

Guidelines/Criteria



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How many countries control exports of conventional arms?

- 57 out of 98 states reporting to UN First Biennial Meeting in July 03 said that they had controls in place prior to 2001.
- 21 either adopted or revised such laws after 2001 or are in the process of adopting them.

So some still trying to get to grips with the need to licence exports.

Any internationally agreed guidelines?

- P5 Guidelines for Conventional Arms Transfers (October 1991)
- OSCE Principles Governing Arms Transfers (November 1993)
- The EU Code of Conduct on Arms Exports (June 1998)
- The OSCE Document on Small Arms and Light Weapons (November 2000)
- The Wassenaar Arrangement Guidelines for Exports of Small Arms and Light Weapons (December 2002)

Any legally binding guidelines?



None at present.

- The draft Arms Trade Treaty, formerly known as the Framework Convention on International Arms Transfers, would be legally binding.

Criteria – why bother?

We all have a vested interest in making the world a safer place.

Effective controls:-

- help to ensure that terrorists or criminals don't gain access to weapons; and
- those supplied do not create conflict.

Best way is to base decisions on a systematic consideration of specific factors.

Why publish guidelines?

- Helps arms exporters channel their efforts to avoid pursuing orders that stand little chance of being authorized.
- Helps parliaments and citizens appreciate the grounds on which decisions are taken by Government.
- Strengthens accountability and capacity of officials to resist lobbying by vested interests.
- Helps to prevent transfers that contradict national policies or international commitments.

Why harmonise?

- Less room for the unscrupulous to circumvent controls – strengthens controls across the board
- Helps prevent misunderstandings and promotes confidence.
- Levelling of the playing field for exporters – need to carry them with us.

What do criteria draw on?

International law or on widely supported UN or international principles and standards :-

- Non-intervention
- Non-use of force in international disputes
- Promotion of regional and international security
- Avoidance of excessive or destabilising accumulations and transfers
- Prevention of terrorism
- Avoidance of excessive military expenditure
- Promotion of economic and social development

What role does the licensing authority in the UK play?

Decisions on licence applications have to be consistent with the criteria

- we assess views on licence applications received from other Government Departments for consistency in decision making
- we examine whether their advice is legally defensible in terms of our criteria and our international obligations
- we tell exporters if their applications have been refused – the reasons given are always based on one or more of the criteria.

What criteria are most often used to deny licence applications?

- The respect of human rights 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 conflict.
- Preservation of regional peace, security and stability.
- Existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions.

What sort of considerations need to be made?

Taking Criterion 2 of the EU Code, which deals with respect for human rights as an example , we would have to decide:-

- What are “relevant principles established by international human rights instruments? What is internal repression?
- Whose human rights record should we consider in the destination – the Government, police force (all of it or just one unit), the army?
- What counts as a clear risk that items might be used for internal repression?
- The distinction between defensive and offensive equipment?

Information sharing? Any benefits?

The EU Code provides for information sharing on denials.

- A denial includes an explanation of why a licence was refused.
- If another Member State is considering an essentially identical transaction it must consult the Member State that issued the denial before making its decision.

Promotes dialogue, understanding and convergence of views in the field of arms exports

What next?

Extract from the report of the United Nations First Biennial Meeting of States to Consider Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects:-

“Current discussions on import and export issues indicate that States need to agree on guidelines for authorising exports....Consensus needs to be built on what criteria should be applied by States when assessing transfer applications.”