

# **United Kingdom Strategic Export Controls Annual Report 2015**

Presented to Parliament pursuant to Section 10 of the  
Export Control Act 2002  
Ordered by the House of Commons to be printed on 21 July 2016



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Print ISBN 9781474129657

Web ISBN 9781474129664

ID P002794484 07/16

Printed on paper containing 75% recycled fibre content minimum

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

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# Ministerial Foreword

This is the nineteenth Annual Report on Strategic Export Controls to be published by the United Kingdom (UK) Government. The Report provides details of strategic export controls policy and export licensing decisions for the period January to December 2015.

The Government is committed to:

- **safeguarding Britain's national security** by countering the proliferation of illicit weapons that can be used to commit acts of terrorism and serious organised crime, and working to reduce conflict;
- **building Britain's prosperity** by working with British business, increasing exports and investment, opening markets, ensuring access to resources, and promoting sustainable global growth; and
- **promoting British values abroad**, including on democracy, sustainable development, human rights and poverty reduction by reducing the proliferation of weapons and the diversion of resources.

These are mutually-reinforcing objectives which our robust and effective national and international arms export control regimes help to promote and protect.

As in previous years, export licensing in 2015 presented a range of complex challenges. The number of conflicts worldwide and the increasing global and regional threats from terrorist groups, such as Daesh, has reinforced and increased the importance of rigorous and responsible decision-making on export controls.

During 2015, the Government processed 17,550 Standard Individual Export Licence applications, 69% within 20 working days (against the published target of 70%). The Government assesses each application on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria (known as the Consolidated

Criteria). The Government continues to monitor and respond to global developments, and to reflect these as appropriate in licensing decisions.

The UK has maintained its leading role in the Arms Trade Treaty (ATT). In 2015, the UK participated in the three formal preparatory meetings and the First Conference of States Parties which was hosted by Mexico. As a Vice-President of the Conference, the UK helped to deliver several key outcomes, including on the rules of procedure and financing, setting the future direction of ATT implementation and operation. Our focus now is to ensure that the Treaty remains a top international priority in order to help deliver the expected step-change in the rules-based international system governing conventional arms controls. We believe that the ATT will be strengthened by every State which accedes to, or ratifies, it.

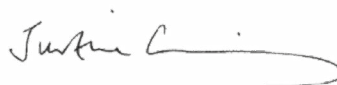
Looking ahead, the National Security Strategy (NSS) and Strategic Defence and Security Review (SDSR) of November 2015 set out the Government's vision for a secure and prosperous UK with global reach and influence. The SDSR included the creation in 2016 of new, issue-focussed, cross-government teams to remove duplication, consolidate national security expertise and make the most efficient use of it across government. One of these new teams will be an Exports Controls Joint Unit, hosted by the Department for Business, Innovation and Skills (BIS), which will bring together expertise from BIS, the Foreign & Commonwealth Office, and the Ministry of Defence, to provide coordinated cross-government operation of export controls while maintaining a prompt and high quality licensing service for UK exporters.

This Annual Report again demonstrates the Government's ongoing commitment to transparency in strategic export controls policy and export licensing. We commend the Annual Report to Parliament and other stakeholders.

7 July 2016



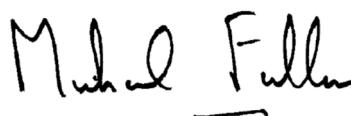
Philip Hammond (FCO)



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# Section 1

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## UK and EU Policy Developments in 2015

### 1.1 Legislation

An overview of the legislation applying to the export of strategic goods, software and technology from the UK is given in Annex A. This section sets out changes to that legislation in 2015 and describes related policy developments.

Two Orders amending the Export Control Order 2008 came into force during 2015:

- The Export Control (Amendment) Order 2015 (SI 2015/351) came into force on 24 March 2015. The Order replaced Schedule 2 to the Export Control Order 2008 which lists the military items subject to export controls. The new Schedule reflected changes to the Common Military List of the EU and the Wassenaar Arrangement Munitions List;
- The Export Control (Amendment) (No. 2) Order 2015 (SI 2015/940) came into force on 17 April 2015. The Order made changes to Schedules 1, 2 and 3 of the Export Control Order 2008, and introduced a new national control (PL9010) covering firearms considered to be 'Non-Military' in Schedule 3 (UK controlled dual-use goods, software and technology).

Four Orders implementing changes to UN and EU sanctions, in particular providing for enforcement of, and penalties for, breaches of the sanctions, came into force in 2015:

- The Export Control (Various Amendments) Order 2015 (SI 2015/97);
- The Export Control (Democratic Republic of Congo Sanctions) Order 2015 (SI 2015/1546);
- The Export Control (Iran Sanctions) (Amendment) Order 2014 (SI 2015/1625);
- The Export Control (Russia, Crimea and Sevastopol Sanctions) (Amendment) Order 2014 (SI 2015/1933).

Please see Annex B of this Report for further information on the country-specific export restrictions applied by the Government.

Council Regulation (EC) 428/2009 of 5 May 2009, which established a Community regime for the control of exports, transfer, brokering and transit of dual-use items (the so-called "EU Dual-Use Regulation"), was amended once during 2015. Regulation (EU) No 2420/2015 of the Council and of the European Parliament of 12 October 2015 amended the Dual-Use Regulation to update (by Delegated Act) the list of dual-use items requiring authorisation for export outside the customs territory of the EU (i.e. to amend Annex I of Regulation 428/2009). This list must be updated "in conformity" with the obligations and commitments accepted by the Member States of the EU as members of the international export control regimes and as States Parties to the Chemical Weapons Convention.

The European Commission continues to progress its review of the EU system of export control of dual-use items, which commenced with the publication in June 2011 of a Green Paper entitled "The dual-use export control system of the European Union: ensuring security and competitiveness in a changing world."

In 2015, the Commission embarked on an impact assessment in order to assess the costs and benefits associated with the various review options outlined in the Commission's Communication of 24 April 2014, (<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1063>), notably with regard to potential regulatory simplification and burden reduction. As part of the impact assessment, an online public consultation ran from 15 July to 15 October 2015. Subsequently, on 23 November 2015, the Commission published the results of its online public consultation, [http://trade.ec.europa.eu/doclib/docs/2015/november/tradoc\\_154003.pdf](http://trade.ec.europa.eu/doclib/docs/2015/november/tradoc_154003.pdf).

The overall impact assessment is to allow the Commission to identify the most suitable regulatory and non-regulatory actions, and to prepare a proposal for amendments to Regulation (EC) No 428/2009 in 2016.

## 1.2 Policy Developments

### National Security Strategy (NSS) and Strategic Defence and Security Review (SDSR) 2015

The 2015 SDSR initiated the creation of a number of new, issue-focused cross-government teams to remove duplication and consolidate national security expertise.

The Government will therefore establish new policy-making and delivery Joint Units in 2016, including:

- *An Exports Controls Unit, hosted by the Department for Business, Innovation and Skills (BIS), to provide coordinated cross-government operation of export controls.*
- *An Arms Control and Counter-Proliferation Centre, hosted by the Ministry of Defence (MOD), which will consolidate in a single location the expertise and policy-making currently in the MOD, Foreign & Commonwealth Office, and Department of Energy and Climate Change.*

<https://www.gov.uk/government/publications/national-security-strategy-and-strategic-defence-and-security-review-2015>

### A pre-licensing register of arms brokers: Government Response

In July 2015, the Government published its response to its Call for Evidence paper, which was published in April 2014, to seek views on the introduction of a pre-licensing register of arms brokers.

Having considered the range of responses received as part of the Call for Evidence process, the Government decided not to take any further steps in this area. The Government considered that:

- there was no consensus or sufficiently powerful arguments in favour of implementing a comprehensive register;
- introducing a register would not be sufficiently beneficial to justify additional regulation of legitimate UK businesses;
- the UK's existing trade control legislation, which ensures that all applications are assessed on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria (the Consolidated Criteria), is sufficiently robust in this area; and

- the introduction of a pre-licensing register would not substantially enhance the enforcement of brokering controls, and that to do so would place considerable extra burdens on legitimate defence companies.

The Call for Evidence and the response papers are published on the GOV.UK website at <https://www.gov.uk/government/consultations/pre-licensing-register-of-arms-brokers-call-for-evidence>.

## Criterion 8

In 2015, the Department for International Development (DFID) began to take into account the cumulative value of licences over a 12 month period as part of its assessment in accordance with Criterion 8 of the Consolidated Criteria. In practice this means that DFID applies additional scrutiny if total applications to a country of interest exceed normal volumes in a single year.

## Israel

In the 2014 Annual Report the Government said it had carried out a review of licensed exports to Israel in response to Israeli operations in Gaza following attacks by Hamas (Operation Protective Edge). The Government reported it had found that the vast majority of exports licensed for Israel were not for items that could be used by Israeli forces in these operations, but had identified 12 export licences that the Government would suspend, as a precautionary measure, in the event of a resumption of significant hostilities.

On 14 July 2015, the Government concluded that 11 months after the establishment of a ceasefire between Israel and Hamas, in the wake of Operation Protective Edge, there was sufficient information from a wide variety of sources to apply standard export licensing procedures using the Consolidated Criteria, without any additional measures.

As a result, the additional provision to suspend these 12 licences was lifted.

## 1.3 Transparency and Accountability

The new reporting requirements for the use of Open General and Open Individual Licences that came into force in 2014 require exporters to provide information on their use of these licences. During 2015, the Government reviewed these new reporting requirements to ensure their effectiveness, but as data is only gathered at the end of the calendar year, work to check the consistency and integrity of the data collected will continue into 2016. The Government will, in due course, publish this information in its Annual Data Report alongside existing data about Individual Licences granted and refused.

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

The Parliamentary Committees on Arms Export Controls (CAEC) continued to scrutinise export licensing decisions and policy until they were dissolved in March 2015 ahead of the General Election.

#### 1.4 Awareness

The Government continued to deliver an extensive awareness campaign on export controls to industry around the UK. This included:

- Shared platforms with partners and stakeholders;
- Dedicated training courses;
- Web-based guides and licensing tools, and e-newsletters;

##### Shared platforms with partners and stakeholders

The Export Control Organisation (ECO) in BIS has worked with key stakeholders from industry and Government, sharing platforms at nationwide global exporting events to deliver key messages that:

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

The ECO continued to work in close partnership with UK Trade and Investment Defence and Security Organisation (UKTI DSO) at regionally-based events for small and medium-sized enterprises (SMEs) in the defence and security sector new to exporting to deliver key messages about export control requirements. Additionally, the ECO engaged in a speaking capacity at a number of UKTI Exporting is Great regional events in England and Wales in November 2015. This type of activity has ensured greater awareness among businesses not known to the ECO, particularly with businesses involved in exports of dual-use controlled items.

More than 200 delegates from the aerospace, defence and security industries attended the ECO's third annual Export Control Symposium in September 2015. Philip Dunne MP, Minister of State for Defence Procurement at the Ministry of Defence, gave the opening address.

The plenary and workshop sessions included speakers on US export controls, the Arms Trade Treaty, and relevant banking practises and requirements. This reflected joint working under the cross-Whitehall initiative to address the issue of difficulties in accessing finance experienced by businesses in the defence sector.

##### Dedicated Training Courses for Business

47 dedicated training sessions were attended by over 800 delegates nationwide. They were focused on the provision to industry of specific legislative and operational information about export control obligations. The course topics included:

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

The course objectives generally are to:

- Improve export control knowledge;
- Provide information about industry responsibilities in relation to export control legislation;
- Advise what export licence is best for the exporter, with a module on how to make the best use of Open Licences;
- Assist with how to apply for export licences.

On-site training was delivered to four UK businesses that had requested bespoke training to address their specific market issues. The minimum number of employees trained on-site was ten, with maximum numbers being dependent on company requirements.

ECO was also asked by Rolls Royce to support UK and US Exporting Awareness events at Derby and Farnborough in June 2015. This involved 230 delegates from 12 different defence companies and guest speakers from the UK and US. This was an excellent example of industry and government joint working.



Over 100 companies new to ECO training registered for the full range of training courses. Many of these were SMEs, further demonstrating the Government's commitment to reach out to a wider group of exporters dealing in strategic items.

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

The web-based information about export controls continues to be hosted on GOV.UK. The Policy Page for the ECO is the main navigational tool to enable easy access to all legislation and tools including SPIRE<sup>1</sup>: <https://www.gov.uk/government/organisations/export-control-organisation>.

### Notices to Exporters

The Government continued to encourage industry to sign up to receive Notices to Exporters (NTEs), and in 2015 subscribers increased to over 10,300 (from around 8,300 in 2014; 6,500 in 2013; 5,000 in 2012). A total of 32 NTEs were issued with the latest information, including control list changes, export control legislation updates, and the trading position for sanctioned destinations. All NTEs are designed to enable exporters to take appropriate action.

In addition to general awareness-raising activities, the Government sought to provide updates on specific countries of concern. The Government continued to publish, on GOV.UK, a list of Iranian entities of potential WMD concern. The list is intended to help exporters to judge exports which could be of concern on WMD end-use grounds based on previous licensing decisions, including when they should contact the ECO for advice. Inclusion on the list does not necessarily indicate that an export licence would be refused, and neither does non-inclusion necessarily mean that there are no end-use concerns. Exporters are encouraged to contact the ECO whenever they have any suspicions regarding possible WMD end-use.

### Checker Tools

Exporters continued to make use of the ECO's two web-based search tools which help to identify which products need a licence (Goods Checker) and, if licensable, whether an Open General Export Licence<sup>2</sup> (OGEL) potentially covers the proposed exports (OGEL Checker).

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

The OGEL Checker tool assists users who know the rating (Control List classification) of their goods and the destination country for the proposed export to find out which OGEL(s) may cover the export, provided all the conditions can be met.

Both of these tools can be accessed at [www.ecochecker.bis.gov.uk](http://www.ecochecker.bis.gov.uk). From March 2015, the checker tools were also made accessible from SPIRE, which enabled:

- Accessibility without the need for a separate log-on password;
- Capability to self-rate applications and check suitability of OGEL use at the point of application.

### 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. The ECO delivered four training courses specifically for officials in Whitehall departments engaged in Arms Export Control policy with key roles in licence decision-making and enforcement. ECO also delivered a training session dedicated to UKTI DSO staff.

### International Outreach

The Government contributed to the EU Dual-Use Long-Term Programme, providing expertise about UK export controls to a number of participating countries. In addition, tailored training was delivered in collaboration with other EU Export Control Authorities to a delegation from Pakistan. HMG Officials attended the 22nd Asian Export Control Seminar in Tokyo in February 2015 and presented on its student vetting scheme, the Academic Technology Approval Scheme (ATAS) (see Section 2.11).

## 1.5 Advisory services

### The End-User Advice Service

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

As it is a non-statutory advisory service, there are no published targets for End-User Advice Service enquiries. However, during 2015, BIS received 315 enquiries, with 83% being completed within five working days and 98% within 20 working days.

<sup>1</sup> The UK's electronic export licence application system.

<sup>2</sup> A full explanation of the different UK export licences currently available is included in Section 4 of this Report

## Section 2

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# Other International Policy in 2015

### Treaties and Agreements

#### 2.1 Arms Trade Treaty (ATT)

The ATT is a legally-binding, but nationally-enforced, Treaty to regulate the international trade in conventional arms. The UK ratified the ATT on 2 April 2014, and the Treaty entered into force on 24 December 2014.

Mexico delivered a successful First Conference of ATT States Parties (CSP1) in August 2015. The Government engaged constructively with other partners to deliver important decisions on the structure and operation of the Treaty. The UK (as one of the Vice Presidents) delivered early decisions on Rules of Procedure, Financial Rules, the Management Committee, and aspects of the Secretariat. These outcomes will serve future Treaty implementation by providing an agreed operational basis for the Secretariat and States to engage on substantive policy issues. The UK supported the appointment of Mr Dumisani Dladla (South Africa) as the first (interim) Head of Secretariat, and of Ambassador Imohe (Nigeria) as Chair of the second Conference of States Parties (CSP2). The UK welcomed the agreement of Geneva as the location of the Secretariat.

The Government supports the ATT practically. The UK donated funding to enable broader participation at CSP1, funds ATT projects through its Counter-Proliferation Programme Fund and continues to encourage States to accede to the ATT, particularly other major exporters including China, India, Russia, and the USA.

In accordance with Article 13 (1) of the Treaty, the UK submitted its Initial Report to the Secretariat by the 23 December 2015 deadline. This Report detailed measures undertaken by the UK to implement the Treaty.

#### 2.2 Small Arms and Light Weapons (SALW)

SALW have a role in ensuring legitimate defence and security, but their misuse costs hundreds of thousands of lives, violates human rights, undermines security and development, and fuels conflict, crime and terrorism. The UK is committed to facilitating responsible exports of SALW, and exercises control through legislation in line with its international commitments to prevent illicit proliferation and misuse.

The UK remains committed to implementing regional and international agreements such as the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (UNPoA), the International Tracing Instrument, the UN Firearms Protocol<sup>3</sup> and the Wassenaar Arrangement. These politically-binding agreements provide a common set of standards for regulating the manufacture, transfer, storage and destruction of SALW in order to prevent accidents and reduce the risk of diversion to illicit trade, illegal armed groups and terrorists. They encourage States to establish effective national controls over the full life-cycle of SALW, including through marking, stockpile security, and collection and destruction of defective, illicit and surplus weapons. We regularly report on the UK's implementation of the international instruments in order to promote transparency and as a confidence-building measure. Further information on UK policy and practice can be found at: <http://www.poa-iss.org/poa/pohtml.aspx>.

<sup>3</sup> UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (Firearms Protocol)

The Government encourages and supports States through bilateral and multilateral engagement to strengthen their controls over SALW, and funds projects through the Counter-Proliferation Programme Fund. We also support the work carried out by the EU as part of its Small Arms and Light Weapons Strategy to combat the illicit accumulation and trafficking of SALW and their ammunition. The EU produces six-monthly and annual reporting to reflect all the work being done to implement the Strategy ([http://eeas.europa.eu/non-proliferation-and-disarmament/salw/index\\_en.htm](http://eeas.europa.eu/non-proliferation-and-disarmament/salw/index_en.htm)).

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

The purpose of the UN CCW is to prohibit or restrict the use of those conventional weapons that are considered to cause unnecessary or unjustifiable suffering to combatants or to affect civilians indiscriminately, for example, weapons with non-detectable fragments, mines, booby-traps, incendiary weapons and blinding laser weapons. The Convention comprises a covering chapeau with annexed Protocols – a structure adopted to allow flexibility and consideration of other types of conventional weapon in the future.

The Convention itself contains only general provisions. All prohibitions or restrictions on the use of specific weapons or weapon systems are the subjects of the five Protocols which cover:

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

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

The UK attended the Meeting of the High Contracting Parties to Protocol V as a Signatory State on 9-10 November 2015, the Meeting of the High Contracting Parties to (Amended) Protocol II on 11 November 2015, and the Meeting of the High Contracting Parties to the CCW on 12-13 November 2015.

The UK also took part in informal meetings of experts discussing Lethal Autonomous Weapons Systems on 13-17 April 2015. These discussions continued to develop understanding regarding the potential implications of fully-autonomous lethal weapons. The Meeting of High Contracting Parties to the CCW (12-13 November 2015) agreed to renew the mandate for informal meetings of experts that took place 11-15 April 2016.

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

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

The APMBC was adopted on 18 September 1997, and entered into force on 1 March 1999. 162 States are now parties to the Convention, the latest to accede being Oman in 2014. The Convention bans the use, stockpiling, production and transfer of APMs. In addition, States that accede to the Convention are required to destroy stockpiled APMs, clear mined areas under their jurisdiction or control, and to assist the victims of APMs.

Article 5 of the APMBC obliges States Parties to ensure destruction of all anti-personnel mines in areas under their jurisdiction or control. For the UK, this means the Falkland Islands. In 2014, contracts were agreed for a two-year mine clearance project on the Falkland Islands. This was the fourth phase of clearance operations towards fulfilling the UK's Convention obligation to clear the Falkland Islands of all mined areas. It ran from January 2015 – March 2016 and cleared 25 mined areas, taking the total number of cleared areas to 35. In preparation for future mine clearance operations, the Government has funded technical surveys in some areas for which records are not available. The Government is giving close consideration to options for further demining beyond Phase 4 in order to progress towards fulfilment of the UK's Article 5 obligations.

In addition, the Government continued to engage in mine action work in situations of humanitarian need across the world. In 2015 alone, such work in developing countries resulted in the removal of over 22,152 landmines, cluster munitions and explosive remnants of war (ERW); and released 37,003,469 square metres of land, improving people's access to basic services, increasing their economic opportunities and improving their safety. The UK's projects reached an additional 116,500 people through mine risk education. The UK also worked in Mozambique, Sri Lanka, Vietnam, Laos, Cambodia, Iraq, and Ukraine to strengthen the ability of national authorities to manage their own landmine and ERW programmes.

The UK took part in the 14th Meeting of States Parties to the APMBC, which took place in Geneva on 30 November – 4 December 2015. The meeting reviewed the operation and status of the Convention against the goals stated in the Maputo Action Plan, which was agreed at the 3rd Review Conference held in Maputo in June 2014. The Action Plan's goals include universalisation of the Convention, stockpile destruction, mine clearance, victim assistance, and international cooperation and assistance.

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

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

In 2008, a number of Governments, including the UK, agreed the CCM. The Convention 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 2015, the Convention had 118 members, of which 98 were States Parties.

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

The Government attended the Convention's First Review Conference in Dubrovnik, Croatia, from 7-11 September 2015.

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

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

The UN Register currently covers seven categories of conventional weapons:

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

Countries can also use the Register to report voluntarily on national holdings of SALW.

The UK submits an annual report to the UN Register on all exports of military equipment in these categories. Whilst all reporting is voluntary, the Government believes regular and comprehensive reporting to be important, and actively encourages all UN Member States to make reports with similar levels of transparency. Transparent systems are less vulnerable to manipulation by groups that view rigorous export controls as an impediment

to their aims. Previous and current UK national reports are available here (<http://www.un.org/disarmament/convarms/Register/>).

## Export Control Regimes

### 2.7 Nuclear Suppliers Group (NSG)

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

Argentina hosted the 25th Plenary meeting of the NSG on 3-5 June 2015. At the meeting, the Group maintained its focus on technical issues important to the implementation of the NSG Control Lists by exchanging views and agreeing on a number of proposals to clarify and update the Lists. The Group discussed options for enhancing outreach to engage non-members that adhere to the NSG Guidelines, and noted the positive reaction and expressions of interest in the work of the Group following Argentina's national statement on behalf of the NSG to Main Committee II of the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The Group also agreed the importance of efficient and effective processing of Government-to-Government Assurances to ensure that NSG Participating Governments have the tools necessary to facilitate the timely authorisation of legitimate exports of nuclear material, equipment and technology, pursuant to the NSG Part 1 Guidelines. Finally, the NSG voiced its continued concern about the Democratic People's Republic of Korea's nuclear programme, and expressed its hope that the ongoing negotiations to reach a Joint Comprehensive Plan of Action on the nuclear programme of Iran would be successful.

### 2.8 Australia Group (AG)

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

The UK is one of the most active participating governments in the AG and a major contributor to technical proposals (these are adopted by consensus and help to ensure that the Group's control lists are kept up-to-date). At the June 2015 Annual Plenary Meeting participants reviewed options for the future direction

of the Group, including adoption of amendments to the chemical and biological control lists. It was agreed to increase outreach efforts by, for the first time, opening up part of the Plenary for several non-member States to participate in joint technical exercises and exchanges. The Plenary endorsed Kazakhstan as the first Adherent State to the AG's guidelines and control lists, and agreed to undertake outreach visits to China, Indonesia, Jordan, Kazakhstan, Thailand, and Vietnam before the 2016 Plenary.

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

The MTCR is a voluntary association of countries that work together through the coordination of export licensing efforts to prevent the proliferation of WMD-capable unmanned delivery systems. The Regime currently has 34 Partners. The UK plays a leading role in the Regime, including significant input in its Technical Experts Group.

The MTCR held its 29th Plenary Meeting on 5-9 October 2015 to review and evaluate its activities and to intensify further its efforts to prevent missile programmes and their proliferation. Partners discussed extensively missile proliferation-related activities worldwide, including developments in specific missile programmes, such as those of Iran and the Democratic People's Republic of Korea, and the proliferation risks they represented. Partners also considered procurement activities and techniques in support of such programmes; rapid technological change; the role of intangible technology, brokering, and transshipment in facilitating proliferation; and key technology trends in the proliferation of missile programmes.

The Plenary noted the formal adherence of Estonia and Latvia to the MTCR Annex and Guidelines. A formal adherence mechanism was agreed at the 2014 Plenary, which allows non-members that have declared adherence to participate in a technical briefing and potentially receive presentations on areas of interest.

Technical changes to the MTCR export control list, including several UK proposals, were agreed by the Technical Experts Meeting, including clarifications to current controls on environmental test chambers (Item 15), the addition of two new isomers of fuel substances (Item 4), and text on gel propellant rocket motors (Item 20).

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

The WA is the only multilateral arrangement dealing with the control of exports of conventional weapons and associated sensitive dual-use goods and technologies. It has 41 Participating States, including Canada, Japan, Mexico, Russia, the USA, and all EU Member States except Cyprus. It was established to contribute to regional and international security and stability by promoting transparency and helping to prevent

destabilising accumulations of conventional arms. General Working Group meetings took place in May and October 2015, ahead of the 21st Plenary Meeting in December 2015. The strength and importance of the WA continues to be in its technical outputs, specifically the Control Lists which underpin the arms export control regimes of all Participating States and many non-participating States. The WA produces two Control Lists – one for conventional weapons (Munitions List) and one for dual-use goods and technologies (List of Dual-Use Goods and Technologies). Participating States then report to WA Members if they export controlled arms, goods or technology to non-members.

UK experts play a key role in the Technical Working Groups. The Plenary Meeting in December 2015 approved a number of amendments to the WA Export Control Lists. The texts on technologies used in consumer industries such as car production, domestic medical devices (Category Three), optical mirrors for solar power installations (Category Six), and machine tools (Category Two), were substantially reviewed. Current existing controls on biological agent protection and detection were clarified (Category One), and new controls were agreed including on analogue-to-digital converters (Category Three) and explosive co-crystals (ML8). The controls will be implemented through the EU's controls on exports of dual-use items. This work to ensure lists are appropriate and implemented also enhances the Government's prosperity agenda by ensuring a level playing field for industry.

The UK continues to contribute to the debate within the WA on the regime's future membership. We also support voluntary adherence to WA Control Lists by non-participating States.

## **UK Activities**

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

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

It is operated with the cooperation of Higher Education Institutions at which sensitive subjects are studied at postgraduate level. Any overseas student, except those from the European Economic Area or Switzerland, seeking to study such subjects must first obtain an ATAS certificate. An application is submitted 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 months.

In the period 2007-2015, ATAS approved 108,494 applications and denied clearance in 992 cases.



## Section 3

# Export Licensing Case Studies

This section contains a selection of case studies that illustrate the Government's export control policy and practice in action.

### TUNISIA

The Tunisian Government has made considerable progress on human rights since the Arab Spring. A new Constitution, which is one of the most progressive in the region, was approved in January 2014. The Tunisian Government has expressed the political will to continue to improve human rights with the support of international partners. However, civil society has reported allegations of torture and mistreatment as well as occasional reports of excessive use of force by the police, the security forces and the National Guard.

The attacks in Bardo and Sousse in 2015 and in Ben Guerdane in March 2016, along with the rise of extremism in neighbouring Libya, underlined the growing threat to Tunisia from extremists and the consequent challenge for the Tunisian Government and security forces. These attacks led the Tunisian Parliament to adopt a new counter-terrorism law. NGOs have raised some human rights concerns about this legislation, including over access to a lawyer during pre-charge detention for terrorism suspects and the continued inclusion of the death penalty.

When assessing export licence applications, the UK Government considers carefully the need to provide support for Tunisia's counter-terrorism operations as well as the need to uphold our human rights values. We continue to assess all licence applications on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria (known as the Consolidated Criteria), paying particular attention to those for goods destined for the military and security forces that could be used for internal repression (Criterion 2).

### THAILAND

There are ongoing human rights concerns regarding the practises of the Thai security forces, especially in response to demonstrations, and the UK Government is rigorous in assessing the risks posed by exports of equipment which might be used for internal repression.

In May 2014, the Thai military seized power in a coup and imposed martial law. The ensuing military-led government has cracked down on freedoms of expression and assembly, banning protests and preventing dissent. In the wake of the coup, the UK Government suspended licences for equipment which could be used for internal repression including body armour, tear gas, and components for the manufacture of ammunition. A referendum is planned in August 2016 to agree a new Constitution which should lead to elections in 2017.

The situation in the four southern-most provinces (the Deep South) of Thailand, where there is an ethno-nationalist insurgency, remains fragile due to ongoing martial law and low-level conflict. NGOs have reported torture and human rights abuses, allegedly committed by the Armed Forces.

The UK Government continues to assess licences on a case-by-case basis against the Consolidated Criteria. Officials monitor the security situation closely and pay particular attention to any equipment for use by the Thai military or Royal Thai Police that could be used for internal repression (Criterion 2) or to aggravate existing tensions in Thailand (Criterion 3), as well as to the risk of diversion to an undesirable end-user or end-use (Criterion 7).

## INDONESIA

The conduct of the Indonesian Army Special Forces and the Indonesian National Police has been heavily criticised by civil society in the past in relation to human rights abuses. Concerns have covered excessive use of force (including in Papua), poor treatment of detainees, and extreme crowd control methods. More recently, the police and military have been undergoing a programme of reform. The Army Special Forces has included a human rights module into all elements of its training, from recruitment to Officer training, demonstrating attempts to reform into a more democratic force. The UK has provided training to the National Police in an effort to improve command and control structures and prevent incidents of abuse.

The majority of exports to Indonesia in 2015 have been for small components destined for the Armed Forces, especially the Hawk combat aircraft operated by the Air Force.

The UK Government assesses all export licence applications on a case-by-case basis against the Consolidated Criteria with particular regard to exports that could be used for internal repression (Criterion 2).

## ANTI-PIRACY

The Government plays a leading role in international operations aimed at combating piracy and armed robbery in the Indian Ocean High Risk Area (HRA), and has a dedicated team to manage related licensing as well as a specific export licence (an Open General Trade Control Licence (maritime anti-piracy) – OGTCCL MAP) tailored to the requirements of anti-piracy operations.

The UK Government carefully assesses against the Consolidated Criteria all licence applications for weapons, ammunition, and related equipment for end-use by Private Maritime Security Companies (PMSCs) operating on board client vessels. While all Criteria are taken into account, the main concerns when assessing these applications are whether the goods might be used for internal repression (Criterion 2) and whether there is a risk that the goods could be diverted or re-exported to undesirable end-users (Criterion 7).

In considering Criteria 2 and 7, the type of evidence we look for includes:

- That PMSCs have signed the International Code of Conduct for Private Security Service Providers (ICoC) or have agreed to be bound by its terms;

- Confirmation that the goods will remain on board the ship for the duration of the journey and that they will be used only by authorised personnel;
- Confirmation that the goods will not be used by anyone other than the shipper or authorised persons on board the ship and will not be sold or otherwise transferred to third parties;
- Confirmation that the goods, when not deployed, will be held in a secure armoury, the use of which has previously been licensed by the UK Government.

In addition, there are UN and EU arms embargoes against countries in the HRA, which are given effect in licensing decisions (Criterion 1). The Foreign & Commonwealth Office works closely with the Department for Business, Innovation and Skills to ensure that UK companies operating in the sector are aware of Government policy. The conduct of OGTCCL MAP users is regularly monitored through compliance inspection.

## BRAZIL

As a growing market, Brazil is a major export destination for UK business. The majority of controlled goods exported to Brazil are destined for use in research institutions and for commercial use in oil and gas exploration. UK exporters also supply the Brazilian defence industry.

The risk of equipment being used for internal repression, especially for example in crowd control operations, remains a concern. In June 2013, the Brazilian Police response to anti-Government protests attracted widespread criticism from civil society. It was widely reported that, in isolated incidents, the Military Police used tear gas and rubber bullets in response to protests. The UK Government closely monitors political civil unrest in the country and the police response.

The Government continues to assess licences on a case-by-case basis against the Consolidated Criteria, paying particular attention to the risk of the equipment being used for internal repression (Criterion 2). In addition, officials work closely with the Brazilian Government to raise awareness of human rights concerns, particularly around large sporting events, drawing on lessons learned from the 2012 Olympics and FIFA World Cup 2014.

## Section 4

# Export Licensing Data and Performance Against Targets During 2015

### 4.1 Information on licences processed during 2015

The types of licence available are the Standard Individual Export Licence (SIEL), Open Individual Export Licence (OIEL), Standard Individual Trade Control Licence (SITCL), Open Individual Trade Control Licence (OITCL) and Standard Individual Transshipment Licence (SITL\*). The following tables provide details of the numbers of each of the main types of licence processed during 2015. It should be noted that any data referred to as "Issued," "Refused," "Rejected," or "Revoked" is taken from Official Statistics (this is explained in Section 1.3) available on GOV.UK <https://www.gov.uk/government/collections/strategic-export-controls-licensing-data>. All other data is taken from the licensing database SPIRE (as of 29 April 2016).

**Table 4.I Number of SIELs\***

Issued	13,653
Revoked	11
Refused	326
NLR**	2,087
Withdrawn/Stopped***	1,381

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

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

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

**Table 4.II Number of SITLs**

Issued	13
Revoked	1
Refused	2
NLR	2
Withdrawn/Stopped	14

**Table 4.III Number of OIELs\*\*\*\***

Issued	320
Revoked/Reduced/ Removed	5
Rejected*****	46
NLR	13
Withdrawn, Stopped or Unsuitable (where an exporter does not meet the criteria for an OIEL)	128

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

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



**Table 4.IV Number of SITCLs**

Issued	231
Revoked	0
Refused	6
NTLR*****	28
Withdrawn/Stopped	104

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

**Table 4.V Number of OITCLs**

Issued	34
Revoked	0
Refused	5
NTLR	2
Withdrawn, Stopped or Unsuitable (where an exporter does not meet the criteria for an OIEL)	40

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

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

### For SIELs:

- The data includes the total value of all applications in respect of which a SIEL was issued for the export of items to the destination concerned during the period, whether the export concerned was permanent or temporary. However, as licences usually cover a two year period, the value of the proposed exports does not indicate actual value of exports shipped during the reporting period. Some of these licences will not be used to make all of the exports authorised, and others will not be used at all. In addition, some items are exported only temporarily and later returned to the UK within the validity of the licence.

- The data includes the number of licences issued, refused or revoked, split into Military List, dual-use items and both (covering licences with military and dual use goods) categories. A "T" at the beginning of a line in the 'country pivot report' indicates a temporary export licence.

### For Incorporation:

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

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

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

### For SITLs:

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

### For OIELs:

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

### For SITCLs:

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

For OITCLs:

- A summary of the items or activities authorised by the licence is given.
- As OITCLs cover the trading of specific goods between overseas source and destination countries, exporters holding OITCLs are not asked to provide details of the value of goods they propose to trade, and it is therefore not possible to provide information on the total value of goods to which those trading activities related.

Other OIELs:

**Media OIELs** authorise the export of protective clothing and equipment, mainly for the protection of aid agency workers and journalists in areas of conflict. In addition to military helmets and body armour, the OIELs include NBC (nuclear, biological, chemical) protective items, non-military 4WD civilian vehicles with ballistic protection, and specially-designed components for any of these items. The OIELs permit these items to be exported to all destinations on a temporary basis only, i.e. the items must be returned to the UK when no longer required. 1 Media OIEL was issued in 2015.

**Continental Shelf OIELs** authorise the export of controlled goods to the UK sector of the Continental Shelf for use only on, or in connection with, offshore installations and associated vessels. 7 Continental Shelf OIELs were issued in 2015.

**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 where these transfers relate to their participation in specific collaborative defence projects. In relation to the collaborative project, each Partner State will, as appropriate, issue their own GPLs to permit transfers of specified goods and technology where these are required for that programme. The GPLs operate on a similar basis to UK OIELs, and applications for GPLs are assessed against the Consolidated EU and National Arms Exporting Licensing Criteria (the Consolidated Criteria) in the UK, and against the EU Common Position in other Framework Partner countries. No GPLs were issued in 2015.

**Cryptographic OIELs** authorise the export of specified cryptography hardware or software and the transfer of specified cryptography technology to the destinations specified in the licence. These OIELs do not cover hardware, software or technology which includes certain types of cryptanalytic functions. 18 Cryptographic OIELs were issued in 2015.

**Dealer-to-Dealer OIELs** authorise UK-registered firearms dealers to export certain categories of firearms and ammunition solely to other registered firearms dealers in the EU only. 35 Dealer-to-Dealer OIELs were issued in 2015.

#### 4.3 Other Licence types

##### Technical Assistance Licences

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

Under Article 19 of the Export Control Order 2008, as amended, licences are required for the provision of technical assistance for anything with WMD purposes. In 2015, no WMD SITALs were issued, refused or revoked, whilst 2 WMD OITALs were issued, and none were refused or revoked.

Licences are also issued for the provision of technical assistance relating to military or dual-use items and activities where permitted under exemptions to international sanctions and embargoes. In 2015, no sanctions SITALs were issued, refused or revoked. 1 sanctions OITAL was issued, 2 were refused and 5 were revoked.

EU sanctions were imposed on Russia in 2014. These include the requirement for licences for technical assistance relating to technologies in the oil and gas industries. In 2015, no SITALs were issued, refused or revoked under the Russia sanctions. 64 OITALs were issued, 1 refused, and none revoked.

##### Financial Assistance Licences

EU sanctions usually contain prohibitions or restrictions on the provision of financing or financial assistance related to the sale, supply, transfer or export of goods and services prohibited or restricted under the sanctions. In cases where the provision of such financing or financial assistance is subject to prior authorisation, a Financial Assistance Licence may be granted. Due to sanctions imposed on Russia in 2014, there is now a licensing requirement for financial assistance relating to the supply of technologies used in the oil industry. In 2015, 63 SIFALs (Standard Individual Financial Assistance Licences) were issued, but no OIFALs (Open Individual Financial Assistance Licences) were issued. No SIFALs under the Russian sanctions were refused or revoked. (Note: Under sanctions, BIS is the competent authority for financing and financial assistance related to prohibited or restricted trade transactions. HM Treasury is the competent authority for all other financial sanctions, including asset freezes and counter-terrorist financing.)

## Licences for drugs used in execution by lethal injection

In 2011, the EU adopted an EU-wide control on the export of certain drugs which can be used in execution by lethal injection. This is subject to regular review by the EU.

Under Council Regulation (EC) 1236/2005, as amended by Council Regulation (EU) No 1352/2011, licences are required from national export control authorities to export to any destination outside the EU 'short and immediate-acting barbiturate anaesthetic agents including, but not limited to,' the following:

- amobarbital (CAS RN 57-43-2)
- amobarbital sodium salt (CAS RN 64-43-7)
- pentobarbital (CAS RN 76-74-4)
- pentobarbital sodium salt (CAS 57-33-0)
- secobarbital (CAS RN 76-73-3)
- secobarbital sodium salt (CAS RN 309-43-3)
- thiopental (CAS RN 76-75-5)
- thiopental sodium salt (CAS RN 71-73-8), also known as thiopentone sodium.

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

- American Samoa
- People's Republic of China
- Guatemala
- Guam
- Northern Mariana Islands
- Thailand
- Taiwan
- United States Minor Outlying Islands
- United States of America
- Virgin Islands, United States
- Vietnam

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

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

In 2015, 10 SIELs for these items were issued, and none were refused or revoked. No OIELs were issued for these items, and none were refused or revoked.

## Open General Export Licences (OGELs)

OGELs allow the export or trade of specified controlled goods by any qualifying company, removing the need for exporters to apply for an individual licence, providing the shipment and destinations are eligible under the OGEL and that certain conditions are met. Most OGELs require the exporter or trader to register with the Export Control Organisation (ECO) before they use them, and the companies are subject to compliance visits from the ECO to ensure that all the conditions are being met. A requirement to submit annual open licence returns about usage of OGELs was introduced on 1 January 2014. Section 1.3 of this Report details our commitments in terms of transparency and reporting related to OGELs. This confirms that the Government reviewed the new reporting requirements to ensure their effectiveness, but as data is only gathered at the end of the calendar year, work to check the consistency and integrity of the data collected will continue into 2016.

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

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

No new OGELs were introduced in 2015. However, 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. The OGEL (International Non-Proliferation Regime De-controls: Military Items) was revoked on 8 October 2015. The complete list of OGELs in force in 2015 is at Table 4.VI.

In addition, Council Regulation (EC) No 428/2009 (known as the EU Dual-Use Regulation) which establishes an EU-wide regime for the control of exports of dual-use items, software and technology, includes 6 General Export Authorisations (GEA). These EU GEAs, which permit the export of certain specified dual-use items to the specified non-EU destinations, are valid in all EU Member States and are the EU equivalent of UK OGELs.

The EU GEAs are as follows:

- EU001 (previously known as the CGEA) – exports to Australia, Canada, Japan, New Zealand, Norway, Switzerland (including Liechtenstein) and the USA
- 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

**Table 4.VI List of OGELs in force in 2015:**

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

1. Chemicals
2. Cryptographic Development
3. Export After Exhibition: Dual-Use Items
4. Export After Repair/Replacement Under warranty: Dual-Use Items
5. Export For Repair/Replacement under Warranty: Dual-Use Items
6. Dual-Use Items: Hong Kong Special Administrative Region (HKSAR)
7. International Non-Proliferation Regime De-controls: Dual-Use Items
8. Low Value Shipments
9. Oil and Gas Exploration: Dual-Use Items
10. Technology for Dual-Use Items
11. Turkey
12. Specified dual-use items (X)

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

1. Access Overseas to Software and Technology for Military Goods: Individual Use Only
2. Export After Exhibition or Demonstration: Military Goods
3. Export After Repair/Replacement under Warranty: Military Goods
4. Export For Repair/Replacement Under Warranty: Military Goods
5. Exports or Transfers in Support of UK Government Defence Contracts
6. Historic Military Goods
7. Military Components
8. Military Goods, Software and Technology
9. Military Goods: Collaborative Project Typhoon
10. Military Goods: for Demonstration
11. Military Goods, Software and Technology: Government or NATO End-Use
12. Export for Exhibition: Military Goods
13. Software and Source Code for Military Goods
14. Military Surplus Vehicles
15. Technology for Military Goods
16. Vintage Aircraft
17. Historic Military Vehicles and Artillery Pieces
18. Open General Export Licence (Certified Companies)
19. Open General Export Licence (Exports under the US-UK Defence Trade Cooperation Treaty)
20. International Non-proliferation Regime Decontrols: Military Items (revoked on 8 October 2015)

**Table 4.VI List of OGELs in force in 2015: (continued)**

21. Military Goods: A400M Collaborative Programme
22. Exports in support of Joint Strike Fighter: F-35 Lightning II
<b>OGELs which cover both Military and Dual-Use Goods:</b>
1. Military and Dual-Use Goods: UK Forces deployed in embargoed destinations
2. Military and Dual-Use Goods: UK Forces deployed in non-embargoed destinations
3. Exports of non-lethal Military and Dual-Use Goods: to UK Diplomatic Missions or Consular Posts
<b>Open General Transshipment Licences (OGTLs):</b> allow, subject to certain conditions, controlled goods to be exported from one country to another via the UK.
1. Open General Transshipment Licence
2. Open General Transshipment Licence (Sporting Guns)
3. Open General Transshipment Licence (Postal Packets)
4. Open General Transshipment Licence (Dual-Use Goods: Hong Kong Special Administrative Region)
<b>Open General Trade Control Licences (OGTCLs):</b> control trafficking and brokering activity between one third country and another where the transaction or deal is brokered in the UK or by a UK person.
1. Open General Trade Control Licence (Category C Goods)
2. Open General Trade Control Licence (Trade and Transportation: Small Arms and Light Weapons)
3. Open General Trade Control Licence (Insurance or Re-Insurance)
4. Open General Trade Control Licence (Maritime Anti-Piracy)

#### 4.4 Refusals and revocations

There were 346 refusals or revocations of SIELs and SITCLs in 2015. Table 4.VII gives an overview of the

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

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

Reason**	Number
Criterion 1 – UK's international obligations and commitments under non-proliferation Treaties and Conventions and export control regimes, particularly with regard to proliferation of weapons of mass destruction or ballistic missiles.	87
Criterion 1 – UK's commitments and obligations to observe UN, EU or OSCE arms embargoes.	109
Criterion 1 – Existence of national embargoes or policy commitments.	6
Criterion 1 – UK's obligations under the Ottawa Convention and the 1998 Land Mines Act.	0
Criterion 2 – Risk of use for internal repression.	31
Criterion 3 – Risk of contributing to internal tensions or conflict in the recipient country.	21
Criterion 4 – Preservation of regional stability.	9
Criterion 5 – National security of the UK, of allies, EU Member States and other friendly countries.	43
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.	120
Criterion 8 – Compatibility of the arms exports with the technical and economic capacity of the recipient country.	0

\* Data taken from SPIRE as at 29 April 2016.

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

The information above does not include decisions to refuse OIELs or OITCLs in full or in part, to amend the coverage of an OIEL to exclude particular destinations and/or goods, or to revoke an OIEL. This is because a decision to exclude a particular destination from OIELs or

OITCLs does not preclude a company applying for SIELs or SITCLs covering some or all of the goods concerned to specified consignees in the relevant destinations.

## 4.5 Appeals

This section provides information on all appeals against a decision to refuse an application for a SIEL or SITCL, or against a decision to revoke a SIEL or SITCL. An appeal is based on the date on which it was received in the ECO, not the date of the original application. During 2015, the government processed 57% of appeals within 20 working days from receipt of all relevant information from the appellant, and 89% in 60 working days. Decisions to refuse licences are not taken lightly and are only made in those cases where refusal is clearly justified. In this context, appeals against refusals will often raise difficult and complex issues. Appeals are considered at an independent and more senior level than the original licence application, and any new information not available at the time of the application will be taken into account. Every effort is made to deal with all appeals as expeditiously as possible. However, the time taken to decide an appeal can be lengthy due to the need to examine afresh all relevant information. Officials continue to review procedures to streamline the handling of appeals, including additional resources and revised arrangements for consulting Ministers and advisers in other Government Departments. Performance in 2015 showed a further improvement against 2014, following a very disappointing performance in 2013.

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

In 2015, 47 appeals were determined against the original decision to refuse an application for a SIEL. Of these, 42 were refused and 5 were upheld outright.

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

	2015	2014	2013
Appeals finalised within 20 working days	57%	47%	7%
Appeals finalised within 60 working days	89%	76%	39%

\*Data taken from SPIRE as at 13 April 2016.

The Government has a target of processing 60% of appeals within 20 working days from receipt of all relevant information from the appellant, and 95% in 60 working days. These targets do not apply to appeals concerning goods that are controlled solely because of UN Sanctions. Of the 47 appeals decided in 2015, none fell into this category.

## 4.6 Performance in processing licence applications

The ECO sets out the Government's commitments to exporters in a Service and Performance Code. The performance targets are to finalise 70% of applications for SIELs within 20 working days, and 99% within 60 working days. The targets apply as soon as the applicant has supplied full documentation necessary to support their application. Table 4.IX gives a breakdown of the performance of Government in the period against these two main published SIELs and SITCLs targets. The Table also highlights the number of applications processed compared to previous years, and presents the number of applications completed within the specified timeframes in 2015.

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

	2015		2014		2013	
	SIELs	SITCLs	SIELs	SITCLs	SIELs	SITCLs
No of applications completed in 20 working days	12,148	231	12,394	152	13,140	105
% applications completed in 20 working days	69%	62%	73%	52%	78%	57%
No of applications completed in 60 working days	17,159	358	16,618	278	16,459	176
% applications completed in 60 working days	98%	97%	98%	96%	97%	95%
Median processing times	17 days	17 days	16 days	20 days	14 days	18 days

\*Data taken from SPIRE as at 29 April 2016.

The targets do not apply to applications for:

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



## Section 5

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# Compliance and Enforcement

### 5.1 Compliance

In 2015, the Export Control Organisation's (ECO) Compliance Team continued to inspect companies and individuals holding Open Individual and Open General Licences for both exports and trade activities. These inspections establish whether the terms and conditions of the licences are being adhered to. Inspections fall within four primary categories:

1. First Contact. These are telephone calls made to all first-time registrants of Open Licences to ensure they are aware of all the terms and conditions of the licences they hold. The target is that all new users of these licences be contacted within 6 weeks of being allocated to an Inspector.
2. First time visits. When we are informed by a new user that they are using their Open Licence(s), the business is usually inspected within 6 months of their first use of the licence(s);
3. Routine visits. For businesses that have had a first inspection and continue to hold Open Licences. The time interval between routine inspections depends on a risk assessment and whether changes in circumstances have arisen, such as a business take-over or change in staff;
4. Revisits. Revisits arise when a company has been found non-compliant at an inspection and, as a result, is inspected again within 6 – 8 months.

The Compliance Team use predefined criteria, agreed with Her Majesty's Revenue and Customs (HMRC), to ascertain the level of compliance at audit and to ensure consistency in the auditing of companies. The majority of inspections are undertaken in the form of a site visit, although sometimes they are carried out remotely.

The introduction in 2014 of the 'First Contact' process has been a successful addition to the inspection process for both Compliance Inspectors and business alike. In 2015, 107 exporters were engaged as part of this early process. The benefits have included raising the awareness of exporters, which has in some instances resulted in them surrendering the licence and avoided potential non-compliance with their licence(s). The impact on Inspectors, although increasing their workload, has enabled them to manage the risks better within their portfolios and engage with more businesses over the year.

"Compliance Certificates" to incentivise compliance by offering lighter-touch auditing requirements remain popular with business as something to attain. They continue to be tightly caveated and only apply to the exports covered by a specific audit. 300 were issued in 2015. The ECO will undertake a review in 2016 to ensure a continuing and positive impact on the compliance of the exporters holding these certificates.

The Compliance Team conducted a total of 746 inspections during 2015. Table 5.I shows the compliance levels for companies inspected in 2015.

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

		2015	2014
Number of audits where no audit undertaken or inconclusive		4	123
% of first visits	compliant	46%	57%
	generally compliant	16%	12%
	not fully compliant	19%	12%
	non-compliant	19%	19%
% of Routine visits	compliant	53%	53%
	generally compliant	14%	15%
	not fully compliant	18%	16%
	non-compliant	15%	16%
% of revisits	compliant	65%	72%
	generally compliant	20%	14%
	not fully compliant	7%	11%
	non-compliant	8%	3%

97 warning letters were issued to Company Directors during 2015 where breaches of licence conditions were found during visits. This is a 3% reduction on the previous year when compared against the number of audits undertaken. Two companies were found, during a revisit, to have repeated serious compliance errors identified at earlier audits. As a result, one company had its licence suspended for a period of three months. The other had its licence revoked because it failed to respond to correspondence.

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

HMRC continued to work with Border Force and the Crown Prosecution Service (CPS) to undertake a wide range of enforcement activity throughout Financial Year 2015-16. This activity included:

- One prosecution for export control and trafficking and brokering offences (see Table 5.II);
- 232 seizures of strategic goods in breach of licensing requirements or sanctions and embargoes (see Table 5.III);
- 177 end-use 'catch-all' cases, where non-listed items were stopped from leaving the UK because there was a risk that the goods would be put to an illicit military or WMD end-use;
- Five compound penalties totalling £61,200.

HMRC assesses all 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 be adopted for a full criminal investigation. These cases will be investigated and, if appropriate, referred to the Crown Prosecution Service (CPS) 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 continues to receive and process voluntary disclosures of errors made by exporters. These disclosures are assessed by HMRC and appropriate action 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 also continues to work with BIS and other agencies to contribute to raising awareness of strategic export controls through educational outreach to business.

HMRC participates in outreach and capacity-building events. This activity strengthens links with other enforcement agencies in the field of strategic export control and improves the capabilities of our international partners. HMRC also supports the international export control commitments of the Government through its contributions to international operational expert groups. These groups help improve international arms controls and aim to improve processes 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 contributed to the Proliferation Security Initiative (PSI), working alongside the USA and other partners to strengthen capabilities to prevent the smuggling of illicit goods.



**Enforcement actions taken by HMRC, Border Force and the CPS**

2015	Military-grade electronics	China via Hong Kong	Christopher Perkins NXG Electronics Limited	Convicted of 12 counts under section 68(2) of the Customs and Excise Management Act 1979 "Being knowingly concerned in the export of controlled goods" and 6 counts of fraud contrary to Section 1 of the Fraud Act 2006.	Sentenced in July 2015 to 21 months imprisonment reduced (full credit for plea) to 14 months suspended for 2 years, ordered to undertake 80 hours unpaid work, pay £100 victim surcharge and costs of £5,000 (to be paid within 3 months). Confiscation proceedings commenced.
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**Table 5.III Seizures of Controlled Goods**

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

## Section 6

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# Gifted Controlled Equipment

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

**Table 6.I** Equipment assessed against the Consolidated Criteria by the Government and approved to be gifted in 2015<sup>4</sup>

Country	End-User	Goods Description	Sponsoring HMG Department	Value £
Bermuda	Bermuda Regiment	Ancillary Weapon System Items, Magazine and Optical Sights	MOD	406,655
Iraq	Iraqi Counter-Terrorism Service and Ministry of Interior	Digital Media Exploitation Equipment	FCO	44,160
Iraq	Peshmerga within the Kurdish Regional Government of Iraq	Small Unarmed UAV with Full Motion-Video- Capable Camera	MOD	128,425
Jordan	Syrian Refugee Affairs Directorate	Communications Systems	FCO	324,300
Jordan	Jordanian Public Security Directorate	Counter-Terrorism-Associated Training and Equipment	FCO	200,237
Jordan	Jordanian Armed Forces	Night-Vision Goggles	FCO	145,000
Lebanon	Lebanese Armed Forces	Protected Border Observation Posts and Mobile Observation Platforms, Radio Equipment	FCO	3,056,974
Nigeria	UN Office for the Coordination of Humanitarian Affairs (OCHA)	Commercial Armoured Vehicles	DFID	357,600
Pakistan	Pakistan Army/Civil Defence and Police	Spare Parts for Counter-Improvised Explosive Device equipment	FCO	925,351
Sierra Leone	Sierra Leone Armed Forces	Battlefield Ambulances, Basic Medical Equipment for Emergency Response including Stretchers, Neck Collars, Spinal Boards, Space Blankets	MOD	65,069
Somalia	Somaliland Police Force	Body Security Scanner and Protective Clothing	FCO	120,000

<sup>4</sup> It should be noted that the table represents equipment assessed and approved to be gifted by the Government against the Consolidated Criteria. It does not represent definitively whether it resulted in the equipment being delivered.

**Table 6.I Equipment assessed against the Consolidated Criteria by the Government and approved to be gifted in 2015<sup>4</sup> (continued)**

Country	End-User	Goods Description	Sponsoring HMG Department	Value £
Somalia	Somaliland Police Force	Equipment, including Ballistic Shields, Shotguns, and Ammunition, Tactical Weapon Light and Vehicle-Mounted Lights	FCO	38,268
Somalia	Somali Police	Ballistic Helmets	FCO	10,200
Somalia	Somali Police	Body Armour Vests with Ballistic Plates	FCO	10,625
Somalia	Somali Police	Support Equipment including Ammunition, Weapon Sights and Night Vision Monocular	FCO	422,995
Somalia	Somali Police	Ballistic Helmets	FCO	13,600
Somalia	Somali Police	Protective Clothing with Armour Plates and Helmets	FCO	54,544
Syria	Free Syrian Police	Vehicle Search Equipment and Border Gifting Package containing Handcuffs and Pouch	FCO	750,000
Syria	Syrian Moderate Armed Opposition	Border Force-Associated Equipment, including Protective Clothing, Hand-held and Vehicle Radio Equipment, Portable Camera System and Video Recorder, Portable Batteries	FCO	435,000
Tunisia	Tunisian Army	Thermal Imagery Cameras for Border Control	FCO	3,419
Ukraine	UN Office for the Coordination of Humanitarian Affairs (OCHA)	Civilian Armoured Vehicles	DFID	480,000
Ukraine	Ukrainian MOD	Individual First Aid Kits, Global Positioning Systems, Helmet-Mounted Night-Vision Goggles, Ruggedised Laptops, Helmets	FCO	811,600

## Section 7

# Government-to-Government Exports and Projects

### 7.1 Government-to-Government Exports

On behalf of the Government, the Disposal Services Authority of the Ministry of Defence disposes of certain military equipment that is surplus to the requirements of the UK Armed Forces. UK export licensing coverage for this is obtained either by industry, or by the customer. Tables 7.I and 7.II give, by destination, the equipment type and quantity of such exports in 2015.

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

Country	Type of Equipment	Quantity*
Austria	C130K transport aircraft	1
Austria	30mm ammunition	12,660
Bahrain	Various ammunition	6,020,000
Belgium	Sea King helicopters	1
Botswana	Various vehicles (including trucks, trailers, racks and fork-lift trucks)	67
Botswana	Digital Joint Reconnaissance Pod (DJRP)	4
Denmark	Lordless Mounts (Armoured Protection)	
Estonia	Various ammunition	286,610
Germany	Sea King helicopters	6
Germany	155mm ammunition	476
Germany (via EAI)	Counter Battery Radar (COBRA) system	1
Jordan	Sniper Pod	0
Norway	Sea King helicopters	3

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

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

Country	Type of Equipment	Quantity
Germany	Fleet vehicles to various commercial concerns: Bedford, Leyland DAF, Leyland Drop, Landrover 90 & 110, Foden Recovery, Trailers, Box Bodies	111
Kenya	Fleet vehicles to various commercial concerns: Bedford 4 Ton, Land Rover 90 & 110, Leyland Drop, Foden Recovery, ½, ¾, and 1¾ Tonne capacity trailers	108
Netherlands	Off-spec diesel to commercial concern for re-use	5.9 Million Litres
Turkey	Type 42 Destroyers: former HMS Gloucester, former HMS Edinburgh, and former HMS York to LEYAL Ship Recycling Ltd (for recycling)	3
USA	Joint Tactical Information Distribution Systems to Rockwell Collins	3 Main Units and assorted spares and components

## 7.2 Government-to-Government Projects

The UK has a longstanding Government-to-Government defence cooperation programme with the Kingdom of Saudi Arabia, under which the UK has provided: Typhoon, Tornado, and Hawk aircraft; mine countermeasure vessels; and associated munitions, infrastructure, logistics and manpower support packages. During 2015, the UK continued to provide substantial support for equipment already in service and delivered Typhoon aircraft to the Royal Saudi Air Force under the arrangements for the eventual supply of 72 Typhoon aircraft.

The following table is a summary of the exports that arose in 2015 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 SIEL (Standard Individual Export Licence) was issued, that information is included in the corresponding BIS Strategic Export Controls Quarterly Report.

**Table 7.III Government-to-Government transfers of equipment to Saudi Arabia between 1 January and 31 December 2015**

Type of Equipment	Quantity
Typhoon aircraft and initial in-service support	12
Component repair and re-provisioning, munitions and training support for aircraft and their systems	-
Component repair and re-provisioning, and training support for naval vessels and their systems	-
Missiles and Missile Launchers	173

# Annex A

## Export Controls: Process and Responsibilities

### A.1 Overview

The UK system for the licensing of strategic exports is operated by a single export licensing and enforcement community. This community comprises nine Government Departments or Agencies:

- Department for Business, Innovation and Skills (BIS);
- Foreign & Commonwealth Office (FCO);
- Ministry of Defence (MOD);
- Department for International Development (DFID);
- Department of Energy and Climate Change (DECC);
- Communications-Electronics Security Group (CESG);
- Her Majesty's Revenue and Customs (HMRC);
- Border Force (BF);
- Crown Prosecution Service (CPS).

#### EXPORT LICENSING COMMUNITY JOINT MISSION STATEMENT

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

#### Guiding Principles

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

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

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

Broadly speaking, strategic export controls relate to:

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

## A.2 UK Export Licensing Authority

The Export Control Organisation (ECO) in BIS is the licensing authority for strategic exports in the UK. It sets out the regulatory framework under which licence applications are considered, and the Secretary of State for Business, Innovation and Skills takes the formal decision to issue or refuse export licence applications and, where necessary, to suspend or revoke extant licences in accordance with the applicable legislation and announced policy.

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

CESG, within GCHQ, is the Government's national technical authority for information security. It assesses goods involving sensitive communications or computer technology.

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

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

## A.3 Strategic Export Control Legislation

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

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

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

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

The 2008 Order is now the main piece of domestic export control legislation. It covers export and transfer controls (Part 2), technical assistance controls (Part 3) and trade ("trafficking and brokering") controls (Part 4). It deals with licensing in Part 5. Part 6 sets out provisions for enforcement of the controls, including offences and penalties.



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

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

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

- The Intra-Community Transfers (ICT) Directive 2009/43/EC covering the transfer of defence equipment within the EU, which 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 for a system of certification for companies, for example a confidence-building measure, to ensure that

companies importing items from another Member State under a general licence have provisions in place to abide by any re-export provisions which may be applied to those items. In addition, the Directive provides for Member States to publish at least four general licences: (i) to the armed forces of a Member State or a body purchasing on their behalf; (ii) a certified company; (iii) for demonstration, evaluation or exhibition; and (iv) maintenance and repair of previously-supplied items. The provisions to give effect in the UK to the requirements of the Directive came into force on 10 August 2012 through amendments to the Export Control Order 2008;

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

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

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

#### A.4 Categories of Items and Activities Subject to Control

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

- Exports of items listed in Schedule 2 of the Export Control Order 2008 (the UK Military List). The rating will be of the format "MLxx" or "PL5xxx";
- Exports of items listed in Schedule 3 of the Export Control Order 2008 (UK Dual-Use List). The rating will be of the format "PL800x" or "PL900x";
- Trade activities as specified in Articles 20 – 25 of the Export Control Order 2008. The three risk-based categories of goods (A, B and C) are specified in Article 2 and Schedule 1 of the Export Control Order

2008, and “embargoed destinations” are specified in Parts 1 and 2 of Schedule 4 of the Export Control Order 2008;

- Exports of items listed in Annex I to Council Regulation (EC) 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (EU Dual-Use List). The EU Dual-Use List is divided into 10 Categories (numbered 0 to 9) and 5 sub-Categories (denoted by A to E), with each unique item identified by at least a further 3-digit numeric code. The rating is therefore of the form 0A002 or 7E101;
- Brokering services for items listed in Annex I of the Dual-Use Regulation where the broker has been informed by the competent authorities of the EU Member State where the broker is established that the items are, or may be, intended for “WMD Purposes.”<sup>5</sup> If the broker is aware of such an end-use, the broker must contact the relevant national authorities which will decide whether or not it is expedient to make the transaction subject to a licence;
- Items that the exporter has been told, knows or suspects are, or may be, intended for “WMD Purposes.” This is the “WMD end-use” or “catch-all” control and goods controlled for these reasons are given the rating “End-Use;”
- The transfer of technology by any means is controlled where the person making the transfer knows, or has been made aware, that the technology is for “WMD Purposes” outside the EU;
- The provision of technical assistance is controlled where the provider knows, or has been made aware, that the technical assistance will be used for “WMD Purposes” outside the EU;
- Components or production equipment that the exporter has been told, knows or suspects are, or may be, intended for a military end-use<sup>6</sup> in a country subject to certain types of arms embargo, or for use as parts or components of military list items which have been exported in breach of United Kingdom export controls. This is the “Military End-Use” control and these items are given the rating “MEND;”
- On 14 January 2014, the European Commission published a proposed Regulation to amend the existing Council Regulation (EC) No 1236/2005, which concerns the trade in certain goods which

could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. The new legislative proposal is informed by the Commission’s review of the Regulation in 2012-2013 and is publicly available at the following link: <http://europeanmemoranda.cabinetoffice.gov.uk/memorandum/proposal-for-regulation-of-the-european-parliament-of-the-council-amending-council-regulation-ec-no-1394109635>. The proposal was subject to discussions at the Council of the EU throughout 2015. The Government has been engaged constructively in the discussions;

- Separately, the proposed amendments to the annexes to Council Regulation (EC) No 1236/2005, which were put to Member States in the Committee for Common Rules for Exports of Products in October 2013, were finalised via Committee procedure and were published on 17 July 2014: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2014\\_210\\_R\\_0001&qid=1405666721643&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2014_210_R_0001&qid=1405666721643&from=EN). The rating for these items is prefixed with “HR;”
- Export, brokering or transfer of items, or provision of services, controlled under destination-specific UN or EU sanctions. Such items are rated using a code representing the country subject to sanctions (e.g. “IRN” for items subject to Iran sanctions);
- Transit or transshipment of controlled items through the UK as set out in Article 17 of the Export Control Order 2008.

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

## A.5 Assessment of Export Licence Applications

The Export Control Act 2002 requires the Secretary of State to publish guidance on the operation of the controls. The main guidance applying throughout 2015 was the Consolidated Criteria, 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 and Skills, the Rt Hon Vince Cable MP. This sets out eight criteria against which export licence applications (ELA) are assessed.

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

<sup>5</sup> “WMD Purposes” means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

<sup>6</sup> i.e. a: incorporation into military items listed in the military list;

b: use of production, test or analytical equipment and components therefore, for the development, production or maintenance of military list items; or

c: use of any unfinished products in a plant for the production of military list items.

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

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

#### **A.6 Strategic Export Licence Application Process**

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

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

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

the same advisers that consider export licence applications assess MOD Form 680 applications.

DFID considers export licence applications destined to all International Development Association-eligible countries against Criterion Eight (i.e. whether the proposed export would seriously undermine the recipient country’s economy and whether the export would seriously hamper the sustainable development of the recipient country). DFID may also ask to see applications in respect of other countries of concern, as the Department has a significant interest in exports that might contribute to conflict or human rights abuses.

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

##### **Criterion 1**

When assessing an Export Licence Application (ELA) under Criterion 1, the International Organisations Department at the FCO is consulted to confirm whether the country of final destination is currently subject to any embargoes or other relevant commitments.

##### **Criterion 2**

When assessing an ELA under Criterion 2, British Diplomatic Posts, Geographical Desks, Legal Advisers and the Human Rights and Democracy Department at the FCO are consulted if the end destination of a proposed export is of concern.

##### **Criterion 3**

When assessing an ELA under Criterion 3, British Diplomatic Posts and Geographical Desks at the FCO are consulted to assess the risk of a potential export provoking or prolonging armed conflict or aggravating existing tensions or conflicts in the country of final destination.

##### **Criterion 4**

When assessing an ELA under Criterion 4, the views from staff at the British Diplomatic Post(s) in the country of destination and Geographical Desks at the FCO are sought to assess the peace, security and stability of the region.

##### **Criterion 5**

When assessing an ELA under Criterion 5, the MOD is consulted to consider whether a proposed export could have an impact on the security of the UK, UK assets overseas, and the security of allies, EU member states and other friendly countries.

### Criterion 6

When assessing an ELA under Criterion 6, the FCO is consulted to assess the behaviour of the buyer country with regard to the international community, in particular its attitude to terrorism, the nature of its alliances and respect for international law.

### Criterion 7

When assessing an ELA under Criterion 7, the MOD and FCO are consulted if the proposed export could have a military end-use or if there are concerns about the military capabilities of the importing country. An assessment is also made of whether the goods could be diverted to an undesirable end-user in either the importing country or in another state.

### Criterion 8

When assessing an ELA under Criterion 8, DFID is consulted if the importing country is on the World Bank's International Development Association list (see Annex C), and the value of the application exceeds the threshold set by the Criterion 8 methodology. DFID then considers the potential impact of the proposed export on the sustainable development of the recipient country.

## A.7 Types of Licence

The types of licence available are the:

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

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

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

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

**OGELs** are pre-published licences that permit the export of specified controlled goods by any qualifying company or person, removing the need for exporters to apply for an individual licence, provided the shipment and destinations are eligible under the OGEL and that the terms and conditions set out in the licence are met. Most OGELs require the exporter to register with the ECO in advance of using an OGEL, and the licence holders are subject to compliance visits from the ECO to ensure that all the conditions are being met. Failure to meet the conditions can result in the exporter's ability to use the licence being withdrawn. All OGELs are published on the [www.gov.uk](http://www.gov.uk) website. There are also six EU General Export Authorisations (EUGEAs). These permit the export from the EU of certain specified dual-use items to specified destinations, subject to the terms and conditions of the licences. They are equivalent to OGELs and are available for use by any exporter in the EU. The EUGEAs are contained in Annexes II(a) to II(f) of the Dual-Use Regulation. OGELs generally remain in force until they are revoked.

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



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

An **OGTCL** is a pre-published licence that permits the supply of specified goods from specified source countries to specified destination countries, subject to the specific terms and conditions of the licence. There are currently four OGTCLs<sup>7</sup>.

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

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

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

### **HMRC**

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

HMRC has a team that develops and manages strategic export controls, trade controls and sanctions enforcement policy, as well as liaising with the wider cross-Government counter-proliferation community. HMRC also has two specialist operational teams carrying out criminal investigations and intelligence management in this area. Checks on customs export declarations, and

supporting documentation for exports from the UK, are conducted by HMRC staff at the National Clearance Hub (NCH).

UK exporters are audited by HMRC staff from the Large Business and the Individual and Small Business Compliance (ISBC) functions which also carry out pre-export licence checks on intra-EU transfers of controlled goods.

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

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

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

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

### **Border Force**

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

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

<sup>7</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/guidance/open-general-trade-control-licences>

## **Crown Prosecution Service (CPS)**

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

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

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

#### **WRITTEN MINISTERIAL STATEMENT**

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

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

**25 MARCH 2014**

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

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

- The entry into force of the Export Control Act 2002;

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

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

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

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

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

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

#### CRITERION ONE

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

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

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

#### CRITERION TWO

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

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

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

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

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

In considering the risk that items might be used for internal repression or in the commission of a serious violation of international humanitarian law, the

Government will also take account of the risk that the items might be used to commit gender-based violence or serious violence against women or children.

### CRITERION THREE

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

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

### CRITERION FOUR

*Preservation of regional peace, security and stability.*

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

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

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

### CRITERION FIVE

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

The Government will take into account:

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

### CRITERION SIX

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

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

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



## CRITERION SEVEN

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

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

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

## CRITERION EIGHT

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

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

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

## OTHER FACTORS

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

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

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

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

# Annex B

## International Commitments Including Sanctions Regimes

**Table B.I**

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

Areas of coverage	Commitment
Nuclear	<ul style="list-style-type: none"><li>• Treaty on the Non-Proliferation of Nuclear Weapons</li><li>• The Zangger Committee</li><li>• Nuclear Suppliers Group</li></ul>
Chemical and Biological	<ul style="list-style-type: none"><li>• The Chemical Weapons Convention</li><li>• The Biological and Toxin Weapons Convention</li><li>• The Australia Group</li><li>• The Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (known as the 1925 Geneva Protocol)</li></ul>
Weapons of Mass Destruction Delivery Systems	<ul style="list-style-type: none"><li>• The Missile Technology Control Regime</li></ul>
Conventional Weapons	<ul style="list-style-type: none"><li>• The Wassenaar Arrangement</li><li>• The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (known as the Ottawa Treaty)</li><li>• The UN Convention on Certain Conventional Weapons</li><li>• The Convention on Cluster Munitions (known as the Oslo Treaty)</li><li>• The Arms Trade Treaty</li><li>• The UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects</li></ul>
Other Organisations involved directly in Strategic Export Controls	<ul style="list-style-type: none"><li>• United Nations (UN), including the UN Security Council (UNSC)</li><li>• G8</li><li>• European Union (EU)</li><li>• Organisation for Security and Cooperation in Europe (OSCE)</li></ul>

**Table B.II**

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

Country	Source	Instrument
Al-Qaeda	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1333 (2000), 1363 (2001), 1390 (2002), 1822 (2008), 1989 (2011), 1904 (2009), 2083 (2012), 2161 (2014), 2170 (2014), 2178 (2014) and 2199 (2015).</li> <li>Common Position 2022/402/CFSP, as amended.</li> <li>Council Regulation (EC) No 2002/881, as amended.</li> </ul>
Afghanistan	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1988 (2011), 2082 (2012) and 2160 (2014).</li> <li>Council Decision 2011/486/CFSP, as amended.</li> <li>Council Regulation (EU) No 753/2011, as amended.</li> </ul>
Armenia & Azerbaijan	OSCE	<ul style="list-style-type: none"> <li>Decision of the Committee of Senior Officials of the OSCE 28/02/92.</li> </ul>
Belarus	EU	<ul style="list-style-type: none"> <li>Council Decision 2012/642/CFSP, as amended.</li> <li>Council Regulation (EC) No 765/2006, as amended.</li> </ul>
Burma	EU	<ul style="list-style-type: none"> <li>Council Decision 2013/184/CFSP, as amended.</li> <li>Council Regulation (EU) No 401/2013, as amended.</li> </ul>
Central African Republic	UN EU	<ul style="list-style-type: none"> <li>UNSCR 2127 (2013), 2134 (2014) and 2262 (2016)</li> <li>Council Decision 2013/798/CFSP, as amended.</li> <li>Council Regulation (EU) No 224/2014, as amended.</li> </ul>
China	EU	<ul style="list-style-type: none"> <li>Declaration by the Madrid European Council 27/06/89.</li> </ul>
Côte d'Ivoire	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1572 (2004), 1980 (2011), 2045 (2012), 2101 (2013), 2153 (2014) and 2219 (2015).</li> <li>Council Decision 2010/656/CFSP, as amended.</li> <li>Council Regulation (EU) No 174/2005, as amended.</li> </ul>
Democratic People's Republic of North Korea	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1718 (2006), 1874 (2009), 2087 (2013) 2094 (2013) and 2270 (2016)</li> <li>Council Decision 2013/183/CFSP, as amended.</li> <li>Council Regulation (EU) No 329/2007, as amended.</li> </ul>
Democratic Republic of Congo	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1493 (2003), 1596 (2005) and 1807 (2008). Most recently renewed by UNSCR 2198 (2015).</li> <li>Council Decision 2010/788/CFSP, as amended.</li> <li>Council Regulation (EC) No 889/2005, as amended.</li> </ul>
Eritrea	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1907 (2009), 2023 (2011), 2060 (2012) and 2111 (2013).</li> <li>Council Decision 2010/127/CFSP, as amended.</li> <li>Council Regulation (EU) No 667/2010, as amended.</li> </ul>
Guinea	EU	<ul style="list-style-type: none"> <li>Council Decision 2010/638/CFSP, as amended.</li> <li>Council Regulation (EU) No 1284/2009, as amended.</li> </ul>
Iran (Nuclear)	EU	<ul style="list-style-type: none"> <li>Council Decision 2010/413/CFSP, as amended.</li> <li>Council Regulation (EU) No 267/2012, as amended.</li> </ul>
Iran (Human Rights)	EU	<ul style="list-style-type: none"> <li>Council Decision 2011/235/CFSP, as amended.</li> <li>Council Regulation (EU) No 359/2011, as amended.</li> </ul>

Country	Source	Instrument
Iraq	UN EU	<ul style="list-style-type: none"> <li>UNSCR 661 (1990), 1483 (2003) and 1546 (2004).</li> <li>Common Position 2003/495/CFSP, as amended.</li> <li>Council Regulation (EC) No 1210/2003, as amended.</li> </ul>
Lebanon	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1701 (2006).</li> <li>Common Position 2006/625/CFSP.</li> <li>Council Regulation (EC) No 1412/ 2006, as amended.</li> </ul>
Liberia	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1903 (2009) and 2128 (2013). Most recently renewed by UNSCR 2188 (2013).</li> <li>Common Position 2008/109/CFSP, as amended.</li> <li>Council Regulation (EC) No 234/2004, as amended.</li> </ul>
Libya	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1970 (2011), 1973 (2011), 2009 (2011), 2040 (2012), 2095 (2013) and 2174 (2014).</li> <li>Council Decision 2011/137/CFSP, as amended.</li> <li>Council Regulation (EU) No 204/2011, as amended.</li> </ul>
Russian Federation	EU	<ul style="list-style-type: none"> <li>Council Decision 2014/512/CFSP, as amended</li> <li>Council Regulation (EU) No 833/2014, as amended.</li> </ul>
Somalia	UN EU	<ul style="list-style-type: none"> <li>UNSCR 733 (1992), 1356 (2001), 1425 (2002), 1744 (2007), 1772 (2007), 1844 (2008), 1846 (2008), 1851 (2008), 2093 (2013), 2111 (2013), 2142 (2013) and 2182 (2014).</li> <li>Council Decision 2010/231/CFSP, as amended.</li> <li>Council Regulation (EC) No 147/2003, as amended.</li> <li>Council Regulation (EU) No 356/2010, as amended.</li> </ul>
South Sudan	EU	<ul style="list-style-type: none"> <li>Council Decision 2014/449/CFSP.</li> <li>Council Regulation (EU) No 748/2014, as amended.</li> </ul>
Sudan	UN EU	<ul style="list-style-type: none"> <li>UNSCR 1556 (2004), 1591 (2005) and 1945 (2010).</li> <li>Council Decision 2014/449/CFSP.</li> <li>Council Regulation (EU) No 748/2014.</li> </ul>
Syria	EU	<ul style="list-style-type: none"> <li>Council Decision 2013/255/CFSP, as amended.</li> <li>Council Regulation (EU) 36/2012, as amended.</li> </ul>
Ukraine	EU	<ul style="list-style-type: none"> <li>Council Decision 2014/386/CFSP, as amended.</li> <li>Council Regulation (EU) No 692/2014, as amended.</li> </ul>
Zimbabwe	EU	<ul style="list-style-type: none"> <li>Council Decision 2011/101/CFSP, as amended.</li> <li>Council Regulation (EC) No 314/2004, as amended.</li> </ul>

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

# Annex C

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## Additional Information/ Further Reference Material

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

In line with a cross-Government drive for efficiencies, from 2014 we no longer reproduce this material in this Report as the EU and UN bodies place all the information that the Government provides in the public domain via their websites.

- **EU Annual Reports on Arms Exports** are available online through the following link:  
[http://www.eeas.europa.eu/non-proliferation-and-disarmament/arms-export-control/index\\_en.htm](http://www.eeas.europa.eu/non-proliferation-and-disarmament/arms-export-control/index_en.htm)
- **The UN Register of Conventional Arms** is available online through the following link:  
<http://www.un.org/disarmament/convarms/Register/>
- **A List of International Development Association Eligible Countries** is available through the following link:  
<http://ida.worldbank.org/about/borrowing-countries>

