



An Introduction to Export and Trade Controls

THE EXPORT GROUP FOR AEROSPACE & DEFENCE (EGAD)

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Export Group for Aerospace & Defence



The Two Aspects of Export Controls

- The Overall Strategic Policy: what should be allowed to be supplied and to whom - this is what predominantly concerns Politicians, NGOs and the Media
- The Practical Implementation of the Policy: when is an export licence needed and how does someone go about trying to get and use one - this is what predominantly concerns Industry

Why do we have controls?

- Promotion of global security through strategic export controls, facilitating responsible exports
- Control of irresponsible exporting of arms, ammunition and related materiel which could contribute to internal repression or regional instability. Some Goods intended for civil purposes may also contribute to the development and production of weapons of mass destruction and the missiles to deliver them.

The Consolidated Criteria (1)

- Respect for the UK's international commitments
- Respect for human rights and fundamental freedoms in the country of final destination
- The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts
- Preservation of regional peace, security and stability

The Consolidated Criteria (2)

- The national security of the UK, of territories whose external relations are the UK's responsibility, and of allies, EU Member States and other friendly countries
- The behaviour of the buyer country with regard to the international community, as regards in particular to its attitude to terrorism, the nature of its alliances and respect for international law

The Consolidated Criteria (3)

- The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions
- The compatibility of the arms exports with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defence with the least diversion for armaments of human and economic resources.

What is Export Controlled? Technology-Driven Controls

- Military List: almost anything “specially designed or modified for military use”
- Dual Use List: a wide range of goods and technologies originally designed for civil uses, but which also have potential military applications

What is Export Controlled? End-Use Driven Controls

- **WMD:** any relevant use controls on ANY goods or technology for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons

What is Export Controlled? End-Use Driven Controls (2)

- **Military End-Use:** catches ANY goods or technology intended for use by a military customer in a nation subject to an EU Common Position or Joint Action, OSCE or UN arms embargo.

Current “Embargoed” Nations for UK

- Armenia
- Azerbaijan
- Bosnia-Hercegovina
- Burma (Myanmar)
- Congo, DRC
- Cote d’Ivoire
- Iran
- Sudan
- Uzbekistan
- Zimbabwe

Also the following:

- Burundi*
- Haiti
- Iraq
- Liberia
- Rwanda
- Sierra Leone
- Somalia
- Uganda*
- Tanzania*

(* denotes if going on to Rwanda)

Controlled Activities

- “Export” or “Transfer” of listed goods, software or technology from the UK – this applies to military and dual-use goods, tangible or intangible.
- “Trade” in listed military goods (“trafficking and brokering”)
 - ‘Trade’ is the involvement in a deal which results in the movement of military goods from one third country to another

Activities to Consider (1)

- Selling a part to a customer overseas
- Arranging for a part to be delivered from one overseas customer to another (drop ship)
- Selling a part to a UK customer in suspicious circumstances
- Exchanging technical information with an overseas client or supplier
- Providing a detailed technical quotation

Activities to Consider (2)

- Sending a repair team to work on a military aircraft
- Sending a part overseas to be repaired
- Travelling abroad with a laptop
- Returning to the UK with a laptop
- Dialling in to retrieve e-mails whilst overseas
- Replying to e-mails whilst overseas
- Databases/intranet sites with access from overseas sites
- Visitors to the UK carrying licensable software or technology

Assessing the Control Status

ARE THE GOODS SPECIALLY DESIGNED OR MODIFIED FOR MILITARY USE?

NO

YES

ARE THE GOODS DUAL-USE WITHIN THE MEANING OF EC REG 1334/2000?

GOODS SUBJECT TO NATIONAL EXPORT CONTROLS LICENCE REQUIRED TO ALL DESTINATIONS

YES

NO

GOODS REQUIRE LICENCE OR OTHER AUTHORISATION FOR EXPORT FROM EC ARTICLE 21(7) [ANNEX 1 GOODS ONLY] FOR INTRA EC EXPORTS

ARE THERE END-USE CONCERNS? WMD or MEND

NO

YES

NO LICENCE REQUIRED

MUST RESOLVE CONCERNS OR APPLY FOR LICENCE EVEN IF GOODS NOT ON CONTROL LIST

The UK's Trade Controls

The UK's regulations on “trade” (ie trafficking and brokering) activities.

Trade Controls - when am I caught?

(You must answer “Yes” to all of the below to be caught)

- Does the deal involve goods (ie not technology)? *Yes/No*
- Are the goods on the Military List (ie not dual-use)? *Yes/No*
- Are the Military List goods not going to come from or through the UK? *Yes/No*
- Is my role in the deal described in sections 3 and/or 4 of the Order? *Yes/No*

Why should I bother?

The penalties of non-compliance

The Penalties for Non-Compliance in the UK

- The maximum penalty for deliberate attempts to evade the UK's export and trade control regulations is currently up to 10 years in prison **and** an unlimited fine.

Why Should We Care?

It Is The Law!

Summary

- Dealing with export controls is not easy (it is most certainly **NOT** a mundane administrative clerical task) – it is, in reality, a vital expert function
- Understand the parts of the legislation and control lists which are relevant to you
- Apply for licences as early as possible
- **YOU ARE NOT ALONE!**



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