# United Kingdom Strategic Export Controls Annual Report 2014

Presented to Parliament pursuant to Section 10 of the
Export Control Act 2002
Ordered by the House of Commons to be printed 16 July 2015

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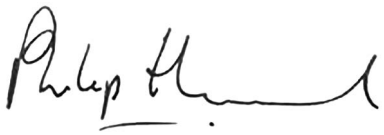
# Ministerial Foreword

This is the eighteenth Annual Report on Strategic Export Controls to be published by the United Kingdom. It covers export licensing decisions made during 2014, and details of strategic export controls policy for the same period under the 2010-15 Government.

The Government is committed to **safeguarding Britain's national security** by countering the proliferation of weapons that fuel terrorism and serious organised crime, and working to reduce conflict; **building Britain's prosperity** by working with British business, increasing exports and investment, opening markets, ensuring access to resources, and promoting sustainable global growth; and **promoting British values abroad**, including on democracy, sustainable development, human rights and poverty reduction by reducing the proliferation of weapons and the diversion of resources. These are mutually reinforcing objectives, which robust and effective national and international arms export control regimes help to promote and protect.

During 2014, the previous Government processed 17,656 licence applications, 76% within 20 working days (against the published target of 70%). The Government continues to assess each application on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria (known as the Consolidated Criteria).



Philip Hammond (FCO)

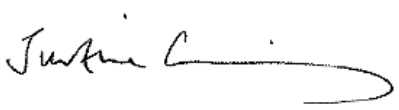
Sajid Javid (BIS)

The Consolidated Criteria were updated in March 2014 to ensure their consistency with both the Arms Trade Treaty and EU Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

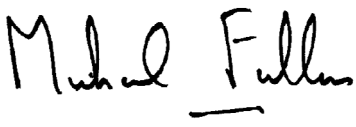
The Government continues to adapt export controls in light of global developments. As soon as circumstances change in any country, we will consider our position on licences.

The Government remains committed to maintaining and strengthening the effectiveness of its strategic export controls, and to improving the international system by taking a leading role in negotiating robust, legally-binding, common standards such as the Arms Trade Treaty (ATT), which entered into force in December 2014. The outcome of intensive combined efforts by successive British Governments, UK civil society and defence industry, the ATT sets the first globally-agreed common international standards for the trade in conventional arms.

This Annual Report demonstrates the Government's ongoing commitment to transparency in export licensing and strategic export controls policy. We commend the Annual Report to Parliament and other stakeholders including the public, civil society and the media, and trust that the information in it will be of interest to them.



Justine Greening (DFID)



Michael Fallon (MOD)

# Section 1

# UK and EU Policy Developments in 2014

## 1.1 Legislation

An overview of the legislation applying to the export of strategic goods, software and technology from the UK is given in Annex A. This section sets out changes to that legislation in 2014 and describes related policy developments.

Two Orders amending the Export Control Order 2008 came into force during 2014:

- The Export Control (Amendment) Order 2014 (SI 2014/702) came into force on 9 April 2014. The Order replaced Part 2 of Schedule 1 to the Export Control Order 2008 which lists the so-called Category B goods subject to stricter trade and transit controls. The new Category B includes a number of additional items (such as combat aircraft, main battle tanks and armoured fighting vehicles, large calibre artillery systems, certain warships, and certain missile systems) and reflects the Government's obligations to control brokering (trade) in these items by UK persons under the Arms Trade Treaty;
- The Export Control (Amendment) (No. 2) Order 2014 (SI 2014/1069) came into force on 17 May 2014. The Order replaced Schedule 2 to the Export Control Order 2008 which lists the military items subject to export controls. The new Schedule reflected changes to the Common Military List of the EU and the Wassenaar Arrangement Munitions List.

Four Orders implementing changes to UN and EU sanctions, in particular providing for enforcement of, and penalties for, breaches of the sanctions, came into force in 2014:

- The Export Control (Syria Sanctions) (Amendment) Order 2014 (SI 2014/1896).
- The Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014 (SI 2014/2357);
- The Export Control (Russia, Crimea and Sevastopol Sanctions) (Amendment) Order 2014 (SI 2014/2932);
- The Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 (SI 2014/3258).

Please see Annex C of this report for further information on the country-specific export restrictions observed by the Government.

Council Regulation (EC) 428/2009 of 5 May 2009, which established a Community regime for the control of exports, transfer, brokering and transit of dual-use items (the so-called "EU Dual-Use Regulation"), was amended twice during 2014. Regulation (EU) No 599/2014 of the Council and of the European Parliament of 16 April 2014 amended the Dual-Use Regulation to permit the European Commission to update by Delegated Act the list of dual-use items requiring authorisation for export outside the customs territory of the EU (i.e. to amend Annex I of Regulation 428/2009). This list must be updated "in conformity" with the obligations and commitments accepted by the Member States as members of the international export control regimes and as States Parties to the Chemical Weapons Convention. The Delegated Act may also be used to make consequential changes to Annexes II and IV of Regulation 428/2009 (the EU General Export Authorisations and the list of items requiring a licence for transfer between Member States respectively). The Delegated Act procedure – under which the Commission will publish proposals to amend the list, and the Council and European Parliament have two months to register any objections – will allow the list to be updated more rapidly.

This power was first exercised by way of Commission Delegated Regulation (EU) 1382/2014 of 22 October 2014. This Delegated Regulation – and therefore an amended dual-use control list – came into force on 31 December 2014.

The Annual Report for 2013 summarised progress towards a review of the EU system of export control of dual-use items that commenced with the publication in June 2011 by the European Commission of a Green Paper entitled "The dual-use export control system of the European Union: ensuring security and competitiveness in a changing world."

Subsequently, on 24 April 2014, the Commission published a Communication to the Council and the European Parliament on the review of export control policy. The Communication aimed "*at mapping the direction for EU export controls, and identifying concrete policy options for their modernisation and their adaptation to rapidly changing technological, economic and political circumstances*". In doing so, the Communication set out four priorities for the EU export control system:

1. Adjust to an evolving security environment and enhance the EU contribution to international security;
2. Promote export control convergence and a global level-playing field;
3. Develop an effective and competitive EU export control regime; and
4. Support effective and consistent export control implementation and enforcement.

In response, on 21 November 2014, the Council of the EU adopted Conclusions on the Review of Export Control Policy: http://data.consilium.europa.eu/doc/document/ST-15926-2014-INIT/en/pdf

Towards the end of 2014, the Commission began preparations for a comprehensive impact assessment of the various options outlined in the Commission Communication. The Stockholm International Peace Research Institute (SIPRI) and the European research and consultancy company (ECORYS) were commissioned to conduct a data collection project to support the impact assessment. The organisations are due to report the project's findings in August 2015.

## 1.2 Policy Developments

### Consolidated EU and National Arms Export Licensing Criteria

On 25 March 2014, the Business Secretary announced to Parliament by Written Ministerial Statement an update to the Consolidated EU and National Arms Export Licensing Criteria (known as the Consolidated Criteria): "The Government believes the eight criteria set out in the original Consolidated Criteria have stood the test of time. Nevertheless, it was appropriate to update them in light of developments over the previous 13 years, in particular to align them more closely with EU Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, and to reflect the Government's obligations under the UN Arms Trade Treaty. Other changes included an update to the list of international obligations and commitments in Criterion One; the addition of an explicit reference to international humanitarian law in Criterion Two; and addressing the risk of reverse engineering or unintended technology transfer under Criterion Seven rather than Criterion Five. There were also minor changes to improve the clarity and consistency of the language used throughout the text. None of these amendments should be taken to mean that there has been any substantive change in policy."

### Criterion Eight

In 2014 the Department for International Development (DFID) improved the data and indicators used to assess Criterion Eight thresholds to allow greater focus on higher risk licences. However, countries can still be added to the list for scrutiny where serious economic development concerns emerge or a new conflict arises.

### Israel

In response to Israeli operations in Gaza following attacks by Hamas (Operation Protective Edge), the Government carried out a review of licensed exports to Israel. The findings of the review were announced on 12 August 2014. It found that the vast majority of exports licensed for Israel were not for items that could be used by Israeli forces in operations in Gaza in response to attacks by Hamas.

However, 12 licences were identified for components which could be part of equipment used by the Israel Defence Forces in Gaza. The Government was concerned that, in the event of a resumption of significant hostilities, it would not be able to clarify if the export licensing criteria were being met and would therefore suspend these licences as a precautionary step.

The Government also announced that no new licences for military equipment had been issued for use by the Israeli Defence Forces during the review period and, as a precautionary measure, this approach would continue. By way of exception, licences were subsequently granted for equipment unlikely to have been used by the Israeli Defence Forces in Operation Protective Edge, including missile defence systems (including, but not restricted to, Iron Dome); components for military training and transport aircraft; and components for submarines.

This policy was subject to further review, but remained in force at the end of 2014.

### Cyber equipment, software and technology

As described in the last Annual Report, the Wassenaar Arrangement (WA) adopted new controls on certain so-called cyber surveillance products at its 2013 Plenary Meeting. These controls were implemented by the amendment to the EU Dual-Use control list that came into force on 31 December 2014 (see above). The Government continued to discuss with its international partners in the Wassenaar Arrangement and in the EU whether any further controls were necessary.

In 2014 TechUK, the trade association for the information technology, telecommunications and electronics sectors, published its guidance on Assessing Cyber Security Export Risks. TechUK worked closely with the Government and with the Institute for Human Rights and Business (IHBR) in producing the guidance which is intended to help companies of all sizes identify and manage the potential human rights risks of exporting cyber security products. The guidance is available here: https://www.techuk.org/images/CGP_Docs/Assessing_Cyber_Security_Export_Risks_website_FINAL_3.pdf

### Gifting equipment currently in Afghanistan

All the Government's military equipment that was used for the International Security Assistance Force (ISAF) mission has now been redeployed, disposed of or gifted. All proposals to gift equipment from Afghanistan were made in accordance with ISAF gifting policy and assessed against the Consolidated Criteria.

Further detail and a table of equipment approved for gifting by the Government is in Section 6.

## 1.3 Transparency and Accountability

New reporting requirements for the use of Open General and Open Individual Licences came into force in 2014. As a result, from 1 January 2014 exporters were required to provide information on their use of these licences. The Government will publish this information in its Annual Data Report alongside existing data about Individual Licences granted and refused. At the time of writing (June 2015), the Government was reviewing the new reporting requirements to ensure their effectiveness.

The Government continued to publish data on individual export and trade licences granted, refused and revoked on a quarterly basis on the Strategic Export Controls: Reports and Statistics website. This provides a user-friendly searchable database of data published from 1 January 2008 onwards and also provides access to historic and current Quarterly and Annual Reports in pdf format. The Strategic Export Controls: Reports and Statistics website can be accessed at https://www.exportcontroldb.bis.gov.uk/eng/fox/sdb/SDBHOME. Users must register in order to make use of the full functionality of the site, but this only takes a few minutes. Comprehensive help and guidance on using the site is also available from the home page.

The Parliamentary Committees on Arms Export Controls (CAEC) continued to scrutinise export licensing decisions and policy throughout 2014. The Government welcomes the scrutiny by the Committees and will continue to assist in their important work by continuing to provide as much information as possible in response to their requests. The Government now provides the Committees with unclassified answers to their questions on the Quarterly Reports which the Committees make public. The first set of such answers was provided at the end of 2011 and published on the Committees' website on 12 January 2012. The Government will continue to work with the Committees to make as much information as possible available to the public while protecting sensitive information.

In addition, the Government continued to make Ministers available to give oral evidence to the Committees. The Rt Hon Tobias Ellwood MP, Parliamentary Under Secretary of State at the Foreign and Commonwealth Office (FCO), responded for the Government in a debate about arms export controls in Westminster Hall on 30 October 2014. The Rt Hon Dr Vince Cable MP, then Secretary of State for Business, Innovation and Skills, and the Rt Hon Philip Hammond MP, Secretary of State for Foreign and Commonwealth Affairs, gave evidence on 1 December 2014. The transcripts of these sessions are available on the Committees on Arms Export Controls pages of the UK Parliament website: http://www.parliament.uk/business/committees/committees-a-z/other-committees/committee-on-arms-export-controls/

## 1.4 Awareness

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

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

- International outreach.

### Shared platforms with partners and stakeholders

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

(i) Export controls should not be seen as a barrier to legitimate exports and;

(ii) There is a wide range of assistance available to facilitate the licence application process.

ECO continued to work in close partnership with UK Trade and Investment Defence and Security Organisation (UKTI DSO) at regionally-based events for small and medium-sized enterprises (SMEs) to deliver key messages about export control requirements to defence and security businesses new to exporting. Additionally, ECO engaged in a speaking capacity at a number of UKTI Export Week regional events in England and Wales in November 2014. This type of activity has ensured greater awareness among businesses not known to ECO, particularly with businesses involved in exports of dual-use controlled items.

In 2014, the UK Space Agency set out aims to increase the UK share of commercial space and satellite applications. As part of the Government Response to the Action Plan, the Department for Business, Innovation and Skills (BIS) committed to delivering an export control awareness event for exporters of space and satellite equipment and services. 41 business representatives attended the Space Exports event delivered by ECO in partnership with the UK Space Agency and UKTI DSO. The event has laid the foundation for increased cooperation and information sharing across industry and Government.

Following the success of the first Export Control Symposium in 2013, two similar events were held in London and Manchester in April and November 2014 respectively. Jointly, the events attracted almost 350 delegates from a broad cross-section of businesses. The London event was opened by the Rt Hon Lord Livingston, then Minister of State for Trade and Investment. Lord Livingston's key messages highlighted the business challenges associated with lucrative high growth markets because of concerns about human rights and weapons of mass destruction (WMD) issues. He also said that businesses should develop political as well as economic awareness when making export plans for these markets. The Symposia demonstrate the Government's commitment to join up departmental policies, and enable delegates to participate in workshops led by all departments with responsibility for export control and enforcement.

### Dedicated Training Courses for Business

44 dedicated training sessions were attended by over 900 delegates nationwide. They were focused on the provision to industry of specific legislative and operational information about export control obligations. The course topics included:

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

The course objectives generally are to:

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

On-site training was delivered to 10 UK businesses that had requested bespoke training to address their specific market issues. The minimum number of employees trained on site was ten, with maximum numbers being dependent on company requirements. This level of training course provision in-house demonstrated the Government's commitment to ensure a high level of compliance among a wide range of company employees, including design, procurement and sales personnel.

A total of 244 companies new to ECO training registered for the full range of training courses. Many of these were SMEs, further demonstrating the Government's commitment to reach out to a wider group of exporters dealing in strategic items.

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

The export control guides on GOV.UK have been streamlined with the aim of reducing duplication of content, and work is ongoing to develop cross-Whitehall guides for all destinations subject to sanctions or embargoes. The Government Digital Service (GDS) has made improvements to the GOV.UK Search Tool to

facilitate better access to data. SPIRE (ECO's online Export Licensing System) users and training course delegates have been advised to continue to use the Policy Page for ECO as the main navigational tool to enable easy access to all legislation and tools including SPIRE: https://www.gov.uk/government/organisations/export-control-organisation. Information about export controls is also accessible from the Government's 'Business is Great' website:

http://www.greatbusiness.gov.uk/information-and-training-to-grow-your-exports/

### Notices to Exporters

The Government continued to encourage industry to sign up to receive Notices to Exporters (NTEs) and in 2014 subscribers increased to over 8,300 (from around 6,500 in 2013; 5,000 in 2012 and 3,000 in 2010). Apart from wider awareness activities, one of the other main reasons for the expansion of the subscriber list has been the success of incorporating the NTE sign-up page onto SPIRE. A total of 32 NTEs were issued with the latest information, including control list changes, export control legislation updates and the trading position for sanctioned destinations. All NTEs are designed to enable exporters to take appropriate action.

### Checker Tools

Exporters continued to make use of ECO's two web-based search tools which help to identify which products need a licence (Goods Checker) and, if licensable, whether an Open General Export Licence[1] (OGEL) potentially covers the proposed exports (OGEL Checker). The Goods Checker tool provides a web-based search function across the Consolidated UK Strategic Export Control List. The OGEL Checker tool assists users who know the rating (Control List classification) of their goods and the destination country for the proposed export to find out which OGEL(s) may cover the export, provided all the conditions can be met.

2,883 new users registered to use both the checker tools in 2014, a 20% increase on new registrations for 2013. 83% of the new users were UK-based and of these 99% were business users and 1% Government users. Both of these tools can be accessed at: www.ecochecker.bis.gov.uk.

As from March 2015, the checker tools will also be accessible from SPIRE, which will mean:

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

### Cross-Departmental Working

The Government recognises the need to ensure that all officials involved in export control are well briefed on key policies and operations. ECO delivered five training courses specifically for officials in Whitehall departments engaged in Arms Export Control policy with key roles in licence decision-making and enforcement.

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

### International Outreach

The Government continued to deliver an extensive awareness-raising campaign on export controls around the UK and worked with the European Commission to raise awareness on the international stage. This included Chemical, Biological, Radiological and Nuclear (CBRN) non-proliferation programme activity through the EU CBRN Centres of Excellence Programme. The Government was responsible for mentoring national teams from Customs, Foreign Affairs, and Trade authorities in Iraq, Jordan and Lebanon, and completed a programme aimed at developing knowledge about the best practice in transferring CBRN materials, as well as import and export monitoring. After engaging in major research to determine current practices and legislation in place to enforce controls, the national teams in the countries being mentored agreed a programme of improvement with two key outcomes. The first involved delivery of best practice training sessions for monitoring, inspection and handling shipments of potential risk to national security. This was held in conjunction with the Customs Authority in Rotterdam. The second involved the development of a CBRN Risk Management Roadmap for all three countries to enable improved border movement monitoring and inter-agency sharing of related data and information.

The Government also contributed to the EU Dual-Use Long Term Programme, providing expertise about UK export controls to a number of participating countries.

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

## Advisory services

Two advisory services – the Control List Classification Advice Service and the End-User Advice Service – have been in operation since June 2011.

### The Control List Classification Advice Service

ECO's technical experts advise exporters whether their equipment features on any of the UK Strategic Export Control Lists through the Control List Classification Advice Service.

However, due to the new BIS IT system's negative impact on licensing performance, the Advice Service was suspended on 11 May 2014 to redeploy resources to the core export licensing service. The Advice Service was expected to handle around 900 enquiries during the year. There are good alternative online sources of information which exporters can use to make their own assessments, as well as training courses aimed at improving the competence of exporters in this area. Both facilities were clearly sign-posted to exporters when the Advice Service was suspended.

### The End-User Advice Service

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

As it is a non-statutory advisory service, there are no published targets for End-User Advice Service enquiries. However, during 2014 BIS received 1,602 enquiries, with 64% being completed within five working days and 96% within 20 working days.

# Section 2

# International Policy in 2014

## Treaties and Agreements

### 2.1 Arms Trade Treaty (ATT)

The Government deposited its instrument of ratification for the Arms Trade Treaty in New York on 2 April 2014 alongside 16 European Union (EU) Member States (including France, Germany and Italy) and El Salvador. The instrument of ratification was signed by the former Foreign Secretary, William Hague, in London on 28 March 2014.

The ATT entered into force on 24 December 2014, following the 50th ratification on 25 September 2014. During 2014, the Government advocated that international partners should sign and ratify the ATT, including those P5 states (the five permanent members of the United Nations (UN) Security Council) that have not done so, as well as other states that are significant exporters and/or importers of arms. Through regular bilateral contact by the Foreign Secretary, other Ministers and by officials, the Government has continued to encourage universalisation of the ATT. At 31 December 2014, 61 states had deposited instruments of ratification and 130 had signed.

The Government continues to support the ATT practically. Through the allocation of funding from the FCO Strategic Programme Fund, assistance has been provided to Africa, China, South East Asia and South America to sign/ratify the ATT and in support of understanding the requirements posed by implementation. Some of the projects have led to states signing the ATT.

Use of the wide and effective network of UK diplomatic missions overseas has helped to preserve our close relationships with other governments, civil society and industry. The first meeting of informal consultations for the ATT's first Conference of States Parties was held in Mexico City on 9–10 September. This was followed by a meeting in Berlin on 27-28 November. The Government arranged a Wilton Park conference on 17-19 September to discuss issues arising from the Mexico City meeting.

As these meetings were prior to the Treaty's entry into force, they were informal in nature. However, the government has been able to engage constructively alongside other partners on important issues for the structure and operation of the Treaty. These include:

- The rules of procedure, which will govern the decision-making process;
- The financial arrangements for the operation of the ATT;
- The remit, location and selection of Head of the Secretariat.

These issues continue to be negotiated. The Government has participated fully in relevant meetings and will do so in future meetings in 2015 ahead of the first Conference of States Parties to be held in Mexico in August 2015.

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

The illicit trade in Small Arms and Light Weapons and the uncontrolled accumulation of these arms means there is no shortage of evidence about the problems caused by their proliferation.

The use of SALW has been the single most significant contributor to conflicts, violence and crime leading to the killing and injuring of hundreds of thousands of people worldwide every year. Additionally, the violence perpetrated by people using these weapons can destroy livelihoods, displace entire communities, and hamper social and economic development. The Government remains committed to combating the threats posed by SALW.

The UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light

Weapons in All its Aspects is a core international instrument for tackling these issues and the Government is committed to its full implementation (http://www.poa-iss.org/poa/poahtml.aspx). In June 2014, the Government actively participated at the Fifth Biennial Meeting of States, delivering a progressive outcome document agreed by consensus that reaffirmed UN Member States' commitments and reiterated their concerns about illicit small arms and light weapons.

The Government also supports the work carried out by the EU as part of its Small Arms and Light Weapons Strategy to combat the illicit accumulation and trafficking of SALW and their ammunition. The EU produces six-monthly and annual reporting to reflect all the work being done to implement the Strategy (http://eeas.europa.eu/non-proliferation-and-disarmament/salw/index_en.htm).

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

The purpose of the UN Convention on Certain Conventional Weapons is to prohibit or restrict the use of certain conventional weapons that are considered to cause unnecessary or unjustifiable suffering to combatants or to affect civilians indiscriminately. Its structure is of a chapeau Convention with annexed Protocols – a structure adopted to allow flexibility and consideration of other conventional weapons in the future as relevant.

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

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

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

The Government attended the Meeting of the High Contracting Parties to Protocol V as a signatory State on 10-11 November 2014, the Meeting of the High Contracting Parties to (Amended) Protocol II on 12 November, and the Meeting of the High Contracting Parties to the CCW on 13-14 November.

The Government also participated in informal meetings of experts discussing Lethal Autonomous Weapons Systems on 13-16 May 2014. These discussions built understanding regarding the potential implications of autonomous weapons, and the Meeting of High Contracting Parties to the CCW agreed to renew the mandate for informal meetings of experts to take place for five days in 2015.

## 2.4 The Anti-Personnel Mine Ban Convention

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

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

In 2014, contracts were agreed for a two-year mine clearance project on the Falkland Islands. This is the fourth phase of clearance, and the project will clear at least 25 mined areas, representing a significant step towards the Government fulfilling its obligation to clear the Falkland Islands of all mined areas. In addition, the Government continued to engage in mine action work in situations of humanitarian need across the world.

Additionally, a new three year programme to implement the Government's Mine Action Strategy began in 2014, with projects commencing in Cambodia, Laos, Mozambique, Sri Lanka and Vietnam. These projects focus on clearance, risk education and developing national authorities' capacity to deal with mines and unexploded remnants of war.

The Government participated in the 3rd Review Conference of the Convention, which took place in Maputo, Mozambique on 23-27 June 2014. The Review Conference adopted the Maputo Action Plan, which will guide the next stage of the implementation of the Convention.

## 2.5 The Convention on Cluster Munitions

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

In 2008, a number of Governments, including the UK, agreed the Convention on Cluster Munitions. The resulting international treaty prohibits the use, development, production, acquisition, stockpiling and transfer of cluster munitions. The Government became

the 32nd State Party to the Convention on Cluster Munitions in 2010. At the end of 2014, the Convention had 116 adherents, of which 89 were States Parties.

The Government has continued to play an active role in international cooperation and assistance to countries affected by cluster munitions, as detailed in section 2.4 above.

The Government played an active part in the fifth Meeting of States Parties to the Convention on Cluster Munitions, which took place in San Jose, Costa Rica, 1-5 September 2014.

### 2.6 The UN Register of Conventional Arms

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

The UN Register currently covers seven categories of conventional weapons, namely:

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

There is an additional background section of the UN Register for countries to report national holdings of Small Arms and Light Weapons.

The Government reports annually to the UN on all exports of military equipment in these categories. Whilst all reporting to the UN Register is voluntary, the Government continues to view regular and comprehensive reporting as important, and actively encourages all UN Member States to participate with similar levels of transparency. Transparent systems are less vulnerable to manipulation by groups that view rigorous export controls as an impediment to their aims. Previous and current national reports are available here: (http://www.un.org/disarmament/convarms/Register/).

## Export Control Regimes

### 2.7 Nuclear Suppliers Group (NSG)

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

Argentina hosted the 24th Plenary Meeting of the NSG in Buenos Aires on 23-27 June 2014. The Group considered its contribution to the 2015 Review Conference of the Nuclear Non-Proliferation Treaty. The meeting included an exchange of views on the work of the Technical Experts Group, which works to keep the Control Lists updated and to which the Government commits significant resources. The UK, along with the Netherlands, led the NSG in debating the future of the Group's outreach efforts and how it engages with non-Members that adhere to the NSG Guidelines. Participating Governments accepted the publication on the NSG website of Germany's best practice guide on the Implementation of Brokering and Transit/Transhipment Controls. The Group continued its discussion on potential Indian membership of the regime. Finally, the NSG voiced its continued concern over the nuclear programmes in Iran and the Democratic People's Republic of Korea.

### 2.8 Australia Group

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

The UK is one of the most active participating Governments in the Group and a major contributor to technical proposals, adopted by consensus, that ensure that the Group's control lists are kept up-to-date. At the June 2014 annual Plenary Meeting participants updated the Australia Group guidelines. The Australia Group warning lists were also updated in light of the lessons learned from Syria's use of chemical weapons. The Australia Group participants agreed to encourage non-participant countries to adhere to the guidelines by offering them a broader range of information to assist them in observing global best practice. They also agreed to extend to non-participant adherents the requirement to apply catch-all controls on exports of unlisted items that may contribute to non-proliferation of chemical and biological weapons. The Australia Group agreed to undertake outreach visits to Burma, Indonesia and Singapore.

### 2.9 Missile Technology Control Regime (MTCR)

The Missile Technology Control Regime is a voluntary association of countries which work together through

the coordination of export licensing efforts to prevent the proliferation of WMD-capable unmanned delivery systems. The regime currently has 34 Partners. The Government continues to have a leading role in the regime, including in its technical working group.

The MTCR held its 28th Plenary Meeting in Oslo on 29 September-3 October 2014 in order to review and evaluate its activities and to further intensify its efforts to prevent missile programmes and their proliferation. Partners discussed extensively missile proliferation-related activities worldwide, including developments in specific missile programmes, such as Iran and the Democratic People's Republic of Korea, and the proliferation risks they represented. Partners also considered procurement activities and techniques in support of such programmes; rapid technological change; the role of intangible technology, brokering, and transhipment in facilitating proliferation; and key technology trends in proliferation missile programmes.

The Plenary agreed measures to recognise adherence to the MTCR Annex and Guidelines. The agreement means that non-Members that declare adherence are able to participate in a technical briefing and potentially receive presentations on areas of interest.

Thirteen technical changes to the export control list were agreed via the Technical Experts Meeting, including one UK proposal on a new type of gel propellant.

### 2.10 Wassenaar Arrangement

The Wassenaar Arrangement is the only global multilateral arrangement dealing with the control of exports of conventional weapons and associated sensitive dual-use goods and technologies. It has 41 participating States, including all EU Member States except Cyprus, Canada, Japan, Mexico, Russia and the USA. It was established to contribute to regional and international security and stability by promoting transparency and helping to prevent destabilising accumulations of conventional arms. General Working Group meetings took place in May and October 2014, ahead of the 19th Plenary Meeting in Vienna in December 2014. The strength and importance of the Wassenaar Arrangement continues to be in its technical outputs, specifically the control lists which underpin the arms export control regimes of all Participating States and many non-Participating States. The Wassenaar Arrangement produces two control lists – one for conventional weapons (Munitions List) and one for dual-use goods and technologies. Participating States then report to Wassenaar Arrangement Members if they export controlled arms, goods or technology to non-members.

UK experts play a key role in the Technical Working Groups. The Plenary Meeting in December 2014 approved a number of amendments to the Wassenaar Export Control Lists. The text on machine tools (Category Two), optical equipment for military utility and fibre laser components (Category Six) were substantially reviewed and in addition significant new controls were agreed on including spacecraft equipment (Category Nine) and technology for fly-by-wire/flight-by-light systems (Category Seven). The controls will be implemented through the EU's controls on exports of dual-use items. This work to ensure lists are appropriate and implemented also enhances the Government's prosperity agenda by ensuring a level playing field for industry.

The Government continues to contribute to the debate within the Wassenaar Arrangement on the regime's future membership. We also support voluntary adherence to Wassenaar Control Lists by non-Participating States.

## UK Activities

### 2.11 Academic Technology Approval Scheme (ATAS)

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

It is operated with the co-operation of Higher Education Institutions at which sensitive subjects are studied at postgraduate level. Except those from the European Economic Area or Switzerland, any overseas student seeking to study such subjects must first obtain an ATAS certificate. The applicant makes an online application at no cost. The certificate is expected to be processed within 20 working days of receipt of a correctly-completed application. This can take longer during busy periods such as the summer months.

In the period 2007-2014, the scheme has approved 91,341 applications and denied clearance in 856 cases.

# Section 3

# Export Licensing Case Studies

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

## THAILAND

The conduct of the Thai security forces has been a cause of human rights concern for some time. The Government has been rigorous in assessing the risks posed by exports of equipment which might be used for internal repression, especially those for use in crowd control operations. In May 2014, the Thai military imposed martial law and seized power from the civilian government in a military coup. The ensuing military-led government has overseen a regressive crackdown on freedom of expression and assembly and has banned protests and public displays of dissent against the junta. In the wake of the coup, the British Government revoked licences for equipment which could be used for internal repression including components for the manufacture of ammunition, body armour and tear gas.

The Government continues to assess licences on a case-by-case basis against the Consolidated Criteria. Officials closely monitor the security situation and pay particularly close attention to any equipment for use by the Thai military or police force in crowd control or surveillance.

## RUSSIA

As a result of Russia's illegal annexation of Crimea in Ukraine on 21 March 2014, the then Foreign Secretary announced the suspension of all extant licences and the processing of new licence applications for direct export to Russia of military and dual-use items destined for units of the Russian armed forces or other state agencies which could, be or were being, deployed against Ukraine. The Government also suspended licences for exports to third countries for incorporation into equipment for onward export to Russia where there was a clear risk that the end product would be used against Ukraine.

The EU introduced a package of sanctions against Russia which came into force on 1 August 2014. The measures included an arms embargo and a **prohibition on supply of dual-use items which are, or may be, intended for military end-use or for a military end-user in Russia.** There is also a ban on the provision of technical or financial assistance for supply or sale of these goods. The Government interprets the arms embargo to apply to all goods and technology on the Military List.

In line with the EU sanctions, those UK licences for Russia that had previously been suspended were fully re-assessed and those that breached the terms of the EU sanctions were revoked.

The sanctions contain an exception for an obligation arising from a contract or agreement concluded before 1 August 2014. All export licence applications which fall within this exception, or are otherwise not covered by the sanctions, are assessed carefully against the Consolidated Criteria. We pay particular attention to ensure that export licences for Russia do not breach sanctions (Criterion 1) and to the risk of the item being used aggressively against another country (Criterion 4) or diverted to undesirable end users (Criterion 7).

## UKRAINE

Following the indiscriminate killing of protesters by the Ukrainian Security Forces under the control of the then President Yanukovych and his Government, and in response to the deteriorating situation and increasing levels of violence and repression in Ukraine, the EU agreed on 20 February 2014 to suspend all licences for the export of equipment that might be used for internal repression. Relevant extant licences were duly suspended.

In light of further developments in Ukraine, the EU agreed unanimously on 22 July 2014 to lift the EU's temporary suspension of arms export licences to Ukraine. The decision to overturn the temporary suspension enabled EU Member States to revert to the normal practice of considering licence applications on a case-by-case basis. UK extant licences which had previously been suspended were reviewed against the Consolidated Criteria and appropriate action was taken.

Since the start of the Russia/Ukraine crisis, the Government has approved a limited number of export licences for non-lethal equipment to the Ukrainian Armed Forces. The Government has also gifted a substantial package of non-lethal equipment comprising body armour, medical kits, and fuel. The gifting package is protective and humanitarian in nature and aimed at reducing fatalities and casualties amongst members of the Ukrainian Armed Forces.

All export licence applications are assessed carefully against the Consolidated Criteria with particular attention paid to equipment which could be used in internal repression (Criterion 2), in internal conflict (Criterion 3), aggressively against another country (Criterion 4), or which could be diverted to undesirable or unspecified end users (Criterion 7).

## LIBYA

Conventional arms proliferation remains a major issue of concern in relation to Libya. All exports of arms and controlled military goods to Libya are assessed on a case-by-case basis against the Consolidated Criteria and in accordance with UN and EU arms embargoes.

Since August 2014 the political and security situation in Libya has deteriorated, with the establishment of two competing authorities; the internationally-recognised House of Representatives in Tobruk, and the Islamist-dominated former parliament, the General National Council (GNC), in Tripoli. Since the emergence of the competing authorities, the Government can no longer satisfy concerns about the destination and end-use of goods, or whether goods would provoke/prolong armed conflicts or aggravate existing tensions and conflicts in Libya. Whilst the Government is keen to encourage UK exporters to explore business opportunities in post-conflict Libya, restrictions will be applied until a Government of National Accord is established. The only licences being approved are for non-sensitive information, communication and technology goods for civil end use, goods for the gas and oil sector, and protective and communication goods for the UN and humanitarian/development workers. The Government pays particular attention to the risk of diversion (Criterion 7). The Government remains fully supportive of the UN dialogue process and efforts to create a Government of National Accord in Libya. Under the prevailing circumstances, we will continue to monitor the situation closely and assess carefully all licence applications against the Consolidated Criteria.

## ANTI-PIRACY

The Government is playing a leading role in international operations aimed at combating piracy and armed robbery at sea. The Government carefully assesses against the Consolidated Criteria all licence applications for weapons, ammunition, protective and communications equipment for end-use by Private Maritime Security Companies (PMSCs) operating on board vessels. The main concerns when assessing these applications are whether the goods might be used in internal repression (Criterion 2) and whether there is a risk that the goods could be diverted or re-exported to undesirable end users (Criterion 7).

In order to mitigate our concerns over Criteria 2 and 7, we look for evidence that:

- PMSCs have signed the International Code of Conduct for Private Security Service Providers (ICoC);
- Confirmation that the goods will remain on board the ship for the duration of the journey and that they will be used only by authorised personnel during high risk times;
- The goods will not be used by anyone other than the shipper or authorised persons on board the ship and will not be sold on to third parties;
- When not in use, the goods will be held in a secure armoury.

The supply of arms to armed anti-piracy operations and floating armouries in West Africa is against current Government policy and any applications for licences to facilitate armed operations there would be rejected. In addition, there are UN and EU arms embargoes against Cote D'Ivoire, Liberia and Sierra Leone, and these are applied in licensing decisions. The FCO works closely with the Department for Business Innovation and Skills to ensure that UK companies operating in the sector are aware of Government policy.

# Section 4

# Export Licensing Data and Performance Against Targets During 2014

## 4.1 Information on licences processed during 2014

The types of licences available are the:

- Standard Individual Export Licence (SIEL);
- Standard Individual Transhipment Licence (SITL).
- Open Individual Export Licence (OIEL);
- Standard Individual Trade Control Licence (SITCL);
- Open Individual Trade Control Licence (OITCL);

The following tables provide details of the numbers of each of the main types of licence processed during 2014.

| **Table 4.I Number of SIELs** | |
|---|---|
| Issued | 13,216 |
| Revoked | 49 |
| Refused | 226 |
| NLR* | 1,800 |
| Withdrawn/Stopped** | 1,627 |

*No Licence Required
** In Tables 4.I.-4.V "Withdrawn" applications will generally be because an application was withdrawn by the exporter. "Stopped" applications will generally be because an exporter has not provided adequate information to allow the application to proceed, following a Request for Information (RFI) from a Case Officer.

| **Table 4.II Number of SITLs** | |
|---|---|
| Issued | 10 |
| Revoked | 0 |
| Refused | 1 |
| NLR | 1 |
| Withdrawn/Stopped | 12 |

| **Table 4.III Number of OIELs*** ** | |
|---|---|
| Issued | 279 |
| Revoked/Reduced/ Removed | 62 |
| Rejected **** | 20 |
| NLR | 5 |
| Withdrawn, Stopped or Unsuitable (where an exporter does not meet the criteria for an OIEL) | 128 |

*** includes Dealer to Dealer, Cryptographic & Continental Shelf OIELs
**** A rejected OIEL application does not mean that if an exporter applies for a SIEL to make the export, that application will be refused. In many cases where OIEL applications are rejected, exporters are asked to apply for SIELs because these allow closer scrutiny of individual exports, but this does not necessarily mean that this closer scrutiny will result in rejection.

| Table 4.IV Number of SITCLs | |
|---|---|
| Issued | 186 |
| Revoked | 0 |
| Refused | 16 |
| NTLR***** | 16 |
| Withdrawn/Stopped | 74 |

***** No Trade Licence Required

| Table 4.V Number of OITCLs | |
|---|---|
| Issued | 30 |
| Revoked | 1 |
| Refused | 6 |
| NTLR | 2 |
| Withdrawn, Stopped or Unsuitable (where an exporter does not meet the criteria for an OIEL) | 30 |

## 4.2 Information on SIELS, SITLS, OIELS, SITCLs and OITCLs

The entry for each destination on the Strategic Export Controls: Report and Statistics website (https://www.exportcontroldb.bis.gov.uk/) contains the following information:

For SIELs:

- Total value of all applications in respect of which a SIEL was issued for the export of items to the destination concerned during the period, whether the export concerned was permanent or temporary. It should be noted that the value of exports that are actually made under the licences concerned may be less than shown because some of these licences will not be used to make all of the exports authorised and others will not be used at all. In addition, some items are exported only temporarily and later returned to the UK within the validity of the licence.
- The number of licences issued, refused or revoked, split into Military List, dual-use items and both (covering licences with military and dual-use goods) categories. A (T) at the beginning of a line indicates a Temporary export licence.

For Incorporation:

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

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

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

For SITLs:

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

For OIELs:

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

For SITCLs:

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

For OITCLs:

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

Other OIELs:

- **Media OIELs** authorise the export of protective clothing and equipment, mainly for the protection of aid agency workers and journalists in areas of

conflict. In addition to military helmets and body armour, the OIELs include NBC (nuclear, biological, chemical) protective items, non-military 4WD civilian vehicles with ballistic protection, and specially-designed components for any of these items. The OIELs permit these items to be exported to all destinations on a temporary basis only, i.e. the items must be returned to the UK when no longer required. No Media OIELs were issued in 2014.

- **Continental Shelf OIELs** authorise the export of controlled goods to the UK sector of the Continental Shelf for use only on, or in connection with, offshore installations and associated vessels. Seven Continental Shelf OIELs were issued in 2014.
- **Global Project Licences (GPL):** GPLs are a form of licence introduced by Framework Agreement partners (France, Germany, Italy, Spain, Sweden and the UK) to streamline the arrangements for licensing military goods and technologies between Partner States where these transfers relate to their participation in specific collaborative defence projects. In relation to the collaborative project, each Partner State will, as appropriate, issue their own GPLs to permit transfers of specified goods and technology where these are required for that programme. The GPLs operate on a similar basis to UK OIELs, and applications for GPLs are assessed against the Consolidated Criteria in the UK, and against the EU Common Position in other Framework Partner countries. No GPLs were issued in 2014.
- **Cryptographic OIELs** authorise the export of specified cryptography hardware or software and the transfer of specified cryptography technology to the destinations specified in the licence. These OIELs do not cover hardware, software or technology which includes certain types of cryptanalytic functions. 12 Cryptographic OIELs were issued in 2014.
- **Dealer to Dealer OIELs** authorise UK-registered firearms dealers to export certain categories of firearms and ammunition solely to other registered firearms dealers in the EU only. 38 Dealer to Dealer OIELs were issued in 2014.

## 4.3 Other Licence types

### Technical Assistance Licences

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

Under Article 19 of the Export Control Order 2008, as amended, licences are required for the provision of technical assistance for anything with weapons of mass destruction (WMD) purposes. In 2014, no WMD SITALs were issued, refused or revoked, whilst 7 WMD OITALs were issued and none were refused or revoked.

Licences are also issued for the provision of technical assistance relating to military or dual-use items and activities which are permitted under exemptions to international sanctions and embargoes. In 2014, no sanctions SITALs were issued, refused or revoked. Seven sanctions OITALs were issued, one was finalised as "No Licence Required" (NLR), while none were refused or revoked.

Sanctions were imposed against Russia in 2014. These included the requirement for licences for technical assistance relating to technologies in the oil and gas industries. In 2014, no SITALs (Standard Individual Technical Assistance licences) were issued, refused or revoked under the Russia sanctions. 38 of these OITALs (Open Individual Technical Assistance licences) have been issued, one refused and none revoked.

### Financial Assistance Licences

EU sanctions usually contain prohibitions or restrictions on the provision of financing or financial assistance related to the sale, supply, transfer or export of goods and services prohibited or restricted under the sanctions. In cases where the provision of such financing or financial assistance is subject to prior authorisation, a Financial Assistance licence may be granted. Due to sanctions imposed against Russia in 2014, there is now a requirement for licences for financial assistance relating to the supply of technologies used in the oil industry. In 2014, no OIFALs (Open Individual Financial Assistance licences) and 27 SIFALs (Standard Individual Financial Assistance licences) were issued, all relating to contracts existing before 1 August 2014. There were no refused or revoked SIFALs under the Russian sanctions. (Note: Under sanctions, the Department for Business Innovation and Skills is the competent authority for financing and financial assistance related to prohibited or restricted trade transactions. Her Majesty's Treasury is the competent authority for all other financial sanctions, including asset freezes and counter-terrorist financing).

### Open General Export Licences (OGELs)

OGELs allow the export or trade of specified controlled goods by any qualifying company, removing the need for exporters to apply for an individual licence, providing the shipment and destinations are eligible under the OGEL and that certain conditions are met. Most OGELs require the exporter or trader to register with the Export Control Organisation (ECO) before they use them, and the companies are subject to compliance visits from ECO to ensure that all the conditions are being met. Companies are also required (as of 1 January 2014) to submit annual open licence returns about usage of OGELs. Failure to meet the conditions can result in their eligibility to use the licence being withdrawn.

There is also a small number of Open General Transhipment Licences (OGTL) for which registration is not required. All OGELs remain in force until they are revoked. The complete list of OGELs in force in 2014 is at Table 4.VI.

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

The EU GEAs are as follows:

- EU001 (previously known as the CGEA) – exports to Australia, Canada, Japan, New Zealand, Norway, Switzerland (including Liechtenstein) and the USA
- EU002 – export of certain dual-use items to certain destinations
- EU003 – export after repair/replacement
- EU004 – temporary export for exhibition or fair
- EU005 – telecommunications
- EU006 – chemicals

| **Table 4.VI List of OGELs in force in 2014:** |
|---|
| **Dual-Use Goods OGELs**: dual-use items are goods and technology with both military and civilian applications. |
| 1. Chemicals |
| 2. Cryptographic Development |
| 3. Export After Exhibition: Dual-Use Items |
| 4. Export After Repair/replacement Under warranty: Dual-Use Items |
| 5. Export For Repair/Replacement under Warranty: Dual-Use Items |
| 6. Dual-Use Items: Hong Kong Special Administrative Region (HKSAR) |
| 7. International Non-Proliferation Regime De-controls: Dual-Use Items |
| 8. Low Value Shipments |
| 9. Oil and Gas Exploration: Dual-Use Items |
| 10. Technology for Dual-Use Items |
| 11. Turkey |
| 12. Specified dual-use items (X) |
| **Military Goods OGELs:** permit the export of less restricted controlled military goods. |
| 1. Access Overseas to Software and Technology for Military Goods: Individual Use Only |
| 2. Export After Exhibition or Demonstration: Military Goods |
| 3. Export After Repair/replacement under warranty: Military Goods |
| 4. Export For Repair/Replacement under Warranty: Military Goods |
| 5. Exports or Transfers in Support of Government Defence contracts |
| 6. Historic Military Goods |
| 7. Military Components |
| 8. Military Goods, Software and Technology |
| 9. Military Goods: Collaborative Project Typhoon |
| 10. Military Goods: For Demonstration |
| 11. Military Goods, Software and Technology: Government or NATO End-Use |
| 12. Export for Exhibition: Military Goods |

| **Table 4.VI List of OGELs in force in 2014:** *(continued)* |
|---|
| 13. Software and Source Code for Military Goods |
| 14. Military Surplus Vehicles |
| 15. Technology for Military Goods |
| 16. Vintage Aircraft |
| 17. Historic Military Vehicles and Artillery Pieces |
| 18. Open General Export Licence (Certified Companies) |
| 19. Open General Export Licence (Exports Under the US-UK Defence Trade Cooperation Treaty) |
| 20. International Non-proliferation Regime Decontrols: Military Items |
| 21. Military Goods: A400M Collaborative Programme (first published and came into force on 23 April 2014 and since amended) |
| 22. Exports in support of Joint Strike Fighter: F-35 Lightening II (first published and came into force on 6 January 2014 and since amended) |
| **OGELs which cover both Military and Dual-Use Goods:** |
| 1. Military and Dual-Use Goods: British Forces Deployed in embargoed destinations |
| 2. Military and Dual-Use Goods: British Forces Deployed in non-embargoed destinations |
| 3. Exports of non-lethal military and Dual-Use goods: to British Diplomatic Missions or Consular Posts |
| **Open General Transhipment Licences (OGTLs):** allow, subject to certain conditions, controlled goods to be exported from one country to another via the UK. |
| 1. Open General Transhipment Licence |
| 2. Open General Transhipment Licence (Sporting Guns) |
| 3. Open General Transhipment Licence (Postal Packets) |
| 4. Open General Transhipment Licence (Dual-Use Goods: Hong Kong Special Administrative Region) |
| **Open General Trade Control Licences (OGTCLs):** control the trafficking and brokering activity between one third country and another where the transaction or deal is brokered in the UK or by a UK person. |
| 1. Open General Trade Control Licence (Category C Goods) |
| 2. Open General Trade Control Licence (Trade and Transportation: Small Arms and Light Weapons) |
| 3. Open General Trade Control Licence (Insurance or Re-Insurance) |
| 4. Open General Trade Control Licence (Maritime Anti-Piracy) |

## 4.4 Refusals and revocations

There were 292 refusals or revocations of SIELs and SITCLs in 2014. Table 4.VII gives an overview of the number of times each Criterion was applied under the Consolidated EU and National Arms Export Licensing Criteria, which justified the refusal of an export licence application.

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

| Reason* | Number |
|---|---|
| Criterion 1 – UK's international obligations and commitments under non-proliferation Treaties and Conventions and export control regimes, particularly with regard to proliferation of weapons of mass destruction or ballistic missiles. | 59 |
| Criterion 1 – UK's commitments and obligations to observe UN, EU or OSCE arms embargoes. | 86 |
| Criterion 1 – Existence of national embargoes or policy commitments. | 0 |
| Criterion 1 – UK's obligations under the Ottawa Convention and the 1998 Landmines Act. | 0 |
| Criterion 2 – Risk of use for internal repression. | 55 |
| Criterion 3 – Risk of contributing to internal tensions or conflict in the recipient country. | 9 |
| Criterion 4 – Preservation of regional stability. | 17 |
| Criterion 5 – National security of the UK, of allies, EU Member States and other friendly countries. | 23 |
| Criterion 6 – Behaviour of the buyer country with regard to the international community. | 0 |
| Criterion 7 – Risk of diversion or re-export to undesirable end-users. | 84 |
| Criterion 8 – Compatibility of the arms exports with the technical and economic capacity of the recipient country. | 0 |

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

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

## 4.5 Appeals

This section provides information on all appeals against a decision to refuse an application for a SIEL or SITCL, or against a decision to revoke a SIEL or SITCL.

An appeal is based on the date on which it was received in ECO, not the date of the original application. During 2014, the Government processed 47% of appeals within 20 working days from receipt of all relevant information from the appellant and 76% in 60 working days. Decisions to refuse licences are not taken lightly and are only made in those cases where refusal is clearly justified. In this context, appeals against refusals will often raise difficult and complex issues. Appeals are considered at an independent and more senior level than the original licence application, and any new information not available at the time of the application will be taken into account. Every effort is made to deal with all appeals as expeditiously as possible. However, the time taken to decide an appeal can be lengthy due to the need to examine afresh all relevant information. Officials continue to review procedures to streamline the handling of appeals, including additional resources and revised arrangements for consulting Ministers and advisers in other Government Departments. Performance in 2014 showed a marked improvement against 2013. There may be a case for setting different and more realistic targets although ECO focused its efforts in 2014 on improving performance against existing targets.

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

In 2014, there were 42 appeals against the original decision to refuse an application for a SIEL. Of these, 35 were refused and 6 were upheld outright; one other was withdrawn.

**Table 4.VIII Appeals performance**

| | 2014 | 2013 | 2012 |
|---|---|---|---|
| Appeals finalised within 20 working days | 47% | 7% | 23% |
| Appeals finalised within 60 working days | 76% | 39% | 60% |

The Government has a target of processing 60% of appeals within 20 working days from receipt of all relevant information from the appellant and 95% in 60 working days. These targets do not apply to appeals concerning goods that are controlled solely because of UN Sanctions. Of the 42 appeals decided in 2014, none fell into this category.

## 4.6 Performance in processing licence applications

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

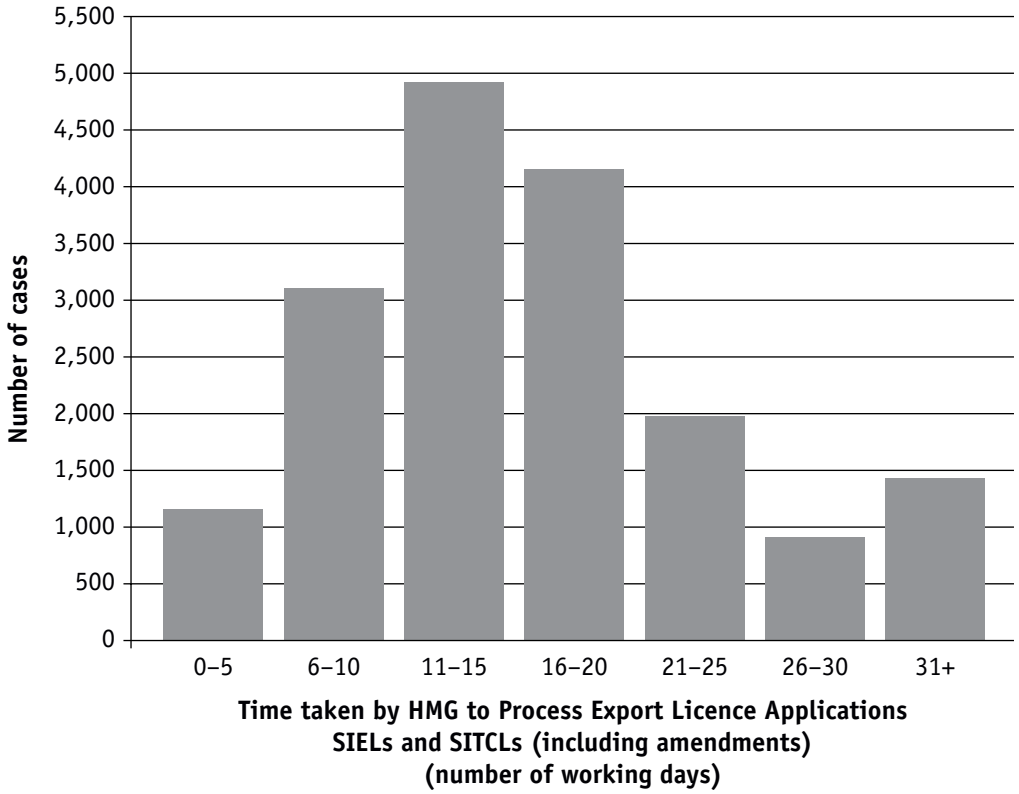
**Table 4.IX SIELs and SITCLs Processing Performance (including amendments)**

| | 2014 | 2013 | 2012 |
|---|---|---|---|
| Number Finalised (with % increase on previous year) | 17,656 (+0.26%) | 17,610 (+3.3%) | 17,045 (+ 4.1%) |
| Finalised within 20 working days | 76% | 79% | 71% |
| Finalised within 60 working days | 99% | 98% | 95% |

The targets do not apply to applications for:

- OIELs – because of the very wide variation in the goods and destination coverage of such licences.
- OITCLs – because of the wide variation in goods or activities, sources and destinations covered by such licences.
- Applications for licences to export goods that are subject to control solely because of UN sanctions.

**Table 4.X**



# Section 5

# Compliance and Enforcement

## 5.1 Compliance

In 2014, Compliance Inspectors in the Export Control Organisation (ECO) continued to audit companies and individuals holding Open Individual and Open General Licences, both for exports and trade activities. These audits establish whether the terms and conditions of the licences are being adhered to. Audits fall within three primary categories:

1. First time visits. These are for businesses that are new users of open licences; they are usually audited within six months of their first registration;

2. Routine visits. For businesses that have had a first audit and continue to hold open licences. The time interval between routine audits depends on risk and whether changes in circumstances have arisen, such as a business take-over or change in staff;

3. Revisits. Revisits arise when a company has been found non-compliant at an audit and, as a result, are audited again within six – eight months.

The compliance team use predefined criteria, agreed with Her Majesty's Revenue and Customs (HMRC), to ascertain the level of compliance at audit and to ensure consistency in the auditing of companies. The majority of audits are undertaken in the form of a site visit, although sometimes they are carried out remotely. The Compliance Inspectors also assist with ECO Awareness Seminars and undertook 16 such events in 2014.

In 2014, the compliance team focused on developing risk probability procedures to more effectively deploy resources. As part of this review, in April 2014, the team introduced a new audit process to engage first time licence holders at an earlier stage than previously was the case. By contacting first time licence holders within the first month, the Government raises the awareness of exporters and helps boost compliance and better manage risk. It also means that compliance resources are focused on those exporters that are actively using licences rather than on those keeping licence cover "on the stocks" for eventual use. To date, 123 exporters have been engaged at this early stage.

July 2014 saw the introduction of 'Compliance Certificates' to incentivise compliance by offering lighter touch auditing requirements to reward significantly improved compliance. Certificates are only issued where full compliance has been shown at audit. The certificates are tightly caveated and only apply to the exports covered by a specific audit. They have proven very popular with exporters, with 34 being issued to date. ECO will undertake a review in 2016 to ensure a continuing and positive impact on the compliance of the exporters holding these certificates.

The following table (5.I ) shows the compliance levels of the 776 company audits that took place in 2014, an approximate increase of 9% from the previous calendar year, against a backdrop of limited resources. The continued, focused campaign to deter exporters from cancelling their audits at short notice has started to pay dividends, showing an 81% reduction from 2013.

**Table 5.I Compliance levels (%) of licence holders in companies audited in 2014**

| | | 2014 | 2013 |
|---|---|---|---|
| Number of audits where no audit undertaken or inconclusive | | 123 | 101 |
| % of first visits | compliant | 57 | 47 |
| | generally compliant | 12 | 14 |
| | not fully compliant | 12 | 16 |
| | non-compliant | 19 | 23 |
| % of Routine visits | compliant | 53 | 54 |
| | generally compliant | 15 | 13 |
| | not fully compliant | 16 | 13 |
| | non-compliant | 16 | 20 |
| % of revisits | compliant | 72 | 75 |
| | generally compliant | 14 | 16 |
| | not fully compliant | 11 | 3 |
| | non-compliant | 3 | 6 |

Some 99 warning letters were issued to Company Directors during 2014 where breaches of licence conditions were found during visits. This is an 8% reduction on the previous year when compared against the number of audits undertaken. Two companies were found, during a revisit, to have repeated serious compliance errors identified at earlier audits. As a result, one company had its licence suspended for a period of three months. The other had its licence revoked because it failed to respond to correspondence.

**Table 5.II Detailed breakdown of the most common errors found in instances of non-compliance**

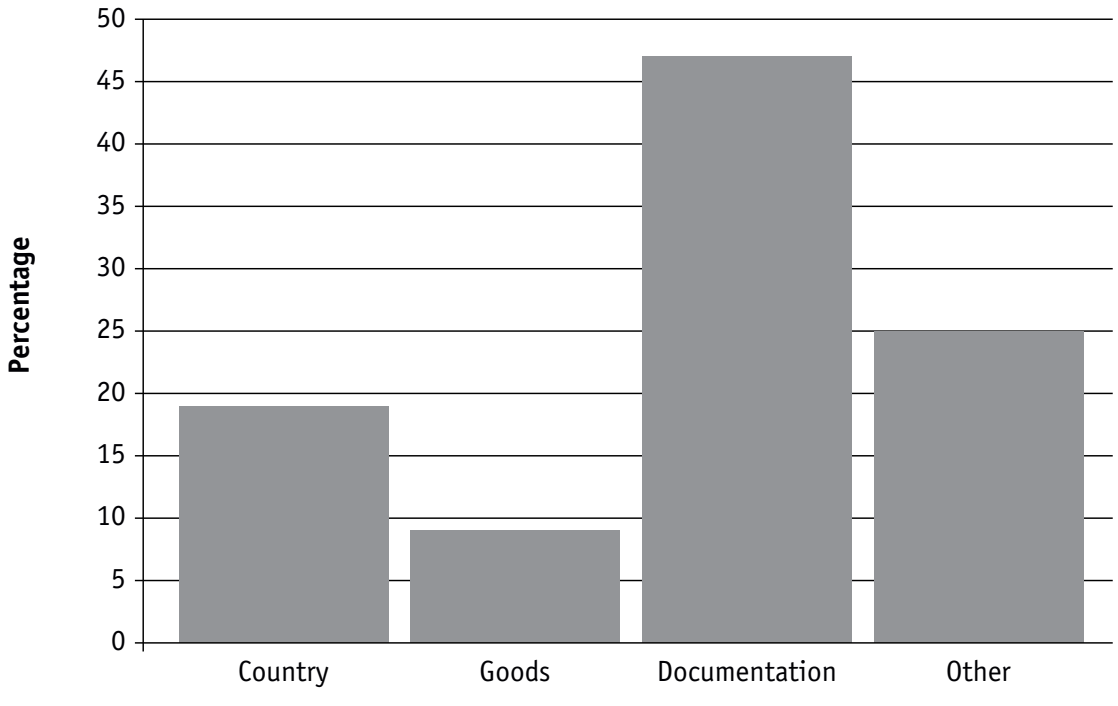
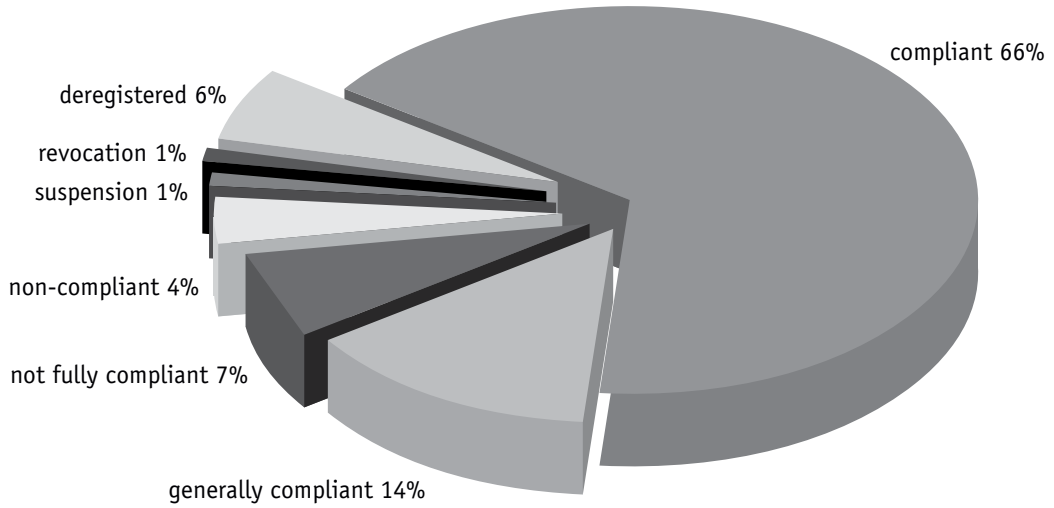


**Table 5.III Detailed breakdown of outcomes for companies revisited**




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

HMRC continued to work with Border Force and the Crown Prosecution Service to undertake a wide range of enforcement activity throughout the Financial Year 2013/14. This activity included:

- One prosecution on export control and trafficking and brokering offences (see table 5.V);
- Confiscation order to the value of £1,072,000;
- 450 seizures of strategic goods in breach of licensing requirements or sanctions and embargoes (see table 5.IV);
- 188 end-use 'catch-all' cases, where non-listed items were stopped from leaving the UK due to concerns about the end-use of the goods;
- Six compound penalties totalling £257,906.

HMRC continues to receive and process voluntary disclosures made by exporters. These disclosures are assessed by HMRC and appropriate action taken. This ranges from educational visits or the issuing of written warnings, through to compound penalties and, in the most serious cases, an investigation with a view to criminal prosecution. HMRC also continues to work with BIS and other agencies to contribute to raising awareness of strategic goods and export controls through educational outreach to business.

HMRC continues to participate in bilateral outreach and capacity-building events. This activity strengthens links with other enforcement agencies in the field of strategic export control and improves the capabilities of our international partners.

HMRC also supports the International Export Control Commitments of the Government through its contributions to operational expert groups. These groups underpin national export controls and aim to improve processes by sharing expertise and best practice. This work includes supporting and contributing to the enforcement expert meetings of the Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), Australia Group (AG) and Wassenaar Arrangement (WA). HMRC contributed to the Proliferation Security Initiative (PSI) working alongside the United States and other partners to strengthen capabilities to prevent the smuggling of illicit goods.

### Enforcement actions taken by HM Revenue and Customs, Border Force and the Crown Prosecution Service

**Table 5.IV Seizures of Controlled Goods**

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

The increase in figures between 2011-12 and 2013-14 is largely due to a significant increase in seizures of individual portable devices designed for the purpose of self-protection. These devices include items such as pepper sprays, CS gas sprays, electric shock devices and stun guns, and are controlled under EU Regulation No 1236/2005, the 'Torture Regulation'. The export controls on these devices are primarily intended to prevent their misuse by police, paramilitary or law enforcement bodies, and to prevent their use in torture. There was also a significant increase in the number of seizures of controlled computer equipment, communications and information technology systems, and equipment employing cryptography.

HMRC considered that the continued recording of seizures of individual self-protection devices, where such devices were being carried for personal protection, was having a disproportionate impact on overall Government seizure figures and might ultimately present a misleading picture of compliance with export controls. As a consequence, from 2013-14 onwards, HMRC is no longer including numbers of individual self-protection devices in seizure statistics.

Individual devices are still seized under UK national legislation since they are considered to be offensive weapons. However, HMRC now only includes commercial seizures of portable riot control or self-protection devices in reported totals. This is consistent with the EU Regulation, which includes an exemption for individual devices carried for the user's personal protection.

| Table 5.V Prosecutions for Strategic Exports Control Offences | | | | | |
|---|---|---|---|---|---|
| **Financial Year** | **Goods** | **Destination** | **Individual or Company** | **Offence** | **Penalty** |
| 2014 | Specialised alloy valves | Iran via Hong Kong and Azerbaijan | Gary Summerskill<br>Delta Pacific Manufacturing Limited | Exporting controlled goods contrary to section 68(2) of the Customs and Excise Management Act 1979. | Summerskill jailed for 30 months and must pay £68,000 or serve a further 15 months in jail.<br>Company ordered to pay £1,072,000. |

HMRC pursues investigation, with a view to prosecution, where evidence of serious and deliberate breaches of export controls are identified or, in the case of non-deliberate offences, where there are aggravating features. These types of cases will be investigated and, if appropriate, referred to the Crown Prosecution Service (CPS) which determines whether there is sufficient evidence to mount a prosecution and whether that prosecution is in the public interest.

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

# Section 6

# Gifted Equipment

The Government gifts equipment in support of its wider security and foreign policy aims. The Ministry of Defence (MOD) manages the assessment of the gifting process and seeks advice on gifting proposals from advisers in MOD, the Foreign & Commonwealth Office (FCO) and the Department for International Development (DFID). As a matter of policy, all proposals to gift controlled military equipment and dual-use equipment are assessed against the Consolidated EU and UK National Arms Export Licensing Criteria by relevant Government departments in the same way as commercial licence applications, and with the same degree of rigour. Where controlled military equipment gifts are approved, these are exported under a Crown exemption letter and therefore do not require an export or trade licence. Where dual-use equipment gifts are approved, the goods are exported under the open licence for the export of dual-use goods by the Crown. Gifted equipment of note includes:

- In support of the Government's commitment to **Ukraine's** sovereignty and territorial integrity, non-lethal equipment was gifted to the Ukrainian Armed Forces in 2014. This included body armour, medical kits and winter fuel. The Government has also gifted armoured vehicles to the Special Monitoring Mission of the Organisation for Security and Co-operation in Europe (OSCE) in support of its role in monitoring events on the ground;
- The Government has gifted military equipment to the Government of **Iraq** (GoI), including to the Kurdistan Regional Government with approval of the GoI. The Government is committed to assisting the GoI in alleviating the suffering of those Iraqis targeted by the Islamic State of Iraq and the Levant (ISIL) and restoring stability and security across the country. The equipment gifted includes machine guns, ammunition and non-lethal equipment to support the Kurdish Security Forces.

**Table 6.I Equipment gifted by the Government in 2014**

| Country | Recipient | Goods Description | Goods Value £ |
|---|---|---|---|
| Afghanistan | Afghanistan National Directorate of Security | Radio Equipment, Handheld Transceivers and Accessories | 3,175,705.00 |
| Afghanistan | Afghanistan National Security Forces | Camp Stores, Communications and Information Technology Infrastructure, Medical Equipment | 3,812,753.52 |
| Anguilla | Royal Anguilla Police Force | Protective Clothing | 69,878.46 |
| Anguilla | Royal Anguilla Police Force | Protective Clothing | 88,132.08 |
| Belgium | NATO Communications and Information Agency | Card Encrypting Module, Carte Switch, Circuit Breakers, | 579,169.56 |
| Belize | Belize Defence Force | Small Arms Ammunition and Pyrotechnics | 16,458.00 |
| Iraq | Government of Iraq | Metal Detectors | 2,200,000.00 |

**Table 6.I** *(continued)*

| Country | Recipient | Goods Description | Goods Value £ |
|---|---|---|---|
| Iraq | Ministry of Peshmerga, Iraq | Heavy Machine Guns Spares, Mortars, Binoculars, Body Armour, Protective Equipment | 2,600,000 |
| Jordan | Jordanian Armed Forces | Armoured Utility Vehicles | 386,375.00 |
| Lebanon | Lebanese Armed Forces | Vehicles and Associated Terrain Equipment, Personal Protective Equipment, including Body Armour, Helmets, Gloves, Belts, First Aid Kits, Camouflage Clothing and Protective Glasses | 3,596,844.00 |
| Lebanon | Lebanese Armed Forces | Radio Masts, Antennas, and Antenna Mounting Brackets for Vehicles | 531,824.00 |
| Libya | Tripoli Police, Libya | Ultra Lightweight Tactical Body Armour | 127,560.00 |
| Oman | Royal Army of Oman | Tank ammunition | 22,000.00 |
| Pakistan | Pakistan Ministry of Defence | Forensic Camera and Field Equipment, Weapon Mounts, Search Team Kit, Utility Vehicle | 445,000.00 |
| Pakistan | Pakistan Ministry of Defence and Civil Defence | Firing Cable, Batteries, Medical Bergen Backpack, Binoculars, Hand Torch, Combat Body Armour compatible with Medical Tactical Suits | 3,095,000.00 |
| Pakistan | Pakistan Ministry of Defence | Counter Improvised Explosive Device (IED) Equipment, Metal Detectors | 3,000,000.00 |
| Somalia | Rapid Response Team (RRT) of the Somali Police | Sights, Assault Rifles with Sling, Gun Magazines and Cleaning Kit, Ammunition | 46,500.00 |
| Tajikistan | Tajikistan Ministry of Defence | Land Rover Vehicles | 42,000.00 |
| Tajikistan | Tajikistan Ministry of Defence | 4-Tonne Utility Trucks, 4 wheel drive. | 118,000.00 |
| Tunisia | Ministry of the Interior, Tunisia | Explosive Trace Detection Machines | 89,000.00 |
| Ukraine | Organisation for Security and Cooperation in Europe (OSCE), Ukraine | Comms and Radio kit, Armoured Utility Vehicles and Associated Spares Kits | 1,188,448.00 |
| Ukraine | Ukraine Armed Forces, Ministry of Defence | Body Armour and Helmets | 408,000.00 |
| Ukraine | Ukraine Armed Forces, Ministry of Defence | Ballistic Helmets, Body Armour. | 75,222.00 |

# Section 7

# Government-to-Government Exports and Projects

## 7.1 Government-to-Government Exports

On behalf of the Government, the Disposal Services Authority of the Ministry of Defence disposes of certain military equipment that is surplus to the requirements of the UK Armed Forces. UK export licensing coverage for this is obtained either by industry, or by the customer. Tables 7.I and 7.II give, by destination, the equipment type and quantity of such exports in 2014.

**Table 7.I Disposals**

| Country | Type of Equipment | Quantity |
|---|---|---|
| Brazil | Naval Tyne Engines | 3 |
| Chile | Naval Tyne Engines | 1 |
| Pakistan | Naval Tyne Engines | 1 |
| Singapore | 40mm Ammunition | 51072 |
| Jordan | DJRP Pods and Spares | 5 |
| Belgium | Military Helicopter Spares | 10 |
| Denmark | Military Helicopter Spares | 132 |
| Germany | Military Helicopter Spares | 14973 |
| Norway | Military Helicopter Spares | 2 |
| Saudi Arabia | Aircraft Spares | - |
| Chile | Naval Spares | - |
| Brazil | Naval Spares | - |
| Romania | Naval Spares | - |
| Belgium | Military Helicopter Spares | - |
| Denmark | Military Helicopter Spares | - |
| Germany | Military Helicopter Spares | - |
| Norway | Military Helicopter Spares | - |
| Saudi Arabia | Aircraft Spares | - |
| Chile | Naval Spares | - |
| Brazil | Naval Spares | - |
| Romania | Naval Spares | - |

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

**Table 7.II Other Overseas Transfers**

| Country | Type of Equipment | Quantity |
|---|---|---|
| Latvia | Land Rovers | 9 |
| Turkey | Type 42's HMS Liverpool & HMS Manchester to LEYAL Ship Recycling Ltd (for recycling) | 2 |
| USA | Joint Tactical Information Distribution Systems to Rockwell Collins | 3 Main Units and assorted spares & components |
| The Netherlands | Off Spec Diesel to commercial concern for re-use. | 5.9 Million Litres |
| Germany | Fleet Vehicles to various commercial concerns: Bedford, Leyland DAF, Leyland Drop, Landrover 90 & 110, Foden Recovery, Trailers, Box Bodies. | 111 |
| Kenya | Fleet Vehicles to various commercial concerns: Bedford 4 Ton, Land Rover 90 & 110, Leyland Drop, Foden Recovery, ½, ¾, and 1¾ Tonne capacity trailers. | 108 |

## 7.2 Government-to-Government Projects

The UK has a longstanding Government-to-Government defence cooperation programme with the Kingdom of Saudi Arabia, under which the UK has provided Typhoon, Tornado, and Hawk aircraft, mine countermeasure vessels, and associated munitions, infrastructure, logistics and manpower support packages. During 2014, the UK continued to provide substantial support for equipment already in service and delivered Typhoon aircraft to the Royal Saudi Air Force under arrangements for the eventual supply of seventy-two Typhoon aircraft.

The following table is a summary of the exports that arose in 2014 under projects supported by the Ministry of Defence Saudi Armed Forces Projects (MODSAP). All goods were exported under export licence obtained by industry. Where a Standard Individual Export Licence was issued, that information is included in the corresponding BIS Strategic Export Controls: Quarterly Report.

**Table 7.III Government-to-Government transfers of equipment between 1 January and 31 December 2014**

| Country | Type of Equipment | Quantity |
|---|---|---|
| Saudi Arabia | Typhoon aircraft and initial in-service support. | 11 |
| | Component repair and re-provisioning, and training support for aircraft and their systems. | - |
| | Component repair and re-provisioning, and training support for naval vessels and their systems. | - |

# Annex A

# Export Controls: Process and Responsibilities

## A.1 Overview

The UK system for the licensing of Strategic Exports is operated by a single Export Licensing and Enforcement Community. This Community comprises nine Government Departments or Agencies:

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

### EXPORT LICENSING COMMUNITY JOINT MISSION STATEMENT

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

### Guiding Principles

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

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

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

Broadly speaking, strategic export controls relate to:

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

## A.2 UK Export Licensing Authority

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

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

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

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

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

## A.3 Strategic Export Control Legislation

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

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

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

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

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

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

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

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

- The Intra-Community Transfers (ICT) Directive 2009/43/EC covering the transfer of defence equipment within the EU, which aims to facilitate the movement of defence goods within the EU while recognising that such transfers must remain subject to national controls. The Directive provides for a system of certification for companies, for example a confidence-building measure, to ensure that companies importing items from another Member State under a general licence have provisions in place to abide by any re-export provisions which may be applied to those items. In addition, the ICT Directive provides for Member States to publish at least four general licences: (i) to the armed forces of a Member State or a body purchasing on their behalf; (ii) a certified company; (iii) for demonstration, evaluation or exhibition; and (iv) maintenance and repair of previously supplied items. The provisions to give effect in the UK to the requirements of the ICT Directive came into force on 10 August 2012 through amendments to the Export Control Order 2008;
- Council Directive 91/477/EEC on control of the acquisition and possession of weapons, as amended by Directive 2008/51/EC (the "Weapons Directive"). The Weapons Directive sets out simplified procedures for transfers of civilian firearms by sport shooters in possession of a European Firearms Pass (implemented through article 15 of the 2008 Order) and for transfers between authorised dealers in different Member States (implemented through the "Dealer to Dealer" licence described in A6 below).

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

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

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

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

- Exports of items listed in Schedule 2 of the Export Control Order 2008 (the UK Military List). The rating will be of the format "MLxx" or "PL5xxx";
- Exports of items listed in Schedule 3 of the Export Control Order 2008 (UK Dual-Use List). The rating will be of the format "PL800x" or "PL900x";
- Trade activities as specified in articles 20 – 25 of the Export Control Order 2008. The three risk-based categories of goods (A, B and C) are specified in Article 2 and Schedule 1 of the Export Control Order 2008, and "embargoed destinations" are specified in Parts 1 and 2 of Schedule 4 of the Export Control Order 2008;
- Exports of items listed in Annex I to Council Regulation (EC) 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (EU Dual-Use List). The EU Dual-Use List is divided into 10 Categories (numbered 0 to 9) and 5 sub-Categories (denoted by A to E), with each unique item identified by at least a further 3-digit numeric code. The rating is therefore of the form 0A002 or 7E101;
- Brokering services for items listed in Annex I of the Dual-Use Regulation where the broker has been informed by the competent authorities of the EU Member State where the broker is established that the items are or may be intended for "WMD Purposes" [2]. If the broker is aware of such an end-use the broker must contact the relevant national authorities which will decide whether or not it is expedient to make the transaction subject to a licence;
- Items that the exporter has been told, knows or suspects are or may be intended for "WMD Purposes". This is the "WMD end-use" or "catch-all" control and goods controlled for these reasons are given the rating "End-Use";
- The transfer of technology by any means is controlled where the person making the transfer knows or has been made aware that the technology is for "WMD Purposes" outside the EU;
- The provision of technical assistance is controlled where the provider knows or has been made aware that the technical assistance will be used for "WMD Purposes" outside the EU;
- Components or production equipment that the exporter has been told, knows or suspects are or may be intended for a military end-use[3] in a country subject to certain types of arms embargo, or for use as parts or components of military list items which have been exported in breach of United Kingdom export controls. This is the "Military End-Use" control and these items are given the rating "MEND";
- On 14 January 2014 the European Commission published a proposed Regulation to amend the existing Council Regulation (EC) No 1236/2005, which concerns the trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. The new legislative proposal is informed by the Commission's review of the Regulation in 2012-2013 and is publicly available at the following link: http://europeanmemoranda.cabinetoffice.gov.uk/memorandum/proposal-for-regulation-of-the-european-parliament-of-the-council-amending-council-regulation-ec-no-1394109635. The proposal was subject to discussions at the Council of the EU throughout 2014. The Government has been engaged constructively in the discussions;
- Separately, the proposed amendments to the annexes to Council Regulation (EC) No 1236/2005, which were put to Member States in the Committee for Common Rules for Exports of Products in October 2013, were finalised via Committee procedure and were published on 17 July 2014: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2014_210_R_0001&qid=1405666721643&from=EN. The rating for these items is prefixed with "HR";
- Export, brokering or transfer of items, or provision of services, controlled under destination-specific UN or EU sanctions. Such items are rated using a code representing the country subject to sanctions (e.g. "IRN" for items subject to Iran sanctions);
- Transit or transhipment of controlled items through the UK as set out in Article 17 of the Export Control Order 2008.

2 "WMD Purposes" means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

3 i.e. a: incorporation into military items listed in the military list;
b: use of production, test or analytical equipment and components therefore, for the development, production or maintenance of military list items; or
c: use of any unfinished products in a plant for the production of military list items.

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

## A.5 Assessment of Export Licence Applications

The Export Control Act 2002 requires the Secretary of State to publish guidance on the operation of the controls. The main guidance applying throughout 2014 was the Consolidated Criteria, first announced to Parliament on 26 October 2000 by the then Minister of State for Foreign and Commonwealth Affairs, the Rt Hon Peter Hain MP and updated on 25 March 2014 by the Secretary of State for Business, Innovation and Skills, the Rt Hon Vince Cable MP. This sets out eight criteria against which export licence applications (ELA) are assessed.

The Consolidated Criteria are not applied mechanistically; rather each application is assessed on a case-by-case basis taking into account all the relevant facts and circumstances of that particular case. A licence would not be granted if doing so would be a breach of them. The full text of the updated Consolidated Criteria as announced to Parliament in March 2014 is given in Section A.9. The previous version of the Criteria may be found in the Government's Annual Report for 2013.

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

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

## A.6 Strategic Export Licence Application Process

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

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

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

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

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

### Criterion One

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

### Criterion Two

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

### Criterion Three

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

### Criterion Four

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

### Criterion Five

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

### Criterion Six

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

### Criterion Seven

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

### Criterion Eight

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

## A.7 Types of Licence

The types of licence available are the:

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

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

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

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

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

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

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

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

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

## A.8 HMRC, Border Force and Crown Prosecution Service: Resources on Enforcement

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

### HMRC

HMRC is the UK authority responsible for the implementation of EU customs policy, and for enforcement of UK and EU customs legislation. This includes policy responsibility for enforcement of strategic goods controls.

HMRC has a team that develops and manages strategic export controls, trade controls and sanctions enforcement policy, as well as liaising with the wider cross-Government counter-proliferation community. HMRC also has two specialist operational teams carrying out criminal investigations and intelligence management in this area. Checks on customs export declarations, and supporting documentation for exports from the UK, are conducted by HMRC staff at the National Clearance Hub (NCH). This activity includes checks on BIS export licences.

UK exporters are audited by staff from the HMRC Large Business and Local Compliance functions that also carry out pre-export licence checks on intra-EU transfers of controlled goods.

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

These types of case will be referred to the Crown Prosecution Service which will determine whether there is sufficient evidence to mount a prosecution, and whether that prosecution is in the public interest.

Where it may not be appropriate, or possible to pursue criminal prosecution HMRC will consider other courses of action. These may include:

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

In addition, HMRC investigates breaches of trade controls, where restricted or controlled goods have been moved from one third country to another by UK nationals. The arrangement of the movement of these goods will have been undertaken either in the UK, or by UK nationals anywhere in the world.

### Border Force

Border Force is responsible for deterring and preventing the entry of illegitimate goods, and protecting revenue and legitimate business by preventing and deterring smuggling of taxable or counterfeit goods and identifying under/non-declarations.

Border Force has primary responsibility for maintaining UK border security. To achieve this, Border Force conducts an extensive range of checks at the border on people and commodities travelling to and from the UK.

Strategic Exports continued to feature as a very high priority in the Border Force Control Strategy in 2014. As such, resource is allocated proportionately and in line with the perceived threat.

The Border Force Counter-Proliferation Team at Heathrow has specialised knowledge in the detection of the illicit export of strategic goods and sanctions breaches, and works with colleagues across Border Force to detain, disrupt and seize unlicensed or sanctions-breaching goods. These seizures and disruptions can result in criminal investigations by HMRC.

### Crown Prosecution Service (CPS)

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

## A.9 Consolidated EU and National Arms Export Licensing Criteria

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

**WRITTEN MINISTERIAL STATEMENT**

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

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

**25 MARCH 2014**

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

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

- The entry into force of the Export Control Act 2002;
- The application of controls to electronic transfers of software and technology and to trade (brokering) in military goods between overseas destinations;
- The adoption by the EU of Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment;

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

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

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

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

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

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

## CRITERION ONE

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

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

a. The UK's obligations and its commitments to enforce United Nations, European Union and Organisation for Security and Cooperation in Europe (OSCE) arms embargoes, as well as national embargoes observed by the UK and other commitments regarding the application of strategic export controls;

b. The UK's obligations under the United Nations Arms Trade Treaty;

c. The UK's obligations under the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention;

d. The UK's obligations under the United Nations Convention on Certain Conventional Weapons, the Convention on Cluster Munitions (the Oslo Convention), the Cluster Munitions (Prohibitions) Act 2010, and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the Ottawa Convention) and the Land Mines Act 1998;

e. The UK's commitments in the framework of the Australia Group, the Missile Technology Control Regime, the Zangger Committee, the Nuclear Suppliers Group, the Wassenaar Arrangement and The Hague Code of Conduct against Ballistic Missile Proliferation;

f. The OSCE Principles Governing Conventional Arms Transfers and the European Union Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

### CRITERION TWO

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

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

a. Not grant a licence if there is a clear risk that the items might be used for internal repression;

b. Exercise special caution and vigilance in granting licences, on a case-by-case basis and taking account of the nature of the equipment, to countries where serious violations of human rights have been established by the competent bodies of the UN, the Council of Europe or by the European Union;

c. Not grant a licence if there is a clear risk that the items might be used in the commission of a serious violation of international humanitarian law.

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

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

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

### CRITERION THREE

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

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

### CRITERION FOUR

*Preservation of regional peace, security and stability.*

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

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

a. The existence or likelihood of armed conflict between the recipient and another country;

b. A claim against the territory of a neighbouring country which the recipient has in the past tried or threatened to pursue by means of force;

c. The likelihood of the items being used other than for the legitimate national security and defence of the recipient;

d. The need not to affect adversely regional stability in any significant way, taking into account the balance of forces between the states of the region concerned, their relative expenditure on defence, the potential for the equipment significantly to enhance the effectiveness of existing capabilities or to improve force projection, and the need not to introduce into the region new capabilities which would be likely to lead to increased tension.

## CRITERION FIVE

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

The Government will take into account:

a. The potential effect of the proposed transfer on the UK's defence and security interests or on those of other territories and countries as described above, while recognising that this factor cannot affect consideration of the criteria on respect of human rights and on regional peace, security and stability;

b. The risk of the items being used against UK forces or against those of other territories and countries as described above;

c. The need to protect UK military classified information and capabilities.

## CRITERION SIX

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

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

a. Its support for or encouragement of terrorism and international organised crime;

b. Its compliance with its international commitments, in particular on the non-use of force, including under international humanitarian law applicable to international and non-international conflicts;

c. Its commitment to non-proliferation and other areas of arms control and disarmament, in particular the signature, ratification and implementation of relevant arms control and disarmament instruments referred to in criterion one.

## CRITERION SEVEN

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

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

a. The legitimate defence and domestic security interests of the recipient country, including any involvement in United Nations or other peace-keeping activity;

b. The technical capability of the recipient country to use the items;

c. The capability of the recipient country to exert effective export controls;

d. The risk of re-export to undesirable destinations and, as appropriate, the record of the recipient country in respecting re-export provisions or consent prior to re-export;

e. The risk of diversion to terrorist organisations or to individual terrorists;

f. The risk of reverse engineering or unintended technology transfer.

## CRITERION EIGHT

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

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

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

## OTHER FACTORS

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

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

a. The potential effect on the UK's economic, financial and commercial interests, including our long-term interests in having stable, democratic trading partners;

b. The potential effect on the UK's international relations;

c. The potential effect on any collaborative defence production or procurement project with allies or EU partners;

d. The protection of the UK's essential strategic industrial base.

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

# Annex B

# International Development Association eligible countries

### Africa

Benin
Burkina Faso
Burundi
Cameroon
Cape Verde
C.A.R.
Chad
Comoros
Congo, Democratic Republic of (formerly Zaire)
Congo, Republic of
Cote d'Ivoire
Eritrea
Ethiopia
Gambia, The
Ghana
Guinea
Guinea-Bissau
Kenya
Lesotho
Liberia
Madagascar
Malawi
Mali
Mauritania
Mozambique
Niger
Nigeria
Rwanda
Sao Tome and Principe
Senegal
Sierra Leone
Somalia
South Sudan
Sudan
Tanzania
Togo
Uganda
Zambia
Zimbabwe

### East Asia

Cambodia
Kiribati
Laos, PDR
Marshall Islands
Micronesia, FS
Mongolia
Myanmar
Papua New Guinea
Samoa
Solomon Islands
Timor-Leste
Tonga
Tuvalu
Vanuatu
Vietnam

### Europe and Central Asia

Kosovo
Kyrgyz Republic
Moldova
Tajikistan
Uzbekistan

### Latin America and Caribbean

Bolivia
Dominica
Grenada
Guyana
Haiti
Honduras
Nicaragua
St Lucia
St Vincent

### Middle East and North Africa

Djibouti
Yemen, Republic of

### South Asia

Afghanistan
Bangladesh
Bhutan
India
Maldives
Nepal
Pakistan
Sri Lanka

More information is available online through the following link: http://www.worldbank.org/ida/borrowing-countries.html

# Annex C

# International Commitments and Sanctions Regimes

The following table lists the Government's non-proliferation commitments and their areas of coverage. Also shown in the list are other international organisations involved directly in export controls.

**Table C.I**

| Areas of coverage | Commitment |
|---|---|
| Nuclear | • Treaty on the Non-Proliferation of Nuclear Weapons<br>• The Zangger Committee<br>• Nuclear Suppliers Group |
| Chemical and Biological | • The Chemical Weapons Convention<br>• The Biological and Toxin Weapons Convention<br>• The Australia Group<br>• The Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (known as the 1925 Geneva Protocol) |
| Weapons of Mass Destruction Delivery Systems | • The Missile Technology Control Regime (MTCR) |
| Conventional Weapons | • The Wassenaar Arrangement<br>• The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (known as the Ottawa Treaty)<br>• The UN Convention on Certain Conventional Weapons<br>• The Convention on Cluster Munitions (known as the Oslo Treaty)<br>• The Arms Trade Treaty<br>• The UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects |
| Other Organisations involved directly in Strategic Export Controls | • United Nations (UN), including the UN Security Council (UNSC)<br>• G8 Initiatives<br>• European Union (EU)<br>• Organisation for Security and Co-operation in Europe (OSCE) |

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

**Table C.II**

| Country | Source | Instrument |
|---|---|---|
| Al-Qaeda | UN<br><br><br>EU | • UNSCR 1333 (2000), 1363 (2001), 1390 (2002), 1822 (2008), 1989 (2011), 1904 (2009), 2083 (2012), 2161 (2014), 2170 (2014), 2178 (2014) and 2199 (2015).<br>• Common Position 2022/402/CFSP, as amended.<br>• Council Regulation (EC) No 2002/881, as amended. |
| Afghanistan | UN<br>EU | • UNSCR 1988 (2011), 2082 (2012) and 2160 (2014).<br>• Council Decision 2011/486/CFSP, as amended.<br>• Council Regulation (EU) No 753/2011, as amended. |
| Armenia & Azerbaijan | OSCE | • Decision of the Committee of Senior Officials of the OSCE 28/02/92. |
| Belarus | EU | • Council Decision 2012/642/CFSP, as amended.<br>• Council Regulation (EC) No 765/2006, as amended. |
| Burma | EU | • Council Decision 2013/184/CFSP, as amended.<br>• Council Regulation (EU) No 401/2013, as amended. |
| Central African Republic | UN<br>EU | • UNSCR 2127 (2013) and 2134 (2014).<br>• Council Decision 2013/798/CFSP, as amended.<br>• Council Regulation (EU) No 224/2014, as amended. |
| China | EU | • Declaration by the Madrid European Council 27/06/89. |
| Cote d'Ivoire | UN<br><br>EU | • UNSCR 1572 (2004), 1980 (2011), 2045 (2012), 2101 (2013), 2153 (2014) and 2219 (2015).<br>• Council Decision 2010/656/CFSP, as amended.<br>• Council Regulation (EU) No 174/2005, as amended. |
| Democratic People's Republic of North Korea | UN<br>EU | • UNSCR 1718 (2006), 1874 (2009), 2087 (2013) and 2094 (2013).<br>• Council Decision 2013/183/CFSP, as amended.<br>• Council Regulation (EU) No 329/2007, as amended. |
| Democratic Republic of Congo | UN<br><br>EU | • UNSCR 1493 (2003), 1596 (2005) and 1807 (2008). Most recently renewed by UNSCR 2198 (2015).<br>• Council Decision 2010/788/CFSP, as amended.<br>• Council Regulation (EC) No 889/2005, as amended. |
| Eritrea | UN<br>EU | • UNSCR 1907 (2009), 2023 (2011), 2060 (2012) and 2111 (2013).<br>• Council Decision 2010/127/CFSP, as amended.<br>• Council Regulation (EU) No 667/2010, as amended. |
| Guinea | EU | • Council Decision 2010/638/CFSP, as amended.<br>• Council Regulation (EU) No 1284/2009, as amended. |
| Iran (Nuclear) | EU | • Council Decision 2010/413/CFSP, as amended.<br>• Council Regulation (EU) No 267/2012, as amended. |
| Iran (Human Rights) | EU | • Council Decision 2011/235/CFSP, as amended.<br>• Council Regulation (EU) No 359/2011, as amended. |

| **Table C.II** *(continued)* | | |
|---|---|---|
| **Country** | **Source** | **Instrument** |
| Iraq | UN<br>EU | • UNSCR 661 (1990), 1483 (2003) and 1546 (2004).<br>• Common Position 2003/495/CFSP, as amended.<br>• Council Regulation (EC) No 1210/2003, as amended. |
| Lebanon | UN<br>EU | • UNSCR 1701 (2006).<br>• Common Position 2006/625/CFSP.<br>• Council Regulation (EC) No 1412/ 2006, as amended. |
| Liberia | UN<br><br>EU | • UNSCR 1903 (2009) and 2128 (2013). Most recently renewed by UNSCR 2188 (2013).<br>• Common Position2008/109/CFSP, as amended.<br>• Council Regulation (EC) No 234/2004, as amended. |
| Libya | UN<br><br>EU | • UNSCR 1970 (2011), 1973 (2011), 2009 (2011), 2040 (2012), 2095 (2013) and 2174 (2014).<br>• Council Decision 2011/137/CFSP, as amended.<br>• Council Regulation (EU) No 204/2011, as amended. |
| Russian Federation | EU | • Council Decision 2014/512/CFSP, as amended<br>• Council Regulation (EU) No 833/2014, as amended. |
| Somalia | UN<br><br><br>EU | • UNSCR 733 (1992), 1356 (2001), 1425 (2002), 1744 (2007), 1772 (2007), 1844 (2008), 1846 (2008), 1851 (2008), 2093 (2013), 2111 (2013), 2142 (2013) and 2182 (2014).<br>• Council Decision 2010/231/CFSP, as amended.<br>• Council Regulation (EC) No 147/2003, as amended.<br>• Council Regulation (EU) No 356/2010, as amended. |
| South Sudan | EU | • Council Decision 2014/449/CFSP.<br>• Council Regulation (EU) No 748/2014, as amended. |
| Sudan | UN<br>EU | • UNSCR 1556 (2004), 1591 (2005) and 1945 (2010).<br>• Council Decision 2014/449/CFSP.<br>• Council Regulation (EU) No 748/2014. |
| Ukraine | EU | • Council Decision 2014/386/CFSP, as amended.<br>• Council Regulation (EU) No 692/2014, as amended. |
| Zimbabwe | EU | • Council Decision 2011/101/CFSP, as amended.<br>• Council Regulation (EC) No 314/2004, as amended. |

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

# Annex D

# Additional information/ further reference material

The Government's returns to the **EU Annual Report on Arms Exports** and the **UN Register of Conventional Arms** have previously been published in this report.

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

- **EU Annual Reports on Arms Exports** are available online through the following link:

  http://www.eeas.europa.eu/non-proliferation-and-disarmament/arms-export-control/index_en.htm

- **The UN Register of Conventional Arms** is available online through the following link:

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

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