Dear [Name],

Thank you for your email of 4 March 2014 in which you requested the following information (I quote):

1. In response to my FoI request 13-0871 I was provided with a list of the names of all companies that applied for licences for the export of equipment with Military List ratings during 2010, broken down by destination country. I would like to request the same information but that it is also broken down by Military List rating.

Under the Freedom of Information Act 2000 ('the Act'), you have the right to:

- know whether we hold the information you require
- be provided with that information (subject to any exemptions under the Act which may apply).

I can confirm that the Department holds the information you have requested. The information you requested is attached at Annex A.

Please note that some licence applications were submitted by private individuals. To the extent that your request is for information about ‘companies’ only, information about these applications has not been included.

Information relating to applications for export to Bahrain submitted in 2010 have been withheld from the spreadsheet. This is because some information (excluding the name of the company) about these applications has already been released to you in response to a previous FoI request (ref.12/1192) issued on 12 September 2012 and, to release information about them here (particularly reference to the individual ratings) alongside the company name, would result in the release of extensive contractual information being disclosed (the information released in response to your previous request included information about values, date the application was...
considerations in strong 2010 these exemptions for export full disclosure provided in confidence) and 43(2) (commercial interests) of the Act. An explanation of how these exemptions apply to this information follows.

Section 41(1) applies to information provided to the Department, disclosure of which would constitute a breach of confidence over which a person could take legal action. We consider that full disclosure in this instance would result in an actionable breach of confidence as there is a strong public interest in protecting that confidence and there are no public interest considerations in relation to this information requiring us to set the duty of confidentiality aside.

Section 43(2) applies because disclosure of the information requested (e.g. the names of the companies that applied for export licences for export of military list equipment to Bahrain in 2010 in addition to the information released in response to FoI request ref. 12/1192) would be likely to prejudice the commercial interests of the company or organisations who have applied for export licences. Export licence applications and the documents associated with them contain commercially sensitive information about proposed exports (including, in particular, sensitive information about the applicant, the exporter’s customers and the value of goods to be exported) that could be of use to competitors. Disclosure of this information would reveal details of the supply chains between UK exporters and their overseas customers (the end users) and possibly details of commercial opportunities that are still available (to non-UK exporters in the case of UK refusals). Also, disclosure of this information in the context of your request (where you have asked for the information about the licensees and end users related to the licence data) could harm the commercial relationships that exist between them and the UK exporter or exporters concerned. This is because release of the information you have requested would result in a large amount of commercially sensitive contractual information entering the public domain. This would be likely to prejudice the commercial interests of the UK exporter or exporters because those end users might choose not to do business with them again in future.

Additionally, disclosure of this information could harm the commercial relationships that exist between the UK company or companies and the end-users concerned. This would be likely to prejudice the commercial interests of the UK company or companies because those end users might choose not to do business with them again in future.

We have considered the public interest arguments for and against disclosure. Whilst we recognise that there is a general public interest in the disclosure of this information to enable public scrutiny of UK business and Government activity, particularly in respect of destinations where regional tensions have arisen or increased, as greater transparency makes Government more accountable, we do consider that against this there is a public interest in ensuring that the commercial interests of external businesses are not damaged or undermined by disclosure of information which is not public knowledge and which could adversely impact on future business.

In addition, by releasing such information, the confidence our customers have in us may be damaged, making them reluctant to provide us with commercially sensitive information in the future. In this case, we consider that the public interest in favour of disclosing such information is outweighed by the necessity to protect the commercial interests of third parties. The Department’s decision is therefore to withhold this information.

Furthermore, we consider that general public interest arguments about the disclosure of what we licence and what we do are answered by the general disclosure made by the Departments in the publication of the Annual and Quarterly Reports on Strategic Export Controls. These
reports contain detailed information on export licences issued, refused or revoked, by
destination, including the overall value, type (e.g. Military, Other) and a summary of the items
covered by these licences. They are available to view on the Strategic Export Controls: Reports
and Statistics website at https://www.exportcontroldb.bis.gov.uk/eng/fox.

Finally, the work of the Department in this area is scrutinised by the Committees on Arms
Export Controls (the members are drawn from four different Select Committees) and we are
able to provide them, in confidence, with additional details in particular cases of concern. We
think that any additional public interest in disclosing to the public at large which companies have
sought to supply items to Bahrain is slight. The risk of prejudice to the companies involved
outweighs such public interest because the damage that could be caused to exporters’ business
is potentially grave.

An important note about the previous response to FoI request 13/0871:
Unfortunately, our previous response did, involuntarily, include some references to three private
individuals (this is why the number of applications differ slightly between the spreadsheet being
released to you in respect of FoI request 14/0395 and that provided to you in respect of FoI
request 13/0871). This was due to an administrative error that resulted in the release of
confidential information which should not have been disclosed by BIS as they were out
of scope of your original request and, had they fallen within scope, they would have been
exempt from disclosure as personal information under the Act. The names of the
individuals concerned should not be released into the public domain as information relating to
them is exempt from disclosure by virtue of section 40 (personal information of the Act). An
explanation of how this exemption applies to this information follows:

Section 40 provides an absolute exemption for personal data which then falls to be dealt with
under the Data Protection Act (DPA). Personal data of third parties can only be disclosed in
accordance with the data protection principles. In particular, the first data protection principle
requires that disclosure must be fair and lawful and must comply with one of the conditions in
Schedule 2 of the DPA. We do not think that it is fair to release the names of third parties and
do not think that any of the relevant conditions apply.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal
review. Internal review requests should be submitted within two months of the date of receipt of
the response to your original letter and should be sent to the Information Rights Unit at:

Information Rights Unit
Department for Business, Innovation & Skills
1 Victoria Street
London
SW1H 0ET
E-mail: foi.requests@bis.gsi.gov.uk

If you are not content with the outcome of the internal review, you have the right to apply directly
to the Information Commissioner for a decision. The Information Commissioner can be
contacted at: Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow,
Cheshire, SK9 5AF

Please remember to quote the reference number above in any future communications.
Yours Sincerely

[Redacted]

Head of the Export Control Organisation