



An Roinn Post, Fiontar agus Nuálaíochta
Department of Jobs, Enterprise and Innovation

**Report under the
Control of Exports Act 2008
Covering the Period
1st January 2011 – 31st December
2012**

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Minister's Introduction

I am pleased to present the second report on the operation of the Control of Exports Act 2008, covering the period 2011 to 2012. The report focuses on key developments during 2011 and 2012, alongside the provision of information on the context and operation of the Irish Export Licensing system.

The Act provides a framework to ensure the safe and responsible export of sensitive goods and technology. The security, regional stability and human rights concerns which underpin export controls are of paramount importance to my Department. While increasing exports is a key goal of the Department, export control is an aspect of our work in which the aim of export growth needs to be balanced by national and international priorities in essential areas such as non-proliferation of weapons of mass destruction, human rights and regional conflict. Ensuring free trade and open markets has to play a secondary role to these core principles, when it comes for example to trade that can affect international security or human rights concerns.

Ensuring the appropriate level of licensing on exports of dual use and other goods and technologies is especially important in facilitating exporters expand and develop global activities.

Alongside information on the operation of export controls this report provides data on licence applications, the value of licensed goods and their destination and licence denials. It is published as part of my Department's efforts to provide transparency and visibility on the licensing system and export control regime. Summary data on the export of controlled products is also published on the Department's website every six months. This practice will continue as I want to provide early information to stakeholders that take a special interest in this aspect of my Department's work.

Richard Bruton TD

Minister for Jobs, Enterprise & Innovation

CHAPTER 1 - Key developments during 2011 and 2012

Chapters 2 to 5 of this report set out the background and context of the export control regime in Ireland while this section highlights developments and changes during the period covered by the report, 2011 and 2012.

1. Developments with the Dual-Use Regulation

As set out in Chapter 2, Council Regulation (EC) 428/2009 of 5th May 2009 setting up a community regime for the control of exports, transfer, brokering and transit of dual-use items (the “Dual-Use Regulation”) is the main piece of legislation governing the export of dual-use items from Europe. Two amendments to the Dual-Use Regulation came into force in 2011 and 2012.

Regulation (EU) No 1232/2011 amending Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items was adopted during 2011 and came into force during 2012. It introduced five new Union General Export Authorisations (UGEAs).

The five new UGEAs complement the existing Community General Export Authorisation (now UGEA EU001) and can be used by EU exporters for the export from the EU of specific dual-use items to specific destinations. UGEA EU001 allows the export of the majority of controlled products to specific destinations (Australia, Canada, Japan, New Zealand, Norway, Switzerland and United States of America). The five new UGEAs are as follows:

EU002 – exports of certain dual-use items to certain destinations

EU003 – exports after repair / replacement

EU004 – temporary export for exhibition or fair

EU005 – telecommunications (allows the export of a small number of goods, for example software, test, inspection and production equipment for a limited range of telecommunications items, to specific destinations)

EU006 – chemicals (allows the export of a small number of chemicals to specific destinations.)

These new General Authorisations aim to ease the regulatory burden on traders and were introduced given the extensive and strong export control systems in place relating to the countries covered by their use.

Regulation (EU) No 1232/2011 also made some administrative changes in relation to sharing of denial notifications between Member States and to the reports on dual-use export controls which the European Commission submits to the European Parliament.

Regulation (EU) No 388/2012 of the European Parliament and of the Council amending Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items came into force during 2012. This Regulation updated the Annex of items subject to export control to reflect changes agreed in the international export control regimes during 2009 and 2010. More information on the international export control regimes is available in appendix 2.

The list of controlled dual-use items is set out in Annex I to this Regulation. Union General Export Authorisations listed in Annex II cover exports of certain lower-risk items to certain destinations. These Annexes need be updated regularly, both to reflect changing international concerns about specific destinations and to take account of decisions taken by consensus in international export control regimes. During 2011 and 2012 discussions began on developing more efficient procedures in the EU export control regime by introducing delegated acts for regular updates of the Annexes to the Dual-Use Regulation.

Dual-Use Green Paper

In June 2011 the European Commission published a Green Paper entitled “The dual-use export control system of the European Union: ensuring security and competitiveness in a changing world”. The European Commission launched the consultation process to initiate a broad public debate concerning the functioning of the EU dual-use export control system and to “help identify the strengths and weaknesses of the current system and map out a longer term vision of the EU export control framework”. The European Commission intention is that the results will be translated

into concrete amendments to the current system and the preparation of a long term strategy on the development of export controls in the EU.

An analysis of EU-wide responses to the consultation was published in 2013 by the European Commission with legislative proposals to follow.

Preparations for chairing the Dual-Use Working Party during Irish Presidency

As set out in Chapter 2, work on the development of EU policy in regard to dual-use goods is undertaken in Brussels by the Dual-Use Working Party (DUWP). Departmental representatives attended a number of DUWP meetings during 2011 and 2012. As part of Ireland's Presidency of the Council of the European Union during the first six months of 2013, Departmental officials chaired the DUWP. Preparations for this important role began in earnest during 2012, with Departmental officials meeting with senior officials in the European Commission, Council, outgoing Presidency Cyprus and with DUWP representatives from other Member States, to discuss planning for the extensive chairing and agenda setting responsibilities to be undertaken.

Departmental representatives also attended a number of Dual-Use Coordination Group meetings during 2011 and 2012. These meetings, established under Article 23 of the Dual-Use Regulations, are chaired by the European Commission and provide a valuable forum for discussions on the application of the Dual-Use Regulation across the Member States, ensuring it is applied in a fair and consistent fashion by all Member States.

2. Changes to other pieces of legislation

Control of Exports (Goods and Technology) Order 2012

The Control of Exports (Goods and Technology) Order 2012 provides for the control of exports of goods and technology listed in the Schedule to that Order. This Order relates to goods and technologies on what is commonly referred to as the EU Common Military List. Member States are required to control the export of the

military goods and components on the list which is updated generally on an annual basis.

The 2012 Order, S.I. No. 216 of 2012 came into effect on 30th June 2012.

Customs-Free Airport (Extension of Laws) Regulations 2012

The effect of this Regulation, S.I. 217 of 2012, is to extend the provisions of the Control of Exports (Goods and Technology) Order 2012 to the Shannon Customs-Free Airport.

The Regulations are not a new feature of Ireland's export control regime, rather they replace equivalent Regulations which were made in 2009. They were made with the consent of the Minister for Transport and the Minister for Finance because of the special status of the Shannon area customs free zone.

The Regulations came into effect on 30th June 2012.

Control of Exports (Brokering Activities) Order 2011

The Control of Exports (Brokering Activities) Order 2011, S.I. 86 of 2011, was made pursuant to Section 3 of the Control of Exports Act 2008. It came into effect on 1st May 2011. It imposes a licensing requirement in respect of brokering activities relating to goods and technology on the EU Common Military List as set out in the Schedule to the Order.

As the Order was made under the Control of Exports Act 2008, breaches of the Order are subject to the penalties provided for in that Act. The 2008 Act provides for penalties on summary conviction of a fine not exceeding €5,000 or imprisonment for a term of six months or both, and, on conviction on indictment, for a fine of up to €10,000,000 or three times the value of the goods or technology concerned, or imprisonment for a term of up to five years, or to both such a fine and imprisonment.

The level of penalties in the 2008 Act reflects the importance attached by the Department to controlling trade in goods on the EU Common Military List.

European Communities (Intra-Community Transfers of Defence-Related Products) Regulations

The purpose of these Regulations is to simplify the rules and procedures applicable to the intra-Community transfer of defence related products “in order to ensure the proper functioning of the internal market”. The aim is to enable more companies across the EU, and especially SMEs, to participate in long term contracts in the EU defence sector.

S.I. No. 346 of 2011 – European Communities (Intra-Community Transfers of Defence-Related Products) Regulations 2011 gives effect to this Directive in Irish law. As the list of products covered by Directive 2009/43/EEC is the “EU Common Military List” which is updated regularly, Statutory Instruments are implemented to give effect to these amended lists. S.I. No. 535 of 2011 – European Communities (Intra-Community Transfers of Defence-Related Products) (Amendment) Regulations 2011 and S.I. No. 309 of 2012 – European Communities (Intra-Community Transfers of Defence-Related Products) (amendment) Regulations 2012 implemented these amendments in 2011 and 2012 respectively.

Council Regulation (EU) No 1352/2011 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment – “The Torture Regulation”

In 2011, in response to concerns about the possible export from the EU of medicinal products that could be diverted and used for execution by lethal injection, additional products came under the control of the Torture Regulation.

Commission Implementing Regulation (EU) 1352/2011 amending Council Regulation (EC) 1326/2005 came into force in December 2011 and added:

- “short and intermediate acting barbiturate anaesthetic agents” to Annex III (list of items for which an export licence is required);
- electric shock sleeves and cuffs and spiked batons to Annex II (list of items that are prohibited for import or export).

As outlined in Chapter 4, in the period under review the Department has established mutual notification mechanisms with the Irish Medicines Board to assist in the control of exports of “short and intermediate acting barbiturate anaesthetic agents” covered by the Torture Regulations.

Chapter 4 also provides information on how the Department monitors exports of controlled items in close co-operation with Revenue’s Customs Service.

3. Statistical Trends

The table below sets out summary information regarding the number and value of licences granted by the Department during 2011 and 2012. More detailed statistical information is set out in Chapter 6.

Type of Licence	Number by Year		Licenced Value by Year €,000,000	
	2011	2012	2011	2012
Individual Dual-Use	343	704	1,148	229
Global Dual-Use	40	23	6,073	2,253
Military	72	129	27	47
TOTAL	455	856	7,248	2,529

Licence Value

It is important to understand that the value of a licence may not reflect the actual value of goods exported under that licence. For efficiency and speed of response to supply chain requirements, some companies might include the value of expected repeat business into their original application, and this repeat business may not occur. Hence, the actual value of exports made under those licences may be significantly less than the face value of the export licence.

There was a 65% decrease in the value of licences issued in 2012 compared to 2011. This decrease is largely explained by the change in the value of global dual-use licences from 2011 to 2012 as outlined below.

Individual Dual-Use Licences

There were 343 individual dual-use licences issued in 2011 which was similar to numbers issued in 2008 and 2009 but represented a decrease of 52% on licences issued in 2010. A review and amalgamation of licences by one exporter in 2011 was the principle reason for this drop in the number of licences issued.

There were 704 individual dual-use licences issued in 2012 an increase of 105% compared to 2011. This increase occurred principally in respect of exports relating to telecommunications and ICT products.

Global Dual-Use Licences

Global export licences provide exporters with more administrative flexibility than individual export licences. They can be used to cover shipments of goods and technology listed on the licence to the countries of destination listed on the licence. Global licences are issued to companies that have a very high volume of relatively low risk exports to a range of low risk countries.

There were 39 Global Dual-Use licences issued during 2011. Following a review by the Department and licence holders with a view to streamlining and amalgamating the number of licences held by exporters 23 licences were issued in 2012. The value of Global licences issued in 2011 was €6 billion and the value of Global licences issued in 2012 was €2.3 billion. Global Licences issued in 2011 to one company accounted for a value of over €5 billion, with the fall in the value of licences issued during 2012 reflecting the fall in the value of the global licences issued in 2012 for the same exporter.

In considering the very significant decrease in the value of global licences in 2012, it must again be noted that the value which appears on a licence may not be the same as the actual value of exports made under that licence. The value of global licences is estimated by exporters at the time of application. Variations invariably arise, for example given the temporary transfer of machinery within groups. In addition, companies are subject to regular changes in the lists of controlled products. Reviews of control lists can result in products being removed from control and companies who

previously required export licences no longer being required to engage with the licensing system. In light of evolving reporting requirements future control of exports reports will seek to provide information on the actual value of exports made under global licences.

Military Licences

The number of military licences issued fell from 98 in 2010 to 72 in 2011 and rose again to 129 licences in 2012. The value of the exports increased by 12.5% from €24m in 2010 to €27m in 2011 and increased by a further 74% to €47m in 2012.

It is worth recalling that licensing controls cover military goods and technology, and components for such items. Licences issued for military goods in 2011 and 2012 involved components rather than finished goods. Also, a significant number of military licences were issued to individuals holding sports firearms and to companies engaged in mining activity. Additionally, it should be noted that in view of the relatively small cohort of exporters of military goods and technology in Ireland, a change in the licence requirements of one or two exporters may have a much more significant impact on the statistics.

Aggregation of Statistical Data

This report on the operation of the Control of Exports Act seeks to provide as much transparency as possible on licence value, numbers, destinations and product categories in respect of dual use and military products.

However, in view of commercial sensitivities and the relatively small number of licence holders, it has been necessary to aggregate data when reporting on exports under certain headings.

4. Denials

Chapter 3 sets out the considerations that are taken into account by the Department when deciding whether or not to grant an export licence:

- In 2011 four export licence applications were denied.
- In 2012 one export licence application was denied.

These denials were made primarily on the grounds of considerations about the intended end-use and the risk of diversion.

5. Outreach and Investigations

Outreach

As part of outreach activities, during 2012 Licensing Unit officials met with the industrial development agencies, Enterprise Ireland and the IDA, so that their officials who advise client companies on export opportunities can inform these companies of their responsibilities in relation to export controls and embargoes, as well as the advisory support available from the Department.

Investigations

During 2011 and 2012 the Department of Jobs, Enterprise and Innovation conducted a number of investigations into the activities of companies exporting sensitive items from Ireland. Investigations are conducted where the Department receives information about possible breaches of export control legislation. In the period under review the investigations undertaken showed that any exports involved did not relate to controlled products under EU legislation and investigations revealed no evidence that necessitated prosecution.

6. Trade Sanctions introduced in 2011 and 2012

Chapter 5 of this report provides information on the operation of sanctions. Sanctions (sometimes referred to as restrictive measures) are instruments by which the EU seeks to bring about a change in policies or activities by other countries such as tackling

violations of international law or human rights, or addressing policies that do not respect the rule of law or democratic principles. Sanctions are used, as one of the many political instruments, to promote EU values and objectives.

The European Union introduced a number of new sanctions during 2011 and 2012, in response to issues of international concern, for example concerns about regional conflict and human rights. The Department of Jobs, Enterprise and Innovation is the competent authority for the trade aspects of EU sanctions. A number of new Regulations were made between 1 January 2011 and 31 December 2012 to provide for penalties in national law for breaches of EU sanctions. Details of these Regulations are set out in Annex 1 to this report.

CHAPTER 2 – Context for Irish Export Controls

1. Genesis and Context of Export Controls

As evidenced in Chapter 6 of this report, the range of countries to whom Irish companies export is extensive, emphasising the extraordinary reach of the Irish exporting sector. Globalisation is very important for open economies such as Ireland. The ease with which goods and services can move around the world benefits our exporters and will increasingly help our economic recovery and job creation as international growth resumes and accelerates. The Department's objective is to make access to both new and existing markets as easy as possible for our exporters. However, movements of military items, dual-use goods and international restrictions on other aspects of trade comprise one significant exception to this rule.

For export control purposes, military goods can be defined as conventional, nuclear, chemical and biological weapons and weapon systems, in addition to the components used in the manufacture of these. Dual-use goods refer to products which, though manufactured for civilian use, could also have a military application, e.g. high performance ICT technologies and equipment. Owing to the breadth of goods and technology concerned in the complex area of dual-use, and their *potential* military application, the international community's key concern in the development of controls on dual-use products has been to ensure that dual-use goods do not fall into the wrong hands, while balancing the need for legitimate exports of such goods to legitimate end-users for predominantly civilian purposes. Consequently, in dealing with licence applications for these products, particular attention is given to the proposed ultimate end-user and end-use.

Shaped by the influences of globalisation the environment in which our export control regime operates is constantly changing. It is therefore necessary to periodically review and update the legislation which forms the basis of our export controls to take account of developments, in particular international security concerns, EU legislative requirements and issues influenced by political changes and conflicts around the world.

Ireland's participation in five international export control regimes¹ ensures that we contribute to export control developments at an international level. However, these regimes operate at the political level and are not binding under international law. Therefore changes agreed at the various regimes have to be translated into EU law and national law, as required.

The EU and national legislation governing export control is set out below. The EU and national legislation covering export control adopted over the period of this report is set out in Chapter 1. Legislation relating to trade restrictions (sanctions) is dealt with separately in Chapter 5 of this report.

2. The EU Export Licensing Context

The EU's work on export controls is closely connected with the work of the international export control regimes, with the EU regularly updating its own list of controlled goods to reflect changes agreed in the international export control regimes. The inclusion of an item on the EU's control list does not automatically prohibit export of that item, rather it is a recognition that the item is sensitive and should therefore be subject to a rigorous licence application process whereby the end-user and the end-use is carefully assessed before a decision is made on a licence application.

Work on the development of EU policy in regard to military and dual-use goods, including the updating of the lists of controlled goods, is undertaken in Brussels by two Working Groups; COARM (Council Working Party Conventional Arms Exports) which deals with nuclear non-proliferation issues and DUWP (Dual-Use Working Party) which deals with all matters connected with the goods on the Dual Use lists and the procedures for licensing and controlling export of those goods from the EU. Through our involvement in these Council working groups, Ireland has influenced the development of the EU export control legislative and regulatory environment. A number of legal instruments are directly effective and require no transposition into

¹ For further details see appendix 2 of this Report.

national law (e.g. Council Regulations), whereas a number of other instruments (e.g. Directives) are not directly effective and must be given effect in Irish law by way of a national legal instrument.

Dual Use Goods

In relation to dual-use goods and technology, Council Regulation 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items², which is sometimes referred to as the recast Dual Use Regulation, is the primary piece of legislation covering the export of dual-use goods and technology from the European Union. It repealed Council Regulation (EC) No. 1334/2000 setting up a Community regime for the control of exports of dual use items and technology and came into effect on 27 August 2009, with the list of controlled items listed in Annex 1 to the Regulation updated by Regulation (EU) No 388/2012, as set out in Chapter 1.

In addition to consolidating the many prior amendments to the original Dual-Use Regulation (1334/2000), Regulation 428/2009 introduced new controls on brokering activities and goods transit. The key changes brought about by the Regulation are set out below:

- The Regulation introduces controls on brokering services in relation to dual-use items listed in Annex I (as amended by Regulation (EU) No 388/2012 of the European Parliament and the Council) where there is a possible Weapon of Mass Destruction (WMD) end use. The definition of “brokering services” in the Regulation is quite broad, being defined as the negotiation or arrangement of transactions for the purchase, sale or supply of dual-use items from a third country to any other third country, or the selling or buying of dual-use items that are located in third countries for their transfer to another third country. The definition provides that, for the purposes of Regulation 428/2009, the sole provision of ancillary services is excluded from this definition. Ancillary services are defined in the definition as transportation, financial services, insurance or re-insurance or general advertising or promotion.

² <http://www.djei.ie/trade/marketaccess/exports/EC428of2009.pdf>

- The Regulation provides that Member States may apply controls on the transit of non-community dual-use items listed in Annex I (as amended by Regulation (EU) No 388/2012 of the European Parliament and the Council) that are, or may be, intended for use in WMD. Ireland has provided for such controls in the Control of Exports (Dual Use Items) Order 2009 details of which are set out below.
- The Regulation also gives Member States the option to extend the new controls on brokering and transit to non-listed dual-use items, which may be used in WMD. Ireland provides for such controls in the Control of Exports (Dual Use Items) Order 2009.
- Regulation 428/2009 provides for even greater information sharing and cooperation among the Member States in order to achieve a consistent application of export controls throughout the EU.
- Annex I is updated by way of Council Regulation to bring it into line with the results of reviews carried out by the international export control regimes including Nuclear Suppliers Group (NSG), the Wassenaar Arrangement (WA), the Missile Technology Control Regime (MTCR) and the Australia Group (AG). As outlined in Chapter 1 efforts are underway to streamline the updating of the annex.

Annex I of that Regulation, which sets out the list of controlled products, is updated regularly by way of a Council Regulation to reflect changes agreed in the international export control regimes. The latest amendment to Annex I is provided in Regulation (EU) No 388/2012 of the European Parliament and of the Council. Council Regulations are directly effective in national law. However, national legislation is required to provide a legal basis for penalties for breach of the EU Regulation³.

³ See [Control of Exports \(Dual Use Items\) Order 2009 S.I. No 443 of 2009](#), as amended by the Control of Exports (Dual Use Items) [Amendment Order 2013 S.I. No 242 of 2013](#)

Military Goods

Under Article 346 TFEU⁴, any member state may “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”. However, Member States have sought, to some extent, to co-ordinate their export control policies in relation to military goods.

A milestone in the development of common EU guidelines on military exports was the adoption, in 1998, of the Code of Conduct on Arms Exports⁵. The Code specified common criteria against which applications for exports of military goods should be assessed. The Code was re-enforced in 2005, and, following a review of the Code, an updated and enhanced Code was adopted as a Common Position in December 2008⁶.

A key feature of the Code was the “Operative Provisions” which were in effect guidelines for how Member States should assess military export licence applications. Of particular note was Operative Provision 5 which referred to a “common list of military equipment” covered by the Code. This list, referred to as the Common Military List, is updated on a regular basis by the EU to bring it into line with changes agreed in the international export control regimes⁷. As the instrument by which the Common Military List is adopted by the Council is not directly effective, it has to be given effect in national law by way of secondary legislation⁸.

Directive 2009/43/EC on Intra-Community Transfers of Defence Related Products

Directive 2009/43/EC simplifying terms and conditions of transfers of defence-related products within the Community was adopted on 6 May 2009.

Its purpose is to simplify the rules and procedures applicable to the intra-Community transfer of defence related products “in order to ensure the proper functioning of the internal market”. Thus in essence, it can be described as extending the internal market to encompass defence-related products.

⁴ TFEU- Treaty on the Functioning of the EU, came into force on 1 December 2009 with the entry into force of the Lisbon Treaty.

⁵ [EU Code of Conduct on Arms Exports, European Union The Council 8675/2/98.](#)

⁶ [Common Position 2008/944/CFSP](#)

⁷ The latest Common Military List was adopted by the Council on 11 March 2013 OJ 2013/C 90/01.

⁸ [Control of Exports \(Goods and Technology\) Order 2012 S.I. No. 216 of 2012](#)

Prior to the adoption of Directive 2009/43/EC, each Member State applied its own rules to the transfer of defence-related products within Europe, resulting in considerable fragmentation of approaches and inefficiencies across the sector. While the Directive provides that Member States may still impose individual licences in cases where that State considers their essential security interests require protection, the Directive establishes new types of general and global licences.

The aim of the Directive is to encourage Member States to replace their existing system of individual licences with general licences for those intra-Community transfers where the risk of re-exportation to countries outside the EU is under stringent control, e.g. in the case of purchases by armed forces of other EU Member States and transfers to “certified” European defence companies of components in the context of industrial co-operation.

Global licences, grouping multiple transfers to several recipients by one supplier will cover most of the remaining intra-community transfers. Member States will remain free to determine the products eligible for the different types of licences, and to determine the terms and conditions of such licences.

As set out in Chapter 1, S.I. No. 535 of 2011 – European Communities (Intra-Community Transfers of Defence-Related Products) (Amendment) Regulations 2011 and S.I. No. 309 of 2012 – European Communities (Intra-Community Transfers of Defence-Related Products) (amendment) Regulations 2012 implemented these amendments in 2011 and 2012 respectively were introduced to reflect changes in the list of products controlled by the Regulation.

3. The Irish Export Licensing System

In legal terms, the Irish system reflects the distinction at EU level between military and dual-use goods:

- Control of military exports from Ireland is based exclusively on national export control legislation, updated from time to time through the enactment of secondary legislation that give effect in national law to the EU Common Military List;

- Control of dual-use goods is based on the EU regulation, transposed into Irish law via Ministerial Order.

In each case, and in common with international practice, there is an extensive and closely defined list of “controlled” goods, the export of which is regulated. These lists reflect those that have been agreed in international treaties and other arrangements, and at EU level.

In summary, in Ireland an export licence is required for:

- Export of military goods listed on the EU Common Military List⁹ irrespective of their destination, including exports to other EU Member States;
- Exports of dual-use goods listed in Annex I of the Dual-Use Regulation 388/2012¹⁰ outside the EU (in the case of some highly sensitive dual-use equipment listed in Annex IV of Regulation 428/2009 an export licence is required irrespective of whether the destination is within or outside the EU);
- Exports that may be subject to the EU “catch-all” clause.¹¹

In addition, an export/import licence is required in respect of certain goods listed in the Annex to Council Regulation Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment as amended by Commission Implementing Regulation (EU) No 1352/2011¹², the “Torture Regulation”. The Department has never received an import/export application under this Regulation.

⁹The EU Common Military List is given effect in national law by way of Ministerial Order; see annex to [Control of Exports \(Goods and Technology\) Order 2012 \(S.I. No. 309 of 2012 – European Communities \(Intra-Community Transfers of Defence-Related Products\) \(amendment\) Regulations 2012 for intra-EU transfers\)](#)

¹⁰ <http://www.djei.ie/trade/marketaccess/exports/EU388of2012.pdf>

¹¹ See Article 4 of [Dual-Use Regulation 428/2009](#). The “Catch-All” Clause refers to non-listed dual-use items which may be subject to control if the exporter is aware or has been advised by Department of Jobs, Enterprise and Innovation that these may be intended, in their entirety or in part, for use in connection with weapons of mass destruction, or the production of missiles capable of delivering such weapons, or as parts or components of military goods illegally exported, or if the purchasing country or country of final destination is subject to an arms embargo and the goods may be intended for a military end-use. In this case exporters are obliged to notify the licensing authority which will then decide whether or not a licence is required.

¹² For further details, see Chapter 5.

Control of Exports Act 2008

The primary piece of national legislation on export control is the Control of Exports Act 2008. Prior to the adoption of this Act, Ireland's legislation in the area of export control dated back to 1983. The 2008 Act was adopted to update the legislative base for our export control regime, in order to ensure we have a robust regime which is capable of meeting 21st century needs, in particular security concerns and issues posed by globalisation and human rights concerns, and which is in line with best international practice.

The 2008 Act provides a framework for the adoption of Ministerial orders controlling exports of certain classes of goods and technology, and for the control of certain classes of technical assistance and brokering activities. Details of orders made under the 2008 Act during 2011 and 2012 are set out in Chapter 1.

The 2008 Act contains strong enforcement provisions, and creates summary and indictable offences for breaches of the Act. It also significantly increased the penalties for breaches of the Act.

CHAPTER 3 – Administrative Arrangements

1. Administrative Arrangements

The export licensing system is administered by the Licensing Unit of the Department of Jobs, Enterprise and Innovation, working in close consultation with the Department of Foreign Affairs and Trade in relation to all applications for military licences, and certain sensitive applications for dual use licences.

2. OELAS

The vast majority of export licence applications are made through OELAS, the Online Export Licencing Application was developed in close consultation with exporters and has helped to streamline the application process, thus minimising the administrative burden on business.

The system allows exporters to electronically submit licence applications together with any necessary attachments, for example end-use certificates.

The online system is available to exporters who have registered with the Department and have been authorised to use the system. Secure transmission of company information is ensured by the use of usernames, passwords and PINs. While the Department encourages exporters, for reasons of administrative expediency for both parties, to use the online system, a paper based system is also available, which is helpful for once-off applications from individuals. During 2012 an important upgrade was implemented to reduce system downtime and improve the users' ability to input licence application data.

3. Procedure for Considering Export Licence Applications

Issuing an export licence is not a straightforward and automatic process. In the case of all applications for export licences, the licensing process centres on ensuring that the goods are destined for the country and end-user stated on the licence application, and that the stated end-user will use the goods for a legitimate purpose.

The level of rigor attaching to each application is commensurate with the degree of concern regarding the country of end-use and/or the activities of the end-user company. Each application passes through a number of risk based controls, which include whether the end-user has been denied an export licence by another Member State. Furthermore, where exports are destined to countries about which either the EU or Ireland would have concerns, for example about the risk of diversion, including to Weapons of Mass Destruction (WMD) related activities, consultations take place with the Department of Foreign Affairs and Trade as a matter of course.

While these checks may impose delays on commercial transactions that are frequently time sensitive, the Department considers these controls are essential to a well-managed licensing process. Nevertheless, the Department recognises that export control is an important part of business regulation and endeavour to make the process as efficient as possible having regard to the essential checks that an export control regime needs to implement.

The type of applications which Licensing Unit handles can be broken down into five categories:

- (i) Applications for individual dual-use export licences.
- (ii) Applications for global dual-use export licences.
- (iii) Applications for military export licences
- (iv) Applications for brokering licences.
- (v) Applications for consolidated dual-use export licences.

(i) Applications for Individual Dual-Use Export Licences

Most of Licensing Unit's work relates to consideration of individual export licences for dual-use goods and technology.

Dual-use products are those products which can have either a civil or a military application, depending on the end-user and the end-use.

This definition of dual-use goods, which refers to the *potential* military application of a good depending on the end-use to which it is put, has given rise to a misunderstanding about the nature of dual-use products.

There is an erroneous belief that such products are always connected with the production of military equipment or arms. This is not the case, as licensed dual-use exports are generally for components of ordinary, everyday consumer and industrial products, such as mobile phones, computers and capital equipment for manufacturers.

Taken to its extreme, the definition of dual-use products as those which can have a civil or a military application, depending on the end-user, could encompass virtually all goods and technology. Therefore, the international export control regimes have drawn up lists of what are considered to be the most sensitive goods and technology, i.e. those which should be subject to a licensing requirement which enables competent authorities to consider the proposed end-user and the proposed end-use in the context of regulating trade in the goods. These lists are reflected in Annex I of the EU Dual Use Regulation 388/2012¹³.

Annex I is reviewed and updated regularly to take account of changes agreed in international export control regimes (see appendix 2 on international export control regimes), with new goods and technologies being added to the list and certain goods and technologies being removed from the list to take account of technologies becoming obsolescent.

For exports to destinations *outside the EU*, an export licence is required for goods and technology listed in Annex I. For exports to destinations *within the EU*, an export licence is required only for the far more limited list of goods and technology set out in Annex IV of Regulation 428/2009, e.g. products related to the nuclear industry, advanced ICT equipment etc.,

The definition of “export” in the Dual-Use Regulation is very broad, covering both tangible and intangible exports, for example the transmission of software or

¹³ [Regulation \(EU\) No 388/2012 amends Annex 1 of Regulation 428/2009 with effect from 15th June 2012](#)

technology by way of e-mail, or making it available in electronic form. Given the size of the software and IT industry in Ireland it is not surprising that Licensing Unit is seeing a significant increase in the number of queries received in relation to intangible exports. Such queries reflect technological advances in areas such as cloud computing, the applicability of export controls to which is being considered by the Department in conjunction with our colleagues in licensing authorities in other Member States.

The Regulation provides that an export authorisation shall be granted by the competent authority “where the exporter is established”¹⁴.

Therefore the items for export do not have to be located in Ireland, and quite a number of the export licence applications made to the Department relate to goods located in another Member State. In such cases, the Department consults with that Member State prior to taking a decision on the licence application. Such consultations ensure effective coordination across Member States and helps develop a standard approach to export control. However, the ultimate decision in such cases rests with the Member State issuing the licence.

Individual export licences are issued in respect of shipment(s) of specified products from an exporter to a named end-user. The licences are valid for 12 months and up to a specified quantity and value of goods. Should the goods exported under the licence exceed the value and/or quantity specified on the licence, a new licence has to be applied for, even if the 12-month period has not expired.

Country of Destination

Individual dual-use licence applications can be broken into two categories:

- Exports which are not considered sensitive.
- Exports which are considered to be sensitive.

In cases of non-sensitive exports, the Department does not consult with the Department of Foreign Affairs and Trade. The key consideration in dealing with these applications is to establish whether there are any concerns regarding the end-user. This process may include consultation with other export control authorities,

¹⁴ [See Article 9\(2\) of Regulation 428/2009](#)

both within and outside of the EU. Through these consultations, the Department has access to a wide range of information on proposed end-users. This consultation process is a fundamental aspect of making a determination on the granting of a licence.

In cases of exports which are considered to be sensitive, the Department consults with the Department of Foreign Affairs and Trade, in addition to making the checks outlined above. That Department is able to draw on a wide range of resources which it can access when considering an export licence application. In addition, end-user certificates are always required as a further control measure in such sensitive cases.

End-User Certificate

An End-User Certificate (EUC) is a document printed on the headed paper of the company which will be the end-user of the goods to be exported, and signed by a senior official of the company¹⁵.

It certifies that the company will be the final recipient of the goods being exported, and includes an undertaking that the goods will not be used in connection with Weapons of Mass Destruction (WMD).

(ii) Applications for Global Dual-Use Export Licences

Global dual-use export licences provide exporters with more administrative flexibility than individual export licences. They can be used to cover shipments of goods and technology listed on the licence to the countries of destination listed on the licence.

These types of licences are a common feature of all export licensing regimes, and are useful for companies that have a high volume of relatively low risk exports to a certain group of countries. In such cases, multiple licence applications would impose a very serious administrative burden on the company. However, in the Irish context, global licences are only issued following a rigorous risk assessment of the proposed goods and countries concerned and are issued subject to strict conditions of use.

¹⁵ For further details see <http://www.djei.ie/publications/trade/2002/endusecertificate.htm>

These conditions include periodic reporting of shipments made under the licence and can include information such as –the date of the export, the name of the end-user, the quantity and value of the export and a description of the product exported, the details of which are analysed by Departmental officials. Global licences issued by the Department preclude any export to military or security related end users.

(iii) Applications for Military Export Licences.

A military export licence is required for all goods and technology listed in the Annex to the Control of Exports (Goods and Technology) Order 2012¹⁶, regardless of whether the destination is within or outside the EU. The European (Intra-Community Transfers of Defence Related Products (Amendment) Regulations 2012¹⁷ aim to facilitate the movement of defence-related products within the EU only, by simplifying the terms and conditions of transfers of the goods. Because of the importance we place on controlling these exports, every application for a military export licence involves consultation with the Department of Foreign Affairs and Trade.

The goods and technology in the Annex to that Order reflect the goods and technology on the EU Common Military List. The list includes military goods and technology, and components for such items. Items which are classified as “military goods” from an export control perspective which are exported from Ireland involve components rather than military equipment.

(iv) Applications for Brokering Licences

A brokering licence is required where brokering services are being provided. Dual use brokering services are licensed pursuant to the Dual Use Regulation where transactions are being negotiated or arranged for the purchase, sale or supply of dual-use items from a third country to another third country, or the selling or buying of

¹⁶ The [Control of Exports \(Goods and Technology\) Order 2012](#) replaced the Control of Exports (Goods and Technology) Order 2009

¹⁷ [Directive 2009/43/EC simplifying terms and conditions of transfers of defence-related products within the Community](#), as amended by [Commission Directive 2012/47/EU](#)

dual use items that are located in third countries for their transfer to another third country.

The Control of Exports (Brokering Activities) Order 2011 was made pursuant to Section 3 of the Control of Exports Act 2008. It came into effect on 1st May 2011. It imposes a licensing requirement in respect of brokering activities relating to goods and technology on the EU Common Military List as set out in the Schedule to the Order. Because of the nature of the goods being licenced, the Department exercises rigorous examination of brokering licence applications. These are treated in a similar manner to applications for military export licences and in all cases involve consultation with the Department of Foreign Affairs and Trade.

(v) Applications for Consolidated Export Licences

Consolidated export licences are a rare feature of the Irish export control regime. They are a type of hybrid global licence, which are considered only in a very limited number of cases. These are cases where the risk assessment indicates that a global licence does not meet the Department's regulatory requirements and an individual licence solution would pose an undue administrative burden on the company.

Consolidated licences are similar to global licences, in that they permit multiple exports to multiple listed countries. However, they differ from global licences in that the end-users are listed on the actual licence, thus the usual end-user checks are made prior to the licence being granted.

4. Denials

As set out above, a key part of the licensing process in relation to all types of export licence applications is to ensure, as far as possible, that the item to be exported will be used by the stated end-user for the stated end-use, and will not be used for an illicit purpose, e.g. for use in connection with WMD. The safeguards built into the licensing system facilitate robust checks and cross checks in this regard.

The Department may refuse an export licence, following consultation with the Department of Foreign Affairs and Trade and other EU and international export

licensing authorities as appropriate, and having taken into account the considerations set out below. Information on the denials made during 2011 and 2012 is set out in Chapter 1.

Considerations When Deciding Whether to Grant/Deny

The considerations to be taken into account when deciding whether or not to grant an individual or global dual use licence are set out in Article 12 of Regulation 428/2009. It provides that Member States shall take into account “all relevant considerations including”:

- (a) the obligations and commitments they have each accepted as members of the relevant international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties;
- (b) their obligations under sanctions imposed by a common position or a joint action adopted by the Council or by a decision of the Organisation for Security and Co-operation in Europe (OSCE) or by a binding resolution of the Security Council of the United Nations.
- (c) considerations of national foreign and security policy, including those covered by Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment;
- (d) considerations about intended end-use and the risk of diversion.

The Common Position referred to at point (c) above sets out common criteria against which applications for exports of military goods should be assessed. These are as follows:

Criterion One: Respect for the international obligations and commitments of Member States, in particular the sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.

Criterion Two: Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law.

Criterion Three: Internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.

Criterion Four: Preservation of regional peace, security and stability.

Criterion Five: 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.

Criterion Six: 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.

Criterion Seven: Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions.

Criterion Eight: Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient country, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments.

5. Enforcement

The Control of Exports Act 2008 Act provides for heavy penalties for breaches of the Act, and contains robust enforcement provisions.

The penalties are set out in Section 8 of the Act. That section provides for penalties on summary conviction of a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months, or both. It provides for penalties on conviction on indictment of a fine not exceeding €10 million or three times the value of the goods or technology concerned, or imprisonment for a term not exceeding 5 years, or both.

The extensive powers of “authorised officers” responsible for enforcement of the Act are set out in Section 7. For the purposes of the Act, an authorised officer means a

person appointed under Section 7(2), or an officer of Customs and Excise. The Department works closely with Customs officers on enforcement issues.

Analysis of quarterly global reports

As outlined at Section 3(ii) of this chapter, global licence holders must submit regular reports of shipments made under their global licence. These reports are analysed to ensure that the exporter is operating within the strict terms and conditions attached to their licence.

Monitoring trade flows of sensitive goods and to sensitive destinations

The Department monitors trade flows to embargoed and sanctioned countries in close co-operation with Revenue's Customs Service.

This co-operation with Customs is an essential aspect to the effective implementation of our export control regime and especially in connection with exports of controlled technology to sanctioned or embargoed countries.

6. International Import Certificates

The Department is responsible for issuing International Import Certificates to Irish companies wishing to import certain types of controlled goods.

International Import Certificates are usually requested from importers by the licensing authority of the country from which the goods to be imported into Ireland are being exported. These certificates provide an undertaking, given by an importer importing certain goods into Ireland, that they will not re-export them without the appropriate approval of the Department as the Irish Export Licensing authority.

- In 2011 the Department issued 5 international import certificates.
- In 2012 the Department issued no international import certificates.

Certificates were issued in 2011 to companies and organisations importing items for their own use or for use in the manufacture of other products.

CHAPTER 4 - Co-operation with Other Government Bodies

1. Introduction

Export control comprises a complex mix of cross-cutting policy elements, including trade, finance, security and human rights concerns. Therefore, effective administration of export control cannot be accomplished without a significant level of joined up activity between Government bodies in relation to both practical and policy issues.

Co-operation with a range of Government bodies is a key feature of the work of the Department in its capacity as the national export control authority. This co-operation finds expression in both informal, day-to-day contacts with other Government bodies, and through formal liaison meetings and committee arrangements.

2. Co-Operation with Other Government Bodies

Department of Foreign Affairs and Trade

The intersection of export control with international political, disarmament, human rights and security concerns, requires ongoing contacts, both formal and informal, with the Department of Foreign Affairs and Trade. Consequently, co-operation with that Department is a distinctive feature of our day-to-day operations.

In addition to the day-to-day contacts necessitated by consultation with the Disarmament and Non- Proliferation Section of the Department of Foreign Affairs and Trade in relation to individual export licence applications, more formal liaison meetings take place on a regular basis to share information and to review strategic issues affecting export control.

Such meetings are especially useful as colleagues in the Department of Foreign Affairs and Trade represent Ireland at EU and Council Working Groups and meetings of relevant international control regimes whose remit is relevant to the work of our export control activity, and at the UN.

Revenue's Customs Service

Revenue's Customs Service is responsible for protecting citizens by ensuring that goods crossing the frontiers of the State and the EU are properly controlled. This is achieved through the operation of controls at these frontiers with a view to detection, interception and seizure where necessary of illicit importations of prohibited and restricted goods. Revenue's Customs Service applies the provisions of Council Regulation No 2913/92 (Community Customs Code), Commission Regulation 2454/93 (Implementing Provisions of the Community Customs Code) and also Council Regulation 648/2005 as implemented by Commission Regulation 1875/2006 in respect of the import of goods from outside the Community and export of goods from the Community to third countries. The co-operation of Revenue's Customs Service is therefore key to the effective implementation of the export control regime and the vigilance of Customs officers is vital. Revenue's Automated Entry Processing System (AEP) is responsible for receiving, validating, processing and clearance of all Customs declarations in real time environment. All declarations at import and export are subject to risk assessment which allows Customs staff increased scope to target movement of high risk and suspicious transactions.

Revenue's Customs Service has two Mobile Container Scanners which are suitable for screening freight containers and vehicles and have an additional detection capability for nuclear and radioactive substances. The Department liaises regularly with representatives of Revenue's Customs Services regarding implementation of various export control legislation, e.g. Control of Export (Dual Use Order) 2009, UN Sanctions, Goods for capital punishment or torture (Council Regulation (EC) No 1236/2005), and with a view to further developing co-operation regarding the implementation of Ireland's export control regime.

The Department is a member of the Customs Consultative Committee, which is chaired by Revenue, details of which are set out in Section 3 of this Chapter.

Department of Finance

Co-operation with the Department of Finance takes place mainly in relation to the area of international and EU sanctions. As detailed in Chapter 4, there are trade and financial aspects to these sanctions. Therefore, when preparing national sanctions

legislation, the two Departments must work closely in order to ensure all aspects are covered in national law.

In addition to close co-ordination on preparation of legal measures, the two Departments co-operate on the practical aspects of sanctions legislation and how they impact on business. The Department of Jobs, Enterprise and Innovation receives many queries relating to proposed transactions which may be impacted by the various sanctions measures. While this Department advises on the trade aspects of the relevant sanctions, it is necessary to consult with the Department of Finance and the Central Bank of Ireland on the potential impact of financial sanctions.

This Department is a member of the Cross-Departmental International Sanctions Committee, details of which are set out in Section 3 of this chapter.

Science Foundation Ireland

Export controls are based on complex lists of goods and technology. A regular feature of the work of this Department is making determinations as to whether particular goods and technology fall within the technical parameters of these lists. To assist in this regard, the Department has regular contacts with Science Foundation Ireland (SFI), the national foundation for investment in scientific and engineering research. SFI invests in academic researchers and research teams who are most likely to generate new knowledge, leading edge technologies and competitive enterprises in the three broad areas of Biotechnology; Information & Communications Technology (ICT) and Sustainable Energy & Energy Efficient Technologies (Energy).

The input of SFI's in-house technical experts is an essential element in the Department's analysis of the detailed technical submissions made by companies. In addition to its significant body of in-house expertise, SFI has access to an extensive network of experts across a broad range of technical fields, should specific technical advice be necessary in exceptional circumstances.

The Department and SFI are very conscious that much of the information supplied in relation to a technical determination query is commercially sensitive, and may involve proprietary information. All information supplied by a company as part of any technical determination process is treated as confidential. In 2011 and 2012 SFI

assisted the Department in its risk assessment across a number of technologies that related to the exports of a range of companies. The majority of these related to Information and Communications Technology.

Irish Medicines Board

During 2012 the Department began working with the Irish Medicines Board to implement mutual notification mechanisms to assist in the control of exports of certain products covered by the Torture Regulations. More information on the Regulations is available in Chapter 5 of this report.

3. Committees

Cross-Departmental International Sanctions Committee

The Department of Finance chairs a Cross-Departmental International Sanctions Committee, of which this Department is a member. The committee reviews all aspects of Ireland's implementation of international sanctions, in order to ensure the legal and administrative framework which is required to effectively implement them is in place.

The committee comprises a range of Departments and State bodies such as the Department of Justice, Equality and Law Reform, Department of Foreign Affairs and Trade, the Revenue Commissioners and the Central Bank of Ireland.

Customs Consultative Committee

The Customs Consultative Committee is composed of representatives of trade organisations involved in the import/export business and Revenue. It provides a forum for trade to discuss new EU customs legislation and proposed procedures, including matters related to export controls. In addition it gives the member organisations an opportunity to promote the advancement of simplification and facilitation of procedures with customs and other matters of mutual interest. It meets on a quarterly basis.

Interdepartmental Committee on Non-Proliferation of Weapons of Mass

Destruction

The Interdepartmental Committee on Non-Proliferation of Weapons of Mass Destruction was established to oversee implementation of Ireland's international obligations in the area of preventing the proliferation of nuclear, chemical and biological weapons.

These obligations derive from Ireland's membership of the UN and the EU as well as the Biological and Toxin Weapon Convention, the Chemical Weapons Convention and the Nuclear non-Proliferation Treaty. It also oversees Ireland's undertakings under the various export control regimes to which it is party. The Department of Jobs, Enterprise and Innovation is an active member of the Committee which is chaired by the Department of Foreign Affairs and Trade. The Departments of Defence, Environment, Community and Local Government, Health, Justice and Equality, as well as the Defence Forces, Garda Síochána, Revenue Commissioners (Customs and Excise), the Radiological Protection Institute of Ireland, the Health and Safety Authority, the Health and Safety Executive, and Science Foundation Ireland are represented on the Committee.

Interdepartmental Committee on Conventional Weapons

The Interdepartmental Committee on Conventional Weapons brings together various Departments and Agencies that are responsible for the implementation of international treaties, conventions and other undertakings that govern trade in conventional weapons. The Committee has a similar membership to the Interdepartmental Committee on Non-Proliferation of Weapons of Mass Destruction as outlined above. This Department is an active member of the Committee.

CHAPTER 5 – Trade Restrictions (Sanctions)

1. Policy Context

Sanctions (sometimes referred to as restrictive measures) are instruments which seek to bring about a change in policies or activities such as violations of international law or human rights, or policies that do not respect the rule of law or democratic principles.

The trade related sanctions measures introduced during 2011 and 2012 and detailed at Appendix 1 of this report are made under the European Communities Act 1972 as amended. It is considered appropriate to report on these because of their close connection with export control matters which are the focus of this report.

At EU level, sanctions are used to achieve the objectives of the Common Foreign and Security Policy (CFSP). These are set out in Article 11 of the Treaty on European Union, and include:

- to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter;
- to develop and consolidate democracy and the rule of law and respect for human rights and fundamental freedoms.
- to strengthen the security of the Union in all ways;
- to preserve peace and strengthen international security;

In recent years the EU has imposed a wide range of sanctions, either on an autonomous EU basis or to implement binding Resolutions of the UN Security Council. These include trade sanctions (general or specific trade sanctions, arms embargoes), financial sanctions (freezing of funds or economic resources, prohibition on financial transactions, restrictions on export credits or investment) and diplomatic sanctions (e.g. suspension of cooperation with a third country.)

In Ireland, the Central Bank of Ireland is the competent authority for the financial aspects of EU sanctions, the Department of Jobs, Enterprise and Innovation is the competent authority for the trade aspects of EU sanctions, and the Department of

Foreign Affairs and Trade is the competent authority for the diplomatic aspects of EU sanctions.

2. Trade Sanctions

Export and/or Import Bans

Trade Sanctions are increasingly used by the international community as a means of exerting influence on various issues of international concern. Ireland fully subscribes to its international obligations in this regard. The Department plays a central role in implementing the various UN and EU measures which have been adopted concerning trade sanctions.

They generally consist of export and/or, in certain cases, import bans on certain goods to/from a certain region. It is important to note that trade sanctions are targeted at specific goods (e.g. timber or diamonds, or nuclear related goods and technology) and thus they are not a blanket ban on trade with a specific region.

Trade sanctions are normally accompanied by bans on the provision of specific services related to the prohibited goods (e.g. brokering, financial services, and technical assistance).

The Torture Regulation

The Torture Regulation¹⁸ provides for a ban or an authorisation requirement on trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. There has never been an authorisation application received or issued by the Department in respect of any of the products listed in the Torture Regulations.

Arms Embargoes

Arms embargoes are a specific type of trade sanction. They are designed to stop the flow of arms and military equipment to areas where there is conflict, or to regimes

¹⁸ [\(EC\) No 1236/2005](#) concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment as amended by Commission Implementing Regulation [\(EU\) No 1352/2011](#).

which are likely to use them for internal repression or aggression against a foreign country. Arms embargo generally comprise the following:

- a prohibition on the sale, supply, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts,
- a prohibition on the provision of financing and financial assistance and technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types.

Arms embargoes are usually accompanied by a related ban on the provision of financing, and financial and technical assistance in relation to the prohibited goods.

3. Interdepartmental Co-operation on Implementation of Sanctions

The EU enacts trade sanctions by way of regulations. While these legal instruments are directly effective in national law, it is necessary to adopt national legislation to provide for penalties for breach of these sanctions. This is done by way of statutory instrument¹⁹.

While the Department has responsibility for the implementation of EU trade sanctions, the related financial aspects of those sanctions (e.g. the prohibition on providing financing for transactions involving prohibited goods) come within the remit of the Department of Finance. Thus there is very close co-operation between the two Departments when a new EU sanctions regulation is adopted, in order to ensure penalties are put in place for all aspects of the EU sanction regulations. The Interdepartmental Sanctions Committee provides a structured forum for this co-operation, and its work in this regard underpins the ongoing day-to-day contacts between both Departments on sanctions matters.

Close contact is also maintained with Revenue's Customs Service regarding the implementation at import and export points of EU trade sanctions legislation and

¹⁹ See appendix 1 of this report which sets out the SIs made by the Minister for Jobs, Enterprise and Innovation between 1 January 2011 to 31 December 2012 to give effect in national law to EU trade sanctions.

Revenue's Custom Service is amongst those bodies represented on the Interdepartmental Sanctions Committee.

4. Other Types of Sanctions

In addition to trade sanctions (including arms embargoes) and the related financial sanctions, there are a number of other types of sanctions which businesses need to be aware of:

- ***Targeted financial sanctions***

The EU imposes targeted financial sanctions, which, rather than relating to transactions involving prohibited goods or services, are designed to target specific persons, groups and entities.

Such sanctions comprise both an obligation to freeze all funds and economic resources of the targeted persons and entities and a prohibition on making funds or economic resources available directly or indirectly to or for the benefit of these persons and entities. Implementing these sanctions is the responsibility of the Department of Finance and / or the Central Bank.

- ***Targeted sanctions to combat terrorism***

The EU also applies sanctions against individuals and groups designated in the so-called 'EU terrorism list', and implements UN sanctions against Al Qaida and the Taliban.

5. Extraterritorial Reach of Certain International Sanctions

The US has a range of national sanctions in place, some of which have extraterritorial reach under US law. It is important that companies are aware of the extraterritorial nature of these sanctions. However, as the body of US sanctions legislation is vast and complex, the Department is not in a position to advise regarding the impact of this body of US legislation on a proposed business transaction under US law.

Companies are advised to contact the US authorities directly to establish what impact, if any, this legislation may have on their proposed transaction.

6. Implications for Business

The complex network of international, European and national sanctions provide a backdrop against which international transactions take place in the global marketplace. The steep increase in sanctions-related queries which the Department deals with on a daily basis is evidence of this fact.

It is vital that businesses consider all possible implications of sanctions prior to entering into contracts. For example, a company may engage in legitimate trade with a legitimate end-user, and find their payment frozen as the financial institution dealing with the payment may be the subject of a targeted sanction, thus other financial institutions do not want to handle the payment.

7. Trade Sanctions introduced in 2011 and 2012

A number of new Regulations were made between 1 January 2011 and 31 December 2012 to provide for penalties in national law for breaches of EU sanctions. These new or revised sanctions were introduced in response to issues of international concern.

Details of the Regulations made between 1 January 2011 and 31 December 2012 can be found in Appendix 1.

CHAPTER 6 – Export Statistics Military and Dual Use

Overview Table

<i>Type of Licence</i>	2012		2011		2010	
	No.	Licence Value €000	No.	Licence Value €000	No.	Licence Value €000
Individual Dual Use	704	228,859	343	1,148,050	715	1,279,076
Global Dual Use	23	2,253,149	40	6,072,609	66	209,314
Military	129	47,118	72	27,093	98	24,356
Total	856	2,529,126	455	7,247,751	879	1,512,746

Individual Dual Use Licences by Category Table

Category*	2012		2011		2010	
	No.	Licence Value €000	No.	Licence Value €000	No.	Licence Value €000
3	38	83,974	59	65,484	105	274,844
4	36	1	24	13	287	43
5	540	137,175	224	1,080,129	290	988,604
Catch-all	67	4,885	2	34	2	653
0,1,2,6,7,8 & 9	23	2,824	34	2,389	31	14,932
Totals	704	228,859	343	1,148,050	715	1,279,076

Global Licences by Category Table

Category*	2012		2011		2010	
	No.	Licence Value €000	No.	Licence Value €000	No.	Licence Value €000
3 & 4	2	1,792,288	8	1,996,702	42	65,296
5	21	460,861	32	4,075,906	24	144,018
Totals	23	2,253,149	40	6,072,609	66	209,314

*The categories correspond to those set out in Annex I to Dual-Use Regulation 428/2009 as amended by Regulation 388/2012:

Category 0: Nuclear materials, facilities and equipment

Category 1: Special materials and related equipment

Category 2: Materials Processing

Category 3: Electronics

Category 4: Computers

Category 5: Telecommunications and “information security”

Category 6: Sensors and lasers

Category 7: Navigation and avionics

Category 8: Marine

Category 9: Aerospace and Propulsion

Dual Use Exports By Category, Destination, Number and Licenced Value²⁰ 2011

Category	Destination	2011 No. of Licences Issued	2011 Value of Licences €0 - €100,000	2011 Value of Licences Above €100,000
0	India	1	X	
2	Canada	1	X	
	China	5		X
	India	7	X	
	Iran	1	X	
	Israel	2	X	
	Japan	1	X	
	Qatar	1	X	
	Russia	2	X	
	Saudi Arabia	2		X
	Republic of Korea	3		X
	Sweden	1	X	
	Thailand	2	X	
	United Arab Emirates	1	X	
	United States	3	X	
3	Armenia	1	X	
	China	18		X
	Croatia	2		X
	Hong Kong	2	X	
	India	1	X	
	Ireland*	1	X	
	Israel	1		X
	Malaysia	6		X
	Philippines	3		X
	Russia	5		X
	Singapore	5		X

²⁰ The statistics in this table represent the value listed on the export licence, and not the actual value of the goods/technology exported under the licence.

Category	Destination	2011 Number of Licences Issued	2011 Value of Licences €0 - €100,000	2011 Value of Licences Above €100,000	
3	Republic of Korea	6		X	
	Taiwan	7		X	
	United States	1	X		
4	Belarus	1	X		
	China	2	X		
	Ethiopia	1	X		
	Haiti	1	X		
	India	3	X		
	Iran	1	X		
	Kazakhstan	1	X		
	Libya	1	X		
	Liechtenstein	2	X		
	Philippines	1	X		
	Qatar	1	X		
	Russia	3	X		
	Serbia	1	X		
	South Africa	1	X		
	Ukraine	1	X		
	United Arab Emirates	1	X		
	Uzbekistan	1	X		
	Zimbabwe	1	X		
	5	Albania	1	X	
		Andorra	1	X	
Angola		1		X	
Argentina		1	X		
Bahrain		1		X	
Bosnia & Herzegovina		1	X		
Brazil		7		X	
Cambodia		1	X		
Chad		1		X	
China		13		X	
Chile		4		X	
Columbia		3		X	
Croatia		5		X	
Ecuador		1	X		
Egypt		9		X	
Ghana		2		X	
Hong Kong		1	X		
India		5		X	
Indonesia		5		X	

Category	Destination	2011 Number of Licences Issued	2011 Value of Licences €0 - €100,000	2011 Value of Licences Above €100,000
5	Iran	1	X	
	Iraq	2		X
	Ireland*	5		X
	Israel	9		X
	Kenya	4		X
	Kuwait	2	X	
	Lebanon	3	X	
	Malawi	1		X
	Malaysia	5		X
	Maldives	3	X	
	Mauritius	5	X	
	Mexico	8		X
	Nepal	1	X	
	Niger	1	X	
	Nigeria	6		X
	Oman	2	X	
	Pakistan	3	X	
	Palestinian Territories	1	X	
	Panama	2		X
	Philippines	1	X	
	Qatar	1	X	
	Republic of Korea	3	X	X
	Russia	4		X
	Rwanda	1	X	
	Saipan	1		X
	Saudi Arabia	8		X
	Serbia	1	X	
	Sierra Leone	1		X
	Singapore	6		X
	South Africa	10		X
	Taiwan	10	X	
	Tanzania	1		X
	Thailand	4		X
	Tunisia	1	X	
	Turkey	16		X
	Uganda	1		X
	Ukraine	1	X	
	United Arab Emirates	15		X
	United States	2	X	
	Uruguay	2	X	
Venezuela	2	X		
Vietnam	2	X		
Zambia	1		X	
Zimbabwe	2	X		

Category	Destination	2011 Number of Licences Issued	2011 Value of Licences €0 - €100,000	2011 Value of Licences Above €100,000
6	Costa Rica	1		X
Catch-All	United States	2	X	
Total		343		

Dual Use Exports By Category, Destination, Number and Licenced Value 2012

Category	Destination	2012 No. of Licences Issued	2012 Value of Licences €0 - €100,000	2012 Value of Licences Above €100,000
2	China	2		X
	Croatia	1	X	
	Egypt	1	X	
	India	2	X	
	Israel	1	X	
	Malaysia	1	X	
	Republic of Korea	2	X	
	Russia	4	X	
	Saudi Arabia	2		X
	Turkey	1	X	
	United Arab Emirates	2	X	
	3	China	17	
India		1		X
Macau		1		X
Malaysia		5		X
Philippines		5		X
Republic of Korea		2		X
Singapore		5		X
Taiwan		2		X
4	Afghanistan	1	X	
	Armenia	1	X	
	Belarus	1	X	
	Costa Rica	1	X	
	Cote D'Ivoire	3	X	
	DR of the Congo	1	X	
	Hong Kong	1	X	
	India	1	X	
	Israel	1	X	
	Kyrgyzstan	1	X	
	Mexico	1	X	
	Nigeria	1	X	
	Palestinian	1	X	
	Philippines	1	X	
	Russia	2	X	
	Rwanda	1	X	
	Saudi Arabia	2	X	
	Singapore	3	X	
	Tanzania	1	X	
	Togo	1	X	
Turkey	3	X		

Category	Destination	2012 Number of Licences Issued	2012 Value of Licences €0 - €100,000	2012 Value of Licences Above €100,000
4	United Arab Emirates	2	X	
	Uzbekistan	4	X	
	Yemen	1	X	
5	Afghanistan	1	X	
	Albania	2	X	
	Algeria	3	X	
	Angola	5		X
	Argentina	2	X	
	Armenia	1	X	
	Azerbaijan	8		X
	Bahrain	4		X
	Bangladesh	1	X	
	Benin	1	X	
	Bosnia & Herzegovina	1		X
	Botswana	10		X
	Brazil	12		X
	Burkina Faso	1	X	
	Burundi	1	X	
	Cameroon	1	X	
	Chile	4		X
	China	52		X
	Columbia	3	X	
	Costa Rica	1	X	
	Cote D'Ivoire	3		X
	Croatia	2	X	
	Curacao	1		X
	DR of the Congo	1	X	
	East Timor	1	X	
	Ecuador	2		X
	Egypt	4	X	
	Ethiopia	4	X	
	French Polynesia	2	X	
	Georgia	2	X	
	Ghana	3	X	
	Gibraltar	1	X	
	Guernsey	1	X	
Honduras	1		X	
Hong Kong	4		X	
Iceland	1	X		
India	13		X	
Indonesia	8		X	

Category	Destination	2012 Number of Licences Issued	2012	
			Value of Licences €0 - €100,000	2012 Value of Licences Above €100,000
	Iraq	3	X	
	Ireland*	1		X
	Israel	18		X
	Jamaica	1	X	
	Jordan	2	X	
	Kazakhstan	4		X
	Kenya	5	X	
	Kosovo	1	X	
5	Kuwait	6		X
	Kyrgyzstan	1	X	
	Lebanon	5		X
	Liberia	2	X	
	Libya	4		X
	Liechtenstein	1	X	
	Macau	3	X	
	Macedonia	10	X	
	Madagascar	1	X	
	Malaysia	7		X
	Maldives	4		X
	Mauritius	5	X	
	Mayotte	1	X	
	Mexico	8		X
	Moldova	1	X	
	Morocco	2	X	
	Mozambique	10		X
	Namibia	7		X
	New Caledonia	6	X	
	Nicaragua	1	X	
	Nigeria	7		X
	Norway	1	X	
	Oman	10		X
	Pakistan	2		X
	Palestinian Territories	5	X	
	Philippines	2		X
	Qatar	9		X
	Republic of Korea	14		X
	Russia	9		X
	Rwanda	3	X	
	Saipan	1		X
	San Marino	4	X	
	Saudi Arabia	24		X
	Senegal	4	X	
	Serbia	1	X	
	Seychelles	1	X	

Category	Destination	2012 Number of Licences Issued	2012 Value of Licences €0 - €100,000	2012 Value of Licences Above €100,000
	Singapore	9		X
	South Africa	49		X
	Sudan	1	X	
	Tadjikistan	1	X	
	Taiwan	7		X
	Tanzania	2	X	
	Thailand	4	X	
	Tunisia	3	X	
	Turkey	20		X
	Turkmenistan	5		X
	Uganda	4		X
	United Arab Emirates	26		X
	Uruguay	3		X
	Uzbekistan	2		X
	Vatican City	3	X	
	Venezuela	2	X	
	Vietnam	1	X	
	Yemen	3		X
	Zambia	2	X	
	Zimbabwe	8		X
6	Singapore	1		X
7	China	1	X	
	Singapore	1	X	
	Taiwan	1	X	
Catch-All	China	41		X
	India	23		X
	Malaysia	1	X	
	Singapore	1	X	
	United States	1	X	
Total		704		

*Exports in respect of which Ireland is the destination relate to temporary exports, where items are sent to another destination for a trade exhibition or to be repaired, and then returned to Ireland. While all requisite export control checks are made, the final destination for the export is recorded as Ireland.

<u>Aggregated Individual Dual Use Licences by Destination 2011</u>			
End-User Destination	No	Aggregated Licensed Value €0 - €100,000	Aggregated Licensed Value Above €100,000
Albania	1	X	
Andorra	1	X	
Angola	1		X
Argentina	1	X	
Armenia	1	X	
Bahrain	1		X
Belarus	1	X	
Bosnia & Herzegovina	1	X	
Brazil	7		X
Cambodia	1	X	
Canada	1	X	
Chad	1		X
Chile	4		X
China	38		X
Colombia	3		X
Costa Rica	1		X
Croatia	7		X
Ecuador	1	X	
Egypt	9		X
Ethiopia	1	X	
Ghana	2		X
Haiti	1	X	
Hong Kong	3	X	
India	17		X
Indonesia	5		X
Iran	3	X	
Iraq	2		X
Ireland*	6		X
Israel	12		X
Japan	1	X	
Kazakhstan	1	X	
Kenya	4		X
Kuwait	2	X	
Lebanon	3	X	
Libya	1	X	
Liechtenstein	2	X	
Malawi	1		X
Malaysia	11		X
Maldives	3	X	
Mauritius	5	X	
Mexico	8		X
Nepal	1	X	

Niger	1	X	
Nigeria	6		X
Oman	2	X	
Pakistan	3	X	
Palestinian Territories	1	X	
Panama	2		X
Philippines	5		X
Qatar	3	X	
Russia	14		X
Rwanda	1	X	
Saipan	1		X
Saudi Arabia	10		X
Serbia	2	X	
Sierra Leone	1		X
Singapore	11		X
South Africa	11		X
South Korea/Republic of Korea	12		X
Sweden	1	X	
Taiwan	17		X
Tanzania	1		X
Thailand	6		X
Tunisia	1	X	
Turkey	16		X
Uganda	1		X
Ukraine	2	X	
United Arab Emirates	17		X
United States	8	X	
Uruguay	2	X	
Uzbekistan	1	X	
Venezuela	2	X	
Vietnam	2	X	
Zambia	1		X
Zimbabwe	3	X	
Total	343		

Exports in respect of which Ireland is the destination relate to temporary exports, where items are sent to another destination for a trade exhibition or to be repaired, and then returned to Ireland. While all requisite export control checks are made, the final destination for the export is recorded as Ireland.

<u>Aggregated Individual Dual Use Licences by Destination 2012</u>			
End-User Destination	No	Aggregated Licensed Value €0 - €100,000	Aggregated Licensed Value Above €100,000
Afghanistan	2	X	
Albania	2	X	
Algeria	3	X	
Angola	5		X
Argentina	2	X	
Armenia	2	X	
Azerbaijan	8		X
Bahrain	4		X
Bangladesh	1	X	
Belarus	1	X	
Benin	1	X	
Bosnia & Herzegovina	1		X
Botswana	10		X
Brazil	12		X
Burkina Faso	1	X	
Burundi	1	X	
Cameroon	1	X	
Chile	4		X
China	113		X
Colombia	3	X	
Costa Rica	2	X	
Cote D'Ivoire	6		X
Croatia	3	X	
Curacao	1		X
DR of Congo	2	X	
East Timor	1		X
Ecuador	2		X
Egypt	5	X	
Ethiopia	4	X	
French Polynesia	2	X	
Georgia	2	X	
Ghana	3	X	
Gibraltar	1	X	
Guernsey	1	X	
Honduras	1		X
Hong Kong	5		X
Iceland	1	X	
India	40		X
Indonesia	8		X
Iraq	3	X	
Ireland*	1		X
Israel	20		X

Jamaica	1	X	
Jordan	2	X	
Kazakhstan	4		X
Kenya	5	X	
Kosovo	1	X	
Kuwait	6		X
Kyrgyzstan	2	X	
Lebanon	5		X
Liberia	2	X	
Libya	4		X
Liechtenstein	1	X	
Macau	4		X
Macedonia	10	X	
Madagascar	1	X	
Malaysia	14		X
Maldives	4		X
Mauritius	5	X	
Mayotte	1	X	
Mexico	9		X
Moldova	1	X	
Morocco	2	X	
Mozambique	10		X
Namibia	7		X
New Caledonia	6	X	
Nicaragua	1	X	
Nigeria	8		X
Norway	1	X	
Oman	10		X
Pakistan	2		X
Palestinian Territories	6	X	
Philippines	8		X
Qatar	9		X
Republic of Korea	18		X
Russia	15		X
Rwanda	4	X	
Saipan	1		X
San Marino	4	X	
Saudi Arabia	28		X
Senegal	4	X	
Serbia	1	X	
Seychelles	1	X	
Singapore	20		X
South Africa	49		X
Sudan	1	X	
Tadjikistan	1	X	
Taiwan	10		X
Tanzania	3	X	

Thailand	4	X	
Togo	1	X	
Tunisia	3	X	
Turkey	24		X
Turkmenistan	5		X
Uganda	4		X
United Arab Emirates	30		X
United States	1	X	
Uruguay	3		X
Uzbekistan	6		X
Vatican City State	3	X	
Venezuela	2	X	
Vietnam	1	X	
Yemen	4		X
Zambia	2	X	
Zimbabwe	8		X

Military Exports By Category, Destination, Number
and Licenced Value²¹ 2011

Code	Destination	2011 Number of Licences Issued	2011 Value of Licences €
ML1	Australia	7	6,500
	New Zealand	2	520
	Paraguay	2	560
	United States	12	16,317
ML4	Russia	1	2,722
	United Kingdom (incl Northern Irl)	6	202,677
ML5	Australia	2	386,695
	Finland	1	750,000
	Germany	5	5,909,050
	Kuwait	1	98,534
	Netherlands	2	2,000,000
	Saudi Arabia	3	6,918,673
	Singapore	1	22,788
	South Korea / Republic of Korea	1	129,400
	United Arab Emirates	1	285,500
	United States	7	2,476,379
	ML6	Australia	1
Canada		1	3,521
Israel		2	6,118,875
Oman		2	16,573
Sweden		1	7,341
ML8	United Kingdom	1	25,000
ML10	Pakistan	1	0
ML 21	Germany	1	567,034
	United Kingdom	1	33,036
ML 22	Germany	2	950,219
	Israel	1	19,000
	Netherlands	1	2,500
	South Korea / Republic of Korea	1	2,250
	United Kingdom	1	10,944
	United States	1	100,000
		72	27,092,561

²¹ The statistics in this table represent the value listed on the export licence, and not the actual value of the goods/technology exported under the licence.

Military Exports By Category, Destination, Number
and Licenced Value²² 2012

Code	Destination	2012 Number of Licences Issued	2012 Value of Licences €	
ML1	Australia	2	2,200	
	Namibia	1	2,000	
	New Caledonia	1	1,550	
	Pakistan	1	500	
	South Africa	1	400	
	United States	30	33,406	
ML4	France	1	1,300	
	United Kingdom (incl Northern Irl)	15	484,400	
ML5	Australia	7	2,605,996	
	Canada	1	2,293,104	
	Denmark	1	311,650	
	Finland	2	789,100	
	France	1	1,227,986	
	Germany	8	8,337,920	
	Ireland*	1	262,175	
	Italy	1	1,805,000	
	Kuwait	3	2,510,592	
	Netherlands	2	1,500,000	
	New Zealand	2	2,410,637	
	Republic of Korea	2	108,080	
	Saudi Arabia	9	10,533,852	
	Singapore	1	33,511	
	Sweden	3	1,264,032	
	United Kingdom	2	323,428	
	United States	13	7,400,997	
	ML6	Germany	1	11,845
		Israel	1	39,525
Republic of Korea		1	13,383	
ML10	India	1	29,347	
	United Kingdom	1	7,249	
	United States	1	231,008	
ML13	Kosovo	1	100,058	
ML15	Kenya	1	2,899	
ML 21	Croatia	2	65,000	
	Germany	1	763,766	
ML 22	Egypt	1	14,000	
	Germany	2	1,245,650	
	Luxembourg	1	100,000	
	United Kingdom	1	50,000	
	United States	2	200,000	
		129	47,117,546	

²² The statistics in this table represent the value listed on the export licence, and not the actual value of the goods/technology exported under the licence.

Aggregated Military Licences by Destination 2011

End-User Destination	Number of Licences	Licence Value €
Australia	10	423,147
Canada	1	3,521
Finland	1	750,000
Germany	8	7,426,304
Israel	3	6,137,875
Kuwait	1	98,534
Netherlands	3	2,002,500
New Zealand	2	520
United Kingdom (incl Northern Ireland)	9	271,657
Oman	2	16,573
Pakistan	1	0
Paraguay	2	560
Russia	1	2,722
Saudi Arabia	3	6,918,673
Singapore	1	22,788
South Korea/Republic of Korea	2	131,650
Sweden	1	7,341
United Arab Emirates	1	285,500
United States	20	2,592,696
Total	72	27,092,561

Aggregated Military Licences by Destination 2012

End-User Destination	Number of Licences	Licence Value €
Australia	9	2,608,196
Canada	1	2,293,104
Croatia	2	65,000
Denmark	1	311,650
Egypt	1	14,000
Finland	2	789,100
France	2	1,229,286
Germany	12	10,359,181
India	1	29,347
Ireland*	1	262,175
Israel	1	39,525
Italy	1	1,805,000
Kenya	1	2,899
Kosovo	1	100,058
Kuwait	3	2,510,592
Luxembourg	1	100,000
Namibia	1	2,000
Netherlands	2	1,500,000
New Caledonia	1	1,550
New Zealand	2	2,410,637
Pakistan	1	500
Republic of Korea	3	121,463
Saudi Arabia	9	10,533,852
Singapore	1	33,511
South Africa	1	400
Sweden	3	1,264,032
United Kingdom (incl Northern Ireland)	19	865,077
United States	46	7,865,411
Total	129	47,117,546

*Exports in respect of which Ireland is the destination relate to temporary exports, where items are sent to another destination for a trade exhibition or to be repaired, and then returned to Ireland. While all requisite export control checks are made, the final destination for the export is recorded as Ireland.

Summary of ML (Military List) Codes

ML1	Smooth bore weapons with a calibre of less than 20 mm, other arms and automatic weapons with a calibre of 12.7 mm (calibre 0.50 inches) or less and accessories, and specially designed components therefor:
ML2	Smooth-bore weapons with a calibre of 20 mm or more, other weapons or armament with a calibre greater than 12.7 mm (calibre 0.50 inches), projectors and accessories, and specially designed components therefor:
ML3	Ammunition and fuse setting devices, and specially designed components therefor:
ML4	Bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories, and specially designed components therefor:
ML5	Fire control, and related alerting and warning equipment, and related systems, test and alignment and countermeasure equipment, specially designed for military use, and specially designed components and accessories therefor:
ML6	Ground vehicles and components,
ML7	Chemical or biological toxic agents, "riot control agents", radioactive materials, related equipment, components and materials,
ML8	"Energetic materials", and related substances,
ML9	Vessels of war (surface or underwater), special naval equipment, accessories, components and other surface vessels,
ML10	"Aircraft", "lighter-than-air vehicles", unmanned aerial vehicles, aero-engines and "aircraft" equipment, related equipment and components, specially designed or modified for military use
ML11	Electronic equipment, not specified elsewhere on the EU Common Military List, and specially designed components therefor:
ML12	High velocity kinetic energy weapon systems and related equipment, and specially designed components therefor:
ML13	Armoured or protective equipment, constructions and components
ML14	'Specialised equipment for military training' or for simulating military scenarios, simulators specially designed for training in the use of any firearm or weapon specified by ML1 or ML2, and specially designed components and accessories therefor.
ML15	Imaging or countermeasure equipment, specially designed for military use, and specially designed components and accessories therefor:
ML16	Forgings, castings and other unfinished products specially designed for items specified by ML1 to ML4, ML6, ML9, ML10, ML12 or ML19.
ML17	Miscellaneous equipment, materials and 'libraries', and specially designed components therefor:
ML18	Production equipment and components
ML19	Directed energy weapon systems (DEW), related or countermeasure equipment and test models, and specially designed components therefor:
ML20	Cryogenic and "superconductive" equipment, and specially designed components and accessories therefor:
ML21	"Software",
ML22	"Technology"

APPENDIX 1 - Trade Sanctions introduced in 2011 and 2012

- **S.I. No. 45 of 2011 – European Union (Restrictive Measures) (Iran) Regulations 2011**

Council Regulation (EU) No. 961/2010 provides for, inter alia, additional restrictions on trade in dual-use goods and technology, as well as equipment which might be used for internal repression, and restrictions on trade in key equipment and technology for the Iranian oil and gas industry. The Council Regulation also prohibits the provision of technical assistance or brokering services in relation to certain goods and technology. Statutory Instrument S.I. No. 45 of 2011 implements penalties for infringements of the provisions of Council Regulation (EU) No. 961/2010 into Irish law.

- **S.I. No. 71 of 2011 – European Communities (Restrictive Measures Against Certain Persons and Entities Associated with Usama Bin Laden, the Al-Qaida Network and the Taliban) (Amendment) Regulations 2011**

The effect of this Regulation is to amend the Statutory Instrument that provided for penalties for infringements of Council Regulation (EC) No. 881 of 2002 which introduced measures against certain persons and entities associated with Usama bin Laden, the Al-Qaida Network and the Taliban. The lists of persons and entities against which there are restrictive measures are updated regularly and this Regulation applies the penalties with regard to these lists.

- **S.I. No. 74 of 2011 – European Union (Restrictive Measures) (Iran) (Amendment) Regulations 2011**

This Regulation amends a date reference provided in S.I. No. 45 of 2011 – European Union (Restrictive Measures) (Iran) Regulations 2011

- **S.I. No. 117 of 2011 - European Union (Restrictive Measures) (Libya) Regulations 2011**

Council Regulation (EU) No. 204/2011 of 2nd March 2011 concerning restrictive measures in view of the situation in Libya provides for prohibitions on the sale, transfer, export and import of equipment which might be used for internal repression. It also introduced prohibitions on the provision of technical assistance or brokering services related to equipment which might be used for internal repression.

Statutory Instrument S.I. No. 117 of 2011 implements penalties for infringements of the provisions of Council Regulation (EU) No. 204/2011 into Irish law.

- **S.I. No. 237 of 2011 - European Union (Restrictive Measures) (Eritrea) Regulations 2011**

Council Regulation 667/2010 of 26th July 2010 provides for restrictive measures on the provision of technical assistance related to military activities and on the provision, manufacture, maintenance and use of material included in the EU Common Military List. Statutory Instrument S.I. No. 237 of 2011 implements penalties for infringements of the provisions of Council Regulation (EU) No. 667/2010 into Irish law.

- **S.I. No. 412 of 2011 - European Union (Restrictive Measures) (Libya) (Amendment) Regulations 2011**

Council Regulation 296/2011 of 25th March 2011 amended the existing restrictive measures against Libya to include restrictive measures in respect of the provision of technical assistance and brokering services related to the provision of armed mercenary personnel in Libya. Statutory Instrument S.I. No. 412 of 2011 implements these additional restrictive measures into Irish law.

- **S.I. No. 314 of 2011 - European Union (Restrictive Measures) (Syria) Regulations 2011**

Council Regulation (EU) No. 442/2011 of 9th May 2011 provides for restrictive measures on the provision of technical assistance and brokering services related to equipment which might be used for internal repression. S.I. No. 314 of 2011 implements penalties for infringements of the provisions of Council Regulation (EU) No. 442/2010 into Irish law.

- **S.I. No. 415 of 2011 – European Communities (Restrictive Measures Against Certain Persons and Entities Associated with Usama Bin Laden, the Al-Qaida Network and the Taliban) (Amendment) (No. 2) Regulations 2011**

The effect of this Regulation is to amend the Statutory Instrument that provided for penalties for infringements of Council Regulation (EC) No. 881 of 2002 which introduced measures against certain persons and entities associated with Usama bin

Laden, the Al-Qaida Network and the Taliban. The lists of persons and entities against which there are restrictive measures are updated regularly and this Regulation applies the penalties with regard to these lists.

- **S.I. No. 413 of 2011 - European Union (Restrictive Measures) (Democratic Republic of Congo) (Amendment) Regulations 2011**

Council Regulation (EC) No. 666/2008 of 15th July 2008 amended Council Regulation (EC) No. 889/2005 which introduced certain restrictive measures in respect of the Democratic Republic of Congo. S.I. 413 of 2011 gives effect to Council Regulation (EC) No. 666/2008. The amendments modify the scope of the restrictive measures on certain technical assistance.

- **S.I. No. 727 of 2011 - European Union (Restrictive Measures) (Democratic People's Republic of Korea) (Amendment) Regulations 2011**

S.I. 254 of 2007 provides for penalties for infringements of certain restrictive measures in respect of the Democratic People's Republic of Korea (North Korea). The measures include a ban on the export of goods and technology and the provision of technical assistance and finance, which could contribute to North Korea's nuclear-related, weapons of mass destruction-related or ballistic missile-related programmes. It also bans the export of luxury goods to, and the procurement of goods and technology from, North Korea. S.I. No. 727 of 2011 takes account of Council Regulation (EU) No. 1283/2009 and Council Regulation (EU) No. 567/2010 concerning additional restrictive measures in relation to North Korea, including a ban on the supply, sale or transfer of certain items, materials, equipment and goods and technology.

- **S.I. No. 726 of 2011 - European Union (Restrictive Measures) (Syria) (Amendment) Regulations 2011**

Council Regulation (EU) No. 878/2011 of 2nd September 2011 amends Council Regulation (EC) No. 442/2011, concerning restrictive measures in view of the situation in Syria. S.I. No. 726 of 2011 takes account of these amendment which include a prohibition on the purchase, import or transportation from Syria of crude oil and petroleum products, and the freezing of funds and economic resources to further persons and entities who benefit from or support the regime.

- **S.I. No. 725 of 2011 - European Union (Restrictive Measures) (Afghanistan)**
Regulations 2011

Council Regulation (EU) No. 753/2011 of 1st August 2011 imposed restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan. S.I. No. 725 of 2011 provides for restrictive measures on the direct and indirect supply, sale or transfer of weapons, military equipment and related assistance and services to individuals, groups, undertakings and entities listed in the Council Regulation.

- **S.I. No. 153 of 2012 - European Union (Restrictive Measures) (Syria)**
Regulations 2012

Council Regulation (EU) No.36/2012 relates to trade restrictions in view of the situation in Syria. These restrictions include an embargo on equipment which might be used for internal repression, an embargo on telecommunications monitoring and interception equipment, an embargo on key equipment and technology for the oil and natural gas industries, an embargo on equipment used in the construction of new power plants for electricity production and a ban on the provision of technical assistance and brokering services related to certain embargoed goods and technology. The effect of these Regulations is to provide for penalties for infringements of the provisions of Council Regulation (EU) No.36/2012. These Regulations revoke the European Union (Restrictive Measures) (Syria) Regulations 2011 (S.I. No. 314 of 2011) and the European Union (Restrictive Measures) (Syria) (Amendment) Regulations 2011 (S.I. No. 726 of 2011).

- **S.I. No. 165 of 2012 - European Union (Restrictive Measures) (Belarus)**
Regulations 2012

Council Regulation (EU) No.588/2011 of 20th June 2011 amends Regulation (EC) No. 765/2006 concerning certain restrictive measures against President Lukashenko and certain official of Belarus. Council Regulation (EU) No.588/2011 imposes an arms embargo arms and a ban on equipment which might be used for internal repression. S.I. No. 165 of 2012 implements penalties for infringements of the provisions of the Council Regulation into Irish law.

- **S.I. No. 338 of 2012 - European Union (Restrictive Measures Against Iran) Regulations 2012**

Council Regulation (EU) No. 267/2012 of 23rd March 2012 as amended by Council Implementing Regulation (EU) No. 350/2012 of 23rd April 2012 provides for restrictive measures which comprise, in particular, additional restrictions on trade in dual-use goods and technology, as well as on key equipment and technology which could be used in the petrochemical industry, a ban on the import of Iranian crude oil, petroleum products and petrochemical products, as well as a prohibition of investment in the petrochemical industry. Trade in gold, precious metals and diamonds with the Government of Iran, as well as the delivery of newly printed banknotes and coinage to or for the benefit of the Central Bank of Iran, is also prohibited. There are also restrictive measures with regard to brokering services and the provision of technical assistance. S.I. No. 338 of 2012 implements penalties for infringements of the provisions of the Council Regulation into Irish law.

APPENDIX 2 – International Export Control Regimes

1. Introduction

At present, Ireland participates in five international export control regimes which operate as political arrangements and are not binding under international law. Members of each regime commit to control the exports of certain listed goods.

Members of each regime share information at regular meetings, and discuss issues arising from their experiences of implementing controls. However, as the regimes operate as political arrangements, it is for each member state to implement the export controls related to the regimes under their individual domestic legislative frameworks.

Ireland is represented at these regimes by the Department of Foreign Affairs and Trade. However the Department of Foreign Affairs and Trade works very closely with this Department in regard to the work of the regimes, and this Department attends international regime meetings of particular relevance to Licensing Unit as part of the Irish delegation which is headed by the Department of Foreign Affairs and Trade.

Ireland is a member of the following international export control regimes:

- Australia Group
- Missile Technology Control Group
- Nuclear Suppliers Group
- Wassenaar Arrangement
- Zangger Committee

Details of these regimes are set out below.

2. The Australia Group

The Australia Group, formed in 1985, is an informal arrangement of countries whose key objective is to prevent the proliferation of chemical and biological weapons by using licensing measures, which operate uniformly across the participating countries. However, even more importantly, participants in the Australia Group still adhere strictly to the Geneva Protocol (1925), the Biological and Toxic Weapons Convention (BWC) and the Chemical Weapons Convention (CWC).

Australia Group meetings are held annually, in plenary session, in Paris and are chaired by Australia. Intersessional meetings may also be held, if deemed necessary.

While recognising the importance of technical co-operation in the relevant industries, the Australia Group is also strongly committed to ensuring that legitimate trade is maintained, in the light of the operation of non-proliferation export controls. Furthermore, the Group is committed to improving existing measures to control transfers of intangible technology.

Membership of Australia Group:

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, European Union, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Republic of Turkey, Ukraine, United Kingdom and the United States.

3. Missile Technology Control Regime

The Missile Technology Control Regime (MTCR), founded in 1982, is a voluntary, informal association of countries who have the common objective of preventing the proliferation of unmanned delivery systems for Weapons of Mass Destruction. In practice, this is achieved through the application of shared guidelines and a shared list of items to be controlled. However, it is incumbent upon individual partners to implement both the MTCR guidelines and annex in line with their own domestic legislation.

In 2012, MTCR had 34 members and four “unilateral adherents”; Macedonia (2003), Slovakia (1994), Romania (1992) and Israel (1992).

Membership of the MTCR:

Argentina (1993)	Finland (1991)	Netherlands (1990)	South Africa (1995)
Australia (1990)	France (1987)	New Zealand	Spain (1990)
Austria (1991)	Germany (1987)	(1991)	Sweden (1991)
Belgium (1990)	Greece (1992)	Norway (1990)	Switzerland (1992)
Bulgaria (2004)	Hungary (1993)	Poland (1998)	Turkey (1997)
Brazil (1995)	Iceland (1993)	Portugal (1992)	Ukraine (1998)
Canada (1987)	Ireland (1992)	Republic of Korea	United Kingdom (1987)
Czech Republic	Italy (1987)	(2001)	United States of America
(1998)	Japan (1987)	Russian Federation	(1987)
Denmark (1990)	Luxembourg	(1995)	
	(1990)		

4. Nuclear Suppliers Group

The Nuclear Suppliers Group (NSG) was established in 1975. The 46 members have volunteered to coordinate their export controls of transfers of civilian nuclear material and nuclear-related equipment and technology to non-nuclear-weapon States. The NSG aims to prevent nuclear exports for commercial and civilian purposes from being used in the production of nuclear weapons.

Participants review the Guidelines from time to time, in order to add new items which pose proliferation risks or to eliminate goods which no longer need to be controlled. All Group decisions are made by consensus. The Plenary is held once a year, to discuss the NSG’s operation.

Participating Governments of NSG:

Argentina, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, China, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Iceland, Italy, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and the United States. The European Commission and the Chair of the Zangger Committee (see point 6 below) participate as observers.

5. The Wassenaar Arrangement

In 1949 the COCOM (Co-ordinating Committee on Multilateral Export Controls) regime was established to assist in efforts to control exports to former Warsaw Pact members of goods and technology of strategic concern. It was an informal non-treaty organisation which comprised 17 member countries. Ireland, while not a member of COCOM, was a co-operating country together with Austria, Finland, New Zealand, Sweden and Switzerland.

In subsequent years, the members of COCOM considered there was a need to broaden the focus of the regime's work in order to deal with risks to regional and international security and stability related to military and dual-use goods. In addition, technological and scientific advances together with geopolitical developments had shifted the focus of export control policy to preventing the proliferation of nuclear, chemical and biological weapons, the protection of human rights and the prevention of terrorism.

In November 1993 representatives of the COCOM member countries agreed to end the COCOM regime and establish a new multilateral export control arrangement, temporarily known as the "New Forum". This decision was confirmed at a further meeting in March 1994, which was held in Wassenaar in the Netherlands. The new multilateral export control regime is now known as the Wassenaar Arrangement, and former COCOM co-operating countries, including Ireland, became members of the new arrangement.

The Wassenaar Arrangement was established in 1996 with the aim of improving both regional and international stability and security, by promoting transparency and greater responsibility in transfers of conventional weapons and dual-use goods and technologies.

The Wassenaar Arrangement's activities are based on the principle that trade in the items listed in its "control list" should be permitted, but must be controlled. Member States of the Wassenaar Arrangement (WA) review its control lists on an annual basis. The WA focuses on promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies.

It is the responsibility of Participating States (through their national policies) to ensure that transfers of conventional weapons and dual-use goods and technologies do not contribute to the development or improvement of military capacities which undermine the aims of the Wassenaar Arrangement, and are not diverted to support such capacities. Regular meetings of representatives of Participating States are held in Vienna, which is the location of the Secretariat to the Wassenaar Arrangement.

The Wassenaar Arrangement operates two control lists, the Munitions List, which covers conventional military equipment, and the List of Dual-Use Goods and Technologies, which includes nine categories of dual-use goods and two annexes of sensitive items and very sensitive items respectively.

The Wassenaar Plenary, which is the governing body of the Arrangement, is composed of representatives of all Participating States and normally meets once a year. The Plenary establishes subsidiary bodies for the preparation of recommendations for plenary decisions. The key subsidiary bodies are: the General Working Group (GWG) which deals with policy-related matters and the Experts' Group (EG) which addresses issues concerning the lists of controlled items. A Licensing and Enforcement Officers Meeting (LEOM) is held annually under the auspices of the GWG.

WA Participating States:

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States.

6. Zangger Committee

The Zangger Committee was established in 1974, and deals with export control matters which are covered under the Nuclear Non-Proliferation Treaty (NPT).

The Zangger Committee has a clear definition of material or equipment which is particularly designed for the production, use or reprocessing of special fissionable material. Under the NPT, such materials and equipment, as well as source material and special fissionable material can only be exported to a non-nuclear state if the fissionable material conforms to IAEA's safeguards. The Zangger Committee's Control List specifies the equipment and material in question.

The Zangger Committee normally meets annually, with meetings hosted by the Austrian Foreign Ministry.

Membership:

The Zangger Committee has 38 members: Argentina, Australia, Austria, Belarus, Belgium, Bulgaria, Canada, China, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Kazakhstan, Republic of Korea, Luxemburg, The Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States of America. The European Commission is a permanent observer.