

Submission to the UN Special Rapporteur on Torture on the UK's regulatory framework governing the export of law enforcement equipment and weapons

This submission outlines the UK's regulatory framework on the export of law enforcement equipment and weapons. It was prepared by Action on Armed Violence, Amnesty UK, the Omega Research Foundation, Saferworld, Shadow World Investigations, and the United Nations Association-UK—NGOs that all work, in some capacity, on UK strategic export controls. We have used the questionnaire published by the Special Rapporteur on Torture (SRT) as the basis for this submission; however, it does not cover UK import controls or domestic manufacture, trade, or possession. We welcome the decision by the SRT to dedicate her next report to the General Assembly to the subject of the production and trade of law enforcement equipment. We agree that it is imperative to collate and analyse the existing national regulatory frameworks that exist to help gain an understanding of the scale, nature, geographical scope of the production and trade in this equipment.

Relevant Legislation

The UK's Export Control regime governing the export of torture equipment is complex and often opaque, with several pieces of overlapping legislation. Whilst technically many of the items under discussion within the scope of this process are subject to UK export controls, in reality Government ministers have fairly wide leeway to make political decisions on exports that undermine the principle of a robust human rights risk-based system of controls. The Export Control Act 2002¹, the Export Control Order 2008 as amended², the Export Control (Amendment) (EU Exit) Regulations 2020³, and the Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020⁴ (Torture Goods Regulation) provide the legal and administrative framework for the UK's strategic export controls and regulation of the export trade in both inherently abusive equipment and law enforcement equipment and weapons misused for torture and other ill-treatment. Details on the UK licencing requirements, the different types of licences and penalties for trade without a licence are detailed in the Export Control Order 2008 as amended.

The Torture Goods Regulation is based upon Regulation (EC) No 2019/125 of 16 January 2019 *concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment* (EU Anti-Torture Regulation).⁵ This was last updated in 2019, whilst the UK was still party to EU regulations.

Following the UK withdrawal from the EU, aspects of the EU Anti-Torture Regulation were incorporated into UK law. Like the EU Anti-Torture Regulation, the Torture Goods Regulation prohibits the trade in certain equipment that has no use other than torture or other ill-treatment (except for public display in a museum). However, by leaving the multilateral framework put in place over two decades at the EU level, the UK's control systems in place over these categories of goods was weakened in a number of key areas, specifically those relating to intergovernmental information exchange and cooperation, transparency and reporting, and future developments and enhancement of the EU control regime in these areas, as the UK is no longer a member. In addition, on incorporation into UK law, the mechanism for amending the regulation was removed. The EU Anti-Torture Regulation specifies a review of the implementation of the Regulation, which may

¹ Export Control Act 2002. Available at: <https://www.legislation.gov.uk/ukpga/2002/28/contents>

² Export Control Order 2008 as amended. Available at: <https://www.legislation.gov.uk/uksi/2008/3231/contents>

³ Export Control (Amendment) (EU Exit) Regulations 2020. Available at: <https://www.legislation.gov.uk/uksi/2020/1502/contents/made>

⁴ Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020. Available at: <https://www.legislation.gov.uk/uksi/2020/1479/contents/made>

⁵ Ordinary handcuffs are defined as ““ordinary handcuffs” means handcuffs which have an overall dimension including chain, measured from the outer edge of one cuff to the outer edge of the other cuff, between 150 and 240mm when locked and have not been modified to cause physical pain or suffering”

include proposals for amendment, must take place every five years. The Torture Goods Regulation has no such requirement.⁶ This is an early indication that UK and EU controls may increasingly diverge over time in the absence of a global framework.

The Torture Goods Regulation specifies that the promotion, brokering, transportation, technical assistance, training, marketing, or display or offer for sale at a trade fair of goods designated as having no use other than torture and ill-treatment and listed in Annex II is prohibited. Annex II includes the following items:⁷

- Bar fetters, weighted leg restraints, restraints designed to be fixed to the wall, floor or ceiling, thumb cuffs, gang chains containing bar fetters or weighted leg restraints
- Restraint chairs, shackle boards and shackle beds fitted with shackles or other devices to restrain a human being (note: this does not include chairs, boards or beds fitted with straps), cage beds
- Body-worn electric shock devices
- Spiked batons, spiked shields
- Whips comprising multiple lashes or thongs, such as knouts or cats o’ nine tails; whips having one or more lashes or thongs fitted with barbs, hooks, spikes, metal wire or similar objects enhancing the impact of the lash

The Export Control Order 2008 as amended⁸ prohibits a person resident in the UK, or a UK person (anywhere), from being involved in the trade or promotion at trade fairs of some additional law enforcement equipment, defined as Category A goods under the Order, specifically:

- Direct-contact electric-shock devices included but not limited to electric-shock batons, electric shock shields, stun guns and electric-shock dart-guns) and specially designed or modified components.⁹
- Leg-irons, gang-chains, shackles and individual cuffs or shackle bracelets except those that are ‘ordinary handcuffs’¹⁰
- Restraint chairs unless designed for disabled persons;
- Shackle boards

The UK also prohibits the trade in blinding lasers under its implementation of Protocol IV of the Convention on Certain Conventional Weapons.¹¹

In addition to prohibiting the trade in certain equipment that has no use other than torture or other ill-treatment the Torture Goods Regulation control the trade in law enforcement equipment and

⁶ Article 32 of the EU Torture Regulation outlining the updating procedure was removed when the Anti-Torture Regulation was incorporated into UK law. See UK Strategic Export Licensing Criteria, 8 December 2021. Available at: <https://questions-statements.parliament.uk/written-statements/detail/2021-12-08/hcws449>

⁷ Annex II, List of capital punishment and torture goods, UK Strategic Export Control Lists

The consolidated list of strategic military and dual-use items that require export authorisation from Great Britain and Northern Ireland, Department of International Trade, June 2021. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052560/uk-strategic-export-control-lists.pdf

⁸ Export Control Order 2008 as amended.

⁹ There are some exemptions to the prohibition on transfers of electric-shock weapons, namely the export of Taser® projectiles to British Overseas Territories and Crown Dependencies where such items are used in law enforcement operations in those territories.

¹⁰ Export Control Order 2008 as amended.

¹¹ United Nations, Protocol on Blinding Laser Weapons (Protocol IV to the 1980 Convention), 13 October 1995. Available at https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.43_CCW%20P-IV.pdf

weapons misused for torture and other ill-treatment, requiring an export licence for the export of the following equipment listed in Annex III of the Torture Goods Regulation:¹²

- PAVA and OC including mixtures containing at least 0.3 % by weight of PAVA or OC and a solvent
- Portable, fixed or mounted delivery mechanisms for chemical irritants
- Leg cuffs, spit hoods, spit guards

The UK does not prohibit the export of all of the equipment listed in section 1.1 of the SRT's questionnaire. The trade in multi-barrel kinetic impact launchers and ammunition containing multiple projectiles is not prohibited, although these weapons are included in the UK Strategic Export Control Lists so do require export authorisation. We agree with the SRT that the trade in these weapons should be prohibited as their use carries the risk of excessive injuries.¹³

In addition, acoustic hailing devices,¹⁴ shields used in crowd control,¹⁵ kinetic impact projectiles,¹⁶ certain chemical irritants used in crowd control,¹⁷ and associated launchers¹⁸ are included in the UK Strategic Export Control Lists and subject to export controls. However, the UK does not control the export of ordinary handcuffs or batons despite evidence showing that handcuffs¹⁹ and police batons²⁰ are used to carry out and facilitate acts of torture and other ill-treatment around the world.

For the export, trade (brokering) and transit/transshipment of other goods included in the SRTs questionnaire and listed in the UKs Strategic Export Control Lists the UK assesses licence applications against the UK Strategic Export Licensing Criteria.²¹ Criterion 2 assesses the human rights situation of the recipient state, including torture and other ill-treatment. The UK Government states that it makes licensing decisions "taking into account all relevant information available at the time the licence application is assessed."²²

Furthermore, under the Torture Goods Regulation, the UK "competent authorities" are obliged to conduct a human rights risk assessment for those law enforcement weapons and equipment whose export and transit is regulated by (and that are listed in Annex III of) that instrument. The Regulation states that "the competent authority shall not grant any authorisation when there are reasonable grounds to believe that goods listed in Annex III might be used for torture or other cruel, inhuman or degrading treatment or punishment, including judicial corporal punishment, by a law enforcement authority or any natural or legal person any country or territory outside of the United Kingdom". Furthermore, in making these assessments the UK will consult: "(a) available international court

¹² Annex III, List of capital punishment and torture goods, UK Strategic Export Control Lists: The consolidated list of strategic military and dual-use items that require export authorisation from Great Britain and Northern Ireland, Department of International Trade, June 2021. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052560/uk-strategic-export-control-lists.pdf

¹³ See Amnesty International and Omega Research Foundation. 2023. "My Eye Exploded": the Global Abuse of Kinetic Impact Projectiles, March 2023. Available at: <https://omegaresearchfoundation.org/publications/my-eye-exploded-global-abuse-kinetic-impact-projectiles>

¹⁴ UK Strategic Export Control Lists. PL5001 (a)

¹⁵ Ibid. PL5001 (b)

¹⁶ Ibid. ML 3 and ML 4

¹⁷ Ibid. ML 7 e

¹⁸ Ibid. ML 1 and ML 2

¹⁹ See Omega Research Foundation. 2020. *Review of EU Anti-Torture Regulation and its implementation*, pp. 62-63.

Available at: <https://omegaresearchfoundation.org/publications/review-eu-anti-torture-regulation-and-its-implementation>

²⁰ See Amnesty International. 2021. *Blunt Force: Investigating the misuse of police batons and related equipment*. Available at: <https://www.amnesty.org/en/latest/research/2021/09/blunt-force/>

²¹ UK Strategic Export Licensing Criteria, 8 December 2021. Available at: <https://questions-statements.parliament.uk/written-statements/detail/2021-12-08/hcws449>

²² Ibid.

judgements, (b) findings of the competent bodies of the UN and the Council of Europe, and reports of the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment and of the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment. (c) Other relevant information, including available national court judgements, reports or other information prepared by civil society organisations and information on restrictions on exports of goods listed in Annexes II and III applied by the country of destination, may be taken into account.”²³

Export Data

Details on the number of licences granted, revoked, and refused for the export, brokering and transshipment of the goods covered in the UK strategic export control lists is published by the UK Government on a quarterly basis.²⁴ However the UK Government does not publish information on the actual export of goods, so export licences granted may or may not have been fulfilled.

There is also a need for more information on the type of goods licensed, for example, the data provided does not distinguish between single or multi-barrel less-lethal grenade launchers or between kinetic impact projectiles containing multiple or single projectiles. In addition there is little information provided on the end-user, this is particularly relevant for weapons such as shotguns which may be used by law enforcement officers to launch chemical irritants or kinetic impact projectiles.

Manufacturers and/or suppliers of law enforcement equipment

Our research shows that 25 companies based in the UK have been involved in the manufacture and/or promotion of the equipment listed below in the period 2018-2022.²⁵ This may not be comprehensive as no register of such companies exists or is produced by the UK Government.

Equipment listed in section 1.1 of the SRT’s questionnaire

Type of product manufactured and / or promoted	Number of companies involved in manufacture and / or promotion
Ammunition containing multiple non-metallic projectiles	2
Direct contact electric shock weapons - Electric shock shields	2
Thumb cuffs	1
Weighted hand or leg restraints	1

²³ Article 12, Torture Goods Regulation

²⁴ See <https://www.gov.uk/guidance/strategic-export-controls-licensing-data>

²⁵ Information held on the Omega Research Foundation database. It should be noted that for certain companies and equipment types, the goods listed may not have been sold to law enforcement agencies. However, the companies included have indicated involvement in the law enforcement equipment market place

Equipment listed in section 2.2 of the SRT's questionnaire

Type of product manufactured and / or promoted	Number of companies involved in manufacture and / or promotion
Ammunition containing single non-metallic projectiles	4
Batons	10
Combination cuffs	4
Crowd control shields	10
Portable sprayers	3
Projectiles and grenades (chemical irritants)	3
Restraint belt with cuffs	2
Single/limited shot launchers	2
Spit hoods/guards	1
Water cannon	1

Training Services and Review of Procedures

The UK Government does not produce a register of UK based companies or other entities providing training on the use of law enforcement equipment to third parties, although we are aware of some contemporary cases of potential concern.

The UK College of Policing offers “specialist operational policing advice, police leadership guidance and training and development expertise, in line with the UK Government's priorities” both nationally and internationally.²⁶ In 2020 their website stated they had provided international policing assistance and training in 78 countries and regions, in all parts of the world.²⁷

The University of Huddersfield has offered a masters of security science (MSc Security Science) to staff of the Royal Police Academy, Ministry of Interior, Kingdom of Bahrain. Reporting on this in 2020 Bahrain was described as a “torture hub” by Bahraini activists and Amnesty International UK stated that the University “should immediately suspend its provision of these courses until there has been a full investigation into the possibility of links between graduates of the course and the torture of prisoners in Bahrain”.²⁸

Investigations and prosecutions

We are not aware of any current investigations, prosecutions and/or convictions but the UK Export Control Unit may be able to provide further information. A number of companies have been expelled from specific UK trade shows when journalists and other independent observers uncovered the promotion of goods prohibited under Category A of the 2008 Export Control Order, namely electric-shock equipment and leg irons and other prohibited mechanical restraints.

²⁶ College of policing. 2023. *Our international work*. Available at : <https://www.college.police.uk/about/international>. Accessed 17 April 2023.

²⁷ College of Policing. 2020. *What do we offer international partners, departments and police organisations?* cited in Omega Research Foundation. 2020. Review of EU Anti-Torture Regulation and its implementation. Available at: <https://omegaresearchfoundation.org/publications/review-eu-anti-torture-regulation-and-its-implementation>

²⁸ Drury, Colin. 2020. ‘British university training Bahrain police based at ‘torture hub’ where electrocutions, rape and beatings all reported’. Independent. 19 February 2020 cited in Omega Research Foundation. 2020. Review of EU Anti-Torture Regulation and its implementation. Available at: <https://omegaresearchfoundation.org/publications/review-eu-anti-torture-regulation-and-its-implementation>