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ANNUAL REPORT

UNITED KINGDOM STRATEGIC EXPORT CONTROLS



BERR | Department for Business
Enterprise & Regulatory Reform


Foreign &
Commonwealth
Office


MINISTRY OF DEFENCE

DFID | Department for
International
Development



UNITED KINGDOM STRATEGIC EXPORT CONTROLS

Annual Report 2007

*Presented to Parliament by
the Secretary of State for Foreign and Commonwealth Affairs,
the Secretary of State for International Development,
the Secretary of State for Defence and
the Secretary of State for Business, Enterprise and Regulatory Reform
by Command of Her Majesty
July 2008*

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Ministerial Foreword

This is the 11th Annual Report on Strategic Export Controls to be published by this Government, and covers UK export control policy for the period January to December 2007. We remain committed to being as transparent as possible about our export licensing decisions and policy, enabling members of the public, non-governmental organisations and Parliament to hold us to account for them.

There were a number of significant developments in 2007. The first was the review, led by the Department for Business, Enterprise and Regulatory Reform (BERR), of the secondary legislation introduced in 2004 under the Export Control Act 2002. In June 2007, BERR launched a public consultation to seek views and supporting evidence on the effectiveness and business impact of the 2004 changes, and on options for possible further change. The consultation closed on 30 September 2007. The first change, a new control on 'sting sticks', has already been introduced, and work is under way to implement the other changes agreed on small arms and light weapons, man-portable air defence systems (MANPADS), cluster munitions and a torture end-use control. Discussions continue on other areas which have not yet been resolved.

The second development was the introduction of SPIRE, a government-wide IT system for processing applications from exporters. For the first time, SPIRE allows all applications received by BERR to be handled electronically by case officers, and connects all government departments involved in export licensing through a shared processing system.

This report shows that the Government continues to meet or exceed the agreed performance targets on application processing times. In 2007, 9,647 Standard Individual Export Licence (SIEL) applications were processed, down from 9,908 in 2006. Of these, over 79% were processed within 20 working days, exceeding

the target by nine percentage points. A total of 292 Open Individual Export Licence (OIEL) applications were processed, with 75% being processed within the 60-day target. On rating enquiries, 64% were processed within the target of 20 working days.

In order to increase further the transparency of the Government's export licensing process, we are also publishing the recently revised methodology for Criterion 8 in this Annual Report. This allows the Department for International Development (DFID) to select applications which it needs to assess in detail under Criterion 8. The methodology is not used to determine whether DFID recommends approval or refusal; that decision falls to DFID officials who evaluate each application based on their development expertise and knowledge of the destination country.

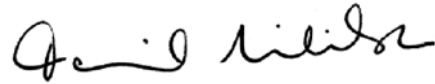
The machinery of government decision in July 2007 to transfer responsibility for defence export promotion from the Ministry of Defence (MOD) to UK Trade & Investment (UKTI) provided an opportunity to refocus Government support for the sector. As highlighted in the Government's Defence Industrial Strategy, the manufacture and export of defence equipment is of vital importance to UK defence interests and national security, and makes an important contribution to our economy. The new UKTI Defence & Security Organisation, which was established in April 2008, will continue to have close links to the MOD under a service level agreement. Separately, the MOD retains its distinct role as an advisory department to BERR on export licence applications.

The enforcement of strategic export controls on military and dual-use goods, including activities against trafficking and brokering, continues to be a high priority. Enforcement action in the financial year 2007/08 resulted in 55 seizures, three successful prosecutions and other activity leading to the successful disruption of attempted proliferation.

The UK continues to play a key role in the United Nations (UN) process towards a legally binding international Arms Trade Treaty (ATT). In 2007 nearly 100 States contributed their views to the UN Secretary-General on the feasibility, scope and draft parameters of an ATT. The Secretary-General then invited 28 states, including the UK, to participate in a Group of Governmental Experts (GGE) to examine the issue. The GGE is due to meet three times in 2008 to discuss the ATT. The UK is committed to achieving a strong, legally binding ATT, and is actively participating in the GGE meetings.

Finally, each year we seek to improve the content and format of this Report, picking up on recommendations made by the Committees on Arms Exports Controls (formerly the Quadripartite Committee) and other stakeholders. We also look to adopt best practice from other UK annual reports, and from annual reports published by other countries. As part of this process, we have this year included further case studies which seek to explain how we approach particular export licence applications, and how we reach decisions. This year we have also colour-coded sections of the report, which we hope will make it easier to navigate.

We hope that readers will find this Report, and the accompanying CD-Rom, an informative and useful guide to UK export control policy. We commend it to both Parliament and the public.



David Miliband



Douglas Alexander



Des Browne



John Hutton

Section 1

UK Strategic Export Controls Policy

1.1 Overview

The UK system for the licensing of strategic exports is operated by a single export licensing community. This community comprises five government departments: the Department for Business, Enterprise and Regulatory Reform (BERR – formerly the DTI); the Foreign and Commonwealth Office (FCO); the Ministry of Defence (MOD); the Department for International Development (DFID); and Her Majesty's Revenue and Customs (HMRC).

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 so as to ensure that sensitive goods and technology are kept out of the wrong hands. In so doing we shall facilitate responsible defence exports, as these depend on a sound regime of controls.

We shall administer the licensing system efficiently so that we keep the compliance burden on UK exporters to the minimum. In particular we shall therefore:

- within the framework of our case-by-case approach, ensure maximum predictability for exporters by taking decisions which are consistent with the Consolidated EU and National Arms Export Licensing 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 by publishing an Annual Report;
- establish a dialogue with exporters, our customers, to enable us to understand their concerns and them to understand our requirements. We shall support them in complying with the process through services such as BERR's website, and awareness activities and ratings. We shall keep our licence products under review to ensure they remain appropriate as circumstances change; and
- benchmark ourselves against comparable licensing authorities elsewhere so that we capture best practice and ensure that we are leaders in our field.

BERR's Export Control Organisation (ECO) is the licensing authority for strategic exports in the UK. It sets out the regulatory framework under which licence applications are considered, and the Secretary of State for Business, Enterprise and Regulatory Reform takes the formal decision to issue or refuse export licence applications, and where necessary to revoke extant licences, in accordance with the appropriate legislation and announced policy.

The FCO, MOD and DFID act in a policy advisory capacity, providing the ECO with advice and analysis on the foreign, defence and international development policy aspects relevant to consideration of export licence applications against the Consolidated EU and National Arms Export Licensing Criteria. (For the full text of the Criteria, see Annex A.)

HMRC is responsible for the enforcement of export controls, including the investigation of potential breaches that may result in a prosecution being brought through the Revenue and Customs Prosecution Office (RCPO) (see section 1.7 below).

The FCO's Export Licensing Team (ELT) carries out an initial assessment of all applications passed to it. Depending on an application's complexity, ELT may pass it on for further consideration to one of several other departments within the FCO, and to our Mission in the country concerned. This process regularly involves consultations with the FCO's International Organisations Department, to ensure that the potential export is not in contravention of our international commitments (Criterion 1). All licence applications to countries where we have concerns about human rights issues (Criterion 2) are referred to the Human Rights, Democracy and Good Governance Department for its consideration. The FCO's overseas posts are also able to make a valuable and informed contribution to assessing applications, specifically when assessing licences against Criteria 2, 3 (which addresses the internal situation of a recipient country) and 4 (which is concerned with the impact on regional stability of a proposed export). Only after completion of this detailed risk assessment is a recommendation passed back from the FCO to the ECO.

The advice MOD provides on export licence applications similarly reflects the results of an internal process bringing together advice from a number of areas. This routinely 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. In addition, MOD has a procedure (the Form 680 process) for ensuring that companies seek clearance to use classified information they hold for the purposes of marketing their products overseas. Companies must also seek such clearance for the supply of classified goods. This procedure also benefits the licensing process, because Form 680 clearance is refused if there is no prospect of a licence being approved for a given combination of product and destination.

DFID provides specific expertise and advice in considering applications to developing countries that are eligible for concessional loans from the World Bank's International Development Association. It assesses the risk that a proposed export would seriously undermine the economy or seriously hamper sustainable development in the recipient country. DFID's export licensing team carries out an initial assessment of applications passed to it; depending on any concerns identified, the applications may then be circulated to DFID country offices for further consideration. DFID may ask to see applications in respect of other countries of concern, as it has a significant interest in exports that might contribute

to conflict or human rights abuses. DFID has recently revised the methodology for applying Criterion 8, and this is included at Annex C.

1.2 Legislation

The primary legislation covering the export of strategic goods from the UK is the Export Control Act 2002, as amended. The Act is implemented by secondary legislation ('Orders') under the Act.

The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003, as amended, reproduced the export controls on physical exports that pre-dated the 2002 Act but introduced new controls covering the electronic transfer abroad of military technology. This brought controls on military technology into line with similar European Community controls on the electronic transfer of dual-use technology.

The Trade in Goods (Control) Order 2003, as amended, introduced controls to cover trade in military equipment between two overseas countries where any part of the trading activity takes place in the UK, whether by a UK person (individual or company) or a foreign visitor or resident. This coverage is further extended to include UK persons operating wholly overseas (i.e. where no part of the deal actually takes place on UK territory) trading in restricted goods (torture equipment and certain long-range missiles and their components) to any destination, or trading in controlled military goods to embargoed destinations.

European Council Regulation (EC) 1334/2000 set up a Community regime for the control of dual-use items and technology. The Regulation was adopted in June 2000.

In 2007 the Government, led by the ECO, began a review of the secondary legislation introduced under the Export Control Act 2002. A period of public consultation (from 18 June to 30 September 2007) gave interested parties the opportunity to submit their thoughts, comments and suggestions on a number of areas. The Government received 23 substantive responses from a number of sources, and more than 5,000 brief responses from individuals. The Government spent the final quarter of 2007 assessing the responses and comments, and published its initial response on 6 February 2008. A further response is due to be published later in 2008.

Information on all aspects of the review, including the initial response, can be found at www.berr.gov.uk/consultations/page39910.html and www.berr.gov.uk/europeandtrade/strategic-export-control/legislation/export-control-act-2002/review/index.html

1.3 Transparency and accountability

The House of Commons Quadripartite Committee (since renamed the Committees on Arms Export Controls) continued to scrutinise export licensing decisions throughout 2007. The Government continued its practice of providing the committee with as much information as possible in response to its requests, as well as classified information relating to the quarterly reports. Every effort is made to ensure that as much information as possible is made public, but the Government has to find a balance between making information public in the interests of transparency and protecting the information, much of which is commercially sensitive, that it receives as part of the licensing process.

In addition, the Government continued to make ministers available to give oral evidence to the committee. The then Foreign Secretary, Margaret Beckett, appeared before the committee to give evidence on 15 March 2007. The DFID Parliamentary Under-Secretary of State, Gareth Thomas, appeared before the committee on 1 March 2007, as did officials from HMRC and the RCPO. Transcripts of each of these evidence sessions are available at www.publications.parliament.uk/pa/cm200607/cmselect/cmquad/117/117.pdf. Malcolm Wicks, BERR Minister of State, did not appear before the committee owing to the ongoing review of the Export Control Act, but did have an informal meeting with the committee on 5 March 2007.

The Government is committed to increasing the level of transparency and quality of information it provides to both Parliament and the general public wherever possible. We regard this process as ongoing and continue to welcome suggestions for improvements from all stakeholders. The Government has made a number of commitments to provide further information, or to make changes to the way in which information is presented, and will combine these during 2008 to produce a consistent approach across the reporting year.

1.4 Awareness

The Government has undertaken an extensive awareness campaign for industry around the UK. Thirty-four seminars and training courses were held nationwide during 2007, attended by over 800 people from 400 organisations.

These comprised beginners' workshops for those who are new to export controls; intermediate-level seminars covering a number of issues including exporting technology, the different sorts of licence available, company compliance with export control legislation and the UK control lists; an open licences and compliance seminar; control list classification workshops; a new seminar on dual-use goods and technology; and a series of seminars introducing the new licence application IT system SPIRE.

ECO staff have given a number of presentations over the past 12 months to individual companies, HMRC, chambers of commerce and trade associations.

The Government continues to publish, on the ECO website, a list of Iranian entities of potential weapons of mass destruction (WMD) concern. The list is intended to help exporters judge which exports might potentially be of concern on WMD end-use grounds, based on previous licensing decisions, and when they should contact the ECO for advice. Inclusion of an entity on the list does not necessarily indicate that an export licence would be refused, nor does non-inclusion mean that there are no end-use concerns. Exporters are encouraged to contact the ECO whenever they have any suspicions regarding possible WMD end-use.

In the first full year of operation, good use was made of ECO's two web-based search tools – Goods Checker and OGEL Checker – which help exporters find out whether their products need a licence and, if they are licensable, whether an Open General Licence (OGEL) potentially covers the proposed exports. Goods Checker provides a web-based search function across the Consolidated UK Strategic Export Control List. OGEL Checker enables users, once they 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 that all the conditions can be complied with.

In 2007, over 2,400 individuals from 51 countries registered to use the checker tools. There was an average of 77 visits per day to the website, an increase of 24% on the number of visits in the second half of 2006. Both tools can be accessed at www.ecochecker.co.uk

1.5 Compliance

In 2007, ECO's compliance officers undertook 664 visits (up from 567 in 2006) to companies and individuals holding Open Individual and Open General Export Licences, both for exports and for trade activity; 29% of these visits were to companies that had not previously used open licences. The purpose of the visits was to establish whether the terms and conditions of the licences were being adhered to. Approximately 45% (59% in 2006) of visits showed the companies to be fully compliant with the terms of their licences. Of the remaining 55% (41% in 2006), the vast majority of the errors found were minor and were rectified by the companies involved before they were visited again.

The resourcing of the compliance team was increased by four staff during the period, as part of the resource reallocation under the SPIRE programme.

1.6 HMRC resources on enforcement and outreach

HMRC enforces the UK's strategic export controls using a combination of multifunctional teams and specialist strategic export control teams. The majority of HMRC officers are multifunctional, covering a wide range of fiscal controls as well as other regimes prohibiting or restricting the import and export of goods. All officers are equipped to carry out a range of duties, and are supported by specialist teams when necessary.

HMRC has a full-time permanent headquarters unit dealing with strategic export control and sanctions enforcement. In addition, two specialist operational teams carry out criminal investigations and intelligence work in this field. Staff within frontier detection units carry out physical examinations of cargo at ports and airports, and also enforce passenger controls. Officers at HMRC's national clearance hub carry out checks on export documents and customs declarations for exports from the UK, including checking BERR export licences. Officers within HMRC's large business service and local compliance teams audit UK exporters and also carry out pre-export licence checks on transfers of controlled goods within the EU.

HMRC has continued to strengthen its links with other enforcement agencies in the field of strategic export control: it organised and hosted a trilateral conference with French and German customs officials in London in October 2007, and has participated in export control outreach and capacity-building events with a number of key partner countries including China, Hong Kong, Pakistan, Bosnia and Herzegovina, and the United Arab Emirates.

1.7 Enforcement actions taken by HMRC

HMRC aims to prevent and deter the illegal trade in goods subject to export licensing, seizing goods found to be breaching export controls and investigating serious cases. Enforcement of export controls and sanctions continues to be a high priority.

HMRC seizures

Table 1.1 outlines the number of cases in which HMRC action has resulted in the seizure of strategic goods over the last five years. Strategic goods are defined as:

- items on the UK's Military List
- dual-use goods listed under European Council Regulation (EC) 1334/2000 or goods caught by military and WMD end-use controls
- goods controlled under European Council Regulation (EC) 1236/2005 (the 'Torture' Regulation)
- goods controlled under United Nations, EU, Organization for Security and Co-operation in Europe and UK sanctions.

Table 1.1 HMRC seizures of strategic goods

Financial year	Number of seizures
2002/03	67
2003/04	63
2004/05	37
2005/06	34
2006/07	44

In addition to seizing goods at the frontier, in 2006/07 HMRC took action in 12 cases to prevent the export of goods that could have assisted countries to acquire a WMD capability.

RCPO prosecutions

HMRC conducted a number of successful investigations into export control offences in 2007, including the intangible transfer of controlled technology; trafficking and brokering of sub-machine guns between Iran and Kuwait; and the illegal export of missile technology to Iran. The first case led to the issue of a compound penalty for the sum of £10,000 in lieu of criminal proceedings. The latter two cases were both successfully prosecuted by RCPO, and resulted in custodial sentences. For further information, see www.rcpo.gov.uk

Table 1.2 outlines successful prosecutions for breaches of UK strategic export controls since 2006.

Table 1.2 HMRC prosecutions for strategic export offences

Financial year	Goods	Destination	Individual or company	Offence	Penalty
2006/07	Body armour and helmets	Kuwait and Iraq	Peace Keeper International Ltd	Exportation of goods contrary to the Customs and Excise Management Act 1979, Section 68 (1)	£10,000 fine
2006/07	Military helmets and flak jackets	Kuwait	Winchester Procurement Ltd	Exportation of goods contrary to the Customs and Excise Management Act 1979, Section 68 (1)	£8,000 fine
2007/08	100g of 2-diisopropylaminoethyl chloride hydrochloride and 10g of hafnium	Egypt	Avocado Research Chemicals Ltd	Exportation of goods contrary to the Customs and Excise Management Act 1979, Section 68 (1)	£600 fine plus £100 costs
2007/08	MPT9 sub-machine guns	From Iran to Kuwait	John Knight of Endeavour Resources Ltd	Trafficking weapons contrary to Article 9(2) of the Trade in Goods (Control) Order 2003	Four years' imprisonment and confiscation order of £53,389.51
2007/08	Gyro-compasses	Iran	Mehrdad Salashor	Exportation of goods contrary to the Customs and Excise Management Act 1979, Section 68 (2)	18 months' imprisonment and confiscation order of £432,970 under the Proceeds of Crime Act 2002

Section 2

International Policy

For domestic policy to be effective, it must reflect our wider international commitments and obligations under the various export control regimes that underpin international non-proliferation treaties and arrangements. The UK rigorously implements its own commitments under those regimes. We also work actively with partners to strengthen the regimes, ensuring that the controls currently in place to prevent proliferation are effective and universally respected.

2.1 Export control regimes and controlled items in 2007

Table 2.1 lists the export control regimes to which controlled items were subject in 2007, the international organisations involved directly in export controls and the criteria for assessing export licence applications. Annex E lists the year in which each export control regime was established and its current membership.

Table 2.1 Export control regimes	
Item	Regime
Nuclear international obligations and commitments and their origins	Treaty on the Non-Proliferation of Nuclear Weapons, also known as the Non-Proliferation Treaty The Zangger Committee Nuclear Suppliers Group

Table 2.1 (continued)	
Item	Regime
Chemical and biological international obligations and commitments and their origins	The Chemical Weapons Convention Organisation for the Prohibition of Chemical Weapons The Biological and Toxin Weapons Convention The Australia Group
WMD Delivery Systems	The Missile Technology Control Regime
Conventional Weapons	The Wassenaar Arrangement The Ottawa Convention
Other organisations involved directly in strategic export controls	United Nations (UN), including through UN Security Council resolutions (UNSCRs) G8 initiatives European Union (EU) Organization for Security and Co-operation in Europe (OSCE)
Criteria for assessing export licence applications	The Consolidated EU and National Arms Export Licensing Criteria

Items are categorised according to three main lists:

- the International Atomic Energy List (IAEL)
- the International Munitions List (IML)
- the Industrial List (dual-use list).

In the UK, adherence to export control regimes and items on the controlled lists is enforced by a statutory instrument, the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (EGTPTA[C]O 2003) (as amended). Additional UK national controls are also included in this legislation. Across the EU, export control regimes and control lists are made legally binding through European Council Regulation (EC) 1334/2000 (as amended).

2.2 Countries subject to embargo or other restrictions

Table 2.2 lists the UN, EU, OSCE and other restrictions on the export of military and controlled goods, and our own national embargoes.

Country	Source	Instrument
Armenia and Azerbaijan	OSCE	Decision of the Committee of Senior Officials of the OSCE 28/02/92
Burma	EU	Common Position 2007/750/CFSP
Burundi	UN (embargo on Rwanda)	UNSCR 997 (1995)
China	EU	Declaration by the Madrid European Council 27/06/89
Côte d'Ivoire	UN	UNSCR 1782 (2007)
DPRK	UN	UNSCR 1718 (2006)
DRC	UN	UNSCR 1771 (2007) UNSCR 1807 (2008)
	EU	Common Position 2005/440/CFSP

Country	Source	Instrument
Iran	EU	Common Position 2007/246/CFSP Council Regulation (EC) 423/2007
	UN	UNSCR 1803 (2008) UNSCR 1747 (2007) UNSCR 1737 (2006)
Iraq	UN	UNSCR 661 (1990)
Lebanon	UN	UNSCR 1701 (2006)
Liberia	UN	UNSCR 1792 (2004)
	EU	Common Position 2008/109/CFSP
North Korea	UN	UNSCR 1718 (2006)
	EU	Common Position 2006/795/CFSP
Rwanda	UN	UNSCR 918 (1994)
Sierra Leone	UN	UNSCR 1171 (1998)
Somalia	UN	UNSCR 1744 (2007)
Sudan	EU	Common Position 2005/411/CFSP
	UN	UNSCR 1591 (2005)
Tanzania	UN embargo on Rwanda (applies to the sale and supply of arms to neighbouring states)	UNSCR 997 (1995)
Uganda	UN embargo on Rwanda (applies to the sale and supply of arms to neighbouring states)	UNSCR 997 (1995)
Uzbekistan	EU	Common Position 2007/734/CFSP
Zimbabwe	EU	Common Position 2004/161/CFSP

In addition it is UK policy to take into account the moratorium by the Economic Community of West African States (ECOWAS, comprising Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo) when assessing licence applications. The ECOWAS moratorium was declared on 1 November 1998, and a code of conduct on its implementation was agreed on 24 March 1999.

In the UK, the Export of Goods, Provision of Technical Assistance and Transfer of Technology (Control) Order 2003 (as amended), prohibits the export of goods and technology on the Military List without a licence. In addition, the supply of such items from the UK, or their supply from abroad by UK-registered companies and nationals, is prohibited by Orders in Council made under the United Nations Act (1946).

Orders in Council extend the UN embargo on Sudan to the Crown Dependencies and Overseas Territories. A licence is required for each export or supply from the UK, or from abroad by a UK-registered company or national.

National embargoes and those agreed in the EU and the OSCE prohibit only the export of goods covered by the scope of the embargo. Except in the cases of the EU embargoes on China and Iran, the UK interprets the scope of all such embargoes to cover goods and technology on the Military List. The EU embargo on China was imposed after the Chinese suppression of the Tiananmen Square pro-democracy demonstrations in 1989, and its scope only covers lethal weapons that could be used for internal repression. The scope of the EU Embargo on Iran goes further as it also includes the export of some dual-use goods.

2.3 EU Code of Conduct

The EU Code of Conduct on Arms Exports was adopted in June 1998. It established eight criteria which EU member states agreed to use when considering licence applications for the export of goods on the EU Common Military List. The Code also established a system of confidential consultation on licence denials. This system was aimed at encouraging greater coherence and transparency in decision making, by requiring partners to consult each other on essentially identical transactions. This process has also helped reduce the scope for unscrupulous end-users to 'shop around' the EU hoping to secure the export of equipment which has already been denied by another member state. All these steps represent an important collective acknowledgement by EU member states of the negative impact that inappropriate and irresponsible arms exports can have, and the practical action that member states can take to prevent them.

The EU's Working Group on Arms Exports (COARM) met regularly throughout 2007. These meetings discussed the implementation of the Code of Conduct, and considered ways to promote it as best practice with neighbouring states. This outreach work included two seminars (one under the German EU Presidency in Zagreb, and one under the Portuguese EU Presidency in Belgrade) with the western Balkan states. Three of those states (Croatia, Bosnia and Herzegovina and the Former Yugoslav Republic of Macedonia) have now aligned themselves with the Code. In addition, following extensive discussions with the European Commission, COARM has now put in place a joint action plan for outreach activities, which will use Commission funds to take forward the work. The action plan will run initially for two years, and will provide both the Presidency and member states with the financial resources for them to be able to plan outreach work more effectively. In 2007 COARM also held meetings with non-governmental organisations (NGOs) from across the EU to discuss issues of concern to them. These meetings have proved extremely helpful to both sides, and further meetings are scheduled for 2008.

COARM has continued to work on the 'User Guide' to the Code of Conduct, to improve the common understanding of the Code's criteria across the EU. In 2007, member states were able to agree the remaining chapters of this document, which is now produced in full at Annex B to this Report.

In September 2007, the EU produced its 10th annual report on member states' exports. This provides a useful country-by-country breakdown of each member state's exports. Many member states also produce their own national reports, some of which are available via the internet. Annex D to this Report provides a list of those currently available.

Unfortunately, COARM was not able to reach consensus on the adoption of a Common Position to change the status of the Code of Conduct from politically to legally binding. The UK stands ready to adopt this as soon as agreement can be reached, and in November 2006 subjected the Common Position to Parliamentary scrutiny. The Government continues to discuss this issue with other member states in the hope of reaching consensus; we hope it will be possible to do so in 2008.

2.4 Assessment of export licence applications from the UK to countries overseas or from UK entities based overseas

All export licence applications (ELAs) are assessed against the eight Consolidated EU and National Arms Export Licensing Criteria (provided at Annex A), on a case-by-case basis. This takes into account the prevailing circumstances and announced Government policies at the time of application.

If an ELA does not meet the strict measures of the criteria, the export will be refused. Each of the eight criteria has a lead government department, and that department must be consulted in the assessment process. In particular:

Table 2.3 Consultation requirements

Criterion 1

When an ELA is assessed under Criterion 1 of the Code of Conduct, the International Organisations Department at the Foreign and Commonwealth Office (FCO) must be consulted to confirm whether the country of final destination is currently subject to any embargoes or other restrictions.

Criterion 2

When an ELA is assessed under Criterion 2, the Human Rights Democracy and Governance Group (HRDGG) at the FCO must be consulted if the end destination of a proposed export is on HRDGG's List of Countries of Concern (Annex F).

Criterion 3

When an ELA is assessed under Criterion 3, the FCO should be 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 4

When an ELA is assessed under Criterion 4, the views of staff at the British diplomatic mission in the country of destination should be sought to assess the peace, security and stability in the region. Also the Ministry of Defence (MOD) should be consulted to establish whether the proposed export could be used for a purpose other than legitimate national security.

Table 2.3 (continued)

Criterion 5

When an ELA is assessed under Criterion 5, the MOD must be consulted to consider whether a proposed export could have an impact on the security of the UK, of UK assets overseas and of allies, EU member states and other friendly countries.

Criterion 6

When an ELA is assessed under Criterion 6, the FCO should be consulted to assess the behaviour of the buyer country with regard to the international community, its attitude to terrorism, the nature of its alliances and its respect for international law.

Criterion 7

When an ELA is assessed under Criterion 7, the MOD must be 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, either in the importing country or in another state.

Criterion 8

When an ELA is assessed under Criterion 8, the Department for International Development (DFID) must be consulted if the importing country is on the International Development Association list (see Annex G) and the value of the application exceeds the threshold set by the Criterion 8 methodology. DFID then considers the potential impact of the proposed export on the sustainable development of the recipient country.

Once the ELA has been fully assessed by the relevant government department(s), the Department for Business, Enterprise and Regulatory Reform (BERR) will take a formal decision. An ELA can be approved or refused on a complete or partial basis, and a refusal can be based on more than one criterion. If new information comes to light after an ELA has been approved that casts doubt on the approval, the export licence could be revoked.

The following section aims to give an insight into how the Government assesses a licence application on a case-by-case basis in five separate case study scenarios. The case studies are based on actual export licence applications but for reasons of commercial confidentiality not all details have been included.

Case study 1: Angola

Angola is not currently subject to any embargoes or other trade restrictions, nor is it a major country of concern on human rights. But it was formerly subject to an embargo and has had a troubled recent history including civil war. The UK is currently undertaking various projects with the Government of Angola, which seek to build the capacity of ministries and other state agencies.

In 2007, 10 Standard Individual Export Licences (SIELs), five Open Individual Export Licences (OIELs) and two Standard Individual Trade Control Licences (SITCLs) were approved for Angola, with no refusals or revocations. Only two of the SIELs covered military equipment (military utility vehicles, military cargo vehicles and components for ejector seats). The military vehicles were for commercial use but an export licence was still required as they were originally designed or modified for military use. The other SIELs covered items for use in areas such as surveying, improving communications security, bomb disposal or removal of unexploded ordnance, and commercial air travel.

Of the OIELs that were issued, two were military; the items on these licences were for the clearance of unexploded ordnance left over from the civil war that ravaged the country between 1977 and 2002, and in support of another government's naval forces. The dual-use items covered by the other OIELs were for use in marine position fixing, collecting survey data and assisting in the clearance of unexploded ordnance.

The SITCLs that were approved allowed for UK involvement in the provision of items for use in clearing unexploded ordnance.

The Government approved these licences after seeking advice from the FCO, the MOD and DFID and taking full account of the prevailing circumstances at the time of application. There was no clear risk that any of these licences would breach the Consolidated EU and National Arms Export Licensing Criteria. Indeed, the granting of some of these licences was on humanitarian grounds, as they allow for the clearance of unexploded ordnance that would otherwise continue to materially affect the lives of ordinary Angolan people.

Case study 2: Chad

There are currently no embargoes or other restrictions on trade with Chad. However, owing to its border with the Darfur region in Sudan, there are specific concerns about the risk of equipment destined for Chad being diverted into Sudan, where an embargo is currently in place. In general, all export licence applications destined for Chad would be considered against Criterion 2, to assess the risk that equipment is likely to be used to support internal repression; Criterion 4, to assess the risk of the equipment being used in the conflict across the border with Sudan; and Criterion 7, to assess the risk of diversion of the equipment to undesirable end-users, i.e. to exert force in the border conflict with Sudan.

In 2007, five SIELs and three OIELs were approved for Chad, with no refusals or revocations. All of the SIELs covered military equipment (military utility vehicles, military cargo vehicles and military motorcycles). The military vehicles were for use as crew vehicles in the drilling of water boreholes, but an export licence was still required as they were originally designed or modified for military use.

Of the OIELs that were issued, one was for military items involved in the clearance of unexploded ordnance. The two dual-use OIELs covered items for the protection of UN staff and the clearance of unexploded ordnance.

The Government was satisfied, after seeking advice from the FCO, the MOD and DFID, that all the licences approved were legitimate and that there was no clear risk that the Consolidated EU and National Arms Export Licensing Criteria would be breached.

Case study 3: Sudan

Sudan is currently subject to both UN and EU embargoes. The UN embargo (UNSCR 1591 of 2005) imposed an arms embargo on all parties involved in the conflict in Darfur. It also imposed a travel ban and assets freeze on individuals who continue to violate the commitments they have made to end the conflict. The EU embargo (2005/411/CFSP) went further in that it imposed an arms embargo on all of Sudan, not just Darfur, as well as prohibiting nationals of EU member states from being involved in the sale, transfer, export or supply of such items from their territories, or using their flag vessels or aircraft. Exceptions to the embargo are permitted where the items are to be used by the African Union-led Ceasefire Commission.

In the case of Sudan, the Government would pay particular regard to Criteria 1, 2 and 7 of the Consolidated EU and National Arms Export Licensing Criteria.

In 2007, six SIELs, two OIELs and one SITCL were approved for Sudan, with one SIEL being refused. Three of the approved SIELs covered military equipment (military containers, military utility vehicles, military cargo vehicles, military engineer vehicles, components for explosive ordnance disposal equipment, components for military improvised explosive device disposal equipment and explosive ordnance disposal equipment); two of these military SIELs were for the removal of unexploded ordnance and the third for the transport of fuel. The three dual-use SIELs were respectively issued for analytical or materials testing, cement manufacture and use by UN staff in Sudan.

Of the OIELs that were issued, one was military and one dual-use; both covered items that were for the removal of unexploded ordnance.

The SITCL that was approved allowed for UK involvement in the provision of items to Sudan for removing unexploded ordnance.

The SIEL that was refused covered items for dual-use communications equipment. This was refused under Criteria 2 (respect for human rights and fundamental freedoms in the country of final destination) and 7 (risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions).

The Government was satisfied, after seeking advice from the FCO, the MOD and DFID, that all the licences approved were issued in accordance within the terms of the current embargoes. The military items were destined for a body as specified in the embargo, such as the UN, the African Union or the EU, for a humanitarian end-use or protective use. The granting of some of these licences was based on humanitarian grounds, allowing for the clearance of unexploded ordnance that would otherwise continue to materially affect the Sudanese people.

Case study 4: Serbia

Serbia has been subject to EU restrictions since 2004 (Common Position 2004/694/CFSP, as amended by Council Decision 2007/449/CFSP and extended by Common Position 2007/635/CFSP). These measures, which are valid until 10 October 2008, are designed to freeze the economic resources of certain persons indicted by the International Criminal Tribunal for the former Yugoslavia.

In general, all export licence applications destined for Serbia are considered against Criteria 2 (human rights), and 7 (risk of diversion).

The human rights situation in Serbia has greatly improved since the fall of the Milosevic regime, but there are still issues that need to be addressed. Serbia has ratified the majority of human rights-related international conventions, and practical implementation of these legal provisions is now better. However, establishing freedom of the media, an independent judiciary, police reform, accountability mechanisms for the treatment of detainees by prison and law enforcement agencies, and mechanisms for combating human trafficking are key areas where progress is needed. There is a large organised crime network in Serbia, in common with other countries in the Balkans, which raises the risk of diversion. Organised crime and corruption also continue to pose a real threat to the rule of law and accountable institutions.

In 2007, 11 SIELs and three OIELs were approved for Serbia, and no licences were refused or revoked. Three of the SIELs were for military equipment, covering the destruction of ordnance, personnel protection and return after exhibition.

The dual-use SIELs covered items for use in the maintenance or repair of pumps, scientific research or analysis, demonstration, scrambling of TV signals and network security.

The OIELs allowed for the export of items for network security, encrypting telecommunications and protecting downloadable content.

The Government was satisfied, after seeking advice from the FCO, the MOD and DFID, that all the licences approved were consistent with the Consolidated Criteria based on the information available at the time, and with full consideration of the criteria of concern. For relevant licences the British Embassy in Belgrade, the geographical lead department on Serbia and the Human Rights and Good Governance Department of the FCO were also consulted.

Case study 5: Sri Lanka

During 2007 the internal situation in Sri Lanka changed significantly. At the beginning of the year, the 2002 Norwegian-brokered ceasefire agreement between the Government of Sri Lanka and the LTTE (Tamil Tigers) was nominally still in place. But by the year's end, following violence in the eastern region and a number of suicide bombings across the country, the situation had become increasingly fragile. Throughout 2007 all applications for export licences were considered on a case-by-case basis, taking into account the nature of the goods, the end-user and end-use details, and with full consideration of the prevailing situation at the time.

In 2007, 21 SIELs and one SITCL were approved for Sri Lanka, while four SIELs and two SITCLs were refused. Of the licences approved, 17 SIELs covered military equipment (covering, among other items, assault rifles, chaff, combat shotguns, components for naval vessels, illuminators, military communications equipment and technology for the use of decoy flares). These licences were approved for a number of end-uses, including the training of pilots, demonstration or trial and evaluation, the maintenance of essential aircraft equipment, the diplomatic protection of EU staff, and use by Sri Lankan police in a criminal trial.

The dual-use SIELs covered items for use in veterinary research and the production of cosmetics.

The approved SITCL allowed for UK involvement in providing training hand grenades to Sri Lanka for training purposes.

The SIELs that were refused covered items such as the maintenance of lethal weapons for operational use by the police and the navy, and some electric safety detonating fuses. These applications were refused under Criteria 2, 3 and 7, owing to the clear risk that they might be used for internal repression, possibly prolonging the conflict, and the risk of diversion under undesirable conditions.

The SITCLs refused were for grenades for operational purposes and equipment for naval light guns. These were refused under Criterion 2 as they were judged to carry a clear risk they might be used for internal repression, in addition to concerns relating to the internal situation.

The Government was satisfied, after seeking advice from the FCO, the MOD and DFID, that all the licences approved for Sri Lanka in 2007 were consistent with the Consolidated Criteria based on the information available at the time and with full consideration of the situation in the country.

2.5 Arms Trade Treaty

The UK is committed to taking action to stop the irresponsible trade in arms which restricts development and perpetuates inequality, fuels conflict and results in many people around the world being injured, killed or subject to human rights abuses.

The UK continues to take a leading role in developing globally agreed high standards of international regulation of the trade in all conventional arms. The UK is firmly committed to working with partners at home (including NGOs and industry) and abroad, through the UN and with other countries, to bring a halt to irresponsible trading in conventional weapons. Working with Argentina, Australia, Costa Rica, Finland, Japan and Kenya, the UK introduced a draft UN resolution in July 2006 calling for work to begin towards a global Arms Trade Treaty (ATT) that would address the issue of irresponsible arms transfers. In December 2006, the resolution was overwhelmingly supported at the UN General Assembly, with 153 countries voting in favour and only one voting against.

Following this vote, the UN Secretary-General called for states to submit comments on the potential scope, feasibility and parameters of a treaty. By the end of September 2007, 97 countries had submitted their views to the UN; this was an unprecedented level of response. The UK submitted its views in March 2007, stressing the importance of an ATT for the promotion of human rights, sustainable development and good governance. The full text of the UK paper can be seen at www.fco.gov.uk/att

In February 2008, a Group of Governmental Experts (GGE) selected by the UN met for the first time to consider the papers that were submitted to the Secretary-General. Further meetings of the Group are to take place during 2008; it is expected to report its findings to the Secretary-General in September 2008. The UK's Ambassador to the Conference on Disarmament in Geneva is representing the UK at the GGE meetings.

The UK has played a leading role throughout this UN process, in ensuring that international partners remain focused on the importance of a treaty. The UK has pursued a senior-level dialogue with the UN, the United States of America, Pakistan, India, China, Russia, our EU partners and many other countries. British ministers have raised the importance we attach to a treaty with their foreign counterparts. The Foreign Secretary

reiterated the importance of working towards a treaty in his speech to the UN General Assembly in September 2007, saying: "We need also to improve our capacity to prevent the emergence of conflict ... Last year this Assembly voted overwhelmingly to take forward UN work towards an Arms Trade Treaty. The UK Government will continue to press for this goal." (www.un.org/webcast/ga/62/2007/pdfs/unitedkingdom-eng.pdf)

The UK has also maintained an ongoing dialogue with NGOs and the defence trade industry through regular meetings, exchanges of information and consultation. In September 2007, the Defence Manufacturers Association and the FCO jointly hosted a seminar on the ATT at the Defence Systems and Equipment International (DSEi) exhibition in London. In addition, the UK organised a seminar at Wilton Park in December 2007 to which representatives from 40 countries, civil society and the defence industry were invited to debate issues that might arise in the forthcoming GGE meeting.

We made good progress in 2006 and 2007 towards the aim of achieving a globally agreed ATT, with high standards and effective enforcement and monitoring mechanisms that will put an end to the irresponsible trade in arms. But we need to keep up the momentum with our partners at home and abroad.

2.6 Small arms and light weapons

The UK remains committed to the full implementation of the UN Programme of Action (UNPoA) to prevent, combat and eradicate the illicit trade in small arms and light weapons (SALW) in all its aspects.

To demonstrate its commitment to section III of the UNPoA, the UK developed the transfer control initiative (TCI). This seeks, through regional and sub-regional co-operation, to develop common norms and principles surrounding transfer controls. The UK has emphasised the need to take forward this initiative in partnership with others.

The UK was represented on a UN GGE to consider further steps to enhance international co-operation in preventing, combating and eradicating the illicit trade in SALW in all its aspects. The GGE meetings took place on 27 February–3 March, 8–12 May and 17–28 July 2007 at UN headquarters in New York. The GGE adopted a consensus report, which concluded with recommendations aimed at enhancing and implementing international co-operation to prevent, combat and eradicate illicit brokering in SALW. The report was noted in the resolution (A/C.1/62/L.49/Rev.1) of the UN First Committee on the illicit trade in SALW.

In July 2008, the UK will contribute to the third Biennial Meeting of States (BMS), at which states will consider the national, regional and global implementation of the UNPoA.

The UK Global Conflict Prevention Pool (GCPP) SALW Strategy, managed by the MOD, DFID and the FCO, bolsters UK support for conflict prevention by addressing the long-term structural causes of conflict, seeking to minimise regional and national tension and violence, and supporting post-conflict reconstruction. The UK has provided over £31 million since 2001 in support of measures to reduce the supply of, demand for and availability of SALW. We have supported the work of NGOs and UN partners to collect and destroy weapons, improve weapons storage facilities, develop and implement regional control agreements, build capacity to manage weapons, and undertake public awareness and education campaigns.

Overall, in 2007 the UK funded over 20 projects worth £3.25 million in Africa, the Caribbean, Eastern Europe and Latin America.

The UK has also undertaken work outside the GCPP to promote small arms control, and continues to actively participate in discussion. We have funded SALW activity under the auspices of the UN Institute for Development and Research (UNIDR), the UN Office for Disarmament Affairs (UNODA), the EU, the OSCE and the Wassenaar Arrangement.

Information on small arms destroyed by the MOD in 2007 in conformity with the UNPOA is shown at Annex H. MOD policy on the disposal of small arms declared surplus is to restrict transfers to those that meet the legitimate defence and security needs of overseas governments. Surplus small arms are routinely destroyed in the absence of approved transfers, in line with this policy.

2.7 Effectiveness of controls covering the EU Torture Regulation

The Quadripartite Committee (now the Committees on Arms Export Controls), in its Annual Report for 2005/06, made a recommendation that the Government look at monitoring the internet for potential breaches of export controls. BERR's Export Control Organisation (ECO), in consultation with other government departments, undertook a pilot study using specialist software, which allowed for more websites to be visited and checked than would be possible by an individual. The pilot used the European Council's 'Torture' Regulation as its basis, as this sets out a list of 30 items – including thumbscrews and leg irons – that are subject to the most stringent controls and are easily described. This made it easier to search on an automated basis.

The ECO ran daily automated searches, with the results being checked by ECO staff. After four months, the ECO reported back to the committee that it had not found any indication that any of the websites were in contravention of the legislation, and that it would continue with the searches. In fact, the ECO found that those companies it identified as advertising these items on the internet were aware of the EC Torture Regulation, and displayed warnings to potential customers that they could not supply items such as thumbscrews outside the UK.

2.8 Wassenaar Arrangement

The 13th plenary meeting of the Wassenaar Arrangement (WA) was held in Vienna in December 2007. This meeting concluded the third assessment of the WA, which is assessed every four years. The assessment involved a wide-ranging review and evaluation of the overall functioning of the WA, and its contribution to regional and international security and stability, based on its mandate to prevent “destabilising accumulations of conventional weapons”.

The assessment found that the WA continued to keep pace with advances in technology, market trends and international security developments such as the threat of terrorist acquisition of military and dual-use goods and technologies. The plenary agreed to a significant number of amendments to the control lists, including some in technically complex and challenging areas such as low-light and infrared sensors. In view of continuing international concerns about the acquisition of man-portable air defence systems (MANPADS) by unauthorised users, the plenary also approved amendments to the 2003 Elements for Export Controls of MANPADS, to ensure their more effective implementation. In order to promote greater responsibility in the transfer of conventional arms, the plenary also adopted Best Practices to Prevent Destabilising Transfers of SALW through Air Transport, a series of specific measures that may be taken at national level regarding the non-governmental air transport of SALW.

The WA continues to place a high priority on transparency and outreach to non-participating states and international organisations, with the aim of promoting robust global export controls throughout the world.

The next regular WA plenary meeting will take place in Vienna in December 2008. For further information see www.wassenaar.org

2.9 UN Register of Conventional Arms

The UN Register of Conventional Arms is a voluntary global reporting instrument, intended to create greater transparency in international arms transfers and to help identify any excessive build-up of arms in particular countries or regions. The register currently covers seven categories of conventional weapons: battle tanks; armoured combat vehicles; large-calibre artillery systems; combat aircraft; attack helicopters; warships (including submarines); and missiles and missile-launchers (including MANPADs). There is an additional background section of the register for countries to report national holdings of SALW. Thus far, a total of 170 UN member states have reported to the register at least once.

The UK reports annually to the UN on all exports of military equipment in these categories, and will again provide this information. While all reporting to the register is voluntary, the UK continues to see the importance of regular and comprehensive reporting, and actively encourages all UN member states to participate with similar levels of transparency.

The UK's annual return to the UN register will be available in August 2008 at www.fco.gov.uk/internationalsecurity. Further information can be found at the UN website <http://disarmament2.un.org/cab/>

The system used by Her Majesty's Revenue & Customs (HMRC) for collecting and calculating UK trade data provides information on the value of military goods, and the numbers of certain weapons (generally SALW), that are identified as being exported from the UK during the reporting period.

2.10 Nuclear Suppliers Group

Since its foundation in 1975, the Nuclear Suppliers Group (NSG) has sought to reduce global nuclear proliferation by controlling the export and re-transfer of materials that may be applicable to nuclear weapons development. It also promotes effective safeguards and the protection of existing nuclear materials.

In April 2007, the NSG plenary was held in Cape Town, South Africa. Throughout the year the 45 participating governments (PGs) worked actively and reached consensus on key nuclear supply issues, such as creating tougher controls on transfers of enrichment and reprocessing items and establishing an Additional Protocol as a condition of supply for all Part 1 items. (Part 1 items, also known as 'trigger list' items, are items especially designed and prepared for nuclear uses.) The NSG discussed enhanced nuclear co-operation with India, with many PGs reporting on their recent bilateral exchanges with the Indian government. The group looked at ways of preventing the supply of certain nuclear-related items to Iran, as set out in UN

Security Council Resolution 1737. To this end an Iran Sanctions Seminar was hosted by the USA and chaired by the UK on 26 September 2007. It reported to the NSG consultative group meeting in November 2007.

2.11 Global Partnership

At the 2002 Kananaskis Summit, the G8 launched the Global Partnership against the spread of weapons and materials of mass destruction. The Partnership committed to raise up to US\$20 billion over 10 years for projects aimed at preventing terrorists or those that harbour them from acquiring or developing weapons of mass destruction (WMD) and related materials and expertise, with the UK pledging up to \$750 million. The Global Partnership's work is focused primarily in Russia and the Former Soviet Union to address non-proliferation, disarmament, counter-terrorism and nuclear safety issues.

Key achievements in 2007 included:

- positive internal audit reports on the Partnership's nuclear and chemical weapon destruction programmes;
- successful completion of the Social and Economic Consequences of Nuclear Power Plant Closure Programme, with 700 new jobs created in Lithuania, Bulgaria and Ukraine via 34 social and business capacity-building projects;
- agreement between all donors and the Russian Federation on the way forward on Andreeva Bay, including implementation of a further portfolio of projects to ensure the safe and secure movement of spent nuclear fuel (SNF) from the site;
- completion of 30 of 50 contracted SNF casks for the Atomflot SNF storage facility, with the rest to be provided by spring 2008;
- completion of Arctic Military Environment Co-operation projects to the value of over £3 million, including the successful survey of the sunken nuclear submarine B159 using the NATO vessel *Alliance*;
- final contribution of £2.5 million to the US-led plutonium-producing reactor closure programme in Russia, which should ensure timely completion of the work in 2009;
- implementation of five nuclear security projects, with one now completed and the rest due to be completed by autumn 2008;
- completion of procurement and construction projects at the Shchuch'ye Chemical Weapons Destruction Facility;

- completion of 107 Nuclear Safety Programme projects (worth £13.5 million and representing 93% of the programme) and successful completion of the first of two closure events in Romania; and
- implementation of over 100 projects under the redirection of nuclear scientists and engineers programme, with nine grant projects completed and a further 30 under preparation. It is expected that these projects, and others to be initiated in the next few years, will create up to 3,000 sustainable jobs.

2.12 Australia Group

The Australia Group (AG) is an informal forum of 40 member countries plus the European Commission 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 AG participants to fulfil their obligations under the Chemical Weapons Convention and the Biological and Toxin Weapons Convention to the fullest extent possible.

In June 2007 a plenary meeting was held in Paris, where a range of issues were discussed. Croatia was the latest country to achieve membership of the AG. The UK secured two amendments to AG controls and gave presentations on emerging technologies and on enforcement case studies. AG members were made more aware of the likelihood of terrorist use of chemical and biological weapons; the pace of emerging technologies on the biological weapon side; and the need to monitor the trend towards shifting chemical production sources to the East, potentially bypassing AG controls. It was agreed to continue the extensive programme of outreach to non-members to raise awareness of, and encourage compliance with, the AG guidelines.

2.13 Academic Technology Approval Scheme

The Academic Technology Approval Scheme (ATAS) was introduced in November 2007 to give the UK the ability to prevent foreign access to sensitive technology relating to WMD and their means of delivery. It is a mandatory counter-proliferation scheme aimed at postgraduate students who require leave to enter or remain in the UK and are seeking entry to the UK to undertake specific, limited studies.

The UK had been vetting postgraduate students for proliferation purposes since 1994 under the Voluntary Vetting Scheme, which relied on co-operation from higher education institutions (HEIs) to identify potential students of concern. ATAS was introduced to transfer responsibilities from the HEIs to the Government. It has been implemented through an amendment in the immigration rules which states that a student seeking

entry for specific postgraduate subjects must possess an ATAS certificate before he/she can apply for entry clearance or an extension of his/her stay in the UK.

ATAS is administered by the FCO; an ATAS certificate can be applied for, free of charge, via an online application form. We aim to respond to all ATAS applications within 10 working days. To date (June 2008) we have issued over 2,000 ATAS certificates.

2.14 Missile Technology Control Regime

In November 2007, the Missile Technology Control Regime (MTCR) plenary meeting was held in Athens. The 34 participants exchanged information and discussed trends in missile developments around the world, noting the growing risk of proliferation of WMD and their means of delivery. Of most concern was missile proliferation in Northeast Asia, South Asia and the Middle East, and in particular the Iranian missile programme. Participants reaffirmed their determination to strengthen export controls and to maintain their relevance in the light of rapid changes in relevant technology. Participants also exchanged information on their outreach to non-participants. Since its establishment in 1987, the MTCR has made a significant contribution to international efforts on non-proliferation of missiles. However, participants acknowledge that the risk of proliferation of WMD and their means of delivery remains a major threat. In response to the provisions laid down by the UN Security Council Resolutions 1737 and 1747, participants agreed measures at the Athens plenary to address the transfer to Iran of materials related to nuclear delivery systems which were not currently covered by the MTCR Annex.

2.15 International outreach

Outreach activities to promote effective export controls are an extremely important tool in the fight against proliferation. The UK works closely with the EU, the USA and others in this work. Outreach can take several forms, including bilateral work by the UK or multilateral efforts through institutions within the EU, the Wassenaar Arrangement and other export control regimes such as the MTCR. Teams of officials from various government departments conduct export control visits (outward) and host delegations from invited countries (inward), addressing practical and policy issues surrounding export licensing and enforcement. Activities typically include seminars and visits (both inward and outward) covering such topics as industry awareness, capacity building, customs procedures and assistance with drafting legislation. Officials from all of the UK government departments in the export licensing community are routinely involved in outreach work.

In the period since the last Annual Report, UK officials have undertaken outreach activities with China (including the Special Autonomous Region of Hong Kong), Pakistan, Singapore, South Korea, Turkey, Albania, Croatia, Montenegro, Serbia, Ukraine, Bosnia and Herzegovina, and Moldova.

2.16 Gifted equipment

The Government may agree to gift new and surplus equipment to overseas governments in support of our wider security and foreign policy aims. All gifting proposals are assessed against the Consolidated EU and National Arms Export Licensing Criteria by relevant government departments. When gifts are approved, the transfer of the equipment from the UK takes place under Crown immunity. The list of gifts approved by HMG in 2007 is set out in Table 2.4.

Country	Recipient	Total cost	Description
Colombia	Colombian Naval Counter-Narcotics Operational Intelligence Team	£107,000	Diving apparatus (10 sets of rebreathing equipment)
Guinea-Bissau	Judicial Police of Guinea-Bissau	£200 approx	8 handcuffs with keys (Hiatt handcuffs, model no 2015 – standard UK issue police handcuffs)
Jordan	Jordan Border Authorities	Unknown	10 pieces of combat body armour inclusive of ballistic plates
Kenya	Kenyan Administrative Police	£109,000	Communications equipment: 15 x base stations complete with solar panels, 12 x mobile stations with vehicle fits

Country	Recipient	Total cost	Description
Nepal	Nepalese Army	£769,000	Explosive ordnance disposal (EOD) equipment: 2 x Wheelbarrow Revolutions, 1 x Cyclops and Wheelbarrow spares package, 7 x EOD disruptors and 35 boxes of cartridges, 1 x Mk7B spares package, 1 x Mk7B training package, 10 x bomb suits and helmets, 80 x demining vests and helmets, 10 x metal detectors, 20 x cable detectors, 10 x firing devices, 10 x firing cables, 1 x service support package, 5 sets of IT equipment
Oman	Royal Air Force of Oman	£1,074,000	Various Jaguar spares
	Royal Army of Oman	£146,000	Challenger 2 Loader Drills Trainer.
Pakistan	Pakistan Navy	£30,000	2 x 4.5 inch Mark 8 gun barrels and associated assemblies
Sierra Leone	Sierra Leone Police	£600,000 (replacement value)	750 sets of public order unit protective equipment

Table 2.4 (continued)

Country	Recipient	Total cost	Description
Sudan	Joint Integrated Demining Unit (Sudan)	£84,000	120 x Med-Eng demining aprons, 120 x headframes c/w visors and bags, 4 x Beethoven Exploders
Uganda	Ugandan Military (as part of the African Union peacekeeping mission to Somalia)	£1,000	6 x 85W solar panels including connectors

Section 3

Export Licensing Decisions during 2007

3.1 Background to export licence decisions

In assessing applications for individual licences, on the basis of the information supplied by the exporter, officials in the Export Control Organisation (ECO) will 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 entered in Part 1 (the UK Military List) and Part 2 of Schedule 1, and Articles 8, 9 and 10 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003. The text is at Annex I.
- Trading activities specified in the Trade in Goods (Control) Order 2003 in relation to Military List items, with the exception of software and technology.
- Trading activities specified in the Trade in Goods (Embargoed Destinations) Order 2004 in relation to Military List items, with the exception of software and technology.
- The provision of technical assistance where the provider knows or has been made aware that the technical assistance will be used for a relevant use outside the European Union (EU).
- The transfer of technology by any means where the transferor knows or has been made aware that the technology will be used outside the EU for a relevant use.¹
- Exports of items entered in European Council Regulation (EC) 1334/2000 (the 'Dual-Use' Regulation, adopted in June 2000, setting up a Community regime for the control of exports of dual-use items and technology). A brief summary of the dual-use list categories and sub-categories is at Annex J.
- Exports of items entered in European Council Regulation (EC) 1236/2005 (the 'Torture' Regulation, setting up a Community regime concerning trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment).
- Items that the exporter has been told, knows or suspects are or may be intended for any relevant use related to weapons of mass destruction (WMD).¹ This is the 'WMD end-use' or 'catch-all' control, and goods controlled for these reasons are given the rating 'end-use'.
- Components or production equipment that the exporter has been told, knows or suspects are or may be intended for a military end-use² 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 UK export controls. This is the 'military end-use' control.

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

1 'Any relevant use' 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.

2 i.e. a) incorporation into military items listed in the Military List; b) use of production, test or analytical equipment and components therefor, 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.

Note on refusals data

A simple comparison of the number of licences issued or refused in this period compared to that reported in previous Annual Reports is not necessarily an indicator of changed circumstances or increased concerns regarding the destination in question. Levels of refusal might, for example, have been influenced by companies taking the view that applications were likely to be refused when assessed against the published criteria and so deciding not to apply; companies are now better able to judge that likelihood as we publish refusal statistics by destination. More generally, the number and nature of the applications received in total or in relation to particular destinations can vary widely from one period to the next, and this is driven by business factors outside the Government's control.

3.2 Types of licence

This section of the Report gives information on the various types of licence as well as information on appeals against licensing decisions during this period. Information on the number of applications processed can be found at the end of this section, as well as a breakdown by final status.

Standard Individual Export Licences (SIELs) generally allow shipments of specified items to a specified consignee up to the quantity or value specified by the licence. Such licences are generally valid for two years where the export will be permanent. Where the export is temporary (for example, for the purposes of demonstration, trial or evaluation), the licence is generally valid for one year only and the items must be returned before the licence expires. A licence is not required for the majority of transshipments through the UK en route from one country to another, providing certain conditions are met. Most other transshipments can be made under one of the Open General Transshipment Licences (OGTLs) in force, provided in all cases that the relevant conditions are met. Where this is not the case, a Standard Individual Transshipment Licence (SITL) is required. (There are no Open Individual Transshipment Licences.)

The information on SIELs included in this section of the Report has been compiled using the ECO's computer databases. The databases were interrogated to identify the status of all applications on which a decision was taken during the period covered by the Report. In a small number of cases there may be a subsequent change of status, which may occur for two main reasons: a licence issued during the period may be revoked, for example because of the imposition of trade sanctions or an arms embargo; or a decision during the period to refuse a licence may be overturned because the applicant later appeals successfully.

A Standard Individual Trade Control Licence (SITCL) is specific to a named trader and covers involvement in the trading of a set quantity of specific goods between a specified overseas source and overseas destination country with a specified consignor, consignee and end-user. 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 and must be returned to the ECO. Should further similar activity need to take place, a further licence must be applied for. Trade controls only apply to goods on the UK Military List (set out in Schedule 1, Part 1 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003) and do not apply to software or technology.

Open Individual Export Licences (OIELs) are concessionary licences that are specific to an individual exporter; they 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, with the exception of dealer-to-dealer OIELs which are valid for three years. There are no Open Individual Transshipment Licences. It should be noted that the refusal of an application for an OIEL, an amendment to exclude particular destinations and/or items or the revocation of an OIEL does not prevent a company from applying for SIELs covering some or all of the items concerned to specified consignees in the relevant destinations. Clearly, however, the factors that led to the original decision would be taken into account in the decision on any such application.

An Open Individual Trade Control Licence (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. Trade controls only apply to goods on the UK Military List and do not apply to software or technology. It should be noted that the refusal of an application for an OITCL, an amendment to exclude particular destinations and/or items or the revocation of an OITCL does not prevent a company from applying for SITCLs covering some or all of the items concerned to specified consignees in the relevant destinations. Clearly, however, the factors that led to the original decision would be taken into account in the decision on any such application.

Information on licences processed during 2007 is provided in Tables 3.1 to 3.5. In addition, Annex H contains information on the number of items of equipment in each of the UN Register of Conventional Arms categories covered by SIELs issued during the period, provided that the contract has come into force.

Issued	7,560
Revoked	2
Refused	145
No licence required	779
Withdrawn/stopped	1,161
Total	9,647

Issued	5
Revoked	0
Refused	1
No licence required	0
Withdrawn/stopped	2
Total	8

Issued	138
Revoked	2
Refused/removed	9
No licence required	1
Withdrawn/stopped	140
Total	290

* includes dealer-to-dealer OIELs

Issued	41
Revoked	0
Refused	2
No trade licence required	1
Withdrawn/stopped	24
Total	68

Issued	8
Revoked	0
Refused	0
No trade licence required	1
Withdrawn/stopped	4
Total	13

3.3 Information about SIELs, SITLs, OIELs, SITCLs and OITCLs on the CD-Rom

The enclosed CD-Rom holds licensing data by destination for 2007, including information about the numbers of different licence types granted, refused and revoked during the year.

The entry for each destination on the CD-Rom contains the information set out below.

For SIELs:

- The total value of all applications in respect of which a SIEL was issued for the export of items to the destination concerned during 2007 is provided, whether the export concerned was permanent or temporary. The total value will either be rounded up to the nearest £500,000 or be stated as being less than £250,000. It should be noted that the value of exports that are actually made under the licences concerned is likely to 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.
- The numbers of licences issued, refused and revoked are provided, split into Military List, other items and both (covering licences for military and other 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 for all other SIELs, and includes the same level of information.

For items covered by European Council Regulation (EC) 1236/2005 (the 'Torture' Regulation):

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

For SITLs:

- Information is provided in the same format as for SIELs. The items covered by SITLs only pass through the UK and it would therefore be misleading to include a 'value' for these licences in the report.

For OIELs:

- The numbers of licences issued, refused and revoked are provided. A (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.

For SITCLs:

- A summary of the items or activities authorised by the licence is provided.
- As SITCLs cover the trading of specific goods between specified overseas sources and overseas 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 provided.
- As OITCLs cover the trading of specific goods between specified overseas sources and overseas 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.

Special OIELs:

- There are three special categories of OIELs:

Media 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 licence covers nuclear, biological and chemical protective items; non-military four-wheel-drive civilian vehicles with ballistic protection; and specially designed components for any of these items. The licence permits 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. During this reporting period, one Media OIEL was issued.

Continental Shelf OIELs

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. During the period of this report, none was issued.

Global Project Licences

Global Project Licences (GPLs) were introduced by Framework Agreement (FA) partners, including the UK, to streamline the arrangements for licensing military goods and technologies between FA partners (France, Germany, Italy, Spain, Sweden and the UK) 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 its 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 EU and National Arms Export Licensing Criteria in the UK, and against the EU Code of Conduct in other FA partner countries. One was issued in 2007.

3.4 Transfer of Technology and Technical Assistance Licences

These licences are issued for the transfer of technology and provision of technical assistance under Articles 8, 9 and 10 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2002. During this reporting period, one OIEL was issued, two were refused, none was revoked, and none was rated as 'no licence required'. No SIELs were issued, refused or revoked but one was rated as 'no licence required'.

3.5 Refusals and revocations

There were 145 refusals and revocations of SIELs and SITLs in 2007. Within the information relating to each destination, refusals and revocations for both military and dual-use goods are grouped by reference to the rating (control entry) and, where applicable, the Consolidated EU and National Arms Export Licensing Criteria (attached at Annex A) that justified their refusal; in addition, Table 3.6 gives a consolidated overview of the number of times that each criterion was used for all destinations. In a number of cases, the refusal/revocation was made for more than one reason, which explains why the criteria numbers quoted exceed the number of refused cases. Some licences were refused principally because of the application of national controls or policy commitments.

Table 3.6 Reasons for refusals and revocations of SIEL 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 the proliferation of WMD or ballistic missiles	70
Criterion 1: UK's commitments and obligations to observe UN, EU or OSCE arms embargoes	1
Criterion 1: Existence of national embargoes or policy commitments	0
Criterion 1: UK's obligations under the Ottawa Convention and the 1998 Land Mines Act	0
Criterion 2: Risk of use for internal repression	21
Criterion 3: Risk of contributing to internal tensions or conflict in the recipient country	14
Criterion 4: Preservation of regional stability	12
Criterion 5: National security of the UK, its allies, EU member states and other friendly countries	16
Criterion 6: Behaviour of the buyer country with regard to the international community	5
Criterion 7: Risk of diversion or re-export to undesirable end-users	55
Criterion 8: Compatibility of the arms exports with the technical and economic capacity of the recipient country	0
Total	194

The information in Table 3.6 does not include reasons for decisions to refuse OIELs or OITCLs in full or in part, to amend the coverage of OIELs to exclude particular destinations and/or goods, or to revoke OIELs. 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.

3.6 Appeals

This section provides information on all appeals against decisions to refuse applications for SIELs or SITCLs, or against decisions to revoke SIELs or SITCLs, where the decision on the appeal was taken in the relevant period. Government targets for processing appeals are given in Section 3.8.

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.

Decisions to refuse licences are not taken lightly, and only in those cases where refusal is clearly justified is a final decision taken to refuse. 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. Every effort is made to deal with all appeals as expeditiously as possible; however, the process can be lengthy, owing to the need to examine afresh all relevant information.

In total, 46 appeals were heard in 2007 against decisions to refuse applications for SIELs and two against decisions to refuse SITCLs. There were no appeals against the revocation of SIELs or SITCLs. The appeals against the original decisions on 32 applications were refused; the appeals against the decisions on eight applications were upheld, and licences were issued. A 'no licence required' rating was applied to one appeal. A further five appeals were withdrawn by the exporter.

3.7 Open General Export Licences

Open General Export Licences (OGELs) allow the export or trade of specified controlled goods by any company, removing the need for exporters to apply for an individual licence, provided that the shipment and destinations are eligible and certain conditions are met. Most OGELs require the exporter or trader to register with the ECO before they make use of them, and registered companies are subject to compliance visits from the ECO to ensure that all the conditions are being met. There are also a small number of Open General Transshipment Licences (OGTLs) for which registration is not required. All OGELs remain in force until they are revoked. A complete list of OGELs is provided in Table 3.7.

Note: Annex II of European Council Regulation (EC) 1334/2000 on the export of dual-use items and technology, which entered into force on 28 September 2000, introduced a new Community General Export Authorisation (CGEA). The CGEA is the European Community equivalent of an UK OGEL and is directly applicable in all EU member states. It allows the export of a range of dual-use goods controlled under Regulation (EC) 1334/2000 to those countries listed in the CGEA.

The Regulation was subsequently amended by European Council Regulations (EC) 394/2006, and (EC) 1183/2007 (the 'Amending Regulations'), which entered into force on 12 April 2006 and 21 November 2007 respectively. The Amending Regulations made changes to Annexes I, II and IV of the Regulation, and thus automatically changed the scope of the CGEA.

Table 3.7 List of OGELs

Name	Made	Into force	Revoked
1. Military goods: Government or NATO end-use	24.01.05	31.01.05	
2. Military components	28.07.06 24.05.07	30.07.06 11.06.07	11.06.07
3. Technology for military goods	29.09.06 24.05.07	02.10.06 11.06.07	11.06.07
4. Export after repair/replacement under warranty: military goods	29.09.06 24.05.07	02.10.06 11.06.07	11.06.07
5. Export after exhibition or demonstration: military goods	29.09.06	02.10.06	
6. Export for exhibition: military goods	29.09.06	02.10.06	
7. Military surplus vehicles	29.09.06	02.10.06	
8. Export for repair/replacement under warranty: military goods	29.09.06	02.10.06	
9. Historic military goods	29.09.06	02.10.06	
10. Vintage aircraft	01.05.04	01.05.04	
11. Accompanied personal effects: sporting firearms	01.05.04	01.05.04	
12. Military goods: for demonstration	01.12.05 24.05.07	02.12.05 11.06.07	11.06.07
13. Exports or transfers in support of UK Government defence contracts	28.07.06	30.07.06	
14. Access overseas to technology for military goods: individual use only	29.09.06 04.04.07	02.10.06 23.04.07	23.04.07
15. Military and dual-use goods: UK Forces deployed in non-embargoed destinations	29.09.06	02.10.06	
16. Military and dual-use goods: UK Forces deployed in embargoed destinations	28.07.06 04.04.07	30.07.06 23.04.07	23.04.07
17. Turkey	01.05.04	01.05.04	
18. Computers	01.05.04 04.04.07	01.05.04 23.04.07	23.04.07
19. Technology for dual-use items	01.05.04	01.05.04	
20. Export after repair/replacement under warranty: dual-use items	01.05.04	01.05.04	
21. Export after exhibition: dual-use items	01.05.04 04.04.07	01.05.04 23.04.07	23.04.07

Table 3.7 List of OGELs (continued)

Name	Made	Into force	Revoked
22. Low value shipments	01.05.04	01.05.04	
23. X (covering specified dual-use items)	01.05.04 04.04.07	01.05.04 23.04.07	23.04.07
24. Chemicals	01.05.04 04.04.07	01.05.04 23.04.07	23.04.07
25. Export for repair/replacement under warranty: dual-use items	01.05.04 04.04.07	01.05.04 23.04.07	23.04.07
26. Cryptographic development	01.05.04 04.04.07	01.05.04 23.04.07	23.04.07
27. Dual-use items: Hong Kong Special Administrative Region (HKSAR)	07.03.05	11.03.05	
28. Oil and gas exploration: dual-use items	28.09.05 04.04.07	30.09.05 23.04.07	23.04.07
29. Open General Transshipment Licence (dual-use goods: HKSAR)	01.05.04 04.04.07	01.05.04 23.04.07	23.04.07
30. Open General Transshipment Licence	29.09.06 24.05.07	02.10.06 11.06.07	11.06.07
31. Open General Transshipment Licence (sporting guns)	29.09.06 04.04.07	02.10.06 23.04.07	23.04.07
32. Open General Transshipment Licence (postal packets)	01.05.04 04.04.07	01.05.04 23.04.07	23.04.07
33. Open General Trade Control Licence	29.09.06 24.05.07 09.07.07	02.10.06 11.06.07 16.07.07	11.06.07 16.07.07
34. Software and source code for military goods	04.06.07	11.06.07	
35. Exports of non-lethal military and dual-use goods to UK diplomatic missions or consular posts	24.05.07	11.06.07	

3.8 Performance in processing licence applications

The ECO sets out the Government's commitments to exporters in a Service and Performance Code. The performance target is to provide a decision on 70% of applications for SIELs within 20 working days, and to 95% within 60 working days. The targets apply as soon as the applicant has supplied the full documentation necessary to support their application.

Table 3.8 SIEL processing performance

	2007	2006
Processed within 20 working days	79%	82%
Processed within 60 working days	98%	99%

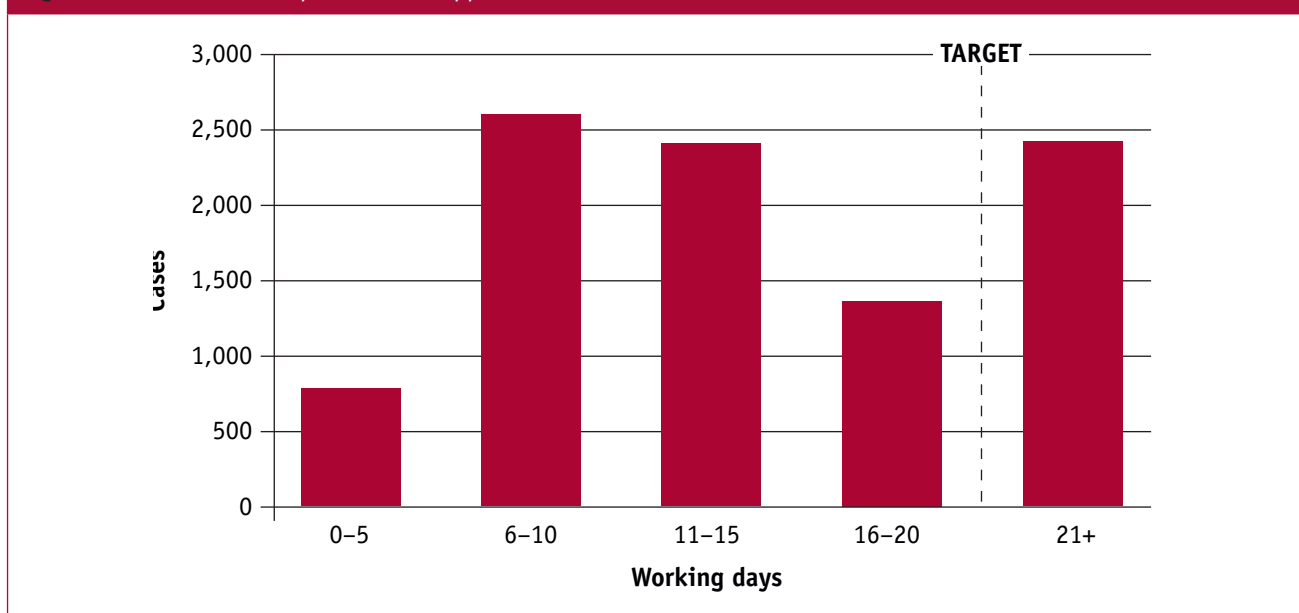
The performance target for SITCLs is to provide a decision to all applicants within 20 working days, and 67% of all SITCL applications were dealt with within this target period.

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 and activities, sources and destinations covered by such licences; or
- applications for licences to export goods that are subject to control solely because of UN sanctions.

Figure 3.1 gives a breakdown of the Government's performance in 2007 against the two main published SIELs targets (70% within 20 working days and 95% within 60 working days).

Figure 3.1 Time taken to process SIEL applications



Rating requests

The ECO also responds to requests from exporters for advice on whether or not a licence is required to export particular goods of which the exporter has provided full technical details. During the period 4,048 such requests were dealt with, and 64% of these were dealt with within the Government target of 20 working days.

Appeals performance

The Government has a target of processing 60% of appeals within 20 working days of receipt of all relevant information from the appellant, and of processing 95% within 60 working days. These targets do not apply to appeals concerning goods that are controlled solely because of UN sanctions. Of the 46 appeals decided in 2007, none fell into this category. Exporters withdrew five of the appeals. Of the remaining 41 appeals, 61% achieved the 20 working day target and 100% were processed within 60 working days, meaning that both targets were met.

Section 4

Exports of Military Equipment during 2007

4.1 Value and numbers of exports of military equipment

The information in Tables 4.1 and 4.2 has been obtained from Her Majesty's Revenue and Customs (HMRC) data. The HMRC system for collecting and calculating UK trade data provides information on the value of military goods and the numbers of certain weapons (including small arms and light weapons) that have been identified as being exported from the UK during the reporting period. Information on exports to European Union (EU) countries is collected through the HMRC Intrastat system; information for trade outside the EU is gathered from customs declarations submitted by exporters. In both cases the identification of specific exports is based on the European Community's (EC) classification of goods codes (the Combined Nomenclature), which does not match the classification of goods subject to strategic export controls. As a result, the information in Tables 4.1 and 4.2 provides an indicator of the level of trade in military goods with individual countries identified under EC Codes rather than a comprehensive record of all exports of licensable goods during the period (see Annex K).

Table 4.1 Value of exports of military equipment in 2007

Country of destination	Statistical value (£)	Statistical value (£m)
Afghanistan	4,605,081	4.6
Algeria	41,826	0.0
Angola	333,808	0.3
Antigua & Barbuda	707	0.0
Argentina	43,099	0.0
Australia	22,230,346	22.2
Austria	519,699	0.5
Azerbaijan	2,459,497	2.5
Bahrain	36,674,601	36.7
Bangladesh	316,763	0.3
Barbados	13,980	0.0
Belgium	8,091,628	8.1
Belize	5,975	0.0
Bermuda	19,560	0.0
Bhutan	12,383	0.0
Bosnia & Herzegovina	140,257	0.1
Botswana	1,677,153	1.7
Brazil	6,473,780	6.5
Brunei	769,430,368	769.4
Bulgaria	922	0.0
Burundi	680	0.0

Country of destination	Statistical value (£)	Statistical value (£m)
Canada	47,971,419	48.0
Cape Verde	41,583	0.0
Ceuta	33,635	0.0
Chile	2,258,901	2.3
China	3,447,459	3.4
Colombia	351,410	0.4
Congo (Dem Republic)	3,000	0.0
Costa Rica	12,129	0.0
Croatia	11,088	0.0
Cyprus	884,487	0.9
Czech Republic	991,958	1.0
Denmark	25,405,918	25.4
Djibouti	52,605	0.1
Dominican Republic	155,233	0.2
Egypt	11,461,369	11.5
Estonia	32,548	0.0
Ethiopia	50,105	0.1
Falkland Islands	75,075	0.1
Faroe Islands	19,572	0.0
Finland	4,321,707	4.3
France	64,281,228	64.3
FYR Macedonia	17,029	0.0
Gabon	18,735	0.0
Germany	35,677,518	35.7
Ghana	276,174	0.3
Greece	360,120	0.4
Grenada	997	0.0
Guam	31,745	0.0
Haiti	23,752	0.0
Hong Kong	3,048,707	3.0
Hungary	1,475,973	1.5
Iceland	420,536	0.4
India	130,002,335	130.0
Indonesia	9,721,702	9.7

Country of destination	Statistical value (£)	Statistical value (£m)
Iraq	11,785,073	11.8
Irish Republic	358,487	0.4
Israel	6,315,960	6.3
Italy	104,839,171	104.8
Jamaica	2,263	0.0
Japan	25,834,069	25.8
Jordan	4,733,070	4.7
Kazakhstan	147,768	0.1
Kenya	1,452,260	1.5
Kuwait	1,399,551	1.4
Kyrgyz Republic	172,821	0.2
Latvia	507,435	0.5
Lebanon	309,201	0.3
Lesotho	14,723	0.0
Libya	64,847	0.1
Lithuania	200,979	0.2
Luxembourg	4,101,234	4.1
Macao	135,355	0.1
Malaysia	14,687,813	14.7
Maldives	4,720	0.0
Mali	45,133	0.0
Malta	5,800	0.0
Marshall Islands	88,372	0.1
Mauritius	360,008	0.4
Mexico	151,287	0.2
Moldova	7,558	0.0
Montserrat	173,078	0.2
Morocco	93,971	0.1
Northern Mariana Islands	184,455	0.2
Nepal	70,246	0.1
Netherlands	10,178,206	10.2
New Caledonia	1,100	0.0
New Zealand	720,417	0.7
Nigeria	608,391	0.6

Country of destination	Statistical value (£)	Statistical value (£m)
Norway	22,281,796	22.3
Oman	26,641,475	26.6
Pakistan	21,884,456	21.9
Peru	23,137	0.0
Philippines	230,725	0.2
Poland	2,409,411	2.4
Portugal	4,500,992	4.5
Puerto Rico	128,973	0.1
Qatar	36,869,094	36.9
Romania	132,932	0.1
Russia	257,832	0.3
San Marino	635	0.0
Saudi Arabia	52,559,178	52.6
Senegal	55,093	0.1
Serbia	42,777	0.0
Seychelles	73,425	0.1
Singapore	14,725,989	14.7
Slovakia	163,128	0.2
Slovenia	47,709	0.0
South Africa	38,732,727	38.7
South Korea	19,869,376	19.9
Spain	12,285,555	12.3
Sri Lanka	992,709	1.0
St Vincent	9,744	0.0
Sudan	89,369	0.1
Surinam	1,700	0.0
Swaziland	2,768	0.0
Sweden	17,336,681	17.3
Switzerland	34,333,447	34.3
Syria	50,240	0.1
Taiwan	1,206,237	1.2
Tajikistan	16,250	0.0
Tanzania	72,223	0.1
Thailand	7,604,415	7.6

Country of destination	Statistical value (£)	Statistical value (£m)
Timor-Leste	1,515	0.0
Tokelau	2,517,930	2.5
Trinidad & Tobago	457,798	0.5
Tunisia	338,163	0.3
Turkey	9,026,926	9.0
Turkmenistan	3,510	0.0
Turks & Caicos Islands	673	0.0
UAE	6,814,177	6.8
Ukraine	1,480,480	1.5
Uruguay	21,444	0.0
USA	346,132,739	346.1
Venezuela	1,790,322	1.8
Vietnam	181,619	0.2
Yemen	216,743	0.2
Zambia	2,223	0.0
Total	2,070,403,147	2,070.4

Table 4.2 Statistics on exports of weapons and small arms in 1007

Country of destination	Number of items
Afghanistan	2
Australia	6
Bahrain	16
Barbados	3
Botswana	150
Brazil	18
Burundi	1
Canada	569
China	1
Colombia	36
Costa Rica	44
Czech Republic	N/A
France	N/A
Germany	N/A
Hong Kong	1
India	1,749
Iraq	7,094
Irish Republic	33
Israel	5
Italy	N/A
Japan	41
Jordan	204
Kenya	6
Kuwait	20
Latvia	N/A
Luxembourg	N/A
Malaysia	12
Morocco	6
New Zealand	41
Norway	5,616
Oman	7
Pakistan	470
Poland	N/A
Portugal	N/A
Romania	2

Table 4.2 (continued)

Country of destination	Number of items
Russia	8
Saudi Arabia	221
Slovakia	N/A
South Africa	21
South Korea	172
Sweden	4
Switzerland	19
Thailand	5
Tokelau	300
Trinidad & Tobago	720
Turkey	171
UAE	139
Uruguay	21
USA	6,334
Total	24,288

N/A indicates trade in goods where there is no requirement to declare supplementary units.

4.2 Exports arising from Government-to-Government arrangements in 2007

Disposals

The Government disposes of certain military equipment that is surplus to the requirements of the UK Armed Forces. Such disposals are arranged by the Ministry of Defence's (MOD) Disposal Services Authority (DSA). UK export licensing coverage for these is obtained either by industry or by the customer. Table 4.3 gives by destination the equipment type and quantity of such exports.

Government-to-Government projects

The Government has agreements with the Governments of Saudi Arabia and Kuwait for the supply of equipment. UK export licensing coverage for these exports is obtained by industry. Information by destination on the equipment type and quantity of such exports is shown in Table 4.3.

Saudi Arabia – The UK's main Government-to-Government supply agreement is the Saudi Armed Forces Project. This has provided for the supply of Tornado, Hawk and PC-9 aircraft and mine countermeasure vessels with their associated weapons, in-service support and facilities. During 2007, the project predominantly provided ongoing support for equipment already in service.

Kuwait – There is also a Government-to-Government supply agreement in place with Kuwait. This currently includes the supply of spares, refurbished and repaired Hawk engines and modules, workshop equipment and support to the Starburst and Sea Skua missile systems.

Table 4.3 is a summary of exports that arise from activity by the DSA or the MOD project offices for Saudi Arabia and Kuwait. All goods are exported under licence obtained by industry or the customer. Where a Standard Individual Export Licence (SIEL) is issued or the value of such exports is collected, that information is included in Sections 3 and 4 of this Report and the corresponding Quarterly Report.

Table 4.3 Exports arising from Government-to-Government arrangements in 2007

Country	Type of equipment
Belgium	Spares for military helicopters
Brazil	1 x landing support logistic vessel (formerly RFA <i>Sir Galahad</i>), plus naval spares
Canada	Residual surplus assets for Upholder Class submarines
Chile	1 x Type 23 frigate (formerly HMS <i>Grafton</i>), plus naval spares
Denmark	Spares for military helicopters
Estonia	1 x mine countermeasure vessel (formerly HMS <i>Sandown</i>)
Germany	Spares for military helicopters
Jordan	Challenger 1 spares
Kuwait	Spares, refurbished and repaired Hawk engines and modules, and workshop equipment and components for missile systems
Saudi Arabia	Components and spares for aircraft and their systems, components for naval vessels and their systems, and components for munitions

Annex A

Sanction Regimes, Arms Embargoes and Restrictions on the Export of Strategic Goods

The Consolidated EU and National Arms Export Licensing Criteria

(26 OCTOBER 2000 – HC 199-203W)

An export licence will not be issued if the arguments for doing so are outweighed by the need to comply with the UK's international obligations and commitments, by concern that the goods might be used for internal repression or international aggression, by the risks to regional stability or by other considerations as described in these 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 the 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, 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-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 violation 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 as 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 exports 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 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, of 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 in 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.

Annex B

Best Practice Guidance from the User Guide to the EU Code of Conduct on Arms Exports

Introduction to all criteria best practices

The purpose of these best practices is to achieve greater consistency among Member States in the application of the criteria of the EU Code of Conduct on Arms Exports by identifying factors to be considered when assessing export licence applications. They are intended to share best practice in the interpretation of the criteria rather than to constitute a set of instructions; individual judgement is still an essential part of the process, and Member States are fully entitled to apply their own interpretations. The best practices are for the use of export licensing officials and other officials in government departments and agencies whose expertise inter alia in regional, legal (e.g. human rights law, public international law), technical, development as well as security and military related questions should inform the decision-making process.

These best practices will be reviewed regularly, or at the request of one or more Member States, or as a result of any future changes to the wording of the Code of Conduct.

SECTION 1: Best practices for the interpretation of Criterion 1

How to apply Criterion 1

3.1.1. The EU Code of Conduct applies to all arms exports by Member States. Thus a priori Criterion 1 applies to exports to all recipient countries without any distinction. However, the best practices follow the principle that if there is a risk of breach of international commitments or obligations of Member States or the Community as a whole, a careful analysis of Criterion 1 should be carried out.

The purpose of Criterion 1 is to ensure in particular that the sanctions decreed by the UN, OSCE or EU, agreements on non-proliferation and other disarmament agreements,

as well as other international obligations, are respected. All export licences should be assessed on a case-by-case basis and consideration should be given to Criterion 1 where there are concerns over the inconsistency with international commitments or obligations.

3.1.2. **Information sources:** Information on the risk of breach of international commitments or obligations shall be, first of all, sought from foreign affairs desk officers dealing with the particular country and with respective non-proliferation, disarmament or export control agreements. Equally recommended is the opinion of Member States diplomatic missions and other governmental institutions, including intelligence sources.

A common EU base of information includes country EU HOMs reports, the EU denials database, EU Watchlist, and EU Council conclusions/statements on respective countries or security issues. List of UN, OSCE and EU embargoed countries are updated regularly by the Council of the European Union and can be reached through regular information systems. The general guidelines on EU non-proliferation policy can be found in the EU Strategy against the proliferation of weapons of mass destruction, and non-proliferation clauses in bilateral agreements.

Documentation from the United Nations and other relevant organisations such as IAEA and OPCW would be helpful in defining requirements of particular international regimes or agreements, as well as in determining policy of the recipient country in this aspect.

A list of relevant Internet websites is contained in Annex 1.

Elements to consider when forming a judgement

3.1.3. Examination of Criterion 1 reveals that the following issues should be taken into account in the assessment:

(a) the international obligations of Member States and their commitments to enforce United Nations, Organisation for Security and Cooperation in Europe and European Union arms embargoes

Member States should check the stated or probable destination of export and the location of end user against the embargoes enforced by UN, OSCE and EU. As the list of embargoed countries, non-state entities and individuals (such as terrorist groups and terrorists) is subject to regular changes, the utmost care should be given to take recent developments into account.

Countries, non-state entities and individuals subject to UN, OSCE and EU sanctions overlap to a large extent. However, the list of goods (both military and dual use) under several embargoes towards the same end-user may vary and the restrictions imposed may be either mandatory or non-mandatory. To assure unified EU interpretation of the scope of legally binding UN sanctions, relevant Security Council resolutions are incorporated into the EU law in the form of Council Common Position, and, where required, Council Regulation. Thus, in case of uncertainties concerning interpretation of mandatory UN sanctions, EU sanctions list should be consulted. As far as non-legally binding UN and OSCE sanctions are concerned, the interpretation is left to Member States.

When forming a judgement on issuing a license, in order to avoid conflicts with its international obligations, Member States should follow the strictest restrictions that are binding or applicable to them.

(b) the international obligations of Member States under the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention

Treaty on the Non-proliferation of Nuclear Weapons (WPT)

NPT is a legally binding treaty. It acknowledges that States Parties have the right to participate in the fullest possible exchange of equipment, material and related information for the peaceful uses of nuclear energy. However, Article I of NPT puts an obligation on nuclear-weapon-States (NWS) not to transfer to any recipient whatsoever nuclear weapons or other nuclear devices. Under Article III paragraph 2 of NPT, nuclear-weapon-States and non-nuclear-weapon-States (NNWS) undertook not to transfer source or special fissionable material or equipment or material especially designed or

prepared for the processing, use or production of special fissionable material, to any NNWS for peaceful purposes unless these items are subject to appropriate (IAEA) safeguards.

Items, material and equipment falling under the scope of the Treaty (Article I and III):

- nuclear weapons or other nuclear explosive devices;
- source or special fissionable material;
- equipment or material especially designed or prepared for the processing, use or production of special fissionable material.

The NPT does not give a definition or specify detailed lists of the above devices and items. As for nuclear weapons or other nuclear explosive devices an UNIDIR¹ publication gives the following definition: Nuclear weapon is a weapon consisting of a nuclear explosive and a delivery system; nuclear explosive is a device that releases energy through nuclear fission or fission and fusion reaction (delivery system for nuclear explosives could be aerial bombs, ballistic and cruise missiles, artillery shells, naval mines and torpedoes, and landmines). For definition of the source or special fissionable material one should refer to the Statute of the IAEA (Article XX). Relevant information on nuclear and nuclear dual-use items and technologies can be found in the control lists of the Nuclear Suppliers Group and the Zangger Committee, as well as in the EU Military List (category ML 7a) and the annex of the Council Regulation EC No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology as well as relevant Council Regulations imposing sanctions against certain countries.

When forming a judgement on issuing a licence for goods and technologies covered by NPT, Member States should take into consideration whether the country of destination is a State Party to the NPT and the necessary IAEA safeguards are in force.

Biological and Toxin Weapons Convention (BTWC)

BTWC is a legally binding treaty that bans the development, production, stockpiling, acquisition and retention of biological and toxin weapons and their means of delivery. However, it should be noted that under Article X of the Convention States Parties have the right to participate in the fullest possible exchange of equipment, material and related information in case it is intended for peaceful purposes.

The scope of the BTWC covers the following items (Article I):

- microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;
- weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

The BTWC itself does not include a detailed list of the above items. Relevant information can be found in the EU Military List (ML 7), Australia Group control lists and in Annex I of Council Regulation EC No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology.

When forming a judgement on issuing a licence for goods and technologies covered by BTWC, it should be taken into consideration that, according to BTWC:

- Export applications for biological agents of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes are to be denied. (Possible peaceful purposes could be disease control or public health measures.)
- The transfer of any type of conventional weapon, military equipment or means of delivery designed to use such agents for hostile purposes or in armed conflict is forbidden.

Chemical Weapons Convention (CWC)

CWC is a legally binding treaty that bans the development, production, stockpiling, transfer and use of chemical weapons, and also stipulates their timely destruction. At the same time, it underlines the right of States Parties to participate in the international exchange of scientific information, chemicals and equipment for the purposes not prohibited in the Convention. Chemical weapons mean as defined in Article II of CWC the following, together or separately:

- toxic chemicals (chemicals that can cause death, temporary incapacitation) and their precursors, except where intended for purposes not prohibited under CWC;
- munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified above, which would be released as a result of the employment of such munitions and devices;
- any equipment specifically designed for use directly in connection with the employment of munitions and devices specified above.

The Convention has a comprehensive Annex on chemicals, forming an integral part of the CWC. Relevant information can also be found in the EU Military List (ML 7), Australia Group control lists and in Annex I of Council Regulation EC No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology.

When forming a judgement on issuing a licence for goods covered by CWC, Members States should consider the following but non-exhaustive list of elements:

- General obligation of States Parties is to deny the transfer of chemical weapons as specified in Article II of CWC.
- The CWC Annex on chemicals comprises three so-called Schedules (chemical lists). The transfer regime for Schedule 1, Schedule 2 and Schedule 3 is detailed respectively in Part VI, Part VII and Part VIII of the CWC Verification Annex. Given the fact that there is overlap between ML7 list and the CWC Schedules, as a first step it should be determined whether the ML7 chemical agent or precursor in question is on the CWC schedules lists or not. Subsequently in case of an export application for a CWC schedule chemical the transfer rules as set out in the corresponding Part of the CWC Verification Annex should be followed.
- Research, medical, pharmaceutical or protective purposes are not prohibited under CWC.

(c) the commitments of Member States in the framework of the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group, the Wassenaar Arrangement

Council regulation (EC) No 1334/2000 of 22 June 2000 set up a Community regime for control of exports of dual-use items and technology. The regulation contains in the annex a total list of all products subject to export controls and a list of the most critical dual-use products, which are subject to even more stringent rules. These lists could be used as a reference for most of the items covered by the Australia Group, the Missile Technology Control Regime, the Zangger Committee, the Nuclear Suppliers Group, the Wassenaar Arrangement and The Hague Code of Conduct against Ballistic Missile Proliferation.

The Australia Group (AG)

AG is an informal arrangement. Participants do not undertake any legally binding obligations: the effectiveness of the cooperation between participants depends solely on their commitment

to chemical and biological weapons (CBW) non-proliferation goals and national measures aiming at preventing the spread of CBW.

The AG “no undercut policy” is the core element of the members’ commitments intended to ensure a common approach to controls on CBW-related exports. If one member denies an export of an AG-listed item for CBW non-proliferation reasons, all other members agree not to approve essentially identical export license applications without first consulting with the member that issued the original denial.

The transfer of AG-controlled chemicals or biological agents should only be authorized when the exporting member country is satisfied that there will be no CBW-related end use.

When forming a judgement on issuing a transfer licence, Member States should consider the following but non-exhaustive list of elements:

- The significance of the transfer in terms of the potential development, production or stockpiling of chemical or biological weapons;
- Whether the equipment, material, or related technology to be transferred is appropriate for the stated end-use;
- Whether there appears to be a significant risk of diversion to chemical or biological weapons programs;
- Whether a transfer has been previously denied to the end-user or whether the end-user has diverted for purposes inconsistent with non-proliferation goals any transfer previously authorized;
- Whether there are good grounds for suspecting that the recipients have been engaged in clandestine or illegal procurement activities;
- Whether there are good grounds for suspecting, or it is known, that the recipient state has or is pursuing chemical or biological warfare programs;
- Whether the end-user is capable of securely handling and storing the item transferred;
- Whether the exported goods are not intended for re-export. If re-exported, the goods would be properly controlled by the recipient government and satisfactory assurances that its consent will be secured prior to any retransfer to a third country would be obtained;
- Whether the recipient state as well as any intermediary states have effective export control systems;
- Whether the recipient state is a party to the Chemical Weapons Convention or Biological and

Toxin Weapons Convention and is in compliance with its obligations under these treaties;

- Whether governmental actions, statements, and policies of the recipient state are supportive of chemical and biological weapons non-proliferation and whether the recipient state is in compliance with its international obligations in the field of nonproliferation.

Missile Technology Control Regime (MTCR)

The MTCR is an informal arrangement between countries which share the goals of nonproliferation of unmanned delivery systems capable of delivering weapons of mass destruction, and which seek to co-ordinate national export licensing efforts aimed at preventing their proliferation. The MTCR rests on adherence to common export policy guidelines (the MTCR Guidelines) applied to an integral common list of controlled items (the MTCR Equipment, Software and Technology Annex). Each member country has implemented the Guidelines in accordance with its national legislation and decisions on transfer applications are taken at the national level.

In the evaluation of transfer applications for Annex items, Member States shall take the following factors into account:

- Concerns about the proliferation of weapons of mass destruction;
- The capabilities and objectives of the missile and space programs of the recipient state;
- The significance of the transfer in terms of the potential development of delivery systems (other than manned aircraft) for weapons of mass destruction;
- The assessment of the end use of the transfers. Where the transfer could contribute to a delivery system for weapons of mass destruction, transfers should only be authorised on receipt of appropriate assurances from the Government of the recipient State that:
 - The items will be used only for the purpose stated and that such use will not be modified nor the items modified or replicated without the prior consent of the authorising Government;
 - Neither the items nor replicas nor derivatives thereof will be re transferred without the consent of the authorising Government;
- The applicability of relevant multilateral agreements;
- The risk of controlled items falling into the hands of terrorist groups and individuals.

If a denial is issued by another member country for an essentially identical transfer, all other members agree not to approve essentially identical export license applications without first consulting with the member that issued the original denial.

The Nuclear Suppliers Group (NSG)

NSG is an informal arrangement, whose members seek to contribute to the non-proliferation of nuclear weapons through the implementation of Guidelines for nuclear exports and nuclear related exports. The NSG Guidelines are implemented by each Participating Government in accordance with its national laws and practices. Decisions on export applications are taken at the national level in accordance with national export licensing requirements.

The Basic Principle is that suppliers should not authorise transfers of equipment, materials, software, or related technology identified in the Annex:

- for use in a non-nuclear-weapon state in nuclear explosive activity or an unsafeguarded nuclear fuel-cycle activity, or
- in general, when there is an unacceptable risk of diversion to such an activity, or when the transfers are contrary to the objective of averting the proliferation of nuclear weapons, or
- when there is an unacceptable risk of diversion to acts of nuclear terrorism.

In considering whether to authorise nuclear or nuclear-related transfers, in accordance with NSG, Member States should exercise prudence in order to carry out the Basic Principle and should take relevant factors into account, including:

- Whether the recipient state is a party to the NPT or to the Treaty for the Prohibition of Nuclear Weapons in Latin America, or to a similar international legally-binding nuclear non-proliferation agreement, and has an IAEA safeguards agreement in force applicable to all its peaceful nuclear activities;
- Whether any recipient state that is not party to the NPT, Treaty for the Prohibition of Nuclear Weapons in Latin America, or a similar international legally-binding nuclear non-proliferation agreement has any unsafeguarded nuclear fuel-cycle activity, which is not subject to IAEA safeguards;
- Whether the nuclear related technology to be transferred is appropriate for the stated end-use and whether that stated end-use is appropriate for the end-user;

- Whether the nuclear related technology to be transferred is to be used in research on or development, design, manufacture, construction, operation, or maintenance of any reprocessing or enrichment facility;
- Whether governmental actions, statements, and policies of the recipient state are supportive of nuclear non-proliferation and whether the recipient state is in compliance with its international obligations in the field of non-proliferation;
- Whether the recipients have been engaged in clandestine or illegal activities; and
- Whether a transfer has not been authorised to the end-user or whether the end-user has diverted for purposes inconsistent with the Guidelines any transfer previously authorised.
- Whether there is reason to believe that there is a risk of diversion to acts of nuclear terrorism;
- Whether there is a risk of retransfers of equipment, material, software, or related technology identified in the Annex or of transfers on any replica thereof contrary to the Basic Principle, as a result of a failure by the recipient State to develop and maintain appropriate, effective national export and transshipment controls, as identified by UNSC Resolution 1540.

The Wassenaar Arrangement (WA)

WA on Export Controls for Conventional Arms and Dual-Use Goods and Technologies is an informal export control regime. Membership in WA does not create legal obligations for Participating States. The decision to transfer or deny transfer of any item is the sole responsibility of each Participating State. All measures with respect to the Arrangement are taken in accordance with national legislation and policies, and are implemented on the basis of national discretion.

National policies, including decisions to approve or refuse license, are guided by Best Practices, Guidelines or Elements agreed within the Arrangement. To date Participating States have adopted Elements for Objective Analysis and Advice Concerning Potentially Destabilising Accumulations of Conventional Weapons, Statement of Understanding on Intangible Transfers of Software and Technology, Best Practice Guidelines for Exports of Small Arms and Light Weapons (SALW), Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS) and Statement of Understanding on Control of Non-Listed Dual-Use Items.²

² For full texts of these documents please see the WA Website (<http://www.wassenaar.org/guidelines>).

In considering whether to authorise transfers of goods listed by WA, Member States should take into account that principle commitments under WA include:

- maintaining national export controls on items listed in the Control Lists;
- exchanging, on a voluntary basis, information that enhances transparency on arms transfers, as well as on sensitive dual-use goods and technologies;
- for items in Munitions list exchanging information every six months on deliveries to non-participating states of conventional arms;
- for items in the Dual-Use List notifying all licences denied to non-participating states, on an aggregate basis, twice per year;
- for items in the List of Sensitive Items and the List of Very Sensitive Items, notifying all licences denied to non-participating states on an individual basis and all licenses issued to non-participating states, on an aggregate basis, twice per year;
- notifying Participating States of an approval of a licence which has been denied by another Participating State for an essentially identical transaction during the last three years (undercut notification). The decision to transfer or deny transfer of any item is the sole responsibility of each Participating State.

Although not mentioned in Criterion 1 of the EU Code of Conduct on Arms Exports, the Zangger Committee and the Hague Code of Conduct against the Proliferation of Ballistic Missiles are of considerable importance when forming a judgement with regard to Criterion 1.

Zangger Committee

The Zangger Committee is an informal arrangement which significantly contributes to the interpretation of article III, paragraph 2, of the Nuclear Non-Proliferation Treaty (NPT) and thereby offers guidance to all parties to the Treaty.

In the evaluation of transfer applications for items covered by the Zangger Committee, Member States shall take the following factors into account:

- Provision of source or special fissionable material to any non-nuclear-weapon State for peaceful purposes is not allowed unless the source or special fissionable material is subject to safeguards under an agreement with the International Atomic Energy Agency (IAEA);
- If the Government wishes to supply source or special fissionable material for peaceful purposes to such a State, it will:

- specify to the recipient State, as a condition of supply, that the source or special fissionable material, or special fissionable material produced in or by the use thereof shall not be diverted to nuclear weapons or other nuclear explosive devices; and

- satisfy itself that safeguards to that end, under an agreement with the Agency and in accordance with its safeguards system, will be applied to the source or special fissionable material in question;

- In the case of direct exports of source or special fissionable material to non-nuclear-weapon States not party to the NPT, the Government will satisfy itself, before authorising the export of the material in question, that such material will be subject to a safeguards agreement with the IAEA as soon as the recipient State takes over responsibility for the material, but no later than the time the material reaches its destination;
- The Government, when exporting source or special fissionable material to a nuclear-weapon State not party to the NPT, will require satisfactory assurances that the material will not be re-exported to a non-nuclear-weapon State not party to the NPT unless arrangements are made for the acceptance of IAEA safeguards by the State receiving such re-export;
- An Annual Return regarding exports of source and fissionable material to non-nuclear-weapon States not party to the NPT shall be submitted.

Hague Code of Conduct Against the Proliferation of Ballistic Missiles (HCoC)

The HCoC is a politically binding non-proliferation instrument which addresses the problem of ballistic missiles capable of delivering WMD. A central aim of the Code is to increase transparency and confidence among Subscribing States by implementing specific confidence building measures, namely pre-launch notifications of ballistic missile and space-launch vehicle launches and annual declarations of ballistic missile and space launch vehicle policies.

When forming a judgement on issuing a licence, Member States should take into consideration whether or not a state has subscribed to the HCoC and its core principles:

- The urgency to prevent and curb the proliferation of ballistic missiles capable of delivering WMD;
- The importance of strengthening multilateral disarmament and non-proliferation instruments;

- The recognition that States should not be excluded from utilising the benefits of space for peaceful purposes, but that in doing so, they must not contribute to the proliferation of ballistic missiles capable of delivering WMD;
- The necessity of appropriate transparency measures on ballistic missile and space launch vehicle programmes.

(d) the commitment of Member States not to export any form of anti-personnel landmine

The most comprehensive international instrument dealing with anti-personnel mines is the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (so called Ottawa Convention). State Parties to the Convention took on the obligation, among others, not to export anti-personnel mines, except for the purpose of destruction. In addition, they agreed not to assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party.

Some countries, although not State Parties to the Ottawa Convention, announced an export moratorium on anti-personnel landmines.

When forming a judgement on issuing a licence, in accordance with their international obligations, Member States who are State Parties to the Ottawa Convention or, alternatively, took on the political obligation not to export anti-personnel landmines, shall refuse such an export, unless it is deemed for purpose of destruction.

3.1.4. **Arriving at a judgement.** Based on the assessment presented above, Member States will reach a judgement as to whether the export would represent a breach of international commitments and obligations of the Member State or the Community, and if it should be refused.

ANNEX 1 (to Chapter 3 Section 1)

Non-exhaustive list of Internet websites of relevant information sources includes:

List of EU sanctions (DG External Relations, Council of the EU): http://ec.europa.eu/comm/external_relations/cfsp/sanctions/measure.htm

List of embargoes in force (SIPRI): <http://www.sipri.org/contents/armstrad/embargoes.html>

International Atomic Energy Agency (NPT): www.iaea.org

The United Nations Office at Geneva (Disarmament, BTWC): www.unog.ch

Organisation for the Prohibition of Chemical Weapons (CWC): www.opcw.org

International Campaign To Ban Landmines: www.icbl.org

Geneva International Centre for Humanitarian Demining: www.gichd.ch

Australia Group: www.australiagroup.net

MTCR: www.mtc.info

Zangger Committee: www.zanggercommittee.org

Nuclear Suppliers Group: www.nuclearsuppliersgroup.org

Wassenaar Arrangement: www.wassenaar.org

Hague Code of Conduct against the Proliferation of Ballistic Missiles (HCOC): www.bmaa.gv.at

SECTION 2: Best practices for the interpretation of Criterion 2

How to apply Criterion 2

3.2.1 The EU Code of Conduct applies to ALL arms exports by Member States. Thus a priori Criterion 2 applies to exports to all recipient countries without any distinction. However, because Criterion 2 establishes a link with the respect for human rights by the recipient country, special attention should be given to arms exports to countries where there are indications of human rights violations.

3.2.2 **Information sources:** A common EU base of information sources available to all Member States consists of EU HOMs reports, EU human rights fact sheets and in certain cases EU Council statements/conclusions on the respective recipient countries. These documents normally already take into account information available from other international bodies and information sources. However, because of the essential case-by-case analysis and the specificity of each licence application, additional information might be obtained as appropriate from:

- Member States diplomatic missions and other governmental institutions,
- Documentation from the United Nations, the ICRC and other international and regional bodies,
- Reports from international NGOs,
- Reports from local human rights NGOs and other reliable local sources,
- Information from civil society.

Furthermore the EU has designed and adopted specific guidelines to serve as a framework for protecting and promoting human rights in third countries, such as the Guidelines on the death penalty, torture, children and armed conflict and human rights defenders. A non-exhaustive list of relevant internet websites is contained in Annex I.

Elements to consider when forming a judgement

3.2.3 **Key concepts:** Examination of Criterion 2 reveals several key concepts which should be taken into account in any assessment, and which are highlighted in the following text.

“Having assessed the recipient country’s attitude towards relevant principles established by international human rights instruments, Member States 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 enduser, or where there is reason to believe that the equipment will be diverted from its stated end-use or enduser and used for internal repression. In line with paragraph 1 of the Operative Provisions of this Code, 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 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 assessing whether there is a clear risk that a proposed export might be used for internal repression Member States should consider the current and past record of the proposed end- user with regard to respect for human rights and that of the recipient country in general. The latter includes the policy line of recipient country’s government; recent significant developments, including inter alia impact of “fight against terrorism”; effective protection of human rights in constitution; human rights training among key actors (e.g. law enforcement agencies); impunity for human rights violations; independent monitoring bodies and national institutions for promotion or protection of human rights.

3.2.4. **International human rights instruments:** A non-exhaustive list of the main international and regional instruments is contained in Annex II.

These instruments and their respective additional protocols represent the main international norms and standards in the areas of human rights and fundamental freedoms. They guarantee civil and political rights (such as inter alia right to life; prohibition of slavery and forced labour; liberty and security of person; equality before the law; fair trial and effective remedy; freedom of expression and information; freedom of assembly; freedom of movement; freedom of thought, conscience and religion; right to seek and enjoy asylum); women’s rights; children’s rights; non-discrimination; rights of minorities and indigenous peoples; economic, social and cultural rights.

3.2.5 **The recipient country’s attitude:** The following indicators should, as appropriate, be taken into account when assessing a country’s respect for, and observance of all human rights and fundamental freedoms:

- the commitment of the recipient country’s Government to respect and improve human rights and to bring human rights violators to justice
- the implementation record of relevant international and regional human rights instruments through national policy and practice
- the ratification record of the country in question with regard to relevant international and regional human rights instruments
- the degree of cooperation with international and regional human rights mechanisms (eg UN treaty bodies and special procedures)
- the political will to discuss domestic human rights issues in a transparent manner, for instance in the form of bilateral or multilateral dialogues, with the EU or with other partners including civil society.

3.2.6 **Serious violations of human rights:** In the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in Vienna in June 1993, the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law was reaffirmed. Equally reaffirmed were the principles of universality, indivisibility, interdependence and interrelatedness of all human rights.

Regarding the qualification of a human rights violation as “serious”, each situation has to be assessed on its own merits and on a case-by-case basis, taking into account all relevant aspects. Relevant factor in the assessment is the character/nature and consequences

of the actual violation in question. Systematic and/or widespread violations of human rights underline the seriousness of the human rights situation. However, violations do not have to be systematic or widespread in order to be considered as “serious” for the Criterion 2 analysis. According to Criterion 2, a major factor in the analysis is whether the competent bodies of the UN, the EU or the Council of Europe (as listed in Annex III) have established that serious violations of human rights have taken place in the recipient country. In this respect it is not a prerequisite that these competent bodies explicitly use the term “serious” themselves; it is sufficient that they establish that violations have occurred. The final assessment whether these violations are considered to be serious in this context must be done by Member States. Likewise, the absence of a decision by these bodies should not preclude Member States from the possibility of making an independent assessment as to whether such serious violations have occurred.

3.2.7 Internal repression, clear risk, “might”, case by case: The text of the Criterion gives an ample set of examples of what constitutes internal repression. But assessing whether or not there is a clear risk that the proposed export might be used to commit or facilitate such acts requires detailed analysis. The combination of “clear risk” and “might” in the text should be noted. This requires a lower burden of evidence than a clear risk that equipment will be used for internal repression.

An analysis of clear risk must be based upon a case-by-case consideration of available evidence of the history and current prevailing circumstances in the recipient state/regarding the proposed end-user, as well as any identifiable trends and/or future events that might reasonably be expected to precipitate conditions that might lead to repressive actions (e.g. forthcoming elections). Some initial questions that might be asked are:

- Has the behaviour of the recipient state/the proposed end-user been highlighted negatively in EU Council statements/conclusions?
- Have concerns been raised in recent reports from EU Heads of Mission in the recipient state/regarding the proposed end-user?
- Have other international or regional bodies (e.g. UN, Council of Europe or OSCE) raised concerns?
- Are there consistent reports of concern from local or international NGOs and the media?

It will be important to give particular weight to the current situation in the recipient state before confirming any analysis. It may be the case that abuses have occurred in the past but that the recipient state has taken steps to change practices in response to domestic or international pressure, or an internal change in government. It might be asked:

- Has the recipient state agreed to external or other independent monitoring and/or investigations of alleged repressive acts?
- If so, how has it reacted to/implemented any findings?
- Has the government of the recipient state changed in manner that gives confidence of a change in policy/practice?
- Are there any EU or other multilateral or bilateral programmes in place aimed at bringing about change/reform?

Mitigating factors such as improved openness and an on-going process of dialogue to address human rights concerns in the recipient state may lead to the possibility of a more positive assessment. However, it is important to recognise that a lengthy passage of time since any highly publicised instances of repression in a recipient state is not on its own a reliable measure of the absence of clear risk. There is no substitute for up-to-date information from reliable data sources if a proper case-by-case assessment is to be made.

3.2.8 The nature of the equipment is an important consideration in any application. It is vital that any assessment of equipment under Criterion 2 be realistic (i.e. are the items in question really useable as a tool of repression?). But it is also important to recognise that a wide variety of equipment has a track record of use to commit or facilitate repressive acts. Items such as Armoured Personnel Carriers (APCs), body armour and communications/surveillance equipment can have a strong role in facilitating repression.

3.2.9 The end-user is also a strongly linked consideration. If intended for the police or security forces, it is important to establish to exactly which branch of these forces in a recipient state the items are to be delivered. It should also be noted that there is no strict rule as to which branches of the security apparatus may have a role in repression. For example, the army may have a role in many states, while in others it may have no record of such a role.

Some initial questions might include:

- Is there a record of this equipment being used for repression in the recipient state or elsewhere?
- If not, what is the possibility of it being used in the future?
- Who is the end-user?
- What is the end-user’s role in the recipient state?
- Has the end-user been involved in repression?
- Are there any relevant reports on such involvement?

3.2.10 **Diversión.** The question of internal diversion also needs consideration. There may be clues to this in the nature of the equipment and the end-user. It might be asked:

- Does the stated end-user have a legitimate need for this equipment? Or are the items in question more appropriate to another branch of the security apparatus?
- Would we issue a licence if the end-user were another part of the security apparatus of the recipient state?
- Do the different branches of the security forces have separate procurement channels? Is there a possibility that equipment might be redirected to a different branch?

3.2.11 **Arriving at a judgement.** Based on information and assessment of elements suggested in paragraphs 3.2.4–3.2.10 above Member States will reach a judgement on whether the proposed export should be denied on the basis of Criterion 2.

ANNEX I (to Chapter 3 Section 2)

INTERNET WEBSITES OF RELEVANT INFORMATION

SOURCES INCLUDE:

Office of the United Nations High Commissioner for Human Rights (www.ohchr.org)

United Nations (www.un.org; <http://untreaty.un.org>)

International Committee of the Red Cross (www.icrc.org)

Council of Europe (www.coe.int)

European Union (<http://europa.eu>)

Organization for Security and Co-operation in Europe (www.osce.org)

Organization of American States (www.oas.org)

African Union (www.africa-union.org)

Amnesty International (www.amnesty.org)

Human Rights Watch (www.hrw.org)

Fédération internationale des ligues des droits de l'homme (www.fidh.org)

Organisation mondiale contre la torture (www.omct.org)

Association for the Prevention of Torture (www.apt.ch)

International Commission of Jurists (www.icj.org)

OTHER INFORMATION SOURCES INCLUDE:

International Criminal Court and ad hoc tribunals

International agencies operating in the recipient state

International Crisis Group

Coalition to Stop the Use of Child Soldiers

Small Arms Survey

SIPRI and other research institutes

Military manuals (instructions to armed forces)

ANNEX II (to Chapter 3 Section 2)

CORE INTERNATIONAL AND REGIONAL HUMAN RIGHTS INSTRUMENTS

UNITED NATIONS:

International Covenant on Economic, Social and Cultural Rights (CESCR);

International Covenant on Civil and Political Rights (CPR);

Optional Protocol to the International Covenant on Civil and Political Rights (CPR-OP1);

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (CPR-OP2-DP);

International Convention on the Elimination of All Forms of Racial Discrimination (CERD);

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW-OP);

Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);

Optional Protocol to the Convention Against Torture (CAT-OP);

Convention on the Rights of the Child (CRC);

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC);

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OP-SC);

1951 Convention on the Status of Refugees;

1967 Protocol relating to the status of refugees;

Rome Statute of the International Criminal Court

REGIONAL INSTRUMENTS:

WITH RESPECT TO MEMBER STATES OF THE COUNCIL OF EUROPE:

European Convention on Human Rights, including protocols 6 and 13 concerning the abolition of the death penalty;

European Convention for the Prevention of Torture;

WITH RESPECT TO MEMBER STATES OF THE ORGANIZATION OF AMERICAN STATES:

Inter-American Convention on Human Rights;

Additional Protocol to the American Convention of Human Rights in the area of Economic, Social and Cultural Rights, Protocol of San Salvador;

Protocol to the American Convention on Human Rights to abolish the death penalty;

Inter-American Convention on Forced Disappearance of Persons;

Inter-American Convention to Prevent and Punish Torture;

WITH RESPECT TO MEMBER STATES OF THE AFRICAN UNION:

African Charter on Human and People's Rights;

Protocol to the African Charter on Human and People's Rights on the Establishment of an African Court on Human and Peoples' Rights;

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

African Charter on Rights and Welfare of the Child;

WITH RESPECT TO MEMBER STATES OF THE ARAB LEAGUE:

Arab Charter on Human Rights

ANNEX III (to Chapter 3 Section 2)

COMPETENT BODIES OF THE UN, THE COUNCIL OF EUROPE OR THE EU TO ESTABLISH SERIOUS VIOLATIONS OF HUMAN RIGHTS ARE:

UNITED NATIONS:

The General Assembly (including country-specific resolutions)

The Security Council

Human Rights Council and the Economic and Social Council

The Office of the United Nations High Commissioner for Human Rights

Special procedures and other mandate-holders

The treaty bodies

COUNCIL OF EUROPE:

The Ministerial Committee of the Council of Europe Parliamentary Assembly

European Court of Human Rights

The Council of Europe Commissioner for Human Rights
European Commission against Racism and Intolerance (ECRI)

European Committee for the Prevention of Torture (CPT)

EUROPEAN UNION:

The European Council

Statements by CFSP bodies

Country-specific common positions and declarations of the EU

EU Annual human rights report

EU HOMs human rights reports and EU human rights factxsheets

Resolutions and declarations by the European Parliament

SECTION 3: Best practices for the interpretation of Criterion 3

How to apply Criterion 3

3.3.1 The EU Code of Conduct applies to all exports, by Member States, of military equipment and technology included in the Common Military List, and dual use items as specified in operative paragraph 6 of the Code of Conduct. Criterion 3 applies to all recipient countries without distinction. However, these best practices follow the principle that if there is an armed conflict or if there are internal tensions in the country of destination, a careful analysis should be carried out of the risk of this proposed export provoking or prolonging the conflict or aggravating the existing tensions and escalating them into a wider conflict. If the analysis shows a risk of this happening, a restrictive approach should be adopted towards the export licence under consideration. Particular attention should be given to the role of the end-user in this conflict. All export licences should be assessed on a case-by-case basis and consideration should be given to criterion 3 where there are concerns over the existence of tensions or armed conflicts.

3.3.2 **Information sources:** Information on whether there is a risk the equipment would provoke or prolong armed conflicts, or aggravate existing tensions or conflicts in the country of final destination, should be sought from a Member State's mission in the country concerned, as well as from the Foreign Ministry country desk.

A common EU base of information sources available to all Member States consists of EU HOMs reports, EU reports, and in some cases, EU Council statements/ conclusions on the respective recipient country. The EU Watchlist contains destinations that may deserve particular attention with respect to Criterion 3. When consulting other Member States on their denials to an area of concern, Member States are encouraged to share

their analysis and interpretation of the internal situation in the country of final destination.

Wider Internet and intelligence reports – from national intelligence services – are also helpful, especially when assessing the possible increase in capabilities.

Additional information can be obtained from:

- Local UN/EU/OSCE missions
- Documentation from the UN (UNGA, UNSC), International Criminal Court and/or other international and regional bodies;
- Research institutes (e.g. SIPRI)
- Reports from international NGOs;
- Information from local and regional NGOs/civil society.

A non-exhaustive list of relevant internet websites is contained as Annex I.

Elements to consider when forming a judgement

3.3.3 **Key concepts:** Examination of Criterion 3 reveals several key concepts which should be taken into account in any assessment, and which are highlighted below.

Internal situation

“Internal situation” refers to the economic, social and political developments and stability within the borders of the country of final destination. The EU Code of Conduct elsewhere also refers to the “country of final destination” as the “recipient country”.

Function of the existence of tensions or armed conflicts

“Tensions” refers to unfriendly or hateful relations between different groups, or groups of individuals, of the society based either on race, colour, sex, language, religion, political or other opinion, national or social origin, interpretation of historic events, differences in economic wellbeing or ownership of property, sexual orientation, or other factors. Tensions could be at the origin of tumult or violent actions, or a cause for the creation of private militia not controlled by the State.

“Armed conflicts” refers to the escalation of the tensions between above mentioned groups to the level in which any of the groups uses arms against others.

In considering an export licence application the competent authority must assess the internal situation of the country of destination; possible participation and role of the end-user in the internal conflict or tensions and the probable use of the proposed export in the conflict. In assessing the potential risks in the recipient

country the competent authority might ask the following questions:

- What is the end-use of the proposed export (military technology or equipment)? Would the export be used to enforce internal security or to continue with the hostilities?
- Is the military equipment or technology intended to support internationally-sanctioned peacekeeping/peace enforcing operations or humanitarian interventions?
- Is the end-user participating or closely related to a party involved in the armed conflict within the country? What is the role of the end-user in the conflict?
- If components or spares are being requested, is the recipient state known to operate the relevant system in armed conflict in the country?
- Have there been recent reports that the existing tensions might be aggravating? Is there a risk that the existing tensions might turn into an armed conflict when one or more of the participants gain access to the military equipment and technology to be exported?
- Is the recipient country subject to regional or UN embargoes because of the internal situation in the country (see also criterion 1)?

The nature of the equipment

The nature of equipment will impact the judgement of whether to approve or refuse a licence. Consideration should be given as to whether the equipment or technology to be exported actually is related, directly or indirectly, to the tensions or conflicts in the country of final destination. This will be all the more important when there already is an existing armed conflict.

Some questions to consider might be:

- Is the export in nature such, that it is or could be used in an armed conflict within the country of final destination?
- Is there a risk that the existing internal tensions might turn into an armed conflict when the proposed end-user obtains access to this military equipment and technology?

The end-user

The end-user also plays an important role in the analysis. If there are concerns related to criterion 3, it is important to establish exactly for which branch of the armed forces, police or security forces the export is intended. For example, in a recipient country the army

and police might be involved in an armed conflict in which the navy has no role. In this respect, the risk of internal diversion should also be considered.

More complex cases arise when equipment may be going to a research institute or private company. Here a judgement should be made on the likelihood of diversion, and the views on criterion 3 should be based on the other criteria, specifically concerns related to criterion 7, the risk of diversion.

The following might be considered:

- What is the end-user's role in the recipient state? Is the end-user part of the problem, or rather attempting to be part of the solution?
- Is the end-user involved in the internal armed conflict or tensions?
- Are there any relevant reports of such involvement?

3.3.4 *Arriving at a judgement*

Based on information and the over-all risk assessment as suggested in the paragraphs above, Member States will reach a judgement on whether the proposed export should be denied on the basis of Criterion 3.

ANNEX I (to Chapter 3 Section 3)

Non-exhaustive list of Internet websites of relevant information sources includes:

United Nations (www.un.org/peace/)

1540 Committee (<http://disarmament2.un.org/Committee1540>)

OSCE/arms controls (www.osce.org/activities/13014.html)

European Union (www.consilium.europa.eu)

SECTION 4: Best practices for the interpretation of Criterion 4

How to apply Criterion 4

3.4.1 The EU Code of Conduct applies to all exports by Member States of military equipment and technology included in the Common Military List and dual use items as specified in operative paragraph 6 of the Code of Conduct. Criterion 4 applies to all recipient countries without distinction. However, these best practices follow the principle that where there is a greater risk of regional conflict, greater scrutiny of criterion 4 is required than in cases where there is a lesser risk. All export licences should be assessed on a case-by-case basis and consideration given to criterion 4 where there are concerns over the preservation of peace, security and stability in the region.

The purpose of criterion 4 is to ensure that any export does not encourage, aggravate, provoke or prolong conflicts or tensions in the region of the intended recipient country. The criterion makes a distinction between the intention to use the proposed export for aggressive as opposed to defensive purposes. The criterion is not intended to preclude exports to countries that are (potential) victims of aggression or a threat of aggression. A careful assessment would need to be carried out as to whether there are sound indications of an intention by the intended recipient country to use the proposed export to attack, potentially attack or threaten to attack another country.

3.4.2 *Information sources*

Information on whether the equipment is a risk to the preservation of the regional peace, security and stability should be sought from a Member State's mission in the country concerned, as well as from Foreign Ministry country desks; both desks responsible for the recipient country and those responsible for the threatened/aggressor country.

A common EU base of information sources available to all Member States consists of EU HOMs reports, EU reports, and in some cases, EU Council statements/conclusions on the respective recipient country and the region. Extensive use of the EU SitCen (Country Risk Assessment) could be made. The EU Watchlist contains destinations that may deserve particular attention with respect to criterion 4. When consulting other Member States on their denials to an area of concern, the Member States are encouraged to share their analysis and interpretation of the regional situation.

The wider Internet and intelligence reports – from national intelligence services – are also helpful, especially when assessing the possible increase in capabilities.

Additional information can be obtained from:

- Local UN/EU/OSCE missions
- Documentation from the UN (UNGA, UNSC, UN Arms register), International Criminal Court and/or other international and regional bodies;
- Research institutes (e.g. SIPRI)
- Reports from international NGOs
- Information from local and regional NGOs/civil society.

A non-exhaustive list of relevant internet websites is contained as Annex I.

Elements to consider when forming a judgement

3.4.3 Key concepts

Preservation of regional peace, security and stability

Member States 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.

All nations have the right to defend themselves according to the UN Charter. This criterion addresses the issue of whether the recipient state has intentions to use or threaten to use the proposed export aggressively against another country. An assessment should therefore be made of the recipient's intentions, as well as whether the import is an appropriate and proportionate response to the recipient country's need to defend itself, to ensure internal security, and assist in international peace-keeping and humanitarian operations.

Licence applications to sensitive and potentially sensitive destinations are carefully assessed on a case-by-case basis, especially when the export destination regards a country that is or has been involved in armed conflict. When analysing whether there is a clear risk, the history of armed conflict and the current prevailing circumstances in the recipient state and the region should be taken into consideration, as well as any identifiable trends and/or future events that might reasonably be expected to heighten tensions or lead to aggressive actions.

The wording 'will not issue' in this criterion means that if in the assessment of a licence application it has been established that there is a clear risk that the proposed export would be used aggressively against another country or to assert by force a territorial claim, the export licence must be denied regardless of the outcome of the analysis with respect to the other criteria of the Code of Conduct, or any other considerations.

When considering these risks, Member States will take into account inter alia:

(a) the existence or likelihood of armed conflict between the recipient and another country

For the purposes of this element, a judgement will have to be made as to whether there is a clear risk that this equipment will be used in an existing armed conflict between the recipient country and its neighbours or another conflict in the region. Where there is no armed conflict, the regional situation should be considered. Growing tensions in the region, increased threats of conflict or weakly held peace arrangements are examples of where there is a likelihood of a conflict, putting the preservation

of the regional peace, security and stability at risk. In these cases, a judgement would need to be made as to whether there is a clear risk that supplying this piece of equipment would hasten the advent of conflict, for instance by giving the recipient country an advantage over its neighbours or others in the region. Where the equipment to be exported will add to the military capability of the recipient country, a judgement will have to be made as to whether there is a clear risk that this equipment will prolong an existing conflict or bring simmering tensions into armed conflict.

The following questions are indicators that may be taken into consideration as appropriate:

- Is there an existing conflict in the region?
- Is the current situation in the region likely to lead to an armed conflict?
- Is the threat of conflict theoretical/unlikely or is it a clear and present risk?

(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;

An assessment should be made on whether there is a clear risk that the recipient country will by armed conflict or threat of force assert a territorial claim on a neighbouring country. Such a territorial claim might be stated as an official position or be voiced by official representatives or relevant political forces of the recipient country and could relate to land, sea or arial space. The neighbouring country does not have to be the direct neighbour of the recipient country.

That there have been recent claims by the recipient country on another's territory should be factored in, when making a judgement. Where the recipient country has tried in the past to pursue by force a territorial claim or is threatening to pursue a territorial claim, a judgement should be made as to whether the nature of this equipment will let it seem probable, that it would be used in such a case and as to whether it would give the recipient country an additional capability to try to pursue again this claim by force, thus destabilising the region.

The following questions are indicators that may be taken into consideration as appropriate:

- Is the recipient country pursuing a claim against the territory of a neighbouring country?
- Has a territorial claim led to conflict in the region, or underlying tensions between the recipient country and its neighbours?

- Has the recipient country tried to resolve the issue through peaceful means, has it tried in the past to assert by force its territorial claim, or has it threatened to pursue its territorial claim by force?

(c) *whether the equipment would be likely to be used other than for the legitimate national security and defence of the recipient*

When assessing this element of Criterion 4, the exporting state should estimate whether the recipient state has expressed an aggressive military doctrine, and the likelihood of the requested equipment being used in accordance with this doctrine. The exporting state should also estimate whether the requested equipment is compatible with, or constitutes a necessary addition to or replacement of, existing armament systems in the defence forces of the recipient state. It may also be relevant to take into account the quantity and quality of the equipment to be exported.

(d) *the need not to affect adversely regional stability in any significant way*

A judgement on this criterion will have to be made on whether supplying the recipient country with the equipment will significantly improve their military capability, and if it does, would a neighbouring country as a result be put under threat of conflict. Where there are existing tensions in the region, would supplying this equipment enhance the recipient country's capability by introducing a new piece of equipment into the region which could threaten a neighbouring country.

The following questions are indicators that may if appropriate be taken into consideration:

- Why does the recipient wish to acquire the equipment or technology?
- Is this equipment simply a replacement or for maintenance for existing items that might be old or in disrepair, or is the recipient developing new capabilities, such as a significantly improved air strike capability?

The nature of the equipment

The nature of the equipment to be exported will impact the judgement of whether to approve or refuse a licence. Consideration should be given as to whether there is a clear risk that the equipment can be used in a conflict between the recipient country and its neighbours. This will be used to a greater extent where there are existing regional tensions or an existing armed conflict. Where there are existing tensions, the type of equipment is all the more important as the equipment could

significantly increase the recipient country's capability to move to armed conflict or threaten armed conflict. Could a neighbouring country be moved to increase its arms imports due the export of this equipment? Given tensions in certain regions, an export could be seen as an increase in threat to a neighbouring country, and thus consideration of this question becomes vital.

Some questions to consider might be:

- Would the recipient's capability be enhanced by the export, and if so, would it be enhanced to the point where an existing power balance would be upset? Given the circumstances in the recipient country and its intentions, would an enhanced capability present a clear risk of hastening the advent of conflict?
- Would a neighbouring country feel threatened by the military technology or equipment to be exported?
- Is there a risk that the existing regional tensions might turn into an armed conflict when one or more of the participants obtains access to this military equipment and technology?
- Is the export in nature such, that it is or could be used in an armed conflict within the region? What is the likelihood of this equipment being used in a conflict?

The end-user

A judgement would have to be made on whether the end user would allow this equipment to be used in a manner inconsistent to Criterion 4. If it is going directly to the military/government, a decision has to be made on whether the equipment will be used in any military action against another country.

More complex cases arise when equipment may be going to a research institute or private company. Here a judgement should be made on the likelihood of diversion, and views on criterion 4 should be based on the other criteria, specifically concerns related to criterion 7, the risk of diversion.

The following might be considered:

- Is the export likely to be deployed in conflict with a neighbouring state? Or would it most likely go to the Police/a UN contribution, or some other branch of the security forces not directly connected to the criterion 4 concern?

3.4.4 Arriving at a judgement: Based on the information and assessment of elements suggested in the guidance above, Member States will reach a judgement on whether the proposed export should be denied on the basis of Criterion 4.

ANNEX I (to Chapter 3 Section 4)

Non-exhaustive list of Internet websites of relevant information sources includes:

United Nations (www.un.org/peace/)

1540 Committee (<http://disarmament2.un.org/Committee1540>)

OSCE/arms controls (www.osce.org/activities/13014.html)

European Union (www.consilium.europa.eu)

SECTION 5: Best practices for the interpretation of Criterion 5

How to apply Criterion 5

3.5.1. The EU Code of Conduct applies to all arms exports by Member States, without any restrictions on destination. The extent of its application is also valid for Criterion 5. Unlike the other seven criteria, which draw Member States' attention to a particular aspect of the country of destination deemed to be a source of risk, Criterion 5 requires the Member States to carry out an analysis focused on a parameter specific to them: their national security and that of friends, allies and other Member States. The objective of Criterion 5 is to prevent an arms export from affecting the national security of Member States, allied or friendly countries. Exports will have to be evaluated in the light of Criterion 5, without prejudice to compliance with the other criteria set by the Code.

Three points must be subject to analysis before any licence is issued:

- (a) the potential impact of the operation on the security and defence interests of friends, allies or other Member States, without prejudice to observance of the other criteria, particularly Criteria 2 and 4;
- (b) the consequences of the export on the operational security of the armed forces of Member States and of friendly or allied countries;
- (c) the risk of reverse engineering or unintended technology transfer.

3.5.2. **Information sources:** The information relating to the national security of Member States and of territories whose external relations are the responsibility of a Member State, and to defence interests, come mainly from the following sources:

- Charter of the United Nations;
- NATO Treaty*;³

- OSCE: Conference on Security and Cooperation in Europe (Helsinki Final Act 1975); Principles governing conventional arms transfers (25 November 1993)
- Council of Europe;
- Brussels Treaty, establishing the Western European Union*;
- Treaty on European Union; the basic CFSP texts (“A secure Europe in a better world. European Security Strategy”);
- National or regional texts: defence agreements; assistance agreements; military cooperation agreements; alliances, etc.

Since security and defence agreements are usually confidential, the Member States may, when dealing with a specific application likely to fall within the scope of Criterion 5, consult their friends and allies directly in order to deepen their analysis of the possible impact of the export on security and defence interests.

Elements to consider when forming a judgement

3.5.3 **Key concepts.** The heading of Criterion 5 reads as follows: “The **national security** of the Member States and of **territories whose external relations are the responsibility of a Member State**, as well as that of **friendly and allied countries**”⁴.

3.5.4. **National security.** **National security** refers to the capability of the Member States to ensure territorial integrity, protect the population and preserve national security interests as well as the resources and supplies deemed essential for its subsistence and its independence vis-à-vis all kinds of threats and attacks.

National security is closely linked to the security of Europe. The European Security Strategy adopted by the European Council in December 2003 defined the spectre of threats to the security of the European Union. These include: terrorism (religious extremism, electronic networks); proliferation of weapons of mass destruction; regional conflicts (violent or frozen conflicts which persist on our borders, threatened minorities); State failure (corruption, abuse of power, weak institutions, lack of accountability, civil conflict); organised crime (cross-border trafficking in drugs, women, illegal migrants and weapons, maritime piracy).

National security must also be assessed by taking account of **international (or collective) security**, which is among the aims pursued by the Charter of the United Nations. The latter provides that **regional systems** of collective security are lawful, provided that

³ The references followed by an asterisk concern certain Member States of the EU only. Cf. Section 3.5.6 below.

⁴ This phrase is taken over and adapted from one of the principles governing conventional arms transfers adopted by the OSCE: “Each participating State will avoid transfers which would be likely to threaten the national security of other States and of territories whose external relations are the internationally acknowledged responsibility of another State.” (principle 4(b)(ii)).

such arrangements are consistent with the purposes and principles of the universal system (Article 52). It recognises the **inherent right of individual or collective self-defence** (Article 51).

3.5.5. **Territories whose external relations are the responsibility of a Member State.** The territories in question may be assimilated to the following types:

- The territories covered by **Article 5 of the NATO Treaty**, which defines the geographical scope of an armed attack which might trigger the mechanism of military assistance between the parties;
- The **outermost regions (ORs)**: the four French overseas departments (ODs) (Guadeloupe, French Guiana, Martinique, Réunion); the Portuguese autonomous regions of the Azores and Madeira in the Atlantic Ocean; the Spanish autonomous community of the Canary Islands in the Atlantic Ocean;
- The **overseas countries and territories**, covered by Articles 182 to 188 of the TEC, and listed in Annex II to the TEC: Greenland, New Caledonia and Dependencies, French Polynesia, French Southern and Antarctic Territories, Wallis and Futuna Islands, Mayotte, Saint Pierre and Miquelon, Aruba, Netherlands Antilles, Anguilla, Cayman Islands, Falkland Islands, South Georgia and the South Sandwich Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, British Virgin Islands, Bermuda;
- The European territories to which the provisions of the TEC apply under certain conditions (Article 299(4) and (6) of the TEC).

3.5.6. **Allied countries.** Allied countries may be defined as the States associated by a treaty or an international agreement providing for a solidarity clause or a mutual defence clause. A solidarity clause provides for the mobilisation of all the instruments available to the States parties, including military means, if one of them is the victim of a terrorist attack or of a natural or man-made disaster. A collective defence clause stipulates that in the event of an armed attack on one of the States parties, the others have an obligation to give it aid and assistance by all the means in their power, whilst observing the specific character of their security and defence policy.

Article 5 of the **North Atlantic Treaty establishing the Atlantic alliance** or Article 5 of the **Brussels Treaty establishing the Western European Union** are examples

of mutual defence clauses. The draft Treaty establishing a Constitution for Europe makes provision for a solidarity clause and a defence clause. Such clauses may also be included in bilateral defence agreements, but these are not generally published.

Most of the EU Member States are members of NATO, apart from Sweden, Ireland, Cyprus, Malta, Austria and Finland.

The WEU includes ten EU Member States (France, Germany, Italy, United Kingdom, Belgium, Netherlands, Luxembourg, Portugal, Spain, Greece) which are also members of NATO.⁵

3.5.7. **Friendly countries.** The description “friendly countries” is less precise than “allied countries”. Generally speaking, it is likely to apply to countries with which the Member State maintains a close and/or long-standing bilateral relationship, particularly in the field of defence and security, or with which it shares values and interests and pursues common objectives.

To determine whether a country may be described as a friend by a particular Member State, the Member States may check for the existence of a body of positive evidence, including: the number of persons holding dual nationality, the presence of European nationals, the existence of a language community, the number of trade agreements and cooperation agreements, etc.

The text of Criterion 5 reads as follows:

“Member States will take into account:

- (a) the potential effect of the military technology or equipment to be exported **on their defence and security interests** and those of friends, allies and other Member States, while recognizing that this factor cannot affect consideration of the criteria on respect for human rights and on regional peace, security and stability;
- (b) the risk of **use** of the military technology or equipment concerned **against their forces** or those of friends, allies or other Member States;
- (c) the **risk of reverse engineering or unintended technology transfer.**”

3.5.8. **Criterion 5a**

3.5.8.1. **The meaning of the potential effect of export**

(a) Positive effect

If the proposed export helps to reinforce the national security, in particular the defence

⁵ Established in 1992, associate member status within the WEU allows for inclusion of those States which are members of NATO but which were not then members of the Union. There are 6 associate members (Turkey, Norway, Iceland, Poland, Czech Republic, Hungary). All the WEU observer States are members of the EU but not of NATO, except for Denmark (member of NATO and the EU but not of the WEU). There are 5 observer States: Denmark, Ireland, Austria, Sweden, Finland.

and security interests, of friends, allies and other Member States, the assessment will be favourable a priori without prejudice to the analysis which will have to be conducted in terms of Criteria 2 and 4.

(b) Negative effect

If, on the other hand, export would directly or indirectly threaten the defence and security interests of friends, allies and other Member States, the a priori assessment will be unfavourable. The assessment will take into account in particular:

- the maintenance of strategic balance;
- the offensive nature of the equipment exported;
- the sensitivity of the material;
- the increase in operational performance which would be brought about by the material exported;
- the deployability of the equipment exported and/or the deployability conferred by that equipment;
- the end use of the material;
- the risk that the material will be diverted.

3.5.8.2. *Defence and security interests*

When analysing the risk to their defence and security interests and to those of allies, friends and other Member States, Member States must not fail to take into account the possible impact on the security of their forces when deployed out of area.

Moreover, this assessment will be without prejudice to compliance with the other Criteria.

3.5.9. *Criterion 5b*

The operational risk is analysed as follows:

- (a) Is there a direct threat to the security of the forces of a Member State or those of a friendly or allied country?

The threat may be permanent or temporary. The Member State will consider very carefully those applications where the final recipient is in a region known to be unstable, in particular where the export is for armed forces which might not always be under total or permanent control. In time such instability is likely to give rise to a threat for our forces or for those of an ally or friend, particularly where such forces are present in the region for military cooperation or peace-keeping operations.

In sum, if an export is liable to engender a direct threat to the security of the forces of a Member State or of an allied or friendly country, who are present either in the country of final destination or in a neighbouring country, the *a priori* assessment will be unfavourable. The same approach will be used to ensure the security of international peace-keeping forces.

- (b) Is there a risk that arms will be diverted to a force or body which is hostile to the interests or forces of a Member State, friend or ally?

This risk is analysed in the same way as those mentioned in Criterion 7. The exporting country will take account of the existence of terrorist groups, organisations engaged in armed struggle against those currently in power, or organised crime networks which might use the equipment in activities which could affect the security of the forces of the Member States and of allied or friendly countries, as well as that of international peace-keeping forces, or which might use such equipment in a way that would infringe one of the other criteria set by the Code.

- (c) Does the recipient country have the technical capacity to use the equipment?

Technical capacity refers to the ability of the recipient country to make effective use of the equipment in question, both in material and human terms. It also refers to the technological level of the recipient country and its operational capacity, and generally to the standard of performance of its equipment.

Consequently, examination of the compatibility of an arms export with respect to this technical capacity should include consideration of whether it is opportune to deliver to the recipient equipment which is more sensitive or sophisticated than the technological means and operational needs of the recipient country.

In order to determine this compatibility, Member States could consider the following questions:

- Does the recipient country have the military infrastructure to be able to make effective use of the equipment?
- Is the technological level of the equipment requested proportionate to the needs expressed by the recipient country and to its operational capacity?
- Is similar equipment already in service well maintained?
- Are enough skilled personnel available to be able to use and maintain the equipment?⁶

⁶ For instance, are a high proportion of the country's engineers and technicians already working in the military sector? Is there a shortage of engineers and technicians in the civilian sector that could be aggravated through additional recruitment by the military sector?

(d) To take their analysis of the operational risk into greater depth, especially for particularly sensitive cases, the Member States could carry out impact studies on a case-by-case basis, drawing on any relevant information which might be exchanged between the Member States, friends or allies. These studies will aim to establish the presence of national, European, and international forces, and those of friends or allies, in the various regions of the world, and also to evaluate the reality of the risk that the equipment or technology to be exported will be used against those forces.

These impact studies could include the following questions:

- In its analysis of the reality of the risk, the Member State will in particular take into account:
 - the nature of the equipment: whether it is directly offensive in character, the technological superiority which it would confer on the forces possessing it, its autonomy of use, the increase in operational performance which the equipment would allow;
 - any distinctions in the doctrine for the use of the equipment, depending on the user;
 - the nature of the operations: war between conventional forces, asymmetric war, civil war, etc.
- In its analysis of the risk of diversion, the Member State will in particular take into account:
 - whether the equipment can be easily diverted, then easily used even by non-military agents, and/or incorporated into other systems;
 - whether the equipment can be adapted for military use, or used to modify other equipment for military use (in particular, to transform non-lethal equipment into a lethal weapon);
 - some equipment could be the subject of special attention under this heading, in particularly small arms and light weapons (including MANPADS) and night-vision and light-intensifying equipment;
 - in this respect, operations with increased control measures (marking and traceability, on-site inspection) or in the fight against dissemination (destruction

of old stocks, quantity surveillance mechanism) will receive a less restrictive *a priori* assessment.

3.5.10. *Criterion 5c*

When the Member States are deciding on an export licence application, account must be taken of the capabilities of the recipient, whether State or private, to analyse and to divert the technology contained in the military equipment being acquired. The Member States will be able to exchange the relevant information with a view to establishing the capabilities of a potential purchaser of European military equipment.

In this context, and particularly for equipment which uses sensitive technology, the following factors must be considered:

- the sensitivity and the level of protection of the technologies contained in the system, as regards the estimated level of expert knowledge of the recipient, and the evident desire of that recipient to acquire some of those technologies;
- the ease with which those technologies could be analysed and diverted, either to develop similar equipment, or to improve other systems using the technology acquired;
- the quantities to be exported: the purchase of a number of sub-systems or items of equipment which appears to be under (or over) estimated is an indicator of a move to acquire technologies;
- the past behaviour of the recipient, when that recipient has previously acquired systems which it has been able to examine to obtain information about the technologies used in those systems. In this context, the Member States may inform one another about the cases of technology theft which they have experienced.

3.5.11. *Arriving at a judgement*

Depending on the information and the assessment of the factors suggested in paragraphs 3.5.8, 3.5.9 and 3.5.10 above, the Member States will reach a judgement on whether the proposed export should be denied on the basis of Criterion 5.

ANNEX I (to Chapter 3 Section 5)

INFORMATION SOURCES

EU (European Union) http://europa.eu/index_en.htm

UN (United Nations) <http://www.un.org/english/>

OSCE (Organisation for Security and Cooperation in Europe) <http://www.osce.org/>

NATO (North Atlantic Treaty Organisation) <http://www.nato.int/home.htm>

WEU (Western European Union) <http://www.weu.int/index.html>

SECTION 6: Best practices for the interpretation of Criterion 6

How to apply Criterion 6

3.6.1. The EU Code of Conduct applies to all exports by Member States of military equipment and technology included in the Common Military List, and to dual use items as specified in operative paragraph Six of the Code of Conduct. Thus, generally speaking, Criterion Six applies to exports directed to all non EU recipient countries.

However, because Criterion Six establishes a link to the behaviour of the recipient country with regard to the international community, special attention should be given to those countries which represent reasons of concerns because of their attitude to terrorism, the nature of their alliances and respect for international law.

3.6.2. **Information sources.** A common EU base of information sources available to all Member States consists of EU Heads of Mission (HOMs) reports, EU Council statements/conclusions, as well as UN Security Council Resolutions. Additional information might be obtained also from:

- Member States' diplomatic missions and other national governmental institutions;
- the United Nations and other international and regional bodies and agencies, such as the Organization for Security and Co-operation in Europe (OSCE), the Regional Centre on Small Arms in Nairobi, the Organisation of American States and the International Atomic Energy Agency;
- the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies, and other humanitarian bodies;
- Europol, Interpol and intelligence agencies;
- non-governmental organizations and other reliable sources;

A non-exhaustive list of relevant information sources is contained in Annex I.

3.6.3. **Key concepts.** Criterion Six refers to a broad field of overarching issues which should be taken into account in any assessment, and which are highlighted in its text:

“The behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law. Member States will take into account inter alia the record of the buyer country with regard to:

- (a) its support or encouragement of terrorism and international organized 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 noninternational 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 point (b) of Criterion One.”*

Consequently, in assessing whether an arms export licence should be granted or not, Member States should consider the current and past record of the recipient country with regard to its attitude to terrorism and international organized crime, the nature of its alliances, its respect for international commitments and law, concerning in particular the non-use of force, International Humanitarian Law and WMD non proliferation, arms control and disarmament.

Criterion Six has to be considered for buyer countries whose Governments exhibit negative behaviour with respect to the above provisions, thus – during the assessment – the specific identity and the nature of the end-user or the equipment to be exported are not the main focus. In fact the focus of the analysis is the **behaviour of the buyer country**, more than any consideration of the risk that a particular transfer might have particular negative consequences.

Thus, concerning the key concepts stressed in Criterion Six, Member States could consider the following suggestions.

3.6.4. **Buyer country's support or encouragement of terrorism and international organised crime.** A higher degree of scrutiny is required when evaluating individual export licence applications to buyer countries suspected of supporting terrorism and international organized crime in any way.

In this framework, the term “terrorism” is to be understood to mean “terrorist acts” prohibited under international law, such as deliberate attacks on civilians, indiscriminate attacks, hostage taking, torture or deliberate and arbitrary killings, when the purpose of such an act, by its nature or context, is to intimidate a population or to compel a government or an international organisation to commit or to abstain from committing any act.

Concerning “international organised crime”, reference should be made to activities such as drug trafficking, trade in human beings, illegal immigrant smuggling, trafficking in nuclear and radioactive substances, money laundering et similia, conducted by a structured group of persons, existing for a period of time and acting in concert with the aim of committing serious crimes or offences established in accordance with the UN Convention against Trans-national Organised Crime.

A buyer country may encourage or support terrorism and international crime in many ways and before granting a licence, the competent authority might ask, among others, the following questions:

- Does the recipient country have a record of past or present terrorist/criminal activities?
- Are there any known or suspected links between the buyer country and terrorist/criminal organizations (or even individual terrorists/criminals) or any reasons to suspect that entities within – and tolerated by – the recipient country have those links?
- Is there any other reason to suspect that the buyer country tolerates arms re-export or diversion to terrorist/criminal organizations, or that it organizes re-export or diversion itself?
- Does the recipient country have internal legislation that tolerates terrorist/criminal activities, or does failure to apply legislation result in tolerance of terrorist/criminal activities?

Many of these questions may also be asked during an assessment under Criterion Seven, but under Criterion Six they involve the recipient country’s government rather than the end-user.

More detailed questions should be:

- Does the recipient country criminalize the provision of funds to terrorists, freeze the financial assets of people who commit, or attempt to commit, terrorist acts and prohibit the provision of services to those who participate in the commission of terrorist acts?

- Does the recipient country refrain from providing any form of support, active or passive, to entities or persons involved in the terrorist acts?
- Does the recipient country provide early warnings to other states by exchanging information?
- Does the recipient country deny safe havens to those who finance, plan, support, or commit terrorist acts?
- Does the recipient country prevent those who finance, plan, facilitate or commit terrorist acts from using its territory?
- Does the recipient country prevent the movement of those who carry out acts through effective border controls?

3.6.5. Nature of buyer country’s alliances. In a strict interpretation, the term “alliance” might mean an international treaty that links a State to one or more other States and foresees the conditions in which they should give each other assistance. Considering that few of the many relations between States concerning economic, military or defence cooperation can fit into such a strict interpretation of the term “alliance”, in the context of Criterion Six the term “alliance” should be interpreted in a wider sense, and include all those economic, military and defence agreements which, by their nature, are aimed at establishing a significant connection (intended also as common political aims) between two or more States.

Wider interpretation of the term “alliance” will also include any shared vision of international relations (originated, *inter alia*, by a common political view, economic interests or matters of convenience), which will result in a significant action intended to pursue a mutual goal. For instance this can be any type of combined support to a party involved in a situation of crisis, tension or conflict.

Thus, as the nature of alliances is mostly a political assessment, the term “alliance” should be interpreted *cum grano salis*, on the basis of Member States’ national interests. Bearing in mind the above, when considering whether to grant an arms export licence, Member States may ask, among others, the following questions:

- Does the recipient country belong to an alliance founded or acting against a Member State, or against an allied or friendly country?
- Does the recipient country belong to an alliance that does not respect or promote the respect of the founding principles of the United Nations Organization?

- Does the recipient country belong to an alliance that acts for the destabilization of the international community?

3.6.6. Buyer country's compliance with its international commitments. When considering whether to grant an arms export licence, Member States may also consider if the recipient country (i.e. government of the buyer country) does or does not respect its international commitments.

Attention should be paid to those commitments that are legally binding for every State as both norms of international law and norms of treaty universally accepted by every State; including in particular commitments which by their nature could be violated (such as non-use of force (Article 41 of the UN Charter), or respect of international law during a conflict) in most cases by using military equipment. Member States should also consider:

- Does the recipient country respect its commitments to enforce UN, OSCE, and EU arms embargoes?
- Does the recipient country use, has it used, or is it threatening to use force in violation of Article 41 of the UN Charter, in order to solve an international crisis?
- Does the recipient country normally infringe international common law commitments, or treaties which it has voluntarily signed?
- Does the recipient country behave in a manner so as to exclude itself from the international community of States?

Concerning international humanitarian law, possible indicators to assess the risk are:

- Whether the recipient country has made a formal commitment to apply the rules of international humanitarian law and taken appropriate measures for their implementation;
- Whether the recipient country has in place the legal, judicial and administrative measures necessary for the repression of serious violations of international humanitarian law;
- Whether a recipient country which is, or has been, engaged in an armed conflict, has committed serious violations of international humanitarian law;
- Whether a recipient country, which is or has been engaged in an armed conflict, has failed to take all feasible measures to prevent serious violations of international humanitarian law.

As mentioned above, the type of equipment to be exported does not seem to be in the main focus of the analysis, neither does the final user of this equipment, as Criterion Six is meant to avoid any kind of arms exports to those countries whose governments do not comply with international commitments.

In this framework, Criterion 1 of the Code of Conduct Best Practices (the "international commitment" Criterion) is of particular relevance. Thus Member States should also refer to it. A non-exhaustive list of international treaties is included in Annex II.

3.6.7. Buyer country's commitment to non-proliferation and other areas of arms control and disarmament.

Criterion Six also requires consideration, during the assessment, of the buyer country's record with regard to its commitments in the area of disarmament and arms control. In particular Member States will examine both the recipient country's internal legislation and its international commitments. Attention should be paid primarily to those conventions included in Criterion One.

Some questions that might be asked are:

- Has the buyer country signed/ratified/acceded to the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention, and does it adhere to the obligations contained in these treaties? If not, why?
- Is the buyer country a member/participant in, or does it respect the commitments of international arrangements or regimes, in particular the Nuclear Suppliers Group, the Australia Group, the Missile Technology Control Regime, and the Wassenaar Arrangement?
- Does the buyer country respect the commitment not to export any form of anti-personnel landmine, based on the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction?

Even if Criterion Six reports the above mentioned issues as more relevant during the assessment, Member States might also ask some of the questions that they should ask during assessment under Criterion Seven, and others:

- Does the recipient country report to the UN Register of Conventional Arms; if not, why not?
- Has the recipient country aligned itself with the principles of the EU Code of Conduct or similar regional arrangements?
- Is the recipient country involved in the Conference on Disarmament?

- Does the recipient country apply effective export and transfer controls encompassing dedicated control legislation and licensing arrangements that conform to international norms?

Once more, Member States should note that when making assessments under Criterion Seven (risk of diversion), it is possible to make a distinction between qualities of arms, or between end-users; when the same questions are asked when assessing against criterion Six, Member States will decide whether or not to send any kind of material to the country in question, on the basis of their opinion on the recipient country's government.

A non-exhaustive list of Arms Export Control Regimes and Organizations is included in Annex III.

3.6.8. Arriving at a judgement. Based on the information and the over-all country examination as suggested in the paragraphs above, Member States will reach a judgement on whether the proposed export should be denied on the basis of Criterion Six.

Member States will not issue a licence where the general evaluation of the buyer country's record with reference to Criterion Six is not positive.

In any case, even if such evaluation is positive, it can never be used as a justification for arms transfers that would otherwise be refused under other Criteria of the Code of Conduct.

ANNEX I (to Chapter 3 Section 6)

INTERNET WEBSITES OF RELEVANT INFORMATION SOURCES:

United Nations/conventional arms
(<http://disarmament.un.org/cab/register.html>)

Security Council Sanction Committees
(<http://www.un.org/Docs/sc/committees/INTRO.htm>)

Security Council Report
(<http://www.securitycouncilreport.org>)

Security Council Counter Terrorism Committee
(<http://www.un.org/sc/ctc/>)

1540 Committee
(<http://disarmament2.un.org/Committee1540>)

Global Programme against Corruption, UN Office on Drugs and Crime (<http://www.unodc.org/unodc/corruptio.html>)

United Nations Institute for Disarmament Research/ UNIDIR (<http://www.unidir.org>)

OSCE/arms control
(<http://www.osce.org/activities/13014.html>)

European Union (<http://www.consilium.europa.eu>)

CIA World Fact Book (<https://www.cia.gov/cia/publications/factbook/index.html>)

Jane's foreign report (<http://www.foreignreport.com>)

Jane's Defence (<http://jdw.janes.com>)

SIPRI (<http://www.sipri.org>)

International Action on Small Arms
(<http://www.iansa.org>)

Small Arms Survey (<http://hei.unige.ch/sas>)

International Committee of the Red Cross
(<http://www.icrc.org>)

ANNEX II (to Chapter 3 Section 6)

RELEVANT INTERNATIONAL TREATIES:

Charter of the United Nations

Biological and Toxin Weapons Convention

Chemical Weapons Conventions

Non-Proliferation Treaty (NPT)

Comprehensive Nuclear Test Ban Treaty (CTBT)

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction

Rarotonga Treaty

Treaty of Pelindaba

Treaty of Tlatelolco

Bangkok Treaty

Central Asia nuclear-weapon-free zone treaty

Antarctic Treaty

Sea-bed Treaty

Outer Space Treaty

Strategic Arms Limitation Talks (SALT)

Geneva Conventions

ENMOD Convention

Certain Conventional Weapons Convention (CCWC)

The texts of these and other international treaties could be found at <http://untreaty.un.org/>

ANNEX III (to Chapter 3 Section 6)

RELEVANT INTERNATIONAL ARMS EXPORT CONTROL REGIMES AND ORGANISATIONS:

Wassenaar Arrangement (<http://www.wassenaar.org>)

Nuclear Suppliers Group
(<http://www.nuclearsuppliersgroup.org>)

The Australia Group (<http://www.australiagroup.net>)
Zangger Committee (www.zanggercommittee.org)
MTCR (<http://www.mtcr.info>)

SECTION 7: Best practices for the interpretation of Criterion 7

How to apply Criterion 7

3.7.1 The EU Code of Conduct applies to all arms exports by Member States. Thus a priori Criterion 7 applies to exports to all recipient countries without any distinction. However, these practices follow the principle that cases where there is a higher potential risk should be subject to a greater degree of scrutiny than cases with less risk. Evaluation of individual export license applications should be done on a case-by-case basis and include an over-all risk analysis, based on the potential risk level in the recipient state, the reliability of those involved in the transactions, the nature of the goods to be transferred and the intended end-use. Member States are encouraged to exchange information regarding countries of concern on a case-by-case basis through the co-operation in COARM, or by other channels. In addition, improved documentation in diversion risk-assessment at the licensing stage would make diversion more difficult. Effective systems of end-user control contribute to the prevention of undesirable diversion or re-export of military equipment and military technology. End-user certificates and their authentication at the licensing stage should play a central role in counter-diversion policies. (see also Chapter 2). Nevertheless, using enduser certificates cannot substitute for a complete risk assessment of the situation in the particular case.

3.7.2 **Information sources.** Information on diversionary risks should be sought from a wide variety of sources. A common EU base of information sources available to all Member States consists of EU HOMs reports, Open-source defence publications and Export Control regimes information exchanges and websites as well as reports from relevant Security Council Committees, in particular Security Council Committee established pursuant to resolution 1540 (2004); additional information might be obtained as appropriate from Member States diplomatic missions and other governmental institutions such as customs, police and other law enforcement services as well as those providing Intelligence information or through exchange of views among Member States regarding export to the country in question. A non-exhaustive list of relevant internet websites is contained in Annex I.

Elements to consider when forming a judgement

3.7.3 **Key concepts.** Criterion 7 refers to a broad field of overarching issues which should be taken into account in any assessment. It should be kept in mind that diversion

can be initiated at various levels, can take place within a country or can involve detour or retransfer to a third “unauthorised” country. It can be of possession (end-user) and/or function (end-use).

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 other 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;
- (d) the risk of the arms being re-exported or diverted to terrorist organizations (anti-terrorist equipment would need particularly careful consideration in this context).

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

All nations have the right to defend themselves according to the UN Charter. Nonetheless, an assessment should be made of whether the import is an appropriate and proportionate response to the recipient country's need to defend itself, to ensure internal security, or assist in United Nations or other peace-keeping activity.

The following questions might be asked:

- Is there a plausible threat to security that the planned arms import could meet?
- Are the armed forces equipped to meet such a threat?
- What will the destination be of the imported goods after the participation in UN or other peacekeeping activity has been terminated?

Ad (b) The technical capability of the recipient country to use the equipment;

The “technical capability of a recipient country to use the equipment” can be a key indicator of the “existence of a risk” of diversion. A proposed export that appears technically beyond what one might normally expect to be deployed by the recipient state may be an indication that a third-country end-user is in fact the intended final destination. This concept applies equally to complete goods and systems, as well as components and spares.

The export of components and spares where there is no evidence that the recipient country operates the completed system in question may be a clear indicator of other intent.

Some questions that might be asked are:

- Is the proposed export high-tech in nature?
- If so, does the recipient have access to, or are they investing in, the appropriate technical backup to support the sale?
- Does the proposed export fit with the defence profile of the recipient state?
- If components or spares are being requested, is the recipient state known to operate the relevant system that incorporates these items?

Ad (c) The capability of the recipient country to exert effective export controls;

Recipient states' adherence to international export control norms can be a positive indicator against either deliberate or unintentional diversion. Some questions that might be asked are:

- Is the recipient state a signatory or member of key international export control treaties, arrangements or regimes (e.g. Wassenaar)?
- Does the recipient country report to the UN Register of Conventional Arms; if not, why not?
- Has the recipient country aligned itself with the principles of the EU Code of Conduct or similar regional arrangements?
- Does the recipient country apply effective export and transfer controls encompassing dedicated control legislation and licensing arrangements that conform to international norms?
- Is stockpile management and security of sufficient standard?
- Are there effective legal instruments and administrative measures in place to prevent and combat corruption?
- Is the recipient state in the proximity of conflict zones or are there on-going tensions or other factors within the recipient state that might mitigate against the reliable enforcement of their export control provisions?
- Does the country of stated end-use have any history of diversion of arms, including the re-export of surplus equipment to countries of concern?

Ad (d) The risk of arms being re-exported or diverted to terrorist organisations (anti-terrorist equipment would need particularly careful consideration in this context);

In assessing the potential risk in the recipient state, the competent authority might ask the following questions:

- Does the recipient state have a record of past or present terrorist activities?
- Are there any known or suspected links to terrorist organisations (or even individual terrorists) or any reason to suspect that entities within the recipient state participate in the financing of terrorism?
- Is there any other reason to suspect that the arms might be re-exported or diverted to terrorist organisations?

If the answer is "yes" to one or more of the questions asked, a higher degree of scrutiny is necessary. The competent authority should consult with open and other sources when continuing that risk assessment.

In addition to the considerations pursuant to lit. a) – d) the competent authority should also assess the reliability of the specific consignee:

- Is the equipment intended for the government or an individual company?

If the importer is the government:

- Is the government/the specific government branch reliable in this respect?
- Has the government/the specific government branch honoured previous end-user certificates?
- Is there any reason to suspect that the government/the specific government branch is not reliable?

If the importer is a company:

- Is the company known?
- Is the company authorised by the government in the recipient state?
- Has the company previously been involved in undesirable transactions?

3.7.4 Arriving at a judgement. Based on information and the over-all risk assessment as suggested in the paragraphs above Member States will reach a judgement on whether the proposed export should be denied on the basis of Criterion 7.

ANNEX I (to Chapter 3 Section 7)

INTERNET WEBSITES OF RELEVANT INFORMATION SOURCES INCLUDE:

United Nations/conventional arms
(<http://disarmament.un.org/cab/register.html>)

Security Council Sanctions Committees
(<http://www.un.org/Docs/sc/committees/INTRO.htm>)

Security Council Counter Terrorism Committee
(<http://www.un.org/sc/ctc/>)

1540 Committee (<http://disarmament2.un.org/Committee1540>)

Global Programme against Corruption,
UN Office on Drugs and Crime
(<http://www.unodc.org/unodc/corruption.html>)

United Nations Institute for Disarmament Research/
UNIDIR (www.unidir.org)

OSCE/arms control
(<http://www.osce.org/activities/13014.html>)

European Union (www.consilium.europa.eu)

Wassenaar Arrangement (www.wassenaar.org)

Nuclear Suppliers Group (www.nuclearsuppliersgroup.org)

The Australia Group (www.australiagroup.net)

Zangger Committee (www.zanggercommittee.org)

MTCR (<http://www.mtcr.info>)

Jane's foreign report (www.foreignreport.com)

Jane's Defence (jdw.janes.com)

Small Arms Survey (www.smallarmssurvey.org)

Security Council Report (www.securitycouncilreport.org)

International Action Network on Small Arms
(<http://www.iansa.org>)

SIPRI (www.sipri.org)

SECTION 8: Best practices for the interpretation of Criterion 8

How to apply Criterion 8

3.8.1 The EU Code of Conduct applies to all arms exports by Member States. Thus a priori Criterion 8 applies to exports to all recipient countries without any distinction. However, because Criterion 8 establishes a link with the sustainable development⁷ of the recipient country, special attention should be given to arms exports to developing countries. It would be expected only to apply when the stated end-user is a government or other public sector entity, because it is only in respect of these end-users that the possibility of diverting scarce

resources from social and other spending could occur. **Annex A** outlines a two-stage “filter” system to help Member States identify export licence applications which may require assessments against Criterion 8. Stage 1 identifies country-level development concerns, while Stage 2 focuses on whether the financial value of the licence application is significant to the recipient country.

3.8.2 **Information sources.** If the filter system outlined in paragraph 3.8.1 indicates that further analysis is required, **Annex B** lists a series of social and economic indicators for Member States to take into account. For each indicator it provides an information source. The recipient country's performance against one or more of these indicators should not in itself determine the outcome of Member States' licensing decisions. Rather these data should be used to form an evidence base which will contribute to the decision-making process. Paragraphs 3.8.3–3.8.10 outline elements of criterion 8 on which further judgement needs to be reached.

Elements to consider when forming a judgement

3.8.3 Criterion 8 refers to a number of broad, overarching issues which should be taken into account in any assessment, and which are highlighted in the following text.

*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.***

*Member States will take into account, in the light of information from relevant sources such as UNDP, World Bank, IMF and OECD reports, whether the proposed export would seriously hamper the sustainable development of the recipient country. They 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.***

Technical and Economic Capacity

3.8.4a **Economic capacity** refers to the impact of the arms import on the availability of the financial and economic resources of the recipient country for other purposes, in the immediate, medium and long term. In this regard, Member States might consider taking into account:

- both the capital cost of the arms purchase and the likely follow-on ‘life-cycle’ costs of related operation (e.g. ancillary systems and equipment), training and maintenance;

⁷ The Millennium Development Goals encapsulate sustainable development and include progress on goals related to poverty, education, gender equality, child mortality, maternal health, HIV/AIDS and other diseases, the environment and a global development partnership.

- whether the arms in question are additional to existing capabilities or are replacing them, and - where appropriate – the likely savings in operating costs of older systems;
- How the import will be financed by the recipient country⁸ and how this might impact on its external debt and balance of payments situation.

3.8.4b **Technical capacity** refers to the ability of the recipient country to make effective use of the equipment in question, both in material and human terms. In this regard, Member States should consider the following questions:

- Does the recipient country have the military infrastructure to be able to make effective use of the equipment?
- Is similar equipment already in service well maintained?
- Are enough skilled personnel available to be able to use and maintain the equipment?⁹

Legitimate Needs of Security and Defence

3.8.5 All nations have the right to defend themselves according to the UN Charter. Nonetheless, an assessment should be made of whether the import is an appropriate and proportionate response to the recipient country's need to defend itself, to ensure internal security, and assist in international peace-keeping and humanitarian operations. The following questions should be considered:

- Is there a plausible threat to security that the planned arms import could meet?
- Are the armed forces equipped to meet such a threat?
- Is the planned arms import a plausible priority considering the overall threat?

Least diversion for armaments of human and economic resources

3.8.6 What constitutes "least diversion" is a matter of judgement, taking all relevant factors into consideration. Member States should consider *inter alia* the following questions:

- Is the expenditure in line with the recipient country's Poverty Reduction Strategy or programmes supported by the International Financial Institutions (IFIs)?
- What are the levels of military expenditure in the recipient country? Has it been increasing in the last five years?
- How transparent are state military expenditures and procurement? What are the possibilities for democratic or public involvement in the state budget process?
- Is there a clear and consistent approach to military budgeting? Is there a well-defined defence policy and a clear articulation of a country's legitimate security needs?
- Are more cost-effective military systems available?

Relative levels of military and social expenditure

3.8.7 Member States should consider the following questions in assessing whether the purchase would significantly distort the level of military expenditure relative to social expenditure:

- What is the recipient country's level of military expenditure relative to its expenditure on health and education?
- What is the recipient country's military expenditure as a percentage of Gross Domestic Product (GDP)?
- Is there an upward trend in the ratio of military expenditure to health and education and to GDP over the last five years?
- If the country has high levels of military expenditure, does some of this "hide" social expenditure? (e.g. in highly militarised societies, the military may provide hospitals, welfare etc)
- Does the country have significant levels of "off-budget" military expenditure (i.e. is there significant military expenditure outside the normal processes of budgetary accountability and control)?

8 This needs to be considered because the payment methods could have detrimental macro-economic and sustainable development effects. For example if the purchase is by cash payment then it could seriously deplete a country's foreign exchange reserves, impeding any exchange rate management safety net, and also have short term negative effects on the balance of payments. If provided on credit (of any form) it will add to the recipient country's total debt burden – and this may already be at unsustainable levels.

9 For instance, are a high proportion of the country's engineers and technicians already working in the military sector? Is there a shortage of engineers and technicians in the civilian sector that could be aggravated through additional recruitment by the military sector?

Aid Flows

3.8.8 Member States should take into account the level of aid flows to the importing country and their potential fungibility.¹⁰

- Is the country highly dependent on multilateral as well as EU and bilateral aid?
- What is the country's aid dependency as a proportion of Gross National Income?

Cumulative Impact

3.8.9 An assessment of the cumulative impact of arms imports on a recipient country's economy can only be made with reference to exports from all sources, but accurate figures are not usually available. Each Member State may wish to consider the cumulative impact of its own arms exports to a recipient country, including recent and projected licence requests. It may also wish to take into account available information on current and planned exports from other EU Member States, as well as from other supplier states. Potential sources of information are, inter alia, the EU Annual Report, Member States' annual national reports, the Wassenaar Arrangement, the UN Arms Register and the annual reports of the Stockholm International Peace Research Institute.

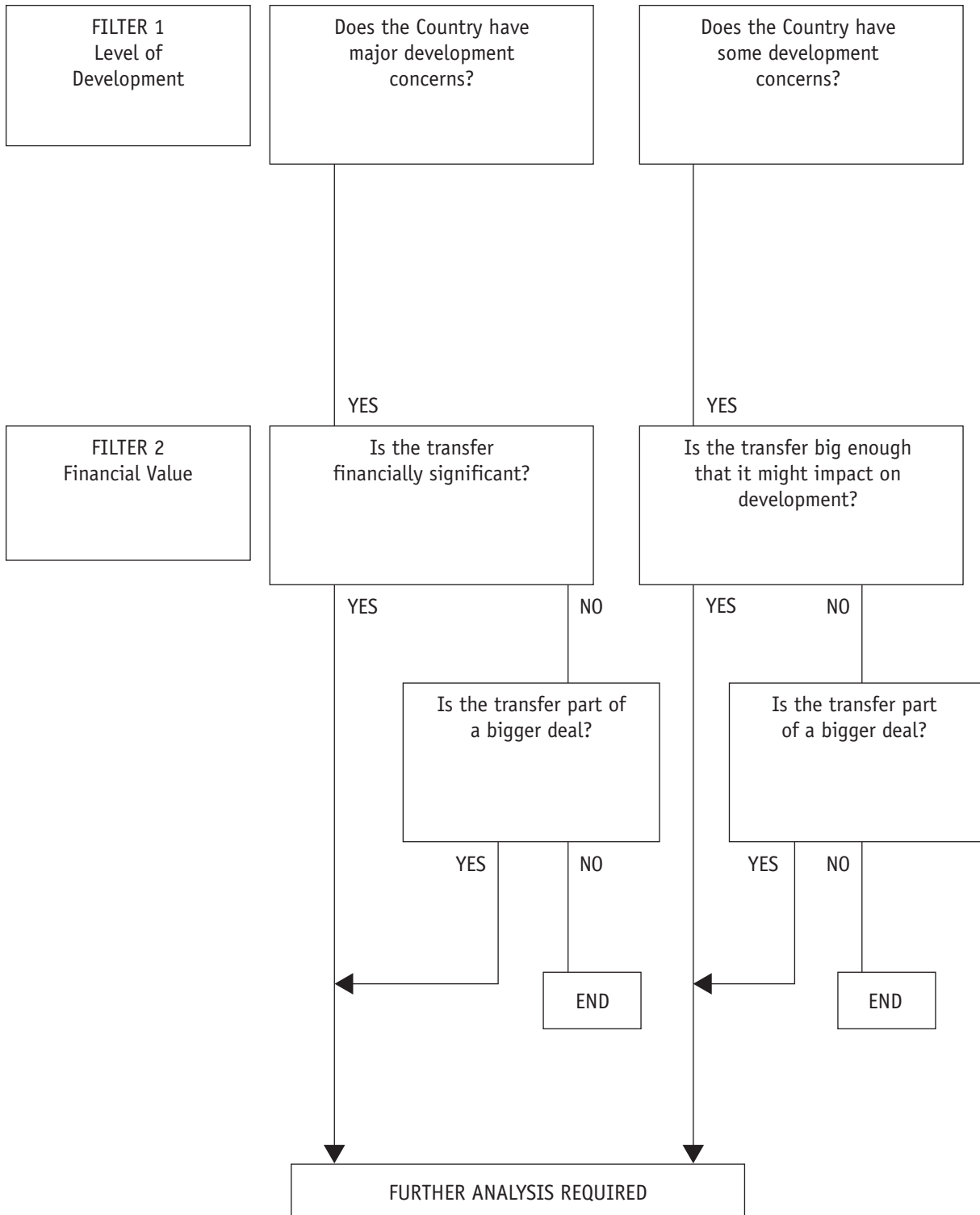
3.8.10 Data on cumulative arms exports may be used to inform a more accurate assessment of:

- historical, current and projected trends in a recipient country's military expenditure, and how this would be affected by the proposed export.
- Trends in military spending as a percentage of the recipient country's income, and as a percentage of its social expenditure.

3.8.11 **Arriving at a judgement:** Based on data and assessment of critical elements suggested under paragraphs 3.8.3 to 3.8.10 above, Member States will reach a judgement as to whether the proposed export would seriously hamper the sustainable development in the recipient country.

ANNEX A (to Chapter 3 Section 8)

In order to make an initial decision as to whether an export licence application merits consideration under Criterion 8, Member States will need to consider the level of development of the recipient country and the financial value of the proposed export. The following graph is designed to assist Member States in their decision-making process:



ANNEX B (to Chapter 3 Section 8)

Member States may wish to consider a number of social and economic indicators relating to recipient countries, and their trend in recent years which are listed below, along with data sources.

Indicator	Data Source
Level of Military expenditure relative to public expenditure on health and education	IISS Military Balance; SIPRI; WB/IMF Country Reports; WDI
Military expenditure as a percentage of Gross Domestic Product (GDP)	IISS Military Balance; SIPRI; WB/IMF Country Reports; WDI
Aid dependency as a proportion of GNI	WDI
Fiscal sustainability	WDI, WDR, IFI Country Reports
Debt sustainability	WB/IMF, including Country Reports
Performance against Millennium	UNDP, Human Development Reports

LIST OF ABBREVIATIONS

IFI: International Financial Institutions watchnet
 IISS: International Institute For Strategic Studies
 IMF: International Monetary Fund
 SIPRI: Stockholm International Peace Research Institute
 UNDP: United Nations Development Programme
 WB: World Bank
 WDI: World Development Indicators
 WDR: World Development Reports

LIST OF SOURCES (WEBSITES)

IFI: <http://www.if-watchnet.org>
 IISS: <http://www.iiss.org>
 IMF: <http://www.imf.org>
 SIPRI: <http://www.sipri.org>
 UNDP: <http://www.undp.org.in>
 WB: <http://www.worldbank.org>
 WDI: <http://www.publications.worldbank.org/WDI>
 WDR: <http://econ.worldbank.org/wdr>

Annex C

Methodology for Criterion 8 of the Consolidated EU and National Arms Export Licensing Criteria

This paper contains guidance for Government officials in compiling the data necessary to take decisions on the application of Criterion 8 of the Consolidated EU and National Arms Export Licensing Criteria. It is neither guidance on the interpretation of policy, which remains as set out in the Criterion, nor is it guidance under Section 9 of the Export Control Act. The Government reserves the right to make changes to this guidance at any time.

INDICATORS FOR ASSESSING CRITERION 8 ON SUSTAINABLE DEVELOPMENT

Note by Officials

Summary of Assessment

1. The Department for Business, Enterprise and Regulatory Reform (BERR) will circulate export licence applications for advice to the Department for International Development (DFID) in accordance with the agreed country circulation list for Criterion 8 assessments of the IDA-eligible countries. DFID will take a view of the prevailing circumstances in the recipient country using agreed indicators. In the light of those circumstances DFID will make a judgement on the export licence application, assessing whether the proposed export would seriously undermine the economy or seriously hamper sustainable development in the recipient country.

2. DFID will consider the explicit considerations of Criterion 8 under two broad sub-headings, corresponding to the conditions specified in the second paragraph of Criterion 8 (hereafter referred to as 'the conditions'). These are:

i) Whether the proposed export would seriously undermine the economy

By this we mean the proposed export's immediate effects on the economy. We address this issue by asking the question: is there a clear risk that the cost could cause macro-economic instability or materially reduce economic growth?

ii) Whether the export would seriously hamper the sustainable development of the recipient country

By this we mean medium-term effects on the development of the economy. We address this issue by asking the question: is there a clear risk that the cost of the export could seriously displace or crowd out important developmental or social expenditure, for example on health and education?

3. Criterion 8 requires that the following considerations relating to the recipient country ('the considerations') be taken into account in determining whether either of the above conditions apply to a proposed export:

- relative levels of military and social expenditure
- any EU or bilateral aid
- public finances
- balance of payments
- external debt
- economic and social development and
- any IMF- or WB-sponsored economic reform programme.

How the indicators operate in practice:

4. For each IDA-eligible country, a threshold is set at 2.5% of combined public health and education spending in the recipient country. This is a baseline threshold, which is adjusted according to the presentation below depending on the above considerations. This produces a final adjusted threshold for each country, and DFID will see all licence applications that have value above the adjusted threshold for a more detailed examination. DFID may also ask to see applications in respect of other countries ad hoc.

5. The considerations are taken as headings in the presentation below, and comprise four elements:

- A brief **statement of impact** setting out how an individual export would be expected to be relevant to the consideration.
- A selected **indicator**, to measure the impact of the individual proposed export on, where appropriate, each of the conditions ('seriously undermine the economy' and 'seriously hamper the sustainable development of the recipient country'). The indicators have been selected with the requirement for simplicity in mind.
- Amber and red **trigger** points for each indicator, set at levels where DFID considers that it will contribute towards a serious impact.
- Amber and red **weightings**, which are factors by which the baseline threshold is multiplied if the amber or red trigger point is reached for this indicator.

6. Relative levels of military and social expenditure

Statement of Impact: Especially large arms exports, or those to countries with high relative levels of military expenditure not in line with legitimate defence and security needs, may distort relative levels of military and social expenditure away from what could be considered reasonable.

(a) 'seriously undermine the economy' condition

Indicator: Military expenditure as a % of GNP.

Trigger: Amber: military expenditure of the recipient country is greater than 2% of its GDP.
Red: military expenditure of the recipient country is greater than 2.5% of its GDP.

Weightings: Amber: 0.8.
Red: 0.6.

(b) 'seriously hamper the sustainable development of the recipient country' condition

Indicator: Military spending as a percentage of social spending (where social spending = spending on health + education).

Trigger: Amber: military expenditure exceeds 30% of social expenditure.
Red: military expenditure exceeds 40% of social expenditure.

Weightings: Amber: 0.8.
Red: 0.6.

7. Any EU or bilateral aid

Statement of Impact: Where a country has higher-than-average levels of aid dependency, large or unjustified arms imports are at greater risk of diverting particularly scarce domestic resources away from developmental uses. For this consideration the two conditions are taken together.

Indicator: Aid dependency, measured by official development assistance (ODA) as a percentage of GNP.

Trigger: Amber: ODA is greater than 2.3% of GNI.
Red: ODA is greater than 10% of GNI.

Weightings: Amber: 0.6.
Red: 0.5.

8. Public finances

Statement of Impact: Arms imports which are not part of legitimate needs, in common with other unproductive expenditure may worsen budgetary deficits and, where domestic revenue-raising measures are inadequate, may divert particularly scarce domestic resources away from developmental uses.

(a) 'seriously undermine the economy' condition

Indicator: Overall deficit after grants expressed as a percentage of GNP.

Trigger: Amber: the recipient country's overall deficit after grants is at 2% or more of GDP.
Red: the recipient country's overall deficit after grants is at 3% or more of GDP.

Weightings: Amber: 0.8.
Red: 0.6.

(b) 'seriously hamper the sustainable development of the recipient country' condition

Indicator: Recurrent revenue yield as a percentage of GDP.

Trigger: Amber: the recipient country's recurrent revenue yield is 15% of GDP or less.
Red: the recipient country's recurrent revenue yield is 10% of GDP or less.

Weightings: Amber: 0.9.
Red: 0.8.

9. Balance of payments

Statement of Impact: the availability of foreign exchange is often a critical constraint on poor countries' development and large arms exports which are not part of legitimate needs may divert scarce foreign exchange away from productive uses.

(a) 'seriously undermine the economy' condition

Indicator: International reserves expressed in terms of months' worth of imports.

Trigger: Amber: international foreign exchange reserves of the recipient country are below 3.5 months' imports.
Red: international foreign exchange reserves of the recipient country are below 2.5 months' imports.

Weightings: Amber: 0.8.
Red: 0.6.

(b) 'seriously hamper the sustainable development of the recipient country' condition

Indicator: Trend of international reserves and their level expressed in terms of months' worth of imports.

Trigger: Amber: reserves of the recipient country are steady and at or below 3.5 months' imports.
Red: international reserves of the recipient country are on a downward trend and at or below 3.5 months' imports.

Weightings: Amber: 0.95.
Red: 0.9.

10. External debt

Statement of Impact: Debt repayments on unproductive expenditure divert scarce resources away from developmentally-sustainable uses, critically so in the case of the HIPC-eligible countries, and large arms exports which are not part of legitimate needs may add to this burden.

(a) 'seriously undermine the economy' condition

Indicator: Trends in a country's external debt relative to HIPC sustainability ratios.

Trigger: Amber: ratio of debt to government revenue is greater than 200%.

Red: ratio of debt to government revenue is greater than 250%.

Weightings: Amber: 0.85.
Red: 0.7.

(b) 'seriously hamper the sustainable development of the recipient country' condition

Indicator: The recipient's Institutional Investor Credit Rating (IICR).

Trigger: Amber: the recipient country's IICR is below 20.
Red: the recipient country's IICR is below 15.

Weightings: Amber: 0.8.
Red: 0.6.

11. Economic and Social Development

Statement of Impact: Where countries are particularly poorly developed economically or socially unproductive expenditures may be particularly wasteful of vitally-needed developmental resources.

(a) 'seriously undermine the economy' condition

Indicator: GNP/head.

Trigger: Amber: If the recipient country has a GNP/head of US\$2,000 or under.
Red: If the recipient country has a GNP/head of US\$1,500 or under.

Weightings: Amber: 0.85.
Red: 0.7.

(b) 'seriously hamper the sustainable development of the recipient country' condition

- Indicator:** UNDP's Human Development Index (HDI) (social development).
- Trigger:** Amber: If the recipient country has an HDI below 0.500.
Red: If the recipient country has an HDI below 0.400.
- Weightings:** Amber: 0.8.
Red: 0.6.

12. Any IMF- or WB-sponsored economic reform programme.

Statement of Impact: IMF and WB programmes are now all set in the context of a Poverty Reduction Strategy Paper (PRSP) approach, as increasingly is bilateral aid (HMG supports the PRSP approach). Arms purchases by countries off-track with such programmes, or where such purchases may knock them off-track, will require particularly careful consideration under Criterion 8. Where a country is off-track for reasons considered to threaten the continuation of any IMF- or WB-sponsored economic reform programmes this will be regarded as strong evidence of unsustainability.

For this consideration the two conditions are taken together.

- Indicator:** Whether a country is on track with its IFI programme.
- Trigger:** Red: The recipient country is off-track with its IFI Programme.
- Weightings:** Red: 0.5.

13. In addition to the above considerations, DFID has an additional consideration for DFID countries of concern. Where DFID has bilateral aid programmes, we need to take particular care to ensure that our aid is not used to fund expensive or inappropriate arms purchases.

- Indicator:** Whether the country is a DFID country of concern.
- Trigger:** Red: The country has an annual DFID bilateral aid programme of over £20m or is provided aid through budget support by DFID.
- Weightings:** Red: 0.5.

14. Information sources

Criterion 8 requires that decisions on export licence applications are taken in the light of information from relevant sources. Sources will include information from the IMF *Government Financial Statistics Yearbook*, IMF *Country Reports and Surveys*, IMF/World Bank *Annual Progress Reports on the Poverty Reduction Growth Facility* and where appropriate, completion point documents from the Highly Indebted Poor Countries Initiative. Information in the IMF's periodic publication, *Recent Economic Developments* and the World Bank's *World Development Indicators* as well as OECD statistics, data and country summaries may also be drawn on.

Annex D

List of Direct Internet Addresses of EU Member States' National Reports on Arms Exports

Austria:	www.bmeia.gv.at/en/foreign-ministry.html
Belgium:	www.diplomatie.be/fr/press/homedetails.asp?TEXTID=8481
Bulgaria	www.mee.government.bg/eng/ind/earms.html
Czech Republic:	www.mzv.cz/wwwo/mzv/default.asp?ido=15135&idj=2&amb=1&ikony=True&trid=1&prsl=True&poc1=8 , www.mzv.cz/kontrolaexportu
Denmark:	www.um.dk/NR/rdonlyres/1A62147B-311E-4969-B066-49C2A8BF6619/0/Udforselsrapporten2006.pdf
Estonia:	www.vm.ee/eng/kat_153
Finland:	www.defmin.fi/index.phtml?l=en&s=144
France:	www.defense.gouv.fr/defense/enjeux_defense/defense_au_parlement/rapports_d_activite/rapport_au_parlement_sur_les_exportations_d_armement_2006
Germany:	www.bmwi.de/English/Navigation/Service/publications,did=233314.html?view=renderPrint
Hungary:	www.mkeh.hu
Ireland:	www.entemp.ie/trade/export/military.htm
Italy:	www.senato.it/leg/15/BGT/Schede/docnonleg/12689.htm
Latvia:	www.mfa.gov.lv/en/security/Directions/ExportControl/
Lithuania	www.urm.lt/index.php?682465421
Luxembourg:	www.mae.lu
Malta:	http://mcmp.gov.mt/cd_trade.asp
Netherlands:	www.exportcontrole.ez.nl
Poland:	www.mg.gov.pl/GOSPODARKA/DKE/English/default.htm
Portugal:	www.mdn.gov.pt/NR/rdonlyres/BDA6D2E4-335C-4159-A360-5C2D262559B5/0/Capitulo6.pdf

Romania www.export-control.ro

Slovakia: www.economy.gov.sk

Slovenia: www.mors.si

Spain: www.revistasice.com/cmsrevistasICE/pdfs/BICE_2921_75-76__F0DBB6B82DC5B1751C8B9E0662F643F8.pdf, www.revistasice.com/cmsrevistasICE/pdfs/BICE_2921_57-60__BAA7577481457B4C59B0E69178DED7E4.pdf

Sweden: www.isp.se/sa/node.asp?node=410

Annex E

Export Control Regimes and Controlled Items in 2007

Non-Proliferation Treaty: Established 1970

Current Members, 190

Afghanistan	Burundi	Eritrea	Japan	Mexico
Albania	Cambodia	Estonia	Jordan	Micronesia
Algeria	Cameroon	Ethiopia	Kazakhstan	Moldova
Andorra	Canada	Fiji	Kenya	Monaco
Angola	Cape Verde	Finland	Kiribati	Mongolia
Antigua & Barbuda	Central African Republic	France	Kyrgyzstan	Morocco
Argentina	Chad	Gabon	North Korea	Mozambique
Armenia	Chile	The Gambia	South Korea	Myanmar
Australia	China	Georgia	Kuwait	Namibia
Austria	Colombia	Germany	Laos	Nauru
Azerbaijan	Comoros	Ghana	Latvia	Nepal
The Bahamas	Congo	Greece	Lebanon	Netherlands
Bahrain	Congo	Grenada	Lesotho	New Zealand
Bangladesh	Costa Rica	Guatemala	Liberia	Nicaragua
Barbados	Côte d'Ivoire	Guinea	Libya	Niger
Belarus	Croatia	Guinea-Bissau	Liechtenstein	Nigeria
Belgium	Cyprus	Guyana	Lithuania	Norway
Belize	Czech Republic	Haiti	Luxembourg	Oman
Benin	Democratic Republic of the Congo (Zaire)	Holy See	FYRO Macedonia	Palau
Bhutan	Denmark	Honduras	Madagascar	Panama
Bolivia	Djibouti	Hungary	Malawi	Papua New Guinea
Bosnia & Herzegovina	Dominica	Iceland	Malaysia	Paraguay
Botswana	Dominican Republic	Indonesia	Republic of Maldives	Peru
Brazil	Ecuador	Iran	Mali	Philippines
Brunei	Egypt	Iraq	Malta	Poland
Bulgaria	El Salvador	Ireland	Marshall Islands	Portugal
Burkina Faso	Equatorial Guinea	Italy	Mauritania	Qatar
		Jamaica	Mauritius	

Romania	Saudi Arabia	Spain	Togo	United Arab Emirates	Western Samoa
Russia	Senegal	Sri Lanka	Tonga	United Kingdom	Yemen
Rwanda	Seychelles	Sudan	Trinidad & Tobago	United States	Yugoslavia
St Kitts and Nevis	Sierra Leone	Suriname	Tunisia	Uruguay	Zambia
St Lucia	Singapore	Swaziland	Turkey	Uzbekistan	Zimbabwe
St Vincent & the Grenadines	Slovakia	Sweden	Turkmenistan	Vanuatu	
San Marino	Slovenia	Switzerland	Tuvalu	Venezuela	
São Tomé & Príncipe	Solomon Islands	Syria	Uganda	Vietnam	
	Somalia	Tajikistan	Ukraine		
	South Africa	Tanzania			
		Thailand			

The Zangger Committee: Established 1971

Current Members, 35

Argentina	Czech Republic	Italy	Romania	Turkey
Australia	Denmark	Japan	Russian Federation	Ukraine
Austria	Finland	Republic of Korea	Slovakia	United Kingdom
Belgium	France	Luxembourg	Slovenia	United States of America
Bulgaria	Germany	The Netherlands	South Africa	
Canada	Greece	Norway	Spain	
China	Hungary	Poland	Sweden	
Croatia	Ireland	Portugal	Switzerland	

The European Commission is permanent observer.

Nuclear Suppliers Group: Established 1975

Current Members, 45

Argentina	Cyprus	Italy	Poland	Switzerland
Australia	Czech Republic	Japan	Portugal	Turkey
Austria	Denmark	Kazakhstan	Romania	Ukraine
Belarus	Estonia	Latvia	Russia	United Kingdom
Belgium	Finland	Lithuania	Slovakia	United States
Brazil	France	Luxembourg	Slovenia	
Bulgaria	Germany	Malta	South Africa	
Canada	Greece	Netherlands	South Korea	
China	Hungary	New Zealand	Spain	
Croatia	Ireland	Norway	Sweden	

The Chemical Weapons Convention: Established 1997

Current Members, 183

Afghanistan	Croatia	Kazakhstan	Oman	Switzerland
Albania	Cuba	Kenya	Pakistan	Tajikistan
Algeria	Cyprus	Kiribati	Palau	Thailand
Andorra	Czech Republic	Kuwait	Panama	FYRO Macedonia
Antigua and Barbuda	Democratic Republic of the Congo	Kyrgyzstan	Papua New Guinea	Timor-Leste
Argentina	Denmark	Lao People's Democratic Republic	Paraguay	Togo
Armenia	Djibouti	Latvia	Peru	Tonga
Australia	Dominica	Lesotho	Philippines	Trinidad and Tobago
Austria	Ecuador	Liberia	Poland	Tunisia
Azerbaijan	El Salvador	Libyan Arab Jamahiriya	Portugal	Turkey
Bahrain	Equatorial Guinea	Liechtenstein	Qatar	Turkmenistan
Bangladesh	Eritrea	Luxembourg	Republic of Korea	Tuvalu
Barbados	Estonia	Madagascar	Republic of Moldova	Uganda
Belarus	Ethiopia	Malawi	Romania	Ukraine
Belgium	Fiji	Malaysia	Russian Federation	United Arab Emirates
Belize	Finland	Republic of Maldives	Rwanda	United Kingdom of Great Britain and Northern Ireland
Benin	Gabon	Mali	St Kitts and Nevis	United Republic of Tanzania
Bhutan	Gambia	Malta	St Lucia	United States of America
Bolivia	Georgia	Marshall Islands	St Vincent and the Grenadines	Uruguay
Bosnia and Herzegovina	Germany	Mauritania	Samoa	Uzbekistan
Botswana	Ghana	Mauritius	San Marino	Vanuatu
Brazil	Greece	Mexico	São Tomé and Príncipe	Venezuela
Brunei Darussalam	Grenada	Micronesia (Federated States of)	Saudi Arabia	Vietnam
Bulgaria	Guatemala	Monaco	Senegal	Yemen
Burkina Faso	Guinea	Mongolia	Serbia	Zambia
Burundi	Guyana	Montenegro	Seychelles	Zimbabwe
Cambodia	Haiti	Morocco	Sierra Leone	
Cameroon	Honduras	Mozambique	Singapore	
Canada	Hungary	Namibia	Slovakia	
Cape Verde	Iceland	Nauru	Slovenia	
Central African Republic	India	Nepal	Solomon Islands	
Chad	Indonesia	Netherlands	South Africa	
Chile	Iran (Islamic Republic of)	New Zealand	Spain	
China	Ireland	Nicaragua	Sri Lanka	
Colombia	Italy	Niger	Sudan	
Comoros	Jamaica	Nigeria	Suriname	
Congo	Japan	Niue	Swaziland	
Cook Islands	Jordan	Norway	Sweden	

The Biological and Toxin Weapons Convention: Established 1975

Current Members, 171

Afghanistan	Croatia	Israel	Nicaragua	Sudan
Albania	Cuba	Italy	Niger	Suriname
Algeria	Cyprus	Jamaica	Nigeria	Swaziland
Andorra	Czech Republic	Japan	Niue	Sweden
Angola	Democratic Republic	Jordan	Norway	Switzerland
Antigua and Barbuda	of the Congo	Kazakhstan	Oman	Syrian
Argentina	Democratic	Kenya	Pakistan	Arab Republic
Armenia	People's Republic	Kiribati	Palau	Tajikistan
Australia	of Korea	Kuwait	Panama	Thailand
Austria	Denmark	Kyrgyzstan	Papua New Guinea	FYRO Macedonia
Azerbaijan	Djibouti	Lao People's	Paraguay	Timor-Leste
Bahamas	Dominica	Democratic	Peru	Togo
Bahrain	Dominican Republic	Republic	Philippines	Tonga
Bangladesh	Ecuador	Latvia	Poland	Trinidad and Tobago
Barbados	Egypt	Lebanon	Portugal	Tunisia
Belarus	El Salvador	Lesotho	Qatar	Turkey
Belgium	Equatorial Guinea	Liberia	Republic of Korea	Turkmenistan
Belize	Eritrea	Libyan Arab	Republic of	Tuvalu
Benin	Estonia	Jamahiriya	Moldova	Uganda
Bhutan	Ethiopia	Liechtenstein	Romania	Ukraine
Bolivia	Fiji	Lithuania	Russian Federation	United Arab Emirates
Bosnia and Herzegovina	Finland	Luxembourg	Rwanda	United Kingdom of Great Britain and Northern Ireland
Botswana	France	Madagascar	St Kitts and Nevis	United Republic of Tanzania
Brazil	Gabon	Malawi	St Lucia	United States of America
Brunei Darussalam	Gambia	Malaysia	St Vincent and the Grenadines	Uruguay
Bulgaria	Georgia	Republic of Maldives	Samoa	Uzbekistan
Burkina Faso	Greece	Mali	San Marino	Vanuatu
Burundi	Grenada	Malta	São Tomé and Principe	Venezuela
Cambodia	Guatemala	Marshall Islands	Saudi Arabia	Vietnam
Cameroon	Guinea	Mauritania	Senegal	Yemen
Canada	Guinea-Bissau	Mauritius	Serbia and Montenegro	Zambia
Cape Verde	Guyana	Mexico	Seychelles	Zimbabwe
Central African Republic	Haiti	Micronesia (Federated States of)	Sierra Leone	
Chad	Holy See	Monaco	Singapore	
Chile	Honduras	Mongolia	Slovakia	
China	Hungary	Morocco	Slovenia	
Colombia	Iceland	Mozambique	Solomon Islands	
Comoros	India	Myanmar (Burma)	Somalia	
Congo	Indonesia	Namibia	South Africa	
Cook Islands	Iran (Islamic Republic of)	Nauru	Spain	
Costa Rica	Iraq	Nepal	Sri Lanka	
Côte d'Ivoire	Ireland	Netherlands		
		New Zealand		

The Australia Group: Established 1985

Current Members, 40

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

The Missile Technology Control Regime: Established 1987

Current Members, 34

MTCR members, followed by the year they joined the regime, are:

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

The Wassenaar Arrangement: Established 1996

Current Members, 40

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

Annex F

Major Countries of Concern¹

Afghanistan
Belarus
Burma
The People's Republic of China
Colombia
Cuba
Democratic Republic of the Congo
Democratic People's Republic of Korea
Iran
Iraq
Israel and the Occupied Palestinian Territories
Nepal
Pakistan
Russia
Saudi Arabia
Sudan
Syria
Turkmenistan
Uzbekistan
Vietnam
Zimbabwe

¹ This is not an exhaustive survey of countries' records on human rights. Nor is it a league table of countries we consider to be the worst offenders

Annex G

International Development Association Borrowers

Africa

Angola
Benin
Burkina Faso
Burundi
Cape Verde
Cameroon
Central African Republic
Chad
Comoros
Congo, Republic of
Congo, Democratic Republic of the
(formerly Zaire)
Côte d'Ivoire
Ethiopia
Eritrea
Gambia
Ghana
Guinea
Guinea-Bissau
Kenya
Lesotho
Liberia
Madagascar
Malawi
Mali
Mauritania
Mozambique
Niger
Nigeria
Rwanda
São Tomé and Príncipe
Senegal
Sierra Leone
Somalia
Sudan
Tanzania
Togo
Uganda
Zambia
Zimbabwe

East Asia

Cambodia
Indonesia
Kiribati
Laos, PDR
Mongolia
Myanmar
Papua New Guinea
Samoa
Solomon Islands
Timor-Leste
Tonga
Vanuatu
Vietnam

South Asia

Afghanistan
Bangladesh
Bhutan
India
Maldives, Republic of
Nepal
Pakistan
Sri Lanka

Europe and Central Asia

Albania
Armenia
Azerbaijan
Bosnia and Herzegovina
Georgia
Kyrgyz Republic
Moldova
Tajikistan
Uzbekistan
Serbia and Montenegro

Middle East and North Africa

Djibouti
Yemen, Republic of

Latin America and Caribbean

Bolivia
Guyana
Haiti
Honduras
Nicaragua
Dominica
Grenada
St Lucia
St Vincent

Annex H

Information required for the UN Conventional Arms Register

A	B	C	D ^b	E ^b	REMARKS ^c	
Category (I–VII)	Final importer State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
I. Battle tanks	South Africa	1			M51 Super Sherman Tank	
II. Armoured combat vehicles	Iraq	60			Saxon APC	
	Netherlands	2			Saxon APC	
	Portugal	1			CVRT Sabre	
	Portugal	1			FV 432 A.P.C	
II. Armoured combat vehicles (continued)	USA	1			FV 432 Armoured Personnel Carrier	
		1			Saracen Armoured Personnel Carrier	
		3			Ferret Armoured Scout Car	
		2			Two Spartan (Alvis) CVRT FV103 Armoured Personnel Carriers	
		1			FV 432 Armoured Personnel Carrier	
III. Large-calibre artillery systems	India	1			M777 LIGHTWEIGHT 155mm HOWITZER	
	Morocco	1			Rocket Propelled grenade 7 launcher	
	Tunisia	1			Rocket Propelled grenade 7 launcher	

A	B	C	D ^b	E ^b	REMARKS ^c	
Category (I–VII)	Final importer State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
IV. Combat aircraft	Denmark	2			C130J aircraft Hunting Jet Provost Mk.4 DASSAULT FALCON 20 AIRCRAFT North American P-51D Mustang aircraft	
	South Korea	1				
	Switzerland	1				
	USA	1				
V. Attack helicopters	Ukraine	1			Westland Gazelle Helicopter HT3	Registration Number G-CBBV Serial Number 1757
VI. Warships						
VII. Missiles a) and missile launchers ^d b)	Australia	4			Lightweight Multi-role Missile (LiMMS)	

National criteria on transfers:

^{a b c d} See explanatory notes.

The nature of information provided should be indicated in accordance with explanatory notes e and f.

Standardized form for reporting international transfers of conventional arms (imports)^a



IMPORTS

Report of international conventional arms transfers

(according to United Nations General Assembly resolutions 46/36 L and 58/54)

Reporting country: United Kingdom

National point of contact: UK Ministry of Defence, Counter Proliferation and Arms Control, CPAC-CEC,
Tel: +44 (0)20 7807 8584 email: victoria.marr131@mod.uk
(Organization, Division/Section, telephone, fax, e-mail) (FOR GOVERNMENTAL USE ONLY)

Calendar year: _____ 2007 _____

A	B	C	D ^b	E ^b	REMARKS ^c	
Category (I–VII)	Exporter State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
I. Battle tanks						
II. Armoured combat vehicles	USA	95			Cougar (or Mastiff) APC	
III. Large-calibre artillery systems						
IV. Combat aircraft	USA	2			Reaper (or Predator) UAV	
V. Attack helicopters						
VI. Warships						
VII. Missiles and missile launchers ^d	a) b)					

National criteria on transfers:

^{a b c d} See explanatory notes.

The nature of information provided should be indicated in accordance with explanatory notes e and f.

THE UN REGISTER OF CONVENTIONAL ARMS

MILITARY HOLDINGS

Reporting Country: United Kingdom

For reporting period: 2007

Category	Definition	Number
Category I Battle Tanks	Challenger 1	10
	Challenger 2	368
Category II Armoured Combat Vehicles	AFV 432	906 (including Field Ambulances)
	Stormer APC	53
	CVR(T) Scimitar	322
	CVR(T) Spartan	495
	CVR(T) Sturgeon	35
	CVR(T) Striker	48
	CVR(T) Salamander	32
	Saxon	313
	Warrior	574
	Viking	102
Mastiff	109	
Category III Large Calibre Artillery Systems	105mm Lt Gun	159
	AS90 SP Howitzer	142
	MLRS	42
	81mm (all types)	375
Category IV Military Aircrafts	Harrier	79
	Hawk	129
	Tornado	224
	Nimrod	18
	Sentry	7
	Typhoon	50
	Reaper	1
	VC10	16
	C17	4
	Hercules	43
Tristar	6	
Category V Attack Helicopters	Gazelle	56
	Lynx AH7	88
	Lynx AH9	24
	Apache AH1	67
	Sea King HC4	37
	Sea King HAS 6 (CR)	5
	Puma HC1	43
	Merlin HC3/3A	28
	Chinook HC2/2a	40
	Bell 212	6
	Augusta A109	4
	Chinook HC3	8

Category	Definition	Number
Category VI Warships	Submarines	12
	Aircraft Carriers	2
	Frigates/Destroyers	27
	Amphibious Ships	3
	Survey Vessels	5
	Offshore Patrol Vessels	3
	Aviation Training Ship	1
	Repair and Maintenance ship	1
	Tanker/Replenishment Ship	14
	Logistic Landing Ship	1
MCMV	8	
Category VII Missiles and Missile Launchers	TOTAL	53,302

Military Holdings defined as equipment in-service with UK Armed Forces.

THE UN REGISTER OF CONVENTIONAL ARMS

PROCUREMENT FROM NATIONAL PRODUCTION

Reporting Country: United Kingdom

For reporting period: 2007

Category (I–VII)	Number of Items	Details of model, type, variant
I. Battle Tanks		
II. Armoured Combat Vehicles		
III. Large Calibre Artillery Systems		
IV. Combat Aircraft	12	Typhoon
V. Attack Helicopters		
VI. Warships	1	Submarine
VII. Missiles & Missile Launchers	Not Available	Various including HMV, AMRAAM, Storm Shadow, Brimstone

Procurement from national production is defined as complete weapon systems purchased by the Government from suppliers within the United Kingdom or from programmes in which the UK is a collaborative partner.

Government to Government transfers of equipment between 1 January and 31 December 2007

Country	Type of Equipment	Quantity*
Chile	Type 23 Frigate (formerly HMS Grafton).	1
Brazil	Landing Support Logistics (LSL) (formerly RFA Sir Galahad).	1
Estonia	Mine Countermeasure Vessel (MCMV) (formerly HMS Sandown).	1

Small Arms destroyed by MOD between 1 January and 31 December 2007

Gun Type	Number
Grenade Launcher	2
Light A/Tank Weapon	145
Machine Gun	222
Riot Gun	6
Sub-Machine Gun	11
Shotgun	5
Rifle	1993
Carbine	3
Pistol	339
Injector	17
Bolt Gun	1
RPG	1
Grenade Discharger	1
Total	2746

Statistics on exports of weapons and small arms in 2007.



Information on international transfers of small arms and light weapons^{a,b} (exports)

Exports

Reporting country: United Kingdom

National point of contact: Ministry of Defence, Counter Proliferation and Arms Control, CPAC-CEC,
Tel: +44 (0)20 7807 8584 email: victoria.marr131@mod.uk
(Organization, Division/Section, telephone, fax, e-mail) (FOR GOVERNMENTAL USE ONLY)

Calendar year: _____ 2007 _____

A					B		C	D	E	REMARKS	
					Exporter State(s)		Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
SMALL ARMS											
1.	Revolvers and self-loading pistols		Canada	6						Pistol	
			Czech Republic	2							
			Ecuador	3							
			Irish Republic	3							
			Kenya	2							
			New Zealand	1							
			Switzerland	1							
			United States of America	7							

A		B	C	D	E	REMARKS	
		Exporter State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
1.	Revolvers and self-loading pistols (continued)	Afghanistan	26			Semi-Automatic Pistol	
		Bahamas	32				
		Barbados	2				
		Belgium	7				
		Canada	36				
		Chile	22				
		Costa Rica	160				
		Cyprus	10				
		Czech Republic	84				
		Egypt	2				
		Finland	200				
		Germany	55				
		Haiti	8				
		Hungary	20				
		Iraq	89				
		Irish Republic	34				
		Italy	18				
		Japan	13				
		Jordan	65				
		Kenya	21				
		Korea, South	21				
		Kuwait	3				
		Lesotho	40				
		Morocco	31				
		Mozambique	17				
		New Zealand	8				
		Norway	1				
		Pakistan	1				
		Panama	40				
		Qatar	2				
		Sri Lanka	50				
		Switzerland	20				
		Trinidad and Tobago	75				
		United Arab Emirates	132				
		United States of America	45050				
		Uruguay	35				
		United Arab Emirates	108			Sporting Pistol	

A		B	C	D	E	REMARKS					
		Exporter State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer				
1.	Revolvers and self-loading pistols (continued)	Bahamas	6			Revolver					
		Czech Republic	24								
		Germany	2								
		Haiti	15								
		Irish Republic	8								
		Kenya	1								
		Morocco	4								
		Mozambique	5								
		Netherlands	2								
		Sri Lanka	1								
		United Arab Emirates	4								
		United States of America	4								
		2.	Rifles and carbines	Canada	20					Automatic Rifles	
				Norway	1					Combination Rifle Shotguns	
Slovakia	2										
United States of America	2										
Australia	6					Rifles					
Austria	1										
Belgium	1										
Canada	406										
Finland	125										
Germany	3										
Gibraltar	1										
Irish Republic	1										
Jordan	20										
Luxembourg	21										
Malawi	1										
Mozambique	10										
Mozambique	12										
Netherlands	4										
New Zealand	23										
Russia	4										
South Africa	28										
Ukraine	10										
United States of America	180749										
Zambia	1										

A		B	C	D	E	REMARKS	
		Exporter State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
2.	Rifles and carbines (continued)	Argentina	53			Shotguns	
		Australia	18				
		Austria	6				
		Bahamas	1				
		Barbados	2				
		Belgium	1				
		Botswana	4				
		Canada	29				
		Cyprus	107				
		Czech Republic	2				
		Denmark	1				
		Falkland Islands	10				
		Finland	110				
		France	13				
		Germany	23				
		Gibraltar	1				
		Greece	3				
		Haiti	6				
		Irish Republic	64				
		Italy	6				
		Jordan	200				
		Kenya	1				
		Kuwait	1				
		Malawi	1				
		Morocco	2				
		Mozambique	2				
		Netherlands	5				
		New Zealand	40				
		Norway	37				
		Pakistan	23				
		Portugal	22				
		Russia	31				
		Saudi Arabia	21				
		Slovakia	8				
		Slovenia	1				
		South Africa	37				
		Spain	10				
		Sweden	9				
		Switzerland	16				
		Turkey	1				
		United Arab Emirates	32				
		United States of America	157				
		Zambia	2				

A		B	C	D	E	REMARKS	
		Exporter State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
2.	Rifles and carbines (continued)	Argentina	2			Sporting Rifle	
		Australia	6				
		Austria	13				
		Belarus	1				
		Bermuda	1				
		Botswana	2				
		Canada	24				
		Cyprus	6				
		Falkland Islands	19				
		Finland	2				
		France	16				
		Germany	40				
		Gibraltar	2				
		Iceland	4				
		Irish Republic	23				
		Italy	10				
		Jordan	70				
		Kenya	3				
		Kuwait	1				
		Lebanon	1				
		Malawi	6				
		Namibia	4				
		Netherlands	5				
		New Zealand	19				
		Norway	8				
		Pakistan	1				
		Qatar	1				
		Russia	20				
		Singapore	1				
		Slovakia	3				
		South Africa	22				
		Spain	2				
		Sweden	7				
		Switzerland	8				
		Tanzania	3				
		Ukraine	8				
		United Arab Emirates	229				
		United States of America	34				

A		B	C	D	E	REMARKS	
		Exporter State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
2.	Rifles and carbines (continued)	Austria	1			Sniper Rifle	
		Belgium	1				
		Brunei	9				
		Chile	2				
		Cyprus	46				
		Czech Republic	6				
		Denmark	2				
		Japan	21				
		Jordan	460				
		Korea, South	9				
		Latvia	32				
		Malaysia	10				
		Morocco	5				
		Mozambique	1				
		New Zealand	4				
		Oman	36				
		Pakistan	1007				
		Russia	10				
		Saudi Arabia	125				
		Slovakia	12				
		Sweden	3				
		Switzerland	8				
		Taiwan	14				
		Trinidad and Tobago	1				
		Turkey	536				
		Ukraine	35				
		United Arab Emirates	2				
		United States of America	8211				
		Uruguay	13				

A		B	C	D	E	REMARKS	
		Exporter State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
3.	Sub-machine guns	Australia Bahamas Barbados Brazil Canada Czech Republic Finland France Germany Greece Haiti Italy Jordan Korea, South Morocco Mozambique Netherlands New Zealand Qatar South Africa Trinidad and Tobago United Arab Emirates	4 4 36 27 149 27 1 100 1 8 6 6 33 95 5 18 20 59 70 2 1090 532			Sub-Machine Gun	

A		B	C	D	E	REMARKS	
		Exporter State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
4.	Assault rifles	Afghanistan Bahamas Barbados Belgium Brazil Canada Czech Republic Finland Germany Hong Kong Hungary Iraq Italy Japan Jordan Kuwait Morocco Mozambique Netherlands New Zealand Oman Qatar Romania South Africa Sweden Switzerland Trinidad and Tobago United Arab Emirates United States of America Uruguay	11206 12 2 3 5 640 77 202 2 1 22 45 4 8 87 10 74 120 8 63 4 1 1 6 2 7 235 10 177 3			Assault Rifles	
5.	Light machine guns	Canada	106			Light Machine Gun	

A		B	C	D	E	REMARKS	
		Exporter State(s)	Number of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on the transfer
LIGHT WEAPONS							
1.	Heavy machine guns	Brazil	5			General Purpose Machine Guns	
		Canada	4				
Czech Republic	25						
Finland	3						
Iraq	96						
Kuwait	10						
Morocco	4						
Mozambique	6						
Netherlands	4						
New Zealand	28						
Romania	1						
South Africa	1						
Swaziland	3						
Switzerland	1						
United States of America	294						
Uruguay	3				Heavy Machine Guns		
Colombia	29						
France	10						
Morocco	3						
Mozambique	8						
South Africa	1						

National criteria on transfers:

^a The standardized forms provide options for reporting only aggregate quantities under the generic categories of “Small arms” and “Light weapons” and/or under their respective subcategories. See the United Nations Information Booklet 2007 (<http://disarmament.un.org/cab/register.html>) for questions and answers regarding the reporting of small arms and light weapons.

^b The categories provided in the reporting form do not constitute a definition of “Small arms” and “Light weapons”.

UNITED KINGDOM DEFENCE EQUIPMENT PROCUREMENT, IMPORT AND EXPORT POLICIES

The United Kingdom's policy is to procure defence equipment that represents the best value for money. Whenever possible, within the constraints of national security, and subject to the international commitments and obligations, we do this by means of international competition. There is no policy of buying British where an overseas bid or international collaborative development would represent better value for our Armed Forces and the taxpayer.

It is an advantage for the United Kingdom to have a healthy, technologically capable and broadly based defence industry, and defence and industrial issues are taken into account in individual procurement decisions. However, the United Kingdom does not have an industrial strategy which aims to develop such a capability; for example by seeking to control centrally the size or range of the UK's defence industry. The United Kingdom believes that, within the framework of national and European Community competition law, it is primarily for industry and the market to determine production capacities and capabilities. Dialogue does take place to ensure that industry is aware of the Government's likely procurement intentions for defence equipment, and of its support for research and development, and export promotion.

The basis of the United Kingdom's export licensing decisions is the consolidated EU and national arms exporting criteria. The criteria clearly state that the UK will not issue licences where there is a clear risk that the exports might be used for either internal repression or external aggression, or in contravention of the UK's international export control obligations.

After five years of operation the European Union Code of Conduct underwent its first review in 2004. This was undertaken by Member States through the Working Party on Conventional Arms Exports (COARM). Issues discussed by the working party included adding a reference to international humanitarian law and also extending the Code to cover applications for brokering, transit and transshipment and intangible transfers of technology and software. In addition to the revision of the Code, Member States within the working party have developed a toolbox of additional provisions that would apply to countries where an EU arms embargo had recently been lifted. The UK also contributes to the EU Annual Report according to operative provision 8 of the EU Code of Conduct.

The United Kingdom Government imports defence equipment for use by its Armed Forces and Police Authorities for the legitimate purposes of self-defence and maintenance of public order. Defence equipment (including firearms) imported for commercial use requires an import licence.

Further information on the UK's Export Control Policies and Procedures can be found at:
www.fco.gov.uk

The Co-ordinator for the UK's Return to UNCAR can be contacted as follows:

UK Ministry of Defence, Counter Proliferation & Arms Control, CPAC-CEC
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Annex I

Schedule 1 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003

SCHEDULE 1 – Schedule referred to in Articles 3 and 6 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003.

PROHIBITED GOODS, SOFTWARE AND TECHNOLOGY

Note: In this Schedule, defined terms are printed in quotation marks.

Definitions

In this Schedule:

“adapted for use in war” means any modification or selection (e.g., altering purity, shelf life, virulence, dissemination characteristics, or resistance to ultra violet (UV) radiation) designed to increase the effectiveness in producing casualties in humans or animals, degrading equipment or damaging crops or the environment;

“basic scientific research” means experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective;

“biocatalyst” means enzymes for specific chemical or biochemical reactions and other biological compounds which bind to and accelerate the degradation of chemical warfare (CW) agents;

“biopolymer” means the following biological macromolecules:

- a. enzymes for specific chemical or biochemical reactions;
- b. ‘monoclonal antibodies’, ‘polyclonal antibodies’ or ‘anti-idiotypic antibodies’;
- c. specially designed or specially processed ‘receptors’;

Technical Note:

‘Monoclonal antibodies’ means proteins which bind to a specific antigenic site and are produced by a single clone of cells;

‘Polyclonal antibodies’ means a mixture of proteins which bind to a specific antigen and are produced by more than one clone of cells;

‘Anti-idiotypic antibodies’ means antibodies which bind to the specific antigen binding sites of other antibodies;

‘Receptors’ means biological macromolecular structures capable of binding ligands, the binding of which affects physiological functions.

“development” means all stages prior to “production” (e.g., design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into “goods” or “software”, configuration design, integration design, layouts);

“end-effectors” means grippers, active tooling units (i.e., devices for applying motive power, process energy or sensing to the workpiece) and any other tooling that is attached to the baseplate on the end of a “robot” manipulator arm;

“energetic materials” means substances or mixtures that react chemically to release energy required for their intended application; “explosives”, “pyrotechnics” and “propellants” are sub-classes of energetic materials;

“explosives” means solid, liquid or gaseous substances or mixtures of substances which, in their application as primary, booster, or main charges in warheads, demolition and other applications, are required to detonate;

“expression vectors” means carriers (e.g., plasmid or virus) used to introduce genetic material into host cells;

“first generation image intensifier tubes” mean electrostatically focused tubes, employing input and output fibre optic or glass face plates, multi-alkali photocathodes (S-20 or S-25), but not microchannel plate amplifiers;

“improvised explosive devices” means devices fabricated or intended to be placed in an improvised manner incorporating destructive, lethal, noxious, “pyrotechnic” or incendiary chemicals designed to destroy, disfigure or harass; they may incorporate military stores, but are normally devised from non-military components;

“laser” means an assembly of components which produce both spatially and temporally coherent light which is amplified by stimulated emission of radiation;

“lighter-than-air vehicles” means balloons and airships that rely on hot air or on lighter-than-air gasses such as helium or hydrogen for their lift;

“nuclear reactor” means the “goods” within or attached directly to the reactor vessel, the equipment which controls the level of power in the core, and the components which normally contain, come into direct contact with or control the primary coolant of the reactor core;

“production” means all production stages (e.g., product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance);

“propellants” means substances or mixtures that react chemically to produce large volumes of hot gases at controlled rates to perform mechanical work;

“pyrotechnic(s)” means mixtures of solid or liquid fuels and oxidisers which, when ignited, undergo an energetic chemical reaction at a controlled rate intended to produce specific time delays, or quantities of heat, noise, smoke, visible light or infrared radiation; pyrophorics are a subclass of pyrotechnics, which contain no oxidisers but ignite spontaneously on contact with air;

“required” as applied to “technology”, refers to only that portion of “technology” which is peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics or functions. Such “required” “technology” may be shared by different “goods”;

“riot control agents” means substances which under the expected conditions of use for riot control purposes, produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure;

Technical Note:

Tear gases are a subset of “riot control agents”.

“robot” means a manipulation mechanism, which may be of the continuous path or of the point-to-point variety, may use sensors, and which:

- a. is multifunctional;
- b. is capable of positioning or orienting material, parts, tools or special devices through variable movements in three dimensional space;
- c. incorporates three or more closed or open loop servo-devices which may include stepping motors; and
- d. has “user-accessible programmability” by means of the teach/playback method or by means of an electronic computer which may be a programmable logic controller, i.e., without mechanical intervention;

Note: This definition does not include:

- a. Manipulation mechanisms which are only manually/teleoperator controllable;
- b. Fixed sequence manipulation mechanisms, which are automated moving devices, operating according to “programmes” where the motions are limited by fixed stops, such as pins or cams and the sequence of motions and the selection of paths or angles are not variable or changeable by mechanical, electronic or electrical means;
- c. Mechanically controlled variable sequence manipulation mechanisms, which are automated moving devices, operating according to “programmes” where the motions are limited by fixed, but adjustable stops, such as pins or cams and the sequence of motions and the selection of paths or angles are variable within the fixed programme pattern; variations or modifications of the programme pattern (such as changes of pins or exchanges of cams) in one or more motion axes are accomplished only through mechanical operations;
- d. Non-servo-controlled variable sequence manipulation mechanisms, which are automated moving devices, operating according to mechanically fixed programmed motions; the “programme” is variable but the sequence proceeds only by the binary signal from mechanically fixed electrical binary devices or adjustable stops;

e. *Stacker cranes defined as Cartesian coordinate manipulator systems manufactured as an integral part of a vertical array of storage bins and designed to access the contents of those bins for storage or retrieval.*

“special gun-mounting” means any fixture designed to mount a gun;

“superconductive” in relation to materials (e.g., metals, alloys or compounds) means those which can lose all electrical resistance (i.e., which can attain infinite electrical conductivity and carry very large electrical currents without Joule heating); the superconductive state of a material is individually characterised by a ‘critical temperature’, a critical magnetic field, which is a function of temperature, and a critical current density which is a function of both magnetic field and temperature;

Technical Note:

‘Critical temperature’ (also known as the transition temperature) of a specific “superconductive” material means the temperature at which the specific material loses all resistance to the flow of direct electrical current.

“technology” means specific ‘information’ necessary for the “development”, “production” or “use” of “goods” or “software”;

Technical Note:

‘Information’ may take forms including, but not limited to: blueprints, plans, diagrams, models, formulae, tables, ‘source code’, engineering designs and specifications, manuals and instructions written or recorded on other media or devices (e.g., disk, tape, read-only memories);

‘source code’ (or source language) is a convenient expression of one or more processes which may be turned by a programming system into equipment executable form.

“use” means operation, installation (e.g., on-site installation), maintenance, checking, repair, overhaul and refurbishing;

“user-accessible programmability” means the facility allowing a user to insert, modify or replace “programmes” by means other than:

- a. A physical change in writing or interconnections; or
- b. The setting of function controls including entry of parameters.

PART I

Military, security and para-military goods, software and technology and arms, ammunition and related materiel

ML1 Smooth-bore weapons with a calibre of less than 20 mm, other firearms and automatic weapons with a calibre of 12.7 mm (calibre 0.50 inches) or less and accessories, as follows, and specially designed components therefor:

- a. Rifles, carbines, revolvers, pistols, machine pistols and machine guns;
 - b. Smooth-bore weapons;
 - c. Weapons using caseless ammunition;
 - d. Silencers, “special gun-mountings”, weapon sights, clips and flash suppressers for firearms in ML1.a., ML1.b. or ML1.c.
-

Note: ML1 does not control:

- a. *Air weapons (other than those declared by the Firearms (Dangerous Air Weapons) Rule) to be specially dangerous);*
 - b. *Firearms specially designed for dummy ammunition and which are incapable of firing any ammunition in this Part of this Schedule;*
 - c. *Firearms certified by a registered UK Proof House as having been rendered incapable of firing any ammunition in this Part of this Schedule;*
 - d. *Bayonets;*
 - e. *Air (pneumatic) or cartridge (explosive) powered guns or pistols designed as:*
 1. *Industrial tools;* or
 2. *Humane stunning devices employed specifically for animal slaughter;*
 - f. *Signal pistols;*
 - g. *Optical weapon sights without electronic image processing, with a magnification of 4 times or less, provided they are not specially designed or modified for military use.*
-

ML2 Smooth-bore weapons with a calibre of 20 mm or more, other armament or weapons with a calibre greater than 12.7 mm (calibre 0.50 inches), projectors and accessories, as follows, and specially designed components therefor:

- a. Guns, howitzers, cannon, mortars, anti-tank weapons, projectile launchers, military flame throwers, recoilless rifles and signature reduction devices therefor;

- b. Military smoke, gas and “pyrotechnic” projectors or generators;
- c. Weapons sights for firearms in ML2.a. or ML2.b.

Note: ML2 does not control signal pistols.

ML3 Ammunition and fuze setting devices, as follows, and specially designed components therefor, for the weapons in ML1, ML2 or ML12;

- a. Ammunition for the weapons in ML1, ML2 or ML12;

Note: ML3.a. does not control:

- a. Ammunition crimped without a projectile (blank star) and dummy ammunition with a pierced powder chamber;
- b. Lead or lead alloy pellet ammunition specially designed for air weapons;
- c. Cartridges specially designed for signalling, bird scaring or lighting of gas flares at oil wells.

-
- b. Fuze setting devices specially designed for ammunition in ML3.a.

ML4 Bombs, torpedoes, rockets, missiles, other explosive devices and charges, and related equipment and accessories, as follows, specially designed for military use, and specially designed components therefor:

N.B.: Electronic guidance and navigation equipment is controlled in ML11.a.

- a. Bombs, torpedoes, grenades, smoke canisters, rockets, mines, missiles, depth charges, demolition-charges, demolition-devices and demolition-kits, devices that contain “pyrotechnics”, cartridges and simulators (i.e., equipment simulating the characteristics of any of these “goods”);
- b. Equipment specially designed for the handling, control, activation, powering with one-time operational output, launching, laying, sweeping, discharging, decoying, jamming, detonation, disruption or detection of “goods” in ML4.a.

Technical Note:

Hand held devices, limited by design solely to the detection of metal objects and incapable of distinguishing between mines and other metal objects, are not considered to be specially designed for the detection of “goods” in ML4.a.

PL5006 Apparatus or devices specially designed for military use, used for the handling, control, discharging, decoying, jamming, detonation, disruption

or detection of “improvised explosive devices” or other explosive devices not in ML4.a., and specially designed components therefor.

Note: PL5006 does not control inspection devices not employing electronic management.

PL5030 Bombs and grenades, other than those in ML4, and specially designed components therefor.

ML5 Fire control equipment and related alerting and warning equipment, related systems, test and alignment and countermeasure equipment, as follows, specially designed for military use, and specially designed components and accessories therefor:

- a. Weapon sights, bombing computers, gun laying equipment and weapon control systems;
- b. Target acquisition, designation, range-finding, surveillance or tracking systems; detection, data fusion, recognition or identification equipment; and sensor integration equipment;
- c. Countermeasure equipment for “goods” in ML5.a. or ML5.b.;
- d. Field test or alignment equipment, specially designed for “goods” in ML5.a. or ML5.b.

ML6 Ground “vehicles” and components, as follows:

N.B.: Electronic guidance and navigation equipment is controlled in ML11.a.

- a. Ground “vehicles” and components therefor, specially designed or modified for military use;

Technical Note:

For the purposes of ML6.a. the term ground “vehicles” includes trailers.

Note: In ML6.a. modification of a ground “vehicle” for military use entails a structural, electrical or mechanical change involving one or more specially designed military component.

- b. All-wheel drive “vehicles” capable of off-road use which have been manufactured or fitted with metallic or non-metallic materials to provide ballistic protection, other than those specified in ML6.a.

Note 1: ML6.b. does not control “vehicles” designed or fitted out for the transportation of valuables or funds.

Note 2: ML6.b. does not control “vehicles” fitted with, or designed or modified to be fitted with, a plough or flail for the purpose of land mine clearance.

ML7 Chemical or biological toxic agents, toxic chemicals and mixtures containing such agents or chemicals, “riot control agents”, radioactive materials, related equipment, components and materials as follows:

N.B.: Chemicals are listed by name and Chemical Abstract Service (CAS) number. Chemicals of the same structural formula (e.g., hydrates) are controlled regardless of name or CAS number. CAS numbers are shown to assist in identifying whether a particular chemical or mixture is controlled, irrespective of nomenclature. CAS numbers cannot be used as unique identifiers because some forms of the listed chemical have different CAS numbers, and mixtures containing a listed chemical may also have different CAS numbers.

- a. Biological agents and radioactive materials “adapted for use in war” to produce casualties in humans or animals, degrade equipment or damage crops or the environment;
- b. Chemical warfare (CW) agents including, but not limited to, the following:
 1. CW nerve agents:
 - a. O-Alkyl (equal to or less than C10, including cycloalkyl) alkyl (Methyl, Ethyl, n-Propyl or Isopropyl)-phosphonofluoridates, such as: Sarin (GB): O-Isopropylmethylphospho-nofluoridate (CAS 107-44-8); and Soman (GD): O-Pinacolylmethylphosphonofluoridate (CAS 96-64-0);
 - b. O-Alkyl (equal to or less than C10, including cycloalkyl) N,N-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphoramidocyanidates, such as: Tabun (GA): O-Ethyl N,N dimethyl phosphoramidocyanidate (CAS 77-81-6);
 - c. O-Alkyl (H or equal to or less than C10, including cycloalkyl) S-2-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl)-aminoethyl alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonothiolates and corresponding alkylated and protonated salts, such as: VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate (CAS 50782-69-9);
 2. CW vesicant agents:
 - a. Sulphur mustards, such as:
 1. 2-Chloroethylchloromethylsulphide (CAS 2625-76-5);
 2. Bis(2-chloroethyl) sulphide (CAS 505-60-2);
 3. Bis(2-chloroethylthio) methane (CAS 63869-13-6);
 4. 1,2-bis (2-chloroethylthio) ethane (CAS 3563-36-8);
 5. 1,3-bis (2-chloroethylthio) -n-propane (CAS 63905-10-2);

6. 1,4-bis (2-chloroethylthio) -n-butane (CAS 142868-93-7);
 7. 1,5-bis (2-chloroethylthio) -n-pentane (CAS 142868-94-8);
 8. Bis (2-chloroethylthiomethyl) ether (CAS 63918-90-1);
 9. Bis (2-chloroethylthioethyl) ether (CAS 63918-89-8);
- b. Lewisites, such as:
 1. 2-chlorovinyl dichloroarsine (CAS 541-25-3);
 2. Tris (2-chlorovinyl) arsine (CAS 40334-70-1);
 3. Bis (2-chlorovinyl) chloroarsine (CAS 40334-69-8);
 - c. Nitrogen mustards, such as:
 1. HN1: bis (2-chloroethyl) ethylamine (CAS 538-07-8);
 2. HN2: bis (2-chloroethyl) methylamine (CAS 51-75-2);
 3. HN3: tris (2-chloroethyl) amine (CAS 555-77-1);
3. CW incapacitating agents, such as:
 - a. 3-Quinuclidinyl benzilate (BZ) (CAS 6581-06-2);
 4. CW defoliants, such as:
 - a. Butyl 2-chloro-4-fluorophenoxyacetate (LNF);
 - b. 2,4,5-trichlorophenoxyacetic acid mixed with 2,4-dichlorophenoxyacetic acid (Agent Orange);
 - c. CW binary precursors and key precursors, as follows, and chemical mixtures containing one or more of these precursors:
 1. Alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) Phosphonyl Difluorides, such as: DF: Methyl Phosphonyldifluoride (CAS 676-99-3);
 2. O-Alkyl (H or equal to or less than C10, including cycloalkyl) O-2-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl) aminoethyl alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonite and corresponding alkylated and protonated salts, such as: QL: O-Ethyl- 2-di-isopropylaminoethyl methylphosphonite (CAS 57856-11-8);
 3. Chlorosarin: O-Isopropyl methylphosphonochloridate (CAS 1445-76-7);

4. Chlorosoman: O-Pinacolyl methylphosphonochloridate (CAS 7040-57-5);
- d. "Riot control agents", active constituent chemicals and combinations thereof including:
1. α -Bromobenzeneacetonitrile, (Bromobenzyl cyanide) (CA) (CAS 5798-79-8);
 2. [(2-chlorophenyl) methylene] propanedinitrile, (o-Chlorobenzyliden-emalonitrile) (CS) (CAS 2698-41-1);
 3. 2-Chloro-1-phenylethanone, Phenylacetyl chloride (ω -chloroacetophenone) (CN) (CAS 532-27-4);
 4. Dibenz-(b,f)-1,4-oxazepine (CR) (CAS 257-07-8);
 5. 10-Chloro-5,10-dihydrophenarsazine, (Phenarsazine chloride), (Adamsite), (DM) (CAS 578-94-9);
 6. N-Nonanoylmorpholine, (MPA) (CAS 5299-64-9);

Note 1: ML7.d. does not control "riot control agents" individually packaged for personal self-defence purposes.

Note 2: ML7.d. does not control active constituent chemicals and combinations thereof identified and packaged for food production or medical purposes.

- e. Equipment specially designed or modified for military use for the dissemination of any of the following, and specially designed components therefor:
1. Materials or agents in ML7.a., ML7.b. or ML7.d.;
 2. CW agents made up of precursors in ML7.c.;
- f. Protective and decontamination "goods", specially designed or modified for military use, and specially designed components therefor, and specially formulated chemical mixtures, as follows:
1. "Goods" specially designed for defence against materials in ML7.a., ML7.b. or ML7.d. and specially designed components therefor;

N.B.: See also 1A of Annex I to "the Regulation".

2. "Goods" specially designed or modified for the decontamination of "goods" contaminated with materials in ML7.a. or ML7.b. and specially designed components therefor;
3. Chemical mixtures specially developed or formulated for the decontamination of "goods" contaminated with materials in ML7.a. or ML7.b.;

- g. "Goods" specially designed or modified for military use, for the detection or identification of materials in ML7.a., ML7.b. or ML7.d. and specially designed components therefor;

Note: ML7.g. does not control personal radiation monitoring dosimeters.

- h. "Biopolymers" specially designed or processed for the detection or identification of CW agents in ML7.b., and the cultures of specific cells used to produce them;
- i. "Biocatalysts" for the decontamination or degradation of CW agents, and biological systems therefor, as follows:
1. "Biocatalysts" specially designed for the decontamination or degradation of CW agents in ML7.b. resulting from directed laboratory selection or genetic manipulation of biological systems;
 2. Biological systems, as follows: "expression vectors", viruses or cultures of cells containing the genetic information specific to the "production" of "biocatalysts" in ML7.i.1.

Note 1: ML7.b. and ML7.d. do not control:

a. Cyanogen chloride (CAS 506-77-4);

N.B.: See 1C of Annex I to "the Regulation".

b. Hydrocyanic acid (CAS 74-90-8);

c. Chlorine (CAS 7782-50-5);

d. Carbonyl chloride (phosgene) (CAS 75-44-5);

N.B.: See 1C of Annex I to "the Regulation".

e. Diphosgene (trichloromethyl-1-chloroformate) (CAS 503-38-8);

f. Not used;

g. Xylyl bromide: ortho: (CAS 89-92-9), meta: (CAS 620-13-3), para: (CAS 104-81-4);

h. Benzyl bromide (CAS 100-39-01);

i. Benzyl iodide (CAS 620-05-3);

j. Bromo acetone (CAS 598-31-2);

k. Cyanogen bromide (CAS 506-68-3);

l. Bromo methylethylketone (CAS 816-40-0);

m. Chloro acetone (CAS 78-95-5);

n. Ethyl iodoacetate (CAS 623-48-3);

o. Iodo acetone (CAS 3019-04-3);

p. Chloropicrin (CAS 76-06-2);

N.B.: See 1C of Annex I to "the Regulation".

q. Pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4);

N.B.: See 3.2. of Annex III to "the 2005 Regulation".

r. Oleoresin capsicum (OC) (CAS 8023-77-6).

N.B.: See 3.3. of Annex III to "the 2005 Regulation".

Note 2: The cultures of cells and biological systems listed in ML7.h. and ML7.i.2. are exclusive and do not include cells or biological systems for civil purposes, (e.g., agricultural, pharmaceutical, medical, veterinary, environmental, waste management, or in the food industry).

ML8 "Energetic materials", and related substances, as follows:

N.B.: Chemicals are listed by name and Chemical Abstract Service (CAS) number. Chemicals of the same structural formula (e.g., hydrates) are controlled regardless of name or CAS number. CAS numbers are shown to assist in identifying whether a particular chemical or mixture is controlled, irrespective of nomenclature. CAS numbers cannot be used as unique identifiers because some forms of the listed chemical have different CAS numbers, and mixtures containing a listed chemical may also have different CAS numbers.

Technical Note:

A 'mixture' refers to a composition of two or more substances with at least one substance being controlled in ML8.

a. "Explosives", as follows, and 'mixtures' thereof:

1. ADNBF (aminodinitrobenzofuroxan or 7-amino- 4,6-dinitrobenzofurazane-1-oxide) (CAS 97096-78-1);
2. BNCP (cis-bis (5-nitrotetrazolato) tetra amine-cobalt (III) perchlorate) (CAS 117412-28-9);
3. CL-14 (diamino dinitrobenzofuroxan or 5,7-diamino-4,6-dinitrobenzofurazane-1-oxide) (CAS 117907-74-1);
4. CL-20 (HNIW or Hexanitrohexaazaisowurtzitane) (CAS 13528590-4); chlathrates of CL-20;
5. CP (2-(5-cyanotetrazolato) penta amine-cobalt (III) perchlorate) (CAS 70247-32-4);
6. DADE (1,1-diamino-2,2-dinitroethylene, FOX7);
7. DATB (diaminotrinitrobenzene) (CAS 1630-08-6);
8. DDFP (1,4-dinitrodifurazanopiperazine);
9. DDPO (2,6-diamino-3,5-dinitropyrazine-1-oxide, PZO) (CAS 194486-77-6);
10. DIPAM (3,3'-diamino-2,2',4,4',6,6'-hexanitrobiphenyl or dipicramide) (CAS 17215-44-0);

11. DNGU (DINGU or dinitroglycoluril) (CAS 55510-04-8);
12. Furazans, as follows:
 - a. DAAOF (diaminoazoxyfurazan);
 - b. DAAzF (diaminoazofurazan) (CAS 78644-90-3);
13. HMX and derivatives, as follows:
 - a. HMX (Cyclotetramethylenetetranitramine, octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazine, 1,3,5,7-tetranitro-1,3,5,7-tetraza-cyclooctane, octogen or octogene) (CAS 2691-41-0);
 - b. difluoroaminated analogs of HMX;
 - c. K-55 (2,4,6,8-tetranitro-2,4,6,8-tetraazabicyclo-[3,3,0]-octanone-3, tetranitrosemiglycouril or keto-bicyclic HMX) (CAS 130256-72-3);
14. HNAD (hexanitroadamantane) (CAS 143850-71-9);
15. HNS (hexanitrostilbene) (CAS 20062-22-0);
16. Imidazoles, as follows:
 - a. BNNII (Octahydro-2,5-bis(nitroimino)imidazo[4,5-d]imidazole);
 - b. DNI (2,4-dinitroimidazole) (CAS 5213-49-0);
 - c. FDIA (1-fluoro-2,4-dinitroimidazole);
 - d. NTDNIA (N-(2-nitrotriazolo)-2,4-dinitroimidazole);
 - e. PTIA (1-picryl-2,4,5-trinitroimidazole);
17. NTNMH (1-(2-nitrotriazolo)-2-dinitromethylene hydrazine);
18. NTO (ONTA or 3-nitro-1,2,4-triazol-5-one) (CAS 932-64-9);
19. Polynitrocubanes with more than four nitro groups;
20. PYX (2,6-bis(picrylamino)-3,5-dinitropyridine) (CAS 38082-89-2);
21. RDX and derivatives, as follows:
 - a. RDX (cyclotrimethylenetrinitramine, cyclonite, T4, hexahydro-1,3,5-trinitro-1,3,5-triazine, 1,3,5-trinitro-1,3,5-triaza-cyclohexane, hexogen or hexogene) (CAS 121-82-4);
 - b. Keto-RDX (K-6 or 2,4,6-trinitro-2,4,6-triazacyclohexanone) (CAS 115029-35-1);
22. TAGN (triaminoguanidinenitrate) (CAS 4000-16-2);
23. TATB (triaminotrinitrobenzene) (CAS 3058-38-6);
24. TEDDZ (3,3,7,7-tetrabis(difluoroamine) octahydro-1,5-dinitro-1,5-diazocine);

25. Tetrazoles, as follows:
- NTAT (nitrotriazol aminotetrazole);
 - NTNT (1-N-(2-nitrotriazolo)-4-nitrotetrazole);
26. Tetryl (trinitrophenylmethylnitramine) (CAS 479-45-8);
27. TNAD (1,4,5,8-tetranitro-1,4,5,8-tetraazadecalin) (CAS 135877-16-6);
28. TNAZ (1,3,3-trinitroazetidine) (CAS 97645-24-4);
29. TNGU (SORGUYL or tetranitroglycoluril) (CAS 55510-03-7);
30. TNP (1,4,5,8-tetranitro-pyridazino[4,5-d]pyridazine) (CAS 229176-04-9);
31. Triazines, as follows:
- DNAM (2-oxy-4,6-dinitroamino-s-triazine) (CAS 19899-80-0);
 - NNHT (2-nitroimino-5-nitro-hexahydro-1,3,5-triazine) (CAS 130400-13-4);
32. Triazoles, as follows:
- 5-azido-2-nitrotriazole;
 - ADHTDN (4-amino-3,5-dihydrazino-1,2,4-triazole dinitramide) (CAS 1614-08-0);
 - ADNT (1-amino-3,5-dinitro-1,2,4-triazole);
 - BDNTA ([bis-dinitrotriazole]amine);
 - DBT (3,3'-dinitro-5,5-bi-1,2,4-triazole) (CAS 30003-46-4);
 - DNBT (dinitrobistriazole) (CAS 70890-46-9);
 - NTDNA (2-nitrotriazole-5-dinitramide) (CAS 75393-84-9);
 - NTDNT (1-N-(2-nitrotriazolo)-3,5-dinitrotriazole);
 - PDNT (1-picryl-3,5-dinitrotriazole);
 - TACOT (tetranitrobenzotriazolobenzotriazole) (CAS 25243-36-1);
33. Any "explosive" not listed elsewhere in ML8.a. with a detonation velocity exceeding 8,700 m/s at maximum density or a detonation pressure exceeding 34 GPa (340 kbar);
34. Other organic "explosives" not listed elsewhere in ML8.a. yielding detonation pressures of 25 GPa (250 kbar) or more that will remain stable at temperatures of 523 K (250°C) or higher for periods of 5 minutes or longer;
- b. "Propellants", as follows:
- Any United Nations (UN) Class 1.1 solid "propellant" with a theoretical specific impulse (under standard conditions) of more than 250 seconds for non-metallised, or more than 270 seconds for aluminised compositions;
 - Any UN Class 1.3 solid "propellant" with a theoretical specific impulse (under standard conditions) of more than 230 seconds for non-halogenised, 250 seconds for non-metallised compositions and 266 seconds for metallised compositions;
 - "Propellants" having a force constant of more than 1,200 kJ/kg;
 - "Propellants" that can sustain a steady-state linear burning rate of more than 38 mm/s under standard conditions (as measured in the form of an inhibited single strand) of 6.89 MPa (68.9 bar) pressure and 294 K (21°C);
 - Elastomer modified cast double base (EMCDB) "propellants" with extensibility at maximum stress of more than 5% at 233 K (-40°C);
 - Any "propellant" containing substances listed in ML8.a.;
- c. "Pyrotechnics", fuels and related substances, as follows, and 'mixtures' thereof:
- Aircraft fuels specially formulated for military purposes;
-
- Note: Aircraft fuels in ML8.c.1. are finished "goods", not their constituents.*
-
- Alane (aluminium hydride) (CAS 7784-21-6);
 - Carboranes; decaborane (CAS 17702-41-9); pentaboranes (CAS 19624-22-7 and 18433-84-6) and their derivatives;
 - Hydrazine and derivatives, as follows (see also ML8.d.8. and ML8.d.9. for oxidising hydrazine derivatives):
 - Hydrazine (CAS 302-01-2) in concentrations of 70% or more;
-
- Note: ML8.c.4.a. does not control hydrazine 'mixtures' specially formulated for corrosion control.*
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- Monomethyl hydrazine (CAS 60-34-4);
 - Symmetrical dimethyl hydrazine (CAS 540-73-8);
 - Unsymmetrical dimethyl hydrazine (CAS 57-14-7);
- Metal fuels in particle form whether spherical, atomised, spheroidal, flaked or ground, manufactured from material consisting of 99% or more of any of the following:

- a. Metals and 'mixtures' thereof, as follows:
1. Beryllium (CAS 7440-41-7) in particle sizes of less than 60 µm;
 2. Iron powder (CAS 7439-89-6) with particle size of 3 µm or less produced by reduction of iron oxide with hydrogen;
- b. 'Mixtures', which contain any of the following:
1. Zirconium (CAS 7440-67-7), magnesium (CAS 7439-95-4) or alloys of these in particle sizes of less than 60 µm;
 2. Boron (CAS 7440-42-8) or boron carbide (CAS 12069-32-8) fuels of 85% purity or higher and particle sizes of less than 60 µm;
-
- Note: ML8.c.5.b.2. does not control boron and boron carbide enriched with boron-10 (20% or more of total boron-10 content).*
- Note: "Explosives" and fuels containing the metals or alloys listed in ML8.c.5. are controlled whether or not the metals or alloys are encapsulated in aluminium, magnesium, zirconium, or beryllium.*
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6. Military materiel containing thickeners for hydrocarbon fuels specially formulated for use in flame throwers or incendiary munitions, such as metal stearates or palmates (e.g., octal (CAS 637-12-7)); and M1, M2 and M3 thickeners;
7. Perchlorates, chlorates and chromates composited with powdered metal or other high energy fuel components;
8. Spherical aluminium powder (CAS 7429-90-5) with a particle size of 60 µm or less, manufactured from material with an aluminium content of 99% or more;
9. Titanium subhydride (TiH_n) of stoichiometry equivalent to n = 0.65–1.68;
- d. Oxidisers, as follows, and 'mixtures' thereof:
1. ADN (ammonium dinitramide or SR 12) (CAS 140456-78-6);
 2. AP (ammonium perchlorate) (CAS 7790-98-9);
 3. Compounds composed of fluorine and any of the following:
 - a. Other halogens;
 - b. Oxygen; or
 - c. Nitrogen;
-
- Note 1: ML8.d.3. does not control chlorine trifluoride.*
- Note 2: ML8.d.3. does not control nitrogen trifluoride in its gaseous state.*
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- N.B.: See also 1C of Annex I to "the Regulation".*
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4. DNAD (1,3-dinitro-1,3-diazetidene) (CAS 78246-06-7);
 5. HAN (hydroxylammonium nitrate) (CAS 13465-08-2);
 6. HAP (hydroxylammonium perchlorate) (CAS 15588-62-2);
 7. HNF (hydrazinium nitroformate) (CAS 20773-28-8);
 8. Hydrazine nitrate (CAS 37836-27-4);
 9. Hydrazine perchlorate (CAS 27978-54-7);
 10. Liquid oxidisers comprised of or containing inhibited red fuming nitric acid (IRFNA) (CAS 8007-58-7);
- e. Binders, plasticisers, monomers, polymers, as follows:
1. AMMO (azidomethylmethyloxetane and its polymers) (CAS 90683-29-7);
 2. BAMO (bisazidomethylmethyloxetane and its polymers) (CAS 17607-20-4);
 3. BDNPA (bis (2,2-dinitropropyl)acetal) (CAS 5108-69-0);
 4. BDNPF (bis (2,2-dinitropropyl)formal) (CAS 5917-61-3);
 5. BTTN (butanetrioltrinitrate) (CAS 6659-60-5);
 6. Energetic monomers, plasticisers and polymers containing nitro, azido, nitrate, nitraza or difluoroamino groups specially formulated for military use;
 7. FAMA0 (3-difluoroaminomethyl-3-azidomethyl oxetane) and its polymers;
 8. FEFO (bis-(2-fluoro-2,2-dinitroethyl) formal) (CAS 17003-79-1);
 9. PPF-1 (poly-2,2,3,3,4,4-hexafluoropentane-1,5-diol formal) (CAS 376-90-9);
 10. PPF-3 (poly-2,4,4,5,5,6,6-heptafluoro-2-trifluoromethyl-3-oxaheptane-1,7-diol formal);
 11. GAP (glycidylazide polymer) (CAS 143178-24-9) and its derivatives;
 12. HTPB (hydroxyl terminated polybutadiene) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30°C of less than 47 poise (CAS 69102-90-5);
 13. Low (less than 10,000) molecular weight, alcohol functionalised, poly(epichlorohydrin); poly(epichlorohydrindiol) and triol;

14. NENAs (nitrateethylnitramine compounds) (CAS 17096-47-8, 85068-73-1, 82486-83-7, 82486-82-6 and 85954-06-9);
 15. PGN (poly-GLYN, polyglycidynitrate or poly(nitratomethyl oxirane) (CAS 27814-48-8);
 16. Poly-NIMMO (poly nitratomethylmethyloxetane) or poly-NMMO (poly[3-Nitratomethyl-3-methyloxetane]) (CAS 84051-81-0);
 17. Polynitroorthocarbonates;
 18. TVOPA (1,2,3-tris[1,2-bis(difluoroamino)ethoxy] propane or tris vinoxyl propane adduct) (CAS 53159-39-0);
- f. Additives, as follows:
1. Basic copper salicylate (CAS 62320-94-9);
 2. BHEGA (bis-(2-hydroxyethyl) glycolamide) (CAS 17409-41-5);
 3. BNO (butadienenitrileoxide) (CAS 9003-18-3);
 4. Ferrocene derivatives, as follows:
 - a. (CAS 125856-62-4);
 - b. Catocene (2,2-bis-ethylferrocenyl propane) (CAS 37206-42-1);
 - c. Ferrocene carboxylic acids;
 - d. n-butyl-ferrocene (CAS 31904-29-7);
 - e. Other adducted polymer ferrocene derivatives;
 5. Lead beta-resorcylate (CAS 20936-32-7);
 6. Lead citrate (CAS 14450-60-3);
 7. Lead-copper chelates of beta-resorcylate or salicylates (CAS 68411-07-4);
 8. Lead maleate (CAS 19136-34-6);
 9. Lead salicylate (CAS 15748-73-9);
 10. Lead stannate (CAS 12036-31-6);
 11. MAPO (tris-1-(2-methyl)aziridinyl phosphine oxide) (CAS 57-39-6), and BOBBA 8 (bis(2-methyl aziridinyl)-2-(2-hydroxypropanoxy) propylamino phosphine oxide); and other MAPO derivatives;
 12. Methyl BAPO (bis(2-methyl aziridinyl) methylamino phosphine oxide) (CAS 85068-72-0);
 13. N-methyl-p-nitroaniline (CAS 100-15-2);
 14. 3-Nitrazo-1,5-pentane diisocyanate (CAS 7406-61-9);
 15. Organo-metallic coupling agents, as follows:
 - a. Neopentyl[diallyl]oxy, tri[diocetyl] phosphato- titanate (CAS 103850-22-2); also known as titanium IV, 2,2-[bis 2-propenolatomethyl, butanolato, tris (diocetyl) phosphato] (CAS 110438-25-0); or LICA 12 (CAS 103850-22-2);
 - b. Titanium IV, [(2-propenolato-1) methyl, n-propanolatomethyl] butanolato-1, tris[diocetyl] pyrophosphate or KR3538;
 - c. Titanium IV, [(2-propenolato-1) methyl, n-propanolatomethyl] butanolato-1, tris(diocetyl)phosphate;
16. Polycyanodifluoroaminoethyleneoxide;
 17. Polyfunctional aziridine amides with isophthalic, trimesic (BITA or butyleneimine trimesamide), isocyanuric or trimethyladipic backbone structures and 2-methyl or 2-ethyl substitutions on the aziridine ring;
 18. Propyleneimine (2-methylaziridine) (CAS 75-55-8);
 19. Superfine iron oxide (Fe₂O₃) with a specific surface area more than 250 m²/g and an average particle size of 3.0 nm or less;
 20. TEPAN (tetraethylenepentaamineacrylonitrile) (CAS 68412-45-3); cyanoethylated polyamines and their salts;
 21. TEPANOL (tetraethylenepentaamineacrylonitrileglycidol) (CAS 68412-46-4); cyanoethylated polyamines adducted with glycidol and their salts;
 22. TPB (triphenyl bismuth) (CAS 603-33-8);
- g. Precursors, as follows:
1. BCMO (bischloromethyloxetane) (CAS 142173-26-0);
 2. Dinitroazetidine-t-butyl salt (CAS 125735-38-8);
 3. HBIW (hexabenzylhexaazaisowurtzitane) (CAS 124782-15-6);
 4. TAIW (tetraacetyldibenzylhexaazaisowurtzitane);
 5. TAT (1,3,5,7-tetraacetyl-1,3,5,7-tetraaza cyclo- octane) (CAS 41378-98-7);
 6. 1,4,5,8-tetraazadecalin (CAS 5409-42-7);
 7. 1,3,5-trichlorobenzene (CAS 108-70-3);
 8. 1,2,4-trihydroxybutane (1,2,4-butanetriol) (CAS 3068-00-6).

Note: ML8 does not control charges and devices.

N.B.: Charges and devices are controlled in ML4.

ML9 "Vessels", special naval equipment and accessories, as follows, and components therefor, specially designed or modified for military use:

N.B.: Electronic guidance and navigation equipment is controlled in ML11.a.

- a. Combatant “vessels” and “vessels” (surface or underwater) specially designed or modified for offensive or defensive action, whether or not converted to non-military use, regardless of current state of repair or operating condition, and whether or not they contain weapon delivery systems or armour;
- b. Submarine and torpedo nets;
- c. Hull penetrators and connectors specially designed for military use that enable interaction with equipment external to a “vessel”.

ML10 “Aircraft”, “lighter-than-air vehicles”, unmanned aerial vehicles, aero-engines, “aircraft” equipment and related “goods”, as follows, and components therefor, specially designed or modified for military use:

N.B.: Electronic guidance and navigation equipment is controlled in ML11.a.

- a. Combat “aircraft”;
- b. Other “aircraft” and “lighter-than-air vehicles” (e.g., military reconnaissance, assault, military training, transporting and airdropping troops or military equipment, logistics support);
- c. Unmanned aerial vehicles (UAV) (e.g., remotely piloted air vehicles (RPVs), autonomous programmable vehicles (APV) and “lighter-than-air vehicles”), and their launchers, ground support equipment and related equipment for command and control;
- d. Aero-engines;
- e. Airborne equipment (e.g., airborne refuelling equipment), specially designed for “use” with “aircraft” in ML10.a. or ML10.b. or aero-engines in ML10.d.;
- f. Pressure refuellers, pressure refuelling equipment, equipment specially designed to facilitate operations in confined areas and ‘ground equipment’, specially designed or modified for “use” with “aircraft” in ML10.a. or ML10.b., or aero-engines in ML10.d.;

Technical Note:

‘Ground equipment’ means ground-based equipment for the operation, handling, maintenance, checking, repair, overhaul and refurbishment of “aircraft” or aero-engines.

- g. Military aircrew protective headgear and masks, pressurised breathing equipment and partial pressure suits for use in “aircraft”, anti-g suits, liquid oxygen converters used for “aircraft” or missiles, and catapults and cartridge actuated devices for emergency escape of personnel from “aircraft”;

- h. Parachutes and related equipment used for combat personnel, cargo dropping or “aircraft” deceleration, as follows, and specially designed components therefor:

1. Parachutes for:
 - a. Pin point dropping of military personnel;
 - b. Dropping of paratroopers;
2. Cargo parachutes;
3. Paragliders, drag parachutes, drogue parachutes for stabilisation and altitude control of dropping bodies;
4. Drogue parachutes for use with ejection seat systems for deployment and inflation sequence regulation of emergency parachutes;
5. Recovery parachutes for guided missiles, drones or space vehicles;
6. Approach parachutes and landing deceleration parachutes;
7. Other military parachutes;
8. Equipment specially designed for high altitude parachutists;
- i. Automatic piloting systems for parachuted loads and equipment for controlled opening of parachutes at any pre-determined height.

ML11 Electronic equipment, not controlled elsewhere in this Part of this Schedule, as follows, and specially designed components therefor:

- a. Electronic equipment specially designed or modified for military use;
- b. Global Navigation Satellite Systems (GNSS) jamming equipment.

Note: ML11.a. controls all electronic guidance and navigation equipment.

ML12 High velocity kinetic energy weapon (KEW) systems and related equipment, as follows, and specially designed components therefor:

- a. Kinetic energy weapon systems specially designed for destruction or effecting mission abort of a target;

N.B.: For weapon systems using sub-calibre ammunition or employing solely chemical propulsion, and ammunition therefor, see ML1 to ML4.

- b. Specially designed test and evaluation facilities and test models (e.g., diagnostic instrumentation and targets), for dynamic testing of kinetic energy projectiles and systems.

ML13 Armoured or protective “goods” and constructions, as follows, and specially designed components thereof:

- a. Armoured plate as follows:
 1. Manufactured to comply with a military standard or specification; or
 2. Suitable for military use;
- b. Constructions of metallic or non-metallic materials or combinations thereof specially designed to provide ballistic protection for military systems;
- c. Military helmets;

Note: ML13.c. does not control:

- a. Conventional steel helmets, neither modified nor designed to accept, nor equipped with any type of accessory device;
- b. Helmets manufactured before 1945;
- c. Individual helmets not specially designed for military use when accompanying their users.

N.B. 1: Military aircrew protective headgear is controlled in ML10.g.

N.B. 2: Military high altitude parachutists’ protective headgear is controlled in ML10.h.8.

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- d. Body armour and ballistic protective garments manufactured according to military standards or specifications, or equivalent.

Note: ML13.d. does not control individual suits of body armour or ballistic protective garments for personal protection and accessories therefor when accompanying their users.

N.B.: See also 1A of Annex I to “the Regulation”.

ML14 Specialised equipment for military training or for simulating military scenarios, simulators specially designed for training in the “use” of any firearm or weapon in ML1 or ML2, and specially designed components and accessories therefor.

ML15 Imaging or countermeasure equipment, as follows, specially designed for military use, and specially designed components and accessories therefor:

- a. Recorders and image processing equipment;
- b. Cameras, photographic equipment and film processing equipment;
- c. Image intensifier equipment;
- d. Infrared or thermal imaging equipment;
- e. Imaging radar sensor equipment;

- f. Countermeasure or counter-countermeasure equipment for the equipment in ML15.a. to ML15.e.

Note: ML15 does not control “first generation image intensifier tubes” or equipment specially designed so that only “first generation image intensifier tubes” are or can be incorporated in it.

N.B. 1: For weapons sights incorporating “first generation image intensifier tubes” see ML1, ML2 and ML5.

N.B. 2: See also 6A of Annex I to “the Regulation”.

ML16 Forgings, castings and other unfinished “goods”, the use of which in controlled “goods” is identifiable by material composition, geometry or function, and which are specially designed for any of the “goods” in ML1 to ML4, ML6, ML9, ML10, ML12 or ML19.

PL5020 Forgings, castings and semi-finished “goods” specially designed for “goods” in PL5006.

ML17 Miscellaneous “goods”, material and ‘libraries’, as follows, and specially designed components therefor:

- a. Self-contained diving and underwater swimming apparatus, as follows:
 1. Closed or semi-closed circuit (rebreathing) apparatus specially designed for military use (i.e., specially designed to be non-magnetic);
 2. Specially designed components for use in the conversion of open-circuit apparatus to military use;
 3. “Goods” designed exclusively for military use with self-contained diving and underwater swimming apparatus;
- b. Construction equipment specially designed for military use;
- c. Fittings, coatings and treatments for signature suppression, specially designed for military use;
- d. Field engineer equipment specially designed for “use” in a combat zone;
- e. “Robots”, “robot” controllers and “robot” “end-effectors”, having any of the following characteristics:
 1. Specially designed for military use;
 2. Incorporating means of protecting hydraulic lines against externally induced punctures caused by ballistic fragments (e.g., incorporating self-sealing lines) and designed to use hydraulic fluids with flash points higher than 839 K (566°C); or
 3. Specially designed or rated for operating in an electro-magnetic pulse (EMP) environment;

- f. 'Libraries' (parametric technical databases) specially designed for military use with equipment in this Part of this Schedule;

Technical Note:

For the purpose of ML17, the term 'libraries' (parametric technical database) means a collection of technical information of a military nature, reference to which may enhance the performance of military equipment or systems.

- g. Nuclear power generating equipment or propulsion equipment (e.g., "nuclear reactors"), specially designed for military use and components therefor, specially designed or modified for military use;
- h. "Goods" and material, coated, treated or prepared to provide signature suppression, specially designed for military use, other than those controlled elsewhere in this Part of this Schedule;
- i. Simulators specially designed for military "nuclear reactors";
- j. Mobile repair shops specially designed or modified to service military equipment;
- k. Field generators specially designed or modified for military use;
- l. Containers specially designed or modified for military use;
- m. Ferries, other than those controlled elsewhere in this Part of this Schedule, rafts, bridges and pontoons, specially designed for military use;
- n. Test models specially designed for the "development" of "goods" or "technology" in ML4, ML6, ML9 or ML10;
- o. Laser protection equipment (e.g., eye and sensor protection) specially designed for military use.

ML18 Equipment for the "production" of "goods" as follows:

- a. Specially designed or modified production equipment for the "production" of "goods" in this Part of this Schedule, and specially designed components therefor;
- b. Specially designed environmental test facilities and specially designed equipment therefor, for the certification, qualification or testing of "goods" in this Part of this Schedule.

PL5017 Equipment and test models other than those in ML11, ML12.b., ML17.n. or ML19.e. specially designed or modified for the "development" or "use" of military "goods" in this Part of this Schedule.

ML19 Directed energy weapon (DEW) systems, related or countermeasure equipment and test models, as follows, and specially designed components therefor:

- a. "Laser" systems specially designed for destruction or effecting mission-abort of a target;
- b. Particle beam systems capable of destruction or effecting mission-abort of a target;
- c. High power radio-frequency (RF) systems capable of destruction or effecting mission-abort of a target;
- d. Equipment specially designed for the detection or identification of, or defence against, systems in ML19.a. to ML19.c.;
- e. Physical test models and related test results for the systems, equipment and components in ML19;
- f. Continuous wave or pulsed "laser" systems specially designed to cause permanent blindness to un-enhanced vision (i.e., to the naked eye or to the eye with corrective eyesight devices).

ML20 Cryogenic and "superconductive" equipment, as follows, and specially designed components and accessories therefor:

- a. Equipment specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (-170°C);
- b. "Superconductive" electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion.

Note: ML20 does not control direct-current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator.

ML21 "Software" as follows:

- a. "Software" specially designed or modified for the "development", "production" or "use" of equipment or materiel in this Part of this Schedule;
- b. Specific "software", as follows:
1. "Software" specially designed for:
 - a. Modelling, simulation or evaluation of military weapon systems;

- b. "Development", monitoring, maintenance or up-dating of "software" embedded in military weapon systems;
 - c. Modelling or simulating military operation scenarios, other than those controlled in ML14;
 - d. Command, Communications, Control and Intelligence (C3I) applications or Command, Communications, Control, Computer and Intelligence (C4I) applications;
2. "Software" for determining the effects of conventional, nuclear, chemical or biological warfare weapons;
 3. "Software" not controlled in ML21.a., ML21.b.1. or ML21.b.2., specially designed or modified to enable equipment not in this Part of this Schedule to perform military functions of equipment in ML5, ML7.g., ML9, ML10.e, ML11, ML14, ML15, ML17.i. or ML18;
- c. Other "software" specially designed or modified for military use.

N.B.: Source code for "software" is controlled in ML22.

PL5001 Other security and para-military police "goods", as follows:

- a. Acoustic devices represented by the manufacturers or suppliers thereof as suitable for riot control purposes, and specially designed components therefor;
- b. Anti-riot and ballistic shields and specially designed components therefor;
- c. Shackles designed for restraining human beings having an overall dimension including chain, when measured from the outer edge of one cuff to the outer edge of the other cuff, of between 240mm and 280mm when locked;

N.B.: See also 1.2. of Annex III to "the 2005 Regulation".

- d. Electric-shock belts designed for restraining human beings by the administration of electric shocks having a no-load voltage not exceeding 10,000 volts;

N.B.: See also 2.1. of Annex II to "the 2005 Regulation" and Schedule 1A.

- e. Water cannon and specially designed components therefor;
- f. Riot control vehicles which have been specially designed or modified to be electrified to repel

boarders and components therefor specially designed or modified for that purpose;

- g. Electric-shock dart guns having a no load voltage not exceeding 10,000 volts;

N.B.: See also 2.1. of Annex III to "the 2005 Regulation" and Schedule 1A.

- h. Components specially designed or modified for portable devices designed or modified for the purposes of riot control or self-protection by the administration of an electric shock (e.g., electric-shock batons, electric-shock shields, stun-guns and electric-shock dart-guns).

ML22 "Technology" as follows:

- a. "Technology", other than "technology" specified in ML22.b., which is "required" for the "development", "production" or "use" of "goods" or "software" controlled in this Part of this Schedule;

b. "Technology" as follows:

1. "Technology" "required" for the design of, the assembly of components into, and the operation, maintenance and repair of complete production installations for "goods" controlled in this Part of this Schedule, even if the components of such production installations are not controlled;
2. "Technology" "required" for the "development", "production" or "use" of toxicological agents, related equipment or components controlled by ML7.a. to ML7.g.;
3. "Technology" "required" for the "development", "production" or "use" of "biopolymers" or cultures of specific cells controlled by ML7.h.;
4. "Technology" "required" exclusively for the incorporation of "biocatalysts", controlled by ML7.i.1., into military carrier substances or military materiel.

Note 1: Subject to note 2 below, the export or transfer of technology in ML22 is prohibited by articles 3 and 6 of this Order if it is "required" for the "development", "production" or "use" of "goods" or "software" in this Schedule, whether or not the "technology" being exported or transferred in the particular case is intended to be applied in respect of such "goods" or "software".

Note 2: The prohibitions in Articles 3 and 6 do not apply to that "technology" in ML22 which is the minimum necessary for the installation, operation, maintenance (checking) and repair of "goods" or "software" not in this Schedule, to "technology" "in the public domain", to "basic scientific research" or to the minimum necessary for patent applications.

Annex J

Summary of Dual-Use List Categories and Sub-Categories

Descriptions of the categories and sub-categories covering entries in Annex 1 to Council Regulation (EC) No.1334/2000

Category Sub-category

- 0 : Nuclear Materials, Facilities and Equipment
 - 0A : Systems, Equipment and Components
 - 0B : Test, Inspection and Production Equipment
 - 0C : Materials
 - 0D : Software
 - 0E : Technology
- 1 : Materials, Chemicals
 - 1A : Systems, Equipment and Components
"Micro-organisms" & "Toxins"
 - 1B : Test, Inspection and Production Equipment
 - 1C : Materials
 - 1D : Software
 - 1E : Technology
- 2 : Materials Processing
 - 2A : Systems, Equipment and Components
 - 2B : Test, Inspection and Production Equipment
 - 2D : Software
 - 2E : Technology
- 3 : Electronics
 - 3A : Systems, Equipment and Components
 - 3B : Test, Inspection and Production Equipment
 - 3C : Materials
 - 3D : Software
 - 3E : Technology
- 4 : Computers
 - 4A : Systems, Equipment and Components
 - 4D : Software
 - 4E : Technology
- 5 : Part 1: Telecommunications
 - 5A1 : Systems, Equipment and Components
 - 5B1 : Test, Inspection and Production Equipment
 - 5D1 : Software
 - 5E1 : Technology
- 5 : Part 2: "Information Security"
 - 5A2 : Systems, Equipment and Components
 - 5B2 : Test, Inspection and Production Equipment
 - 5D2 : Software
 - 5E2 : Technology
- 6 : Sensors and Lasers
 - 6A : Systems, Equipment and Components
 - 6B : Test, Inspection and Production Equipment
 - 6C : Materials
 - 6D : Software
 - 6E : Technology
- 7 : Navigation and Avionics
 - 7A : Systems, Equipment and Components
 - 7B : Test, Inspection and Production Equipment
 - 7D : Software
 - 7E : Technology
- 8 : Marine
 - 8A : Systems, Equipment and Components
 - 8B : Test, Inspection and Production Equipment
 - 8C : Materials
 - 8D : Software
 - 8E : Technology
- 9 : Propulsion Systems, Space Vehicles
 - 9A : Systems, Equipment and Components and Related Equipment
 - 9B : Test, Inspection and Production Equipment
 - 9C : Materials
 - 9D : Software
 - 9E : Technology

Annex K

Summary of Her Majesty's Revenue and Customs Tariff Codes

Part 1 – Tariff codes used to compile data on the number of small arms and light weapons

Code	Description ¹
93011100	² Artillery weapons (for example, guns howitzers and mortars): self propelled
93011900	² Artillery weapons (for example, guns howitzers and mortars): other
93012000	² Rocket launchers; flame-throwers; grenade launchers; torpedo tubes and similar projectors
93019000	² Military weapons, other than revolvers, pistols and the arms of heading 9307: other etc
93020000	Revolvers and pistols, other than those of heading 9303 or 9304

Part 2 – Additional tariff codes used to compile data on the value of defence exports

Code	Description ¹
87100000	Tanks and other armoured fighting vehicles, motorised, whether or not fitted with weapons, and parts of such vehicles
88021100	³ Helicopters: of an unladen weight not exceeding 2000kg
88021200	³ Helicopters: of an unladen weight exceeding 2000kg
88022000	³ Aeroplanes and other aircraft, of an unladen weight not exceeding 2000kg
88023000	³ Aeroplanes and other aircraft, of an unladen weight exceeding 2000kg but not exceeding 15000kg
88024000	³ Aeroplanes and other aircraft, of an unladen weight exceeding 15000kg
88031000	³ Propellers and rotors and parts thereof
88032000	³ Under-carriages and parts thereof
88033000	³ Other parts of aeroplanes or helicopters
88051010	³ Aircraft launching gear and parts thereof: deck-arrestor or similar gear and parts thereof: aircraft launching gear and parts thereof
88051090	³ Aircraft launching gear and parts thereof: deck-arrestor or similar gear and parts thereof: other
88052100	Ground flying trainers and parts thereof: air combat simulators and parts thereof
88052900	³ Ground flying trainers and parts thereof: other
89061000	Warships
93051000	Parts and accessories of articles of headings 9301 to 9304: of revolvers or pistols
93059100	Parts and accessories of articles of headings 9301 to 9304: other: of military weapons of heading 9301
93063010	Other cartridges and parts thereof: for revolvers and pistols of heading 9302 and for sub-machine guns of heading 9301
93063030	Other cartridges and parts thereof: for military weapons
93069010	Other [<i>munitions and ammunition</i>] for military purposes
93070000	Swords, cutlasses, bayonets, lances and similar arms and parts thereof and scabbards and sheaths thereof

¹ Descriptions taken from Intrastat Classification Nomenclature.

² Number of items information available for non-EU destinations only, no number of items data available for EU trade.

³ Dual use (military/civilian) codes. Information from Customs Procedure Code and knowledge of trader used to apportion military trade element.

Further information on classification is available in the Integrated Tariff and the ICN (available free online at www.uktradeinfo.com).

Details on the compilation of overseas trade in goods statistics are available in 'GSS (Government Statistical Service) Series No. 10: Statistics on the Trade in Goods', available online from the ONS (Office for National Statistics) website.



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