



An Roinn Post, Fiontar agus Nuálaíochta
Department of Jobs, Enterprise and Innovation

**Annual Report under the
Control of Exports Act 2008
Covering the period 2008-2010**

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Minister's Introduction

I am pleased to present the first report on the operation of the Control of Exports Act 2008. This Act made important changes in modernising the legislative base for our export control regime. It established a new framework for regulating the export of sensitive or strategic goods, which is capable of meeting 21st century needs, in particular security concerns and issues posed by globalisation and human rights issues, and which is in line with best international practice.

One of the most significant aspects of this report is the new public access to data on licence applications, the value of licensed goods exported and their destination as well as licence denials that it provides. This is valuable information for the wide range of stakeholders that rightly expect increasing transparency in the operation of export controls. To provide additional visibility on the overall licensing system I will publish every six months, on my Department's website, summary data regarding the export of controlled products.

The report is also meaningful because it sets out comprehensively, for the first time, how export controls operate. It describes the national and EU legislative context, and outlines Ireland's role in developing the EU export controls that apply in every Member State.

The area of export control is a complex mix of cross-cutting policy elements, including trade, finance, security and human rights concerns. This report details the co-operation between Government Departments and bodies which is essential to the effective administration of export controls. This co-operation is central to the day-to-day checks and balances that facilitate legitimate trade while guarding against transactions that could damage human rights or our objectives of non-proliferation. The report also refers to the communication between EU export control authorities which is vital to the effective operation of export controls across the EU.

The human rights, security and regional stability concerns which underpin export controls are of paramount importance to my Department.

They shape our approach to the development of EU and national legislation, and to the day-to-day operation of export controls. Export control is an aspect of my Department's work in which the aim of ensuring free trade and open markets has to play a secondary role to these core principles.

This report marks a new chapter in communicating with civil society and others. What we do affects others, including concerned members of civil society and those who earn a living from international trade. Effective export control depends on regulatory vigilance and co-operation across a wide spectrum of interests. This cannot be achieved in the absence of a free flow of information. This first report on the operation of the Control of Exports Act 2008 is an important element in the communication process, which is central to helping us to improve the overall effectiveness of our export control regime.

Richard Bruton TD

Minister for Jobs, Enterprise & Innovation

CHAPTER 1 – Context for Irish Export Controls

1. Genesis and Context of International Export Controls

We live and trade in a globalised economy, increasingly shaped by principles of free trade and open markets. Exports of goods and services are the foundation of our future prosperity, growth and employment. The Department's objective is to make access to both new and existing markets as easy as possible for our exporters. Therefore, specific controls on international trade are unusual. However, movements of military and dual-use goods comprise one significant exception to this rule. A subset of these exceptions relate to sanctions against certain countries, and the Torture Regulations¹.

These exceptions to the principle of free trade and open markets are of real importance to the Department. The security, regional stability and human rights concerns which underpin export controls are of paramount importance, and the Department takes its responsibilities in this regard very seriously. Therefore, export control is an area in which the Department's strategic aim of supporting and facilitating trade plays a secondary role to the safeguarding of the principles underpinning the need for export controls.

For export control purposes, military goods can be defined as conventional, nuclear, chemical and biological weapons and weapon systems, in addition to the components used in the manufacture of these. Dual-use goods refer to products which, though manufactured for civilian use, could also have a military application, e.g. high performance ICT technologies and equipment. Owing to the breadth of goods and technology concerned in the complex area of dual-use, and their *potential* military application, the international community's key concern in the development of controls on dual-use products has been to ensure that dual-use goods do not fall into the wrong hands, while balancing the need for legitimate exports of such goods to legitimate end-users for predominantly civilian purposes. Consequently, in dealing with license applications for these products, particular attention is given to the ultimate end-use and end-user of these goods exported from Ireland.

¹ Council Regulation (EC) No 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.

In 1949 the COCOM (Co-Ordinating Committee on Multilateral Export Controls) regime was established to assist in efforts to control exports to former Warsaw Pact members of goods and technology of strategic concern. It was an informal non-treaty organisation which comprised 17 member countries². Ireland, while not a member of COCOM, was a co-operating country together with Austria, Finland, New Zealand, Sweden and Switzerland.

In subsequent years, the members of COCOM considered there was a need to broaden the focus of the regime's work in order to deal with risks to regional and international security and stability related to military and dual-use goods. In addition, technological and scientific advances together with geopolitical developments had shifted the focus of export control policy to preventing the proliferation of nuclear, chemical and biological weapons, the protection of human rights and the prevention of terrorism.

In November 1993 representatives of the COCOM member countries agreed to end the COCOM regime and establish a new multilateral export control arrangement, temporarily known as the "New Forum". This decision was confirmed at a further meeting in March 1994, which was held in Wassenaar in the Netherlands. Following that meeting, the new multilateral export control regime became known as the Wassenaar Arrangement³, and former COCOM co-operating countries, including Ireland, became members of the new arrangement. Full details of the Wassenaar Arrangement are set out in Chapter 5.

The Wassenaar Arrangement's activities are based on the principle that trade in the items listed in its "control list" should be permitted, but must be controlled. Member States of the Wassenaar Arrangement (WA) review its control lists on an annual basis. The WA focuses on promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies.

² Australia, Belgium, Canada, Denmark, France, Germany, Greece, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, UK and USA.

³ <http://www.wassenaar.org/>

There are a number of other international export control regimes which have a different focus. These include the Nuclear Suppliers Group, which deals with nuclear goods and technology, the Australia Group which seeks to prevent proliferation of chemical and biological weapons and the Missile Technology Regime which focuses on export controls of complete missile systems and unmanned aircraft. Details of all of these export control regimes are set out in Chapter 5.

2. The EU Export Licensing Context

The EU's work on export controls is closely connected with the work of the international export control regimes, with the EU updating its own list of controlled goods each year to reflect changes agreed in the international export control regimes. The inclusion of an item on the EU's control list does not automatically prohibit export of that item, rather it is a recognition that the item is sensitive and should therefore be subject to a rigorous licence application process whereby the end-user and the end-use is carefully assessed before a decision is made on a licence application.

Work on the development of EU policy in regard to military and dual-use goods, including the updating of the lists of controlled goods, is undertaken in Brussels by two Working Groups; COARM (Council Working Party Conventional Arms Exports) which deals with nuclear non-proliferation issues and DUWP (Dual-Use Working Party) which deals with all matters connected with the goods on the Dual Use lists and the procedures for licensing and controlling export of those goods from the EU.

Dual Use Goods

In relation to dual-use goods and technology, the primary piece of EU legislation is Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items⁴. Annex I of that Regulation, which sets out the list of controlled products, is updated regularly by way of Council Regulation to reflect changes agreed in the international export control regimes. Council Regulations are directly effective in national law.

⁴http://www.djei.ie/trade/export/dualuse_reg428of2009.pdf

However, national legislation is required to provide a legal basis for penalties for breach of the EU Regulation⁵.

Military Goods

Under Article 346 TFEU⁶, any member state may “take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of, or trade in, arms, munitions and war material”. However, Member States have sought, to some extent, to co-ordinate their export control policies in relation to military goods.

A milestone in the development of common EU guidelines on military exports was the adoption, in 1998, of the Code of Conduct on Arms Exports⁷. The Code, which was a politically persuasive text, specified common criteria against which applications for exports of military goods should be assessed. The Code was re-enforced in 2005, and, following a review of the Code, an updated and enhanced Code was adopted as a Common Position in December 2008⁸.

A key feature of the Code was the “Operative Provisions” which were in effect guidelines for how Member States should assess military export licence applications. Of particular note was Operative Provision 5 which referred to a “common list of military equipment” covered by the Code. This list, referred to as the Common Military List, is updated on a regular basis by the EU to bring it into line with changes agreed in the international export control regimes⁹. As the instrument by which the Common Military List is adopted by the Council is not directly effective, it has to be given effect in national law by way of secondary legislation¹⁰.

⁵ See Control of Exports (Dual Use Items) Order 2009 S.I. No 443 of 2009

⁶ TFEU- Treaty on the Functioning of the EU, came into force on 1 December 2009 with the entry into force of the Lisbon Treaty.

⁷ EU Code of Conduct on Arms Exports, European Union The Council 8675/2/98.

⁸ Common Position 2008/944/CFSP

⁹ The latest Common Military List was adopted by the Council on 15 February 2010 OJ 2009/C 69/19.

¹⁰ Control of Exports (Goods and Technology) Order 2009 S.I. No. 305 of 2009

3. The Irish Export Licensing System

In legal terms, the Irish system reflects the distinction at EU level between military and dual-use goods:

- Control of military exports from Ireland is based exclusively on national export control legislation, updated from time to time through the enactment of secondary legislation that give effect in national law to the EU Common Military List;
- Control of dual-use goods is based on the EU regulation, transposed into Irish law via Ministerial Order.

In each case, and in common with international practice, there is an extensive and closely defined list of “controlled” goods, the export of which is regulated. These lists reflect those that have been agreed in international treaties and other arrangements, and at EU level.

In summary, in Ireland an export licence is required for:

- Export of military goods listed on the EU Common Military List¹¹ irrespective of their destination, including exports to other EU Member States;
- Exports of dual-use goods listed in Annex I of the Dual-Use Regulation 428/2009¹² outside the EU (in the case of some highly sensitive dual-use equipment listed in Annex IV of the Regulation an export licence is required irrespective of whether the destination is within or outside the EU);
- Exports that may be subject to the EU “catch-all” clause.¹³

¹¹The EU Common Military List is given effect in national law by way of Ministerial Order; see annex to Control of Exports (Goods and Technology) Order 2009.

¹² <http://www.djei.ie/trade/export/cont-dul.htm>

¹³ See Article 4 of Dual-Use Regulation 428/2009. The “Catch-All” Clause refers to non-listed dual-use items which may be subject to control if the exporter is aware or has been advised by Department of Jobs, Enterprise and Innovation that these may be intended, in their entirety or in part, for use in connection with weapons of mass destruction, or the production of missiles capable of delivering such weapons, or as parts or components of military goods illegally exported, or if the purchasing country or country of final destination is subject to an arms embargo and the goods may be intended for a military end-use. In this case exporters are obliged to notify the licensing authority which will then decide whether or not a licence is required.

In addition, an export/import licence is required in respect of certain goods listed in the Annex to Council Regulation Council Regulation (EC) No [1236/2005](#) concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment¹⁴. The Department has never received an import/export application under the Torture Regulation.

Control of Exports Act 2008

Prior to the adoption of the Control of Exports Act 2008, Ireland's legislation in the area of export control dated back to 1983. The 2008 Act was adopted to update the legislative base for our export control regime, in order to ensure we have a robust regime which is capable of meeting 21st century needs, in particular security concerns and issues posed by globalisation and human rights concerns, and which is in line with best international practice.

The 2008 Act provides a framework for the adoption of Ministerial orders controlling exports of certain classes of goods and technology, and for the control of certain classes of technical assistance and brokering activities. Details of orders made under the 2008 Act are set out in Chapter 6.

The 2008 Act contains strong enforcement provisions, and creates summary and indictable offences for breaches of the Act. It also significantly increases the penalties for breaches of the Act from a fine not exceeding €12,700 and/or imprisonment for a term not exceeding two years under the terms of the 1983 Act, to a fine of up to €10 million and/or imprisonment for a term not exceeding five years.

¹⁴ For further details, see Chapter 4.

CHAPTER 2 – Administrative Arrangements

1. Administrative Arrangements

The export licensing system is administered by the Licensing Unit of the Department of Jobs, Enterprise and Innovation, working in close consultation with the Department of Foreign Affairs and Trade in relation to all applications for military licences, and certain sensitive applications for dual use licences.

2. OELAS

The advent in January 2009 of the online application system, OELAS, marked a step change in the administration of the licensing system. OELAS, which was developed in close consultation with exporters, has helped to streamline the application process, thus minimising the administrative burden on business.

The system, which went live in January 2009, allows exporters to electronically submit license applications together with any necessary attachments, for example end-use certificates.

The online system is available to exporters who have registered with the Department and have been authorised to use the system. Secure transmission of company information is ensured by the use of usernames, passwords and PINs. While the Department encourages exporters, for reasons of administrative expediency for both parties, to use the online system, a paper based system is also available.

By the end of the 2010 the majority of exporters had transferred to the online system.

3. Procedure for Considering Export Licence Applications

Issuing an export license is not a straightforward and automatic process. In the case of all applications for export licences, the licensing process centres on ensuring that the goods are destined for the country and end-user stated on the licence application, and that the stated end-user will use the goods for a legitimate purpose.

The level of rigor attaching to each application is commensurate with the degree of concern regarding the country of end-use and/or the activities of the end-user company. Each application passes through a number of controls, the first of which is to verify whether the end-user has been denied an export license by another Member State. Furthermore, where exports are destined to countries about which either the EU or Ireland would have concerns, for example about the risk of diversion to WMD related activities, consultations take place with the Department of Foreign Affairs and Trade as a matter of course.

While these checks may impose delays on commercial transactions that are frequently time sensitive, the Department considers these prudential controls are essential to a well-managed licensing process. Nevertheless, the Department recognises that export control is an important part of business regulation and endeavour to make the process as efficient as possible having regard to the essential checks that an export control regime needs to implement.

The type of applications which Licensing Unit handles can be broken down into four categories:

- (i) Applications for individual dual-use export licences.
- (ii) Applications for global dual-use export licences.
- (iii) Applications for consolidated dual use export licences.
- (iv) Applications for military export licences.

(i) Applications for Individual Dual-Use Export Licences

Most of Licensing Unit's work relates to consideration of individual export licences for dual-use goods and technology.

Dual-use products are those products which can have either a civil or a military application, depending on the end-user and the end-use.

This definition of dual-use goods, which refers to the *potential* military application of a good depending on the end-use to which it is put, has given rise to a misunderstanding about the nature of dual-use products.

There is an erroneous belief that such products are always connected with the production of military equipment or arms. This is not the case, as licensed dual-use exports are generally for components of ordinary, everyday consumer and industrial products, such as mobile phones, computers and capital equipment.

Taken to its extreme, the definition of dual-use products as those which can have a civil or a military application, depending on the end-user, could encompass virtually all goods and technology. Therefore, the international export control regimes have drawn up lists of what are considered to be the most sensitive goods and technology, i.e. those which should be subject to a licensing requirement which enables competent authorities to consider the proposed end-user and the proposed end-use. These lists are reflected in Annex I of the EU Dual Use Regulation 428/2009.

Annex I is reviewed regularly, with new goods and technologies being added to the list and certain goods and technologies being removed from the list.

For exports to destinations *outside of the EU*, an export licence is required for goods and technology listed in Annex I. For exports to destinations *within the EU*, an export licence is required only for the far more limited list of goods and technology set out in Annex IV of the Regulation.

The definition of “export” in the Dual-Use Regulation is very broad, covering both tangible and intangible exports, for example the transmission of software or technology by way of e-mail, or making it available in electronic form.

The Regulation provides that an export authorisation shall be granted by the competent authority “where the exporter is established”¹⁵.

Therefore the items for export do not have to be based in Ireland, and quite a number of the export licence applications made to the Department relate to goods located in a Member State other than Ireland. In such cases, the Department consults with that other Member State prior to taking a decision on the licence application.

¹⁵ See Article 9(2) of Regulation 428/2009

Individual export licences are issued in respect of shipment(s) of specified products from an exporter to a named end-user. The licences are valid for 12 months and up to a specified quantity and value of goods. Should the goods exported under the licence exceed the value and/or quantity specified on license, a new licence has to be applied for, even if the 12-month period has not expired.

Country of Destination

Individual dual-use licence applications can be broken into two categories:

- Exports which are not considered sensitive.
- Exports which are considered to be sensitive.

In cases of non-sensitive exports, the Department does not consult with the Department of Foreign Affairs and Trade and Trade. The key consideration in dealing with these applications is to establish whether there are any concerns regarding the end-user. This process may include consultation with other export control authorities, both within and outside of the EU. Through these consultations, the Department has access to a wide range of information on proposed end-users. This consultation process is a fundamental aspect of making a determination on the granting of a licence.

In cases of exports which are considered to be sensitive, the Department consults with the Department of Foreign Affairs and Trade and Trade, in addition to making the checks outlined above. That Department is able to draw on a wide range of resources which it can access when considering an export licence application. In addition, end-user certificates are always required as a further control measure.

End-User Certificate

An End-User Certificate (EUC) is a document printed on the headed paper of the company which will be the end-user of the goods to be exported, and signed by a senior official of the company.

It certifies that the company will be the final recipient of the goods being exported, and includes an undertaking that the goods will not be used in connection with Weapons of Mass Destruction (WMD)¹⁶.

(ii) Applications for Global Export Licences

Global export licences provide exporters with more administrative flexibility than individual export licences. They can be used to cover shipments of goods and technology listed on the licence to the countries of destination listed on the licence.

These types of licences are a common feature of all export licensing regimes, and are useful for companies that have a high volume of relatively low risk exports to a certain group of countries. In such cases, multiple license applications would impose a very serious administrative burden on the company. However, they are only issued following a rigorous risk assessment of the goods and countries concerned and are subject to strict conditions of use. These conditions include periodic reporting of shipments made under the licence. The shipment reports must include the date of the export, the name of the end-user, the quantity and value of the export and a description of the product exported.

(iii) Applications for Consolidated Export Licences

Consolidated export licences are a relatively new feature of the Irish export control regime. They are a type of hybrid global licence, which are only issued in a limited number of cases. These are cases where the risk assessment indicates that a global licence does not meet the Department's regulatory requirements and an individual licence solution would pose an undue administrative burden on the company.

Consolidated licences are similar to global licences¹⁷, in that they permit multiple exports to multiple listed countries. However, they differ from global licences in that the end-users are listed on the actual licence, thus the usual end-user checks are made prior to the licence being granted.

¹⁶ For further details see <http://www.djei.ie/publications/trade/2002/endusecertificate.htm>

¹⁷ Consolidated licences are included in the statistics for global licences.

(ii) Applications for Military Export Licences.

A military export licence is required for all goods and technology listed in the Annex to the Dual Use (Goods and Technology) Order 2009, regardless of whether the destination is within or outside the EU. In addition, because of the importance we place on controlling these exports, every application involves consultation with the Department of Foreign Affairs and Trade and Trade.

The goods and technology in the Annex to that Order reflect the goods and technology on the EU Common Military List. The list includes military goods and technology, and components for such items. Items which are classified as “military goods” from an export control perspective which are exported from Ireland involve components rather than finished goods.

4. Denials

As set out above, a key part of the licensing process in relation to all types of export licence applications is to ensure, as far as possible, that the item to be exported will be used by the stated end-user for the stated end-use, and will not be used for an illicit purpose, e.g. for use in connection with WMD. The checks and balances built into the licensing system facilitate robust checks and cross checks in this regard.

Considerations When Deciding Whether to Grant/Deny

The considerations to be taken into account when deciding whether or not to grant an individual or global dual use licence are set out in Article 12 of Regulation 428/2009. It provides that Member States shall take into account “all relevant considerations including”:

- (a) the obligations and commitments they have each accepted as members of the relevant international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties;
- (b) their obligations under sanctions imposed by a common position or a joint action adopted by the Council or by a decision of the OSCE or by a binding resolution of the Security Council of the United Nations.

- (c) considerations of national foreign and security policy, including those covered by Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment;
- (d) considerations about intended end-use and the risk of diversion.

The Common Position referred to at point (c) above sets out common criteria against which applications for exports of military goods should be assessed. These are as follows:

Criterion One: Respect for the international obligations and commitments of Member States, in particular the sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.

Criterion Two: Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law.

Criterion Three: Internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.

Criterion Four: Preservation of regional peace, security and stability.

Criterion Five: National security of the Member States and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries.

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

Criterion Seven: Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions.

Criterion Eight: Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient country, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments.

Denials

The Department may refuse an export licence, following consultation with the Department of Foreign Affairs and Trade and other EU and international export licensing authorities as appropriate, and having taken into account the considerations set out above.

- In 2008 five export licence applications were denied.
- In 2009 nine export licence applications were denied.
- In 2010 one export licence application was denied.

5. Enforcement

The Control of Exports Act 2008 Act provides for heavy penalties for breaches of the Act, and contains robust enforcement provisions.

The penalties are set out in Section 8 of the Act. That section provides for penalties on summary conviction of a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months, or both. It provides for penalties on conviction on indictment of a fine not exceeding €10 million or three times the value of the goods or technology concerned, or imprisonment for a term not exceeding 5 years, or both.

The extensive powers of “authorised officers” responsible for enforcement of the Act are set out in Section 7. For the purposes of the Act, an authorised officer means a person appointed under Section 7(2), or an officer of Customs and Excise. At present, the Department works closely with Customs officers on enforcement issues.

However, as the Irish licensing model evolves to ensure robust regulatory control of the increasingly sophisticated exports from Ireland, the need to appoint other specialised inspectors is being considered further to Section 7(2) of the Act.

6. International Import Certificates

The Department is responsible for issuing International Import Certificates to Irish companies wishing to import certain types of controlled goods.

An International Import Certificate is an undertaking, given by an importer importing certain goods into Ireland, that they will not re-export them without the appropriate approval of the Department as the Irish Export Licensing authority. These certificates are usually requested from importers by the licensing authority of the country from which the goods to be imported into Ireland are being exported.

An International Import Certificate ceases to be valid unless presented to the competent foreign authorities within six months from its date of issue.

- In 2008 the Department issued 2 international import licences.
- In 2009 the Department issued 5 international import licences.
- In 2010 the Department issued 1 international import licence.

7. Statistical Trends

Table 1 below sets out summary information regarding the number and value of licenses granted by the Department during 2008, 2009 and 2010. More detailed statistical information is set out in the tables in Appendix 2 to this report.

Type of Licence	Number by Year			Licenced Value by Year €,000,000		
	2010	2009	2008	2010	2009	2008
Individual Dual-Use	715	345	369	1,279	5,197	1,058
Global	66 ¹⁸	45	47	209	1,558	1,330
Military	98	119	92	24	33	31
TOTAL	879	509	508	1512	6788	2419

¹⁸ 50% of this figure comprises consolidated dual use licences granted to one exporter in 2010. For further details, see section 3(iii) of this chapter.

Individual Dual-Use

The most significant feature is the 100% increase in individual dual-use licences granted in 2010 (715), compared with the numbers issued in previous years. The bulk of this increase is accounted for by one exporter whose business involves multiple shipments to multiple end-users.

Notably, the almost doubling of individual dual-use licences issued between 2009 and 2010 is not reflected in a similar increase in the value of individual dual-use licences issued in the same period. Rather, the value of licences issued in 2010 (€1.297 billion) represents a 75% reduction on the value of licences issued in 2009 (€5.197 billion), bringing the value of licences issued in 2010 broadly back in line with the value of licences issued in 2009 (€1.058 billion).

It is important to understand that the value of a license may not reflect the actual value of goods exported under that licence. For efficiency and speed of response to supply chain requirements, some companies might include the value of expected repeat business into their original application, and this repeat business may not occur. Hence, the actual value of exports made under those licences may be significantly less than the face value of the export licence. Other contributing factors which may account for the large increase in the value of individual dual-use export licences in 2009 are as follows:

- New companies which have products which require export control licences;
- Existing companies being given new, higher value and more sophisticated products to manufacture in Ireland.

Global Licences

During 2010, 66 global licences were issued, with a total value of €209m.

Comparative figures for 2009 and 2008 are, respectively, 45 licences with a value of €1.5bn and 47 licences with a value of €1.3bn.

Consolidated licences¹⁹ (a new type of hybrid global licence) accounted for the 50% increase in the number of global licences issued in 2010 (66) as compared with 2009 (45) and 2008 (47).

In considering the very significant reduction in the value which appears on global licences in 2010 (€209m) as against 2009 (€1.5bn) and 2008 (€1.3bn), it again must be noted that the value which appears on a licence is not the same as the actual value of exports made under that licence.

Military Licences

While the number of military licences issued over in 2008 (92 licences) and 2010 (98 licences) were broadly in line, there was an increase in 2009 (119 licences). In terms of the licenced value of those licences, there was a very small increase of 6% between 2008 (€31m) and 2009 (€33m) followed by a decrease of 27% in 2010 (€22m).

As is the case with Dual-Use licences, it must be appreciated that the value of a licence may not reflect the actual value of the goods exported. Additionally, it should be noted that in view of the relatively small cohort of exporters of military goods and technology in Ireland, a change in the licence requirements of one or two exporters may have a much more significant impact on the statistics than would be the case if there were a larger pool of exporters.

Aggregation of Statistical Data

This first report on the operation of the Control of Exports Act seeks to provide as much transparency as possible on license value, numbers, destinations and product categories in respect of dual use and military products.

However, in view of the relatively small number of license holders, it has been necessary to aggregate data when reporting on exports under the headings “Individual Dual Use by Category” and “Military Licences by Category”. This is to prevent the possibility that individual companies, and commercially sensitive information regarding the value of their exports, might be identified.

¹⁹ Details set out at section 3(iii) of this chapter.

This approach is in line with the recent decision of the Information Commissioner affirming this Department's decision not to release the names of companies or individuals who were awarded licences for the export of military or dual-use products in the period February 2002 to February 2007.²⁰ In this case, the Senior Investigator affirmed the Department's decision and found that the names were exempt under section 27 (commercially sensitive information) of the FOI Act.

²⁰ <http://www.oic.gov.ie/en/DecisionsoftheCommissioner/LongFormDecisions/Name,11844,en.htm>

CHAPTER 3 - Co-operation with Other Government Bodies

1. Introduction

Export control comprises a complex mix of cross-cutting policy elements, including trade, finance, security and human rights concerns. Therefore, effective administration of export control cannot be accomplished without a significant level of joined up activity between Government bodies in relation to both practical and policy issues.

Co-operation with a range of Government bodies is a key feature of the work of the Department in its capacity as the national export control authority. This co-operation finds expression in both informal, day-to-day contacts with other Government bodies, and through formal liaison meetings and committee arrangements.

2. Co-Operation with Other Government Bodies

Department of Foreign Affairs and Trade

The intersection of export control with international political, disarmament, human rights and security concerns, requires ongoing contacts, both formal and informal, with the Department of Foreign Affairs and Trade and Trade. Consequently, co-operation with that Department is a distinctive feature of our day-to-day operations.

In addition to the day-to-days contacts necessitated by consultation with the Department of Foreign Affairs and Trade and Trade's Disarmament and Non-Proliferation Section in relation to individual export licence applications, more formal liaison meetings take place on a regular basis to share information, ideas and perspectives on wider policy developments. These meetings provide the opportunity to review strategic issues affecting export control, where, for example, they relate to EU and national legislative developments.

Such meetings are especially useful because colleagues in the Department of Foreign Affairs and Trade and Trade represent Ireland on EU and Council working groups and international control regimes whose remit is relevant to the work of our export control activity, and at the UN.

Revenue's Customs Service

Revenue's Customs Service is responsible for protecting citizens by ensuring that goods crossing the frontiers of the State and the EU are properly controlled. This is achieved through the operation of controls at these frontiers with a view to detection, interception and seizure where necessary of illicit importations of prohibited and restricted goods. Revenue's Customs Service applies the provisions of Council Regulation No 2913/92 (Community Customs Code), Commission Regulation 2454/93 (implementing provisions of the Community Customs Code) and also Council Regulation 648/2005 as implemented by Commission Regulation 1875/2006 in respect of the import of goods from outside the Community and export of goods from the Community to third countries. The co-operation of Revenue's Customs Service is therefore key to the effective implementation of the export control regime and the vigilance of Customs officers is vital. Revenue's Automated Entry Processing System (AEP) is responsible for receiving, validating, processing and clearance of all Customs declarations in real time environment. All declarations at import and export are subject to risk assessment which allows Customs staff increased scope to target movement of high risk and suspicious transactions.

Revenue's Customs Service has two Mobile Container Scanners which are suitable for screening freight containers and vehicles and have an additional detection capability for nuclear and radioactive substances. The Department liaises regularly with representatives of Revenue's Customs Services regarding implementation of various export control legislation, e.g. Control of Export (Dual Use Order) 2009, UN Sanctions, Goods for Capital punishment or torture (Council Regulation (EC) No 1236/2005), and with a view to further developing co-operation regarding the implementation of Ireland's export control regime.

The Department is a member of the Customs Consultative Committee, which is chaired by Revenue, details of which are set out in Section 3 of this Chapter.

Department of Finance

Co-operation with the Department of Finance takes place mainly in relation to the area of international and EU sanctions. As detailed in Chapter 4, there are trade and financial aspects to these sanctions. Therefore, when preparing national sanctions legislation, the two Departments must work closely in order to ensure all aspects are covered in national law.

In addition to close co-ordination on preparation of legal measures, the two Departments co-operate on the practical aspects of sanctions legislation and how they impact on business. The Department receives many queries relating to proposed transactions which may be impacted by the various sanctions measures. While the Department advises on the trade aspects of the relevant sanctions, it is necessary to consult with the Department of Finance and the Central Bank of Ireland on the potential impact of financial sanctions.

The Department is a member of the Cross-Departmental International Sanctions Committee, details of which are set out in Section 3 of this chapter.

Science Foundation Ireland

Export controls are based on complex lists of goods and technology. A regular feature of the work of this Department is making determinations as to whether particular goods and technology fall within the technical parameters of these lists. To assist in this regard, the Department has regular contacts with Science Foundation Ireland (SFI), the national foundation for investment in scientific and engineering research. SFI invests in academic researchers and research teams who are most likely to generate new knowledge, leading edge technologies and competitive enterprises in the three broad areas of Biotechnology; Information & Communications Technology (ICT) and Sustainable Energy & Energy Efficient Technologies (Energy).

The input of SFI's in-house technical experts is an essential element in the Department's analysis of the detailed technical submissions made by companies.

In addition to its significant body of in-house expertise, SFI has access to an extensive network of experts across a broad range of technical fields.

The Department and SFI are very conscious that much of the information supplied in relation to a technical determination query is commercially sensitive, and may involve proprietary information. All information supplied by a company as part of any technical determination process is treated as confidential. In 2010, SFI assisted the Department in its risk assessment across a number of technologies that related to the exports of a range of companies.

3. Committees

Cross-Departmental International Sanctions Committee

The Department of Finance chairs a Cross-Departmental International Sanctions Committee, of which this Department is a member. The committee reviews all aspects of Ireland's implementation of international sanctions, in order to ensure the legal and administrative framework which is required to effectively implement them is in place.

The committee comprises a range of Departments and State bodies such as the Department of Justice, Equality and Law Reform, Department of Foreign Affairs and Trade, the Revenue Commissioners and the Central Bank of Ireland.

Customs Consultative Committee

The Customs Consultative Committee is composed of representatives of trade organisations involved in the import/export business and Revenue. It provides a forum for trade to discuss new EU customs legislation and proposed procedures, including matters related to export controls. In addition it gives the member organisations an opportunity to promote the advancement of simplification and facilitation of procedures with customs and other matters of mutual interest. It meets on a quarterly basis.

Interdepartmental Committee on Non-Proliferation and Weapons of Mass Destruction

The Interdepartmental Committee on Non-Proliferation and Weapons of Mass Destruction was established to oversee implementation of Ireland's international obligations in the area of preventing the proliferation of nuclear, chemical and biological weapons. These obligations derive from Ireland's membership of the UN and the EU. It also oversees Ireland's undertakings under the various export control regimes to which it is party. The Committee is chaired by the Department of Foreign Affairs and Trade and Trade, and in the case of matters relating to export control regimes and licensing policy falling under its remit, by the Department of Enterprise, Jobs and Innovation. The Departments of Defence, Environment, Community and Local Government, Health, Justice and Equality, as well as the Defence Forces, Garda Síochana, Revenue Commissioners (Customs and Excise), the Radiological Protection Institute of Ireland, the Health and Safety Authority, the Health and Safety Executive, and Science Foundation Ireland are represented on the Committee.

CHAPTER 4 – Trade Restrictions (Sanctions)

1. Policy Context

Sanctions (sometimes referred to as restrictive measures) are instruments which seek to bring about a change in policies or activities such as violations of international law or human rights, or policies that do not respect the rule of law or democratic principles.

The trade related sanctions measures detailed at section 7 of this Chapter are made under the European Communities Act 1972 as amended. It is considered appropriate to report on these because of their close connection with export control matters which are the focus of this annual report.

At EU level, sanctions are used to achieve the objectives of the Common Foreign and Security Policy (CFSP). These are set out in Article 11 of the Treaty on European Union, and include:

- to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter;
- to develop and consolidate democracy and the rule of law and respect for human rights and fundamental freedoms.
- to strengthen the security of the Union in all ways;
- to preserve peace and strengthen international security;

In recent years the EU has imposed a wide range of sanctions, either on an autonomous EU basis or to implement binding Resolutions of the UN Security Council. These include trade sanctions (general or specific trade sanctions, arms embargoes), financial sanctions (freezing of funds or economic resources, prohibition on financial transactions, restrictions on export credits or investment) and political sanctions (e.g. suspension of cooperation with a third country.)

In Ireland, the Central Bank of Ireland is the competent authority for the financial aspects of EU sanctions, the Department of Jobs, Enterprise and Innovation is the

competent authority for the trade aspects of EU sanctions, and the Department of Foreign Affairs and Trade is the competent authority for the political aspects of EU sanctions.

2. Trade Sanctions

Export and/or Import Bans

Trade Sanctions are increasingly used by the international community as a means of exerting influence on various issues of international concern. Ireland fully subscribes to its international obligations in this regard. The Department plays a central role in implementing the various UN and EU measures which have been adopted concerning trade sanctions.

They generally consist of export and/or, in certain cases, import bans on certain goods to/from a certain region. It is important to note that trade sanctions are targeted at specific goods (e.g. timber or diamonds, or nuclear related goods and technology) and thus they are not a blanket ban on trade with a specific region.

Trade sanctions are normally accompanied by bans on the provision of specific services related to the prohibited goods (e.g. brokering, financial services, technical assistance).

The Torture Regulation

The Torture Regulation²¹ provides for a ban on trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, and imposes an authorisation requirement in respect of certain goods that could be used for purposes of torture or other cruel, inhuman or degrading treatment or punishment, irrespective of the origin of such equipment. There has never been an authorisation application received or issued in respect of any of the products listed in the Torture Regulations.

²¹ (EC) No [1236/2005](#) concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

Arms Embargoes

Arms embargoes are a specific type of trade sanction. They are designed to stop the flow of arms and military equipment to areas where there is conflict, or to regimes which are likely to use them for internal repression or aggression against a foreign country. Arms embargo generally comprise the following:

- a prohibition on the sale, supply, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts,
- a prohibition on the provision of financing and financial assistance and technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types.

Arms embargoes are usually accompanied by a related ban on the provision of financing, and financial and technical assistance in relation to the prohibited goods.

3. Interdepartmental Co-operation on Implementation of Sanctions

The EU enacts trade sanctions by way of regulations. While these legal instruments are directly effective in national law, it is necessary to adopt national legislation to provide for penalties for breach of these sanctions. This is done by way of statutory instrument²².

While the Department has responsibility for the implementation of EU trade sanctions, the related financial aspects of those sanctions (e.g. the prohibition on providing financing for transactions involving prohibited goods) come within the remit of the Department of Finance. Thus there is very close co-operation between the two Departments when a new EU sanctions regulation is adopted, in order to ensure penalties are put in place for all aspects of the EU sanction regulations. The Interdepartmental Sanctions Committee provides a structured forum for this co-operation, and its work in this regard underpins the ongoing day-to-day contacts between both Departments on sanctions matters.

²² See section 7 of this chapter which sets out the SIs made by the Minister for Enterprise, Trade and Innovation between 1 January 2008 to 31 December 2010 to give effect in national law to EU trade sanctions.

Close contact is also maintained with Revenue's Customs Service regarding the implementation at import and export points of EU trade sanctions legislation and Revenue's Custom Service is amongst those bodies represented on the Interdepartmental Sanctions Committee.

4. Other Types of Sanctions

In addition to trade sanctions (including arms embargoes) and the related financial sanctions, there are a number of other types of sanctions which businesses need to be aware of:

- ***Targeted financial sanctions***

The EU imposes targeted financial sanctions, which, rather than relating to transactions involving prohibited goods or services, are designed to target specific persons, groups and entities.

Such sanctions comprise both an obligation to freeze all funds and economic resources of the targeted persons and entities and a prohibition on making funds or economic resources available directly or indirectly to or for the benefit of these persons and entities.

- ***Targeted sanctions to combat terrorism***

The EU also applies sanctions against individuals and groups designated in the so-called 'EU terrorism list', and implements UN sanctions against Al Qaida and the Taliban.

5. Extraterritorial Reach of Certain International Sanctions

The US has a range of national sanctions in place, some of which have extraterritorial reach. It is important that companies are aware of the extraterritorial nature of these sanctions. However, as the body of US sanctions legislation is vast and complex, the Department is not in a position to advise regarding the impact of this body of US legislation on a proposed business transaction.

Companies are advised to contact the US authorities directly to establish what impact, if any, this legislation may have on their proposed transaction.

6. Implications for Business

The complex network of international, European and national sanctions provide a backdrop against which international transactions take place in the global marketplace. The steep increase in sanctions-related queries which the Department deals with on a daily basis is evidence of this fact.

It is vital that businesses consider all possible implications of sanctions prior to entering into contracts. For example, a company may engage in legitimate trade with a legitimate end-user, and find their payment frozen as the financial institution dealing with the payment may be the subject of a targeted sanction, thus other financial institutions do not want to handle the payment.

7. Trade Sanctions introduced 2008, 2009, 2010

The following regulations were made between 1 January 2008 and 31 December 2010 to provide for penalties in national for breaches of EU sanction.

- **S.I. No. 481 of 2008 - European Communities (Restrictive Measures) (Iran) (Amendment) Regulations 2008**

In December 2006, the United Nations Security Council Adopted Resolution 1737 (2006). This embargo called for Iran to comply with the mandatory requirements of the Atomic Energy Agency (IAEA), and to suspend its nuclear programme until such time as the Security Council determined that the objectives of the resolution were met. The Resolution also called for all Member States of the United Nations (UN) to apply a number of restrictive measures. These measures included restrictions on imports and exports of goods and technology, on the provision of related services, on procurement of relevant goods and technology and also the freezing of the funds and assets of those associated with or supporting the nuclear programme.

The Council of the European Union implemented UN Resolution 1737 (2006) with the introduction of Council Regulation (EC) No. 423/2007 in April 2007, as amended by Council Regulation 618/2008 in June 2007. Statutory Instrument S.I. No. 618 of 2007 introduced these restrictive measures into Irish Law.

In February 2008 further amendments we made to Council Regulation (EC) No. 423/2007 with the introduction of Commission Regulation (EC) No.116/2008.

Statutory Instrument S.I. No. 481 of 2008 implemented the trade aspects of the Regulation into Irish law.

- **S.I. No.181 of 2009 - European Communities (Restrictive Measures) (Burma/Myanmar) Regulations 2009**

In 1996, the Council of the European Union imposed restrictive measures against Burma/Myanmar through Common Position 1996/635/CFSP. The restrictive measures were introduced by the Council in response to their concerns at the absence of progress towards democratisation and the continuing violation of human rights in the country. The restrictions implemented at Community level through Council Regulations included an arms embargo, along with restrictions on technical assistance, on financial assistance relating to military activities, on the export of equipment which might be used for internal repression and the freezing of funds and economic resources of members of the Government of Burma/Myanmar.

The measures introduced in Common Position 1996/635/CFSP were extended and amended 6 times up to 2007, with the new restrictions being implemented through new Council Regulations.

The Common Position, 2007/750/CFSP provides for new restrictive measures concerning certain imports to, and exports from Burma/Myanmar along with investments, targeting its timber industry along with other extractive industries.

Council Regulation (EC) 194/2008 implemented the new restrictions at Community level. Statutory Instrument S.I. No. 181 of 2009 implements the trade aspects of the new Regulation into Irish law.

- **S.I. No.169 of 2009 - European Communities (Restrictive Measures against certain persons and entities associated with Usama Bin Laden, The Al-Qaida Network and the Taliban) (Amendment) Regulations 2009**

In January 2002, the United Nations Security Council adopted Resolution 1390(2002). This Resolution set out measures against Usama bin Laden, Al Qaida and the Taliban. The Council of the European Union adopted Common Position 2002/402/CFSP in May of 2002 and imposed specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban through Council Regulation (EC) No. 881/2002. The regulation introduced a ban on the sale, supply or transfer of technical advice, assistance or training related to military activities against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban. Statutory Instrument S.I. No. 169 of 2009 implements the trade sanction aspects into Irish law.

- **S.I. No.482 of 2009 - European Communities (Restrictive Measures) (Iran) (Amendment) Regulations 2009.**

In November 2008 Council Regulation (EC) No. 423/2007 was further amended and enhanced with the introduction of Council Regulation (EC) No.111 of 2008. The new Regulation provides for further prohibitions on the sale, supply or transfer of certain items that could contribute to the proliferation of sensitive nuclear activities or to the development of nuclear weapon delivery systems. Statutory Instrument S.I. No. 482 of 2009 implements the trade aspects of the new Regulation into Irish law amending Statutory Instrument S.I. No. 481 of 2008.

- **S.I. No.219 of 2010 – European Communities (Restrictive Measures) (Republic of Guinea) Regulations 2010**

The European Union adopted Common Position 2009/788/CFSP in October 2009 concerning restrictive measures against the Republic of Guinea. Council Regulation (EU) No. 1284/2009 introduced in December 2009, prohibits the sale, supply, transfer or export of equipment to the Republic of Guinea, which could be used for internal repression, as well as a prohibition on the provision of technical assistance and other services related to military equipment to any natural or legal person, entity or body in, or for use in, the Republic of Guinea. Statutory Instrument S.I. No. 219 of 2010 implements the trade aspects of the new Regulation into Irish law.

- **S.I. No.226 of 2010 – European Communities (Restrictive Measures) (Uzbekistan) (Revocation) Regulations 2010**

In October 2009, The Council for the European Union concluded that the restrictive measures against Uzbekistan, as provided for in Common Position 2007/734/CFSP which was amended and extended by Common Position 2008/843/CFSP should not be extended beyond the expiry date of November 2009. Council Regulation (EU) No 1227/2009 of 15 December 2009 repeals Council Regulation 1859/2005 which imposed the restrictive measures in November 2005. Statutory Instrument S.I. No. 226 of 2010 revokes the trade aspects of the new Regulation.

- **S.I. No.265 of 2010 – European Communities (Restrictive Measures) (Iran) (Amendment) Regulations 2010**

Council Regulation (EC) No. 423/2007 of 19 April 2007 introduced restrictions on the export of goods and technology which could contribute to Iran's enrichment-related, reprocessing, or heavy water-related activities, or to the development of nuclear weapon delivery systems. It also bans the provision of technical assistance, brokering services and investments related to, and the procurement of, such goods and technology from Iran. The amendments, which give effect to Commission Regulation (EC) No. 1228/2009 provide for further prohibitions on the sale, supply or transfer of certain items that could contribute to the proliferation of sensitive nuclear activities or to the development of nuclear weapon delivery systems. Statutory Instrument S.I. No. 265 of 2010 implements the trade aspects of the new Regulation into Irish law

- **S.I. No. 460 of 2010 – European Communities (Restrictive Measures)(Burma/Myanmar) (Amendment) Regulations 2010**

Council Regulation (EC) No. 194/2008, was adopted on 25 February 2008 renewing and strengthening restrictive measures in respect of Burma/Myanmar. Council Regulation (EC) No.408/2010 clarifies that the prohibition on the purchase of restricted goods shall not apply where goods are purchased as part of a humanitarian aid project or programme, or a non-humanitarian development project supporting human rights, health and education, poverty alleviation and environmental objectives.

The regulations also provide for an increase in the term for imprisonment for a summary conviction from 6 months to 12 months. S.I. No. 460 of 2011 implements the trade aspects of the new Regulation into Irish law amending Statutory Instrument S.I. No. 181 of 2009.

- **S. I No. 456 of 2010 – European Communities (Restrictive Measures) Against Certain Persons and Entities Associated with Usama Bin Laden, The Al-Qaida Network and The Taliban)(Amendment) Regulations 2010**

Council Regulation (EC) No. 881/2002 adopted on 27 May 2002 introduced a ban on the sale, supply or transfer of technical advice, assistance or training related to military activities against certain persons and entities associated with Usama bin Laden, the Al-Qaida Network and the Taliban. Statutory Instrument No. 186 of 2006 gives effect to the Council Regulation. Annex I of the Council Regulation lists the persons, groups and entities where the freezing of funds and economic resources should apply. S.I. No. 456 of 2010 takes account of changes to this list, amending S.I. No. 186 of 2006

CHAPTER 5 – International Export Control Regimes

1. Introduction

At present, Ireland participates in five international export control regimes which operate as political arrangements and are not binding under international law. Members of each regime commit to control the exports of certain listed goods.

Members of each regime share information at regular meetings, and discuss issues arising from their experiences of implementing controls. However, as the regimes operate as political arrangements, it is for each member state to implement the export controls related to the regimes under their individual domestic legislative frameworks.

Ireland is represented at these regimes by the Department of Foreign Affairs and Trade and Trade. However the Department of Foreign Affairs and Trade and Trade works very closely with this Department in regard to the work of the regimes, and this Department regularly attends the international regime meeting as part of the Irish delegation which is headed by the Department of Foreign Affairs and Trade and Trade.

Ireland is a member of the following international export control regimes:

- Australia Group
- Missile Technology Control Group
- Nuclear Suppliers Group
- Wassenaar Arrangement
- Zangger Committee

Details of these regimes are set out below.

2. The Australia Group²³

The Australia Group, formed in 1985, is an informal arrangement of countries whose key objective is to prevent the proliferation of chemical and biological weapons by using licensing measures, which operate uniformly across the participating countries.

²³ <http://www.australiagroup.net/en/index.html>

However, even more importantly, participants in the Australia Group still adhere strictly to the Geneva Protocol (1925), the Biological and Toxic Weapons Convention (BWC) and the Chemical Weapons Convention (CWC).

The Group's concerns about weapons of mass destruction programmes emerged following revelations that in the 1980s, Iraq had provided much equipment for its programme from Western sources. In fact, the use of chemical weapons including nerve agents by Iraq during the Iran-Iraq war in the 1980's gives clear evidence of the devastating effects of such weapons. In 1990, the group decided to extend its remit, to include the control of microorganisms and toxins as well as some manufacturing equipment for biological weapons.

The Australia Group originally emphasised the control of chemical exports to past chemical weapons proliferators, but control lists were later enlarged to include chemical and biological dual-use equipment and biological agents. This assists countries in complying with the requirement to screen both imports and exports under the Chemical Weapons Convention and the Biological Weapons Convention.

Australia Group meetings are held annually, in plenary session, in Paris and are chaired by Australia. Intersessional meetings may also be held, if deemed necessary.

While recognising the importance of technical co-operation in the relevant industries, the Australia Group is also strongly committed to ensuring that legitimate trade is maintained, in the light of the operation of non-proliferation export controls. Furthermore, the Group are committed to improving existing measures to control transfers of intangible technology.

Membership of Australia Group:

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, European Commission, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Republic of Turkey, Ukraine, United Kingdom and the United States.

3. Missile Technology Control Regime²⁴

The Missile Technology Control Regime (MCTR) is a voluntary, informal association of countries who have the common objective of non-proliferation of unmanned delivery systems for Weapons of Mass Destruction. In practice, this is achieved through participating countries applying MTCR guidelines to the MTCR annex of controlled items. However, it is incumbent upon individual partners to implement both the MTCR guidelines and annex in line with their own domestic legislation.

The Missile Technology Control Regime (MTCR) was founded in 1982, on foot of an American initiative.

In 1992, after the Gulf War, the remit of the MTCR was expanded to cover missile systems capable of carrying chemical and biological warheads. MTCR'S controls currently apply to some complete rocket systems including space launch vehicles (SLVs) and sounding rockets, as well as to unmanned systems such as drones, unmanned aerial vehicles (UAVs) and remotely piloted missiles. The MTCR places particular emphasis on unmanned delivery systems which have the capacity to deliver a payload of at least 500kg to a distance of at least 300 km. (These are referred to as "Category I" or "MTCR-class" systems.)

Latterly, the work of the MTCR has involved outreach to countries that could be used for the export of controlled goods.

The continued development and sale of missile technology by countries outside the MTCR has lead to a new dynamic in missile proliferation, and new challenges for the Regime. The MTCR has also recently started to look at Unmanned Aerial Vehicles (UAVs) and how these should be controlled as they become increasingly commercially traded.

²⁴ <http://www.mtcr.info/english/index.html>

MTCR Guidelines are applied to an integral common list of controlled items (MTCR Equipment, Software and Technology Annex) by the MTCR members. Information about relevant national export licensing issues is also exchanged between members. All countries are free to implement the MTCR Guidelines, regardless of whether or not they are partners of the MTCR.

In 2010, MTCR had 34 members and four “unilateral adherents”; Macedonia (2003), Slovakia (1994), Romania (1992) and Israel (1992).

Membership of the MTCR:

Argentina (1993)	Finland (1991)	Netherlands (1990)	South Africa (1995)
Australia (1990)	France (1987)	New Zealand	Spain (1990)
Austria (1991)	Germany (1987)	(1991)	Sweden (1991)
Belgium (1990)	Greece (1992)	Norway (1990)	Switzerland (1992)
Bulgaria (2004)	Hungary (1993)	Poland (1998)	Turkey (1997)
Brazil (1995)	Iceland (1993)	Portugal (1992)	Ukraine (1998)
Canada (1987)	Ireland (1992)	Republic of Korea	United Kingdom (1987)
Czech Republic	Italy (1987)	(2001)	United States of America
(1998)	Japan (1987)	Russian Federation	(1987)
Denmark (1990)	Luxembourg	(1995)	
	(1990)		

4. Nuclear Suppliers Group²⁵

The Nuclear Suppliers Group (NSG) was established in 1975, and has its origins in the London Club. The 46 members have volunteered to coordinate their export controls of transfers of civilian nuclear material and nuclear-related equipment and technology to non-nuclear-weapon States. The NSG aims to prevent nuclear exports for commercial and civilian purposes from being used in the production of nuclear weapons.

²⁵ <http://www.nuclearsuppliersgroup.org/Leng/default.htm>

As this is the case, member governments are expected to desist from nuclear trade with governments who are not subject to international regulatory measures and inspections.

The full scope safeguards policy which was adopted by the Nuclear Suppliers' Group in 1992, was endorsed at the 1995 NPT Review and Extension Conference (NPTREC).

Under NSG Guidelines, countries who are engaged in importing must provide assurances to NSG Participants that any such trading activities will not result in, or form part of, the development of nuclear weapons.

A "catch-all" mechanism, was adopted by member Governments in May 2004, which authorizes members to block any export suspected to be destined to a nuclear-weapons programme even if the item to be exported does not appear on one of the control lists.

Participants review the Guidelines from time to time, in order to add new items which pose proliferation risks or to eliminate goods which no longer need to be controlled. All Group decisions are made by consensus. The Plenary is held once a year, to discuss the NSG's operation.

Participating Governments of NSG:

Argentina, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, China, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Iceland, Italy, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russian Federation, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and the United States. The European Commission participates as an observer.

5. The Wassenaar Arrangement²⁶

The Wassenaar Arrangement was established in 1996 with the aim of improving both regional and international stability and security, by promoting transparency and greater responsibility in transfers of conventional weapons and dual-use goods and technologies. The Arrangement is a successor to the multilateral export control cooperation, which had previously been implemented within the framework of the Coordinating Committee on Multilateral Export Controls (COCOM)²⁷.

It is the responsibility of Participating States (through their national policies) to ensure that transfers of conventional weapons and dual-use goods and technologies do not contribute to the development or improvement of military capacities which undermine the aims of the Wassenaar Arrangement, and are not diverted to support such capacities. Regular meetings of representatives of Participating States are held in Vienna, which is the location of the Secretariat to the Wassenaar Arrangement.

The Wassenaar Arrangement operates two control lists: (i) the Munitions List, which covers conventional military equipment. ii) the List of Dual-Use Goods and Technologies, which includes nine categories of dual-use goods and two annexes, of sensitive items and very sensitive items respectively.

Participating States have agreed to operate national export controls on listed items, but are guided by agreed best practices, guidelines and the “Initial Elements” (the basic founding document of the WA). Participants also agreed to report on transfers and denials of specified controlled items to external destinations, and to exchange information on sensitive dual-use products and technologies.

The Wassenaar Plenary, which is the governing body of the Arrangement, is composed of representatives of all Participating States. It normally meets once a year. The Plenary establishes subsidiary bodies for the preparation of recommendations for plenary decisions.

²⁶ <http://www.wassenaar.org/>

²⁷ For further details on CoCom see Chapter 1.

The key subsidiary bodies are: the General Working Group (GWG) which deals with policy-related matters and the Experts' Group (EG) which addresses issues concerning the lists of controlled items. A Licensing and Enforcement Officers Meeting (LEOM) is held annually under the auspices of the GWG.

WA Participating States:

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States.

6. Zangger Committee

The Zangger Committee was established in 1974, and deals with export control matters which are covered under the Nuclear Non-Proliferation Treaty (NPT).

The Zangger Committee has a clear definition of material or equipment which is particularly designed for the production, use or reprocessing of special fissionable material. Under the NPT, such materials and equipment, as well as source material and special fissionable material can only be exported to a non-nuclear state if the fissionable material conforms to IAEA's safeguards. The Zangger Committee's Control List specifies the equipment and material in question.

The Zangger Committee operates a Trigger List of nuclear-related strategic products to aid NPT Parties in identifying equipment and materials which should be subject to export controls. Both the Trigger List and the Zangger Committee's "Understandings" (they are not legally binding on members of the Committee) are published by the IAEA in the INFCIRC/209 series. The "Understandings" are contained in two separate memoranda.

The Zangger Committee normally meets annually, with meetings being hosted by the Austrian Foreign Ministry.

Membership:

The Zangger Committee has 37 members: Argentina, Australia, Austria, Belarus, Belgium, Bulgaria, Canada, China, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Kazakhstan, Republic of Korea, Luxemburg, The Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States of America. The European Commission is a permanent observer.

CHAPTER 6 - Legislative Developments

1 Introduction

Trade is an important and dynamic activity. Shaped by the influences of globalisation the environment in which our export control regime operates is constantly changing. It is therefore necessary to periodically review and update the legislation which forms the basis of our export controls to take account of developments, in particular international security concerns, EU legislative requirements and issues influenced by political changes and conflicts around the world.

Ireland's participation in five international export control regimes²⁸ ensures that we contribute to export control developments at an international level. However, these regimes operate at the political level and are not binding under international law. Therefore changes agreed at the various regimes have to be translated into EU law and national law, as required.

At EU level, Ireland participates in the various Council working groups at which export control related instruments are negotiated, e.g. the Dual Use Working Group and the Competitiveness Growth Working Group. Through our involvement in these groups, Ireland has influenced the development of EU export control instruments. A number of these instruments are directly effective and require no transposition into national law (e.g. Council Regulations), whereas a number of these instruments (e.g. Directives) are not directly effective and so must be given effect in national law by way of a national legal instrument.

The primary piece of national legislation on export control matters is the Control of Exports Act 2008. It provides that the Minister for Jobs, Enterprise and Innovation may make orders making the exportation of certain classes of goods and technology subject to a licence requirement. Breaches of orders made under the 2008 legislation are subject to the penalties provided for in the Act.

²⁸ For further details see Chapter 4 of this Report.

On summary conviction the Act provides for a fine not exceeding €5,000 or imprisonment for a term of six months or to both, and on conviction on indictment the Act provides for a fine of up to €10,000,000 or three times the value of the goods or technology concerned, or imprisonment for a term of up to five years, or to both a fine and imprisonment.

The export control EU and national legislative instruments adopted over the period of this report are set out below. Legislation relating to trade restrictions (sanctions) is dealt with separately in Chapter 4 of this Report.

2. EU Legislation

Council Regulation 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items

At EU level, the key legislative development over the period covered by this report was the adoption of the Council Regulation 428/2009²⁹ setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items. This Regulation, which is sometimes referred to as the recast Dual Use Regulation, repealed Council Regulation (EC) No. 1334/2000 setting up a Community regime for the control of exports of dual use items and technology. It came into effect on 27 August 2009.

In addition to consolidating the many prior amendments to the original Dual-Use Regulation (1334/2000), Regulation 428/2009 introduces new controls on brokering activities and goods transit. The key changes brought about by the Regulation are set out below:

- The Regulation introduces controls on brokering services in relation to dual-use items listed in Annex I where there is a possible Weapon of Mass Destruction (WMD) end use. The definition of “brokering services” in the Regulation is quite broad, being defined as the negotiation or arrangement of transactions for the purchase, sale or supply of dual-use items from a third country to any other third country, or the selling or buying of dual-use items that are located in third countries for their transfer to another third country.

²⁹ Published in the Official Journal of the EU on 29 May 2009 (L134).

The definition provides that, for the purposes of Regulation 428/2009, the sole provision of ancillary services is excluded from this definition. Ancillary services are defined in the definition as transportation, financial services, insurance or re-insurance, or general advertising or promotion.

- The Regulation provides that Member States may apply controls on the transit of non-community dual-use items listed in Annex I that are, or may be, intended for use in WMD. Ireland has provided for such controls in the Control of Exports (Dual Use Items) Order 2009 details of which are set out below.
- The Regulation also gives Member States the option to extend the new controls on brokering and transit to non-listed dual-use items, which may be used in WMD. Ireland provides for such controls in the Control of Exports (Dual Use Items) Order 2009.
- Regulation 428/2009 provides for even greater information sharing and cooperation among the Member States in order to achieve a consistent application of export controls throughout the EU.
- The Regulation updated Annex I to bring it into line with the results of the review carried out by the Nuclear Suppliers Group (NSG), the Wassenaar Arrangement (WA), the Missile Technology Control Regime (MTCR) and the Australia Group (AG) in 2008. Annex I is updated annually by way of Council Regulation.

Directive 2009/43/EC on Intra-Community Transfers of Defence Related Products

Directive 2009/43/EC simplifying terms and conditions of transfers of defence-related products within the Community was adopted on 6 May 2009.

Its purpose is to simplify the rules and procedures applicable to the intra-Community transfer of defence related products “in order to ensure the proper functioning of the internal market”. Thus in essence, it can be described as extending the internal market to encompass defence-related products.

Prior to the adoption of Directive 2009/43/EC, each Member State applied its own rules to the transfer of defence-related products within Europe, resulting in considerable fragmentation of approaches and inefficiencies across the sector. While the Directive provides that Member States may still impose individual licences in cases where that State considers their essential security interests require protection, the Directive establishes new types of general and global licences.

The aim of the Directive is to encourage Member States to replace their existing system of individual licences with general licences for those intra-Community transfers where the risk of re-exportation to countries outside the EU is under stringent control, e.g. in the case of purchases by armed forces of other EU Member States and transfers to “certified” European defence companies of components in the context of industrial co-operation.

Global licences, grouping multiple transfers to several recipients by one supplier will cover most of the remaining intra-community transfers. Member States will remain free to determine the products eligible for the different types of licences, and to determine the terms and conditions of such licences.

Member States had until 30 June 2011 to transpose the Directive into national law. They will have to apply the Directive from 30 June 2012. Details of the European Communities (Intra-Community Transfers of Defence-Related Products) Regulations 2011 are set out at section 3 of this chapter.

3. National Legislation

Control of Exports (Goods and Technology) Order 2009

The Control of Exports (Goods and Technology) Order 2009 provides for the control of exports of goods and technology listed in the Schedule to that Order. This Order relates to goods and technologies on what is commonly referred to as the EU Common Military List. Member States are required to control the export of these, and the 2009 Order provides they can only be exported “under and in accordance with a licence”.

The Order repeals the Control of Exports Order 2005, which put in place controls on the export of military goods listed in the schedule to that Order, being goods listed on the EU Common Military List at that time. As the EU Common Military List has been updated since the making of the 2005 Order, it was necessary to update the list of military goods and technology which are controlled.

The 2009 Order came into effect on 1 September 2009.

Customs-free Airport (Extension of Laws) Regulations 2009

The effect of this Regulation is to extend the provisions of the Control of Exports (Goods and Technology) Order 2009 to the Shannon Customs-free Airport.

The Regulations are not a new feature of Ireland’s export control regime, rather they replace equivalent Regulations which were made in 2005. They were made with the consent of the Minister for Transport and the Minister for Finance because of the special status of the Shannon area customs free zone.

The Regulations came into effect on 1 September 2009.

Control of Exports (Dual Use Items) Order 2009

This Order, which was made under the Control of Exports Act 2008, gives further effect to the recast Dual Use Regulation³⁰ details of which are set out in Section 2 of this chapter.

As set out above, the recast Dual Use Regulation introduced new controls on brokering activities and goods transit. The Order revokes the European Communities (Control of Exports of Dual-Use Items) Regulations 2000 (SI No. 317 of 2000).

Control of Exports (Brokering Activities) Order 2011 S.I. No 86 of 2011

The Control of Exports (Brokering Activities) Order 2011 was made pursuant to Section 3 of the Control of Exports Act 2008. It came into effect on 1st May 2011. It imposes a licensing requirement in respect of brokering activities relating to goods and technology on the EU Common Military List as set out in the Schedule to the Order.

As the Order was made under the Control of Exports Act 2008, breaches of the Order are subject to the penalties provided for in that Act. The 2008 Act provides for penalties on summary conviction of a fine not exceeding €5,000 or imprisonment for a term of six months or to both, and on conviction on indictment for a fine of up to €10,000,000 or three times the value of the goods or technology concerned, or imprisonment for a term of up to five years, or to both such a fine and imprisonment.

European Communities (Intra-Community Transfers of Defence-Related Products) Regulations 2011 S.I. No 346 of 2011

These Regulations give effect to Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community.

³⁰ Council Regulation (EC) No.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 Directive provides that the transfer of defence-related products between Member States shall be subject to prior authorisation. It provides for three types of transfer licences to cover such transfers; general transfer licences, global transfer licences and individual transfer licences. Defence-related products are defined as any product listed in the Annex to the Directive which corresponds with the Common Military List of the European Union.

APPENDIX 1

Overview Table

<i>Type of Licence</i>	2010		2009		2008	
	No.	Licence Value €000	No.	Licence Value €000	No.	Licence Value €000
Individual Dual Use	715	1,279,076	345	5,196,716	369	1,058,192
Global	66	209,314	45	1,557,717	47	1,329,975
Military	98	24,356	119	32,519	92	30,690
Total	879	1,512,746	509	6,786,952	508	2,418,857

Individual Dual Use Licences by Category Table

<i>Category*</i>	2010		2009		2008	
	No.	Licence Value €000	No.	Licence Value €000	No.	Licence Value €000
3	105	274,844	155	4,226,598	165	893,602
5	290	988,604	179	930,918	187	25,427
Catch-all	2	653	4	12,794	3	175
0,1,2,4,8 & 9	318	14,975	7	26,406	14	138,988
Totals	715	1,279,076	345	5,196,716	369	1,058,192

Global Licences by Category Table

<i>Category*</i>	2010		2009		2008	
	No.	Licence Value €000	No.	Licence Value €000	No.	Licence Value €000
3 & 4	42	65,296	6	1,308,482	6	1,062,130
5	24	144,018	39	249,235	41	267,845
Totals	66	209,314	45	1,557,717	47	1,329,975

*The categories correspond to those set out in Annex I to Dual-Use Regulation 428/2009 as follows:

- Category 0: Nuclear materials, facilities and equipment
- Category 1: Materials, chemicals, “microorganisms” and “toxins”
- Category 2: Materials Processing
- Category 3: Electronics
- Category 4: Computers
- Category 5: Telecommunications and “information security”
- Category 6: Sensors and lasers
- Category 7: Navigation and avionics
- Category 8: Marine
- Category 9: Aerospace and Propulsion

Dual Use Exports By Category, Destination, Number and Licenced Value³¹ 2010

Category	Destination	2010 No. of Licences Issued	2010 Value of Licences €0 - €100,000	2010 Value of Licences Above €100,000	
2	China	8		X	
	Hong Kong	1	X		
	India	8	X		
	Israel	2		X	
	Japan	1	X		
	Kuwait	1	X		
	Malaysia	2	X		
	Qatar	1	X		
	Russia	3	X		
	Saudi Arabia	1		X	
	Thailand	3	X		
3	Brazil	1	X		
	China	39		X	
	Croatia	1		X	
	India	2	X		
	Israel	8		X	
	Macau	1		X	
	Malaysia	15		X	
	Philippines	3		X	
	Russia	9		X	
	Republic of Korea	3		X	
	Singapore	7		X	
	South Korea	1		X	
	Taiwan	14		X	
	United States	1	X		
	4	Afghanistan	1	X	
		Argentina	1	X	
		Armenia	1	X	
Azerbaijan		4	X		
Bahrain		1	X		
Bangladesh		2	X		
Belarus		1	X		
Brazil		31	X		
Chile		3	X		
China		20	X		
Columbia		8	X		
Croatia		2	X		
Dominican Republic		1	X		

³¹ The statistics in this table represent the value listed on the export licence, and not the actual value of the goods/technology exported under the licence.

Category	Destination	2010 Number of Licences Issued	2010 Value of Licences €0 - €100,000	2010 Value of Licences Above €100,000
4	Egypt	4	X	
	El Salvador	2	X	
	Ethiopia	1	X	
	Guatemala	1	X	
	Hong Kong	8	X	
	India	23	X	
	Indonesia	11	X	
	Iran	1	X	
	Israel	3	X	
	Kuwait	3	X	
	Lebanon	3	X	
	Malaysia	3	X	
	Mexico	8	X	
	Morocco	4	X	
	Nigeria	2	X	
	Oman	2	X	
	Pakistan	3	X	
	Panama	2	X	
	Philippines	5	X	
	Qatar	1	X	
	Republic of Korea	4	X	
	Russia	27	X	
	Saudi Arabia	3	X	
	Singapore	28	X	
	South Africa	11	X	
	Sri Lanka	4	X	
	Tadjikistan	1	X	
	Taiwan	4	X	
	Thailand	3	X	
	Tunisia	1	X	
	Turkey	29	X	
	Ukraine	3	X	
	United Arab Emirates	1	X	
Venezuela	1	X		
Vietnam	1	X		
5	Afghanistan	1	X	
	Andorra	1	X	
	Angola	1	X	
	Argentina	2		X
	Bahrain	3	X	
	Brazil	7		X
	Burkina Faso	1	X	
	Canada	1	X	
	Chile	4	X	

Category	Destination	2010 Number of Licences Issued	2010 Value of Licences €0 - €100,000	2010 Value of Licences Above €100,000
5	China	15	X	
	Colombia	1		X
	Congo	2		X
	Croatia	4	X	
	Ecuador	1	X	
	Egypt	24		X
	Gabon	1	X	
	Ghana	3		X
	Hong Kong	6		X
	India	19		X
	Indonesia	5		X
	Ireland ³²	5		X
	Iraq	2	X	
	Israel	11		X
	Jordan	3		X
	Kazakhstan	5		X
	Kenya	4		X
	Kuwait	7	X	
	Kyrgyzstan	1	X	
	Lebanon	6		X
	Libya	1	X	
	Macedonia	1	X	
	Malaysia	12		X
	Mauritius	8	X	
	Mexico	7		X
	Moldova	1		X
	Montenegro	2	X	
	Namibia	2		X
	Niger	1	X	
	Nigeria	10		X
	Oman	2		X
	Panama	1	X	
	Pakistan	7	X	
	Philippines	3		X
	Qatar	3	X	
	Republic of Korea	4	X	
	Romania	1	X	
	Russia	8	X	
	Rwanda	1	X	
	Saudi Arabia	7		X

³² Exports in respect of which Ireland is the country of destination relate to temporary exports, where items are sent to a destination another country for a trade exhibition or to be repaired, and then returned to Ireland. While all requisite export control checks are made, the country of final destination for the export is recorded as Ireland.

	Singapore	4	X	
	South Africa	5		X
	Taiwan	10		X
	Thailand	4	X	
	Tunisia	2	X	
5	Turkey	9	X	
	Turkmenistan	1		X
	Ukraine	2	X	
	Uruguay	2		X
	United Arab Emirates	16		X
	United States	1	X	
	Vietnam	2		X
	Yemen	2		X
	Zambia	1	X	
	Zimbabwe	1	X	
Catch-All	Iran	1		X
	Iraq	1		X
		715		

Aggregated Individual Dual Use by Destination 2010			
Country	No	Aggregated Licensed Value €0 - €100,000	Aggregated Licensed Value Above €100,000
Afghanistan	2	X	
Andorra	1	X	
Angola	1	X	
Argentina	3		X
Armenia	1	X	
Azerbaijan	4	X	
Bahrain	4	X	
Bangladesh	2	X	
Belarus	1	X	
Brazil	39		X
Burkina Faso	1	X	
Canada	1	X	
Chile	7	X	
China	82		X
Columbia	9		X
Congo	1		X
Congo Democratic Republic	1	X	
Croatia	7		X
Dominican Republic	1	X	
Ecuador	1	X	
Egypt	28		X
El Salvador	2	X	
Ethiopia	1	X	
Gabon	1	X	
Ghana	3		X
Guatemala	1	X	
Hong Kong	15		X
India	52		X
Indonesia	16		X
Iran	2		X
Iraq	3		X
Ireland ³³	5		X
Israel	24		X
Japan	1	X	
Jordan	3		X
Kazakhstan	5		X
Kenya	4		X
Kuwait	11	X	

³³ For explanation, see footnote 32

Aggregated Individual Dual Use by Destination 2010 cont'd			
Country	No	Aggregated Licensed Value €0 - €100,000	Aggregated Licensed Value Above €100,000
Kyrgyzstan	1	X	
Lebanon	9		X
Libya	1	X	
Macau	1		X
Macedonia	1	X	
Malaysia	32		X
Mauritius	8	X	
Mexico	15		X
Moldova	1		X
Montenegro	2	X	
Morocco	4	X	
Namibia	2		X
Niger	1	X	
Nigeria	12		X
Oman	4		X
Pakistan	10	X	
Panama	3	X	
Philippines	11		X
Qatar	5	X	
Republic Of Korea	11		X
Romania	1	X	
Russia	47		X
Rwanda	1	X	
Saudi Arabia	11		X
Singapore	39		X
South Africa	16		X
South Korea	1		X
Sri Lanka	4	X	
Tadjikistan	1	X	
Taiwan	28		X
Thailand	10	X	
Tunisia	3	X	
Turkey	38	X	
Turkmenistan	1		X
Ukraine	5	X	
United Arab Emirates	17		X
United States	2	X	
Uruguay	2		X
Venezuela	1	X	

Aggregated Individual Dual Use by Destination 2010 cont'd			
Country	No	Aggregated Licensed Value €0 - €100,000	Aggregated Licensed Value Above €100,000
Vietnam	3		X
Yemen	2		X
Zambia	1	X	
Zimbabwe	1	X	
Total	715		

Military Exports By Category, Destination, Number and Licenced Value³⁴ 2010

Category	Destination	2010 Number of Licences Issued	2010 Value of Licences	
ML1	Australia	3	13,600	
	Canada	1	1,000	
	New Zealand	2	4,975	
	Norway	1	800	
	United States	12	99,936	
ML4	Ireland ³⁵	1	186,200	
	United Kingdom (incl Northern Irl)	13	844,687	
ML5	Germany	1	3,636	
	Australia	4	1,574,492	
	Denmark	1	331,650	
	Germany	12	9,065,585	
	Kuwait	1	2,161,108	
	Netherlands	3	2,500,000	
	Republic of Korea	1	137,040	
	Singapore	3	89,825	
	Switzerland	1	61,698	
	Sweden	1	750,000	
	Thailand	1	928,000	
	United Arab Emirates	1	575,000	
	United States	7	2,008,560	
	ML6	Australia	1	6,905
		Japan	1	25,000
Norway		1	12,000	
Republic of Korea		2	41,040	
Sweden		1	606	
United Kingdom (incl Northern Irl)		12	1,144,223	
ML10	India	1	26,205	
ML21	Germany	1	640,000	
ML22	Germany	2	960,100	
	United States	1	100,000	
	Israel	2	24,750	
	United Kingdom (incl Northern Irl)	3	37,712	
		98	24,356,333	

³⁴ The statistics in this table represent the value listed on the export licence, and not the actual value of the goods/technology exported under the licence.

³⁵ For explanation, see footnote 32

Dual Use Exports By Category, Destination, Number and Licenced Value³⁴ 2009

Category	Destination	2009 No. of Licences Issued	2009 Value of Licences €0 - €100,000	2009 Value of Licences Above €100,000
0	South Africa	1	X	
2	India	1	X	
	Israel	4		X
	Thailand	1	X	
3	China	87		X
	Hong Kong	1		X
	India	1	X	
	Ireland ³⁶	2		X
	Israel	9		X
	Malaysia	18		X
	Philippines	7		X
	Republic of Korea	1		X
	Russia	1		X
	Singapore	8		X
	South Korea	2		X
	Taiwan	17		X
	United States	1	X	
5	Algeria	1	X	
	Argentina	2	X	
	Armenia	3	X	
	Australia	1		X
	Azerbaijan	1	X	
	Bermuda	1	X	
	Bosnia & Herzegovina	1		X
	Botswana	1	X	
	Brazil	3	X	
	Burkina Faso	1	X	

³⁴ The statistics in this table represent the value listed on the export licence, and not the actual value of the goods/technology exported under the licence.

³⁶ For explanation, see footnote 32

Category	Destination	2009 Number of Licences Issued	2009 Value of Licences €0 - €100,000	2009 Value of Licences Above €100,000
5	Chile	2	X	
	China	5		X
	Croatia	1		X
	Ecuador	1	X	
	Egypt	13		X
	Germany	1	X	
	Guinea	1	X	
	Hong Kong	4		X
	India	6	X	
	Indonesia	4		X
	Ireland ³⁷	2		X
	Israel	5		X
	Jordan	2	X	
	Kazakhstan	8		X
	Kenya	2	X	
	Kuwait	2		X
	Lebanon	4		X
	Macedonia (FYROM)	1	X	
	Malaysia	9		X
	Mauritius	3	X	
	Mexico	4		X
	Montenegro	1		X
	Mozambique	1	X	
	Nigeria	3		X
	Oman	1	X	
	Pakistan	6		X
	Philippines	4		X
	Qatar	3	X	
	Republic of Korea	3		X
	Russia	1	X	
	Rwanda	1		X
	Saudi Arabia	10		X
	Serbia	4		X
	Singapore	3		X
	South Africa	6		X
	South Korea	1	X	
	Surinam	1		X
	Swaziland	1	X	
	Taiwan	5		X

³⁷ For explanation, see footnote 32.

Category	Destination	2009 Number of Licences Issued	2009 Value of Licences €0 - €100,000	2009 Value of Licences Above €100,000
5	Tanzania	3		X
	Thailand	2	X	
	Tunisia	1	X	
	Turkey	4		X
	Turkmenistan	1	X	
	United Arab Emirates	13		X
	United Kingdom (incl Northern Irl)	1	X	
	Vietnam	3		X
	Zambia	1		X
Catch-All	Iran	3		X
	Turkey	1	X	
		345		

Aggregated Individual Dual Use by Destination 2009			
Country	No	Aggregated Licensed Value €0 - €100,000	Aggregated Licensed Value Above €100,000
Algeria	1	X	
Argentina	2	X	
Armenia	3	X	
Australia	1		X
Azerbaijan	1	X	
Bermuda	1	X	
Bosnia & Herzegovina	1		X
Botswana	1	X	
Brazil	3	X	
Burkina Faso	1	X	
Chile	2	X	
China	92		X
Croatia	1		X
Ecuador	1	X	
Egypt	13		X
Germany	1	X	
Guinea	1	X	
Hong Kong	5		X
India	8	X	
Indonesia	4		X
Iran	3		X
Ireland ³⁸	4		X
Israel	18		X
Jordan	2	X	
Kazakhstan	8		X
Kenya	2	X	
Kuwait	2		X

³⁸ Exports in respect of which Ireland is the country of destination relate to temporary exports, where items are sent to a destination outside of the EU for a trade exhibition or to be repaired, and then returned to Ireland. While all requisite export control checks are made, the country of final destination for the export is recorded as Ireland.

Aggregated Individual Dual Use by Destination 2009 cont'd			
Country	No	Aggregated Licensed Value €0 - €100,000	Aggregated Licensed Value Above €100,000
Lebanon	4		X
Macedonia	1	X	
Malaysia	27		X
Mauritius	3	X	
Mexico	4		X
Montenegro	1		X
Mozambique	1	X	
Nigeria	3		X
Oman	1	X	
Pakistan	6		X
Philippines	11		X
Qatar	3	X	
Republic Of Korea	4		X
Russia	2		X
Rwanda	1		X
Saudi Arabia	10		X
Serbia	4		X
Singapore	11		X
South Africa	7		X
South Korea	3		X
Surinam	1		X
Swaziland	1	X	
Taiwan	22		X
Tanzania	3		X
Thailand	3		X
Tunisia	1	X	
Turkey	5		X
Turkmenistan	1	X	
United Arab Emirates	13		X
United Kingdom (incl Northern Irl)	1	X	
United States	1	X	
Vietnam	3		X
Zambia	1		X
Total	345		

Military Exports By Category, Destination, Number and Licenced Value³⁹ 2009

Category	Destination	2009 Number of Licences Issued	2009 Value of Licences	
ML1	Australia	3	4,150	
	New Zealand	2	6,590	
	Seychelles and Dependencies	1	3,864	
	United States	4	2,132	
	ML4	Ireland ⁴⁰	1	5,760
ML4	United Kingdom (incl Northern Irl.)	17	980,317	
	ML5	Australia	5	1,848,728
ML5	Denmark	1	331,650	
	Finland	2	925,000	
	Germany	10	9,899,979	
	Ireland ⁴¹	1	11,000	
	Italy	1	38,690	
	Netherlands	2	3,370,700	
	New Zealand	1	157,965	
	Republic of Korea	1	139,040	
	Singapore	2	102,189	
	Sweden	2	820,000	
	Switzerland	1	177,714	
	United States	17	5,450,797	
	ML6	Chile	1	4,244
		France	2	14,000
Japan		3	31,000	
Oman		1	46,577	
Republic of Korea		3	842,614	
Saudi Arabia		1	4,200	

³⁹ The statistics in this table represent the value listed on the export licence, and not the actual value of the goods/technology exported under the licence.

⁴⁰ For explanation, see footnote 32

⁴¹ For explanation, see footnote 32

Category	Destination	2009 Number of Licences Issued	2009 Value of Licences
ML6	Spain	1	662
	Sweden	5	18,477
	Switzerland	0	0
	Syria	0	0
	United Kingdom (incl Northern Irl)	16	1,098,519
	United States	2	1,323,143
ML10	Italy	1	1,431,000
	United Kingdom (incl Northern Irl.)	1	0
ML 15	Sweden	1	623,810
ML 21	United States	1	320,000
ML 22	Bulgaria	1	8,000
	United States	1	5,980
ML23	Germany	1	100
	Singapore	1	1,215,000
	Turkey	1	255,000
	United States	1	1,000,000
		119	32,518,591

Dual Use Exports By Category, Destination, Number and Licenced Value⁴² 2008

Category	Destination	2008 No. of Licences Issued	2008 Value of Licences €0 - €100,000	2008 Value of Licences Above €100,000	
0	Bosnia & Herzegovina	1	X		
	Germany	2	X		
	South Africa	1	X		
1	Singapore	1	X		
2	China	2		X	
	India	1	X		
	Israel	1		X	
	Mexico	1		X	
	Singapore	1	X		
	South Korea	1	X		
	3	Australia	1	X	
		China	115		X
Hong Kong		3		X	
India		2	X		
Ireland ⁴³		4		X	
Israel		13		X	
Malaysia		5		X	
Pakistan		1		X	
Russia		3		X	
Singapore		3		X	
South Africa		1		X	
South Korea		1	X		
Taiwan		13		X	
5		Afghanistan	1	X	
		Algeria	1	X	
		Angola	1	X	
		Argentina	1	X	
	Armenia	2	X		
	Bosnia & Herzegovina	4	X		
	Botswana	1	X		
	Brazil	2	X		
	Burkina Faso	1		X	
	Cameroon	1	X		

⁴² The statistics in this table represent the value listed on the export licence, and not the actual value of the goods/technology exported under the licence.

⁴³ For explanation, see footnote 32.

Category	Destination	2008 Number of Licences Issued	2008 Value of Licences €0 - €100,000	2008 Value of Licences Above €100,000
5	Chile	1	X	
	China	12		X
	Colombia	1	X	
	Croatia	1		X
	Ecuador	1	X	
	Egypt	14	X	
	Ghana	2		X
	Hong Kong	3		X
	India	16		X
	Indonesia	2		X
	Ireland ⁴⁴	2		X
	Israel	9	X	
	Jordan	1	X	
	Kazakhstan	1	X	
	Kenya	2		X
	Kuwait	8		X
	Kyrgyzstan	1	X	
	Lebanon	1	X	
	Lesotho	1	X	
	Macedonia (FYROM)	1	X	
	Malaysia	3	X	
	Mauritius	1	X	
	Mexico	3		X
	Moldova	1	X	
	Nigeria	6		X
	Oman	1	X	
	Pakistan	3	X	
	Panama	1	X	
	Paraguay	1	X	
	Philippines	1	X	
	Qatar	3	X	
	Russia	1	X	
	Saudi Arabia	9		X
	Serbia	7	X	
	Singapore	4		X
	South Africa	5		X
	South Korea	2	X	
	Taiwan	5		X

⁴⁴ For explanation, see footnote 32.

Category	Destination	2008 Number of Licences Issued	2008 Value of Licences €0 - €100,000	2008 Value of Licences Above €100,000
5	Tanzania	1		X
	Thailand	1	X	
	Tunisia	2	X	
	Turkey	2	X	
	Ukraine	2	X	
	United Arab Emirates	23		X
	Uruguay	1	X	
	Vietnam	2	X	
	Zambia	1		X
8	Morocco	1		X
9	Philippines	1	X	
Catch-All	China	1		X
	Turkey	2	X	
		369		

Aggregated Individual Dual Use by Destination 2008			
Country	No	Aggregated Licensed Value €0 - €100,000	Aggregated Licensed Value Above €100,000
Afghanistan	1	X	
Algeria	1	X	
Angola	1	X	
Argentina	1	X	
Armenia	2	X	
Australia	1	X	
Bosnia & Herzegovina	5	X	
Botswana	1	X	
Brazil	2	X	
Burkina Faso	1		X
Cameroon	1	X	
Chile	1	X	
China	130		X
Colombia	1	X	
Croatia	1		X
Ecuador	1	X	
Egypt	14	X	
Germany	2	X	
Ghana	2		X
Hong Kong	6		X
India	19		X
Indonesia	2		X
Ireland ⁴⁵	6		X
Israel	23		X
Jordan	1	X	
Kazakhstan	1	X	
Kenya	2		X
Kuwait	8		X
Kyrgyzstan	1	X	

⁴⁵ Exports in respect of which Ireland is the country of destination relate to temporary exports, where items are sent to a destination outside of the EU for a trade exhibition or to be repaired, and then returned to Ireland. While all requisite export control checks are made, the country of final destination for the export is recorded as Ireland.

Aggregated Individual Dual Use by Destination 2008 cont'd			
Country	No	Aggregated Licensed Value €0 - €100,000	Aggregated Licensed Value Above €100,000
Lebanon	1	X	
Lesotho	1	X	
Macedonia	1	X	
Malaysia	8		X
Mauritius	1	X	
Mexico	4		X
Moldova	1	X	
Morocco	1		X
Nigeria	6		X
Oman	1	X	
Pakistan	4		X
Panama	1	X	
Paraguay	1	X	
Philippines	2	X	
Qatar	3	X	
Russia	4		X
Saudi Arabia	9	X	
Serbia	7	X	
Singapore	9		X
South Africa	7		X
South Korea	4		X
Taiwan	18		X
Tanzania	1		X
Thailand	1	X	
Tunisia	2	X	
Turkey	4	X	
Ukraine	2	X	
United Arab Emirates	23		X
Uruguay	1	X	
Vietnam	2	X	
Zambia	1		X
Total	369		

Military Exports By Category, Destination, Number and Licenced Value⁴⁶ 2008

Category	Destination	2008 Number of Licences Issued	2008 Value of Licences
ML1	Australia	3	1,900
	Canada	1	2,000
	Isle Of Man	1	1,199
	South Africa	1	1,000
	United States	1	600
ML4	France	1	37,131
	United Kingdom (incl Northern Irl.)	15	1,902,066
ML5	Australia	5	1,329,663
	Denmark	1	331,650
	Finland	1	181,620
	Germany	9	7,319,948
	Netherlands	3	6,713,850
	Saudi Arabia	2	562,296
	Slovenia	1	561,730
	South Korea	1	200,000
	Sweden	3	2,095,774
	United States	11	5,965,776
ML6	Australia	2	8,737
	Brazil	2	5,116
	France	2	154,000
	Japan	2	1,096
	Kuwait	2	71,000
	Malaysia	1	55,931
	Sweden	2	48,000
	Switzerland	1	120,000
	Syria	1	2,405
	United Kingdom (incl Northern Irl)	11	390,526
United States	1	1,305,424	
ML 22	Bulgaria	1	3,600
ML23	Germany	1	100
	Singapore	1	1,215,000
	South Korea	1	500
	United States	1	100,000
		92	30,689,638

⁴⁶ The statistics in this table represent the value listed on the export licence, and not the actual value of the goods/technology exported under the licence.

Aggregated Military Licences by Destination 2010/2009/2008

Country	Licence Number by Year			Licence Value by Year		
	2010	2009	2008	2010	2009	2008
Australia	8	8	10	1,594,997	1,852,878	1,340,300
Brazil	0	0	2	0	0	5,116
Bulgaria	0	1	1	0	8,000	3,600
Canada	1	0	1	1,000	0	2,000
Chile	0	1	0	0	4,244	0
Denmark	1	1	1	331,650	331,650	331,650
Finland	0	2	1	0	925,000	181,620
France	0	2	3	0	14,000	191,131
Germany	16	11	10	10,669,321	9,900,079	7,320,048
India	1	0	0	26,205	0	0
Ireland ⁴⁴	1	2	0	186,200	16,760	0
Israel	2	0	0	24,750	0	0
Italy	0	2	0	0	1,469,690	0
Isle Of Man	0	0	1	0	0	1,199
Japan	1	3	2	25,000	31,000	1,096
Kuwait	1	0	2	2,161,108	0	71,000
Malaysia	0	0	1	0	0	55,931
Netherlands	3	2	3	2,500,000	3,370,700	6,713,850
New Zealand	2	3	0	4,975	164,555	0
Norway	2	0	0	12,800	0	0
Oman	0	1	0	0	46,577	0
Republic Of Korea	3	4	0	178,080	981,654	0
Saudi Arabia	0	1	2	0	4,200	562,296
Seychelles & Dependencies	0	1	0	0	3,864	0
Singapore	3	3	1	89,825	1,317,189	1,215,000
Slovenia	0	0	1	0	0	561,730
South Africa	0	0	1	0	0	1,000
South Korea	0	0	2	0	0	200,500
Spain	0	1	0	0	662	0
Sweden	2	8	5	750,606	1,462,287	2,143,774
Switzerland	1	1	1	61,698	177,714	120,000
Syria	0	0	1	0	0	2,405
Thailand	1	0	0	928,000	0	0
Turkey	0	1	0	0	255,000	0
United Arab Emirates	1	0	0	575,000	0	0

⁴⁴ For explanation see footnote 32

United Kingdom (incl Northern Irl.)	28	34	26	2,026,621	2,078,836	2,292,591
United States	20	26	14	2,208,497	8,102,052	7,371,800
Total	98	119	92	24,356,333	32,518,591	30,689,637

APPENDIX 2

Summary of ML (Military List) Codes

ML1	Smooth bore weapons with a calibre of less than 20 mm, other arms and automatic weapons with a calibre of 12.7 mm (calibre 0.50 inches) or less and accessories, and specially designed components therefor:
ML2	Smooth-bore weapons with a calibre of 20 mm or more, other weapons or armament with a calibre greater than 12.7 mm (calibre 0.50 inches), projectors and accessories, and specially designed components therefor:
ML3	Ammunition and fuse setting devices, and specially designed components therefor:
ML4	Bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories, and specially designed components therefor:
ML5	Fire control, and related alerting and warning equipment, and related systems, test and alignment and countermeasure equipment, specially designed for military use, and specially designed components and accessories therefor:
ML6	Ground vehicles and components,
ML7	Chemical or biological toxic agents, "riot control agents", radioactive materials, related equipment, components and materials,
ML8	"Energetic materials", and related substances,
ML9	Vessels of war (surface or underwater), special naval equipment, accessories, components and other surface vessels,
ML10	"Aircraft", "lighter-than-air vehicles", unmanned airborne vehicles, aero-engines and "aircraft" equipment, related equipment and components, specially designed or modified for military use
ML11	Electronic equipment, not specified elsewhere on the EU Common Military List, and specially designed components therefor:
ML12	High velocity kinetic energy weapon systems and related equipment, and specially designed components therefor:
ML13	Armoured or protective equipment, constructions and components
ML14	'Specialised equipment for military training' or for simulating military scenarios, simulators specially designed for training in the use of any firearm or weapon specified by ML1 or ML2, and specially designed components and accessories therefor.
ML15	Imaging or countermeasure equipment, specially designed for military use, and specially designed components and accessories therefor:
ML16	Forgings, castings and other unfinished products the use of which in a specified product is identifiable by material composition, geometry or function, and which are specially designed for any products specified by ML1 to ML4, ML6, ML9, ML10, ML12 or ML19.
ML17	Miscellaneous equipment, materials and 'libraries', and specially designed components therefor:
ML18	Production equipment and components

ML19	Directed energy weapon systems (DEW), related or countermeasure equipment and test models, and specially designed components therefor:
ML20	Cryogenic and "superconductive" equipment, and specially designed components and accessories therefor:
ML21 [Until 2009, this was categorised as ML 22**]	"Software",
ML22 [Until 2009, this was categorised as ML 23**]	"Technology"

** Prior to 2009, Ireland designated items listed Council Regulation (EC) No [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 (the Torture Regulation) as ML 21. These are now dealt with separately, under S.I. 366 of 2006, European Communities (Control of Trade in Goods that May be Used For Torture) Regulations. **There has never been an authorisation application received or issued in respect of any of the products listed in the Torture Regulations.**