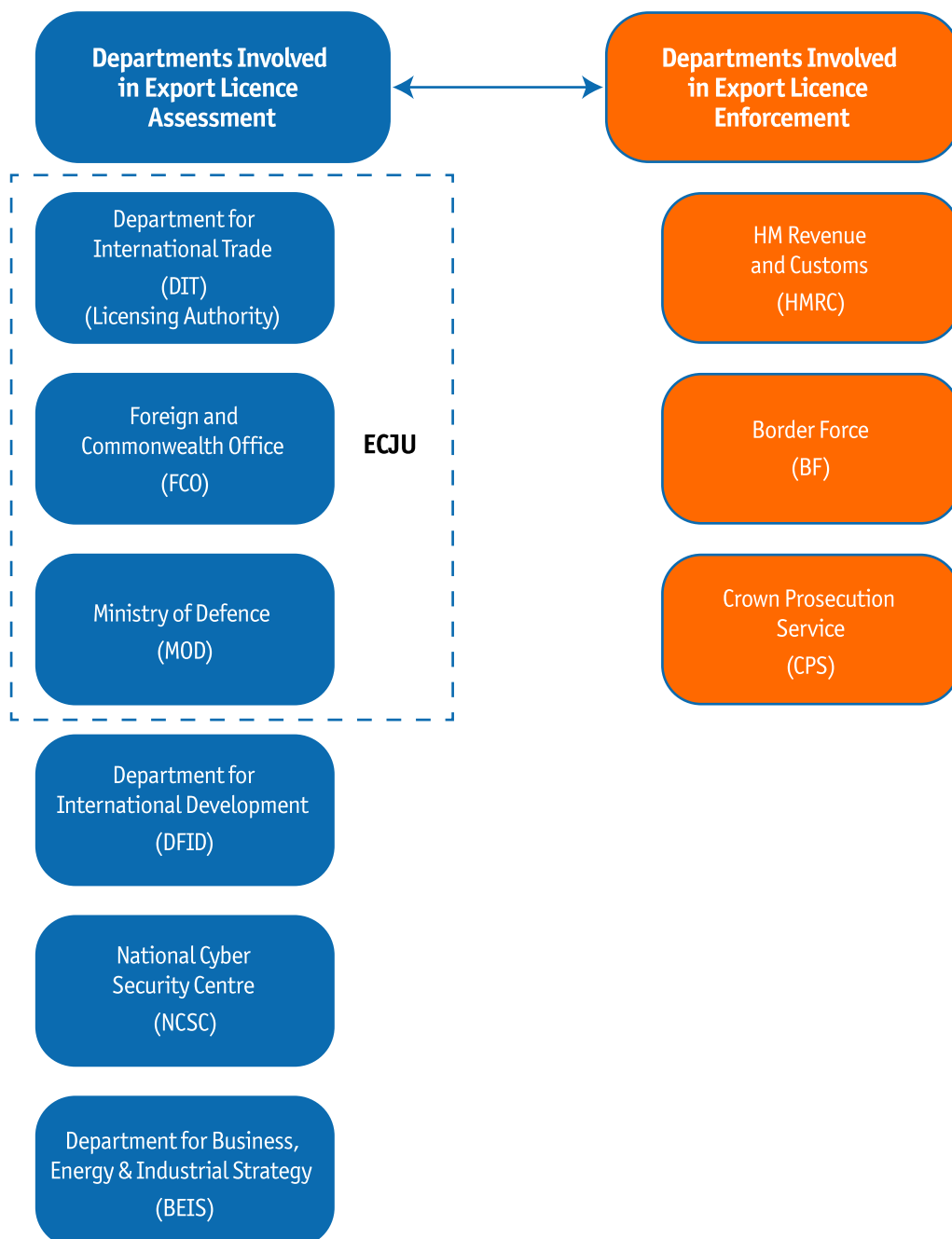
Other government departments play a vital role but are not part of ECJU. The diagram below shows departments involved either in the licensing process or in enforcing the implementation of export controls.

The Department for International Trade has overall responsibility for the export licensing process. The International Trade Secretary is ultimately responsible for:

- the statutory and regulatory framework of the controls (i.e. what items and activities are controlled); and

- the decision to grant or refuse an export licence in any individual case; and
- Where necessary, the decision to suspend or revoke extant licences in accordance with the relevant legislation and announced policy.

Applications for export, trade (“brokering”) or transshipment licences for controlled goods are submitted electronically to DIT via the SPIRE digital licensing system. Other Government Departments are then consulted as appropriate before a decision is reached on whether to issue or refuse a licence.



## Advisory Departments

The principal advisory departments are the FCO, MOD, and DFID. Together, they provide DIT with advice and analysis on foreign policy, defence and development matters relevant to licensing. They do this by assessing all applications on a case-by-case basis against the Consolidated EU & National Arms Export Licensing Criteria, known as the Consolidated Criteria.

The Foreign & Commonwealth Office licensing team considers, among other issues, whether an export:

- Would comply with the UK's commitments and sanctions regimes;
- Might be used for internal repression or in the commission of a serious violation of international humanitarian law;
- Might provoke or prolong armed conflicts or affect regional peace and stability; or
- Might be diverted to an undesirable user or purpose.

To make this assessment, the FCO takes account of possible uses of the equipment, the destination country and the end-user. Staff seek detailed political, human rights and legal advice as necessary from other FCO departments, posts overseas and other sources such as NGO or media reporting.

The Ministry of Defence considers the military, operational, technical and security aspects of proposals to release classified material or export-controlled goods to foreign end-users. In particular, MOD advises on the risk of any export being used against British armed forces and those of our Allies, and any potential threat to the security of the UK or Allies. MOD jointly leads with the FCO on assessing the risk of diversion or re-export of goods to end-users of concern.

MOD advice on export licence applications draws on a case-by-case assessment process that considers the views of those responsible for protecting the capability of the UK's Armed Forces as well as security and intelligence specialists. MOD also operates a procedure – the MOD Form 680 (F680) approval process – that enables the Government to control the release of classified equipment or information to foreign entities without compromising the UK's national security.

The Department for International Development considers whether an export is compatible with the technical and economic situation of a country. DFID take into account several factors, including the recipient country's relative levels of military and social expenditure, and how much it receives in development assistance. If a country is on the World Bank's International Development Association list and the value of the export exceeds an agreed threshold, DFID will consider the potential impact on the sustainable

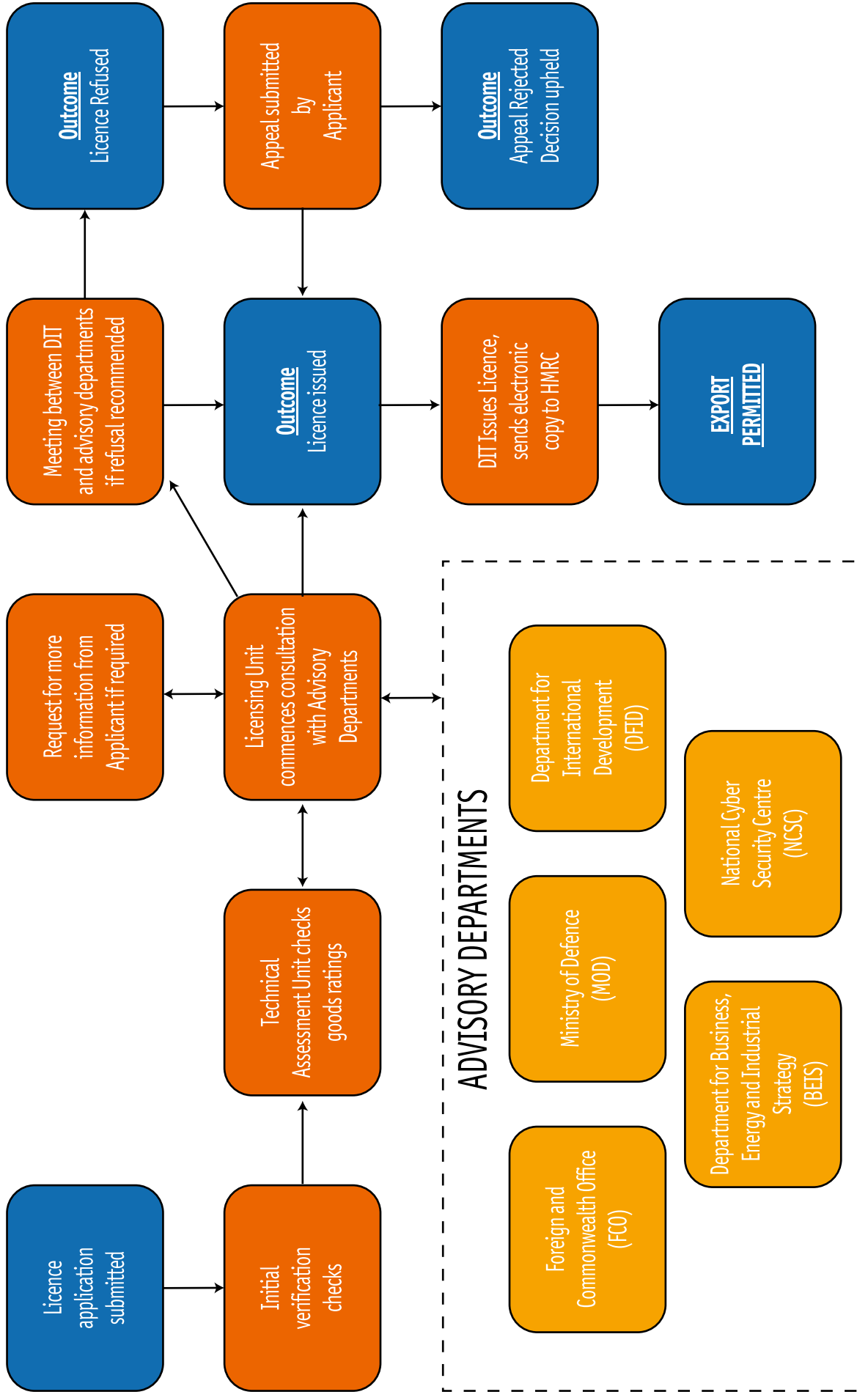
development of the country, drawing on advice from DFID country offices or senior advisers. Advice from DFID may also be used by the FCO to assess applications for countries involved in conflict or where there are concerns about human rights.

The National Cyber Security Centre is the Government's national technical authority for information security, and advises on applications for goods involving sensitive communications or computer technology.

The Department for Business, Energy & Industrial Strategy plays a key role in the Government's biological, chemical and nuclear non-proliferation policy, for example by making sure that the Government continues to meet its obligations under the Chemical Weapons Convention (CWC). The Department helps to advise if there are concerns that proposed exports might be used in a WMD programme.

HM Revenue & Customs 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. The Central Fraud Group in the Crown Prosecution Service leads on any subsequent prosecutions.

## Standard Individual Export Licence (SIEL) Process





### 1.3 Overview of export licence types and processing times

Applications for export, trade ('brokering'), or transshipment licences for controlled goods are submitted to the Export Control Joint Unit through the online SPIRE licensing database. Applications must include details about who will use the goods and what they intend to do with them. This information is considered as part of the overall assessment process. Applications must include technical specifications sufficient to allow experts in ECJU to determine whether the goods are specified by the control lists and therefore need an export licence.

The licence types available to exporters include:

- Standard Individual Export Licences (SIELs)
- Open Individual Export Licences (OIELs)
- Open General Export Licences (OGELs)
- Standard Individual Trade Control Licences (SITCLs)
- Open Individual Trade Control Licences (OITCLs)
- Open General Trade Control Licences (OGTCLs)
- Standard Individual Transshipment Licences (SITLs)
- Open General Transshipment Licences (OGTLs).

**SIELs** allow shipments of specified items to a specified consignee or end-user up to a quantity specified in the licence. If the export will be permanent, SIELs are generally valid for two years or until the quantity specified has been exported, whichever occurs first.

If an 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** cover multiple shipments of specified items to specified destinations and/or, in some cases, specified consignees. An OIEL is a tailored and flexible licence and generally valid for 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 firearms dealers in the EU, and which are valid for three years.

Applications must include items to be exported and destinations, but specific quantities and named end-users do not necessarily need to be provided before a licence is issued. This data must be provided over the lifetime of the licence. The rejection of an application for an OIEL, or an 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 to specified consignees in the relevant destinations. The factors that led to the original decision on the OIEL would be considered in the decision about a SIEL application.

**OGELs** are pre-published licences that permit the export of specified items to specified countries, following an online registration. They remove the need for exporters to apply for individual licences, as long as the exporters can meet the terms and conditions set out in the licence. Failure to meet the terms and conditions may result in the licence being withdrawn. An OGEL or other type of Open General licence is only published when the exports are consistent with the Consolidated EU & National Arms Export Licensing Criteria. If the assessment of the items and destinations permitted changes then the OGEL is amended or revoked. All OGELs are published on GOV.UK.

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. There is one EUGEA under 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. This covers the goods listed in any entry in Annex IIIa of the Regulation to certain destinations that have abolished capital punishment.

A **SITCL** is specific to a named UK trader or broker and covers involvement in the trade of a specified quantity of specific goods between a specified overseas country, known as the source country, and between a specified consignor, consignee and end-user in an overseas destination country. SITCLs will normally be valid for two years. When a licence expires, either due to the length of time since it was issued or because the activity has taken place, the licence ceases to be valid. If further similar activity needs to take place, another 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 UK trader and covers involvement in the trade of specific goods between specified overseas source and destination countries and/or specified consignor(s), consignee(s) and end-user(s). OITCLs are generally valid for 5 years. The refusal of an application for an OITCL, an amendment to exclude particular destinations and/or items, or the revocation of an OITCL, does not prevent a broker from applying for SITCLs covering some or all of the items to specified

consignees in the relevant destinations. The factors that led to the original decision on the OITCL would be considered in the decision about a SITCL application.

An **OGTCL** is a pre-published licence that permits the supply of specified goods from specified source countries outside the UK to specified destination countries, subject to the specific terms and conditions of the licence. There are currently four OGTCLs<sup>2</sup> available.

A **SITL** is specific to a named transit/transshipment provider and covers a set quantity of specific goods between a specific source and destination country with a specified consignor, consignee and end-user. SITLs are normally valid for 2 years.

**OGTLs** are similar to Open General Export Licences. They relate to transit rather than export and are subject to specific terms and conditions. There are currently four different types of OGTL.

Holders of Open Individual and Open General licences are subject to audit by DIT Compliance Inspectors to ensure that they are meeting the terms and conditions of their licences.

Information on other types of licences is contained in Section 2.

The vast majority of export licences granted are Standard Individual Export Licences. All applications are processed efficiently but with care. We advise applicants not to enter into a binding contract or to start special production until an export licence has been issued. We also encourage all exporters to apply for licences at the earliest opportunity.

From time to time the Government may announce other policies to Parliament. Examples in 2018 include Written Ministerial Statements on 27 June by the Minister of State for Foreign and Commonwealth Affairs, The Rt Hon Sir Alan Duncan regarding the UK's Arms Export Policy to Argentina and on 13 September by the Parliamentary Under Secretary of State at the Department for International Trade, Graham Stuart, to strengthen powers to mitigate any potential risk that those engaged in activities in breach of export controls and sanctions could still apply for and receive export or trade control licences for legitimate business activities in which they are simultaneously engaged.

The scope of pre-published Open General licences or EU General Export Authorisations is carefully chosen to include only items and destinations assessed to be consistent with the Consolidated Criteria.

#### 1.4 The EU and National Consolidated Criteria – Who applies it and why

The Export Control Act (2002) requires the Secretary of State to publish guidance on the operation of export controls. The main guidance applying in 2018 was the Consolidated EU & National Arms Export Licensing Criteria (known as the Consolidated Criteria). The Criteria were first announced to Parliament on 26 October 2000 by the then Minister of State for Foreign & Commonwealth Affairs, the Rt Hon Peter Hain MP, and updated on 25 March 2014 by the then Secretary of State for Business, Innovation & Skills, the Rt Hon Vince Cable MP.

The full text of the Consolidated Criteria as announced to Parliament in March 2014 is in Annex A. Each of the Criteria has a lead advisory Department indicated in bold:

Criterion 1 – 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. **(FCO)**

Criterion 2 – 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. **(FCO)**

Criterion 3 – The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts. **(FCO)**

Criterion 4 – Preservation of regional peace, security and stability. **(FCO)**

Criterion 5 – 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. **(MOD)**

Criterion 6 – 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. **(FCO)**

Criterion 7 – The existence of a risk that the items will be diverted within the buyer country, re-exported under undesirable conditions and the risk of reverse engineering. **(FCO and MOD)**

Criterion 8 – 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. **(DFID)**

<sup>2</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>

We do not apply the Consolidated Criteria mechanistically. Each export licence application is assessed on a case-by-case basis taking into account all the relevant facts and circumstances of that particular case. A licence will not be granted if to do so would be inconsistent with the Criteria. The Consolidated Criteria incorporate EU Common Position 944/2008/CSFP, which was adopted on 8 December 2008 and defines common rules governing the control of exports of military technology and equipment.

The Common Position replaced the Code of Conduct on control of exports of military technology and equipment agreed in 1991 and 1992. It establishes that each EU 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.

# Section 2

## Export licensing data

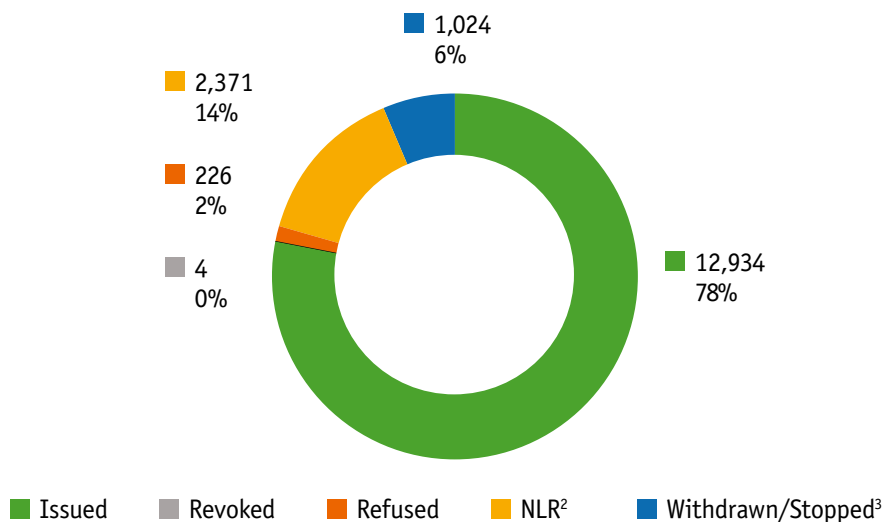
### 2.1 Data on each type of licence

The following charts provide details of the numbers of each of the main types of licence processed during 2018. Any data referred to as “Issued”, “Refused,” “Rejected,” or “Revoked” is taken from Official Statistics available at <https://www.gov.uk/government/collections/strategic-export-controls-licensing-data>

Comprehensive data on export licences by country is published every three months. All other data in this section is taken from the SPIRE licensing database (as at 7 January 2019).

#### Standard Individual Export Licences (SIELs)

Chart 2.I Number of SIELs<sup>1</sup>



<sup>1</sup> SIEL Transhipments (SITLs) are permanent licences but counted separately from Standard SIELs in Chart 2.I, as items are not exported from the UK. See Chart 2.II for SITLs.  
<sup>2</sup> NLR = No Licence Required. In Charts 2.I- 2.III, the number quoted is based on licensing decisions where an application is only for items not requiring a licence.  
<sup>3</sup> In all charts, references to “Withdrawn”, “Stopped” or “Unsuitable” applications are those that have not been completed. An application withdrawn would generally be done by the exporter; a stopped application might be because an exporter has not provided adequate information in response to a Request for Information (RFI) from ECJU; or unsuitable might be because an exporter has completed the application form incorrectly.

SIELs data published on GOV.UK shows how many licences are issued, refused or revoked for the export of items to the destination concerned and whether they were for a permanent or temporary export. The data is split into Military List; dual-use items; both (covering licences with military and dual-use goods); items covered by EC Reg 1236/2005 (the 'Torture Regulation') and/or a mix of both Military List and dual-use items.

The value of the licences does not indicate the actual value of exports shipped during the reporting period. Licences usually cover a two-year period and goods can be exported at any time during that period. Moreover, some licences will not be used to carry out all the exports authorised and others will not be used at all. In addition, some items may be exported only temporarily and later returned to the UK within the validity of the licence. Licences may expire before being used or only partially used. In these

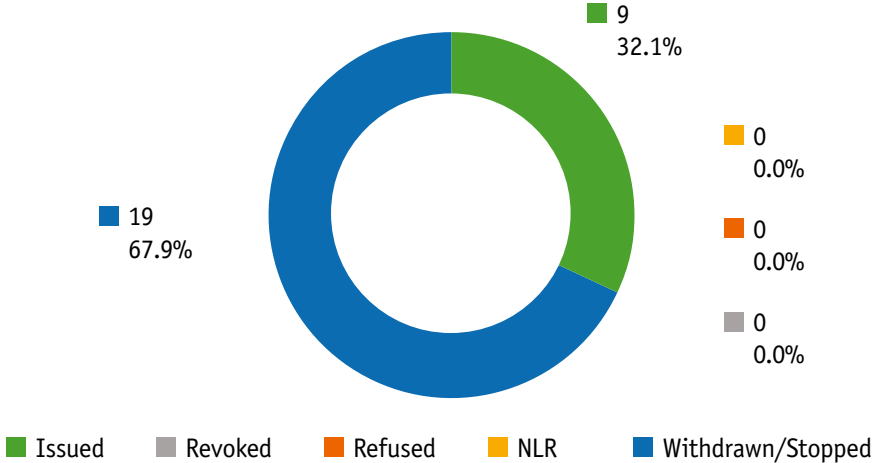
circumstances exporters may then apply for new licences which can lead to an element of "double counting" in statistics.

Information on items 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.

**Standard Individual Transshipment Licences (SITLs)**

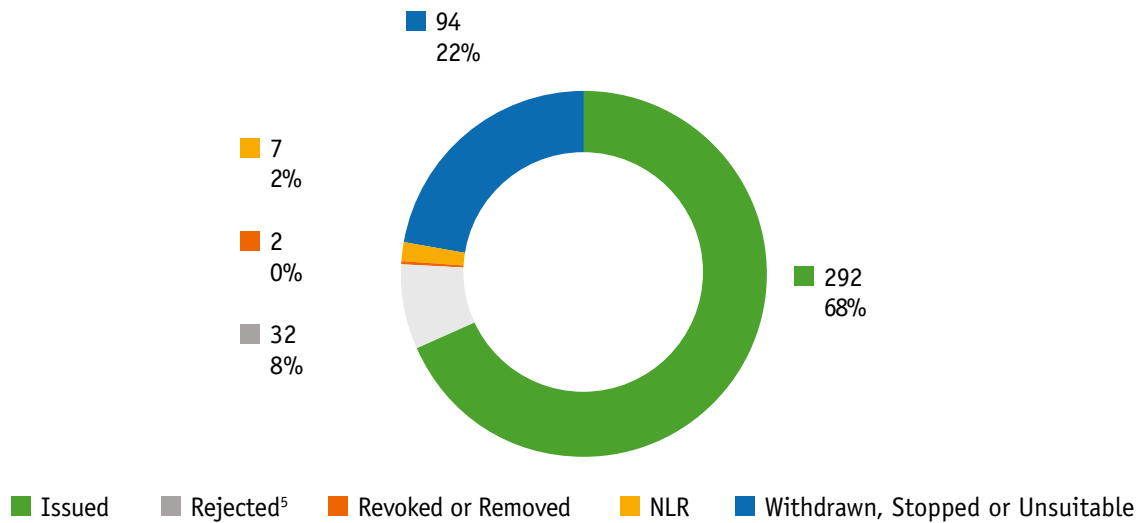
Information on SITLs is provided in the same format as for SIELs. The licensing information can be found under each destination, listed as "SIELs – transshipments". As the items covered by SITLs only pass through the UK, it would be misleading to compare the monetary value for these licences with the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

**Chart 2.II Number of SITLs**



## Open Individual Export Licences (OIELs)

Chart 2.III Number of OIELs<sup>4</sup>



The OIELs data on GOV.UK include the number of licences issued, refused or revoked for each country.

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 in the application.

Companies have been required, since 1 January 2014, to submit information about the use of each of their OIELs and OGELs. Our current digital infrastructure does not support public reporting of this data in accordance with the Code of Practice on Official Statistics.

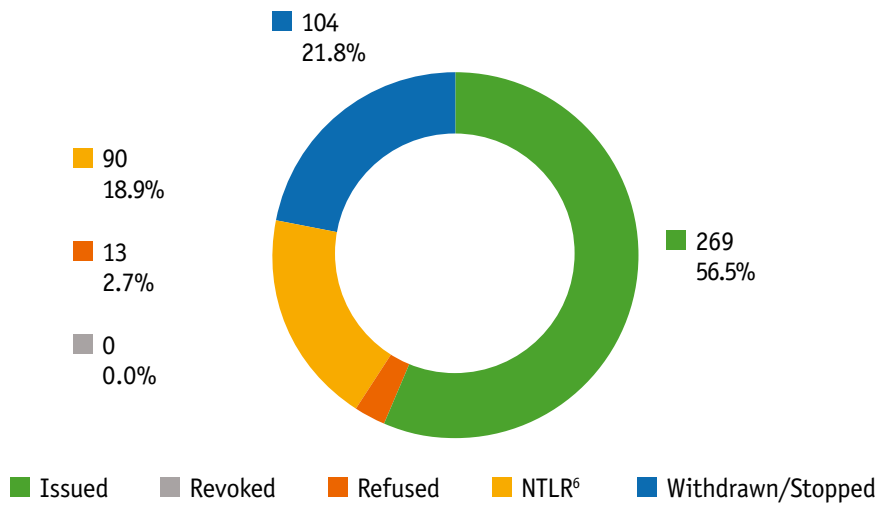
We are continuing to improve the reliability of the data we collect about open licence use, including the development of a new digital licensing system and a new Customs Declaration System. Once new systems are in place, we will be able explore options for greater transparency, particularly with respect to open licences. While we have not yet reached this point, the data we have is available via our searchable database:  
<https://www.exportcontroldb.trade.gov.uk/>

<sup>4</sup> Includes Dealer-to-Dealer, Cryptographic, Media & Continental Shelf OIELs.

<sup>5</sup> In many cases where OIEL applications are rejected, exporters are asked to apply for SIELs because these allow closer scrutiny of individual exports. The fact that an OIEL has been rejected does not necessarily mean that another type of licence will not be granted.

## Standard Individual Trade Control Licences (SITCLs)

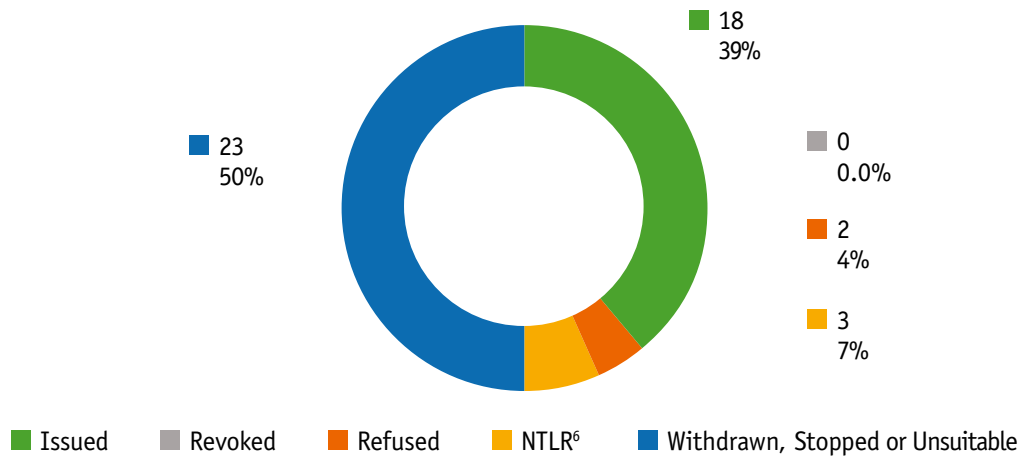
Chart 2.IV Number of SITCLs



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 the monetary value of goods.

## Open Individual Trade Control Licences (OITCLs)

Chart 2.V Number of OITCLs



As OITCLs cover the trading of specific goods between an overseas source and one or more destination countries, exporters holding OITCLs are not asked to provide details of the monetary value of goods they propose to trade.

<sup>6</sup> NTLR = No Trade Licence Required. For Charts 2.IV and 2.V the number quoted is based on licensing decisions where an application is only for items not requiring a licence.

## 2.2 Performance against targets

The Export Control Joint Unit (ECJU) sets out the Government's commitments to exporters in a Service and Performance Code. The performance targets are to decide on 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 2.VI gives a breakdown of the performance of Government in the period against the two main published SIEL and SITCL 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 2018. Table 2.VI presents an illustration of the number of applications completed within the specified timeframe. The targets do not apply to:

OIELs – because of the wide variation in the goods and destinations covered by such licences; or

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

However, ECJU aims to process 60% of OIEL applications within 60 working days.

<b>Table 2.VI SIEL and SITCL Processing Performance</b>						
	<b>2016</b>		<b>2017</b>		<b>2018</b>	
	<b>SIELs</b>	<b>SITCLs</b>	<b>SIELs</b>	<b>SITCLs</b>	<b>SIELs</b>	<b>SITCLs</b>
No. of applications completed in 20 working days	14,608	245	14,796	401	13,746	312
% applications completed in 20 working days	82%	63%	83%	75%	83%	66%
No. of applications completed in 60 working days	17,611	377	17,458	509	15,960	402
% applications completed in 60 working days	99%	96%	98%	95%	96%	85%
Median processing time	13 days	16 days	11 days	12 days	11 days	14 days



## 2.3 Refusals and revocations

There were 243 refusals or revocations of SIELs and SITCLs in 2018. Table 2.VII provides an overview of the number of times each of the Consolidated Criteria was used to justify the refusal of an export licence application.

<b>Reason**</b>	<b>Number</b>
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	93
Criterion 1 – UK’s commitments and obligations to observe UN, EU or OSCE arms embargoes	16
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	1
Criterion 2 – Risk of use for internal repression or risk of use in commission in a serious violation of international humanitarian law	18
Criterion 3 – Risk of contributing to internal tensions or conflict in the recipient country	1
Criterion 4 – Preservation of regional stability	13
Criterion 5 – National security of the UK, of Allies, EU Member States and other friendly countries	78
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	135
Criterion 8 – Compatibility of the arms exports with the technical and economic capacity of the recipient country	0

\*Data taken from SPIRE as of 15 February 2019

\*\* In several cases, the refusals/revocations were made for more than one reason. The figures quoted may therefore exceed the number of applications refused or revoked.

The data above does not include decisions to refuse OIELs or OITCLs in full or in part, or amendments to 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 prevent a company applying for SIELs or SITCLs covering some or all the goods concerned to specified consignees in the relevant destinations.

## 2.4 Appeals

	<b>2016</b>	<b>2017</b>	<b>2018</b>
Appeals finalised within 20 working days	47%	33%	47%
Appeals finalised within 60 working days	89%	86%	100%

\*Data taken from SPIRE as of 18 February 2019

A licence applicant may appeal a decision to refuse a SIEL, SITCL, SITAL or OITAL (see Section 2.5 for definition of SITAL and OITAL), or against a decision to revoke a SIEL or SITCL. There is no provision for a formal appeal against

refusal or revocation decisions relating to OIELs or OITCLs. This is because such decisions do not prevent a company from applying for SIELs or SITCLs.

The time taken to handle an appeal is calculated from the date on which it is received by ECJU and not the date of the original application. 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 considered. Every effort is made to deal with appeals as efficiently as possible. However, the time taken to decide an appeal can be lengthy because of the need to examine afresh all relevant information.

In 2018, 32 appeals of refusal decisions about SIELs were considered, of which 28 refusals were upheld and 4 overturned.

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. During 2018, the Government completed 47% of appeals within 20 working days from receipt of all relevant information from the appellant, and 100% in 60 working days. These figures show an improvement on 2017.

However, the complex nature of appeals makes it difficult to meet the targets. Officials continue to review procedures to streamline the handling of appeals, including the number of officials qualified to take appeals. These targets do not apply to appeals concerning goods that are controlled solely because of UN Sanctions. Of the 32 appeals decided in 2018, none fell into this category.

## 2.5 Data on other types of licence

### Technical Assistance Licences

Standard Individual Technical Assistance Licences (SITALs) are issued for separate ad hoc requirements, e.g. the repair of a single item or simple maintenance tasks. No SITALs were issued in 2018.

Open Individual Technical Assistance Licences (OITALs) cover wide-ranging contractual issues which may form the basis of a rolling programme of work. In 2018, 45 OITALs were issued in total.

Under Article 19 of the Export Control Order (2008), as amended, licences are required for the provision of technical assistance for any activity where a person is aware or has been informed that the items are for the purposes of weapons of mass destruction. This could include the transfer of documents or personnel. In 2018, one WMD OITAL was issued, one was refused and none were rejected or revoked.

There are certain cases where we combine Standard Individual Export Licences when refusal has been recommended under the WMD end use <https://www.gov.uk/guidance/supplementary-wmd-end-use-controls> and the application is for goods and services, because the refusal means that the "inform" provisions of article 19 apply. In 2018, one such case was refused.

OITALs 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 2018, two sanctions OITALs were issued, and none were refused, rejected or revoked.

The EU imposed sanctions on Russia in 2014, which include a requirement for licences for technical assistance relating to technologies in the oil and gas industries. In 2018, 42 OITALs were issued under the Russia sanctions, none were rejected or revoked. All licences issued under the Russian sanctions complied with EU sanctions.

### Financial Assistance Licences

EU sanctions may 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 and gas industry. In 2018, nine SIFALs (Standard Individual Financial Assistance Licences) were issued, but no OIFALs (Open Individual Financial Assistance Licences). No SIFALs under the Russian sanctions were refused, rejected or revoked. 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

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.

These agents also have legitimate medical uses.

SIEL applications must be submitted for the following 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 those 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 2018, five SIELs for these items were issued and none were refused or revoked. One OIEL was issued and none were rejected or revoked.

### Global Project Licences

Global Project Licences (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 who are participating in specific collaborative defence projects. In relation to the collaborative project, each Partner State will, as appropriate, issue its own GPLs to permit transfers of specified goods and technology required for that project. The GPLs operate on a similar basis to UK OIELs.

Applications for GPLs are assessed against the Consolidated Criteria in the UK, and against the EU Common Position in other Framework Partner countries. In 2018, no GPLs were issued, and none were rejected or revoked.

## 2.6 Open General Export Licences

The nature and purpose of Open General Export Licences (OGELs) is set out in Section 1.3.

In 2018 one new OGEL was introduced, for information security 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.

A summary of key changes affecting OGELs in 2018 is as follows:

Two new entries (ML8.a.41 (explosive) and ML8.h (reactive materials)) have been excluded from the following OGELs:

- export after exhibition or demonstration: military goods – <https://www.gov.uk/government/publications/open-general-export-licence-export-after-exhibition-or-demonstration-military-goods>
- export after repair/replacement under warranty: military goods – <https://www.gov.uk/government/publications/open-general-export-licence-export-after-repair-replacement-under-warranty-military-goods>
- exports under the US-UK Defence Trade Cooperation Treaty – <https://www.gov.uk/government/publications/open-general-export-licence-export-under-the-us-uk-defence-trade-co-operation-treaty>
- technology for military goods – <https://www.gov.uk/government/publications/open-general-export-licence-technology-for-military-goods>

11 April – The Department for International Trade published a new OGEL:

- information security items – <https://www.gov.uk/government/publications/open-general-export-licence-information-security-items>

The purpose of this OGEL is to allow exports of low risk information security items utilising encryption to a wide range of destinations.

27 April – The EU amended its Myanmar sanctions regime to extend and strengthen its measures. The following OGELs were updated to exclude Myanmar as a permitted destination from schedule 2:

- Export after exhibition: dual-use items
- Export after repair/replacement under warranty: dual-use items
- Export for repair/replacement under warranty: dual-use items
- Low value shipments

24 July – Twelve military and dual-use OGELs have been amended to confirm, where applicable, that the requirement for a written letter of clearance to comply with the security conditions and requirements of the OGEL can be fulfilled by holding an approved MOD Form F1686. The F1686 procedure itself and actions required to obtain one have not changed.

## 2.7 OGELs updated in 2018

- export after repair/replacement under warranty: dual-use items

<https://www.gov.uk/government/publications/open-general-export-licence-export-after-repair-replacement-under-warranty-dual-use-items>

- export for repair/replacement under warranty: dual-use items

<https://www.gov.uk/government/publications/open-general-export-licence-export-for-repair-replacement-under-warranty-dual-use-items>

- certified companies

<https://www.gov.uk/government/publications/open-general-export-licence-certified-companies>

- export after repair/replacement under warranty: military goods

<https://www.gov.uk/government/publications/open-general-export-licence-export-after-repair-replacement-under-warranty-military-goods>

- export for repair/replacement under warranty: military goods

<https://www.gov.uk/government/publications/open-general-export-licence-export-for-repair-replacement-under-warranty-military-goods--7>

- exports or transfers in support of UK government defence contracts

<https://www.gov.uk/government/publications/open-general-export-licence-exports-or-transfers-in-support-of-uk-government-defence-contracts>

- exports under the US-UK Defence Trade Cooperation Treaty

<https://www.gov.uk/government/publications/open-general-export-licence-export-under-the-us-uk-defence-trade-co-operation-treaty>

- military components

<https://www.gov.uk/government/publications/open-general-export-licence-military-components>

- military goods, software and technology

<https://www.gov.uk/government/publications/open-general-export-licence-military-goods--7>

- military goods, software and technology: government or NATO end use

<https://www.gov.uk/government/publications/open-general-export-licence-military-goods-government-or-nato-end-use--6>

- software and source code for military goods

<https://www.gov.uk/government/publications/open-general-export-licence-software-and-source-code-for-military-goods>

- technology for military goods

<https://www.gov.uk/government/publications/open-general-export-licence-technology-for-military-goods>

## OGELs in force in 2018

<b>Table 2.IX List of OGELs in force in 2018:</b>
<b>Dual-Use Goods OGELs:</b> 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. Low Value Shipments
8. Oil and Gas Exploration: Dual-Use Items
9. Technology for Dual-Use Items
10. Turkey
11. Specified Dual-Use Items (X)
12. Military and Dual-Use: UK Forces Deployed in Embargoed Destination
13. Military and Dual-Use goods: UK Forces Deployed in Non-embargoed Destinations
14. Exports of Non-lethal Military and Dual-use Goods: to UK Diplomatic Missions or Consular posts
15. PCBs and Components for dual-use items
16. Information security items
<b>Military Goods OGELs:</b> these 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. Objects of Cultural Interest
18. Software and Source Code for Military Goods
19. Technology for Military Goods
20. Vintage Aircraft
21. Exports of Non-lethal Military and Dual-use Goods: to UK Diplomatic Missions or Consular Posts
22. Military and Dual-use Goods: UK Forces Deployed in Embargoed Destinations

<b>Table 2.IX List of OGELs in force in 2018:</b>
23. Military and Dual-use Goods: UK Forces Deployed in Non-embargoed Destinations
24. Exports in Support of Joint Strike Fighter: F-35 Lightning II
25. Military goods: A400M Collaborative Programme
26. PCBs and Components for Military Goods
27. Exports in support of Turkish Aerospace Industries TF-X programme
<b>Open General Transshipment Licences (OGTLs):</b> these 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> these 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

In addition to OGELs, Council Regulation (EC) No 428/2009 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:134:0001:0269:en:PDF>) (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 EUGEAs, 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 EUGEAs are as follows:

- EU001 – 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

# Section 3

## EU/UK legislation and Brexit

### 3.1 Changes in UK and EU legislation relating to export licensing

Council Regulation (EU) No 258/2012 establishes export authorisation, import and transit measures for firearms, their parts and components and ammunition. This applies to exports from the customs territory of the EU or through third countries. This Regulation sets out the prior approval procedures that need to be followed before export and transit authorisations can be granted. The Regulation also implements simplified procedures for the temporary export or re-export of firearms that cover exports by sports shooters or hunters, and where the export or re-export is for the purpose of exhibition or repair.

Following their review and evaluation of the Regulation in 2017, the Commission published a Recommendation on 17 April 2018 that contained provisions to improve the security of export, import and transit measures for firearms, their parts and essential components and ammunition. These were designed to achieve a more efficient implementation of this Regulation.

The Commission Recommendation and Government Explanatory Memorandum submitted on 31 May 2018 can be found at:

<http://europeanmemoranda.cabinetoffice.gov.uk/>

The Commission have commissioned a study on the “improvement of the EU system of export authorisation, and import and transit measures for civilian firearms, their parts and components and ammunition”. This study examines the main issues emerging from the evaluation of the Regulation that took place in 2017. The Commission have not yet provided any firm timetable on their plans to amend the Regulation. This study is a step towards informing that decision and the Government are actively engaging with the consultancy who are undertaking this work on behalf of the Commission.

Council Regulation (EC) 428/2009 provides the legislative framework of EU controls on dual-use items (goods, including software and technology which can have both civil and military applications) and controls their export, transfer, brokering and transit. Implementation of the controls, including the administrative and operational procedures of the Member States’ competent authorities and, crucially the decision making on licences, is for Member States.

During 2018, extensive discussions continued in the Council Working Group between the Commission and Member States on the Commission’s proposal to recast Regulation 428/2009. These discussions which started in December 2016 had not managed to agree a Council Position at the conclusion of the Austrian Presidency at the end of 2018.

The Intra-Community (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:

- To the armed forces of a Member State or body purchasing on their behalf;
- To a certified company;
- For demonstration, evaluation and exhibition; and
- For maintenance and repair of previously supplied items.

The Directive provides for a system of certification of companies, as a confidence building measure. This ensures that companies exporting items to certified companies in

other Member States can be confident that end-users will have provisions in place to ensure compliance with any re-export provisions.

The Commission published three Recommendations on 21 December 2018 in relation to the general licences for demonstration and evaluation, exhibition and repair and maintenance. These are designed to introduce harmonised measures for implementation in all Member States to facilitate the understanding and use by European industry of these licences, as well as minimum requirements on the scope of the licences in relation to the coverage of goods, conditions and destinations. Member States were required to give effect to each of these Recommendations by 1 July 2019.

The Commission Recommendation for demonstration and evaluation can be found at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018H2050&from=DE>

The Commission Recommendation for exhibition can be found at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018H2052&from=DE>

The Commission Recommendation for repair and maintenance can be found at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018H2051&from=DE>

The Commission is also working with Member States to develop guidance on the use of the term “Specially designed for military use” that is found in the European Union Common Military List. The Commission launched an online survey on 1 March 2018 to obtain views from stakeholders on the initial draft guidance which had been produced by Member States. The Commission and Member States have now considered these responses and are working on revised guidance. This guidance is expected to be agreed during 2019.

Council Directive 91/477/EEC on the control of the acquisition and possession of weapons, most recently amended by Council Directive (EU) 2017/853: this 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 via “dealer-to-dealer” licences.

The obligations arising from Council Directive (EU) 2017/853 were in part implemented through an amendment to the 2008 Order and came into force on 14 September 2018 (there is a secondary date of 14 December

2019 for certain other, more complex, measures). This extends the controls on firearms to include devices capable of being converted to firearms. The opportunity was taken through this amendment to amend schedules 1, 2 and 3 of the 2008 Order to restructure the lists of firearms contained within those schedules to better reflect applicable firearms legislation.

The amendment Order (The Export Control (Amendment) (No.2) Order 2018) can be found at:

<http://www.legislation.gov.uk/ukxi/2018/939/contents/made>

A guidance note was produced to help direct exporters to the appropriate legislation when exporting firearms to either EU Member States or non-EU countries. This can be found at:

<https://www.gov.uk/government/publications/notice-to-exporters-201822-export-control-order-2008-amended-and-firearms-export-guidance-note-published/firearms-guidance>

### 3.2 Parliamentary relations

The Parliamentary Committees on Arms Export Controls (CAEC) were re-established in October 2017 to scrutinise export licensing policy and decisions.

In July 2018 the CAEC concluded their inquiry into UK arms exports during 2016. Their report and the Government response to that report can be found at:

<https://www.parliament.uk/business/committees/committees-a-z/other-committees/committee-on-arms-export-controls/inquiries/parliament-2017/inquiry/publications/>

In November 2018, the CAEC launched an inquiry on the 2017 arms exports Annual Report. At the time of publication of this report, they had sought evidence from the Government, NGOs and industry. Their latest reports and evidence can be found at:

<https://www.parliament.uk/business/committees/committees-a-z/other-committees/committee-on-arms-export-controls/inquiries/parliament-2017/2017-strategic-exports-controls-annual-report-17-19/>



### **3.3 Illicit activity**

In 2018 the Government strengthened its powers to mitigate any potential risk that those engaged in activities in breach of export controls and sanctions could still apply for and receive export or trade control licences for legitimate business activities in which they are simultaneously engaged.

The Government may now, when assessing licence applications, take into account the risk that the proposed legitimate activity will directly or indirectly facilitate other activities in violations of UK export controls or sanctions. In doing so the Government will consider, among other things, the conduct of the licence applicant.

### **3.4 Impact of the UK's decision to leave the European Union**

Post Brexit, the Government's overall objective with regard to export control is to maintain the effectiveness and integrity of the UK's export controls through Brexit and beyond, and ensuring that the UK remains compliant with its international obligations.

The Government has made preparations for a range of possible scenarios. This included preparing for a no-deal scenario by transposing EU export control legislation into UK law through the EU (Withdrawal) Act, and creating new UK Sanctions legislation under the Sanctions and Anti-Money Laundering Act 2018 to maintain broadly the same policy effect of EU export control and sanctions legislation. A new Open General Export Licence was also published to avoid additional burdens for those who export dual-use items to EU Member States.

The UK and EU have agreed that until we have left the EU, we will remain a member with all of the rights and obligations that membership entails.

## Section 4

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# Court of Appeal judgment about military exports to Saudi Arabia

On 20 June 2019, the Court of Appeal handed down its judgment following Campaign Against Arms Trade's (CAAT) appeal against the Divisional Court's decision, in July 2017, to dismiss CAAT's claim for judicial review of licensing decisions about military exports to Saudi Arabia for possible use in the conflict in Yemen. The judgment is not about whether the decisions themselves were right or wrong but whether the process used in reaching those decisions was correct.

There were three grounds of appeal. The judgment found in the Government's favour in two of these and against in the other, referred to as Ground 1. This concerns whether the Government had an obligation to make some realistic overall assessment of whether there had been historic serious violations of international humanitarian law (IHL) by the Saudi-led coalition in Yemen. The Government welcomes the Court of Appeal's decision to grant permission to appeal to the Supreme Court.

The framework for decision-making is Criterion 2c of the Consolidated EU and National Arms Export Licensing Criteria (the Government will not grant a licence if there is a *clear risk* that the exports might be used in the commission of a serious violation of international humanitarian law). The Government's assessment has always considered the historic record of Saudi Arabia's compliance with IHL but the Court of Appeal found our approach irrational and unlawful because we did not at least attempt to reach findings on IHL for specific incidents. The Government's approach recognised the inherent difficulties of doing so.

As a consequence, the decisions are remitted back to the Government to reconsider in the light of the judgment. The Government is now carefully considering the implications of the judgment for decision-making. While this is undertaken the Government will not grant any

new licences for exports to Saudi Arabia and its coalition partners (UAE, Bahrain, Kuwait and Egypt) which might be used in the conflict in Yemen.

The Secretary of State for International Trade made a statement to Parliament on this matter which can be read at:

<https://hansard.parliament.uk/commons/2019-06-20/debates/D9BD8C37-E5A0-4A7E-9959-AC40A0DEE622/ExportLicencesHighCourtJudgment>.

# Section 5

## Outreach to industry and stakeholders

### 5.1 Raising awareness of export licensing with industry

The Government is committed to reaching out to industry to raise awareness of export controls and ensure compliance. In 2018 ECJU staff presented at a number of events for exporters across the country, to raise awareness of key export control messages:

- Export controls should not be a barrier to legitimate or responsible exports;
- There are many types of licences to meet the needs of business;
- There is a wide range of assistance and training available to support exporters through the licence application process;
- Non-compliance with export controls will lead to financial penalties for business and also impacts on reputation. In severe cases it will lead to prosecution;
- Plan ahead and ensure the right export permissions – including relevant export and trade control licences and MOD F680 approvals are in place.

#### Key ECJU outreach activities

- Helping relevant sector teams across DIT to improve their understanding of export licensing so that they can better assist companies with potential export opportunities;
- Training DIT International Trade Advisors (ITA) to improve their understanding of export controls and supporting an ITA event on Advanced Engineering;
- Supporting DIT's Defence & Security Organisation (DSO) at three regional events for defence and security small and medium-sized enterprises –

these reached over 200 people including exhibitors and delegates, around 20% of whom were new to exporting;

- Hosting a dedicated stand for the first time at the Farnborough International Airshow – DIT, MOD and FCO staff from ECJU briefed a large number of exhibitors and visitors, in partnership with trade associations and colleagues on the main DIT stand;
- Hosting two export control symposia. In May 2018 a large number of exporters from the aerospace, defence and security industries attended the first event in London. In November 2018 over 150 exporters attended the second event in Manchester. The events included plenary sessions and workshops on various aspects of export licensing, including due diligence and risk management.

In 2018, we organised 54 dedicated training courses for business, attended by over 1,100 delegates nationwide. The sessions helped to inform industry about specific legislative and operational information relating to export control obligations. The courses 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 and EU control lists;
- Specialist workshops to help companies classify their items on the Military and Dual-Use Strategic Export Control Lists; and
- Workshops to enable exporters to improve their ability to submit good quality licence applications, which helps reduce requests from ECJU staff for further information and ensure more efficient use of resources.

On-site bespoke training was also delivered to ten businesses across the UK to address their specific market issues. The audiences included staff with responsibilities for licence applications, and also shipping, procurement, sales, legal, and technical personnel.

Dozens of companies new to export control training registered for the full range of training courses. Many of these were small and medium sized companies. ECJU continued to work closely with the Awareness, Policy and Compliance Sub-Committees of the ADS Export Group for Aerospace, Defence & Dual-Use (EGADD) to agree industry needs and the focus for support.

### Internet-based guides and licensing tools

Information about export controls continues to be hosted on GOV.UK. The ECJU home page includes links to all key guidance and tools to make applications and check control list entries:

<https://www.gov.uk/government/organisations/export-control-organisation>

Work is continuing to further improve our online export control content in the detailed guides, to make it simpler and clearer.

### Sector based training and awareness

ECJU worked closely with partners and trade associations to deliver or support a number of UK wide sector focused awareness events, including Subsea UK; Advanced Engineering; and the Three Counties Defence Expo. The objectives of the events were to provide an overview of the potential for export growth and to outline the types of material and equipment which would require licences and how to apply.

ECJU also led the delivery of a Cyber Export Controls event which attracted 105 delegates. Speakers from ECJU and the National Cyber Security Centre provided key messages about exporting surveillance systems, goods with information security features, the electronic transfer of controlled software and technology, how to assess items against the controls and which de-controls could apply.

### Notices to Exporters

The Government continues to encourage industry to sign up to receive Notices to Exporters. In 2018, the number of subscribers increased to over 21,000, up from 15,000 in 2017. A total of 26 notices were issued with the latest information, including: updates to the Consolidated Control Lists; licence changes; updates to Open General Export Licences as a result of changes in legislation; restrictions on the trading position for sanctioned destinations including Russia, Burma, Eritrea; and notification of the publication of the “no deal” Technical Notice on export control regulation.

### Checker tools

Exporters continue to make use of ECJU’s two web-based search tools which help to identify which products need a licence (the ‘goods checker’) and, if licensable, whether an Open General Export Licence (OGEL) potentially covers the proposed exports (the ‘OGEL checker’).

The goods checker tool provides an internet-based search function across the Consolidated UK Strategic Export Control List.

The OGEL checker 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 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 2018 ECJU delivered quarterly training courses specifically for officials in Whitehall departments engaged with promoting exports, export licensing and sanctions policy; or enforcement.

## 5.2 New Export Licensing System – LITE

ECJU is currently in the process of procuring a new licensing system which is known as LITE. LITE will ensure that the export licensing digital platform meets modern standards and allows for continuous improvement and future integration with other systems used by different parts of HMG.

LITE will be released in multiple phases. The first phase, comprising a new digital tool to help exporters assess whether or not their export requires an export licence, was released for testing by a small number of exporters in May 2019.

It is envisaged that the full transition to LITE will happen by the end of the financial year 2019/2020.

# Section 6

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## UK support to Allies and partners

### 6.1 Transfers of controlled equipment

The Government occasionally transfers equipment in support of its wider security and foreign policy aims. There were eight applications to transfer equipment in 2018 that were approved.

Of the eight applications approved, five were in pursuit of common aims established by the Conflict, Stability and Security Fund (CSSF). The CSSF provides development and security support to countries which are at risk of conflict or instability, using both Official Development Assistance (ODA) spend and non-ODA spend to deliver and support security, defence, peacekeeping, peace-building and stability activity. Through the CSSF, the UK and our international partners are more secure from threats such as terrorism, corruption and illegal migration or trafficking.

All proposals to transfer controlled military equipment and dual-use equipment, including through the CSSF and gifting,<sup>7</sup> 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 MOD manages the assessment process and seeks advice on transfer proposals from advisers in the MOD, FCO and DFID.

Where the transfer of controlled military equipment is approved this is generally exported under a Crown Exemption letter and, as a result, do not require an export or trade licence.

Transfers in excess of £300,000 in value are notified to Parliament before the gift is made. In the case of dual-use equipment, export licence coverage must be in place using the open licence for the export of dual-use goods by the Crown.

Transfers can also be made to international organisations in certain circumstances, for example in support of UK contributions to humanitarian responses. Section 6.2 provides a case study of one such instance in 2018.

Table 6.II is a table showing equipment assessed and approved to be transferred by the Government. It does not contain definitive information on equipment delivered and value reflects predicted cost. Data is based on SPIRE and management information records held.

### 6.2 Gifting case study

In November 2018, HMG gifted six armoured vehicles to the World Health Organisation (WHO) to be used in the humanitarian response to the Ebola outbreak near Beni in the Democratic Republic of the Congo (DRC). The gifting application and export licence application for the protective vehicles were processed as urgent cases. The protective vehicles are being used by WHO staff to travel in the affected areas safely, in order to help control and stop the spread of the Ebola outbreak.

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<sup>7</sup> Gifting is defined by HM Treasury as items voluntarily donated with no preconditions and without the expectation of any return.

<b>Table 6.I Equipment assessed against the Consolidated Criteria by the Government and approved to be transferred in 2018</b>			
<b>Country</b>	<b>Goods Description</b>	<b>Sponsoring HMG Department</b>	<b>Value £</b>
Democratic Republic of Congo	6 x Armoured Vehicles gifted to the World Health Organisation to support the response to the Ebola outbreak in DRC.	DfID	£440,000
Jordan	Toyota vehicles and associated equipment, and surveillance equipment, for use in border security.	FCO	£299,522.61
Jordan	Mobile observation and communications equipment, vehicles, hand-held thermal imaging equipment, and medical kits, for use in border security.	FCO	£5,061,028.46
Nigeria	Counter-IED equipment for use in the fight against Boko Haram.	MOD	£772,555
Jordan	Sensors, rugged laptop, Helikite System, Trailers, Emergency Deflation Device, A- Frames, Pelican cases, Helium test kits and regulators for use in border security.	FCO	£1,015,999
Oman	Equipment consisting of a number of surplus assemblies and Line Replaceable Units (LRUs), required to aid the repair and maintenance of the Royal Army of Oman Challenger 2 Fleet.	MOD	£997,000
Jordan	Sets of dynamic steel targets	MOD	£8,500
Jordan	Armoured 4x4, Unmanned Aerial Vehicle (UAV), Unmanned Aerial System (UAS), Personal Body Armour, plates and plate hangers	MOD	£1,570,469

### 6.3 Government-to-Government exports

The Defence Equipment Sales Authority of the Ministry of Defence may dispose of certain military equipment that is surplus to the requirements of the UK Armed Forces.

These disposals are subject to licensing controls. Tables 6.II and 6.III give, by destination, the equipment type and quantity of these exports delivered in 2018.

<b>Table 6.II Sales to foreign armed forces</b>		
<b>Country</b>	<b>Type of Equipment</b>	<b>Quantity</b>
Bangladesh	Hercules C130J	2
Brazil	Blank cartridges	1,810
Brazil	Royal Navy Landing Platform Dock (LPD)Ship	1
Chile	Circuit card	1
Chile	Filter	1
Hungary	Clothing	15,845 (Enduring programme)
Jordan	Radar	2

<b>Table 6.III Other overseas transfers to commercial entities</b>		
<b>Country</b>	<b>Type of Equipment</b>	<b>Quantity</b>

Austria	Mortar bombs	43,317
Germany	Ammunition	2,968
Singapore	Ammunition	201,056
Saudi Arabia	Tornado spares	575
Sweden	NLAW missile	72

#### **6.4 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 2018, the UK continued to provide substantial support for in-service aircraft, naval vessels and their associated systems.

The following table is a summary of the exports that arose in 2018 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, the data is included in the corresponding DIT Strategic Export Controls Quarterly Report.

<b>Type of equipment</b>	<b>Quantity</b>
Component repair and re-provisioning, 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	156

# Section 7

## International policy developments

### 7.1 Arms Trade Treaty

The Arms Trade Treaty (ATT) is the only legally-binding, international, conventional arms control treaty. It seeks to establish the highest possible common international standards for regulating the international trade in conventional arms. The UK ratified the ATT on 2 April 2014; it entered into force on 24 December 2014. As of 31 December 2018, the Treaty had 100 States Parties.

In 2018, the UK continued to play a leading role in the ATT. As a large donor to the Voluntary Trust Fund (VTF) and a member of its Selection Committee, we were closely involved in the approval of 10 projects for funding in the 2018 project cycle, aimed at supporting Treaty implementation. In August 2018, the UK was re-appointed to the VTF Selection Committee for an additional two-year term.

Officials attended the Fourth Conference of States Parties (CSP4) in August 2018 in Tokyo. CSP4 received reports from the Working Groups on Treaty Implementation, Transparency and Reporting and Universalisation, and endorsed their programmes of work. The Conference agreed that the Working Groups should address the links between the Treaty and gender based violence. The new Latvian Presidency of the ATT adopted this as the thematic focus for CSP5.

CSP4 also discussed the impact of late or non-payment of subscriptions by States Parties on the Treaty's financial stability and the Management Committee presented recommendations to address the issue of unpaid assessed contributions. The CSP tasked the Management Committee to do further work in this area as well as develop options to ensure the financial liquidity of the Treaty.

The UK continued to make the case for greater engagement with industry, and encouraged further efforts to engage arms exporting states in the work of the treaty. The UK

outlined how UK end-user control processes helped tackle diversion in a side event organised by the United Nations Institute for Disarmament Research (UNIDIR)

The UK submitted its Annual Report to the Secretariat in accordance with Article 13 (3) of the Treaty, by the 31 May 2018 deadline. This report covers authorised or actual exports of conventional arms covered under Article 2(1) of the Treaty, made during the calendar year 2017. The UK does not collect comprehensive data relating to the import of all controlled goods covered by the reporting standards of the ATT.

On 26 April 2019, US President, Donald Trump, announced that the United States of America would take steps to withdraw its signature from the Arms Trade Treaty (ATT). The UK remains fully committed to implementing our obligations under the Treaty. We will continue to work with the US as responsible arms trade partners on tackling illicit arms transfers and ensuring the right conditions for a responsible, legitimate arms trade.

### 7.2 Small arms and light weapons

In 2018, the UK remained an active participant in international efforts to prevent the diversion of small arms and light weapons (SALW) and their ammunition.

Preventing SALW falling into the hands of terrorists, organised criminals and other unintended recipients, including through a strong Rules-based International System, remains a top UK priority. It is a key contributor to international peace and security.

The UK is a strong supporter of the UN Programme of Action to Prevent, Combat & Eradicate the Illicit Trade in Small Arms & Light Weapons in All its Aspects (UNPoA) and the International Tracing Instrument (ITI). As the only globally accepted politically binding agreements on SALW, they provide a common set of standards for establishing



effective national controls over the full lifecycle of small arms and light weapons, from production, transfer, possession and storage, to eventual disposal. In addition, they promote law enforcement cooperation in order to disrupt illicit trafficking networks. We were active participants at the UNPoA Third Review conference in August 2018. The UK also supports implementation of the Modular Small Arms Control Implementation Compendium (MOSAIC) and the International Ammunition Technical Guidelines (IATG).

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/nationalreportlist.aspx>

<https://www.unroca.org/>

<https://thearmstradetreaty.org/annual-reports.html?templateId=209826>

The Government has funded capacity-building projects through the Counter-Proliferation Programme Fund and the Conflict, Stability & Security Fund (CSSF), both bilaterally and through multilateral trust funds such as the NATO Partnership for Peace Trust Fund and the Organisation for Security & Cooperation in Europe SALW Assistance Mechanism.

The UK currently supports the Conventional Arms Control in the Commonwealth Initiative, strengthening cooperation and coordination between Commonwealth member states in their efforts to tackle the illicit proliferation of conventional weapons.

The Government also engaged actively on a review of the EU's strategy to combat the illicit accumulation and trafficking of SALW, which was agreed in 2018. More information on the EU's SALW Strategy is available at:

<https://www.consilium.europa.eu/en/press/press-releases/2018/11/19/securing-arms-protecting-citizens-council-adopts-new-eu-strategy-against-illicit-firearms-small-arms-and-light-weapons-and-their-ammunition/>

### **7.3 Convention on Certain Conventional Weapons (CCW)**

The Convention on Certain Conventional Weapons aims 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:

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

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

The UK attended the Twelfth Conference of the High Contracting Parties to Protocol V as a Signatory State on 19 November 2018, the Meeting of the High Contracting Parties to (Amended) Protocol II on 20 November 2018, and the CCW Meeting of High Contracting Parties on 21 to 23 November 2018.

The Meeting of CCW High Contracting Parties agreed to clarifications to protect the financial measures agreed in 2017 under the UK's Presidency of the CCW. These measures continue work to improve the predictability and long-term sustainability of the Convention's finances.

The CCW Group of Government Experts on emerging technologies in the area of Lethal Autonomous Weapons (LAWS) met to continue discussions for a period of 10 days during 2018. The discussions built on three years of informal meetings and one year of formal meetings and continued to develop international understanding regarding the potential implications of LAWS. The CCW Meeting of High Contracting Parties in 2018 agreed to extend discussions into 2019 for a further 7 days under the existing mandate.

### **7.4 Anti-Personnel Mine Ban Convention – the 'Ottawa Treaty'**

Anti-personnel mines (APMs) continue to cause suffering and casualties in many parts of the world, and can hamper the progress of development support.

The Ottawa Convention was adopted on 18 September 1997, and entered into force for signatory states, including the UK, on 1 March 1999. 164 States are now parties to the Convention, which bans the use, stockpiling, production and transfer of APMs. In addition, States that accede to the Convention are required to destroy stockpiled APMs, 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 17th Meeting of States Parties to the Convention in Geneva from 26 to 30 November 2018. The meeting reviewed the operation and status of the Convention against the goals stated in the June 2014 Maputo Action Plan. 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 Parties 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 Meeting of States Parties in 2018 formally agreed a new deadline of 1 March 2024 for the UK to complete the APM clearance of the Falkland Islands. The approved extension enables the UK to remain in legal compliance with the Convention while continuing the next phases of demining activity.

In September 2016, the UK announced the commitment of a further £20 million to support a fifth phase of demining. This phase began in October 2016 and made strong progress in 2017 and 2018. As of 31 December 2018, 65 mined or suspected hazardous areas had been cleared in Phase Five, releasing over 23.5 million square metres of land, with 4,940 anti-personnel mines destroyed.

The UK also remains committed to international cooperation through its generous support to Mine Action in countries where the clearance of landmines, cluster munitions and other explosive remnants of war contributes significantly to the lives of some of the world's most disadvantaged communities.

The Department for International Development's £38.5 million first Global Mine Action Programme (GMAP) ran from July 2014 to June 2018 and aimed to reduce the humanitarian and development impact of landmines and other explosive remnants of war, including cluster munitions. The nine countries supported by the Global Mine Action programme were Sri Lanka, Mozambique, Vietnam, Laos, Cambodia, South Sudan, Somalia, Burma and Zimbabwe.

In April 2018, DFID launched a new programme, GMAP2, which expanded the geographic scope of support to heavily contaminated countries around the world. This commits £84.4million to mine action until March 2020. This programme provides survey and clearance, mine risk education, and support to mine action authorities and organisations working in Afghanistan, Angola, Burma, Cambodia, Laos, Lebanon, Somalia, South Sudan, Sudan, Iraq, Syria, Yemen, Vietnam and Zimbabwe. As of December 2018 GMAP and GMAP2 returned 70km<sup>2</sup> of land back to productive use.

In addition, the UK's Conflict, Stability & Security Fund supports a number of mine action programmes around the world. This Fund had an allocated budget of over £7.6m for

demining activity in the UK's financial year from 1 April 2017 to 31 March 2018. Mine action has taken place in Ukraine, Georgia, Azerbaijan, Libya, Sri Lanka, Lebanon, Tunisia, Occupied Palestinian Territories, Pakistan and Afghanistan.

## **7.5 Convention on Cluster Munitions (CCM) – the '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 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 2018, the Convention had 120 members, of which 105 were full State Parties and 15 were signatories.

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 above in Section 7.4.

The UK participated in the Meeting of States Parties to the Convention in Geneva from 3 to 5 September 2018.

## **7.6 UN Register of Conventional Arms (UNRoCA)**

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).

Under a trial agreed by the relevant Group of Government Experts in 2016, 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, underpinned by robust export controls, are less vulnerable to exploitation and manipulation. Previous and current UK national reports are available at:

<http://www.un.org/disarmament/convarms/Register/>

### **7.7 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. The NSG also promotes effective safeguards and the protection of existing nuclear materials.

The UK attended the 28th Plenary meeting of the NSG in Jurmala, Latvia on 14-15 June 2018. The Group maintained its focus on technical issues important to the implementation of the Control Lists and updating the NSG Guidelines to keep pace with the evolving global security landscape and a fast-paced nuclear and nuclear related industry. The Group agreed a number of proposals in these areas as well as strengthening the NSG's policies on transparency and confidentiality.

The Group exchanged information on global proliferation challenges and reiterated their firm support for the full, complete and effective implementation of the Treaty on Non-proliferation of Nuclear Weapons (NPT) as the cornerstone of the international non-proliferation regime. The Group reconfirmed their commitment to UN Security Council Resolutions related to the Democratic People's Republic of Korea and the continued implementation of the Joint Comprehensive Plan of Action. The Group also noted that discussions were continuing on the requests for participation that had been submitted.

### **7.8 Australia Group**

The Australia Group (AG), which was established in 1985, is an informal group of countries which seek to ensure, through the harmonisation of export controls, that exports do not contribute to the development or proliferation of chemical and biological weapons. Co-ordination of national export control measures helps AG participants to fulfil their obligations under the Chemical Weapons Convention (CWC) and the Biological & Toxin Weapons Convention (BTWC). In 2018, the number of participating members increased to 43, including all EU Member States, the European Union, and most recently India, which joined the AG in January 2018.

In March the UK hosted the Australia Group Intersessional Meeting which included the AG Dialogue, which non-member African countries were invited to participate in. The Dialogue aims to provide an overview of the group's activities and promote the implementation of robust export controls. Following the success of this event, AG participants agreed to undertake further outreach with states from the Middle East in 2019.

The AG's Annual Plenary Meeting took place in Paris in June. This was the first Plenary Meeting that India attended since joining the AG. Participants issued a statement expressing their grave concern at the re-emergence of the use of chemical weapons, including recent attacks in Salisbury and Douma. There was also broad support for the upcoming Special Conference of States Parties of the CWC, which was seen as crucial to upholding the global norms on the prohibition of the use of chemical weapons. Throughout the meeting, the UK led efforts to ensure the AG Control Lists, primarily the Syria Specific Control List, remained relevant and up to date.

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

The Missile Technology Control Regime (MTCR) is a politically binding instrument. Its 35 Partner countries work together to prevent the proliferation of unmanned delivery systems capable of delivering weapons of mass destruction by coordinating national export licensing efforts. The UK is a founding member and plays a leading role, including in the MTCR's Technical and Law Enforcement Experts Groups.

The MTCR guidelines and lists of controlled items form an international benchmark for controlling exports of missile-related items and technologies. These standards are adhered to by an increasing number of non-Partners.

### **7.10 Wassenaar Arrangement**

The Wassenaar Arrangement was established to contribute to regional and international security and stability by promoting transparency and helping to prevent destabilising accumulations of conventional arms. It has 42 Participating States. The UK held the Plenary Chair from 1<sup>st</sup> January 2018 to 31<sup>st</sup> December 2018.

The strength of the Wassenaar Arrangement continues to be 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 significant role in the Technical Working Groups including chairing the Licensing & Enforcement Officers Meeting (LEOM).

Members held General Working Group meetings in May and October 2018, and Expert Group meetings in April, June and September 2018, ahead of the UK Chaired 24<sup>th</sup> Plenary Meeting in December 2018.

At the annual plenary meeting in 2018, Participating States approved several amendments to the Wassenaar Arrangement Control Lists, adopting new export controls in a number of areas, including quantum-resistant cryptography algorithms, air-launch platforms for space-launch vehicles, electromagnetic pulse (EMP) resistant software, and explosives.

Existing controls were further clarified regarding cryptographic activation, underwater sensors, pre-1946 aircraft and engines, non-magnetic diesel engines, water tunnels, naval nuclear equipment, and production items for integrated circuit.

Some controls were relaxed, such as industrial Internet-of-Things, high-performance continuous-wave lasers, and infrared cameras. In some cases performance thresholds were updated, taking into account the rapidly evolving performance of civil market products.

It was agreed that the UK would continue to Chair the LEOM for 2019.

Throughout our Chairmanship, the UK promoted enhanced industry engagement. Two panel discussions run by the UK in May and December brought together government and industry experts to highlight how strong relationships and regular dialogue can facilitate information exchanges on technical and market developments; help effective implementation of export control obligations; and encourage good practice on and adherence to international export control standards.

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

The ATAS student vetting scheme was introduced in November 2007. It seeks to protect certain sensitive scientific and engineering-based technologies relating to weapons of mass destruction and their means of delivery from possible misuse by proliferators.

ATAS operates with the cooperation of higher education institutions at which sensitive subjects are studied at postgraduate level. Any overseas student outside the European Economic Area or Switzerland seeking to study such subjects in the UK must first obtain an ATAS certificate. The applicant makes an application online at no cost. Correctly completed applications are usually processed within 20 working days of receipt. This can take longer during busy periods such as the summer. In 2018, ATAS approved 19,300 applications and denied clearance on 104 occasions.

# Section 8

## Compliance and enforcement

### 8.1 Compliance

We continue to carry out regular and thorough inspections of companies and individuals that hold Open Individual or Open General Licences, and Standard Individual Licences where electronic transfers arise. The aim of this activity is to provide assurance that all licence holders are meeting the terms and conditions of their licences and to raise awareness about export control obligations.

The Export Control Joint Unit's Compliance Team's new regional inspectors are now in post. They will be based in Exeter, Bristol and Leeds respectively. The added resource will provide further scope for carrying out more inspections in and around these regions.

The frequency of inspections varies, but takes into account several factors, including the track record of compliance by the exporter and their previous compliance levels; types of licences utilised; knowledge and experience of the business in relation to export controls; and frequency of usage. This varies from inspections every six months to inspections every three years.

The inspectors also raise wider awareness of export controls with businesses by understanding the overall activities of a business and advising them what might be potentially controlled, such as accessing technology while overseas.

Where a business is based in the UK they are subject to normal on-site compliance inspections; those whose operations are based overseas are subject to a 'remote' compliance inspection. Inspections of UK businesses' overseas operations only involve trade or trafficking and brokering activities. As such there are usually no tangible exports to examine. In these cases, the business is required to send to the Inspector a log of its activities and any supporting information / documentation required by the licence utilised. Once the information is received, the

Inspector will undertake the same rigorous level of checks as for an on-site inspection. This can involve further communication with the licensee to clarify any issues identified by the Inspector.

Inspection types and initial contact with exporters fall into the following categories:

- i) First time contact: These are telephone calls made to all first-time users of open licences to verify they are aware of all the terms and conditions of the licences they hold. This is followed up by an explanatory email outlining the key elements of export controls to be considered prior to any export/transfer. The target is that all new users of the licences will be contacted within six weeks of the company being allocated a compliance inspector;
- ii) First inspection: The business is usually inspected within three months of first use of their licence(s);
- iii) Routine inspections: For businesses that have had a first inspection and continue to hold open licences. The time between routine inspections depends on a risk assessment and whether changes in circumstances have arisen, such as a business take-over or change in key staff;
- iv) 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 four predefined criteria, agreed with Her Majesty's Revenue & Customs (HMRC), to determine the level of compliance and to ensure a consistent approach. Most of the inspections are undertaken at the site for which a licence or licences have been issued. In rare instances, inspections may be carried out remotely via correspondence and/or telephone, for example when an exporter is located overseas.

The four pre-defined criteria are as follows:

- compliant;
- generally compliant;
- not fully compliant;
- non-compliant, significant errors identified.

It should be noted that partial compliance will most likely be the result of administrative failings by the company concerned. Serious or repeated non-compliance may lead to open licences being withdrawn. All instances of non-compliance are reported to HMRC.

The following issues identified during an inspection would result in a non-compliant assessment:

- Incorrect use of licences such as goods or destinations not permitted;
- Failure to obtain prerequisite permissions and/or undertaking prior to export/transfer; and/or
- A significant number of failings identified at inspection.

A company that is “not fully compliant” may have issues identified such as:

- Repeated minor administrative errors found at an inspection;
- One major administrative error identified in one of multiple shipments; and/or
- An incorrect licence was quoted, where another extant licence held by the exporter permitted the export.

A “generally compliant” company may still have had the following issues:

- Slight errors on undertakings; and/or
- A slightly incorrect licence identifier was quoted on documentation but it is still evident which licence was being used.

“Compliance certificates” are only issued to businesses with a good compliance track record and following stringent ECJU internal guidelines.

The incentive to obtain a compliance certificate is a lighter-touch inspection requirement and an increased timespan between inspections. However, businesses can find it very challenging to achieve the necessary high criteria required.

In 2018, 16 ‘certificates of compliance’ were issued.

The Compliance Team carried out a total of 71 first time contact engagements with those new to exporting, and 399 site inspections (including revisits) in 2018.

Inspections are down from the previous year due to the training programme put in place for the new recruits. Table 8.I shows compliance levels for sites inspected.

		2016	2017	2018
Number of inspections during which no audit was undertaken or the outcome was inconclusive		3	1	1
% of first inspections	compliant	50%	56%	40%
	generally compliant	11%	23%	17%
	not fully compliant	14%	21%	18%
	non-compliant	25%	0%	25%
% of routine inspections	compliant	53%	35%	37%
	generally compliant	14%	21%	17%
	not fully compliant	19%	20%	15%
	non-compliant	14%	24%	31%
% of revisits	compliant	71%	66%	69%
	generally compliant	15%	16%	15%
	not fully compliant	11%	13%	7%
	non-compliant	3%	5%	9%

In 2018, 95 warning letters were issued to Company Directors where breaches of licence conditions were identified. This is a slight (5%) increase from 2017. Two non-compliant exporters surrendered licences which did not cover their goods. Surrendering licences helps avoid repeat offences. One licence was suspended because of a repeat infraction.

## 8.2 Enforcement

HMRC continued to work with Border Force and the Crown Prosecution Service (CPS) to undertake a wide range of enforcement activity throughout 2018. This included:

- 160 seizures of strategic goods in breach of licensing requirements or sanctions and embargoes (see Table 8.II);
- 70 end-use or ‘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 WMD end-use;
- 3 compound penalties\* totalling £111,312.50;
- 3 prosecutions under the Export Control Order 2008, all successful.

HMRC assesses all known breaches of arms export controls and sanctions. Where serious and/or deliberate breaches of export controls are identified, or where there are

aggravating features, cases will proceed to a full criminal investigation. These cases will be investigated and, if appropriate, referred to the Crown Prosecution Service, which determines whether there is sufficient evidence to prosecute and whether that prosecution is in the public interest.

Any decision by HMRC to conduct a criminal investigation will depend on a number of factors. These 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 receives and processes voluntary disclosures of errors made by exporters. These disclosures are assessed by HMRC and appropriate action is taken. This ranges from educational visits or the issuing of written warnings, through to compound penalties and, in the most serious cases, an investigation with a view to criminal prosecution.

HMRC works with DIT and other agencies to help raise awareness of export controls through outreach to business. It also participates in capacity-building events which strengthen links with other enforcement agencies in the field of export control and improve the capabilities of our international partners.

HMRC supports the international export control commitments of the Government through its contributions to international operational expert groups and by sharing expertise and best practice. This work includes supporting and contributing to the enforcement expert meetings of the Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), Australia Group (AG) and Wassenaar Arrangement (WA).

HMRC works alongside partners to strengthen capabilities to prevent the smuggling of illicit goods. This is delivered through the Proliferation Security Initiative and the World Customs Organisation's Strategic Trade Control Enforcement programme.

**Table 8.II Number of HMRC strategic exports & sanctions seizures and compound penalties**

Year	Compound Penalties		Seizures of strategic goods in breach of licensing requirements or sanctions and embargoes	
	Number of compound penalties	Value (£)	Year	No of Seizures
2018	3	£111,312	2018	160
2017	1	£5,360	2017	118
2016	2	£34,576	2016	183
2015-2016	3	£61,200	2015-2016	232
2014-2015	6	£257,906	2014-2015	225
2013-2014	8	£447,000	2013-2014	450
2012-2013	8	£520,000	2012-2013	280
2011-2012	8	£503,700	2011-2012	141
2010-2011	11	£359,000	2010-2011	134
2009-2010	-	-	2009-2010	115

Until 2016 information was recorded over financial years.

*\*Compound penalties or Compounding is the means by which HMRC can offer the exporter the chance to settle a case which would justify being referred to the CPS for prosecution, therefore saving the taxpayer and company time and legal fees.*

# Section 9

## Case studies

### 9.1 Mexico

Mexico experiences a high level of violence and insecurity. In recent years, the Mexican authorities have increasingly relied on the military to fight drug-related violence and organised crime, leading to large numbers of allegations of human rights abuses. These include extra-judicial executions, enforced disappearances and torture, alongside a culture of impunity.

In February 2019, Mexico's Congress approved the creation of a 60,000-strong National Guard to tackle security – a plan that the President López Obrador has made a cornerstone of his approach to tackling organised crime.

We remain concerned about the high level of crime and violence in Mexico, and allegations of human rights abuses by internal security forces. As part of assessing export licences for Mexico on a case-by-case basis against the Consolidated Criteria, we consider whether the goods might be used for internal repression (Criterion 2(a)). Applications for small arms, crowd control equipment, equipment which might facilitate arrest, and surveillance equipment are closely scrutinised. Criterion 2 is a mandatory criterion; therefore, if there is a clear risk that the items might be used for internal repression, the Government will refuse the licence.

We also consider the risk of diversion (Criterion 7) to internal security forces or police forces associated with internal repression or the likelihood of diversion to criminal activities.

When making our assessments we take into account what the equipment can do, as well as the specific end user and end use. We draw on information from a range of sources, including the British Embassy in Mexico City, as well as media and NGO reporting on human rights. We use a forward looking test to assess how the equipment will

be used in the future, and take into account the training and professionalism of the end users, reporting on their behaviour, and whether they are able to act with impunity.

Mexico is an important export market for the UK with an average of around £40m controlled items licensed each year over the last three years. The majority of licences were for dual-use items for commercial end use. There were a few licences for military items, for aircraft or personal protective equipment.

### 9.2 Nigeria

The UK is committed to supporting the longer-term capacity building of the Nigerian Armed Forces and the immediate challenges of combating Boko Haram in West Africa, and delivering the security needed for the safe provision of humanitarian and development support. UK military training and assistance to the Armed Forces of Nigeria has consistently emphasised the importance of adherence to internationally recognised Rules of Engagement, as well as respect for human rights and International Humanitarian Law (IHL).

The UN Peacekeeping statistics from May 2019 show that Nigeria contributes 338 personnel, both police and military, to 11 UN Peacekeeping Operations.

The human rights situation in Nigeria has caused concern for some time. NGOs and the media have alleged human rights abuses by security forces in the response to terrorism and criminal activity.

Recognising Boko Haram and Islamic State West Africa attacks as a significant terrorist threat, foreign governments and NGOs have at times criticised the response of the Nigerian security forces as being indiscriminate and retaliatory. The Government has raised these concerns at the highest levels with the Nigerian Government and continues to do so.



We monitor developments closely and have made clear to the Nigerian authorities the importance of protecting civilians in conflict and detention, and that, while we support their fight against terrorism, human rights standards must be upheld.

When assessing export licences for Nigeria on a case-by-case basis against the Consolidated Criteria, those of particular relevance include the risk that the items might be used for internal repression (Criterion 2(a)) and the risk of diversion (Criterion 7) whether by abandoning equipment or because of corruption. This includes licences for equipment intended for Peacekeeping Operations. We review supporting United Nations documentation, and, if appropriate, we also assess against our international commitments (Criterion 1a).

Single Individual Export Licences to Nigeria averaged £16m a year over the last three years. The majority of these licences were non-military controlled items for commercial end use, such as seabed survey equipment. There were two SIELs refused, one under Criterion 2(a) and one under Criterion 7.

### 9.3 Vietnam

Vietnam remains a one-party state. We have concerns about freedom of expression and association and reflect these in our consideration of export licence applications.

Single Individual Export Licences to Vietnam averaged £30m a year over the last three years. The majority of licences were for dual-use items for commercial end use. There were a number of licences for military items, linked to Vietnam's security challenges. For example, we have licensed equipment to the Vietnamese coastguard to help patrol its long coastline against incursion and illegal fishing. We have also licensed search and rescue equipment for the Vietnamese navy, and equipment for combatting cross border smuggling.

In assessing export licences for Vietnam on a case-by-case basis against the Consolidated Criteria, we consider whether the goods might be used for internal repression (Criterion 2(a)). Applications for small arms, crowd control equipment, equipment which might facilitate arrest, and surveillance equipment are closely scrutinised.

We also consider the risk of diversion (Criterion 7) between government departments and agencies, as well as risks connected to security forces with wide remits. We heavily scrutinise export licence applications for small arms where there is not a clear end user to avoid risk of diversion to criminals or embargoed destinations.

Between 2016 and 2018 the government has refused three SIELs for Vietnam under Criterion 2(a) and one under Criterion 7.

### 9.4 Somalia

While the situation in Somalia has seen clear improvements over recent years, it remains extremely fragile. UK engagement aims to address the threats posed to regional security and help Somalia become more stable and resilient. An important part of international efforts to respond to this challenge is the UN sanctions regime, which imposes a general arms embargo on all deliveries of weapons and military equipment to Somalia.

Military equipment may be supplied to Somalia under exemptions to the embargo, which include supplies of non-lethal military equipment for humanitarian or protective use; weapons and military equipment for the support of or use by UN personnel, African Union Mission in Somalia (AMISOM) or AMISOM's strategic partners; supplies for use by UN member states to combat piracy; and supplies for the development of Somali security sector institutions.

Certain exemptions require us to seek permission through the UN Sanctions Committee before we issue a licence. In other instances, it is sufficient to notify the Sanctions Committee. The export licences assessed for Somalia are mainly for protective equipment for diplomatic missions, international organisations, the media, NGOs and transit shipments that support maritime anti-piracy operations in the Western Indian Ocean High Risk Area.

When assessing licences for Somalia, therefore, we must refuse the application if we assess that allowing the export would breach the terms of the UN embargo (Criterion 1(a)). Other key criteria when assessing Somalia applications against the situation on the ground include:

- Criterion 2(a): Internal repression
- Criterion 3: Prolonging or provoking internal conflict.
- Criterion 7: Risk of diversion (i.e. can end-users keep goods secure).
- Criterion 8: Compatibility with the country's technical and economic situation.

The UN Panel of Experts (PoE) on Somalia monitor and investigate the implementation of the UN Somalia sanctions regime. In the unlikely event that any UK items appear to have been supplied in breach of the arms embargo, the UK will be questioned by the PoE and be obliged to answer.

### 9.5 Inertial Equipment

The UK is home to a large aerospace sector that employs tens of thousands of people across the country. According to ADS Group, a UK trade body, almost 90% of the aerospace industry's turnover is generated from exports. Many of these exports, such as aircraft components and inertial navigation systems, are assessed by the

Export Control Joint Unit's technical advisers to be controlled goods. These goods have utility in both civilian and military applications, from the maintenance of commercial airlines to the development of ballistic missile programmes.

We conduct a thorough assessment of each export licence application, and reach a decision on a case-by-case basis. For inertial navigation systems, whether for aircraft, UAVs or marine navigation systems, we pay particular attention to the UK's international obligations and commitments (Criterion 1) and the risk of diversion (Criterion 7).

Some inertial navigation systems are controlled by the Missile Technology Control Regime (MTCR) (Criterion 1(e)). The MTCR aims to prevent the proliferation of unmanned delivery systems capable of delivering weapons of mass destruction. Our assessments ensure that any export of inertial navigation systems is consistent with our obligations as outlined in the regime. In conducting our assessment, we consider the credibility of the end use and end user, and whether we assess the goods will be susceptible to diversion.

We work closely with DIT advisory departments, the EU and international partners to ensure that we share information and conclusions which are pertinent to our assessments. We are committed to facilitating responsible exports in support of the aerospace industry including managing the risks that such equipment might be diverted for other purposes.

## 9.6 Information Security Equipment

Cyber crime is a growing threat to the UK and internationally. To combat this, UK cyber security firms are providing world-leading technologies, training and advice to industry and governments. The Digital, Culture, Media and Sport sectoral review of June 2018 estimated that there are up to 40,000 full time staff and over £5.7bn in revenues generated in the cyber sector each year. Due to the growth of the UK cyber security industry, DIT receives an increasing number of export licence applications for information security equipment. These applications are for many different types of goods, ranging from whole network security systems, to components for secure videoconference systems, to encrypted handheld radios.

In addition to cyber crime, many countries face further threats including terrorism, serious and organised crime and the proliferation of weapons of mass destruction. In addition to licences for information security equipment, ECJU also assesses licences for intercept equipment and software designed to be used by law enforcement agencies for national security. These have a range of capabilities which are distinct from information security equipment, for example locating personal mobile devices or intercepting satellite phones.

ECJU assesses all licence applications on a case-by-case basis in line with the Consolidated Criteria. A key concern with information security or intercept equipment is whether there is a clear risk that the items might be used for internal repression (Criterion 2(a)). When making an assessment we take into account the capabilities of the equipment, the specific end user and the intended end use. We draw on information from a large range of sources including the National Cyber Security Centre and other government departments, relevant British missions overseas, media and NGO reporting on human rights.

Although previous information about an end user is relevant, the key issue is how the equipment will be used in the future. Our assessments take into account all relevant information such as the training and professionalism of the police and security forces, whether the end users are able to act with impunity and their behaviour with regard to respect for human rights.

# Annex A:

## Consolidated EU & National Arms Export Licensing Criteria

### WRITTEN MINISTERIAL STATEMENT

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

### THE CONSOLIDATED EU & 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 200W. 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 UK 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 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.

<https://publications.parliament.uk/pa/cm201314/cmhansrd/cm140325/wmstext/140325m0001.htm>

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