



BRIEFING PAPER

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An introduction to UK arms exports

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Summary

Arms exports are the export of military and dual use items (that could be used for military or civilian use) to other nations. The UK is one of the world's largest exporters of arms.¹

The regulatory and legal framework for arms exports has developed over the years. The UK Government states that it operates "one of the most robust arms export control regimes in the world".² But there are many who question the export of goods to countries with poor human rights records. The continued export of weapons to Saudi Arabia has proven particularly controversial in recent years and a range of voices have called on the Government to suspend arms exports to the Kingdom out of concern about these weapons have been used to commit violations of International Humanitarian Law in Yemen. The Middle East is a major market for the UK, accounting for just under half the UK's total defence exports in 2017³.

The arms control system draws upon a number of elements:

- The Consolidated List – this is the list of 'controlled' items which require a license before export. This list combines the various 'lists' of items from UK and EU measures and is informed by the work of various international forum, like the Wassenaar Arrangement.
- The Consolidated Criteria – this sets out the criteria against which license applications are judged. The eight criteria require the Government to, among other things, respect international obligations and commitments and consider the risk of an item being used for internal repression.
- The 2008 EU Common Position on arms exports – the only legally binding EU-wide arrangement on conventional arms exports. It sets out common rules governing the control of exports and sets out eight criteria against which export licensing applications can be approved or refused by EU Member States. The wording used in the Common Position is very similar to that used in the Consolidated Criteria. The EU publishes an annual Common Military List of items which are covered by the Common Position. In the UK, the EU's Common Military List is incorporated into the Consolidated List.
- Export Control Act 2002 & Export Control Order 2008 – the latter is considered the main piece of domestic export control legislation.
- EU measures – regulations and directives covering areas such as dual-use items, weapons and technology.
- A number of multilateral forums on arms controls, both formal and informal, to which the UK belongs.

The UK was the sixth largest exporter of major arms between 2013-17
SIPRI, March 2018

¹ ["Trends in international arms transfers, 2017"](#), The Stockholm International Peace Research Institute (SIPRI), March 2018;

² See for example [HL3497](#), 7 December 2017. The Campaign Against the Arms Trade have created a [blog](#) specifically to track Government uses of this phrase.

³ [UK defence and security export statistics for 2016](#), Department for International Trade, 24 October 2017

The Secretary of State for International Trade is responsible for arms export controls. The Export Control Organisation sits within the Department for International Trade and is responsible for issuing or refusing licenses. Within the ECO is the Export Control Joint Unit, set up as a result of the 2015 Strategic Defence and Security Review, which brings together expertise from the DIT, Foreign and Commonwealth Office and Ministry of Defence. The ECJU assess license applications against the Common Criteria.

Items that are 'controlled' and therefore need a license for export can be found in the Consolidated List. A range of different licenses are available. The Government does publish statistical information on licenses granted but external organisations believe the Government could be more transparent in the information it provides.

Parliamentary scrutiny is led by the Committees on Arms Export Controls (CAEC) whose membership is drawn from four select committees: the Foreign Affairs, Defence, International Trade and International Development Committees.

The implications of Brexit for arms export controls are not yet clear and there is limited literature on this subject.

There is broad acceptance that legislative changes will be needed. Concerns about arms exports post-Brexit tend to coalesce around sanctions (arms embargoes), dual-use technology, and continued participation in information exchange mechanisms. Several bodies are calling on the Government to formally align with the EU Common Position once it leaves the EU, fearing a divergence of agreed criteria over the long-term.

The Sanctions and Anti-Money Laundering Bill currently proceeding through Parliament seeks to ensure the UK has the legal powers to maintain arms embargoes and other restrictive measures post-Brexit.

About this paper

This briefing paper provides a short introduction to UK arms exports. It explains what arms exports are, what controls are in place, who in Government is responsible for granting export licenses and how decisions are made to grant, or refuse, a license.

It then looks at who scrutinises the arms export industry, both within and outside of Parliament, and the concerns they most commonly raise about the UK arms exports. The paper briefly examines some of the cases that have gained widespread attention and coverage, including the UK's current and historic arms exports relationship with Saudi Arabia.

More detailed information can be found in Library briefing paper [The legal and regulatory framework for UK arms exports](#) (CBP 02729, 4 September 2017). This paper looks specifically at arms export control issues between 2010-2017.

Library briefing paper [UK Defence Industry Exports](#) (CBP08310, 15 May 2018) provides statistical analysis of UK arms exports.

1. What are arms exports?

Summary

Arms exports are the export of military and dual use items (that could be used for military or civilian use) to other nations. The export of these items is controlled to ensure the Government knows what is being exported, where it is being exported to and for whom. A perennial issue is the inherent tension between promoting arms sales whilst also voicing concerns about the end user, especially if there are concerns about a country's human rights record. UK arms sales to Saudi Arabia for example remain highly controversial. This section explains what arms exports are and controversies within this field.

1.1 What are arms exports?

Arms exports are the export of military and dual use items (that could be used for military or civilian use) to other nations. They are often referred to as Strategic Goods or Strategic Exports (to differentiate them from other goods). Controls are in place to regulate the export of such goods and a license is required for the export (or transit) of such goods from the UK. Broadly speaking, export controls apply to:

- items that have been specially designed or modified for military use, including components;
- dual-use items (those that can be used for both civil or military purposes), including those listed under EC Regulation 428/2009 or on the UK Dual-Use List, as well as items caught by Military and Weapons of Mass Destruction (WMD) end-use controls;
- transfers of software and technology, including transfers by electronic means e.g. by email, and in some circumstances the provision of technical assistance, related to the above;
- goods that might be used for capital punishment, torture or internal repression; and
- items and activities which are destined for entities or persons subject to UN, EU, OSCE and UK sanctions and embargoes.⁴

1.2 Why does the Government support arms exports?

The UK is a major exporter of arms. The Government has estimated that on a rolling ten-year basis, the UK is the second largest global defence exporter.⁵

The Government describes arms exports as “essential” to the UK’s security:

Responsible defence and security exports are essential for our security and prosperity, and underpin long-term relationships with

⁴ [UK Strategic Export Controls Annual Report 2016](#), HC 287, 20 July 2017, Annex A.1

⁵ [UK Defence and Security Export Statistics for 2016](#), DIT DSO, 25 July 2017

our partners and allies and help deliver wider foreign policy objectives.⁶

Supporting exports was made a core task of the Ministry of Defence for the first time in the 2015 National Security Strategy and Strategic Defence and Security Review. Responsibility for supporting industry falls to the UKTI Defence and Security Organisation (DSO), which sits within the Department for International Trade.

Box 1: The UK as a global arms exporter

There is no internationally agreed definition of defence/arms exports or how they should be measured. However, there are several sources for data on the arms industry.

The Department for International Trade's Defence and Security Organisation published [UK defence and security export statistics for 2016](#) (24 October 2017):

- "The UK is one of the world's most successful defence exporters, averaging second place in the global rankings on a rolling 10-year basis, making it Europe's leading defence exporter in the period"
- The Middle East is the main market for UK arms exports. In 2016 the region account for just under half the total UK defence exports; the US is the second most important region by value, accounting for 23% of total UK defence exports in 2016

SIPRI, The Stockholm International Peace Research Institute, maintains an [Arms Transfers Database](#) and publishes an annual yearbook. According to its [trends in international arms transfers, 2017](#) (March 2018):

- The UK was the sixth largest exporter of major arms between 2013-2017 (behind the US, Russia, France, Germany and China) with a 4.8% share arms exports
- The UK's main markets were Saudi Arabia, Oman and Indonesia.
- UK arms exported increased by 37% between 2008-12 and 2013-17. Deliveries of combat aircraft to Saudi Arabia and Oman accounted for a large share of these exports

1.3 Why are controls needed?

Controls seek to prevent the export of military and dual-use equipment to those who may misuse it, for example for internal repression and human rights abuses, and to ensure the UK is adhering to its legal obligations and commitments. They also endeavour to prevent arms trafficking and the acquisition of conventional arms and dual-use technologies by terrorists.

A brief history – the 1990s to the present day

The need for greater controls over the export of arms came to the fore in the 1990s. In the UK, the recommendations of the 1996 Scott Report into the 'arms to Iraq' scandal prompted a thorough review of the existing framework. The new Labour Government pledged not to permit the sale of arms to regimes that might use them for internal repression or international aggression; to increase transparency and accountability and support an EU code of conduct governing arms sales.⁷

At the same time, EU Member States recognised there was a considerable divergence about the standards applied to arms exports. Saferworld says an

⁶ [Human Rights and Democracy Report 2015](#), Foreign and Commonwealth Office, 21 July 2016

⁷ Labour party election manifesto 1997

attitude of “if we don’t sell, someone else will” had developed with countries applying differing criteria.⁸

These moves resulted in the adoption of new UK export licensing criteria and the creation of a voluntary EU Code of Conduct on Arms Exports (which later became the 2008 Common Position on arms export). The Labour Government subsequently brought these two together in 2000 in the ‘Consolidated EU and National Arms Export Licensing Criteria’, more regularly known as the **Consolidated Criteria**. This set out the ‘Criteria’ or standards which should apply to arms licenses. Domestically, the Labour Government also passed the Export Control Act in 2002 and the Export Control Order in 2008.

The 2010-15 Government aggressively pursued defence exports. In 2011 the Government introduced a new mechanism to allow the immediate suspension of licenses to countries experiencing a sharp deterioration in security or stability. This was in response to the revocation of licenses to some Middle Eastern and North African countries caught up in the Arab Spring.⁹

More recently the 2015 National Security Strategy and Strategic Defence and Security Review stated: “we remain committed to operating our robust export licensing process to ensure that our defence and security exports accord with our values.”¹⁰

The Government gives three reasons why it considers rigorous export controls to be vital:

- **Safeguard Britain’s national security** by reducing the risk that military or dual use equipment may fall into the wrong hands or be used to undermine peace and stability;
- **Strengthen our prosperity** by enabling responsible British exports; and
- **Uphold our values** by taking account of potential risks to human rights, international humanitarian law and sustainable development.¹¹

1.4 Arms exports and human rights: an inherent conflict?

A perennial concern in this field is the inherent tension between supporting, encouraging and facilitating the export of arms and concerns about what the end user intends to do with them. Notwithstanding the Government’s view that it “operates one of the most robust arms export

⁸ “[Brexit and the future of UK arms transfer controls](#)”, Saferworld, July 2017; Saferworld describes itself as “an independent international organisation working to prevent violent conflict and build safer lives.”

⁹ A closer look at developments during the 2010 to 2015 Government can be found in Library briefing paper [The legal and regulatory framework for UK arms exports](#) (CBP 02729, 4 September 2017

¹⁰ National Security Strategy and Strategic Defence and Security Review, Cm 9161, November 2015, para 6.61-6.62

¹¹ UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, ministerial foreword

control regimes in the world”¹² there are many who question the export of goods to countries with poor human rights records.

During 2010-15 the Committees on Arms Export Controls questioned the Government’s view that it can both export arms to and criticise the human rights record of a country:

The Committees continue to conclude that, whilst the promotion of arms exports and the upholding of human rights are both legitimate Government policies, the Government would do well to acknowledge that there is an inherent conflict between strongly promoting arms exports to authoritarian regimes whilst strongly criticising their lack of human rights at the same time rather than claiming, as the Government continued to do in its last Response (Cm8935), that these two policies “are mutually reinforcing”.¹³

The Committees called on the Government to “apply significantly more cautious judgements when considering export licence applications for goods to authoritarian regimes which might be used for internal repression.”¹⁴

The Campaign against the Arms Trade actively lobbies to end the international arms trade. It argues the arms trade “supports conflict and human rights abusing regimes”.¹⁵

Other organisations like Oxfam and Saferworld similarly raise concerns about exports to countries which are considered to have questionable human rights records.

Arms exports to the Middle East and North Africa

Arms exports to the Middle East and North Africa have long been a source of controversy. Sir Richard Scott’s 1996 report into arms to Iraq in the 1980s prompted a thorough review of strategic export controls and export licensing procedures.

Criticisms of and concerns about UK arms exports to Middle Eastern and North African countries caught up in the Arab Spring, which included a wide range of items that could conceivably be used for internal repression, prompted an internal review in 2011 of those exports and a large number of revocations of licences. It also prompted a broader internal review of the rules relating to the export of goods that might be used for internal repression.

The Committees on Arms Export Controls (during the 2010-15 Parliament) were highly critical of the UK’s record on arms exports to the Middle East and North Africa and pursued the issue energetically.

Saudi Arabia

UK arms sales to Saudi Arabia remain highly controversial.

¹² See for example [HL3497](#), 7 December 2017. The Campaign Against the Arms Trade have created a [blog](#) specifically to track Government uses of this phrase.

¹³ Scrutiny of Arms Exports and Arms Controls (2015), Committees on Arms Export Controls, HC 608 2014-15, 20 March 2015, para 88

¹⁴ Scrutiny of Arms Exports and Arms Controls (2015), Committees on Arms Export Controls, HC 608 2014-15, 20 March 2015, para 144

¹⁵ “[Introduction to the arms trade](#)”, Campaign Against the Arms Trade, August 2015

The UK Government has a longstanding Government to Government Defence Cooperation Programme with Saudi Arabia. All goods are exported under export licenses obtained by Industry. The programme covers the export of Typhoon, Tornado and Hawk aircraft, mine countermeasure vessels, munitions, infrastructure and logistics. The UK Strategic Export Controls Annual Reports provides lists of Government-to-Government transfers of equipment to Saudi Arabia. In 2016, for example, this included 11 Typhoon aircraft and initial in-service support and 186 missiles and missile launchers.¹⁶

Concerns that UK arms may have been used by Saudi Arabia to commit violations of International Humanitarian Law (IHL) in Yemen led to calls from a range of quarters for the suspension of arms exports to Saudi Arabia.

The Committees on Arms Export Controls (2015-17) divided over the conclusions of its inquiry on UK arms exports to Saudi Arabia. Two of the four select committees represented on it – the International Development Committee and Business, Innovations and Skills Committee – came out in favour of suspending all such arms exports. The Foreign Affairs Committee did not endorse suspending all such exports while the Defence Committee did not associate itself with either report. The Committees ceased to function after this split.¹⁷

In June 2016, the English High Court granted lawyers for the Campaign Against the Arms Trade permission for a judicial review of the UK Government's decision not to suspend arms sales to Saudi Arabia. The High Court found the sales were not unlawful. The Secretary of State for International Trade updated the House in an oral statement on [10 July 2017](#). The Court of Appeal has granted CAAT permission to appeal against the ruling. The Appeal is likely to be heard in the autumn or early winter.¹⁸

¹⁶ UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, table 7.III

¹⁷ Further information about the arguments over sales to Saudi Arabia in the context of the Yemen split can be found in Library briefing paper [The legal and regulatory framework for UK arms exports](#), 4 September 2017, CBP 02729.

¹⁸ Legal documents relating to the Judicial Review can be accessed via the CAAT website at: <https://www.caat.org.uk/resources/countries/saudi-arabia/legal-2016>

2. What controls are in place?

Summary

The export control system is made up of several elements. International bodies, to which the UK belongs, provide specialist advice in identifying items that need to be controlled. These items are added to the applicable UK or EU secondary legislation (statutory instruments or regulations) and collated in the UK Strategic Export Control List, more commonly known as the Consolidated List. Applications to export items on the list are assessed against eight criteria, found in the 2008 EU Common Position and the UK national criteria. In the UK, these criteria are referred to as the Consolidated Criteria. The eight criteria require the Government to, among other things, respect international obligations and commitments and consider the risk of an item being used for internal repression. This section focuses on these different elements, starting firstly with the Common Position.

2.1 The Common Position

The EU's Common Position on arms exports is the only legally binding EU-wide arrangement on conventional arms exports.

The Common Position sets out common rules governing the control of exports of military technology and equipment. It requires each Member State to assess the export license applications made to it for items on the EU Common Military List on a case-by-case basis against the criteria it sets out. However, the Common Military List is not intended to replace Member States' national military technology and equipment list (hence the need in the UK for the Consolidated List).

The CP also provides a mechanism by which Member States can share information – including on reasons why an application has been denied – but it remains up to each Member State to decide on whether to approve or deny a license. It also allows for Member States to operate more restrictive national policies. Member states are obliged to conform to the Common Position.¹⁹

The [Common Position](#) (2008/944/CFSP) was agreed in 2008 and replaced the previously voluntary 1998 EU Code of Conduct on Arms Exports and builds on criteria developed in the early 1990s.²⁰

A [User's Guide](#) to the Common Position was developed by the This guide is "intended to help Member States apply the Common Position" and is regularly updated.

The Common Position is to be reviewed in 2018 by the Council of the European Union's [Working Party on Conventional Arms Exports](#) (COARM).

¹⁹ Since 2009 these are now referred to as Common Decisions, but in the arms export arena it is known as the Common Position.

²⁰ [Common Position](#), 2008/944/CFSP, paragraph 1

More information on the Common Position and recently proposed changes by MEPs can be found in a European Parliament research paper: [EU rules on control of arms exports](#), 5 September 2017.

2.2 UK and EU legislative measures

Domestic legislation

The statutory framework for export controls is set out in the Export Control Act 2002. The specific controls introduced under the Act are contained in the main secondary legislation: the [Export Control Order 2008](#) (SI 2008/3231). The Export Control Order 2008 is considered to be the main piece of domestic export control legislation.²¹

EU legislation

There are several EU measures that apply directly to strategic export controls. These are:

- The “Dual-use Regulation”: Council Regulation (EC) 428/2009
- The “Firearms” Regulation: Council Regulation (EU) 252/2012
- The “Torture Regulation”: Council Regulation (EC) 1236/2005

There are also two Directives which relate to intra-EU trade in strategic goods:

- The “Weapons Directive”: 91/477/EEC (as amended by Directive 2008/51/EC)
- ICT Directive: Intra-Community Transfers (ICT) Directive 2009/43/EC²²

Further reading: Commons Library briefing paper [The legal and regulatory framework for UK arms exports](#) (CBP 02729, 4 September 2017). The latest Strategic [UK Strategic Export Controls Annual Report 2016](#) also provides a summary of applicable legislation.

2.3 The Consolidated List

The Consolidated List is the list of ‘controlled’ military and dual-use items that require an export license. It brings together into one document all the items that require export authorisation from wherever they originate. The full title is the [‘UK Strategic Export Control lists: the consolidated list of strategic military and dual-use items that require export authorisation’](#) but it tends to be referred to in shorthand as either the Consolidated List or the UK Strategic Export Control Lists. It is a highly technical and lengthy document.

How do items get on the list?

The items on the List are derived from UK and EU regulations and the 2008 EU Common Position.

These are themselves informed by the work of various international forums and agreements to which the UK belongs. The common EU Military List is aligned to the [Wassenaar Arrangement](#), which has a list of items of

²¹ [UK Strategic Export Controls Annual Report 2016](#), HC 287, 20 July 2017, A.3

²² [UK Strategic Export Controls Annual Report 2016](#), HC 287, 20 July 2017, A.3

conventional arms and dual-use goods and technologies. The Missile Technology and Control Regime, a voluntary group of countries, collates and provides information on [items and materials](#) that relate to missiles, rockets and space launch vehicles. More information on these and other bodies can be found in the appendix.

How does this work in practice?

To give an example. The Wassenaar Arrangement met in December 2017 and agreed to amend its list of dual-use goods and technologies and munitions list. These changes were then applied to the EU Common Military List as the EU Common Military List is aligned to the Wassenaar Arrangement. In the UK these changes were brought into effect by amending the main domestic piece of legislation, the 2008 Export Control Order. In this case, this was in [Export Control \(Amendment\) Order 2018](#) (S.I. 2018 no 165) which came into force on 5 March 2018. The Consolidated List was also updated to reflect the changes.²³

How does industry check what is on the list?

The Export Control Organisation provides businesses with a '[goods checker](#)' database to check whether an item requires a license.

The ECO also advises that some items may not be on the list but may still need a license under End-Use Controls, which applies when there are concerns about the possible use of an item in a Weapons of Mass Destruction programme in a particular end-user.

2.4 The Consolidated Criteria

In 2000 the UK Government brought together into one place the principles underpinning both the existing UK national criteria and the then EU Code of Conduct on arms exports (and now 2008 Common Position) into one document - The Consolidated EU and National Arms Export Licensing Criteria (henceforth the Consolidated Criteria). There are eight criteria and the Government says there are only minor differences between the eight criteria of the EU's Common Position and the Consolidated Criteria.²⁴ The Consolidated Criteria was last updated March 2014.²⁵

²³ "[Notice to exporters 2018/4: Export Control Order 2008 amended and 4 four OGELS](#)", Export Control Joint Unit, 5 March 2018

²⁴ [UK Strategic Export Controls Annual Report 2016](#), HC 287, 20 July 2017, Annex A.5

²⁵ HC Deb 25 March 2014 c9-14WS. Further detail of the evolution of the Consolidated Criteria can be found in Commons Library paper [The legal and regulatory framework for UK arms exports](#), CBP 02729, 4 September 2017

Box 2: The Consolidated Criteria

This is a summary. A detailed explanation of the criteria, including each criterion's sub-sections, can be found in a [written statement](#) on 25 March 2014. There is also a [User's Guide](#) to help apply the criteria.

Criterion One

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

Criterion Two

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

Criterion Three

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

Criterion Four

Preservation of regional peace, security and stability

Criterion Five

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

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.

Criterion Seven

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

Criterion Eight

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

2.5 The Arms Trade Treaty

The [Arms Trade Treaty](#) (ATT) provides an international legal and regulatory framework for the arms trade based on respect for international law and human rights.

The Arms Trade Treaty does not establish a system of international enforcement, monitoring or verification. Rather, States Parties oversee their national implementation efforts. The specifics of how the ATT is implemented in a country depends on the country's national institution and legal framework.²⁶

The UK [ratified the treaty](#) on 2 April 2014 and the Treaty entered into force on 24 December 2014. At the time of writing it has 92 States Parties and 130 signatories. Further reading: Library briefing paper [The Arms Trade Treaty](#), 21 November 2014.

²⁶ "[Arms Trade Treaty Implementation Toolkit](#)", UN Office for Disarmament Affairs, accessed 5 February 2018, para 21

3. How are licenses granted?

Summary

The Department for International Trade is the licensing authority for strategic exports from the UK. The Export Control Organisation is responsible for issuing licenses. The Export Control Joint Unit brings together expertise from the DIT, Foreign and Commonwealth Office and Ministry of Defence who assess license applications against the Common Criteria. Different departments are responsible for leading on different criteria but ultimately the Secretary of State for International Trade is responsible for export controls. A range of different licenses are available.

3.1 Which Government department is responsible for arms exports?

The **Department for International Trade** (DIT) is the licensing authority for strategic exports from the UK. The decision to grant or refuse an export licence in any individual case is the responsibility of the Secretary of State for International Trade. Licenses are issued by the Export Control Organisation (ECO) which is part of the DIT.

The Foreign and Commonwealth Office (FCO), Ministry of Defence (MOD) and, when required, the Department for International Development (DFID), are consulted and provide advice.

In 2016 the Government established a new joint unit – the **Export Control Joint Unit** (ECJU) – to bring together the operational and policy expertise of the FCO and MOD with the DIT. The ECJU sits in the DIT. This joint unit does not include DFID although DFID may be consulted.

Other government departments or agencies are also involved in the export control system. These include Border Force, Her Majesty's Revenue and Customs, National Cyber Security Centre and the Crown Prosecution Service.²⁷

3.2 How are decisions made to grant, refuse or revoke licenses?

The body within Government responsible for issuing licenses for strategic goods, the Export Controls Joint Unit, describes its purpose is to “help the UK’s businesses export responsibly and within the law. Our licensing process asks what is being exported, to where and for whom”.²⁸

Every application for a license is examined on a case-by-case basis against the Consolidated Criteria. The Criteria are not applied mechanistically. The first four criteria are mandatory – that is, an initial assessment for a license must be checked against the first four criteria.²⁹ A license will not be

²⁷ UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, Annex A.1

²⁸ [ECJU webpage](#), Department of International Trade, accessed 29 January 2018

²⁹ [High Court judgement](#), July 2017, between the government and the Campaign against the Arms Trade (para 95).

granted if doing so would be a breach of the Criteria.³⁰ The Government says, “decisions to refuse licenses are not taken lightly and are only made in those cases where refusal is clearly justified”.³¹ To illustrate the low level of refusals, in 2016, 13,723 SIELs, the most common type of license, were granted and 353 were refused.³²

Different departments take the lead in assessing an export application depending on the Criteria against which it is to be judged (see box 3). The FCO has lead responsibility for five of the eight Consolidated Criteria. The Foreign Affairs Committee examined the FCO’s role in an inquiry on FCO policy on arms exports in 2016.

The FCO explained to the Committee how their officials within the ECU might draw upon the wider expertise of the Foreign Office when assessing an export licence. When assessing an export license under Criterion Two (the respect for human rights and fundamental freedoms in the country of final destination as well as respect by that country for international humanitarian law), for example, the FCO might draw upon the expertise of overseas Posts, geographical desks, Legal Advisers, and the Human Rights and Democracy Department (HRDD) in the FCO if the end destination of a proposed export is of concern. If the FCO felt a license application did not meet the terms of a specific Criteria the FCO would advise the DIT that the export license should be refused.³³

Box 3: Role of different government departments

Criterion One: FCO

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

Criterion Two: FCO

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

Criterion Three: FCO

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

Criterion Four: FCO

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

Criterion Six: MOD

³⁰ UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, Annex A.5

³¹ UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, para 4.5

³² UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, tavke 4,1

³³ [Written evidence from the Foreign and Commonwealth Office](#) (AEX001), Foreign Affairs Committee, “FCO policy on arms exports”, HC 868 2016-17, 13 December 2016. The inquiry was closed because of the general election. A more detailed explanation of the role of the different departments can be found in the High Court [judgement](#) of July 2017 between the government and the Campaign against the Arms Trade (paras 92-102).

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

Criterion Six: FCO

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

Criterion Seven: FCO/MOD

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

Criterion Eight: DFID

When assessing an ELA under Criterion Eight, DFID is consulted to establish if the importing country is on the World Bank's International Development Association list, and the value of the application exceeds the threshold set by the Criterion Eight methodology. DFID then considers the potential impact of the proposed export on the sustainable development of the recipient country.³⁴

What happens if Departments disagree?

The first step is the weekly denials meeting, where staff will discuss any case or license application that one or more of the three advisory Departments are proposing to recommend refusal. If there is no agreement then the next stage is to invoke the Cabinet Office to moderate between the three Departments with a view to finding a solution. The next step is to involve Ministers. The head of arms exports policy at the FCO said officials "would normally only go to Ministers when a case was particularly complex or where we were forming what was essentially a new policy—if we were changing our approach in some way."³⁵

3.3 What are the different types of licenses?

There are several different types of licenses. Government data on the number of licenses issued (or refused or revoked) is broken down into the different types of licenses and so it is useful to know the different types.

The Export Control Organisation provides the following explanation:

Broadly there are two types of licence, individual and general. Licences can be standard or open.

Each licence names the goods that can be exported and specifies the destinations to which they can be exported, along with other details and restrictions.

General licences are pre-published and can be used by all eligible exporters whereas individual licences are issued following a successful application and allow only those named on the application to export certain goods.

Those exporting under general licences must adhere to the terms and conditions of the licence under which they wish to export. Exporters

³⁴ UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, Annex A.6

³⁵ Oral evidence, "FCO policy on arms exports", HC 868 2016-17, 13 December 2016, q10. The inquiry was closed because of the general election.

must register with the ECO to use a general licence and are subject to regular audits to ensure the licence terms and conditions are being adhered to.

Those requiring an individual licence must submit an application to the ECO where they wish to make exports not covered by the terms and conditions of a general licence.

Generally, open licences can be used with fewer restrictions than standard licences.

Standard licences tend to name a specific quantity of specific goods that can be exported to a specific destination whereas open licences may include a wider range of goods or destinations and generally do not limit the quantity of goods that can be exported.³⁶

The different types of licenses include:

- Standard Individual Export Licenses (SIELs)
- Standard Individual Trade Control License (SITCLs)
- Open Individual Export Licenses (OIELs)
- Open General Export Licenses (OGELs)
- Open Individual Trade Control License (OITCLs)
- Open General Transshipment License (OGTCL)

By far the most common license type issued for export of controlled goods from the UK is the Standard Individual Export License (SIELs).³⁷

In addition, the approval of the Ministry of Defence is required (via the F680 process) if an exporter plans to sell, demonstrate, promote or (potentially export) equipment, goods or information that is classified.³⁸

The Government publishes statistical data on export licenses on a quarterly and annual basis on the gov.uk website: [Strategic Export Controls: licensing data](#).

Each quarterly report contains a short summary document and a much more detailed country pivot report which lists exports to countries alphabetically. These reports are complicated to read and only provide detailed information on SIELs. They also provide information only on the broad categories rather than the specific items to be exports. So, for example the category ML10 includes military aircraft, helicopters and remotely piloted aerial vehicles (drones) and associated components; ML4 includes missiles, bombs, torpedoes and rockets and associated components; ML9 is for surface vessels (warships). It does not provide information on name of the item to be exported, so for example it won't list Typhoon aircraft.

³⁶ DIT ECO, [Strategic export controls: country pivot report](#), January 2018, p. 3.

³⁷ UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, para 4.1 (see tables 4.1-4.V)

³⁸ The above list is taken largely from UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, Annex A.7 supplemented with information from [Written evidence from the Foreign and Commonwealth Office](#) (AEX001), Foreign Affairs Committee, "FCO policy on arms exports", HC 868 2016-17, 13 December 2016 and from the summary provided in the Quarterly Strategic Export Controls Statistics publication.

The Campaign Against the Arms Trade maintains its own [database](#) on UK arms exports.

Library briefing paper [UK Defence Industry Exports](#) (CBP08310, 15 May 2018) provides statistical analysis of UK arms exports.

3.4 What controls apply to equipment the Ministry of Defence no longer needs?

The Ministry of Defence may dispose of equipment it deems surplus to the requirements of the armed forces. This is the responsibility of the Disposal Services Authority and customers may be another Government or individuals. Equipment to be exported outside the UK are subject to normal UK export license regulations.³⁹

The UK Strategic Export Controls Annual Reports list disposals (sales) to the armed forces of another nation.

The majority of surplus items are sold through marketing contracts and details of current stock available can be found at [Ex-Mod.com](#). Direct sales of capital assets into the commercial market place conducted by the DSA such as aircraft or ships are advertised on the [MOD surplus equipment](#) page. All surplus equipment sold into the commercial marketplace is demilitarised and declassified.

3.5 What are Export Credit Guarantees?

Export Credit Guarantees are provided by UK Export Finance (UKEF – previously known as the Export Credits Guarantee Department). UKEF supports UK exports by issuing insurance contracts to UK exporters, and by issuing guarantees to banks on loans to overseas borrowers, which in turn are used to purchase supplies from UK exporters. The aim of UKEF is to facilitate export contracts by providing protection against the risks of exports not being paid for; it provides such support only where there is evidence that cover is not available from a private insurer.⁴⁰

The Campaign against the Arms Trade and SIPRI explored Export Credit Guarantees in their joint report of November 2016. The report notes that arms-related share of new UK export finance business has decreased in recent years, particularly since 2008 when BAE pulled out of cover for Saudi Arabia. In 2008/9 less than 1% of UKEF business was arms-related. Further information on Export Credit Guarantees can be found in the report. In addition, UKEF Annual Accounts now provides a list of businesses supported. The most recent annual accounts, for 2016-17, lists £1.7bn buyer credit for BAE Systems for Typhoon and Hawk aircraft to Oman. Other businesses are supported in the fields of mining, offshore oil and gas, petro-chemical amongst others.⁴¹

³⁹ HC Deb 8 July 2008 c1461W

⁴⁰ "[Government support to exporters – in brief](#)", House of Commons Library standard note, 10 September 2013, SN06727

⁴¹ [UK Export Finance Annual Report and Accounts 2016-17](#), UK Export Finance, HC12 2016-17, July 2017, annex

3.6 Do ‘gifts’ require an export license?

Gifting equipment is when the Government decides to give equipment to another country “in support of its wider security and foreign policy aims”.⁴²

Gifted equipment is exported under a Crown exemption letter and therefore does not require an export or trade license. All proposals to gift controlled military equipment are assessed against the Consolidated Criteria. The Ministry of Defence manages the assessment process within Government.⁴³

Notable gifted equipment in recent years include the provision of machine guns, ammunition and counter-IED equipment to the Iraqi Kurdish Peshmerga; Toyota land cruiser armoured vehicles to Nigeria; Challenger tank spare parts to Oman; soft body armour to Somalia and ballistic vests and associated equipment to Lebanese Armed Forces.⁴⁴

Notification of Parliament

Parliament is notified when gifts exceed £300,000 in value. The Sponsoring department makes a written statement and lays a Departmental Minute before the House. Members have 14 days in which to raise objections – if they do, then the objection will be examined before final approval is given:

If, during the period of fourteen parliamentary sitting days beginning on the date on which this minute was laid, a Member signifies an objection by giving notice of a Parliamentary Question or a Motion relating to the minute, or by otherwise raising the matter in the House, final approval of the gift will be withheld pending an examination of the objection.⁴⁵

An example of a [written statement](#) is the gifting of equipment to Libya in September 2017.

The procedure for Departments to follow is laid out in the Treasury’s guide [Managing Public Money](#) (annex 4.12).

When is a gift not a gift?

The Foreign Secretary informed the Foreign Affairs Committee in October 2016 that the FCO is changing how it informs Parliament of the gifting of equipment to third parties. The Chair of the Foreign Affairs Committee objected to the proposed changes (along with the Chair of the Public Accounts Committee) and an exchange of [seven letters](#) ensued.⁴⁶

The Foreign Office said it needed to align itself with the procedures set out in the Treasury’s [Managing Public Money](#) publication and that what it had been calling gifts were in fact ‘grants-in-aid’. [Managing Public Money](#) states:

A gift is something voluntarily donated, with no preconditions and without the expectation of any return.

⁴² UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017, p23

⁴³ UK Strategic Export Controls Annual Report 2016, HC 287, 20 July 2017

⁴⁴ Lists are available in UK Strategic Export Controls Annual Reports.

⁴⁵ [HCWS124](#), 12 September 2017

⁴⁶ The letters are available in

[...]

grants and grants-in-aid are not gifts as they are made under legislation, subject to conditions, with some expectation that the government will receive value through the furtherance of its policy objectives.⁴⁷

In the course of two letters (dated 14 October and 20 December 2016) the Foreign Secretary argued that the “overwhelming majority of equipment it donates is given with the expectation that it is used for purposes that further foreign policy goals” and therefore they do not constitute gifts.

The Chairs of the Foreign Affairs Committee and the Committee of Public Accounts disagreed with the proposed reforms, saying merely making a written ministerial statement is “quite inadequate”. The Chairs also questioned the distinction between gifts and grants, suggesting “it is hard to conceive of circumstances in which the Government would donate items without an expectation that they would be used for purposes that further its policy objectives”.⁴⁸ The letter exchange concluded with the Foreign Secretary confirming the FCO would implement the changes.⁴⁹

The Defence Secretary made a written ministerial statement and laid a Departmental Minute in December 2017 about the ‘grant-in-kind’ of equipment to Jordanian armed forces. The statement explicitly said: “the provision of equipment will be treated as a grant-in-kind” and advised that:

Departments which previously treated these payments as gifts have undertaken to notify the House of Commons of any such grant-in-kind of a value exceeding £300,000 and explaining the circumstances; and to refrain from making the grant until fourteen parliamentary sitting days after the issue of the minute, except in cases of special urgency.⁵⁰

3.7 Should there be a register of arms brokers?

The EU agreed a Common Position on arms brokering in 2003. The UK has implemented this through the Export Control Act 2002 and the Export Control Order 2008.

There have been calls for the establishment of a pre-licensing register of arms brokers in the UK. This was a subject pursued by the Committees on Arms Export Controls during the 2010-15 Government. Having considered arguments for and against establishing a pre-licensing register of arms brokers since 2014, the Government decided not to proceed with one in July 2015.⁵¹

Baroness Jolly (Liberal Democrat) introduced a private member’s bill in May 2016 that would make provision for the establishment, maintenance and publication of a register of arms brokers. The [Register of Arms Brokers Bill \[HL\]](#) had Second Reading in the House of Lords on 10 June 2016 and line by

⁴⁷ [Managing Public Money](#), Treasury, January 2015, Ar.12.2

⁴⁸ [Letter to the Foreign Secretary from the Chair of the Committee regarding gifts of equipment 21 February 2017](#), Foreign Affairs Committee

⁴⁹ Letter from the Foreign Secretary to the Chair of the Committee regarding gifts, 25 April 2017

⁵⁰ [HCWS348](#), 14 December 2017

⁵¹ [UK Strategic Arms Export Controls Annual Report 2015](#), 7 July 2016, p3

line examination during committee stage on 18 November 2016. The Government rejected a suggested register of brokers, arguing it would make the system “considerably more complex”.⁵² The Bill made no further progress before the 2016-17 session of Parliament was prorogued. A House of Lords Library briefing paper on the Bill is available: [The Register of Arms Brokers Bill \(HL\): Briefing for Lords Stages](#), 6 June 2016.

⁵² [HL Deb 18 November 2016 c1685](#)

4. Who can impose arms embargoes?

Arms embargoes may be applied by the United Nations, by the European Union or, less commonly, by the OSCE.

A list of countries which arms embargoes in place is available on the gov.uk [website](#). A list of arms embargoes by country with the establishing document, entry into force and date suspended/lifted, can be found on the SIPRI [arms embargo archive](#).

4.1 EU

Information on sanctions imposed by the EU, including arms embargoes, can be found on the European Commission [website](#). This includes a [map](#) and a country by country list with the applicable Council Regulation/s ('[EU sanctions in force](#)').

A new Sanctions and Anti-Money Laundering Bill will provide for EU decisions retained under the EU Withdrawal Bill to be amended by secondary legislation, in line with future Government policy and to comply with UN and other international obligations – i.e. it seeks to ensure that the UK has the legal powers to maintain arms embargoes and other restrictive measures post-Brexit. Further information can be found on the Bill page of [Parliament.uk](#) and in Library briefing paper [The Sanctions and Anti-Money Laundering Bill 2017-19](#) (CBP08232)

4.2 United Nations

The UN Security Council can take sanction measures under Article 41 of the United Nations Charter. UN sanctions regimes are administered by a sanctions committee chaired by a non-permanent member of the Security Council. Information on each country or group can be found on the [UN Sanctions](#) website.

4.3 OSCE

In 1992 the Organisation for Security and Co-operation in Europe requested its participating states to impose an arms embargo on forces engaged in combat in the Nagorno-Karabakh region (Azerbaijan and Armenia). Further information on [Azerbaijan](#) and [Armenia](#) are available on the gov.uk website.

4.4 UK: Export Control Order 2008

Countries and destinations subject to arms embargoes are listed in [Schedule 4](#) of the [Export Control Order 2008](#) (SI 2008/3231). Amendments may be made via an Export Control Order.

For example, on 13 November 2017 the European Union imposed new sanctions against Venezuela. The new measures are contained in [Council Decision 2017/2074/CFSP](#) and [Council Regulation \(EU\) No 2017/2063](#). The restrictive measures came into force on 14 November 2017. An [Export Control \(Venezuela Sanctions\) Order](#) (SI 2018/108) was laid in the House of Lords on 1 February 2018.

5. Scrutiny of arms export controls

Summary

The Government submits annual reports on the controls imposed on strategic exports to Parliament. The Committees on Arms Export Controls was reformed after the 2017 election. This draws together four select committees – international trade, foreign affairs, international development and defence – to scrutinise UK arms export controls and policy. Externally several organisations pay close attention to UK arms export licensing decisions. The Campaign Against the Arms Trade actively lobby Members about UK arms exports. This section looks at who scrutinises the arms export industry, both within and outside of Parliament, and concerns they raise.

5.1 Government reports to Parliament

The Government is required to report annual to Parliament by the Export Control Act 2002 on the controls imposed on strategic exports (section 10). This is achieved through the Strategic Export Controls: Annual Report, usually published around July.

Since the beginning of 2004 the Government has also published annual and quarterly reports detailing export licences approved and refused during that period. These reports are available on Gov.uk.

- [Strategic export controls licensing data: quarterly and annual reports](#)
- [Strategic Export Controls: Annual Reports](#)

5.2 Parliamentary scrutiny

Four select committees have an interest in arms exports as part of their responsibility to scrutinise their respective Government department: the Foreign Affairs, Defence, International Trade and International Development Committees.

These four committees meet and work together as the **Committees on Arms Export Controls** (until 2008 it was known as the Quadripartite Committee). Known as **CAEC** its task is to scrutinise the UK Government's arms export control procedures and legislation, individual arms export licence decisions, arms export policies, and the UK's role in international arms control agreements. Membership is drawn from the four committees.

During Sir John Stanley's chairmanship, CAEC tended to conduct a single inquiry each year, examining exports over the preceding year and the main developments in export policy.⁵³

This changed during the 2015-17 Parliament. CAEC launched two thematic inquiries, on the Arms Trade Treaty and the UK's approach to defence

⁵³ These can be found in the [Publications](#) section of CAEC's webpage. The Government response to the 2015 report can be found on the Gov.uk website: [Consolidated government response to the Committees on Arms Export Controls annual report 2015](#), 31 July 2015

export promotion, and a country based report on UK arms exports to Saudi Arabia.

The Committees hit an impasse and ceased to function in 2016 after the leak of a draft report exposed splits within the Committees on the key issue of whether to endorse the suspension of UK arms exports to Saudi Arabia that could be used in Yemen until the UN had carried out its own investigation into alleged violations of IHL. This led ultimately to the publication of two separate reports.⁵⁴

CAEC was re-formed after the 2017 election and the first inquiry is on UK arms exports during 2016. Information on CAEC is available on Parliament's website: [Committees on Arms Export Controls](#).

Members of Parliament also raise specific concerns about arms exports via the usual Parliamentary methods.

5.3 External scrutiny

A few organisations scrutinise or otherwise pay close attention to UK arms exports licensing decisions.

The [Campaign Against the Arms Trade](#) is arguably the most prominent campaign group regarding arms exports in the UK. It describes itself as a "UK-based organisation working to end the international arms trade". CAAT's goals including stopping the procurement or export of arms where they might "exacerbate conflict, support aggression, or increase tension, support an oppressive regime or undermine democracy, threaten social welfare through the level of military spending". CAAT has an online [database](#) of UK arms export licenses drawn from the Export Control Organisation and compiles information on a country basis. CAAT produces reports and lobbies Members of Parliament on arms exports issues.

CAAT is part of the [European Network Against Arms Trade](#) which is made up of lobby and campaign organisations across Europe which work on arms trade issues.

Other organisations in the UK that pay close attention to arms exports include [Saferworld](#), [Oxfam](#), and [Amnesty International](#), amongst others. They regularly contribute evidence to CAEC. Several of these organisations, along with others, have in the past submitted evidence to CAEC as The UK Working Group on Arms.

[SIPRI](#), the Stockholm International Peace Research Institute, has an internationally respected database of information covering many aspects of the arms trade. Its annual Yearbook is a compendium of data and analysis in the areas of security and conflict; military spending and armaments; and non-proliferations, arms control and disarmament. It also has databases on arms industries, arms transfers and military expenditure. It also tracks arms embargoes and national reports on arms exports. The page on the UK is available here: [National reports United Kingdom](#).

⁵⁴ To avoid duplication, an account of the division within CAEC can be found in Library briefing paper *The legal and regulatory framework for UK arms exports*, CBP2729.

The [Export Group for Aerospace, Defence and Dual-Use](#) (EGADD) describes itself as the “only dedicated national industrial body” in the UK dealing exclusively with export control issues. It operates under the auspices of groups such as ADS, the trade body for the aerospace and defence industry.

A wide range of other organisations comment on conventional and non-conventional weapons. In the US, the [Arms Control Association](#) provides a range of resources and regular analysis of international arms control issues, including factsheets on issues to do with [conventional arms control](#). It also publishes Arms Control Today magazine.

6. How might Brexit change the legal and regulatory framework?

The implications of Brexit for arms export controls are not yet clear and there is limited literature on this subject.

There is broad acceptance that legislative changes will be needed. Concerns about arms exports post-Brexit tend to coalesce around sanctions (arms embargoes), dual-use technology, and continued participation in information exchange mechanisms. Several bodies are calling on the Government to formally align with the EU Common Position once it leaves the EU, fearing a divergence of agreed criteria in the long-term.

The Government's view

The Government has said relatively little on arms export controls post-Brexit. The Department for Exiting the European Union has said:

As part of the deep and special partnership the UK seeks with the EU, we want to continue to work closely with our European Partners, including on security, foreign and defence policy.

We want a partnership whereby we contribute to the security of Europe using our range of defence and security capabilities, our networks and influence, our policy expertise and through information sharing.⁵⁵

On the Common Position, the Government has simply said:

Common Position 2008/944/CFSP is given effect in the UK through the Consolidated EU and National Arms Export Licensing Criteria. This has the status of guidance given under Section 9 of the Export Control Act 2002. After the UK leaves the EU, they will remain in force until such time as any new or amended guidance is announced to Parliament.⁵⁶

External views

Written evidence to CAEC's inquiry on arms exports in 2016 has included some initial discussion on the potential impact of Brexit.⁵⁷

ADS, the defence and security trade body, expects amendments to existing or new legislation:

As the UK forges a new relationship with the European Union, it is likely the UK Government will have to amend or introduce national legislation on issues relating to exports. Currently, EU sanctions legislation is directly applicable in the UK, but it is enforced at national level through UK secondary legislation. Similarly, Dual-use items listed under Annex I to Council Regulation (EC) 428/2009 may be exported without a license to the UK from another EU Member State, and from the UK to another EU Member State. Both sanctions and transfers of dual-use items will become a national responsibility once the UK leaves the EU. Industry will seek to work with the

⁵⁵ [PQ7311](#) and [PQ7600](#), 13 September 2017

⁵⁶ [PQ7599](#), 12 September 2017

⁵⁷ All evidence can be found on the [inquiry webpage](#) of the Committees on Arms Export Controls

Government as it prepares for the UK to leave the EU in order to ensure that the robustness of the current export control regime is maintained.⁵⁸

The Campaign Against the Arms Trade worries less about the impact on current export regulations and more about the potential increase in arms exports post-Brexit:

Export regulations are unlikely to change dramatically when the UK leaves the European Union (EU). However, as the regulations do little to impede exports, UK government willingness to export military equipment to even the world's most concerning governments and military forces looks likely to be exacerbated in the search for post-Brexit trade deals.⁵⁹

Control Arms UK⁶⁰ notes that the UK has played a “leading role in developing a comprehensive EU-wide regime” and expects Brexit to have implications for almost all aspects of UK arms and dual-use transfer control:

Of greatest concern to Control Arms UK is the future of the UK’s relationship in respect of EU Restrictive Measures/Sanctions, the EU Common Position on arms exports and controls on torture equipment. Brexit is also likely to require changes to the primary legislation establishing UK export controls.

Regarding the Common Position, Control Arms UK worries that “there is no guarantee that UK and EU export criteria will remain in concern into the future with the real possibility of a drift apart over time undoing decades of joint progress”.

Control Arms UK calls on the Government to declare its intention to formally align with the EU Common Position on arms exports once it leaves the EU and to continue to participate in information exchange and co-operation mechanisms, among other things.⁶¹

Saferworld published a report examining “Brexit and the future of UK arms transfer controls” in July 2017. In an accompanying article Saferworld’s Elizabeth Kirkham called on the UK Government to work “as closely as possible with the EU27 on arms and dual-use transfer controls, ensuring that UK and EU rules continue to reflect best international practice”.⁶² In oral evidence to CAEC Ms Kirkham specifically highlighted the need for the UK to continue to align with the Common Position post-Brexit and to participate in the denial mechanism.⁶³

⁵⁸ [Written evidence submitted by ADS](#) (UAE0003), “UK arms exports during 2016”, Committees on Arms Export Controls, January 2018, published 21 February 2018, para 23

⁵⁹ [Written evidence by CAAT](#) (UAE0006), “UK arms exports during 2016”, Committees on Arms Export Controls, January 2018, published 21 February 2018

⁶⁰ Control Arms UK describes itself as an international coalition of NGOs, research institutions and other civil society organisations working for effective controls on the international arms trade. For the purposes of this submission the members are Amnesty UK, Oxfam, Saferworld, Omega Research Foundation and UNA-UK.

⁶¹ [Written evidence by Control Arms UK](#) (UAE0007), “UK arms exports during 2016”, Committees on Arms Export Controls, January 2018, published 21 February 2018, para 63-72

⁶² [“Will Brexit lower arms transfer control standards?”](#), Saferworld, 6 July 2017

⁶³ [Oral evidence: UK arms exports during 2016](#), Committees on Arms Export Controls, HC666i, 21 February 2018, q58

Oliver Feeley-Sprague, of Amnesty International UK, also highlighted the importance of the UK being able to coordinate with the EU in the future when the EU undertakes its regular reviews of its various export control measures.⁶⁴

European Commission

The European Commission published a [notice to stakeholders](#) on the withdrawal of the UK and EU rules in imports/export licenses for certain goods on 25 January 2018. It states that, subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, where the import/export of goods is subject to a licensing requirement under Union law, shipments from the EU-27 to the United Kingdom and vice versa will require such an import/export licence. In addition, import/export licences issued by the United Kingdom as an EU Member State on the basis of Union law are no longer valid for shipments to the EU-27 from third countries or vice versa.

Further reading

- [The legal and regulatory framework for UK arms exports](#), Commons Library Briefing Paper 2729, 4 September 2017.
- [“Brexit and the future of UK arms transfer controls”](#), Saferworld, July 2017
- [“Will Brexit lower arms transfer control standards?”](#), Saferworld, 6 July 2017
- [“How Brexit could fuel the international arms trade”](#), New Statesman, 14 March 2017
- [“What will happen to arms exports under Brexit”](#), The Conversation, 19 December 2016
- [“Brexit and export controls: Entering uncharted waters”](#), SIPRI, 1 July 2016
- [“Brexit and the arms trade”](#), Campaign against Arms Trade

⁶⁴ [Oral evidence: UK arms exports during 2016](#), Committees on Arms Export Controls, HC666i, 21 February 2018, q61

Appendix 1: Other relevant international treaties, agreements and forums

A wide range of multilateral treaties, agreements and forums have significantly shaped, and will continue to shape in future, the UK's regulatory framework for arms exports. Several are UN-based; others are not. Below is a summary list.

In 1968, the [Nuclear Non-Proliferation Treaty](#) (NPT) was signed. The treaty came into force in 1970. The UK is a State Party.

In 1971, what came to be known as the [Zangger Committee](#) was established. The Zangger Committee, named after its first Chairman, Professor Claude Zangger, was formed to serve as the 'faithful interpreter' of Article III, paragraph 2, of the NPT, which provides for the harmonisation of the interpretation of nuclear export control policies amongst NPT States Parties.

In 1972, the [Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological \(Biological\) and Toxin Weapons and on Their Destruction](#) was signed. It entered into force on 26 March 1975. The UK is a State Party.

In 1974, the [Nuclear Suppliers Group](#) was established. Closely co-ordinated with the NPT process, it is a group of nuclear supplier countries which seeks to contribute to the non-proliferation of nuclear weapons through the implementation of Guidelines for nuclear exports and nuclear related exports. The Guidelines are implemented by each Participating Government in accordance with its national laws and practices.

In 1980, a [UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects](#) (henceforth, the Convention on Certain Conventional Weapons) was adopted. It is legally binding. There are currently five Protocols to the Convention on Certain Conventional Weapons (the UK has signed but not ratified the Protocol V on explosive remnants of war, which has not yet come into force).

In 1985, the [Australia Group](#) was established. It is an informal forum of countries which, through the harmonisation of export controls, seeks to ensure that exports do not contribute to the development of chemical or biological weapons. Coordination of national export control measures assists Australia Group participants to fulfil their obligations under the Chemical Weapons Convention and the Biological and Toxin Weapons Convention to the fullest extent possible.

In 1987, the [Missile Technology and Control Regime](#) (MTCR) was established. It is an informal and voluntary association of countries which share the goals of non-proliferation of unmanned delivery systems capable of delivering weapons of mass destruction, and which seek to coordinate

national export licensing efforts aimed at preventing their proliferation. The UK is a founding partner of the MTCR.

In 1991, the [Guidelines for Conventional Arms Transfers agreed by the Permanent Five Members of the UN Security Council and other UN Security Council Resolutions](#) were agreed. These began a process of establishing a set of criteria for assessing whether to approve arms exports. They are not legally binding.

In 1992, the UN General Assembly agreed to establish the [UN Register on Conventional Arms](#), a voluntary reporting mechanism for participating states which covers seven categories of major conventional arms.

In 1993, the [Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction](#) (Chemical Weapons Convention) was signed. It came into force in 1997. The Convention aims to eliminate an entire category of weapons of mass destruction by prohibiting the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons by States Parties. States Parties, in turn, must take the steps necessary to enforce that prohibition in respect of persons (natural or legal) within their jurisdiction. The UK is a State Party.⁶⁵

In 1996, the [Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies](#) was established by a group of States which included most of the world's major conventional arms exporters and importers. A voluntary arrangement, 40 countries currently participate, including the US and Russia, which have often been sceptical about or hostile to legally binding agreements. There is a strong correspondence between the EU's regulatory framework (see above) and the voluntary arrangements that apply under the Wassenaar Arrangement.

In 1997, the [Convention on the Prohibition of Anti-Personnel Mines](#) (Mine Ban Treaty) was signed in Ottawa, Canada. It has been in force since 1999. It is legally binding. The UK has been a strong supporter and in 1998 the *Landmines Act* was passed, incorporating the Convention's provisions into national law.

In 2001, at a UN Conference, Member States agreed a [Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects](#). It is not legally binding. The Programme of Action is a non-legally binding political agreement that proceeds on the basis of consensus.

In 2005, the UN [Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition](#) entered into force. It was the first legally binding instrument on small arms adopted at the global level.

Also in 2005, the UN General Assembly agreed an [International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner,](#)

⁶⁵ The Chemical Weapons Convention builds upon and extends the provisions of the 1925 [Geneva Protocol](#), which banned the use of chemical and biological weapons in war. However, some States that signed the 1925 Protocol have not signed or ratified the Convention – including Syria.

[Illicit Small Arms and Light Weapons](#). It is not legally binding. There have also been discussions about a similar instrument that would cover [illicit brokering](#).

In December 2008 a new [Convention on Cluster Munitions](#) was signed in Oslo, Norway. It bans the production, use, stockpiling or trade in cluster munitions. In 2010 the *Cluster Munitions (Prohibitions) Act* was passed, incorporating the Convention's provisions into national law. The Convention came into force in 2010.

In April 2013, the final text of the [Arms Trade Treaty](#) was adopted by the UN General Assembly in April 2013. It came into force on 24 December 2014.

As the example of the EU demonstrates (see section 1.3), there are also an expanding number of regional frameworks intended to counter the proliferation of conventional weapons. Another with direct implications for the UK is the 1993 [Principles Governing Arms Transfers agreed by the Forum for Security Co-operation of the Conference for Security and Co-operation in Europe](#).⁶⁶

Finally, it is important to note that there are also arms export restrictions imposed as a result of sanctions or embargoes. Under the Consolidated Criteria the UK has an obligation to enforce country embargoes imposed by the UN, the Organisation for Security and Co-operation in Europe (OSCE) or the EU. The Government provides a list (last updated July 2016) of sanctions and embargoes to which the UK conforms on its website. Click this [link](#) to go to the list.

⁶⁶ The Conference for Security and Co-operation in Europe is now called the Organisation for Security and Co-operation in Europe (OSCE)

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