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Delegation to the  
OSCE

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ENGLISH only

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NOTE NO 11/10

The United Kingdom Delegation to the Organisation for Security and Co-operation in Europe (OSCE) in Vienna presents its compliments to the Delegations of participating States to the Forum for Security Co-operation (FSC) and to the Conflict Prevention Centre and has the honour to convey the United Kingdom's completed response to the questionnaire on the Code of Conduct on Politico-Military Aspects of Security for 2010.

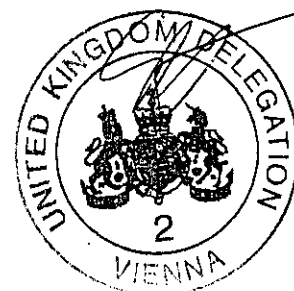
In accordance with the UK's Interpretative Statements made in respect of FSC Decision 2/09, additional information concerning the democratic control of Private Military and Security Companies, and Women Peace and Security, has been included.

The United Kingdom Delegation avails itself of this opportunity to renew to the Delegations of participating States, to the Forum for Security and Co-operation and to the Conflict Prevention Centre, the assurance of its highest consideration.

United Kingdom Delegation  
Vienna

12 April 2010

To all Delegations/Permanent Missions to the OSCE  
To the Conflict Prevention Centre



# INFORMATION EXCHANGE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY

## UK CODE OF CONDUCT QUESTIONNAIRE RETURN 2010

### Section I: Inter-State elements

#### 1. Account of measures to prevent and combat terrorism

##### 1.1 To which agreements and arrangements (universal, regional, sub regional and bilateral) related to preventing and combating terrorism is your State a party?

| Convention   | Signature | Ratification |
|--|-----------|--------------|
| 1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963   | 14 Sep 63 | 29 Nov 68    |
| 2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970   | 16 Dec 70 | 22 Dec 71    |
| 3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971   | 23 Sep 71 | 25 Oct 73    |
| 4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973 | 13 Dec 74 | 2 May 79     |
| 5. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979  | 18 Dec 79 | 22 Dec 82    |
| 6. Convention on the Physical Protection of Nuclear Material, signed at Vienna 3 March 1980  | 13 Jun 80 | 6 Sep 91     |

|   |            |                 |
|---|------------|-----------------|
| 7. Protocol for the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988  | 26 Oct 88  | 15 Nov 90       |
| 8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. Concluded at Rome on 10 March 1988 Protocol to the above mentioned Convention for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf. Concluded at Rome on 10 March 1988 | 22 Sep 88  | 3 May 91        |
| 9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988  | 22 Sep 88  | 3 May 91        |
| 10. Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991  | 1 Mar 91   | 28 Apr 97       |
| 11. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997   | 12 Jan 98  | 7 Mar 01        |
| 12. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999  | 10 Jan 00  | 7 Mar 01        |
| 13. International Conventions for the Suppression of Acts of Nuclear Terrorism  | 14 Sept 05 | To Be Confirmed |

## UNITED KINGDOM ADHERENCE TO EUROPEAN CONVENTION ON TERRORISM

|   |           |                 |
|---|-----------|-----------------|
| European Convention on the Suppression of Terrorism, concluded at Strasbourg on 27 January 1977 | 27 Jan 77 | 24 Jul 78       |
| Council of Europe Convention on the Prevention of Terrorism                                     | 16 May 05 | To Be Confirmed |
| Protocol amending the European Convention on the Suppression of Terrorism                       | 15 May 03 | To be Confirmed |

- The Special European Council on 20 and 21 September 2001 agreed that counterterrorism should be a priority for the Union, both internally and in its relations with third countries. Heads of State and Government endorsed an EU Action Plan on 21 September 2001 to help member States step up the fight against global terrorism and to improve practical co-operation among member states. Measures which the EU has taken since September 2001 include:
  - agreement on a Euro arrest warrant and fast-track extradition;
  - agreement on common EU offences and penalties for terrorist activity
  - conclusion of the EU/US Europol agreement
  - agreement on measures to implement UNSCR 1390 and the provisions in UNSCR 1373 relating to the suppression of terrorist financing.
- During the UK Presidency of the EU in 2005, the EU agreed the Counter-Terrorism Strategy which sought to reflect the changing state of the terrorist threat and to bring a greater sense of coherence and prioritisation to the rapidly increasing number of work streams contained within the EU Counter-Terrorism Action Plan elaborated after 9/11. In addition, a Radicalisation and Recruitment Strategy and Action Plan have been developed, along with a corresponding Media Communications Strategy.

Treaties do not automatically form part of UK law, and, therefore, before ratifying any treaty the UK must consider whether any amendment of domestic law is required to give effect to the obligations that it contains. This will involve an examination of whether the existing common law or statutory provisions are sufficient to implement the treaty in question, and, if not, legislation will be required to make the necessary amendments. The way in which the main provisions of the twelve international Counter-Terrorism Conventions and the European Convention for the Suppression of Terrorism are implemented, is set out below.<sup>1</sup>

### **Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft 1963**

#### Jurisdiction of State of Registration – Article 3

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<sup>1</sup> However it is important to note that the UK is made of three different law districts, namely (i) England and Wales, (ii) Scotland, and (iii) Northern Ireland. Whilst primary legislation that has been introduced specifically to implement treaty obligations will usually apply in all three law districts, aspects of substantive and procedural criminal law differ considerably in each. For the sake of brevity, this reply sets out the position in England and Wales. Implementation of the Conventions differs in a number of respects in Scotland and Northern Ireland.

Section 92 of the Civil Aviation Act 1982 provides for the application of the criminal law to offences committed on board British-controlled aircraft in flight outside the UK. The definition of “British-controlled aircraft” is found in section 92(5), and goes somewhat wider than simply aircraft registered in the UK.

#### Powers of the aircraft commander – Articles 5-10

Section 93 of the Civil Aviation Act 1982 sets out the powers of the commander of an aircraft, so as to give effect to these Articles of the Convention.

#### Unlawful Seizure of Aircraft – Article 11

Specific legislative enactment is unnecessary in respect of this Article. Reasonable force is permissible under the common law in defence of the person, and in relation to preventing crime and arresting offenders by virtue of section 3 of the Criminal Law Act 1967.

#### Powers and duties of States - Articles 12-15

The necessary legislative enactment is unnecessary beyond the provision of section 93 of the Civil Aviation Act 1982. Powers of detention are primarily regulated under the Police and Criminal Evidence Act 1984. Powers of removal of aliens are regulated under immigration legislation.

#### Article 16

It is accepted for the purposes the United Kingdom’s various general extradition arrangements with individual States that offences committed aboard aircraft are considered to be offences committed within the territory of the State of registration of such aircraft – Extradition Act 1989 sections 1(4) and Sch.1, para 14. In addition extradition is permitted to contracting parties to the Tokyo Convention in respect of offences committed on board aircraft in flight by virtue of section 22 of the Extradition Act 1989 and the Extradition (Tokyo Convention) Order 1997 (SI no. 1997/1768).

#### Article 18

The Secretary of State is empowered to make designations in relation to joint air transport operating organisations under s.98 of the Civil Aviation Act 1982.

### **The Hague Convention for the Suppression of Unlawful Seizure of Aircraft 1970**

#### Article 1 – The Offence

Section 1 of the Aviation Security Act 1982 establishes the offence of hijacking in terms similar to the Convention. Under the general criminal law, accomplices to offences may themselves be prosecuted as principal offenders under section 8 of the Accessories and Abettors Act 1861. In addition section 6(2)(a) of the Aviation Security Act 1982 establishes ancillary offences in respect of persons in the UK who induce or assist the commission outside the UK of hijackings of military or police aircraft, or aircraft for which the place of take-off and landing is the same as that of the State of registration (matters excluded from the scope of the Convention under Article 3(2) and (3)).

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**Furthermore, legislation needs to be enacted in order to extend the conventions to the Crown Dependencies and Overseas Territories. The first five conventions detailed below have been extended to all of these territories; the process of extending the remaining seven is on-going.**

#### Article 2 - Penalty

The offence of hijacking is punishable by life imprisonment (section 1(3) of the Aviation Security Act 1982).

#### Article 3 – Interpretation and exclusions

The interpretation of when an aircraft is considered to be in flight for the purposes of the Convention (Article 3(1)) is mirrored in section 38(3) of the Aviation Security Act 1982. The excluded matters in Articles 3(2) (military and police aircraft) and (3) (aircraft for which the place of take-off and landing is the same as that of the State of registration) are mirrored in section 1(2) of the Aviation Security Act 1982, except (i) where the hijackers of such planes are UK nationals or (ii) the hijacking occurs in the UK or (iii) the aircraft is registered in the UK or used in the service of the UK military or police.

#### Article 4 - Jurisdiction

Hijacking is an offence under section 1 of the Aviation Security Act 1982, whether it takes place in the UK or elsewhere. In accordance with section 8, proceedings in respect of these offences require the consent of the Attorney-General. Provision is also made for extraterritorial jurisdiction over a number of ancillary offences committed in connection with a hijacking, including homicides and various other offences against the person, as well as explosives offences (section 6(1) of the Aviation Security Act 1982).

#### Article 5 – Joint air transport operating organisations

The Secretary of State is empowered to make designations in relation to joint air transport operating organisations under s.98 of the Civil Aviation Act 1982.

#### Article 6 – Detention and investigation

Specific implementing legislation is not required, since powers of detention and investigation are governed primarily under the Police and Criminal Evidence Act 1984 and its associated Codes of practice. Further powers of investigation and detention in relation to terrorist activity are contained in the Terrorism Act 2000. Arrests can be made without having first to seek the consent of the Attorney-General, by virtue of section 25 of the Prosecution of Offences Act 1985.

#### Article 7 aut dedere aut iudicare

Specific legislative implementation of this provision in UK law is unnecessary, though it will be observed by the authorities deciding upon extradition and prosecution.

#### Article 8 – Extradition

The UK has various general extradition arrangements with individual States under which the offences covered by the convention are included as extradition crimes. However where no such general arrangement exists, extradition is permitted to contracting parties of The Hague Convention in respect of offences under sections 1, 6(1) and 6(2)(a) of the Aviation Security Act 1982, by virtue of section 22 of the Extradition Act 1989 and the Extradition (Hijacking) Order 1997 (SI no. 1997/1763).

#### Article 9 – Preventive Measures

Specific legislative enactment is unnecessary in respect of this Article. Reasonable force is permissible under the common law in defence of the person, and in relation to preventing crime and arresting offenders by virtue of section 3 of the Criminal Law Act 1967. However section 7 of the Aviation Security Act 1982 enables the police to take measures to prevent a person from embarking on an aircraft where they suspect he intends to commit hijacking offences.

#### Article 10 – Mutual Legal Assistance

The United Kingdom co-operates in criminal proceedings and investigations with the authorities of other States in accordance with the provisions of the Criminal Justice (International Co-operation) Act 1990.

#### Article 11 – Notifications

Specific legislative authority is not required in this respect.

### **The Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation 1971**

#### Article 1 – The Offences

The offences set out in Article 1(1) are reflected in the provisions of sections 2(1), 2(2), 3(1), and 3(3) of the Aviation Security Act 1982.

As regards attempts and accomplices for the purposes of Article 1(2), section 2(2) of the Aviation Security Act 1982 provides that it is an offence to place a device or substance on an aircraft which is likely to destroy or damage it. Additionally under the general criminal law, attempts to commit one of these offences are covered by the Criminal Attempts Act 1981, and accomplices to offences may themselves be prosecuted as principal offenders under section 8 of the Accessories and Abettors Act 1861.

Further, section 6(2)(b) of the Aviation Security Act 1982 establishes an ancillary offence in respect of persons in the UK who induce or assist the commission outside the UK of the destruction or sabotage of military or police aircraft, or the commission of violent acts which are likely to endanger the safety of such aircraft. Section 6(2)(c) establishes an ancillary offence in respect of persons in the UK who induce or assist the commission outside the UK of destruction or damage to property likely to endanger the safety of aircraft. Section 6(2)(c) also establishes an ancillary offence in relation to persons in the UK who induce or assist the commission outside the UK of the communication of false or misleading information which endangers or is likely to endanger the safety of aircraft in flight.

#### Article 2 Interpretation

The interpretation of when an aircraft is considered to be “in flight” or “in service” for the purposes of the Convention is mirrored in section 38(3) of the Aviation Security Act 1982.

#### Article 3 Penalties

Offences under Sections 2 and 3 of the Aviation Security Act 1982 are punishable by life imprisonment.

#### Article 4 – Exclusions

The UK legislation limits the exclusions in Article 4 of the Convention in certain respects.

#### Article 5 – Jurisdiction

The offences under section 2 of the Aviation Security Act 1982, (i.e. the destruction or damage to aircraft in service, acts of violence which endanger the safety of aircraft, and placing of a device or substance on board an aircraft likely to destroy or damage aircraft or endanger their safety) are offences in UK law, whether they are committed in the UK or elsewhere, whatever the nationality of the accused, and whatever the State in which the aircraft is registered (section 2(3)). In accordance with section 8, proceedings in respect of these offences require the consent of the Attorney-General.

For the offences under section 3 of the Aviation Security Act 1982 (i.e. the destruction or damage to property such as to endanger the safety of aircraft in flight, and the communication of false or misleading information such as to endanger the safety of aircraft in flight), the grounds of jurisdiction are set out in section 3(5) and reflect the grounds set out in Article 5(1) of the Convention.

#### Article 6 – Detention and investigation

Specific implementing legislation is not required, since powers of detention and investigation are governed primarily under the Police and Criminal Evidence Act 1984 and its associated Codes of Practice. Further powers of investigation and detention in relation to terrorist activity are contained in the Terrorism Act 2000. Arrests can be made without having first to seek the consent of the Attorney-General, by virtue of section 25 of the Prosecution of Offences Act 1985.

#### Article 7 – aut dedere aut judicare

Specific legislative implementation of this provision in UK law is unnecessary, though it will be observed by the authorities deciding upon extradition and prosecution.

#### Article 8 – Extradition

The UK has various general extradition arrangements with individual States under which the offences covered by the convention are included as extradition crimes. However where no such general arrangement exists, extradition is permitted to contracting parties of the Montreal Convention in respect of offences under sections 2, 3, 6(2)(b) and 6(2)(c) of the Aviation Security Act 1982, by virtue of section 22 of the Extradition Act 1989 and the Extradition (Aviation Security) Order 1997 (SI no. 1997/1760).

#### Article 9 – Joint air transport operating organisations

The Secretary of State is empowered to make designations in relation to joint air transport operating organisations under s.98 of the Civil Aviation Act 1982.

#### Article 10 – Preventive measures

Specific legislative enactment is unnecessary in respect of this Article. Reasonable force is permissible under the common law in defence of the person, and in relation to preventing crime and arresting offenders by virtue of section 3 of the Criminal Law Act 1967. However section 7 of the Aviation Security Act 1982 enables the police to take measures to prevent a person from embarking on an aircraft where they suspect he intends to commit hijacking offences.

#### Article 11 – Mutual Legal Assistance



The United Kingdom co-operates in criminal proceedings and investigations with the authorities of other States in accordance with the provisions of the Criminal Justice (International Co-operation) Act 1990.

Articles 12 and 13 - Notifications

Specific legislative authority is not required in this respect.

### **Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents 1973**

Articles 1 and 2 – The Offences

Most of the offences set out in Article 2(1) are offences against the general criminal law in the UK, whether committed against internationally protected persons or not. Hence murder, manslaughter, culpable homicide, rape, assault occasioning actual bodily or causing injury, kidnapping, abduction, false imprisonment or plagiarism, as well as the various statutory offences under sections 18, 20-24, 28-30, and 56 of the Offences Against the Persons Act, and the offence of causing explosions with intent to endanger life under s.2 of the Explosive Substances Act 1883, are well-established offences when committed in the United Kingdom. Similarly criminal damage and arson are established statutory offences under the Criminal Damage Act 1971 when committed within the UK.

However section 1(1) of the Internationally Protected Persons Act 1978 provides for the application of the law extraterritorially when these offences are committed against an internationally protected person.

Section 1(2) of the 1978 Act also provides that attempts to commit one of those acts, or aiding or abetting others to do so, whether the attempt or aiding or abetting took place in the UK or not is an offence. Similarly section 1(3) creates the offence of threatening to commit one of the offences, or attempting, aiding or abetting such threat.

Article 3 – Jurisdiction

The offences under section 1 of the Internationally Protected Persons Act are offences for the purposes of UK law whether they are committed within the UK or not. However in relation to offences under the Act (i.e. essentially those involving the assertion of extraterritorial jurisdiction, proceedings require the consent of the Attorney-General (section 2 of the 1978 Act).

Articles 4 and 5 - Preventive measures and co-operation

No specific legislative measures are necessary beyond the usual police powers and the arrangements for co-operation in this respect.

Article 6 – Detention and investigation

Specific implementing legislation is not required, since powers of detention and investigation are governed primarily under the Police and Criminal Evidence Act 1984 and its associated Codes of Practice. Further powers of investigation and detention in relation to terrorist activity are contained in the Terrorism Act 2000. Arrests can be made without having first to seek the consent of the Attorney-General, by virtue of section 25 of the Prosecution of Offences Act 1985.

Article 7 aut dedere aut judicare

Specific legislative implementation of this provision in UK law, is unnecessary, though it will be observed by the authorities deciding upon extradition and prosecution.

#### Article 8 – Extradition

The UK has various general extradition arrangements with individual States under which the offences covered by the convention are included as extradition crimes. However where no such general arrangement exists, extradition is permitted to contracting parties of the Convention in respect of offences under sections 1(1)(a), 1(1)(b) and 1(3) of the Internationally Protected Persons Act 1978, by virtue of section 22 of the Extradition Act 1989 and the Extradition (Internationally Protected Persons) Order 1997 (SI no. 1997/1764).

#### Article 9 – Fair Treatment

There are numerous guarantees in relation to fair treatment in criminal procedural law, notably the Police and Criminal Evidence Act 1984. Treatment must also meet the standards of the European Convention of Human Rights under the Human Rights Act 1998.

#### Article 10 – Mutual Legal Assistance

The United Kingdom co-operates in criminal proceedings and investigations with the authorities of other States in accordance with the provisions of the Criminal Justice (International Co-operation) Act 1990.

#### Article 11 – Notification

Specific legislative authority is not required in this respect.

### **The International Convention against the Taking of Hostages 1979**

#### Article 1- The Offence

The offence of “hostage-taking” is established in UK law by section 1 (1) of the Taking of Hostages Act 1982 in similar terms to Article 1(1) of the Convention. As regards attempts and accomplices (Article 1(2)), under the general criminal law, attempts are covered by the Criminal Attempts Act 1981, and accomplices are covered under section 8 of the Accessories and Abettors Act 1861.

#### Article 2 - Penalty

The offence of hostage taking is punishable by life imprisonment (section 1(2) of the Taking of Hostages Act 1982).

#### Article 3

No specific legislative enactment is required in this respect.

#### Article 4 - Preventive measures and co-operation

No specific legislative measures are necessary in this respect beyond the usual police powers and the arrangements for co-operation in this respect.

#### Article 5 - Jurisdiction

Hostage taking is an offence under section 1 of the Taking of Hostages Act 1982, whether it takes place in the UK or elsewhere. By section 2 of that Act, proceedings require the consent of the Attorney-General.

#### Article 6 – Detention and investigation

Specific implementing legislation is not required, since powers of detention and investigation are governed primarily under the Police and Criminal Evidence Act 1984 and its associated Codes of Practice. Further powers of investigation and detention in relation to terrorist activity are contained in the Terrorism Act 2000. Arrests can be made without having first to seek the consent of the Attorney-General, by virtue of section 25 of the Prosecution of Offences Act 1985.

#### Article 7 – Notification

Specific legislative authority is not required in this respect.

#### Article 8 aut dedere aut judicare

Specific legislative implementation of this provision in UK law is unnecessary, though it will be observed by the authorities deciding upon extradition and prosecution.

#### Articles 9 and 10 – Extradition

The UK has various general extradition arrangements with individual States under which the offences covered by the convention are included as extradition crimes. However where no such general arrangement exists, extradition is permitted to contracting parties of the Convention in respect of offences under the Taking of Hostages Act 1982, by virtue of section 22 of the Extradition Act 1989 and the Extradition (Taking of Hostages) Order 1997 (SI no. 1997/1767).

#### Article 11 - Mutual Legal Assistance

The United Kingdom co-operates in criminal proceedings and investigations with the authorities of other States in accordance with the provisions of the Criminal Justice (International Co-operation) Act 1990.

#### Articles 12-15

No legislative enactment is required in these respects.

### **The Convention on the Physical Protection of Nuclear Material 1979**

#### Article 7 - The Offences

Most of the offences set out in Article 7 are offences against the general criminal law in the UK, whether committed in relation to nuclear material or not. Hence murder, manslaughter, culpable homicide, assaults as well statutory offences under sections 18 and 20 the Offences Against the Persons Act, and section 1 of the Criminal Damage Act 1971, are well-established offences when committed in the UK law. Similarly theft, embezzlement, robbery, burglary, aggravated burglary, fraud and extortion are established offences when committed within the UK.

However section 1(1) of the Nuclear Materials Act 1983 provides for the application of the criminal law extraterritorially when these offences are committed outside the UK in relation to or by means of nuclear material.

Section 2 of the 1983 Act also provides that preparatory acts and threats to obtain nuclear material in relation to these offences shall themselves be offences (in accordance Article 1(1) (e) and (g) of the Convention). In addition under the general criminal law, attempts are covered by the Criminal Attempts Act 1981, and accomplices are covered under section 8 of the Accessories and Abettors Act 1861.

Penalties vary in according to the different crimes charged. An indication of the gravity with which these crimes are viewed in UK law can be seen from section 2(5) of the 1983 Act which provides for a maximum sentence of 14 years, in relation to the offences concerning preparatory acts and threats in section 2.

#### Article 8 – Jurisdiction

The offences under sections 1 and 2 of the Nuclear Material (Offences) Act 1983 are offences for the purposes of UK law whether they are committed within the UK or not. However in certain cases, essentially involving the assertion of extraterritorial jurisdiction, the consent of the Attorney-General is required in relation to prosecutions (section 2 of the 1978 Act).

#### Article 9 – Detention and investigation

Specific implementing legislation is not required, since powers of detention and investigation are governed primarily under the Police and Criminal Evidence Act 1984 and its associated Codes of Practice. Further powers of investigation and detention in relation to terrorist activity are contained in the Terrorism Act 2000. Arrests can be made without having first to seek the consent of the Attorney-General, by virtue of section 25 of the Prosecution of Offences Act 1985.

#### Article 10 - aut dedere aut iudicare

Specific legislative implementation of this provision in UK law is unnecessary, though it will be observed by the authorities deciding upon extradition and prosecution.

#### Article 11 – Extradition

The UK has various general extradition arrangements with individual States under which the offences covered by the convention are included as extradition crimes. However where no such general arrangement exists, extradition is permitted to contracting parties of the Convention in respect of offences under sections 1(1) and 2 of the Nuclear Material (Offences) Act 1983, by virtue of section 22 of the Extradition Act 1989 and the Extradition (Protection of Nuclear Material) Order 1997 (SI no. 1997/1765).

#### Article 12 – Fair Treatment

There are numerous guarantees in relation to fair treatment in criminal procedural law, notably the Police and Criminal Evidence Act 1984. Treatment must also meet the standards of the European Convention of Human Rights under the Human Rights Act 1998.

#### Article 13 – Mutual Legal Assistance

The United Kingdom co-operates in criminal proceedings and investigations with the authorities of other States in accordance with the provisions of the Criminal Justice (International Co-operation) Act 1990.

#### **Protocol for the Suppression of Unlawful Acts of Violence at Airports 1988**

This supplementary Protocol to the 1971 Montreal Convention is given effect in UK law under section 1 of the Aviation and Maritime Security Act 1990. The offences set out in Article 1 of the Protocol are given effect in UK law by sections 1(1) and 1(2) of the 1990 Act. Offences are punishable by life imprisonment (section 1(5)). Extraterritorial jurisdiction is provided for under Section 1(3), but the consent of the Attorney-General is required for the institution of proceedings (section 1(7)). Extradition is provided for as per the 1971 Montreal Convention.

#### **The Rome Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 1988**

##### Article 3 – The Offences

The offences set out in Article 3(1) of the Convention are implemented in UK law in the following sections of the Aviation and Maritime Security Act 1990:

- section 9 - hijacking of ships;
- section 11(1)(c) - acts of violence such as to endanger a ship;
- section 11(1)(a) and (b) - destruction of and damage likely to endanger the safety of ships;
- section 11(2) - placing on board of a device or substance likely to destroy or damage a ship;
- section 12(1) - destruction or damage of maritime navigational facilities;
- section 12(3) - communication of false information endangering safety of ships;
- section 14 - violent acts ancillary to the commission of the offences in sections 9, 11, and 12.

As regards attempts and accomplices (Articles 3(2)(a) and (b)) under the general criminal law, attempts are covered by the Criminal Attempts Act 1981, and accomplices are covered under section 8 of the Accessories and Abettors Act 1861. In accordance with Article 3(2)(c), threats are made offences by section 13 of the Aviation and Maritime Security Act 1990.

##### Article 5 – The penalties

The offences contained in sections 9, 11, 12 and 13 of the Aviation and Maritime Security Act 1990 are all punishable by life imprisonment (see sections 9(3), 11(6), 12(7) and 13(5) respectively).

##### Article 6 – Jurisdiction

The offences under sections 9, 11, 12, 13 and 14 of the Aviation and Maritime Security Act 1990 are offences for the purposes of UK law whether they are committed within the UK or not. However the consent of the Attorney-General is required in relation to prosecutions (section 16).

##### Article 7 – Detention and investigation

Specific implementing legislation is not required, since powers of detention and investigation are governed primarily under the Police and Criminal Evidence Act 1984 and its associated Codes of

Practice. Further powers of investigation and detention in relation to terrorist activity are contained in the Terrorism Act 2000. Arrests can be made without having first to seek the consent of the Attorney-General, by virtue of section 25 of the Prosecution of Offences Act 1985.

#### Article 10 - aut dedere aut judicare and fair treatment

Specific legislative implementation of Article 10(1) in UK law is unnecessary, though the authorities deciding upon extradition and prosecution will observe it. There are numerous guarantees in relation to fair treatment in criminal procedural law, notably the Police and Criminal Evidence Act 1984. Treatment must meet the standards of the European Convention of Human Rights under the Human Rights Act 1998.

#### Article 11 – Extradition

The UK has various general extradition arrangements with individual States under which the offences covered by the convention are included as extradition crimes. However where no such general arrangement exists, extradition is permitted to contracting parties to the Convention in respect of offences under sections 9, 11, 12, or 13 of the Aviation and Maritime Security Act 1990, by virtue of section 22 of the Extradition Act 1989 and the Extradition (Safety of Maritime Navigation) Order 1997 (SI no. 1997/1766).

#### Article 12 – Mutual Legal Assistance

The United Kingdom co-operates in criminal proceedings and investigations with the authorities of other States in accordance with the provisions of the Criminal Justice (International Co-operation) Act 1990.

#### Article 13 - Preventive measures and co-operation

No specific legislative measures are necessary in this respect beyond the usual police powers and the arrangements for co-operation in this respect.

#### Articles 14 -15 - Notifications

No legislative enactment is required in these respects.

### **Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf**

#### Article 2 – The Offences

The offences set out in Article 2(1) of the Convention are implemented in UK law in the following sections of the Aviation and Maritime Security Act 1990:

section 10 - seizure of platforms;

section 11(1)(c) - acts of violence such as to endanger the safety of a platform;

section 11(1)(a) and (b) - destruction of and damage likely to endanger the safety of a platform;

section 11(2) - placing on board of a device or substance likely to destroy or damage a platform;

section 14 - violent acts ancillary to the commission of the offences in sections 10 and 11.

As regards attempts and accomplices (Articles 2(2)(a) and (b)) under the general criminal law, attempts are covered by the Criminal Attempts Act 1981, and accomplices are covered under section 8 of the Accessories and Abettors Act 1861. Threats under Article 2(2)(c) are made offences by section 13 of the Aviation and Maritime Security Act 1990.

#### Article 5 – The penalties

The offences contained in sections 10, 11, and 13 of the Aviation and Maritime Security Act 1990 are all punishable by life imprisonment (see sections 10(2), 11(6), and 13(5) respectively).

#### Article 6 – Jurisdiction

The offences under sections 10, 11, 13 and 14 of the Aviation and Maritime Security Act 1990 are offences for the purposes of UK law whether they are committed within the UK or not. However the consent of the Attorney-General is required in relation to prosecutions (section 16).

In other respects the Protocol is implemented in UK law as per the 1988 Rome Convention.

### **The Convention on the Marking of Plastic Explosives for the Purposes of Detection 1991**

The Convention is implemented in UK law by *the Marking of Plastic Explosives for Detection Regulations 1996* (SI No. 890/1996), made under enabling powers in the Health and Safety at Work Act 1974. The Regulations prohibit the manufacture of unmarked explosives in accordance with Article II of the Convention. The Regulations prohibit the importation into the UK of unmarked explosives. Further restrictions to prohibit and prevent the transfer into or out of the territory of the UK in accordance with Article III may be given effect through the licensing system generally applicable to importation and exportation. The Regulations also prohibit the possession of unmarked explosives and save in respect of stocks held for military and police purposes.

### **The International Convention for the Suppression of Terrorist Bombings 1997**

#### Article 2 – The Offences.

Offences relating to explosives have long been apart of UK criminal law. The Offences Against the Person Act 1861 provides for the following offences

- (a) causing bodily harm by gunpowder (section 28);
- (b) causing gunpowder to explode with intent to do grievous bodily harm (section 29); and
- (c) placing gunpowder near a building with intent to cause bodily injury.

In addition under the Explosive Substances Act 1883 the following are offences:

- (a) causing an explosion likely to endanger life or property (section 2);
- (b) doing any act with intent to such explosion, conspiring to cause such an explosion, or making or possessing explosive with intent to endanger life or property (section 3);
- (c) acting as an accessory to either of the above offences (section 5)

Section 1 of the Biological Weapons Act 1974, and section 2 of the Chemical Weapons Act 1996, create various offences concerning the use possession and development of biological and chemical weapons respectively. Similar offences in relation to the use of nuclear weapons are established under section 47 of the Anti-Terrorism, Crime and Security Act 2001.

As regards attempts and accomplices (Articles 2(2) and 2(3)) under the general criminal law, attempts are covered by the Criminal Attempts Act 1981, and accomplices are covered under section 8 of the Accessories and Abettors Act 1861. Conspiring to commit offences is also an offence by virtue of section 1 of the Criminal Law Act 1977.

Finally a person who directs a terrorist organisation commits an offence under section 56 of the Terrorism Act 2000.

#### Article 4 – Domestic Criminal Law and Penalties

The offences contained in Article 2 are part of UK domestic law by virtue of the statutory provisions set above. Offences under section 2,3 and 5 of the Explosive Substances Act 1883; section 1 of the Biological Weapons Act 1974; section 2 of the Chemical Weapons Act 1996; and section 47 of the Anti-Terrorism, Crime and Security Act 2001 are all punishable by life imprisonment.

#### Article 5

The offences in UK law cited above are offences regardless of such motivations on the part of the accused.

#### Article 6 – Jurisdiction

By virtue of section 62 of the Terrorism Act 2000 extraterritorial jurisdiction is extended over the offences under Articles 2, 3 and 5 of the Explosive Substances Act 1883, and the offences in section 1 of the Biological Weapons Act 1974 and section 2 of the Chemical Weapons Act 1996. However by virtue of section 117 of the Terrorism Act 2000, the consent of the Attorney-General to prosecutions will be required where such extraterritorial jurisdiction is to be asserted. Extraterritorial jurisdiction is also exercisable with the consent of the Attorney-General in respect of offences relating to use etc of nuclear weapons under section 47 of the Anti-Terrorism, Crime and Security Act 2001.

#### Article 7 – Detention and investigation

Specific implementing legislation is not required, since powers of detention and investigation are governed primarily under the Police and Criminal Evidence Act 1984 and its associated Codes of Practice. Further powers of investigation and detention in relation to terrorist activity are contained in the Terrorism Act 2000. Arrests can be made without having first to seek the consent of the Attorney-General, by virtue of section 25 of the Prosecution of Offences Act 1985.

#### Article 8 - aut dedere aut iudicare

Specific legislative implementation of this Article in UK law is unnecessary, though it will be observed by the authorities deciding upon extradition and prosecution.

#### Article 9 – Extradition

The UK has various general extradition arrangements with individual States under which the offences covered by the convention are included as extradition crimes. However where no such general arrangement exists, extradition is permitted to contracting parties to the Convention in respect of offences under sections 2, 3 and 5 of the Explosive Substances Act 1883, section 1 of the Biological Weapons Act 1974 and section 2 of the Chemical Weapons Act 1996, by virtue of section 22 of the Extradition Act 1989 (as amended by section 64 of the Terrorism Act 2000).



#### Article 10 – Mutual Legal Assistance

The United Kingdom co-operates in criminal proceedings and investigations with the authorities of other States in accordance with the provisions of the Criminal Justice (International Co-operation) Act 1990.

#### Article 11 – Exclusion of the Political Offence Exception

This Article is given effect by section 24(5) of the Extradition Act (inserted by virtue of section 64(4) of the Terrorism Act 2000). Under that provision offences under sections 2, 3 and 5 of the Explosive Substances Act 1883, section 1 of the Biological Weapons Act 1974 and section 2 of the Chemical Weapons Act 1996 shall not be considered political offences for the purposes of the political offence exception in extradition.

#### Article 14 – Fair Treatment

There are numerous guarantees in relation to fair treatment in criminal procedural law, notably the Police and Criminal Evidence Act 1984. Treatment must meet the standards of the European Convention of Human Rights under the Human Rights Act 1998.

#### Article 15 – preventive measures

In relation to Article 15(a) it should be noted that by virtue of sections 59-61 of the Terrorism Act 2000 incitement to terrorism overseas is an offence in UK law.

### **The International Convention for the Suppression of the Financing of Terrorism 1999**

#### Article 2 – The Offences

The offences set out in Article 2(1) of the Convention are reflected in UK law in the following offences under the Terrorism Act 2000:

- (a) Fund-raising for the purposes of terrorism (section 15);
- (b) Use and possession of money for the purposes of terrorism (section 16);
- (c) Involvement in funding arrangements for the purposes of terrorism (section 17);
- (d) Money laundering and similar offences in relation to terrorist property (section 18).

As regards attempts and accomplices (Articles 2(4) and 2(5)) under the general criminal law, attempts are covered by the Criminal Attempts Act 1981, and accomplices are covered under section 8 of the Accessories and Abettors Act 1861. Conspiring to commit offences is also an offence by virtue of section 1 of the Criminal Law Act 1977.

A person who directs a terrorist organisation commits an offence under section 56 of the Terrorism Act 2000.

#### Article 4 – Domestic Criminal Law and Penalties

The offences contained in Article 2 are part of UK domestic law by virtue of the statutory provisions set above. The maximum custodial sentence in relation to offences under section 15-18 of the Terrorism Act 2000 is 14 years imprisonment (section 22). The offence of directing a terrorist organisation under section 56 of that Act is punishable by life imprisonment.

#### Article 6

The ideological or similar other motivation of the offender offers no excuse in relation to the offences under sections 15-18 of the Terrorism Act 2000, but rather is a defining element of “terrorism” for the purposes of the Act (section 1).

#### Article 7 – Jurisdiction

By virtue of section 63 of the Terrorism Act 2000 general extraterritorial jurisdiction is extended over the offences under sections 15-18 of the same Act. However by virtue of section 117 of the Terrorism Act 2000, the consent of the Attorney-General to prosecutions will be required where such extraterritorial jurisdiction is to be asserted.

#### Article 8 – Seizure of Terrorist Funds

In addition to general powers of the police and other financial authorities to freeze and forfeit funds and property used in connection with criminal and prohibited activities, the Terrorism Act 2000 provides additional powers in relation to the investigation, freezing and forfeiture of terrorist funds.

#### Article 9 – Detention and investigation

Specific implementing legislation is not required, since powers of detention and investigation are governed primarily under the Police and Criminal Evidence Act 1984 and its associated Code of Practice. Further powers of investigation and detention in relation to terrorist activity are contained in the Terrorism Act 2000. Arrests can be made without having first to seek the consent of the Attorney-General, by virtue of section 25 of the Prosecution of Offences Act 1985.

#### Article 10 - aut dedere aut iudicare

Specific legislative implementation of this Article in UK law is unnecessary, though the authorities deciding upon extradition and prosecution will observe it.

#### Article 11 – Extradition

The UK has various general extradition arrangements with individual States under which the offences covered by the convention are included as extradition crimes. However where no such general arrangement exists, extradition is permitted to contracting parties to the Convention in respect of offences under sections 15-18 of the Terrorism Act 2000, by virtue of section 22 of the Extradition Act 1989 (as amended by s.64 of the Terrorism Act 2000).

#### Article 12 – Mutual Legal Assistance

The United Kingdom co-operates in criminal proceedings and investigations with the authorities of other States in accordance with the provisions of the Criminal Justice (International Co-operation) Act 1990.

#### Article 14 – Exclusion of the Political Offence Exception

This Article is given effect by section 24(5) of the Extradition Act (inserted by virtue of section 64(4) of the Terrorism Act 2000). Under that provision offences under sections 15-18 of the Terrorism Act

2000 shall not be considered political offences for the purposes of the political offence exception in extradition.

#### Article 17 – Fair Treatment

There are numerous guarantees in relation to fair treatment in criminal procedural law, notably the Police and Criminal Evidence Act 1984. Treatment must meet the standards of the European Convention of Human Rights under the Human Rights Act 1998.

### **European Convention on the Suppression of Terrorism 1977**

#### Articles 1 and 2 – Exclusion of the Political Offence Exception

The exclusion of the political offence exception in extradition proceedings in connection with the crimes listed in Article 1 of the Convention, is implemented in UK law under Section 1 of the Suppression of Terrorism Act 1978. The full list of crimes in UK law to which the exclusion applies is set out in Schedule 1 to the Act.

#### Article 4 – Extraditable Offences

This Article is given effect in UK law by section of the Suppression of Terrorism Act 1978.

#### Article 6 – Jurisdiction

Under section 4 of the Suppression of Terrorism Act 1978 jurisdiction can be asserted over certain of the offences contained in Schedule 1 to the Act where they were committed in the territory of a State party to the Convention. However the consent of the Attorney-General is required in relation to prosecutions for acts made unlawful under that section 4(4) of that Act (i.e. in cases in which extraterritorial jurisdiction is claimed).

#### Article 8 - aut dedere aut judicare

Specific legislative implementation of this Article in UK law is unnecessary, though the authorities deciding upon extradition and prosecution will observe it.

#### Article 9 – Mutual Legal Assistance

The United Kingdom co-operates in criminal proceedings and investigations with the authorities of other States in accordance with the provisions of the Criminal Justice (International Co-operation) Act 1990.

## **1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?**

### Counter Terrorism Act 2008

An Act to confer further powers to gather and share information for counter-terrorism and other purposes; to make further provision about the detention and questioning of terrorist suspects and the prosecution and punishment of terrorist offences; to impose notification requirements on persons convicted of such offences; to confer further powers to act against terrorist financing, money laundering and certain other activities; to provide for review of certain Treasury decisions and about

evidence in, and other matters connected with, review proceedings; to amend the law relating to inquiries; to amend the definition of “terrorism”; to amend the enactments relating to terrorist offences, control orders and the forfeiture of terrorist cash; to provide for recovering the costs of policing at certain gas facilities; to amend provisions about the appointment of special advocates in Northern Ireland; and for connected purposes.

The Counter-Terrorism Act 2008 includes:

- Post charge questioning for terrorism suspects;
- Power to remove documents for examination
- Enhanced sentences for those convicted of non-terrorist offences (such as conspiracy to murder) but where the offence is clearly related to terrorism.
- Notification requirements for convicted terrorists which requires them to notify certain personal information such as name, address and travel plans and confirm such details annually;
- Power on the disclosure of information to intelligence services
- Power to retain and use covertly obtained DNA and fingerprints
- Ability to ban convicted terrorists from travelling overseas
- Offence of eliciting information about members of armed forces, intelligence agencies or police
- New powers for the Treasury to direct financial and credit institutions to take certain action in respect of business with persons in a non-EEA country of money laundering, terrorist financing or proliferation concern.
- New powers allowing the Treasury to base its financial restriction decisions on all available intelligence including closed material (i.e. material the disclosure of which would be contrary to the public interest).

### UK Borders Act 2007

*The UK Borders Act increases the powers the Border and Immigration Agency (BIA) has to build stronger borders, tackle organised crime and remove incentives for illegal immigrants wanting to come to Britain.*

The UK Borders Act:

- Introduces compulsory ID Cards for foreign nationals which will help tackle fraud, illegal working and multiple identity;
- provides new powers to immigration officers allowing them to detain at ports in England, Wales and Northern Ireland individuals they suspect of having committed a crime, to arrest those they believe to have fraudulently been acquiring asylum support and to access Her Majesty's Revenue Customs (HMRC) data to track down illegal immigrants;
- extends powers to enable the prosecution of those who facilitate or traffic from abroad, even if their crimes were committed outside of the UK;
- allows automatic consideration for deportation of foreign national prisoners - sending out a clear message that those who abuse the hospitality of the United Kingdom by committing serious crimes will not be tolerated;

- introduces a Code of Practice to keep Children Safe from Harm which the Border and Immigration Agency will have regard to when dealing with children and;
- establishes a Chief Inspector for the BIA, to oversee the new Agency.

The passage of the UK Borders Act follows major steps already taken by the UK Government to strengthen the UK border. They include: the introduction of biometric visas, already rolled out in 106 countries around the world, which have led to 7,300 individuals successfully being matched to applicants known to the immigration authorities the introduction of a network of airline liaison officers who have stopped 180,000 people boarding planes bound for Britain in 2006 and the rollout of checks against passengers entering and leaving the UK which has generated 15,000 alerts and over 1,200 arrests since 2005.

### **1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?**

- For the UK countering terrorism is not solely a question of applying military force and applying that force within the boundaries of the State. The Ministry of Defence (MOD) has a part to play alongside other Departments like the Foreign and Commonwealth Office (FCO) and the Department for International Development (DFID), and this 'comprehensive approach' is at the heart of the UK's campaigns in Iraq and Afghanistan. In addition, UK Forces contribute to conflict prevention and resolution around the world. However, direct combat is only a small part of UK activities. Military skills are used widely throughout the world to enable security, and contribute to the UK's significant commitment to aid and development overseas.
- The UK's counter terrorism strategy is known as CONTEST (COuNter TERRORism STRategy). The aim of CONTEST is to reduce the risk to the UK and its interests overseas, so that people can go about their lives freely and with confidence. This strategy revolves around the four 'Ps' - Pursue, Prevent, Protect and Prepare. Further details are set out in the comprehensive document 'Pursue Prevent Protect Prepare - The UK's strategy for countering terrorism'.<sup>2</sup>
- Defence has a part to play on all four of these strands using military capability. The military supports Pursue through operations overseas to detain terrorists and deal with insurgencies, as well as through intelligence collection and counter-terrorism capacity building for partner nations (which together with conflict prevention work, also supports Prevent) and support to overseas law enforcement and security agencies. The military supports Protect by encouraging improved domestic security and cooperation between the Armed Forces and the UK civilian Emergency Services. In the event of a terrorist attack that exceeds the capability or immediate capacity of the UK civilian response, the military can provide support to Prepare through Military Aid to the Civil Authorities.

### **1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:**

- **Financing of terrorism;**

"The financial challenge to crime and terrorism" launched jointly by Home Office, HM Treasury, the FCO and the Serious Organised Crime Agency (SOCA) in February 2007, set out for the first

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<sup>2</sup> <http://security.homeoffice.gov.uk/counter-terrorism-strategy>

time how the public and private sector would come together to deter terrorists from using the financial system, detect them when they did, and use financial tools to disrupt them. The UK aim is to deprive terrorists and violent extremists of the financial resources and systems needed for terrorist-related activity, including radicalisation. Action against terrorist finance includes safeguards to prevent terrorists using common methods to raise funds, or using the financial system to move money. Financial intelligence and financial investigation tools are used to support all counter-terrorist investigations; and asset freezing can be used to disrupt the activity of terrorists and their supporters. The financial sector plays a significant role in preventing terrorist abuse, by carrying out 'know your customer' checks and by identifying suspicious customers or activity. In 2007, the Government implemented the European Union (EU) Third Money Laundering Directive which tightened controls on the regulated financial sectors. HM Revenue and Custom's (HMRC) mandatory registration of money service businesses introduced a 'fit and proper' test to ensure that owners and persons who direct the businesses cannot abuse those businesses for terrorist financing. These sectors are obliged by law to provide the SOCA with Suspicious Activity Reports on any financial activity they suspect may be related to terrorism. The Charity Commission plays an important role in preventing the abuse of charitable organisations to raise or move funds for terrorists.

The Terrorism Act 2000 created specific terrorist finance offences. Financial tools are used to disrupt terrorists and their supporters. In October 2007, HM Treasury set up a dedicated Asset Freezing Unit to increase the expertise and operational focus that the Government is able to bring to bear in this area, enabling the UK to be more effective and proactive in freezing assets of suspected terrorists and facilitators. To combat the international financing of terrorism, we work closely with other governments and international organisations such as the Financial Action Task Force, to develop and enforce international standards and, to ensure all countries have robust systems in place for countering the financing of terrorism.

- **Security of radioactive sources;**

The UK Government's aim is to deny terrorist access to CBRNE materials, whether produced and stored in the UK legally or imported (legally or illegally), and to screen for CBRNE materials entering protected areas, for example at airports. Work with European and other partners is particularly important. Tighter controls on the movement of CBRNE materials in Europe and beyond reduce their availability to terrorists, directly increasing UK security. European standards are being developed for explosives screening in commercial aviation, building on the measures initiated by the UK and put in place for liquids in August 2006, which seek both to improve explosive detection capability and to reduce disruption and inconvenience to the travelling public. The multilateral Global Threat Reduction Programme (GTRP) plays an important role in denying terrorists access to CBRN materials. The aim of the GTRP is to improve the security of fissile materials held around the world; reduce the number of sites containing nuclear and radiological material; contribute to the destruction of chemical weapons stocks; and provide sustainable employment for former weapon scientists whose expertise could otherwise be acquired by terrorist organisations. It is the UK's largest cooperative counter proliferation assistance programme, and is coordinated with other key donors. The UK is a leading participant in international multilateral regimes and instruments designed to combat not only the illicit transfer of CBRN material, but also their means of delivery; these include the Chemical Weapons Convention, the Biological and Toxin Weapons Convention, the Missile Technology Control Regime and the Nuclear Suppliers Group.

The Cyclamen Programme was established in 2002 as a joint programme between the Home Office and the former HM Customs & Excise to deter or detect the illicit importation of radiological materials into the UK that could be used for terrorist purposes. Cyclamen involves the development and roll-out of a suite of radiological detection systems at ports of entry to the UK, now operated by UKBA.

Substances with legitimate industrial or domestic uses can be exploited by terrorist groups for the purposes of creating a CBRN or improvised explosive device. Much work has already been undertaken to minimise the opportunities to do so. The UK provides specialist advice to industry on the security of hazardous substances and the sites which handle them. The 'Know Your Customer' campaigns raise awareness about the 'dual-use' nature of certain products and encourage suppliers to be more enquiring of new customers and to report suspicious enquiries to the police.

The Government is delivering an action plan for enhancing the safeguards in respect of CBRNE materials. This includes work to reduce accessibility to hazardous substances posing the highest risk, based on their threat, vulnerability and impact across their life-cycle (from their precursors through to their disposal). The Government is working with its international partners to improve the security of hazardous substances and potential radioactive sources and to ensure that the UK's measures are not taken in isolation. Awareness-raising measures for specific sectors, such as the academic community, are beginning and action is being taken to address identified gaps in the regulatory regime.

- **Use of the Internet and other information networks for terrorist purposes;**

The UK launched in February this year (2010) a pilot project designed to inform members of the public about what they can do if they come across messages of hate, violent extremism and terrorism on the internet. This involves a webpage providing guidance on a range of actions they can take, encouraging individuals to report offensive material in breach of Terms and Conditions to website administrators and hosting companies. The webpage also includes a form for members of the public to report potentially unlawful material directly and anonymously to the police.

A new, national unit within the Association of Chief Police Officers (ACPO) has been set up to receive these reports along with other referrals from police forces and Government Departments. The principal aim of the Counter Terrorism Internet Referral Unit (CTIRU) is to seek the removal or modification of unlawful material using powers under the Terrorism Act 2006. The CTIRU will also act as a central coordination point for both police forces and industry regarding unlawful terrorist material on the internet.

The CTIRU initially aims to seek the removal or modification of UK-hosted material, but in due course will seek voluntary cooperation on the removal or modification of overseas hosted material through law enforcement liaison.

- **Legal co-operation including extradition;**

Terrorist activity has often been conducted by foreign nationals who have come to live in the UK. The Government has always sought to deport foreign nationals suspected of being involved in terrorist-related activity, or who have completed terrorist-related prison sentences, back to their countries of origin using immigration powers exercised by the UK Border Agency. But many of

the foreign nationals concerned come from states, which are alleged to have abused human rights. European case law has established that Article 3 of the ECHR prevents a state from deporting a foreign national to a country where there are substantial grounds for believing that there is a real risk the person will be tortured or suffer inhuman or degrading treatment. The European Court of Human Rights (ECHR) also held that this applies irrespective of the conduct of the persons to be returned. The substance of Article 3 is reflected in other international instruments. Article 3 of the UN Convention Against Torture prohibits the removal of someone where there are substantial grounds for believing they will face torture. The UN International Covenant on Civil and Political Rights has been interpreted to include a prohibition on return comparable to the ECHR. It is against this background that since 2004, the Government has negotiated Memoranda of understanding (MoUs) or similar arrangements to protect foreign nationals whom it wishes to deport to countries where there are concerns on ECHR Article 3 grounds about safety on return. Such arrangements have been agreed with Algeria, Ethiopia, Jordan, Lebanon, and Libya. Work continues to expand this programme by agreeing similar arrangements with a number of other countries. The Government is also engaging bilaterally with European partners to reach a common understanding and acceptance of the applicability of deportation with assurance-like mechanisms.

## **2. Stationing of armed forces on foreign territory**

### **2.1 Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.**

- The UK has ratified the Agreement between the States Parties to the North Atlantic Treaty regarding the Status of their Forces, completed at Brussels on 19 June 1951.
- The UK has ratified the Agreement among the States Parties to the North Atlantic Treaty and the Other States participating in the Partnership for Peace regarding the Status of their Forces, completed at Brussels on 19 June 1995.

UK military forces were deployed in 30 locations around the world, undertaking a number of standing military tasks and providing assistance to a number of Governments in support of UK commitments and interests. More specifically, in relation to UK armed forces stationed on the territory of other participating states we have the following: Canada (permanent staff for Army Training Exercises and RAF training detachments), Cyprus (UK contribution to UN peacekeeping and UK personnel in Sovereign Base Areas, Georgia (contribution to UN observer mission), Germany (British Army Garrison Forces) and Kosovo (UK contribution to operations in support of NATO and EU).

## **3. Implementation of other international commitments related to the Code of Conduct**

### **3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security is implemented in good faith.**

- The UK Government's National Security Strategy sets out the backdrop and states that there will continue to be a role for military armed forces in international peace support operations,



preventive activities such as capacity building, arms control, disarmament and confidence and security building measures (often referred to as 'soft power'). The UK is active across a broad range of multilateral organisations aimed at strengthening global security, including NATO, the EU, OSCE and the UN. The UK will find itself working with partner nations, and through NATO, the EU, the UN and, in some cases, informal coalitions. Overall, we need a sufficiently flexible, agile and balanced range of forces and we see confidence and security building measures as being a key element of future UK capability, through Soft Power.

- Gauged in terms of influence, preventing conflict and increasing security, Defence is already an experienced and successful practitioner of Soft Power. The UK's Green Paper<sup>3</sup> has begun the process of assessing how the Government should respond to the complex future (a much more diverse range of threats and risks) ahead of a full forthcoming Strategic Defence Review (SDR). This Review will recognise the importance of security co-operation and Soft Power, both bilateral and multilateral. UK Soft Power tools include elements of influence operations, humanitarian assistance, counter-proliferation, confidence and security building measures, stabilisation, counter-narcotics, counter-piracy, and counter terrorism. The influence that is generated through Soft Power directly supports current operations, builds and develops burden-sharing alliances and prepares the ground for contingent operations. As part of the SDR the MOD will specifically consider the role of conflict prevention and security co-operation, which includes the field of arms control, disarmament and confidence and security building

### **3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.**

- The UK is a participant, partner state or supportive to all treaties and agreements promoting arms control, disarmament and confidence and security building applicable to the OSCE area.
- The UK is strongly committed to its obligations and promotes the respective intentions actively. In order to facilitate implementation and verification of the relevant treaties and agreements the UK has an established verification agency in the Joint Arms Control Implementation Group based at RAF Henlow. The UK has been engaged in bilateral and multilateral activities to support other nations in improving their individual skills and collective arms control, disarmament and confidence and security building capabilities, on a voluntary basis.

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<sup>3</sup> Defence Green paper: Adaptability and Partnership: Issues for the Strategic Defence Review and the Strategy for Acquisition Reform

## Section II: Intra-State elements

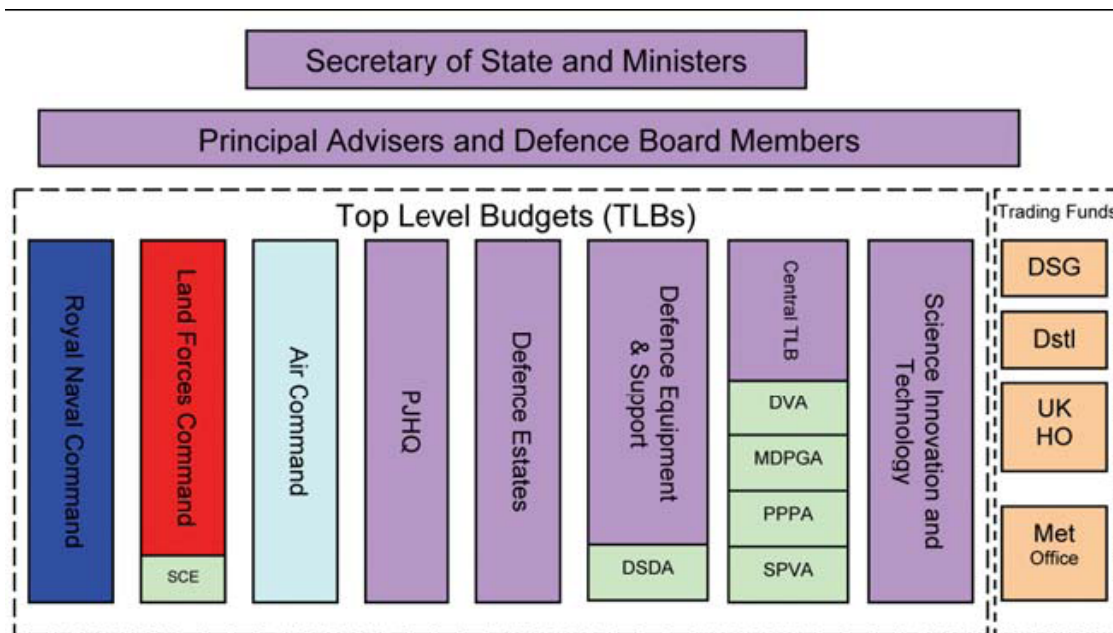
### 1. National planning and decision-making process

#### 1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?

##### Military Planning and Decision Making

- The UK MOD is responsible for leading the defence contribution to the development of the UK Government's foreign and security policy and wider government objectives, and for translating those objectives into departmental policy and the defence capability needed to deliver it.
- The Secretary of State for Defence is responsible for the formulation and conduct of defence policy, and for providing the means by which it is conducted. The Secretary of State (SofS) and his 5 Ministerial colleagues are accountable to Parliament – which votes public money to the MOD for defence purposes. The Ministers are at the top of the UK MOD hierarchy and have the following responsibilities.
- The SofS is the Cabinet Minister charged with making and executing Defence policy and providing the means by which it is executed through the Armed Forces.
- The Minister of State for the Armed Forces (Min(AF)) deals with all Regular and Reserve Armed Forces matters, Defence Diplomacy and arms export controls.
- The Minister of State for Strategic Defence Acquisition Reform (Min (SDAR)) deals with the reform of Defence acquisition, resources and development.
- The Minister of State for Defence Equipment and Support (Min(DES)) deals with Defence logistics and industry.
- The Minister for International Defence and Security (Min(IDS)) deals with international security issues.
- The Minister for Veterans (Min(Vets)) deals with Armed Forces personnel issues.
- Ministers are supported by the senior management of the MOD, headed jointly by the (military) Chief of the Defence Staff (CDS) and the (civilian) Permanent Under Secretary (PUS). They share equal responsibility for much of the MOD's business and their roles reflect the importance of both military and civilian advice on operational, political, financial and administrative matters. The PUS is the Government's principal civilian adviser on defence and has primary responsibility for defence policy, finance and the administration of the Department. CDS is the professional head of the Armed Forces and the principal military adviser to the SofS and the Government.
- The Defence Council is the senior Departmental committee. It is chaired by the SofS, and comprises the other Ministers, the PUS and CDS, and other senior Service officers and officials. It provides the formal legal basis for the conduct of defence in the UK through a range of powers vested in it by statute and Letters Patent.

- The Defence Management Board is the highest, non-ministerial committee in the MoD. Chaired by PUS, it is essentially the main corporate board of the MOD, providing senior level leadership and strategic management of Defence. Its role is to deliver the Defence aim set out in the Public Service Agreement (PSA); it also owns the Defence Vision. The Board is made up of the non-Ministerial members of the Defence Council, and three external, independent non-executive members.
- Defence refers to the publicly funded organisations that deliver military capability, both on operations and in preparation for the future. The structure of UK Defence is shown below:



- **Permanent Joint Headquarters.** Chief of Joint Operations (CJO) is responsible for planning and conducting all UK military operations from the Permanent Joint Headquarters (PJHQ) in Northwood. Military assets are assigned to CJO for the duration of the operation only. In addition to these operational responsibilities, CJO is responsible for the Sovereign Base Areas and British Forces in Cyprus, Gibraltar, the South Atlantic Islands and Diego Garcia.
- **Royal Naval Command (Fleet).** The single Royal Navy Top Level Budget (TLB) was formed on 1 April 2006 by merging the old TLBs of Commander in Chief Fleet (CINCFLEET) and the Second Sea Lord/Commander in Chief Naval Home Command TLBs. Headed by Commander in Chief Fleet, the TLB is responsible for providing warships and trained crews and Royal Marines to CJO at agreed readiness states. CINCFLEET maintains an operational command and control capability, in particular for the nuclear deterrent force. This TLB is also responsible for the provision of personnel: recruitment, individual and collective training and career management.
- **Land Command.** Land Command is responsible for providing the land component military capability (Army formations and equipment) to CJO at agreed readiness states through collective training and the generation of military capability of units, brigades and divisions.

- Air Command. Air Command was formed on 1 April 2007 as a result of the merger of the RAF's Personnel and Training Command and Strike Command. The creation of a single Command, with a single fully integrated Headquarters, has better equipped the RAF to provide a coherent and coordinated single Air focus to the other services, MOD Head office, the PJHQ and the rest of MOD. Air Command is responsible for providing aircraft, trained aircrews and other force elements to CJO at agreed readiness states. In order to do this it undertakes a wide range of functions including providing the recruitment and training of RAF personnel. It undertakes the basic flying training for all three services. In addition, it maintains aircraft and aircrew for Quick Reaction Alert to defend UK airspace and conduct Search and Rescue Operations.
- Defence Equipment and Support (DE&S). DE&S is a TLB established through merger of the Defence Procurement Agency and the Defence Logistics Organisation. It was formed on 1 April 2007 as a result of the Defence Acquisition Change Programme to become an integrated procurement and support organisation. The role of this TLB is therefore to equip and support the UK's Armed Forces for current and future operations. It acquires and supports through-life, including disposal, equipment and services ranging from ships, aircraft, vehicles and weapons, to electronic systems and information systems.
- Science | Innovation | Technology. The prime output of this TLB ensures the Department has access to sound technical advice and technology to support military operations and future strategic capabilities, including nuclear and missile defence issues and policy, provision of technical support, and adaptation of equipment for defence requirements.
- Defence Estate (DE). DE is responsible for managing and developing the Defence Estate in a sustainable manner, in line with acknowledged best practice and Government policy.
- Defence Expenditure.
- The Government carries out a Spending Review every two years to allocate Departmental Budgets. Spending Reviews set firm and fixed three-year Departmental Expenditure Limits and, through PSAs, define the key improvements that the public can expect from these resources. The delivery of defence outputs falls to TLB holders – Service Commanders-in-Chief and the heads of other major delivery organisations. TLB holders are responsible for the delivery of specific outputs – typically elements of military capability or supporting services to other TLB. At the conclusion of each planning round, the outputs and the related resources for each TLB are set out in Service Delivery Agreements between the PUS and CDS on the one hand and the TLB holder, or Service Chief where appropriate, on the other hand.
- The role of the Central TLB is to provide the framework to enable MOD to act as both a Department of State and as the Strategic Headquarters of the Armed Forces. It provides three key functions: Head Office – strategy and policy, allocation of resources against objectives and targets, monitoring performance, and setting standards; Military Capability – providing centrally managed force elements at defined readiness states; and Corporate Services – delivering cost effective and efficient centralized Corporate Services to the wider Department e.g. finance and personnel services.

## **1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?**

- The UK is active across a broad range of multilateral organisations aimed at strengthening global security, including NATO, EU, OSCE and UN. In the vast majority of cases, the UK will find ourselves working with partner nations, and through NATO, OSCE and UN and, in some cases, informal coalitions. Overall, the UK Force Generation process is sufficiently flexible, agile and balanced and includes diplomatic, international and military engagement at the strategic level to inform military planning.

## **2. Existing structures and processes**

### **2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?**

- The SofS is an elected member of the British Government and is accountable to Parliament for all defence matters. He is responsible for the formulation of British defence policy and ultimately for the conduct of all military operations. Defence Ministers account to Parliament for all defence issues and will appear, when requested, before both Houses and before relevant Parliamentary committees.
- The legal basis for Defence comes from two sources: the Crown's constitutional responsibilities and responsibilities imposed by Parliament. Parliament also has an important role in Defence. The Crown's Prerogative powers in relation to Defence are in some cases subject to requirements for Parliamentary approval or are limited by Parliamentary legislation.
- Expenditure on Defence is subject to the normal requirements of Parliamentary approval through annual Appropriation Acts. By this mechanism Parliament controls both Defence expenditure and the size of the Armed Forces (the expenditure is voted by Parliament by reference to specified numbers in the Armed Forces);
- Under the Bill of Rights 1688 the raising of a standing army within the UK in time of peace is unlawful unless Parliament consents. The constitutional practice adopted on the basis of this requirement is that the consent of both Houses of Parliament is required each year to the continuation in force of legislation under which the Armed Forces are recruited and discipline is maintained. In addition, an Armed Forces Act is required every five years in order to continue in force the legislation that governs Service discipline and the military justice system. The latest of these, the Armed Forces Act 2006, was approved by Parliament and came into force in October 2009. The legislation provides, among other things, for a system of justice which is compliant with the European Convention on Human Rights and under which criminal conduct by members of the Armed Forces (wherever it occurs) is judged in accordance with what amounts to criminal conduct under the law of England and Wales;
- The circumstances in which the Armed Forces may be deployed within the UK in time of peace is governed by emergency powers legislation; it is a constitutional principle that only by legislation can members of the Armed Forces be given powers beyond those of other citizens;
- There are additional responsibilities under legislation as to the way the Armed Forces are run; for example to provide for the terms of service of members of the Armed forces and for a system by which they can seek redress of individual grievances.

- The Armed Forces Act 2006 replaced the single Service Discipline Acts (the Naval Discipline Act 1957, the Army Act 1955 and the Air Force Act 1955) with a single system of service law that will apply to the personnel of all three services. Although a more modern piece of legislation, the Act does not set out to make radical changes for the sake of it. From the start of work in 2001, the intention has been to support operational effectiveness by moving to a single system of Service law. This covers the full range of disciplinary work from the internal disciplinary process, which is normally the responsibility of unit commanding officers, right through to courts martial. The Act covers some other important areas such as the right of personnel to make a service complaint; Service Inquiries; and a range of miscellaneous matters such as recruitment, enlistment and terms and conditions of service.
- The UK does not have paramilitary or internal security forces.

## **2.2 How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?**

- The constitutionally established authority for control of the Military is Parliament.

## **2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?**

- The Defence Aim sets out the overall purpose of Defence, which is “to deliver security for the people of the UK and the Overseas Territories by defending them, including against terrorism, and to act as a force for good by strengthening international peace and stability”.
- Military capability needs to be provided for current operations and tasks across the spectrum of tension, from alliance building to war fighting. In addition, military capability has to evolve over time to meet new threats and other challenges to our security. This requires action now to ensure that the forces of the future are properly trained, equipped and supported to meet the uncertain demands we face.
- Delivering the Defence Aim requires three Departmental Strategic Objectives (DSOs) to be achieved: Achieve success in the military tasks undertaken at home and abroad; be ready to respond to the tasks that might arise and Build for the future. By delivering these objectives, Defence contributes to the Government’s 30 Public Service Agreements (PSAs)<sup>4</sup>, most specifically, PSA 30 which is “a global and regional reduction in conflict and its impact through improved UK and international efforts to prevent, manage and resolve conflict, and to create the conditions required for effective state-building and economic development.

## **3. Procedures related to different forces personnel**

### **3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?**

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<sup>4</sup> [www.hm-treasury.gov.uk/pbr\\_csr07\\_psaindex.htm](http://www.hm-treasury.gov.uk/pbr_csr07_psaindex.htm)

- The UK does not have military conscription and has no plans to do so; an Act of Parliament would be required to re-introduce it. The UK has an all volunteer Armed Force. Selection procedures differ slightly for each Service and between officers and other ranks. Applicants are required to meet specified literacy and numeracy requirements and to be both medically and physically fit. The call out and recall of Reservists is undertaken in accordance with provisions of the Reserve Forces Act 1996.

### **3.2 What kind of exemptions or alternatives to military service does your State have?**

- The UK does not have compulsory military service. The call out and recall of Reservists is undertaken in accordance with the provisions of the Reserve Forces Act 1996. Reservists, or their employers, may apply for exemption or deferral from call out or recall under the provisions of Part VIII of the Reserve Forces Act.

### **3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?**

- Civil remedies (including cases referable to courts of law and tribunals), are available to UK service personnel, apart from those which are specifically excluded by legislation. Additionally, there is in existence a statutory redress of individual grievance procedure for all ranks.
- A new post of Service Complaints Commissioner was created by the Armed Forces Act 2006 with a remit which covers any complaint made after 1 January 2008. The Act introduced a number of significant changes to the Service complaints system to make it fairer, more independent and more transparent. As well as the Service Complaints Commissioner, these include new joint standards for the three Services and a new Service Complaints Panel, with an independent member to consider some complaints on behalf of the Defence Council. The Commissioner's role is to provide a rigorous and independent oversight of how the complaints system is working and to report back to Ministers and to Parliament. The Commissioner also provides an alternative point of contact for Service personnel, or someone acting on their behalf, such as a member of their family, a friend or MP to raise concerns. The Commissioner has set priorities for the Armed Forces for them to: deal with complaints quickly at a level which can make fair decisions and make changes where things have gone wrong in a way that keeps all those concerned informed of progress and able to understand the outcome and the reasons behind it. Because of concerns that UK Service men and women should be treated properly, the Commissioner has special powers where a complaint is about unacceptable behaviour such as: bullying, harassment, discrimination, victimisation, dishonest or improper behaviour. In these cases the Commissioner has to be kept informed by law about the handling of a complaint and the outcome. The second annual report by the independent Service Complaints Commissioner on the fairness, effectiveness and efficiency of the Service complaints process was published on 10 March 2010. The report highlights significant action taken by MOD and the three Services, resulting in positive indications of an increasing confidence in the complaints systems and reductions in unacceptable behaviour. The full report can be viewed at [www.armedforcescomplaints.independent.gov.uk](http://www.armedforcescomplaints.independent.gov.uk).

## **4. Implementation of other political norms, principles, decisions and international humanitarian law.**

#### **4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?**

- The UK armed forces provide Law Of Armed Conflict (LOAC) training to all Service personnel. This includes instruction during initial basic training phases, at various staff and promotion courses. Single Services are to ensure that service personnel receive LOAC training at a level and frequency that is appropriate to their rank, responsibility and force readiness status. All Service personnel are to be trained regularly in LOAC.
- Prior to each new military operation, all deployed personnel are issued with a copy of the Joint Service Publication 381 (JSP 381) Aide Memoire on LOAC. In addition, the provision of LOAC instruction as part of pre-deployment training packages is mandatory. All Service personnel are to receive training in the application of LOAC appropriate to the theatre and the nature of the operation on which they are to deploy.

#### **4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?**

- JSP 383: The Law of Armed Conflict is a reference publication for members of the UK Armed Forces and officials within the Ministry of Defence and other departments of HM Government. It is intended to enable all concerned to apply the LOAC when conducting operations and when training or planning for them. The UK ensures that armed forces personnel are aware of being individually accountable under national and international law for their actions through training in LOAC.
- The UK Policy is outlined in JSP 898, Part 3, Chapter 8 Armed Forces Law of Armed Conflict Training Policy and applies to all Service personnel, including Reserves. This training is included in training programmes throughout an individual's career. All Service personnel are required to achieve and maintain a common baseline of LOAC knowledge. Additional training will be required to supplement the common baseline (eg prior to a deployment or at certain key stages as Service personnel progress through their career).
- The revision of LOAC training is undertaken as part of pre-deployment training packages and is mandatory. All Service personnel also receive training in the application of LOAC appropriate to the theatre and the nature of the operation on which they are to deploy. LOAC training policy is subject to evaluation and review.
- The UK publication "A Soldier's Guide to the Law of Armed Conflict" (Army Code 71130) provides a comprehensive description of the history behind and interpretation of the LOAC written in such a manner as to enable adherence to them on the full spectrum of operations. It is suitable for use by all officers and warrant officers as background reading to training in the Law of Armed Conflict, during career courses, during Military Annual Training Tests (MATTs) and on Pre-Deployment Training (PDT).

#### **4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?**



This is undertaken through programmes of training and education based on The UK Defence Language and Cultural Awareness Training Policy dated May 2008. Cultural awareness is on a spectrum of education and training aimed at modifying behaviour and creating understanding, ranging from 'Standards and Values', 'Ethos and Heritage', 'Equality and Diversity' training on the non-operational side to 'Combatant Cultural Awareness' on the operational side. Cultural awareness concerns aspects of foreign cultures and has predominantly an operational focus. An example is of an initiative to improve operational effectiveness on the ground in Afghanistan, Royal Marines from 40 Commando hosted a Pashto language and Afghan cultural awareness courses at their base in Taunton in December 2009 is at:

[www.mod.uk/DefenceInternet/DefenceNews/TrainingAndAdventure/MarinesAndGurkhasStudyPashtoAndAfghanCulturalMores.htm](http://www.mod.uk/DefenceInternet/DefenceNews/TrainingAndAdventure/MarinesAndGurkhasStudyPashtoAndAfghanCulturalMores.htm).

The components of UK cultural awareness training are as follows:

- Structures and Politics. The structures of government, the dynamics and agendas of government, defence, law and order and commerce in a particular country, nation or culture.
- History. The effect that ancient and recent history has in shaping national, regional and tribal attitudes, beliefs and relations. Critical in this area are the relative perceptions of 'The West', the UK and Christianity to the particular operational theatre and environment.
- Social. The social, religious or cultural conventions which shape operational and social interaction. Examples include entering homes, searching, meetings, use of weapons, the acceptance of hospitality, alcohol, gift giving, dogs and sanitation.
- Daily Life. The pattern and quality of life, employment, education, worship, sport, literacy, poverty, diet, home ownership, access to utilities and wages.
- Verbal and Non-Verbal Communications. Greetings, insults, words, phrases, gestures and taboos. This can be achieved through a variety of strategies and techniques, for example, residential short courses or workshops, distance learning tasks, or on-line tutorials. Maintenance training should normally be undertaken once an individual is no longer 'in-role' regularly using those language skills. Relations between society and indigenous/foreign police/military forces.

The level of cultural awareness required varies with both rank and type of operation. The spectrum of cultural awareness requirements can be broadly described as:

- Top. 1\* upwards for commanders engaged with politicians or defence staff at a regional or national level.
- High. Sub-unit upwards for commanders engaged in military / political relations with local and regional representatives of the police, government, armed forces and utilities.
- Mid. Section to sub-unit for commanders engaged with local authorities at community level.
- Low. All ranks for those who engage with, or whose actions affect, the local population.

Defence Intelligence and Security Centre (DISC). The DISC is the UK focus for ensuring the delivery of coherent and cost effective MOD language training, wherever delivered. Consequently, although it

has no budgetary influence over training delivery, and whilst individual language training (foreign and English) organisations are responsible for their own rigorous quality assurance measures in accordance with DSAT (JSP 822), the DISC is responsible for taking the lead in the development of good practice in the delivery of language training and in assisting other MOD schools in the development of relevant processes.

#### **4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?**

##### Civil Rights

The military justice system supports operational effectiveness and safeguards individual service member's civil rights. It has to be fair and be seen to be fair. It provides a single coherent source of authority which applies at home and abroad, ensuring that justice is not delayed and is fully compliant with the European Convention on Human Rights.

The Armed Forces are an equal opportunities employer and are committed to ensuring a working environment free from harassment, intimidation and unlawful discrimination, in which each individual is not only valued and respected – but encouraged to realise their full potential<sup>5</sup>.

The formation of the British Armed Forces Federation to represent, foster and promote the professional, welfare, and other legitimate interests of all members of the federation in their capacity as serving or retired personnel of the armed forces of the U K, and in so doing help to maximise operational efficiency and improve the retention of trained personnel. Within resources, the activities of the federation may include:

- Professional and career development by the provision of education and information;
- Liaison, monitoring and response to proposals or developments within the Services, in Parliament, in the provision of public services or in the commercial sector which have a specific impact on forces personnel;
- Appropriate advocacy and consultation to protect and improve the conditions of service life including pay, accommodation, medical and welfare services, resettlement and all other areas of personnel support;
- Appropriate support to personnel facing court martial or other legal proceedings in connection with their service (the federation will not normally comment on any specific case within the systems of military justice and administrative discipline).

##### Political Accountability

The UK Armed Forces' existence in peacetime is by the consent of Parliament, and both the strength of the Armed Forces and the Defence budget have to be approved by Parliament each year. Consent of both Houses of Parliament is required each year to the continuation in force of legislation under which the Armed Forces are recruited and discipline is maintained. In addition, an Armed Forces Act is required every five years in order to continue in force the legislation that governs

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<sup>5</sup> <http://www.mod.uk/DefenceInternet/AboutDefence/WhatWeDo/Personnel/EqualityAndDiversity/EqualityAndDiversityInTheArmedForces.htm>

Service discipline and the military justice system. The latest of these, the Armed Forces Act 2006, was approved by Parliament and came into force in October 2009.

### Ministerial Accountability

The SofS is accountable to Parliament for all the policies, decisions and actions of Defence that has the most day-to-day impact on people working in Defence. One of the principles of Ministerial conduct is that: "it is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament are expected to offer their resignation to the Prime Minister".

- In practice, the Secretary of State for Defence is held to account by Parliament in four main ways:
- Parliamentary Questions, which are asked by Members of Parliament and Peers to seek information or to press for action, and which may require either an oral or written answer;
- Parliamentary Debates, which include debates on legislation, general topics of interest or issues selected by the major parties. There are typically five set piece debates on Defence in every session in the House of Commons: Defence in the UK, Defence in the world, procurement, Armed Forces personnel and Defence policy. There are also regular adjournment debates in Westminster Hall and in the Commons. The Lords may also hold debates on defence issues;
- Select Committees, whose role includes examining the expenditure, administration, and policy of the principal Government departments. The House of Commons Defence Committee (HCDC)<sup>6</sup> looks specifically at Defence, and may decide to have an inquiry on any Defence issue. The HCDC takes oral and written evidence from Defence Ministers, Service personnel, Defence officials and other interested parties outside Government, before producing a report to which the Secretary of State will then respond. The Public Accounts Committee (PAC), further details of which are given below, and other select committees also obtain evidence, both written and oral, from Defence.
- Ministerial Correspondence, when MPs write directly to Ministers about the concerns of their constituents or on a topic in which they have an interest; Peers also write to Ministers and will receive a Ministerial reply.

The SofS is also required to produce an annual report to Parliament on financial and non-financial performance. The Annual Report and Accounts provides a comprehensive overview of Defence and how it has used the resources authorised by Parliament. The National Audit Office (NAO) under the Comptroller and Auditor General (C&AG) certifies the Accounts and reports to Parliament on any qualification of the audit certificate.

- PUS is the Departmental Accounting Officer and as such is personally accountable to Parliament for the economic, efficient and effective use of Defence resources, prudent administration and the regularity and propriety of Defence expenditure. Chief Executives of Trading Funds have similar accountabilities in respect of their Agencies.
- The Public Accounts Committee (PAC) is a select committee of the House of Commons, established to help give Parliament better control of the expenditure of public funds. The role of

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<sup>6</sup> [www.parliament.uk/parliamentary\\_committees/defence\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/defence_committee.cfm)

the PAC is to satisfy itself as to the accounting for, and the regularity and propriety of, expenditure; and also to explore the economy, efficiency and effectiveness issues set out in NAO value for money reports.

#### **4.5 How does your State ensure that its defence policy and doctrine are consistent with international law?**

The UK Ministry of Defence (MOD) is responsible for leading the defence contribution to the development of the UK Government's foreign and security policy and wider government objectives, and for translating those objectives into departmental policy. Within MOD Head Office is a Central Legal Services department which provides legal advice and input into the development of all MOD policy.

The UK's Development Concepts Doctrine Centre at Shrivenham produces UK's concepts and doctrine, based on MOD policy – underpinned by thorough research – to help inform decisions in Defence strategy, capability development and operations, both now and into the future. To accomplish this, DCDC concentrates its efforts in five core activities:

- Futures - Strategic Trends. The provision of cross-dimensional analysis of the future context for Defence out to 30 years - *looking at the future world environment in which our Armed Forces will have to operate.*
- Futures - Joint Concepts. The initiation, formulation and validation of analytical concepts to shape coherent capability development - *determining how we might wish to operate in the future.*
- Joint Strategic and Operational Doctrine. The development, articulation and dissemination of Joint doctrine, focused at the strategic and operational levels, that incorporates enduring principles and proven good practice established from experience gained on operations - *providing a common framework of understanding.*
- Development, Analysis and Research. The provision of empirical evidence to underpin DCDC products – hunting and gathering information from a wide range of sources including Operational Lessons, Analysis and Studies, Academic texts and Military papers, experimentation and analysis, all to inform DCDC thinking and providing a Research Hub for DCDC.

Legal. Ensuring UK Armed Forces legal compliance and sustaining a favourable legal environment for Defence activity and capability - *acting within the law. All DCDC outputs are examined to ensure legal compliance.*

## **Section III: Public access and contact information**

### **1. Public access**

#### **1.1 How is the public informed about the provisions of the Code of Conduct?**

*Members of the public may request information through the Freedom of Information Act (2005).*

#### **1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?**

Information related to the Code of Conduct may be requested through the Freedom of Information Act (2005).

#### **1.3 How does your State ensure public access to information related to your State's armed forces?**

The Freedom of Information Act (FOI) received Royal Assent on 30 November 2000. The Act supersedes the Code of Practice on Access to Government Information 1997. The Act applies to all public authorities. Within the MOD, only the Special Forces and any unit providing assistance to the Government Communications Headquarters in the exercise of its functions are outside the scope of the Act.

The Act requires each public authority to adopt and maintain a Publication Scheme. The purpose of Publication Schemes is to specify the classes of information that the authority publishes or intends to publish; the form in which this is or will be done; and whether there is any charge for the information. Each scheme must be approved by the Information Commissioner. Although the original timetable set different dates by which different parts of the MOD had to implement a Publication Scheme, we decided to create a single scheme that sets out the full range of information published across the whole of the MOD, its agencies, trading funds, as well as its military components.

The individual right of access applies to all types of recorded information held by public authorities regardless of the date of the information. The Act does, however, set out some exemptions to this right. It also places a number of obligations on public authorities about the way in which they provide information. Subject to the exemptions, anyone making a request must be informed whether the public authority holds the information and, if so, be supplied with it - generally within twenty working days. There is also a duty to provide advice or assistance to anyone seeking information (for example in order to explain what is readily available or to clarify what is wanted). Responsibility for overseeing the operation of the Act rests with the Information Commissioner who is an independent public official responsible directly to Parliament. As well as approving Publication Schemes and promoting compliance with the Act, the Commissioner has powers of enforcement.

The MOD places great importance on informing and educating the public about the role and activities of the Armed Forces, and on opening up the MOD to the public. To that end, it puts considerable effort into identifying opportunities to publicise and promote the work of the Armed Forces, and into increasing the means by which such information can be provided to the public. Press notices are issued and briefings given on all significant decisions and events, for example, decisions on the procurement of equipment, the deployment of forces on operations and major exercises and decisions on policy matters.

An MOD Website been established which is updated on a regular basis, and which provides links to other associated sites, including those maintained by each of the single Services. These sites provide a considerable amount of information about the Armed Forces. In addition, at the start of any military operation a new site is established specifically related to that operation. In addition, the MOD produces a series of fact-sheets and booklets which are made available to the public and provide information on various aspects of defence business.

There are a number of other ways for the public to access information on the UK military, through Parliamentary Questions and Ministerial Correspondence posed through their respective Members of Parliament. In addition, FOI requests, Subject Access Requests under the Data Protection Act and requests under the Environmental Information Regulations 2004 are also available.

Finally, regular links are maintained with the academic community, and conferences and seminars held at which information is exchanged in an open atmosphere.

The MOD Annual Report and Accounts is a comprehensive overview of UK Defence and how the MOD has used the resources authorised by Parliament. It has two volumes: the first is MOD's Annual Performance Report for the year, including our contribution to Public Service Agreements and performance against our Departmental Strategic Objective targets. The second comprises the MOD Resource Accounts for the financial year.

## **2. Contact information**

### **2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.**

Security Policy Group  
Foreign and Commonwealth Office  
King Charles Street  
London  
SW1A 2AH

Tel: 020 7008 3135

Fax: 020 7008 2635

Email: [secpoleng@fco.gsi.gov.uk](mailto:secpoleng@fco.gsi.gov.uk)

## **Section IV: Information on democratic political control of Private Military Security Companies and Women, Peace and Security**

### **1.1 Democratic political control of private military and security companies**

On 24 April 2009, the UK Government launched a Public Consultation on promoting high standards in the PMSC industry internationally in a Written Ministerial Statement to Parliament. This includes promoting high standards of the industry through a UK code of conduct agreed with and monitored by the Government, using our leverage as a key buyer, and an international agreement on standards covering all aspects of PMSC operation and organisation worldwide.

The objectives of our policy are therefore:

- a) to promote high standards of conduct by PMSCs internationally; and,
- b) to reduce the risk that the activities of PMSCs might give rise to human rights or humanitarian law concerns, assist internal repression, or provoke or prolong internal or regional tension.

The UK Government published a Written Ministerial Statement<sup>7</sup>, a Public Consultation document<sup>8</sup> and an Impact Assessment<sup>9</sup> on the FCO website immediately after the announcement. On the day of the launch, Lord Malloch Brown held meetings with representatives of the PMSC industry, the British Association of Private Security Companies (BAPSC) and NGOs. UK Government officials also held meetings with key stakeholders individually during the 12-week consultation period.

The papers can also be downloaded from [www.fco.gov.uk](http://www.fco.gov.uk). The consultation was conducted in line with the criteria of the Department for Business, Innovation and Skills' (BIS) Code of Practice on Consultations. It closed on 17 July 2009.

During the consultation we received a number of contributions relating to the capacity and appropriateness of the British Association of Private Security Companies (BAPSC) to combine its existing trade promotion activities with the compliance, auditing and monitoring of a code of conduct, including the enforcement of disciplinary measures, as part of our approach to promote high standards of the industry through a UK code of conduct.

As stated in the Foreign Secretary's Written Ministerial Statement on 16 December 2009, UK Government officials therefore organised and chaired a multi-stakeholder working group which met during January and February 2010, comprising representatives of Government, relevant trade associations, the industry and civil society to explore these concerns further and to determine detailed proposals for a way forward.

In parallel, the UK Government continues to work towards agreeing international standards for the industry and an accountability mechanism to enforce them. A draft international standard has been produced by NGO experts in international humanitarian law (funded by the Swiss Government). The Swiss, UK and US Governments are currently facilitating an extensive

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<sup>7</sup> <http://services.parliament.uk/hansard/Lords/ByDate/20090424/writtenministerialstatements/part004.html>

<sup>8</sup> <http://www.fco.gov.uk/resources/en/pdf/4103709/5476465/5550005/pmsc-public-consultation>

<sup>9</sup> <http://www.fco.gov.uk/resources/en/word/5029385/14432318/pmsc-impact-assessment>

consultation exercise on the draft. We aim to have agreed these international standards and an accountability mechanism within two years.

## **1.2 Women, Peace and Security**

The following additional information is provided with reference to the 2004 OSCE Action Plan for the Promotion of Gender Equality in accordance with ministerial decision No. 14/04; as well as ministerial decision No. 14/05 on Women in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation — aiming at enhancing the implementation of the UN Security Council resolution 1325 (2000).

The UK has been one of the principal supporters of Security Council Resolution 1325. We were one of the first nations to devise a National Action Plan on UNSCR 1325 in 2006, which provides the framework for integrating the aims of UNSCR 1325 into a range of UK diplomacy, defence and development policies. Actions to date include:

### Diplomacy

- Working for the inclusion of Security Council Resolution 1325 as standard in UN mandates for peacekeeping missions.
- Developing UN Security Council Resolution 1820, through which the Security Council recognised and took a firm stance on the issue of conflict-related sexual violence.
- Conducting advocacy in countries affected by conflict to pressure host governments to take action against sexual violence and to promote female participation in conflict resolution.
- Supporting the UN's mediation support unit and the Peacebuilding Support Office, using our position as a donor to ensure that the efforts of these offices involve the participation of women at all stages.
- Raising awareness of 1325 among civilian policymakers through staff training and practical exercises.

### Defence

- continues to train all personnel in gender awareness in compliance with UNSCR 1325 and develops instruction when lessons have been identified.
- integrates the UN Code of Conduct in all its pre-deployment training.
- includes packages in pre-deployment training that cover the role and relevance of gender to the specific society living in the deployment area.
- Ensures that the role of women in conflict is covered in British Defence Doctrine.
- Continues to deploy servicewomen on operations in all roles that UK legislation permits.



## Development

The UK has mainstreamed gender considerations into our development work conducted in conflict affected states:

- Ensuring that all new security and justice development programmes include measures to support women and girls affected by violence, in particular in conflict and post-conflict situations .
- Funding bilateral programmes that address issues of violence against women and build their capacity to participate in political processes.

The UK is currently revising its National Action Plan, to ensure that it reflects new UK activity, takes account of international developments and brings coherence to our future efforts ahead of the 10 year anniversary of UNSCR 1325 in October 2010.

## Gender equality and women's empowerment

The UK is strongly committed to implementing the Beijing Platform for Action and the Millennium Development Goals. The UK government has taken a certain number of initiatives to progress gender equality domestically including in education, health, politics and employment:

- In June 2009 the UK launched cross-Government targets on gender, ethnicity and disability for new public appointments made;
- The UK Government published a women's employment strategy, 'Working Towards Equality: A Framework for Action' on 9 February 2010;
- The UK published a cross-Government Violence Against Women and Girls Strategy on 25 November 2009;

In April 2009, a major new reform in equality legislation – the Equality Bill - was introduced into the UK Parliamentary process and subject to the will of Parliament, will receive Royal Assent in April 2010. When enacted, the Bill will streamline and significantly strengthen existing discrimination legislation in order to increase transparency about inequalities, strengthen enforcement and extend the scope for action to assist under-represented groups, including women. The Bill will directly contribute to promoting gender equality including by increasing the scope for positive action, extending women-only short lists, increasing transparency in pay and promoting the scope for employers to increase workforce diversity, among others.

## Internationally

In addition to prioritising gender equality on the domestic front, the UK Government has made the elimination of gender discrimination a key component of its international work and takes every opportunity to promote and actively participate in international forums on women's rights, including through relevant United Nations (UN) and European Union mechanisms. To this end, the UK has been one of the main supporters of key UN resolutions such as the General Assembly resolution on eliminating all forms of violence against women and actively participates in annual meetings of the Commission on the Status of Women, the main inter-governmental forum for women's rights.

The UK's international development policy, as outlined in its third White Paper, underlines the UK Government's commitment to give greater priority to support gender equality and women's rights in its international development assistance. To this end, eliminating gender discrimination and ensuring

women's equal rights are seen as fundamental to achieving the Millennium Development Goals and as key components of the UK Government's broader commitments to tackle world poverty.

The UK ratified CEDAW in 1989 and the CEDAW Optional Protocol in 2005. In July 2008 the UK was examined by the CEDAW Committee on its 5th and 6th Periodic reports. The Committee's resulting Concluding Observations and related recommendations have been disseminated across UK Government departments, and concrete steps are being taken to address them. This includes efforts to institutionalise greater cross-UK coordination on implementing CEDAW and related gender equality initiatives through the establishment of a four-Nations Gender Directors Network comprised of the four gender policy lead officials from England, Northern Ireland, Scotland and Wales, as well as through a cross-departmental group to ensure action on gender equality across sectors is coordinated on the policy front.

- The UK's next national CEDAW report (7th periodic report) is due to be submitted to the UN around mid-2011.