THE FAÇADE OF ARMS CONTROL

How the UK’s export licensing system facilitates the arms trade

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Campaign Against Arms Trade (CAAT) was set up in 1974 and is a broad coalition of groups and individuals working for the reduction and ultimate abolition of the international arms trade, together with progressive demilitarisation within arms-producing countries.

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The UK government claims to have a rigorous and responsible licensing system to control its arms exports. Civil servants from four government departments assess applications for arms exports against a set of criteria that includes human rights, internal repression and regional stability. Under New Labour, the UK has signed up to a ban on the manufacture and export of torture equipment, an international agreement to ban landmines, and it issues regular reports on arms exports. That's the good news.

The bad news is, the UK is still one of the world’s largest arms exporting states, and the government licences weaponry and military equipment for export to repressive states, conflict zones and areas of regional instability. Exports to states such as Indonesia, Israel and Saudi Arabia are just a few of the examples that raise concerns in the media and amongst non-governmental organisations and campaigners. The UK is consistently one of the world’s top five arms exporters, granting billions of pounds’ worth of licences most years.

These are two very different pictures of the UK arms trade. What is going on within government that it can be one of the world’s largest exporters, licence military equipment to repressive states, and still claim to be a responsible exporter? Part of the answer is that the government’s arms export licensing system creates the image of control and benevolence, whilst allowing the government to get on with business as usual. The arms export guidelines are written and interpreted in such a way as to facilitate exports, and pro-control actors within government are weaker than pro-export actors. This, combined with the close relationship between the arms industry and government and the rhetoric of sovereignty and national defence, means that the licensing process is a ritualised activity that functions to create the appearance of restraint rather than significantly restrict the arms trade.
Introduction

The UK is one of the most significant actors in the international arms trade. Between 2002 and 2006 it was the world’s fifth largest supplier of major conventional weapons, behind the USA, Russia, Germany and France. In the same period it was the world’s thirteenth largest recipient of arms, behind China, India, Greece and the United Arab Emirates. The government also claims to be “at the forefront of promoting internationally the need to ensure defence exports are responsible.” Arms control was a key element in the “ethical dimension” that the Labour Party proposed to bring to foreign policy. Since its arrival in power in 1997, however, the Labour government has been widely criticised for its record on arms exports, with critics pointing to the disjunction between its rhetoric of benevolence and its practice of sending weapons to repressive states, conflict zones, and areas of regional instability.

This paper seeks to explain how this disjunction comes about, focusing on the licensing process used by the government to regulate its arms exports. Whilst the government argues that it has a rigorous and progressive system of regulation and industry hides behind these regulations when criticised, non-governmental organisations (NGOs) and campaigners point to the loopholes within the guidelines and the weaknesses of the system. The way the guidelines are written and interpreted and the pro-export policy of which they are a part make the licensing process more of a legitimisation mechanism than an effective control measure.

The Labour government came to power promising significant change to the UK’s role in the international arms trade. Support for the introduction of an EU Code of Conduct on arms sales, a ban on the manufacture and export of torture equipment, an international agreement to ban landmines, and statutory annual reports on arms exports were all explicit features of Labour’s attempt to distance itself from its Conservative predecessors. In 1997 it reviewed existing arms export guidelines and introduced a national set of criteria to assess licence applications for exports of military and dual-use (military or civilian) equipment. Whilst the Conservatives had also claimed to be guided in their export activity by certain ethical principles, the wording of the Labour guidelines was slightly stronger and more formalised. In June 1998 EU member states’ Foreign Ministers announced the adoption of an EU Code of Conduct and all Member States agreed to apply the Code of Conduct when assessing applications for arms exports. The EU Code was the world’s first regional code of conduct on conventional arms exports, and the UK and France took a lead in developing it, aided and pressured by NGOs such as Saferworld, British American

In October 2000 the UK government announced the arrival into force of the Consolidated EU and National Arms Export Licensing Criteria. These are an amalgamated set of national and EU criteria. They set out the government’s commitment to be guided in its arms export activity by concerns regarding the United Kingdom’s international commitments, human rights, the internal situation in the recipient country, regional stability, UK national security, the recipient state’s attitude to terrorism and international law, the risk of diversion, and sustainable development. The government claims that it assesses all licence applications for arms exports against the Consolidated Criteria. For example, it argues that an export licence will not be issued “if there is a clear risk that the proposed export might be used for internal repression”.

Despite the existence of these guidelines, and a network of civil servants across four departments whose remit includes assessing licence applications against the Criteria, controversial exports continue, as will be demonstrated below. Saferworld, an NGO working for tighter national and international controls on arms exports, details instances where the government’s actions do not match up to its stated policy on arms export control. The government dismisses NGOs’ and campaigners’ concerns by pointing to the existence of the guidelines: if the export was approved through this process, it must be legitimate. When the arms industry is criticised for the destination of its products, it retreats behind the guidelines, putting the responsibility for arms export decisions on the government. Yet there are enough examples of contraventions of the guidelines that something must be going wrong.

UK involvement in the arms trade

The Thatcher government re-privatised the arms industry in the 1980s. However, this does not mean that arms companies were left to fend for themselves in a free market. The state retained a “golden share” on the grounds of national interest, and companies remained dependent on government contracts and subsidies. And despite the introduction of more competitive forms of tendering in recent years, the arms industry remains unlike any other in its relationships with the state. State subsidies through contributions to research and development (R&D) costs, insurance cover against the risk of recipient default via the Export Credits Guarantee Department (ECGD, which issues disproportionate cover to arms companies compared to their share of total UK exports), the use of defence attachés, ministers and the Royal Family in promoting arms
sales abroad, the use of the intelligence services to promote arms exports, the role of the
Defence Export Services Organisation (DESO, a department of the MoD dedicated to
promoting arms exports), and the rise of public-private partnerships have ensured that
arms companies retain close links to the state and the ability to siphon money out of
state budgets. Although political and academic debates often revolve around the merits
of private versus state ownership, the arms industry remains a peculiarity because the
bulk of its products are purchased by government and there is a “fundamental
uncertainty and asymmetry of information associated with military matters.” Whether
privately or state-owned, “the most important skill for a defence producer” is “the
ability to persuade governments to give it money.”

There have also been changes in the nature of the arms industry in recent years. Since
the end of the Cold War and falling defence budgets, arms companies have had to
rationalise. There are now fewer arms companies, but they are larger and wield more
economic clout. With the advent of the so-called War on Terror, the rise in global
military spending to levels higher than at the peak of the Cold War (accounted for
mostly by increases in US military spending, which accounts for nearly half of all
military spending in the world), and increased attention to “homeland security”, arms
companies are increasingly orienting themselves towards the US military market.

The largest UK-based arms companies are BAE Systems (with 93 per cent of revenue
derived from “defence” in 2006), Rolls Royce (29 per cent), Qinetiq (76 per cent),
GKN (20 per cent), VT Group (70 per cent), Cobham (61 per cent), and, up to 2006,
Smiths (25 per cent). As with the wider arms industry, these companies are
internationalising through cross-national mergers and acquisitions, multinational
consortia, joint ventures, co-development and co-production of products, licensed
production (in which one company allows another to manufacture its products under
licence) and offsets (in which sales involve some domestic sourcing of components, or
inward investment to the buying country). These processes of internationalisation are
such that the biggest UK-based arms company, BAE Systems, is a significant actor in
the US defence industrial base and companies such as French-owned Thales are
classified by the UK government as part of the UK defence industrial base. Neither
arms-producing companies nor the defence industrial base is purely national, yet the
government claims that arms exports are in the national interest.

The UK government is proud of its role in the international arms trade and provides
extensive levels of support to arms-producing companies, claiming this is because arms
exports bring economic, strategic and political benefits. However, a recent study has
challenged all the justifications put forward by the government, arguing that they
remain, at best, unproven. More specifically, a 2001 study of the economic costs and
benefits of UK arms exports, co-written by two MoD economic advisers, concluded that “the economic costs of reducing defence exports are relatively small and largely one-off” and that “the balance of argument about defence exports should depend mainly on non-economic considerations.”

Despite these challenges, the government continues to argue that arms exports are good for the UK economy, good for jobs, and important for UK security. It also claims that arms control is one of the ways the UK can act as a force for good in the world, “deterring aggression and promoting stability by strengthening collective defence relationships.” It requires that companies apply for licences for the export of military and dual-use equipment. So, in principle at least, it should know exactly what UK-based companies are exporting, and to whom (although in the case of Open Individual Export Licences, or OIELs, it does not know in what quantities, as these do not place an upper limit on the quantity of equipment to be exported); and, of course, the existence of a licensing system means that the government chooses whether to approve exports or not.

The biggest controversies regarding arms exports tend to relate to human rights concerns and internal conflict, although the boundaries between these two categories are blurred. The UK government claims that it will not issue an export licence if there is a clear risk that the equipment might be used for internal repression. Yet it regularly licences components for combat aircraft, small arms and ammunition to Israel, for example, whose military has a record of human rights violations in the Occupied Territories. Applying the government’s own guidelines on arms exports in 2003 should have resulted in a de facto embargo on military exports to Israel, according to Saferworld. In July 2002, new guidelines were introduced in relation to transfers of equipment to a third country for incorporation and re-export. The guidelines were announced at the same time as licences were granted for the export of head-up display units to the USA for incorporation in F-16 fighter planes destined for Israel. The licensing of such equipment directly to Israel would contravene the government’s publicly stated arms export control guidelines as the Israeli air force has used F-16s in attacks on the Occupied Territories, but the new guidelines meant the equipment could be exported to the USA and, from there, incorporated into equipment for export to Israel. It is widely believed that the new guidelines were introduced in order to facilitate transfers such as this one.

Also in 2002 however, 34% of all Standard Individual Export Licences (SIEL) applications for exports to Israel were refused by the government. (SIELs allow shipments of specified items to a specified consignee up to a quantity specified by the licence.) This signalled a rise in refusals: 10% of SIEL applications were refused in 2001.
and 2% in 2000. The Quadripartite Select Committee (a parliamentary committee that scrutinises arms export policy) takes this as evidence that “the licensing policy to Israel may have been tightened up”, but without an explanation as to the change, if any, in policy, this remains “neither transparent nor accountable.” There is thus considerable ambiguity in the government’s policy towards Israel, with developments in arms export policy simultaneously seeming to signal both acquiescence (or at the very least indifference) to and condemnation of its behaviour towards the Palestinians.

The government also regularly licences military and dual-use equipment to Indonesia, despite the state security forces’ record of repression and human rights violations, particularly in resource-rich regions such as Aceh, East Timor and West Papua. During the period of martial law in Aceh in 2003–4, for example, the government licensed components for aircraft machine guns, components for combat aircraft, components for tanks, technology for the use of combat aircraft, military helmets, gun silencers and body armour. This was despite an increase in the country of extra-judicial killings, disappearances, excessive use of force, torture, arbitrary arrest and detention, and sexual violence as well as a clampdown on freedom of movement and communication that made accurate figures even harder to generate.

In relation to regional (in)stability, Tony Blair played a leading role in lobbying Indian Prime Minister Atal Behari Vajpayee in October 2002 to buy Hawk jets despite increased tension between India and Pakistan and widespread concern that it could escalate into a nuclear confrontation. In September 2003, BAE Systems secured a £1bn deal to supply the Hawks. Whilst the Hawk is most often described as a training jet, it can also be used as a ground attack aircraft and to train pilots to fly fast jets such as Jaguars, which can be adapted to carry nuclear weapons (and were previously sold to the Indian military by BAE Systems).

In none of these cases does the UK government concede that it has breached its arms export guidelines. However, the lack of transparency around arms export licensing makes it difficult for independent observers to take the idea that it abides by the guidelines at face value. The government claims its licensing system is amongst the most transparent in the world, yet it remains impossible to ascertain what equipment was exported, to whom, and when, or what equipment was refused, to whom, when and for what reason.

Examples relating to human rights and regional instability feature widely in the press. Exports to the USA and other NATO allies and much of the Middle East, as well as the trade between arms companies and the UK military, which make up the bulk of UK-based companies’ sales, are less widely remarked on. In general, the UK’s role as
one of the world’s largest arms exporters and military spenders is not often seen as a problem in and of itself. This is a missing part of the debate about the arms trade.

Exports to NATO and the Middle East are of central importance in maintaining the disproportionate military capabilities that exist across the globe as they transfer coercive resources for use by states both individually and as part of military alliances. And domestic procurement is as much part of the arms trade as exports. However, as there is no licensing requirement for domestic procurement, it is not considered in this paper. Suffice to say that a significant proportion of domestic procurement projects run over-time and over-budget, and BAE Systems is the prime contractor on the five projects running most over budget. This element of the trade must also be addressed if we are to be able to imagine a world without an arms trade.

All too often, the debate revolves around stopping weapons reaching the hands of the world’s most repressive states. Whilst this is an important task, the policy implications of this are that the world’s largest arms producers and military spenders – which includes the USA, UK, and other European and NATO states, as well as Middle Eastern states – would not be required to address their own military spending and procurement strategies. Simply to freeze an unequal status quo, in which we have sophisticated weapons and developing states do not, does not seem to be a progressive enough response in this day and age.

So the problem of UK involvement in the arms trade is wider than we might at first think. It must go beyond exports to states engaged in internal repression and include debate around military spending and weapons procurement in our own country and amongst the UK government’s allies. This requires a return to debates about global disarmament, rather than arms control or efforts against proliferation. Developing countries can legitimately argue that it is unfair to require them to address their military spending and weapons procurement policies when there are such stark global disparities in military power.

Overview of the arms export licensing process under New Labour

The arms export licensing process is administered and controlled by the Export Control Organisation (ECO), which sits within the Department for Business, Enterprise and Regulatory Reform (BERR, formerly the Department for Trade and Industry). Companies wishing to export military or dual-use equipment have to submit
an export licence application to ECO, which circulates the application within BERR, and to the Ministry of Defence (MoD), Foreign and Commonwealth Office (FCO) and, where development concerns are an issue, Department for International Development (DfID). DfID does not have the resources to examine all licence applications, and not all applications are deemed to be of relevance to the issue of development.

Each department gives a recommendation as to whether or not a licence should be granted, having assessed the application against some or all of the Consolidated Criteria. If departments or sub-departments cannot agree on a course of action, the licence application is referred to Ministers for a decision. Whilst Number Ten has no formal role in the licensing process, it will get involved where there is ministerial dispute over a decision. More generally, it plays a significant role in promoting arms exports as part of wider foreign relations. Overall, the government states that “Decisions to refuse licences are not taken lightly. Only in those cases where refusal is clearly justified is a final decision taken to refuse.” The default position is thus to grant licences for exports.

There are several features of the licensing process that further contribute to a presumption to supply weaponry. The use of so-called “open” licences (Open Individual Export Licences, OIELs), which allow multiple shipments of specified items to specified destinations, do not place an upper limit on the quantity of equipment to be exported. These are usually issued for exports to trusted recipients or states that are not deemed to be problematic recipients. Exports to NATO allies, for example, are often licensed under OIELs. There have been attempts to streamline the bureaucratic process at the national level, through initiatives such as the Joined-up and Efficient Working in Export Licensing (JEWEL) project and associated Smart Front End, which the government claims simplifies the licensing process and allows it to focus on the most difficult cases. And, at the European level, a Framework Agreement between France, Germany, Italy, Spain, Sweden and the UK concerning the restructuring of the European arms industry involves the use of “white lists” of permitted export destinations, raising fears of the erosion of national control processes.

In terms of parliamentary oversight of arms export licensing, the UK government has rejected calls by parliamentarians and NGOs to introduce a system of prior parliamentary scrutiny, which would allow MPs to consider exports before rather than after the event, as happens in Sweden and the USA. And whilst the parliamentary committee that scrutinises export policy and practice, the Quadripartite Committee (made up of representatives from the Defence, Foreign Affairs, International Development, Trade and Industry committees) has been critical of the government’s
actions, it can only suggest, but not enforce change. For example, when it found there to be a lack of clarity about the purpose and remit of the supposed assurances given to the UK by the Indonesian government about the use to which it would put imported weaponry, the Committee concluded that “without more legal or political backbone, end-use assurances are not worth the paper they are written on.”30 The government’s response was simply to state that it “does not accept” the Committee’s conclusion on its explanation of the change in assurances from Indonesia.31 The government thus ignores the Committee when it disagrees with or dislikes its conclusions and recommendations.

Aside from these examples from within the licensing process, there is a massive caveat that must be addressed: government-to-government deals do not require a licence (as it would be perverse for the government to licence itself). So, for example, the Al Yamamah contracts with Saudi Arabia are government-to-government deals between the UK and Saudi governments, with arms companies such as BAE Systems acting as contractors to the government. As no licences have been granted, no details appear in the government’s annual reports. This sort of deal is an informational black hole; it remains difficult, if not impossible, for independent observers to scrutinise the government’s behaviour in these instances, especially as the government also strongly resists attempts to investigate arms sales to Saudi Arabia via the Freedom of Information Act. It also means that the information presented in the government’s annual reports does not tell the whole story of its activity in the arms trade: there are unknown amounts of trade that go on between governments that are simply not reported.

Why the licensing system fails to restrict exports

Having briefly analysed the licensing process, I turn now to the reasons why it fails to restrict arms exports. These reasons are: the close relationship between arms companies and the UK state; the rhetoric of national defence and state sovereignty; the vague wording of the Consolidated Criteria; the problematic interpretation of the guidelines; the government’s case by case approach; the weak role of pro-control actors within government; and the Form 680 process.
Integration of arms companies into the UK state

Through its Call the Shots campaign, CAAT has highlighted the close relationship between the arms industry and UK government. The revolving door between the arms industry and MoD/military and the presence of arms company representatives on defence-industrial and military advisory bodies are illustrations of the integration of the arms industry into UK state structures that sets the overall orientation to arms exports. For example, the head of DESO was traditionally drawn from the arms industry and continues to draw pay from the industry during their stint at DESO. Alan Garwood, who acted as the organisation’s head between 2002 and 2007, was on secondment from MBDA, which is part-owned by BAE Systems. More generally, the Advisory Committee on Business Appointments described the movement of personnel from the MoD to arms-producing companies as significant enough to warrant the label “traffic”.

In addition to the revolving door, arms companies also have a significant presence on military advisory bodies such as the National Defence Industries Council (NDIC), Defence Export and Market Access Forum (DEMAF), National Defence and Aerospace Systems Panel (NDASP) and Aerospace Innovation and Growth Team (AeIGT). Industry thus works in partnership with government to set policy priorities, giving it access to elite policymakers, officials and politicians at the expense of non-corporate actors. This means that the overall bent of defence industrial and arms export policy is to benefit major arms-producing companies, in particular BAE Systems, and that control measures such as the Consolidated Criteria are vague and do not threaten the interests of industry. Similarly, the proposed legally binding international Arms Trade Treaty, which a coalition of NGOs is pushing for, has been promoted by the UK government and UK-based industry, which claims that the proposed treaty will not bring new obligations for it.

This is not to argue that that the government’s and arms industry’s interests are identical or that only policies beneficial to the military and arms industry come into being. Rather, it is to argue that there is an orientation towards pro-military and pro-industry policies. Given that representatives of arms companies sit, literally, side by side with state officials and often perform state functions themselves, the integration of arms capitalists into the state generates an attitude towards policy that is beneficial for the arms industry. Nevertheless, there is not a complete fusion of interests: there are vigorous and public disputes between factions of the state and arms industry, often over domestic procurement issues. Large companies claim to be discriminated against by excessively stringent UK export guidelines. The recent announcement regarding the closure of DESO is a good example of these disputes. Pressure from the Treasury,
NGOs and campaigners led to a decision to close DESO, seemingly without consultation with industry, let alone its blessing. Time will tell how effective a measure this is: government-to-government deals remain under MoD control, and DESO functions are likely to be moved to another part of government. But, potentially, industry has lost one of its privileged footholds inside the UK state.

**The imperatives of “national defence” and state sovereignty**

Aside from the close relationship between arms companies and the government, the arms trade is sustained by claims of national defence. Regardless of whether arms companies are publicly or privately owned, national defence carries a symbolic weight that predisposes policymakers and other state representatives to favour the acquisition of weaponry. The argument that arms exports are politically, economically and strategically beneficial carries weight above and beyond its factual content because of the power of the term “defence”.

State leaders make reference to the provision made for national self-defence in the UN Charter and to the importance of national sovereignty, arguing that it is all states’ right to import weaponry for their security. The 1957 Treaty of Rome, which established the European Economic Community, allowed any member state to “take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material”.

And the World Trade Organisation, so often vilified for its promotion of trade liberalisation, exempts the arms trade from its remit, allowing governments to subsidise arms exports. Defence issues are understood as a matter of national sovereignty, and military activity and the arms trade have an almost sacred quality even amongst those elements of the state that are not embedded with arms companies. This is a much larger and historically long-term problem than that of the corporate power currently associated with the arms industry; the two issues should be addressed by campaigners in tandem.

**Vague wording of the guidelines**

The Consolidated Criteria set out the guidance under which licence applications are assessed. For example, a licence will be refused if there is a “clear risk” that equipment “might” be used in internal repression, and the government “will not issue licences for exports which would provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination”. Whilst this wording is slightly more restrictive than past guidelines, the previous Conservative government also claimed that it scrutinised arms export licence applications on a case-by-case basis and would not
licence exports if it thought they were likely to be used in internal repression. However, as early as 1998 the Trade and Industry Committee stated that Labour’s policy is “a rather less radical break with past policy than is sometimes represented to be the case,” and the same patterns of behaviour and justification are being repeated. There is thus reason to believe that Alan Clark’s statement during the Scott Inquiry still applies, namely that the guidelines are “so imprecise and so obviously drafted with the objective of flexibility in either direction – elasticity, shall I say – as to make them fair game.”

Any set of guidelines requires interpretation and quantification in order to be operationalised and this can be a difficult process. However, time and again, the interpretations arrived at are conservative to the point of changing any reasonable meaning of words such as “risk”, despite the best intentions of pro-control actors. The wording of the guidelines is deliberately vague so as to allow a pro-export policy to continue whilst allowing the government to appear committed to tight regulation of the trade.

**Problematic interpretation of the guidelines**

In addition to the vague wording of the guidelines, the way they are interpreted is also problematic. For example, the UK government claimed that the deployment of Scorpion light tanks in Aceh by the Indonesian military in 2003 was not a violation of the Indonesian government’s assurances not to use equipment in contravention of the UK’s arms export guidelines because they were deployed to protect supply routes and hence this did not count as an offensive measure. This was despite the fact that their deployment took place in the context of a military campaign involving widespread human rights violations in which the tanks would be used offensively as “a key part of our campaign to finish off the separatists”, according to a senior military spokesman in Aceh, Colonel Ditya Sudarsono. It is thus reasonable to conclude that there was a “clear risk” that UK-supplied Scorpions “might” be used in internal repression, yet the government’s publicly stated policy was interpreted in a manner conducive to ongoing transfers.

In relation to development concerns, DfID considers the economic capacity of the proposed recipient, levels of military expenditure, technical capacity and potential diversion of resources, and the legitimate security and defence needs of the recipient state when examining arms export licence applications to the world’s poorest states (defined as those states eligible for concessional loans from the World Bank’s International Development Association). However, exports to the USA, for example, are excluded from such scrutiny in practice, despite the fact that the USA is far and away the world’s largest military spender, accounting for nearly half of the total military spending.
spending across the world, with military spending far out-stripping health and education spending, and despite the debate that could be had as to whether such levels of spending constitute a legitimate need.\textsuperscript{40}

UK policy is framed in such a way as to exclude some recipients from concern whilst focusing attention on others (in this case, the world’s poorest states, who anyway do not account for a large proportion of the world’s arms transfers). In this understanding, military spending and weapons procurement in the developed world is not considered part of the problem, and nor is the fact that developing countries are less likely to have the industrial, technological or economic capacity to produce large amounts of weaponry domestically and hence need to import it. Two thirds of international arms transfers went to the developing world in the period 1998–2005.\textsuperscript{41} To impose “development concerns” on the flow of weaponry to the developing world is thus to penalise developing countries without adequately understanding why they behave in such a way and without addressing the flow of weaponry amongst industrialised states.

**Limitations of a case-by-case approach**

In addition to the wording and interpretation of the guidelines, the government’s case-by-case approach to licensing is also problematic. The government claims to assess each licence application on a case-by-case basis against the Consolidated Criteria. The inevitable time lag between the licensing of an export and the actual delivery of equipment is problematic because of the possibility of a change in circumstances in the recipient state. In part, the problem is one of implementation: risk assessment that took into account past use of military equipment (whether supplied by the UK, another foreign government, or domestically produced) and possible future conflict would be a significant improvement on the current process.

However, the government already claims that it carries out such risk assessment; is the problem thus one of incompetence? Given the internal system of auditing that acts as quality control on the licensing process and the lack of any admission that the government ever contravenes its guidelines, this is unlikely. Rather, the issue is the orientation of the wider policy towards arms exports: as long as government policy remains pro-export and the onus is to export wherever possible, the bureaucratic licensing process will remain insufficient for adequate control of exports. The case-by-case approach is a technical tool whose orientation and use depends on the values driving the policy behind it. As the licensing system is currently configured, even if exports are restricted to a particular state at times of tension, it will already be in
possession of equipment previously transferred, and will be eligible for more transfers once flashpoints die down.

**Weak role of pro-control actors within government**

Within government, the main departments concerned to restrict the flow of weapons are DfID and the Human Rights Democracy and Good Governance Group (HRDGG, formerly Human Rights Policy Department) within the FCO. DfID plays a lead role on small arms issues, but it is almost impossible for it to call for a refusal on small arms exports on development grounds because of the way the guidelines are worded; in practice Criterion 8 relates to the export of large conventional weaponry.\(^4\) And in cases relating to the export of large conventional weaponry, such as Tanzania, DfID was simply sidelined.

Recent data shows that there are three officers within HRDGG working on human rights concerns in the licensing process, two of them dedicating approximately 40 per cent of their time to this, one just 15 per cent. In 2006 HRDGG was consulted in relation to 631 licences.\(^4\) Given that 7,474 Standard Individual Export Licences (SIELs, which allow shipments of specified items to a specified consignee up to a quantity specified by the licence) and 397 Open Individual Export Licences (OIELs, which cover multiple shipments of specified items to specified destinations or consignees) were issued in 2006, and 123 SIELs and 9 OIELs were refused, it seems that the proportion of licences HRDGG officials are consulted on is low, raising the question of who decides which licences HRDGG officials get to see and what capacity they have for scrutinising licence applications.\(^4\)

It also appears that, even when they are consulted, the opinion of HRDGG officials does not carry significant weight within the licensing process. Whilst these officials understand themselves as the “guardians” of the human rights criterion in the arms export guidelines, only a small number of refusals called for by them are upheld by ministers. In interviews, officials emphasised that their opinions are put forward during the process, but they have only an “advisory role” and thus call for more refusals than are upheld.\(^4\) The result is that in the majority of cases that HRDGG deal with (which is only a small proportion of total licence applications), its advice is not taken up as the FCO position.

More generally, there is an internal system of checks and balances and an auditing process within the FCO to “ensure the process is carried out correctly and that departments are accountable”, preventing a loose canon signing off on licences.\(^4\) And during periods of tension, such as the Aceh crisis in 2003, every licence for export to
sensitive states requires ministerial approval. This means that controversial exports have not slipped through the net or been authorised by a rogue official. They are not an aberration in policy, they are the expression of it. However, as argued above, even if licences are refused during times of crisis, states are still in possession of military equipment imported in the past, and will be eligible for further transfers once particular episodes of tension die down.

**Form 680**

The Form 680 process serves to facilitate arms exports as it gives companies “an indication of what markets may provide viable export opportunities for their products” and “speeds up the assessment of any eventual Export Licence Application.” The process is administered by the Directorate of Export Services Policy (DESP, which sits within the MoD) and takes place before the formal licensing process, functioning to give MoD clearance to companies for the sale, demonstration, promotion or export of certain equipment, goods or information that are classified. Whilst F680 approval does not remove the necessity of complying with licensing requirements, it does give industry a good idea of what will be licensed and adds momentum to contracts that makes it harder for them to be refused at the licensing stage. As an industry lobby group argues, it plays a role in “enhancing the potential customer’s comfort factor feeling that a licence would be issued by HMG.”

**Conclusion**

The UK government claims to exercise a responsible arms export policy carried out through a strict licensing system. This claim is worth examining in light of ongoing exports to states involved in repression and internal conflict, to regions experiencing conflict, and the sheer volume of UK exports. Rather than acting to restrict arms exports, the guidelines against which arms export licence applications are assessed are vague and interpreted in such a way as to facilitate exports. The guidelines are further weakened by a case-by-case approach, and the institutional weakness of the departments most likely to restrict arms exports. In addition, the F680 process serves to fast-track exports. All of these factors must be understood in the wider context of the integration of arms capital into state structures and the political salience of arguments about national defence. Thus, despite the existence of a complex bureaucratic process and the best intentions and efforts of officials working in pro-control departments, high levels of arms exports, including those to states engaged in internal repression, conflict or regional instability, continue. The licensing process is thus better understood
as a ritualised activity that functions to create the appearance of control and image of benevolence and restraint.

Having said that, the licensing process can be used as a yardstick by which to measure the government’s behaviour on arms. Where it has made public commitments it can be held to them – and this is where NGOs and campaigners focus much of their energy. What is required, however, is a recognition that improving the processes of control is not a technical issue of developing better guidelines. Rather, the pro-export stance of successive UK governments, the close relationship they have with the arms industry, and the emphasis on military power as an indicator of prestige on the world stage, must all be challenged, as they form the parameters within which licensing occurs.
Notes


5 See Saferworld’s audits of the government’s annual reports on arms exports for examples of the government’s apparent failure to uphold the licensing process; http://www.saferworld.org.uk/pub_search.php.

6 See Cooper, Neil (1997) *The Business of Death. Britain’s Arms Trade at Home and Abroad* (London: Tauris Academic Studies). There has been a rise in private finance initiatives (PFI) in defence procurement since the mid 1990s; as a result of the 1998 Strategic Defence Review, a Smart Procurement Initiative was launched, which was renamed as a Smart Acquisition policy in October 2000. These policies mean that every procurement project is assessed at the outset for its viability under PFI; Taylor, Claire (2003) “UK Defence Procurement Policy,” House of Commons Library Research Paper 03/78, 20 October 2003, http://www.parliament.uk/commons/lib/research/rp2003/rp03-078.pdf (accessed 17 January 2007). In practice, whilst companies are supposed to bear the risks, as soon as they are in trouble, the state intervenes to bail them out.

7 The Defence Sales Organisation was established in 1966 and later renamed the Defence Export Services Organisation. Its purpose was to promote UK arms exports. In July 2007 the Prime Minister, Gordon Brown, announced plans to close DESO and transfer support for arms exports or, in his words, “trade promotion for defence exports” to UK Trade and Investment. Brown, Gordon (2007) “Machinery of Government: Defence Trade Promotion,” *Hansard*, 6 July 2007. In December 2007, the government announced that a new business group
will be created within UKTI, the Defence and Security Group, in which “business planning assumptions, and staffing and resources, will be taken on at their current levels from DESO by UKTI.” Hutton, John (2007) Hansard Written Statements, Col. 16–17, 11 December 2007. Overall, the change is referred to by government as a change in the “machinery of government” and is likely to have mixed effects. On the one hand, industry has lost its privileged foothold within government, and there is now greater distance between the industry and the Prime Minister and relevant ministers. On the other hand, it remains unclear whether the Defence and Security group will decrease in size at any point, and the industry will continue to enjoy disproportionate resources compared to other industries, at least for the time being. However, arms companies appear to be displeased with the change, which is itself a signal that the government has acted against their direct interests.


17 Defence Export Services Organisation, “Why does the government support
defence exporters?”. 

18 Arms sales to Israel also raise concerns regarding regional stability; following
Israeli attacks on Lebanon during the summer of 2006, NGOs including CAAT
and Saferworld called for a halt to UK arms sales to Israel. See CAAT (2007) “UK
israel.php; Saferworld (2006) “Alarm over arms sales to Israel,” 14 July 2006,
http://www.saferworld.org.uk/newslist.php?id=292&clang=en (both accessed 16
September 2007).


2005).

arms to Israel row”, The Observer, 7 July 2002.

22 Quadripartite Committee (2007) Strategic Export Controls: 2007 Review,

23 For details of the human rights situation in Indonesia at this time, see, for

24 Tran, Mark (2003) “BAE wins £1bn Hawk contract” The Guardian, 3 September
2003.


uk_politics/3784965.stm (accessed 29 August 2007); Howells, Kim (2007)
Hansard. Written Ministerial Statements, 24 July 2007, Column 51WS.


29 Kathleen Miller and Theresa Hitchens (2000) European Accord Threatens to Lower
Export Controls, Basic Paper Number 33, August 2000; also Broszka, Michael
vol. 12, pp. 73–94.


37 Letter to Carmel Budiardjo, Tapol, from Mike O’Brien, Foreign Office Minister, 10 July 2003.


40 SIPRI, “The 15 major spender countries in 2006.”


42 Interview, 6 February 2004.


46 Interview, 22 March 2005.

47 Interview, 7 March 2005.
September 2006, http://www.dti.gov.uk/europeandtrade/strategic-export-
control/licensing-rating/guidance/page8721.html (accessed 7 December 2006).
50 Export Group for Aerospace and Defence (no date) “680 Advice”,
Before UK arms leave the country they have to be licensed. That is, the government assesses each request for an export and decides whether or not it should happen. The government claims this system is rigorous and responsible and it does explicitly consider such factors as the respect of human rights in the destination country and the preservation of regional peace, security and stability. Meanwhile arms are routinely exported to countries such as Saudi Arabia, Israel, China and Taiwan, India and Pakistan and the US. The contrast could not be starker between the government’s presentation of its policy and the reality on the ground.

Rather than simply bemoan the situation, Anna Stavrianakis steps back and considers the reasons behind it: the range of structures, mechanisms and perceptions. She considers the vague wording of the export licensing guidelines and issues around their interpretation and implementation, the power of ‘national defence’ terminology, the influence of arms companies within the government, and the weak role of pro-control actors relative to those promoting arms exports. She strikingly concludes that “the licensing process is a ritualised activity that functions to create the appearance of restraint rather than significantly restrict the arms trade.”

This is the ideal publication for anyone who has struggled to understand or reconcile the wide variety of government, campaign organisation and media pronouncements on the issue of arms control.