



Committees on Arms Export Controls

Oral evidence: UK Arms Exports 2019, HC 1212

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Members present: Mark Garnier (Chair); Sarah Champion; Theo Clarke; Tobias Ellwood; Paul Girvan; Martin Docherty-Hughes; Chris Law; Mrs Emma Lewell-Buck; Mark Menzies; Navendu Mishra; Lloyd Russell-Moyle.

Questions 34-71

Witnesses

I: Mike Lewis, Head of Enhanced Investigations, Conflict Armament Research.

Examination of witness

Witness: Mike Lewis.

Q34 **Chair:** Good morning everybody and welcome to the second evidence session for the Committees on Arms Export Controls inquiry into UK arms exports in 2019. In today's session we will be looking at a number of topics with Conflict Armament Research, including the UK Strategic Export Controls Annual Report 2019; enforcement and compliance; post-shipment verification; and the potential impact of the UK's withdrawal from the European Union on strategic export controls.

Before we start, perhaps I could ask Mike Lewis, the Head of Enhanced Investigations for Conflict Armament Research, to give us a quick introduction.

Mike Lewis: Thank you for the opportunity to speak to the Committees. I will be very brief in my introductory remarks. As you know, my name is Mike Lewis and I work as the Head of Enhanced Investigations at Conflict Armament Research. What that means is that I am responsible for our transnational network investigations into logistics, finance and the human networks behind illicit weapons trafficking. I was previously responsible for the organisation's work in west Africa, although I have also worked in the Middle East, east Africa and parts of south-east Asia.



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For those of you who are not familiar with our organisation and our work, we are an organisation of about 40 people based in 10 or 11 countries around the world. We work in around 25 active armed conflicts, primarily in Africa and the Middle East, but also a little bit in south-east Asia. The core of our work is the physical documentation of illicit weapons in theatre—where they are used and where they are being recovered by armed groups, or armed actors and security forces.

The reason we insist upon this physical documentation verification is that, in our view, it is the only way you can get a verifiable and comprehensive picture of weapons being diverted from their legal end users. Lots of this work—very high quality, good work—happens through social media, online, and through other remote forms. But in our view, it is only by physically examining these items that you can get representative samples of what is being diverted; you see the unsexy stuff that does not appear on a Syrian rebel's video, the 100 boring Kalashnikovs they did not bother to put into it. It is the only way you can see how weapons have been modified, how their markings have been removed. It is the only way you can verify in a totally rebuttal-proof way—and sometimes to the satisfaction of a court—that the weapon really was where it was supposed to be, when it was supposed to be.

From that body of data, we do a number of different things. We conduct formal weapons tracing with governments and manufacturers to determine points of diversion; we undertake network investigations into intermediaries, into financing, and into logistics networks responsible for illicit diversion and sanctions violations; we are developing new field and laboratory techniques to recover markings from weapons to conduct forensic and metallurgical analysis; and we are also conducting a range of training and longer-term support for police, defence and security forces and for judicial officials in the places we work to help them to adequately handle weapons evidence, and to monitor diversion themselves.

Q35 Chair: Thank you very much, that is a very thorough introduction. What I want to start with is how your organisation engages with the UK Government. I think, quite importantly—do you find that the UK Government is enthusiastic to engage? How do you find engagement with the UK Government, and indeed all the relevant authorities that form part of HMG? Are they helping your work and research?

Mike Lewis: In some senses, it is not their responsibility to help our work, of course, but we do have cordial relations with the UK Government in three different ways. First, they have previously funded some of our work, for which we are extremely grateful. That funding has come both from DfID, as was, and from the FCO. Until July 2020, the UK was funding our work on post-delivery verification of weapons supplied to the Somali Federal Government, for example. I can talk more about that later. That is one way in which they have shown enthusiasm for our work.

Secondly, they are the recipient of our information and tracing requests when we find UK matériel in the wrong hands in different places. That is fairly uncommon. I looked at the statistics this morning and of the matériel



in our database—weapons and ammunition that have been diverted around the world and that our teams have documented—very small numbers are UK-manufactured. It is less than 0.5% of all the weapons we have documented in the last five years, and it is even less than that for ammunition. That reflects the fact that our biggest focus is small arms and light weapons and their ammunition, and the UK is not—except for certain categories of specialist weapons—a very large exporter of those kinds of items anymore. None the less, we do get responses when we find British-made weapons and ammunition around the place. If it is useful, I can talk more about the ways the Government have helped our work and about the limitations of the data the UK holds.

Thirdly, we have had some liaison with HMRC when we have been able, essentially, to establish prima facie evidence of unlawful activity by UK nationals. That is not our primary focus—we are not scalp hunters. We are not seeking to replicate what law enforcement agencies do, but when we come across evidence of that kind, it is our duty to bring it to the relevant authority's attention. We have had liaison with HMRC on a small number of cases, and it has generally been fairly receptive to that material, although of course it has its own evidential standards and procedures that it has to follow.

Q36 Chair: Just going back to your first point on funding, you mentioned that it was coming from DfID. Presumably that was part of the ODA money. My next question is relevant to that. As a result of the Government's policy to drop ODA funding from 0.7% to 0.5%, have you seen a corresponding drop in your funding?

Mike Lewis: Only a relatively small part of our funding has ever come from the UK in any case. The specific programme the Government were funding before came via a programme called the SSJP—the Somalia Security and Justice Programme. As I understand it, that was ODA funding. As I said, that was discontinued in July 2020. I am not really across the reasons for that or whether it related to the merger between DfID and the FCDO. That work is now being funded only by the German Government.

Q37 Chair: Fantastic; that is very helpful. To continue on this subject, it is interesting that you mentioned that you concentrate on small arms. Looking at UK exports, it would be things like sniper rifles that you would be concerned about. This is a slightly old question, because so little of what you are discovering comes from the UK, but where you do discover stuff coming from the UK, are there any particular countries that you are worried about? Are there any frequent offenders that we should be more careful about than others?

Mike Lewis: I was thinking this morning about whether you could create some kind of grey list, I suppose. By and large, one thing that our project has tried to do is to create a statistical basis for understanding the extent to which weapons are diverted from different end users. So we do have statistics for a range of different countries; obviously, it is dependent on our access to that matériel when it turns up in the wrong hands—it is not necessarily a representative sample. But we can identify countries that have



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experienced more diversion than others. In some cases, that is not the country's fault: for example, in the case of Iraq, very large quantities of Iraqi army matériel were diverted to Islamic State forces in Iraq and Syria. By and large, that was because of battlefield capture—it happened in the course of the fight against ISIS, so could not necessarily have been controlled.

In other cases, we have had instances where countries that neighbour embargoed destinations, for example, have acted as conduits for weapons. There was quite a consistent pattern of weapons being exported to Uganda, for example, and then being transported on to South Sudan, which was then under EU embargo and is now under UN embargo. We presented some evidence that that was with the complicity of at least elements within the Ugandan Government and armed forces.

Q38 Chair: Those would be expressly against the conditions of the eight consolidated criteria.

Mike Lewis: I suppose they would be against criterion 7, about the diversion risk. After we presented that evidence, several EU member states, for example, did then suspend licences to Uganda for that reason. That is an example where the data shows clear risks that can then be acted on.

Because our organisation is so focused on illicit weapons and their diversion, we have less to say about some of the other consolidated criteria. I understand that there might be discussions about whether you could use the UK's list of countries with human rights concerns, for example, as an element in your selection. But for us the important thing is not about creating grey lists or black lists, but looking at the data and seeing not only which destinations but which particular end users are more at risk of having their matériel diverted.

Q39 Chair: That is very helpful. I am slightly conscious of time; we have only an hour and 20 minutes or so. Very quickly, what are your general observations about our 2019 annual report in terms of content and transparency? How do we in the UK compare with other people's reports?

Mike Lewis: Sure. We do not rely an enormous amount on the published reporting of EU member states, for example; what we are looking for is information that will never be contained in an annual report—the specific destination of a particular item.

The UK has, for example, more problems than some other countries, I think, in being able to attribute a specific weapon to a particular export licence and therefore in figuring out its chain of custody. When particularly the ECJU receive information requests of that kind from us, they do as well as they can. For example, they will go beyond the published annual report and look for export licences that mention particular weapon models. In the annual report, you get licences for assault rifles or battle tanks or whatever it is—they will go beyond that and say, "Okay, were there export licences that mentioned this particular model of assault rifle or kind of armoured vehicle?" They are able to do that.



What the ECJU does not seem to be able to do—it is not their fault; it is the nature of how record-keeping works in Government—is to say whether items have been exported under an export licence. They are not able to connect customs data to export licensing. In addition, there is a comparatively limited amount of historical data available. As we understand it, the UK maintains export licence records back to 2007. Then there are some spottier records back to 2000, and nothing beyond that, so even finding an export licence, let alone evidence of an actual export, is sometimes a challenge for the UK.

That contrasts with some other countries. We have recently been in contact with Spain,¹ for example. They are able to identify specific exports of specific serial number weapons back to the 1960s and 1970s. Many eastern European countries can do the same, including for batches and lots of ammunition, and they provide us with that information fairly regularly.

There is a gap there. This is not to say that the UK Government are not seeking to assist with our and other organisations' trace requests; it is just that the data either is not there or is not linked up between licensing and actual records of exports.

Chair: That is really helpful. Thank you very much.

Q40 **Lloyd Russell-Moyle:** You say that you have reported a number of issues to the UK Government. The UK appears to have a very low level of prosecutions for export control violations. Based on the information that you have passed over, and your general knowledge, does that surprise you, given what you are seeing on the ground?

Mike Lewis: Not really, partly because what we see on the ground is by and large not UK manufactured. We also look at technology that goes into things like UAVs, for example, and we do find UK components and subsystems in those items. In some cases, those do appear to have circumvented in some way export controls or arms embargoes, but the UK is not a large exporter of the kinds of military equipment that are frequently diverted. The case load is therefore going to be—*[Interruption.]* Apologies.

Q41 **Lloyd Russell-Moyle:** I was just going to ask if there was a difference between military and dual use in terms of the likelihood of UK exports being diverted, but I did not want to cut you off.

Mike Lewis: Yes, I am sure that there is a larger case load in the dual use field, but in terms of military equipment the case load is therefore going to be about brokering and intermediation—UK nationals, either based in the UK or abroad, being involved in brokering weapons exports without the requisite UK authorisation. That obviously presents evidential challenges for everybody, not just the UK. It presents jurisdictional challenges as well. I know that the Committee, for example, has looked at the instance of UK-registered companies being involved in brokering weapons exports to embargoed destinations that are registered as brass plates in the UK but do

¹ Note by witness: I did not mean Spain, but Italy.



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not have any actual UK presence. They do not have any UK directors or shareholders, or any physical assets in the UK.

That presents a real jurisdictional problem for UK authorities, and we have come across a number of those instances—both UK-registered companies involved in brokering exports to South Sudan, which we wrote about, and more recently Scottish limited partnerships that were involved in financing weapons deals that we believe were going to an embargoed destination.

Q42 Lloyd Russell-Moyle: I am assuming that those organisations register as UK companies because it gives them a veneer of respectability. Does it damage other UK companies or brands if some are potentially behaving very badly?

Mike Lewis: I am not sure that I would be able to say. I think that is a question for UK exporters. Definitely the volume of cases—I know that a lot of these cases have come before this Committee—that involve UK brass plate companies, limited liability partnerships or, increasingly, limited partnerships and Scottish limited partnerships is high. It is not confined only to illicit arms exports; all sorts of other illicit activity happen through those vehicles.

I know the Committee has discussed quite a lot whether more could be done with powers other than criminal prosecution. Powers that the Insolvency Service has, for example, to investigate and then apply for companies to be wound up—these kinds of things. So I think there are other powers that might be explored, but this is a consistent feature of how the illicit brokering or illicit financing of illicit weapons transfers takes place, yes.

Q43 Lloyd Russell-Moyle: I did try to put down some amendments that the Committees recommended a few years ago on some of the anti-money laundering Bills, but they didn't quite go through. But we will come back to that.

You mentioned that a number of other European countries had put embargoes on Uganda, for example. How do we compare to other European countries in particular, but also the US and other western countries? What are your observations on the effectiveness of British actions trying to stem in particular diversion, but also just use that breaks any of the criteria? Are we effective in doing that, or are European states that might put in a blanket ban more effective?

Mike Lewis: I don't think any European states placed a blanket ban on exports to Uganda; they did suspend a number of licences for military equipment that was likely to be diverted. I don't think we could fault the UK in that respect, because the UK is not a major exporter of military weapons to Uganda. That was a very particular case.

Q44 Lloyd Russell-Moyle: We do offer technical assistance, of course, to the Ugandan Government—

Mike Lewis: Sure.

Q45 Lloyd Russell-Moyle: [*Inaudible*]—Uganda, I was on a flight over with a



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load of our armed forces to do that.

Mike Lewis: I suppose your question gets into questions around defence diplomacy or other ways in which the UK might influence states that are complicit in the diversion or misuse of weapons. That is a little bit outside my pay grade, so to speak.

I don't think the low level of prosecutions is necessarily a reflection of a lack of will. I think it is a reflection of the particular complexities of the case load that the UK has, particularly in terms of brokering, and also—very frankly—the level of resources with which HMRC is working. Customs B, which is responsible for this area of prosecutions,² is relatively small. I do not have the figures for exactly how many people it has now, but I know it is a relatively small unit. My organisation, although we are not engaging in criminal investigations, is certainly considerably more resourced in terms of person power than HMRC's Customs B is.

Q46 **Lloyd Russell-Moyle:** It is very interesting that you are more resourced than Customs B. You have mentioned brokering. Would it be helpful, then, for us to have a proper brokers register, so that we know who the brokers are? At the moment, we only know if they have applied and by looking through applications, rather than actually being able to look up who is registered or not.

Mike Lewis: Yes, brokers registers have clearly been helpful in some other contexts, in other European countries, where they have been instituted. I think one of the most striking things that we see is that we quite often speak with brokers who have no idea about their licensing obligations. That is particularly true of brokers that operate outside the country of their nationality and where those countries, like the UK, have extraterritorial controls on the activity of UK nationals when they are operating overseas and involved in moving certain categories of goods. At the very least, a brokering register provides a list of people whom the Government can inform about their obligations. It is never going to catch individuals who are going to operate wholly illicitly, but there is a very large area where licensing does not take place because people do not know they should apply for a licence, and that is definitely something that would be helped by a brokers register, yes.

Q47 **Chris Law:** I wonder whether it is possible to strike a balance between focusing on the licence application process, including application of the consolidated criteria, and enforcement and compliance once a licence has been granted.

Mike Lewis: In the UK context, there are a couple of things to say. First, there are a number of things to be done to check that a licence is being used correctly, and that is clearly hampered if you cannot connect customs information to licence information. So if you cannot know how much or to what extent a licence is being used, you cannot necessarily know whether that licence is being used correctly. That is definitely a gap.

² Note by witness: I did not mean prosecutions, but investigations.



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There are also obviously checks that Governments can do to ensure that matériel is exported where it is supposed to be exported. One example that we saw on a couple of occasions when we were investigating Islamic State weapons procurement was that weapons would be exported from eastern European countries on end-user certificates from one particular country and a flight plan would be filed by the plane taking those weapons to a completely different country—generally one neighbouring Syria. This was clearly part of the Syrian weapons pipeline. That is a very obvious example where if the exporting Government linked up transport information to customs and export licence information, it could spot those kinds of anomalies. Those things could certainly be looked at. I do not think the story needs to stop at the point at which an export licence is issued.

Q48 Chris Law: That is very useful, Mike. I know that previously the Committees have looked at examples elsewhere of end use. Therefore, given what you have just said, should there be more focus on the end use of the exported items? Can you tell me of best practice elsewhere that we can look at?

Mike Lewis: In terms of end-use monitoring and verification?

Chris Law: Yes.

Mike Lewis: I know that the Committees have previously taken evidence from SIPRI, who have talked about their study on post-delivery verification and end-use monitoring by EU member states. I know that Spain, the Czech Republic, Germany and a number of other countries are looking into doing this more proactively.

Our organisation has only been involved in post-delivery and end-use monitoring in one case, and that is in Somalia, where we implement a programme called the Joint Verification Teams. This is a requirement that was set up by the UN Security Council as a condition for lifting some of the conditions of the arms embargo on Somalia as it related to the federal Government. The federal Government needs to import weapons for its own self-defence and in the fight against al-Shabaab, and as a condition for making those weapons imports easier the Security Council requires that those weapons be verified after they have been distributed to Somali security forces to prevent them from being diverted. That started in 2016 and has been going for about four years now.

There are, broadly speaking, three things that are important in that process working. One is the existence of trust between the importing Government and those conducting the verification. In this instance, there are standing joint teams. We work with the office of the national security adviser in Somalia. They appoint some members of the team and some members of the team come from us. We have worked together over a number of years in small teams on the ground, and building that level of trust is critical to us getting access to the places where weapons are stored and deployed.

The second issue is about having access to the places where weapons are being used. It is one thing to say, "Okay, we will go to an armoury or a warehouse and have a look at the weapons we have exported to see whether



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they are still there.” It is quite another to see how they are being used and where they are being used when they have been deployed to the frontlines. That is something that we have struggled with as much as anybody else—getting access to the Somali National Army’s forward operating bases, to very remote police deployments, for example. Our teams can get out to the regional capitals, and they have been all over Banadir and various other places, but it is excessively expensive and in some cases excessively risky to get to some forward operating bases and, obviously, that is where the newest weapons are going to be distributed, because that is where the fight is.

One of the ways we have tried to get round that is that we have developed a mobile phone-based app that is currently being trialled by the Somali national police. The police have started to roll it out. We did trials last year in March and August. They started to roll it out in November. Basically, police officers download the app. They take a picture and register their own weapon wherever they are and wherever they are being deployed, and with the metadata and the geotagging, that can show that their weapon remains in police hands.

Since November, 4,300 weapons have been registered by the app. That is 85% of the weapons deployed by the police in Mogadishu region. It is about to be deployed to some of the regions like sector 60, where the UK is mentoring the Somali National Army. It has been surprisingly successful.

To give one UK-linked example, in 2016, the UK supplied weapons to some units of the Somali national police. Over the last six months, we have been able to verify that 100% of the weapons that they supplied to the police are still in police hands. I think that is an unusually high rate because those particular units are being very closely mentored and supported, not least by the UK, and other parts of the Somali security forces are by no means so closely supported. But that is a good example where we can say with some confidence that all the weapons that were provided by the UK to the Somali police are still in Somali police hands. So it is possible.

The third thing I would bring out here is that all of this relies on decent record-keeping, both by the exporting Governments and by the importers. Exporting Governments need to provide detailed serial number lists of weapons when they are exported or VIN numbers of vehicles or whatever it is that is being sent. Again, that speaks to the issue of being able to link up serial-number level export records with export licences, which I know the UK struggles with in some cases. Importing Governments need to take enough care over record-keeping of the import and then the distribution and deployment of weapons. A lot of the work that we have done in Somalia is actually very low-tech work—making sure that there are log books in armouries, for example, where the issue and receipt of weapons is being logged by serial number, and those kinds of things.

It is by no means a panacea and it relies upon both the exporters and importers doing a certain number of things to make the chain of custody of a weapon verifiable.



Q49 **Mark Menzies:** What is your experience of post-shipment verification in practice? What does it do well and what are the pitfalls?

Mike Lewis: As I said, our largest experience in this field is in Somalia. We have had discussions with some other EU member states about whether we might be able to facilitate post-shipment verification in other contexts, but that is at a very early stage and we have not deployed anywhere to do that yet.

The thing I think is important to underline about post-shipment verification is that it needs to be done repeatedly and at some time distance from the point of the initial export. For example, there is quite a lot of practice of delivery verification at the moment. Quite a lot of states require that at the point at which weapons are delivered, the Government of the importing state produces a certificate or some kind of other evidence showing that those weapons have arrived in country and are safely in their custody.

There is a lot of emphasis on verifying the immediate delivery of weapons. That effort is not un-useful, but it is sometimes slightly misplaced, because the in-shipment diversion of weapons is very rare. It is very rare that an aircraft or ship takes off carrying weapons to a particular destination and it is diverted to somewhere else midway through. It is much more common that weapons are delivered to a state and then they are diverted at some time after they have entered that state's national stocks, either through crime or corruption or through the complicity of that state.

We have put out figures from our own data suggesting that around a quarter of all the diversion instances that we are able to verify involve the complicity of a state, so it needs to happen at some time after the delivery of the weapons, and at the locations where weapons are actually being deployed and used, rather than just in headquarter armouries or in warehouses at the *état major des armées*, or wherever it is.

Q50 **Mark Menzies:** That neatly brings me on to the second part of my question, though you have pretty much answered it. How effective can any end-user assurances be without some type of post-shipment verification, for example on-site inspections?

Mike Lewis: I do not think that post-shipment verification is ever a panacea, because you are never going to be able to verify the totality of the weapons that are held by a state unless that state is extremely small, and often, except over time, you are unlikely to be able to see all the weapons that you have exported to that state because they are deployed to serving personnel.

All of that being said, the work that we have done in Somalia has identified clear examples of diversion, down to identifying the units and in some cases the individuals that were responsible for that diversion. Then the effectiveness of that activity rests upon what happens next. It rests upon there being real consequences for when an instance of diversion, or misuse I suppose, is detected. It rests upon the exporting state being willing to suspend further shipments until some kind of action has been taken by the importing state.



I suppose it also might rely upon the exporting state being willing to impose some kind of consequences for refusals of post-shipment verification as well. Of course, you are never going to have coercive inspections. We tried weapons inspection under force in Iraq in 2003 and it did not go very well, but both sticks and carrots do need to be applied by exporting states.

I think exporting states have more political leverage than they might imagine in these instances. That has certainly been our experience in Somalia, where there is a relatively small number of donor states that are providing weapons to the federal Government. It is really their political push that determines in some cases whether inspections go ahead or not. When they have refused inspections, that is when the shutters come down—that is to say, when the exporting states have refused that their items be verified in-country, that is when the shutters come down.

Mark Menzies: That is very useful. Thank you very much.

Q51 **Martin Docherty-Hughes:** I wonder whether we can consider what the most important objective for on-site inspections is—for example, verification, the prevention of diversion, or mutual trust building. Who do you think should carry out on-site inspections, and is there a drawback to on-site inspections, such as the necessity of the recipient country to agree and assist with them? Drawing from your experience, how can that be overcome?

Mike Lewis: As I spoke about in the Somalia example, building some kind of trust between the importing state and those conducting inspections is absolutely critical. Four years on, of course, there are still instances in Somalia when the shutters come down in particular units or particular commanders are not willing to provide access to the joint verification teams, even though those teams contain senior members of the Somali Government itself and even though that process is mandated by the UN Security Council, which to some degree conditions weapons imports into Somalia on those inspections taking place.

But I think those joint verification teams are a useful model, where members of the importing Government work alongside independent inspectors—in this case, over a number of years. People become colleagues and go above and beyond to try to unblock diplomatic and political logjams. That model of having joint teams is a good one.

Q52 **Martin Docherty-Hughes:** Given the longevity of some exported items, how long should an on-site inspection and the tracing of those kinds of long-term exported items continue?

Mike Lewis: There are two bits to this. One is how long after an export might verification take place. Obviously, consumables such as ammunition eventually get used up or go out of date and get destroyed. But even with things like small arms, if we look at the weapons that we see being diverted in our dataset, the biggest bulge in small arms and rifles that we see in illicit hands are those manufactured between about 1970 and 1990. These items have a long shelf-life, and placing arbitrary limits on how long these processes should take is not reflective of that reality.



Obviously, most states cycle weapons out of use and dispose of them after a certain amount of time—everything from a tank to an assault rifle. I suppose one might think about whether states might notify the original exporting state about when they are taking weapons out of service and destroying them or getting rid of them in other ways. That might be an opportunity then for the exporting state to verify that the weapons are being disposed of or destroyed.

Q53 Sarah Champion: Mike, good morning. I would like to focus my questions on diversion. CAR has highlighted where diversion might occur and how better end-user documentation and the use of tracing tools might lessen that risk. Where do you think the greatest risk of diversion arises?

Mike Lewis: By a long shot, the greatest case load on diversion that we see is in battlefield loss and capture. There is not an enormous amount that can be done about that. That is the nature of warfare: positions and matériel are captured—it is what happens.

As I mentioned earlier, in the next category down—probably between 20% and 25% of the cases we looked at—a state is involved in supplying, say, an armed group or an embargoed destination with weapons that it has imported ostensibly for its own use. We see a kind of sub-category of that quite a lot, involving favoured private actors. To go back to the Uganda example, we saw this quite a lot in the case of South Sudan: a set of weapons brokers, mainly from eastern Europe, based in Uganda, had generated relationships with the Ugandan Government over some time. They were involved in contracting directly with an embargoed country—in this case the Government of South Sudan—but could rely on the Government where they were based to produce and generate end-user certificates to facilitate the onward supply of weapons through their territory on to the embargoed destination. It is that nexus between favoured private entities and complicit Governments that is of most concern. It is that nexus that, in some ways, end-user certification is supposed to get at.

We recently put out a study of 75 different end-user documents that we had come across in the course of our research. We looked at how they were put together, the kinds of commitments and obligations they imposed and so on. I would draw out three things about how those documents and, more importantly, that process might be improved. One is that relatively small numbers of EUCs contain full information about the brokers and intermediaries involved in procuring those weapons. It is often those actors that are the key red flags, because it is often those actors who are involved in contracting with proscribed groups or embargoed entities. Less than half of the EUCs that we looked at named an exporter or an importing company, and two thirds of those had no address or other contact details for that company, so you could not even necessarily ring them up to figure out whether they were bona fide. That is one thing.

The other thing is that there is a huge inconsistency in the end-user undertakings that are contained in end-user certificates—that is to say, the commitments that are made by the importing Government not to use the items in certain ways or not to send them on to other parties. We came up



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with 19 different formulations of end-user undertakings in that sample of 75 end-user certificates. I think some greater consensus about the legal language and the legal obligations that end-user certificates should impose would be very helpful.

We also see a strategic use of documents other than end-user certificates. In our work on ISIS weapons procurement, we saw a lot of cases where countries that were supplying weapons to Syrian armed groups, for example, would import those weapons on international import certificates rather than issuing export licences. One thing about international import certificates is that they do not contain re-export clauses. We see the same thing in the EU, where quite a lot of EU member states rely on import certificates. You will have, typically, a broker who is assembling a weapons shipment from production in a number of different EU states. They will assemble all those weapons physically in one member state, and they will rely on international import certificates to move the weapons into that state. In that case, the exporting Government may not even know who the final end-user is supposed to be at all.

Q54 Sarah Champion: In a situation like that, what practical steps can be taken to prevent that, or to redress it?

Mike Lewis: Governments simply requiring a Government-issued end-user certificate in all cases.

Q55 Sarah Champion: In what circumstances do you think UK exports are most at risk of diversion?

Mike Lewis: The instances of UK diverted items that we have seen have tended to be high-tech components or subsystems. We have seen UK components, for example, in UAVs manufactured by the Russian Federation, and then deployed in a number of different places. That is not to allege any wrongdoing on the part of UK exporters. These supply chains are really complicated, and they have a number of different steps before they reach Russia. I would say that the risk to UK exports in that sphere is more about complex civilian supply chains that obscure the eventual end use of those components or subsystems, rather than the kind of issues around end-user certification that you see for military weapons.

Q56 Sarah Champion: My final point, for a quick answer, please, is: what is CAR's role in and experience of reporting incidents to the exporter or the authorities?

Mike Lewis: The primary method that we use to report instances of diversion is tracing requests. We submit a request to a Government or a company, and that is usually the first time that they know their item has ended up in the wrong hands. We have issued about 3,000 of them in the last five years and we have had responses to about 1,300 of them, more or less.

Those formal tracing processes are, I think, the key alerts. That is one of the reasons why the UK's ability to respond to Government tracing requests via Interpol or the International Tracing Instrument—whether it responds to



us is neither here nor there—is critical, because that is the key alert mechanism for all Governments. If people do not bother to send tracing requests to the UK because they think the UK cannot come up with an answer, that is the UK missing out on an important source of information and intelligence.

Q57 Mrs Lewell-Buck: In response to one of my colleagues, you said that post-shipment verifications are never a panacea, but what kind of system could work best for the United Kingdom?

Mike Lewis: I think that the model we set out for the Somalia context has a number of those elements. First, joint teams between the exporting and importing states is critical for building trust. Secondly, a selection of countries that does not rely upon a blanket black list or grey list but looks at where diversion or misuse has been documented in the past—something dynamic. Again, that is a reason to connect up the ECJU with both tracing requests and customs information, because it is essential that information about diversion comes back to the licensing authority.

Thirdly, as I said, systems of post-shipment verification work only if there are mandated consequences for instances of non-compliance but also if there are reasonable remedies that importing states can do to reactivate exports—if there are incentives for them to improve practices. One of the things that has happened in Somalia is that those joint verification missions have allowed us and Somali Government officials to go around military and police units, armouries and warehouses to see how weapons are being accounted for and managed.

In some senses it is not only an inspection of the weapons but an inspection of what we call PSSM—physical security and stockpile management—which in other words is an assessment of how weapons are being managed. So you can envisage a situation in which the restart of exports after a failed post-shipment verification is conditioned upon improvements to PSSM, weapons management, record keeping or whatever it is. That connection between post-shipment verification and what I suppose you would call support and capacity building for better weapons management is really critical.

Q58 Mrs Lewell-Buck: On the back of that, when considering on-site inspections for countries on our list of countries of concern or those who have not signed the arms trade treaty, would that work? Indeed, would it be effective? In previous evidence sessions we have heard from people who have said that when it comes to Yemen, for example, the Government may be actively attempting not to be seen to know about IHL violations. I am concerned that even if we find some way of doing on-site inspections or post-shipment verification, would it actually be effective?

Mike Lewis: I cannot really speak to the issues around the misuse of weapons for violations of IHL or international human rights law, simply because that is not really what my organisation does and it is clearly not what post-shipment verification is intended to get at. What gets at misuses of weapons for IHL or IHRL abuses is investigations of those abuses,



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whether remote or on site—war crimes investigation. I think it is important to separate out those two things and not to expect that post-shipment verification can necessarily get at the misuse of weapons in those instances; that is not what it is for.

Mrs Lewell-Buck: That is helpful.

Mike Lewis: In terms of which countries it should be targeted at, I do not think that it is necessarily helpful to give countries a free pass just because they have signed up to particular international undertakings like the arms trade treaty or others; that does not necessarily speak to their actual practices of weapons management, so it does not necessarily tell you about whether weapons are likely to be diverted from that country or not.

As I said before, ensuring that the UK is alerted through trace requests and other mechanisms when its weapons are found in the wrong hands, and then targeting inspections on those cases and on the original end users of those weapons—that dynamic process of finding the weapons in the wrong hands, the information coming back through trace requests to the UK Government, and then using that to action post-shipment verification to that particular end user—is a more useful and dynamic way of targeting that kind of effort.

Q59 **Mrs Lewell-Buck:** What type of exports should be subject to on-site inspections: small arms, lightweight or dual-use items?

Mike Lewis: It depends what you mean by dual-use items. Components and subsystems—things like civilian electronics, guidance systems or off-the-shelf commercial components that then go into larger weapons systems—are obviously always going to be a challenge, because in some senses the diversion of those items does not happen at the end user; the diversion of those items happens along the supply chain when they get incorporated into weapon systems by users who should not have them. That is always going to be an area of diversion that these kinds of exercises are not designed to get at.

It is often said that post-shipment verification cannot happen with small arms and ammunition because they just become untraceable. One of the things that we are developing at the moment and trialling in a couple of west African countries is the ability to use invisible taggants, both on small arms and on small arms ammunition. It uses a UK technology, SmartWater, to mark selections of ammunition in stockpiles or in warehouses. They are invisibly marked and when they fall into the wrong hands they can be identified and, in theory, traced back not only to the importing country, but potentially even down to unit level—the military or security force unit that received that batch of ammunition. That is one area where I think technology can assist with this kind of verification, even for things like ammunition, which people have always assumed is outside the scope of post-shipment verification.

Q60 **Navendu Mishra:** Mr Lewis, can you share your experience of on-site inspections in conflict zones? Do any countries undertake such inspections,



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or are they left to organisations such as yours?

Mike Lewis: There are certainly countries that examine their equipment in active conflict zones; the US looks particularly at where US-donated equipment is being used in Iraq and Afghanistan, for example.

My personal experience has been primarily in Somalia, taking part in or leading joint verification teams in Mogadishu and in some of the federal states. Our experience has been that it is entirely possible to do it in conflict zones with the right logistical support. In Somalia, we have been able to draw upon UN logistical support, for example, to physically get us out to a regional headquarters, or in some cases an operating base. So there are all those kinds of logistical considerations that are sometimes very expensive and sometimes beyond perhaps the capability of a small exporting country. So that is important.

On security, by and large, as I said, it is possible to get round some of those problems through technology. The self-registration of weapons through mobile apps that we are also trialling in Somalia is one way around that. You can get an officer deployed somewhere to verify his or her own weapon, rather than an inspection team having to physically get out to that location to do it. So it is entirely possible, even with small arms and ammunition in conflict zones.

Q61 **Navendu Mishra:** You have made several references to Somalia. Do you think that on-site inspections work best with some kind of international authorisation? You made reference to the United Nations as well.

Mike Lewis: Clearly, that has been a factor in enabling access in that instance, but the lesson I would draw from that is that the parties that have the most leverage are, as I said, the exporting countries, because they are the ones that ultimately can turn off the tap if things go wrong. As I said, probably the leading cases where we have been outright refused access to particular weapons have been when the exporting states have said no. There are also, obviously, all kinds of political, logistical and organisational challenges with particular units and security forces in Somalia. But it is from exporting countries that we have received outright refusals. So I would not underestimate the ability of exporting countries to be quite ambitious in this area, because they hold all the power.

Q62 **Navendu Mishra:** You have kind of answered the last part of my question, but, just briefly, do you think on-site inspections make a real difference?

Mike Lewis: They can do, if there are consequences for things when they go wrong; if countries are willing to suspend exports; if they are willing to suspend exports in cases of refusal as well as cases of diversion. Also, as I said earlier, these kinds of exercises are only really meaningful if they improve the accountability and the management of weapons. So, as I said before, using on-site inspections to understand how weapons are being accounted for; how they are being recorded in log books or databases; how they are being issued to particular personnel; what obligations are placed on the personnel to return the weapons and the ammunition that they have been provided with; and whether particular large items are being tracked,



for example. There are all these kinds of issues—the security provisions of armouries or magazines and so on and so forth.

Gathering that information and then either requiring improvements to weapons management, or in some cases supporting and sustaining improvements to weapons management, is the way that these kinds of inspections actually improve practice. You could see a situation, for example, when major exporting states might commit to funding the improvement of weapons management and stockpile management practices in the country to which they export weapons, for example, as part and parcel of their exporting those weapons.

Q63 **Lloyd Russell-Moyle:** What are the challenges in terms of future technologies and the future character of conflict in terms of post-shipment verification? Is it the case that we need new or amended or strengthened international agreements? I know we have only just agreed the arms trade treaty and that it has not yet been fully implemented everywhere, but is that already looking a bit out of date? Is there something there that we will need to bolster if we are to get a proper post-shipment verification system for some of those new technologies and the changing character of conflict?

Mike Lewis: I do not know that the arms trade treaty is necessarily the vehicle through which that will happen. As some of your colleagues have mentioned, there is obviously an issue about components and subsystems that are increasingly coming from civilian supply chains and being used in military weapon systems. There is obviously a real issue: one, with that happening; and two, with the ability of people to spot that it is happening.

So, to go back to the example of Russian-made UAVs that are then deployed in eastern Europe, Syria, Libya and elsewhere, there has been an EU arms embargo on Russia since 2014. Our teams quite regularly come across these items and they often contain EU components, and generally speaking that is not because the original manufacturers or the exporters are complicit with Russian military industry; it is because the items are exported to an electronics broker somewhere else, who sends them to a systems integrator in another country, and then they eventually end up in a place where, in theory, they shouldn't.

That system often makes military catch-all controls really difficult to enforce and I don't think you can rely upon post-shipment verification for that. What you need to rely upon is, I suppose, the kind of information flow when items are captured or recovered, and then examined, and those systems and components are found inside the piece of technology. You need to rely upon that information getting back to the original exporters and manufacturers, and at the moment there isn't a clear system through which that kind of information flow happens.

Q64 **Lloyd Russell-Moyle:** The arms trade treaty does require states to share information around some of these areas, but it does not actually have a very strong mechanism. So, there is the legal theory that it should happen, but my understanding is that there is not really a mechanism for it to happen. Is that right?



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Mike Lewis: That is, broadly speaking, right. I mean, with the EU obviously there is a degree of information flow through things like Europol, through COARM—the Working Party on Conventional Arms Export of the European Council—and through other forums of that kind. So, it does happen.

However, I come back again to the issue of tracing. It is the kind of day-to-day correspondence between Governments about tracing weapons, and also tracing subsystems and components with their manufacturers, that alerts people to where a supply chain has gone wrong. And some of the most successful outcomes of those kinds of instances when we have been involved have been with commercial manufacturers and exporters. So we have done quite a lot of work, for example, on commercial explosives being exported to various places and then ending up in the hands of ISIS or al-Qaeda, aligned groups in west Africa, and so on.

It is only because we are in contact with the manufacturers and the exporters that they can then say, “Okay, we’re not going to send stuff to that mining company”, and so on.

- Q65 **Lloyd Russell-Moyle:** There almost needs to be some procedure that, not bypasses states, but actually engages with the manufacturers and the exporters directly, which is something that is completely lacking at the moment.

Mike Lewis: You clearly need to have both: civilian manufacturers and exporters for dual-use and commercial items; and Governments who have authorised military exports will always need to be involved in tracing military exports. But yes, that kind of information-sharing is really critical.

Not to kind of pat ourselves on the head, but that is one of the reasons why the iTrace programme that we operate was set up by the European Council, but we cannot replicate that kind of intergovernmental information-sharing.

Lloyd Russell-Moyle: Fantastic. Thank you. I think that is very useful, Mike.

- Q66 **Theo Clarke:** I wanted to pick up on your point about iTrace, Mike. To what extent and to what purpose has the UK engaged with and used the iTrace system?

Mike Lewis: The UK has access and continues to have access to the iTrace database, which is essentially the aggregated database of all of the diverted weapons and ammunition items that our teams have documented all the way around the world. They will continue to do that because the last iTrace agreement that was signed off by the European Council in 2019 was pre-Brexit.

There is also a public version of that database, although it has much less granular information. The UK will continue to have access to that.

There are very small numbers of UK-manufactured kit in the iTrace dataset, so I think much more important for the UK is alerts about when components and subsystems are recovered in other countries, alerts about UK individuals or brokering companies that are involved in particular exports or



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transactions—those things that do not come from just looking at whether a UK rifle has ended up in the wrong hands somewhere.

Those alerts come in an enormous variety of ways. They come through us. They come through international policing co-operation. They previously came through, as I said, the information sharing within the European Council working group on conventional arms, and they come through other mechanisms. Making sure that those information channels stay open after Brexit is very important.

Q67 **Theo Clarke:** That was going to be my next question. What is your understanding of the impact of us withdrawing from the EU on the use of this system?

Mike Lewis: To some degree, the question of whether Government-to-Government information sharing is continuing is not something that I can really answer. I know that is a cop-out, but it is a question for the UK Government.

One thing I would say is that, as well as making sure that those information-sharing channels stay open, it is also important that the UK uses its powers to take action against people who are diverting or misusing weapons. Previously, that has generally been done through EU powers for sanctions and arms embargos. The UK obviously now has the autonomous capability to impose sanctions and other forms of consequence on everybody from human rights violators through to sanctions violators and weapons diverters. It would be interesting to see whether the UK takes advantage of those new autonomous powers to perhaps, for example, tackle some of the problems around brass-plate operators that are violating the UN arms embargos—that are based outside the UK but are using the UK's corporate registry. Those are the kinds of things that might be dealt with through the autonomous sanctions regime.

Q68 **Theo Clarke:** It is helpful to hear about the wider impact on iTrace as a whole.

Finally, what are your thoughts on the impact of Brexit on arms control policies and processes? I was thinking of things like, for example, divergence from the consolidated criteria. What are your thoughts on that?

Mike Lewis: It is a bit early to tell. In terms of the consolidated criteria, the UK is locked into the arms trade treaty, as well as EU standards. They are not completely homologous, but they are relatively similar.

As I said before, it is the apparatus of information sharing and practice sharing that previously existed within the EU that is significant—so, the notifications that the UK previously got through the Council when another member state refuses a licence to a particular destination or because a particular risky commercial entity is involved and so on. It is that kind of information sharing that obviously the UK will no longer have access to. It will be interesting to think around how that might be replicated or replaced.

Q69 **Theo Clarke:** Can I just push on that point? What do you think are the potential impacts on UK enforcement and compliance controls if we did lose



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access to the type of information you are talking about or if EU members instituted a common system of on-site inspections or anything else such as post-shipment verification?

Mike Lewis: Maybe I can give a concrete example. Going back to our work on South Sudan, one of the things that we looked at was the South Sudanese air force's acquisition of military and surveillance aircraft. One of the aircraft that they acquired illicitly was an Austrian-made Diamond DA42 surveillance aircraft. So obviously our primary dialogue when we identified that diversion was with the Austrian Government that had exported the aircraft. The subsequent investigation showed that there was at least one UK individual involved in the onward supply of that aircraft. I am not alleging that that UK individual acted unlawfully, but they were certainly involved in the supply chain.

That is the kind of instance where the UK would not get access to that information from an EU member state, because they are not going to get the communication within COARM that says, "We found our own kit being brokered by a UK national to an unauthorised destination." As we said at the start, because the enforcement case load in the UK is always going to be skewed towards brokers and intermediaries rather than exporters—that is because the UK exports things that are less likely to be diverted, like fighter jets, for example—that is why that information flow is important.

Q70 **Chair:** Before we wind up, may I ask one other question? Would it be practical to write some sort of mechanism into international treaties on export controls whereby we incorporate tracing on military and dual-use kit? You have talked a bit about SmartWater and all the rest of it, so presumably there is an element of practicality, but do you think this is something that we should be writing into international treaties, or is it just too difficult?

Mike Lewis: In terms of small arms and light weapons, I think there would be utility in putting the International Tracing Instrument on a more treaty-based footing. At the moment, it is obviously a political agreement. All of that said, in our experience, tracing sometimes fails because of the lack of political will, and there are some countries that refuse to respond to tracing requests. I can think of one Asian country that has refused to respond to tracing requests from a series of west African countries where their kit was used in the most serious of terrorist atrocities against civilians, and the country that made the weapons continues to rebuff those tracing requests. So that would be useful. But as useful is correcting all the other reasons why trace requests fail, and 30% of the trace requests that we send fail because of inadequate record keeping with exporting countries.

Q71 **Chair:** That is very useful, thank you. We are incredibly grateful to you for your time. There is one other thing. Theo was asking about the iTrace system, and you incredibly kindly offered to show members of the Committees how that works. In our pre-meeting, there was a lot of enthusiastic nodding of heads when I mentioned that, so I think we will be taking you up on that, if that is okay. We will probably do it on a virtual basis.



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Mike Lewis: Yes, we can certainly do that.

Chair: Thank you. Again, it is incredibly kind of you. I am always conscious of the fact that witnesses give their time very freely and willingly to our inquiries. Thank you very much indeed. Thank you also to the team for all your contributions and questions and background work. With that, we shall now go off and quiz the Foreign Secretary at Foreign and Commonwealth questions in the Chamber. Thank you very much indeed.