

United Kingdom Strategic Export Controls Annual Report 2017

Presented to Parliament pursuant to Section 10 of the
Export Control Act 2002

Ordered by the House of Commons to be printed on 23 July 2018

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Foreword

This is the 21st edition of the UK Government's Annual Report on Strategic Export Controls. It outlines policy and licensing developments from January to December 2017.

Robust, effective export controls are more important than ever. They help to protect our national security, uphold our values and support our prosperity.

A responsible and rigorous approach to export licensing is vital. In 2017, North Korea's nuclear and missile tests again highlighted the threat from the proliferation of weapons of mass destruction. The conflicts in Syria and Yemen have produced great humanitarian suffering. And many people – such as Rohingya in Burma – faced internal repression.

We rigorously assess every export licence application against the Consolidated EU & National Arms Export Licensing Criteria on a case-by-case basis, taking into account all relevant information at the time. We will not grant a licence if to do so would be inconsistent with these Criteria. We also ensure that exports under Open General licences, which may be used following online registration, are consistent with these Criteria.

To improve our policy and decision-making we established the Export Control Joint Unit in 2016. The Unit brings together staff from the Department for International Trade, Foreign & Commonwealth Office and Ministry of Defence, who are supported by the Department for International Development and other departments. In 2017 we have seen the benefits of the Unit, through closer cross-Whitehall coordination.

The UK has also helped to lead international efforts to strengthen export controls. In 2017, British diplomats and officials attended the third Conference of States Parties of the Arms Trade Treaty, held the Presidency of the UN Convention on Certain Conventional Weapons and provided much valued expert input into the international export control regimes.

Transparency and accountability are at the heart of our approach to export controls and we commend this report to Parliament.

23 July 2018



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



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



The Rt Hon Gavin Williamson MP
Secretary of State for Defence



The Rt Hon Penny Mordaunt MP
Secretary of State for International Development

Section 1

Introduction to export licensing

1.1 Why we have export licensing

The UK's export licensing system aims to support responsible trade. Our export controls help ensure that goods exported from the UK do not contribute to the harmful proliferation of weapons of mass destruction or conventional weapons, and are not used for internal repression or to commit serious violations of international humanitarian law. They protect the UK's security and our expertise by restricting who has access to sensitive technologies and capabilities. They are also the means by which we implement a range of commitments like those resulting from EU or United Nations trade sanctions or arms embargoes, and the Arms Trade Treaty.

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

Through this framework, the Government controls the export of a range of military and "dual-use"¹ items, taking into account the nature, destination and end-use of the proposed exports, as well as factors such as:

- the UK's international obligations and commitments including those resulting from European Union or United Nations trade sanctions or arms embargoes and those designed to prevent proliferation of weapons of mass destruction (WMD);
- the risk that the items might be used for internal repression or in the commission of a serious violation of international humanitarian law;

- the internal situation in the country of final destination and the need to preserve regional peace, security and stability;
- the effect on the national and collective security of the UK and its Allies;
- the behaviour of the buyer country towards terrorism and international law;
- the risk that the items will be diverted within the buyer country or re-exported to an undesirable end user; and
- the effect on sustainable development in the poorest countries.

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

- lists of controlled items derived from the international export control regimes, which are:
 - the Nuclear Suppliers Group;
 - the Missile Technology Control Regime;
 - the Australia Group; and
 - the Wassenaar Arrangement
- the UK Military List or national control list
- the list of goods covered by Council Regulation (EC) No. 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment
- the list of goods covered by the Export of Radioactive Sources (Control) Order 2006.

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

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

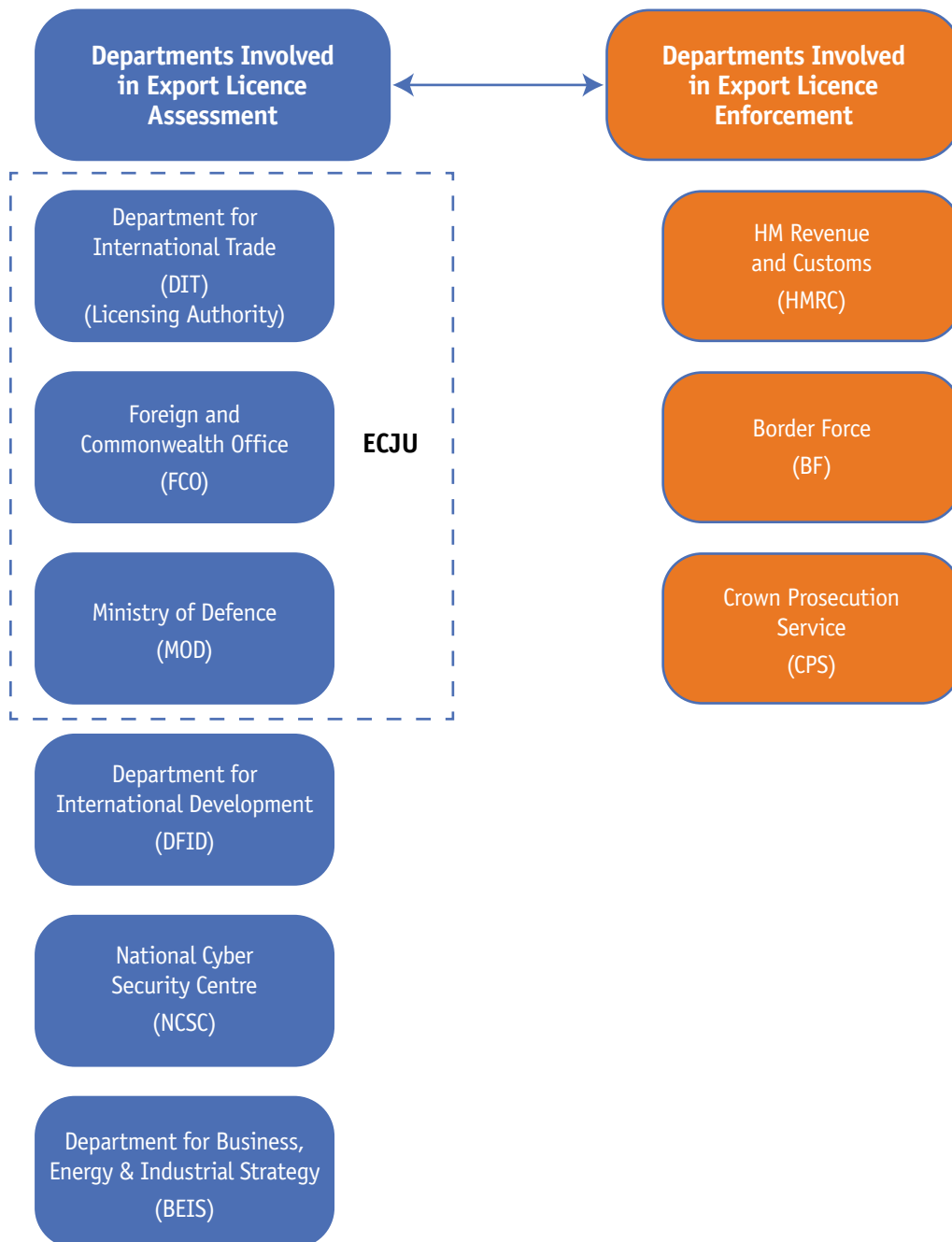
1.2 The Export Control Joint Unit

In July 2016, the Government established The Export Control Joint Unit (ECJU), which is hosted by the Department for International Trade (DIT). ECJU

administers the UK's system of export controls, and brings together policy and operational expertise from DIT, the Foreign & Commonwealth Office (FCO) and the Ministry of Defence (MOD). The Departments within the Unit have distinct roles and these are outlined in the following section.

The export licensing community

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



Department for International Trade

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

- the statutory and regulatory framework of the controls (i.e. what items and activities are controlled); and
- the decision to grant or refuse an export licence in any individual case; and
- where necessary, the decision to suspend or revoke extant licences in accordance with the relevant legislation and announced policy.

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

Advisory Departments

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

The **Foreign & Commonwealth Office** licensing team considers, among other issues, whether an export: would comply with the UK’s commitments and sanctions regimes; might be used for internal repression or in the commission of a serious violation of international humanitarian law; might provoke or prolong armed conflicts or affect regional peace and stability; or might be diverted to an undesirable user or purpose. To make this assessment, the FCO takes account of possible uses of the equipment, the destination country and the end-user. Staff seek detailed political, human rights and legal advice as necessary from other FCO departments, British Embassies and diplomatic posts overseas and other sources such as NGO or media reporting.

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

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

The **Department for International Development** considers whether an export is compatible with the technical and economic situation of a country. DFID takes into account several factors, including the recipient country’s relative levels of military and social expenditure, and how much it receives in development assistance. If a country is on the World Bank’s International Development Association list and the value of the export exceeds an agreed threshold, DFID will consider the potential impact on the sustainable development of the country, drawing on advice from DFID country offices or senior advisers. Advice from DFID may also be used by the FCO to assess applications for countries involved in conflict or where there are concerns about human rights.

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

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

HM Revenue & Customs has responsibility for the enforcement of export and trade controls, as well as sanctions and embargoes. HMRC works with **Border Force** to prevent, detect and investigate breaches. The Central Fraud Group in the **Crown Prosecution Service** leads on any subsequent prosecutions.

1.3 Overview of export licence types and processing times

Applications for export, trade (“brokering”), or transshipment licences for controlled goods are submitted to the Export Control Joint Unit through the digital SPIRE licensing database. Applications must include details about who will use the goods and what they intend to do with them, as well as a form signed by the end user, known as an End User Undertaking. This undertaking is considered as part of the overall assessment process. Applications must include technical

specifications, which allow experts in ECJU to determine whether the goods are included on the control lists and need an export licence.

The licence types available to exporters include:

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

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

If an export is temporary, for example for the purposes of demonstration, trial or evaluation, a SIEL is generally valid for one year only and the items must be returned to the UK before the licence expires.

OIELs cover multiple shipments of specified items to specified destinations and/or, in some cases, specified consignees. An OIEL is a tailored and flexible licence and generally valid for five years. The exceptions are OIELs for the transfer of military items to destinations in other EU Member States, which are valid for three years but may be renewed at the exporter's request; and "dealer-to-dealer" OIELs, which allow firearms dealers to export certain categories of firearms and ammunition solely to other firearms dealers in the EU, and which are valid for three years.

Applications must include items to be exported and destinations, but specific quantities and named end-users do not necessarily need to be provided before a licence is issued. This data must be provided over the lifetime of the licence. The rejection of an application for an OIEL, or an amendment to exclude particular destinations and/or items, or the revocation of an OIEL, does not prevent a company from applying for SIELs covering some or all of the items to specified consignees in the relevant destinations. The factors that led to the original decision on the OIEL would be considered in the decision about a SIEL application.

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

There are also six **EU General Export Authorisations** (EUGEAs) under the dual-use regulations. These permit the export from the EU of certain specified dual-use items to specified destinations, subject to the terms and conditions of the licences. They are equivalent to OGELs and are available for use by any exporter in the EU. The EUGEAs are contained in Annexes II(a) to II(f) of the Dual-Use Regulation. OGELs generally remain in force until they are revoked. There is one EUGEA under Council Regulation (EC) No. 1236/2005, concerning trade in certain goods which could be used for capital punishment, torture, or other cruel, inhuman or degrading treatment. This covers the goods listed in any entry in Annex IIIa of the Regulation to certain destinations that have abolished capital punishment.

A **SITCL** is specific to a named UK trader or broker and covers involvement in the trade of a specified quantity of specific goods between a specified overseas country, known as the source country, and between a specified consignor, consignee and end-user in an overseas destination country. SITCLs will normally be valid for two years. When a licence expires, either due to the length of time since it was issued or because the activity has taken place, the licence ceases to be valid. If further similar activity needs to take place, another licence must be applied for. Trade controls only apply to Category A, B and C goods as specified in Article 2 and Schedule 1 of the Export Control Order 2008. They do not apply to software and technology.

An **OITCL** is specific to a named UK trader and covers involvement in the trade of specific goods between specified overseas source and destination countries and/or specified consignor(s), consignee(s) and end-user(s). OITCLs are generally valid for 5 years. The refusal of an application for an OITCL, an amendment to exclude particular destinations and/or items, or the revocation of an OITCL, does not prevent a broker from applying for SITCLs covering some or all of the items to specified consignees in the relevant destinations. The factors that led to the original decision on the OITCL would be considered in the decision about a SITCL application.

An **OGTCL** is a pre-published licence that permits the supply of specified goods from specified source countries outside the UK to specified destination countries, subject to the specific terms and conditions of the licence. There are currently four OGTCLs² available.

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

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

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

Information on other types of licence is contained in Chapter 2.

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

1.4 The Consolidated Criteria

The Export Control Act (2002) requires the Secretary of State to publish guidance on the operation of export controls. The main guidance applying in 2017 was the Consolidated EU & National Arms Export Licensing Criteria (known as the Consolidated Criteria). The Criteria were first announced to Parliament on 26 October 2000 by the then Minister of State for Foreign & Commonwealth Affairs, the Rt Hon Peter Hain MP, and updated on 25 March 2014 by the then Secretary of State for Business, Innovation & Skills, the Rt Hon Sir Vince Cable MP.

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

Criterion 1 – *Respect for the UK's international obligations and commitments, in particular sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.* **(FCO)**

Criterion 2 – *The respect for human rights and fundamental freedoms in the country of final destination as well as respect by that country for international humanitarian law.* **(FCO)**

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

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

Criterion 5 – *The national security of the UK and territories whose external relations are the UK's responsibility, as well as that of friendly and allied countries.* **(MOD)**

Criterion 6 – *The behaviour of the buyer country with regard to the international community, as regards in particular to its attitude to terrorism, the nature of its alliances and respect for international law.* **(FCO)**

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

Criterion 8 – *The compatibility of the transfer with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defence with the least diversion for armaments of human and economic resources.* **(DFID)**

² The four are, Open General Trade Control Licence (Category C Goods), Open General Trade Control Licence (Trade and Transportation: Small Arms and Light Weapons), Open General Trade Control Licence (Insurance or Re-Insurance) and Open General Trade Control Licence (Maritime Anti-Piracy). Details of these can be found at: <https://www.gov.uk/government/collections/open-general-export-licences-ogels>

We do not apply the Consolidated Criteria mechanistically. Each export licence application is assessed on a case-by-case basis taking into account all the relevant facts and circumstances of that particular case. A licence will not be granted if doing so would be contrary to the Criteria. The Consolidated Criteria incorporate EU Common Position 2008/944/CFSP, which was adopted on 8 December 2008 and defines common rules governing the control of exports of military technology and equipment. The Common Position replaced the Code of Conduct on control of exports of military technology and equipment agreed in 1991 and 1992. It establishes that each EU Member State must assess, on a case-by-case basis, the export licence applications made to it for items on the EU Common Military List, and for dual-use items where “there are serious grounds for believing that the end-user is the armed forces or internal security forces in the recipient country.” There are only minor differences between the eight criteria of the Common Position and the Consolidated Criteria. The Common Position does not prevent Member States from adopting more restrictive policies. The UK, for instance, applies the Common Position to both military and dual-use goods.

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

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

Section 2

Export licensing data

2.1 Data on each type of licence

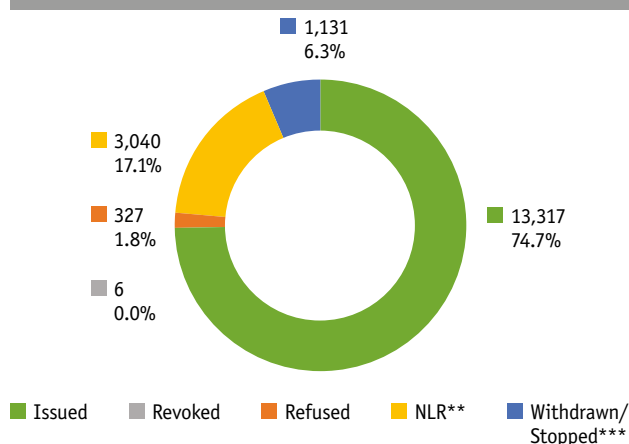
The following charts provide details of the numbers of each of the main types of licence processed during 2017. Any data referred to as “Issued”, “Refused,” “Rejected,” or “Revoked” is taken from Official Statistics available on GOV.UK.

<https://www.gov.uk/government/collections/strategic-export-controls-licensing-data>

All other data is taken from the licensing database SPIRE (as at 14 March 2018).

SIELs

Chart 2.I Number of SIELs*



* SIEL Transhipments (SITLs) are permanent licences but counted separately from Standard SIELs in Chart 2.I. See Chart 2.II for SITLs.

** NLR = No Licence Required. In Charts 2.I- 2.III, the number quoted is based on licensing decisions where an application is only for goods not requiring a licence

*** In Chart 2.I, Withdrawn/Stopped/Unsuitable applications are those that 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) by ECJU.

For SIELs, comprehensive data on export licences by country is available to the public on GOV.UK. The data is released every three months and shows how many SIELs were issued for the export of items to the destination concerned and whether they were for a permanent or temporary export. The value of the licences does not indicate the actual value of exports shipped during the reporting period. Licences usually cover a two-year period, and goods can be exported at any time during that period. Moreover, some licences will not be used to carry out all the exports authorised, and others will not be used at all. In addition, some items may be exported only temporarily and later returned to the UK within the validity of the licence.

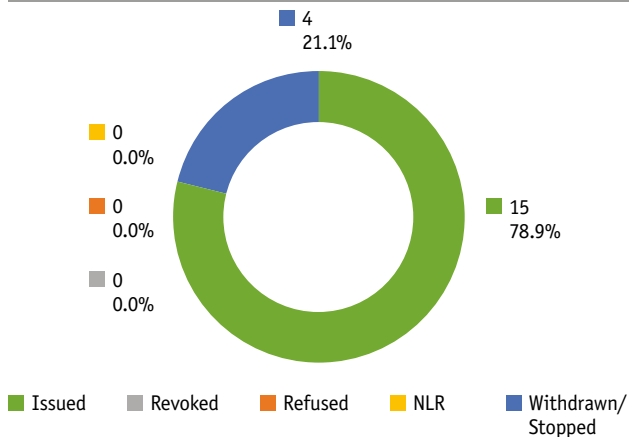
The data includes the number of licences issued, refused, or revoked, split into Military List, dual-use items, and both (covering licences with military and dual-use goods). A “T” at the beginning of a line in the “country pivot report” indicates a temporary export licence.

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

Information about items covered by Council Regulation 1236/2005 (the ‘Torture Regulation’) is provided in the same format as for other SIELs.

SITLs

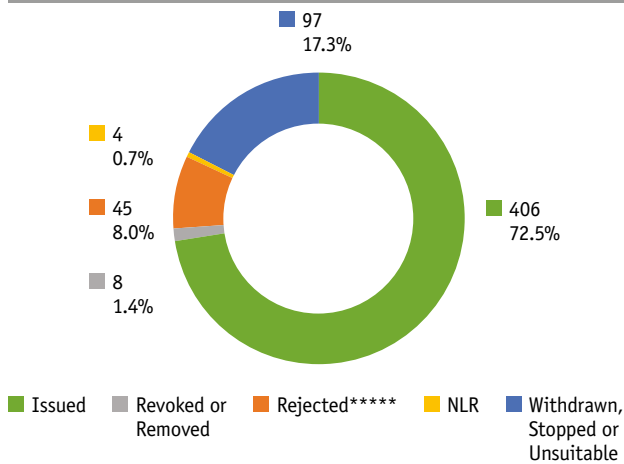
Chart 2.II Number of SITLs



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

OIELs

Chart 2.III Number of OIELs****



**** 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, so the fact that an OIEL has been rejected does not necessarily mean that another kind of licence may not be granted.

The OIELs data on GOV.UK includes the number of licences issued, refused or revoked for each country. “T” indicates a temporary export licence in the “country pivot report”.

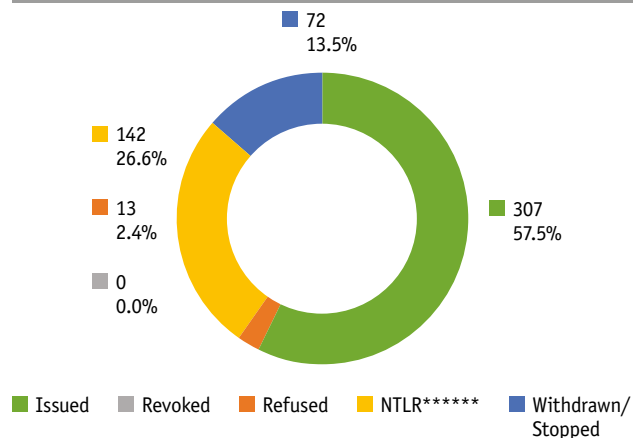
As OIELs cover multiple shipments of specified goods to specified destinations or specified consignees, exporters holding OIELs are not asked to provide details of the value of goods they propose to ship in the application. However, companies have been required, since 1 January 2014, to submit information about the use of each of their OIELs and OGELs. Current digital infrastructure does not support public reporting of this data in accordance with the Code of Practice on Official Statistics. Work continues to improve the reliability of the data we collect about open licence use, including the development of a new digital licensing system and a new Customs Declaration System. Once new systems are in place, we will be able to review how much more transparent we can be, particularly with respect to open licences. While we have not yet reached this point, the data we have is available via our searchable database:

<https://www.exportcontroldb.trade.gov.uk/sdb2/fox/sdb/SDBHOME>

SITCLs

As SITCLs cover the trading of specific goods between overseas source and destination countries, there is no physical export from the UK, traders are not asked to provide information on monetary value of goods.

Chart 2.IV Number of SITCLs



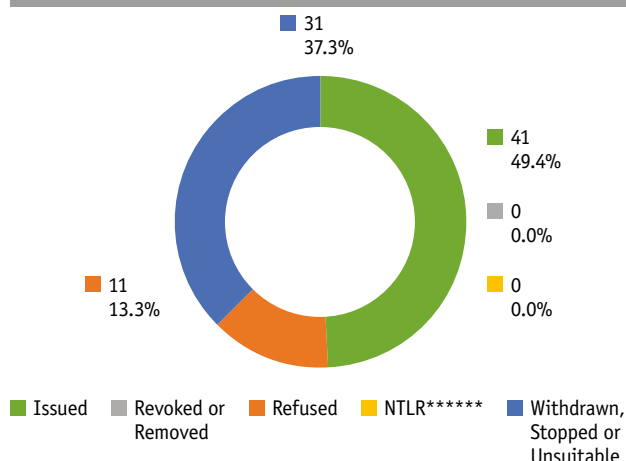
*****NTLR = No Trade Licence Required. For Charts 2.IV and 2.V the number quoted is based on licensing decisions where an application is only for goods not requiring a licence.

OITCLs

For OITCLs a summary of the items or activities authorised by the licence is provided in quarterly data.

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

Chart 2.V Number of OITCLs



2.2 Performance against targets

The Export Control Joint Unit (ECJU) sets out the Government’s commitments to exporters in a Service and Performance Code. The performance targets are to decide on 70% of applications for SIELs and SITCLs within 20 working days, and 99% within 60 working days. The targets apply as soon as the applicant has supplied the full documentation necessary to support their application. Table 2.VI gives a breakdown of the performance of Government in the period against the published SIEL and SITCL targets. The Table also highlights the number of applications processed compared to previous years and presents the number of applications completed within the specified timeframes in 2017.

The targets do not apply to:

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

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

Table 2.VI SIEL and SITCL Processing Performance*

	2015		2016		2017	
	SIELs	SITCLs	SIELs	SITCLs	SIELs	SITCLs
No. of applications completed in 20 working days	12,148	231	14,608	245	14,796	401
% applications completed in 20 working days	69%	63%	82%	63%	83%	75%
No. of applications completed in 60 working days	17,159	358	17,611	377	17,458	509
% applications completed in 60 working days	98%	97%	99%	96%	98%	95%
Median processing time	17 days	17 days	13 days	16 days	11 days	12 days

Data taken as of March 2018.

Refusals and revocations

There were 346 refusals or revocations of SIELs and SITCLs in 2017. Table 2.VII provides an overview of the number of times each of the Consolidated Criteria was used to justify the refusal of an export licence application.

Table 2.VII Reasons for refusals or 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	162
Criterion 1 – UK’s commitments and obligations to observe UN, EU or OSCE arms embargoes	62
Criterion 1 – Existence of national embargoes or policy commitments	7
Criterion 1 – UK’s obligations under the Ottawa Convention and the 1998 Land Mines Act	0
Criterion 2 – Risk of use for internal repression	15
Criterion 3 – Risk of contributing to internal tensions or conflict in the recipient country	3
Criterion 4 – Preservation of regional stability	2
Criterion 5 – National security of the UK, of Allies, EU Member States and other friendly countries	47
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	107
Criterion 8 – Compatibility of the arms exports with the technical and economic capacity of the recipient country	0

*Data taken from SPIRE as at March 2018.

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

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

2.3 Appeals

A licence applicant may appeal a decision to refuse a SIEL, SITCL, SITAL or OITAL (see Section 2.5 for definition of SITAL and OITAL), or against a decision to revoke a SIEL or SITCL. There is no provision for a formal appeal against refusal or revocation decisions relating to OIELs or OITCLs. This is because such decisions do not prevent a company from applying for SIELs or SITCLs.

The time taken to handle an appeal is calculated from the date on which it is received by ECJU and not the date of the original application. Decisions to refuse licences are not taken lightly and are only made in those cases where refusal is clearly justified. In this context, appeals against refusals will often raise difficult and complex issues.

Appeals are considered at a more senior level than the original licence application, by an official not involved in the original refusal decision. Any new information not available at the time of the application will be considered. Every effort is made to deal with appeals

as efficiently as possible. However, the time taken to decide an appeal can be lengthy because of the need to examine afresh all relevant information.

In 2017, 49 appeals of refusal decisions about SIELs were considered, of which 41 refusals were upheld and 8 overturned.

The Government has a target of processing 60% of appeals within 20 working days from receipt of all relevant information from the appellant, and 95% in 60 working days. During 2017, the Government completed only 33% of appeals within 20 working days from receipt of all relevant information from the appellant, and 86% in 60 working days. The complex nature of appeals makes it difficult to meet the targets. Officials will review procedures and targets for handling appeals, including the number of officials qualified to take appeals. These targets do not apply to appeals concerning goods that are controlled solely because of UN Sanctions. Of the 49 appeals decided in 2017, none fell into this category.

Table 2.VIII Appeals performance*

	2015	2016	2017
Appeals finalised within 20 working days	57%	47%	33%
Appeals finalised within 60 working days	89%	89%	86%

*Data is based on management information records.

2.4 Data on other types of licence

Technical Assistance Licences

Standard Individual Technical Assistance Licences (SITALs) are issued for separate ad hoc requirements, eg the repair of a single item or simple maintenance tasks. No SITALs were issued in 2017.

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 any activity related to weapons of mass destruction. This could include the transfer of documents or personnel. In 2017, two WMD OITALs were issued, four were refused and none were rejected or revoked.

Licences are also issued for the provision of technical assistance relating to military or dual-use items and activities where this is permitted under exemptions to international sanctions and embargoes. In 2017, four sanctions OITALs were issued, and none were refused, rejected or revoked.

The EU imposed sanctions on Russia in 2014, which include a requirement for licences for technical assistance relating to technologies in the oil and gas industries. In 2017, 31 OITALs were issued, none were rejected or revoked. All licences issued complied with EU sanctions.

Financial Assistance Licences

EU sanctions may contain prohibitions or restrictions on the provision of financing or financial assistance related to the sale, supply, transfer or export of goods and services prohibited or restricted under the sanctions. In cases where the provision of such financing or financial assistance is subject to prior authorisation, a Financial Assistance Licence may be granted. As a result of the sanctions imposed on Russia in 2014, there is now a requirement for licences for financial assistance relating to the supply of technologies used in the oil and gas industry. In 2017, 12 SIFALs (Standard Individual Financial Assistance Licences) were issued, but no OIFALs (Open Individual Financial Assistance Licences). No SIFALs under the Russian sanctions were refused, rejected or revoked. Under sanctions, DIT is the competent authority for financing and financial assistance related to prohibited or restricted trade transactions. HM Treasury is the competent authority for all other financial sanctions, including asset freezes and counter-terrorist financing.

Licences for drugs used in execution by lethal injection

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

- Amobarbital (CAS RN 57-43-2)
- Amobarbital sodium salt (CAS RN 64-43-7)
- Pentobarbital (CAS RN 76-74-4)
- Pentobarbital sodium salt (CAS RN 57-33-0)
- Secobarbital (CAS RN 76-73-3)
- Secobarbital sodium salt (CAS RN 309-43-3)
- Thiopental (CAS RN 76-75-5)
- Thiopental sodium salt (CAS RN 71-73-8), also known as thiopentone sodium.

These agents also have legitimate medical uses.

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

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

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

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

In 2017, 12 SIELs for these items were issued and none were refused or revoked. Two OIELs were issued and none were rejected or revoked.

Global Project Licences

Global Project Licences (GPLs) are a form of licence introduced by Framework Agreement Partners (France, Germany, Italy, Spain, Sweden and the UK) to streamline the arrangements for licensing military goods and technologies between Partner States who are participating in specific collaborative defence projects. In relation to the collaborative project, each Partner State will, as appropriate, issue its own GPLs to permit transfers of specified goods and technology required for that project. The GPLs operate on a similar basis to UK OIELs. Applications for GPLs are assessed against the Consolidated Criteria in the UK, and against the EU Common Position in other Framework Partner countries. In 2017, 8 GPLs were issued, and none were rejected or revoked.

2.5 Open General Export Licences

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

In 2017 one new OGEL was introduced, for exports in support of Turkish Aerospace Industries TF-X programme. A number of OGELs were republished as a result of updates to the UK Strategic Export Control Lists and/or due to changes to the general terms and conditions or permitted destinations.

A summary of key changes affecting OGELs in 2017 is as follows:

- 20 January – removal of EU sanctions on Ivory Coast and Liberia
- 1 March – replacement of Schedule 1 to the OGEL for printed circuit boards (PCBs) and components for military goods

- 4 July – renewal of territorial sanctions on Crimea and Sevastopol and territorial sanctions on Russia
- 1 November – increase in the maximum number of weapons that licence holders are allowed to store in any approved armoury at any time under the maritime anti-piracy open general trade licence
- 17 November – removal of Venezuela as a permitted destination on certain OGELs

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

The EU GEAs are as follows:

- EU001 – exports to Australia, Canada, Japan, New Zealand, Norway, Switzerland, Liechtenstein, and the United States
- EU002 – export of certain dual-use items to certain destinations
- EU003 – export after repair/replacement
- EU004 – temporary export for exhibition or fair
- EU005 – telecommunications
- EU006 – chemicals

Table 2.IX shows the OGELs in force in 2017.

Table 2.IX List of OGELs in force in 2017:
Dual-Use Goods OGELs: dual-use items are goods and technology with both military and civilian applications
1. Chemicals
2. Cryptographic Development
3. Export After Exhibition: Dual-use Items
4. Export After Repair/Replacement Under Warranty: Dual-use Items
5. Export for Repair/Replacement Under Warranty: Dual-use Items
6. Dual-Use Items: Hong Kong Special Administrative Region
7. Low Value Shipments
8. Oil and Gas Exploration: Dual-Use Items
9. Technology for Dual-Use Items
10. Turkey
11. Specified Dual-Use Items (X)
12. Military and Dual-Use: UK Forces Deployed in Embargoed Destination
13. Military and Dual-Use goods: UK Forces Deployed in Non-embargoed Destinations
14. Exports of Non-lethal Military and Dual-use Goods: to UK Diplomatic Missions or Consular posts
15. PCBs and Components for dual-use items

Table 2.IX List of OGELs in force in 2017: (continued)

Military Goods OGELs: these permit the export of certain controlled military goods
1. Access Overseas to Software and Technology for Military Goods: Individual Use Only
2. Certified Companies
3. Export After Exhibition or Demonstration: Military Goods
4. Export for Exhibition: Military Goods
5. Export after Repair/replacement under warranty: Military goods
6. Exports for Repair/replacement under warranty: Military goods
7. Exports or transfers in Support of UK Government Defence Contracts
8. Exports under the US-UK Defence Trade Cooperation Treaty
9. Historic Military Goods
10. Historic Military Vehicles and Artillery Pieces
11. Military Components
12. Military Goods, Software and Technology
13. Military Goods: Collaborative Project Typhoon
14. Military Goods: For Demonstration
15. Military Goods, Software and Technology: Government or NATO End Use
16. Military Surplus Vehicles
17. Software and Source Code for Military Goods
18. Technology for Military Goods
19. Vintage Aircraft
20. Exports of Non-lethal Military and Dual-use Goods: to UK Diplomatic Missions or Consular Posts
21. Military and Dual-use Goods: UK Forces Deployed in Embargoed Destinations
22. Military and Dual-use Goods: UK Forces Deployed in Non-embargoed Destinations
23. Exports in Support of Joint Strike Fighter: F-35 Lightning II
24. Military goods: A400M Collaborative Programme
25. PCBs and Components for Military Goods
26. Exports in support of Turkish Aerospace Industries TF-X programme
Open General Transshipment Licences (OGTLs): these allow, subject to certain conditions, controlled goods to be exported from one country to another via the UK
1. Sporting Guns
2. Postal Packets
3. Transshipment Licence
4. Dual-Use Goods: Hong Kong Special Administrative Region
Open General Trade Control Licences (OGTCLs): these control trafficking and brokering activity between one third country and another where the transaction or deal is brokered in the UK or by a UK person.
1. Category C Goods
2. Trade and Transportation: Small Arms and Light Weapons
3. Insurance or Re-Insurance
4. Maritime Anti-Piracy
Other types of Open General Export Licences:
1. Government of Sierra Leone
2. Iraq
3. Radioactive sources

Section 3

Legislative changes and the impact of Brexit

3.1 Changes in UK and EU legislation relating to export licensing

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

During 2017, in accordance with Article 21(3) of the Regulation, the Commission carried out a review to determine whether the current procedures and arrangements established by the Regulation were achieving the expected results and whether the Regulation was still up to date.

The Commission has published its evaluation (see link below):

<http://data.consilium.europa.eu/doc/document/ST-15932-2017-INIT/en/pdf>

The Government submitted an Explanatory Memorandum on the Commission report on 10 January 2018 (see link below):

<http://europeanmemoranda.cabinetoffice.gov.uk/files/2018/01/EM - DIT - 15932-17 - report review Reg 258-2018 Article 10 UN Firearms Protocol - signed Liam Fox - 10 Jan 2018.pdf>

The Commission concluded that the rationale for the Regulation was unchanged and that a robust framework for the control of civilian firearms remains desirable. The Commission recognised that while their evaluation showed that the Regulation had broadly achieved its aims, some problems with its operation existed in situations where harmonisation was patchy across some Member States. Problems identified included: overlaps with other EU legislation; inadequate information exchange between Member States; and record keeping. The Commission indicated that the use of non-legislative measures such as guidance on implementation, best practice and use of the Firearms Experts Coordination Group may be helpful in solving the issues. The Commission has no firm plans to amend the Regulation at this time.

The Intra-Community (ICT) Directive 2009/43/EC, covering the transfer of defence equipment within the EU, aims to facilitate the movement of defence goods within the EU while recognising that such transfers must remain subject to national controls.

The Directive provides Member States with simplified licensing options and promotes their use. Member States are required to publish at least four general licences: (i) to the armed forces of a Member State or body purchasing on their behalf; (ii) to a certified company; (iii) for demonstration, evaluation and exhibition; and (iv) for maintenance and repair of previously supplied items. The Directive provides for a system of certification of companies, as a confidence building measure. This ensures that companies exporting items to certified companies in other Member States under the Certified Company General Licence can be confident that end-users will have provisions in place to ensure compliance with any re-export provisions.

The Commission published two recommendations on 30 November 2016 in relation to general licences for armed forces and certified companies. These introduced harmonised measures to be implemented in all Member States to facilitate the understanding and use by European industry of these licences, as well as minimum requirements on the scope of the licences with regard to the coverage of goods, conditions and destinations. Member States were required to give effect to each of these Recommendations by 1 July 2017. In the UK, the equivalent Open General Export Licences (OGELs) are consistent with these Recommendations.

The Commission Recommendation for the armed forces and contracting authorities can be found at the following link:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016H2123>

The Commission Recommendation for Certified Companies is at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016H2124>

The Commission is working with Member States to produce two further Recommendations in relation to the two other general licences for repair and on demonstration, evaluation and exhibition. These are expected to be agreed during 2018.

Council Directive 91/477/EEC on the control of the acquisition and possession of weapons, as amended by Directive 2008/51/EC: this directive sets out simplified procedures for transfers of civilian firearms by sports shooters in possession of a European Firearms Pass (implemented through Article 15 of the 2008 Order) and for transfers between authorised dealers in different Member States via “dealer-to-dealer” licences.

The Commission proposal to further amend this Directive has been agreed by the European Parliament and the Council. Council Directive (EU) 2017/853 of 17 May 2017:

<http://eur-lex.europa.eu/eli/dir/2017/853/oj>

This Directive provides for strengthened measures on many aspects of firearms that are designed to address concerns prompted by the terrorist attacks in Europe in 2016. The initial date for these new measures to be transposed into UK legislation is 14 September 2018 (there is a secondary date of 14 December 2019 for certain other, more complex, measures).

3.2 Parliamentary relations

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

In November 2017, the CAEC launched an inquiry into the UK's arms exports in 2016. At the time of publication of this report, they had sought evidence from the Government, NGOs and industry. Their latest reports and evidence can be found at:

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

3.3 Impact of the UK's decision to leave the European Union

On 23 June 2016, the British people voted in a referendum to leave the EU. The Government's overall objective is to maintain the effectiveness and integrity of the UK's export controls through Brexit and beyond, by ensuring that the UK remains compliant with its international obligations, and that UK-EU trade is as frictionless as possible.

Until we have left the EU, the UK will remain a member with all of the rights and obligations that membership entails. Common Position 2008/944/CFSP, which governs the control of exports of military technology and equipment, is given effect in the UK through the Consolidated EU & National Arms Export Licensing Criteria. The Consolidated Criteria will remain in force until such time as new or amended guidance is announced to Parliament.

In March 2018, the UK and EU reached agreement on the terms of an implementation period that, following ratification of the Withdrawal Agreement, will start on 30 March 2019 and last until 31 December 2020. This agreement was endorsed by the March European Council. Under the terms of this agreement, common rules will remain in place until the end of the period meaning business will be able to trade on the same terms as now up until the end of 2020.

The Government will transpose EU export control legislation into UK law through the EU (Withdrawal) Act, so that existing export control regulation continues to have effect in the UK. Information on any changes affecting exporters will be made available on the GOV.UK website, as well as through ECJU's Notices to Exporters and on-going training sessions.

On 23 May 2018, the Sanctions & Anti-Money Laundering Act received Royal Assent. This granted the Government the powers necessary to continue to implement sanctions. The Government will issue updated guidance to explain any changes in sanctions measures and licensing arrangements.

3.4 Judicial Review of export licensing to Saudi Arabia

In June 2016, the High Court granted permission for a Judicial Review claim brought by Campaign Against Arms Trade (CAAT) relating to export licensing decisions from 9 December 2015 onwards involving the sale or transfer of arms and military equipment to Saudi Arabia for possible use in the conflict in Yemen.

The case was heard by the Divisional Court on 7, 8 and 10 February 2017. On 10 July 2017, the Divisional Court dismissed the claim by CAAT. The Court recognised the rigorous and robust processes across Government to ensure that UK defence exports are licensed consistent with the Consolidated EU & National Arms Export Licensing Criteria.

The International Trade Secretary made a statement to Parliament on 10 July 2017:

<https://hansard.parliament.uk/commons/2017-07-10/debates/1D4CCF79-CEE5-407F-BDBD-8AA5E804A588/ExportLicensingHighCourtJudgment>

CAAT appealed to the Divisional Court, who on 24 July 2017 refused permission to appeal their judgment. In September 2017, CAAT submitted an application for permission to appeal against the judgment to the Court of Appeal. The Court of Appeal considered this application at a hearing on 12 April 2018 and in a judgment dated 4 May 2018 granted CAAT permission to appeal.

The Government will continue to defend the decisions being challenged and to keep arms exports to Saudi Arabia under careful review to ensure they meet the rigorous standards of the Consolidated EU & National Arms Export Licensing Criteria.

Section 4

Export licensing and industry

4.1 The UK's defence and security industry

The UK defence and security industry is one of the world's most advanced. This provides significant benefits, enabling the UK to remain at the leading edge in defence capabilities. The industry employs around 142,000 people in the UK, many highly skilled, and also makes a major contribution to our economic prosperity. The Middle East and North America are key defence export destinations.

Information about defence and security exports can be found on GOV.UK at:

<https://www.gov.uk/government/publications/uk-defence-and-security-export-figures-2016/uk-defence-and-security-export-statistics-for-2016>

Data for 2017 will be published later this year.

4.2 Raising awareness of export licensing in industry

The Government is committed to reaching out to industry to raise awareness of export controls and ensure compliance. In 2017, these efforts included:

- 75 dedicated training courses for business;
- two export control symposia;
- nine public events with partners and stakeholders;
- three sector events;
- internet-based information guides; and
- issuing 29 Notices to Exporters.

4.3 Public events with partners and stakeholders

ECJU staff attended a range of events for exporters across the country, in order to raise awareness of three points:

- export controls should not be a barrier to legitimate or responsible exports;
- there are many types of licences to meet the needs of business;
- there is a wide range of assistance and training available to support exporters through the licence application process.

Other ECJU outreach activities have included:

- helping relevant sector teams across DIT to improve their understanding of export licensing so that they can better assist companies with potential export opportunities;
- supporting DIT's Defence & Security Organisation (DSO) at two regional events for defence and security small and medium-sized enterprises – these reached over 200 people including exhibitors and delegates, around 20% of whom were new to exporting;
- taking an Export Control dedicated stand for the first time at the DSEI defence exhibition, one of the world's largest – DIT, MOD and FCO staff from ECJU briefed a large number of exhibitors and visitors, in partnership with trade associations and colleagues on the main DIT stand;

- delivering two export Control symposia. More than 200 exporters from the aerospace, defence and security industries attended the first, in London in April 2017. 150 exporters attended the second, in Coventry in October 2017, which was held in association with the Midlands Aerospace Alliance. The events included plenary sessions and workshops on various aspects of export licensing, including US export controls, due diligence and risk management.

In 2017, the Government organised 52 dedicated training courses for business, attended by over 1,100 delegates nationwide. The sessions helped to inform industry about specific legislative and operational information relating to export control obligations. The courses included:

- beginners' workshops for those new to export controls;
- intermediate-level seminars, covering technology exports, the different licences available, compliance with export control legislation, and the UK and EU control lists;
- more specialist workshops to help companies classify their items on the Military and Dual-Use Strategic Export Control Lists; and
- workshops to enable exporters to improve their ability to submit good quality licence applications, which helps reduce requests for further information and ensure more timely decision making.

On-site bespoke training was also delivered to 23 businesses across the UK to address their specific market issues. This training reached nearly 400 people. The audiences included staff with responsibilities for licence applications, and also shipping, procurement, sales, legal, and technical personnel.

Over 200 companies new to ECJU training registered for the full range of training courses. Many of these were small and medium sized companies. ECJU continued to work closely with the Awareness, Policy and Compliance Sub-Committees of the ADS³ Export Group for Aerospace, Defence & Dual-Use (EGADD) to agree industry needs and the focus for support.

Internet-based guides and licensing tools

Information about export controls continues to be hosted on GOV.UK at

<https://www.gov.uk/guidance/export-military-or-dual-use-goods-services-or-technology-special-rules>

³ ADS is the trade association for the aerospace, defence, security and space industries.

Work is continuing to improve on-line export control content to make it simpler and clearer.

Sector based training and awareness

In 2017, ECJU worked closely with partners and trade associations to deliver three sector focused awareness events covering civil nuclear, space and oil and gas. The objectives of the events were to provide an overview of the potential for export growth and to outline the types of material and equipment which would require licences and how to apply.

Notices to Exporters

The Government continues to encourage industry to sign up to receive Notices to Exporters. In 2017, the number of subscribers increased to over 15,000, up from 8,300 in 2014 and 5,000 in 2012. A total of 29 notices were issued with the latest information, including: updates to the Consolidated Control Lists; licence changes and updates to Open General export licences as a result of changes in legislation; restrictions on the trading position for sanctioned destinations, eg Russia, North Korea, Libya, Venezuela.

Checker tools

Exporters continue to make use of ECJU's two web-based search tools which help to identify which products need a licence (the 'goods checker') and, if licensable, whether an Open General Export Licence (OGEL)⁴ potentially covers the proposed exports (the 'OGEL checker').

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

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

Cross departmental working

The Government recognises the need to ensure that all officials involved in export control are well briefed on key policies and operations. During 2017 ECJU delivered quarterly training courses specifically for officials in Whitehall departments engaged with exports, export licensing or enforcement. DIT International Trade Promotion colleagues were part of these induction events and we delivered a dedicated training session for DSO staff.

⁴ A full explanation of the different UK export licences currently available is included in Section 1 of this report.

International outreach

ECJU provided background on the UK Export Licence system and Brexit related issues at the International Defence Exhibition in Rome. Delegates and participants included overseas export licensing authorities and international exporters. The event was an opportunity to highlight UK best practice in digital licensing, compliance, the use of open licences and the need for due diligence. The countries represented included the UK, US, Italy, France, Germany, Spain, Canada and Israel.

Section 5

UK support to Allies and partners

5.1 Gifted controlled equipment

The Government may occasionally gift equipment in support of its wider security and foreign policy aims. All proposals to gift controlled military equipment and dual-use equipment are assessed against the Consolidated EU & National Arms Export Licensing Criteria in the same way as commercial applications and with the same degree of rigour. The MOD manages the assessment process and seeks advice on gifting proposals from advisers in the MOD, FCO and DFID. Where gifts

of controlled military equipment are approved these are exported under a Crown Exemption letter and as a result they do not require an export or trade licence. Where gifts exceed £300,000 in value, they are notified to Parliament before the gift is made. In the case of dual-use equipment gifts, export licence coverage must be in place using the open licence for the export of dual-use goods by the Crown.

Table 5.I Equipment assessed against the Consolidated Criteria by the Government and approved to be gifted in 2017¹

Country	End-User	Goods Description	Sponsoring HMG Department	Value £
Libya	Libyan Ministry of Defence	Unexploded ordnance disposal equipment, remotely operated vehicles, bomb disposal suits & helmets, personal protection body armour & helmets	MOD	£2,977,375
Syria	Syrian White Helmets, Free Syrian Police	Handheld radio, explosive detectors, mobile satellite internet system, breathing apparatus, thermal imaging cameras, unexploded ordnance disposal equipment, police vehicles and civilian vehicles	FCO	£15,650,000
Jordan	Syrian Moderate Opposition	Toyota Hilux, vehicle equipment, VHF base station, vehicle & ground VHF communications, observation cameras, binocular observation equipment, uniforms, vehicle mounted GPS devices, hand held mine/metal detectors and command wire detectors	FCO	£3,438,291
Jordan	Syrian Moderate Opposition	Toyota Hilux, Toyota Hiace ambulance, vehicle repair equipment, HF & VHF communication equipment, medical treatment equipment, uniforms and vehicle mounted GPS devices	FCO	£2,780,167

Table 5.I Equipment assessed against the Consolidated Criteria by the Government and approved to be gifted in 2017¹ continued

Country	End-User	Goods Description	Sponsoring HMG Department	Value £
Jordan	Jordanian Armed Forces	Armoured 4x4s, armoury maintenance kits, camouflage nets, classroom equipment, communications ancillaries, deployable shelters, IT, manual handling equipment, military dogs, mosquito nets, navigation equipment, personal reconnaissance equipment, portable infantry marksmanship training systems, protective clothing, utility vehicles, water carriage, equipment for new accommodation/buildings	MOD	£1,473,532
Djibouti	Djibouti National Police	IT server equipment	FCO	£66,935
Somalia	Somalia Emergency Police Department Headquarters	Soft body armour with plate inserts, ballistic helmets, rifle hand-guards, torch attachments and red dot sights	MOD	£61,035
Tunisia	Tunisia Brigade Anti-Terrorist	Night vision goggles, helmet mounts, weapon lasers and sights	MOD	£299,905

¹ This table refers to equipment assessed and approved to be gifted by the Government. It does not contain definitive information on equipment delivered. Data is based on SPIRE and management information records held as of 23 March 2018.

5.2 Government-to-Government exports

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

Forces. These disposals are subject to licensing controls. Tables 5.II and 5.III give, by destination, the equipment type and quantity of these exports in 2017.

Table 5.II Disposals to foreign armed forces

Country	Type of Equipment	Quantity*
Bahrain	Landing Craft Vehicle & Personnel (LCVP) Mk5A	3
Bahrain	LCVP Spares Package	N/A*
Chile	Type 23 Propeller	1
Chile	Various Naval Stores	N/A*
Brazil	Various Naval Stores	N/A*
Romania	Various Naval Stores	N/A*
Botswana	Various logistic vehicles	214
Botswana	Vehicle spares	N/A*
Finland	Demountable Rack Offload and Pickup System (DROPS) Vehicles	70
Finland	King DROPS Trailers	10
Finland	Flat Racks for DROPS	70
Hungary	Clothing – Uniforms (Various)	Up to 10,000 (enduring programme)
Hungary	LR Battlefield Ambulances	10
Hungary	Land Rovers 110	30
Latvia	CVR(T)s	Ongoing commitment until September 2019. Total contract will be for 123 vehicles

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

**Data collected from internal management information.

Table 5.III Other overseas transfers to commercial entities

Country	Type of Equipment	Quantity
Germany	M3 Bridging Vehicles (General Dynamics)	3
Sweden	NLAW Tooling (SAAB)	750

5.3 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 2017, the UK continued to provide substantial support for equipment already in service and completed deliveries of Typhoon aircraft to the Royal Saudi Air Force under the agreement reached in 2007 for the supply of 72 such aircraft.

The following table is a summary of the exports that arose in 2017 under projects supported by the Ministry of Defence Saudi Armed Forces Projects (MODSAP). All goods were exported under export licences obtained by industry. Where a Standard Individual Export Licence was issued, the data are included in the corresponding DIT Strategic Export Controls Quarterly Report.

Table 5.IV Government-to-Government transfers of equipment to Saudi Arabia between 1 January and 31 December 2017

Type of equipment	Quantity
Typhoon aircraft and initial in-service support	6
Component repair and re-provisioning, and training support for aircraft and their systems	-
Component repair and re-provisioning, and training support for naval vessels and their systems	-
Missiles and missile launchers	173

Section 6

International policy developments

6.1 Arms Trade Treaty

The Arms Trade Treaty (ATT) is the only legally-binding, international, conventional arms control Treaty. It seeks to establish the highest possible common international standards for regulating the international trade in conventional arms. The UK ratified the ATT on 2 April 2014; it entered into force on 24 December 2014. As of 31 March 2018, the Treaty had 94 States Parties.

In 2017, the UK continued to play a leading role in the ATT. As one of the largest donors to the Voluntary Trust Fund and a member of its Selection Committee, we were closely involved in the approval of 17 projects for funding in the 2017 project cycle, aimed at supporting Treaty implementation. Officials attended the Third Conference of States Parties (CSP3) in September in Geneva. CSP3 received reports from the Working Groups on Treaty Implementation, Transparency and Reporting and Universalisation, and endorsed their programmes of work. The Conference agreed that all three programmes of work should address the linkages between the Treaty and the UN's Sustainable Development Goals and called on the Working Groups to report on these to the next Conference of States Parties.

CSP3 also discussed the impact of late or non-payment of subscriptions by States Parties on the Treaty's financial stability and tasked the Management Committee with developing a proposal to address the root causes.

The UK continued to make the case for greater engagement with industry and took part in a panel discussing the benefits of close co-operation between the ATT and industry.

The UK submitted its Annual Report to the Secretariat in accordance with Article 13 (3) of the Treaty, by the 31 May 2017 deadline. This report covers authorised or actual exports of conventional arms covered under Article 2(1) of the Treaty made during the calendar year 2016. The UK does not collect comprehensive data relating to the import of all controlled goods covered by the reporting standards of the ATT.

6.2 Small arms and light weapons

In 2017, the UK remained an active participant in international efforts to prevent the diversion of small arms and light weapons (SALW) and their ammunition. It remains a top UK priority to stop SALW falling into the hands of terrorists, organised criminals and other unintended recipients. The UK is a strong supporter of the UN Programme of Action to Prevent, Combat & Eradicate the Illicit Trade in Small Arms & Light Weapons in All its Aspects (UNPoA) and the International Tracing Instrument (ITI). As the only globally accepted politically binding agreements on SALW, they provide a common set of standards for establishing effective national controls over the full lifecycle of small arms and light weapons, from production, transfer, possession and storage, to eventual disposal. In addition they promote law enforcement cooperation in order to disrupt illicit trafficking networks. The UK also supports implementation of the International Small Arms Control Standards (ISACS) and the International Ammunition Technical Guidelines (IATG).

The Government regularly reports on the UK's implementation of the international instruments in order to promote transparency and as a confidence-building measure. Previous and current UK national reports are published and available at:

<http://www.poa-iss.org/poa/nationalreportlist.aspx>

The Government funded capacity-building projects through the Counter-Proliferation Programme Fund and the Conflict, Stability & Security Fund (CSSF), both bilaterally and through multilateral trust funds such as the NATO Partnership for Peace Trust Fund and the Organisation for Security & Cooperation in Europe SALW Assistance Mechanism. More information on the UK's contribution to multilateral projects is available at

<https://salw.hq.nato.int/Project/ProjectCards>

The Government also engaged actively on a review of the EU's 2005 strategy to combat the illicit accumulation and trafficking of SALW, which will be agreed in 2018. More information on the implementation of the EU's SALW Strategy is available at

https://eeas.europa.eu/headquarters/headquarters-homepage/8464/conventional-weapons_en

6.3 UN Convention on Certain Conventional Weapons (CCW)

The UN Convention on Certain Conventional Weapons aims to prohibit or restrict the use of conventional weapons that are considered to cause unnecessary suffering or to have indiscriminate effects, for example, weapons with non-detectable fragments, mines, booby-traps, incendiary weapons, and blinding laser weapons.

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

- 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 Eleventh Conference of the High Contracting Parties to Protocol V as a Signatory State on 20 November 2017, the Meeting of the High Contracting Parties to (Amended) Protocol II on 21 November 2017, and the CCW Meeting of High Contracting Parties on 22-24 November 2017.

The UK used its Presidency of the CCW in 2017 to drive forward reforms to improve the predictability and long-term sustainability of the Convention's finances. This was a priority, as meetings scheduled for the first half of the year had to be cancelled due to a lack of funding.

The CCW Review Conference in 2016 agreed, by consensus, to establish a Group of Government Experts to continue discussions on Lethal Autonomous Weapons Systems for a period of 10 days during 2017. Due to the Convention's financial shortfalls, only one meeting took place, on 13-17 November; the UK attended. The discussions built on three years of informal meetings, and continued to develop international understanding regarding the potential implications of autonomous lethal weapons. The CCW Meeting of High Contracting Parties in 2017 agreed by consensus to extend discussions into 2018 for a further 10 days under the existing mandate; and that the 2018 work should focus on the characterisation of such systems, the human element in the use of force, and the interaction between humans and machines.

6.4 Anti-Personnel Mine Ban Convention – the 'Ottawa Treaty'

Anti-personnel mines (APMs) continue to cause suffering and casualties in many parts of the world, leading to serious humanitarian and developmental problems.

The Ottawa Convention was adopted on 18 September 1997, and entered into force for signatory states, including the UK, on 1 March 1999. 164 States are now parties to the Convention. 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, where they are in a position to do so.

The UK took part in the 16th Meeting of States Parties to the Convention in Vienna from 18-21 December 2017. The meeting reviewed the operation and status of the Convention against the goals stated in the June 2014 Maputo Action Plan. The Action Plan's goals include universalisation of the Convention, stockpile destruction, mine clearance, victim assistance, and international cooperation and assistance.

Article 5 of the Convention obliges States Parties to ensure the destruction of all APMs in areas under their jurisdiction or control. For the UK, the only such area is the Falkland Islands. In September 2016, the UK announced the commitment of a further £20 million to support a fifth phase of demining. This phase began in October 2016 and has advanced strongly. As of 18 December 2017, 35 mined areas had been cleared in Phase Five, totalling over 3.6m square metres of land, with over 2,600 anti-personnel mines destroyed.

Technical surveys had been completed in 21 of the 27 minefields in scope. Technical survey work is vital to develop a more accurate picture of the clearance challenges that remain. This phase is expected to clear at least 46 minefields and demonstrates significant progress towards meeting the UK's obligations under the Ottawa Convention.

The UK also remains committed to international cooperation through its generous support to Mine Action in countries where the clearance of landmines, cluster munitions and other explosive remnants of war contributes significantly to the lives of some of the world's most disadvantaged communities. On 4 April 2017, the UK Secretary of State for International Development announced that the UK would triple its spending to £100m over the next three years to tackle the humanitarian and development impact of landmines and other explosive remnants of war, including cluster munitions. This support will clear and make safe 150 square kilometres of land, help 800,000 people live their lives free from the threat of mines, and ensure that, every year, over 100,000 people – especially children – fully understand the dangers posed by landmines and how to avoid them.

The focus of the programme will be on countries where the greatest numbers of people continue to suffer from landmine contamination; where we can have the biggest impact; and where continued insecurity and instability pose an ongoing threat to UK interests. The new programme is also expanding its geographical scope by funding operations in response to landmine emergencies in Angola, Iraq, Lebanon, Sudan, Syria and Yemen, in addition to continued DFID programming in Afghanistan, Burma, Cambodia, Laos, Vietnam, Zimbabwe, Somalia and South Sudan.

This increased funding builds on the UK's previous £30m Global Mine Action Programme (GMAP) which funded work from 2014 to 2017. Between September 2016 and September 2017 GMAP ensured the clearance of 6,712,868 square metres of land and led to 234,680 direct beneficiaries of mine risk education, 121,296 of whom were women and girls.

In addition, the UK's Conflict, Stability & Security Fund also supports a number of mine action programmes around the world. This Fund had an allocated budget of over £8m for demining activity over the last year. Mine action has taken place in countries including Ukraine, Georgia, Azerbaijan, Sri Lanka, Yemen and Afghanistan.

6.5 Convention on Cluster Munitions (CCM) – the 'Oslo Treaty'

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

In 2008 a number of Governments, including the UK, agreed the CCM, which prohibits the use, development, production, acquisition, stockpiling and transfer of cluster munitions. The Government became the 32nd State Party to the CCM in 2010. At the end of 2016, the Convention had 119 members, of which 102 have become full State Parties and 17 are signatories.

The UK has continued to play an active role in international cooperation and assistance to countries affected by cluster munitions as part of its mine action work, as detailed in Section 6.4.

The UK participated in the Meeting of States Parties to the Convention in Geneva from 4-6 September 2017.

6.6 UN Register of Conventional Arms (UNRoCA)

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

The UN Register currently covers seven categories of conventional weapons:

- battle tanks;
- armoured combat vehicles;
- large-calibre artillery systems;
- combat aircraft;
- attack helicopters;
- warships (including submarines); and
- missiles and missile-launchers (including Man-Portable Air Defence Systems).

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

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

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

6.7 Nuclear Suppliers Group (NSG)

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

The UK attended the 27th Plenary meeting of the NSG in Berne, Switzerland on 22-23 June 2017. The Group maintained its focus on technical issues important to the implementation of the Control Lists and updating the NSG Guidelines to keep pace with the evolving global security landscape and a fast-paced nuclear and nuclear related industry. The Group agreed a number of proposals in these areas. The Group also reiterated its support for the Non Proliferation Treaty, the Joint Comprehensive Plan of Action and commitment to UN Security Council Resolutions related to DPRK. The Group also discussed membership issues including those of non-NPT States. Finally the Group discussed the NSG's policies regarding transparency and confidentiality.

6.8 Australia Group

The Australia Group, established in 1985, is an informal group of countries which seek to ensure, through the harmonisation of export controls, that exports do not contribute to the development of chemical or biological weapons. Co-ordination of national export control measures helps Australia Group participants to fulfil their obligations under the Chemical Weapons Convention (CWC) and the Biological & Toxin Weapons Convention (BTWC). In 2017 the number of participating countries remained at 42, including all EU Member States and the European Commission.

Membership applications were discussed at the 2017 Annual Plenary Meeting. India's membership, which the UK has consistently supported, was agreed in principle. The UK worked to ensure the Australia Group Control Lists remain relevant and up to date. The Plenary agreed to enhance and regionalise outreach to non-members, and issued a statement expressing concern and regret at the evidence and allegations of chemical weapons use in Syria and Iraq. The Australia Group decided to focus on Africa for the next outreach dialogue, and the UK agreed to co-host that meeting in London in 2018 in parallel with the regular intersessional meeting of technical experts.

6.9 Missile Technology Control Regime (MTCR)

The Missile Technology Control Regime celebrated its 30th anniversary in 2017. It is a politically binding instrument of 35 countries that work together by co-ordinating national export licensing efforts, in order to prevent the proliferation of unmanned delivery systems capable of delivering weapons of mass destruction. The UK is a founding member and plays a leading role, including in the MTCR's Technical Experts Group.

The MTCR held its 31st Plenary Meeting on 16-20 October 2017 to review and evaluate its activities, and to intensify further the efforts of Partners towards the MTCR's goals. Partners discussed global missile proliferation activities, and expressed concern about ongoing missile programmes in the Middle East, NE Asia, and South Asia (and, in particular, DPRK and Iran), and the impact on proliferation activities elsewhere. Partners also considered:

- procurement activities and techniques in support of such programmes;
- rapid technological change, including unmanned aerial vehicles (UAVs) development;
- the role of intangible technology transfers, brokering, and transit/transshipment in efforts to evade export controls and facilitate proliferation;
- key technology trends in the proliferation of missile programmes; and
- catch-all controls for items not listed by the MTCR.

Partners noted that the MTCR guidelines and lists of controlled items form an international benchmark for controlling exports of missile-related items and technologies, and that these standards are adhered to by an increasing number of non-Partners and are included in some UN Security Council resolutions.

6.10 Wassenaar Arrangement

The Wassenaar Arrangement was established to contribute to regional and international security and stability by promoting transparency and helping to prevent destabilising accumulations of conventional arms. It has 42 Participating States, including Canada, Japan, Mexico, Russia, the USA, and all EU Member States except Cyprus. The newest member, India, joined in December 2017.

UK experts play a major role in the Technical Working Groups. The strength of the Wassenaar Arrangement continues to be its technical outputs, specifically the Control Lists, which underpin the arms export control regimes of all Participating States and many non-participating States. The Wassenaar Arrangement produces two Control Lists – one for conventional weapons (the Munitions List) and one for dual-use goods and technologies. Participating States report to Wassenaar Arrangement members if they export controlled arms, goods, or technology to non-members.

Members held General Working Group meetings in April and October 2017, ahead of the 23rd Plenary Meeting in December 2017. At the 2017 Plenary it was decided that the UK would continue to Chair the Licensing & Enforcement Officers Meeting (LEOM). The Plenary Meeting also approved several amendments to the Wassenaar Arrangement Control Lists, adopting new export controls in a number of areas, including military explosives and specific electronic components. Existing controls were further clarified regarding ground stations for spacecraft, submarine diesel engines, technology related to intrusion software, software for testing gas turbine engines, analogue-to-digital converters, non-volatile memories and information security. Some controls were relaxed, such as for mechanical high-speed cameras and digital computers. For those products, control entries were either deleted, or performance thresholds were updated taking into account the rapidly evolving performance of civil market products.

In 2017, the UK again took part in Wassenaar Arrangement outreach activities to non-participating states. These included a visit to Singapore to meet officials and representatives of industry to discuss export controls and enforcement activities.

The UK assumed the Chair of the Plenary from 1 January 2018.

6.11 Academic Technology Approval Scheme (ATAS)

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

ATAS operates with the cooperation of higher education institutions at which sensitive subjects are studied at postgraduate level. Any overseas student outside the European Economic Area or Switzerland seeking to study such subjects in the UK must first obtain an ATAS certificate. The applicant makes an application online at no cost. Correctly completed applications are usually processed within 20 working days of receipt. This can take longer during busy periods such as the summer. In 2017, ATAS approved 17,561 applications and denied clearance on 106 occasions⁵.

6.12 International outreach

For the second year running, the UK was invited by the Republic of Korea (ROK) to present at the 4th International Defence Technology Security Conference in Seoul in June 2017. In the margins of the conference UK and ROK officials had bilateral discussions about closer cooperation in export controls and control of the transfer of sensitive technologies.

The UK had bilateral talks with the incoming Icelandic and Irish Co-chairs of the Missile Technology Control Regime (MTCR) about how the UK can support the outreach activities of the MTCR during their period of co-chairmanship in 2017-18.

Following India's successful application to become a participating state of both the Australia Group and the Wassenaar Arrangement, officials held bilateral meetings with Indian representatives on how they will operate within these regimes.

⁵ Information extracted from Management Information Database March 2018.

Section 7

Compliance and enforcement

7.1 Compliance

In 2017, the Export Control Joint Unit's Compliance Team continued to carry out regular and thorough inspections of companies and individuals that hold Open Individual or Open General Licences. This was to ensure that they are meeting the terms and conditions of their licences and to raise awareness about export control obligations. These inspections fall into four main categories:

- i. **First time contact.** These are telephone calls made to all first-time users of open licences to verify they are aware of all the terms and conditions of the licences they hold. This is followed up by an explanatory email outlining the key elements of export controls to be considered prior to any export/transfer. The target is that all new users of the licences will be contacted within six weeks of the company being allocated a compliance inspector.
- ii. **First inspection.** The business is usually inspected within three months of first use of their licences.
- iii. **Routine inspections.** For businesses that have had a first inspection and continue to hold open licences. The time between routine inspections depends on a risk assessment and whether changes in circumstances have arisen, such as a business take-over or change in key staff.
- iv. **Revisits.** Revisits arise when a company has been found non-compliant at an inspection and, as a result, is inspected again within six to eight months.

The Compliance Team use four predefined criteria, agreed with Her Majesty's Revenue & Customs (HMRC), to determine the level of compliance and to ensure a consistent approach. Most of the inspections are undertaken at the site for which a licence or licences

have been issued. In rare instances, inspections may be carried out remotely via correspondence and/or telephone, for example when an exporter is located overseas.

The four pre-defined criteria are as follows:

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

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

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

- incorrect use of licences;
- a significant number of failings identified; and/or
- the company was previously advised which licence they should use but have failed to act on this advice.

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

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

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

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

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

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

There were 28 compliance certificates issued in 2017.

The Compliance Team carried out a total of 89 first time contact engagements with those new to exporting, and 459 site inspections (including revisits) in 2017. Newly recruited inspectors are now being trained so we will be considering the scope for carrying out more inspections in future years. Table 7.I shows compliance levels for companies inspected.

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

90 warning letters were issued to Company Directors during 2017 where breaches of licence conditions were identified. This was a 6.7% increase compared to 2016. Four non-compliant exporters surrendered licences which did not cover their goods. Surrendering licences helps avoid repeat offences. Two licences were suspended because of a repeat infraction.

In 2017 inspectors increased their focus on first contacts with businesses new to open licensing. This led to reduced capacity for routine inspections. This may account for fluctuations in compliance levels between 2016 and 2017.

7.2 Enforcement

HMRC continued to work with Border Force and the Crown Prosecution Service to undertake a wide range of enforcement activity throughout 2017. This included:

- 118 seizures of strategic goods in breach of licensing requirements or sanctions and embargoes (see Table);
- 198 end-use or ‘catch-all’ cases, where non-listed items were stopped from leaving the UK because there was a risk that the goods would be put to an illicit military or WMD end-use;
- one compound penalty*⁶ totalling £5,360.

HMRC assesses all known breaches of arms export controls and sanctions. Where serious and/or deliberate breaches of export controls are identified, or where there are aggravating features, cases will proceed to a full criminal investigation. These cases will be investigated and, if appropriate, referred to the Crown Prosecution Service, which determines whether there is sufficient evidence to prosecute and whether that prosecution is in the public interest.

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

HMRC continues to receive and process voluntary disclosures of errors made by exporters. These disclosures are assessed by HMRC and appropriate action is taken. This ranges from educational visits or the issuing of written warnings, through to compound penalties and, in the most serious cases, an investigation with a view to criminal prosecution.

⁶ Compound penalties or Compounding is the means by which HMRC can offer the exporter the chance to settle a case which would justify being referred to the CPS for prosecution, therefore saving the taxpayer and company time and legal fees.

HMRC also continues to work with DIT and other agencies to help raise awareness of export controls through outreach to business. It also participates in capacity-building events which strengthen links with other enforcement agencies in the field of export control and improve the capabilities of our international partners. HMRC also supports the international export control commitments of the Government through its contributions to international operational expert groups and by sharing expertise and best practice.

This work includes supporting and contributing to the enforcement expert meetings of the Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), Australia Group (AG) and Wassenaar Arrangement (WA). HMRC contributes to the Proliferation Security Initiative, working alongside the US and other partners to strengthen capabilities to prevent the smuggling of illicit goods.

Table 7.II Number of HMRC strategic exports and sanctions seizures	
Financial Year	Number
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
Calendar Year 2016	183
2017	118

There were no prosecutions under the Export Control Act in 2017.

Section 8

Case studies

8.1 Indonesia

Indonesia is an increasingly important export destination for UK businesses. This is reflected in the 14% year-on-year increase in the number of SIEL applications received compared to 2016. In 2017, the majority of controlled exports to Indonesia were destined for use by the Armed Forces of Indonesia and companies operating in the country's defence industry.

ECJU assesses all export licence applications to Indonesia on a case-by-case basis against the Consolidated Criteria, including Criterion 2(a) – whether there is a clear risk that the equipment might be used for internal repression.

When making an assessment we take into account what the equipment can do, the specific end user and the proposed end use. We draw on information from a range of sources, including the British Embassy in Jakarta and reporting from NGOs about human rights. Although previous information about an end user will be relevant, the key issue is how the equipment will be used in the future. Our assessment will take into account any relevant information about how risks of the equipment being misused can be mitigated, for example the training and professionalism of the security forces and whether officers are able to act with impunity.

Attacks in Surabaya in May 2018 underlined the ongoing threat to Indonesia from extremists. Shortly after the attacks, the Indonesian Parliament passed a new anti-terrorism law which provides additional powers to the Indonesian National Police and the Armed Forces to counter the terrorist threat. NGOs have raised some concerns about this legislation, including over the breadth of the definition of terrorism and the increased role of the Armed Forces.

The risk of equipment being used for internal repression, especially for equipment exported to regions affected by civil unrest, remains a concern. For example, we are aware of reports of authorities in Papua province dispersing crowds by firing live ammunition and suppressing reporting of unrest. We continue to monitor reports closely and factor this information into our assessment against the Consolidated Criteria.

8.2 The oil and gas industry

ECJU receives a substantial number of export licence applications for components and equipment for the oil and gas industry, which may be used for a range of activities including detection, extraction, transportation and refining.

While all the Consolidated Criteria are taken into account, the main concerns when assessing these applications are:

- whether the goods can be used to produce weapons of mass destruction (WMD) and granting a licence would be inconsistent with the UK's obligations under the Arms Trade Treaty or under the Nuclear Non-Proliferation Treaty, the Biological & Toxin Weapons Convention, the Chemical Weapons Convention or any country-specific UN or EU sanctions (Criterion 1);
- the risk that the items will be diverted within the buyer country or re-exported to an undesirable end-user or for an undesirable end-use (Criterion 7).

When considering the Criteria, the type of evidence we look for includes:

- the nature of the items as described in the goods rating: for example, corrosion-resistant chemical manufacturing equipment is common in the industry but can also be used in WMD production;
- international export control regimes that the country of destination belongs to: participating members of the Australia Group commit to ensuring that exports of certain chemicals, biological agents, and dual-use chemical and biological manufacturing facilities and equipment, do not contribute to the spread of Chemical and Biological Weapons;
- the ultimate end user and intended end use: confirmation that the goods will be used by known or established companies in the country of destination for the detection, extraction, transport or refining of oil and gas, and that the risk of diversion for an undesirable end-use is low.

The Department for International Trade ensures that companies operating in the sector are aware of Government policy. There is also a specific Open General Export Licence (OGEL) – Oil and Gas Exploration: Dual-Use Items – tailored to the requirements of the oil and gas industry for permitted destinations. The combination of items and destinations permitted in the OGEL have been assessed as consistent with the Consolidated Criteria but an OGEL will be revised or revoked if the assessment changes. The conduct of OGEL users is monitored through compliance inspections.

8.3 Maritime Anti-Piracy

Piracy and armed robbery at sea threatens the security of trade routes and costs the international economy an estimated \$7-12bn annually. Most piracy related activity occurs in three main hotspots – the West Indian Ocean, the Gulf of Guinea, and SE Asia (the Malacca and Singapore Straits and Sulu and Celebes Seas). These areas coincide with some of the busiest shipping trade routes. Although incidents of piracy had been declining, there was an increase in activity in the first half of 2017 off the coast of Somalia where piracy has been suppressed but not eradicated.

The UK has played a leading role in enabling important counter piracy activity in these regions. DIT regulate Private Military Security Companies operating in the High Risk Area of the Western Indian Ocean. Following a high volume of piracy attacks in the Western Indian Ocean between 2008 and 2012, private security companies became involved in anti-piracy work. Initially the sector was unorganised, uncontrolled and unregulated.

Since 2012, a range of licences have been developed to regulate the industry effectively. Private Maritime Security Companies based in the UK or employing UK nationals are now required to: attain maritime and security qualifications to an internationally accepted standard; adhere to industry regulations; meet compliance standards and be accountable to UK Government for their activities.

As a result, the sector has consolidated into a regulated, better qualified industry with a small number of organised – and reputable – private anti-piracy companies leading the way. A clear understanding of acceptable, international standards has been established; as has a range of compliance measures, which can be taken against companies that do not adhere to established processes. This has helped normalise traffic conditions in the High Risk Area and reduce successful attacks by pirates in recent years. Better safety standards for Private Maritime Security Companies have raised confidence in their activities, shipping and the wider industry. This has also helped to lessen the burden on some national governments by reducing the demand (and expectation) on them to provide protection for their shipping fleets operating in the region. An associated benefit is providing employment opportunities for former British Armed Forces personnel, whose expertise is valued in this sector.

Licences for anti-piracy activities often include small arms and ammunition. To prevent the possible theft or misuse of these weapons, a key requirement is that these will be stored securely when not in use, in registered armouries either on land or on-board ship.

Annex A

Consolidated EU & National Arms Export Licensing Criteria

WRITTEN MINISTERIAL STATEMENT

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

THE CONSOLIDATED EU & NATIONAL ARMS EXPORT LICENSING CRITERIA

25 MARCH 2014

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

The Government's policy for assessing applications for licences to export strategic goods and advance approvals for promotion prior to formal application for an export licence was set out on behalf of the then Foreign Secretary on 26 October 2000, Official Report, Column 200W. Since then there have been a number of significant developments, including:

- the entry into force of the Export Control Act 2002;
- the application of controls to electronic transfers of software and technology and to trade (brokering) in military goods between overseas destinations;

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

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

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

As before, they will not be applied mechanistically but on a case-by-case basis taking into account all relevant information available at the time the licence application is assessed. While the Government recognises that there are situations where transfers must not take place, as set out in the following criteria, we will not refuse a licence on the grounds of a purely theoretical risk of a breach of one or more of those Criteria.

In making licensing decisions I will continue to take into account advice received from FCO, MOD, DFID, and Other Government Departments and agencies as appropriate. The Government’s Strategic Export Controls Annual Reports will continue to provide further detailed information regarding policy and practice in strategic export controls.

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

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

CRITERION ONE

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

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

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

CRITERION TWO

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

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

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

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

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

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

CRITERION THREE

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

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

CRITERION FOUR

Preservation of regional peace, security and stability.

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

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

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

CRITERION FIVE

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

The Government will take into account:

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

CRITERION SIX

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

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

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

CRITERION SEVEN

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

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

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

CRITERION EIGHT

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

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

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

OTHER FACTORS

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

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

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

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

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