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Thank you for your letter of 15 March 2017 addressed to the Rt Hon Greg Clark MP, Secretary of State for Business, Energy and Industrial Strategy, about CAS-Global, export of the KNM Horten to Nigeria and the implications for the UK's Arms Export Regime. I am replying as the Minister responsible for export controls in the Department for International Trade (DIT) as export control matters now fall within the remit of this Department.

In your letter you have made four main recommendations to improve the UK's Arms Export regime, in summary:

1. to review existing anti-corruption measures in the arms export licensing regime and how this might be achieved;
2. to introduce measures that required export licence applications to include a detailed documentary trail of related export licences granted by other countries;
3. to investigate the possibility of implementing regular post-export reviews to ensure that items exported from the UK are used in accordance with the end-use statement;
4. to provide maximum transparency of arms exports by publishing annually a full list of end-users and country of destination for approved export licences; and
5. to ensure that conviction for corruption by an exporter can be grounds for refusing a licence.

The Government takes its arms export responsibilities very seriously. We rigorously assess each licence application on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria (the "Consolidated Criteria"). The Criteria, which are based on an EU Common Position, provide a thorough risk assessment framework. They require us to think hard about the impact of providing equipment and its capabilities to overseas end-users. In doing so, we draw on all available information, including reports from non-government organisations and our overseas network. We will not grant a licence if to do so would be inconsistent with these Criteria and we are satisfied that they were applied correctly in the transaction referred to in your letter, based on all the information available to us at the time.

The Criteria under which export licences are assessed rightly focus on the potential risk presented by the export rather than the process by which the contract was won. The Government is convinced that this is the right focus when considering a licence application, although corruption may add to the risk in a given case and this is considered as part of the risk assessment.

As noted in Cm 8079, the Government response to the Committees on Arms Export Control report of 5 April 2011 *“Scrutiny of Arms Export Controls (2011): UK Strategic Export Controls Annual Report 2009, Quarterly reports for 2010, licensing policy and review of control legislation”*, the focus of Government’s scrutiny relating to bribery and corruption in the licensing process is the risk that goods might be diverted from their intended use. Criterion 7 requires consideration of *“The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions.”* Corrupt contract awards and corrupt processes further down the chain can increase the risk of diversion and where there is credible evidence of such risks emerging, licence applications will be refused.

If the Government becomes aware of corruption in arms deals, it will take the appropriate action under the provisions of the Bribery Act 2010, which entered into force on 1 July 2011.

The Government does not think that it is appropriate to base an assessment merely on the perception of corruption in the destination country. In order to refuse a licence we would need to have firm evidence that the contract had been obtained by corrupt means and it is not feasible for the Government to investigate the circumstances of every contract. The Government therefore intends to maintain its focus on assessing the risks presented by the end-user or potential end-use of the goods, and the risks of diversion to undesirable end-use or end-users.

The Bribery Act 2010 modernised the law on bribery and has given the UK some of the toughest anti-corruption laws in the world. Where there is evidence of bribery and corruption, the Government will address this through the provisions of the Act.

The Government is content that its export licensing policy remains robust. Assessment against the Consolidated Criteria, including due consideration of any evidence of corruption, remain at the heart of the UK’s licensing system and we are not persuaded of the need to bring in any additional measures at this time, including any measures requiring licence applicants to disclose a previous criminal conviction.

Each application for a Standard Individual Export or Trade Control Licence is considered on its own merits against the Consolidated Criteria taking into account the circumstances and information available at the time of application. Applications must be supported by an end-user undertaking or purchase order/contract if the end-user is a government. We also check whether a licence has been refused for the same goods to the same end-user by another EU Member State. This check is carried out under the EU Member States system of denial notification. However, we do not require, nor do we intend to introduce, any measures to check export licences granted by other countries. This would be costly to implement and disproportionate given the likely number of cases that would be likely to raise concerns.

After an export licence has been issued, the Government has the power to suspend and revoke licences if necessary, when circumstances change or new information comes to light.

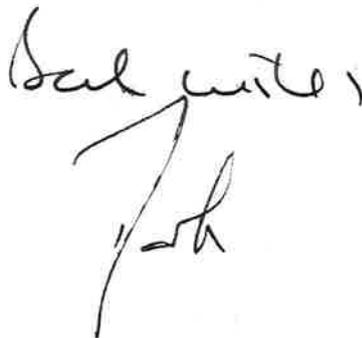
Foreign Office Posts overseas have a standing requirement to monitor conditions in the respective countries or regions and to report back if there are any developments that might affect licensing policy. This includes monitoring human rights, regional tensions and the risk of exports being diverted to unintended end use. In addition, the Government draws on all available information, including checks using both open and classified sources, reports from non-government organisations and our overseas network, involving Desk and Post in the Foreign Office, when considering licence applications. The Government is satisfied that this system is working and does where appropriate lead to licences being revoked as no longer consistent with the Consolidated Criteria.

The Government is committed to transparency of export licensing through the publication of the Annual and Quarterly Reports on Strategic Export Controls. These reports contain detailed information on export licences issued, refused or revoked, by destination, including the overall value, type (e.g. Military, Other) and a summary of the items covered by these licences. They are available to view on GOV.UK at <https://www.gov.uk/government/collections/strategic-export-controls-licensing-data>.

A searchable database is provided that enables bespoke searches of published data to be conducted. This database can be accessed at <https://www.exportcontroldb.bis.gov.uk/>. Registration for this facility is free.

There are no plans to publish the names of end-users as part of these annual and quarterly reports. To do so may raise questions of commercial confidentiality in relation to specific transactions.

I am copying this letter to the Secretary of State for International Trade, the Foreign Secretary and the Defence Secretary.

A handwritten signature in black ink, appearing to read 'Mark Garnier' with a stylized flourish below it.

MARK GARNIER MP

Parliamentary Under Secretary of State

