

United Kingdom Strategic Export Controls *Annual Report 2005*



Foreign &
Commonwealth Office
London

DFID Department for
International
Development

dti

Department of Trade and Industry



Ministry of Defence



UNITED KINGDOM STRATEGIC EXPORT CONTROLS

Annual Report 2005

*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 Trade and Industry
by Command of Her Majesty
July 2006*

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Ministerial Foreword to the Annual Report 2005

This year's Annual Report on Strategic Export Controls, the ninth edition, represents a departure from previous publications. The Report has long been viewed as a benchmark for open and accountable government. But this position can only be maintained by keeping pace with the changing ways that data is now accessed and presented, and by taking greater account of the kind of information stakeholders expect, while also ensuring that resources are used to best effect. There will always be confidentiality and other restrictions on what can be provided publicly and in what format, but the Government is committed to providing as much detailed information as we can and in the most timely manner possible. The new format of this year's Report follows close consultation with non-governmental organisations, industry and Parliament. The Government sees this consultation process as an on-going exercise which will ensure that the Report continues to set a global standard for transparency and accountability in the area of export controls. The CD-ROM annexed to this Report contains full and searchable data on export licence decisions reached during 2005. This year's printed Report now concentrates more on export control policy developments in 2005.

The Government remains committed to ensuring that the United Kingdom's export control system is as rigorous and effective as any in the world. 2005 was the first full calendar year where all elements of the Export Control Act were in place and operating. Over this period we have continued to take up the challenge of implementing the comprehensive new controls, some in areas which bring in activities not previously subject to control. We have sought to do this effectively, while also not overburdening business. We have also maintained a collective focus on processing licence applications as promptly as possible. In 2005, performance was once again sustained at a high level with 73% of Standard Individual Export Licence (SIEL) applications processed within 20 working days. 62% of Open Individual Export Licence (OIEL) applications were processed within our 60-day target and 98% of Rating enquiries within 10 days. Performance in both these areas exceeded the 60% and 90% targets which had been set respectively. The median processing time for SIELs was 11 working days, which was the same as in 2004, and on appeals, 65% of cases were completed within 30 days, against 18% in 2004. The number of long outstanding cases, on average, was 26 cases over 3 months old, 1.9 cases over 6 months and none exceeded 9 months. We are also now publishing on the Export Control Organisation's website statistics showing processing times and refusal rates by destination. In addition, there is now on the ECO website a list of Iranian end-users which may give cause for concern in relation to WMD. Exporters are advised to contact the ECO if they are considering transactions involving any of the named entities.

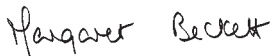
During 2005 we also continued the awareness campaign we initiated in 2004 to reach out to industry and ensure that the new controls were clearly understood. The Export Control Organisation has now held some 48 seminars around the country attended by around 460 exporting companies. We have also worked closely with trade fair organisers to ensure that both UK and overseas exhibitors are aware of their obligations under the new controls. The Government is committed to maintaining this high level of activity and service, and improving it further where possible.

Ensuring effective implementation of UK export controls is only part of the picture. Internationally, irresponsible trading of arms continues to fuel conflict and undermine development. The Government is at the forefront of efforts to tackle this issue by strengthening international regulation of arms transfers. 2005 saw the UK hold the Presidencies of both the G8 and (in second half of the year) the EU. Counter Proliferation and export controls were prominent in both groupings. Our commitment to securing an international treaty on the trade in conventional arms (an Arms Trade Treaty) was one theme common to both Presidencies. At the Gleneagles Summit in July, G8 governments agreed on the importance of developing standards for international arms transfers. In October, EU Foreign Ministers expressed strong support for the initiative and called explicitly for the start of a UN based process at the earliest opportunity to take work forward. This

call was echoed by Commonwealth Heads of Government at their November meeting in Malta where they voiced their support for the establishment of a UN process. The Government will continue to build the broad support needed for agreement to a formal UN process to be secured when the UN General Assembly meets later in 2006.

Support for a vibrant and competitive UK defence industry remains a key component of the Government's national security agenda. As our recently published Defence Industrial Strategy (DIS) clearly recognises, a strong export performance by the UK defence industry helps in the delivery of required defence capability to our armed forces in the most cost-effective manner, while also making sure that we maintain the knowledge and skills in this country that we need for the future. The Government will continue to provide its full support to UK defence exports, but will ensure equally that the highest standards of responsibility and transparency are maintained at all times.

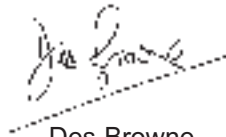
We hope that readers will find this Report and the accompanying CD-ROM a useful tool in understanding UK export controls and in scrutinising Government action in this area. We commend it to both Parliament and the public.



Margaret Beckett



Hilary Benn



Des Browne



Alistair Darling

Section I

Policy Issues Relating to Strategic Export Controls

DOMESTIC POLICY

1.1 Overview

The UK system for licensing of Strategic Export Controls is operated by a single Export Licensing Community. This Community comprises four Government departments: the Foreign and Commonwealth Office (FCO); the Department of Trade and Industry (DTI); the Ministry of Defence (MOD); the Department for International Development (DFID) together with Her Majesty's Revenue & Customs (HMRC) which is responsible for enforcing the controls.

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 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 to Parliament

- 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 the DTI's help line, website, and awareness activities and ratings. We shall keep our licence products under review to ensure they remain appropriate as circumstances change
- benchmark ourselves against comparable licensing authorities elsewhere so that we capture best practice and ensure that we are leaders in our field.

The DTI is the licensing body for strategic exports in the UK. It sets out the regulatory framework under which licence applications are considered, and the Secretary of State for Trade and Industry takes the formal decision to issue or refuse export licence applications in accordance with the appropriate legislation.

The FCO and MOD act in a policy advisory capacity, providing the DTI with advice and analysis on the foreign and defence policy aspects relevant to consideration of export licence applications against the agreed criteria.

DFID provides specific expertise and advice in considering applications to those developing countries eligible for concessional loans from the World Bank's International Development Association (although DFID may ask to see applications in respect of other countries of concern) by assessing the risk of whether a proposed export would seriously undermine the economy or seriously hamper sustainable development in the recipient country. However, they also have a significant interest in exports that might also contribute to conflict or human rights abuses in these states.

HMRC is the enforcement body for UK export controls, and undertakes enforcement action and investigation with a view to prosecution in appropriate cases (see section 1.5 below).

1.2 The Legislation

The Primary legislation covering the export of strategic goods from the UK is the Export Control Act 2002. 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 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 (EC) controls on the electronic transfer of dual-use technology.

The Trade in Goods (Control) Order 2003 introduced controls to cover trade (trafficking and brokering) 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) who traffic or broker Restricted Goods (i.e. Torture Equipment and certain long range missiles and their components) to any destination, or who traffic or broker controlled military goods to embargoed destinations.

1.3 The Consolidated EU and National Export Licensing Criteria

All applications for:

- the export of goods and technology on the UK Military List (see annex A) from the UK;
- the advance approval for promotion prior to formal application for an export licence;
- the export of dual-use goods as specified in Annex 1 on Council Regulation (EC) 1334/2000 when there are grounds for believing that the end-user of such goods will be the armed forces or internal security forces or similar entities in the recipient country, or that goods will be used to produce arms or other goods on the Military List for such end-users; and

- proposals for gifting controlled goods from the UK Government to overseas Governments or end-users;

are considered on a case by case basis against the Consolidated EU and National Export Licensing Criteria (see Annex E) taking full account of the prevailing circumstances at the time of the application and any other relevant announced Government policies.

The Consolidated Criteria (Annex E) were introduced on 26 October 2000 and are based on those in the EU Code of Conduct on Arms Exports, and incorporating additional elements from the UK's own national criteria.

1.4 Transparency and Accountability

The period since the last Annual Report has seen further refinements to the quarterly Reporting of our Strategic Export Licensing decisions to improve the layout and format of the information provided. The House of Commons Select Committee on Strategic Export Controls (the Quadripartite Committee) has continued its scrutiny of export licensing decisions. The Government has continued its practice of making more information available to the Committee in response to its requests, which goes further than our confidentiality obligations allow us to commit to the public domain.

In addition, the Government has made itself ever more available to give oral evidence to the Committee.

The DTI Minister of State with responsibility for Export Controls, Malcolm Wicks MP, appeared before the Committee on 13 March 2006. FCO Minister of State, Dr Kim Howells MP, gave evidence on 25 April 2006, and officials from HMRC and from the Revenue and Customs Prosecution Office appeared on 25 May 2006. Transcripts of each of these evidence sessions are available on the Quadripartite Committee pages of the Parliamentary website - (www.Parliament.gov.uk).

The Government is committed to increasing further the level of transparency and quality of information it provides to both Parliament and the general public wherever possible. We regard this process as on-going and continue to welcome suggestions for improvements from Parliament, industry and civil society.

Awareness

The Government has undertaken an extensive awareness campaign for industry around the UK. 35 countrywide training courses were held during 2005. These comprised Beginners' Workshops for those who have just started in the export control business. Intermediate level seminars, covering a number of issues including exporting technology, the different sorts of licences available, company compliance with export control legislation and the UK control lists. There have also been courses on complying with the controls.

ECO staff have also given a number of presentations over the past twelve months to individual companies, HM Revenue and Customs, chambers of commerce and the European Commission.

The Government has also published, on the ECO website, a list of Iranian entities of potential WMD concern. The list is intended to help exporters judge which exports might potentially be of concern on end use grounds, based on previous licensing decisions, and when they should contact the ECO for advice. The entities included on the list are mainly based on the last three years' experience of either invoking the WMD end-use control or refusing licences under it. Inclusion of an entity on the list does not necessarily indicate that an export licence would be refused, nor non-inclusion that there are no end-use concerns.

In 2005 the ECO started working on the development of two web-based tools to help exporters find out if their products needed a licence and, if licensable, whether an open general licence potentially covered proposed exports. The first of these tools, "Goods Checker", was made available at the end of 2005 and can be accessed at

www.ecoChecker.co.uk/goodsChecker <<http://www.ecoChecker.co.uk/goodsChecker>>. Goods Checker provides a web based search function across the Consolidated UK Strategic Export Control List.

The second tool, "OGEL Checker", was made available in May 2006 at www.ecoChecker.co.uk/ogelChecker <<http://www.ecoChecker.co.uk/ogelChecker>>. Users who know the rating of their goods and the destination country for the proposed export, can use the tool to find out which Open General Export Licence(s) may cover the export, provided all the conditions can be complied with.

Compliance

In 2005 Export Control Compliance Officers undertook 568 visits to companies and individuals holding Open Individual and Open General licences both for exports and trade activity. The purpose of these visits is to establish whether the terms and conditions of the licences are being adhered to. Approximately 76% of these visits showed the companies to be fully compliant with the terms of their licences. Of the remaining 24%, many of the errors found were minor and rectified by the time the companies were visited again.

1.5 Enforcement

HMRC's enforcement framework is based on:

- The obligation on exporters to declare to HMRC whether goods require a licence;
- Targeting checks on the basis of intelligence and risk;
- Taking action against persons breaching the controls, including activity based controls;
- Dealing with intelligence and credible allegations to establish if an offence has been committed;
- Investigating where there is evidence of a serious offence; and
- Reporting for prosecution in appropriate cases.

HMRC may also call for examination of the goods where there is reason to believe that they may not conform to what is permitted by the licence, or where they believe a licence is required but has not been obtained. When in doubt, officers are able to call on experts in the DTI and where necessary, the MOD.

Targeted checks on the basis of intelligence and risk

The Restricted Enforcement Unit (REU) is the working level group that acts on intelligence relating to attempted breaches of UK export controls or other attempts to supply sensitive items to countries of concern. It includes representatives of all interested Departments: FCO, Cabinet Office, DTI, MoD, HMRC. The REU regularly considers the latest intelligence relating to potential breaches of export controls or other exports of concern and co-ordinates action by its member Departments. These actions can include alerting UK exporters, seizing goods, investigating potential breaches of UK export controls and informing authorities in other countries of proliferation under their jurisdiction and encouraging them to take action against them.

For simple breaches, HMRC action may be to detain the goods until a licence is produced, or to formal seizure of the goods with immediate

restoration on payment of a restoration fee, based on a points system, and an undertaking not to export the goods without a licence.

Persons breaching the controls, including activity based controls

HMRC considers all detections, intelligence and credible allegations for follow up action against the following criteria:

- The Government's export control priorities;
- Practicability in terms of ability to secure sufficient evidence; and the
- Seriousness of the offence.

In practical terms the first step is to establish that an offence has been committed and can be proven. If so then the case will be considered for investigation. HMRC will report for prosecution those cases where a deliberate attempt has been made to contravene the licensing rules in circumstances where a licence is unlikely to have been granted. HMRC will also report strict liability cases with aggravating features. For minor cases not involving destinations or goods of particular concern HMRC confines action to a formal warning, which could be by a letter or a visit to the exporter to ensure they are fully aware of their obligations and of the implications of any similar conduct in future.

2. HMRC prioritises activity as follows:

High priority	Export or supply of strategic goods and technology to destinations of concern, i.e. those developing WMD; those proscribed by UN or EU sanctions; those practising human rights abuses; those with links to destinations of concern; and those with inadequate export controls from where goods may be diverted.
Medium priority	Other export licensing breaches.
Low priority	Breaches of intra-EU controls

Results

The following table gives figures of the number of seizures by HMRC:

Financial Year	HMRC seizures
2000-01	120
2001-02	80
2002-03	67
2003-04	63
2004-05	37

The following table outlines successful prosecutions since 2000:

Financial year	Goods	Destination	Person or company concerned	Penalty
2000 - 01	Five-ton crane, a 12-ton heat furnace and a quantity of Aluminium	Pakistan	Abu Bakr Siddiqui	12 months suspended
2001 - 02				
2002 - 03				
2003 - 04	Aluminium	Pakistan	David Lee Nicklin of AM Castle & Co Ltd	£1,000 fine (strict liability offence)
2004- 05	Aircraft parts	Iran	Saroosh Homayouni	18 months imprisonment suspended for 2 years; banned from being company director for 10 years; asset forfeiture order for £69,980.
2004 - 05	Body Armour	Pakistan	Praetorian Associates	£2,500 fine
2005 - 06	Body Armour	Kuwait, Iraq, Saudi Arabia	Vestguard UK Ltd	£10,000 fine

Section 2

International Policy

2.1 Arms Trade Treaty

While we have stringent controls in the UK, and many other countries have similar standards, it is a reality that many countries have no export control mechanisms, or have systems that are weak and easily abused. This situation allows irresponsible arms traders overseas to make sales with little regard for how the arms will be used. We believe this is unacceptable. It is why we have called for an international treaty to cover the trade in all conventional arms. And it is why such a treaty needs to be based on core principles which make clear when exports would be unacceptable, including where the sale would fuel conflict or be used in the commission of human rights abuses. It is also why a treaty needs to have an effective mechanism for enforcement and monitoring, and include a wide range of signatories, including the world's major arms exporters.

We are continuing to build support for the concept of a treaty, with the aim of securing in 2006 the agreement to a UN based process to take the initiative forward. Although securing a treaty is a long-term goal, international support is growing. Under the Presidency of the United Kingdom the European Union agreed on 3 October 2005 Council Conclusions which:

“... acknowledged the growing support, in all parts of the world, for an international treaty to establish common standards for the global trade in conventional arms and... called for the start of a formal process at the United Nations at the earliest opportunity...”

On 27 November 2005 the Heads of Government of the Commonwealth, which importantly brings together a wide cross section of developed and developing countries, meeting in Valletta, noted:

“the proposal for the development of common international standards for the trade in all conventional weapons and added their support to calls for work on such a treaty to commence at the UN.”

Foreign Secretary Margaret Beckett reinforced our intention to take this work forward in 2006 whilst speaking to Parliament on 23 May 2006, saying:

“We are building support for a UN-based process towards an international arms trade treaty... We are in contact with a wide range of partners to secure agreement for the start of a formal process at the UN General Assembly later this year.



Foreign Secretary Margaret Beckett accepts the Million Faces petition from the Control Arms Campaign and the Defence Manufacturers Association on 20 June 2006.

2.2 Small Arms and Light Weapons (SALW)

Research shows that there is a relationship between trafficking in SALW and contemporary forms of violent conflict. These problems are complex and inter-related, and require concerted, co-operative action and assistance between states, intergovernmental organisations and civil society. Action needs to be taken at all levels, from the local to the global level, if we are to reduce the human cost of the violence and insecurity caused by these weapons. The UK remains committed to actively working towards the reduction and eventual elimination of the uncontrolled spread of SALW and this is demonstrated by our commitment to, and participation in, all relevant international, multilateral and regional fora currently addressing these issues as well as the work we have carried out bilaterally.

The UK supports full implementation of the United Nations Programme of Action (UNPoA) to Prevent, Combat and Eradicate the Illicit trade in Small Arms and Light Weapons in All its Aspects which provides the framework (agreed in 2001) through which the UN concentrates its efforts to tackle SALW issues on a national, regional and global basis. The first Review Conference of the Programme of Action took place in New York between 26 June and 7 July 2006 and was the first formal opportunity for the international community to review progress and strengthen the effectiveness of the UNPoA by examining implementation, exploring problems that have hampered implementation and identifying recommendations to address them. The UK is fully engaged in this process.

The UK and EU partners supported and participated in the UN Open-Ended Working Group (OEWG) to negotiate an instrument for identifying and tracing illicit SALW in a timely and reliable manner. In a major step forward, an international instrument was successfully negotiated in 2005 (the first such instrument since the establishment of the UNPoA in 2001) and unanimously adopted at the 60th session of the General Assembly in October 2005. The UK hopes to build on this success and will actively participate in a UN Group of Governmental Experts to consider further international co-operation in eradicating illicit brokering in SALW.

The UK is also one of the strongest supporters of transparency in the field of conventional arms and we actively promote the continuing development and operation of the United Nations Register of Conventional Arms as the only global transparency mechanism in this field. This year, as part of the regular review of the Register's operation we have, amongst other improvements, been promoting the inclusion of Small Arms and Light Weapons within the reporting requirements of the Register - a move welcomed most recently by the UN Secretary General in his report to the Security Council on combating terrorism.

Nationally, the joint efforts of FCO, MOD and DFID under the Global Conflict Prevention Pool (GCPP) SALW strategy contribute towards a more coherent response to the reduction of small arms proliferation and armed violence. The strategy takes a holistic approach to the problem of small arms proliferation, seeking to tackle the supply, demand and availability of SALW. This is achieved through support for the implementation of existing regional and national agreements on SALW; the collection and destruction of weapons; the promotion of an initiative to build on regional approaches to agree common global guidelines for controls on transfers of small arms; awareness raising and education programmes. The best way to control small arms and reduce armed violence is to help developing countries prioritise the problem as part of their development planning.

Small arms and light weapons pose a particular challenge for development because they are widely available in developing countries and are the weapon of choice in the majority of conflicts world-wide. The UK's Armed Violence and Poverty Initiative has made considerable progress in the past year in highlighting the linkages between armed violence and poverty and promoting the integration of small arms control into development programming. The OECD's Development Assistance Committee (DAC) has now classified small arms control as Official Development Assistance, meaning that small arms work can count against the 0.7% aid target of donor nations. Agreement has also been secured in the DAC to develop shared donor guidance on small arms control and armed violence reduction from a development perspective.

The UNPoA contains important guidance on controlling transfers of SALW but we need to build on this by defining, as required by the UNPoA, states' current responsibilities under international law. We believe these are best expressed as common global criteria for states to consider before issuing a licence for an international transfer of SALW. To this end work has continued in the last year under the UK-led Transfer Controls Initiative (TCI) to build on regional approaches to agree such global criteria.

Since the launch of the TCI 3 years ago the UK has sponsored a number of regional workshops and seminars (most recently in Sri Lanka, Peru and Nicaragua) to develop regional agreement on transfer controls. Over 100 states have expressed varying degrees of support for the process. In April 2006 at a UK-Kenya sponsored meeting in Nairobi representatives of 11 governments and civil society from all regions of the world produced draft global guidelines for national controls governing transfers of SALW. These build on the commonalities of various regional agreements. The UK, with other supporters of TCI will work hard to build broad international support for these draft global guidelines.

In addition to the SALW work currently underway in the UN, the UK also actively pursues a programme of assistance in stockpile management, security and destruction. Most illicit SALW begin their life as responsible transfers. These weapons often leak from poorly managed stockpiles into the illicit trade. Working either bilaterally or with international partners the UK has funded or participated in several important projects. For example, we are currently helping fund a UNDP project in Bosnia Herzegovina to destroy at least 250,000 SALW and 10,000 tonnes of ammunition, similarly in Ukraine we are actively working with partners to support a NATO partnership for peace project aimed at the destruction of 1.5 million small arms and light weapons, 133,000 tons of munitions and 1000 man portable air defence systems (MANPADS). We have been working in various countries to improve stockpile and security facilities and management practices. Over the last few years, we have worked in more than half a

dozen states, and provided over £1,000,000 in funding towards the destruction of over 2.5 million SALW, 1000 MANPADS and 400,000 tons of ammunition and we continue to look for further opportunities in this field.

Good progress has been made since 2001. However, SALW related deaths, injury and suffering continue on a large scale. The UK will continue to work hard with our international partners to improve efforts to tackle the scourge of illicit small arms and light weapons.

2.3 EMBARGOED DESTINATIONS

The UK fully respects its obligations under UN, EU, OSCE, our own national embargoes, and any other international restrictions to which we are a party on the export of military and other controlled goods.

Exports of such goods to embargoed destinations or entities will only be permitted where to do so is fully consistent with the letter and spirit of our obligations. Most embargoes contain very clear exemptions, which ensure that the sanction in place does not prohibit exports that it was not the intention to target.

All licences recorded in this report as having been issued to embargoed destinations conform fully with the terms of the sanction concerned, and have also been considered carefully against the Consolidated EU and National Export Licensing Criteria.

The most common examples of applications that may be issued for embargoed destinations are:

- Equipment for use in humanitarian relief efforts (e.g. vehicles);
- Goods for use by media and NGO personnel (e.g. body armour);
- Equipment for peace-keeping forces;
- Equipment for use solely by industry or other civil purpose (e.g. some chemicals, parts for civil aircraft);

- Equipment for de-mining and bomb disposal work.

Annex D to this report contains an exhaustive list of the UK's International Commitments on Export Controls and from where the obligation stems. However, the following is a list of countries which are currently subject to arms embargoes in their own right (i.e. not those subject to other restrictions or a more limited sanction by virtue of proximity to an embargoed destination) and implemented by the UK:

- Armenia
- Azerbaijan
- Burma
- People's Republic of China (not including Hong Kong or Macau)
- Democratic Republic of Congo
- Iran
- Iraq
- Liberia
- Rwanda
- Sierra Leone
- Somalia
- Sudan
- Uzbekistan
- Zimbabwe.

2.4 EU Code of Conduct on Arms Exports

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 was aimed at encouraging greater coherence in decision-making by obliging partners to consult each other on essentially identical transactions (i.e. reducing the scope for end-users "shopping around" EU Member States hoping to secure equipment the

export of which had already been denied elsewhere). The Criteria of the Code form the basis of the UK's Consolidated EU and National Export Licensing Criteria.

The Code represents an important collective acknowledgement by EU Member States of the negative impact that inappropriate and irresponsible arms exports can have in precipitating or fuelling conflict, assisting terrorism and the abuse of human rights, and in frustrating the pursuit of sustainable development in some of the most vulnerable parts of the world.

In June 2000, the Criteria of the Code were extended to cover dual-use items under EC Regulation 1334 where a military end-use/end-user of the goods was known or suspected.

The Code also has a User's Guide, which was first developed to improve the efficiency of the denial notification and consultation system. The User's Guide is now being developed further with the aim of sharing best practice in the application and common understanding of the Code Criteria across the EU. During the UK Presidency of the EU in the latter half of 2005, agreement was reached on best practice in the application of Criterion 8 of the Code (sustainable development). Further work was also started on similar guidance covering Criterion 2 (internal repression) and Criterion 7 (diversion). This work has now been completed under the Austrian Presidency and agreement reached to start work on Criterion 3 (internal situation) and Criterion 5 (regional stability). The text of the User's Guide Best Practice is reproduced at Annex F to this Report.

The EU also produces an Annual Report that provides a useful country by country breakdown of each Member States' exports. The Eighth EU Annual Report was produced in 2005. Many Member States also produce their own National Reports that are available via the Internet. Annex G to this Report provides a list of those currently available.

In 2003, it was decided to review the EU Code (after five years of operation). Final agreement has still to be reached but it is hoped that a new version of the Code will be agreed at an appropriate juncture. It is envisaged that the new arrangement may become a legally binding commitment on Member States as a Common Position under Title V (CFSP) of the Treaty of European Union. It is also envisaged that application of the Code Criteria would be extended to licence applications for arms brokering, transit and transshipment, and the intangible transfer of technology.

2.5 EU Regulation on the Trade in Torture Equipment

In June 2005, the Council of the European Union adopted Council Regulation (EC) 1236/2005. This Regulation concerns the trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

Europe has followed the UK lead on this subject, the UK having introduced in 1997 its own national controls on torture equipment including a prohibition on the export of devices designed to administer an electric shock, such as electric batons, and on leg irons or gang chains. The adoption of the Regulation means that the rest of Europe will now follow the UK's lead in this area.

The EC Regulation will come into force in the UK on 30 July 2006 and will ban the import and export of listed equipment that could be used for torture or capital punishment together with associated technical assistance. It will also introduce a licensing system for other equipment which could be used for torture but which also has other legitimate uses. UK Trade controls have been extended to cover all the equipment listed in the Regulation. This means that the trading (trafficking and brokering) of these items will also be controlled under the Trade in Goods (Control) Order 2003 and the trade in Controlled Goods (Embargoed Destinations) Order 2004 as outlined in the Domestic Policy section of this Report.

The new EU Regulation will have direct effect in all EU Member States contributing directly to preventing violation of a fundamental human right; the right to not be subjected to torture and other cruel, inhuman or degrading treatment. The full text of the Regulation including a list of items to be controlled is at Annex H.

2.6 Wassenaar Arrangement

The eleventh plenary meeting of the Wassenaar Arrangement (WA) was held in Vienna, 13-14 December 2005. It was a successful year for the WA in terms of broadening the number of States who participate, the WA welcomed Croatia, Estonia, Latvia, Lithuania, Malta and Slovenia to the Plenary for the first time. The decision to admit Slovenia was taken at the plenary meeting in 2004 and the remaining candidate applications were approved during the first half of the year. The Plenary in 2005 also took the decision to admit South Africa as the first African State to join the Arrangement. This brings the total number of Participating States within the Arrangement to forty.

The Plenary agreed an indicative list of commonly used end user assurances and also approve a number of amendments to the control lists 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. These revisions included items of potential interest to terrorists such as jamming equipment and unmanned aerial vehicles.

The WA continues to place a high priority on transparency and outreach to non-Participating States and international organisations, with the aim of promoting the objectives of the Arrangement. During 2005 the WA conducted outreach to South Africa and China. The next regular WA Plenary meeting will take place in Vienna in December 2006.

2.7 UN Conventional Arms Register

The UN Register of Conventional Arms is a voluntary global reporting instrument, intended to

create greater transparency in international arms transfers and help identify excessive build-up of arms in particular countries or regions. The UK reports annually to the UN on all exports of military equipment in major categories and will again provide this information, including additional voluntary background reporting of Small Arms and Light Weapons transfers. Whilst all reporting to the UN Register is voluntary, the UK continues to attach a high level of importance to 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 from August 2006 via [www.fco.gov.uk/International Security](http://www.fco.gov.uk/International%20Security). Further information can be found at the UN website <http://disarmament2.un.org/cab/>.

2.8 Nuclear Suppliers Group

Since its foundation in 1975 the Nuclear Suppliers Group has sought to reduce global nuclear proliferation by controlling the export and re-transfer of materials that may be applicable to nuclear weapon development, and promoting effective safeguards and protection of nuclear material.

In 2005 the Nuclear Suppliers Group Plenary was held in Oslo, Norway from 23 to 24 June. In 2006 the Nuclear Suppliers Group Plenary was held in Brasilia, Brazil on the 1st and 2nd of June. At the 2005 Plenary the NSG adopted important measures which restrict nuclear transfers to States which have violated their non-proliferation and safeguards obligations. Throughout the year the 45 NSG Participating Governments have been working actively to reach consensus on strict criteria for the transfers of Enrichment and Reprocessing technology and equipment, and adopting the Additional Protocol as a Condition of Supply for all Trigger-List items. The NSG is constructively considering its relationship with India following the US/India joint statement of July 2005, and have noted India's increased non-proliferation commitments.

2.9 Plutonium Disposition

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 \$10 billion over 10 years for projects aimed at preventing terrorists or those that harbour them, from acquiring or developing WMD and related materials and expertise, with the UK pledging up to \$750 million. A key priority of the Global Partnership is to prevent the spread of weapons and materials of mass destruction, primarily in Russia and the Former Soviet Union (FSU). The UK has pledged \$100m (equivalent to £70m) towards the disposition of Plutonium in Russia following a bilateral US-Russia agreement under which each will dispose of 34 tonnes of weapons-grade plutonium. The UK commitment, ring-fenced within the UK budget, is now included in a pledge of up to \$750m to the Global Partnership.

We would like to see a programme of plutonium disposition actively underway, funded by international support, with transparent international procedures for procurement and a representative international steering body overseeing the project. However, continuing disagreement over the legal and implementation frameworks for the programme and a shortfall in funds pledged by Russia and donor countries, have delayed matters. A draft multilateral agreement is on the table and we are engaged in constructive bilateral and multilateral dialogue aimed at resolving the outstanding issues.

2.10 Australia Group

The Australia Group (AG) is an arrangement of 40 member countries with the aim of minimising Chemical and Biological Weapons (CBW) proliferation by harmonising export controls on dual-use chemical and biological material. The 2005 annual AG Plenary meeting, which commemorated the 20th anniversary of the Group's founding, took place in Sydney in April. The Plenary will return to its customary venue in Paris for the meeting in 2006.

The Sydney Plenary made a decision to admit The Ukraine as a new member. Also of note was an agreement to control certain aerosol sprayers that could be used for the dispersal of biological agents. During the Plenary, licensing, technical and enforcement experts exchanged experiences and the UK gave a number of well-received presentations on topics of WMD concern, development of controls and on steps the UK is taking, within the AG framework, to encourage responsible licensing systems amongst non-AG members.

2.11 Missile Technology Control Regime

The Missile Technology Control Regime (MTCR) Plenary meeting was held in Madrid from 14 – 16 September 2005. Since its establishment in 1987, the MTCR has made a significant contribution to international efforts on non-proliferation of missiles. However, Partners acknowledge that the risk of proliferation of WMD and their means of delivery remains a major threat. In response to the increasing sophistication of procurement attempts, Partners continue to work towards strengthening the areas of: transfers of technology; transit/transshipment; and brokering controls.

The next Plenary will be held in Copenhagen from 2 – 6 October 2006, at which Denmark will take over as Chair of the regime.

2.12 International Outreach

Outreach activities to promote effective export controls are an extremely important tool in the fight against proliferation. Outreach can take the form of bilateral work by the UK alone or multilateral efforts through such institutions as the EU, the Wassenaar Arrangement and other export control regimes. Teams of officials from various Government Departments conduct export control visits and host delegations from invited countries in order to address the practical and policy issues surrounding export licensing and enforcement. The UK works closely with EU, US and others, in co-ordinating its export control outreach work. 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 single Licensing Community are routinely involved in outreach work.

In the period since the last Annual Report outreach activities have been undertaken involving UK officials with:

- China
- Libya
- Turkey
- Bulgaria
- South Africa
- Ukraine
- Latvia
- Serbia and Montenegro

The EU has also now agreed a package of outreach work under the 1.5m Euro Pilot Project (running from 2005-07) on the export control of dual use items. Four nations have been identified as key partners for this project: China, UAE, Serbia and Montenegro and Ukraine. The UK will play a prominent role in these efforts and had agreed, in particular, to take the lead, co-ordinating activities with China.

Section 3

Export Licensing Decisions During 2005

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 UK Military or EU Dual Use control list, or the WMD or Military End Use Controls. The alphanumeric control list entry is known as the "rating" of the items. Items subject to control for strategic reasons are as follows:

- items entered in Part 1 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. A brief summary of the Military categories and sub-categories is at Annex A. Full information can be found at add ECO web link - <http://www.dti.gov.uk/europeantrade/strategic-export-control/legislation/index.html>.
- The Trade in Controlled Goods (Control) Order 2003.
- The Trade in Controlled Goods (Embargoed Destinations) Order 2004.
- Council Regulation (EC) 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology (the Dual Use Regulation). A brief summary of the dual-use list categories and sub-categories is at Annex B.
- items subject to control because the exporter has been told, knows or suspects that the items are for a relevant WMD use as defined in the legislation. This is the "WMD end-use" control (goods controlled for these reasons are given the rating "End-Use").
- items subject to control because the exporter has been told, knows or suspects that the items in question are or may be intended for a military end-use¹ in a country subject to certain types of arms embargo, or for use as parts or components of military list items which have been exported in breach of United Kingdom export controls. This is the "Military End-Use" control.

3.2 STANDARD INDIVIDUAL EXPORT LICENCES, OPEN INDIVIDUAL EXPORT LICENCES, STANDARD INDIVIDUAL TRADE CONTROL LICENCES AND OPEN INDIVIDUAL TRADE CONTROL LICENCES

The enclosed CD holds all the statistical data by destination for 2005 which includes information about the SIELs, OIELs, SITCLs, and OITCLs, granted, refused and revoked during 2005. This section of the report gives information on the various types of licences as well as information on appeals against licensing decisions during this period. This information on licensing decisions contained in this Report may be treated as definitive subject to the constraint that there is always some risk of human error in the compilation of such a large body of data.

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 (OGTL) 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 on the CD attached to this report has been compiled using the Export Control Organisation's computer databases. The databases were interrogated during the compilation of the report 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. There are two main reasons for such changes: a licence issued during the period may have been revoked, for example because of the imposition of trade sanctions or an

Footnote: 1. i.e. a: incorporation into military items listed in the military list;
b: use of production, test or analytical equipment and components therefore, for the development, production or maintenance of military list items; or
c: use of any unfinished products in a plant for the production of military list items.

arms embargo; or a decision during the period to refuse a licence might be overturned because the applicant later appealed successfully.

During the period 9062 SIEL applications were processed: 6902 SIELs were issued, 1 was revoked and 127 were refused. In addition, 9 SITLs were issued, none were revoked and none refused. A further 1260 applications (including 2 SITLs) were rated as no licence required (NLR).

A Standard Individual Trade Control Export Licence (SITCL) is specific to a named trader and covers involvement in the trading (commonly referred to as 'trafficking and brokering') 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. On expiry, either by time or because the activity has taken place, the licence ceases to be valid and must be returned to the Export Control Organisation. 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" (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 and technology. During this period 71 SITCLs were issued, none were revoked and 5 were refused. A further 10 applications were rated as no trade licence required (NLR).

OIELs are specific to an individual exporter and cover multiple shipments of specified items to specified destinations and/or, in some cases, specified consignees. OIELs covering the export of items on the Military List are generally valid for two years, while OIELs covering other items are generally valid for three years. However, from November 2004, the ECO has, on a case-by case basis, with the consent of OGDs, been able to issue some OIELs for 5 years, and in certain circumstances, for longer periods. There are no Open Individual Transshipment Licences. During the reporting period 503 OIELs were issued. In addition, 9 applications for OIELs were refused in full and none were revoked. It should be noted that the refusal of an application for an OIEL,

amendment to exclude particular destinations and/or items or the revocation of an OIEL does not prevent a company from applying for SIELs covering some or all of the items concerned to specified consignees in the relevant destinations. 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 Export Licence (OITCL) is specific to a named trader and covers involvement in the trading (commonly referred to as 'trafficking and brokering') 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" a 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 and technology. During the reporting period 19 OITCLs were issued. In addition, 3 applications for OITCLs were refused in full and none were revoked. It should be noted that the refusal of an application for an OITCL, amendment to exclude particular destinations and/or items or the revocation of an OITCL does not prevent a company from applying for SITCLs covering some or all of the items concerned to specified consignees in the relevant destinations. Clearly, however, the factors that led to the original decision would be taken into account in the decision on any such application.

Information is also provided in Annex I on the number of items of equipment in the UN Register of Conventional Arms categories covered by SIELs issued during the period, provided that the contract has come into force.

Table 3.1 Information on OIELS and SIELS issued in 2005

Country	Number of OIELS	Number of SIELS
Afghanistan	2	23
Albania	10	1
Algeria	18	10
American Samoa	2	0
Andorra	5	1
Angola	10	10
Antigua and Bermuda	0	1
Argentina	17	57
Armenia	3	4
Aruba	3	4
Australia	93	115
Austria	50	11
Azerbaijan	12	7
Azores	2	0
Bahamas	5	1
Bahrain	46	26
Bangladesh	19	15
Barbados	5	6
Belarus	8	0
Belgium	69	34
Belize	3	0
Benin	1	0
Bermuda	6	7
Bolivia	7	1
Bosnia-Herzegovina	4	4
Botswana	16	17
Brazil	70	92
Brunei	38	35
Bulgaria	26	23
Burkina Faso	1	0
Burma	2	1
Burundi	1	2
Cambodia	7	4
Cameroon	10	0
Canada	99	114
Canary Islands	2	0
Cape Verde	2	3
Cayman Islands	3	6

Central African Republic	0	1
Chad	1	0
Channel Islands	3	3
Chile	47	25
China	23	271
Columbia	16	9
Congo Democratic Republic of	5	4
Costa Rica	4	0
Croatia	12	12
Cuba	2	0
Cyprus	6	41
Czech Republic	27	48
Denmark	77	23
Dominica	2	0
Dominican Republic	3	2
Ecuador	12	4
Egypt	59	47
El Salvador	3	0
Equatorial Guinea	3	0
Eritrea	2	3
Estonia	15	9
Ethiopia	0	7
Falkland Islands	1	15
Faroe Islands	7	1
Fiji	3	2
Finland	61	39
France	115	227
French Overseas Territory	0	5
Gabon	12	0
Gambia	1	0
Georgia	8	7
Germany	107	211
Ghana	13	4
Gibraltar	11	6
Greece	57	15
Greenland	5	0
Grenada	2	1
Guatemala	5	1
Guinea	2	1
Guyana	0	2
Haiti	1	9

Honduras	5	1
Hong Kong SAR	26	63
Hungary	21	7
Iceland	26	3
India	90	787
Indonesia	16	79
Iran	5	119
Iraq	1	79
Ireland	30	0
Israel	21	129
Italy	110	171
Ivory Coast	12	3
Jamaica	4	10
Japan	52	128
Jordan	28	47
Kazakhstan	13	20
Kenya	22	22
Korea, South	55	243
Kuwait	68	68
Kyrgyzstan	0	1
Laos	4	0
Latvia	12	11
Lebanon	12	6
Lesotho	2	0
Liberia	0	3
Libya	7	17
Liechtenstein	6	1
Lithuania	11	6
Luxembourg	34	3
Macao	6	7
Macedonia	5	2
Madagascar	3	1
Madeira	1	2
Malawi	4	2
Malaysia	87	131
Maldives	1	1
Mali	1	0
Malta	14	28
Mauritania	6	3
Mauritius	9	5

Mexico	38	21
Moldova, Republic	4	0
Monaco	6	1
Mongolia	1	1
Montserrat	0	1
Morocco	21	17
Mozambique	3	0
Namibia	9	5
Nepal	3	4
Netherlands	86	77
Netherlands Antilles	8	1
New Zealand	56	110
Nicaragua	4	0
Niger	1	0
Nigeria	16	26
Norway	74	65
Oman	77	68
Pakistan	34	171
Panama	6	3
Papua New Guinea	6	0
Paraguay	8	1
Peru	19	5
Philippines	28	6
Poland	45	51
Portugal	56	16
Puerto Rico	2	0
Qatar	50	45
Republic of Congo	0	2
Romania	38	59
Russia	28	79
Samoa	2	0
San Marino	2	1
Saudi Arabia	71	73
Senegal	3	1
Serbia and Montenegro	9	16
Seychelles	5	1
Sierra Leone	1	6
Singapore	96	186
Slovakia	18	21
Slovenia	16	4

Solomon Islands	2	0
Somalia	1	3
South Africa	91	197
Spain	86	53
Sri Lanka	15	39
St Helena	0	1
St Lucia	1	2
St Vincent (including Grenadines)	1	1
Sudan	3	37
Surinam	1	1
Swaziland	0	2
Sweden	83	88
Switzerland	58	72
Syria	6	17
Taiwan	22	107
Tajikistan	1	1
Tanzania	10	20
Thailand	43	66
Togo	2	0
Trinidad and Tobago	11	14
Tunisia	20	9
Turkey	82	130
Turkmenistan	5	0
Turks and Caicos Islands	1	0
Uganda	5	10
Ukraine	14	14
United Arab Emirates	209	166
United States of America	144	686
Uruguay	10	6
Uzbekistan	7	0
Vanuatu	1	0
Vatican City	2	0
Venezuela	23	9
Vietnam	16	8
Virgin Islands of the USA	1	0
Yemen	6	2
Zambia	3	1
Zimbabwe	3	1

3.3 INFORMATION ON SIELS, SITLS, OIELS, SITCLs AND OITCLs

The entry for each destination in the CD contains the following information:

For SIELs:

- Total value of all licences in respect of which a SIEL was issued for the export of items to the destination concerned during the period, whether the export concerned was permanent or temporary. The total value will either be rounded up to the nearest £500,000 or 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 authorized and others will not be used at all. In addition, some items are exported only temporarily and later returned to the UK..
- The number of licences issued, refused or revoked, split into Military List, other items and both (covering licences with military and other goods) categories. A (T) at the end of a line indicates Temporary export licenses.

For Incorporation:

Information on goods licensed under SIEL for incorporation and onward export from the destination country is provided in the same format as all other SIELs, and includes the same level of information.

For SITLs:

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

For OIELs:

- The number of licences issued, refused or revoked. A (T) at the end of a line indicates Temporary export licenses.
- 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 covered by the licence. 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 it is therefore not possible to provide information on the total value of the goods.

For OITCLs

- A summary of the items or activities covered by of the licence.
- As OITCLs cover the trading of specific goods between specified overseas sources and overseas destination countries, traders or brokers holding OITCLs 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.

Special OIELs

There are four 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 includes NBC protective items, non-military 4WD civilian vehicles with ballistic protection and specially designed components for any of these goods. The licence permits these goods to be exported to all destinations on a temporary basis only, i.e. the goods must be returned to the United Kingdom when no longer required. During this reporting period, 4 Media OIELs were issued.

Continental Shelf OIELs

Continental Shelf OIELs authorise the export of controlled goods to the UK sector of the Continental Shelf for the use only on, or in connection with, offshore installation and associated vessels. During the period, 3 UK Continental Shelf OIELs were 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 (UK, France, Italy, Sweden, Spain and Germany) where these transfers relate to their participation in specific collaborative defence projects. In relation to the collaborative project, each Partner State will, as appropriate, issue their own GPLs to permit transfers of specified goods and technology where these are required for that programme. The GPLs will operate on a similar basis to UK Open Individual Export Licences, and applications for GPLs will be assessed against the Consolidated Criteria in the UK, and against the EU Code of Conduct in other Framework Partner countries. None were issued in 2005.

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, 8 OIELs were issued, 1 was refused and none were revoked; 1 SIEL was issued, and none were refused or revoked.

3.4 REFUSALS AND REVOCATIONS

Table 3.2 provides information on the main reasons for decisions to refuse and revoke SIELs, SITLs and SITCLs. There were 129 such decisions on SIELs and SITLs in 2005. The main reasons for the refusals in Table 3.2 are set out broadly in line with the Consolidated EU and National Arms Export Licensing Criteria (attached at Annex E). The reasons have also been used to encompass reasons for revocation/ refusal of dual use goods. In a number of cases, the refusals/revocations were made for more than one reason and this accounts for the apparent discrepancy in numbers of refusals as against reasons for refusals. Some licences were refused principally because of the application of national controls or policy commitments (See Annex D).

The information above does not include reasons for decisions to refuse OIELs or OITCLs in full or in part, to amend the coverage of an OIEL to exclude particular destinations and/or goods or to

revoke an OIEL. 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.

A simple comparison of the numbers of licences issued or refused in this period compared to that reported in previous Annual Reports is not necessarily an indicator of changes in Government policy between the periods concerned. Companies are unlikely to apply for licences that they can judge for themselves are likely to be refused when assessed against the published criteria. They 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 there can be many reasons for such variation.

3.5 APPEALS

This section provides information on all appeals against a decision to refuse an application for a SIEL or SITCL, or against a decision to revoke a SIEL or SITCL, where the decision on the appeal was taken in the relevant period. The Government had a target of 30 working days for processing appeals from receipt of all relevant information from the appellant in 2005. The Government has recently published targets for 2006 to process 60% of appeals within 20 working days and 95% within 60 working days.

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. Appeals against refusals will often raise difficult and complex issues. Appeals are considered at a more senior level than the original licence application, and by someone who was not involved in the original decision. Every effort is made to deal with all appeals as expeditiously as possible; however, the time taken can be lengthy due to the need to examine afresh all relevant information.

In total, there were 45 appeals heard in 2005 against the original decision to refuse an application for a SIEL and 2 against the decision to refuse a SITCL. There were no appeals against the revocation of SIELs or SITCLs. The appeals

against the original decisions on 29 applications were refused; the appeals against the original decisions on 16 applications were upheld and licences were issued. One further 1 appeal was withdrawn by the exporter. 1 Appeal was also partially refused.

Table 3.2: Reasons for Refusals and Revocations of SIEL applications

Reason	Number
Criterion 1 – Risk of contributing to proliferation of weapons of mass destruction or ballistic missiles (or contrary to UK international obligations under the non-proliferation Treaties and Conventions and export control regimes)	63
Criterion 1 – UK's commitment to observe UN, EU or OSCE arms embargoes	9
Criterion 1 – Existence of national embargoes or policy commitments	13
Criterion 1 – UK's obligations under the Ottawa Convention and the 1998 Land Mines Act	0
Criterion 2 – Risk of use for internal repression	10
Criterion 3 – Risk of contributing to internal tensions or conflict in the recipient country	1
Criterion 4 – Preservation of regional stability	17
Criterion 5 – National security of the UK, of allies, EU Member States and other friendly countries	3
Criterion 6 – Behaviour of the buyer country with regard to the international community	0
Criterion 7 – Risk of diversion or re-export to undesirable end-users	13
Criterion 8 – Compatibility of the arms exports with the technical and economic capacity of the recipient country	0
Total	129

3.6 OPEN GENERAL LICENCES

Open General 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 the shipment and destinations are eligible and the conditions are met. Exporters must register with the Export Control Organisation before they make use of most OGELs. There is 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 at Table 3.3.

Note: Council Regulation (EC) No.1334/2000 on the export of dual- use items and technology entered into force on 28 September 2000. Annex II of the Regulation introduced a new Community General Export Authorisation (CGEA). The Regulation was subsequently amended by Council Regulation (EC) No. 149/2004, (the "Amending Regulation") which entered into force on 7th March 2004. The Amending Regulation made changes to Annex I, II and IV of the Regulation that automatically changed the scope of the CGEA. (The CGEA is the Community equivalent of an UK OGEL and is directly applicable in all EU Member States).

3.3 OPEN GENERAL EXPORT LICENCES

Name	Made	Into Force	Revoked
1. Military Goods: Government or NATO End-Use	27.05.04 24.01.05	01.06.04 31.01.05	31.01.05
2. Military Components	01.05.04 24.01.05	01.05.04 31.01.05	31.01.05
3. Technology for Military Goods	27.05.04 24.01.05 28.09.05	01.06.04 31.01.05 03.10.05	31.01.05 03.10.05
4. Export After Repair/replacement under warranty: Military Goods	01.05.04 24.01.05 28.09.05	01.05.04 31.01.05 03.10.05	31.01.05 03.10.05
5. Export After Exhibition: Military Goods	01.05.04 24.01.05 14.12.05	01.05.04 31.01.05 16.12.05	31.01.05 16.12.05
6. Export for Exhibition: Military Goods	01.05.04	01.05.04	
7. Military Surplus Vehicles	01.05.04 24.01.05 28.09.05	01.05.04 31.01.05 03.10.05	31.01.05 03.10.05
8. Export For Repair/Replacement Under Warranty: Military Goods	01.05.04 24.01.05 01.12.05	01.05.04 31.01.05 02.12.05	31.01.05 02.12.05
9. Historic Military Goods:	01.05.04 01.12.05	01.05.04 02.12.05	02.12.05
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 to Governments	01.05.04 24.01.05 23.05.05 01.12.05	01.05.04 31.01.05 31.05.05 02.12.05	31.01.05 31.05.05 02.12.05
13. Exports in support of UK Government Defence contracts	01.05.04 24.01.05 14.12.05	01.05.04 31.01.05 16.12.05	31.01.05 16.12.05
14. Access overseas to Technology for Military Goods: Individual Use Only	01.05.04 24.01.05 01.12.05	01.05.04 31.01.05 02.12.05	31.01.05 02.12.05
15. Military Goods: UK Forces Deployed in non-embargoed destinations	18.10.04 24.01.05 01.12.05	20.10.04 31.01.05 02.12.05	31.01.05 02.12.05
16. Military Goods: UK Forces Deployed in embargoed destinations	18.10.04	20.10.04	
17. Turkey	01.05.04	01.05.04	
18. Computers	01.05.04	01.05.04	
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	01.05.04	
22. Low Value Shipments	01.05.04	01.05.04	
23. X (covering specified dual-use items)	01.05.04	01.05.04	
24. Chemicals	01.05.04	01.05.04	
25. Export For Repair/Replacement under Warranty: Dual-Use Items	01.05.04	01.05.04	
26. Cryptographic Development	01.05.04	01.05.04	
27. Dual-Use Items: Hong Kong Special Administrative Region (HKSAR)	01.05.04 07.03.05	01.05.04 11.03.05	11.03.05
28. Oil and Gas Exploration: Dual-Use Items	28.09.05	30.09.05	
29. OGTL (Dual-Use Goods: HKSAR)	01.05.04	01.05.04	
30. Open General Transshipment Licence	01.05.04 24.01.05 28.09.05	01.05.04 31.01.05 03.10.05	31.01.05 03.10.05
31. Open General Transshipment Licence (Sporting Guns)	01.05.04 24.01.05 28.09.05	01.05.04 31.01.05 03.10.05	31.01.05 03.10.05
32. Open General Transshipment Licence (Postal Packets)	01.05.04	01.05.04	
33. Open General Trade Control Licence	01.05.04 01.12.05	01.05.04 02.12.05	02.12.05

3.7 PERFORMANCE IN PROCESSING LICENCE APPLICATIONS

The Export Control Organisation sets out the Government's commitments to exporters in a Service and Performance Code. The performance target is to provide a response on 70% of applications for SIELs within 20 working days, and 95% within 60 working days. During the period, 73% of all SIEL applications that were circulated to other Government Departments were processed within 20 working days, and 97% within 60 working days. The targets apply as soon as the applicant has supplied full documentation necessary to support their application.

The performance target for SITCLs is to provide a response within 20 working days, and 67% of all SITCL applications were dealt with within this target in 2005.

For OIELs the performance target is 95% of cases within 60 working days. They also do not apply to OITCLs because of the wide variation in goods or activities, sources and destinations covered by such licences. They also do not apply to applications for licences to export goods that are subject to control solely because of United Nations Sanctions.

Rating requests

The Export Control Organisation 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 2005, 4036 such requests were dealt with and 96% of these were dealt with within the Government combined target of 20 working days for cases circulated to advisors, and 10 working days for non-circulated cases.

Licensing performance

Table 3.4 gives a breakdown of the performance in the period of Government against the two main published SIELs targets (70% in 20 working days and 95% in 60 working days).

Appeals performance

The target for processing appeals against a decision to refuse an application for a SIEL is 30 working days from receipt of all the relevant information from the appellant. The target does not apply to appeals concerning goods that are controlled solely because of UN Sanctions. Of the 46 appeals decided in 2005, none fell into this category (there were no appeals on SITCLs). Exporters withdrew one of the remaining appeals. Of the remaining 45 appeals heard in 2005, 65% achieved the 30 working day target. DTI has been working with other Government Departments on adjustments to the appeals procedure, and as a consequence there has been an improvement in performance against the appeals target. 58% of appeals were processed within 20 working days (against the unpublished target of 60%) and 83% processed within 60 working days (against an unpublished target of 95%).

Table 3.4 Performance of HM Government



Section 4

STATISTICS ON EXPORTS OF MILITARY EQUIPMENT DURING 2005

4.1 Introduction

This section of the Report provides an overview of the physical export of defence equipment from the United Kingdom in 2005. The information on physical exports relates to deliveries of equipment in the period 1 January to 31 December 2005 and has been obtained from three sources: HM Revenue and Customs data (Tables 4.3 and 4.4), information provided for the UK contribution to the UN Register of Conventional Arms (Annex I) information on Government to Government exports (Table 4.2). Information on items gifted during financial year 2005/06 is also included and appears at Table 4.5.

Policy on the disposal of small arms declared surplus by the Ministry of Defence is to restrict transfers to those which meet the legitimate defence and security needs of overseas Governments. In the absence of approved transfers in line with this policy, surplus small arms are routinely destroyed. Information on small arms destroyed by the Ministry of Defence in 2005, in conformity with the UN programme of Action on Small Arms and Light Weapons, is shown at (Table 4.1).

4.2 HM Revenue & Customs

The HM Revenue & Customs (HMRC) system for calculating UK trade data provides information on the value of military goods, and the numbers of certain weapons (generally small arms and light weapons), which have been identified as being exported from the UK during the reporting period. Information on exports to European Community (EC) partners is collected through the HMRC Intrastat system and, for trade outside the EC, from customs declarations submitted by exporters. In both cases the identification of exports is based on the classification of goods in EC Tariff codes, which do not match the classification of goods subject to strategic export controls. As a result, the information in Tables 4.3 and 4.4 provides an indicator of the level of trade with individual countries identified under EC Codes rather than a record of all exports of licensable goods during the period. However, the Government continues to explore opportunities to extend the data available on defence exports.

4.3 Government to Government transfers of equipment

Equipment sold Government to Government is listed at Table 4.2. Where the transfer of ownership of surplus goods sold to overseas governments takes place in the UK, the purchasing government is required to obtain a UK export licence before collection, and those licences will appear in the data on the CD. Disposal sales are also made through UK contractors who, where they sell to overseas customers, are required to apply for export licences in the normal way. Licences for the export of those goods are included in the CD. The Disposals Services Agency of the Ministry of Defence also enters into Government supply agreements covering the sale of surplus defence equipment.

There are a small number of Government-to-Government supply agreements. Goods supplied under these arrangements are exported under licence. The UK's main Government-to-Government supply agreement is the Saudi Arabian Armed Forces Project. This has provided for the supply of Tornado, Hawk and PC9 aircraft and Minehunters with their associated weapons, in-service support and facilities. The project predominantly provided for ongoing support for equipment already in service during 2005.

There is also a Government-to-Government supply agreement in place with Kuwait. This currently includes the supply of spares and maintenance for Warrior vehicles and Hawk aircraft, and the Kuwait Naval School Management Programme.

Government-to-Government transfers also include items given as gifts. As the Export Control Act 2002 does not bind the Crown, no licence is generally required for Government-to-Government transfers by gifting. Items gifted in financial year 05/06 are listed in Table 4.5.

Table 4.1 Small arms destroyed by MOD in 2005.

Mortar Drill	1
Mortar	207
Ordnance	12
Launcher	1
Light anti-tank weapon	631
Machine Gun	140
Riot Gun	9
Sub Machine Gun	30
Shotgun	10
Rifle	3,598
Rifle Drill	1
Pistol	3,209
Trigger mechanism housing	410
Injector	15
Kit	1
Cannon	1
Rocket propelled grenade launcher	4
TOTAL	8280

Table 4.2: Government to Government transfers of equipment between 1 January and 31 December 2005

Country	Type of Equipment	Quantity*
Jordan	Spares for Challenger 1 Main Battle Tanks	–
	Spares for Scammell Tank Transporters	–
Kuwait	Components for armoured fighting vehicles	–
	Components for military aircraft	–
	Components for missiles	–
Saudi Arabia	Components and spares for aircraft and their engines	–
	Components for naval vessels and their systems	–
	Components for ground based radar systems	–
	Components for munitions	–
Spain	Spares for light gun	–

*Quantities are not given for components/spares

Table 4.3: Statistics on exports of weapons and small arms between 1 January 2005 and 31 December 2005

Country of destination	Number of items
AFGHANISTAN	3
ARUBA	10
BRAZIL	20
BRUNEI	101
BULGARIA	23
CANADA	249
CHILE	15
ECUADOR	3
HAITI	40
IRAQ	172
IRISH REPUBLIC	6
ISRAEL	1
JAPAN	137
JORDAN	95
KENYA	2
MALAYSIA	33
NEW ZEALAND	232
NORWAY	1
OMAN	615
PAKISTAN	19
ROMANIA	20
SAN MARINO	37
SINGAPORE	5
SOUTH AFRICA	745
SOUTH KOREA	39
SRI LANKA	41
SWAZILAND	2
SWITZERLAND	16
TAIWAN	3
TANZANIA	1
THAILAND	1
TRINIDAD:TOBAGO	101
UAE	205
USA	1,025
Total:	4,018

Source: HM Revenue and Custom, Overseas Trade Statistics

Table 4.4: Value of Exports of Military Equipment between 1 January 2005 and 31 December 2005

Country of destination	Stat.Value (£)	Stat.Value (£m)
AFGHANISTAN	120,581	0.12
ALGERIA	4,500	0.00
ANTIGUA: BARBUDA	1,423	0.00
ARGENTINA	605	0.00
ARUBA	8,465	0.01
AUSTRALIA	27,133,941	27.13
AUSTRIA	452,653	0.45
BAHRAIN	25,384	0.03
BARBADOS	20,237	0.02
BELGIUM	16,143,570	16.14
BERMUDA	5,565	0.01
BOTSWANA	2,275,463	2.28
BRAZIL	4,630,858	4.63
BRUNEI	1,077,693	1.08
BULGARIA	196,734	0.20
CANADA	38,216,441	38.22
CHILE	144,223	0.14
CHINA	3,133	0.00
CHRISTMAS IS	3,833	0.00
CURACAO	22,075	0.02
CYPRUS	5,661	0.01
CZECH REPUBLIC	333,483	0.33
DENMARK	7,929,844	7.93
ECUADOR	1,500	0.00
EGYPT	6,332,964	6.33
EL SALVADOR	21,012	0.02
FINLAND	8,653,791	8.65
FRANCE	89,099,037	89.10
GABON	3,313	0.00
GERMANY	50,692,069	50.69
GREECE	16,597	0.02
GUAM	14,048	0.01
GUYANA	23,824	0.02
HAITI	14,859	0.01
HONG KONG	298,830	0.30
HUNGARY	261	0.00
ICELAND	3,591	0.00
INDIA	69,455,788	69.46

INDONESIA	1,198,368	1.20
IRAN	6,500	0.01
IRAQ	1,665,553	1.67
IRISH REPUBLIC	1,107,595	1.11
ISRAEL	582,071	0.58
ITALY	87,529,409	87.53
JAMAICA	2,900	0.00
JAPAN	21,835,946	21.84
JORDAN	4,365,320	4.37
KENYA	573,180	0.57
KUWAIT	940,203	0.94
KYRKYZ REPUBLIC	2,586	0.00
LEBANON	795	0.00
LITHUANIA	7,780	0.01
LUXEMBOURG	7,990,259	7.99
MALAYSIA	157,004,351	157.00
MALTA	28,352	0.03
MARSHALL ISLANDS	9,745	0.01
MOROCCO	9,657	0.01
NEPAL	6,834	0.01
NETHERLANDS	13,644,408	13.64
NEW ZEALAND	1,906,588	1.91
NIGERIA	530,600	0.53
NORWAY	15,850,509	15.85
OMAN	141,034,887	141.03
PAKISTAN	12,682,076	12.68
PHILIPPINES	884	0.00
POLAND	71,274	0.07
PORTUGAL	4,514,143	4.51
QATAR	5,405,746	5.41
ROMANIA	58,005,931	58.01
RUSSIA	1,441,879	1.44
SAN MARINO	7,898	0.01
SAUDI ARABIA	42,303,878	42.30
SENEGAL	21,012	0.02
SIERRA LEONE	171,750	0.17
SINGAPORE	7,312,781	7.31
SLOVENIA	7,353	0.01
SOUTH AFRICA	25,657,629	25.66
SOUTH KOREA	13,184,299	13.18
SPAIN	8,567,733	8.57
SRI LANKA	393,150	0.39
SWAZILAND	1,790	0.00
SWEDEN	9,491,132	9.49

SWITZERLAND	47,946,152	47.95
SYRIA	2,892	0.00
TAIWAN	224,855	0.22
TANZANIA	1,695	0.00
THAILAND	3,659,361	3.66
TOKELAU ISLANDS	47,459	0.05
TRINIDAD:TOBAGO	115,332	0.12

TUNISIA	3,936	0.00
TURKEY	55,141,675	55.14
UAE	3,825,143	3.83
US MINOR ISLANDS	2,075	0.00
USA	308,884,601	308.88
Total:	1,390,319,759	

Source: HM Revenue and Custom, Overseas Trade Statistics

Table 4.5: Items of military equipment gifted by the Government during financial year 2005/2006

Geographical Strategy	Recipient	Total Cost (£)	Description (end use)
THE GLOBAL POOL			
Afghanistan (including Counter Narcotics)	None	Nil	N/A
Balkans	None	Nil	N/A
Caribbean	Jamaica Constabulary Force	£19,000	1. Surveillance equipment
	Guyana Police Force	£18,000	2. Riot shields and helmets
	Guyana Defence Force	£3,000	3. Riot shields and helmets (freight costs only)
		Total £40,000	
Belize & Guatemala	Belize Defence Force	£150,000	Non lethal military equipment including vehicles, aircraft engine parts, radios, mess equipment
Central & Eastern Europe	None	Nil	N/A
India/Pakistan	None	Nil	N/A
Indonesia/E. Timor	None	Nil	N/A
Iraq	Iraqi Security Forces	£2.5 Million	GCPP contribution to Project Osiris, to support the Iraqi Security Forces, including: 3,200 AK47's 2 million rounds of 7.62x39mm ammunition 4,200 sets of body armour 2,500 helmets 1000 sets of public order equipment including riot shields, protective clothing and batons. Police Mentoring contract: 8 MP5 machine pistols
Latin America	None	Nil	N/A

Geographical Strategy	Recipient	Total Cost (£)	Description (end use)
Nepal	Government of Nepal	£400,986.85	Explosive ordnance disposal equipment – 1 Revolution wheelbarrow and related items, eg lights, disrupters, batteries, bomb suits.
	Royal Nepalese Army	£150,000	Explosive Ordnance Disposal 1. 2 x Wheelbarrow (Miniature Remotely Operated Vehicles)
		£500	2. 1 x Radio Freq
		£50,000	3. 2 x Mini Cyclops (Miniature Remotely Operated Vehicles)
		£97,459	4. Cartridges Power Device and Accessories
		£17, 583.52	5. Shipping
Total:	£315, 542.52		
Russia & Commonwealth of Independent States	None	Nil	N/A
Sri Lanka	None	Nil	N/A
Security Sector Reform	None	Nil	N/A
Small Arms, Light Weapons	None	Nil	N/A
United Nations	None	Nil	N/A

Geographical Strategy	Recipient	Total Cost (£)	Description (end use)
THE AFRICA POOL			
African Union	African Union	£10,303,073	<p>Civilian vehicles and communications equipment for the African Union peacekeeping mission in Darfur (AMIS)</p> <p><u>Vehicle types:</u> Toyota Landcruiser Hardtop, Toyota Landcruiser Station Wagon, Toyota Hilux Double Cab, Toyota Hilux Single Cab, Toyota Dyna Truck.</p> <p><u>Communications equipment:</u> Thuraya telephones, VHF vehicle radios, HF vehicle radios, Handheld VHF radios, VHF base station radios, VHF repeater towers, VSAT.</p>
	African Union Mission in Sudan (AMIS)	£737,700	Diesel fuel for AMIS sites throughout Darfur and for diesel powered vehicles including APC's. 4WD utility vehicles and trucks
	(African Union Mission in Sudan (AMIS)	£10.7million	<p>Toyota Landcruiser hardtops, Toyota Landcruiser pickups, Toyota Hilux double cabs, Toyota Landcruiser station wagons, Toyota Hiace minibus, Toyota Coaster coach, Kamaz 5T 4WD trucks, Kamaz 5T 4WD diesel bowzers, Kamaz 5T 4WD Jet A1 bowzers, Kamaz 10T 6WD trucks, Kamaz 10T 6WD recovery trucks. Total number supplied 462.</p> <p>10 Rapid Deployment Kits.</p>
West Africa	Republic of Sierra Leone Armed Forces	Part of the £1.41million technical assistance package noted in Oct 04-March 05 return.	1 x Mercedes Atego water bowser (Note, this vehicle purchase relates to the previous purchase of Mercedes Atego TCV's which took place over the Oct 04-March 05 and April 05-Oct 05 Quarters).
	Republic of the Sierra Leone Armed Forces	£95k	A low loader and dozer were procured to support the DFID sponsored 'Op PEBU' build of accommodation for the Sierra Leone Armed Forces.

Annex A

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.

General Technology Note

1. Subject to paragraph 2 below, the export or transfer of "technology" in this Schedule is prohibited by Articles 3 and 6 of this Order if it is capable of being "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".
2. The prohibitions in Articles 3 and 6 do not apply to that "technology" 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.

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 subclasses 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 nonmilitary components;

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

"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 any chemical not listed in a schedule, which can produce rapidly in humans, sensory irritation or disabling physical effects which disappear within a short time following termination of exposure;

"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.

"tear gases" means gases which produce temporary irritating or disabling effects which disappear within minutes of removal of exposure;

"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 1

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 therefore:

- 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)^a 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.*

a S.I. 1969/47 as amended by S.I. 1993/1440.

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 therefore:

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

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

- 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 therefore.

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

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

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 therefore:

- 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:

NB.: Electronic guidance and navigation equipment is controlled in ML11.

- a. Ground "vehicles" and components therefore, 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.

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, "tear gases", radioactive materials, related equipment, components, materials and "technology", 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, and chemical warfare (CW) agents;

Note: ML7.a. includes, but is 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-Isopropyl methylphosphonofluoridate (CAS 107-44-8); and Soman (GD): O-Pinacolyl methylphosphonofluoridate (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-dimethylphosphoramidocyanidate (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 salt, such as:
 VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate (CAS 50782-69-9);
2. CW vesicant agents:
- a. Sulphur mustards, such as:
- 2-Chloroethylchloromethylsulphide (CAS 2625-76-5);
 - Bis(2-chloroethyl) sulphide (CAS 505-60-2);
 - Bis(2-chloroethylthio) methane (CAS 63869-13-6);
 - 1,2-Bis (2-chloroethylthio) ethane (CAS 3563-36-8);
 - 1,3-Bis (2-chloroethylthio)-n-propane (CAS 63905-10-2);
 - 1,4-Bis (2-chloroethylthio)-n-butane (CAS 142868-93-7);
 - 1,5-Bis (2-chloroethylthio)-n-pentane (CAS 142868-94-8);
 - Bis (2-chloroethylthiomethyl) ether (CAS 63918-90-1);
 - Bis (2-chloroethylthioethyl) ether (CAS 63918-89-8);
- b. Lewisites, such as:
- 2-chlorovinyl dichloroarsine (CAS 541-25-3);
 - Tris (2-chlorovinyl) arsine (CAS 40334-70-1);
 - Bis (2-chlorovinyl) chloroarsine (CAS 40334-69-8);
- c. Nitrogen mustards, such as:
- HN1: Bis (2-chloroethyl) ethylamine (CAS 538-07-8);
 - HN2: Bis (2-chloroethyl) methylamine (CAS 51-75-2);
 - HN3: Tris (2-chloroethyl) amine (CAS 555-77-1);
3. CW incapacitating agents, such as:
- 3-Quinuclidinyl benzilate (BZ) (CAS 6581-06-2);
4. CW defoliants, such as:
- Butyl 2-chloro -4-fluorophenoxyacetate (LNF);
 - 2,4,5-trichlorophenoxyacetic acid mixed with
 - 2,4-dichlorophenoxyacetic acid (Agent Orange).
- b. 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) Phosponyl Difluorides, such as:
 DF: Methyl Phosponyldifluoride (CAS 676-99-3);
 2. OAlkyl (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. hlorosarin: O-Isopropyl methylphosphonochloridate (CAS 1445-76-7);
 4. hlorosoman: O-Pinacolyl methylphosphonochloridate (CAS 7040-57-5);
- c. "Tear gases" and "riot control agents" including, but not limited to:
1. Bromobenzyl cyanide (CA) (CAS 5798-79-8);
 2. o-Chlorobenzylidenemalononitrile (o-Chlorobenzalmalononitrile) (CS) (CAS 2698-41-1);
 3. Phenylacetyl chloride (a-chloroacetophenone) (CN) (CAS 532-27-4);

4. Dibenz-(b,f)-1,4-oxazepine (CR) (CAS 257-07-8);

Note: ML7.c. does not control "tear gases" or "riot control agents" individually packaged for personal self-defence purposes.

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

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. and specially designed components therefore;
 - 3. Chemical mixtures specially developed or formulated for the decontamination of "goods" contaminated with materials in ML7.a.;
- f. "Goods" specially designed or modified for military use, for the detection or identification of materials in ML7.a. or ML7.c. and specially designed components therefore;

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

- g. "Biopolymers" specially designed or processed for the detection or identification of CW agents in ML7.a., and the cultures of specific cells used to produce them;
- h. "Biocatalysts" for the decontamination or degradation of CW agents, and biological systems therefore, as follows:
 - 1. "Biocatalysts" specially designed for the decontamination or degradation of CW agents in ML7.a. 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.h.1.;
- i. "Technology" as follows:
 - 1. "Technology" for the "development", "production" or "use" of toxicological agents, related equipment or components in ML7.a. to ML7.f.;
 - 2. "Technology" for the "development", "production" or "use" of biopolymers" or cultures of specific cells in ML7.g.;
 - 3. "Technology" exclusively for the incorporation of "biocatalysts", in ML7.h.1., into military carrier substances or military materiel.

Note 1: ML7.a. and ML7.c. 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. Ethyl bromoacetate (CAS 105-36-2);
- 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".

Note 2: The "technology", cultures of cells and biological systems listed in ML7.g., ML7.h.2. and ML7.i.3. are exclusive and do not include "technology", 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); clathrates 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 ϕ -diamino-2,2 ϕ ,4,4 ϕ ,6,6 ϕ -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:
 - a. NTAT (nitrotriazol aminotetrazole);
 - b. 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:
 - a. DNAM (2-oxy -4,6-dinitroamino-s-triazine) (CAS 19899-80-0);
 - b. NNHT (2-nitroimino-5-nitro-hexahydro-1,3,5-triazine) (CAS 130400-13-4);
 32. Triazoles, as follows:
 - a. 5-azido-2-nitrotriazole;
 - b. ADHTDN (4-amino-3,5-dihydrazino-1,2,4-triazole dinitramide) (CAS 1614-08-0);
 - c. ADNT (1-amino-3,5-dinitro-1,2,4-triazole);
 - d. BDNTA ([bis -dinitrotriazole]amine);
 - e. DBT (3,3'-dinitro-5,5-bi-1,2,4-triazole) (CAS 30003-46-4);
 - f. DNBT (dinitrobistriazole) (CAS 70890-46-9);
 - g. NTDNA (2-nitrotriazole-5-dinitramide) (CAS 75393-84-9);
 - h. NTDNT (1-N-(2-nitrotriazolo)-3,5-dinitrotriazole);
 - i. PDNT (1-picryl-3,5-dinitrotriazole);
 - j. 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 ML8a. 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:
1. 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;
 2. 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;
 3. "Propellants" having a force constant of more than 1,200 kJ/kg;
 4. "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);
 5. Elastomer modified cast double base (EMCDB) "propellants" with extensibility at maximum stress of more than 5% at 233 K (-40°C);
 6. Any "propellant" containing substances listed in ML8.a.;
- c. "Pyrotechnics", fuels and related substances, as follows, and 'mixtures' thereof:
1. Aircraft fuels specially formulated for military purposes;
Note: Aircraft fuels in ML8.c.1. are finished "goods", not their constituents.
 2. Alane (aluminium hydride) (CAS 7784-21-6);
 3. Carboranes; decaborane (CAS 17702-41-9); pentaboranes (CAS 19624-22-7 and 18433-84-6) and their derivatives;

4. Hydrazine and derivatives, as follows (see also ML8.d.8. and ML8.d.9. for oxidising hydrazine derivatives):
 - a. 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.
 - b. Monomethyl hydrazine (CAS 60-34-4);
 - c. Symmetrical dimethyl hydrazine (CAS 540-73-8);
 - d. Unsymmetrical dimethyl hydrazine (CAS 57-14-7);
 5. 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.
 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: ML8.d.3. does not control chlorine trifluoride.

N.B.: See also 1C of Annex I to "the Regulation".
 4. DNAD (1,3-dinitro-1,3-diazetidine) (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 (bisazidomethyloxetane 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. FAMAO (3-difluoroaminomethyl-3-azidomethyl oxetane) and its polymers;
 8. FEFO (bis -(2-fluoro-2,2-dinitroethyl) formal) (CAS 17003-79-1);
 9. FPF-1 (poly-2,2,3,3,4,4-hexafluoropentane-1,5-diol formal) (CAS 376-90-9);
 10. FPF-3 (poly-2,4,4,5,5,6,6-heptafluoro-2-tri-fluoromethyl-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. Butacene (CAS 125856-62-4);
 - b. Catocene (2,2-bis -ethylferrocenyl propane) (CAS 37206-42-1);
 - c. Ferrocene carboxylic acids;
 - d. n-butyl-ferrocene (CAS 319904-29-7);
 - e. Other adducted polymer ferrocene derivatives;
 5. Lead beta-resorcyate (CAS 20936-32-7);
 6. Lead citrate (CAS 14450-60-3);
 7. Lead-copper chelates of beta-resorcyate 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[dioctyl]phosphato-titanate (CAS 103850-22-2); also known as titanium IV, 2,2-[bis 2-propenolatomethyl, butanolato, tris (dioctyl) phosphato] (CAS 110438-25-0); or LICA 12 (CAS 103850-22-2);
 - b. Titanium IV, [(2-propenolato-1) methyl, n-propanolatomethyl] butanolato-1, tris[dioctyl] pyrophosphate or KR3538;
 - c. Titanium IV, [(2-propenolato-1) methyl, n-propanolatomethyl] butanolato-1, tris(dioctyl) 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. Dinitroazetidide-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 therefore, specially designed or modified for military use:

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

- a. Combatant "vessels" and "vessels" (surface or underwater) specially designed or modified for offensive or defensive action, whether or not converted to nonmilitary 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", unmanned airborne vehicles, aero-engines, "aircraft" equipment and related "goods", as follows, and components therefore, specially designed or modified for military use:

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

- a. Combat "aircraft";
- b. Other "aircraft" (e.g., military reconnaissance, assault, military training, transporting and airdropping troops or military equipment, logistics support);
- c. Unmanned airborne vehicles (UAV) (e.g., remotely piloted air vehicles (RPV)), and autonomous programmable vehicles (APV) and their launchers, ground support 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:
 - 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 attitude 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, specially designed or modified for military use and specially designed components therefore.

Note: ML11 controls all electronic guidance and navigation equipment.

ML12 High velocity kinetic energy weapon (KEW) systems and related equipment, as follows, and specially designed components therefore:

- 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 therefore, 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 therefore:

- 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.*

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.

- 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 therefore 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 therefore.

ML15 Imaging or countermeasure equipment, as follows, specially designed for military use, and specially designed components and accessories therefore:

- 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 therefore:

- 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 therefore, 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.

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 therefore;
- b. Specially designed environmental test facilities and specially designed equipment therefore, 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 therefore:

- 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 therefore:

- 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.f., 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 therefore;
- b. Anti-riot and ballistic shields and specially designed components therefore;
- c. Restraints specially designed for restraining human beings, as follows:
 - 1. Leg-irons;
 - 2. Gang-chains;
 - 3. Electric-shock belts;
 - 4. Shackles having a maximum locked dimension exceeding 240 mm overall (i.e. including cuffs and connecting chain);
 - 5. Individual cuffs having an internal perimeter dimension exceeding 165 mm when the ratchet is engaged at the last notch entering the locking mechanism and shackles made therewith;
- d. Portable anti-riot devices for administering an incapacitating substance, and specially designed components therefore;
- e. Water cannon and specially designed components therefore;
- f. Riot control vehicles which have been specially designed or modified to be electrified to repel boarders and components therefore specially designed or modified for that purpose;
- g. Portable devices designed or modified for the purpose 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 (tasers)) and components therefore specially designed or modified for such a purpose.

ML22 "Technology" as follows:

- a. "Technology" according to the General Technology Note for the "development", "production" or "use" of "goods" or "software" in this Part of this Schedule, other than "technology" specified in ML7 or ML19.e.;
- b. "Technology" specific to the design of, the assembly of components into, and the operation, maintenance and repair of complete production installations for "goods" in this Part of this Schedule, even if the components of such production installations are not controlled.

Annex B

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, "Micro-organisms" & "Toxins"	1A : Systems, Equipment and Components 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 C

Summary of HM 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	Artillery weapons (for example, guns howitzers and mortars): self propelled
93011900	Artillery weapons (for example, guns howitzers and mortars): other
93012000	Rocket launchers; flame-throwers; grenade launchers; torpedo tubes and similar projectors
93019000	Military weapons, other than revolvers, pistols and the arms of heading 9307: other etc
93020000 ²	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
88021190	Helicopters: of an unladen weight not exceeding 2000kg: other
88021290	Helicopters: of an unladen weight exceeding 2000kg: other
88022090	Aeroplanes and other aircraft, of an unladen weight not exceeding 2000kg: other
88023090	Aeroplanes and other aircraft, of an unladen weight exceeding 2000kg but not exceeding 15000kg: other
88024090	Aeroplanes and other aircraft, of an unladen weight exceeding 15000kg: other
88031090 ³	Propellers and rotors and parts thereof: other
88032090 ³	Under-carriages and parts thereof: other
88033090 ³	Other parts of aeroplanes or helicopters: other
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
88052990	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 [munitions and ammunition] for military purposes
93070000	Swords, cutlasses, bayonets, lances and similar arms and parts thereof and scabbards and sheaths therefore.

¹ Descriptions taken from Intrastat Classification Nomenclature.

² Information available for non-EU destinations only.

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.

Annex D

The United Kingdom's International Commitments on Export Controls 2005

We have summarised in the following tables the arms embargoes and other defence export restrictions in place for all or part of the reporting period, to enable readers better to cross reference licensing decisions against export restrictions in force at the time the licensing decisions were made.

Except where otherwise stated, the UK interprets the scope of UN (United Nations), EU (European Union), OSCE (Organisation for Security and Co-operation in Europe) and national arms embargoes as covering all goods and technology on the Military List (see Annex A).

The up to date version of the List of Sanctions Regimes and Arms Embargoes implemented by the UK to which is annexed the Summary of Additional UK Restrictions on the Export of Strategic Goods is available on the Internet at www.fco.gov.uk/sanctions

Table A: Arms embargoes in force during 2005

Country	Details of Embargo	Dates in Force	Reference
Armenia	OSCE arms embargo	Throughout 2005	OSCE decision (28/2/1992)
Azerbaijan	OSCE arms embargo	Throughout 2005	OSCE decision (28/2/1992)
Bosnia & Herzegovina	EU arms embargo (1) (Transfers of small arms to the police forces in Bosnia & Herzegovina not covered by the embargo.) Council Decision 99/481/CFSP (19/7/1999)	Throughout 2005 This embargo was lifted on 23 January 2006 by 2006/9/CFSP.	EU Declaration (5/7/1991); Common Position 96/184/CFSP (26/2/1996); Common Position 98/240/CFSP (19/3/98); Council Decision 99/481/CFSP (19/7/1999)
Burma	EU arms embargo. Ban on the supply of equipment that might be used for internal repression or terrorism.	Throughout 2005	EU Common Position 2004/423/CFSP (26/04/2004) amended by Common Position 2004/730/CFSP (25/10/2004), Common Position 2005/149/CFSP (21/02/05), Common Position 2005/340/CFSP (25/04/2005) EC Regulation No. 798/2004 (26/04/2004) amended by EC Regulation No 1517/2004 (25/08/2004) Council Regulation No 1853/2004 (25/10/2004) Commission Regulation (EC) No 300/2005, Commission Regulation (EC) No 667/2005 and Commission Regulation (EC) No 1263/2005
Burundi	See Rwanda entry in Table A.		

Country	Details of Embargo	Dates in Force	Reference
China (Excluding Hong Kong and Macau Special Administrative Region)	UK interprets this embargo as covering: – Lethal weapons such as machine guns, large calibre weapons, bombs, torpedoes, rockets and missiles; – Specially designed components of the above and ammunition; – Military aircraft and helicopters, vessels of war, armoured fighting vehicles and other such weapons platforms; – Any equipment which might be used for internal repression.)	Throughout 2005	Declaration by Madrid European Council (27/6/1989)
Democratic Republic of Congo	EU arms embargo (with specified exemptions from 29 September 2003) (Also see Rwandan entry) UN arms embargo on North Kivu, South Kivu and Ituri (with specified exemptions) UN arms embargo on all of DRC	Throughout 2005 From 1 Jan 2005 to 17 April 2005 From 18 April 2005 to 31 December 2005	EU Declaration (7/4/1993); Common Position 2003/680/CFSP (29/9/2003); Common Position 2005/440/CFSP (13/06/2005) UNSCR 1493 (28/7/2003) UNSCR 1533 (12/03/04) UNSCR 1552 (27/07/04) UNSCR 1596 (18/04/05) UNSCR 1616 (29/07/05)
Iran	UK arms embargo – covers all goods and technology on the Military List as well as items entered in category O in Annex 1 of the European Decision 94/942/CFSP on the export of dual-use goods. This was replaced by EC Regulation 1334 on 28 September 2000.	Throughout 2005	Ministerial Statement (1/3/1993); Official report, column 273-274 (28/1/1998)

Country	Details of Embargo	Dates in Force	Reference
Iran (continued)	<p>The embargo now covers items entered in category O (Nuclear List) in Annex 1 of that regulation.</p> <p>Exceptions:</p> <p>a) Goods essential for the safety of civil aircraft and air traffic control systems;</p> <p>b) Radioactive material in the form of sources for medical equipment and deuterium labelled compounds for medical use.</p> <p>Licences are not approved for any equipment where there is knowledge or reason to suspect that it would go to a military end-user or be used for military purposes. The exception is equipment which would normally require an export licence but is deemed licensable under the WMD end-use control (Articles 4.1 and 4.2 of the EC Dual Use Goods Regulation and Articles 4(2)(b)(i)(ii)(iii) and (c) and (d) (ii)(bb) of the Dual Use and Related Goods (Export Control) Regulations 1996 as amended) (3) and where WMD concerns are not subsequently substantiated.</p>		
Iraq	<p>UN arms embargo amended by further UN Resolution with specified exemptions for arms and related material required by the Government of Iraq or the multinational force to serve the purpose of the resolution.</p>	Throughout 2005	<p>UNSCR 661 (6/8/1990) and subsequent resolutions, including UNSCR 1441 (8/11/2002); UNSCR 1483 (22/5/2003); UNSCR 1518 (24/11/03) and UNSCR 1546 (08/06/04)</p>
Liberia	<p>UN arms embargo (with specified exemptions)</p>	Throughout 2005	<p>UNSCR 1343 (7/3/2001); renewed by UNSCR 1408 (6/5/2002); renewed by UNSCR 1478 (6/5/2003); revised by UNSCR 1521 (22/12/2003); renewed by UNSCR 1579(21/12/04); renewed by UNSCR 1647 (20/12/05)</p>

Country	Details of Embargo	Dates in Force	Reference
Rwanda	<p>UN arms embargo, except to Government of Rwanda through named entry points.</p> <p>Exception for UN peacekeeping forces.</p> <p>Embargo applies to sale or supply to neighbouring states (Burundi, Tanzania, Uganda & DRC) if the arms and related material are for use in Rwanda.</p>	Throughout 2005	<p>UNSCR 918 (17/5/1994)</p> <p>UNSCR 997 (9/6/1995)</p> <p>UNSCR 1011 (16/8/1995)</p>
Sierra Leone	UN arms embargo, except to the Government of Sierra Leone through named-entry points , and to UN Member States co-operating with the UN Mission in Sierra Leone (UNAMSIL)	Throughout 2005	UNSCR 1171 (5/5/1998); and UNSCR 1299 (19/05/2000)
Somalia	UN arms embargo, with specified exemptions. Original UNSCR 733(1992), amended several times, but UNSCR 1425(2002) widened the scope of the arms embargo to prohibit direct or indirect supply to Somalia of technical advice, financial and other assistance, and training related to military activities.	Throughout 2005	UNSCR 733 (23/01/1992), UNSCR 1356 (19/05/2001) and UNSCR 1425 (22/07/2002)
Sudan	<p>EU arms embargo including technical and financial assistance (with exemptions for humanitarian and de-mining equipment)</p> <p>UN arms embargo</p>	Throughout 2005	<p>Common Position 2004/31/CFSP repealed by Common Position 2005/411/CFSP</p> <p>Council Regulation No 131/2004 (26/01/2004) amended by Council Regulation No 1353/2004 (26/07/2004)</p> <p>Commission Regulation (EC) No 1516/2004 and Council Regulation (EC)</p>

Country	Details of Embargo	Dates in Force	Reference
Sudan (continued)			No 838/2005 Council Regulation (EC) No 1184/2005 SCR 1556 (2004) SCR 1591 (2005) (extended embargo to all parties to N'djamena Ceasefire Agreement and all other belligerent parties in region of Darfur)
Tanzania	See Rwanda entry		
Uganda	See Rwanda entry in Table A		
Uzbekistan	EU arms embargo (with specified exemptions) and ban on exports of equipment which might be used for internal repression	From 14/11/05	Common Position 2005/792/CFSP Council Regulation EC 1859/2005
Zimbabwe	EU embargo on arms, and related technical training and assistance (both with specified exemptions), and on items that could be used for internal repression	Throughout 2005 (3)	Common Position 2002/145/CFSP (18/2/2002) (and amendments); extended by Common Positions 2003/145/CFSP (18/2/2003); 2004/161/CFSP (19/02/04); 2005/146/CFSP; (21/02/2005) and 2006/51/CFSP (30/01/2006). EC Regulation 314/2004 (19/02/04) amended by EC Regulation 1488/2004 (20/08/04); EC Regulation 898/2005 (15/06/05); EC Regulation 1272/2005 (01/08/2005) and EC Regulation 1367/2005 (19/08/2005)

Country	Details of Embargo	Dates in Force	Reference
All Destinations	Arms embargo applying to Usama Bin Laden, the Taliban and Al-Qa'ida as defined by the UN list maintained on its website (4)	Throughout 2005	UNSCR 1390 (2002) & UNSCR 1455(2003) Common Position 2002/402/CFSP [Official Journal (OJ) L 139, May 29, 2002]; Council Regulation (EC) No 881/2002 (OJ L 139, May 29, 2002)

Notes:

- (1) Exempts transfers of equipment needed for demining
- (2) From 28 September 2000 these Articles were superseded by Article 4.1, 4.4 and 4.5 of Council Regulation (EC) 1334 and Regulation 4 (3)(b), (c) and (d)(iii) of the Dual Use Items (Export Control) Regulations 2000 and Article 2 (2) of the Export of Goods (Control) Order 1994.
- (3) The Foreign Secretary announced on 3 May 2000 (HC150) that all new export licence applications for arms and military equipment for Zimbabwe would be refused. The embargo was confirmed on 12 May when extant licences for military goods were revoked.
- (4) See http://www.un.org/Docs/sc/committees/Afghanistan/Afg_list_eng.htm

This list contains a summary only: It does not constitute legal advice, which should be sought if required.

TABLE B – Other Defence Export Policies and Restrictions Applying to All Destinations in Force in 2005

Country	Embargo/Prohibited Goods	Dates in Force	Reference
All Destinations	All applications to export arms and other goods controlled for strategic reasons are considered on a case-by-case basis against the Consolidated EU and national arms export licensing criteria	Throughout 2005	Ministerial Statement HC 199-203W 20/10/00

Country	Embargo/Prohibited Goods	Dates in Force	Reference
All Destinations	<p>The UK Government is a party to three sets of internationally agreed criteria governing the export of arms and military equipment. These are:</p> <ul style="list-style-type: none"> - The guidelines for conventional arms transfers agreed by the permanent five members of the UN Security Council; - The principles governing arms transfers agreed by the Forum for Security Cooperation of the OSCE; - EU Code of Conduct on Arms Exports. <p>All licence applications are considered case-by-case against these criteria.</p>	<p>Throughout 2005</p> <p>October 1991</p> <p>November 1993</p> <p>June 1998</p>	<p>See export controls pages on FCO website www.fco.gov.uk</p>
All Destinations	<p>Portable devices designed or modified for riot control purposes or self-protection to administer an electric shock, including electric-shock batons, electric shock shields, stun guns and tasers, and specially designed components for such devices, leg irons, gang-chains, shackles (excluding normal handcuffs) and electric-shock belts designed for the restraint of a human being.</p>	Throughout 2005	Ministerial Statement HC 65 28/7/97
All Destinations	<p>As part of its policy to further strengthen the barriers against nuclear proliferation, the British Government has adopted a policy of full-scope safeguards as a condition of supply. This means that Britain does not allow the export of any significant new nuclear supplies or materials to any country, other than recognised nuclear weapons states, where there are any unsafeguarded nuclear installations.</p>	Throughout 2005	FCO Statement 24/9/91

Country	Embargo/Prohibited Goods	Dates in Force	Reference
All Destinations	All anti-personnel landmines and their component parts	Throughout 2005	Ministerial Statement HC 29-30 18/11/03
All Destinations	Blinding Laser Weapons	Throughout 2005	Ministerial Statement HC 360 11/2/99
All Destinations	There is a ban on the transfer of MANPADS to non-state end users. MANPADS will only be exported to foreign governments or to agents authorised by a government.	Throughout 2005	Ministerial Statement HC 360 11/2/99

This list contains a summary only: It does not constitute legal advice, which should be sought if required.

TABLE C – Restrictions for the maintenance of Regional Peace and Stability in force in 2005

Country	Embargo/Prohibited Goods	Dates in Force	Reference
Angola	The Government will not grant export licences for new military or dual use equipment for those countries intervening in the Democratic Republic of Congo (Angola, Burundi, Namibia, Rwanda, Uganda and Zimbabwe) where there is a clear risk that it would be used in the Democratic Republic of Congo. Applications for Standard Individual Export Licences to provide spares for UK equipment already supplied under pre-existing contracts will be examined on a case by case basis against our national criteria and the EU Code of Conduct on Arms Exports. In reaching decisions on such applications the Government will take into account the wider implications of forcing UK companies to break existing obligations.	Throughout 2005	Ministerial Statement HC 184 & 185 09/02/00

Country	Embargo/Prohibited Goods	Dates in Force	Reference
Benin	See entry under "ECOWAS Member States"		
Burkina Faso	See entry under "ECOWAS Member States"		
Burundi	See Angola entry"		
Cape Verde	See entry under "ECOWAS Member States"		
Cote d'Ivoire	See entry under "ECOWAS Member States"		
Cyprus	<p>The Government will grant licences for the export of equipment only to the military forces of either side on the island of Cyprus which the Government is satisfied does not fall within the following categories as defined by the EU common embargo list:</p> <p>a) weapons designed to kill and their ammunition;</p> <p>b) Weapons platforms;</p> <p>c) Ancillary equipment, which is specifically designed for use in conjunction with a) or b).</p> <p>Note: among other items category a) includes guns, bombs, torpedoes, rockets, missiles, fire control systems and tanks.</p> <p>Category b) includes armed and armoured vehicles or vehicles with fitted mountings for arms, vessels of war, aircraft and helicopters.</p>	Throughout 2005	Ministerial Statement HC 282 13/2/97
ECOWAS Member States, which are: Benin Burkina Faso Cape Verde Cote d'Ivoire Gambia Ghana	The Government will take full account of the ECOWAS Moratorium declared on 1 November 1998 on the import, export and manufacture of light weapons when considering relevant licence applications to export small arms and light weapons to ECOWAS Member States.	Throughout 2005	Ministerial Statement HC 341 15/4/99

Country	Embargo/Prohibited Goods	Dates in Force	Reference
(continued) Guinea Guinea Bissau Liberia Mali Niger Nigeria Senegal Sierra Leon	<p>The Moratorium applies to pistols, rifles, sub-machine guns, carbines, machine guns, anti-tank missiles, mortars and howitzers up to 85mm and ammunition and spare parts for the above. A Code of Conduct on its implementation was agreed on 24 March 1999. Exceptions to the Moratorium may be granted where the goods are to meet legitimate security needs</p> <p>(NB: Also see entries in Table A for Liberia and Sierra Leone which are subject to UN arms embargoes.)</p>		
Gambia	See entry under "ECOWAS Member States"		
Ghana	See entry under "ECOWAS Member States"		
Guinea	See entry under "ECOWAS Member States"		
Guinea Bissau	See entry under "ECOWAS Member States"		
Liberia	See entry under "ECOWAS Member States"		
Mali	See entry under "ECOWAS Member States"		
Niger	See entry under "ECOWAS Member States"		
Nigeria	See entry under "ECOWAS Member States"		
Namibia	See Angola entry"		
Rwanda	See Angola entry"		
Senegal	See entry under "ECOWAS Member States"		

Country	Embargo/Prohibited Goods	Dates in Force	Reference
Sierra Leone	See entry under "ECOWAS Member States"		
Taiwan	Exports of licensable defence-related equipment and technology to Taiwan are restricted and are considered on a case-by-case basis. In scrutinising licence applications, particular weight is given to the implications for regional stability.	Throughout 2005	Ministerial Statement HC 981 4/4/95 HC 349 4/6/98
Togo	See entry under "ECOWAS Member States"		
Uganda	See Angola entry"		
Zimbabwe	The Government will not grant export licences for dual-use equipment where there is a clear risk that the equipment would be used in the Democratic Republic of Congo (see Angola entry above). (Also see Zimbabwe entry in Table A).	Throughout 2005	Ministerial Statement HC 184 & 185 9/2/00

This list contains a summary only: It does not constitute legal advice, which should be sought if required.

TABLE D – Restrictions on non-conventional and dual-use items in force in 2005

Country	Embargo/Prohibited Goods	Dates in Force	Reference
India	Licences for items listed on the Nuclear Suppliers Group Dual-Use List will be denied to nuclear and nuclear-related end-users in India, as will all other goods to these end-users which could contribute to the India nuclear programme. The exception is equipment which would not normally require an export licence but is deemed licensable under the WMD end-use controls and where the initial concerns about WMD end-use are not subsequently substantiated.	Throughout 2005 Throughout 2005	Ministerial Statement HC 688 10/7/98 Ministerial Statement HC 3W 3/7/00

Country	Embargo/Prohibited Goods	Dates in Force	Reference
Iran	See Table A		
Pakistan	Licences for items listed on the Nuclear Suppliers Group Dual-Use List will be denied to nuclear and nuclear-related end-users in Pakistan, as will all other goods to these end-users which could contribute to the Pakistani nuclear programme. The exception is equipment which would not normally require an export licence but is deemed licensable under the WMD end-use controls and where the initial concerns about WMD end-use are not subsequently substantiated.	Throughout 2005 Throughout 2005	Ministerial Statement HC 688 10/7/98 Ministerial Statement HC 3W 3/7/00

This list contains a summary only: It does not constitute legal advice, which should be sought if required.

Table E – Other restrictions and policies in force in 2005

Country	Embargo/Prohibited Goods	Dates in Force	Reference
Argentina	Licences are only granted for exports that would not, at the time of application or in the foreseeable future, put at risk the security of UK Overseas Territories in the South Atlantic or UK forces operating there.	Throughout 2005	Ministerial Statement HC 721 17/12/98
Hong Kong Special Administrative Region	The Hong Kong Special Administrative Region (SAR) is a separate customs entity from the rest of China and implements its own independent trade controls, including for strategic goods. Licence applications are considered on a case by case basis but goods which would not be approved for export to the Chinese armed forces in mainland China (See Table A) will not be permitted for export for military end use in the Hong Kong SAR.	Throughout 2005	Ministerial Statement HC 225 14/1/98

Country	Embargo/Prohibited Goods	Dates in Force	Reference
Macau	Exports will be considered on a case by case basis but licences not issued for goods which would not be issued to mainland China (see Table A).	Throughout 2005	Ministerial Statement HC 73W 2/5/00

This list contains a summary only: It does not constitute legal advice, which should be sought if required.

Annex E

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 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-use or end-user and used for internal repression.

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

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

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

The Government will not issue licences for 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 of itself lead to a licence being refused.

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

- a) the existence or likelihood of armed conflict between the recipient and another country;
- b) a claim against the territory of a neighbouring country which the recipient has in the past tried or threatened to pursue by means of force;
- c) whether the equipment would be likely to be used other than for the legitimate national security and defence of the recipient;
- d) the need not to affect adversely regional stability in any significant way, taking into account the balance of forces between the states of the region concerned, their relative expenditure on defence, the potential for the equipment significantly to enhance the effectiveness of existing capabilities or to improve force projection, and the need not to introduce into the region new capabilities which would be likely to lead to increased tension.

Criterion Five**The national security of the UK, 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 on respect of human rights and on regional peace, security and stability
- b) the risk of the goods concerned being used against UK forces or on those of other territories and countries as described above;
- c) the risk of reverse engineering or unintended technology transfer;
- d) the need to protect UK military classified information and capabilities.

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

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

- a) its support or encouragement of terrorism and international organised crime;
- b) its compliance with its international commitments, in particular on the non-use of force, including under international humanitarian law applicable to international and non-international conflicts;

- c) its commitment to non-proliferation and other areas of arms control and disarmament, in particular the signature, ratification and implementation of relevant arms control and disarmament conventions referred to in sub-para b) of Criterion One.

Criterion Seven

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

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

- a) the legitimate defence and domestic security interests of the recipient country, including any involvement in UN or 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.

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 F

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

CHAPTER 3 - CRITERIA GUIDANCE

Introduction to all criteria best practices

1. 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.
2. 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 2

How to apply Criterion 2

3.1.1 The EU Code of Conduct applies to ALL arms exports by Member States. Thus a prior 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.

3.1.2 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

3.1.3 **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 end-user, or where there is reason to believe that the equipment will be diverted from its stated end-use or end-user and used for internal repression. 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.

3.1.4. **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.

3.1.5 **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.

3.1.6 **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.

3.1.7 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.

3.1.8 **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.

3.1.9 **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?

3.1.10 **Diversion.** 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?

3.1.11 **Arriving at a judgement.** Based on information and assessment of elements suggested in paragraphs 3.1.4 - 3.1.10 above Member States will reach a judgement on whether the proposed export should be denied on the basis of Criterion 2.

ANNEX I

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.apr.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

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 (CIPPR);
Optional Protocol to the International Covenant on Civil and Political Rights (CIPPR-OP1);
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (CIPPR-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

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 for 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 fact sheets;
 Resolutions and declarations by the European Parliament .

Section 2: Best practices for the interpretation of Criterion 7

How to apply Criterion 7

3.2.1 The EU Code of Conduct applies to all arms exports by Member States. Thus a prior 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 end-user certificates cannot substitute for a complete risk assessment of the situation in the particular case.

3.2.2 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

3.2.3 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 peace-keeping 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?

3.2.4 **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

INTERNET WEBSITES OF RELEVANT INFORMATION SOURCES INCLUDE:

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 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 (hei.unige.ch/sas)

Security Council Report, (www.securitycouncilreport.org)

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

SIPRI (www.sipri.org)

Section 3: Best practices for the interpretation of Criterion 8

How to apply Criterion 8

3.1.2 The EU Code of Conduct applies to all arms exports by Member States. Thus a prior Criterion 8 applies to exports to all recipient countries without any distinction. However, because Criterion 8 establishes a link with the sustainable development¹ 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.

3.1.3 **Information sources.** If the filter system outlined in paragraph 3 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 6-12 outline elements of criterion 8 on which further judgement needs to be reached.

Elements to consider when forming a judgement

3.1.4 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

3.1.4a **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;
- 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 country² and how this might impact on its external debt and balance of payments situation.

3.1.4b **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

¹ 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.

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?³

Legitimate Needs of Security and Defence

3.1.5 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

3.1.6 *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

3.1.7 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?

² 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.

³ 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?

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)?

Aid Flows

3.1.8 Member States should take into account the level of aid flows to the importing country and their potential fungibility⁴.

- 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

3.1.9 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.

3.3.10 **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.

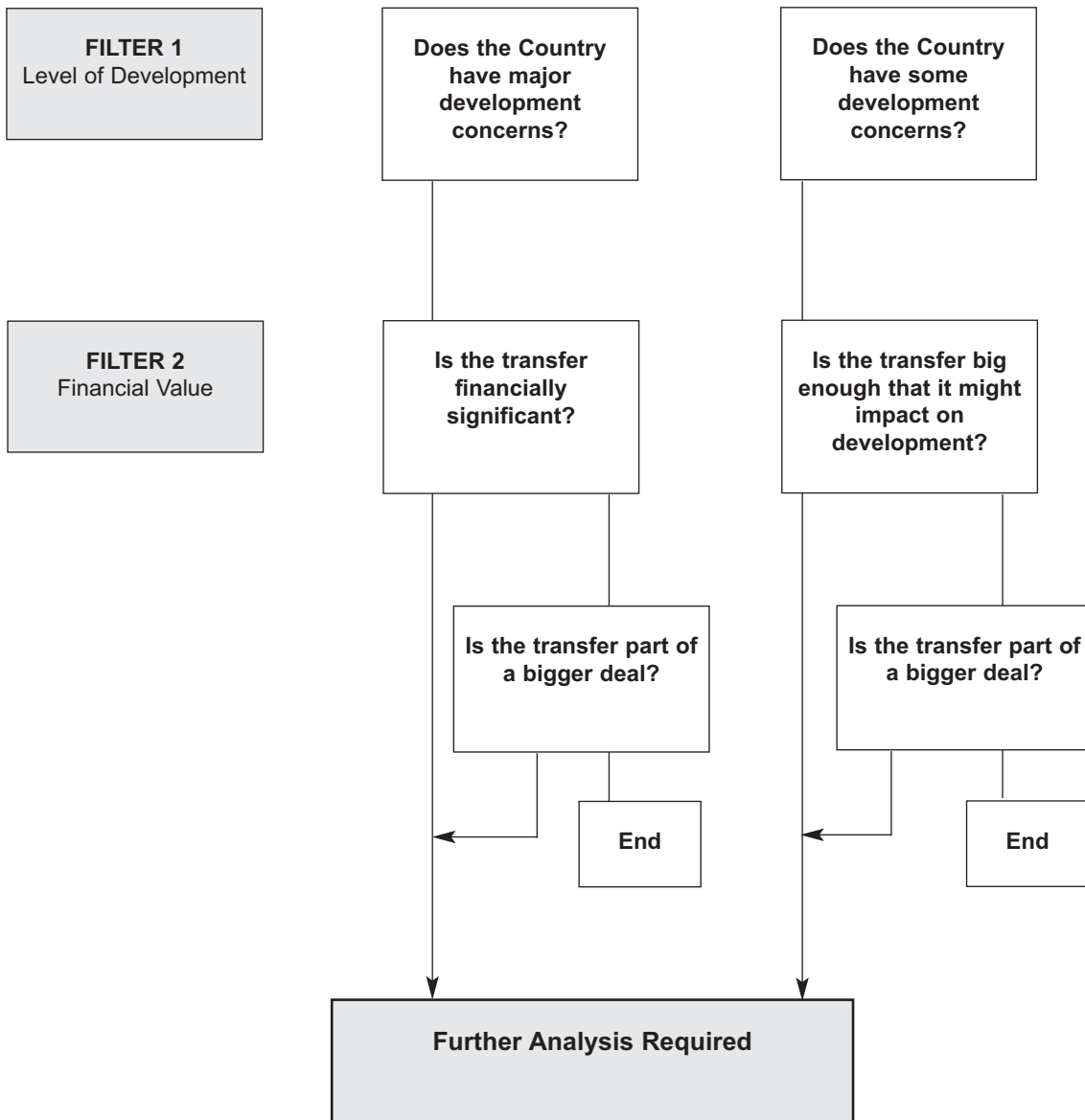
Arriving at a judgement

3.1.11. Based on data and assessment of critical elements suggested under paragraphs 6-12 above, Member States will reach a judgement as to whether the proposed export would seriously hamper the sustainable development in the recipient country.

⁴ *Fungibility refers to the potential diversion of aid flows into inappropriate military expenditure.*

Annex A

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

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 Development Goals (post-2005)	UNDP, Human Development Report

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/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTWDRS/0,,contentMDK:20227703~pagePK:478093~piPK:477627~theSitePK:477624,00.html ”

Annex G

List of direct Internet addresses of EU Member States National Reports on Arms Exports

EU's Annual Report	www.consilium.europa.eu
Austria:	(Gouvernement http://www.austria.gv.at Foreign Ministry http://www.bmaa.gv.at)
Belgium:	« Rapport du Gouvernement au Parlement sur la loi relative à l'importation, l'exportation et le transit d'armes (2002) » http://www.diplomatie.be/fr/press/homedetails.asp?TEXTID=8481 (diplobel.fgov.be)
Czech Republic:	« Yearly National Reports : 2001, 2002, 2003 » http://www.mzv.cz/wwwo/mzv/default.asp?ido=15135&idj=2&amb=1&ikony=True&trid=1&prsl=True&pocc1=8 (www.mzv.cz/kontrolaexportu)
Denmark:	« Utforsel af vaben og produkter med dobbelt anvendelse fra Danmark 2004 » http://www.um.dk/NR/rdonlyres/5D6C5BD3-E876-484B-B974-AA62D12D949B/0/2004Udfoerselafvaabenogdualuseprodukterrev2.pdf
Estonia:	http://www.vm.ee/eng/kat_153
Finland:	« Annual report according to the eu code of conduct on arms exports 2003 » http://www.defmin.fi/index.phtml/page_id/334/topmenu_id/75/menu_id/334/this_topmenu/75/lang/3/fs/12
France:	« Rapport au Parlement sur les exportations d'armement de la France en 2002 et 2003 » http://www.defense.gouv.fr/sites/defense/actualites_et_dossiers/rapport_sur_les_exportations_darmement_en_2002_et_2003
Germany:	« 2003 Military Equipment Export Report » http://www.bmwa.bund.de/Navigation/Service/bestellservice,did=72610.html
Hungary:	http://www.mkeh.hu
Ireland:	http://www.entemp.ie/trade/export/military.htm
Italy:	www.camera.it , select "attività parlamentare", select "lavori", select "documenti parlamentari", select "doc LXVII"
Latvia:	www.mfa.gov.lv
Luxembourg:	www.mae.lu
Netherlands:	« Bijlage: Jaarrapport Wapenexportbeleid 2004 » http://www.ez.nl/dsc?s=obj&c=getobject&objectid=34715&sessionid=1odvhsUhCp3Q4aGxJh@OuGE@@@hW9pD8XH5!b8xG5jif5WxRze8Ga59bo5Wz8ZWno&dsname=EZInternet&sitename=EZ-nl&loggetobject=true (www.exportcontrole.ez.nl)
Poland:	http://dke.mg.gov.pl
Portugal:	http://www.mdn.gov.pt/Defesa/Estrutura/Organograma/DGAED/relatorios_anuarios.htm
Slovakia:	www.economy.gov.sk
Slovenia:	www.mors.si
Spain:	« Estadísticas españolas de exportación de material de defensa y de doble uso, año 2003 » http://www.revistasice.com/Estudios/Documen/bice/2827/BICE28270101.PDF (www.mcx.es/sgcomex/mddu)
Sweden:	http://www.sweden.gov.se
United Kingdom:	http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029390554

Annex H

EU Regulation on Torture

30.7.2005

EN

Official Journal of the European Union

L 200/1

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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1236/2005

of 27 June 2005

concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

THE COUNCIL OF THE EUROPEAN UNION,

condemned to the death penalty or executed. On 29 June 1998, the Council approved 'Guidelines on EU policy towards third countries on the death penalty' and resolved that the European Union would work towards the universal abolition of the death penalty.

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

(4) Article 4 of the said Charter states that no one shall be subjected to torture or to inhuman or degrading treatment or punishment. On 9 April 2001, the Council approved 'Guidelines to the EU policy toward third countries, on torture and other cruel, inhuman or degrading treatment or punishment'. These guidelines refer to both the adoption of the EU Code of Conduct on Arms Exports in 1998 and the ongoing work to introduce EU-wide controls on the exports of paramilitary equipment as examples of measures to work effectively towards the prevention of torture and other cruel, inhuman or degrading treatment or punishment within the Common Foreign and Security Policy. These guidelines also provide for third countries to be urged to prevent the use and production of, and trade in, equipment which is designed to inflict torture or other cruel, inhuman or degrading treatment or punishment and prevent the abuse of any other equipment to these ends. They also make the point that the prohibition of cruel, inhuman or degrading punishment imposes clear limits on the use of the death penalty. Therefore and in line with these texts, capital punishment is not to be considered a lawful penalty under any circumstances.

Whereas:

(1) Pursuant to Article 6 of the Treaty on European Union, respect for human rights and fundamental freedoms constitutes one of the principles common to the Member States. In view of this, the Community resolved in 1995 to make respect for human rights and fundamental freedoms an essential element of its relations with third countries. It was decided to insert a clause to that end in any new trade, cooperation and association agreement of a general nature that it concludes with third countries.

(2) Article 5 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms all lay down an unconditional, comprehensive prohibition on torture and other cruel, inhuman or degrading treatment or punishment. Other provisions, in particular the United Nations Declaration Against Torture (1) and the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, place an obligation on States to prevent torture.

(3) Article 2(2) of the Charter of Fundamental Rights of the European Union (2) states that no one shall be

(1) Resolution 3452 (XXX) of 9.12.1975 of the General Assembly of the United Nations.

(2) OJ C 364, 18.12.2000, p. 1.

(5) In its Resolution on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 25 April 2001 and supported by the EU Member States, the United Nations Commission on Human Rights called upon United Nations Members to take appropriate steps, including legislative measures, to prevent and prohibit, inter alia, the export of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment. This point was confirmed by Resolutions adopted on 16 April 2002, 23 April 2003, 19 April 2004 and 19 April 2005.

- (6) On 3 October 2001, the European Parliament adopted a Resolution ⁽¹⁾ on the Council's second Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, urging the Commission to act swiftly to bring forward an appropriate Community instrument banning the promotion, trade and export of police and security equipment the use of which is inherently cruel, inhuman or degrading, and to ensure that that Community instrument would suspend the transfer of police and security equipment the medical effects of which are not fully known, and of such equipment where its use in practice has revealed a substantial risk of abuse or unwarranted injury.
- (7) It is therefore appropriate to lay down Community rules on trade with third countries in goods which could be used for the purpose of capital punishment and in goods which could be used for the purpose of torture and other cruel, inhuman or degrading treatment or punishment. These rules are instrumental in promoting respect for human life and for fundamental human rights and thus serve the purpose of protecting public morals. Such rules should ensure that Community economic operators do not derive any benefits from trade which either promotes or otherwise facilitates the implementation of policies on capital punishment or on torture and other cruel, inhuman or degrading treatment or punishment, which are not compatible with the relevant EU Guidelines, the Charter of Fundamental Rights of the European Union and international conventions and treaties.
- (8) For the purpose of this Regulation, it is considered appropriate to apply the definitions of torture and other cruel, inhuman or degrading treatment or punishment laid down in the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in Resolution 3452 (XXX) of the General Assembly of the United Nations. These definitions should be interpreted taking into account the case law on the interpretation of the corresponding terms in the European Convention on Human Rights and in relevant texts adopted by the EU or its Member States.
- (9) It is considered necessary to prohibit exports and imports of equipment which has no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (10) It is also necessary to impose controls on exports of certain goods which could be used not only for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, but also for legitimate purposes. These controls should apply to goods that are primarily used for law enforcement purposes and, unless such controls prove disproportionate, to any other equipment or product that could be abused for the purpose of torture and other
- cruel, inhuman or degrading treatment or punishment, taking into account its design and technical features.
- (11) As regards law enforcement equipment, it should be noted that Article 3 of the Code of Conduct for Law Enforcement Officials ⁽²⁾ provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990, provide that, in carrying out their duty, law enforcement officials should, as far as possible, apply non-violent means before resorting to the use of force and firearms.
- (12) In view of this, the Basic Principles advocate the development of non-lethal incapacitating weapons for use in appropriate situations, while admitting that the use of such weapons should be carefully controlled. In this context, certain equipment traditionally used by the police for self-defence and riot-control purposes has been modified in such a way that it can be used to apply electric shocks and chemical substances to incapacitate persons. There are indications that, in several countries, such weapons are abused for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (13) The Basic Principles stress that law enforcement officials should be equipped with equipment for self-defence. Therefore, this Regulation should not apply to trade in traditional equipment for self-defence, such as shields.
- (14) This Regulation should also apply to trade in some specific chemical substances used to incapacitate persons.
- (15) As regards leg-irons, gang-chains and shackles and cuffs, it should be noted that Article 33 of the United Nations Standard Minimum Rules for the Treatment of Prisoners ⁽³⁾ provides that instruments of restraint shall never be applied as a punishment. Furthermore, chains and irons are not to be used as restraints. It should also be noted that the United Nations Standard Minimum Rules for the Treatment of Prisoners provide that other instruments of restraint shall not be used except as a precaution against escape during a transfer, on medical grounds as directed by a medical officer, or, if other methods of control fail, in order to prevent a prisoner from injuring himself or others, or from damaging property.

⁽¹⁾ OJ C 87 E, 11.4.2002, p. 136.

⁽²⁾ Resolution 34/169 of 17.12.1979 of the General Assembly of the United Nations.

⁽³⁾ Approved by Resolutions 663 C (XXIV) of 31.7.1957 and 2076 (LXII) of 13.5.1977 of the Economic and Social Council of the United Nations.

- (16) Taking into account the fact that some Member States have already prohibited exports and imports of such goods, it is appropriate to grant Member States the right to prohibit exports and imports of leg-irons, gang-chains and portable electric shock devices other than electric shock belts. Member States should also be empowered to apply export controls on handcuffs having an overall dimension, including chain, exceeding 240mm when locked, if they so wish.
- (17) This Regulation shall be construed as not affecting the existing rules on export of tear gases and riot control agents ⁽¹⁾, of firearms, of chemical weapons and of toxic chemicals.
- (18) It is appropriate to provide for specific exemptions from the export controls in order not to impede the functioning of the police forces of the Member States and the execution of peace keeping or crisis management operations and, subject to review at a later stage, in order to allow transit of foreign goods.
- (19) The Guidelines to the EU Policy toward third countries on torture and other cruel, inhuman or degrading treatment or punishment provide, inter alia, that the Heads of Mission in third countries will include in their periodic reports an analysis of the occurrence of torture and other cruel, inhuman or degrading treatment or punishment in the State of their accreditation, and the measures taken to combat it. It is appropriate for the competent authorities to take these and similar reports made by relevant international and civil society organisations into account when deciding on requests for authorisations. Such reports should also describe any equipment used in third countries for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (20) In order to contribute to the abolition of the death penalty in third countries and to the prevention of torture and other cruel, inhuman or degrading treatment or punishment, it is considered necessary to prohibit the supply to third countries of technical assistance related to goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (21) The measures of this Regulation are intended to prevent both capital punishment and torture and other cruel, inhuman or degrading treatment or punishment in third
- countries. They comprise restrictions on trade with third countries in goods that could be used for the purpose of capital punishment or for the purpose of torture and other cruel, degrading or inhuman treatment or punishment. It is not considered necessary to establish similar controls on transactions within the Community as, in the Member States, capital punishment does not exist and Member States will have adopted appropriate measures to outlaw and prevent torture and other cruel, inhuman or degrading treatment or punishment.
- (22) The aforementioned Guidelines state that, in order to meet the objective of taking effective measures against torture and other cruel, inhuman or degrading treatment or punishment, measures should be taken to prevent the use, production and trade of equipment which is designed to inflict torture or other cruel, inhuman or degrading treatment or punishment. It is up to the Member States to impose and enforce the necessary restrictions on the use and production of such equipment.
- (23) In order to take into account new data and technological developments, the lists of goods covered by this Regulation should be kept under review and provision should be made for a specific procedure to amend these lists.
- (24) The Commission and the Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation.
- (25) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (26) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (27) Nothing in this Regulation constrains any powers under and pursuant to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽³⁾ and its implementing provisions, as laid down in Commission Regulation (EEC) No 2454/93 ⁽⁴⁾.

⁽¹⁾ See item ML 7(c) of the Common Military List of the European Union, OJ C 127, 25.5.2005, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by (EC) No 648/2005 of the European Parliament and of the Council (OJ L 117, 4.5.2005, p. 13).

⁽⁴⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).

(28) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

any judicial authority, any public or private prison authority and, where appropriate, any of the state security forces and military authorities;

HAS ADOPTED THIS REGULATION:

(d) 'export' means any departure of goods from the customs territory of the Community, including the departure of goods that requires a customs declaration and the departure of goods after their storage in a free zone of control type I or free warehouse within the meaning of Regulation (EEC) No 2913/92;

CHAPTER I

Subject matter, scope and definitions

Article 1

Subject matter and scope

1. This Regulation lays down Community rules governing trade with third countries in goods that could be used for the purpose of capital punishment or for the purpose of torture and other cruel, degrading or inhuman treatment or punishment, and in related technical assistance.

(e) 'import' means any entry of goods into the customs territory of the Community, including temporary storage, the placing in a free zone or free warehouse, the placing under a suspensive procedure and the release for free circulation within the meaning of Regulation (EEC) No 2913/92;

2. This Regulation does not apply to the supply of related technical assistance if that supply involves cross-border movement of natural persons.

(f) 'technical assistance' means any technical support related to repairs, development, manufacture, testing, maintenance, assembly or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services. Technical assistance includes verbal forms of assistance and assistance provided by electronic means;

Article 2

Definitions

For the purposes of this Regulation:

(g) 'museum' means a non-profit making, permanent institution in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, material evidence of people and their environment;

(a) 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from that person or from a third person information or a confession, punishing that person for an act that either that person or a third person has committed or is suspected of having committed, or intimidating or coercing that person or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties;

(h) 'competent authority' means an authority of one of the Member States, as listed in Annex I, which in accordance with Article 8(1) is entitled to make a decision on an application for an authorisation;

(b) 'other cruel, inhuman or degrading treatment or punishment' means any act by which significant pain or suffering, whether physical or mental, is inflicted on a person, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties;

(i) 'applicant' means

(c) 'law enforcement authority' means any authority in a third country responsible for preventing, detecting, investigating, combating and punishing criminal offences, including, but not limited to, the police, any prosecutor,

1. in the case of exports referred to in Article 3 or 5, any natural or legal person that holds a contract with a consignee in a country to which the goods will be exported and that has the power for determining the sending of goods controlled by this Regulation out of the customs territory of the Community at the time when the customs declaration is accepted. If no export contract has been concluded or if the holder of the contract does not act on its own behalf, the power for determining the sending of the item out of the customs territory of the Community shall be decisive;

2. where, in the case of such exports, the benefit of a right to dispose of the goods belongs to a person established outside the Community pursuant to the contract on which the exports are based, the contracting party established in the Community;

3. in the case of supplies of technical assistance referred to in Article 3, the natural or legal person that will supply the service; and
4. in the case of imports and supplies of technical assistance referred to in Article 4, the museum that will display the goods.

CHAPTER II

Goods which have no practical use other than for the purposes of capital punishment, torture and other cruel, inhuman or degrading treatment or punishment

Article 3

Export prohibition

1. Any export of goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, listed in Annex II, shall be prohibited, irrespective of the origin of such equipment.

The supply of technical assistance related to goods listed in Annex II, whether for consideration or not, from the customs territory of the Community, to any person, entity or body in a third country shall be prohibited.

2. By way of derogation from paragraph 1, the competent authority may authorise an export of goods listed in Annex II, and the supply of related technical assistance, if it is demonstrated that, in the country to which the goods will be exported, such goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.

Article 4

Import prohibition

1. Any import of goods listed in Annex II shall be prohibited, irrespective of the origin of such goods. The acceptance by a person, entity or body in the customs territory of the Community of technical assistance related to goods listed in Annex II, supplied from a third country, whether for consideration or not, by any person, entity or body shall be prohibited.
2. By way of derogation from paragraph 1, the competent authority may authorise an import of goods listed in Annex II, and the supply of related technical assistance, if it is demonstrated that, in the Member State of destination, such goods will be used for the exclusive purpose of public display in a museum in view of its historic significance.

CHAPTER III

Goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment

Article 5

Export authorisation requirement

1. For any export of goods that could be used for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, listed in Annex III, an authorisation shall be required, irrespective of the origin of such goods. However no authorisation shall be required for goods which only pass through the customs territory of the Community, namely those which are not assigned a customs-approved treatment or use other than the external transit procedure within Article 91 of Regulation (EEC) No 2913/92, including storage of non-Community goods in a free zone of control type I or a free warehouse.

2. Paragraph 1 shall not apply to exports to those territories of Member States which are both listed in Annex IV and are not part of the customs territory of the Community, provided that the goods are used by an authority in charge of law enforcement in both the country or territory of destination and the metropolitan part of the Member State to which that territory belongs. Customs or other relevant authorities shall have the right to verify whether this condition is met and may decide that, pending such verification, the export shall not take place.

3. Paragraph 1 shall not apply to exports to third countries, provided that the goods are used by military or civil personnel of a Member State, if such personnel is taking part in an EU or UN peace keeping or crisis management operation in the third country concerned or in an operation based on agreements between Member States and third countries in the field of defence. Customs and other relevant authorities shall have the right to verify whether this condition is met. Pending such verification, the export shall not take place.

Article 6

Criteria for granting export authorisations

1. Decisions on applications for authorisation for the export of goods listed in Annex III shall be taken by the competent authority on a case by case basis, taking into account all relevant considerations, including in particular, whether an application for authorisation of an essentially identical export has been dismissed by another Member State in the preceding three years.

2. The competent authority shall not grant any authorisation when there are reasonable grounds to believe that goods listed in Annex III might be used for torture or other cruel, inhuman or degrading treatment or punishment, including judicial corporal punishment, by a law enforcement authority or any natural or legal person in a third country.

The competent authority shall take into account:

- available international court judgements,
- findings of the competent bodies of the UN, the Council of Europe and the EU, and reports of the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment and of the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment.

Other relevant information, including available national court judgements, reports or other information prepared by civil society organisations and information on restrictions on exports of goods listed in Annexes II and III applied by the country of destination, may be taken into account.

Article 7

National measures

1. Notwithstanding the provisions in Articles 5 and 6, a Member State may adopt or maintain a prohibition on the export and import of leg irons, gang chains and portable electric shock devices.
2. A Member State may impose an authorisation requirement on the export of handcuffs which have an overall dimension including chains, measured from the outer edge of one cuff to the outer edge of the other cuff, exceeding 240 mm when locked. The Member State concerned shall apply Chapter III and IV to such handcuffs.
3. Member States shall notify the Commission of any measures adopted pursuant to paragraphs 1 and 2. Existing measures shall be notified by 30 July 2006. Subsequent measures shall be notified before they enter into force.

CHAPTER IV

Authorisation procedures

Article 8

Applications for authorisations

1. An authorisation for export and import and for the supply of technical assistance shall be granted only by the competent authority of the Member State listed in Annex I where the applicant is established.
2. Applicants shall supply the competent authority with all relevant information on the activities for which an authorisation is required.

Article 9

Authorisations

1. Authorisations for export and import shall be issued on a form consistent with the model set out in Annex V and shall be valid throughout the Community. The period of validity of an authorisation shall be from three to twelve months with a possible extension of up to 12 months.
2. The authorisation may be issued by electronic means. The specific procedures shall be established on a national basis. Member States availing themselves of this option shall inform the Commission.
3. Authorisations for export and import shall be subject to any requirements and conditions the competent authority deems appropriate.
4. The competent authorities, acting in accordance with this Regulation, may refuse to grant an export authorisation and may annul, suspend, modify or revoke an export authorisation which they have already granted.

Article 10

Customs formalities

1. When completing customs formalities, the exporter or importer shall submit the duly completed form set out in Annex V as proof that the necessary authorisation for the export or import concerned has been obtained. If the document is not filled out in an official language of the Member State where the customs formalities are being completed, the exporter or importer may be required to provide a translation into such official language.
2. If a customs declaration is made concerning goods listed in Annexes II or III, and it is confirmed that no authorisation has been granted pursuant to this Regulation for the intended export or import, the customs authorities shall detain the goods declared and draw attention to the possibility to apply for an authorisation pursuant to this Regulation. If no application for an authorisation is made within six months of time after the detention, or if the competent authority dismisses such an application, the customs authorities shall dispose of the detained goods in accordance with applicable national legislation.

Article 11

Notification and consultation requirement

1. The authorities of the Member States, as listed in Annex I, shall notify all other authorities of the Member States and the Commission, as listed in that Annex, if they take a decision dismissing an application for an authorisation under this Regulation and if they annul an authorisation they have granted. The notification shall be made not later than 30 days of the date of the decision.

2. The competent authority shall consult the authority or authorities which, in the preceding three years, dismissed an application for authorisation of an import or export or the supply of technical assistance under this Regulation, if it receives an application concerning an import or export or the supply of technical assistance involving an essentially identical transaction referred to in such earlier application and considers that an authorisation should, nevertheless, be granted.

3. If, after such consultations, the competent authority decides to grant an authorisation, it shall immediately inform all the authorities listed in Annex I of its decision and explain the reasons for its decision, submitting supporting information as appropriate.

4. The refusal to grant an authorisation, if it is based on a national prohibition in accordance with Article 7(1), shall not constitute a decision dismissing an application within the meaning of paragraph 1.

CHAPTER V

General and final provisions

Article 12

Amendment of Annexes

1. The Commission shall be empowered to amend Annex I. The data regarding competent authorities of the Member States shall be amended on the basis of information supplied by the Member States.

2. In accordance with the procedure referred to in Article 15(2), the Commission shall be empowered to amend Annexes II, III, IV and V.

Article 13

Exchange of information between Member States' authorities and the Commission

1. Without prejudice to Article 11, the Commission and the Member States shall, upon request, inform each other of the measures taken under this Regulation and supply each other with any relevant information at their disposal in connection with this Regulation, in particular information on authorisations granted and refused.

2. Relevant information on authorisations granted and refused shall comprise at least the type of decision, the grounds for the decision or a summary thereof, the names of the consignees

and, if they are not the same, of the end-users as well as the goods concerned.

3. Member States, if possible in cooperation with the Commission, shall make a public, annual activity report, providing information on the number of applications received, on the goods and countries concerned by these applications, and on the decisions they have taken on these applications. This report shall not include information the disclosure of which a Member State considers to be contrary to the essential interests of its security.

4. Except for the supply of information mentioned in paragraph 2 to the authorities of the other Member State and to the Commission, this Article shall be without prejudice to applicable national rules concerning confidentiality and professional secrecy.

5. The refusal to grant an authorisation, if it is based on a national prohibition adopted in accordance with Article 7(1), shall not constitute an authorisation refused within the meaning of paragraphs 1, 2 and 3 of this Article.

Article 14

Use of information

Without prejudice to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (1) and national legislation on public access to documents, information received pursuant to this Regulation shall be used only for the purpose for which it was requested.

Article 15

Committee procedure

1. The Commission shall be assisted by the committee on common rules for exports of products, set up by Article 4(1) of Regulation (EEC) No 2603/69 (2).

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

(1) OJ L 145, 31.5.2001, p. 43.

(2) OJ L 324, 27.12.1969, p. 25. Regulation as last amended by Regulation (EEC) No 3918/91 (OJ L 372, 31.12.1991, p. 31)..

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*Article 16***Implementation**

The Committee referred to in Article 15 shall examine any question concerning the implementation of this Regulation raised by its chairman either on his or her own initiative or at the request of a representative of a Member State.

*Article 17***Penalties**

1. Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

2. Member States shall notify the Commission of those rules by 29 August 2006 and shall notify it without delay of any subsequent amendment affecting them.

*Article 18***Territorial scope**

1. This Regulation shall apply to:
 - the customs territory of the Community, as defined in Regulation (EEC) No 2913/92,
 - the Spanish territories Ceuta and Melilla,
 - the German territory of Helgoland.

2. For the purpose of this Regulation Ceuta, Helgoland and Melilla shall be treated as part of the customs territory of the Community.

*Article 19***Entry into force**

This Regulation shall enter into force on 30 July 2006.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 27 June 2005.

For the Council

The President

L. LUX

ANNEX I

LIST OF AUTHORITIES REFERRED TO IN ARTICLES 8 AND 11

A. Authorities of the Member States

BELGIUM

Ministerie van Economie, Energie, Handel en Wetenschapsbeleid
 Directoraat E4: Economisch Potentieel, Markttoegangsbeleid, Tarifaire en Non-tarifaire Maatregelen
 Vooruitgangsstraat 50c
 B-1210 Brussel
 Tel. (32-2) 277 51 11
 Fax (32-2) 277 53 03
 E-mail: Charles.godart@mineco.fgov.be

Ministère de l'économie, de l'énergie, du commerce et de la politique scientifique
 Directeurat, E4: potentiel économique, politique d'accès aux marchés, mesures tarifaires et non-tarifaires
 Rue du Progrès 50c
 B-1210 Bruxelles
 Téléphone: 32 (2) 277 51 11
 Télécopie: 32 (2) 277 53 03
 E-mail: Charles.godart@mineco.fgov.be

CZECH REPUBLIC

Ministerstvo průmyslu a obchodu
 Licenční správa
 Na Frantsku 32
 110 15 Praha 1
 Česká republika
 Tel.: (420) 224 90 76 41
 Fax: (420) 224 22 18 81
 E-mail: osm@mpo.cz

DENMARK

Annex III, No 2 and 3

Justitsministeriet
 Slotsolmsgade 10
 DK-1216 København K
 Denmark
 Telephone: (45) 33 92 33 40
 Telefax: (45) 33 93 35 10
 E-mail: jm@jm.dk

Annex II and Annex III, No 1

Økonomi- og Erhvervsministeriet
 Erhvervs- og Byggestyrelsen
 Eksportkontroladministrationen
 Langelinie Allé 17
 DK-2100 København Ø
 Denmark
 Telephone: (45) 35 46 60 00
 Telefax: (45) 35 46 60 01
 E-mail: ebst@ebst.dk

GERMANY

Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
 Frankfurter Straße 29—35
 D-65760 Eschborn
 Tel.: (+49) 6196 908-0
 Fax: (+49) 6196 908 800
 E-Mail: ausfuhrkontrolle@bafa.bund.de

ITALY

GREECE

Υπουργείο Οικονομίας και Οικονομικών
 Γενική Διεύθυνση Έγκριστων και Διακρίσεων Πολυμερών
 Διεύθυνση Διεθνών Οικονομικών Φορέων
 Δεσφύσου 1
 GR-105 43 Αθήνα
 Τηλ. (30-210) 328 60 47, (30-210) 328 60 31
 Φαξ (30-210) 328 60 94
 E-mail: e.kofinmex.gr

ESTONIA

Eesti Välisministeerium
 Välismajanduse ja arengukoostöö osakond
 Strateegilise kauba kontrolli büroo
 Islandi väljak 1
 15049 Tallinn
 Eesti
 Tel: +372 631 7200
 Faks: +372 631 7288
 E-post: stratkom@mfa.ee

SPAIN

Secretaría General de Comercio Exterior
 Secretaría de Estado de Turismo y Comercio
 Ministerio de Industria, Turismo y Comercio
 Paseo de la Castellana, 162
 E-28046 Madrid
 Telephone: (34) 915 83 52 84
 Telefax: (34) 915 83 56 19
 E-mail: Buzon.Oficial@SGDEFENSA.SECGCOMEX.SSCC.
 MCX.ES

Departamento de Aduanas e Impuestos Especiales de la
 Agencia Estatal de Administración Tributaria
 Avda. Llano Castellano, 17
 28071 Madrid
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 Telephone: +34 91 7289450
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FRANCE

Ministère de l'économie, des finances et de l'industrie
 Direction générale des douanes et droits indirects
 Service des titres du commerce extérieur (SETICE)
 8, rue de la Tour-des-Dames
 F-75436 PARIS CEDEX 09
 Téléphone: 01 55 07 46 73/- 46 42/- 48 64/- 47 64
 Télécopie: 01 55 07 46 67/- 46 91
 Courrier électronique: dg-setice@douane.finances.gouv.fr

IRELAND

Licensing Unit
 Department of Enterprise, Trade and Employment
 Earlsfort Centre
 Lower Hatch Street
 Dublin 2
 Ireland
 Telephone (353-1) 631 21 21
 Telefax (353-1) 631 25 62

ITALY

Ministero delle attività produttive
 Direzione generale per la politica commerciale
 Viale Boston, 25
 I-00144 Roma
 Telephone: +39 06 59 93 25 79
 Telefax: +39 06 59 93 26 34
 E-mail: polcomsegr@mincomes.it

KAZAKHSTAN

CYPRUS

Υπουργείο Εμπορίου, Βιομηχανίας και Τουρισμού
 Υπηρεσία Εμπορίου
 Ταχυδρομική οδός Αριστοτέλους/Σταυρού
 Αριθμός Αποστολής 6
 CY-1421 Λευκωσία
 Τηλ. (357-22) 86 71 09
 Φαξ (357-22) 37 51 20
 E-mail: perm.sec@mcit.gov.cy

Ministry of Commerce, Industry and Tourism
 Trade Service
 Import/Export Licensing Unit
 6 Andreas Araouzos Street
 CY-1421 Nicosia
 Telephone: (357- 22) 86 71 09
 Telefax: (357-22) 37 51 20
 E-mail: perm.sec@mcit.gov.cy

LATVIA

Ekonomikas ministrija
 Brivibas iela 55
 LV-1519 Riga
 Latvija
 Telefax.: +371 7 280 882

LITHUANIA

Policijos departamento prie Vidaus reikalų• ministerijos
 Licencijavimo skyrius
 Saltoniskiu g. 19
 LT-08105 Vilnius
 Lietuva
 Telephone: +370 8 271 97 67
 Telefax: +370 5 271 99 76
 E-mail: leidimai.pd@policija.lt

LUXEMBOURG

Commerce extérieur
 Office des licences
 B. P. 113
 L-2011 Luxembourg
 Téléphone: 352 4782370
 Télécopie: 352 466138
 Courrier électronique: office.licences@mae.etat.lu

HUNGARY

Magyar Kereskedelmi
 Engedélyezési Hivatal
 Margit krt. 85.
 H-1024 Budapest
 Magyarország
 Telephone: +36 1 336 74 30
 Telefax: +36 1 336 74 28
 E-mail: spectrade@mkeh.hu

MALTA

Divizjoni għall-Kummerċ
 Servizzi Kummerċjali
 Lascaris
 Valletta CMR02
 Telephone: +356 25 69 02 09
 Telefax: +356 21 24 05 16

NETHERLANDS (to be determined)

AUSTRIA

Bundesministerium für Wirtschaft und Arbeit
 Abteilung für Aus- und Einfuhrkontrolle
 A-1011 Wien
 Stubenring 1
 Tel.: (+43) 1 71100 8327
 Fax: (+43) 1 71100 8386
 E-Mail: post@C22.bmwa.gv.at

POLAND

Ministerstwo Gospodarki i Pracy
 plac Trzech Krzyży 3/5
 00-507 Warszawa
 Polska
 Telephone: (+48-22) 693 50 00
 Telefax: (+48-22) 693 40 48

PORTUGAL

Ministério das Finanças
 Direcção-Geral das Alfândegas e dos Impostos Especiais
 de Consumo
 Direcção de Serviços de Licenciamento
 Rua Terreiro do Trigo, edifício da Alfândega
 P-1149-060 Lisboa
 Tel.: (351-21) 881 42 63
 Fax: (351-21) 881 42 61

SLOVENIA

Ministrstvo za gospodarstvo
 Direktorat za ekonomske odnose s tujino
 Kotnikova 5
 1000 Ljubljana
 Republika Slovenija
 Telephone: +386 1 478 35 42
 Telefax: +386 1 478 36 11

SLOVAKIA

Ministerstvo hospodárstva Slovenskej republiky
 Odbor riadenia obchodovania s citlivými tovarmi
 Mierová 19
 827 15 Bratislava
 Slovenská republika
 Telephone: +421 2 48 54 20 53
 Telefax: +421 2 43 42 39 15

SUOMI

Sisäasiainministeriö
 Arpajais- ja asehallintoyksikkö
 PL 50
 FI-11101 RIIHIMÄKI
 Puhelin (358-9) 160 01
 Faksi (358-19) 72 06 68
 Sähköposti: aahy@poliisi.fi

SWEDEN

Kommerskollegium
 PO Box 6803
 S-113 86 Stockholm
 Tfn (46-8) 690 48 00
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UNITED KINGDOM

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 (CFSP) and European Security and Defence Policy
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EN

Official Journal of the European Union

30.7.2005

ANNEX II

List of goods referred to in Articles 3 and 4

Note: this list does not cover medical-technical goods

CN code	Description
	1. Goods designed for the execution of human beings, as follows:
ex 4421 90 98 ex 8208 90 00	1.1. Gallows and guillotines
ex 8543 89 95 ex 9401 79 00 ex 9401 80 00 ex 9402 10 00 ex 9402 90 00	1.2. Electric chairs for the purpose of execution of human beings
ex 9406 00 38 ex 9406 00 80	1.3. Air-tight vaults, made of e.g. steel and glass, designed for the purpose of execution of human beings by the administration of a lethal gas or substance
ex 8413 81 90	1.4. Automatic drug injection systems designed for the purpose of execution of human beings by the administration of a lethal chemical substance
ex 9018 90 50 ex 9018 90 60 ex 9018 90 85	
	2. Goods designed for restraining human beings, as follows:
ex 8543 89 95	2.1. Electric-shock belts designed for restraining human beings by the administration of electric shocks having a no-load voltage exceeding 10 000 V

ANNEX III

List of goods referred to in Article 5

CN code	Description
	1. Goods designed for restraining human beings, as follows:
ex 9401 61 00	1.1. Restraint chairs and shackle boards
ex 9401 69 00	<i>Note:</i>
ex 9401 71 00	This item does not control restraint chairs designed for disabled persons.
ex 9401 79 00	
ex 9402 90 00	
ex 9403 20 91	
ex 9403 20 99	
ex 9403 50 00	
ex 9403 70 90	
ex 9403 80 00	
ex 7326 90 98	1.2. Leg-irons, gang-chains, shackles and individual cuffs or shackle bracelets
ex 8301 50 00	<i>Note:</i>
ex 3926 90 99	This item does not control 'ordinary handcuffs'. Ordinary handcuffs are handcuffs which have an overall dimension including chain, measured from the outer edge of one cuff to the outer edge of the other cuff, between 150 and 280 mm when locked and have not been modified to cause physical pain or suffering.
ex 7326 90 98	
ex 8301 50 00	
ex 3926 90 99	
	1.3. Thumb-cuffs and thumb-screws, including serrated thumb-cuffs
	2. Portable devices designed for the purpose of riot control or self-protection, as follows:
ex 8543 89 95	2.1. Portable electric shock devices, including but not limited to, electric shock batons, electric shock shields, stun guns and electric shock dart guns having a no-load voltage exceeding 10 000 V
ex 9304 00 00	<i>Notes:</i>
	1. This item does not control electric shock belts as described in item 2.1 of Annex II.
	2. This item does not control individual electronic shock devices when accompanying their user for the user's own personal protection.
	3. Substances for the purpose of riot control or self-protection and related portable dissemination equipment, as follows:
ex 8424 20 00	3.1. Portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance
ex 9304 00 00	<i>Note:</i>
	This item does not control individual portable devices, even if containing a chemical substance, when accompanying their user for the user's own personal protection.
ex 2924 29 95	3.2. Pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4)
ex 2939 99 00	3.3. Oleoresin capsicum (OC) (CAS 8023-77-6)

ANNEX IV

List of territories of Member States referred to in Article 5(2)

DENMARK:

— Greenland

FRANCE:

— New Caledonia and Dependencies,

— French Polynesia,

— French Southern and Antarctic Territories,

— Wallis and Futuna Islands,

— Mayotte,

— St Pierre and Miquelon.

GERMANY:

— Büsingen

ANNEX V

Export or import authorisation form referred to in Article 9(1)*Technical specification:*

The following form shall measure 210 • 297 mm with a maximum tolerance of 5 mm less and 8 mm more. The boxes are based on a unit of measurement of one tenth of an inch horizontally and one sixth of an inch vertically. The subdivisions are based on a unit of measurement of one tenth of an inch horizontally.

EUROPEAN COMMUNITY

1 Applicant (full name, address, customs number) Type; <input type="checkbox"/> <input type="checkbox"/>		AUTHORISATION FOR EXPORT OR IMPORT OF GOODS THAT COULD BE USED FOR TORTURE (REGULATION (EC) No 1236/2005)	
2 Consignee (full name and address)		3 Authorisation No <input type="checkbox"/> Export <input type="checkbox"/> Import	
		4 Expiry date <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
5 Agent/Representative (if different from applicant)		6 Country where the goods are located Code	
		7 Country of destination Code	
		8 Member State where a Customs procedure will take place	
9 End-user (full name and address)		Issuing authority	
10 Description of item		11 item No 1	12 CN code
		13 Quantity	
14 Specific requirements and conditions			
10 Description of item		11 item No 2	12 CN code
		13 Quantity	
14 Specific requirements and conditions			
10 Description of item		11 item No 3	12 CN code
		13 Quantity	
14 Specific requirements and conditions			
15 The undersigned certifies that, pursuant to Article 9(1) of Regulation 1236/2005 and subject to the requirements, conditions and procedures setout in this form and the attachment(s) to which it refers, the competent authority has authorised [an export] [an import] (delete as appropriate) concerning the goods described in box 10.			
16 Number of attachments <input type="text"/>			
Done at (place, date) Name (typed or capitals) Signature: _____ (Stamp of Issuing authority)			

Note: In part of column 17, write the quantity still available and in part 2 of column 17, write the quantity deducted on this occasion

3 Authorisation No

11 Item No	17 Net quantity (Net mass/ other unit with indication of unit)	18 Customs Document (Type and number) and date of deduction	19 Member State, name and signature, stamp of deduction
	1,		
	2.		
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	1,		
	2.		

Explanatory notes to the form**‘Authorisation for export or import of goods that could be used for torture (Regulation (EC) No 1236/2005)’**

This authorisation form shall be used to issue an authorisation for an export or import of goods in accordance with Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. It should not be used to authorise the supply of technical assistance.

Issuing authority is the authority defined in Article 2(h) of Council Regulation No 1236/2005 which is set out in Annex I to this Regulation.

Authorisations shall be issued on this single page form, which should be printed on both sides. The competent customs office deducts the exported quantities from the total quantity available. It has to make sure that the different items subject to the authorisation are clearly separated for this purpose.

Where national procedures of the Member States require additional copies of the form (as for example for the application) this authorisation form may be included in a form set containing the necessary copies following the national rules applicable. In the box above box 3 of each specimen and in the margin on the left it should be clearly indicated for which purpose (e.g. application, copy for applicant) the relevant copies are intended. One specimen only shall be the authorisation form set out in Annex V to Regulation (EC) No 1236/2005.

Box 1:	<i>Applicant:</i>	Please indicate the applicant's name and the full address. The applicant's customs number may also be indicated (optional in most cases). The type of applicant should be indicated (optional) in the relevant box, using the numbers 1, 2 or 4 referring to the points set out in the definition in Article 2(i) of Regulation (EC) No 1236/2005.
Box 3:	<i>Authorisation No:</i>	Please fill out the number and tick either the export or the import box. See Article 2(d) and 2(e) and Article 17 of the Regulation for the definitions of the terms ‘export’ and ‘import’.
Box 4:	<i>Expiry date:</i>	Please state day (two digits), month (two digits) and year (four digits).
Box 5:	<i>Agent/ representative:</i>	Please indicate the name of a duly authorised representative or (customs) agent acting on behalf of the applicant, if the application is not presented by the applicant. See also Article 5 of Council Regulation (EEC) No 2913/92.
Box 6:	<i>Country where the goods are located:</i>	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Council Regulation (EC) No 1172/95 (OJ L 118, 25.5.1995, p. 10). See Commission Regulation (EC) No 1779/2002 (OJ L 296, 5.10.2002, p. 6).
Box 7:	<i>Country of destination:</i>	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Council Regulation (EC) No 1172/95, (OJ L 118, 25.5.1995, p. 10). See Commission Regulation (EC) No 1779/2002, OJ L 296, 5.10.2002, p. 6.
Box 10:	<i>Description of item:</i>	Please consider including data on packaging of the goods concerned. Note that the value of the goods may also be indicated in box 10. If there is not sufficient space in box 10, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 16. This form is designed for use for up to three different types of goods (see Annexes II and III to the Regulation). If it is necessary to authorise the export or import of more than three types of goods, please grant two authorisations.

Box 11	<i>Item No:</i>	This box needs to be completed on the back of the form only. Please ensure that the Item No corresponds to the printed item number in Box 11 found next to the description of the relevant item on the view side.
Box 14	<i>Specific requirements and conditions:</i>	If there is not sufficient space in box 14, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 16.
Box 16	<i>Number of attachments:</i>	Please indicate the number of attachments, if any (see explanations to boxes 10 and 14).

Annex I

UK Returns to UN Conventional Arms Register

INFORMATION REQUIRED FOR THE UN CONVENTIONAL ARMS REGISTER

EXPORTS

Reporting Country: **United Kingdom** – For reporting period *1 January 2005 and 31 December 2005*

A	B	C	D	E	REMARKS	
Category (I – VII)	Final Importer (States)	Number of Items	State of Origin (if not exported)	Intermediate Location	Details of model, type, variant	Comments on Transfer
I. Battle Tanks	–	–	–	–	–	–
II. Armoured Combat Vehicles	USA USA Switzerland New Zealand USA USA	1 3 1 1 1 1	–	–	Sultan ACV FV 432 APC Piranha 111H 8x8 Daimler ferret Mk2/3 Scout Car Spartan APC Alvis Sabre CVRT	–
III. Large Calibre Artillery Systems	–	–	–	–	–	–
IV. Combat Aircraft	USA Australia USA	–	–	–	Harrier FA2 Jet Supermarine Spitfire Mk 18 Messerschmitt 163B	–
V. Attack Helicopters	Ukraine	–	–	–	Gazelle Helicopter	–
VI. Warships	–	–	–	–	–	–
VII. Missiles and Missile Launchers	–	–	–	–	–	–

INFORMATION REQUIRED FOR THE UN CONVENTIONAL ARMS REGISTER

IMPORTS

Reporting Country: **United Kingdom** – For reporting period *1 January 2005 and 31 December 2005*

A	B	C	D	E	REMARKS	
Category (I – VII)	Final Importer (States)	Number of Items	State of Origin (if not exported)	Intermediate Location	Details of model, type, variant	Comments on Transfer
I. Battle Tanks	–	–	–	–	–	–
II. Armoured Combat Vehicles	Sweden	46	–	–	Viking SUV	–
III. Large Calibre Artillery Systems	–	–	–	–	–	–
IV. Combat Aircraft	–	–	–	–	–	–
V. Attack Helicopters	–	–	–	–	–	–
VI. Warships	–	–	–	–	–	–
VII. Missiles and Missile Launchers	USA	288	–	–	MANPADS Gripstocks	–

THE UN REGISTER OF CONVENTIONAL ARMS

PROCUREMENT FROM NATIONAL PRODUCTION

Reporting Country: **United Kingdom**

For reporting period: **2005**

Category (I-VII)	Number of Items	Details of model, type, variant
<i>I. Battle Tanks</i>	-	-
<i>II Armoured Combat Vehicles</i>	157	<i>Snatch II SUV</i>
<i>III. Large Calibre Artillery Systems</i>	-	-
<i>IV. Combat Aircraft</i>	9	<i>Typhoon (Part of the Eurofighter project)</i>
<i>V. Attack Helicopters</i>	11	<i>Apache AH MK1 (modified)</i>
		1 Merlin MK1
<i>VI. Warships</i>	-	-
<i>VII. Missiles & Missile Launchers</i>	2679	<i>Including Storm Shadow, ASRAAM, Brimstone, HVM HEK and Rapier</i>

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.

THE UN REGISTER OF CONVENTIONAL ARMS

MILITARY HOLDINGS

Reporting Country: **United Kingdom**

For reporting period: **2005**

Category	Definition	Number
Category II Armoured Combat Vehicles	TOTAL	
	FV432 Mk2	724
	Stormer APC	11
	CVR(T) Scorpion	20
	CVR(T) Scimitar	329
	CVR(T) Spartan	440
	CVR(T) Sturgeon	35
	CVR(T) Striker	51
	Saxon	455
	Warrior	471
Viking	60	
Category III Large Calibre Artillery Systems	TOTAL	
	105mm Light Gun	147
	AS90 SP Howitzer	155
	MLRS	48
	432 APC (81mm)	48
	Mortar (81mm)	34
Category IV Military Aircrafts	TOTAL	
	Tornado	241
	Harrier (RN + Training)	92
	Canberra	4
	Hawk	131
	Jaguar	39
	Nimrod	21
	AWACS	7
	Typhoon	22
	VC10	16
	C17	4
	Hercules	50
Tristar	6	

Category	Definition	Number
Category V Attack Helicopter	TOTAL	
	Merlin Mk 1	29
	Lynx Mk 7/Mk 9	60
	Lynx Mk 3/Mk 8	46
	Puma	26
	Sea King Mk 5/7	21
	Apache	46
Gazelle	55	
Category VI Warships	TOTAL	
	Aircraft Carriers	1
	Submarines	7
	Frigates/DD	24
	Amphibious Ships	3
	Survey Ships	5
	Offshore Patrol	4
	Aviation Training Ship	1
	Repair/Maintenance Ship	1
	Tanker/Replenish Ship	13
	Logistic Landing Ship	3
MCMV	8	
Category VII Missiles and Missile Launchers	TOTAL	2129

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

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