



## BRIEFING PAPER

Number 08425, 29 January 2021

# UK arms exports to Saudi Arabia: Q&A

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## Summary

The conflict in Yemen has drawn attention to UK arms sales to Saudi Arabia. Saudi Arabia has been accused of committing violations of International Humanitarian Law (IHL) during its military operations in Yemen.

The UK is not a member of the Saudi-led Coalition but Saudi armed forces are using UK built and licenced arms in Yemen, including Typhoon aircraft, missiles and bombs.

Campaign groups actively lobby MPs to make this point, but the Government has resisted pressure from opposition parties and backbench MPs to suspend arms sales to Saudi Arabia.

One group, the Campaign Against Arms Trade (CAAT) took the UK government to court to obtain a Judicial Review of arms sales to Saudi Arabia. The High Court rejected their claim in 2017. However, in June 2019 the Court of Appeal concluded the Government's decision-making process for granting export licences was "irrational" and therefore "unlawful".<sup>1</sup>

The Government responded by announcing it would review all licences and not grant any new licences for export to Saudi Arabia and its coalition partners that might be used in the conflict in Yemen while it considered the implications of the judgement. The Government sought and was granted permission to appeal to the Supreme Court on 9 July 2019.<sup>2</sup>

In September 2019, the International Trade Secretary, Liz Truss, [apologised](#) after finding the Government had granted new export licences to Saudi Arabia and its coalition partners, therefore breaching the undertaking given to the Court of Appeal.

Liz Truss announced on 7 July 2020 that the Government will resume granting licences for export to Saudi Arabia. She said that, having applied a revised methodology to its decision-making process, the Government assesses "there is not a clear risk that the export of arms and military equipment to Saudi Arabia might be used in the commission of a serious violation of IHL". The Government will also withdraw its appeal.

Opposition MPs condemned the decision, with the shadow international trade secretary calling the decision "morally indefensible". She and other MPs also pointed to the mixed messages given by the Government, who had announced the previous day it was sanctioning "[20 Saudi nationals involved in the death of Saudi journalist Jamal Khashoggi](#)". In October 2020 Campaign Against the Arms Trade filed a judicial review application into the legality of the UK government's decision to renew arms sales to the Saudi-led coalition.

In January 2021, the new US administration announced that it was suspending some licences for arms sales to Saudi Arabia and the UAE, adding to the pressure on the UK Government.

This briefing paper focuses on UK arms exports to Saudi Arabia. The Library regularly publishes material on the situation in Yemen, most recently '[The situation in Yemen](#)' (CDP-2020-0090, 21 September 2020), '[Yemen's fragile peace process](#)' (CBP8536, 7

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<sup>1</sup> [CAAT versus Secretary of State and Others full judgement](#), 20 June 2019, para 138; [Letter from the International Trade Secretary regarding Appeal Court Judgement dated 24 June 2019](#), Committees on Arms Export Controls, 3 July 2019

<sup>2</sup> More detail is available from the Commons Briefing paper [UK arms exports to Saudi Arabia: Q&A](#), 10 July 2019. For more background on Yemen see the CBP [Yemen's fragile peace process](#), 27 March 2019

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March 2019). The House of Lords International Relations Committee published a report '[Yemen: Giving Peace a Chance](#)' in February 2019 (HL Paper 290 of session 2017–19).

This paper was first published in 2018, updated on 10 July 2019, 10 July 2020 and 28 January 2021.

##### **Box 1: What are arms exports?**

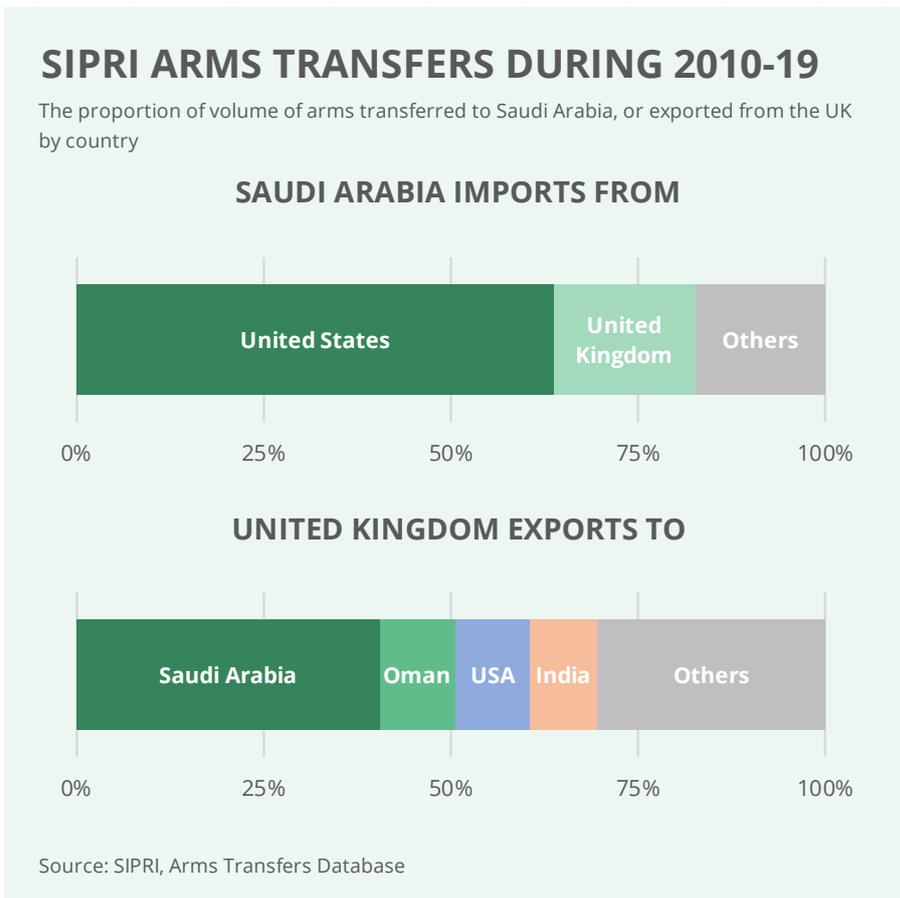
Arms exports are the export of military and dual-use items (that could have military or civilian use) to other nations. The export of these items is controlled, to ensure the Government knows what is being exported, where it is being exported to and for whom. Items that are 'controlled' need a licence to be exported. The Government assesses licence applications against eight Criteria. Commons Library briefing paper '[An Introduction to UK arms exports](#)' explains this in greater detail and is available on the Library website.

# 1. Does the UK export arms to Saudi Arabia?

Yes. The Middle East is a major market for UK defence exports and Saudi Arabia is the largest buyer of UK arms.

According to the SIPRI Arms Transfer Database, the UK was the second largest exporter of arms transfers to Saudi Arabia (after the US) between 2010 and 2019. The UK accounted for around 19% of the arms imports to Saudi Arabia.

Between 2010 and 2019 Saudi Arabia was the largest importer of arms from the UK; the total volume of arms transfers was around 40% of the UK's total arms export volume.



The UK and Saudi Arabia have a Government-to-Government defence cooperation programme, under which the UK has exported Typhoon, Tornado and Hawk aircraft, mine countermeasure vessels and associated munitions, infrastructure, logistics and manpower support packages.<sup>3</sup>

<sup>3</sup> [Strategic Export Controls Annual Report 2019](#), para 6.3

The Government says it is the responsibility of BAE Systems, the designated prime contractor for this programme, to apply for export licences:

The Government's obligations to supply military equipment and support to Saudi Arabia under the existing Government-to-Government arrangements are fulfilled under contract by the designated prime contractor, BAE Systems. Under these contracts, it is the responsibility of the company to submit an export licence application for all exports of arms and controlled military goods, which are considered on a case-by-case basis.

The Government continues to act fully in line with the decision of the Court of Appeal.<sup>4</sup>

The [2019 annual report for BAE Systems](#),<sup>5</sup> the main contractor for UK arms sales to Saudi Arabia, stated that the company was still maintaining Saudi Typhoons: "The business continues to perform against the contract secured in 2018 to provide Typhoon support services to the Royal Saudi Air Force through to 2022."

Further analysis of arms exports to Saudi Arabia is available in Commons Library briefing paper '[UK Defence Industry Exports](#)'.

## 1.1 What kind of arms does the UK export to Saudi Arabia?

The Government does not provide exact figures on arms exported to Saudi Arabia or any other country.<sup>6</sup> Data on exports are based on the value of export licences granted rather than individual contracts. The data does provide broad categories of goods but does not provide specifics. The Campaign Against Arms Trade, which opposes arms exports to Saudi Arabia, says that of the £5.3bn worth of arms licenced for Saudi Arabia since March 2015, £2.7 billion worth were ML10 licences (aircraft, helicopters, drones) and £2.5 billion were ML4 licences (grenades, bombs, missiles, countermeasures).<sup>7</sup>

Typhoon combat aircraft and associated systems dominate UK exports to the Kingdom. The final six Typhoon combat aircraft of 72 ordered in 2007 were delivered in 2017. In March 2018 Riyadh signed a Memorandum of Intent with the UK to buy an additional 48 Typhoons.<sup>8</sup> The Government said in May 2019 it continues to "make good progress on the Typhoon batch 2 negotiations" with Saudi Arabia.<sup>9</sup> No contract or delivery timeline has yet been disclosed.<sup>10</sup>

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<sup>4</sup> [PQ39815](#), 4 May 2020

<sup>5</sup> The report covers the year ending 31 December

<sup>6</sup> [PQ168984](#), 6 September 2018

<sup>7</sup> "[CAAT condemns government decision to allow new arms sales to Saudi Arabia. CAAT considering legal steps](#)", CAAT, 7 July 2020

<sup>8</sup> "Saudi Arabia signs MOI for 48 more Typhoons", Jane's Defence Weekly, 2018; "[UK-Saudi Arabia Joint Communiqué](#)", 10 March 2018

<sup>9</sup> [HC Deb 8 May 2019 c321WH](#)

<sup>10</sup> "Analysis – Second-wind: Eurofighter propelled by upgrades and follow-on buys", Jane's Defence Weekly, 23 June 2020

## 1.2 Is the UK part of the Saudi-led Coalition?

No. The UK is not a member of the Saudi-Led Coalition. Nor does it have any role “in setting Coalition policy, or executing air strikes in Yemen.”<sup>11</sup>

However, the UK does provide considerable support to the Saudi armed forces beyond that provided in support of exported equipment.

In the year after Saudi began its campaign in Yemen (March 2015) the UK Government:

accelerated delivery of Paveway precision-guided bombs; provided increased training in targeting and weapon use to help improve Saudi processes; provided liaison officers in Saudi headquarters to observe Saudi processes, increase the UK’s insight into the air campaign and help to improve maritime access to Yemeni ports by identifying vessels that may be breaching the arms embargo; and scoped and met Saudi training needs to help strengthen defences at the Saudi southern border which has suffered repeated cross border raids.<sup>12</sup>

The Government says it is not involved in targeting decisions. The Government says the liaison officers “are not involved in carrying out strikes, directing or conducting operations in Yemen or selecting targets and are not involved in the Saudi targeting decision-making process”.<sup>13</sup>

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<sup>11</sup> [PQ168984](#), 6 September 2018

<sup>12</sup> Committees on Arms Export Controls, The use of UK-manufactured arms in Yemen, [written evidence from the Foreign and Commonwealth Office](#), UK0013, 13 April 2016, para 29

<sup>13</sup> Committees on Arms Export Controls, The use of UK-manufactured arms in Yemen, [written evidence from the Foreign and Commonwealth Office](#), UK0013, 13 April 2016

## 2. Are UK weapons being used in violations of international humanitarian law in Yemen?

This is the key argument of those calling for the Government to halt arms exports. [CAAT argues the UK Government](#) “has continued to support Saudi air strikes in Yemen and provide arms despite overwhelming evidence of repeated breaches of international humanitarian law”.

### Parliament

The House of Lords International Relations Committee published a report ‘[Yemen: Giving Peace a Chance](#)’ in February 2019. The committee discussed the UK’s role in Yemen and offered the following conclusion on arms exports:

We recognise that there are legitimate reasons for UK arms exports overseas. Export licensing decisions for the sale of arms always require fine judgements, balancing legitimate security concerns against human rights implications, and each situation must be assessed individually. The Government asserts that, in its licensing of arms sales to Saudi Arabia, it is narrowly on the right side of international humanitarian law. Although conclusive evidence is not yet available, we assess that it is that it is narrowly on the wrong side: given the volume and type of arms being exported to the Saudi-led coalition, we believe they are highly likely to be the cause of significant civilian casualties in Yemen, risking the contravention of international humanitarian law.<sup>14</sup>

The House of Commons International Development Committee and Business, Innovation and Skills Committee concluded in their 2016 joint report:

Given that the UK has a long history of defence exports to Saudi Arabia and its coalition partners, and considering the evidence we have heard, it seems inevitable that any violations of international humanitarian and human rights law by the coalition have involved arms supplied from the UK.<sup>15</sup>

### United Nations

A [UN Group of Experts](#) tasked by the UN Human Rights Council to investigate Yemen examined allegations of violations of IHL. Their report, published in August 2018, said Coalition air strikes have caused most of the documented civilian casualties (there were 16,706 civilian casualties between March 2015 and June 2018). The report said air strikes have hit residential areas, markets, funerals, weddings, detention facilities, civilian boats and medical facilities. The Group said the cases investigated by them “raise serious concerns about the targeting process applied by the coalition”.

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<sup>14</sup> House of Lords International Relations Committee, ‘[Yemen: Giving Peace a Chance](#)’ 16 February 2019, HL Paper 290 of session 2017–19

<sup>15</sup> [The use of UK-manufactured arms in Yemen](#), Business, Innovation and Skills and International Development Committees, HC 679, 15 September 2016, p3

The Group concluded it has “reasonable grounds to believe that the parties to the armed conflict in Yemen have committed a substantial number of violations of international humanitarian law” and that “individuals in the Government and the coalition, including Saudi Arabia and the United Arab Emirates, may have conducted attacks in violation of the principles of distinction, proportionality and precaution that may amount to war crimes”.<sup>16</sup>

In [September 2020 the UN Group of Experts published another report](#), finding that violations continued:

...the parties to the conflict continue to show no regard for international law or the lives, dignity, and rights of people in Yemen, while third States have helped to perpetuate the conflict by continuing to supply the parties with weapons.

The UN documented at least 7,825 civilians killed (including at least 2,138 children and 933 women) and 12,416 civilians injured (including 2,898 children and 1,395 women) as a direct result of the armed conflict between March 2015 and June 2020. That did not include many thousands who died because of worsening socio-economic conditions and the health crisis.

The report found four coalition air strikes and found that insufficient account had been taken of the likely civilian impact of attacks and that the coalition had failed to comply with its fundamental international humanitarian law obligations.

## Others

[Amnesty International](#) argues: “States that are still supplying arms to the Saudi Arabia-led coalition risk going down in history as being complicit in war crimes in Yemen” and “all parties to the conflict in Yemen have repeatedly committed violations of international law resulting in horrific suffering for civilians”. Amnesty also argues: “there is extensive evidence that irresponsible arms flows to the Saudi Arabia-led coalition have resulted in enormous harm to Yemeni civilians”.<sup>17</sup>

Britain’s role in the war in Yemen was the subject of a Channel 4 [Dispatches programme](#) broadcast in April 2019. The programme investigated “the extent to which the war in Yemen is made in Britain”. It interviewed British technicians working in Saudi Arabia maintaining Royal Saudi Air Force Typhoon aircraft. One technician said “if we weren’t there in 7 to 14 days there wouldn’t be a jet in the sky.”

Aaron Merat, a former Tehran correspondent for the Economist, extensively explores British defence links with Saudi Arabia in a long-read article for the [Guardian](#) (18 June 2019).

## 2.1 What does the Government say?

When asked directly to estimate the number of UK-supplied individual missile systems used against civilian targets in Yemen, the Foreign Office

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<sup>16</sup> [A/HRC/39/43](#), 24 August 2018, para 108

<sup>17</sup> “[Yemen: three years on, US and UK arms supplies to Saudi Arabia-led coalition are devastating civilian lives](#)”, Amnesty International, 23 March 2018

said “we are unable to provide precise figures for the number of weapons exported. Nor do the Coalition publish information on which weapons are used for specific air strikes.”<sup>18</sup> In autumn 2018 the then Middle East Minister, Alistair Burt, said he could not say whether any civilian deaths were the result of British bombs or plans because “there is no tracking of the use of arms supplied by the UK”.<sup>19</sup>

The Government has acknowledged that UK-built and licenced Typhoon and Tornado aircraft and weapons (including Paveway precision-guided bombs and small numbers of Dual Mode Brimstone and Storm Shadow missiles) have been deployed in Yemen by the Royal Saudi Air Force.<sup>20</sup>

In response to the Court of Appeal ruling (see following section for full details), the Government said it developed a revised methodology to analyse all allegations which it is assessed “are likely to have occurred and to have been caused by fixed wing aircraft” (i.e. Typhoon aircraft). Liz Truss said that some incidents were assessed as “possible” violations of International Humanitarian Law. However, the Government concluded that “these are isolated incidents” rather than reflecting patterns of non-compliance or a lack of commitment by Saudi Arabia to comply with IHL or a lack of capacity or systemic weaknesses which might give rise to a clear risk of IHL breaches. Liz Truss went on to say:

I have assessed that there is not a clear risk that the export of arms and military equipment to Saudi Arabia might be used in the commission of a serious violation of IHL.<sup>21</sup>

Separately, in December 2016, the then Secretary of State for Defence, Sir Michael Fallon, told the House that an investigation by the Saudi-led coalition had confirmed that a small number of UK-supplied cluster munitions exported to Saudi Arabia in the 1990s had been used by the coalition in Yemen in January 2016, and the Kingdom had undertaken not to use UK-supplied cluster munitions again.<sup>22</sup>

## 2.2 Criticism of Saudi Arabia’s Joint Incident Assessment Team

The UK Government has in the past pointed to the Saudi-led Coalition’s Joint Incident Assessment Team when asked about allegations of violations of IHL:

We believe it is right for the Saudi-led Coalition in the first instance to conduct thorough and conclusive investigations into incidents where it is alleged that international humanitarian law has been breached. The Coalition has the best insight into its own military procedures and will be able to conduct the most thorough and conclusive investigations.<sup>23</sup>

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<sup>18</sup> [PQ168984](#), 6 September 2018

<sup>19</sup> [HC Deb 11 September 2018 c651](#)

<sup>20</sup> Committees on Arms Export Controls, [The use of UK-manufactured arms in Yemen, written evidence from the Foreign and Commonwealth Office](#), UK0013, 13 April 2016

<sup>21</sup> [HCWS339](#), 7 July 2020

<sup>22</sup> [HC Deb 19 December 2016 c1215-6](#)

<sup>23</sup> [PQ169233](#), 11 September 2018

The MOD has also said it does not investigate allegations of violations of international humanitarian law because it “does not have access to all the information that would allow us to reach conclusions accurately”.<sup>24</sup>

However, the JIAT has been criticised by UN experts and Human Rights Watch, among others.

The UN Group of Experts expressed “serious concerns” about the JIAT’s “independence and its ability to carry out impartial investigations” which suggests “the coalition does not have a mechanism consistent with the Basic Principles and Guidelines”<sup>25</sup> on the rights of victims of IHL violations. Their conclusions prompted Alison Thewliss MP to remark that “not only is the Saudi coalition marking its own homework, but it cannot be trusted to do so”.<sup>26</sup>

Human Rights Watch analysed the work of the JIAC over a two-year period, concluding “it failed to meet international standards regarding transparency, impartiality, and independence”.<sup>27</sup> Both the UN Group of Experts and the HRW reports contain investigations of allegations of individual incidents of violations of IHL.

The UK Government has pointed to the JIAT’s conclusion that mistakes were made in an airstrike on a bus on 9 August 2018 that killed 51 people as an example of UK influence in ensuring proper accountability.<sup>28</sup> More recently, the Government said while it recognised “there remains room for improvement and will continue to provide support, we are encouraged by the progress JIAT has made”.<sup>29</sup>

## 2.3 The death of Jamal Khashoggi

The murder of journalist Jamal Khashoggi in the Saudi embassy in Turkey in October 2018 has also been cited by those who believe the UK should suspend or halt the exporting of arms to Saudi Arabia.

A UN investigation concluded Khashoggi was “the victim of a premeditated extrajudicial execution, for which the State of Saudi Arabia is responsible”. The [report](#), by Agnes Callamard, the UN Special Rapporteur on extrajudicial, summary or arbitrary killings, was the result of a six-month investigation and published on 19 June 2019.

During a [debate](#) in the Commons on the death of Khashoggi on 22 October 2018 several MPs, including the shadow Foreign Secretary, called on the Government to suspend arms sales. Jeremy Hunt said: “we keep the situation constantly under review, and that will include any implications that arise from the results of the Khashoggi investigation”.<sup>30</sup>

On 6 July 2020 the FCO announced “20 Saudi nationals involved in the death of Jamal Khashoggi” had been designed for sanctions, including

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<sup>24</sup> [HL3707](#), 13 December 2017

<sup>25</sup> [A/HRC/39/43](#), 24 August 2018, annex III

<sup>26</sup> [HC Deb 11 September 2018 c640](#)

<sup>27</sup> “[Yemen: Coalition fails to curb Violations](#)”, Human Rights Watch, 24 August 2018

<sup>28</sup> [HC Deb 4 September 2018 c10](#)

<sup>29</sup> [PQ291332](#), 4 October 2019

<sup>30</sup> [HC Deb 22 October 2018 c82](#)

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asset freezes and travel bans. They were among the first individuals to be designated for sanctions under the UK's new sanctions regime.<sup>31</sup>

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<sup>31</sup> ["UK announces first sanctions under new global human rights regime"](#), FCO, 6 July 2020. For more on human rights sanctions, see the Commons Briefing paper [Magnitsky legislation](#), July 2020

## 3. The judicial review

In June 2019 the Court of Appeal concluded that the UK Government's decision-making process in approving export licences for arms to Saudi Arabia was irrational and therefore unlawful. The Government received permission to appeal the judgement but in July 2020 said that, given it has revised its methodology in making decisions, it will withdraw the appeal. After licensing resumed, the Campaign Against the Arms Trade filed an application for a second judicial review.

### 3.1 The High Court judgement

In 2017 the Campaign Against Arms Trade (CAAT) took the UK government to court to obtain a Judicial Review of arms sales to Saudi Arabia. CAAT's case focused on Criterion 2c of the [Consolidated Criteria](#), which states the Government will "not grant a licence if there is a clear risk the items might be used in the commission of a serious violation of International Humanitarian Law".<sup>32</sup>

The High Court rejected CAAT's claim in July 2017 and the Secretary of State for International Trade updated the House at the time in a [statement](#) saying:

The judgment recognises the rigorous and robust processes that we have in place across Government to ensure that UK defence exports are licenced consistently with the Government's consolidated EU and national arms export licensing criteria.

Thereafter the Government frequently referred to the High Court judgement when asked about the legality of UK arms sales: "the High Court's judgment of July 2017 confirmed that we have in place a robust and rigorous process for assessing export licensing decisions for Saudi Arabia".<sup>33</sup>

CAAT sought permission to appeal the judgement. This appeal was heard in April 2019.

### 3.2 Court of Appeal ruling

The Court of Appeal gave its [judgement](#) on 20 June 2019.

The Court of Appeal said the Government, as part of its decision-making process in granting licences, is required by criteria 2c (as outlined above) to consider the "clear risk... of serious violations of IHL".

Sir Terence Etherton, Master of the Rolls, said in the summary of the judgement:

The Government made no concluded assessments of whether the Saudi-led coalition had committed violations of international

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<sup>32</sup> Commons Library briefing paper '[An Introduction to UK arms exports](#)' explains the Consolidated Criteria and the Government's decision-making process for granting export licences.

<sup>33</sup> [PO169167](#), 11 September 2018

humanitarian law in the past, during the Yemen conflict, and made no attempt to do so.

Sir Terence continued:

there was a legal obligation (as a matter of rationality) to make a systematic assessment of past possible violations, not necessarily in every case but, where possible, before deciding whether there is a clear risk of future serious violations. On that point, the appeal has succeeded and the decision of the High Court is overturned.<sup>34</sup>

In the [full open judgement](#) the Court said “we have concluded it was irrational and therefore unlawful for the Secretary of State to proceed as he did”.<sup>35</sup>

The Court ordered the Government to pay the Claimant’s reasonable costs.

### Government suspends, reviews export licences

Sir Terence Etherton said the courts “are not concerned with the merits of the sale of arms to Saudi Arabia”. He explained what this means for the Government:

The decision of the court today does not mean that licences to export arms to Saudi Arabia must immediately be suspended. CAAT did not ask for such an order. It does mean that the UK government must reconsider the matter, must make the necessary assessments about past episodes of concern, allowing for the fact that, in some cases, it will not be possible to reach a conclusion. The government must then estimate the future risks in light of their conclusions about the past.<sup>36</sup>

Liam Fox, the Secretary of State for International Trade, told the House the Government will not grant any new licences for export and will review all current licenses:

The consequence ([of the judgement] is that we are remitted to reconsider our decisions in accordance with the correct legal approach. As I said earlier, we disagree with the judgment and will seek permission to appeal.

We are carefully considering the implications of the judgment for decision making. While we do this, we will not grant any new licences for exports to Saudi Arabia and its coalition partners that might be used in the conflict in Yemen.<sup>37</sup>

The Secretary of State later added “we will review all licences in the light of the Court’s judgment”. Liam Fox also [informed](#) the Chair of the Committees on Arms Export Controls of the Government’s response to the Court of Appeal’s judgement.

### Response to the judgement

Barry Gardiner, the Shadow Secretary of State for International Trade, called for a “[full parliamentary or public inquiry](#)” into what he described

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<sup>34</sup> [CAAT versus Secretary of State and Others press summary](#), 20 June 2019

<sup>35</sup> [CAAT versus Secretary of State and Others full judgement](#), 20 June 2019, para 138

<sup>36</sup> [CAAT versus Secretary of State and Others press summary](#), 20 June 2019

<sup>37</sup> [HC Deb 20 June 2019 c376](#)

as the “serious breach of this Government’s duty of care with regard to export licences”.

Stewart Hosie, responding for the SNP, asked the Secretary of State whether in reconsidering licensing decisions he will take into account “the deep concern, anguish and anxiety that there are substantial human rights abuses emanating from Saudi Arabia?”.<sup>38</sup>

23 MPs signed an Early Day Motion ([EDM 2556, 2017-2019](#)) calling the Government to suspend arms sales to Saudi Arabia.

CAAT welcomed the Court’s decision and called on arms sales to be stopped immediately. Rosa Curling, solicitor for law firm Leigh Day who represented CAAT, said:

The court has ruled the government’s procedure for granting licences to export arms to Saudi Arabia is unlawful. The Government has been forced to accept it must now stop granting new licences for arms exports to Saudi Arabia, for possible use in the conflict in Yemen pending any application to the Court of Appeal for a stay.<sup>39</sup>

## Permission to appeal granted

Liam Fox said the Government will seek permission to appeal in his [oral statement](#) on 20 June. This was reaffirmed in a [letter](#) to the Chair of the Committees on Arms Export Controls on 24 June. Permission to appeal to the Supreme Court was granted on 9 July 2019.<sup>40</sup>

## Government fails to comply with the judgement

On 26 September 2019, International Trade Secretary, Liz Truss, [apologised](#) after finding the Government had granted new export licences to Saudi Arabia and its coalition partners, therefore breaching the undertaking given to the Court of Appeal.

The new licences concerned equipment used by the Royal Saudi Land Forces. The Department changed its procedures and opened a review of all licences granted since June 2019 and of the DIT’s new procedures to avoid a repetition. The Minister said in both the statement and in response to an urgent question on the same day that she “unreservedly apologise” for the error.<sup>41</sup>

On 6 February 2020 [Liz Truss made another statement](#) to the Commons. The review had approved the new procedures and found that no further breaches had taken place, the Secretary of State said.

## 3.3 Government announces resumption of exports

On 7 July 2020 Liz Truss announced the Government will resume granting export licences to Saudi Arabia. In a [written statement](#), she

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<sup>38</sup> [HC Deb 20 June 2019 c380](#)

<sup>39</sup> “Court of Appeal finds Government broke law over Saudi Arabia arms sales”, CAAT, 20 June 2019

<sup>40</sup> For more background on Yemen see the CBP [Yemen’s fragile peace process](#), 27 March 2019

<sup>41</sup> [HCWS1833](#) and [HC Deb 26 September 2019 c876](#)

explained the steps taken by the Department for International Trade to address the Court's judgement that the Department should have attempted to assess whether the Saudi-led coalition had violated IHL as part of its assessment of Criterion 2c:

To address the Court of Appeal's judgment, we have developed a revised methodology in respect of all allegations which it is assessed are likely to have occurred and to have been caused by fixed wing aircraft, reflecting the factual circumstances that the court proceedings concerned.

Each allegation was assessed to see whether it possibly constituted a breach of IHL. The review found there were incidents which had been assessed as "possible" violations of IHL. However, the department found these to be "isolated incidents" and therefore did not indicate:

- (i) any patterns of non-compliance;
- (ii) a lack of commitment on the part of Saudi Arabia to comply with IHL; and/or
- (iii) a lack of capacity or systemic weaknesses which might give rise to a clear risk of IHL breaches.

Liz Truss said given all the information and analysis, she had concluded that "notwithstanding the isolated incidents which have been factored into the analysis as historic violations of IHL, Saudi Arabia has a genuine intent and the capacity to comply with IHL".

She added:

I have assessed that there is not a clear risk that the export of arms and military equipment to Saudi Arabia might be used in the commission of a serious violation of IHL.

Given that the Government has re-taken the decisions that were the subject of judicial review on the correct legal basis, Liz Truss said, it follows that the undertaking not to grant any new licences "falls away". The Government will therefore begin the process of clearing the backlog of licence applications for Saudi Arabia and its coalition partners.

The Government will also withdraw its appeal to the Supreme Court against the Court of Appeal's judgement.<sup>42</sup>

### 3.4 Response to Government's announcement

Opposition MPs condemned the decision, with many referring to the announcement on 6 July 2020 of new sanctions against 20 Saudi Nationals for their involvement in the death of journalist Jamal Khashoggi.<sup>43</sup>

Shadow International Trade Secretary, Emily Thornberry, described the Government's resumption of exports to Saudi Arabia as "morally

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<sup>42</sup> [HCWS339](#), 7 July 2020. See also [Notice to Exporters 2020/11](#) on advice to exporters seeking licences.

<sup>43</sup> ["UK announces first sanctions under new global human rights regime"](#), FCO, 6 July 2020

indefensible". Referring to the previous day's announcement of sanctions against Saudi officials, she said the timing "is at the very least a case of mixed messages, undermining the government's claim to be human rights defenders". She added:

Britain should be working flat out to bring this terrible war to an end, not selling the arms that continue to fuel it.<sup>44</sup>

The SNP's foreign affairs spokesman, Alyn Smith, said the government had "repeatedly and disgracefully put profits before peace".<sup>45</sup>

Caroline Lucas of the Green Party said:

How the foreign secretary can say on one day that the UK will act as a force for good in the world, standing up for human rights, and then on the next, agree to this moral outrage, is just unbelievable.<sup>46</sup>

### **CAAT applies for new judicial review**

In October 2020 Campaign Against the Arms Trade filed a judicial review application into the legality of the UK government's decision to renew arms sales to the Saudi-led coalition.

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<sup>44</sup> "[Government resumes sale of arms to Saudi Arabia – Thornberry responds](#)", Labour press release, 7 July 2020

<sup>45</sup> "[Yemen: UK to resume Saudi arms sales after humanitarian review](#)", BBC News, 7 July 2020

<sup>46</sup> "[UK to resume arms sales to Saudi Arabia following government review](#)", Sky News, 7 July 2020

## 4. Parliamentary scrutiny

The Labour party has called for an independent UN-led investigation of all allegations of war crimes in Yemen and for the suspension of UK arms sales for use in the conflict until the investigation is complete.<sup>47</sup>

The [SNP](#), the [Liberal Democrats](#) and [Plaid Cymru](#) similarly favour a suspension of exports, with several MPs backing this view in debates on Yemen on [11 September 2018](#) and [23 May 2019](#).

Backbench MPs have signed several EDM's on this issue, including:

- Yemeni human rights and Saudi arms sales
- [EDM 1399, 2019-21: Yemeni human rights and Saudi arms sales](#)
- [EDM 17, 2019-21: accountability for violations in Yemen](#)
- [EDM 2556, 2017-19: UK arms sales to Saudi Arabia](#)
- [EDM 305, 2017-19: UK arms sales to repressive regimes](#)

MPs discussed the Court of Appeal ruling on [20 June 2019](#).

On 18 June 2020 Shadow International Trade Secretary Emily Thornberry [claimed that exports](#) were still going on: "British firms are still exporting arms for use in Yemen, and that is unacceptable."

On 21 June, Emily Thornberry and other opposition politicians wrote to Liz Truss alleging that the Court of Appeal judgment was not being respected: "...we are left to assume that – despite being ordered to review these licences by the courts, and having 12 months to do so – your department has simply chosen not to comply".<sup>48</sup>

As mentioned in the previous section, Ms Thornberry described the Government's resumption of exports to Saudi Arabia as "morally indefensible".<sup>49</sup>

### Committees on Arms Export Controls

The four committees that formed the [Committees on Arms Export Controls](#) (CAEC) were split over the conclusions of its inquiry on UK arms exports to Saudi Arabia during the 2015-17 Parliament. Two of the four select committees – the International Development Committee and the Business, Innovations and Skills Committee – favoured suspending all arms exports. The Foreign Affairs Committee did not endorse suspension, while the Defence Committee did not associate itself with either report. CAEC ceased to function after this split for the remainder of that Parliament.

CAEC re-formed after the 2017 election.

Following the 2019 election, in early July 2020 CAEC elected with Mark Garnier in the chair. Reflecting the Government's decision to merge the

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<sup>47</sup> [HC Deb 22 October 2018 c82; HC Deb 20 June 2019 c377](#)

<sup>48</sup> "[UK accused of selling arms to Saudi Arabia a year after court ban](#)", Guardian, 21 June 2020

<sup>49</sup> "[Government resumes sale of arms to Saudi Arabia – Thornberry responds](#)", Labour press release, 7 July 2020

Department for International Trade into the Foreign Office, the first CAEC meeting comprised members of the three committees – Defence, Foreign Affairs and International Trade. Members of the International Development Committee will be invited to attend for as long as that committee continues.<sup>50</sup>

On 3 November CAEC launched its first inquiry – an [initial review of arms export controls](#). Much of the committee’s evidence refers to Saudi Arabia.

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<sup>50</sup> [“Committees on Arms Exports \(CAEC\) selects Mark Garnier as chair”](#), Committees on Arms Exports, 6 July 2020

## 5. Have any other countries stopped supplying weapons to Saudi Arabia?

The death of journalist Jamal Khashoggi in the Saudi embassy in Turkey in October 2018 reignited the debate about arms exports in the US and Europe. It prompted some countries, like Germany, to suspend arms exports to Saudi Arabia.

### European countries

Analysis by SIPRI, a leading source of data on the global arms trade, found that “after the United States, EU member states were among its main suppliers, with the UK and France, in particular, being the 2nd and 3rd largest ones in 2014–18”.<sup>51</sup>

EU nations apply the same Consolidated Criteria as the UK. Some have taken action to restrict exports to Saudi Arabia and/or members of the Coalition, including the Netherlands, Denmark, the Flemish part of Belgium and Germany.

**German** Chancellor Angela Merkel said in October 2018 “there will be no arms exports to Saudi Arabia” until the murder of Khashoggi is “cleared up”.<sup>52</sup> The ban reportedly [caused friction](#) within the governing coalition at the time. However, Germany has subsequently extended the moratorium on three occasions, most recently in March 2020. This means the moratorium will remain in place until 31 December 2020.<sup>53</sup>

Germany is still allowing the supply of components and spares for completed contracts. This stems from concerns raised by [France](#) and the [UK Government](#) about the effect of the ban on multinational defence projects (notably Typhoon). The Committees on Arms Export Controls questioned the UK Government on the German ban in an [exchange of letters](#) in spring 2019. The UK Foreign Secretary said in April 2019 Berlin had agreed that spares for existing Typhoon and Tornado aircraft in Saudi Arabia may continue to be licenced.<sup>54</sup>

**Spain** briefly said it would halt the sale of laser-guided bombs but later reversed its decision.<sup>55</sup> The Kingdom placed a €2bn order for five new corvettes in 2018. The Spanish shipbuilder Navantia has begun

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<sup>51</sup> [“Legal challenges to EU Member States’ arms exports to Saudi Arabia: current status and potential implications”](#), SIPRI, 28 June 2019

<sup>52</sup> [“Merkel: No German arms exports to Saudi until killing cleared up”](#), Reuters, 22 October 2018

<sup>53</sup> [“Germany extends arms embargo on Saudi Arabia”](#), Defence and security monitor, 24 March 2020; [“Germany extends Saudi arms sale ban for another six months”](#), Reuters, 28 March 2019

<sup>54</sup> [Letter from the Foreign Secretary, regarding Germany’s moratorium on arms exports to Saudi Arabia, dated 10 April 2019](#), Committees on Arms Export Controls, 22 May 2019

<sup>55</sup> [“Spain backtracks on suspending laser-guided bomb sale to Saudi Arabia”](#), Jane’s Defence Industry, 13 September 2018

construction on these small warships but the Spanish government said in April it has yet to approve a request for a definitive export licence.<sup>56</sup>

Others, like **France** and **Italy**, have continued to licence arms exports, taking a similar view to the UK.

The **European Parliament** passed a non-binding resolution in October 2018 calling on the European Council “to reach a common position in order to impose an EU-wide arms embargo on Saudi Arabia”.<sup>57</sup>

Giovanna Maletta, a researcher for SIPRI (the leading source of data on the arms trade), has analysed the differing approaches adopted by EU states on arms exports to Saudi Arabia, concluding:

EU member states are clearly struggling to find a common European approach to the question of whether they should adopt more restrictive export policies towards countries involved in the conflict in Yemen on the basis of the EU Common Position. The variety of practices demonstrates the obstacles in promoting a common approach in the field and how the types of considerations and risk analyses that countries make when authorizing transfers are still very much rooted in national interests and positions.<sup>58</sup>

Further commentary on divisions within Europe over arms exports to Saudi Arabia, and the potential implications for the EU export control regime, is available from [SIPRI](#), the [International Institute for Strategic Studies](#), [Saferworld](#) and the [Centre for European Reform](#).

## United States

### Trump administration

The Trump administration has resisted pressure from Members of Congress to halt arms sales.<sup>59</sup>

Section 1290 of the [John McCain National Defence Authorisation Act 2019](#) requires the Secretary of State to certify the Coalition is taking “demonstrable actions to reduce the risk of harm to civilians and civilian infrastructure resulting from military operations”.<sup>60</sup>

[Defense News](#) examines Congress’s role in arms sales. A more detailed account of US arms sales to Saudi Arabia can be found in Congressional Research Briefing Paper ‘[Saudi Arabia: background and US relations](#)’.

### Biden administration

On 27 January the new administration announced it was “[temporarily pausing](#)” some arms sales to both Saudi Arabia and the United Arab Emirates. The official concerned said the action was routine, and typical

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<sup>56</sup> “Saudi corvette order requires fresh export licence”, Jane’s Defence Weekly, 17 April 2020

<sup>57</sup> “MEP’s demand end to EU arms exports to Saudi Arabia”, European Parliament, 25 October 2018. See also the [text of the resolution](#).

<sup>58</sup> “[Legal challenge to EU Member States’ arms exports to Saudi Arabia: current status and potential implications](#)”, SIPRI, 28 June 2019

<sup>59</sup> “[Remarks by President Trump before Air Force One departure](#)”, the White House, 20 October 2018; “[Remarks by President Trump with Pastor Andrew Brunson](#)”, the White House, 13 October 2018

<sup>60</sup> “[The War in Yemen: A compilation of legislation in the 115<sup>th</sup> Congress](#)”, Congressional Research Service, R45046, 21 August 2018

of presidential transitions. Defense News reports the new administration is likely to review the sale [agreed by the Trump administration](#) to sell F-35A fighter aircraft, drones and weapons to the UAE.

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