

Committees on Arms Export Controls

Oral evidence: UK arms exports in 2019, HC 224

Tuesday 18 May 2021

Ordered by the House of Commons to be published on 18 May 2021.

[Watch the meeting](#)

Members present: Mark Garnier (Chair); Theo Clarke; Martin Docherty-Hughes; Mr Tobias Ellwood; Chris Law; Mrs Emma Lewell-Buck; Navendu Mishra; Mr Virendra Sharma; Martin Vickers.

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

Questions 72-123

Witnesses

I: Andrew Kinniburgh, Director General, Make UK Defence, and Nick Radiven, Negotiations Officer, Prospect.

Examination of witnesses

Witnesses: Andrew Kinniburgh, Director General, Make UK Defence, and Nick Radiven, Negotiations Officer, Prospect.

Chair: A very good morning. Welcome to the Committees on Arms Export Controls. We are continuing our annual evidence-taking for our report on the strategic export controls for 2019. We are looking at UK arms exports in 2019 and at the enforcement of export controls and compliance orders. We have a couple of witnesses this morning, from industry and the commercial sector, so I will pass on to each of them for a quick introduction—name, rank and serial number.

Andrew Kinniburgh: My name is Andrew Kinniburgh. I am Director General of Make UK Defence, the trade association that belongs to Make UK, which in turn is the manufacturers' organisation for the UK and the voice of British manufacturing. I represent about 300 members, who are principally UK defence suppliers, many of them precision engineers and manufacturers of equipment. They range from the very largest to the very smallest, right through the whole range. My own experience is nearly 30 years in the defence industry, many of those spent exporting and working for a variety of large businesses, smaller ones and the MOD. I very much welcome the opportunity to speak to the Committees.

Nick Radiven: My name is Nick Radiven. I work as a full-time officer for the Prospect trade union. We represent staff who work in the Export Control



HOUSE OF COMMONS

Joint Unit. We also have members who work for some of the big arms exporters, such as BAE. I am here to comment on behalf of our members who work in ECJU and of some involved in businesses that export arms. I, too, welcome the opportunity to speak to the Committees.

Q72 **Chair:** Fantastic. Thank you both very much for coming. I will kick off, starting with Andrew. The UK Government's most recent annual report covers 2019, so it is a little out of date. What improvement or new challenges do you think occurred during 2019, and were there any further improvements in 2020?

Andrew Kinniburgh: I think 2019 was a reasonable year for the ECJU. Performance seemed to be fairly reasonable. Since then, we have probably seen a dip in performance. Certainly the evidence that my members have given me over the past few days, in preparing for the Committees, is that there has been a significant downturn in performance in the past 18 to 24 months. We have serious concerns on behalf of our members, including about their ability to position themselves competitively internationally in the export market.

Q73 **Chair:** How is that manifesting itself? What sort of thing are you seeing that is not up to scratch?

Andrew Kinniburgh: There are a couple of issues. One is a systemic one, where the actual system of pushing through the export approvals is fairly convoluted. I think it goes through four different Government Departments. There does not seem to be a clear owner of the process and of each of the applications, so there is a systemic issue. Also, there is the well-trodden path of geopolitics. It is an extremely difficult tightrope for the Government to traverse, in terms of existing conflicts and of emerging issues around the world. The two combined are proving to be very difficult and that is manifesting itself in long delays to the granting of export licences, or they are simply being kicked down the road without any concrete reason or official embargo. There is frustration among members.

Q74 **Chair:** Do you think this is a policy problem? One problem we have seen is the backlog of Saudi Arabian licences, which were held up by the judicial review and the court case. Do you think we are seeing confusion at the policy end of things, or do you think we are just seeing logjams going through? What do you think is behind this?

Andrew Kinniburgh: I think it is more than just policy. As I mentioned, I think there is a system issue with the way the applications are handled. From a policy perspective, if we take Turkey, for instance, almost every member I spoke to had issues with Turkish export licences' being granted. It is very difficult when exporters are being encouraged, and indeed invited, to go on Government-sponsored visits to Turkey and to bid for work and to try to win work in-country, but when they actually do that and are successful and win the bid, they put their export licence application in and it simply doesn't re-emerge at the other end.

Q75 **Chair:** So you are saying there is a peculiar conflict—that DIT is promoting winning those contracts and then the ECJU is refusing them?



Andrew Kinniburgh: Correct—exactly right. I have probably a couple of dozen examples from members of exactly that happening—

Q76 **Chair:** I am sorry to interrupt; I am conscious of the time. Would you be able to send those in? That would be incredibly helpful. I am also quite interested in how the Government are outreaching to you and your members to get this feedback. Do you feel you are getting a proper voice on this?

Andrew Kinniburgh: I would have to say probably not, to be honest. There are other trade associations available in the UK—I am very aware of that—but from a Make UK Defence perspective, we have little interaction with the ECJU. Indeed, we have been trying to develop our export credentials more effectively but have struggled to do that because there is simply a lack of stakeholder engagement. Having said that, UK Defence and Security Exports is very engaged with us. We have a good relationship with them, but with the ECJU specifically it is not as good. That is perhaps a criticism of myself and my own organisation as well as of the ECJU.

My members say to me that the local regional trade advisers are extremely good, very knowledgeable, very willing to help and want to get involved; indeed, many of my members have said that they are also very willing to get involved with other companies that are perhaps new to export, and indeed a couple of members have said that they actively volunteer to train other businesses in their regions to help them develop their skills. The problem becomes that the trade advisers in the regions do not have any clout when it comes to going back to the centre. There is no comeback for the trade advisers to go back into the ECJU and say, “Where are we in the process?” or “Where is this application being held up?” It is a very opaque system. It disappears into the top of the sausage machine and then eventually pops out the other end, but the bit in the middle is completely opaque, so far as my members are concerned.

Q77 **Chair:** This is really interesting stuff. I am very grateful to you. Nick, I have a couple of questions. First, to what extent are the Government and the ECJU, in particular, and DIT reaching out to your organisation to try to get feedback? Secondly, how would you rate the Government’s engagement with unions? Do you think it is good? Do you think it is bad? There is one thing I am worried about. I worked with the ECJU as a Minister, and I am incredibly conscious of how hard your members work to do the best job they possibly can. Are you finding that you are getting the opportunity to feed back their views to the Government well, and are their views being sought?

Nick Radiven: Internally, we have quite a good level of consultation with the management within the ECJU themselves. At the moment—we may come on to this later—they are going through a transformation programme, which is obviously looking to improve the process. I think at that kind of local level there is quite good engagement with the unions. At the Government or ministerial level, probably not. I think we would sometimes welcome more engagement at that level, because we can have a discussion at local level but sometimes there are issues above that that we would like



HOUSE OF COMMONS

to raise. At the level of ECJU, there is quite good consultation with the unions, but above that, it maybe isn't as good.

Q78 **Chair:** Can you give me an example of what sort of thing you are not getting at the ministerial level, which you should be getting?

Nick Radiven: Our major concern is the resource within ECJU. At the moment, there are quite a lot of vacant positions. That problem seems to be getting worse. It would be good to have a discussion about the resources that are allocated to ECJU. It is that kind of level where it would be good to get some engagement.

Q79 **Chair:** So when you hear somebody saying that industry is a little unhappy about the length of time that ECJU is taking to process these things, when you look at the resource problem there, you would say that is not surprising.

Nick Radiven: No, unfortunately, I don't. We know our members are under a lot of pressure for the work. Also, post Brexit, that has increased the amount of work they are having to do. But a lot of it is a resource issue. We just don't think there is sufficient resource and that is leading to delays in the granting of licences.

Q80 **Martin Docherty-Hughes:** May I start with Andrew? The Committees have heard concerns from some companies regarding ECJU licensing decisions delays, and that some licences that have previously been approved are now being refused without explanation, especially in the technology sector. I am just wondering whether you have any reaction to those concerns.

Andrew Kinniburgh: To be honest, my reaction is deep concern, because, as I said before, the Government are very keen to encourage exports for the UK and we are delighted to see that. With delays that have no explanation, or applications that disappear into the process and never re-emerge, or are approved and then are withdrawn, the biggest issue for me is that it calls into question the UK supply chain and whether it is trustworthy for my members.

As you guys very well understand, the problem with that is that defence equipment comes into service and remains in service for 20, 30, even 40 years sometimes. If we are shipping equipment to an export market, the expectation is that that will continue to be supported through life. Of course, there is the geopolitics and the emerging conflicts in the world—I understand that very well—but if the UK is seen as a country that is perhaps willing to grant an initial licence for the supply of the equipment and then, for instance, is unable to provide any spares and support for the maintenance, repair and overhaul of the equipment, then we are going to lose our position as a trusted supplier long term.

My concern is, in the short term, for equipment and programmes that we are bidding for now, but in the longer term it is an issue of trust for the UK's supply chain and whether they will be seen as credible in the international



market if they are at the—I use the word advisedly—whim of the Government and their policy with regard to that country.

- Q81 **Martin Docherty-Hughes:** May I take that slightly further, Andrew? Some of these companies have stated that a number have considered moving their operations overseas. Is that a concern replicated among your members?

Andrew Kinniburgh: I would say today it is not. Post EU exit, we have certainly seen a few companies establish a small base—perhaps a small engineering base, to help with their intellectual property ownership in the EU, or perhaps as a logistics base to keep spares and repairs or that kind of thing—but we don't think there has been any wholesale move outside of the UK. I suspect longer term, if we continue with the—I again use the word slightly advisedly—prevarication and the “no reason for not granting export licences”, the risk would be that companies would consider perhaps moving outside of the UK export control regime.

- Q82 **Martin Docherty-Hughes:** You say outside the UK. Would they consider moving to Northern Ireland, given the Northern Ireland protocol?

Andrew Kinniburgh: That is a very good question. I am going to be quite honest and say that I do not know the answer to that. I simply do not have the technical knowledge to give you an answer to that. It is an interesting thought.

Martin Docherty-Hughes: Indeed, I am sure it is something that most people did not think about. I did not expect a clear answer. Thank you for that.

Andrew Kinniburgh: I am sorry I couldn't provide one.

- Q83 **Martin Docherty-Hughes:** I don't think anybody thought about the full ramifications, but we will not go down that line any further, will we, Chair? How could ECJU improve its feedback and engagement with industry, and should there be a formal mechanism for that?

Andrew Kinniburgh: Yes, I would agree with you: I think there should be a formal mechanism. From my and my members' perspective, there should be an informal process to enable companies to informally engage with ECJU to understand the geopolitics of the day. I go back to the example of going on a Government-to-Government sponsored visit to Turkey, where they wave the Union Jack and say, “Come on; get exporting, UK.” We do that, and then the export licence does not get granted. I think it would be really helpful to have informal engagement with ECJU, so that companies that are looking to bid for contracts and for programmes in export markets are perhaps able to gently engage the ECJU and understand whether it is likely that they would be granted an export licence or not. I do not know whether the rules would allow that or not, but our members would certainly find that very useful. That is the informal side of things.

Once you are in the process, it would also be very helpful to be able to see exactly where your application is in the process. As I said before, it is a very opaque system at the moment. I know that the new software—the LITE



HOUSE OF COMMONS

software—is planning to tackle that to some extent, but at the moment it goes in one end and eventually comes out the other end, and there is no indication of how long it will take, which Department it is with for approval at the time or any questions that are coming out, although the questions do eventually pop out. Yes, there could be lots of improvements.

- Q84 **Martin Docherty-Hughes:** Nick, you mentioned resourcing. From that statement, I assume you are saying that ECJU is insufficiently resourced.

Nick Radiven indicated assent.

- Q85 **Martin Docherty-Hughes:** How could that resourcing be improved? Is it financial? Is it other types of investment? Is it people?

Nick Radiven: I think people is probably the main driver of it. To give an example, there is a technical assessment unit, which has technical officers who provide the rating of the goods, which helps to determine the kind of licence. I think there are supposed to be 13 people in those posts. At the moment, there are three vacancies and two people are in training. That is an example of not enough resource being there. Among the compliance unit—the people who do visits and check that people are compliant—I think there are only nine of those officers at the moment, and two of those are currently in training.

Certainly, extra people would help, but there is a problem with quite a high turnover of staff—people leaving, and then trying to attract people. Particularly on the technical side, you need people with that scientific, engineering background, and it is getting more difficult to attract those people into posts. When they do come in, people tend to leave after quite a short time.

- Q86 **Martin Docherty-Hughes:** Forgive my ignorance, Nick; I wonder if you could clarify this for me. Is this service provided by a private contractor, or is it in-house within the civil service?

Nick Radiven: They are all civil servants. There was talk some time ago of privatising it, but there was a campaign to stop that.

- Q87 **Martin Docherty-Hughes:** Let's not go there. Briefly, back to Andrew, would you agree with Nick on the resourcing issue?

Andrew Kinniburgh: I would absolutely agree with Nick. It is really important to emphasise that we are not having a pop at the officials in ECJU. They do an excellent job under very difficult circumstances, in many ways. I absolutely agree with Nick's analysis. It is a common problem throughout MOD, actually, that they lack subject-matter experts. It is a real problem, as Nick said. It is about retaining staff who build up the knowledge. My members were saying to me that they tend to speak either to someone who has been there for 20 years, knows everything about the system and can work it extremely well or, perhaps, someone who has just finished their training—just popped out the other side of it. The lack of subject matter experts and technical knowledge is definitely hindering things. What it removes is that intelligence of being able to interpret a licence application



more subtly. If the technology is not understood, it can either be a yes or a no—there is no middle ground, because of that lack of technical knowledge.

Chair: Thank you. Virendra Sharma, over to you.

Q88 **Mr Sharma:** My question is to both of you. What are your hopes for the ECJU's transformation programme? How are your organisations involved with the programme?

Andrew Kinniburgh: The short answer is that we are not involved in the programme. I have read about it, obviously, and we were involved in the development of the defence and security industrial strategy, as a trade association in the defence supply chain, but we have not been involved so far. In the ideal world, we would like to see it address the resource issues and the opaqueness of the system, to bring the local or regional advisers more into play to help the companies that are applying to work through the system, and, although this is perhaps the most difficult bit, to in some way help the defence industry to understand the geopolitics of the day—is it likely that they will get a yes or a no for a particular market?

Nick Radiven: As a union, we have been consulted on the transformation programme. At its highest level, it is looking to give a new strategic direction to ECJU. They are also looking to introduce this new target operating model, so they will be looking at things like how to improve basic processes and the engagement and interface with industry and Government Departments. We have been involved in some of those discussions.

At the moment, it has mainly been around the target operating model. Our concern is that yes, you can look to make some of those improvements, whether to IT or how to engage with people, but again it comes down to the resourcing issue. We would also have a bit of a concern about whether the programme is being done top-down. Our members in the operational roles know better than anyone else what is happening and what the problems are. As I said, we would want to ensure proper engagement at that level. I am not sure that some of the people who have been brought in to do this have actually got any first-hand knowledge of the export licence or that technical knowledge. They might know about change programmes, but we have a concern that they do not have the technical knowledge—it is our members, who are actually doing that work, who need to be fully consulted.

The programme can be a good thing, but there needs to be proper consultation with the people doing the work. Also, whatever is put in place, there needs to be extra resource to make it work.

Q89 **Mr Ellwood:** Thank you, Nick and Andrew, for your time this morning. If I may, I will turn to the UK's enforcement and compliance process as a whole. It is interesting to look at some of the statistics over the last few years of the numbers of non-compliant companies. It seems to be increasing over the past few years. Will you give me your general assessment of the machine itself? Andrew, do you want to start?

Andrew Kinniburgh: The UK's standards for export controls sit comfortably alongside the best in the world. They are certainly up there.



HOUSE OF COMMONS

They are robust and they have a moral and ethical backbone. In terms of compliance, it is an interesting one because I did not speak to any members who had had a major non-compliance or, indeed, been prosecuted. I did not find anyone who had really stepped out of line in a big way. It was interesting, the members who I spoke to who had compliance visits were actually very complimentary of the team from ECJU because they felt it was a very thorough and fair assessment of the documentation and the way that the company handled itself in export markets. Someone described it as an Ofsted report. It is a similar thing. You get a little bit of notice before they arrive, but it is a very thorough process—and a very fair one. Indeed, two of our members were issued with certificates of excellence for their work on it. Our regime stands alongside some of the best in the world, and our compliance visits are robust and fair. So in that way, the ECJU is doing a really good job out there in the field.

Q90 **Mr Ellwood:** Nick, any further observations?

Nick Radiven: From our members' perspective, sometimes, compliance issues are maybe around the lack of knowledge. That is, in some ways, understandable. It is quite a complex regime, particularly for SMEs, about what is needed to be compliant. There has certainly been an issue post Brexit, because people now need open general export licences to export to the EU, which maybe they did not need before. Also, in terms of the actual visits, compliance officers will visit to make sure people are complying with the terms of their licence. However, sometimes it comes down to the technical issues. Within ECJU, there are technical officers who can advise on things such as the ratings of products. Sometimes, they used to accompany compliance officers, because often, if you are checking to see if someone is in line with the terms of their licence, you are dealing with some quite technical issues around different products, and some of those compliance officers do not have that knowledge. They are just there to see if they are compliant. So you used to get technical officers who would accompany compliance officers. Now, mainly due to resource, that does not happen so often. That could actually help if, again, the technical officers could go there. They could then answer some of the queries on the ground that exporters may have and it could make it a smoother process. Also, there is the question of outreach and awareness, particularly more for SMEs. The ECJU does good work on that, but there is more that could be done just to increase awareness and knowledge of what is needed in terms of meeting the licensing requirements.

Q91 **Mr Ellwood:** Could more be done? Looking at the statistics, it is difficult to know whether the increase, or simply the large number, was down to the fact that you are dealing with companies that export abroad infrequently, so would better training and understanding for those companies less familiar with the export world help?

Nick Radiven: I think it would, yes. I think that is an issue. Just one example, again around IT equipment: some of the people involved in the IT equipment are not fully aware that they even need the licences, particularly where it is for dual use. There are certain sectors within the exporting



community where, yes, more targeted help could probably help those companies.

Q92 **Mr Ellwood:** Andrew?

Andrew Kinniburgh: I think the willingness of companies to train other companies should not be underestimated either. It is at zero cost to the Government and the MOD or DIT. I am sure Nick would probably agree that seasoned exporters—I spoke to a couple of members, one of whom had been exporting for 30 years and another one for 50 years—know the system inside out, and they are very willing to sit with other companies, particularly SMEs that are new to exporting, and help them. That third way would be a really effective way of improving the performance of SMEs and perhaps reducing the non-compliances and making it less scary, frankly, to export.

Q93 **Mr Ellwood:** That, I think, is in everybody's interests. Certainly, the Committee would encourage that, because ultimately you don't want people making mistakes that could have been avoided. How would you go about encouraging that? Is it something that you could facilitate, linking companies together, or should it come from the ECJU itself?

Andrew Kinniburgh: Certainly, my organisation and others such as ADS and techUK could play a role in that. I think corralling around the regional trade advisers might be the most sensible way of bringing those together. There is certainly a role for us, perhaps less for the ECJU and more down to the DIT and regional trade advisers.

The other thing I will mention, if I may, is that my members felt there was no appreciation of experience and no position of trust from the ECJU towards really seasoned and experienced exporters. I don't say that about the ECJU—it is the process—but there isn't that acknowledgment, such as with freight forwarders in the UK. There isn't that position of trust—"You've been doing this for 30 years; you know what you're doing." It almost feels like you're the new kid at school every time you apply. Again, that could perhaps be linked together.

Q94 **Mrs Lewell-Buck:** Good morning Andrew and Nick. Believe it or not, I have been on this Committee for a while now, but I am not entirely sure what an enforcement or compliance visit would actually look like in practice. We have read lots about them, but I have never actually seen one take place. I was wondering if you could talk me through what a compliance visit actually looks like. Is there a warning issued first? Do you know that somebody is coming? Are staff prepped for that visit? Those kinds of things, if you don't mind. Andrew, if you could go first.

Andrew Kinniburgh: Of course. It will be a very inexperienced overview, and Nick can mark my homework afterwards. My understanding is that you get three or four weeks' notice, similar to an Ofsted visit, or perhaps a slightly longer time to prepare. My members were very keen to emphasise that even three or four weeks doesn't give you nearly enough time to get your records back up to speed if you have fallen behind. It is really important to emphasise that this needs to be a continuous process of record keeping,

paperwork and audit trails, right through the lifetime of a product or programme development, and then post shipment as well.

So there is three or four weeks' notice. I think a visit will last one to two days—I'm not entirely sure, so Nick will enlighten us on that. It really is a compliance visit, an audit visit, looking at all the paperwork, looking at the processes the company has, and really making sure that the technical assessments for the export licence, the application and the end user certificate all match up. That is a very poor overview. Nick, I'm sure, will give as a better one.

Q95 Mrs Lewell-Buck: Thank you, Andrew. Over to you, Nick—no pressure there!

Nick Radiven: I don't personally do the inspections, our members do. From what I can gather, as Andrew said, people are given some notice. The basic job is to ensure that they are compliant with the terms of their export licence, so they will be doing all the checks to see where they are and aren't compliant, and giving them some advice about how they can become compliant.

Going back to a point I made earlier, there is an issue around resource and the number of compliance officers who are out there to do it. Previously, technical officers would accompany compliance officers to advise on the really technical aspects, so that has been lost.

The other issue that we have had recently is not being able to do these visits face to face because of covid. A lot of it has had to be done online. Again, just anecdotally, there are maybe some comments about whether that is not as effective. Hopefully, that will change as we go forward. The visits are really to make sure that companies are compliant, and to try to help them, where they are not, to make sure that are, because what you do not want is for them to be at the point of export and for HMRC to get involved, because then it becomes even more problematic. That is basically what their role is.

Q96 Mrs Lewell-Buck: Is it largely a light-touch paper exercise, or do they really drill down and get heavily involved?

Nick Radiven: I think there would be a paper exercise looking at the licence, but they are able to look at the actual products, although again that would come down to the level of technical expertise. It is to make sure that what is being exported is in line with the terms of the licence, and a lot of that is checking the paperwork, but it would also involve looking at what the product is, and that may or may not involve physical inspection.

Mrs Lewell-Buck: That is really helpful; thank you both very much.

Q97 Martin Vickers: Sticking with enforcement and compliance visits, should there be more of them?

Nick Radiven: Ideally, you would get more compliance visits, because that can stop problems further down the line, and it is also part of the education process. We often find that most of the people who are not compliant are



on that first visit. Once you have had that visit, the chances of it happening a second time are less. Yes, ideally, I think you would have more compliance visits, because it would help to raise awareness among exporters and, again, stop problems happening further down the line.

Q98 **Martin Vickers:** It all seems a bit cosy, though, doesn't it? First, you know that they are coming—you get a few weeks' notice—and then they work alongside each other to correct any faults that have occurred. Is that a fair comment?

Nick Radiven: I suppose in some ways. Are they there to catch people out? Not especially—they are there to make sure that people are compliant. Obviously, if they believe that a company is not, they will really drill down there. I suppose that, yes, if the end ideal is to make sure people are compliant, maybe giving them a little bit of notice is good, but as I said, if people are not compliant, they will take any necessary action.

Q99 **Martin Vickers:** Andrew, should there be more visits, and do you think they are a little too cosy and should be more robust?

Andrew Kinniburgh: Probably, given unlimited resources, there should definitely be more visits. As Nick pointed out, it is really the SMEs and the businesses that are new to export that perhaps struggle the most. That would perhaps address the increasing trend of non-compliances, which Tobias mentioned. If those visits could be programmed early in the journey of a new exporter's experience, that could be very helpful because it would double almost as an education visit as well.

Regarding the rigour of the visits, the members that I spoke to said that it was an extremely rigorous process. The analogy that I would use is a quality assurance audit where the independent auditor comes in and points out minor non-conformances, which is a learning process for both organisations and helps the business to improve and ensure that they do not trip up next time. As Nick said, the major non-conformances are clearly a much more serious issue that needs to be dealt with very rigorously and robustly. We would absolutely expect that to happen from the ECJU.

It is robust, from what we have seen. Members of my organisation do not particularly love them. They are not a love-in—they are pretty tough and pretty rigorous—but are about working together to improve things. If there is a major non-conformance, it gets very serious indeed. Our members understand that extremely well.

Q100 **Martin Vickers:** You said "tough and rigorous". Could you also apply that description to the remote inspections?

Andrew Kinniburgh: Honestly, I could not tell you, Martin. I don't know. I am not able to compare those, so I am sorry that I cannot give you an answer to that.

Q101 **Martin Vickers:** Nick, would you say that the remote visits are equally robust and tough?



HOUSE OF COMMONS

Nick Radiven: As I say, anecdotally we have had some evidence that may be— Sometimes it needs some physical inspection, but lot of it can still be done remotely, just as we are speaking now, but I think it would be better if they could be done face to face. The central robustness is still there, in terms of what you are checking for, but face to face would be better if that physical inspection really is needed. It isn't always, but it is in some cases.

Q102 **Chair:** Before we go to Chris Law, can I come back to Andrew on compliance and ask: what are you compliant with? That may sound like a peculiar question, but are you being inspected on having a very clear audit trail or filing system? Ultimately, the whole point of the ECJU and the eight consolidated criteria is to make sure that we don't send weapons and instruments of torture to the wrong types of regimes. Do these compliance inspections determine that, or are they merely looking to see that the exporting company, or organisation, has the right filing system or audit trail? What's it all about? Do you think it is a good compliance system?

Andrew Kinniburgh: I am not an expert, to be honest, so I say these things with some trepidation. It certainly compares favourably with other compliance systems that I have seen around the world, in the EU and north America, in my experience.

Yes, it is an audit trail and yes, it is a check, making sure the language is the same and consistent across all the different elements of the export licence application. The other thing is that, post-shipment of the equipment or the kit, the end-user undertaking application is consistent with where it is shipped to. It is essentially an audit of process and completeness of documentation.

As Nick mentioned, if there were engineers on the visit, then there might inspections of equipment and that sort of thing, but I haven't seen much of that, to be honest.

Q103 **Chair:** Nick, are you happy that the compliance process ultimately gets to what we want to achieve, or do you think this could possibly be a box-ticking exercise just to keep some people safe?

Nick Radiven: At its heart, it is to make sure that the terms of the licence are being met. It is part of the admin process to make sure that is actually happening. Obviously, if there are any huge problems they may be found. My understanding is that it is fairly robust. As I say, it is to make sure that the terms of the licence are being met and to make sure that there aren't further problems further down the line, in terms of HMRC, which might say, "You haven't met the terms of your licence." Aside from the issue of more resourcing and technical expertise, it is kind of fit for purpose, we would say.

Chair: "Kind of fit for purpose"—

Nick Radiven: Kind of, yes, based on my understanding of it.

Q104 **Chris Law:** I want to ask a couple more questions on compliance, before asking my own questions. I worked in compliance in financial services for



HOUSE OF COMMONS

over 10 years, so I know exactly the challenges that you have when you get that letter through saying, "We're visiting." The three or four weeks seems like a long run-in time; I know it is two weeks with financial services. In fact, in certain circumstances, where your company has been raised as a red alert, you get no notice whatsoever. Is that the same case within your own organisations?

Andrew Kinniburgh: I am not sure I understood the question. Within our own organisations or within the ECJU?

Q105 **Chris Law:** Within the ECJU. I want to understand if three to four weeks is normal. If so, should it be shorter? Are there circumstances where there would be no notice, if someone has whistleblown or another company has raised concern?

Andrew Kinniburgh: I don't know the answer to the second part of your question. I will bow to Nick's superior knowledge on that, if I may. On time for preparation, I would again use the analogy of the Ofsted inspection. You simply can't fake it; you can't produce the detail and the audit trail that you would be required to, even in three or four weeks, if you had dozens of people working on a bigger programme. That is my understanding.

Three to four weeks is probably useful to help businesses tidy up a bit, but there is no way they could generate the entire record base and audit trail required in that time. Shortening it is an option, but I'm not sure it would change terribly much. It might put more pressure on the business, and perhaps on the ECJU and its limited resources.

From my members' perspective, they felt the compliance visits were really tough. They appreciated a little bit of notice, but it doesn't feel to me that it is so much time that they can actually fake records, or suddenly do all the work that they should have been doing over the past five years, to bring themselves up to speed.

Q106 **Chris Law:** Just on that point, Andrew, before I turn to Nick, you mentioned SMEs earlier. From my experience, though not in the same industry, SMEs often need a lot more education and training, simply because they are so busy either chasing or developing business. As a result, reports often tend to get left to last, or very late in the day. Would you recommend more support and training for them? Is the approach on enforcement and compliance more intrusive or light-touch when it comes to small and medium-sized enterprises?

Andrew Kinniburgh: I have not picked up from members that there is a difference in the rigour of the audit between the SMEs, the mid-tiers and bigger businesses. I think it is pretty consistent across the piece. On the education point, yes, certainly. At the risk of repeating myself again, the regional export champions can play a massive role in that, with DIT and potentially the ECJU. I absolutely agree with that. It would perhaps reduce the incidence of non-conformance, if there were a more rigorous programme.



HOUSE OF COMMONS

There are a couple of interesting analogies that might be useful. There is a programme called Fit for Nuclear, which audits companies and prepares them for entry into the supply chain of the UK nuclear programmes, both civil and military. That is minimum standards. There is another one in the defence industry called JOSCAR, which is a one-to-many pre-qualification. Again, it is minimum standards. It might be useful to develop something like that for exporters, where they become fit for exports, and they reach a certain level of understanding and knowledge, through training and development, to tell the world that they have prepared themselves for export.

Nick Radiven: If they suspect something is going on, they will do a spot check. I have to be honest that I don't know. I would have to go back and refer to our colleagues. My understanding is that, when somebody first registers for a licence, that is when they will get a visit.

There is sometimes an issue about the time. Anecdotally, we are hearing that it can take a year from when you first register to use a licence before you get a visit. That is an issue in itself. At the first visits, there is quite a high level of non-compliance. I think the last annual report showed 35% were non-compliant, not always majorly but often small things. That is an issue: the length of time between registering for a licence and somebody coming to do an inspection.

Q107 **Chris Law:** That is an important point you have raised, Nick—that there is such a high level, and the time lag between the two. Companies obviously want to get it right first time, rather than find themselves on the wrong side. What is the feedback you have had from your members in the ECJU compliance team on these visits? What recommendations have been made?

Nick Radiven: Again, it is probably the lack of resource and the lack of people who are actually doing it. We know they are working very hard to do that. We have concerns from a health and safety and wellbeing point about our members, who are having to do a lot of these visits. Of course, the more visits they do, there is the increased risk of maybe mistakes being made and things not being spotted. We would like it to be properly resourced and to have enough people to go out and do these inspections, so that it is not taking such a long time before the inspections happen. Again, we maybe need to go back, as I say, to giving the compliance officers some support from the technical officers to go with them and to help and advise on that. We would like to see more resource, but yes, we do have a concern about the amount of work our members are being asked to do in terms of doing these visits, when there are not enough of them to do them.

Q108 **Chris Law:** I know you may not have the numbers or the figures in front of you, but in terms of more resources, do you have an idea of how many more personnel you are likely to require?

Nick Radiven: It is difficult to say. What we would say is that, at the moment, we don't feel that there are enough. As I said, there are nine compliance officers. Two of those are in training, so they obviously need



HOUSE OF COMMONS

help. It is fair to say that we would like to see a significant increase in the resource if we are going to do more of these compliance visits, which will ultimately help businesses in terms of exporting.

Q109 **Chris Law:** Would it be possible for you to write to the Committee with recommendations regarding that?

Nick Radiven: Yes, we can certainly do that.

Q110 **Chair:** That does sound like very few people—seven qualified officers and two trainees doing all that compliance.

Nick Radiven: We would say it is probably inadequate, but we can certainly come back with what we feel would be a better number for them to go out and do these visits, which are an important part of the whole export licensing process.

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

Q111 **Mr Ellwood:** We have sort of touched on or danced around this subject, which is really to do with the resourcing of the ECJU and IT-wise as well. I think there are some changes taking place in some of the systems coming in. Do you have any reflections on that? Andrew, let's begin with you.

Andrew Kinniburgh: The current system is, I believe, called SPIRE. As I mentioned before, it is very opaque. It pops in at one end, disappears and then re-emerges at some point in the future as either a yes or a no. I believe the replacement is a system called LITE. One of my members—I will quote them directly—said, "The LITE replacement would be welcome and looks good, but where has it gone?" It appears to be still in development. I think I read that it is beginning to be beta-tested by some companies at the moment, but we would really like to see a massive acceleration of that, because that will give companies some visibility of where their application is in the process.

We would also love to see things such as a proposed decision date—when would they expect to see a decision? At the moment, if a company has put in an application and they inquire, no matter how experienced they are—even a company that has been exporting for 50 years—it gets a standard letter back saying, "We are in the process of looking at your export licence," and it gives a series of metrics that it is intending to adhere to. I think 20 days is the standard piece. It gets a standard letter back saying, "You are in process, and we will get back to you as soon as we can," but there is no process of tracking. The new LITE system will hopefully do that, but we would love to see that accelerated very rapidly.

Q112 **Mr Ellwood:** Nick, I presume you are going to agree with all that.

Nick Radiven: Yes, definitely. Just to confirm, LITE is being tested at the moment with some exporters. The hope is that it will be a better system. All I would say is that obviously there will then need to be some resource for ECJU staff in training on how to use it, because obviously they are used to inputting on the old system. The hope is that it will be better, and we know some of the people who have been involved in developing it and who



HOUSE OF COMMONS

have expertise and knowledge of the exporting process. The hope is that it will be a better system, but there will need to be some investment in training for staff in how they can use it to optimise it properly.

Q113 **Mr Ellwood:** For the benefit of the Committees—Andrew, you hinted that somebody is actually using this now. Is the LITE IT system now running—being piloted—or are we, as with many other Government IT projects, still waiting?

Andrew Kinniburgh: It has had quite a long gestation period, as far as I understand it. The only reason I know anything about it is because I read somewhere that I think there were six beta test companies—exporters—that were testing it at the moment, in a very limited way, prior to beginning to roll it out more broadly for beta testing.

However, we have not been informed or told what is happening. We would be very keen to offer up candidate companies to beta-test it, but we have not had any communication on it.

Mr Ellwood: That is very interesting indeed. Thank you very much indeed.

Q114 **Navendu Mishra:** My question is about post-shipment verification. If I could start with you, Andrew: what role do you think the industry should play in preventing diversion and in general post-shipment verification, including on-site inspections?

Andrew Kinniburgh: It is a really interesting one, because obviously industry doesn't want to play the role of policeman or assessor, trying to verify where the equipment ends up. I think the role of industry is most certainly to ensure compliance with the export licence and with the end-user certificate, and—as far as they can—to ensure that equipment is shipped to the right place.

It is very challenging for companies, particularly when they are shipping ex-works. So, effectively they place their product outside the factory gate, the customer then comes to collect it and takes it off to their goods in, or wherever it might be, in an overseas country. I think that for an SME to be expected perhaps to trace the movement of those goods and do an in-country inspection is a big ask for them; for larger businesses, that is more practical.

So there is, quite rightly, an expectation that the company will do all the paperwork and follow the process through, and that they will see that the goods have been delivered to the place that they expected them to be. I think that beyond that it becomes extremely difficult for a commercial business to follow it any further, and particularly for SMEs I would say that it becomes probably impossible.

Therefore, it is more of a case of verification of the freight-forwarder delivering or the goods arriving at the place they expected them to be, in line with the end-user certificate.

Q115 **Navendu Mishra:** Just on that, Andrew, I believe that you have mentioned in this evidence session that your members feel that checks are rigorous



HOUSE OF COMMONS

and robust, but how effective can any end-user assurance be without some type of post-shipment verification, for example on-site inspections? I take your point about SMEs, but how effective can any of this be? I also take your point about paperwork, but without on-site inspections and post-shipment verification, what is the value of the paperwork?

Andrew Kinniburgh: It is a very good question. There is obviously an element of trust there, I guess. But I suppose that the moment the on-site inspection is complete, you lose traceability anyway. So, you might go to a country that perhaps we have concerns about and you may well inspect the goods that you have shipped to that country. You can see them in place; they are in the place where you would expect them to be. The problem then is this: where do the goods go from there? And you have absolutely no control over that.

So I suppose that it would perhaps add some rigour to do the on-site inspection but, as I say, immediately following that, you have no control over the equipment.

Q116 **Navendu Mishra:** My last question, if the Chair will allow it, is building on Tobias's question. Do you think that technology advances will improve the traceability of exports, and will they provide more assurance that the exports are with their intended end user and being used for the purpose that they were exported for?

Andrew Kinniburgh: It is another very interesting question, and it is one that I have debated with a number of our members. There is potential for higher and more sophisticated technology to be more traceable. I think you then run into some legal and ethical issues, as well as national security issues, not just for the UK but for overseas. One of my members gave an example of where they are making equipment in the UK., They are then shipping it to America for use by the US forces. As soon as it arrives in America, it is controlled by ITAR, and it is US eyes only. If the US felt like we were tracing where that equipment is moving and what is happening to it, we would quickly become a less trusted partner than we are today with regards to a country like the USA. But I suspect that would apply really across the world.

Navendu Mishra: Thank you. I think most of us on the call—the politicians—would agree with the comments earlier about Government IT projects and their success in the past. I will leave it there. Thank you, Andrew. Thank you, Chair.

Chair: That was a very hanging open question there. Theo Clarke, over to you.

Q117 **Theo Clarke:** A question for you both: do you have any outstanding concerns regarding the impact of Brexit on arms export controls?

Andrew Kinniburgh: Yes is the answer. We have seen some really interesting examples. This is actually from my parent organisation, Make UK. We have seen some really interesting examples, one of which involved providing spare parts for a civilian aircraft in Russia, which was being used



HOUSE OF COMMONS

in the oil and gas industry. We were making spare parts for this aircraft. Previous to our exit from the EU, we would ship those spare parts to a country in the EU that would then put them together in a sub-assembly. Then they would then be forwarded to the end user in Russia. This, I guess, is dual-use technology because it is a helicopter, but it is not a military helicopter—it is oil and gas. Because we are no longer in the EU, in the end-user undertaking we now need to state the fact that this equipment will be used in Russia rather than in the EU country where it is taken and put into a sub-assembly. The problem is that that export licence is now being blocked, so we are now in the position, because we are not part of the EU, where we have to go right to the very final end user. It is not something that every member is saying is an issue, but it is certainly an issue post EU exit.

Theo Clarke: Thank you. Nick?

Nick Radiven: I think there has been an impact, in that people now need to apply for a new licence—this open general export licence—if they are going to export controlled goods to the EU. Some exporters maybe still do not realise that you need to have these licences, which itself has caused problems. Also, of course, people are, maybe for the first time, having to use these licences, and they do have some issues around compliance. There has certainly been quite a big increase in inquiries around the ratings, which is to do with how you classify what is being exported. In the year to February this year, there has been a 36% rise in those, and quite a lot of that is probably down to the new requirements around licensing because of Brexit. That will hopefully improve over time, but at the moment there is still probably an education issue out there so that exporters are aware of what the requirements now are in terms of these OGELs that they need to have.

Q118 **Theo Clarke:** Andrew, you mentioned dual-use items. I would be interested to know a bit more about the impact on the EU's initiative on dual-use items, particularly the harmonisation of end-user certificates.

Andrew Kinniburgh: Unfortunately, I am no expert on this. I think probably it would be useful for the UK to align itself with the EU harmonisation programme. I know that perhaps politically that is not something we are racing to do, but certainly from our perspective, particularly in that scenario that I gave you where we have been shipping into the EU and then it goes on from there to other countries, harmonisation with the EU harmonisation programme would be useful.

Nick Radiven: From the point of view of exporters, I can see it would make sense and it would make it easier to do that. I suppose, again, from the point of view of exporters and our members in the ECJU who run the export regime, in terms of the advice that we can give, harmonisation would probably simplify things, but as Andrew said, ultimately that is a political decision.

Q119 **Theo Clarke:** My final question is to you, Nick. How has the loss of access to EU information-sharing protocols impacted on your members in the



HOUSE OF COMMONS

ECJU?

Nick Radiven: That is not something I could answer here and now. I could go away and ask members about that. It is certainly not an issue that has been raised with us, but I would have to speak to members about whether there has been any impact from losing access to that and come back to the Committees on that. I can write to the Committees on that at a later date.

Theo Clarke: That would be appreciated.

Chair: Yes, that would be really helpful. Finally, Claudia Webbe.

Q120 **Claudia Webbe:** Hi. I have a quick set of questions. To Andrew first, what is your assessment of the Saudi Arabia judgment on the licensing system? How much has changed? You will appreciate that in 2019 UK sales of military equipment to Saudi Arabia were deemed unlawful. What is your assessment of that?

Andrew Kinniburgh: From a business point of view, the assessment is obviously that it has had a big impact on the supply chain into Saudi. Clearly, as you understand very well, whatever your view of the regime and the politics of it, the Saudi programme is a supporter of many thousands of UK jobs, so I think we have great concerns about that from a member point of view for Make UK Defence. I set aside the politics of this, because that is not my job—my job is to represent my members and the jobs that they create in the UK, and the wealth. It has had a very big impact.

Again, I go back to the issue of long-term trust of the UK as part of the global supply chain. One of my members gave me an example. It was in Turkey, but it could equally apply to Saudi Arabia. It is an SME. It has a very strong position with Boeing and Airbus from a military perspective. They are making components for both types of aircraft. The challenge for that company—again, I lay the politics to one side—is that if it is unable to supply spare parts to Turkey or to Saudi Arabia, for instance, it risks, in the long term, being red-listed by Boeing or by Airbus as being incapable of providing the spares that it is required to provide on a long-term basis. That red list could actually preclude this small British business, based in the Lake district in this case, from supplying Boeing or Airbus at all, going forward. One of my big concerns is that what appears to be £50,000 or £100,000 of spares going into Saudi or Turkey, for instance, risks the reputation of that small British business that has a really strong global presence. It could potentially be red-listed and then not be selected at all by Boeing or Airbus going forward.

That is the potential consequential damage of the delays. I am not specifically talking about Saudi Arabia here, but in general the risk is there for lots of British businesses and SMEs that have global leading positions in their little niche.

Q121 **Claudia Webbe:** Okay. Nick, what was the reaction of your members to the ECJU judgment? Did it impact on morale in any way?

Nick Radiven: Yes. Obviously, our members are in the ECJU, and these decisions, as I understand it, were probably related to the FCDO or the MOD,



in terms of whether the sales were illegal. Our members have to work alongside other Government Departments in their direction. I don't know whether it had an impact on morale; as I said, I only really have an understanding of people within the ECJU. They obviously have to work with other Government Departments, and I suppose that maybe raises the issue of the interaction of people in export licensing and the other Departments. Ultimately, it still has to be approved at those levels. Maybe it raises issues about the links between the different Government Departments, in terms of the decisions around granting export licences.

Q122 Claudia Webbe: I just wanted to ask a more general question. We are seeing wars happen across the world and the impact on communities, neighbourhoods, families and so on. We are seeing live the impact right now in Palestine, for example, of military weapons made in the UK. At what point do companies in the UK say no?

Andrew Kinniburgh: That is a very good question, which is obviously extremely difficult for me to answer as a representative of the defence industry. I certainly understand very well the whole moral, legal and ethical aspects of the defence market. I think there must be an element of ethics and legality. That is what we talked about today, in terms of compliance with export licensing. I think there is an ethical and a moral aspect to this. Certainly, in terms of that, British defence companies do need to take a stance in that way.

What we can't expect the industry to do is become the moral judge for the UK. That is something that has to be done at a political level. From a member point of view, yes, there is an ethical and a moral aspect to this, but, from my perspective, that needs to be dealt with by the politicians.

To counterbalance that, we need to be extremely proud in the UK of the fact that there are 10,000 companies and many, many thousands of jobs in the UK that are supported by the defence industry. I would hope that the UK has a moral and ethical backbone. I don't know if that answers your question. It is a tricky one for me, as a representative of the defence industry, as you can understand.

Q123 Claudia Webbe: And Nick?

Nick Radiven: Similarly to Andrew, our members have to work within the framework set by the Government. Different people have different views about where arms should and shouldn't be sold. I understand that we have one of the most robust export regimes in the world. It is a system that is aimed at non-proliferation. I suppose that, from our members' point of view, we have to work within the parameters that the Government sets, and our members just want to make sure that, whatever those rules are, they are followed robustly. Ultimately, those are political decisions.

Claudia Webbe: Thank you, Chair.

Chair: Claudia, thank you for that. That brings us to a close. I just want to say an incredibly big thank you to our two witnesses, Andrew Kinniburgh and Nick Radiven. It has been incredibly kind of you to give up your time



HOUSE OF COMMONS

this morning. We finish on a very philosophical point, but it is very useful to us. Thank you both very much indeed.