

Written evidence submitted by Nick Radiven, Negotiations Officer, Prospect

Additional information requested by CAEC following oral evidence session on 18 May

Further information on compliance visits (Question 106)

Training: More training is always going to improve results in terms of ensuring compliance and making the compliance visit process run more smoothly. Those who export regularly tend to have higher trained dedicated staff, often training others. Smaller companies or irregular exporters won't have that luxury and need to have processes in place or they forget how to do things. In both cases it is about getting those who manage the training/processes within their firms to get the right training and awareness first. Be that peer-to-peer, trade bodies or ECJU Awareness, and whether it is online material, webinars (live or recorded), or class-room based.

Compliance: When the redrafted Information Security OGEL was published there was concern within ECJU as to whether the compliance officers were technically equipped to audit this OGEL. This was despite a reduction in the scope of the items covered. There are other OGELs with technical items that are challenging to understand which adds to an overwhelming requirement for Technical Officers to be involved in compliance, including when necessary accompanying Compliance Officers on visits.

Enforcement of Compliance: It is impossible to adopt any broad brush approach to exporters. Larger/regular exporters often have robust processes in place, but have larger amounts of exports that could go wrong whereas smaller companies that have irregular exports have knowledge retention issues, but have fewer and less significant exports to go wrong. The art of the Enforcer (UKBF/HMRC) and the Compliance Inspector (ECJU) is to spot when either are having issues and then deep-diving into the issues, until they are either satisfied that they have been or will be fixed, or that formal action needs to be taken (fines or Open Licence Suspensions).

Prospect's thoughts on the appropriate level of personnel and resources for the ECJU in general as well as for compliance visits (Questions 106-110)

Resourcing: We have seen ECJU suffer from a lack of capable resourcing. In 2014 Licencing performance was hit by a lack of Technical Officers, especially with overtime resulting in some staff working 7 days a week just to keep up. One of the supporting functions for Exporters was then suspended to cope with the workload, the Control List Classification Process, where exporters are provided formal Control List Classifications for their items for their records. This useful tool took years to return, with lobbying from ADS and industry in the meantime.

There is the very real potential for quality of work and accuracy to decline as officers 'burn out' due to excessive workloads or don't have the opportunities to visit companies or support HMRC/UKBF in enforcement, resulting in Scientists and Engineers, whose technical expertise is essential, 'stuck' in the sausage factory or leaving.

There are constant competing demands on resource levels within ECJU, particularly coping with high rates of staff turnover. Within ECJU it takes a significant time for new recruits to

understand their roles and responsibility before they are able to operate without routine supervision

Recruitment and retention has been made worse due to years of civil service pay restraint which has depressed pay rates meaning pay rates for roles requiring technical and specialist knowledge are now well behind equivalent roles in the private sector. This makes it particularly difficult to recruit externally (of 13 Technical Officer posts, 3 are currently vacant).

Prospect believe the resourcing levels of technical and specialist roles in ECJU is not adequate and should be increased. In order to help with this pay rates need to become more competitive to help to recruit and retain staff with the technical and specialist skills.

The same can also said of Compliance Inspectors where more resource is also needed (Currently just 9 covering the whole country) . This is coupled with the loss of experienced Inspectors leaving large gaps as new staff are brought in, trained, and having to build up relationships with exporters whilst visiting them only every couple of years, possibly exceeding the ECJU's own timetables for regular visits. It is true we have to be efficient for the Tax-Payer, but the payer of taxes (the exporters) also need to be able to maximise exports safely. And to do that, they need an effective Compliance Unit. There

Prospect's view on whether ECJU staff could be involved in post-shipment verification processes, including on-site inspections/visits (Questions 114-116)

Article 39 of the Export Control Order does allow for “evidence of the destination to which the goods in question [exported goods] were delivered” which could be a function of the Compliance Unit. The US have a team of officers who travel the world doing this (or at least used to), and this would likely fall to Defence Attaché's or FCDO staff overseas to assess, rather than UK staff, if it was implemented. Either of these mechanisms could be utilised but it is difficult to understand what might be gained from post-shipment verification. If there are concerns about where goods might end up, that export should be refused under criteria 7 (possible diversion). Once an item is out of country there is very little the UK could do in practice to stop it moving on to another location, and how often would the UK Government have to check that it is where it is said to be? This would be incredibly expensive (and disproportionate for the vast majority of export licences) and probably in most cases futile. It seems far better to put the time, money and effort into stopping the goods going to undesirable end-user to start with, via intelligence gathering and cooperation with likeminded countries.

Further information on the impact on the ECJU of the loss of access to EU information sharing protocols following the UK's withdrawal from the EU (Questions 117-118)

The UK has now significantly reduced access to DUEs, the EU information sharing system for checking “Denial Notices” (DN) of refused licences - both those we refuse and those EU countries refuse. There are other information sharing routes but they aren't as comprehensive or as effective as this system and the increased operational disengagement by CPACC has further reduced the UK's efficacy in this regard. Because Northern Ireland remains under the EU Regulations there is a need to share information on licence applications for companies based there, but the process to do this is not yet as efficient as the DUEs system. As such the

requisite advising of other countries of concerns or “undercutting” of goods exported may not be being carried out as effectively as it once was.

The UK was instrumental in setting up the EU Arms Code of Conduct and getting the UK Criteria adopted (with minor modification) as the EU criteria which led to the COARM information sharing system that included the DN data base. Since Exit Day the UK has been completely cut off from this information sharing system and there remain only limited means of sharing arms refusals in Wassenaar.

18 June 2021