

Summary: Intervention & Options

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| Department /Agency: BIS | Title: Impact Assessment of Export Control(Amendment) Order 2010 | |
| Stage: Final | Version: 1 | Date: January 2010 |
| Related Publications: None | | |

Available to view or download at:

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

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What is the problem under consideration? Why is government intervention necessary?

To make an amendment Order to control the export of electro-statically powered equipment for detecting explosives to Iraq and Afghanistan which have recently been identified as falling outside the current scope of strategic export controls. Government intervention is necessary to find an effective and proportionate way to guard against the risk of undesirable export and related activities. This follows concerns raised by recent media coverage on the effectiveness of the product and a number of enquiries received on current licensability status of the product.

What are the policy objectives and the intended effects?

The legislation aims to maintain a responsible, effective, open and transparent strategic export control regime, which the Government is committed to, and where gaps in those controls are identified to put forward options to ensure the gaps are closed. The intended effect of the measure is to maintain an effective system of control that does not have an adverse impact on the security of UK and friendly forces.

What policy options have been considered? Please justify any preferred option.

Discussions between UK Government Departments with an interest in this area have taken place, including FCO, MOD, HMRC and BIS. The options for action are:
1 - do nothing; 2 - non-legislative; 3 - legislative.

Options 1 and 2 are both unacceptable as neither provide adequate safeguards for prevention of supply. Option 3 is the government's preferred option. Because this is an emergency measure - it is the option being taken forward. This is the only feasible option and an amending Order under the Export Control Act 2002 is the most efficient and timely way of achieving the Government's objective. It would provide the legal framework for assessing and potentially prohibiting the supply/export of goods.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy on export controls is undertaken as part of a regular review measure.

Ministerial Sign-off For final stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option: 3 - legislative

Description: Additional controls on specific detection equipment

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|--|--|------------------------|---|
| COSTS | ANNUAL COSTS | | Description and scale of key monetised costs by 'main affected groups' Because the measure affects a relatively small amount of equipment exported, and because the equipment may vary in price, it is difficult to quantify costs. Minimal costs are most likely to be subsumed into existing export control mechanisms. |
| | One-off (Transition) | Yrs | |
| | £ not quantified | 10 | |
| | Average Annual Cost (excluding one-off) | | |
| £ not quantified | | Total Cost (PV) | £ not quantified |
| Other key non-monetised costs by 'main affected groups' | | | |

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| BENEFITS | ANNUAL BENEFITS | | Description and scale of key monetised benefits by 'main affected groups' Because the measure affects a relatively small amount of equipment exported, it is difficult to quantify the benefits. |
| | One-off | Yrs | |
| | £ not quantified | 10 | |
| | Average Annual Benefit (excluding one-off) | | |
| £ not quantified | | Total Benefit (PV) | £ not quantified |
| Other key non-monetised benefits by 'main affected groups' These additional controls are expected to restrict UK involvement in the export of goods, which would have an adverse effect on the security of UK and friendly forces | | | |

Key Assumptions/Sensitivities/Risks

There will be effective compliance and enforcement measures in place once the new control is implemented.

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|-------------------------|-------------------------|--|--|
| Price Base Year 2009 | Time Period Years 10 | Net Benefit Range (NPV) £ not quantified | NET BENEFIT (NPV Best estimate) £ not quantified |
|-------------------------|-------------------------|--|--|

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| What is the geographic coverage of the policy/option? | UK exporters |
| On what date will the policy be implemented? | January 2010 |
| Which organisation(s) will enforce the policy? | HMRC |
| What is the total annual cost of enforcement for these organisations? | £ |
| Does enforcement comply with Hampton principles? | Yes |
| Will implementation go beyond minimum EU requirements? | No |
| What is the value of the proposed offsetting measure per year? | £ N/A |
| What is the value of changes in greenhouse gas emissions? | £ N/A |
| Will the proposal have a significant impact on competition? | No |
| Annual cost (£-£) per organisation (excluding one-off) | Micro N/Q Small N/Q Medium N/Q Large N/Q |
| Are any of these organisations exempt? | No No N/A N/A |

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|---|-----|-----------------------|-----|
| Impact on Admin Burdens Baseline (2005 Prices) | | (Increase - Decrease) | |
| Increase of | £ 0 | Decrease of | £ 0 |
| | | Net Impact | £ 0 |

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Issue

To use powers provided under the Export Control Act 2002 to impose controls on goods which may have an adverse effect on the security of members of the armed forces of the UK, any Member States or other friendly State.

To make an amendment Order to control the export of electro-statically powered equipment for detecting explosives to Iraq and Afghanistan which have recently been identified as falling outside the current scope of strategic export controls.

Government intervention is necessary to find an effective and proportionate way to guard against the risk of undesirable export and related activities. This follows concerns raised by recent media coverage on the effectiveness of the product and a number of enquiries received on current licensability status of the product.

This is a targeted measure intended only to apply in respect of exports to Iraq and Afghanistan where the security of UK forces and those of friendly States will be adversely affected.

It is expected that the new measures will only affect a minimum number of companies primarily those involved with the security equipment sector. Government Departments with an active interest in Export Controls and enforcement, e.g., BIS, FCO, MOD and HMRC will also be affected.

Objectives

The legislation aims to maintain a responsible, effective, open and transparent strategic export control regime, which the Government is committed to, and where gaps in those controls are identified to put forward options to ensure any gaps are closed. The intended effect of the measure is to maintain an effective system of control that does not have an adverse impact on the security of UK and friendly forces.

Options Identified and Analysis

Discussion between UK Government Department's including FCO, HMRC, MOD and BIS have taken place. There are 3 potential options available;

- Option 1: Do nothing and maintain current level of controls; This would allow for the continued unrestricted supply of the product overseas.
- Option 2: Non Legislative route; This could include a voluntary agreement between the Government and suppliers not to provide the product where it would adversely effect the security of UK forces and those of friendly States but would have no legal force.
- Option 3: Legislative route. This is the Government's preferred option. It requires an amending Order under the Export Control Act 2002, which is the most efficient and timely way of achieving the Government's objective.

Neither options 1 or 2 would achieve the desired objective of legally preventing the supply of goods identified as a potential security concern to both UK and friendly forces.

Option 3 is the Government's preferred option. Because this is an emergency measure, it is the option being taken forward. It is the only feasible option, which would provide the legal framework for assessing and potentially prohibiting the supply/export of goods.

Costs and Benefits

It has not been possible to quantify the costs and benefits because the measure affects a relatively small range of equipment. Any minimal costs are likely to be subsumed into existing export control mechanisms.

Risks

Failure to undertake Option 3 - to provide a legal basis for prohibition of the export of the goods identified, would have an adverse impact on the security of UK Forces operating overseas and those of friendly States.

Option 1 would simply allow unrestricted supply to continue and have an adverse effect of the security of UK forces and those of friendly States.

Option 2 although it could limit the supply of such goods this would be on a voluntary basis and could not be legally enforced.

Enforcement

Any enforcement requirements needed as a result of the newly introduced controls will be subsumed into existing enforcement of strategic export controls measures already undertaken by HMRC (Her Majesty's Revenue and Customs).

Costs are expected to be minimal.

Implementation

When Option 3 is adopted, implementation would be through an amendment Order made under the provisions of the Export Control Act 2002.

The amendment Order giving details of the new controls will be available on line via the Office of Public Sector Information (OPSI) website at: <http://www.opsi.gov.uk>.

Monitoring and Evaluation

Introduction of new controls will necessitate the need to apply for authority to export the listed items. Such licences are recorded and details published in the Government's Strategic annual reports and can viewed at : <https://www.exportcontroldb.berr.gov.uk/eng/fox>

The policy on export controls is subject to regular review and changes made as required.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

| Type of testing undertaken | <i>Results in Evidence Base?</i> | <i>Results annexed?</i> |
|----------------------------|----------------------------------|-------------------------|
| Competition Assessment | Yes | No |
| Small Firms Impact Test | Yes | No |
| Legal Aid | Yes | No |
| Sustainable Development | Yes | No |
| Carbon Assessment | Yes | No |
| Other Environment | Yes | No |
| Health Impact Assessment | Yes | No |
| Race Equality | Yes | No |
| Disability Equality | Yes | No |
| Gender Equality | Yes | No |
| Human Rights | Yes | No |
| Rural Proofing | Yes | No |

Annexes

SPECIFIC IMPACT TESTS

Competition Assessment

The equipment identified is very specialised and the changes will have no significant impact on the majority of UK exporters. The controls use a generic description and will maintain a level playing field for any businesses exporting these types of, or similar products.

Small Firms Impact Test

The changes are intended to apply to an identified type of product and would potentially apply to business of any size.

The UK Government's priority is to control unscrupulous transactions and activities regardless of whether it is a large company or a Small to Medium Sized Enterprise (SME) carrying them out and so legislation must include small companies. However, any special needs of small businesses will be addressed as appropriate through guidance and awareness activities, so that they are aware of any changes to requirements introduced by this measure.

Equalities Duties Assessment - Race, Disability, Gender

There will be no significant impact upon minority groups in terms of numbers affected or the seriousness of the impact as a result of this policy.

Human Rights Impact Test

There will be no significant impact on the human rights of companies as a result of this policy.

The following Specific Impact Tests have been considered: Sustainable Development, Carbon Assessment, Other Environment, Legal Aid, Health Impact Assessment and Rural Proofing Specific Impact Tests. After a screening of each Impact Test, it has been deemed that no significant impact is anticipated in any case.