

CONSOLIDATED EU AND NATIONAL ARMS EXPORT LICENSING CRITERIA

CRITERION ONE

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

The Government will not issue an export licence if approval would be inconsistent with, inter alia:

- a. The UK's international obligations and its commitments to enforce UN, OSCE and EU 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 international obligations under the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention;
- c. The UK's commitments in the frameworks of the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group and the Wassenaar Arrangement;
- d. The Guidelines for Conventional Arms Transfers agreed by the Permanent Five members of the UN Security Council, and the OSCE Principles Governing Conventional Arms Transfers and the EU Code of Conduct on Arms Exports;
- e. The UK's obligations under the Ottawa Convention and the 1998 Land Mines Act;
- f. The UN Convention on Certain Conventional Weapons.

CRITERION TWO

The respect of human rights and fundamental freedoms in the country of final destination.

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

- a. Not issue an export licence if there is a clear risk that the proposed export might be used for internal repression;

- b. Exercise special caution and vigilance in issuing 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 EU.

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

The nature of the equipment will be considered carefully, particularly if it is intended for internal security purposes. Internal repression includes, inter alia, torture and other cruel, inhuman and degrading treatment or punishment; summary, arbitrary or extra-judicial executions; disappearances; arbitrary detentions; and other major suppression or 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.

The Government considers that in some cases, the use of force by a government within its own borders, for example to preserve law and order against terrorists or other criminals is legitimate and does not constitute internal repression, as long as force is used in accordance with the international human rights standards described above.

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 issue licences for export 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 issue an export licence if there is a clear risk that the intended recipient would use the proposed export aggressively against another country, or to assert by force a territorial claim. However, a purely theoretical possibility that the items concerned might be used in the future against another state will not of itself lead to a licence being refused.

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. Whether the equipment would be likely to be 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, or territories whose external relations are the UK's responsibility, and of allies, EU Member States and other friendly countries.

The Government will take into account:

- a. The potential effect of the proposed export 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 goods concerned being used against UK forces or on those of other territories and countries as described above;
- c. The risk of reverse engineering or unintended technology transfer;
- d. 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 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 conventions referred to in sub-para b) of Criterion One.

CRITERION SEVEN

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

In assessing the impact of the proposed export on the importing country and the risk that exported goods might be diverted to an undesirable end-user, the following will be considered:

- a. the legitimate defence and domestic security interests of the recipient country, including any involvement in UN or peace-keeping activity;
- b. the technical capability of the recipient country to use the equipment;
- c. the capability of the recipient country to exert effective export controls.

The Government will pay particular attention to the need to avoid diversion of UK exports to terrorist organisations. Proposed exports of anti-terrorist equipment will be given particularly careful consideration in this context.

CRITERION EIGHT

The compatibility of the arms exports 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 export 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

Operative Provision 10 of the EU Code of Conduct 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 Code.

The Government will thus continue when considering export 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 relations with the recipient country;
- 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.