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# OPERATIONALISING THE EU COMMON POSITION ON ARMS EXPORT CONTROLS

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# PRESENTATION STRUCTURE

- Brief history of EU arms export controls
- Overview of the main structure of European Arms Export Controls
- Case Study
- Advantages of EU Common Position: UK View



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# DEVELOPMENT OF EU ARMS EXPORT CONTROLS



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- Common Criteria agreed at the Luxembourg and Lisbon European Councils in 1991 and 1992
- EU Code of Conduct on Arms Exports adopted by the Council in 1998
- Common Position 2008/944/CFSP adopted on 8 December 2008

# FURTHER INFORMATION

**Text of the EU Common Position on Arms Export Controls:** <http://register.consilium.europa.eu/pdf/en/08/st15/st15972-re01.en08.pdf>

**Background on EU Arms Control Process:** <http://www.consilium.europa.eu/showPage.aspx?id=1484&lang=En>



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# STRUCTURE OF THE COMMON POSITION

- Legally binding on all EU Member States to operate the same system;
- But each State makes its own export decision;
- Eight Criteria for assessment;
- Case by Case assessment.
- States consult, share information and publish arms export control data



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# EIGHT CRITERIA

1. Respect for international obligations;
3. Respect for human rights in the country of final destination and respect by that country of international humanitarian law;
5. Internal situation in the country of final destination - tensions or armed conflicts;
4. Preservation of regional peace, security and stability



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# EIGHT CRITERIA

5. National security of the Member States and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries;

6. Behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law

# EIGHT CRITERIA



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7. Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions;
  
8. Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient country. Allowing States to meet their legitimate security/defence needs with least diversion of human and economic resources for armaments.

# STRUCTURE OF THE COMMON POSITION

All EU Member States use a Common  
Military List as the basis for export controls



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Details:

[http://eur-lex.europa.eu/LexUriServ/  
LexUriServ.do?uri=OJ:C:  
2009:065:0001:0034:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:065:0001:0034:EN:PDF)

# STRUCTURE OF THE COMMON POSITION



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- User Guide helps with implementation:  
<http://register.consilium.europa.eu/pdf/en/09/st09/st09241.en09.pdf>
- Denial Notification: to ensure transparency and aid decision making



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# CASE STUDY

A fictional example: Criterion 2  
Human Rights

## Considering an Export Licence Application

- 500 night vision sights for sniper rifles to a country called Neverland;
- For internal security forces and army;
- Neverland only exists for the purposes of this example.

# Factors Considered

- Civil War in Eastern Province. Insurgents attacking infrastructure and killing civilians;
- Unconfirmed reports last year of torture by internal security forces;
- UN report last year critical of indiscriminate use of force by army causing civilian deaths.



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# Factors Considered

- Neverland has the right to use arms to defend itself;
- Neverland wants the night vision equipment for security at a major Trade Fair later this year;
- And to protect infrastructure from insurgent attacks.



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# Factors Considered

- Neverland has welcomed UN assistance for peaceful end to Civil War;
- Security Forces training now includes human rights;



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# Assessment

- On a case by case basis – will this export to this end user be consistent with the Criteria?
- Check the veracity of the torture reports – could the export exacerbate this?



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# Assessment

Considering Criterion 2 Only



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Is there a clear risk this equipment exported to this user at this time might be used for repression or other human rights abuse?

# Options

We could:

- Consult our Embassy in Neverland
- Check international reports on human rights in Neverland
- Consult other EU Member States
- Contact the country or the exporter to ask for more information – e.g. on training or safeguards



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# Summary of Main Factors

- Civilian deaths by both army and insurgents
- Claims last year that Security Forces used torture
- UN criticism of army operations last year
- All Security Forces now get Human Rights training
- No new reports that Army uses excess force or security forces using torture
- Legitimate security need for equipment



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# Advantages of EU Common Position UK views



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- Helps make informed decisions;
- Keeps the process objective as objective as possible;
- Consistency of standards;

# Advantages of EU Common Position

## UK views



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- Easier for exporters, importing countries and companies
- Simplifies bureaucratic burdens – one set of rules, one set of standards
- Retains independence of decision making

# Useful UK Websites

## Foreign & Commonwealth Office

<http://www.fco.gov.uk/en/global-issues/weapons/conventional-weapons/>

## Department for Business Innovation & Skills

<http://www.berr.gov.uk/whatwedo/europeandtrade/strategic-export-control/index.html>



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