

**RESPONSE OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
TO THE CALL BY THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS FOR  
INFORMATION TO INFORM A REPORT TO THE GENERAL ASSEMBLY ON TORTURE-FREE  
TRADE: EXAMINING THE FEASIBILITY, SCOPE AND PARAMENTERS FOR POSSIBLE  
COMMON INTERNATIONAL STANDARDS**

**1. What are the regional and/or national instruments or policies guiding your country for the regulation of trade in goods used for a) capital punishment b) torture or other cruel, inhuman or degrading treatment or punishment? Please provide examples. Which government department/agency is responsible for monitoring the implementation of such regulations/policies, if any?**

The UK is committed to preventing and controlling the trade in goods that could be used for capital punishment or torture, and is a member of the Global Alliance for Torture-Free Trade.

Regulation (EU) 2019/125 of 16 January 2019, concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (“the Torture Regulation”) sets out rules for trade in such goods. While the UK has left the EU, under the European Union (Withdrawal Agreement) Act 2020, the Torture Regulation remains directly applicable in the UK until the transition period ends. We will retain the Torture Regulation in UK law after the end of the transition period and the overall framework of the controls will remain the same.

The Torture Regulation includes prohibitions on the export, import, transit, brokering, training, and promotion/advertising of specified goods, which have no practical use other than for the purpose of capital punishment, or torture and other cruel, inhuman or degrading treatment or punishment.

The Torture Regulation requires prior authorisation for the export of, and provision of brokering services and technical assistance related to, specified goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment, but which are (a) primarily used for law enforcement purposes or are (b) goods which, taking into account their design and technical features, present a material risk of use for torture or other cruel, inhuman or degrading treatment or punishment. Prior authorisation is also required for medicinal products that could be used for the purpose of capital punishment and have been approved or actually used for capital punishment by one or more countries that have not abolished capital punishment. Imports of specified goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, also require a prior authorisation. Authorisation will only be granted if it is demonstrated that such goods will

be used for the exclusive purpose of public display in a museum in view of their historical significance.

The Export Control Order (2008) contains additional controls over and above those required in the Torture Regulation. These are controls on the export and brokering of goods which have legitimate uses in law enforcement, but which might be used for torture or other cruel, inhuman or degrading treatment or punishment.

The Department for International Trade (DIT) is responsible for the implementation of these measures, and Her Majesty's Revenue and Customs (HMRC) provides for their enforcement.

**2. Have there been any investigations, prosecutions and/ or convictions for breaches of national regulations on the trade in goods indicated in paragraph 8 of the introduction to this questionnaire? If so, please provide details.**

There have been no prosecutions or convictions in the UK for breaches relating to the trade in goods indicated in paragraph 8 since 2010. The most recent such prosecution related to the trading of electric discharge weapons.

**3. Do you agree with the proposed categorization of goods used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment indicated in paragraph 8 of the introduction to this questionnaire (see above)? If not, which categories would you propose?**

Yes. The categorisation of goods indicated in paragraph 8 is consistent with the categorisation of goods employed by the UK:

- Goods with no practical use other than for the purpose of torture and other cruel, inhuman, or degrading treatment or punishment are captured in Annex II to the Torture Regulation.
- Goods that could be used for the purpose of torture and other cruel, inhuman, or degrading treatment or punishment are captured in Annex III.
- Goods with no practical use other than for the purpose of capital punishment are captured in Annex II to the Torture Regulation.
- Goods with legitimate medical uses that could be used for the purpose of capital punishment are captured in Annex IV to the Torture Regulation.

**4. Please indicate whether you believe there should be an exhaustive list of goods under each category. If yes, should there be a mechanism for regular updating of the lists under each category?**

An exhaustive list of goods would ensure maximum clarity over the specific goods controlled, and ensure maximum consistency in the application of these controls by states. However, we believe it would be difficult to reach consensus on the contents of a comprehensive and exhaustive list. In addition, any such list should not include items already subject to existing arms control regimes, nor should it disproportionately affect trade in legitimate medical products. Therefore, a narrower list representing a “minimum standard” should be considered as an option.

**5. Should the proposed common international standards prohibit trade in goods which have no practical use other than for the purpose of capital punishment or torture or other cruel, inhuman or degrading treatment or punishment? If not, please provide further explanations.**

The UK could support an approach where the trade in such goods is prohibited, unless authorised by a competent national authority. Any authorisation would only be granted in very limited circumstances, for example, where the goods will be used for the exclusive purpose of public display in a museum in view of their historical significance.

**6. Should the proposed common international standards provide for strict control of trade in goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment and goods that could be used for the purpose of capital punishment? If not, please provide justification.**

The UK could support an approach where an authorisation from a competent national authority is required for such goods to be traded. Such an authorisation should not be granted where there are reasonable grounds to believe that the goods might be used for capital punishment, or for torture, or other cruel, inhuman, or degrading treatment or punishment.

**7. What types of activities linked to "import, export and transfer" should the proposed common international standards regulate? Please consider activities such as transit, promotion, technical assistance and training, brokering, sharing technology, manufacturing, production and commercial marketing, among others. Please also provide an explanation for why these activities should be regulated or not.**

Activities linked to import, export and transfer should be regulated to the extent that they are directly related to, and clearly facilitate and enable, the trade in goods the import, export and transfer of which are also regulated. Such activities could include:

- Transit
- Brokering services
- Technical assistance/training
- Promotion at exhibitions or fairs and other forms of direct marketing

**8. Please indicate which risk assessment mechanisms and criteria should be considered for the import, export and transfer of a) goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment and b) goods that could be used for the purpose of capital punishment. Please consider, inter alia, the criteria for preventing diversion to third countries.**

It is essential that any risk assessment criteria are clear, and readily understood by all stakeholders; that risk assessments are conducted on a consistent and non-discriminatory basis; and that they take account of all relevant information from reliable and verifiable sources. Assessments should cover all parties to a transaction and, where appropriate, be supported by an end-user undertaking/certificate or official documentation setting out the details of the end-user and intended end-use. Under the Torture Regulation, the following specific criteria are applied for granting export authorisations:

- (a) For goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment:
  - a. No authorisation shall be granted where there are reasonable grounds to believe that the goods might be used for torture, or other cruel, inhuman, or degrading treatment or punishment. This takes into account:
    - i. Available international court judgments;
    - ii. Findings of the competent bodies of the UN, and reports of the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment;
    - iii. Other relevant information, including available national court judgments, reports or other information prepared by civil society organisations.
  - b. Additionally, the UK makes an assessment of the contractual arrangements that apply, and any end-use undertaking signed by the end user.
  
- (b) For goods that could be used for the purpose of capital punishment:
  - a. No export authorisation shall be granted where there are reasonable grounds to believe that the goods might be used for capital punishment.
  - b. Additionally, the UK makes an assessment of the contractual arrangements that apply, and any end-use undertaking signed by the end user.

**9. Please indicate what you consider to be the most suitable type of international instrument to establish common international standards for regulating goods used for capital punishment or torture or other cruel, inhuman or degrading treatment or punishment. Please provide further explanation.**

The UK considers it is important at this time to remain flexible as to the nature of any future common international standards, at least until their potential scope and content become clearer.

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