

United Kingdom Strategic Export Controls Annual Report 2019

Presented to Parliament pursuant to Section 10 of the Export Control Act 2002
Ordered by the House of Commons to be printed on 30th November 2020

United Kingdom Strategic Export Controls Annual Report 2019

Presented to Parliament pursuant to Section 10 of the Export Control Act 2002
Ordered by the House of Commons to be printed on 30th November 2020



© Crown copyright 2020

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/official-documents

Any enquiries regarding this publication should be sent to us at digitalcontent@digital.fco.gov.uk.

ISBN 978-1-5286-1859-5

CCS0320234214 11/20

Printed on paper containing 75% recycled fibre content minimum

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

Contents

Foreword	1
Section One – Export licensing process and basics	2
Section Two – Export licensing data	8
Section Three – EU/United Kingdom legislation and Brexit	22
Section Four – Court of Appeal judgment about military exports to Saudi Arabia and Foreign Secretary’s statements on Hong Kong and Turkey	24
Section Five – Outreach to industry and stakeholders	26
Section Six – HM Government support to Allies and Partners	28
Section Seven – International policy developments	31
Section Eight – Compliance and enforcement	36
Section Nine – Case studies	40
Annex A – Consolidated EU and National Arms Export Licensing Criteria	42

Foreword

This is the 23rd edition of HM Government's Annual Report on Strategic Export Controls. The report provides details of strategic export controls policy and export licensing decisions for the period January to December 2019.

As in previous years, export licensing in 2019 presented a range of complex challenges. HM Government took decisive action to restrict the sales of crowd control equipment to Hong Kong in light of serious protests. We applied international sanctions rigorously and monitored a range of political, military and other developments across the world reflecting these in our licensing decisions.

HM Government, through the Export Control Joint Unit (ECJU) continued to assess each export licence application on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria, as has been the case since 25th March 2014 and, as set out in Annex A, 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, including where we assess there is a clear risk that the items might be used for internal repression, breach our sanctions agreements or be diverted. We make sure that exports under Open General licences, which may be used following online registration, are consistent with these Criteria.

During 2019, ECJU processed around 15,800 Standard Individual Export Licence applications, completing 77% within 20 working days (against the published target of 70%). As this report sets out, we have carried out enforcement action where necessary and provided a wide range of training to help exporters understand what they need to do. This includes the launch of the Export Control Profession to promote excellence in compliance with export and import control, and trade sanction regulations.



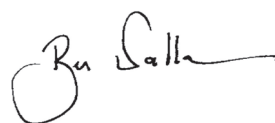
The Rt Hon Dominic Raab MP

First Secretary of State and Secretary of State for Foreign, Commonwealth and Development Affairs

Strengthening arms control regimes remained a high priority in 2019. The United Kingdom continued to play a pivotal role to support the effective implementation of the Arms Trade Treaty. As a major donor to the Voluntary Trust Fund, and a member of its Selection Committee, the United Kingdom was closely involved in the scrutiny of bids and funding of 20 projects to improve Treaty implementation in 19 States. Through the United Nations, the United Kingdom has been a strong supporter of the need to combat the illicit trade in Small Arms and Light Weapons, working to provide a common set of standards for establishing effective national controls.

Through the second Global Mine Action Programme (GMAP2), the United Kingdom continued to lead on de-mining activities across the world, with over 172 million square metres of land cleared and confirmed safe since the programme's start in 2018. In the Australia Group, the United Kingdom was successful in securing new export controls on several substances of concern.

The United Kingdom continues to operate one of the most transparent licensing regimes in the world, publishing information on all licences issued, refused or revoked. This Annual Report demonstrates our continued commitment to transparency and accountability. As we saw throughout 2019, there remains strong parliamentary, public and media interest in strategic export control issues. Accordingly, we trust that the information contained in this Annual Report will be of interest to a wide range of people. We commend it to Parliament.



The Rt Hon Ben Wallace MP

Secretary of State for Defence



The Rt Hon Elizabeth Truss MP

Secretary of State for International Trade and President of the Board of Trade

Section 1

Export licensing process and basics

1.1 The need for Export Licensing

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

Through this legislative framework, HM Government controls the export of a range of military and "dual-use"¹ items. The EU legislation referred to in this report is the legislation that was in place during the period of the report. Section 3 sets out changes in legislation at the end of the transition period

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

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

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

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

- The UK Military List or national control list;
- 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 list of goods covered by Regulation (EU) 2019/125 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment ("the Torture Regulation");
- The list of goods covered by the Export of Radioactive Sources (Control) Order 2006.

Even if an item does not appear on one of these lists, it may still require an export licence under Article 4 of Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items ("the Dual-Use Regulations") 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, HM Government established the Export Control Joint Unit (ECJU). It is hosted by the Department for International Trade (DIT). ECJU

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.

administers HM Government’s system of export controls, and brings together policy and operational expertise from DIT, the Foreign and Commonwealth Office (FCO²), the Ministry of Defence (MOD) and the Department for International Development (DFID). The individual Departments within the Unit have distinct roles, and these are outlined below.

The export licensing community

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

The Department for International Trade has overall responsibility for the export licensing process. The Secretary of State for International Trade 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.

Departments involved in export control	
Licence Assessment	Licence Enforcement
<ul style="list-style-type: none"> • Department for International Trade • Foreign and Commonwealth Office • Ministry of Defence • Department for International Development • National Cyber Security Centre • Department for Business, Energy and Industrial Strategy 	<ul style="list-style-type: none"> • HM Revenue and Customs • Border Force • Crown Prosecution Service

The Export Control Joint Unit bring together operational and policy expertise from DIT, FCO and MOD.
The Foreign and Commonwealth Office and the Department for International Development merged in September 2020 to form the Foreign, Commonwealth and Development Office.

Advisory Departments

The principal advisory departments are the FCO, DFID and the MOD. 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 and National Arms Export Licensing Criteria, known as the “Consolidated Criteria”.

The FCO licensing team considers, among other issues, whether an export:

- Would comply with the United Kingdom’s international obligations and 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, sanctions, human rights and legal advice as necessary from other FCO departments, posts overseas and other sources such as NGO or media reporting.

DFID 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.

The MOD 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 United Kingdom or Allies. MOD jointly leads with the FCO on assessing the risk of diversion or re-export of goods to end-users of concern.

² The Foreign, Commonwealth and Development Office was created in September 2020 through the merger of the Foreign and Commonwealth Office and the Department for International Development. Both original Departments were involved in Export Control. Throughout this report, we will refer to the individual Departments as they were in 2019.

MOD advice on export licence applications is given on a case-by-case basis that assesses the views of those responsible for protecting the capability of the United Kingdom's Armed Forces, as well as security and intelligence specialists.

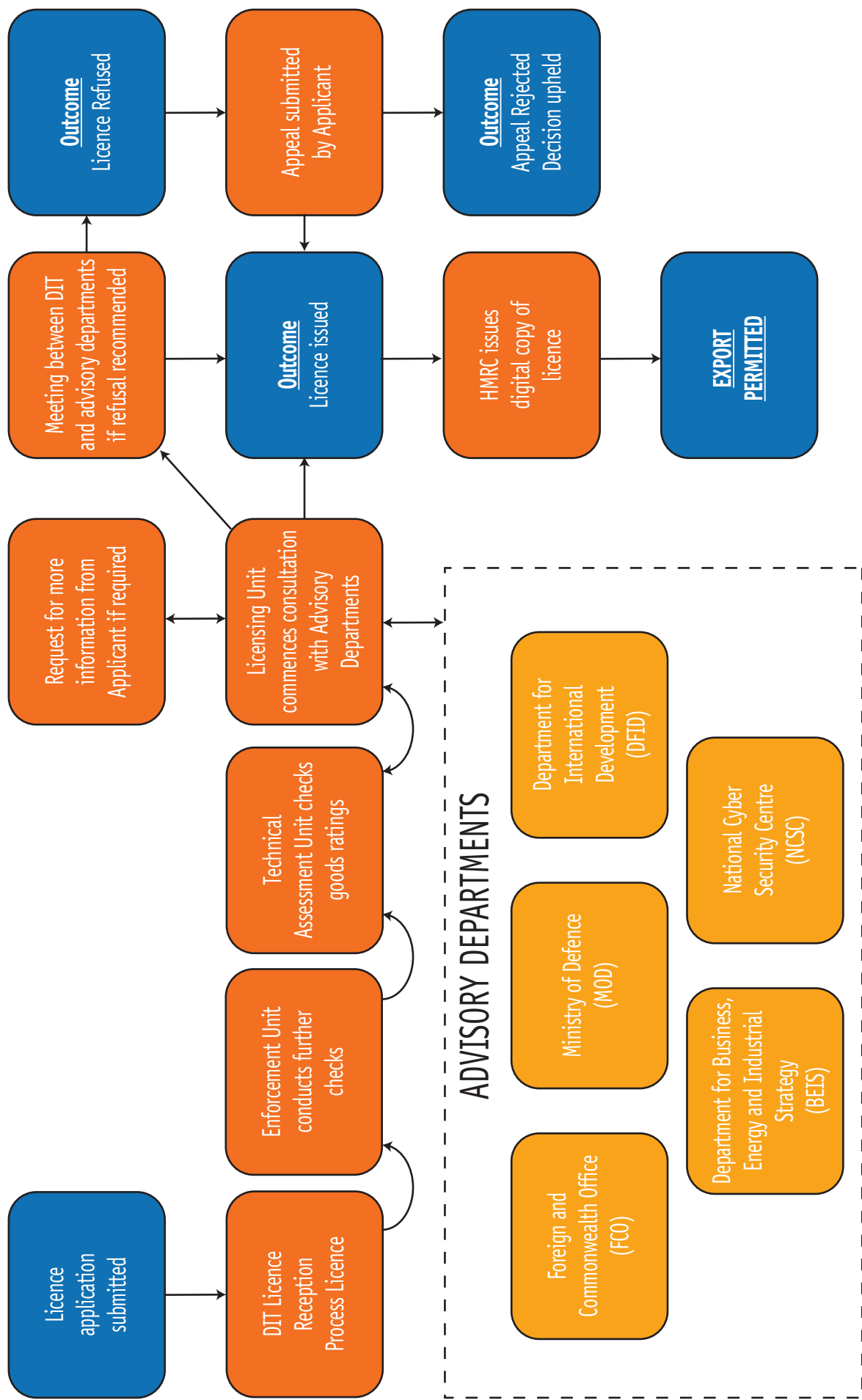
MOD also operates a procedure – the MOD Form 680 (F680) approval process – that enables HM Government to control the release of classified equipment or information to foreign entities without compromising the United Kingdom's national security.

The National Cyber Security Centre is HM 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) and Nuclear Suppliers Group. The Department advises if there are concerns that proposed exports might be used in a WMD programme.

Whilst HM Revenue & Customs (HMRC) does not provide direct advice on applications it does have responsibility for the enforcement of export and trade controls, as well as sanctions and embargoes. HMRC works with Border Force to prevent, detect and investigate breaches. The Central Fraud Group in the Crown Prosecution Service leads on any subsequent prosecutions.

Standard Individual Export Licence (SIEL) Process



1.3 Overview of export licence types and processing times

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

The licence types available to exporters include:

- Standard Individual Export Licences (SIELs)
- Open Individual Export Licences (OIELs)
- Open General Export Licences (OGELs)
- Standard Individual Trade Control Licences (SITCLs)
- Open Individual Trade Control Licences (OITCLs)
- Open General Trade Control Licences (OGTCLs)
- Standard Individual Transshipment Licences (SITLs)
- Open General Transshipment Licences (OGTLs)
- Financial Assistance Licence (SIFALs and OIFALs)
- Technical Assistance Licences (SITALs and OITALs)

Standard Individual Export Licences (SIELs)

- Applications received in 2019: 17,092³

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

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

Open Individual Export Licences (OIELs)

- Applications received in 2019: 459³

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.

Open General Export Licences (OGELs)

- Number of registrations in 2019: 1,845⁴

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

There are also six EU General Export Authorisations (EUGEAs) under the Dual Use Regulations. These permit the export from the EU of certain specified dual-use items to specified destinations, subject to the terms and conditions of the licences. They are equivalent to OGELs and are available for use by any exporter in the EU. The EUGEAs are contained in Annexes II(a) to II(f) of the Dual-Use Regulation. There is also one EUGEA under the Torture Regulation. This covers the goods listed in any entry in Annex IV of the Torture Regulation to certain destinations that have abolished capital punishment.

Standard Individual Trade Control Licences (SITCLs)

- Applications received in 2019: 251³

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,

³ Data taken from SPIRE as of 19th March 2020.

⁴ Source: DIT Strategic export controls: licensing statistics: 1st April – 30th June 2020.

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.

Open Individual Trade Control Licences (OITCLs)

- Applications received in 2019: 65³

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.

Open General Trade Control Licences (OGTCLs)

- Number of registrations in 2019: 30⁴

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

Standard Individual Transshipment Licences (SITLs)

- Applications received in 2019: 19³

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.

Open General Transshipment Licences (OGTLs)

- Number of registrations in 2019: 5⁴

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 ECJU Compliance Officers to ensure that they are using the correct licence and meeting the terms and conditions of their licences.

Information on other types of licences is contained in section two.

The vast majority of export licences granted are Standard Individual Export Licences. All applications are processed as efficiently as possible, 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.

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".

³ Data taken from SPIRE as of 19th March 2020.

⁴ Source: DIT Strategic export controls: licensing statistics: 1st April – 30th June 2020.

Section 2

Export licensing data

2.1 Transparency

HM Government publishes comprehensive Official Statistics⁵ every quarter about export licence applications granted, refused or rejected. Information is also provided on export licences that are revoked. In addition, we provide a searchable database⁶ allowing users to produce bespoke reports drawing on this data. HM Government remains committed to openness and transparency of strategic export licensing to provide the means for Parliament and the public to hold us to account.

2.2 Data for each licence type

The following charts provide details of the numbers of each of the main types of licence processed during 2019. Those processed to completion in 2019 will include applications received during, as well as prior to 2019. Any data referred to as “Issued”, “Refused”, “Rejected” or “Revoked” is taken from the Official Statistics available on GOV.UK.

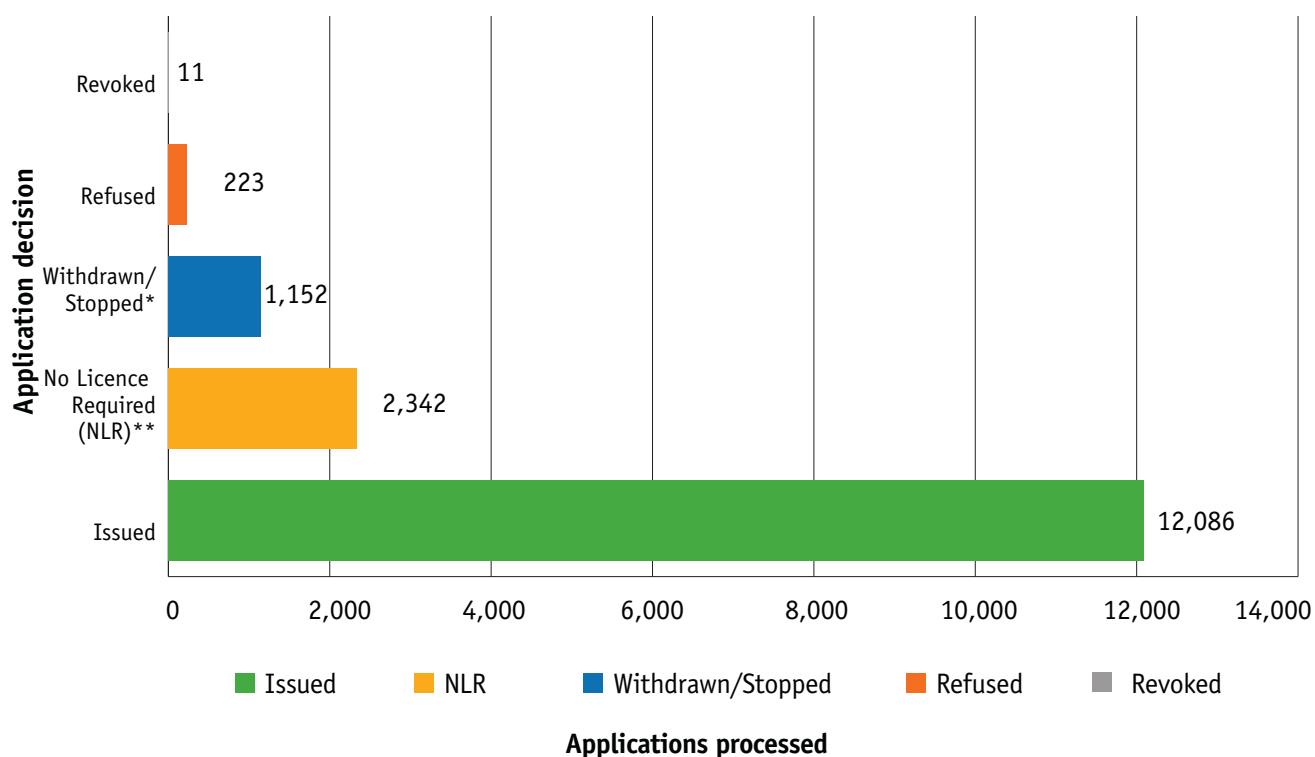
Comprehensive data on export licences by country is published every three months on GOV.UK. All other data in this section is taken from the SPIRE licensing database as of 28th January 2020.

⁵ <https://www.gov.uk/government/collections/strategic-export-controls-licensing-data#quarterly-reports>

⁶ <https://www.exportcontrol.db.trade.gov.uk/sdb2/fox/sdb/>

Standard Individual Export Licences (SIELs)

Chart 2.1 Number of SIELs



*Applications may be withdrawn by the exporter during processing. They may also be stopped by ECJU, if an exporter has not provided further information, when requested, that is necessary to allow the application to be processed.

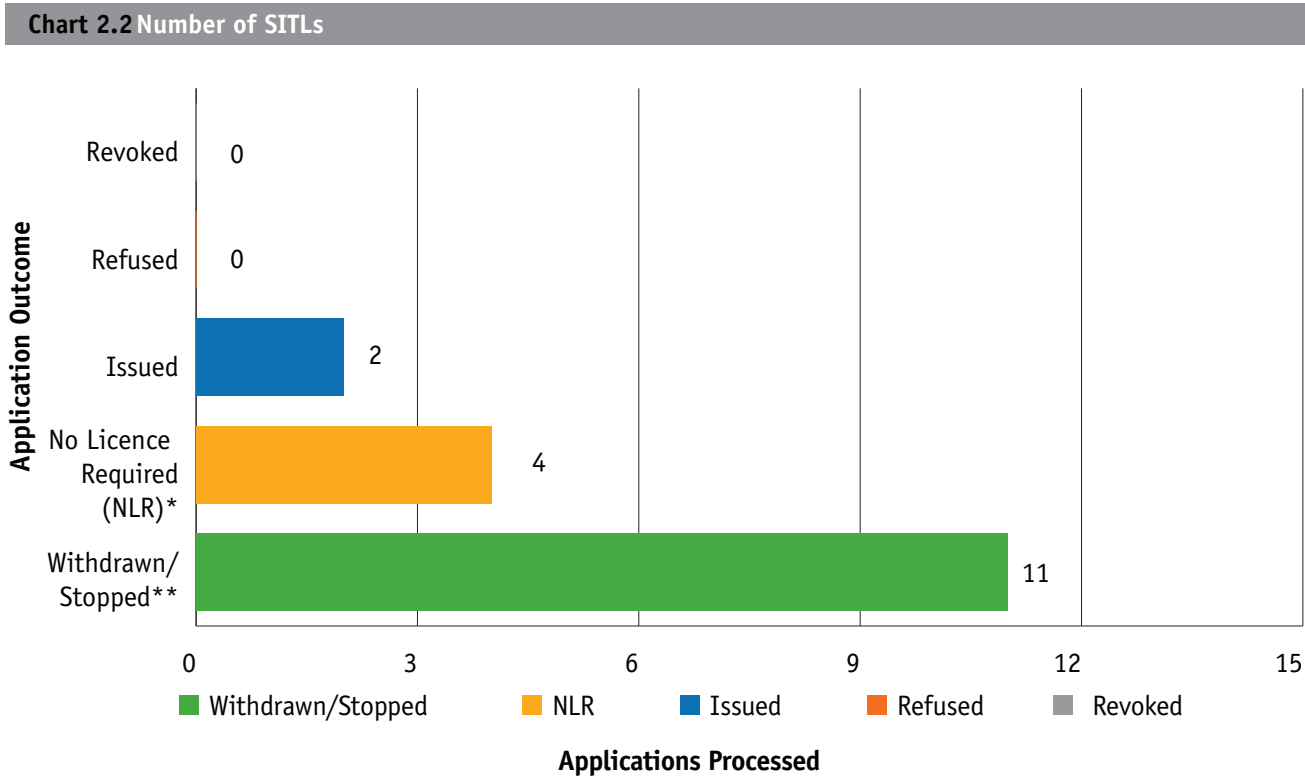
**Some applications are submitted for goods that do not require an export licence. Where this is determined, the applicant is informed that no licence is required.

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

The value of the licences does not indicate the actual value of exports shipped during the reporting period. Licences usually cover a two-year period and goods can be exported at any time during that period. Moreover, some licences will not be used to carry out all the exports authorised, and others will not be used at all. In addition, some items may be exported only temporarily and later returned to the United Kingdom within the validity of the licence. Licences may expire before being used or only partially used. In these circumstances, exporters may then apply for new licences which can lead to an element of “double counting” in statistics.

Information is provided separately within the Official Statistics on items licensed under SIELs intended to be incorporated into a good / product, for example, sensors for a military aircraft being exported to the aircraft manufacturer in one destination, who intends to export the complete aircraft to one or more ultimate destinations. An aggregated summary of the ultimate destinations for the goods, after incorporation, is included as part of the Official Statistics data.

Standard Individual Transshipment Licences (SITLs)



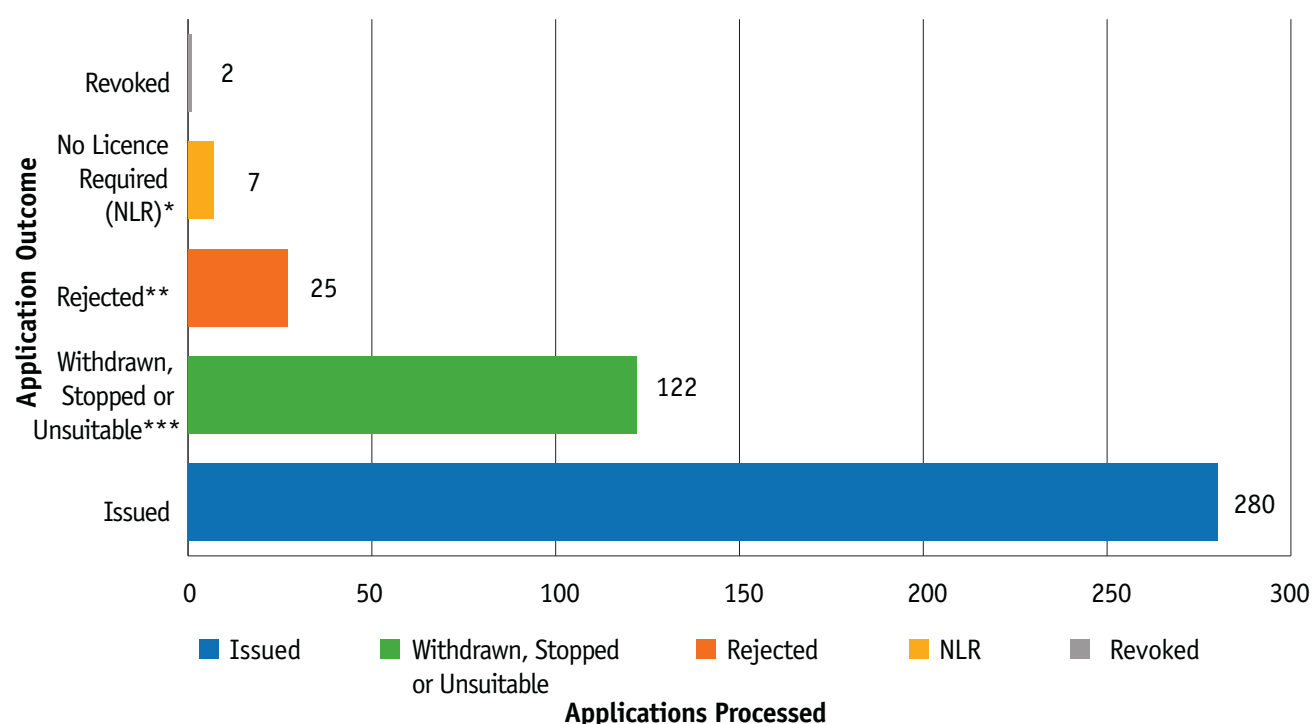
*Some applications are submitted for goods that do not require an export licence. Where this is determined, the applicant is informed that no licence is required.

**Applications may be withdrawn by the exporter during processing. They may also be stopped by ECJU, if an exporter has not provided further information, when requested, that is necessary to allow the application to be processed.

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

Open Individual Export Licences (OIELs)

Chart 2.3 Number of OIELs



*Some applications are submitted for goods that do not require an export licence. Where this is determined, the applicant is informed that no licence is required.

**Some applications are not suitable for open individual export licences and may need the scrutiny that a standard individual export licence application provides to fully address and assess the risk. In such cases the OIEL application is rejected and exporters are recommended to apply for SIELs.

***Applications may be withdrawn by the exporter during processing. They may also be stopped by ECJU, if an exporter has not provided further information, when requested, that is necessary to allow the application to be processed.

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

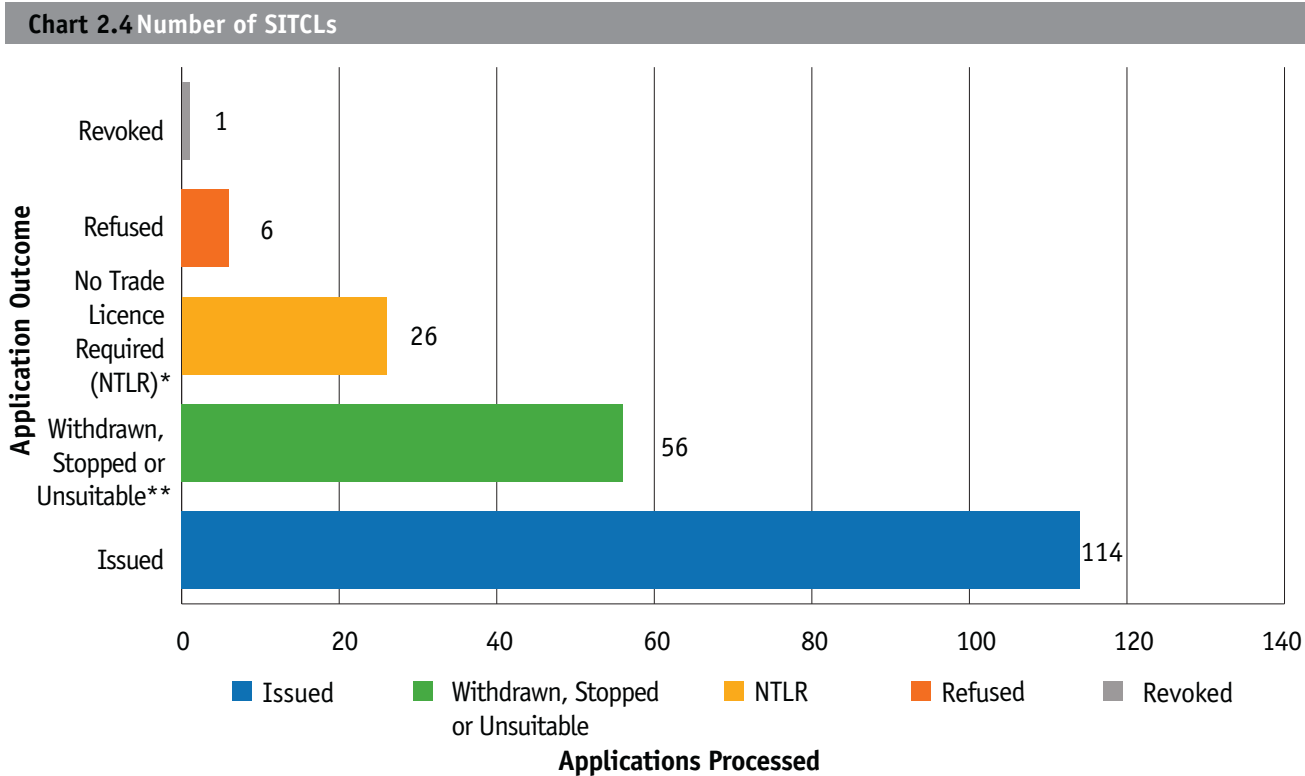
As OIELs cover multiple shipments of specified goods to specified destinations or specified consignees, exporters holding OIELs are not asked to provide details of the value of goods they propose to ship in the application.

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

We are continuing to improve the reliability of the data we collect about open licence use, including the development of a new digital licensing system and a new Customs Declaration System. Once new systems are in place, we will be able to explore options for greater transparency, particularly with respect to open licences. While we have not yet reached this point, the data we have is available via our online searchable database⁷:

⁷ <https://www.exportcontroldb.trade.gov.uk/>

Standard Individual Trade Control Licences (SITCLs)

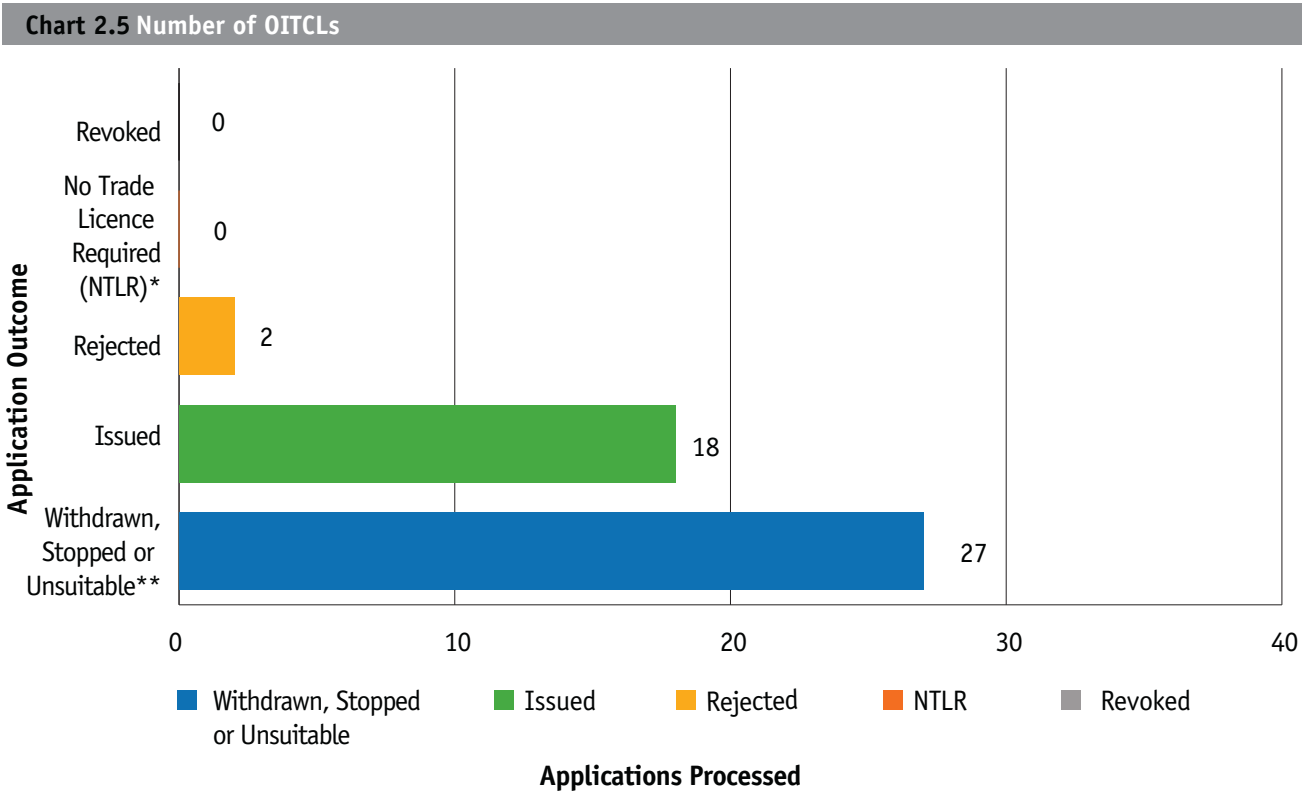


*Some applications are submitted for goods that do not require a trade control licence. Where this is determined, the applicant is informed that no licence is required.

**Applications may be withdrawn by the exporter during processing. They may also be stopped by ECJU, if an exporter has not provided further information, when requested, that is necessary to allow the application to be processed.

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

Open Individual Trade Control Licences (OITCLs)



*Some applications are submitted for goods that do not require a trade control licence. Where this is determined, the applicant is informed that no licence is required.

**Some applications are not suitable for open individual trade control licences and may need the scrutiny that a standard individual licence application provides to fully address and assess the risk. In such cases the OITCL application is rejected and exporters are recommended to apply for SITCLs.

***Applications may be withdrawn by the exporter during processing. They may also be stopped by ECJU, if an exporter has not provided further information, when requested, that is necessary to allow the application to be processed.

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.

2.3 Performance against targets

The Export Control Joint Unit (ECJU) sets out HM Government's commitments to exporters in a Service and Performance Code. The performance targets are to decide on 70% of applications for SIELs within 20 working days, and 99% within 60 working days.

The targets apply once the applicant has supplied the documentation necessary to begin the assessment of their application. Where further information is requested, the time required for the exporter to provide that information is not counted against our targets. Table 2.1 (*SIEL and SITCL Processing Performance*) gives a breakdown of the performance of Government

in 2019 against the two main published SIEL and SITCL targets. Information for 2017 and 2018 is also provided for comparative purposes. The Table also highlights the number of applications processed for each of the last three years.

The targets do not apply to OIELs, nor OITCLs because they are tailored specifically to address an exporter's requirements. The flexibility and complexities mean there is a wide variation in the goods and destinations covered by such licences, consequently it is not possible to offer measured target processing times. However, ECJU still seeks to process 60% of OIEL applications within 60 working days.

Table 2.1 SIEL and SITCL Processing Performance						
	2019		2018		2017	
	SIELs	SITCLs	SIELs	SITCLs	SIELs	SITCLs
No. of applications completed in 20 working days	12,219	140	13,746	312	14,796	401
% applications completed in 20 working days	77%	69%	83%	66%	83%	75%
No. of applications completed in 60 working days	15,045	187	15,960	402	17,458	509
% applications completed in 60 working days	95%	93%	96%	85%	98%	95%
Median processing time	12 days	14 days	11 days	14 days	11 days	12 days

2.4 Refusals and revocations

There were 240 refusals or revocations of SIELs and SITCLs in 2019. Table 2.2 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 2.2 Reasons for refusals or revocations of SIEL and 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	59
Criterion 1 – UK’s commitments and obligations to observe UN, EU or OSCE arms embargoes	32
Criterion 1 – Existence of national embargoes or policy commitments	1
Criterion 1 – UK’s obligations under the Ottawa Convention and the 1998 Land Mines Act	0
Criterion 2 – Risk of use for internal repression or risk of use in the commission of a serious violation of international humanitarian law	27
Criterion 3 – Risk of contributing to internal tensions or conflict in the recipient country	1
Criterion 4 – Preservation of regional stability	9
Criterion 5 – National security of the UK, of Allies, EU Member States and other friendly countries	80
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	140
Criterion 8 – Compatibility of the arms exports with the technical and economic capacity of the recipient country	0

*Data taken from SPIRE as at 28th January 2020.

**Decisions to refuse or revoke often involve more than one criterion. Therefore, the figures quoted in this table, if added together will exceed the total number of applications refused or revoked in 2019.

The data above does not include decisions to reject 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.

2.5 Appeals

Table 2.3 Appeals performance*			
	2019	2018	2017
Appeals finalised within 20 working days	39%	47%	33%
Appeals finalised within 60 working days	81%	100%	86%

*Data is based on management information records as of 11th February 2020.

A licence applicant may appeal a decision to refuse a SIEL, SITCL, SITAL or OITAL (see Section 2.6 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 reject 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 the appeal 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 2019, 31 appeals of refusal decisions about SIELs were considered, of which 30 refusals were upheld and 1 overturned.

The Export Control Joint Unit has an internal 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 2019, ECJU completed 39% of appeals within 20 working days from receipt of all relevant information from the appellant, and 81% in 60 working days.

The complex nature of appeals makes it difficult to meet the targets. Officials continue to review procedures to streamline the handling of appeals. These targets do not apply to appeals concerning goods that are controlled solely because of UN Sanctions. Of the 31 appeals decided in 2019, none fell into this category.

2.6 Data on other types of licence

Technical Assistance Licences

Standard Individual Technical Assistance Licences (SITALs) are issued for separate ad hoc requirements, e.g. the repair of a single item or simple maintenance tasks. No SITALs were issued in 2019.

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 where a person is aware or has been informed that the items are or may be intended for WMD purposes. This could include the transfer of documents or personnel. In 2019, three WMD OITALs were issued, three were refused and none were rejected or revoked.

There are certain cases where we combine Standard Individual Export Licences when refusal has been recommended under the WMD end use control⁸ and the application is for goods and services, because the refusal means that the “inform” provisions of article 19 of the 2008 Order apply. In 2019, one such case was refused.

OITALs are also issued for the provision of technical assistance relating to military or dual-use items and activities where this is permitted under exemptions to international sanctions and embargoes. In 2019, no sanctions OITALs were issued, refused, rejected or revoked.

The EU imposed sanctions on Russia in 2014, which included a requirement for licences for technical assistance relating to technologies in the oil and gas industries. In 2019, 37 OITALs were issued, none were rejected or revoked. These licences were issued in compliance with EU sanctions.

Financial Assistance Licences

DIT is the competent authority for the licensing of financing and financial assistance related to prohibited or restricted trade transactions. HM Treasury is the competent authority in relation to all other financial sanctions, including asset freezes and counter-terrorist financing.

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 2019, 26 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.

Licences for drugs used in execution by lethal injection

Under the Torture Regulation, licences are required from national export control authorities to export to any destination outside the EU ‘short and immediate-acting barbiturate anaesthetic agents including, but not limited to the following:

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

These agents also have legitimate medical uses.

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

- American Samoa
- People’s Republic of China
- Guatemala
- Guam

⁸ <https://www.gov.uk/guidance/supplementary-wmd-end-use-controls>

- Northern Mariana Islands
- Thailand
- Taiwan
- United States Minor Outlying Islands
- United States of America
- United States Virgin Islands
- Vietnam

OIEL applications have largely been replaced by registration for the EUGEA under the Torture Regulation which covers multiple exports of these drugs to end users in all destinations other than those destinations specified above.

In addition to the EU controls on drugs, the United Kingdom 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 2019, 14 SIELs for these items were issued and none were refused or revoked. No OIELs were issued and none were rejected or revoked.

Global Project Licences

Global Project Licences (GPLs) are a form of Open Individual Export Licence introduced by Framework Agreement Partners (France, Germany, Italy, Spain, Sweden, and the United Kingdom) 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.

Applications for GPLs are assessed against the “Consolidated Criteria” in the United Kingdom, and against the EU Common Position⁹ in other Framework Partner countries. In 2019, no GPLs were issued, and none were rejected or revoked.

2.7 Open General Export Licences

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

In 2019, following reviews of open licences in light of the Court of Appeal judgment in judicial review proceedings brought by the Campaign Against the Arms Trade (CAAT), and the inadvertent issuing of export licences contrary to our obligations to the Court and

our commitments to Parliament, a number of OGELs were locked to prevent any new exporters registering to use them. Mirror OGELs of those that were locked were introduced but they did not permit the export of items to Saudi Arabia and its Coalition Partners (those countries in coalition with Saudi Arabia in relation to the conflict in Yemen). Saudi Arabia and its Coalition Partners were excluded as destinations from the new OGELs in consequence of a court undertaking and commitment to Parliament connected to judicial review proceedings which are explained in more detail in Section 4. Similar steps were taken in relation to Turkey, as a consequence of a statement to Parliament in connection with the incursion by the Turkish military into north east Syria. Details of the changes made are set out below.

A number of OGELs were republished as a result of updates to the United Kingdom 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 2019 is as follows:

January – Qatar was added to the list of permitted destinations on the Open general export licence (military goods: collaborative project typhoon);

February – As part of the HM Government’s planning for EU Exit the OGEL, Open General Export Licence (export of dual-use items to EU member states), was introduced. Its purpose is to allow the export of dual-use items from the United Kingdom to EU member states and the Channel Islands at the end of the transition period. It was published in February to allow exporters time to understand the terms and conditions of the licence and register to use the licence before it comes into force at the end of the transition period;

– Three OGELs were revised to include additional military software under control list ML21b4:

- software and source code for military goods;
- military goods, software and technology;
- military goods, software and technology: government or NATO end use;

⁹ Council Common Position 2008/944/CFSP of 8th December 2008 defining common rules governing control of exports of military technology and equipment.

June – Three open licences were revised as follows:

- Open general trade control licence (maritime anti-piracy) – revised to reflect the change of control entry for non-military shotguns;
- Open general export licence (export after exhibition or demonstration: military goods) – revised to allow goods to be moved directly from one exhibition to another (or returned to their origin);
- Open general export licence (Iraq) – revised to correct a reference to the category of goods to which it applies;

July – New versions of 6 open general export licences that exclude Saudi Arabia and its coalition partners as permitted destinations were published:

- Open general export licence (PCBs and components for military goods – from June 2019);
- Open general export licence (export after repair/replacement under warranty: military goods – from June 2019);
- Open general export licence (exports for transfers in support of UK Government defence contracts – from June 2019);
- Open general export licence (software and source code for military goods – from June 2019);
- Open general export licence (technology for military goods – from June 2019);
- Open general export licence (military goods: collaborative Project Typhoon – from June 2019);

August – two OGELs were revised as follows:

- Open general export licence (historic military vehicles and artillery pieces) – revised to remove the requirement for exporters to register for this licence;
- Open general export licence (military goods: for demonstration) – revised to include an option for the goods to remain under the control of the exporter's agent;

September – A review of export licences following the events in Hong Kong resulting in the following open licences being amended:

- Open general export licence (dual-use Items: Hong Kong Special Administrative Region);
- Open general transshipment licence (dual-use goods: Hong Kong Special Administrative Region);
- Open general trade control licence (category C goods);

December – As set out above, several licences were reissued with changes to permitted destinations, a number were locked to prevent further registration and a number of new mirror licences were introduced.

The following open general export licences were reissued with changes to the permitted destinations:

- Open general export licence (PCBs and Components for military goods – from June 2019);
- Open general export licence (exports or transfers in support of UK Government defence contracts – from June 2019);
- Open general export licence (technology for military goods – from June 2019);
- Open general export licence (software and source code for military goods – from June 2019);
- Open general export licence (export after repair/replacement under warranty: military goods – from June 2019);
- Open general export licence (export after exhibition or demonstration: military goods);
- Open General Export Licence (export after exhibition: dual-use items).

The following new open general licences were published:

- Open general export licence (technology for dual-use Items – from June 2019);
- Open general export licence (PCBs and components for dual-use items – from June 2019);
- Open general export licence (export after repair/replacement under warranty: dual-use Items – from June 2019);
- Open general trade control licence (category C goods – from December 2019);
- Open general trade control licence (trade and transportation: small arms and light weapons – from December 2019);
- Open general export licence (access overseas to software and technology for military goods: individual use only – from December 2019);
- Open general export licence (chemicals – from December 2019);
- Open general export licence (cryptographic development – from December 2019);
- Open general export licence (export for exhibition: military goods – from December 2019);
- Open general export licence (export for repair/replacement under warranty: dual-use items – from December 2019);

- Open general export licence (export for repair/ replacement under warranty: military goods – from December 2019);
- Open general export licence (historic military goods – from December 2019);
- Open general export licence (information security items – from December 2019);
- Open general export licence (low value shipments – from December 2019);
- Open general export licence (military and dual-use goods: UK forces deployed in non-embargoed destinations – from December 2019);
- Open general export licence (military goods: for demonstration – from December 2019);
- Open general export licence (military surplus vehicles – from December 2019);
- Open general export licence (oil and gas exploration: dual-use items – from December 2019);
- open general export licence (X – from December 2019);

The following open general licences were locked. They are no longer available for new registrations but may be used for exports or brokering by those who have already registered:

- Open general export licence (PCBs and components for military goods);
- open general export licence (exports or transfers in support of UK Government defence contracts);
- Open general export licence (technology for military goods);
- Open general export licence (software and source code for military goods);
- Open general export licence (export after repair/ replacement under warranty: military goods);
- Open general export licence (technology for dual-use Items);
- Open general export licence (PCBs and components for dual-use items);
- Open general export licence (export after repair/ replacement under warranty: dual-use Items);
- Open general trade control licence (category C goods);
- Open general trade control licence (trade and transportation: small arms and light weapons);
- Open general export licence (access overseas to software and technology for military goods: individual use only);
- Open general export licence (chemicals);

- Open general export licence (cryptographic development);
- Open general export licence (export for exhibition: military goods);
- Open general export licence (export for repair/ replacement under warranty: dual-use items);
- Open general export licence (export for repair/ replacement under warranty: military goods);
- Open general export licence (historic military goods);
- Open general export licence (information security items);
- Open general export licence (low value shipments);
- Open general export licence (military and dual-use goods: UK forces deployed in non-embargoed destinations);
- Open general export licence (military goods: for demonstration);
- Open general export licence (military surplus vehicles);
- Open general export licence (oil and gas exploration: dual-use items);
- Open general export licence (X).

OGELs in force in 2019

Table 2.4 List of OGELs in force in 2019
Chemicals
Chemicals – from December 2019
Computers
Cryptographic Development
Cryptographic Development – from December 2019
Cryptography
Export After Exhibition: Dual-use Items
Export After Repair/Replacement Under Warranty: Dual-use Items
Export After Repair/Replacement Under Warranty: Dual-use Items – from June 2019
Export for Repair/Replacement Under Warranty: Dual-use Items
Export for Repair/Replacement Under Warranty: Dual-use Items – from December 2019
Dual-Use Items: Hong Kong Special Administrative Region
Exports of non-lethal Military and Dual-use Goods: to UK Diplomatic Missions or Consular posts
Information Security Items
Information Security Items – from December 2019
International Non-Proliferation Regime Decontrols: Dual-Use Items)
Low Value Shipments
Low Value Shipments – from December 2019
Military and Dual-Use Goods: UK Forces deployed in embargoed destinations
Military and Dual-Use Goods: UK Forces deployed in non-embargoed destinations
Military and Dual-Use Goods: UK Forces deployed in non-embargoed destinations – from December 2019
Oil and Gas Exploration: Dual-Use Items
Oil and Gas Exploration: Dual-Use Items – from December 2019
Technology for Dual-Use Items
Technology for Dual-Use Items – from June 2019
PCBs and Components for dual-use items
PCBs and Components for dual-use items – from June 2019
Turkey
X
Military Goods OGELs: these permit the export of certain controlled military goods
Access Overseas to Software and Technology for Military Goods: Individual Use Only
Access Overseas to Software and Technology for Military Goods: Individual Use Only – from December 2019
Accompanied Personal Effects: Sporting Firearms
Certified Companies
Export After Exhibition or Demonstration: Military Goods
Export After Repair/replacement under warranty: Military goods
Export After Repair/replacement under warranty: Military goods – from June 2019
Export for Exhibition: Military Goods
Export for Exhibition: Military Goods – from December 2019
Exports for Repair/replacement under warranty: Military goods
Exports for Repair/replacement under warranty: Military goods – from December 2019
Exports in Support of Joint Strike Fighter: F-35 Lightning II
Exports in support of Turkish Aerospace Industries TF-X programme
Exports or transfers in Support of UK Government Defence Contracts
Exports or transfers in Support of UK Government Defence Contracts – from June 2019
Exports under the US-UK Defence Trade Co-operation Treaty
Historic Military Goods
Historic Military Goods – from December 2019
Historic Military Vehicles and Artillery Pieces
International Non-proliferation Regime Decontrols: Military Items
Military Components
Military Goods, Software and Technology

Table 2.4 List of OGELs in force in 2019
Military Goods: Collaborative Project Typhoon
Military Goods: Collaborative Project Typhoon – from June 2019
Military Goods: For Demonstration
Military Goods: For Demonstration – from December 2019
Military Goods: A400M Collaborative Programme
Military Goods, Software and Technology
Military Goods, Software and Technology: Government or NATO End Use
Military Surplus Vehicles
Military Surplus Vehicles – from December 2019
Objects of Cultural Interest
PCBs and Components for Military Goods
PCBs and Components for Military Goods – from June 2019
Software and Source Code for Military Goods
Software and Source Code for Military Goods – from June 2019
Technology for Military Goods
Technology for Military Goods from June 2019
Vintage Aircraft
Vintage Military Vehicles
Other types of Open General Export Licences:
Government of Sierra Leone
Iraq
Radioactive sources
Open General Transshipment Licences (OGTLs): these allow, subject to certain conditions, controlled goods to be exported from one country to another via the United Kingdom
Sporting Guns
Postal Packets
Transshipment Licence
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 United Kingdom or by a UK person.
Open General Trade Control Licence
Category C Goods
Category C Goods – from December 2019
Insurance or Re-Insurance
Maritime Anti-Piracy
Trade and Transportation: Small Arms and Light Weapons
Trade and Transportation: Small Arms and Light Weapons – from December 2019

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;
- EU GEA 2019/125.

Section 3

EU/United Kingdom legislation and Brexit

3.1 Changes in United Kingdom and EU legislation in force relating to export licensing.

Firearms

Council Regulation (EU) No 258/2012 establishes export authorisation, import and transit measures for firearms, their parts and components and ammunition and applies to exports from the customs territory of the EU to third countries or non-EU Member States. There were no changes made to the Regulation in 2019.

Council Directive 91/477/EEC on the control of the acquisition and possession of weapons remains in force and was unchanged in 2019. This directive set out the simplified procedures for transfers of civilian firearms by sport shooters in possession of a European Firearms Pass (implemented through Article 15 of the 2008 Order) and for transfers between authorised dealers in different Member States via “dealer-to-dealer” licences.

The ICT Directive

The Intra-Community (ICT) Directive 2009/43/EC provides Member States with simplified licensing options for the transfer of defence equipment within the EU. The only change to the scope of the directive in 2019 was to the list of defence-related products covered under the directive. These changes can be found in the Export Control (Amendment) Order 2019¹⁰ that came into force on 30th June 2019 and updated the list of military items at Schedule 2 of the Export Control Order 2008.

The European Commission’s work with certain Member States, including the United Kingdom to develop guidance on use of the term “specially designed for military use” that is found in the European Union Common Military List continued in 2019. A guidance note was presented to the Commission in June to help the Commission start the process of reaching agreement on this guidance at the wider European level with all Member States.

Dual-Use Regulation

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

On 31st December Commission Delegated Regulation (EU) 2019/2199¹¹ came into force and updated the items subject to controls as set out in Annex 1 of the Dual-Use Regulation. This update to the control list reflects the changes in the international export control regimes. Decisions on the items subject to controls are taken within the framework of the international non-proliferation regimes and export control arrangements, namely the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group, the Wassenaar Arrangement and the Chemical Weapons Convention.

¹⁰ <http://www.legislation.gov.uk/uksi/2019/989/contents/made>

¹¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1582300947351&uri=CELEX:32019R2199>

During 2019, extensive discussions continued in the Council Working Group between the Commission and Member States on the Commission's proposal to recast the Dual-Use Regulation. A Council position was agreed by COREPER¹² as an informal mandate on 5th June 2019.

There were two trilogue¹³ sessions under the Finnish presidency but with significant differences between the Council's agreed position and the European Parliaments position, an agreement at trilogue had not been reached by the end of 2019.

The Torture Regulation

On 16th January a codifying regulation, Council Regulation (EU) 2019/125¹⁴, (concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment) was published. It replaced Council Regulation (EC) No 1236/2005 as this regulation had been substantially amended several times and that in the interests of clarity and rationality the Commission decided the Regulation should be codified.

As a result of the new codifying regulation coming into force, a number of minor amendments were required to United Kingdom legislation. These changes can be found in the Export Control (Amendment) Order 2019 that came into force on 30th June 2019.

New Control on Submersible Vessels and related goods

On 14th August, a new national export control that covers submersible vessels and related equipment, software and technology intended for export to Russia came into force.

The Export Control (Amendment) (No. 2) Order 2019¹⁵ added to the Export Control Order 2008 a new entry PL9012 for "Submersible Vessels and related goods, software and technology". This new control was introduced to mitigate the national security risk presented by the uncontrolled export of this equipment to Russia.

3.2 Leaving the EU

HM Government's overall objective with regard to export control is to maintain the effectiveness and integrity of the United Kingdom's export controls through the transition period and beyond, and to ensure that the United Kingdom remains compliant with its international obligations.

A new Open General Export Licence was published to avoid additional burdens for those who export dual-use items to EU Member States.

3.3 Parliamentary relations

In November 2018, the CAEC launched an inquiry on the 2017 arms exports Annual Report. They had sought evidence from HM Government, NGOs and industry. Their latest reports and evidence can be found here¹⁶.

Although unable to complete its findings, following the General Election on 12th December 2019, this inquiry is deemed to be completed. Following the dissolution of Parliament on 6th November 2019, all Select Committees ceased to exist until they were re-formed after the General Election. In any inquiry on this subject in the future, the CAEC may refer to the evidence already gathered as part of this inquiry.

¹² Committee of Permanent Representatives which prepares work for the Council of the European Union. It consists of representatives from the EU countries with the rank of ambassador to the European Union and is chaired by the EU country which holds the Council Presidency.

¹³ Trilogues are informal tripartite meetings on legislative proposals between representatives of the Parliament, the Council and the Commission. Their purpose is to reach a provisional agreement on a text acceptable to both the Council and the Parliament.

¹⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R0125>

¹⁵ <http://www.legislation.gov.uk/uksi/2019/1159/contents/made>

¹⁶ <https://committees.parliament.uk/committee/15/committees-on-arms-export-controls-formerly-quadripartite-committee/>

Section 4

Court of Appeal judgment about military exports to Saudi Arabia and Foreign Secretary's statements on Hong Kong and Turkey

Saudi Arabia exports and the Court of Appeal Judgment

On 30th June 2016, The Campaign Against Arms Trade (CAAT) was granted permission for a judicial review hearing of export licensing policy in relation to supplying arms to Saudi Arabia that might be used in the conflict in Yemen.

While the Divisional Court rejected CAAT's claim on 10th July 2017, CAAT was granted permission to appeal to the Court of Appeal. That hearing took place on 9th – 11th April 2019 and the appeal court issued its judgment on 20th June.

There were three grounds of appeal. The Court of Appeal judgment found in HM Government's favour in two of these grounds and against in the other. The ground on which HM Government lost concerned whether it was under an obligation to make some overall assessment of whether there had been historic violations of International Humanitarian Law (IHL). Fundamentally, the judgment was about how decisions were made in relation to one element of one of the Consolidated EU and National Arms Export Licensing Criteria; that is, Criterion 2c which relates to IHL.

The Court of Appeal made no judgment as to whether granting licences was right or wrong. Although the decision-making process was found deficient in one respect, the judgment acknowledged that the processes of analysis used to make licensing decisions were rigorous and robust. The Court of Appeal ordered the then Secretary of State to retake, on the correct legal basis, his decisions:

- Whether to suspend extant export licences for the sale or transfer of arms and military equipment to Saudi Arabia for possible use in the conflict in Yemen; and
- Whether to continue to grant further licences for the sale or transfer of arms and military equipment to Saudi Arabia for possible use in the conflict in Yemen

The Secretary of State gave an undertaking to the Court that until HM Government retook the licensing decisions in line with the judgment, it would not issue any new licences for exports to Saudi Arabia for possible use in the conflict in Yemen and made a commitment to Parliament extending this to Saudi Arabia's Coalition Partners.

Retaking the licensing decisions

On the 7th July 2020 the Secretary of State for International Trade informed Parliament in a written statement¹⁷ that to address the Court of Appeal's judgment, HM Government developed a revised methodology in respect of all allegations which it is assessed are likely to have occurred and to have been caused by fixed wing aircraft, reflecting the factual circumstances that the court proceedings concerned. Therefore, she had retaken her decisions regarding licences for military exports to Saudi Arabia for possible use in the conflict in Yemen, in accordance with the Judgment of the Court of Appeal of 20th June 2019.

Consequently, the undertakings given to the Court and to Parliament no longer apply.

¹⁷ <https://questions-statements.parliament.uk/written-statements/detail/2020-07-07/HCWS339>

Breach of Court Order

Following the 20th June 2019 judgment of the Court of Appeal, DIT became aware that it had issued some export licences to Saudi Arabia and Coalition Partners in error that year.

The Secretary of State unreservedly apologised for the export licences that were issued in error. In her statement on 26th September 2019¹⁸, she informed Parliament that she took immediate action:

- Informing the Court and Parliament.
- Instigating a complete and full internal review of all licences granted for Saudi Arabia and its Coalition partners since 20th June 2019.
- Putting in place immediate, interim procedures to make sure the error could not happen again. These measures were:
 - Licence applications for Saudi Arabia and its Coalition partners are referred to a new weekly meeting of senior officials from DIT, FCO and MOD who will ensure that current and full information is available to enable an assessment of whether the items in question are for possible use in the conflict in Yemen, and if there has been any change in circumstances in the conflict in Yemen, that this is properly included in the assessment.
 - All recommendations to grant licences for the export of items to Saudi Arabia and its Coalition partners are referred to Ministers.
- The Permanent Secretary commissioned, on her behalf, a full independent investigation, which has now concluded.

The Investigation Report

The Secretary of State announced in a written statement¹⁹ on 6th February 2020 that the Investigation report into the inadvertent issuing of export licences in breach of the Court Order and commitment to Parliament in relation to Saudi Arabia and its Coalition Partners had been concluded and published in full²⁰. Copies of the reports were placed in the libraries of the House.

The report identified the circumstances in which these licences were granted and assesses the interim procedures which were put in place to ensure no further breaches can occur.

It noted the steps that have been taken to ensure that there have been no further breaches. It states that the:

- new processes established address the shortcomings that led to the breaches;
- The process has a greater iterative and real-time involvement, with the weekly meeting process providing more opportunities for information to be updated and changes in circumstances to be reflected in decision-making;
- There is greater senior involvement and oversight which should strengthen assurance.

The report noted that no further breaches of the Undertaking given to the Court or the commitment to Parliament had been identified since the Secretary of State updated the House on 26th September 2019.

Foreign Secretary's Statement of 25th June 2019 on Hong Kong

The then Foreign Secretary announced that we will not issue any further export licences for crowd control equipment to Hong Kong unless we were satisfied that concerns raised about human rights and fundamental freedoms have been thoroughly addressed.

"We remain very concerned about the situation in Hong Kong, and I raised those concerns with the Chief Executive on 12th June. Today I urge the Hong Kong Special Administrative Region Government to establish a robust, independent investigation into the violent scenes that we saw. The outcome of that investigation will inform our assessment of future export licence applications to the Hong Kong police, and we will not issue any further export licences for crowd control equipment to Hong Kong unless we are satisfied that concerns raised about human rights and fundamental freedoms have been thoroughly addressed."

Foreign Secretary's Statement of 15th October 2019 on Turkey

Following an incursion by the Turkish military in north east Syria in October 2019, the Foreign Secretary in answer to an Urgent Question made a statement on export licensing which said.

"The UK Government take their arms export control responsibilities very seriously. In this case, we will of course keep our defence exports to Turkey under careful and continual review. I can tell the House that no further export licences to Turkey for items that might be used in military operations in Syria will be granted while we conduct that review."

¹⁸ <https://questions-statements.parliament.uk/written-statements/detail/2019-09-26/hcws183>

¹⁹ <https://questions-statements.parliament.uk/written-statements/detail/2020-02-06/hcws101>

²⁰ <https://depositedpapers.parliament.uk/depositedpaper/2281987/files>

Section 5

Outreach to industry and stakeholders

5.1 Raising awareness of export licensing with industry

HM Government is committed to reaching out to industry to raise awareness of export controls and ensure compliance. In 2019, ECJU staff presented at a number of events for exporters across the country, to raise awareness of their export control responsibilities.

In 2019, ECJU organised over 40 dedicated training courses for business, attended by over 1100 delegates nationwide. The sessions helped to inform industry about specific legislative and operational information relating to export control obligations. The course programmes are contained in the Training Bulletin published on GOV.UK.

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

Over 200 new companies to ECJU training registered for the full range of training courses. Many of these were small and medium sized companies.

Awareness raising

ECJU worked closely with partners and trade associations to support a number of United Kingdom wide sector focused trade events. Our aim was to reach out to exporters who were previously unfamiliar with strategic export controls but who may need to recognise whether their export activities require a licence. The events included the bi-annual Defence and Security Equipment International (DSEI); Defence Procurement for Research and Technology at Farnborough; the Energy Export Conference in Aberdeen; and Seaworks in Southampton.

ECJU also supported activities organised by the British Chambers International Committee and Society Manufacturers and Traders.

The annual Export Control Symposium was held in May. Its main aim was to provide a platform for exporters to hear about policy changes which had occurred during the course of the year; and to facilitate contact with officials in the licence process from DIT, FCO and MOD and HM Treasury Office of Financial Sanctions Implementation.

Key sectors represented were aerospace, defence, nuclear, oil and gas, advanced engineering including telecommunications and cyber. After topical plenary presentations a series of 5 workshops were held during the course of the day covering: a demonstration of the developing digital licensing platform; protecting classified information and material; the United Kingdom export licensing criteria; HMRC enforcement action and compliance with US controls.

ECJU has representation on the board of the newly created Export Control Profession²¹ as a founding board member. The Profession has been developed in association with the Institute of Export and International Trade. The profession was officially launched at the Symposium and promotes excellence in compliance with export and import controls and trade sanctions in the United Kingdom and globally.

ECJU continues to chair the quarterly Export Group for Aerospace, Defence & Dual-Use (EGADD) Awareness sub-committee. Members of the committee provide guidance and support to ECJU events and publications and ensure the companies and trade organisations they represent are briefed about changes to export control policies.

²¹ <https://www.export.org.uk/page/ExportControls>

Internet-based guides and licensing tools

Information about export controls continues to be hosted on GOV.UK.²² The ECJU home page includes links to all key guidance and tools to make applications and check control list entries.

In 2019, we revised three main detailed guides with the support of industry. These are now high-level guides for companies new to export control.

All of the export control detailed guides were revised during the year to provide business readiness information to exporters of controlled items about Brexit.

Checker tools

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

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

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

Notices to Exporters

HM Government continues to encourage industry to sign up to receive Notices to Exporters²³. Notices were issued with the latest information, including: updates to the Consolidated Control Lists; Brexit readiness; new national controls; updates to Open General Export Licences as a result of changes in legislation; restrictions on the trading position as a result of sanctions.

²² <https://www.gov.uk/government/organisations/export-control-organisation>

²³ <https://www.gov.uk/government/collections/notices-to-exporters#notices-to-exporters-2019>

Section 6

HM Government support to Allies and Partners

6.1 Gifted controlled equipment

HM Government occasionally gifts equipment in support of its wider security and foreign policy aims. There were nine applications to gift equipment in 2019 that were approved. These are set out in table 6.1 below.

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

All proposals to gift controlled military equipment and dual-use equipment, including gifts through CSSF, are assessed against the Consolidated EU and 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. As a result they do not require an export or trade licence.

Gifts in excess of £300,000 in value 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.

Gifts can also be made to international organisations in certain circumstances, for example in support of United Kingdom contributions to humanitarian responses. In December 2019, HMG gifted three civilian armoured vehicles to the United Nations Verification and Inspection Mission for Yemen based in Djibouti. The three vehicles were to be used for its operations in the Red Sea port of Hodeidah in Yemen. The gifting application and export licence application for these vehicles were processed as an urgent case by ECJU and completed in two days.

Table 6.1 Equipment assessed against the “Consolidated Criteria” by HM Government and approved to be gifted in 2019

Country	End-User	Goods Description*	Sponsoring HMG Department	Approx. Value £
Djibouti	United Nations Verification and Inspection Mission in Yemen (UNVIM)	Armoured Toyota vehicles, gifted to the UN**	DFID	£75,000
United States	US Department of Defence	Surplus parts for a technical collaboration programme.	MOD	£7,500
Montserrat	Royal Montserrat Defence Force	Rifles, sights and ball ammunition	MOD	£86,000
Belize	Belize Defence Force	High explosives	MOD	£228,000
Occupied Palestinian Territories	Palestinian Authority	Commercial IT and communications equipment**	FCO/MOD	£900,000
Somalia	Goodir Unit	ammunition and ballistic shields	FCO	£81,000
North Macedonia	Northern Macedonian Customs Authority	Imaging binoculars**	HMRC	£13,000
Kenya	Kenyan Armed Forces	Eye protection equipment; ear defenders and body armour	MOD	£597,000
Tunisia	Tunisia Brigade Anti-Terroriste	Binoculars	FCO	£101,000

*This table refers to equipment assessed and approved to be gifted by the Government. It does not contain definitive information on equipment delivered.

**Indicates equipment purchased under the Conflict, Stability and Security Fund (CSSF).

6.2 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 6.2 and 6.3 give, by destination, the equipment type and quantity of these exports delivered in 2019.

Table 6.2 Disposals to foreign armed forces

Country	Type of Equipment	Quantity
Bangladesh	Hercules C130J	3
United States	Hercules C130J	1
Canada	Merlin Helicopter DTC Readers	6
Latvia	CVR(T) vehicles	86
Latvia	Ammunition	1,152

Table 6.3 Other overseas transfers to commercial entities

Country	Type of Equipment	Quantity
Bangladesh	C130J engine	1
Republic of Korea	Batteries	16
Republic of Korea	Below deck equipment	1
Chile	Ammunition	846
Saudi Arabia*	Tornado spares	2,323

*Exports made using export licences issued prior to the Court of Appeal direction.

6.3 Government-to-Government projects

The United Kingdom has a longstanding Government-to-Government defence cooperation programme with the Kingdom of Saudi Arabia, under which the United Kingdom has provided Typhoon, Tornado, and Hawk aircraft, mine countermeasure vessels, and associated munitions, infrastructure, logistics and manpower support packages.

Exports to Saudi Arabia under the defence cooperation programme were subject to restrictions following the Court of Appeal judgment and Statement to Parliament of 20th June 2019. During 2019, the United Kingdom provided logistics support for air and naval systems under licences issued prior to the Court of Appeal judgment.

Section 7

International policy developments

7.1 Arms Trade Treaty

The Arms Trade Treaty (ATT) is the only legally-binding, international, conventional arms control treaty. It seeks to establish the highest possible common international standards for regulating the global trade in conventional arms. The United Kingdom ratified the ATT on 2nd April 2014; it entered into force on 24th December 2014. At 31st December 2019, the Treaty had 105 States Parties.

In 2019, the United Kingdom continued to play a leading role in the ATT. As a large donor to the Voluntary Trust Fund (VTF) and member of its Selection Committee, the United Kingdom was closely involved in the approval of 20 projects for funding in the 2019 project cycle, aimed at supporting effective Treaty implementation.

Officials attended the Fifth Conference of States Parties (CSP5) in August 2019 in Geneva. CSP5 received reports from the Working Groups on Effective Treaty Implementation, on Transparency and Reporting, and on Universalisation, and endorsed their programmes of work. The Conference adopted a number of decisions presented by the Latvian Presidency on gender and gender-based violence, the thematic focus for the year. Ambassador Carlos Foradori of Argentina was elected President of the Sixth Conference of States Parties.

CSP5 also discussed the persistent issue of late or non-payment of mandatory subscriptions and the impact on the Treaty's financial stability. Throughout the year, the United Kingdom engaged with the Management Committee on their work relating to financial liquidity. The recommendations were discussed and subsequently adopted at CSP5. The CSP tasked the Management Committee to continue monitoring the financial situation and report on the effectiveness of the agreed measures at CSP7 (in 2021).

The United Kingdom continued to make the case for greater engagement with industry and encouraged further efforts to engage major arms exporting states in the work of the Treaty. Government experts presented the United Kingdom's national approach to export control risk assessment in two side events at CSP5. The first, led by Conflict Armament Research and the United Nations Institute for Disarmament Research, covered the role of end-user documentation in preventing diversion. In this panel, the United Kingdom highlighted end-user documentation as one part of a thorough risk assessment process. The second, led by the Republic of Korea, covered total life-cycle system management of conventional arms as an approach to reducing diversion risks. Here the United Kingdom explained the importance of a strict approach to export licensing assessment processes as a means of reducing the risk of diversion prior to any export.

The United Kingdom submitted its Annual Report to the Secretariat in accordance with Article 13(3) of the Treaty. This report covers authorised or actual exports of conventional arms covered under Article 2(1) of the Treaty during the calendar year 2018. The United Kingdom does not collate comprehensive data relating to the import of all goods covered by the ATT.

On 26th April 2019, President Donald Trump announced that the United States of America would take steps to withdraw its signature from the ATT. US officials were therefore not present at the Fifth Conference of States Parties. The United Kingdom continues to work with the US as responsible arms trade partners on tackling illicit arms transfers and ensuring the right conditions for a responsible, legitimate arms trade.

On 27th September 2019, State Councillor and Foreign Minister, Wang Yi, announced that China had initiated domestic legal procedures for its accession to the Treaty.

7.2 Small arms and light weapons

Preventing small arms and light weapons (SALW) falling into the hands of terrorists, organised criminals and other unintended recipients, including through strong and effective multilateral instruments, remains a United Kingdom priority. Throughout 2019, the United Kingdom remained active in international efforts to prevent the illicit trade and diversion of SALW and their ammunition.

The United Kingdom is a strong supporter of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and 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 United Kingdom also supports implementation of relevant technical guidelines in the management of SALW and their ammunition, including the Modular Small Arms Control Implementation Compendium (MOSAIC) and the International Ammunition Technical Guidelines (IATG).

HM Government regularly reports on the United Kingdom's implementation of international instruments as a confidence-building measure, and to promote transparency. Previous and current United Kingdom national reports are published and available at:

<https://smallarms.un-arm.org/national-reports/>

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

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

In 2019, HM Government funded, through the Counter Proliferation Programme Fund, two separate projects to further work in this area. One project aimed to build capacity to develop and review national strategies and action plans to address the illicit circulation of SALW in the Intergovernmental Authority on Development (IGAD) region, the other aimed to tackle the illicit transfer and diversion of proliferation-sensitive goods and technologies.

7.3 Convention on Certain Conventional Weapons

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

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

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

The Convention with three annexed Protocols (I, II and III) was adopted on 10th October 1980 and entered into force on 2nd December 1983. Protocol IV and Amended Protocol II entered into force in 1998. Protocol V entered into force in 2006. The United Kingdom ratified Protocols I, II and III on 13th February 1995, and Amended Protocol II and Protocol IV on 11th February 1999. The United Kingdom has signed but not ratified Protocol V.

The United Kingdom attended the Thirteenth Conference of the High Contracting Parties to Protocol V as a Signatory State on 11th November 2019, the Meeting of the High Contracting Parties to (Amended) Protocol II on 12th November 2019, and the CCW Meeting of High Contracting Parties on 13th-15th November 2019.

The Meeting of CCW High Contracting Parties agreed to keep under annual review a number of financial measures to improve the predictability and long-term sustainability of the Convention's finances. The High Contracting Parties also established a Working Capital Fund to provide liquidity during the financial year, with a view to ensuring the stability of the Implementation Support Unit support to the Convention. This will be reviewed at the Sixth Review Conference in 2021.

The CCW Group of Governmental Experts (GGE) on Emerging Technologies in the area of Lethal Autonomous Weapons Systems (LAWS) continued their discussions for seven days during 2019. Many participants, including the United Kingdom, felt this was inadequate, although the Chair was innovative in supplementing this time with focussed informal consultations.

The CCW Meeting of High Contracting Parties in 2019 agreed that the GGE should meet for ten working days in 2020 and between ten to twenty days in 2021, thus indicating a continuing commitment to the current mandate of the GGE up to the CCW's Review Conference in 2021. The focus of the group over this period will be "consensus recommendations in relation to the

clarification, consideration and development of aspects of the normative and operational framework on emerging technologies in the area of LAWS”.

7.4 Anti-Personnel Mine Ban Convention (the ‘Ottawa Convention’)

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

The Ottawa Convention was adopted on 18th September 1997, and entered into force for signatory states, including the United Kingdom, on 1st March 1999. 164 States are now parties to the Convention, which bans the use, stockpiling, production and transfer of APMs. In addition, States that accede to the Convention are required to destroy stockpiled APMs, clear mined areas under their jurisdiction or control, and to assist the victims of APMs, where they are in a position to do so.

The United Kingdom took part in the Convention’s Fourth Review Conference in Oslo from 25th-29th November 2019, as well as in the preparatory meetings on 24th May and 18th September. The Conference reviewed the operation and status of the Convention against the goals set out in the June 2014 Maputo Action Plan. States Parties agreed the Oslo Declaration and the Oslo Action Plan, which set the direction of the Convention for the next five years. The Oslo Action Plan’s goals include universalisation of the Convention, stockpile destruction, mine clearance, mine risk education, 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 United Kingdom, the only such area is the Falkland Islands. The United Kingdom is now in the fifth and final phase of clearance, which is scheduled to clear the last 10 mined areas on the Falklands within its extended deadline of 1st March 2024. This is estimated to release 1 million m² of land.

The United Kingdom 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.

In April 2018, the Department for International Development launched its second Global Mine Action Programme (GMAP2), which expanded the geographic scope of the programme’s support to heavily contaminated countries around the world. GMAP2’s spend up to March 2020 was £86.9m. In 2019 this programme provided survey and clearance, mine risk education, and support to mine action authorities and organisations working in Afghanistan, Angola, Cambodia, Iraq, Laos,

Lebanon, Myanmar, Somalia, South Sudan, Sri Lanka, Sudan, Syria, Yemen, Vietnam and Zimbabwe. As of December 2019, GMAP2 had cleared and confirmed safe over 172 million square metres of land.

7.5 Convention on Cluster Munitions (the ‘Oslo Convention’)

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 United Kingdom, agreed the Convention on Cluster Munitions (CCM), which prohibits the use, development, production, acquisition, stockpiling and transfer of cluster munitions. HM Government became the 32nd State Party to the CCM in 2010. The Convention now has 108 full States Parties and 13 signatories.

HM Government has continued to play an active role in international cooperation and assistance to countries affected by cluster munitions as part of its mine action work, as detailed above in Section 7.4.

HM Government participated in the Meeting of States Parties to the Convention in Geneva from 2nd-4th September 2019. The Meeting elected the United Kingdom to the Presidency of the Tenth Meeting of the States Parties in 2021.

7.6 UN Register of Conventional Arms

The UN Register of Conventional Arms (UNRoCA) 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 Register was established in 1991, the United Kingdom has reported to the UNRoCA since its inception. The UN Register currently covers seven categories of conventional weapons:

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

Under a trial agreed by the Group of Governmental Experts (GGE) in 2016, countries can also use the Register to report voluntarily on national holdings of

small arms and light weapons. In 2019, the GGE agreed to the normalisation of this “7+1” formula to continue to allow states flexibility in reporting.

The United Kingdom submits an annual report to the UN Register on all exports of military equipment in these categories. HM Government has actively encouraged all UN Member States to make reports with similar levels of transparency. Transparent systems, underpinned by strict export controls, are less vulnerable to exploitation and manipulation. Previous and current United Kingdom national reports are available [here](#)²⁴.

7.7 Nuclear Suppliers Group

The Nuclear Suppliers Group (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 United Kingdom attended the 29th Plenary meeting of the NSG in Nur-Sultan, Kazakhstan on 20th-21st June 2019. 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 and exchanged best practices and national experiences in implementing the Guidelines.

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

7.8 Australia Group

The Australia Group (AG) is an informal group of countries which seeks to make sure, through the harmonisation of export controls, that exports do not contribute to the development or proliferation of chemical and biological weapons. Co-ordination of national export control measures helps AG participants to fulfil their obligations under the Chemical Weapons

Convention (CWC) and the Biological and Toxin Weapons Convention (BTWC). There are currently 43 participating members.

In March, Malta hosted an Intersessional Meeting of the AG. As part of the AG’s outreach programme, non-member Middle Eastern countries were invited to participate. This exchange provided an overview of the group’s activities and promoted the implementation of robust export controls in the region.

The AG’s Annual Plenary Meeting took place in Paris in June. Following a well-received United Kingdom presentation on the decontamination of Amesbury and Salisbury after the 2018 attacks, participants discussed a United Kingdom non-paper to add Novichok precursors to the AG Control Lists. Members noted the importance of responding to the threat of Novichoks, and the United Kingdom agreed to develop a formal proposal for the AG’s consideration. Throughout the meeting, the United Kingdom led efforts to ensure the AG Control Lists remained relevant and up to date. This included putting forward two successful proposals to add dangerous *Bacillus cereus* strains to the Warning List for Human and Animal Pathogens and Toxins, and to clarify nominal valve sizes in the AG chemical facilities and equipment control lists.

7.9 Missile Technology Control Regime

The Missile Technology Control Regime (MTCR) is a politically binding instrument, formed in 1987. As of 31st December 2019, the MTCR had 35 Partner countries which work together to prevent the proliferation of unmanned delivery systems capable of delivering weapons of mass destruction by coordinating national export licensing efforts. The United Kingdom is a founding member and plays a leading role, including in the MTCR’s Technical and Law Enforcement Experts Groups.

The MTCR guidelines and lists of controlled items form an international benchmark for controlling exports of missile-related items and technologies.

The United Kingdom attended the 32nd Plenary Meeting of the MTCR in Auckland, New Zealand in October 2019. Partners exchanged information on missile proliferation-related activities worldwide, including developments in specific programmes, such as in the Democratic People’s Republic of Korea and Iran. Partners also considered procurement activities and techniques in support of such programmes, the role of intangible transfer of technology (ITT), brokering, and transshipments in facilitating proliferation. The Plenary approved the United Kingdom nominee for the role of Co-Chair of the Technical Experts Meeting.

²⁴ <https://www.unroca.org/>

7.10 Wassenaar Arrangement

The Wassenaar Arrangement (WA) was established to contribute to regional and international security and stability by promoting transparency and helping to prevent destabilising accumulations of conventional arms. The establishment of the WA was agreed on 18th-19th December 1995 by the initial 28 Participating States. The first Plenary Meeting was held on 2nd-3rd April 1996. As of 31st December 2019, the WA has 42 Participating States.

The strength of the WA 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 WA produces two Control Lists – one for conventional weapons (the Munitions List) and one for dual-use goods and technologies. Participating States report, bi-annually, exports of controlled arms, goods, or technology to non-members. United Kingdom experts play a significant role in the Technical Working Groups and, in 2019, chaired the Licensing and Enforcement Officers Meeting (LEOM) for the third successive year. Chairmanship for the LEOM has now passed to Italy.

Participating States held General Working Group meetings in May and October 2019, and Expert Group meetings in April, June and September/October 2019, ahead of the annual plenary meeting in December 2019.

At the plenary meeting, Participating States approved several amendments to the WA Control Lists, adopting new export controls in a number of areas, including hybrid machine tools incorporating additive manufacturing capability, sub-orbital craft, cyber warfare software, software for the monitoring of communications, and digital investigative/forensics tools.

Some controls were relaxed, including fibrous and filamentary materials and handguns for slaughtering or tranquilising animals.

The Plenary also discussed recruitment of a new Head of Secretariat. Russia blocked consensus on all nominations so Plenary agreed, as a compromise, to extend the incumbent in position until January 2023.

7.11 Academic Technology Approval Scheme (ATAS)

The United Kingdom's ATAS student vetting scheme was introduced in November 2007. It seeks to protect 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 United Kingdom higher education institutions that teach sensitive subjects at postgraduate level. Any overseas student outside the European Economic Area or Switzerland

wishing to study such subjects must first obtain an ATAS certificate. The applicant makes an application online at no cost. Correctly completed applications are usually processed within 20 working days of receipt. This can take longer during busy periods such as the summer. In 2019, ATAS²⁵ approved 26,121 applications and denied clearance on 148 occasions.

7.12 International outreach

In 2019, the United Kingdom was invited by the Government of Japan to present at the 26th Asian Export Control Seminar in Tokyo in February 2019. In the margins of the conference United Kingdom and Japanese officials had bilateral discussions about continued closer cooperation in export controls and control of the transfer of sensitive technologies. In addition, in the margins of the event, the British Embassy in Tokyo hosted a discussion between key international partners on the issue of controlling Intangible Technology Transfers.

The United Kingdom was also invited and presented at the Republic of Korea (RoK) Government's Defence Technology Security Conference in Seoul in June 2019. United Kingdom and RoK officials held bilateral discussions about closer cooperation between the United Kingdom and RoK in the area of defence technology security.

In December 2019, the United Kingdom played host to the US Department of State's Export Control and Related Border Security (EXBS) Conference in Edinburgh. The conference was attended by over 200 delegates from over 80 countries.

The United Kingdom continued its support of the outreach efforts of the Multilateral Export Control Regimes (MECR). In particular, the United Kingdom delivered several presentations on the United Kingdom's approach to implementing "catch-all" controls under the United Kingdom End-Use provisions.

The United Kingdom also took part in an outreach event in Israel to update industry and Israeli officials involved in export control licensing of changes to the control lists. The United Kingdom also delivered presentations on its approach to implementing Intangible Technology Transfer controls.

²⁵ Data is based on management information records as of 7th October 2020.

Section 8

Compliance and enforcement

8.1 Compliance

ECJU carry out regular and thorough compliance checks at the sites of companies and individuals that hold Open Individual or Open General Licences, and Standard Individual Licences where electronic transfers arise. The aim of this activity is to provide assurance to HM Government that all licence holders are meeting the terms and conditions of their licences.

Whilst the primary role of the ECJU Compliance Officer is to undertake and review export documentation to ensure compliance with the licence(s) held by an exporter, they also have a role of raising awareness of export controls within a business. They make sure businesses are made aware of the wider issues of controlled activities are considered, such as if employees may be accessing technology while overseas, or if they have United Kingdom persons based overseas that may be caught under trafficking and brokering legislation.

United Kingdom based businesses are usually subject to normal on-site compliance checks. Those whose operations are based overseas are subject to a 'remote' compliance check. Compliance checks of the overseas operations of United Kingdom businesses are related to trade or trafficking and brokering activities. As such there are usually no tangible exports to examine. In these cases, the business is required to send to the ECJU Compliance Officer a log of its activities and any supporting information / documentation required by the licence utilised. Once the information is received, the ECJU Compliance Officer will undertake the same rigorous level of checks as undertaken for an on-site compliance check. This can involve further communication with the licensee to clarify any issues identified by the ECJU Compliance Officer.

Compliance checks and initial contact with exporters fall into the following categories:

- i) First time contact: To raise awareness of those new to export controls on their legal obligations and licensing requirements;
- ii) First compliance check: We aim to conduct our first compliance visit within six months of first use of their licence(s);
- iii) Routine compliance checks: For businesses that have had a first compliance check and continue to hold open licences. The time between these routine checks depends on a risk assessment and whether the ECJU Compliance Officer has been made aware of 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 compliance check and, as a result, we aim to revisit 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 compliance checks are undertaken at the site for which a licence or licences have been issued. In rare instances, compliance checks may be carried out remotely via correspondence and/or telephone, for example when an exporter is located overseas.

The four pre-defined criteria are:

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

Serious or repeated non-compliance may lead to open licences being withdrawn. All instances of non-compliance are reported to HMRC.

The following issues identified during compliance checks would result in a non-compliant assessment:

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

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

- Repeated minor administrative errors found at a compliance check;
- One substantive error identified in one of multiple shipments; and/or

- An incorrect licence was quoted, where another extant licence held by the exporter permitted the export.

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

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

“Compliance certificates” are only issued to businesses where not only have they been found fully compliant, but also have no actions or recommendation conferred upon them after the compliance check. The ECJU has stringent internal guidelines in relation to issuing such certificates.

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

In 2019, 14 ‘certificates of compliance’ were issued.

The Compliance Team carried out a total of 26 first time contact engagements with those new to exporting, and 554 site checks (including revisits) in 2019. Table 8.1 shows compliance levels for sites inspected.

Table 8.1 Compliance levels (%) by compliance check types, of sites visited in 2019

		2019	2018
Number of compliance checks during which no audit was undertaken or the outcome was inconclusive		0	1
% of first compliance checks	compliant	51%	40%
	generally compliant	11%	17%
	not fully compliant	22%	18%
	non-compliant	16%	25%
% of routine compliance checks	compliant	33%	37%
	generally compliant	24%	17%
	not fully compliant	22%	15%
	non-compliant	21%	31%
% of revisits	compliant	63%	69%
	generally compliant	15%	15%
	not fully compliant	8%	7%
	non-compliant	14%	9%

The Compliance Team issued 97 warning letters to Company Directors during 2019, where breaches of licence conditions were identified. This is a slight (2%) increase from the 2018 figure. Five exporters surrendered licences which did not cover their goods. Surrendering licences helps avoid repeat offences. Two exporters had a licence suspended due to repeat infractions.

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

HMRC continued to work with Border Force and the Crown Prosecution Service (CPS) to undertake a wide range of enforcement activity throughout 2019. This activity included:

- 194 seizures of strategic goods. These are cases where goods were presented for export and found to be in breach of licensing requirements or sanctions and embargoes (see Table);
- 66 end-use cases, where non-listed items were stopped from leaving the United Kingdom and bought within export controls. This control is used if there is a risk that the goods would be put to an illicit military or WMD end-use;
- 12 compound penalties paid totalling around £408,000. HMRC issued 12 companies with compound settlement offers ranging from £4,000 to £90,000 for unlicensed exports of military goods, dual-use goods and related activity controlled by The Export Control Order 2008.
- HMRC warning letters issued = 110

There were no prosecutions finalised in the courts in 2019. There were several ongoing criminal investigations throughout the period. For example, in September 2019 there were 15 live investigations.

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

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

HMRC continues to receive and process voluntary disclosures of errors made by exporters. These disclosures are assessed by HMRC and appropriate action taken. This ranges from educational visits or the issuing of written warnings, through to compound penalties and, in the most serious cases, an investigation with a view to criminal prosecution. Table 8.2 shows voluntary disclosures that were disposed of in 2019:

Table 8.2 Voluntary disclosures disposed in 2019*	
Disposal	Total
Voluntary Disclosures received	199
Warning Letters issued as a result of voluntary disclosures	89
No Further Action (NFA)	60
Compound settlement offers issued as a result of voluntary disclosures	5 Offers, totalling £228,500

*This represents 2019 activity only. This means some outcomes may originate from voluntary disclosures received in 2018, as some will not be recorded until the following period. The warning letters and compound settlement offers recorded here form part of the totals for this period and are not additional to those presented at the opening of this section.

HMRC works with DIT and other agencies to contribute to raising awareness of strategic export controls through educational outreach to business.

HMRC also participates in outreach and capacity-building events. This activity strengthens links with other enforcement agencies in the field of strategic export control and improves the capabilities of our international partners. HMRC also supports the international export control commitments of HM Government through its contributions to international operational expert groups. These groups help improve international arms controls and aim to improve processes by sharing expertise and best practice.

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

Table 8.3 Number of HMRC Strategic Exports and Sanctions Seizures*	
Financial Year	Total
2007-08	55
2009-10	50
2008-09	115
2010-11	134
2011-12	141
2012-13	280
2013-14	450
2014-15	225
2015-16	232
Calendar Year**	Number of HMRC Strategic Exports and Sanctions Seizures*
2016	183
2017	118
2018	160
2019	194

*Data is based on Management Information records as of 8th June 2020.

**The period over which exports and sanctions seizures were measured changed to calendar years in 2016.

Table 8.4 Number of HMRC Strategic Exports and Sanctions Prosecutions*	
Calendar Year	Total
2007	2
2008	1
2009	3
2010	9
2011	1
2012	2
2013	1
2014	2
2015	2
2016	Nil
2017	Nil
2018	3
2019	Nil

*Data is based on Management Information records as of 8th June 2020.

Section 9

Case studies

9.1 Iraq

As for all destinations, export licences for Iraq are assessed on a case-by-case basis against the “Consolidated Criteria”. Assessments are informed by expert analysis from the British Embassy in Baghdad, the British Consulate-General in Erbil, and media and NGO reporting.

With Iraq having been identified as an FCO “human rights priority country”, particular attention is given to goods that might be used for internal repression (Criterion 2(a)). Accordingly, extra scrutiny is applied to applications for small arms, body armour, crowd-control equipment, and surveillance and interception equipment. In such cases, a thorough analysis is undertaken of the current and past record of the end user with regard to their respect for human rights; the nature of the equipment; and the country’s general respect for, and observance of, human rights and fundamental freedoms.

Since October 2019, Iraq has faced a series of countrywide protests. The Iraqi security forces initially responded by using live ammunition to disperse crowds and it is also understood that activists have been killed, abducted and subject to arbitrary detention. The UN Assistance Mission for Iraq (UNAMI), under its mandate to promote accountability and protect human rights, has been closely following the situation and has published reports documenting its investigation into alleged human rights violations. Given UNAMI’s findings that serious human rights violations may have been committed, special caution and vigilance are exercised for Iraq (Criterion 2(b)).

Iraq is subject to an arms embargo, most recently amended by UN Security Resolution 1546 (2004). HM Government considers various end users as exempt from this embargo – including but not limited to the Government of Iraq itself, UN agencies and the forces of EU and NATO countries – as set out in the written ministerial statement of 16th May 2019. This allows

for the export of military equipment for the legitimate national security of Iraq, including in support of the Global Coalition Against Daesh. However, for end users other than these, in order to uphold the embargo faithfully (Criterion 1(a)), supporting documentation must be provided from the Government of Iraq to demonstrate that the proposed exports are required and thus exempt.

The risk of diversion (Criterion 7) is also considered as a matter of routine, taking into account the wide range of security actors in Iraq, including multiple responsible Government departments, security forces and units, and various armed groups over which the Government of Iraq has varying levels of control.

9.2 South Sudan

Throughout 2019 there were restrictive measures in place for exports to South Sudan through the UN sanctions regime (UNSCR 2206 (2015) and 2248 (2018); EU Council Decision 2014/449/CFSP and Council Regulation 2015/750, all of which impose a general arms embargo on all deliveries of arms and related material of all types to South Sudan.

Arms and related material may nevertheless be supplied to South Sudan under specific exemptions, in particular to UN personnel, including the United Nations Mission in the Republic of South Sudan (UNMISS) and the United Nations Interim Security Force for Abyei (UNISFA). The exemptions also include protective clothing, including flak jackets and military helmets for UN personnel, representatives of the media, and humanitarian and development workers and associated personnel, for their personal use only. These exports do not require notification to the UN Sanctions Committee. There are also exemptions that require notification in advance to the UN Sanctions Committee under UNSCR 2206 (2015),

for example, non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training.

Under Criterion 1(a): international obligations and commitments, in particular, sanctions, HM Government must comply with the notification requests that contain all relevant information, including the purpose of the use, the end user, the technical specifications and quantity of the equipment to be shipped and, when applicable, the supplier, the proposed date of delivery, mode of transportation and itinerary of shipments. We pass this information on to the UN Sanctions Committee responsible and must wait for acknowledgment or approval before we are able to issue a licence.

Other key criteria when assessing applications for export to South Sudan against the situation on the ground include:

- Criterion 2(a): Internal repression. South Sudan is one of the 30 priority countries identified in the FCO's Human Rights and Democracy Report of 2018;
- Criterion 3: Prolonging or provoking internal conflict;
- Criterion 4: Regional stability;
- Criterion 7: Risk of diversion. The Government is aware of the risk of diversion to South Sudan from exports to other countries in the region. We therefore scrutinise closely applications for other countries in the region.
- Criterion 8: Compatibility with the country's technical and economic situation.

9.3 Maritime Anti-Piracy

The International Maritime Organisation (IMO)²⁶ estimates that reported pirate attacks in 2019 were at their lowest levels since 1996. Despite this, 193 piracy incidents were reported worldwide in 2019 and piracy continues to threaten the security of trade routes and costs the international economy an estimated \$7-12bn (~ £5-9bn) each year. Piracy is most prevalent in the Gulf of Guinea and SE Asia (the Malacca and Singapore Straits and Sulu and Celebes Seas). These areas are among the busiest shipping trade routes in the World.

Incidents of piracy in the Indian Ocean were common between 2008 and 2012, with some of the highest rates of piracy and highest profile incidents, prompting an increased use of private security companies by vessels transiting the area.

The United Kingdom has played a leading role in enabling important counter piracy activity. Initially, the sector was unregulated. Since 2012, DIT have developed

a range of licences to regulate the industry effectively. Private Maritime Security Companies based in the United Kingdom or employing United Kingdom persons 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 HM 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, targeted at companies that do not adhere to established processes.

Better safety standards for Private Maritime Security Companies (PMSCs) 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.

That only 10 of 193 attacks reported to the IMO in 2019 occurred in the Indian Ocean is likely to be in-part due to the presence of properly regulated private security companies on vessels in the region.

When assessing export licences for PMSCs we give particular consideration to the risk of diversion (Criterion 7) for goods which could be used for internal repression (Criterion 2(a)). 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.

²⁶ <https://www.imo.org>

Annex A

Consolidated EU and National Arms Export Licensing Criteria

WRITTEN MINISTERIAL STATEMENT²⁷

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

THE CONSOLIDATED EU AND NATIONAL ARMS EXPORT LICENSING CRITERIA

25 MARCH 2014

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

The Government's policy for assessing applications for licences to export strategic goods and advance approvals for promotion prior to formal application for an export licence was set out on behalf of the then Foreign Secretary on 26 October 2000, *Official Report*, Column 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

²⁷ <https://publications.parliament.uk/pa/cm201314/cmhansrd/cm140325/wmstext/140325m0001.htm>

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;
- 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.

CCS0320234214

978-1-5286-1859-5