House of Commons
Committees on Arms Export Controls

UK arms exports during 2016

First Joint Report of Session 2017–19


Report, together with formal minutes relating to the report

Ordered by the House of Commons
to be printed 11 July 2018
Committees on Arms Export Controls

The Committees on Arms Export Controls (CAEC) are the Defence, Foreign Affairs, International Development and International Trade Committees meeting together for the purpose of examining and reporting on the Government’s regular reports on strategic export controls and related matters.

Current membership

Any Member of the four Committees can attend CAEC meetings, but each Committee has nominated Members to routinely attend. These are:

Graham P Jones MP (Labour, Hyndburn) (Chair)
Ann Clwyd MP (Labour, Cynon Valley)
Leo Docherty MP (Conservative, Aldershot)
Mr Nigel Evans MP (Conservative, Ribble Valley)
Mr Marcus Fysh MP (Conservative, Yeovil)
Mike Gapes MP (Labour Co-op, Ilford South)
Mr Ranil Jayawardena MP (Conservative, North East Hampshire)
Mrs Pauline Latham MP (Conservative, Mid Derbyshire)
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Emma Little Pengelly MP (Democratic Unionist Party, Belfast South)
Priti Patel MP (Conservative, Witham)
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Gavin Robinson MP (Democratic Unionist Party, Belfast East)
Lloyd Russell-Moyle MP (Labour Co-op, Brighton, Kemptown)
Mr Bob Seely MP (Conservative, Isle of Wight)
Henry Smith MP (Conservative, Crawley)
Stephen Twigg MP (Labour Co-op, Liverpool, West Derby)
Catherine West MP (Labour, Hornsey and Wood Green)

Powers

The Committees are departmental select committees, the powers of which are set out in the House of Commons Standing Orders, principally in SO No. 152. The powers of the Committees to work together and agree joint reports are set out in Standing Order No. 137A. These are available on the internet via www.parliament.uk.

Publications

CAEC reports are published on the Committees’ website and in print by Order of the House.

Evidence relating to this report is published on the relevant inquiry page of the Committees’ website.

Committee staff

The current staff of CAEC are Joanna Welham (Clerk), David Turner (Committee Specialist) and Mariam Keating (Committee Assistant).

Contacts

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Summary

The Committees on Arms Export Controls (CAEC) are the Defence, Foreign Affairs, International Development and International Trade Committees, meeting together to scrutinise the Government’s policies and processes relating to controls on the export of, and trade in, strategic (military and dual-use) items. These controls operate by means of licensing the export and transfer of listed types of item where certain criteria are met.

The present CAEC report relates to the UK Strategic Export Controls Annual Report for 2016, but we have also referred to those for 2014 and 2015 during the course of our inquiry, as these had not been subjected to scrutiny by the previous Committees. Neither the Foreign Secretary nor the Secretary of State for International Trade (the latter of whom is now responsible for export-control licensing) was available to give us oral evidence. Both Secretaries of State should make every effort to give oral evidence to us annually.

The Government encourages industry to apply for open rather than standard licences, to reduce the licensing workload. It is legitimate to seek to make the best use of limited resources, but evidence must be provided to show that this is a cost-effective approach that does not involve compromising standards. Also, there is a need for greater clarity and transparency regarding the circumstances in which open licences are deemed appropriate.

We are dissatisfied at the Government’s admission that no compliance audits are ever carried out in respect of UK companies’ operations overseas. The compliance-audit regime must be extended to cover such companies (where appropriate) as soon as practically possible.

The Government should review the allocation of resources to HM Revenue & Customs in respect of export-control enforcement and provide data on current staff numbers and budget levels. It should also provide raw / base statistical data on numbers of investigations, reports for prosecution, prosecutions, convictions, fines, seizures, compound penalties and warnings in the last ten years. We are extremely disappointed at what we see as a misrepresentation of data in this area in the most recent Annual Report.

The Government should consider whether to begin end-use monitoring, which we believe would assist it in making more informed licensing decisions, as well as helping address compliance and enforcement.

The case for an Open General Export Licence to cover “non-contentious” cryptographic goods merits serious attention by the Government.

Staff involved in advising on licence-applications work in the cross-departmental Export Control Joint Unit (ECJU), which is based at the Department for International Trade (DIT). The head of the Joint Unit told us that he could not show any “improvement in terms of metrics” since the Unit’s formation in July 2016; and industry told us its formation had made no perceptible difference to the processing of licence applications. The Government should set out clear evidence to show the benefits brought by formation of the Joint Unit.
Industry told us that the Open Individual Licensing System is “fraught with perceived problems and delays, especially when it comes to the time and bureaucracy involved when exporters seek to have the existing [Open Individual Export Licences] renewed or replaced”. The Government should address unnecessary delays and bureaucracy in the process; and it should show how they will be addressed in the design of the new Licensing for International Trade & Enterprise (LITE) online licensing system, which will replace the current SPIRE system.

Licensing applications are assessed against the eight Consolidated Criteria, last revised by the government in 2014. While DIT has statutory responsibility for licensing controlled exports, three advisory departments are also involved in advising on the application of the Criteria: the Foreign and Commonwealth Office (FCO), the Department for International Development (DfID) and the Ministry of Defence. Of these, only DfID does not participate in the ECJU. The Government should give formal consideration to DfID staff becoming part of the Joint Unit, given the Department’s particular role in advising on Criterion 8 (regarding sustainable development).

Certain licence applications are passed to Ministers for consideration. It is entirely appropriate for Ministers to be involved in setting the criteria and principles for dealing with licence applications and in dealing with difficult cases. However, there is concern about the circumstances under which cases are escalated up to them and the basis for some of the decisions that result. The Government should set out clearly the grounds on which individual cases are selected for consideration at ministerial level and flag such cases in the Annual Report.

It has been proposed there should be a “presumption of denial” in respect of open licences for exports to countries that have not signed the Arms Trade Treaty (ATT) or are on the FCO’s list of “Human Rights Priority Countries”, as set out in its Annual Human Rights Report. The Government should review these proposals and report back with its findings.

We welcome the fact that the Government publishes a lot of licensing information, but it does so in formats that are very difficult to navigate, interrogate and interpret. The Government should make clear and easily digestible the information about controlled exports that is provided to parliamentarians and the public alike.

The Government should address the data-quality issues that apparently lie behind non-publication of data on open licences. In light of ADS Group’s statement that it does not oppose a requirement for industry to publish what its members have exported under Open General Export Licences, the Government should also reinstate the commitment made in 2012 by the then government to gather and publish, regarding open licences, a description of the items, the destination, value (and / or quantity) and information about the end-user.

We welcome the Government’s commitment to promote signature of the ATT by as many countries as possible. It must set out detailed plans for promoting both signature and implementation of the Treaty. It is inexcusable that for 2015 and 2016 the UK did not report on imports of arms covered by the ATT; the Government should set out what it is doing to ensure it meets its Treaty obligations in this regard.
Brexit will have a potentially significant impact on the UK’s export-control and trade-control regimes. The Government should set out in detail: its position on the European Commission’s proposal to recast the EU Dual-Use Regulation; what it is doing about post-Brexit licensing arrangements for UK-EU transfers of controlled items; its position regarding the legal continuity of the Consolidated Criteria after Brexit; whether, and, if so, by what means, the UK trade-control regime will be recast after Brexit; its understanding of the potential consequences if UK and EU arms control policy drift apart after Brexit, including the impact on the defence and security industry; its plans to deal with the possible consequences of the UK no longer participating in the Conventional Arms Working Group after Brexit; and what the UK’s post-Brexit relationship will be to the EU’s denial-notification and consultation mechanism.

Brokering is often defined as arranging or facilitating the supply of controlled items, as distinct from actually exporting them. This is currently regulated through Trade Control Licences. The regulatory regimes operated in respect of brokers by the USA and 23 of the EU’s Member States are significantly more stringent than that of the UK. The Government must formally consider establishing a pre-licensing registration system for brokers and requiring them to submit regular activity reports. It should also consider implementing a “fit and proper person” test for individuals applying for brokering licences, as well as for anyone applying for an export licence. The Government must provide in its Annual Reports information about where enforcement action has been taken against “brass-plate” companies engaged in brokering activities; and keep under review its current powers to wind up such companies.

The problem of UK citizens “engaging in arms export or arms brokering activity overseas which would be a criminal offence if carried out from the UK” is addressed by “extra-territorial” legislation, allowing UK citizens to be prosecuted in the UK for actions carried out overseas. Under current legislation, regulation of brokering in respect of non-embargoed destinations only applies to UK citizens operating outside UK jurisdiction in respect of trade in goods covered by Categories A and B. Trade in Category C items is only subject to trade control where it is carried on from within the UK. The application of extra-territoriality should be extended to brokerage of Category C items and the Government must set out a plan and a timetable for implementing this. We are greatly concerned that the Government’s failure to carry out audits overseas means that the current extra-territorial controls in respect of brokering Category A and Category B items are not being properly enforced. This needs to be addressed as a matter of urgency.

Evidence to our inquiry links intermediaries (agents, advisers and brokers) with corruption and the diversion of arms. While we are not in a position to be able to validate these allegations, we are, nevertheless, mindful of the need to be concerned about them. The Government must publish in its Annual Reports the names of any individuals or companies against whom it has taken action under the provisions of the Bribery Act 2010 in relation to arms-export dealings or financing related to such dealings. The Government must also give formal consideration to the creation of an additional licensing Criterion relating to corruption.
1 Introduction

1. Since 1999, four committees have been meeting together to scrutinise the government’s policies and processes relating to controls on the export\(^1\) of strategic (military and dual-use)\(^2\) items.\(^3\) These controls operate by means of licensing the export of listed types of item where certain criteria are met. The committees, when working together for this purpose, have since 2008 been collectively known as the Committees on Arms Export Controls (CAEC).

2. CAEC currently consists of the following: the Defence Committee; the Foreign Affairs Committee; the International Development Committee; and the International Trade Committee. This composition reflects the fact that the departments to which these Committees correspond are all involved in the licensing process for controlled / strategic items. All members of these four Committees are entitled to attend the meetings of CAEC and participate in proceedings. In practice, however, each of the constituent Committees usually nominates a subset of their members to attend the meetings of CAEC on their respective behalves on a routine basis.

3. Since 1999 successive governments have published United Kingdom Strategic Export Controls Annual Reports; and since 2004 these have been supplemented by the quarterly publication of statistical data, with accompanying commentary. These publications have been a particular focus for the work of CAEC (and its predecessor, the Quadripartite Committee), often being the subject of corresponding annual scrutiny reports (see Annex).

4. During the course of our inquiry we have looked primarily at the Government’s Annual Report for 2016 but have also referred to those for 2014 and 2015, as these had not been subjected to scrutiny by the previous Committees. We have taken oral evidence at five evidence sessions from 15 witnesses, including Graham Stuart, Minister for Investment at the Department for International Trade (DIT); and Sir Alan Duncan, Minister of State at the Foreign and Commonwealth Office (FCO). In addition, we received 11 pieces of written evidence, including a joint submission from the Department for International Development (DfID), DIT, the FCO and the Ministry of Defence (MoD). We would like to thank all of those who took the time to provide us with evidence. Members of CAEC also visited the Export Control Joint Unit (ECJU), the cross-departmental body which processes licence applications for the export of, and trade in, controlled / strategic items. We wish to place on record our gratitude to Edward Bell, the Head of the Unit, and his staff for making us welcome and giving us a valuable insight into the work that they do. Finally, we also wish to thank our Specialist Advisors: Martin Drew, consultant from British Export Control; and Professor Trevor Taylor, Research Fellow in Defence Management at the Royal United Services Institute.

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1 The term “export” in this context includes not only straightforward exporting from the UK but also transfer, trade / trafficking / brokering (acquisition, disposal or movement of goods, or facilitation of such) and transit / transhipment.
2 Dual-use items have the potential for both non-military and military applications.
3 The term “items” in this context refers to goods (finished goods, systems, raw materials and components), software, technology and information / data.
2 Ministerial evidence

5. In their 2015 report, the previous Committees noted that the then Foreign Secretary and the Secretary of State for Business, Innovation and Skills had given oral evidence to CAEC for three years in a row. The Committees reiterated their previous recommendation that:4


given the far-reaching significance of arms export and arms control decisions for the Government’s foreign, trade, defence and international development polices, Oral Evidence should continue to be given to the Committees on Arms Export Controls by both Secretaries of State [for Foreign Affairs; and Business, Innovation and Skills].

6. In our recent inquiry, we were unable to take oral evidence from either the Foreign Secretary or the Secretary of State for International Trade (with the latter of whom statutory responsibility now rests for licensing exports of, and trade in, controlled items). We also experienced significant difficulty in obtaining confirmation that Ministers would be available to give oral evidence to us, with both departments only confirming this at the very last minute.

7. When the two Ministers gave evidence to us on 6 June, Mr Stuart told us: “I am sorry that the Secretaries of State were not able to be present today, but I hope that the presence of Sir Alan and myself is a sign of the seriousness with which we take the Committees.”5 Sir Alan (whose ministerial portfolio includes responsibility for “relations with Parliament”)6 said: “I am sorry if you feel that you have got the monkey rather than the organ grinder, but I hope that we can answer questions to your satisfaction.”7 He added that the Foreign Secretary’s future attendance before the Committees “would be entirely up to him, of course”.8

Conclusions and recommendations

8. In keeping with the practice of their predecessors, we consider that both the Foreign Secretary and the Secretary of State for International Trade should make every effort to attend to give oral evidence to us on an annual basis, given the importance of this policy area. It is not acceptable for departments to leave it to the last minute before confirming the attendance of ministerial witnesses. To do so is disrespectful to the House.

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5 Q217
6 Foreign and Commonwealth Office, The Rt Hon Sir Alan Duncan KCMG MP
7 Q217
8 Q219
3 The licensing regime

Background to licensing

9. According to the Government, the UK is the second largest defence exporter in the world. ADS Group, which represents the UK’s Aerospace, Defence, Security and Space sectors, emphasised to us the “strategic importance” of “The UK’s world-class defence and security industry”:

Defence and security exports make a significant contribution to the UK economy and national prosperity. They help to sustain high-skill jobs and our industrial base, deliver UK capabilities for the UK Armed Forces, reduce unit costs of production and facilitate interoperability.

In 2016, the UK’s defence and security industry generated a turnover of over £30 billion and secured export business worth £12 billion. The industry directly sustains around 240,000 jobs, including some 7,100 apprentices and trainees […] The UK domestic market alone would not support this level of employment and activity. Boosting exports will continue to be an area of focus for the sector.

10. The export of, and trade in, military items, and dual-use items (those with the potential for both non-military and military applications), does, though, raise major questions of ethics, national security and international law. Self-evidently, the potential consequences of such items falling into the wrong hands are extremely serious, including as they do the proliferation of weapons of mass destruction / effect, the instigation or exacerbation of conflicts, and violations of human rights and international humanitarian law.

11. The Government consequently has a need to exercise significant control over military and dual-use items leaving the UK, as well as what might be arranged from the UK, and what UK citizens might do overseas, in relation to such items. This control takes the form of a significant and substantial body of licensing regulations, backed up by powers in relation to compliance and enforcement.

12. In its Strategic Export Controls Annual Report for 2016, the Government describes rigorous controls as “vital”, saying that they:

- **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.

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9 Department for International Trade, *UK defence and security export figures 2016*, July 2017. This statement refers to data compiled using a ten-year rolling average.

10 ADS Group ([UAE0003], paras 1–3)

11 United Kingdom Strategic Export Controls Annual Report 2016, HC (2017–19) 287, p 1
The Government has repeatedly stated that it “takes its export control responsibilities very seriously and operates one of the most robust export control regimes in the world.”

13. Regulation of arms exports originally rested on emergency legislation that was introduced at the start of the Second World War in 1939 and only made permanent in 1990. The 1996 Report of the Inquiry into Export of Defence Equipment and Dual-Use Goods to Iraq and Related Prosecutions (the Scott Report) led to the modernisation of export control in two ways: firstly, by the introduction of greater parliamentary oversight and control (of which CAEC forms part); and, secondly, by the creation of a new statutory framework.

14. In the aftermath of the Scott Report, the government that was elected in 1997 introduced new UK National Arms Export Licensing Criteria, incorporating commitments the previous government had made under the multilateral Wassenaar Arrangement in 1996. At the same time, the then government promoted the creation of a voluntary EU Code of Conduct on arms exports to non-EU countries. This followed attempts since 1991 to harmonise Member States’ export policies in respect of both military and dual-use items (which had already borne some fruit). The Code of Conduct (which included licensing criteria) was instituted in 1998. In 2000 a new European Dual-Use Regulation came into force. The UK subsequently, in 2001, made significant commitments under a further international agreement, the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

15. A new UK statutory basis for the regulation of controlled exports was created under the Export Control Act 2002. The 2016 Annual Report explains that the 2002 Act confers on the Government powers to:

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

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12 See for example: Answer to Written Question HL3497, 7 December 2017; Written Statement HCWS799, 27 June 2018.
13 Following the end of the Cold War, the Coordinating Committee for Multilateral Export Controls (COCOM), which the western powers had formed, ceased to function. In 1996 both former COCOM members and former Communist countries concluded the Wassenaar Arrangement. Unlike COCOM, the Arrangement does not rest on a treaty and so lacks any legal force. Participating states are expected to seek through their respective national export-control policies to ensure that transfers of conventional arms and dual-use items are regulated in accordance with the terms of the Arrangement.
15 HC (2017–19) 287, p 28
16. In 2003 the legally-binding EU Common Position on Arms Brokering was adopted. This concerned regulation of “activities of persons and entities” involved in the “transfer of items [to which the Code of Conduct applies] from a third country [i.e. a country that is not an EU Member State] to any other third country”. Member States were required to regulate such activities on their own territory or where carried out by citizens of theirs in another jurisdiction. The objective of the Common Position was to control brokering so as to avoid circumvention of arms embargoes, “as well as of the Criteria set out in the European Union Code of Conduct on Arms Exports”.16

17. In 2008 the EU Code of Conduct was replaced by the EU Common Position on Arms Exports, which was also legally binding on Member States.17 In 2009 a new Dual-Use Regulation came into force.18 Despite these new provisions, however, the actual mechanisms for export control remained an exclusively national prerogative.

18. Orders made by the responsible Secretary of State under the 2002 Act were consolidated into the Export Control Order 2008, which came into force in April 2009. As well as consolidating previous legislation, the 2008 Order also made certain changes following the Government’s 2007 post-implementation review of export-control legislation. Consequently, “[t]he 2008 Order is now the main piece of domestic export control legislation”.19

19. The context of UK export-control policy has since been shaped by a further important multilateral agreement, the Arms Trade Treaty (ATT), which came into effect in 2014 (see Chapter 7).

20. Those military and dual-use items whose export requires authorisation are specified in a set of Control Lists, referred to collectively as the Consolidated List.20 These Lists, and the legislation underpinning them, are set out in Table 1.

Table 1 Strategic Export Control Lists

<table>
<thead>
<tr>
<th>Control List</th>
<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>UK Military List</td>
<td>Export Control Order 2008</td>
</tr>
<tr>
<td>UK Dual-Use Control List</td>
<td></td>
</tr>
<tr>
<td>EU Human Rights List</td>
<td>Council Regulation (EC) 1236/2005 (the Anti-Torture Regulation)</td>
</tr>
<tr>
<td>UK Radioactive Sources List</td>
<td>Export of Radioactive Sources (Control) Order 2006</td>
</tr>
<tr>
<td>EU Dual-Use List</td>
<td>Council Regulation (EC) 428/2009 (the Dual-Use Regulation)</td>
</tr>
</tbody>
</table>

Source: Department for International Trade, UK Strategic Export Control Lists: The consolidated list of strategic military and dual-use items that require export authorisation, March 2018

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17 Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, 8 December 2008
18 Council Regulation (EC) 428/2009 on setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items, 5 May 2009
19 HC (2017–19) 287, p 28
20 Department for International Trade, UK Strategic Export Control Lists: The consolidated list of strategic military and dual-use items that require export authorisation, March 2018
21. Since 2000 there has been an EU Common List of Military Equipment, describing initially those items to which the Code of Conduct was applicable and now those in respect of which the Common Position on Arms Exports applies (as well as the Common Position on Arms Brokering). The items on this list are all captured by the UK Military List (which also includes a few additional items).

22. In addition to the licensing system, there are so-called end-use “catch-all” provisions, whereby export of non-listed items can be prevented where there is a risk that the goods involved will be put to an illicit end-use in connection with Weapons of Mass Destruction or some other military purpose.

23. In respect of intra-EU transfers of controlled items, particular arrangements apply, in accordance with the principles of the Single Market, whereby non-tariff barriers to trade within the EU are reduced or eliminated as far as possible. The movement of military items between Member States is governed by legally binding EU Directives which deal specifically with such transfers. Dual-use items can be moved between EU states mostly without restriction under the Dual-Use Regulation.

Types of licence

24. The main types of licence that are available under the current export-control regime are summarised in Table 2. The range of licence types reflects the diversity of transactions relating to the sale of controlled items and of the circumstances in which they occur. Types of licence are defined in relation to two key distinctions: between standard licences and open licences; and between individual licences and general licences. In respect of the first distinction, the Government explains that:

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.

25. Regarding the second distinction, it is stated that: “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.” Standard licences only exist in the individual format; and, unlike open licences, those using them are not generally subject to compliance audits.

26. A number of licence types relate specifically to trafficking / brokering (the acquisition, disposal or movement of goods between third countries, or the facilitation of such activities) and these are known as Trade Control Licences (as distinct from Export Control Licences). Trade control relates only to Military List goods, meaning that it does not cover any dual-use items; or non-hardware military items, such as software or technology.

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21 Council Declaration on the occasion of the adoption of the common list of military equipment covered by the European Union code of conduct on arms export (2000/C 191/01), 13 June 2000
22 HC (2017–19) 287, pp 22, 30
24 Annex IV, Council Regulation (EC) 428/2009 on setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items, 5 May 2009
### Table 2: Types of export-control licence

<table>
<thead>
<tr>
<th>Standard (more restricted)</th>
<th>Open (less restricted; subject to compliance audit)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard Individual Export Licence (SIELs)</strong></td>
<td><strong>Open Individual Export Licence (OIELS)</strong></td>
</tr>
<tr>
<td>These allow one-off shipments of specified items to a specified consignee up to a specified quantity. Undertakings regarding the end-use of goods, or intentions to hold them in stock for future delivery or re-sale, must be supplied when applying for a SIEL. Subtypes are:</td>
<td>These allow multiple shipments of specified items to specified destinations. Names of consignees or end-users are not normally required at the time of application; but consignee undertakings (regarding the nature of the goods and their end-use) are required before goods are shipped. Generally, OIELs do not limit the quantity or value of goods that can be exported; and they are not usually restricted to specific end users. There are several subtypes, including:</td>
</tr>
<tr>
<td>• Permanent</td>
<td>• Global Project Licences (GPLs)—to facilitate international collaborative defence projects</td>
</tr>
<tr>
<td>• Temporary</td>
<td>• Dealer-to-dealer</td>
</tr>
<tr>
<td>• Incorporation</td>
<td>• Cryptographic</td>
</tr>
<tr>
<td>• Transhipment, also called <strong>Standard Individual Transhipment Licences (SITLs)</strong>—where risk levels mean that licence exemptions for transhipment do not apply</td>
<td>• Media</td>
</tr>
<tr>
<td>Licences for permanent exports are generally valid for two years, or until the trade has taken place. Licence-holders are liable to be subject to compliance audit if they hold SIELs for electronic transfers of software or technology.</td>
<td>• Continental Shelf</td>
</tr>
<tr>
<td><strong>Standard Individual Trade Control Licence (SITCLs)</strong></td>
<td><strong>Open Individual Trade Control Licence (OITCLs)</strong></td>
</tr>
<tr>
<td>These are similar to SIELs, but relate specifically to the acquisition, disposal or movement of military goods between non-EU countries (or facilitation of such activities)—sometimes called “trafficking” or “brokering”. SITCLs are normally valid for two years.</td>
<td>These allow a range of activities, such as the trading of specific military goods between any number of specified countries, specifically in relation to trafficking/brokering. They require specific information regarding country of origin and destination and/or specified consignor, consignee and end-user. OITCLs are generally valid for two years. Where an OITCL is denied, a SITCL may still be granted.</td>
</tr>
<tr>
<td>Standard (more restricted)</td>
<td>Open (less restricted; subject to compliance audit)</td>
</tr>
<tr>
<td>----------------------------</td>
<td>-----------------------------------------------------</td>
</tr>
<tr>
<td><strong>Open General Export Licences (OGELs)</strong></td>
<td>These give general permission for the export of certain types of goods to certain specified destinations. In most cases, exporters must register to use an OGEL, but once registered they do not need to submit further applications to trade under the licence concerned. OGELs remain in force until they are revoked; their provisions can be varied while they are in force.</td>
</tr>
<tr>
<td><strong>Open General Transhipment Licences (OGTLs)</strong></td>
<td>The main OGTL gives general permission, subject to certain conditions, for any goods to be imported for transhipment and subsequently exported within 30 days of entering the UK. There are also three subtypes of OGTL, relating to:</td>
</tr>
<tr>
<td>• Dual-use goods bound for Hong Kong</td>
<td></td>
</tr>
<tr>
<td>• Postal packets</td>
<td></td>
</tr>
<tr>
<td>• Sporting guns</td>
<td>Use of OGTLs does not require registration.</td>
</tr>
<tr>
<td><strong>Open General Trade Control Licences (OGTCLs)</strong></td>
<td>These give general permission for the transfer to and from certain specified destinations of most goods on the UK Military List, specifically in relation to trafficking / brokering. Exporters must register to use them in the first instance. There are currently four OGTCLs, covering:</td>
</tr>
<tr>
<td>• “Category C” goods (which are only subject to Trade Controls in respect of brokering conducted from the UK)</td>
<td></td>
</tr>
<tr>
<td>• Small arms and light weapons</td>
<td></td>
</tr>
<tr>
<td>• Insurance or re-insurance</td>
<td></td>
</tr>
<tr>
<td>• Maritime anti-piracy</td>
<td></td>
</tr>
<tr>
<td><strong>EU General Export Authorisations (EU GEAs)</strong></td>
<td>These are the EU equivalent of UK OGELs. They give general permission, subject to certain conditions, for the export of dual-use items to certain specified destinations.</td>
</tr>
</tbody>
</table>
Shift from standard to open licences

27. In 2013, the then government stated, in response to a CAEC report, that it was “striving to reduce bureaucracy and ensure that UK companies do not experience unnecessary disadvantages in relation to international competitors” by “develop[ing] a strategy to encourage exporters to shift from [standard] individual to open licences.”

The following year, the then government responded to CAEC that it was committed to encouraging exporters to switch from SIELs to OIELs where possible:

Experience and analysis shows that a large number of SIELs annually relate to exports for which OIELs would be suitable, i.e. less sensitive goods to less sensitive destinations, with exporters using SIELs for repeat business—same goods, same end user, same group of destinations.

It contended that the exports concerned did not raise significant concerns in terms of licensing criteria; and, in any case, those using open licences were subject to compliance audits. As we were told in evidence, it remains government policy to encourage a shift from standard to open licences in the interests of reducing the workload of the licensing authorities and “other relevant agencies”.

28. We heard evidence about the limited use of open licences in other jurisdictions, which can be seen as reinforcing the point that their use by UK exporters could confer something of a competitive advantage. ADS Group was supportive of a shift towards open individual licences, referring to “the role that they can play in trying to assist the British Government to try to keep the numbers of licensing applications down to much more manageable proportions.” The industry body did, though, have criticisms of the way that the processing of OIELs works in practice; these are discussed in Chapter 4.

29. Ian Stewart, of King’s College, London, agreed that shifting to open licences did serve to “expedite the licensing process” and reduce the burden on officials. However, he also saw it as “transferring risk from Government to companies—outsourcing risk a bit—in part because it becomes the company, as opposed to the Government, who determines whether or not the rating of the item is correct.”

30. Oliver Feeley-Sprague, Programme Director for Military, Security and Police at Amnesty International UK, urged caution in respect of allowing small arms and light
UK arms exports during 2016

Weapons to be exported under the “more permissive” open licences, “given the high risk around those particular items”. He also raised the lack of reporting on open licences. (Reporting in relation to open licences is dealt with further in Chapter 6.) The Minister responsible for licensing, Mr Stuart, said open licences “provide for situations in which what is needed is a more tailored and flexible licence”, with OIELs being “granted to support more complex business activities” than those covered by SIELs. The Minister emphasised that “OIELs are not a simple or quick option for exporters and the application process can take several months. Terms and conditions for use will vary depending on the goods and export destinations.” Mr Stuart also emphasised to us that “Holders of OIELs are subject to audit by DIT compliance inspectors”.33

31. The Minister explained that “when there is a repeated need for licences OIELs can create a system that is equally thorough but allows less bureaucracy at either end of the process.”34 We did, though, receive evidence that exporters often find the process of renewing or replacing OIELs to be onerously long-winded and bureaucratic (this is discussed in Chapter 4).

Compliance audits

32. The UK, like other jurisdictions that operate open licences,35 subjects their users to compliance auditing. The 2016 Annual Report states that:36

> the Export Control Organisation’s (ECO) Compliance Team continued to inspect companies and individuals holding Open Individual and Open General Licences for both exports and trade activities. The primary purpose of these inspections is to establish whether the terms and conditions of licences are being adhered to, but they also serve to raise awareness of export controls.

These inspections take four forms:

- First Contact (telephone calls and e-mails to ensure licence-holders are aware of all the terms and conditions of their licences they hold);
- First time visits (inspections carried out within three months of the first use of a licence);
- Routine visits (at intervals based on a risk assessment and whether circumstances have changed); and
- Revisits (when a company has been found non-compliant at an inspection).

33. When we asked Mr Stuart about the number of such audits carried out in 2016 in respect of overseas-based companies, he told us: “We do not audit overseas.”37
Enforcement

34. HM Revenue & Customs (HMRC) is responsible for enforcement in respect of export control and trade control. Customs officers work with Border Force and the Crown Prosecution Service (CPS) in undertaking a wide range of enforcement activity regarding controlled items. The 2016 Annual Report states:

HMRC has a team that develops and manages strategic export controls, trade controls and sanctions enforcement policy, as well as liaising with the wider cross-Government counter-proliferation community. HMRC also has two specialist operational teams carrying out criminal investigations and intelligence management in this area.

The two specialist operational teams are apparently known as “Customs A/B”.

35. The Annual Report further explains:

HMRC assesses all alleged breaches of arms export controls and sanctions. Where serious or deliberate breaches are identified, or where there are aggravating features, cases may proceed to a full criminal investigation. If appropriate, they may be referred to the CPS, who will determine whether there is sufficient evidence to prosecute and whether prosecution is in the public interest.

36. HMRC takes into account a range of factors in deciding whether to conduct a criminal investigation. These include: “the seriousness of the offence, the likely impact and outcome of a criminal investigation compared to other forms of enforcement action, and the need to prioritise investigations in line with wider Government policies and strategies.” This was reiterated by Mr Stuart in evidence to us.

37. The following data are given in the 2016 Annual Report regarding numbers of prosecutions over the previous decade:

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38 HC (2017–19) 287, p 34
39 HM Revenue & Customs, HMRC internal manual: Strategic Goods and Services: Assessment of risk and offence action, April 2017, SGSAROA11000 and SGSAROA5040
40 HC (2017–19) 287, p 22
41 HC (2017–19) 287, p 22
42 Q267
43 HC (2017–19) 287, p 22
38. However, the title of the table and the right-hand column heading do not correspond. Mr Bell, the Head of the ECJU, admitted to us that the figures given in this table relate not to prosecutions but only to seizures of goods—which “overwhelmingly” did not result in prosecutions, since “It is quite possible for someone to unknowingly find themselves in the act of breaching and have their goods seized at the border.”

39. When a Member of the International Development Committee attempted earlier this year, by means of a Written Question, to obtain data on the staff numbers and budget for Customs A/B he was referred to HMRC’s Annual Report and Accounts. However, these do not contain the information that had been requested. When we asked Mr Stuart for this information, he told us: “More detailed issues about the way that HMRC goes about its business are for HMRC to address, and I cannot comment on that.”

End-use monitoring

40. In response to several recent Written Questions on the use of UK-supplied military equipment by the Israeli Defence Force, the Government has stated that “We do not collect data on the use of equipment after sale.”

41. Such end-use monitoring is not common in export-control regimes. Dr Lucie Béraud-Sudreau, Research Fellow at the International Institute for Strategic Studies, told us that Switzerland and Germany undertook it on a limited basis:

In Switzerland, on-site inspections between 2014 and 2016 were between 3 and 9 per year. In 2017 Germany conducted two visits, one in India and one in the United Arab Emirates. Swiss controls so far have focused on small and light weapons […] In Germany also the focus is on small arms and light weapons.

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44 Q273
45 Answer to Written Question 125321, 1 February 2018
46 Q267
47 Answer to Written Question 133735, 29 March 2018; Answer to Written Question 139365, 3 May 2018; Answer to Written Question 139368, 3 May 2018
Sweden was also planning end-use monitoring in respect only of “small arms and light weapons and ammunition, manufactured and exported from Sweden”.48

42. There does, though, exist one comprehensive such arrangement, namely the “Blue Lantern” End-Use Monitoring Program, inaugurated in 1990 and operated by the US State Department’s Directorate of Defense Trade Controls (DDTC). This entails end-use checks being made by US embassy personnel in cooperation with host governments (and the relevant country’s own personnel, such as HMRC in the UK) across up to 100 countries each year.49 The previous Committees were impressed by the Blue Lantern scheme. When the then government stated in 2004 that it already carried out “the vast majority of the work in the Blue Lantern programme as part of our current licensing procedures”, the previous Committees noted that there was, though, no provision for systematic end-use monitoring.50 When, in 2006, the previous Committees advocated such an arrangement for the UK, and indeed the whole EU,51 the then government responded that there was “no substitute for a rigorous assessment of any proposed export at the time of application”.52 Following the government’s 2011 Review of arms exports to the Middle East and North Africa, a commitment was given that the FCO would “undertake end-use monitoring of controlled military goods, bearing in mind both the practical and resource limitations.”53 However, no overall end-use monitoring system was forthcoming.

43. When we asked Mr Stuart about end-use monitoring, he told us: “It would require the permission of the country where we would be doing it and it would make no-notice inspections very difficult.” He emphasised the rigour with which licence applications are processed: “We feel that the most effective, proportionate methodology is to analyse and decide before you issue the licence, rather than hope that any form of verification afterwards could be a suitable methodology.”54 Regarding the new German end-use monitoring regime, he said: “The Germans have recently brought in an approach for small arms. I think they have done a total of two inspections so far, and say that there will be at most five a year.” The Government was open-minded and would “seek to learn from the German experience, but to date, we are not convinced that it offers a superior alternative to what we currently do.”55

44. Mr Bell, the Head of the ECJU, further reflected, regarding a possible “sort of system of extraterritorial checks post-licensing”, that:56

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48 Dr Lucie Béraud Sudreau (UAE0014), p 4
49 US Department of State, Blue Lantern End-Use Monitoring Program
53 HC Deb, 13 October 2011, col 42WS
54 Q243
55 Q244
56 Q292
a team of lawyers would be tied up for a long time working out the ins and outs of how we would do it, leaving aside the whole issue of how you would resource it and how you would carry it out in-country. I know the Germans have struggled with their two inspections.

**Licensing cryptographic items**

45. Cryptographic items are used to encrypt or decrypt information. In accordance with the Wassenaar Arrangement and the Dual-Use Regulation, such items fall within the scope of the Dual-Use List. In the 2016 Annual Report, the Government describes the cryptographic subtype of OIEL as authorising:\(^57\)

\[\text{the export of specified cryptography hardware or software and the transfer of specified cryptography technology to the destinations specified in the licence. These OIELs do not cover hardware, software or technology which includes certain types of cryptanalytic functions.}\]

46. Figures regarding applications for OIELs in respect of cryptographic items cited in Annual Reports since 2009 are shown in Table 3.

**Table 3: Cryptographic OIEL applications**

<table>
<thead>
<tr>
<th>Year</th>
<th>Issued</th>
<th>Refused</th>
<th>Revoked</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>5</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2010</td>
<td>15</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2011</td>
<td>28</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2012</td>
<td>9</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2013</td>
<td>15</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2014</td>
<td>12</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2015</td>
<td>18</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2016</td>
<td>17</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: Strategic Export Controls Annual Reports, 2009–16

47. There also exists an OGEL which “allows, subject to certain conditions and destinations, the export of certain types of cryptographic (protecting information by transforming it into an unreadable format) development software and technology.”\(^58\) Mr Stuart told us that this licence permitted: “the export of low-risk information security equipment, such as computer servers and routers”. Deliberately excluded were “all high-risk capabilities, including mobile telecommunications interception equipment, cyber-surveillance tools and items designed to defeat or bypass information security, because those items will remain subject to individual licence applications”.\(^59\)

48. ADS Group told us that they advocate the introduction of a new OGEL to cover “non-contentious cryptographic goods”:

Most other nations (and especially the US) have seemingly adopted a much more flexible and permissive attitude to these commercial activities than

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57 HC (2017–19) 287, p 15
58 Export Control Joint Unit, [Open general export licence (cryptographic development)](https://www.gov.uk/government/publications/open-general-export-licence-cryptographic-development), April 2018
59 Q256
the UK’s own Government has done. As a direct result, sales (and related jobs) are being lost to the UK; often the supply chains related to these sales are being placed overseas by multinational firms. At present, the UK is widely perceived to be at a competitive disadvantage in this increasingly important area of commercial activity in comparison.  

49. The Chief Executive of ADS Group, Mr Everitt, explained what might be considered a “non-contentious cryptographic good”:  

Because of concerns about cyber-crime, hacking and the like, normal businesses increasingly want to make their standard commercial business activities more secure. The sorts of areas that we are thinking of are, indeed, satellite communication or satellite service delivery and/or how you go about securing financial transactions that might be done either online or through mobile telecommunications.  

50. He emphasised that:

We are not looking at trying to provide equipment that might be used to monitor people; we are looking at supplying commercial-grade equipment and software that would be used to secure mobile telephony and other things for things like commercial transactions. Again, a mix of end-user scrutiny would be sufficient to determine whether it is going to the right type of business.  

51. Mr Feeley-Sprague, of Amnesty International, was sceptical about ADS Group’s proposal but did say:

there is a recognition among the exporting community […] that the area of cyber-controls, or controls on equipment to monitor and carry out surveillance of the internet, for example, has struggled to cope with the technology advances that have happened. With a list-based system, these items tend to be things that the list struggles to cope with, because technology advances much faster than the list can.  

52. He also suggested that moves were afoot:

within both the Wassenaar arrangement and the EU [i.e. the proposed recast of the EU Dual-Use Regulation—see Chapter 8], to strengthen our controls in this area of goods because of the human rights concerns that can occur when they are misused. At a time when others are looking to ensure that our controls are as strong as they possibly can be, relaxing them may not be the right thing to do at the moment.

60 ADS Group (UAE0003), para 14  
61 Q82  
62 Q83  
63 Q5  
64 Q5
53. When we asked Mr Stuart about the proposal for a new OGEL in respect of non-contentious cryptographic goods, he emphasised that cryptographic items were controlled under the Wassenaar Arrangement. He told us:

"We have international obligations and, as with all our international obligations, we aim to be top of the field in implementing them. Encryption has a role in enabling human rights defenders, for instance, to communicate securely, but equally the use of strong encryption by terrorists or others represents a threat to the security of the UK and its allies."

Conclusions and recommendations

54. We note that the Government has in recent years encouraged industry to apply for open rather than standard licences, in order to reduce the workload associated with the processing of uncontentious licences. We accept that it is legitimate for the Government to seek to make the best use of limited resources in this way—provided there is evidence to show that open licences do represent a more cost-effective approach without compromising necessary standards. The Government needs to supply evidence to that effect, either in response to this report or in correspondence.

55. At the same time, there is a need for greater clarity and transparency regarding the circumstances in which open licences are deemed appropriate rather than standard licences. This is particularly the case given the concerns raised with us about reporting in respect of open licences. The Government must explain how it is going to bring greater clarity and transparency in this regard, which would be of practical benefit to industry, as well as being good policy.

56. In addition, the Government must demonstrate that companies using open licences are subjected to proportionately rigorous and frequent compliance audits.

57. We are most dissatisfied at the Government’s admission that no such audits are ever carried out in respect of UK companies’ operations overseas. The compliance-audit regime must be extended as soon as practically possible to cover such companies in relation to Trade Control Licences (and Export Control Licences in any relevant circumstances). The Government must say how it will achieve this, either in response to this report or in correspondence.

58. The resources provided to HM Revenue & Customs for export-control enforcement must be commensurate with the scale and complexity of the task. We are not convinced that this is currently the case. The Government should review the allocation of resources, setting out to us in its response to this report what the current level of resourcing is and how it relates to current demands. It should also provide data on the staff numbers and budget for Customs A/B for each year since 2008."
59. The Government should provide raw/base statistical data on numbers of investigations, reports for prosecution, prosecutions, convictions, fines, seizures, compound penalties and warnings—both successful and unsuccessful—in the last ten years. It must not, as it did in the 2016 Annual Report, confuse data on prosecutions with data on seizures. We are extremely disappointed at what we see as a misrepresentation of data in this area, as we believe it leads to public distrust of the licensing process and casts doubt on the data that the Government provides.

60. The Government should set out in the response to this report what the arrangements are for the exchange of information between the Export Control Joint Unit and HM Revenue & Customs, and show that these are adequate for the successful discharge by both bodies of their responsibilities in this regard.

61. The Government should consider whether to begin end-use monitoring, and how that would be done, taking account of resource implications, and set out the reasoning behind its conclusions in the response to this report. We believe that some end-use monitoring is advisable, and that it would assist the Government in making better, more informed, export licensing decisions, as well as in addressing questions around compliance and enforcement.

62. The case has been put to us for the introduction of an Open General Export Licence to cover “non-contentious” cryptographic goods. This merits serious attention and the Government should accordingly give it formal consideration (taking fully into account the oppressive uses to which such items can be put). It should then set out clearly, in its response to this report or in correspondence, the reasoning behind the conclusion that it reaches, being explicit about how it defines “non-contentious goods” in this context.
4 Processing of licence applications

Role of the Export Control Joint Unit

63. Statutory responsibility for the licensing of controlled exports now rests with the Secretary of State for International Trade; and licences are issued by ECO, which forms part of DIT.⁶⁶ Staff involved in advising on licence-applications work in the ECJU, which is based at DIT and brings together operational and policy expertise from ECO, the FCO and the MoD. The ECJU was established in July 2016, following the Government’s 2015 Strategic Defence and Security Review (which “mandated the creation of a number of joint units to bring together resources and expertise from across Whitehall to deliver more effective ways of working”).⁶⁷

64. The ECJU has targets to complete 70% of applications for SIELs (the most popular type of licence) and SITCLs within 20 working days, and 99% within 60 working days. In the 2016 Annual Report, the Government stated that 17,870 applications for SIELs had been processed in that year, 82% of them within 20 working days and 99% within 60 working days. This compares to 17,550 SIEL applications being processed in 2015, with 69% being completed within 20 working days and 98% within 60 working days. (These targets do not apply to OIELs and OITCLs, due to the diversity of caseload associated with them.)⁶⁸

65. ADS Group praised the Government’s approach, saying it allowed “individual departments to apply their perspective and expertise to every license application”, with the ECJU complementing that departmental expertise “by instilling independence and objectivity into the decision-making process”.⁶⁹ When we asked ADS Group’s Chief Executive, Mr Everitt, about his experience of how matters had changed since the formation of the ECJU, he said:⁷⁰

> The general view from people is that there has been no major [...] improvement or deterioration. By and large, for the overwhelming majority of the licence applications that are made, they go through reasonably speedily.

Sue Tooze, of BAE Systems, likewise told us:⁷¹

> From a practical perspective, since the ECJU was formed, although we appreciate that having everybody together in one place will facilitate scrutiny of licences, we have not seen a great deal of difference in the way that licences are processed.

⁶⁶ HC (2017–19) 287, p 3
⁶⁹ ADS Group ([UAE0003]), para 20
⁷⁰ Q88
⁷¹ Q125
66. We asked Sir Alan Duncan to respond to these views. He said that “In terms of internal administration, we think [forming the ECJU] has had a very positive effect. It has very successfully joined up all the elements that need to feed into this process.” All of the FCO elements of the system had:

been well brought together and co-ordinated so the setting up of the ECJU has been a success. Actually, what is also true is that in terms of meeting deadlines and things, the Foreign Office side of it certainly exceeds all targets in over 90% of instances. I would say that it is not only effective in co-ordinating, but very efficient.

67. As regards licence-processing, the Head of the ECJU, Mr Bell, told us he could not show any “improvement in terms of metrics” since the ECJU’s formation, “because what we didn’t do with the joint unit is fundamentally change the system where one Department is a regulator and a number of other Departments act as advisers to that regulator.” Performance against licence-processing targets had certainly “shown no decrease”. He thought the change in working brought by forming the ECJU could be perceived qualitatively: “I can see every day colleagues from the MOD, FCO and DIT getting up, talking to one another and working through the cases in a way that they couldn’t when they were scattered across a number of different buildings”. This “closeness” also helped to facilitate policy development.

**Online licence application system**

68. Applications for export-control licences are currently handled through an online system known as SPIRE. ADS Group stated in its written evidence:

> We have been working closely with the dedicated team within the Government who have been working on the development of the new Licensing for International Trade & Enterprise (LITE) electronic licensing system, which is due to start being phased in to replace the existing SPIRE system during 2018. This team is to be warmly commended for these efforts, which they have sought to keep u[s] apprised of throughout, and we are hoping that what starts to be rolled out from later this year will be able to provide process efficiency benefits for both Government and Industry over the coming months.

69. Mr Stuart further explained to us as follows:

> SPIRE is around 10 years old and needs to be replaced to ensure that the digital platform meets modern standards and allows business improvements to be made […] LITE will be released in phases. The first phase, comprising a new digital tool to help exporters assess whether or not their export requires...
an export licence, is due to be released for testing by a small number of exporters later in 2018. We envisage completing the transition to LITE over the course of 2019 […]

**Processing of Open Individual Export Licences**

70. ADS Group informed us that: “the Open Individual Licensing System is still fraught with perceived problems and delays, especially when it comes to the time and bureaucracy involved when exporters seek to have the existing OIELs renewed or replaced.” This point was reinforced in oral evidence by Mr Everitt:

   The area that causes us concern is where a company has used [an OIEL] efficiently and effectively and then wishes to re-apply. They effectively have to go through exactly the same process again, and the processing time for an open licence is up to 60 days. By and large, the process works reasonably well. There are obvious areas where, with a little more flexibility, we could take some of the burden out of the work that the unit does so that, rather than spending its time on processing things that are, by and large, non-controversial, it has more opportunity to focus on areas where there are more serious concerns.

71. ADS Group’s concerns were echoed by Ms Tooze, who said that delays in the processing of OIELS were “something that industry has reported across the board”. She was sceptical as to whether the introduction of LITE would make any difference in this respect.

72. In response, Mr Stuart told us there was a tendency in industry both to complain that the scope of open licences was too narrow and to demand that licence-renewal applications “be rubber-stamped […] for commercial reasons”. He said the Government was “extremely thorough” in dealing with renewal applications, looking “in detail at whether the situation has changed and whether it needs to be reviewed”, and made no apology for this: “The open licence provides benefits to those who receive it, but we must ensure that they are entirely in line with Government policy.”

**Conclusions and recommendations**

73. We welcome the fact that Standard Individual Export Licences were processed more quickly in 2016 than in 2015, as long as this was not accompanied by a reduction in the quality of the consideration given to applications. We note that the head of the Export Control Joint Unit told us that he could not show any “improvement in terms of metrics” since the Unit’s formation in July 2016; and that industry told us the formation of the Joint Unit has made no perceptible difference to the processing of licence applications. The Government should set out, in its response to this report or in correspondence, clear evidence to show the benefits brought by formation of the Joint Unit. This evidence must include (but not be limited to) data in respect of processing times for all types of licence.

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77 ADS Group (UAE0003), para 15
78 Q81
79 Q126
80 Q224
74. We are concerned to have heard from industry that the Open Individual Licensing System is “fraught with perceived problems and delays, especially when it comes to the time and bureaucracy involved when exporters seek to have the existing OIELs renewed or replaced”. While we acknowledge that such applications require careful consideration, the Government should bring forward detailed plans to address unnecessary delays and bureaucracy in the process; and it should show how they will be addressed in the design of the new LITE online licensing system.
5 Application of the Consolidated Criteria

Consolidated Criteria

75. In 2000 the then government produced a new list of criteria for export-control, and trade-control, licensing. These were referred to as the Consolidated Criteria, since they were intended to combine both the UK national criteria and those in the EU Code of Conduct.81 The Export Control Act 2002 gave the responsible Secretary of State a duty to issue guidance on the exercise of licensing powers; and the Consolidated Criteria have been denoted by successive governments as constituting such guidance under the Act.

76. The EU Common Position on Arms Exports, which superseded the Code of Conduct in 2008, laid down a legally binding framework of eight criteria to serve as a minimum standard against which EU Member States can judge export licence applications in respect of military items. (The same criteria apply to the Common Position on Arms Brokering.) The 2009 Dual-Use Regulation does not prescribe a detailed set of assessment criteria, although it does require Member States to take into account “all relevant considerations”, including the Common Position on Arms Exports.82

77. In March 2014 revised Consolidated Criteria were issued which the then government regarded as incorporating the EU Common Position on Arms Exports—although the previous Committees disagreed.83 The revised Consolidated Criteria were set out in a statement to the House in 2014 by the then Secretary of State for Business, Innovation and Skills.84

78. The eight revised Consolidated Criteria are shown in Table 4.

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81 Before the Code of Conduct there were eight Common Criteria for the assessment of arms-export applications, which had been adopted by the European Council as early as 1991–2.
82 Article 6 of the Common Position does, however, mandate the application of the Common Position criteria in respect of dual-use items “where there are serious grounds for believing that the end-user of such goods and technology will be the armed forces or internal security forces or similar entities in the recipient country”.
83 See HC (2014–15) 608, paras 27–29
84 HC Deb, 25 March 2014, cols 9–14WS
Table 4 Consolidated Criteria

<table>
<thead>
<tr>
<th>Type</th>
<th>Criterion no.</th>
<th>Summary</th>
<th>Lead advisory department(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mandatory</td>
<td>1</td>
<td>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.</td>
<td>FCO</td>
</tr>
<tr>
<td>Mandatory</td>
<td>2</td>
<td>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.</td>
<td>FCO</td>
</tr>
<tr>
<td>Mandatory</td>
<td>3</td>
<td>The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.</td>
<td>FCO</td>
</tr>
<tr>
<td>Mandatory</td>
<td>4</td>
<td>Preservation of regional peace, security and stability.</td>
<td>FCO</td>
</tr>
<tr>
<td>Non-mandatory</td>
<td>5</td>
<td>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.</td>
<td>MoD</td>
</tr>
<tr>
<td>Non-mandatory</td>
<td>6</td>
<td>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.</td>
<td>FCO</td>
</tr>
<tr>
<td>Non-mandatory</td>
<td>7</td>
<td>The existence of a risk that the items will be diverted within the buyer country or re-exported under undesirable conditions.</td>
<td>FCO / MoD</td>
</tr>
<tr>
<td>Non-mandatory</td>
<td>8</td>
<td>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.</td>
<td>DfID</td>
</tr>
</tbody>
</table>

Source: HC Deb, 25 March 2014, cols 9–14WS

Applications are assessed against the Criteria and can be refused if they fail in respect of one or more of them. Certain Criteria are mandatory, meaning that any licence which would breach any of these must be refused. In announcing the revised Consolidated Criteria in 2014, the then government stated that they would:

not be applied mechanistically but on a case-by-case basis taking into account all relevant information available at the time the licence application is assessed. While the Government recognise that there are situations where
transfers must not take place, as set out in the [...] criteria, we will not refuse a licence on the grounds of a purely theoretical risk of a breach of one or more of those criteria.\textsuperscript{86}

The FCO, MoD and DfID advise DIT on “relevant foreign, defence and international development aspects”\textsuperscript{87} of particular criteria, with one or two of these advisory departments taking the lead in respect of each Criterion. DfID leads only on Criterion 8 (regarding sustainable development).

80. Where the departments fail to concur on how to treat a particular licence application, mechanisms exist for resolving such differences. Firstly, there are weekly interdepartmental “denials meetings”, to discuss cases where any department has recommended refusal. Where such discussion fails to resolve the matter, “the dispute resolution mechanism or complex cases mechanism” can be invoked, with the Cabinet Office mediating between the departments. The final resort is for the matter to be put to Ministers.\textsuperscript{88} There are also other circumstances under which individual licence applications are referred up for a decision at the ministerial level.

\textbf{Involvement of the Department for International Development}

81. In 2014 the previous Committees suggested consideration be given to the formal involvement of DfID in the assessment of applications against other Criteria than Criterion 8, such as Criteria 3 (regarding the internal situation in the destination country) and 4 (regarding the preservation of regional peace, security and stability). The then government responded that the necessary expertise already sat within the other departments, and that these worked closely with DfID officials.\textsuperscript{89} When the ECJU was formed in 2016, DfID was not represented in the Unit.

82. Martin Butcher, Policy Adviser, Arms Campaign at Oxfam, told us that DfID should be one of the departments participating in the ECJU. He advocated this on the basis that DfID was a department with:\textsuperscript{90}

\begin{quote}
staff across the world, particularly in countries that are or have been conflict-affected, where problems relating to arms exports are particularly strong or can be particularly strong. The information that those staff can provide would be extremely useful in this process. We also think that the work that DFID does in producing its report on conflict-affected countries would usefully inform arms export licensing.
\end{quote}

He also referred to what he saw as the “very valuable” role that DfID had played, in concert with the FCO and other departments, in the negotiation of the ATT.\textsuperscript{91} (The Treaty is dealt with in Chapter 7.)

\textsuperscript{86} HC Deb, 25 March 2014, \textit{col} 10W5
\textsuperscript{87} Written evidence to the Foreign Affairs Committee, Foreign and Commonwealth Office (\textit{AEX0001}), December 2016. This evidence was submitted for an inquiry into FCO policy on arms exports. The inquiry was closed before the Committee could issue its report, due to the calling of the unexpected general election of June 2017.
\textsuperscript{88} Oral evidence taken before the Foreign Affairs Committee on 13 December 2016, HC (2016–17) 868, Q2
\textsuperscript{89} \textit{Cm} 8935, October 2014, p 26
\textsuperscript{90} Q24; cf Qq26–7
\textsuperscript{91} Q29
83. Mr Butcher’s view was echoed by Mr Feeley-Sprague, of Amnesty International,92 who referred to the work done by the previous Committees and others “to ensure that issues of sustainable development and the role of DFID were central to export licensing”.93 He also referred to DFID’s role in strengthening government policy on small arms and light weapons: “They have had the experience to say that small arms and light weapons in conflict-affected countries are an incredible driver of poverty and all the related issues that come into it.”94 DFID participation in the ECJU was also advocated to us by Dr Anna Stavrianakis, Senior Lecturer in the Department of International Relations at the University of Sussex.95

84. When we asked Sir Alan Duncan about this issue, he said that DFID staff were “fully involved” and played “a vital role” in relation to assessing licence applications against Criterion 8, although this had concerned only some 0.6% of licences issued in 2017.96 He stated that “DFID are very much a central part of the process, as is the Department for Business[ Energy and Industrial Strategy], although they are not, in the same way as DFID, a formal part of the permanent structure of the joint unit.”97

Objectivity of the licensing process

85. We heard that there are particular concerns about the extent to which the licensing regime is truly objective and rules-based. This has come up in the context of the judicial review proceedings brought by the Campaign Against the Arms Trade (CAAT) over the licensing of arms exports to Saudi Arabia for use in the civil war in Yemen. CAAT argued that the licensing of arms exports in respect of the civil war in Yemen was not consistent with Criterion 2c of the Consolidated Criteria, which states that a licence will not be granted where there is “a clear risk that the items might be used in the commission of a serious violation of international humanitarian law”.98

86. The High Court ruled in favour of the Government in July 2017, finding that the Secretary of State was “rationally entitled” to conclude “that there was no ‘clear risk’ that there might be ‘serious violations’ of International Humanitarian Law (in its various manifestations) such that UK arms sales to Saudi Arabia should be suspended or cancelled under Criterion 2c”.99 In the Court’s judgement, it concluded that the evidence showed “beyond question that the apparatus of the State, ministers and officials, was directed towards making the correct evaluations for the purposes of the Consolidated Criteria.”100 The court stated that it had undertaken “a thorough review of all the Open and Closed materials” in order to get: an understanding of the Secretary of State’s approach; a clear idea of how he had dealt with evidence and other materials; a comprehensive picture of what that evidence and those materials were; an objective view of all the strands of open and closed evidence and materials; and an overall assessment of the Secretary of State’s
judgement call in light of the preceding. Dr Stavrianakis took a different view, arguing that “the judiciary were very quick to accept at face value the claims that the Government made”.

87. In May 2018, CAAT was granted permission to appeal and a hearing is now pending. Control Arms UK (a coalition of UK-based non-governmental organisations, including Amnesty International UK, Oxfam and Saferworld) argued to us that, if the Government is successful in the appeal, the case “raises concerns about the UK’s current system of arms transfer control. It suggests that, as long as certain processes are followed, the Consolidated Criteria do not amount to any real legal constraint on the UK Government unless the Government chooses to be constrained.” They argued that in this case the Criteria had apparently “not been the decisive factor in the licensing decisions” and that the licensing process “has provided cover for decision-making, rather than acting as a meaningful check and control on it.”

88. Dr Stavrianakis, of Sussex University, told us that “there is a lot of process. There are a lot of civil servants. There is a lot of oversight […] but we have a series of perverse outcomes.” She thought that “political direction”, occurring at “both at the level of policy and at the level of individual licensing decisions”, was the reason for this. Such political direction:

pushes implementation of policy away from prevention—away from prevention of [international humanitarian law] violations, away from the prevention of human rights abuses, all while remaining technically within the bounds of what is legally and politically permissible.

89. Political direction occurred in two forms, Dr Stavrianakis said. Firstly, it occurred at the policy level. She referred to a 2016 e-mail from the Head of ECO (Mr Bell) which had been published during the judicial review proceedings. This, it was argued, raised the question of whether political direction had been “issued or implied” to ensure that the threshold of “clear risk” in respect of a serious violation of international humanitarian law (under Criterion 2c) is not seen to have been breached, leaving the way clear to take account of “wider factors—such as diplomatic and economic relations”.

90. The second form of ministerial involvement occurred where individual cases were passed directly to Ministers for a decision. Dr Stavrianakis told us: “at the level of individual licences we know that the Foreign Office are referring individual licence decisions to the Foreign Secretary. These are decisions being made at the highest level.” She thought that we “could usefully investigate the grounds on which export licences are referred to

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101 R (Campaign Against The Arms Trade) v Secretary of State for International Trade [2017] EWHC 1726 (QB), para 60
102 Q201
103 Control Arms UK (UAE0007), para 45
104 Control Arms UK (UAE0007), para 45
105 Q194; cf Dr Anna Stavrianakis (UAE0004), para 7. The e-mail concerned, dated 11 February 2016, is from Edward Bell to the Permanent Secretary at the then Department for Business, Innovation and Skills, Martin (later Sir Martin) Donnelly and another official, Samantha Beckett. Parts of it have been redacted. The salient sentence reads as follows: “There is a lot at stake here politically but if you accept that the threshold for ‘clear risk’ of a serious violation of International Humanitarian Law has not been breached then it is permissible to take wider factors – such as diplomatic and economic relations – into account. If you do not accept this then it’s not permissible to do so.” It has been published online by CAAT.
106 Q194
107 Q194
ministers”. ADS Group, on the other hand, thought that the “in-built mechanism to escalate [a case] to ministerial level” in the event that cross-departmental consensus could not be reached on it “ensure[d] complete accountability of decision-making”.

91. When we took evidence from Ministers, they insisted that the licensing process is rigorously objective. Mr Stuart told us: “I would say that it was not subjective and that […] it does provide a really solid framework. […] [T]here is a whole series of Government Departments and others who are consulted. We are not only consulting across Government.” The information-gathering that went on:

incorporates all of those appropriately in post around the world to ensure that that information is captured. All of that is captured against the criteria, one after another, to ensure that we have a coherent, robust and objective system by which any particular application can be judged.

92. Sir Alan likewise insisted that “What is happening here is a process of measuring decisions against the criteria. That is not a matter of decision; it is a matter of measurement.” He elaborated:

There is a process. For instance, there is an EU user’s guide to the common position on how to interpret criterion 2. So there is a methodology here; it is not just a subjective process at all. There is a clear methodology within which and against which the judgments can be properly made.

93. We raised with Mr Bell, Head of the ECJU, the following sentence in the e-mail of his which was published during the judicial review (referred to above):

To be honest—and I was very direct and honest with the [Secretary of State]—my gut tells me we should suspend [licences for arms sales to Saudi Arabia in relation to the civil war in Yemen]. This would be prudent and cautious given the acknowledged gaps in knowledge about Saudi operations.

Asked how many times Ministers had overturned his “gut feeling”, Mr Bell responded: “I do not think my gut is at all relevant to licensing decisions.”

94. Regarding the circumstances in which Ministers become involved in deciding on an individual case, Mr Bell said that “The different Departments involved have their own criteria and thresholds for referral of cases”. He confirmed that one situation where a case might be referred to a DIT Minister was where departments took differing views and these could not be resolved in any other way. He added that “Other scenarios might include where there is a deterioration in the security conditions in a given destination, so there is much closer and deeper scrutiny of the issues around licensing decisions.” In all, there were “about six different thresholds that we operate” as regards escalating cases up to Ministers.

108 Dr Anna Stavrianakis (UAE0004), para 9
109 ADS Group (UAE0003), para 20
110 Q241
111 Q233
112 Q242
113 E-mail from Edward Bell to Martin Donnelly and Samantha Beckett, 11 February 2016; R (Campaign Against The Arms Trade) v Secretary of State for International Trade [2017] EWHC 1726 (QB), para 203
114 Q240
115 Q236
Proposed presumptions of denial

Non-signatories of the Arms Trade Treaty

95. Control Arms UK propose that the UK should operate a “presumption of denial” in respect of licences involving exports to states that have not signed the ATT (the Treaty itself is discussed in Chapter 7):\textsuperscript{116}

The UK Government’s promotion of the ATT should take precedence over its promotion of arms exports, especially in those circumstances where the commitment of the potential buyer-government is unclear or absent. In the UK’s ATT Annual Report covering exports and imports of weapons in 2016, the UK reported authorisations to 73 countries, including 17 that were not ATT States Parties,\textsuperscript{117} and its leadership in this area could have a marked effect on the behaviour of other arms-exporting States Parties.

96. Mr Feeley-Sprague, of Amnesty International, elaborated:\textsuperscript{118}

what we are actually saying here is that for open general export licences—the most permissive export licence that exists—if you have not signed the ATT you should not be an eligible destination for an open general export licence. That does not mean that you are not eligible for another type of export licence—a single individual export licence. You can apply for that through the normal channels.

97. Elizabeth Kirkham, of Saferworld, told us that she did not think such a presumption of denial would cut across the Consolidated Criteria:

In the consolidated criteria, criterion one is about the behaviour of the recipient vis-à-vis the international community, so having a presumption of denial to non-signatories or non-parties to the ATT would represent an assessment of the behaviour of the recipient in that regard. So it is consistent with the criteria.\textsuperscript{119}

She added:

we are not arguing that we should not sell arms to any country that has not signed the ATT or ratified the ATT and put that into practice. We are suggesting that in terms of implementing our arms export policy in practice, the fact that the country has ratified the ATT and put its measures into national implementation should be a guide to maybe that country being one that can receive OGELs. There are other measures as well that would be in play there.\textsuperscript{120}

98. Mr Everitt, of ADS Group, stated that:\textsuperscript{121}

\footnotesize{\textsuperscript{116} Control Arms UK (\textit{UAE0007}), para 54.}
\footnotesize{\textsuperscript{117} These are Afghanistan, Algeria, Botswana, Canada, Egypt, India, Indonesia, Kazakhstan, Kenya, Kuwait, Namibia, Oman, Pakistan, Qatar, Russia, Saudi Arabia and Sri Lanka – Foreign and Commonwealth Office, \textit{Arms Trade Treaty: UK Annual Report, 2016}.}
\footnotesize{\textsuperscript{118} \textit{Q19}.}
\footnotesize{\textsuperscript{119} \textit{Q16}.}
\footnotesize{\textsuperscript{120} \textit{Q19}.}
\footnotesize{\textsuperscript{121} \textit{Q97}.}
As an industry, we have been a strong supporter of the arms trade treaty. Anything and everything that helps to support and ensure that that is taken up in the widest possible sense we would see as an important thing.

99. When we asked Sir Alan Duncan about this proposal, he told us: \[Q245\]

We do not necessarily want to assume that we should do no business with such countries if they have not signed up when we are in the process of trying to encourage them to sign up. We apply the consolidated criteria, and of course criterion 2, on that case-by-case basis. We always have in the back of our mind the efficacy and importance of the arms trade treaty, but a presumption of denial could actually end up being counterproductive in that area.

100. Mr Stuart explained that: “whatever presumption you start with, you will go down the criteria […] You can start presuming what you like, but you have to ensure that everything is checked against the criteria.” Sir Alan added that: “the consolidated criteria include the provisions of the arms trade treaty.” \[Q245\]

“Human Rights Priority Countries”

101. The FCO publishes an annual report on Human Rights and Democracy, in which it lists countries of “wide-ranging concern”. The department states: “Each report incorporates comments and recommendations that have been received over the course of the previous year from the House of Commons Foreign Affairs Committee and from a number of human rights non-governmental organisations.” \[Q245\]

102. Mr Feeley-Sprague, of Amnesty International UK, argued that there should also be a presumption of denial relating to applications for exports to countries on this list. \[Q12\]

Given that licensing is supposed to be allocated towards risk, for that set of countries that are problematic there should be a change in the way the system is implemented. We should be looking for a presumption of denial to be put in place for licences to those countries. That does not mean that you are saying that you cannot sell them any weapons, but it means that you start from a position that is different from what it is now […] You start from a position that says that we probably will not sell them, so we have to go that extra mile to work out why we should. \[Q12\]

Conclusions and recommendations

103. It has been suggested to us that staff of the Department for International Development should form an integral part of the Export Control Joint Unit. Given that that Department does have a particular role in relation to Criterion 8 (concerning sustainable development), there may be a case for changing the composition of the Unit.
in this way. The Government should give formal consideration to this proposal and set out clearly, in its response to this report or in correspondence, the reasoning behind the conclusion it reaches.

104. We accept that it is entirely appropriate for Ministers to be involved in both setting the criteria and principles for dealing with licence applications and in dealing with difficult cases that involve clarifying the interpretation of those criteria and principles or otherwise setting a precedent. However, we note that there is concern about the circumstances under which cases are escalated up to Ministers and the basis for some of the decisions that result. In the interests of transparency and political accountability, the Government should set out clearly, in its response to this report, the grounds on which individual cases are selected for consideration at ministerial level, with reference to the Consolidated Criteria and the six thresholds. It must also ensure that such cases are clearly identified in the Annual Report on Strategic Export Controls.

105. We have heard a proposal for a “presumption of denial” in respect of open licences for exports to countries that have not signed the Arms Trade Treaty; and a similar proposal in respect of countries that are on the Foreign Office’s list of “Human Rights Priority Countries”, as set out in its Annual Human Rights Report. We can see that there are arguments for and against both proposals. The Government should review these proposals and report back, either in response to this report or in correspondence, with its findings.

106. In any case, we believe there must always be a more stringent process in place for any arms exports to such countries, so the Government will be able to show, if such arms exports are approved, that they would not be in breach of the Criteria.

107. We have not looked in depth at the adequacy of the existing Criteria (although we have considered the possibility of adding a wholly new Criterion, regarding corruption—see below). This is a matter to which we plan to return in our future work, particularly in respect of Criterion 2c.
6 Reporting and transparency

108. In the 2016 Annual Report, the Government says that “transparency and accountability are at the heart of Britain’s approach to export controls.”127 ADS Group told us they believe the UK export-control regime to be “one of the most robust and transparent” in the world.128 However, we did hear criticisms of the current reporting arrangements.

Regular reporting by the Government

109. Under section 10 of the Export Control Act 2002 the government is mandated to lay an Annual Report on Strategic Export Controls before the House. Each Annual Report sets out changes to arms-export policy, along with export licensing decisions and data for the preceding calendar year, including country-specific data.129

110. In addition, since 2004 the government has published details of the arms export licences that have been granted, refused or appealed on a quarterly basis in what are known as “pivot reports”. Each Quarterly Report provides:

- a set of tables presenting data on licensing decisions and processing times;
- commentary on the statistics, which summarises the key data trends and provides context and explanation for those trends; and
- a country-level data report for each country.130

111. The pivot reports have included decisions on Trade Control Licences since 2005; and information on licences issued under the Anti-Torture Regulation131 since 2006.132

Strategic Export Controls Database

112. Since April 2009 the government has also made available large quantities of detailed raw data on licensing applications (derived from the SPIRE system)—relating largely to standard licences. This is published online in the form of the Strategic Export Controls Database, whose purpose is explained as follows:133

[T]he Government recognises that published reports do not always meet the needs of the reader. This website has been developed to allow users to create reports based on their own criteria, e.g., specific types of exports to certain destinations, over any period of time (but subject to a minimum period of 30 days).

113. The contents of the Strategic Export Controls Database have been used by bodies outside government to create more easily navigable and user-friendly outputs. On its

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127 HC (2017–19) 287, p 1
128 ADS Group ([JAZ0003]), para 18
129 HC (2017–19) 287, p 1
130 Department for International Trade, Strategic export controls: licensing data
131 Council Regulation (EC) 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, 27 June 2005
132 www.exportcontroldb.trade.gov.uk/sdb2/fax/sdb/SDBHOME
133 www.exportcontroldb.trade.gov.uk/sdb2/fax/sdb/SDBHOME
website, CAAT provides a sophisticated interactive resource which allows users easily to interrogate and search the Database, generating bespoke output with an element of data visualisation, as shown here.\footnote{www.caat.org.uk/resources/export-licences}

114. The reasons for providing this service are given as follows:\footnote{www.caat.org.uk/resources/export-licences/faq}

The data published by ECO is not accessible enough. The figures are buried in PDF documents, which must be downloaded individually from a slow and complex website. Each report takes several minutes to generate before it can be downloaded, and it is necessary to download many reports in order to get a good sense of the goods exported to a given country.

Our aim was to provide a simple, searchable web application, open to everyone, with which it would be possible to link directly to any fragment or collection of data. We also provide the raw data in CSV format for re-use by other researchers or applications.

115. In addition, as part of Project Alpha (which “conduct[s] academic research into proliferation risks”),\footnote{Q202} Mr Stewart, of King’s College London, has created an online data visualisation tool using export-control licensing data to show licensing decisions by country, as seen here:\footnote{public.tableau.com/profile/project.alpha#!/vizhome/UKExportLicenceRefusals-2008–2017/Dashboard1}
Additional data provided to the Committees on Arms Export Controls

116. In response to recent requests from our Chair, the Secretary of State for International Trade has provided us with additional information regarding the licensing of exports to a number of countries. This information has taken the form of spreadsheets, some of which have been very large.\footnote{This correspondence is published on the CAEC website.}

117. Replying to a letter from the Chair objecting that the format of the data provided made it difficult to access and interpret, the Secretary of State said that:

> A spreadsheet seemed the most appropriate means of providing this [information] to you because it allows the data to be sorted and manipulated in various ways including by applying multiple filters to select the data of most interest.

In addition, the Secretary of State pointed out that “headline summaries for each destination as well as a breakdown by rating code and goods summary” are published in the quarterly and annual licensing statistics. And he mentioned that data is available through the Strategic Export Controls Database, which “allows users to create reports based on their own criteria.”\footnote{Letter from Rt Hon Dr Liam Fox MP to Graham Jones MP, 25 May 2018} In his evidence to us, Mr Stuart said that we could hardly object to receiving a large and complex dataset when that was exactly what we had requested: “It is vast and dense—that is the information you asked for, and that’s what you got.”\footnote{Q266}
Reporting on open licences

118. We heard in evidence that there are concerns about the lack of reporting in respect of open licences. As we noted in Chapter 3, Mr Feeley-Sprague, of Amnesty International, raised this point.\(^{141}\)

We get very good numeric information in SIEL export licensing about how many items of that category we are exporting. Are we exporting five shotguns or 5,000 assault rifles? Under open licensing, that quantity information is not available. If small arms and light weapons are exported under open licensing, you do not know the quantities that are exported.

119. “Significant limitations” in reporting and transparency in respect of open licences were acknowledged in 2012 by the then government. These limitations related to lack of information on:\(^{142}\)

- OGELs (apart from the number of registrations);
- the quantity and value of items licensed under OIELs and OITCLs (since these licences contain no limits on quantity or value and such information is not required in licence applications);
- quantities / values of items actually exported (as opposed to licensed for export); and
- end-use / end-users for the items licensed.

120. Consequently, in 2012 the then government announced plans to require exporters to upload data on the usage of open licences. Control Arms UK explained to us that these were to include “a description of the items exported or transferred, the destination, value and/or quantity, and some information about the end-user.” The intention was also announced to publish this data in an “aggregated form, by destination, in the Government’s Quarterly and Annual Reports on Strategic Export Controls.”\(^{143}\)

121. Control Arms UK thought this announcement had been “very much welcome”, since the “lack of information made available to Parliament and to the public regarding equipment transferred under open licences has for many years been a glaring and unnecessary hole in the UK system.”\(^{144}\) However, the change in policy was not carried into effect in the form initially intended. Control Arms UK stated:

In July 2013, just weeks before the new system was scheduled to go ‘live’, the Government rowed back significantly what had already been agreed and announced that instead companies would be required to report only on “the country of destination, the type of end-user and the number of times the licence has been used for that country/end user type.” This information would then be made available in “aggregated form in the Strategic Export

\(^{141}\) Q4
\(^{143}\) United Kingdom Strategic Export Controls Annual Report 2012, HC (2013–14) 561, p 8
\(^{144}\) Control Arms UK (UAE0007), para 84
Controls Annual Report available on the Strategic Export Controls: Report and Statistics website.” The frequency of reporting was also scaled back, from quarterly to annual.145

The reason cited was the need to avoid “an unacceptable administrative burden on exporters”, even though a consultation had suggested that industry did not fear such a burden.146

122. Control Arms UK told us that:

[I]t is time for this issue to be revisited. The poverty of reporting with respect to open licences remains a problem […] we believe that there was widespread agreement on the need to improve reporting of open licences for military-list equipment, and an acknowledgement that this could have been managed without undue additional burden on industry. On this basis, we urge the Government to implement the original recommendations with regard to military-list items in the first instance. If there are additional issues that might complicate reporting for the dual-use sector, then these could be dealt with independently through a separate process.147

123. Mr Everitt, of ADS Group, told us that “In the open general licencing, a company has to be able to provide an evidence trail of what has been shipped to whom. That evidence, by and large, already exists.”148 That information was not currently made public, but Mr Everitt said that industry would not object to its publication, “As long as we are not creating a separate system of reporting”, which would “merely add burden and, in most cases, confusion”.149

124. Mr Stewart, of King’s College London, told us:150

The UK Government attempted to introduce reporting for open licences over a year ago. I understand that the quality of the data that was being received—not for any malicious purpose, but physically how that type of data was reported—was not very high. My sense of what is happening now is that there is a hope that the new licensing system will help to capture the data in a better way, but as of today there is a kind of reporting gap, or at least a communications gap, in terms of open licences.

125. When we asked Mr Stuart about the possibility of revisiting the 2012 plans for public reporting on open licences, he said that these plans had been scaled back as “many companies [had] expressed concern that [they] would mean an unacceptable administrative burden”. Annual data on usage of open licences was “reported to the ECJU and is checked in compliance audits”. However, “we do not yet have the right digital infrastructure to support public reporting”. The Minister said he “would rather not make a promise until I
[have] got the digital capability in place".\textsuperscript{151} When the Chair pressed him on whether he saw “a benefit from producing more data on open licences, such as quantity and values”, he replied:

when we have new and, we hope, improved digital systems, I will see benefit in being able to publish more information generally and not only for the benefit of the Committee, along the lines you suggest, Chair, without my committing precisely to anything.\textsuperscript{152}

**Interface with Customs information systems**

126. Ms Tooze, of BAE Systems, told us:\textsuperscript{153}

We are anticipating that there might be better abilities to produce reports from the LITE system. Certainly when it comes to transparency reporting, we are hoping that in due course that will interface with the CDS [Customs Declaration Service] system\textsuperscript{154} that HMRC is implementing […]

Andrew Cowdery, Director of Government Affairs at Leonardo, concurred, telling us that: “the interface with the information into the CDS will allow information to be generated once but used many times”.\textsuperscript{155}

127. Mr Stuart agreed that the interface between LITE and CDS had the potential to facilitate greater transparency:\textsuperscript{156}

As we have improved data and better digital systems, we should be in a position to share more, in the most appropriate way, and make sure that the scrutiny that this Committee and others wish to give to the Government can be more effectively facilitated.

**Conclusions and recommendations**

128. *Reporting and transparency are indispensible elements of a reliable and credible licensing regime.* While we welcome the fact that the Government publishes a lot of licensing information, we find it a major failing that such information is in formats that are very difficult to navigate, interrogate and interpret. We note that it is left to a non-governmental organisation with a particular viewpoint (the Campaign Against the Arms Trade) and an academic institution (King’s College London) to present the published official data in a user-friendly format. The Government should make clear and easily digestible the information about controlled exports that is provided to parliamentarians and the public alike. This will allow non-governmental organisations to present information in a more accurate manner; and enable interested members of the public to access relevant information about arms exports more easily, without the

\textsuperscript{151} Q262
\textsuperscript{152} Q263
\textsuperscript{153} Q126
\textsuperscript{154} CDS will replace the existing Customs Handling of Import and Export Freight (CHIEF) system by early 2019 (with phased introduction from August 2018) – HM Revenue & Customs, *Getting ready for the Customs Declaration Service*, March 2018
\textsuperscript{155} Q126
\textsuperscript{156} Q227
need to resort to an intermediary. We do not believe the failure to do so is down to a lack of resources, given that a non-governmental organisation with far fewer resources than the Government has been able to create such a data-presentation platform.

129. We are concerned at the continuing lack of published data in respect of open licences. The Government should address the data-quality issues that apparently lie behind this. In light of ADS Group’s statement that it does not oppose a requirement for industry to publish what its members have exported under Open General Export Licences, the Government should also reinstate the commitment made in 2012 by the then government (which was later dropped) to gather and publish regarding open licences a description of the items, the destination, value (and/or quantity) and information about the end-user. We welcome the statement to us by the Minister that he “will see benefit in being able to publish more information” once “new and [...] improved digital systems” are in place.

130. Given public concern about specific licences, the High Court’s established feeling that CAEC is the appropriate scrutiny body, and the Government’s agreement to share information with CAEC in confidence in some scenarios, a more proactive approach from the Government towards the Committees should be established. In particular, the Government should share with the Committees documentation relating to arms exports, including end-user certificates, correspondence within government, details of the exporters or brokers and the value of the exports made under open export licences, along with the rationale as to how they assess these controversial shipments.
7 The Arms Trade Treaty

Encouraging signature of the Treaty

131. The ATT came into force at the end of 2014 and currently has 94 state parties, while another 41 countries are signatories. It “regulates the international trade in conventional arms and seeks to prevent and eradicate illicit trade and diversion of conventional arms by establishing international standards governing arms transfers.” Control Arms UK told us: “The UK Government was one of the first countries to ratify the ATT and throughout the Treaty’s negotiations was a leading advocate for the inclusion of strong export commitments, including respect for human rights.”

132. Successive UK governments have considered the provisions of the ATT and the Consolidated Criteria to be consistently mutually reinforcing. The 2016 Annual Report states that for the Government:

Internationally, strengthening arms control remains a high priority. In 2016, Britain was once again a leading supporter of the Arms Trade Treaty. We have pressed for the universalisation of the Treaty and have encouraged more States to accede, in particular major arms exporters such as China, India, Russia, and the US.

133. However, Control Arms UK argued that the Government’s position on the ATT was at odds with its export practice. In particular, its policy on licensing arms exports to Saudi Arabia for use in Yemen meant that “any endorsement by the UK of the ATT will be viewed as incoherent.” We also heard from Mr Butcher, of Oxfam, that, while the UK had initially played a leading role in respect of the Treaty, “It seems to us that since the treaty entered into force it has done less in terms of bringing countries into the treaty.” It was in this context that we heard about the proposal for a “presumption of denial” in respect of non-signatories of the ATT (see Chapter 5).

134. Sir Alan Duncan told us: “our policy is to get as many people as possible to sign up to [the ATT]. There are not enough yet.” He elaborated: “We are particularly working with the EU—and within the EU, particularly with Germany, France, Italy, Spain and Sweden—to try to get as many people to sign up as possible.” The UK was also working with the USA to encourage other countries to sign. He added: “It is the only legally binding international conventional arms control treaty, so we are firmly dedicated to doing everything we can to keep up the momentum.” The UK had also “contributed more than £300,000 to the arms trade treaty voluntary trust fund, which supports states in implementing the treaty. We have not let up on this, and we will not.”

157 Arms Trade Treaty Secretariat
158 Control Arms UK (UAE0007), para 52
159 HC (2017–19) 287, p 1
160 Control Arms UK (UAE0007), para 53
161 Q43
162 Q245
163 Q286
Reporting obligations under the Treaty

135. We also heard in evidence from Controls Arms UK that the UK has failed to meet one of its obligations under the ATT: 164

The UK is also failing to meet its obligation under Article 13 (3) of the ATT to report on its imports of arms covered by Article 2(1) of the Treaty. The UK left its import section entirely blank in both its 2015 and 2016 Annual Reports provided to the ATT Secretariat. The reporting of imports is a basic requirement for all ATT States Parties, and the UK’s inability to meet this standard is not adequate for a country that claims to have a sophisticated system for arms control.

136. This is corroborated by the ATT Baseline Assessment Project’s annual report for 2016, which states: “[T]hree States Parties provided reports for exports but no reports for imports (Australia, Austria, and the United Kingdom).” 165 This is despite the Government stating in its 2016 Annual Report that: 166

In accordance with Article 13 (3) of the Treaty, the UK submitted an Annual Report to the Secretariat by the 31 May 2016 deadline. This report covers authorised or actual exports and imports of conventional arms covered under Article 2(1) of the Treaty made during the calendar year 2015.

Conclusions and recommendations

137. We welcome the Government’s commitment to promote signature of the Arms Trade Treaty by as many countries as possible. It must set out detailed plans for promoting both signature and implementation of the Treaty in its response to this report and give updates on progress in respect of these plans in its Annual Reports.

138. The Government should say what evidence there is of tangible effects that have been brought about by the £300,000 that it donated to the Arms Trade Treaty Voluntary Trust Fund.

139. It is inexcusable that in 2015 and 2016 the UK did not report on the imports of arms covered by the Arms Trade Treaty, in clear violation of its treaty obligations in this regard. The Government should set out, in its response to this report, what it is doing to ensure that the required information is collected, collated and published in a timely fashion in accordance with the terms of the Treaty.

164 Control Arms UK (UAE0007), para 62
165 Arms Trade Treaty Baseline Assessment Project, Reviewing 2016 ATT Annual Reports on Arms Exports and Imports: Analysis and Good Practice, p 27; cf p 28 (“Australia, Austria, Italy, and the United Kingdom did not provide information on imports of [Small Arms and Light Weapons]”).
166 HC (2017–19) 287, p 7
8 Brexit

Background

140. As we noted in Chapters 3 and 5, the UK export-control regime derives substantially from EU legislation, primarily the Common Position on Arms Exports. In the 2016 Annual Report, the Government says:¹⁶⁷

Until we have left the EU, the UK will remain a member of the EU with all of the rights and obligations that membership entails. We will continue to abide by the Council Common Position [on Arms Exports] 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, which is implemented in the UK through the Consolidated EU & National Arms Export Licensing Criteria.

The UK trade-control regime similarly derives from the EU Common Position on Arms Brokering.

Proposed recast of the EU Dual-Use Regulation

141. As we noted in Chapter 3, the European Commission is currently seeking to recast the Dual-Use Regulation to take account of the misuse of new technologies by repressive regimes. The Commission aims through the recast to further harmonise dual-use controls across Member States. It proposes a stand-alone list (separate and apart from the Dual-Use List) of cyber-surveillance technologies that are subject to control where there is evidence that they may be misused against political opponents or in conflict situations by repressive regimes. The stand-alone list would be on an EU-autonomous basis, meaning that it would not rest on commitments given in any international or multilateral export-control regime. In addition, the proposed recast includes a harmonised “catch-all” provision to allow the control of non-listed cyber-surveillance technologies in such circumstances.¹⁶⁸

142. Achieving the recast is a lengthy and involved process. It began in 2011 and is still far from being concluded. In November 2017 the matter was considered by the European Parliament’s Committee on International Trade. The Committee supported the idea of a stand-alone list specifically covering cyber-surveillance technologies but at the same time advocated removing the general category of cryptography technology from the Dual-Use List.¹⁶⁹ This followed the expression of concerns by privacy campaigners that the encryption controls in the Wassenaar Arrangement “now run counter to the protection of the right to privacy, as well as international and personal security, with little benefit.”¹⁷⁰

¹⁶⁷ HC (2017–19) 287, p 6
¹⁶⁹ EURACTIV.com, “Trade MEPs want to scrap all EU export restrictions on encryption”, 23 November 2017
¹⁷⁰ Letter from Privacy International and others to Wassenaar Agreement participants, 23 February 2017
143. In January 2018 the European Parliament voted by a large majority to amend the recast proposals. Regarding whether cryptography items should be removed from the control list, the Parliament thought there was a strong incentive to do so.\footnote{171}

144. Mr Everitt, of ADS Group, thought that the recast: is probably not going to get done soon, and certainly not before March [2019] […] A number of member states might have some challenges to what has been proposed, which is essentially a removal of any restriction on cryptographic goods and services, so I am not sure that that will pass muster across EU member states.

His organisation was seeking “a more nuanced approach around cryptography” which recognised the “growing commercial demand” for secure communications technology.\footnote{172}

145. The previous government raised concerns regarding:\footnote{173}

- the proposed introduction of a list of controlled items drawn up by the EU itself, rather than by means of proposals to relevant international export control regimes;
- the proposed extension of Commission powers in order to address human-rights concerns regarding use of dual-use items in third countries;
- the proposal to allow the export of sensitive items under EU GEAs, which could conflict with UK obligations under international or multilateral agreements; and
- whether envisaged cost-savings and reductions in administrative burdens might actually be offset by the extent of costs and administration connected with the new controls.

146. Specifically in relation to the position adopted by the European Parliament on the recast, Mr Stuart told us: “We do not agree with the European Parliament’s thoughts about removing all controls on encryption products.”\footnote{174}

**Transitioning from intra-EU export-control arrangements**

147. Trade in controlled items between EU Member States takes place under terms which are shaped by the principles of the Single Market. When the UK ceases to be an EU member its trade in such items with EU states will (unless there are relevant transitional arrangements) shift to a new footing, in keeping with the UK’s change in status to that of a “third country”.

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\footnote{172}{Q101}

\footnote{173}{European Scrutiny Committee, Twenty-Sixth Report of Session 2016–17, Documents considered by the Committee on 18 January 2017, HC 71–xxiv, para 5.6}

\footnote{174}{Q259}
148. Mr Stewart, of King’s College London, told us that it did not appear yet to have been settled what the new arrangements would be for licensing trade in controlled items between the UK and the EU:

I think the working assumption is that there will be an open licence […] from the UK to Europe. There is some hope that as part of the recast of the European regulation that they might be able to amend EU001, the general authorisation, to have a similar open licence or general licence for exports back to the UK. There are some logistical challenges that need to be figured out.

One such challenge was that the recast of the Dual-Use Regulation was unlikely to be concluded by March 2019. Another was that the EU did not have the delegated authority to create an open licence in respect of the UK (so this would have to be dealt with by each Member State separately).  

**Post-Brexit legal continuity**

149. Control Arms UK told us they were concerned about the necessity of amending the Export Control Act 2002, and subordinate legislation, in consequence of Brexit, since these laws refer to EU Regulations and Directives, as well as Common Foreign and Security Policy (CFSP) Decisions (as Common Positions are now known).  

Regarding EU Regulations, Directives and Decisions, the European Union (Withdrawal) Act is very clear that these will be translated into UK law. However, the Act is rather more opaque on the subject of Common Positions / CFSP Decisions. These, it appears, will not be treated as retained EU law, but rather as “international obligations”. Under Section 8 of the Act, Ministers will have the power to make secondary legislation “to enable continued compliance with the UK’s international obligations by preventing or remedying any breaches that might otherwise arise as a result of withdrawal”.

150. The Consolidated Criteria, which the Government regards as incorporating the Common Position on Arms Exports (and hence also the Common Position on Arms Brokering), have the status of statutory guidance under the Export Control Act 2002, as we noted in Chapter 5. The Government has given no indication that it believes any other provision is necessary to ensure that the UK continues after Brexit to be in compliance with its international obligations in respect of the Common Position on Arms Exports.

151. However, it is arguably only the duty under the Act to provide guidance, rather than the actual content of that guidance, that is binding in UK law. If this is the case, it would be necessary to enact secondary legislation under the Withdrawal Act for the Common

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175 Q212
176 Control Arms UK (UAE0007), para 66
177 Regulations are legally binding across every Member State. Directives specify outcomes that must be achieved but leave Member States free to achieve them as they see fit through national laws. Decisions are EU laws directed at specified Member States, companies or individuals and legally binding on those at whom they are directed.
178 Common Positions / CFSP Decisions define the EU’s collective approach to a particular geographical or thematic question, setting out general guidelines with which Member States’ national policies must be in conformity.
179 Explanatory Notes to the European Union (Withdrawal) Bill [Bill S (2017–19) –EN], para 119
Positions (and hence the Consolidated Criteria) to continue to have binding status in UK law after Brexit. The Government has, though, given no indication that it believes this to be necessary.  

152. There appears to be a further complication regarding the Common Position on Arms Brokering. The UK trade-control regime currently relates to trade involving “third countries”, i.e. non-members of the EU. Whether, and, if so, by what means, this will be recast after Brexit appears to be unclear.

**Post-Brexit UK-EU regulatory alignment**

153. Apart from the issue of the legal continuity of the Consolidated Criteria, there is the question of how far the Criteria will continue to be aligned with EU export-control policy after Brexit. Giving evidence to the Foreign Affairs Committee in December 2016, Jessica Hand, Head of Arms Export Policy at the FCO, said:  

> Colleagues in the Department for International Trade are working in a very focused way at the moment on the implications of Brexit for the [Consolidated] criteria. As I understand it at the moment, the inclination is they stand. Whether in the longer term we may adjust further is an issue for speculation, but I think in the short term, come whatever date is set where we finally make that break, these will stand.

154. Control Arms UK noted it was to be expected that the Common Position on Arms Exports, and the associated EU legislation, would provide the basis for post-Brexit UK policy, at least in the first instance. However, there was:  

> no guarantee that UK and EU export criteria will remain in concert into the future with the real possibility of a drift apart over time undoing decades of joint progress. At the operational level, the UK will no longer have the right to participate in the EU Council of Ministers Conventional Arms Working Group (COARM) where information-sharing on, and further development of, arms export control policy and practice take place.

155. Mr Feeley-Sprague, of Amnesty International UK, pointed out that the EU’s regulatory regime was “very much evolving”, with policies “every five or six years” going “through a mandatory period of review, reflection, changes and so on”. The Dual-Use Regulation was currently going through this process and the Anti-Torture Regulation would do so in 2020. Consequently, “we need to find the way that we can use in five or six years’ time, when the EU systems might have evolved in a different way—how the UK system is going to evolve in co-ordination with that.”

156. We also heard about the importance of post-Brexit UK-EU regulatory coordination for manufacturers whose supply chains cross what will become the new UK-EU border.

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180 The legal and regulatory framework for UK arms exports, Briefing Paper 2729, House of Commons Library, September 2017, p 22
181 HC (2016–17) 868, Q28
182 Control Arms UK (UAE0007), paras 68–69
183 Q61
184 Qq61 [Martin Butcher], 136, 159
Control Arms UK thought it particularly important that the UK should continue after Brexit to co-ordinate closely with the EU on Restrictive Measures (sanctions and arms embargoes). They said that the Government is addressing the lack of sufficient UK domestic powers to enforce sanctions by means of the Sanctions and Anti-Money Laundering Act, which will take effect at the point of Brexit. They highlighted the fact that most EU Restrictive Measures are agreed by the UN Security Council in the first instance, in which case UK and EU policies will almost certainly continue to be aligned after Brexit. However, they pointed out that the EU does occasionally adopt its own unique Restrictive Measures and it was important that the UK continued to align itself with these. Ms Kirkham, of Saferworld, noted that “The UK has been a leading actor in getting EU stand-alone sanctions agreed.” She thought that:

Sanctions work best when everyone is part of the regime and everyone is implementing them in good faith, so it would be really useful if the UK could also say that it will keep in step, align with EU policy on sanctions and continue the dialogue.

When we asked Mr Stuart about the prospects for the alignment of UK and EU arms-control regimes after Brexit, he told us: “The aim is for continuity and transfer over. The new system, were changes to be necessary, should enable us to make any such changes more easily.”

Post-Brexit continuity in UK-EU cooperation

Control Arms UK stressed the importance not just of regulatory alignment between the UK and the EU after Brexit but also of continuing UK-EU cooperation in the implementation of export control. In particular, the UK should seek to continue participating in the EU denial-notification and consultation mechanism. Ms Kirkham, of Saferworld, explained to us the importance of doing so:

if one member state denies a licence, they have to tell all the other member states within 30 days […] [T]hey now have an electronic system that basically notifies denials in real time […] [T]hen, if another state wants to take up a licence for an essentially identical transaction, they have to consult with the state that issued the denial. That does not mean there is no undercutting [where exporters “shop around” Member States in search of a favourable licensing decision], but it does mean that there is more convergence, more understanding and greater harmonisation than there would be otherwise.

She pointed out that Norway, despite not being an EU Member State, had been able to join the denial-notification mechanism. We did, though, also hear from Mr Stewart, of King’s College London, that, while Norway “currently implements the EU export control arrangements”, it “does not sit in the EU’s dual-use working party on export controls. They do not sit in the room and that does create some friction in terms of implementation.”

157. Control Arms UK (UAE0007), para 67; cf Dr Lucie Béraud Sudreau (UAE0014), p 5
158. Q64
159. O230
160. O58; cf Q62
161. Q212
162. Control Arms UK (UAE0007), para 69
163. O56; cf Dr Lucie Béraud Sudreau (UAE0014), p 5
164. Q212
161. Ms Kirkham said that her organisation had spoken to officials at DIT and the FCO but had not received any indication that a policy decision had yet been taken on the possibility of UK participation in the denials-notification mechanism after Brexit.192

162. Another area where Control Arms UK thought post-Brexit UK-EU cooperation to be particularly important was that of controls under the Anti-Torture Regulation. In connection with this Regulation, there was “A denial notification, an urgency procedure and consultation mechanism”, along with an Anti-Torture Co-ordination Group. As well as transposing the EU Regulation into UK law, “It will also be important for the UK and the EU27 to keep in step in terms of the future development of controls in this field”. This would need to include “participat[ion] in the denial-notification and consultation mechanism and the Anti-Torture Co-ordination Group” as well as timely exchange of information.193

163. Control Arms UK also told us it would be important for the UK after Brexit to continue co-operation with the EU on export-control intelligence and enforcement:194

[I]f routine customs checks and revenue collection once again become a part of the trade relationship between the UK and EU27 this will place a significant additional burden on customs resources in the UK and also in the EU27. Unless the UK Government provides significant extra capacity, there is a risk that a greater focus on revenue-gathering activities could reduce the capacity of customs and other enforcement agencies to effectively identify, interdict and prosecute cases of illicit trafficking, including of arms and dual-use goods.

164. Both Ms Kirkham and Mr Feeley-Sprague emphasised the importance for British and global security of continuing UK-EU regulatory alignment and exchange of information. This related to preventing the proliferation and diversion of arms; stopping the development of weapons of mass destruction; and curbing the activities of rogue regimes.195

Technical Note on Consultation and Cooperation on External Security

165. On 24 May 2018 the Government published a Technical Note on Consultation and Cooperation on External Security, outlining “options for future UK-EU consultation and cooperation arrangements across foreign policy, common security and defence policy (CSDP), defence capabilities and development and external instruments.”196 However, none of the issues discussed in this chapter was mentioned in the document.

Conclusions and recommendations

166. We note with concern that the Government’s Technical Note on Consultation and Cooperation on External Security did not address the impact of Brexit in relation to arms-export control.
167. The Government should set out in detail in its response to this report:

- its position on the European Commission’s proposal to recast the EU Dual-Use Regulation, setting out the basis on which it is envisaged that UK-EU technical cooperation on export control of dual-use items will take place after Brexit;

- what it is doing regarding the need for post-Brexit licensing arrangements in respect of transfers of controlled items between the UK and the remaining EU Member States;

- its position regarding the continuity of the Consolidated Criteria after Brexit, including clarification of its intentions regarding the possible use of legislation to confirm the binding status of the Criteria;

- whether, and, if so, by what means, the UK trade-control regime will be recast after Brexit;

- its understanding of the consequences of UK and EU arms control policy drifting apart after Brexit, including the impact this would have on the defence and security industry, and how it plans to respond to these;

- its plans to deal with the possible consequences of the UK no longer participating in the EU Council of Ministers Conventional Arms Working Group after Brexit; and

- what the UK’s post-Brexit relationship will be to the EU’s denial-notification and consultation mechanism under the Common Position on Arms Exports.

168. It would also be helpful for the Government to set out for us what information it has on the broader impact that Brexit will have on the defence and security industry.
9 Brokering

Background

169. While there is no internationally-agreed definition of the term “arms brokering”, it is often used to mean arranging or facilitating the supply of controlled items—as distinct from actually exporting them. As we noted in Chapter 3, the Export Control Act 2002 conferred on the government powers to regulate such activities; and this is done through Trade Control Licences (SITCLs, OITCLs and OGTCLs).

170. As we also noted in Chapter 3, the UK has since 2003 been bound by the EU Common Position on Arms Brokering, which concerns regulation of “activities of persons and entities” involved in the “transfer of items [to which the Common Position on Arms Exports applies] from a third country to any other third country”. The Common Position on Arms Brokering includes mandatory and voluntary elements as follows:197

Member States must:

- define brokering activities;
- control brokering activities that take place within their territory;
- establish a licensing system;
- grant or refuse licences on the basis of the criteria of the Common Position on Arms Exports;
- keep for at least ten years records on licences granted;
- exchange information with other Member States; and
- establish adequate sanctions.

Member States may:

- control the brokering of items that are exported from their national territory or the territory of another Member State;
- establish a registration system;
- require that brokers submit regular activity reports; and
- control extra-territorial brokering activities [i.e. those outside their own jurisdiction].

Proposed pre-licensing register of brokers

171. In its encouragement of registration systems for brokers, the EU Common Position echoes statements by two multilateral forums: the Document on Small Arms and Light Weapons, issued by the Organisation for Security and Co-operation in Europe in 2000;198

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198 OSCE Document on Small Arms and Light Weapons, November 2000
and the Wassenaar Statement of Understanding on Arms Brokerage, agreed in 2002.\(^{199}\)

Under such a system, registration of brokers complements the issuing of licences for brokerage activity; and being listed on the register (which would be a public document) would be a precondition of being able to apply for such a licence.

172. The UK currently has no arrangements for the registration of brokers. The previous Committees consistently urged the implementation of a pre-licensing register for brokers, but successive governments have disagreed. In 2013 the previous Committees noted that individuals with criminal convictions for arms-export offences had been able to register on the SPIRE system. The then government had acknowledged that the only check made for SPIRE registration was “to ensure that any person registering on behalf of an entity is properly authorised by that entity to act on its behalf”. Consequently, the previous Committees concluded that “the Government’s regulation of arms brokers is patently inadequate” and urged “a full review of the case for a pre-licence register of arms brokers”.\(^{200}\)

173. Subsequently, in April 2014, the then government initiated a consultation on this issue. When the results of the consultation were published, in July 2015, the then government stated that it would not be establishing a pre-licensing register of brokers. The differing points of view heard in the consultation were summarised as follows:\(^{201}\)

On the one hand, businesses chiefly favoured maintaining the status quo (namely licensing on a case by case basis only) and cited the downsides of a pre-registration system in terms of additional costs or targeting by anti-arms trade campaigners. On the other hand, civil society representatives and non-governmental organisations (NGOs) advocated the benefits of a comprehensive registration system, based on thorough vetting, eligibility and assessment criteria in order to act as a preventative measure to guard against undesirable brokering activity.

174. The subsequent government concluded “that there was no consensus or sufficiently powerful arguments in favour of implementing a comprehensive register.” It was “not convinced that the introduction of a pre-licensing register would substantially enhance the enforcement of brokering controls and that it would place considerable extra burdens on legitimate defence companies.”\(^{202}\)

175. Our inquiry showed that calls for the introduction of a pre-licensing register of brokers are no less urgent or persistent than they were previously. It was particularly emphasised to us that the UK is out of step with other jurisdictions in this regard. As part of the 2014–15 consultation, the then government carried out a survey of other EU Member States. On the basis of information provided on the existing registration systems among Member States, the government noted that these existed in the context of “national authorities and legislation” that were “all structured differently to the UK model”. It also noted that “where countries already have such a system, they have a much smaller base of brokers

\(^{199}\) Statement of Understanding on Arms Brokerage, December 2002


\(^{201}\) Department for Business, Innovation and Skills, Export Control Organisation: A pre-licensing register of arms brokers: Government Response, July 2015, p 5

\(^{202}\) Department for Business, Innovation and Skills, Export Control Organisation: A pre-licensing register of arms brokers: Government Response, July 2015, p 5
which may be monitored more easily through a registration system”. Such a system in the
UK, where there were “approximately 450 trade control licence holders”, was “likely to be
more resource intensive” than those currently existing among Member States.²⁰³

176. Mr Feeley-Sprague, of Amnesty International, told us that this survey of Member
States had in fact yielded compelling reasons in favour of pre-licensing registration of
brokers:²⁰⁴

this is what the EU partners that have registers said: “It acts as a precautionary
measure to send out a strong message that uncontrolled brokering activity
is a bad thing. It allows better outreach to companies involved in this
activity. It helps us enforce the controls in areas where legal jurisdictions
are problematic and it facilitates the information exchange between us and
other export control departments overseas. In some areas, it helps reduce
bureaucracy because it gives a filter around allowing fit and proper people
to be engaged in this activity”—very strong reasons.

He also pointed out that the number of brokers might not be as large as had been indicated:

The Government have analysed that there were 450 licence applications
for small arms and light weapons brokering. Obviously, companies will
apply for multiple licences, so we are probably talking between 50 and 100
companies that are involved in this.

177. According to Corruption Watch UK, a register of brokers would:²⁰⁵

Increase the transparency of arms brokering, both to the public [and] to the
UK government. Transparency is often the best means of preventing the
abuse of systems such as the export licensing process and increasing public
trust in such systems.

178. Corruption Watch UK also told us that the UK was:²⁰⁶

at odds with trends in Europe, where the vast majority of EU member
states have chosen to implement the voluntary aspects of the EU Common
Position […] In total, 18 EU member states have chosen to establish a
register of brokers. These are:

Belgium, Bulgaria, Croatia, Czech Republic, Estonia, France, Greece,
Hungary, Italy, Latvia, Lithuania, Malta, Portugal, Romania, Slovakia,
Slovenia, Spain, Sweden.

Similarly, 20 EU member states have chosen to require that brokers provide
regular activity reports. They include:

²⁰³ Department for Business, Innovation and Skills, Export Control Organisation: A pre-licensing register of arms
brokers: Government Response, July 2015, p 35
²⁰⁴ Q68
²⁰⁵ Corruption Watch UK (UAE0013)
²⁰⁶ Corruption Watch UK (UAE0013); cf Q68, Control Arms UK (UAE0007), para 80, United Nations Association
London and South East Region (UAE0009), p 6
Austria, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Greece, Hungary, Latvia, Lithuania, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden

This means that 23 EU states (out of a current total of 28) are in compliance with one or both of these voluntary aspects of the Common Position on Arms Brokering.\(^ {207} \)

179. Corruption Watch UK also drew attention to the regulatory regime that is operated in the USA under the International Trade in Arms Regulations (ITAR) in respect of brokering. ITAR defines brokering much more widely than does the EU Common Position on Arms Brokering, so that it includes the activities of agents (those who act on behalf of companies, exercising wide discretion) and advisors (those who provide advice to companies but do not act on their behalf):\(^ {208} \)

brokers of any kind involved in the export [of “a defense article or defense service”] have to be registered and licensed with the State Department. This has the effect of informing the State Department that a broker is being used by the exporting company for a specific transaction; it also creates a de facto pre-licensing register of brokers. In addition, Section 130.9 of ITAR also requires that exporting companies, or their vendors (people who provide services to the exporting company), disclose any political contributions valued at $5,000 or more, or any fee or commission in excess of $100,000 to the Directorate of Defense Trade Controls. Brokers are also required to submit an annual activity report to the DDTC, which must set out detailed information on brokering activity such as the dollar value and the category, quantity and type [of] items brokered.

Ms Kirkham, of Saferworld, told us that registers of brokers were also operated in South Africa and Australia. She thought that “New Zealand will have one because it is in the process of developing it.”\(^ {209} \)

180. Mr Stuart conceded that the idea of a register had “an immediate intuitive attraction”, but the question was “whether, with further investigation and analysis, you think it will overall deliver more good than harm”. He emphasised the effectiveness of the existing Trade Controls:\(^ {210} \)

There have been 13 convictions for trade control offences since 2005, and a number of compound financial penalties. We are not aware of any EU country with a better record of prosecuting illicit arms brokers, but we have been reviewing our brokering policies to see whether we can improve our controls in this area. We will be announcing a policy change to Parliament in the coming weeks.

\(^{207}\) Cf Groupe de recherche et d’information sur la paix et la sécurité, *Arms Brokering Controls: How Are They Implemented in the EU?*, 2013, p 3

\(^{208}\) Corruption Watch UK ([UAE0013] cf Q68 [Elizabeth Kirkham], Control Arms UK ([UAE0007]), para 80, United Nations Association London and South East Region ([UAE0009]), p 6

\(^{209}\) Q68

\(^{210}\) Q289
“Fit and proper person” vetting

181. Control Arms UK argued that brokers should not only be required to join a register but they should also “be subject to an appropriate vetting procedure in order to establish their fit and proper status to be engaged in arms brokering activities.” Mr Feeley-Sprague, of Amnesty International, told us: “It is now a mandatory requirement under the [EU] weapons directive to register both firearms dealers and arms brokers, and, more importantly, to run a registration system that includes a fit and proper persons vetting system.”

182. This refers to a May 2017 Directive which amends the Weapons Directive / Firearms Directive (dating from 1991). The original Directive was adopted prior to the abolition of frontier controls within the then European Community under the Schengen Convention and provided for a Community licensing system for the import and export of firearms. It aimed to prevent firearms passing between Member States in an uncontrolled fashion; and also required Member States to strengthen controls on firearms entering the Community. The amending Directive, among other things, requires each Member State to “establish a system for the regulation of the activities of dealers and brokers”. This must include at least: registration; licensing or authorisation; and “a check of the private and professional integrity and of the relevant abilities of the dealer or broker concerned” (sometimes referred to as “fit and proper persons” vetting).

“Brass-plate” companies

183. Corruption Watch UK suggested that one benefit of a pre-licensing register of brokers was that it would prevent “unscrupulous brokers from using brass plate companies in the UK to undertake questionable arms transfers that may have the end effect of decreasing the UK’s national security”.

184. Critics have argued for some time that there is significant scope for brokers to abuse or bypass existing export control by means of so-called “brass-plate” companies. The previous Committees defined these as companies which enjoy the benefits of UK registration, yet have “no or minimal staff permanently based in the UK and which are, or have been, carrying out arms exporting and arms brokering activities overseas in contravention of UK Government policies”. From 2009 the previous Committees consistently highlighted this issue and criticised successive governments for failing to take any effective action against brass-plate companies. It was suggested that the government could have recourse to powers under the Companies Act 2006 to “dissolve a company which is operating against the public interest.”

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211 Control Arms UK (UAE0007), p 2
212 Q36; cf Qq67, 68 [Oliver Feeley-Sprague]
215 Corruption Watch UK (UAE0013)
216 HC (2014–15) 608, para 16
217 HC (2012–13) 419-I, para 33
185. Replying to the previous Committees’ 2014 report, the then government stated that:

Existing legislation would enable action to be taken against brass plate companies that are acting in breach of UK law or where their continued registration is against the public interest, subject to the availability of sufficient evidence that could be disclosed in any legal proceedings.\(^{218}\)

186. In its response to the previous Committees’ 2015 report, the subsequent government referred to one case of a brass-plate company that had been subject to export-control enforcement action, but not closed down:

The company was being operated by a British national who was based outside the UK. In this case, a compound penalty for £47,000 was issued for an offence relating to the trafficking and brokering of arms and ammunition. The Government is aware of a small number of other UK-registered companies with no staff in the UK whose activities are, or may be subject to, UK trade controls. The activities of these companies are monitored carefully.\(^{219}\)

187. However, critics say that in practice the existing powers are rarely used. (Another such power, it has been suggested, is that under the Insolvency Act 1986 for the Insolvency Service to wind up companies “in the public interest” as well as on grounds of insolvency.)\(^{220}\) Control Arms UK told us that: “there is still evidence of the use of UK ‘Brass Plate’ companies to broker the supply of weapons to countries of concern, including to end-users subject to international sanctions”. It cited as an example allegations made, in September 2017, by Amnesty International UK that a UK-registered company had brokered a 2014 deal between Ukraine and South Sudan involving “50,000 assault rifles, 50 million rounds of ammunition, 10,000 grenade launchers and 30,000 grenades”. Control Arms UK called it a “serious concern” that “such an enormous arms deal could have been brokered by a UK-registered company”, especially “given the UK’s high-profile activities to establish a UN arms embargo on South Sudan at the UN Security Council”.\(^{221}\)

188. Control Arms UK said the Government needed to ensure it had: “the necessary powers to wind-up Brass Plate companies which are shown to be engaged in illicit brokering activities”. It was suggested that such provision could be inserted in the Sanctions and Anti-Money Laundering Bill, which was then making its way through Parliament,\(^{222}\) but no such amendments were made to the Bill.

**Operation of Trade Control Licences**

189. We also heard some disquiet about the operation of Trade Control Licences. Mr Feeley-Sprague, of Amnesty International, told us:

previous Committees have highlighted, as have we, the anti-piracy open general licences, which seem to us to be extraordinarily permissive about the

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\(^{218}\) Cm 8935, October 2014, para 15

\(^{219}\) Cm 9089, July 2015, para 16

\(^{220}\) Q66; Written evidence to the Sanctions and Anti-Money Laundering Bill Committee, Amnesty International UK (SAMLB02), February 2018

\(^{221}\) Control Arms UK (UAE0007), paras 73–74

\(^{222}\) Control Arms UK (UAE0007), para 81; cf Q66
number of small arms and light weapons that could be exported under an open general licence for anti-maritime [piracy] private military companies operating overseas.\(223\)

190. A further matter of concern in relation to the Trade Control Licence system is the extent to which information is shared with other states. There is, as we noted in Chapter 8, a well-established system for such information-sharing among EU Member States; and, under the Common Position on Arms Brokering, Member States must exchange information with each other specifically on brokering activity. However, no such arrangements or obligations exist in respect of other states.

191. A media report in June 2018 drew attention to a case in which 30 million Bosnian-made bullets\(224\) had been shipped from Bosnia to Saudi Arabia in November 2015 and January 2016. Two UK-based brokers had applied to the UK Government for three SITCLs to allow them to act as intermediaries in respect of these shipments. Their applications had taken around 14 months to process (rather than the standard time of 20 working days) and eventually been refused in March 2016—after the shipments had actually been made. The licences had reportedly been refused on the basis of concerns that the items concerned could be diverted to “Saudi proxies” fighting in the civil wars in Syria and Yemen. Yet it appeared that no intelligence on the matter had been passed to the Bosnian authorities, despite government concerns that the shipments were destined for diversion and government obligations to inform other ATT signatories under Article 11 of the Treaty.\(225\)

192. When we asked Mr Stuart about this case, he emphasised the fact that the licence applications in question had been turned down, which was “an indication of how thorough the [ECJU] is and the process is, against the criteria”.\(226\) He also told us: “I know that we did not contact the Bosnians”,\(227\) such communication “is not something that my Department would engage in”. The Minister could not comment on “what information may or may not have been shared by other arms of Government, because I do not know”.\(228\) He categorically denied that the Government was at all complicit in the shipment actually going ahead.\(229\)

Conclusions and recommendations

193. We note the regulatory regimes operated in respect of brokers by the USA and 23 of the EU’s Member States, which are significantly more stringent than that of the UK. In light of this, we reiterate the previous Committees’ advocacy of a pre-licensing register of arms brokers. The Government must formally consider implementing the voluntary aspects of the EU Common Position on Arms Brokering in respect of establishing a pre-licensing registration system for brokers and requiring them to submit regular activity reports. We note that this may require legislative change. The Government should set out clearly the reasoning behind whatever decision it takes.

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\(223\) Q4

\(224\) The documentation in relation to this case refers to “rounds”.

\(225\) “UK Missed Chance to Stop Suspect Bosnian Bullet Deal”, Balkan Insight Reporting Network, 6 June 2018

\(226\) O276

\(227\) O277

\(228\) O276

\(229\) Oq282, 284
194. The Government should give consideration to implementing a “fit and proper person” test for individuals apply for brokering licences, as already applies to registers under the EU Firearms Directive. The Government should also consider going further than this by introducing such a test for anyone applying for an export licence. The Government should look into the potential usefulness and feasibility (taking account of resource implications) of such an approach and set out the reasoning behind whatever conclusion it reaches.

195. The Government must provide information about where enforcement action has been taken against “brass-plate” companies engaged in brokering activities in its Annual Reports on Strategic Export Controls. We also recommend that the Government keep under review the appropriateness of its current powers to wind-up such companies in the public interest.

196. We note concerns about information on brokering activities not being shared with non-EU countries, as illustrated by the recent case in which UK-based brokers were involved in the shipment of 30 million bullets from Bosnia to Saudi Arabia. While the UK should continue to share information with EU Member States, such sharing should not be limited to those countries.
10 Extra-territoriality

197. The previous Committees persistently drew attention to the problem of UK citizens “engaging in arms export or arms brokering activity overseas which would be a criminal offence if carried out from the UK” and advocated addressing it through “extra-territorial” legislation. Laws of this type enable UK citizens to be prosecuted in the UK for actions carried out in overseas jurisdictions which would constitute a criminal offence if carried out in UK jurisdiction.

198. Extra-territorial provisions in respect of brokering were first introduced in 2003, under the Export Control Act 2002, with the creation, as part of trade control, of offences relating to certain kinds of unlicensed brokerage activity by UK citizens located outside the UK. These related initially to trading in Restricted Goods (torture equipment and long-range missiles). In 2004 further controls were introduced in respect of trading in Controlled Goods (Military List items to destinations subject to an internationally agreed arms embargo).

199. In 2008 the following three-tiered structure was introduced for trade control in respect of non-embargoed destinations:

- **Category A**: goods whose supply is inherently undesirable (torture Equipment and cluster munitions)
- **Category B**: goods in which there is legitimate trade, but which are the subject of heightened concern (Small Arms and Light Weapons; Long Range Missiles, including Unmanned Air Vehicles; and man-portable air defence systems)
- **Category C**: all goods on the Military List which do not fall within Categories A or B, as well as certain goods relating to “riot control” and “self-protection”, and related “portable dissemination equipment” (i.e. incapacitant sprays)

200. Under this structure, trade control only applies to UK citizens operating outside UK jurisdiction in respect of trade in goods covered by Categories A and B. Trade in Category C items is only subject to trade control where it is carried on from within the UK.

201. As a result of the UK’s accession to the ATT (see Chapter 7), the government was obliged in 2014 to extend extra-territoriality to cover brokering by UK persons operating outside the UK in respect of battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, and certain missiles and their launchers. This was done by means of adding these items to **Category B**.

202. The previous Committees consistently argued that extra-territoriality should be extended to cover brokerage of items in Category C, as they did in their 2015 report. The then government, however, stated in its response that it remained unconvinced that there is a compelling public interest in applying controls on UK persons outside the UK who are engaged in brokering of Category C.
C goods between non-embargoed destinations that would outweigh the administrative burdens placed upon UK nationals engaged in legitimate business activity.

203. Mr Feeley-Sprague, of Amnesty International, told us that “Whether every single item on the military list, given that it is an incredibly wide list, should be subject to full export controls is a question of capacity”. He did, though, think that “The extension of extraterritorial controls to lethal items on the military list is a good thing to do.” And there was clearly a case for parts and components of such items to be included too. This would address the apparent loophole which had arisen with the moving of certain lethal goods (but not their components) from Category C to Category B in 2014: “if you ship a whole tank, you will require a licence and it will go through the case-by-case assessment process, but if you sell a part of a tank or a bit, or you flat-pack it or whatever, you don’t”.  

204. Mr Everitt, of ADS Group, told us that “We do not have an issue with extraterritoriality”. They were “working closely with a number of NGOs” on the extension of extra-territoriality to brokerage of Category C items and “we have found routes” whereby it could be achieved. The obstacle to this coming about was actually “a Government resource issue, rather than an issue relating to the willingness of industry to find a route through”. He explained that whereas Categories A and B were “reasonably tightly defined” and contained “relatively limited” numbers of items, “When you move to category C, you open the envelope much wider, which creates more of a resource burden for Government.” The Government had found it difficult to accept the extension of extra-territoriality in this way “because of the resource burden it would imply for a whole range of reasons”.

205. The Head of the ECJU, Mr Bell, told us that the same issue arose here as in respect of end-use monitoring, namely the difficulty of conducting post-licensing checks overseas.

We would need to overcome a number of barriers before we could carry out the kinds of post-licensing checks that are envisaged by some. Extraterritoriality and the legal implications of carrying out those checks are among the things that we would have to address. I think we would have to be clear that the return would be worth the considerable effort that would have to go into making that possible.

Conclusions and recommendations

206. We reiterate the previous Committees’ recommendation to extend the application of extra-territoriality to brokerage of Category C items. We heard from ADS Group that industry is prepared to work with the Government to create a workable enforcement regime that extends extra-territoriality in this way but that the Government has found it difficult to accept this “because of the resource burden it would imply”. We note the Government’s response regarding the difficulty of post-licensing checks overseas and the need for “the return [to] be worth the considerable effort” involved but we consider that the Government must set out a plan and a timetable for implementing this.
207. In addition, we are greatly concerned that the Government’s failure to carry out audits overseas means that the current extra-territorial controls in respect of brokering Category A and Category B items are not being properly enforced. This needs to be addressed as a matter of urgency.

208. We are conscious that UK-connected exports of, and trade in, controlled items outside UK jurisdiction are a problematic area and we intend to look at this further.
11 Corruption

Extent of corruption

209. Bribery and corruption in the arms industry, and the ways in which governments can and should address them, were a recurring theme in the work of the previous Committees. Evidence that we received from NGOs indicates that there remains considerable concern about corruption in this industry.

210. According to Corruption Watch UK, corruption is “a persistent and defining feature of the global arms trade.” A study by Transparency International in 2005 had “estimated that the arms trade accounted for 40% of all corruption in global trade.” Corruption Watch UK attributed this primarily to the extent of secrecy in the arms trade but also to a number of other factors. These included the fact that “The use of long supply chains and complicated multi-country subsidiary company structures provides ample opportunity for the insertion of corrupt middlemen (as agents or intermediaries) and/or false contracts.”

Andrew Feinstein, the Executive Director of Corruption Watch UK, elaborated on this point:

it was found in an [Organisation for Economic Co-operation and Development] study conducted in 2014 that, in a review of foreign bribery between 1999 and 2014, in 75% of the cases that it examined the bribery was carried out by an agent or intermediary. So an enormous amount of the corrupt activity takes place through all these categories [of brokers and agents], which I refer to broadly as intermediaries.

211. Corruption Watch UK drew attention to the deleterious effects that corruption in the arms trade has in the realms of development and security. It undermines defence forces, creates opportunities for the diversion of weapons into zones of actual or potential conflict and facilitates terrorism in a number of ways. It pointed out that “The UK’s National Anti-Corruption Strategy 2017–2022 correctly acknowledges that ‘corruption threatens our security and prosperity, both at home and overseas … Tackling corruption is in the UK’s national interest.’”

212. In respect of the UK, Corruption Watch UK set out details of several instances where defence companies operating in the UK have been investigated for corruption, sometimes resulting in criminal enforcement. It noted that some of the companies involved are among the biggest contractors to the MoD.

213. However, we heard a different perspective from industry representatives. ADS Group told us that Transparency International’s “2015 Defence Companies Anti-corruption Index ranked the majority of the UK Defence companies in ‘Band A’ or ‘Band B’, with companies showing extensive or good public evidence of ethics and anti-corruption programmes.”

238 Corruption Watch UK (UAE0005), para 20
239 Corruption Watch UK (UAE0005), para 21; cf Q205
240 Corruption Watch UK (UAE0005), paras 24–25
241 Corruption Watch UK (UAE0005), para 26–31; cf Q206
242 Corruption Watch UK (UAE0005), para 26
243 Corruption Watch UK (UAE0005), paras 3–10
244 ADS Group (UAE0003), para 22
214. When we asked the Chief Executive of ADS Group, Mr Everitt, about the various corruption cases involving UK arms firms he said:

If you look at those companies and the actions they have taken, I think that in all cases they self-reported. In most of the cases, they relate to the use of agents at a period in time where it was certainly not illegal. It was certainly before the introduction of the anti-bribery and corruption legislation that we have in the UK and that is widely endorsed elsewhere.

He suggested that the companies concerned had “had a difficult time”. But their managements had recognised “that serious issues and flaws were apparent in their own systems” and they had “made strenuous efforts to ensure that those type of activities cannot happen again”. He stated that the industry had now “put our house in order”.245

215. When we asked him about cases that had not involved self-reporting and which were still unresolved, Mr Everitt said that he could not speak for individual companies and insisted that “there is no evidence of systemic corruption in the UK defence industry”. The many companies that his organisation represented “behave and operate their businesses in a wholly reputable way”.246 The source of problems in the past had tended to be associated with “the use of such things as agents and other things”. Mr Everitt stated that “In many cases, we can dispute what people knew and all the rest of it”—and companies no longer made such extensive use of intermediaries.247

216. Representatives of two companies told us about actions that they had taken to address the issue of corruption. Philip Bramwell, of BAE Systems, told us that his company had commissioned Lord Woolf to chair an independent expert review committee “to tell us what we needed to do to position ourselves as a leader in ethical business and to restore our reputation for ethical business conduct”. All 23 of Lord Woolf’s recommendations had been implemented, with an external audit and public reporting.248 Mr Bramwell said “I don’t think any defence contractor in the western world is willing to take the risk of being accused of corruption anymore.”249 Mr Cowdery, of Leonardo, told us that his company had been through a similar process with a report commissioned from Professor Flick.250 Mr Feinstein, however, told us that he was “really concerned that these exercises are an extremely good PR exercise, but we never actually get to monitor in a meaningful way the sort of change that happens.”251

217. The representatives of BAE Systems and Leonardo both said their companies now used the services of advisers (not agents); these were limited in number and their use was subject to stringent controls.252 When we asked Mr Cowdery about the accusation by the Norwegian Council on Ethics (which advises the Norwegian sovereign wealth fund—the Government Pension Fund Global) that Leonardo “had unacceptable risk of corruption because of the use of agents, of which they counted up to 200”,253 he told us “I cannot

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245 Q118
246 Q119
247 Q121
248 Q170
249 Q171
250 Q167
251 Q214
252 Qq164–168, 173–178
253 Q173; cf Norwegian Council on Ethics, “Recommendation to exclude Leonardo SpA from the GPFG”, 8 December 2016
comment on third parties’ views of Leonardo”. At a recent shareholders’ meeting, the company stated that the Norwegian Council on Ethics had acknowledged Leonardo’s efforts to combat corruption; and the Bank of Norway (which administers the country’s sovereign wealth fund) thought that the measures taken justified keeping an eye on future developments.

**Bribery Act 2010**

218. Mr Bramwell placed particular emphasis on the effect of the Bribery Act 2010. It represented “a comprehensive anti-bribery and corruption framework” and was “having the desired effect among the companies that it regulates”. A conviction under the Act would have a significant negative effect on a company’s ability to do business around the world.

219. Mr Feinstein told us that the Bribery Act was “generally very good and a very important piece of legislation”, but he queried its usefulness as a tool for dealing with corruption specifically in relation to the arms trade.

220. In 2012 the then government gave an “unqualified confirmation that if it becomes aware of corruption in arms deals it will take appropriate action under the provisions of the Bribery Act 2010, regardless of whether there is a risk of diversion or re-export under Criterion 7”. In their 2013, 2014 and 2015 reports, the previous Committees asked the government to state “the names of any individuals and any companies against whom it has taken action under the provisions of the Bribery Act 2010 in relation to their arms export dealings or financing”. In its response to the 2015 report the government stated that “No offences under the Bribery Act 2010 have yet been brought to court in relation to arms export dealings or related financing.”

221. When we asked Mr Stuart about the lack of prosecutions under the Act, he emphasised its importance as a deterrent to corruption. He told us that it had had a positive effect across the piece, because of the sanctions that are in place. Companies are more careful than ever before in trying to make sure that their company is not involved in that at any level, because the responsibility, thanks to the Bribery Act, comes all the way up to the top of the company.

**Proposed new Criterion**

222. Corruption Watch UK suggested to us that “Based on the regularity of these scandals, it is clear that the UK’s export licensing regime fails to properly monitor the risk of corruption”. While corruption would “clearly fall under” Criterion 8 (regarding sustainable development), “it is deeply concerning that not a single export license was refused under Criterion 8” in 2016.
223. In 2012 the then government had indicated that corruption concerns were actually dealt with under Criterion 7 (regarding the risk of items being diverted or re-exported from their intended destination). However, while the 2016 Annual Report showed that 122 licence applications (for SIELs and SITCLs) had been refused or revoked with reference to Criterion 7,264 no information was given as to whether corruption had been a consideration in any of these cases.265 Mr Feinstein further told us that corruption appeared not to be consistently taken into account in relation to Criterion 7, even in cases where there was a clear link between corruption and diversion of controlled goods (with which Criterion 7 is concerned).266

224. Corruption Watch UK advocated that an additional Criterion relating specifically to corruption should be added to the Consolidated Criteria. They noted that in 2011 the previous Committees had made a similar recommendation in respect of inserting such a Criterion into the EU Common Position on Arms Exports.267

225. Mr Feinstein insisted that a new Criterion was needed in addition to the Bribery Act, to actually prevent corruption occurring and to deal with the role that intermediaries played in corrupt dealings.268 He also told us that the ATT “requires states to assess the potential that arms might ‘commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.’” Corruption and money laundering were recognised by the UN Convention against Transnational Organised Crime as acts of transnational organised crime, and this made a separate Criterion on corruption necessary. He thought this was why the European Parliament had in 2017 recommended the insertion of a separate corruption Criterion into the Common Position.269

226. When we asked Mr Stuart for the Government’s view of this proposal, he told us:

we are not yet convinced that bribery and corruption being considered routinely as part of the export licence application process will be beneficial. Even if it were possible, it is not clear at what point allegations of corruption would constitute sufficient evidence to refuse an export licence, and if it did not end up in refusal it would not be of much practical use.

The Government thought “that it is better to make sure that the Bribery Act is being properly enforced, rather than conflating different regulatory frameworks”.270

Conclusions and recommendations

227. We note the written and oral evidence to our inquiry that links intermediaries (agents, advisers and brokers) with corruption and the diversion of arms. While we are not in a position to be able to validate these allegations, we are, nevertheless, mindful of the need to be concerned about them.

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264 HC (2017–19) 287, p 19
265 Corruption Watch UK (UAE0005), para 13; cf Q205
266 Q205; cf Corruption Watch UK (UAE0005), para 10
267 Corruption Watch UK (UAE0005), para 32
268 Q213
269 Q205; cf Q22
270 Q290
228. The Government must publish, in its Annual Reports on Strategic Export Controls, the names of any individuals or companies against whom it has taken action under the provisions of the Bribery Act 2010 in relation to arms-export dealings or financing related to such dealings.

229. We note the previous Committees’ recommendation regarding the creation of an additional licensing Criterion relating to corruption. The Government must give this formal consideration and set out clearly the reasoning behind the conclusion it reaches.
Conclusions and recommendations

Ministerial evidence

1. In keeping with the practice of their predecessors, we consider that both the Foreign Secretary and the Secretary of State for International Trade should make every effort to attend to give oral evidence to us on an annual basis, given the importance of this policy area. It is not acceptable for departments to leave it to the last minute before confirming the attendance of ministerial witnesses. To do so is disrespectful to the House. (Paragraph 8)

The licensing regime

2. We note that the Government has in recent years encouraged industry to apply for open rather than standard licences, in order to reduce the workload associated with the processing of uncontentious licences. We accept that it is legitimate for the Government to seek to make the best use of limited resources in this way—provided there is evidence to show that open licences do represent a more cost-effective approach without compromising necessary standards. The Government needs to supply evidence to that effect, either in response to this report or in correspondence. (Paragraph 54)

3. At the same time, there is a need for greater clarity and transparency regarding the circumstances in which open licences are deemed appropriate rather than standard licences. This is particularly the case given the concerns raised with us about reporting in respect of open licences. The Government must explain how it is going to bring greater clarity and transparency in this regard, which would be of practical benefit to industry, as well as being good policy. (Paragraph 55)

4. In addition, the Government must demonstrate that companies using open licences are subjected to proportionately rigorous and frequent compliance audits. (Paragraph 56)

5. We are most dissatisfied at the Government’s admission that no such audits are ever carried out in respect of UK companies’ operations overseas. The compliance-audit regime must be extended as soon as practically possible to cover such companies in relation to Trade Control Licences (and Export Control Licences in any relevant circumstances). The Government must say how it will achieve this, either in response to this report or in correspondence. (Paragraph 57)

6. The resources provided to HM Revenue & Customs for export-control enforcement must be commensurate with the scale and complexity of the task. We are not convinced that this is currently the case. The Government should review the allocation of resources, setting out to us in its response to this report what the current level of resourcing is and how it relates to current demands. It should also provide data on the staff numbers and budget for Customs A/B for each year since 2008. (Paragraph 58)

7. The Government should provide raw/base statistical data on numbers of investigations, reports for prosecution, prosecutions, convictions, fines, seizures, compound penalties and warnings—both successful and unsuccessful—in the last ten years. It must not, as it did in the 2016 Annual Report, confuse data on prosecutions with data on seizures.
We are extremely disappointed at what we see as a misrepresentation of data in this area, as we believe it leads to public distrust of the licensing process and casts doubt on the data that the Government provides. (Paragraph 59)

8. The Government should set out in the response to this report what the arrangements are for the exchange of information between the Export Control Joint Unit and HM Revenue & Customs, and show that these are adequate for the successful discharge by both bodies of their responsibilities in this regard. (Paragraph 60)

9. The Government should consider whether to begin end-use monitoring, and how that would be done, taking account of resource implications, and set out the reasoning behind its conclusions in the response to this report. We believe that some end-use monitoring is advisable, and that it would assist the Government in making better, more informed, export licensing decisions, as well as in addressing questions around compliance and enforcement. (Paragraph 61)

10. The case has been put to us for the introduction of an Open General Export Licence to cover “non-contentious” cryptographic goods. This merits serious attention and the Government should accordingly give it formal consideration (taking fully into account the oppressive uses to which such items can be put). It should then set out clearly, in its response to this report or in correspondence, the reasoning behind the conclusion that it reaches, being explicit about how it defines “non-contentious goods” in this context. (Paragraph 62)

**Processing of licence applications**

11. We welcome the fact that Standard Individual Export Licences were processed more quickly in 2016 than in 2015, as long as this was not accompanied by a reduction in the quality of the consideration given to applications. We note that the head of the Export Control Joint Unit told us that he could not show any “improvement in terms of metrics” since the Unit’s formation in July 2016; and that industry told us the formation of the Joint Unit has made no perceptible difference to the processing of licence applications. The Government should set out, in its response to this report or in correspondence, clear evidence to show the benefits brought by formation of the Joint Unit. This evidence must include (but not be limited to) data in respect of processing times for all types of licence. (Paragraph 73)

12. We are concerned to have heard from industry that the Open Individual Licensing System is “fraught with perceived problems and delays, especially when it comes to the time and bureaucracy involved when exporters seek to have the existing OIELs renewed or replaced”. While we acknowledge that such applications require careful consideration, the Government should bring forward detailed plans to address unnecessary delays and bureaucracy in the process; and it should show how they will be addressed in the design of the new LITE online licensing system. (Paragraph 74)
Application of the Consolidated Criteria

13. It has been suggested to us that staff of the Department for International Development should form an integral part of the Export Control Joint Unit. Given that that Department does have a particular role in relation to Criterion 8 (concerning sustainable development), there may be a case for changing the composition of the Unit in this way. The Government should give formal consideration to this proposal and set out clearly, in its response to this report or in correspondence, the reasoning behind the conclusion it reaches. (Paragraph 103)

14. We accept that it is entirely appropriate for Ministers to be involved in both setting the criteria and principles for dealing with licence applications and in dealing with difficult cases that involve clarifying the interpretation of those criteria and principles or otherwise setting a precedent. However, we note that there is concern about the circumstances under which cases are escalated up to Ministers and the basis for some of the decisions that result. In the interests of transparency and political accountability, the Government should set out clearly, in its response to this report, the grounds on which individual cases are selected for consideration at ministerial level, with reference to the Consolidated Criteria and the six thresholds. It must also ensure that such cases are clearly identified in the Annual Report on Strategic Export Controls. (Paragraph 104)

15. We have heard a proposal for a “presumption of denial” in respect of open licences for exports to countries that have not signed the Arms Trade Treaty; and a similar proposal in respect of countries that are on the Foreign Office’s list of “Human Rights Priority Countries”, as set out in its Annual Human Rights Report. We can see that there are arguments for and against both proposals. The Government should review these proposals and report back, either in response to this report or in correspondence, with its findings. (Paragraph 105)

16. In any case, we believe there must always be a more stringent process in place for any arms exports to such countries, so the Government will be able to show, if such arms exports are approved, that they would not be in breach of the Criteria. (Paragraph 106)

17. We have not looked in depth at the adequacy of the existing Criteria (although we have considered the possibility of adding a wholly new Criterion, regarding corruption—see below). This is a matter to which we plan to return in our future work, particularly in respect of Criterion 2c. (Paragraph 107)

Reporting and transparency

18. Reporting and transparency are indispensable elements of a reliable and credible licensing regime. While we welcome the fact that the Government publishes a lot of licensing information, we find it a major failing that such information is in formats that are very difficult to navigate, interrogate and interpret. We note that it is left to a non-governmental organisation with a particular viewpoint (the Campaign Against the Arms Trade) and an academic institution (King’s College London) to present the published official data in a user-friendly format. The Government should make clear and easily digestible the information about controlled exports that is provided to parliamentarians and the public alike. This will allow non-governmental organisations
to present information in a more accurate manner; and enable interested members of the public to access relevant information about arms exports more easily, without the need to resort to an intermediary. We do not believe the failure to do so is down to a lack of resources, given that a non-governmental organisation with far fewer resources than the Government has been able to create such a data-presentation platform. (Paragraph 128)

19. We are concerned at the continuing lack of published data in respect of open licences. The Government should address the data-quality issues that apparently lie behind this. In light of ADS Group’s statement that it does not oppose a requirement for industry to publish what its members have exported under Open General Export Licences, the Government should also reinstate the commitment made in 2012 by the then government (which was later dropped) to gather and publish regarding open licences a description of the items, the destination, value (and/or quantity) and information about the end-user. We welcome the statement to us by the Minister that he “will see benefit in being able to publish more information” once “new and […] improved digital systems” are in place. (Paragraph 129)

20. Given public concern about specific licences, the High Court’s established feeling that CAEC is the appropriate scrutiny body, and the Government’s agreement to share information with CAEC in confidence in some scenarios, a more proactive approach from the Government towards the Committees should be established. In particular, the Government should share with the Committees documentation relating to arms exports, including end-user certificates, correspondence within government, details of the exporters or brokers and the value of the exports made under open export licences, along with the rationale as to how they assess these controversial shipments. (Paragraph 130)

The Arms Trade Treaty

21. We welcome the Government’s commitment to promote signature of the Arms Trade Treaty by as many countries as possible. It must set out detailed plans for promoting both signature and implementation of the Treaty in its response to this report and give updates on progress in respect of these plans in its Annual Reports. (Paragraph 137)

22. The Government should say what evidence there is of tangible effects that have been brought about by the £300,000 that it donated to the Arms Trade Treaty Voluntary Trust Fund. (Paragraph 138)

23. It is inexcusable that in 2015 and 2016 the UK did not report on the imports of arms covered by the Arms Trade Treaty, in clear violation of its treaty obligations in this regard. The Government should set out, in its response to this report, what it is doing to ensure that the required information is collected, collated and published in a timely fashion in accordance with the terms of the Treaty. (Paragraph 139)

Brexit

24. We note with concern that the Government’s Technical Note on Consultation and Cooperation on External Security did not address the impact of Brexit in relation to arms-export control. (Paragraph 166)
25. The Government should set out in detail in its response to this report:

- its position on the European Commission’s proposal to recast the EU Dual-Use Regulation, setting out the basis on which it is envisaged that UK-EU technical cooperation on export control of dual-use items will take place after Brexit;

- what it is doing regarding the need for post-Brexit licensing arrangements in respect of transfers of controlled items between the UK and the remaining EU Member States;

- its position regarding the continuity of the Consolidated Criteria after Brexit, including clarification of its intentions regarding the possible use of legislation to confirm the binding status of the Criteria;

- whether, and, if so, by what means, the UK trade-control regime will be recast after Brexit;

- its understanding of the consequences of UK and EU arms control policy drifting apart after Brexit, including the impact this would have on the defence and security industry, and how it plans to respond to these;

- its plans to deal with the possible consequences of the UK no longer participating in the EU Council of Ministers Conventional Arms Working Group after Brexit; and

- what the UK’s post-Brexit relationship will be to the EU’s denial-notification and consultation mechanism under the Common Position on Arms Exports.

(Paragraph 167)

26. It would also be helpful for the Government to set out for us what information it has on the broader impact that Brexit will have on the defence and security industry. (Paragraph 168)

Brokering

27. We note the regulatory regimes operated in respect of brokers by the USA and 23 of the EU’s Member States, which are significantly more stringent than that of the UK. In light of this, we reiterate the previous Committees’ advocacy of a pre-licensing register of arms brokers. The Government must formally consider implementing the voluntary aspects of the EU Common Position on Arms Brokering in respect of establishing a pre-licensing registration system for brokers and requiring them to submit regular activity reports. We note that this may require legislative change. The Government should set out clearly the reasoning behind whatever decision it takes. (Paragraph 193)

28. The Government should give consideration to implementing a “fit and proper person” test for individuals apply for brokering licences, as already applies to registers under the EU Firearms Directive. The Government should also consider going further than this by introducing such a test for anyone applying for an export licence. The
Government should look into the potential usefulness and feasibility (taking account of resource implications) of such an approach and set out the reasoning behind whatever conclusion it reaches. (Paragraph 194)

29. The Government must provide information about where enforcement action has been taken against “brass-plate” companies engaged in brokering activities in its Annual Reports on Strategic Export Controls. We also recommend that the Government keep under review the appropriateness of its current powers to wind-up such companies in the public interest. (Paragraph 195)

30. We note concerns about information on brokering activities not being shared with non-EU countries, as illustrated by the recent case in which UK-based brokers were involved in the shipment of 30 million bullets from Bosnia to Saudi Arabia. While the UK should continue to share information with EU Member States, such sharing should not be limited to those countries. (Paragraph 196)

**Extra-territoriality**

31. We reiterate the previous Committees’ recommendation to extend the application of extra-territoriality to brokerage of Category C items. We heard from ADS Group that industry is prepared to work with the Government to create a workable enforcement regime that extends extra-territoriality in this way but that the Government has found it difficult to accept this “because of the resource burden it would imply”. We note the Government’s response regarding the difficulty of post-licensing checks overseas and the need for “the return [to] be worth the considerable effort” involved but we consider that the Government must set out a plan and a timetable for implementing this. (Paragraph 206)

32. In addition, we are greatly concerned that the Government’s failure to carry out audits overseas means that the current extra-territorial controls in respect of brokering Category A and Category B items are not being properly enforced. This needs to be addressed as a matter of urgency. (Paragraph 207)

33. We are conscious that UK-connected exports of, and trade in, controlled items outside UK jurisdiction are a problematic area and we intend to look at this further. (Paragraph 208)

**Corruption**

34. We note the written and oral evidence to our inquiry that links intermediaries (agents, advisers and brokers) with corruption and the diversion of arms. While we are not in a position to be able to validate these allegations, we are, nevertheless, mindful of the need to be concerned about them. (Paragraph 227)

35. The Government must publish, in its Annual Reports on Strategic Export Controls, the names of any individuals or companies against whom it has taken action under the provisions of the Bribery Act 2010 in relation to arms-export dealings or financing related to such dealings. (Paragraph 228)
36. We note the previous Committees’ recommendation regarding the creation of an additional licensing Criterion relating to corruption. The Government must give this formal consideration and set out clearly the reasoning behind the conclusion it reaches. (Paragraph 229)
## Annex: Reports of the Quadripartite Committee / Committees on Arms Export Controls

<table>
<thead>
<tr>
<th>Year (or topic) report relates to</th>
<th>Strategic Export Controls Annual Report</th>
<th>Quadripartite Committee / CAEC report</th>
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<td><strong>The use of UK-manufactured arms in Yemen (Business, Innovation and Skills Committee; and International Development Committee)</strong></td>
<td>–</td>
<td>HC 679 (2016–17) (September 2016)</td>
<td>Cm 9349 (November 2016)</td>
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<tr>
<td><strong>The use of UK-manufactured arms in Yemen (Foreign Affairs Committee)</strong></td>
<td>–</td>
<td>HC 688 (2016–17) (September 2016)</td>
<td>Cm 9353 (November 2016)</td>
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<td>2017</td>
<td>[due in July 2018]</td>
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**Notes:**

The Quadripartite Committee met for the first time on 20 April 1999. On 10 March 2008 it was replaced by the Committees on Arms Export Controls.

Under section 10 of the Export Control Act 2002 (in force from 30 October 2003), the Government is mandated to lay before the House the Annual Report on United Kingdom Strategic Export Controls.
Formal minutes

Wednesday 11 July 2018

The Defence, Foreign Affairs, International Development and International Trade Committees met concurrently, pursuant to Standing Order No. 137A.

Members present:

<table>
<thead>
<tr>
<th>Defence Committee</th>
<th>Foreign Affairs Committee</th>
<th>International Development Committee</th>
<th>International Trade Committee</th>
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<tbody>
<tr>
<td>Leo Docherty</td>
<td>Mike Gapes</td>
<td>Richard Burden</td>
<td>Marcus Fysh</td>
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<tr>
<td>Graham Jones</td>
<td>Mr Bob Seely</td>
<td>Mark Menzies</td>
<td>Chris Leslie</td>
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<tr>
<td>Gavin Robinson</td>
<td>Priti Patel</td>
<td>Lloyd Russell-Moyle</td>
<td>Faisal Rashid</td>
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<tr>
<td>John Spellar</td>
<td>Ian Murray</td>
<td>Stephen Twigg</td>
<td>Catherine West</td>
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</table>

Graham Jones was called to the chair, in accordance with Standing Order No. 137A(1)(d).

Draft Report (UK arms exports during 2016), proposed by the Chair, brought up and read.

Ordered, That the draft Report be considered concurrently, in accordance with Standing Order No. 137A (1)(c).

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 229 read and agreed to.

Annex agreed to.

Summary agreed to.

[Adjourned to a day and time to be fixed by the Chair.

DEFENCE COMMITTEE

In the absence of the Chair, John Spellar was called to the chair.

Leo Docherty                  Graham Jones

Draft Report (UK arms exports during 2016), proposed by the Chair, brought up and read.

Resolved, That the draft Report prepared by the Defence, Foreign Affairs, International Development and International Trade Committees be the Tenth Report of the Committee to the House.

Ordered, That the provisions of Standing Order No. 137A(2) be applied to the Report.

Ordered, That Graham Jones make the Joint Report to the House.
Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Thursday 19 July at 10.45 a.m.

FOREIGN AFFAIRS COMMITTEE

In the absence of the Chair, Mike Gapes was called to the chair.

Priti Patel Mr Bob Seely

Draft Report (UK arms exports during 2016), proposed by the Chair, brought up and read.


Ordered, That the provisions of Standing Order No. 137A(2) be applied to the Report.

Ordered, That Graham Jones make the Joint Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till 2.15 pm.

INTERNATIONAL DEVELOPMENT COMMITTEE

In the absence of the Chair, Richard Burden was called to the chair.

Mark Menzies Lloyd Russell-Moyle

Draft Report (UK arms exports during 2016), proposed by the Chair, brought up and read.


Ordered, That the provisions of Standing Order No. 137A(2) be applied to the Report.

Ordered, That Graham Jones make the Joint Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till 2.10 pm. 
INTERNATIONAL TRADE COMMITTEE

In the absence of the Chair, Marcus Fysh was called to the chair

Chris Leslie  Catherine West

Draft Report (UK arms exports during 2016), proposed by the Chair, brought up and read.


Ordered, That the provisions of Standing Order No. 137A(2) be applied to the Report.

Ordered, That Graham Jones make the Joint Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No.134.

[Adjourned till 2.15 pm.]
Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee’s website.

**Wednesday 21 February 2018**

Martin Butcher, Policy Adviser, Arms Campaign, Oxfam; Oliver Feeley-Sprague, Programme Director for Military, Security and Police, Amnesty International UK and Elizabeth Kirkham, Small Arms and Transfer Controls Adviser, Saferworld

Question number Q1–78

**Wednesday 14 March 2018**

Paul Everitt, Chief Executive, ADS

Question number Q79–123

**Wednesday 18 April 2018**

Philip Bramwell, Group General Council, BAE Systems, Sue Tooze, Senior Manager, UK Exports and Control, BAE Systems, and Andrew Cowdery, Director, Government Affairs, Leonardo

Question number Q124–189

**Wednesday 9 May 2018**

Dr Lucie Béraud-Sudreau, Research Fellow for Defence Economics and Procurement, International Institute for Strategic Studies, Dr Anna Stavrianakis, Senior Lecturer in International Relations, University of Sussex, Andrew Feinstein, Executive Director, Corruption Watch UK, and Ian J Stewart, Senior Research Associate, Centre for Science and Strategic Studies, War Studies Department, King’s College, London

Question number Q190–216

**Wednesday 6 June 2018**

Sir Alan Duncan MP, Minister of State, Foreign and Commonwealth Office, Graham Stuart MP, Minister for Investment, Department for International Trade, Edward Bell, Head of the Export Controls Joint Unit, Department for International Trade, and Ben Fender, Head of Security Policy Department, Foreign and Commonwealth Office

Question number Q217–298
Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee’s website.

UAE numbers are generated by the evidence processing system and so may not be complete.

1. ADS Group (UAE0003)
2. Campaign Against Arms Trade (UAE0006)
3. Control Arms UK (UAE0007)
4. Corruption Watch (UAE0013)
5. Corruption Watch UK (UAE0005)
6. Dr Lucie Béraud-Sudreau (UAE0014)
7. Dr Anna Stavrianakis (UAE0004)
8. Joint submission from the Foreign and Commonwealth Office, Department for International Development, Ministry of Defence and Department for International Trade (UAE0011)
9. United Nations Association—London and South East Region (UAE0009)
10. United Nations Association—London and South East Region (UAE0010)
11. United Nations Association—UK (UAE0008)