

Committees on Arms Export Controls

Oral evidence: Arms export controls: Initial review, HC 965

Tuesday 12 January 2021

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Members present: Mark Garnier (Chair); Sarah Champion; Theo Clarke; Martin Docherty-Hughes; Mr Tobias Ellwood; Mark Menzies; Navendu Mishra; Lloyd Russell-Moyle

Claudia Webbe also attended, pursuant to Standing Order No. 137A(1)(e)

Questions 120-179

Witness

[I](#): Paul Everitt, Chief Executive, ADS.

Examination of witness

Witness: Paul Everitt.

Q120 **Chair:** Good morning everybody. Welcome to this session of the Committees on Arms Export Controls. We are continuing our investigations of wider arms export controls and, more specifically, on the annual Government report on arms exports. This morning we have Paul Everitt from ADS. Paul, can you give us a very quick introduction to who you are and what you do, and what ADS is?

Paul Everitt: My name is Paul Everitt. I am the chief executive of ADS. ADS is the UK's national trade association for aerospace, defence space and security companies.

Q121 **Chair:** Fantastic; thank you. Let me go straight into question one. The Government's most recent report covers 2019; it was slightly delayed. Can you say what improvements were made to the licensing process in 2019, and whether there have been subsequent improvements in 2020?

Paul Everitt: It is a fairly standard report from the ECJU. There are a range of challenges in the licensing system, but I don't think that we have

seen anything particularly different in 2019. Obviously, there are a number of specific issues in 2020.

The concerns for industry are pretty much always the same: the pace and transparency with which the process operates. It is a relatively well-known system, and the industry is reasonably comfortable with how it operates. The challenges are, from time to time, whether it moves at a pace that meets some of the commercial demands, and whether companies have a good understanding of the likely timescales for particular parts of the licensing process.

Q122 Chair: You speak on behalf of the whole industry, and I want to pick up on that point about the commercial expediency of ECJU. Do they work at a pace that constricts the ability of your members to do business, or is it okay? Do they just adapt to the process?

Paul Everitt: I think there is certainly a question of adapting to the process. The companies whose business is predominantly in the defence and security area and are exporting as a key part of their business know and understand the regime. They know about some of the challenges; they certainly know about countries where there might be challenges. You see some of the uncertainty as one of the costs of doing business in this sector.

The challenges are often potentially for smaller businesses that have been approached to do something, or become involved in something—a relatively small part of their activities—and suddenly find that it requires an export license. They obviously can find it quite frustrating, and ultimately it can cost them business, because they entered into a transaction in good faith, but without a good understanding of some of the uncertainties, time pressures and timescales associated with securing an export license. For them, I know, it can be quite a frustrating and challenging set of circumstances.

Q123 Chair: There have been some complaints during 2020 about the backlog in the licensing regime—it was getting a bit clogged up as the Saudi Arabian backlog was being cleared. Is that something your members have raised with you?

Paul Everitt: It was certainly the case that, ahead of the judicial review and the introduction of the new process, it was not just direct exports to Saudi Arabia that were being slowed down. The whole system was proceeding very slowly, and there was a lot of care being taken to ensure that things did not go astray.

As a consequence, quite a lot of licence applications that were not associated with specific challenges around Saudi Arabia—or a number of other countries of concern—were held up. The figure indicated to us is a backlog of in the region of 850 licence applications. We work very closely with the Department for International Trade and the ECJU to try to unpick those that were clearly things that you would not expect to be of major concern, or were clearly not associated with the Saudi Arabia review.



Q124 Chair: Was this backlog partly due to covid, or just inefficiency of the ECJU?

Paul Everitt: In fairness, we have not seen any issues or challenges around covid. The process is by and large an online one, and therefore works satisfactorily when people are working at distance or from home. The team in the ECJU generally do a good job. The issues around Saudi were obviously important, and great care was being taken to ensure that the right things were done, and done in the right way. Again, no Department has unlimited resources, and that told in the way that they were able to process things.

Q125 Chair: Your members are ultimately the customers of ECJU—and, indeed, customers of the annual report. Do you feel that you are getting a good service, and that you are being consulted properly about what you need?

Paul Everitt: By and large, yes. We can always improve, as they say.

Chair: We will give you the opportunity to say how, of course.

Paul Everitt: One of things that we are particularly focused on is the upgrade of the system—the introduction of what is known as LITE—and the revised customs declaration system. That has been slightly slower than we had initially understood, but we all have confidence that once those systems are in place, that will provide a big improvement in the quality of the service, and the adaptability and flexibility of the systems. For us, those were the big changes. By and large, the engagement that we have had with the ECJU in the development phases—certainly of LITE—have been very positive. We have organised a number of sessions with them to ensure that companies had an opportunity to provide input to the development of the system architecture, and there have been regular opportunities for sense checks on how they anticipated the system working.

Q126 Chair: It is taking a bit of time delivering LITE. Do you know why? Have you been told why it is taking time?

Paul Everitt: It is obviously quite a complex system. The issues, as I understand them, were to do with a couple of tendering misfires. They went through a tender process that did not quite work, and they had to re-run it a couple of times. That has been predominantly the reason for the delay.

Q127 Chair: So your conclusion would be that there is actually a very good service from the ECJU—they are engaging on LITE. It is a bit disappointing that it is not coming as quickly as it should have done, but overall, notwithstanding the usual hiccups, you are reasonably happy with the ECJU and the computer system in general.

Paul Everitt: Yes, I think that is a reasonable characterisation.

Chair: Fantastic. Lloyd Russell-Moyle, over to you.

Lloyd Russell-Moyle: Good morning, Paul. How are you doing?

Paul Everitt: Very well, thank you.

Q128 Lloyd Russell-Moyle: I wonder whether you could outline the advantages and disadvantages for companies in using the open and standard licence. I know that we have had these conversations before, but I am particularly interested in the role that companies have in recording the items that are sold under both systems of licence.

Paul Everitt: In terms of why we see the open licensing system as an important one, we estimate that an additional 250,000 applications would need to be made if there was not a series of open licences. That clearly has an implication both for the robustness of the licensing regime and for the resources that would be required to sustain it.

We clearly see that getting the balance right in having a set of open licences is a good thing. By and large, those open licences should be for technologies that are broadly uncontentious, and are going to places that, again, are uncontentious. Clearly, the situation can change, and we have seen that, but generally, this is about the volume of work and not making good use of people's time. We would say it is far better that the licensing regime focuses more of its efforts on technology that may cause more concerns for the UK Government, and on locations where there may be more concerns generally. That seems a good use and focus of people's time.

This relates specifically back to the conversation around LITE and the upgraded customs declaration system. From an industry point of view, we are kind of registering the exports as and when they are made, but that is currently done through this HMRC system, CHIEF. The challenge for the ECJU and the Government generally is that it is quite difficult for them to extract the specific data that they might wish to review from that system. The upgraded LITE and customs declaration system has, we understand, created sufficient linkage to mean that the system will be able to recognise the specific licence and the individual shipments that would normally be registered through that customs declaration system, which would then make it easier to collect the information on each specific shipment.

Q129 Lloyd Russell-Moyle: So it is not a question of whether the companies are recording the shipment data or not; it is whether the Government's system can communicate with each Department, and link the two things up. So you are pretty easy about publicly recording—eventually, when the system works—how much of each item is being shipped under an open licence?

Paul Everitt: Yes. The only issues that companies would have are about data potentially straying into the commercially confidential, and potentially providing competitors with a fairly detailed understanding of people's costs and pricing regimes.

Q130 Lloyd Russell-Moyle: Would a level equivalent to the standard licence be acceptable?



HOUSE OF COMMONS

Paul Everitt: Yes, absolutely. Again, the industry has been providing the information; we just don't want to provide it more than is absolutely necessary.

Q131 Lloyd Russell-Moyle: No, that is fine; if you have been providing the information, but the Government haven't managed to handle it, that's the Government's fault, not yours.

It was very interesting that you made this distinction that open licences should be for sending uncontentious technology to uncontentious places. This is not very far off from what the NGOs have been saying about two ways of thinking about licensing: one system of licensing for uncontentious places, and one for contentious places, where they say there should be a higher bar. Is that what you're almost suggesting as well, but the other way around? Are you saying that there should be a lower bar with open licences, and that once you have got it approved, you should be able to just get on and ship, and a higher bar for places or items that are contentious, where you have to get each item approved? It doesn't sound very different from the inverse way of looking at what the NGOs want. I just wonder if there is more in common there than we sometimes allow ourselves to agree.

Paul Everitt: I am sure there is a degree of fine-tuning. Given the way the system works, the challenge is that the situation can change quite quickly for a whole variety of reasons. I think what we are trying to suggest is that on the overwhelming majority of occasions where people are using an open licensing regime, it shouldn't be unnecessarily problematic. There should be checks and compliance, and it should be subject to sensible review, but we want people to spend their time on those topics where there clearly may be more significant issues because of the nature of the technology or the country to which they are being sent.

Q132 Lloyd Russell-Moyle: You say these kinds of things can change quickly; this is the difficulty, isn't it? Is it companies that are considering the destination country and whether the situation on the ground is changing? Is that something that companies are expected to do, or is it just a reliance on waiting for that call or letter from the Government to say the situation on the ground has changed?

Paul Everitt: In most cases, particularly if we look at the bulk of the value of defence security exports that will be in the air domain, fairly large companies will be involved in doing some level of due diligence before they even commit to a market.

Q133 Lloyd Russell-Moyle: Yes. There is no point in wasting their energy on something that will be rejected.

Paul Everitt: Equally, even the most sophisticated of countries may not have, or are unlikely to have, the same level of information that the UK Government has and is able to collect, both through its network of embassies and through other sources. In those circumstances, industry is not trying to second-guess what the Government are doing. The way in which they would operate is hopefully that they would take sensible views



HOUSE OF COMMONS

about the countries that they wish to do business with, or that are good for their business, or that fit with their business. They will then reference the licensing regime, and rely on that regime and the intervention from Government to ensure that the things that might change from a diplomatic or military perspective are things that the Government would be much better, and better-equipped, to take judgments on than individual businesses, given that—by and large—when we are talking about exports, particularly major defence exports, these are part and parcel of an international relationship.

I know that it is slightly different when we go further down the supply chain and perhaps especially when we go into some areas of the security exports, but by and large the bigger-scale and higher-value activities that the industry is involved in are relationships with a Government, which the UK Government themselves are closely related to and involved with.

Q134 Lloyd Russell-Moyle: What I was trying to explore there, Paul—I think that answer is good and goes part of the way—is how much of that information is realtime. So, once the licence has been agreed, who is making the assessment regularly about the situation, particularly with open licences, for example, but also with standard licences that have not yet been used? Is it that you are just waiting for a phone call from Government, is it that there is a regular communication with Government, or is it that businesses are doing some continual assessment as well? Once the licence has been approved, what are the considerations about whether something has changed on the ground?

I am not trying to say that the situation is bad or good any way round; I am just genuinely interested about how that live, realtime information flow works.

Paul Everitt: For most businesses most of the time, they would have to and do rely on Government advice and guidance.

Q135 Lloyd Russell-Moyle: How does that Government advice and guidance come, and has it ever come recently? Do you know of companies that have had calls from Government saying, “The situation on the ground is changing. Could you pause sending those items while we assess it?” Has that ever happened in recent years—apart from the court case with Saudi Arabia, of course, which is slightly different?

Paul Everitt: I am not aware of other instances, although, again, I am not involved in those specific conversations with companies. However, when there is a change to the licensing regime, that is what is communicated.

Q136 Lloyd Russell-Moyle: I would be interested, Paul, if you are able to do so, for you to canvass your companies—or maybe for next year when we see you, because we see you every year, don’t we?—and for you to come back, just to see whether there have been companies that have had those regular communications with Government as things change on the ground.

What I am interested in is this: are the Government being proactive in



HOUSE OF COMMONS

contacting companies to say, "There is something changing on the ground here", or is there a communication link broken? I would be really interested to know whether any of your members have ever had those communications with Government around many conflicts that have happened, from Ukraine to some of the instability that we see even in places such as Brazil, for example. There are instabilities that go up and down around the world at all different times and I would just be interested in seeing, for the last five years, how many of your members have actually been contacted by the Government about any of them, if any of them have been contacted at all. It would be lovely to know.

Paul Everitt: Okay. I am happy to ask that question.

Lloyd Russell-Moyle: Thank you very much, Paul.

Chair: Tobias, can we come to you now?

Q137 **Mr Ellwood:** Paul, it is great to see you and thank you very much indeed for your time this morning. I just wanted to reflect back. We spoke a little bit about the annual reports. Looking back at the last few years, we actually have not seen very many prosecutions at all. I just wondered whether you can reflect on how robust the system is, say whether we are missing something, or say why it is that these figures are so low.

Paul Everitt: Again, I can only take the information at face value. I am certainly not aware of deliberate infringement of the licensing regime and that is certainly not something that we as an organisation would tolerate from member companies. I take at face value that it is a robust regime.

As I say, many of the businesses involved in the sector have been exporting for a significant period of time, and they know and understand the way in which the regime operates, so I would certainly hope that there is a high degree of compliance. Certainly, as an organisation, we work very closely with the ECJU to ensure that companies that are involved or thinking of being involved have a place to go to get appropriate training and guidance on how the regime operates.

Q138 **Mr Ellwood:** That is very helpful. My next question was actually about what support is made available for those that are venturing into this world. Do you provide that as ADS?

Paul Everitt: Yes. We work with a number of external people with a degree of expertise and we run regular training sessions throughout the year for companies that want to know and understand how that regime works, or that are perhaps coming to it for the first time, or that face particular challenges because they are doing something slightly different.

The ECJU has a business awareness unit. It would be fair to say that, in the last year, it has not been quite as active as it perhaps has been in previous times. Again, that works closely with us and other parts of the industry to ensure that there should be no reason for people not to know where they could go to get good help and advice.



HOUSE OF COMMONS

Q139 Mr Ellwood: To expand on that a bit, if we take a company such as Raytheon, which you and I are both familiar with, it sells things to the UK and from the UK, and does the same thing from the United States as well. Do you have faith in the fact that the West—the allies, certainly the senior NATO countries—are all singing from the same song sheet when it comes to a sense of the standards that we are trying to uphold in preventing the proliferation of arms exports?

Paul Everitt: Yes. My sense is that no one sees the licensing regime or its application as a competitive tool. There is a genuine desire to ensure that there is a rigorous regime and that we are collectively working to ensure that legitimate exports are allowed, but that we are not providing a route for inappropriate things to happen.

Q140 Chair: Before I come to Sarah Champion, may I ask a quick supplementary to Tobias' question? I suspect, and the suggestion from you was, that because the regime has been in place for such a long time, people are now very used to it, as a result of which you get fewer infringements and therefore fewer prosecutions. If the regime were to change for any reason, partly as a result of us taking more control after Brexit, do you think that could result in more infringements and therefore more prosecutions, or is that completely irrelevant?

Paul Everitt: No, I do not think that is a challenge. Currently, or until the end of last year, if you were selling something off the military list, you would still need to have an export licence. It is slightly different for dual use. In a number of other areas, such as if we are talking about civil aviation, aviation safety was something that the central working of the EU had taken over a major chunk of. In export controls, it has always remained a national expertise and judgment.

Chair: That is very helpful. Sarah Champion.

Q141 Sarah Champion: Morning, Paul. I am interested to dig a bit further into that area and look at when things do go wrong. I was quite surprised that in 2018 the compliance team found that 8% of companies they revisited were non-compliant, and in 2019, the figure had increased to 14%. Could you tell us whether you think that figure is high, why it is so high and why it is rising?

Paul Everitt: I would certainly say that it should be a cause of concern and we should take non-compliance seriously. That is certainly not the stance that we as an organisation, or an industry as a whole, would be taking. We have done a little bit of digging on the topic to get a better sense from our colleagues in the ECJU as to the sorts of issues that are being highlighted in the process and where the non-compliance is. I have four or five here that they have identified. There is quite a lot about elements of missing paperwork or missing links to a Government customer, if that is what is being quoted. There is often a failure on the paperwork to reference the specific licence that they are using, or incomplete records, particularly on electronic transfers. Sometimes there is a failure to obtain particular approvals, either from MOD or other authorities.



Our interpretation, and certainly my colleagues who are, across industry, closer to this than me, is that a lot of this is either a misunderstanding or, in some cases, a misreading of the requirements. This is quite a technical area and it is not always clear or transparent in the way in which guidance is written. There is some genuineness in people not quite getting it right. But as I said earlier we believe that there are plenty of opportunities for people to get the right training and the resources are available for them to use. From our point of view, this is around trying collectively, with the ECJU and ourselves and others in industry, to work to ensure that as many people as practical take up the opportunities to take that training and where there is evidence of non-compliance, those companies are referred to those places where they can get help and advice. There are other providers than ADS but, for us, this is about ensuring that we are doing as much as we can to ensure that companies are able to get the help that they need so that there should not be excuses for non-compliance.

Q142 Sarah Champion: I agree with all of that. Where I start to get a little more nervous is around why things weren't addressed after the first visit that highlighted them. If it is a paperwork thing, you would expect that someone highlights it to you, you get the training and then you change going forward. What can be done when it continues after that first initial visit?

Paul Everitt: That is for the ECJU to take up. We are very clear that people should be compliant, and we should be pushing people to be compliant and support them as best we can. I do not think that in the report it gives details of the specifics of the individual companies. Again, my area of concern and where I know that these things are more likely is in relatively smaller businesses for which this is a relatively small part of their business. This is one or two contracts that they have, whereas their other business is involved in other activities, and maybe they do not have dedicated personnel working on these issues. Obviously, I have not seen the data so I cannot comment on the specifics, but in our experience, those are the areas where we are most likely to see these sorts of issues.

Q143 Sarah Champion: Could more be done to give support to those specific examples? I understand and share those concerns. If a tiny part of your work is one of these contracts, you are then in the situation of whether you give it away or whether you try and struggle through and are likely going to be non-compliant. Could there be almost a Government team that could come out and support you in those unique situations?

Paul Everitt: The areas that have been consistent for us in highlighting are about having a stronger advisory service available, so that from a very early point, you can get some preliminary guidance on whether the technology is going to be problematic. That is, ensuring companies have a good understanding of what they are getting into or what they might potentially be getting into before they get to the point of either marketing themselves to a particular location or before they decide to respond to a particular approach, so that people are properly attuned before they get involved in these types of activities. Also, as you said, to ensure that there



HOUSE OF COMMONS

are places to go where they can get help and support to ensure that they are doing it correctly.

Sarah Champion: Thank you. *[Interruption.]*

Chair: I was slightly unnerved by that dog just then. The next question is from Martin Docherty-Hughes.

Q144 **Martin Docherty-Hughes:** Whoever's dog that was, I am lucky that my two are in the other room and locked away for the Committee; I was not so lucky yesterday.

Paul, can we maybe take a look at the impact of the global pandemic, and the industry's assessment of the impact of covid-19 on the licensing system and the performance of the Export Control Joint Unit? Do you have any thoughts on that?

Paul Everitt: We have asked this question, certainly of our major members, and most do not feel that there has been a particular impact. The majority of the systems are already online and electronic, so by and large, it fits quite well. Clearly, there will have been elements in that—some of the compliance visits have probably been less easy to follow through during the past year—but in terms of the operation of this system, no concerns have been raised with us about the impact from covid.

Q145 **Martin Docherty-Hughes:** So they are basically saying that they have not encountered any major difficulties. Well, that answers the next question. Maybe a wee bit more specifically, has the industry seen changes in the types of items they are now selling and exporting, or being approached to export—for example, crowd control equipment?

Paul Everitt: Not particularly. In the data that I think was released towards the end of last year on defence and security exports, there was certainly a continued uptick around cyber-security exports, but by and large, we are strong in a number of key areas and we continue to be strong in those areas. Also, by and large, the Government business that companies are involved in are not beady, if that is the right phrase. By and large, we are involved in quite a long cycle with sets of businesses. There are quite lengthy procurement processes; we do not often see a set of circumstances and then somebody ordering off the back of that, if that makes sense. These are generally stable business environments. Yes, there are trends in things, but they tend not to be sudden.

Q146 **Martin Docherty-Hughes:** And just in terms of crowd control elements such as rubber bullets and tear gas—you will need to correct me if I am wrong here—I take it that most of that would be under open licence.

Paul Everitt: I can find out, certainly, but again, that end of the market is not mainstream ADS company business.

Martin Docherty-Hughes: I suppose, then, my thought is that it is not general ADS business, but it is still export of arms in a traditional sense. If it is open licence—if you are able to get that qualified for me—of course, that would mean you can export as much as you like, whoever is



HOUSE OF COMMONS

exporting. We have banned that exporting to Hong Kong because of its misuse by the autonomous Government in Hong Kong under the guise of Beijing. However, even though we cannot fathom how much is being exported in rubber bullets and tear gas, I would be interested to see how much of that is being sold to the United States and used during the recent Black Lives Matter incidences, though certainly not used at the weekend against those who stormed the Capitol building. I would be really interested if you could get back to us about the open licence issue around crowd control, and also the import of tear gas and rubber bullet exports. That would be much appreciated. Thank you, Chair.

Q147 Chair: Thank you. Before I come to Navendu, just very quickly on that, there is obviously controversy about selling this type of crowd control stuff to America. I have more of a general, industry-wide question on this, because America is a big country, and I am surprised that they need to import anything of that type. I would have imagined that their own domestic producers would have been producing as much tear gas, mace and rubber bullets as they need. Do you have any thoughts about that? I know it is a slightly out-of-field question.

Paul Everitt: I can only answer on a general level that it is quite hard to sell things to America, certainly in the defence and security space and, where we are successful, it tends to be in quite niche areas. I am familiar with a company that provides—*[Inaudible]*—for special forces and those types of activities—body armour, where they are unique capabilities, and those are successful. But they tend to be, as you rightly identify, probably sold state by state, rather than on a federal basis.

Chair: That is interesting. Navendu, sorry to keep you waiting.

Q148 Navendu Mishra: Good morning, Mr Everitt. Could you tell us about the impact on the industry of the new processes following the Court of Appeal judgment in 2019, and the Mills review in respect of exports to Saudi Arabia and its allies that have been used in the conflict in Yemen? Was the industry involved in the development of the new processes or the review itself?

Paul Everitt: The industry was not involved in the new processes or the review. Clearly, we welcome the introduction of the new processes in what was probably July of 2020, and the clarification of the approach. While the review was going on, as I mentioned earlier, appropriately, a lot of licence applications were stalled. The ones that we were most focused on were for things that were not directly linked either to Saudi Arabia or to the particular conflict in Yemen, trying to ensure as far as we could that the system worked for those it should have worked for. Since the introduction of the new processes, we have certainly not had any comments back from companies raising concerns.

Q149 Navendu Mishra: Building on that, were companies contacted by the ECJU regarding licence applications that could be affected by the judgment?



HOUSE OF COMMONS

Paul Everitt: They were certainly in contact and communicating with companies once the review was launched, indicating that there would obviously be a pause in the process.

Q150 **Navendu Mishra:** With regard to companies' taking action on the judgment, did they proactively contact the ECJU about these applications, and would they have questioned approvals that seemed to be contrary to the Government's undertaking to the court?

Paul Everitt: Again, nothing of that nature was raised with us. The traditional contacts that people would have would just be about seeking the timetable for responses.

Q151 **Navendu Mishra:** I appreciate you might not be aware of such contacts, but does that mean they did not take place?

Paul Everitt: No, just that companies would generally be questioning the timetable; I am certainly not aware of anybody's questioning the judgments.

Q152 **Navendu Mishra:** I appreciate that. So you are not aware, but you represent a large number of organisations across the country—it is a very large sector—and there could be companies that proactively contacted the ECJU about—*[Interruption]*—but you may not be aware of them?

Paul Everitt: Sorry, that was my dog. Apologies there; she was just—*[Inaudible]*—the basement. What you say is absolutely true; we as an organisation certainly run a number of special interest groups focused on the export licensing activities of individual companies, but those issues have not been raised with us.

Navendu Mishra: Thank you, Mr Everitt. Thank you, Chair.

Chair: Claudia, I think you wanted to come in on this point.

Q153 **Claudia Webbe:** I wanted to clarify whether there has been any advice given in relation to international criminal law, and whether the industry is aware of the sanctions for knowingly supplying weapons to end users that are violating international law?

Paul Everitt: Certainly for the larger businesses, I ensure that they are aware of any international obligations. Again, those questions are not ones that have been raised with me or with my colleagues.

Claudia Webbe: Thank you, Chair.

Chair: Theo Clarke, can we come to you?

Q154 **Theo Clarke:** We have, of course, now left the European Union. Following our trade agreement and the end of the transition period, I would be interested to hear from you about industry's views on any outstanding concerns that you have regarding the impact of Brexit on arms export controls.

Paul Everitt: By and large, people are comfortable with where we ended up. For most users on the military list, not that much changes. We have

agreed between the UK and EU an open licence for many dual-use items that would previously have been able to circulate freely. Whilst there is some administration around that, it is not something that people will find unduly onerous.

People are more focused on our longer-term relationships with some partners within the EU, and how that might work in terms of collaborating on technology and capability development. Obviously, this is a broader issue about how we—the EU, the UK and the US, who are major defence and security exporters—collectively keep in step, in terms of technology and the regimes that we operate.

Q155 Theo Clarke: That is really helpful. Can I ask specifically about Northern Ireland? What assessment have you made of the impact of the Northern Ireland protocol on industry in respect to arms export controls? Particularly, are there any practical implications?

Paul Everitt: Again, for some of us that is something we are still working through. The larger businesses have been able to spend more time in preparation. There is some administration around understanding what the flows are, and where you do or don't need to have an appropriate licence in place. That is relatively small scale.

Looking forward, the issues and challenges are to ensure that there isn't too much divergence—I use these words carefully—between the BEIS systems and those that the EU might look to change and adapt. Obviously, the more divergence there is, the more challenging managing the situation in Northern Ireland becomes.

Chair: Martin, I think you wanted to come in on this point, but it is your question anyway, so feel free to carry on with your next question.

Q156 Martin Docherty-Hughes: Thank you, Chair. Before we go on to my question, Paul, you talked about divergence in Northern Ireland. If you look at the fishing industry in Northern Ireland, it has very much diverged from the fishing industry in Great Britain. You reasonably say that there is export licensing from Northern Ireland, but is it going to be any less divergent than any other industry in Great Britain, compared to Northern Ireland, which has full access to the single market while the rest of us don't?

Paul Everitt: I guess I was referencing what is known as the consolidated list. That is a list of items and whether they are in the dual-use category or the military use category, and how those might change over time. We don't see that there is a good reason for the UK or the EU to diverge from some commonly agreed approaches. Certainly, we would urge the UK to be working both with the EU and the US to ensure that, as far as possible, we are taking similar approaches and therefore ensuring a level of consistency in all the activities that we are undertaking.

Q157 Martin Docherty-Hughes: I appreciate that you probably have concerns, which I think would be found in every other industry of Great Britain, as opposed to Northern Ireland. I note that there is no Member from



HOUSE OF COMMONS

Northern Ireland here today, but I am sure they would be concerned for different reasons from those that concern me. There might be improvements in oversight in terms of the EU, for example, which might be detrimental to the rest of the UK, or vice versa. Say there is a company in England, Wales or Scotland that suddenly decides, "What's the bother of producing here in Great Britain? We'll just move to Northern Ireland, with full access to the single market, any existing trade agreements and export systems." I just wonder why it would be any different for your industry, as opposed to anybody else's.

Paul Everitt: I am not suggesting that it would be significantly different. We view the rules of operation and the regulations within which we operate as having been successful over the last 20 or 30 years. Again, there is for us no good reason why we would want to go our own way in what is, by and large, an international marketplace. From a competition point of view, the UK, France and the US, certainly from a western point of view, need defence and security exporters, so having as much commonality in the way in which we regulate that seems sensible.

Q158 **Martin Docherty-Hughes:** What is your assessment, then, of the EU's proposed new controls on dual-use items, for example?

Paul Everitt: My colleagues have seen those, and by and large the response to them is reasonably positive. I don't think they view them as causing unnecessary concern.

Q159 **Martin Docherty-Hughes:** Would you, for example, think that—I need to say "Great Britain" here; I can't say "Great Britain and Northern Ireland" because Northern Ireland has access to the single market. Is it your idea that Great Britain could emulate and copy the EU's new controls on dual-use items?

Paul Everitt: Again, I think those are adjustments that the Government needs to make. Our general perspective is that trying to have as much harmonisation as possible is, for us, a good thing. These are international businesses, by and large. Certainly, if we look at the major defence and security exports from a UK perspective, they are very much in the air domain. They will be internationally produced products, not nationally produced products. We are working in that environment.

Q160 **Martin Docherty-Hughes:** They will be internationally produced products, but you are talking about the United States, the EU and the UK, and out of those three the UK is a smaller state. The EU has 500 million citizens and the US has millions, so they are the ones that will probably lead on how these policies develop, not the UK.

Paul Everitt: I am sure that is true.

Q161 **Martin Docherty-Hughes:** We are agreeing on something. How then might divergence in that sense, or the impact of the EU and the United States setting the form, impact on, say, joint defence projects, especially those where exports are the main aim of the programme—joint exports on the F-35, for example?



HOUSE OF COMMONS

Paul Everitt: I guess those are the considerations that companies and countries will be making, in terms of how they collaborate. Again, in terms of the collaboration process and the development process, I am not sure the export control regimes have that much difference. You are obviously right that there may be differences in individual country approaches to ultimate exports, and that clearly may have an impact on people's willingness and how much commitment they are prepared to make in the collaborative phases. The nature of international defence collaborations is always complex. I don't think the licensing regime is unique in making it more complex, if I am making myself understood. I think there will be plenty of things going on that will make those collaborations quite difficult and challenging, and the licensing regime won't necessarily be the one that is top of people's minds.

Q162 **Martin Docherty-Hughes:** I don't want to put words in your mouth, but I imagine it might have been easier if we had remained within the European Union.

Paul Everitt: From an industry perspective, we were very keen to do that.

Q163 **Martin Docherty-Hughes:** What would concern you most now that the UK at least—not Northern Ireland—is diverging on military or dual-use items in the Brexit era?

Paul Everitt: Again, what we want is commonality and consistency of approach. I think that is to everybody's benefit—from a commercial and business perspective, but also from the perspective of a regulatory regime. I don't see that there is any point in using the licensing regime as a competitive advantage. The more co-ordination and harmonisation there is, the easier it makes everybody's life.

Q164 **Martin Docherty-Hughes:** Finally—if you will indulge me Chair—on that point, Paul, about going to the lowest-based scale and using this for economic advantage, would there be a concern from some of your competitors, in terms of export licences, that the UK might now have a less robust system, to get over what they might see as the competitive advantage of the EU and the United States at the moment? The idea would be that the way to do that is to undercut them, in terms of export licence processes, to make it easier to export.

Paul Everitt: It is certainly not a conversation that we have had. Again, I think that, as an industry, we have always been very comfortable with the UK having a robust, and being seen to have a robust, approach on licensing. It is something that the industry absolutely supports. We are committed to the UK having a robust approach, and we think it gives us more credibility with our international partners as a consequence.

Q165 **Lloyd Russell-Moyle:** I want to come back to the issue about the reaction to suspending licences, for example if a company becomes aware not that the situation in a country has changed but particularly of diversion, which is of course of concern—I know that the Government have rejected a number of licences, including to Saudi Arabia, because of



HOUSE OF COMMONS

diversion and the Saudi Government signing inaccurate papers. But if a company becomes aware of that—that goods have been shipped but are not being used for the purpose that was expected—do they report that back to UK officials and how exactly do they report it back?

Paul Everitt: I am not aware that there is a process. As I said earlier, in relation to most businesses, the UK Government and their various agencies, ambassadors and networks have far greater understanding of what is happening on the ground than an individual company might have.

Q166 **Lloyd Russell-Moyle:** A lot of these company contracts nowadays come with servicing linked into them, particularly for the bigger-ticket items, but also some of the smaller-ticket and even brokerage items come with some level of aftercare. Surely in that respect the company or its agents on the ground would sometimes have greater understanding of what is happening with those particular weapons than, say, a cultural attaché in the local consulate.

Paul Everitt: Again, I don't think I can really comment on that, to be honest, Lloyd. I don't know. I think, from an industry point of view—there is a huge difference in terms of the type of businesses that we might be talking about. The scope and scale of a very small operator who is providing a subsystem in a programme in another country means that they will have very little visibility of what is happening in that country. By and large, it is the bigger picture that the Government will be watching.

Q167 **Lloyd Russell-Moyle:** The NGOs told us—this is their words and not particularly my words—that a large proportion of exports are components and subsystems and it is hard to identify which systems they are in and what is being done with them. Do you think that it would be better to have further clarity of information about where these components are being used and in what particular systems? They could be rather innocuous or rather dangerous.

Paul Everitt: There are two circumstances, I think. Where something is being purchased and supplied, by and large that will be a known programme. If it is a new-build project or programme, there should be a linkage through, which I am sure is reported in the way in which the licence is applied.

The second area is obviously work that might be spares for a product or programme. Again, the licensing regime is clear that there should be an end use in that, and that end use needs to be robust; there needs to be clarity that the person is receiving the goods and using them for the purposes that are specified.

My understanding is that the regime provides the appropriate framework and information for appropriate judgements to be made.

Q168 **Lloyd Russell-Moyle:** Yes—for the joint unit to make them. The question is, is that information made public? I think the NGOs' contention is that when they—or the public—overview them, it is impossible to tell at what level some of these items are. Do you think it would be problematic for



HOUSE OF COMMONS

some of that information to be published?

Paul Everitt: Again, from the industrial point of view, we are always happy to look at the balance of information that people wish to publish and the Government want to disclose. The boundaries are about ensuring that we are not giving away commercially confidential information—either the pricing of the operation, or the particular approach that their customer might be taking—which is understandable.

Lloyd Russell-Moyle: Thank you, Paul.

Q169 **Mark Menzies:** We often hear from small organisations—many of these are family companies—that are exposed to the licence regime. For some of them, it takes up a huge amount of their time and resources; they feel as if they are also dealing with rules that keep on changing. Meanwhile, your big players—BAE Systems, Raytheon and so on—can cope with the licence regime; there is no question about that.

With the licence regime—in its current form and as it seeks to evolve—how well do you think the small people are currently represented, and are there any changes that you think should perhaps be made with the small organisations in mind?

Paul Everitt: I think it is all about transparency and clarity, so that companies know and understand what the process is, but also the time it is likely to take.

Where people know what they are getting into and have a good understanding of the timescales involved, most are able to adapt their businesses appropriately; they understand what they are getting into and can plan for it. I think the smaller businesses find difficulties where they don't seem to be able to get that level of clarity. We have certainly seen circumstances in the past where people seem to feel that they are doing the right thing, but their licence is not getting processed, or is not getting processed in a timely manner.

For us, it is all about how you can wrap a level of advice and support around the regime, to ensure that we are a compliant set of companies, but also that people have a good understanding of how it is going to work, and that, by and large, it does work in that way.

Q170 **Mark Menzies:** Many of those companies will be the ones that are involved in the components and subsystems. For them, this often involves a huge amount of capital that they are then tying up to manufacture or develop something. If, latterly, they discover that there is an issue with the granting of an export licence, or that restrictions have been placed on the export of those goods, then—from a small company's point of view—that can be the difference between retaining your workforce or sacking your apprentices. In the real world—and this is happening in all of our constituencies—there are jobs on the line every single time one of these decisions is taken. I am less concerned about the very large people—the multinational players—than about the impact this can have on small family firms. The impact on the banking arrangements,



HOUSE OF COMMONS

the employment situation, the apprenticeship schemes and so on can often be catastrophic. Do you think there is enough awareness of that within the system as it currently stands?

Paul Everitt: I think the people doing the job are, by and large, aware. We work quite closely with ECJU. They have done quite a lot of business awareness. As I said in one of my earlier answers, for those companies for whom this is the core part or a substantial part of their business, it can be frustrating, but they recognise and understand that this is part and parcel of being in this sector.

I would also stress why, from the UK point of view, defence exports are important. They are about how we maintain UK capability and support for our own armed forces. It is not commercially viable to have only one customer. You need to have a diversity of customer base to deliver cost-effectively for the domestic customer and have the resources you need to develop new products.

Exporting is not a “nice to have” or an add-on. For most businesses that are a core part of the defence industry, it is an absolutely essential part of how they ensure that they get their whole business to continue to operate. It is not surprising that, from time to time, people are frustrated. I think it is more about transparency and clarity and the system working, making promises and ensuring those promises are met, in terms of how the system works.

It is about ensuring that people know and understand that, if there is a delay, it is for a good reason, and the process will continue once certain points are reached. We saw last year that delays can happen legitimately because of concerns around particular countries or conflicts. Those things happen from time to time.

I think the bigger frustration is when your licence has nothing to do with those contentious areas, and it just seems not to be getting through the process particularly swiftly. You, as a user of the system, do not understand or are not given a clear explanation as to why that is the case.

Q171 **Theo Clarke:** As the character of conflict evolves, I am interested to know what you think will be the impact on the licensing system. Do you think it would need wholesale change, including new international agreements? What do you see as the industry’s role in that process?

Paul Everitt: Technological change is not a new feature of the licensing regime, so the systems are evolvable. I think it is more about the latter part of your question, which is: how does the international community come together to create, and harmonise with, some clarity on what it is that we believe needs to be regulated? How do we do that in the most efficient and effective way?

We are certainly seeing changes. The US is obviously spending on what is now a bigger part of the defence sector, which is the transfer of data, whether that is software upgrades for equipment or other forms of information. How are those data transfers being regulated or licensed? In

the US, they are taking a fairly pragmatic approach. Where things are appropriately encrypted, they aren't necessarily seen as requiring licensing activities. It is a live issue that will obviously come to the fore in more places.

Having international engagement on these types of areas is most important, from an industrial point of view, so that we get a consistent approach across a range of territories.

Q172 Theo Clarke: Thank you. Do you think there will be any new challenges in terms of brokering and brass-plate companies?

Paul Everitt: From an ADS point of view, we don't have any brass-plate or brokerage businesses in our membership, so I am not in a position to talk on their behalf. Obviously, the current regime extends to UK citizens operating out of other countries, so we have the framework to ensure that we are able to pursue and prosecute, where appropriate, businesses that are not following the rules. Obviously, it is a challenge for all regulatory authorities, not just around arms exports, that technology, including communications technologies, change, and inevitably people seek to create business models that are designed to circumvent the rules. We have to be alive to that. The authorities need to be alive to it, and we need to work together internationally to ensure that we are not creating opportunities for people to do things that society, companies and Governments do not want.

Q173 Chair: If you found that one of your members was becoming a bit of a serial offender, or was perhaps not adopting the process as you would like—and I appreciate you are not a regulator—what would you do in terms of your relationship with that business? Would you ask them to leave ADS? How would that work?

Paul Everitt: We have a kind of catch-all part of our statutes, which is that a company that brings our organisation into disrepute can be effectively excluded from membership.

Q174 Chair: Have you ever had to exclude anybody from membership?

Paul Everitt: We have, yes.

Q175 Chair: Obviously, I don't want to go into it now. As I say, the key thing is that you are not a regulator; you are a champion for the industry.

Paul Everitt: We would hope it would be a relatively rare event. Certainly, in the eight years that I have been CEO it has happened on one occasion.

Q176 Chair: Fantastic. Paul, just one last question, from me: it is very helpful from our point of view to get feedback from all sorts of witnesses who come in front of us on what we may be missing out, so what two areas should the Committees on Arms Export Controls take forward in our future work?

Paul Everitt: The ones that are always top of the mind we have rolled around a couple of times in our conversation today: having the service



HOUSE OF COMMONS

level agreement, I guess, and transparency for companies on how long the process will take, and how they will be updated through the process, so that they have a good understanding of what is going on. That is the thing that is always top of our list.

Similarly—Sarah mentioned this—how do we put in place that full advisory system, so that those entering the defence and security export business have a good understanding of the markets into which they are entering, and are not blind to issues that they may face, or some of the uncertainties that they may need to deal with because of the nature of the regimes or technology. Up front, we should make sure that that advisory service is available.

We are clear we are not asking for the licensing regime to say, “Oh yes, that’s fine,” but there has to be some level of advice that Government can provide on key markets and key technologies. This reflects Theo’s question as well. Obviously things change, in terms of the circumstances on the ground, or conflicts that may be arising that people should be aware of, but also as technology changes, companies need to be aware of where there may be more sensitivities. Those are the two areas that would do most to make the regime work more efficiently and effectively.

Q177 Chair: That is very helpful. I think the first point was really more about customer service and making sure that the ECJU is working well. I want to pick you up on that second point. One thing struck me as a Minister and, although I was given lots of answers to it when I was a Minister in DIT, I never quite felt comfortable with them. I am interested in your opinion on the potential conflict of interest—I am not sure whether it is an actual one. On the one hand, you have got all sorts of very good, helpful people in the Department for International Trade working extraordinarily hard doing export promotion, helping British businesses to sell to countries around the world. The second side of it, completely separately, is the ECJU, where DIT staff in post could find an export opportunity for a British business only to discover later that the ECJU would say, “No, we cannot authorise this because it is a sanctioned company,” or whatever it happens to be. Have you ever come across any examples of that type of thing going on?

Paul Everitt: We know and understand, and I think we would all be comfortable with, the ECJU being separate from the day-to-day business of export promotion activity. It needs to judge things and deliver impartial views and opinions. But I have certainly seen occasions where enthusiastic officials, either within DIT or in country, are identifying potential opportunities that other companies probably would not take up, if they saw them. Sometimes people are encouraged to pursue opportunities when they should be thinking twice about them.

Again, there is always a reluctance within Government to provide industry with clarity on which countries we should be seeing as major opportunities. The top five or six are not a problem, but as you go further down the list, there is a reluctance from Government to say either, “We do want to build relationships with these countries, so we are encouraging



HOUSE OF COMMONS

you to see defence and security exports as part of that relationship,” or, “Actually, these are parts of the world where our advice is that you should not be going.”

Again, I do not think anyone would take that as “Absolutely not” or “You absolutely have to,” but a greater flow of information to help smaller businesses in particular to have a better understanding of the international environment which they are getting into would be beneficial. Many of our larger international companies have a good understanding of the diplomacy and dynamics between countries and these sorts of things, but many of the smaller businesses are focused on their day-to-day activities. They may be supplying products to the UK armed forces, our police services or elsewhere, and if something comes up, they may say, “That is a good opportunity—I should pursue it,” without necessarily understanding the full consequences.

Q178 Chair: Just to be absolutely clear on this, the flow of information should be from the ECJU to DIT, and not the other way round, in order to maintain the independence of the ECJU.

Paul Everitt: I am not sure whether the ECJU needs to be the one doing the communicating, but certainly if you look across the Ministry of Defence, the Foreign Office and the Department for International Trade, they are outward-looking, and they are collecting information and taking views in a variety of circumstances, so they could do more to co-ordinate that view and provide it to industry in a variety of forums.

Q179 Chair: I promise you this is my last question. It has been suggested in other evidence sessions by people who are less enthusiastic about the arms trade that the interpretation of rules in terms of the ECJU is slightly more elastic when it comes to those bigger country customers than it is perhaps to others. Have you any evidence of that? Have you come across that?

Paul Everitt: Not in those circumstances, no.

Chair: Fair enough. Paul, thank you so much for coming in. It is not always easy to be the one witness, with eight or nine MPs quizzing you for an hour and a quarter. You will be pleased to hear that we are finishing a little early. It is always great to see you, and thank you for everything you do at ADS. Thank you for coming in and spending this morning with us.

Paul Everitt: Thank you very much. It was great to see you.