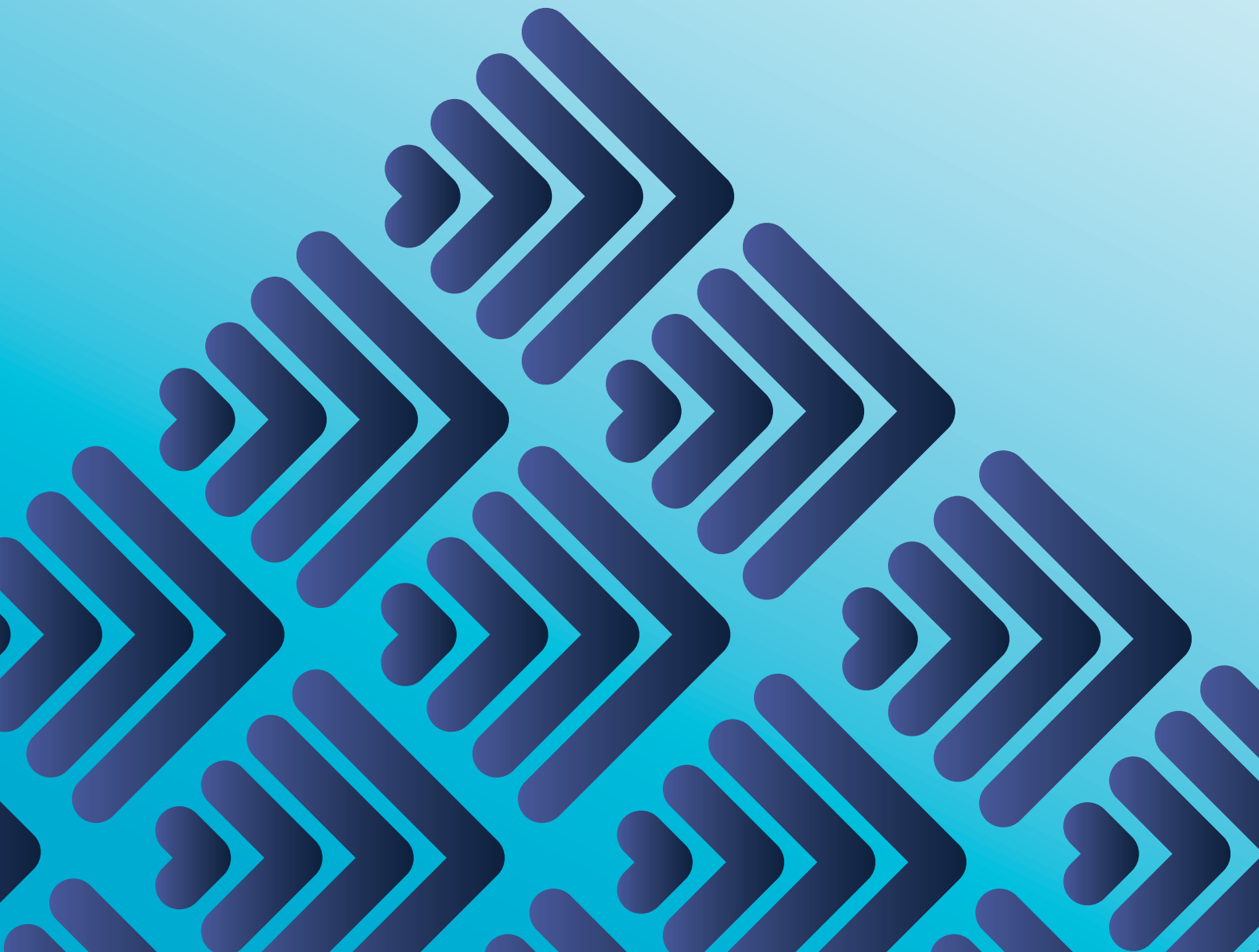


NEW ZEALAND
FOREIGN AFFAIRS & TRADE
Manatū Aorere

SUMMARY OF FEEDBACK ON

Proposals to Enhance Export Controls Regime Operations

APRIL 2023



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Executive Summary

Public consultation on proposed enhancements to the Export Controls regime took place from 11 August to 14 September 2022. Feedback was sought on a proposed Purpose Statement for the Export Controls regime, revised Assessment Criteria, and an explicit Transparency Approach.

A consultation document outlined the proposals,¹ and the opportunity to take part was publicised on the website of the Ministry of Foreign Affairs and Trade (the Ministry), through social media, and via emails to identified stakeholders and Māori interests.

Stakeholders in the export, university and research, and civil society sectors and Māori as Treaty partners were invited to participate in consultation workshops and hui. In total, twelve people attended consultation workshops, however, the hui did not attract any attendees.

Written feedback was provided through an online questionnaire and through separate written submissions. Ten submissions were received. Export, university and research, and civil society sectors were represented among those supplying feedback.

Submitters and workshop participants generally supported articulating the high level purpose of the Export Controls regime. There was broad support for the proposed Assessment Criteria and the provision of Guidance on how applications for export permits are assessed, although some submissions expressed concerns about ambiguous and subjective aspects of the Assessment Criteria and requested greater clarity on how considerations would be weighed against each other.

Some exporters viewed considerations under Criteria 1 and 2 – which included consideration of certain of Aotearoa New Zealand’s obligations, commitments and policies – as being sensible, and noted these were matters already considered fundamental to the operation of their business. Civil society submissions focused on Aotearoa New Zealand continuing to meet its international obligations in relation to arms control, international humanitarian law and international human rights. University submissions recommended that consistency with the Crown’s obligations under the Treaty of Waitangi/Te Tiriti o Waitangi be mentioned.

Submitters and workshop participants endorsed efforts to improve transparency. Exporters in particular sought reassurance that the proposed Transparency Approach would not affect legitimate protection of private and commercially sensitive information. There was widespread support for proposals to strengthen stakeholder engagement.

The Ministry wishes to thank stakeholders for the time and effort they put into commenting on the proposals to enhance Export Controls regime operations. All feedback was analysed and consequent improvements have been made to the proposals in a number of areas.

¹ Ministry of Foreign Affairs and Trade, *Proposals to Enhance Export Controls Regime Operations* (2022).

Background

Aotearoa New Zealand's Export Controls regime controls the export of strategic and certain other military end-use goods and technology intended for export to military and police end-users in line with Aotearoa New Zealand's domestic and international obligations and commitments – including commitments to disarmament, non-proliferation, human rights and international humanitarian law. Regulated under the Customs and Excise Act 2018 and managed by the Ministry of Foreign Affairs and Trade (the Ministry), the Export Controls regime prohibits the export of these controlled goods, unless a permit has been granted by the Secretary of Foreign Affairs and Trade.

Consultation process

From 11 August to 14 September 2022, the Ministry undertook public consultation on proposals to enhance Export Controls regime operations to ensure stakeholder views were considered in relation to three key components of the regime, namely:

- a Purpose Statement;
- revised Assessment Criteria; and
- a Transparency Approach.

The Ministry sought to understand the extent to which stakeholders saw the proposals as understandable, workable and adequate; to gain insight into any potential unintended consequences; and to hear from stakeholders about ways in which they believed the proposals could be improved.

In particular, feedback was sought from:

- exporters;
- universities and researchers;
- civil society; and
- Māori, including iwi and hapū as Treaty partners and the Māori export sector.

The consultation document² and opportunities to participate in the consultation process were publicised through a statement issued by the Ministry, social media alerts, and information on the Ministry's website www.mfat.govt.nz, as well as emails to over two hundred stakeholders and Treaty partners who had been identified as having potential interest in the area. Wider reach was achieved through linking with other organisations and agencies to publicise the opportunity through their networks. For example, the New Zealand Customs Service used its weekly e-Newsletter to advise registered exporters and importers of consultation details, and New Zealand Trade and Enterprise posted information about the consultation on its website. The Ministry partnered with independent Māori trade advisory group Te Taumata to assist with promoting the consultation to Māori through its networks and social media.

Written feedback was invited through responding to the online questionnaire or making a separate submission. In addition, stakeholder workshops and a planned Māori-focused hui offered opportunities to discuss the proposals, ask questions and provide feedback. Assistance was also offered to participate through other means if required.

² Ministry of Foreign Affairs and Trade, *Proposals to Enhance Export Controls Regime Operations* (2022).

Response to consultation process

Twelve participants took part in the consultation workshops:

- 5 attended the university and research focused workshop on 24 August 2022;
- 4 attended the exporter focused workshop on 25 August 2022; and
- 3 attended the civil society focused workshop on 29 August 2022.

Ten submissions were received: five via the online questionnaire and five via email or post. Of these, four were from civil society groups, three were from exporters, two were from the university and research sector, and one was from a stakeholder with cross-sectoral interests. Not all submissions responded to all questions.

The Ministry partnered with independent Māori trade advisory group Te Taumata to plan a Māori-focused consultation hui. Despite extensive promotion through Te Taumata and Ministry channels, the hui was not successful in attracting attendance. No submitters identified that they were providing feedback as Māori.

Consultation feedback

Overview of stakeholder perspectives

Stakeholders were positive about the opportunity to be involved in the consultation. The opportunity to ask questions and discuss the proposals at independently facilitated workshops was particularly appreciated. Some workshop attendees chose not to provide a separate submission as they were comfortable that their perspectives were conveyed adequately at the workshops. Stakeholders also welcomed the provision of information in the consultation document and the option of providing feedback through the online questionnaire or in separate written submissions.

Submitters and workshop participants generally supported articulating the high level purpose of the regime, and the proposals to improve transparency. There was broad support for the proposed Assessment Criteria and the provision of Guidance on how applications for export permits would be assessed. As a result, subsequent changes to the proposals consulted on were not of a fundamental nature.

Key recommendations of stakeholders included enhancing certainty and removing ambiguity to the extent possible given the technical, multifactorial nature of decision-making under the regime. Concerns were expressed about how subjective aspects of the Assessment Criteria would be assessed, and greater clarity was requested on how considerations under the Criteria would be weighed against each other.

The importance of continuing to meet Aotearoa New Zealand's international obligations was mentioned in civil society submissions, particularly in relation to The Arms Trade Treaty, international human rights and international humanitarian law.

It was recommended that consistency with the Crown's obligations under the Treaty of Waitangi/Te Tiriti o Waitangi be made explicit, and that related matters be addressed.

Several workshop participants and submissions offered useful suggestions for operationalising the proposed enhancements. These noted that success would depend on how the proposals were implemented. In this regard they endorsed the proposal to develop a programme of stakeholder engagement. Outreach, tools and education about both the Export Controls regime and the changes were seen as vital. It was suggested that provision of a glossary would assist exporters' and stakeholders' understanding, that there should be clear processes to minimise uncertainty, and that exporters should be encouraged to engage with the Ministry early to receive advice in relation to their particular circumstances.

A number of stakeholders also noted the need for regulatory reform, or commented on matters that were outside the scope of the consultation.

Overview of changes following consultation

The feedback was analysed and helped inform finalisation of the Purpose Statement, Assessment Criteria and Transparency Approach. Given the broad support for the approach taken across the three components, fundamental changes to the proposals were not required. Consultation analysis did, however, reveal the desirability of clarifying some aspects of the proposals and making minor changes to others.

Concern over how diverse considerations under the Assessment Criteria would be weighed against each other, including how subjective matters would be treated, showed a need for guidance on this point. In response, the Ministry has added an Explanatory Note to the Criteria-as-a-whole to better articulate this.

The wording of the Purpose Statement, and Criteria 2 and 3 has been amended to improve clarity, as have aspects of the Guidance. Criterion 4 has been amended to include consideration of whether an export may compromise the Crown's obligations under the principles of the Treaty of Waitangi/Te Tiriti o Waitangi.

Under the Transparency Approach, a Goal for the Ministry's operation of the Export Controls regime has been inserted, an additional Transparency Objective added to reinforce the commitment of the Ministry to appropriately protect exporter data and information, and a commitment made to publish an annual report on the operation of the Export Controls regime.

Feedback on operationalising the proposals is helping to inform development of training materials, a website refresh, and strengthened outreach activities for the Export Controls regime.

Feedback on specific proposals

Proposed Purpose Statement

Aotearoa New Zealand is committed to being a responsible exporter of strategic and military end-use goods.

In line with our domestic and international obligations, commitments and policies, the purpose of our Export Controls regime is to control the export of military and dual-use goods and technology from Aotearoa New Zealand, as well as certain other goods to military, police and other end-users, which may contribute to the detriment of our security or national interests or to human rights abuse, or contravene international humanitarian law.

The proposed Purpose Statement was generally seen positively by submitters and workshop participants.

Comments included:

It aligns well with the objectives and obligations of Aotearoa New Zealand.

(Exporter)

Seems like it will add clarity.

(Exporter)

Captures well the scope and purpose of an appropriate Export Controls regime.

...Is comparable to the scope and purpose of Export Controls regimes in key territories, e.g., the UK, EU and Australia.

(University/research sector)

Aotearoa New Zealand's explicit commitment to being a responsible exporter of these goods was commended both in submissions and at workshops, as was the inclusion of references to international humanitarian law and international human rights law. Some workshop participants wondered if the Purpose Statement might also include reference to international competitiveness given the wider focus of government, however, they acknowledged that commerce is not the driving force for Export Controls. .

Civil society submissions asked for stronger statements of the normative framework and Aotearoa New Zealand's obligations to regulate these goods under human rights law, international humanitarian law and the terms of The Arms Trade Treaty.

Feedback from the university and research sector suggested including reference to domestic obligations including the Treaty of Waitangi/Te Tiriti o Waitangi, as well as to the values of Aotearoa New Zealand including Te Ao Māori and Mātauranga Māori.

Changes following consultation

The wording of the Purpose Statement has been reordered and tightened for clarity.

Proposed Assessment Criteria

Proposed Criterion 1

Consistency with Aotearoa New Zealand's disarmament, arms control and non-proliferation obligations, commitments and policies.

Proposed Criterion 1 was seen as accurately, clearly and adequately reflecting a key area for consideration in the Ministry's assessment of applications for export permits by all those who answered this question. The Guidance on Criterion 1 was seen as accurate, clear and useful to assist exporters and the public understand the application of this Criterion by all except one of those who answered this question.

Comments on Criterion 1 and the accompanying Guidance included:

It seems to fit our international obligations and domestic policies.
(Exporter)

The Guidance on Criterion 1 identifies appropriate legislation, international instruments and policies that are directly relevant to the aims of the Export Controls regime, as set out in the proposed Purpose Statement.
(University/research sector)

Under Criterion 1, there is reference to the United Nations Guiding Principles on Business and Human Rights, which is welcomed.
(Civil society)

Workshop participants viewed Criterion 1 as sensible and concise and in line with their expectations. They saw the Criterion and the matters assessed under it as being 'red line' issues. Accordingly, one exporter noted that the requirements it contains are built into the fundamental operation of their business.

Suggestions for improvements to the Guidance were offered in five submissions and included: amending to improve clarity; adding an explicit statement of grounds for mandatory licence (i.e. permit) denial; listing all relevant legislation; and preserving the detailed requirements drawn from The Arms Trade Treaty that appear in the current Assessment Criteria.

Changes following consultation

No changes were made to Criterion 1, although minor editing of the Guidance was undertaken to enhance clarity.

Proposed Criterion 2

Consistency with Aotearoa New Zealand's obligations, commitments and policies regarding fundamental principles of international law, international human rights law and international humanitarian law.

Proposed Criterion 2 was seen as accurately, clearly and adequately reflecting a key area for consideration in the Ministry's assessment of applications for export permits by three of the four submissions which answered this question. There were differing views on the extent to which the Guidance on Criterion 2 was accurate, clear and useful to assist exporters and the public understand the application of the Criterion.

Both civil society and exporter workshop participants also endorsed the articulation of these international obligations, with one exporter noting that, as with Criterion 1, consistency with Criterion 2 was also fundamental to the operation of their business.

Comments included:

The list of legislation is not exhaustive (and may be incomplete) but the concept of this criterion makes sense.

(Exporter)

This criterion is sensible and consistent with what universities expect to comply.

(University/research sector)

It is helpful to have the international instruments listed.

(Civil society)

One submission and participants at the civil society sector workshop discussed the significance of The Arms Trade Treaty to international humanitarian law and international human rights, which are the focus of Criterion 2, and the submission recommended that the Guidance on Criterion 2 should more fully reflect Aotearoa New Zealand's obligations in this regard.

Four submissions foresaw potential unintended consequences from the adoption of Criterion 2 including:

- deterring investment in research and development (this concern was raised by the same submitter in relation to several criteria);
- vulnerability to political interpretation;
- international humanitarian law and obligations under The Arms Trade Treaty being overshadowed; and
- commitments and policies being seen to override legal obligations.

A number of changes to Criterion 2 and its Guidance were proposed. In particular, civil society submissions and the sector workshop offered suggestions for strengthening the reflection of Aotearoa New Zealand's international legal obligations under peremptory norms, international humanitarian law, international human rights law and The Arms Trade Treaty.

Changes following consultation

The wording of Criterion 2 has been refined to reduce ambiguity. The Guidance has been amended to include:

- obligations under international humanitarian law in the subsection on examples of primary legal obligations;
- The Arms Trade Treaty as a source of obligations related to international human rights law and international humanitarian law, in addition to its relevance under Criterion 1; and
- the relationship between Aotearoa New Zealand's position on the death penalty, and the prohibition on torture, cruel, inhuman and degrading treatment and punishment under the Convention Against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR).

Proposed Criterion 3

Consistency with Aotearoa New Zealand's other international obligations.

Of the four submissions which answered the question, three did not agree that proposed Criterion 3 accurately, clearly and adequately reflected a key area for consideration in the Ministry's assessment of applications for export permits nor that the accompanying Guidance was accurate, clear and useful to assist exporters and the public understand the application of the criterion. Feedback focused on issues of ambiguity and concerns about the difficulty for exporters and officials in understanding and applying this Criterion.

Comments included:

Some of the considerations under Criterion 3 ... reflect pre-existing, stated commitments ... However, the considerations ... are very wide-ranging and include consideration of risks that are not connected with the nature of the goods/technology itself or the use of those goods/technology by the end user.

(University/research sector)

What is a licensing official to do with the different instruments listed here?

(Civil society)

Suggested changes included eliminating Criterion 3, improving the clarity of the layout, and adding a brief summary of the key points of each instrument listed.

Changes following consultation

- The wording of Criterion 3 has been amended to include reference to non-legally binding international commitments and policies.
- The accompanying Guidance has been amended to:
 - » mention labour conventions to which Aotearoa New Zealand is a party,
 - » remove reference to a Convention not ratified by Aotearoa New Zealand to date; and
 - » clarify that the non-legally binding commitments and relevant policy referred to are those made on an international stage.
- The addition of an Explanatory Note to the Criteria-as-a-Whole clarifies how considerations would be addressed in the assessment process.

Proposed Criterion 4

Whether the export may compromise Aotearoa New Zealand's national interests including, without limitation: security, international relationships and international reputation.

Proposed Criterion 4 was seen as accurately, clearly and adequately reflecting a key area for consideration in the Ministry's assessment of applications for export permits by all those who answered this question. Two submissions agreed that the Guidance on Criterion 4 was accurate, clear and useful to assist exporters and the public understand the application of Criterion 4. One disagreed.

Comments included:

Security is very important and needs consideration.

(Exporter)

Criterion 4 refers to matters of significant national interest. These considerations are comparable to interests protected under Export Controls regimes of other key territories.

(University/research sector)

It reflects the area clearly, but we have concerns about how this criterion will be interpreted.

(Civil society)

Participants in the exporter workshop expressed concern about the breadth and subjectivity of Criterion 4. Participants in the university and research sector workshop had concerns about what the phrase 'international relationship and reputation' meant for academic freedom. They noted the importance of early engagement between researchers and regime officials to avoid possible unintended consequences for the sector (for example, certain research not progressing at all).

Suggested changes included: making reference to relevant articles of The Arms Trade Treaty in the Guidance to Criterion 4; providing information about the decisions made by like-minded partners; specifying that our national interests include meeting our obligations under the Treaty of Waitangi/Te Tiriti o Waitangi; acknowledging complexities of international relationships changing over time; and noting that international relationships can be compartmentalised (meaning that research may not be affected).

Changes following consultation

Criterion 4 has been amended to include assessment of whether an export may compromise the government's obligations under the principles of the Treaty of Waitangi/Te Tiriti o Waitangi.

Proposed Criterion 5

The impact the export is expected to have on peace, security and stability.

Two submissions agreed that proposed Criterion 5 accurately, clearly and adequately reflected a key area for consideration in the Ministry's assessment of applications for export permits, whereas two disagreed. One submission agreed that the Guidance on Criterion 5 was accurate, clear and useful to assist exporters and the public understand the application of Criterion, whereas four disagreed.

Comments included:

Criterion 5 refers to matters of significant national interest. These considerations are comparable to interests protected under Export Controls regimes of other key territories.

(University/research sector)

What weight will be given to the issues listed here versus the other criteria? Do the factors listed here create obligations or are they just for "consideration"?

(Civil society)

Derailment of long-standing business plans due to undisclosed New Zealand foreign policy concerns was mentioned as a potential unintended consequence of Criterion 5.

Workshop participants suggested making it clearer that both positive and negative impacts can be considered under Criterion 5, noting this is not the case with most of the criteria. Another suggestion was to include an up-to-date list of states subject to United Nations Security Council sanctions, as well as those considered to be involved in inter- or intra-state conflict, known or suspected to sponsor terrorism, or that have threatened the security of another state or group of states. One submission suggested eliminating Criterion 5 or clarifying that it is broad guidance only.

Changes following consultation

After considering the feedback on this and other Criteria, the Ministry decided to add an Explanatory Note to the Criteria-as-a-Whole to provide greater clarity and certainty about how considerations under the Criteria are weighed against each other, including distinguishing definitive factors from more nuanced considerations.

Proposed Criterion 6

Whether the export may undermine confidence in Aotearoa New Zealand's commitment to being a responsible exporter of strategic and military end-use goods.

Three submissions agreed that proposed Criterion 6 accurately, clearly and adequately reflected a key area for consideration in the Ministry's assessment of applications for export permits, whereas two disagreed. One submission agreed that the Guidance on Criterion 6 was accurate, clear and useful to assist exporters and the public understand the application of the Criterion, whereas three disagreed.

Comments included:

This criterion is sensible and consistent with what universities expect to comply. We recognise the criterion requires judgement to be exercised and would encourage MFAT to provide examples or subtext to provide further clarity for a lay audience.

(University/research sector)

We have concerns about the discretionary nature of this criterion.

(Civil society)

Civil society workshop participants expressed support for Criterion 6 as it allows for consideration of actual and potential harm below the high thresholds required by Criteria 1 – 3. Exporter workshop participants noted that the concept of the 'responsible exporter' included contemplation of reputational risk and commented that this type of risk existed at a business level as well as at a country level.

Three submissions foresaw potential unintended consequences of Criterion 6. Suggested changes included: eliminating Criterion 6, clarifying that it is for guidance only, or confining it to weighing the relative merits of borderline cases assessed under Criteria 1-5; clarifying the meaning of a 'purely theoretical link between the potential harm and the export'; and including a statement to the effect that a precautionary approach would be taken when assessing export permit applications, that is if there were doubt, then the export permit would not be approved.

Changes following consultation

Greater clarity and certainty about how considerations under the Criteria are weighed against each other has been addressed through the addition of an Explanatory Note to the Criteria-as-a-Whole.

Overall feedback on the Proposed Assessment Criteria

There was broad support for the proposed Assessment Criteria from workshop participants and submissions. One workshop commented favourably on the content of the consultation document, particularly that relating to the assessment criteria and the assessment process. Nevertheless, many submitters had reservations about one or more aspects of the proposals. Questions were asked about how decisions would be made, particularly in relation to more nuanced considerations. Discussion in the workshops clarified that a distinction exists between the relatively clear-cut assessments made under Criteria 1 – 3 and the more subjective considerations which are primarily found in Criteria 4 – 6. The former were described as ‘red line’ issues with high thresholds: that is, if a proposed export would contravene one of the international obligations listed a permit would not be issued. The latter were seen as more nuanced assessments based on the balancing of various aims and interests. Feedback recommended that this distinction be made explicit. The addition of a commentary or preamble to clarify how the Criteria would apply in practice was suggested.

Comments on the Criteria-as-a-Whole included:

The high-level aims are understandable, but the challenges rest in the detail in implementation. Where the criteria rely on legislation and international law the thresholds are relatively clear, but where they rely on subjective assessment such as whether or not an export will compromise New Zealand’s international reputation, there is room for ambiguity and inconsistency. This is somewhat unavoidable and needs to be considered on a case-by-case basis, but processes need to be in place to help provide certainty.

(Cross-sectoral stakeholder)

The overall flavour of what you are trying to assess, is generally well directed.... Some of the proposed Criteria are too waffly and subjective.

(Exporter)

The explanations and discussion about the criteria has been helpful and I am happy to accept them all.

(Civil society)

Potential unintended consequences in relation to the Criteria-as-a-Whole and accompanying Guidance were seen as:

- slow assessment processes;
- derailment of business plans on the basis of undisclosed foreign policy concerns;
- deterrence of investment in research and development; and
- reduced transparency and a lack of legal certainty.

Suggested changes included:

- encouraging researchers and exporters to contact officials in the early stages of developing new technologies or knowledge for advice on the application of these criteria;
- explicitly referring to the Treaty of Waitangi/Te Tiriti o Waitangi, the protection of Te Ao Māori values, Mātauranga Māori and Māori data sovereignty;
- modelling Assessment Criteria on the United Kingdom's Strategic Export Licensing Criteria (2021);
- providing greater information on the matters that would be considered in the assessment, or more detail on the sources of information on which officials would base their assessments.

Changes following consultation

An Explanatory Note to the Criteria-as-a-Whole has been added to provide greater clarity and certainty around the application under the Assessment Criteria in assessing applications. This clarifies, among other things, the weighing of diverse considerations under the Criteria. A clear distinction is drawn between the treatment of definitive factors and more nuanced considerations in the assessment of applications.

Proposed Transparency Approach

Transparency Objectives

- Providing confidence that Aotearoa New Zealand is a responsible exporter of strategic and military end-use goods and that these are not being exported to support unacceptable end-use
- Providing assurance to Parliament and to New Zealanders that the Ministry is making export permit decisions within its legislated mandate
- Enabling exporters and other interested parties to gain a clear understanding about the operation of the Export Controls regime and its relevance to them
- Providing confidence that Aotearoa New Zealand is fulfilling its international and domestic obligations and commitments
- Providing assurance that the Ministry's operation of the scheme is meeting the wider expectations of government relating to promoting trust and confidence in the public service
- Encouraging and supporting international transparency efforts.

Transparency Principles

Accountability, Accessibility, Protection, Certainty, Participation

The Ministry consulted on the elements of an overall Transparency Approach comprising Principles, Objectives, and Key Components of a Transparency Implementation Plan to be developed by the Ministry.

All submissions endorsed the importance of greater transparency surrounding the Export Controls regime's operations to enhance its legitimacy. The Transparency Objectives and Principles were supported by all who answered these questions. A participant in the Exporters' workshop observed that another aim for the Export Controls regime could be to 'provide confidence while enabling trade'. Increased public reporting, and the commitment to a programme of stakeholder engagement were particularly welcomed. Several submissions disagreed with elements of the Key Components of the Transparency Implementation Plan, and five identified potential unintended consequences.

Comments included:

The objectives seem to be well directed.
(Exporter)

It is important to be able to understand how many applications are being made and considered, and how many are being granted. It would also be helpful to understand the types of Goods that are being exported.... Quarterly reporting would be appropriate to help others monitor our activity in this regard. Commercial and diplomatic sensitivities should be respected, but transparency is helpful for maintaining confidence.

(Cross-sectoral stakeholder)

We support the objective of enabling exporters and other interested parties to gain a clear understanding about the operation of the regime and its relevance to them, given the breadth and complexity of an Export Controls regime.

(University/research sector)

In order to achieve transparency and public confidence in the export controls system, it will be important to have in the public domain a comprehensive record of what arms exports, to where, to whom and why Aotearoa New Zealand has: (1) permitted (licensed) or refused (to license); and (2) actually delivered strategic and military goods.

(Civil society)

Some exporters and members of the university/research sector raised concerns about whether the adoption of the Transparency Approach would reveal sensitive commercial information. The university/research sector noted the need to protect confidentiality in relation to patenting innovations, and noted that research investment might be deterred if legitimate confidentiality were not protected. One exporter cautioned that increased transparency should not be achieved at the expense of permit application processing timeframes.

Clarification was sought on how the Transparency Approach would give effect to the Treaty of Waitangi/Te Tiriti o Waitangi, including the implications for indigenous data sovereignty and intellectual property.

Two civil society stakeholders sought assurance that the Transparency Approach would not lead to a reduction in Aotearoa New Zealand's practice of publicly releasing reports related to implementation of The Arms Trade Treaty. It was also suggested that the Principle of Participation should be extended to allow those affected by export control decisions overseas opportunities to contribute to public policy processes in relation to it.

Changes following consultation

The overall Transparency Approach has been amended to now include an overarching Goal of operating the Export Controls regime in an open and transparent manner that promotes New Zealanders' confidence. An additional Objective has been added. This reinforces the commitment of the Ministry to appropriately protect exporter data and information. A commitment to publish an annual report on the operation of the Export Controls regime has also been included.

Conclusion

The Ministry wishes to thank stakeholders for the time and effort they put into commenting on the proposals to enhance Export Controls regime operations, both through written submissions and through participation at workshops. As a result of this feedback, improvements have been made to several of the proposals to improve clarity or to otherwise address a number of the issues raised. The Ministry is mindful of the importance of continuing its engagement with stakeholders to promote shared understanding of the Export Controls regime and how it may affect different sectors, and to help to ensure the Ministry remains up-to-date with sector developments that may impact on the operation of the regime.

The final Purpose Statement, revised Assessment Criteria and the Transparency Approach are available on the Ministry's website, **www.mfat.govt.nz**.

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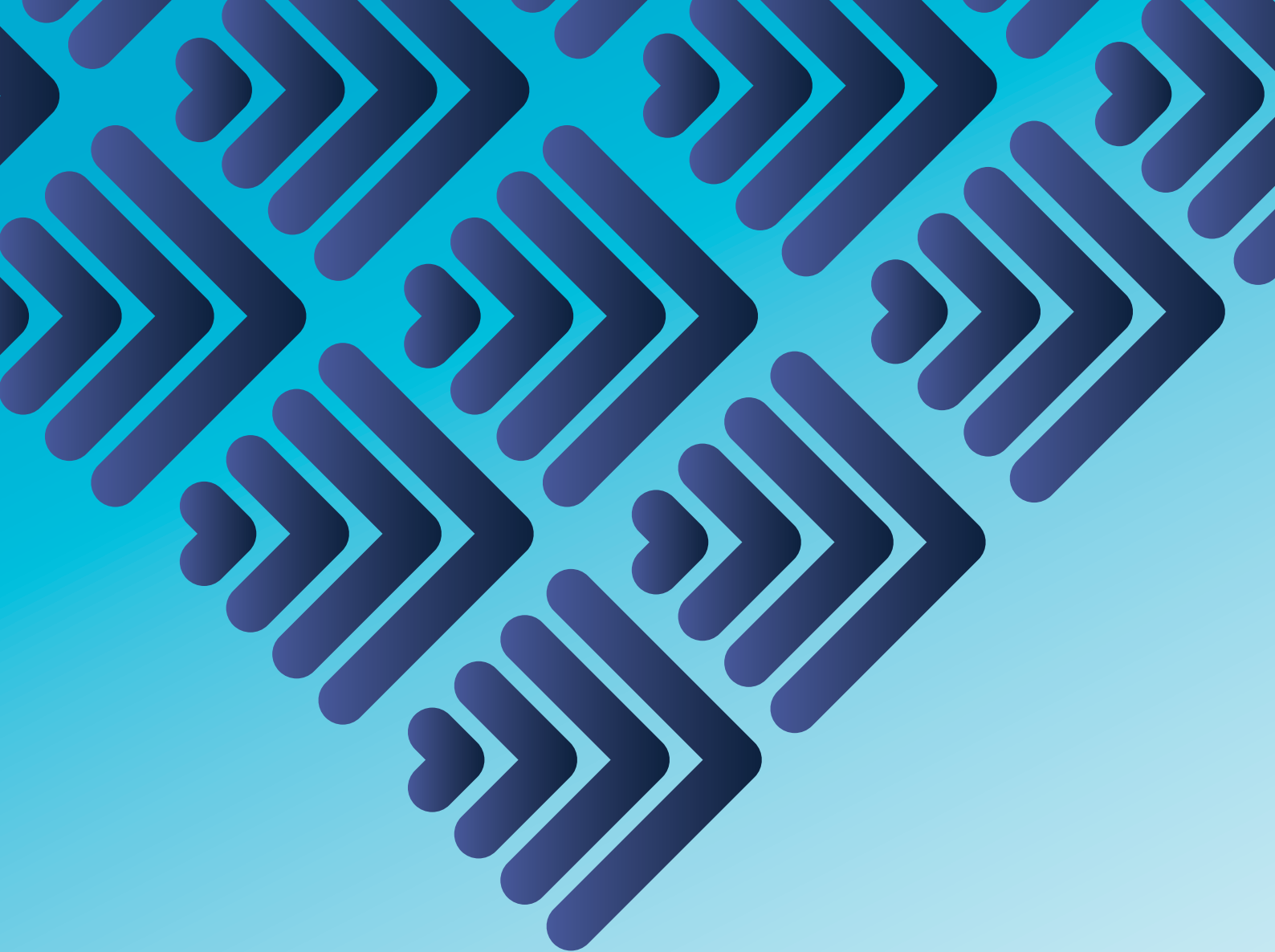
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