



Committees on Arms Export Controls

Oral evidence: [Scrutiny of Arms Exports \(2014\), HC 695](#)

Wednesday 18 December 2013

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Written evidence from witnesses:

- Rt Hon. Vince Cable MP, Secretary of State for Business, Innovation and Skills and President of the board of Trade
- Edward Bell, Head of the Export Control Organisation, Department for Business, Innovation and Skills
- Chris Chew, Head of Policy, Export Control Organisation, Department for Business, Innovation and Skills

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Members present: Sir John Stanley (Chair); Sir Malcolm Bruce; Katy Clark; Mike Crockart; Mike Gapes; Mr James Gray; Fabian Hamilton; Peter Luff; Ann McKechin; Bob Stewart; Chris White

Questions 48-129

Witnesses: – **Rt Hon. Vince Cable MP**, Secretary of State for Business, Innovation and Skills and President of the board of Trade, **Edward Bell**, Head of the Export Control Organisation, Department for Business, Innovation and Skills, and **Chris Chew**, Head of Policy, Export Control Organisation, Department for Business, Innovation and Skills, gave evidence.

Q48 Chair: Secretary of State, welcome to you and your officials, Mr Bell and Mr Chew. I believe we will be interrupted by a Division in about half an hour's time. We will resume after the Division.

Secretary of State I want to start with what is far and away the most important policy issue facing the Committees, which is to establish, I hope beyond any doubt, precisely what is the Government's policy on arms exports and internal repression. As you know, we have pursued this with the Foreign Secretary, who gave us an absolutely clear statement of policy in his oral evidence on 7 February 2012. I asked him for his confirmation that, as far as arms exports and internal repression are concerned, this was the policy of the Government: "We will not issue licences where we judge there is a clear risk that the proposed export might provoke or prolong regional or internal conflicts, or which might be used to facilitate internal

repression.” The Foreign Secretary replied: “That is still the policy. The ‘or’, as you have pointed out on other occasions, is important.” Secretary of State will you confirm that you agree that that is the policy, as stated by the Foreign Secretary to this Committee?

Vince Cable: My understanding is that the phrase “clear risk”, which is embedded in criterion 2, is indeed the criterion we use. I am sure it was not in the Committees but subsequently I think there was some commentary that the Foreign Secretary was saying something different. I am fairly confident that across Government we say exactly the same thing and we are following the criteria established, the consolidated eight criteria. That is the way we operate. There is no difference between us. I think the Foreign Secretary is coming before you at the beginning of January. If there is any misunderstanding, I am sure he can clear that up. Mr Bell, do you want to add to that?

Q49 Chair: I just want to take evidence from the Business Secretary here. Business Secretary, we are quite clear about the position of the Foreign Secretary. It is as I have quoted it and as he has stated it to the Committee. We are not clear whether you endorse the policy.

Vince Cable: Of course—

Chair: May I continue? The policy is not made up just of clear risk as the Foreign Secretary made perfectly clear. The policy is “We will not issue licences where we judge there is a clear risk that the proposed export might provoke or prolong regional or internal conflicts, or which might be used to facilitate internal repression.” Do you accept those words are the Government’s policy?

Vince Cable: That is a very clear statement, which I would happily endorse. It is my understanding that that is what criterion 2 says. We don’t have independent policies on this.

Q50 Chair: I am delighted to hear you say that, Secretary of State, but I am afraid that is wholly at variance with the letter which your Minister of State wrote to me after the Westminster Hall debate, in which he focused solely on the first part of that sentence. The policy is made up of two strands. The policy, which appears in the policy paragraph before the listing of the criteria, which was originally done, as you know, in October 2000, contains the words: “An export licence will not be issued if the arguments for doing so are outweighed by the need to comply with the UK’s international obligations and commitments” and—this is the crucial phrase—“by concern that the goods might be used for internal repression”. That is the basis of the Foreign Secretary’s second part of the policy statement. We wished to have your assurance, which you have now given to the Committee, that that policy statement, appearing in that paragraph, also represents the policy of the Government, coupled with what is said in criterion 2, in which there is the reference to “clear risk”. It is a two-strand policy, correctly stated by the Foreign Secretary to the Committees, and you yourself have now endorsed the Foreign Secretary’s statement.

Vince Cable: Yes, it absolutely is the case that we would not endorse licences relevant to internal repression, as well as conflict. I don’t think there is any misunderstanding—certainly there is none on my part. If I may say so, I think that, as a result of the exchange of correspondence with the Minister of State, a comma was inserted that had

not been there before and this has been used to create the impression that there was some difference of policy, which there certainly isn't. The two strands are absolutely inherent in our licensing criteria. *[Interruption.]* Can I just ask Mr Bell to clear this up, because I know he has been involved in the correspondence?

Q51 Chair: Can I just respond to that point? Your official can certainly come in then. I am very pleased to hear what you say; that is very reassuring to the Committees. However, I have to point out to you what your Minister of State said, and it is not the first time, in something coming from your Department, that the only reference to policy has been the reference to the "clear risk" part of the policy, ignoring the second part. This is what your Minister of State said in his letter to me following the Westminster Hall debate on 2 December: "I can confirm that the Government's policy is set out clearly and unambiguously in Criterion 2: Her Majesty's Government will not issue an export licence if there is a clear risk that the proposed export might be used for internal repression. This policy has been applied consistently by successive Governments since 2000. This is the policy we apply now and there has been no change to policy." I must point out to you that that is not the correct statement of policy. The correct statement of policy is the one that was made by the Foreign Secretary to these Committees on 7 February 2012 and which, I am glad to say, you have endorsed today.

Vince Cable: Yes, indeed. You are correct: there has been absolutely no change in Government policy at all. Certainly we would not issue an export licence if there was a clear risk that the exports might be used for internal repression. That is not an—

Q52 Chair: That is not the totality of the policy. It is, after the comma, "or which might be used to facilitate internal repression", which is a wider policy than having to demonstrate clear risk. That is the crucial point.

Vince Cable: I think that the issue revolves around this comma, which was inserted, as I understand it, inadvertently in the Minister of State's letter. The policy is unchanged.

Q53 Chair: With respect, the comma is irrelevant. It doesn't matter really whether there is a comma. The sentence is made up of two parts, divided by an "or". There are two strands of policy and have been since the year 2000: one is the "clear risk" strand and the other is "which might be used to facilitate internal repression." The Committees unanimously attach great importance to both strands featuring in the Government's policy. That has been endorsed by the Foreign Secretary. You have endorsed it today. Thank you.

Vince Cable: Good; thank you. Just to confirm, there has been no change in Government policy.

Q54 Chair: Right. That being the case, I look forward to receiving a corrected letter from your Minister of State.

Vince Cable: Okay.

Q55 Chair: Thank you. Did your official want to say anything?

Edward Bell: No. We will obviously follow up with a further letter.

Chair: Thank you very much indeed. We now move on to the transparency initiative.

Q56 Sir Malcolm Bruce: There seems to have been some movement in policy on the transparency initiative for open licences. On 15 May, you published that it would start in October and users of the system would have to report quarterly. By 31 July, it was made clear that they would not report quarterly, but annually, the reporting period will be next year—2014—and they will not be required to report the category or goods description. It has moved from a very detailed statement to a rather less detailed statement produced annually, and some of the comments we have had are that it will be of very little value because it will be so late and so lacking in detail that it will not help the process of transparency. First, may I ask why you changed the rules in such a short period of time from the original to what it now is?

Vince Cable: I will happily explain. Our starting point is that we should have as much transparency as possible in the process—I think, Chair, that you acknowledged that in the recent debate in Parliament. I endeavoured in the first statement to push those as far as we possibly could with the open licensing, and we set out a new set of procedures. Many of those elements remain: there will be more information about the frequency with which licences are used, about the destination and about the end use, so we are adding substantially to the information available.

When we published the details of how the information will be collected, there was a fairly substantial push-back from many of the companies involved, in whose view it would add substantially to paper-filling and bureaucracy without adding much enlightenment. In one particular case that you may have been in Parliament to hear about, one of our colleagues referred to a company that he represented—a quite substantial employer—which was choosing between ourselves and the United States as a base, and concluded that our system under the revised arrangement would be substantially more bureaucratic. The combination of the general reaction from exporters and particular cases of that kind persuaded me that we should have more transparency, but we should reduce some of the detail—in particular, the quarterly reporting.

Q57 Sir Malcolm Bruce: That is an explanation of a commercial issue that affects companies, but it does compromise the original idea of transparency. The Campaign Against the Arms Trade says: “If the published information is no longer to include ratings/goods description nor, it appears, the value, it is almost meaningless.” It has also been stated that the

information, by the time it is published, could be 15 to 18 months old. Together with the lack of detailed information, it would be virtually useless for scrutiny by Parliament or the general public. Are you satisfied that it would still be useful? The UK working group at EGAD said it was not consulted about the change. Who was consulted, apart from the companies?

Vince Cable: I will ask my officials to say who precisely was consulted. As a result of the change we will have a more transparent system that we did before. Your question about whether everybody considers it to be materially useful is perfectly fair, but it is certainly more transparent; there will be more information out there. The new system is now on the SPIRE IT system. It will be available next year. We can then have a look at whether we need to improve it further.

What has happened is basically a good process. We put out an idea—how to make the system more transparent. We got some feedback and reacted to it. We came out with a compromise—that is the word you used—between the interests of more transparency for the public and the interests of the exporters themselves, who are, I think legitimately, concerned about not having too much bureaucracy. We will see how it goes. We can adapt it further when the system is up and running. But it is a more transparent set of arrangements than we had originally.

Q58 Sir Malcolm Bruce: Perhaps that is my final point, then: people who would expect to be consulted, and might have had some input, weren't.

Vince Cable: That is a fair point.

Q59 Sir Malcolm Bruce: Also, the announcement was made to Parliament in reply to an oral question during BIS questions on the day the House rose for the summer recess. The point that is being made here is that you may have had perfectly good reasons, and you have explained them to us now, about why you changed from the original proposal to where it is now, but it appears that all the interest groups have not been consulted and the House has not been given a proper opportunity to have an input. Given what you have just said, are you prepared to accept suggestions, allowing for the fact that you said, "Let's not compromise our commercial interests"? On the other hand, let us not compromise detailed transparency.

Vince Cable: They are perfectly fair questions about the consultation process. I do not know if you can add anything as to who was consulted and who was not.

Edward Bell: There was certainly a public consultation and companies, trade associations and NGOs responded to that. That public consultation led to the original proposals. Subsequent to that, there were certainly strong representations from trade associations and companies, and the particular case that the Secretary of State referred to, where there was clear evidence that jobs would go if we implemented the initiative as it was originally proposed.

I think we ought to have a look at this once current arrangements, which were announced by the Secretary of State in July, have been in place and have been bedded in,

partly, to ensure that the IT works properly. To make reporting and additional reporting work, it is important that the IT is robust and it is simple for companies to report.

I think we should keep it under review. I propose that we look at this in about a year, to see how it is working and to revisit the issue at that stage.

Vince Cable: But are we satisfied that everybody who should have been consulted was consulted?

Q60 Sir Malcolm Bruce: They say they have not been. The working group from EGAD said they had not been consulted. They are telling us that.

Edward Bell: I certainly received strong representations from EGAD, at an executive committee meeting—and ADS, as well.

Q61 Chair: Secretary of State. I want to move on to what seems to us to be a quite extraordinary volume of automatic weapons and small arms, et cetera, that have been granted licences for export, supposedly for anti-piracy purposes.

Q62 Mike Gapes: Secretary of State, the Foreign Secretary told us, in evidence earlier this year, that we have been supplying some weaponry to countries for anti-piracy issues, which raised concerns with regard to the consolidated criteria. The exact phrase was, “so we have to look at those Criteria”.

According to the data you provided us with, between April 2012 and June 2013, a total of 30,000 assault rifles, 2,536 pistols and 11,000 rifles were supplied to a number of countries on the coast of East Africa and to the Arab world, and also to South Africa and Russia. These include countries about which we have internal repression or human rights concerns, such as Sri Lanka and the Maldives, which had had a coup, and a few others where there are concerns. Egypt also features on the list.

I am interested to know whether such quantities of such weapons seem reasonable in terms of the need, which clearly exists, for anti-piracy work. Also, is there evidence of diversion of any of these weapons away from the purposes for which they are supplied—to purposes other than anti-piracy?

Vince Cable: There is no evidence of diversion. As I understand it, the arguments—the proper procedures that were followed were entirely correct. The fact that British security companies happen to have been based in Sri Lanka and Egypt I do not think is material to the purpose, which is supplying vessels with protection.

Q63 Mike Gapes: Are all these weapons going to British security companies in all cases?

Vince Cable: Perhaps Mr Bell can explain.

Edward Bell: Yes, they are. They are going to British companies in all cases, and rigorous terms are applied to the licences for all these shipments. I understand the concern about the volumes. I would make two points. First, the bulk of companies involved in these activities are British, so that will be behind the volumes involved. Having said that, having now heard about the volumes, I would like to do a bit more digging around that. I have no concerns that anything untoward has happened, but I certainly will have a closer look at the volumes involved.

Vince Cable: Just a couple of other points of reassurance. All the companies involved are subject to the code of conduct governing security. The other point, which I think is quite important, is that since this piracy epidemic erupted, I don't think there has been a single case of piracy succeeding against vessels that have had armed protection.

Q64 Mike Gapes: The Foreign Affairs Committee did a report on that. We made a recommendation that there should be armed personnel on the ships, and the Government changed their policy before our report was published, which was a remarkable coincidence.

Other countries are also presumably supplying weapons in similar circumstances to their own nationals, or related companies, or even perhaps to other Governments. Do you have any information about weapons being licensed by other countries for anti-piracy purposes?

Chris Chew: As far as we are aware, around 70% or 80% of the private security companies operating in this sector are UK companies. So the vast majority of the weapons are going to UK companies, and they are being supplied by UK companies.

Q65 Mike Gapes: Not by other countries as well?

Chris Chew: Not by other countries as well. There is a small number, and we have had some discussions with some of our international partners, but because of the different ways in which we license these activities it is difficult at the moment to make any fair comparison—but the vast majority of the activity is UK-based.

Q66 Mike Gapes: Can you supply the Committees, in confidence if necessary, with more information about this issue and what information you have, so that we are able to get a wider picture of it?

Chris Chew: Yes.

Q67 Chair: Secretary of State, we will want this on a non-classified basis. Your official expressed some surprise about the volumes. We, as Committees, find the volumes that are going under the banner of anti-piracy really quite extraordinary given the known number of pirates. I am requesting that this be looked at seriously by Ministers, and we would like a ministerial response when you have looked at the figures in relation to the current piracy activities in the Indian Ocean.

Vince Cable: We will happily do that.

Q68 Mr Gray: From the BIS quarterly reports, we understand that 5,194 sporting guns were exported for anti-piracy purposes. What are sporting guns?

Chris Chew: They would be shotguns.

Q69 Mr Gray: But the report says that you have 4,200 combat shotguns—they are separate—and 5,000 sporting guns.

Chris Chew: A combat shotgun is classified differently in the reports from an ordinary 12-bore shotgun, for example. A combat shotgun would be a repeating gun—a kind of semi-automatic shotgun, for example. So that would be the difference.

Q70 Mr Gray: Is “sporting guns” really the right description? Surely, if indeed they are shotguns—12-bore or whatever—you should say so.

Chris Chew: They are usually used for hunting game, clay pigeon shooting, etc., so in that respect “sporting gun” is the right term. We would have to reflect on whether in this context it gives the right impression.

Mr Gray: Chasing pirates is good sport, by the sound of it.

Q71 Fabian Hamilton: My question relates to oral evidence that was given to the Committees on 4 November by Amnesty and other non-governmental organisations, who told us that open general export licences had been granted for the supply of ML1 and ML2 goods for anti-piracy. Is that true?

Chris Chew: Yes.

Q72 Fabian Hamilton: Why do you believe that granting these open general export licences for this activity is justified? Should they not be just as restricted? These are dangerous weapons and you don't know where they are going to end up.

Chris Chew: It is only one open general trade control licence for anti-piracy, but companies have to go through a registration process to be allowed to use it. The licence has strict conditions. It provides that companies are allowed to possess or move only very limited quantities of weapons at any one time. I think it is limited to four firearms. It does not allow them to have automatic weapons, and there are strict conditions on storage and control of the weapons. For example, companies must maintain ownership and control of the weapons. They are not allowed to give or sell the weapons to anyone else. At the time of creating the licence, we needed to provide a flexible solution to allow these companies to operate in the way that they need to operate in order to provide their services, but we felt that by building those strict conditions into the licence we could limit the risk of the weapons being diverted to undesirable end users. At the time, we wrote to the Committees with information about that licence, explaining how it would work, so we have been quite clear about what the licence is intended for and how it is structured.

Q73 Fabian Hamilton: You mentioned the code of conduct. I understand that the international code of conduct for private security service providers states that its members should keep records about the weapons they hold, as you say. However, do the Government ever examine those records?

Chris Chew: We do audit the companies, yes.

Q74 Fabian Hamilton: And are you satisfied from auditing those records that none of the weapons are being diverted?

Chris Chew: Yes.

Q75 Fabian Hamilton: That is good. Apart from the voluntary code for private security firms, do the Government undertake any other further checks to ensure that these items are not being diverted from their intended use?

Chris Chew: No; our checks are limited at the moment to the compliance audits that we carry out on the companies within the UK. As you can imagine, it is quite problematic for us to go and inspect the companies where they are operating. There have been some discussions about how that might be possible, but it clearly presents a number of logistical and security challenges in itself and we have not been able to do that kind of check yet.

Q76 Fabian Hamilton: It has been suggested to us that a voluntary code is not quite sufficient for these private security companies, who have no accountability or, indeed,

oversight, and that there should be a legal framework and licensing system. Have the Government any plans to introduce such controls either unilaterally or in conjunction with other countries?

Chris Chew: There are no plans to introduce a statutory regime for private security companies. I think the Government made that announcement back in 2010 or 2011, when they said that it would work through this international code of conduct. Fairly recently, the International Code of Conduct Association was launched and will provide global oversight of the code of conduct, including auditing and inspection of the companies. We are working with other countries to set up that association and the processes. That is being led by the Foreign and Commonwealth Office, so, as the Export Control Organisation, we are not the experts on that particular aspect of regulating those companies.

Q77 Fabian Hamilton: But isn't the problem with that kind of voluntary code of conduct that no statutory body, no elected body and no elected politicians have any oversight at all? There is no accountability to anyone really, is there? It is a self-regulating organisation.

Chris Chew: Well, this was subject to public consultation and deep consideration across Government, and it was felt that a self-regulatory regime was the best approach to address the issue and that a statutory regime would create far more problems than it solved. I would have to go back and look at the outcome of the public consultation and the announcements the Government made at the time, because it is not our direct area of responsibility.

Q78 Fabian Hamilton: I understand and appreciate that. However, you say that a statutory regime would create far more problems—problems for whom? Surely the problems would be for the private companies and not for the public, who are concerned that these weapons may be at large.

Chris Chew: For the regulator as well.

Vince Cable: Problems of enforcement.

Chris Chew: Problems of enforcement and for the regulator.

Chair: Secretary of State, I want now to come to the well-worn issue, as far as the Committees are concerned, of establishing a pre-licence register of arms brokers. We were very pleased that your Minister of State announced in his winding up of the Westminster Hall debate that you, Secretary of State, have finally made a move in the direction that the Committees have been pressing for for several years, which we very much welcome. Mike Crockart is going to pursue this issue.

Mike Crockart: Thank you, Chair. It may well be a well-worn issue, but it is a new one to me as this is my first time on the Committee. From reading through its history, I can see that it has been rolling for years. In 2007, the then Minister said that “it may be worth

having a look at it at some point in the near future". By 2009, the then Government were saying that they would "be happy" to look at it. In 2010—[*Interruption.*]

Chair: Order. We will adjourn and resume as soon as we are quorate or at 5 minutes past 4, whichever is the earlier.

Sitting suspended for a Division in the House.

On resuming—

Chair: Secretary of State, we will resume. Mike Crockart.

Q79 Mike Crockart: As I was saying, we have gone through 2007, 2009, 2010, and the Government's response to the Committee's last report. I imagine it was very welcome when you said you would "take a fresh look at the evidence for and against a register". That would happen after a consultation that was to take place in early autumn. I know we have just had the autumn statement, but surely we are stretching it. Has the consultation started?

Vince Cable: I had hoped that with my comment I had broken the mould of inaction on the subject. I undertook to do a consultation with a view to taking action on brokerages. Your Committees had persuaded me that there was a serious issue there. I can only say that I am sorry that we have not actually done it yet. There is a clear undertaking to ensure that it is done as soon as possible in the new year. We will get on with that.

The reasons are that, as you know, with launching Government consultations you have to get the rest of Government on side. We have had to get legal opinion on some of the more complex issues. In terms of your basic question, we have been slow to put this into practice and I will undertake to get this launched in the new year as soon as possible. We have given an absolute deadline to the officials to ensure this is done before the end of March. It will be a proper Government consultation.

Q80 Mike Crockart: But that is an absolute deadline?

Vince Cable: I have given you that assurance; that is the best I can do in the circumstances.

Q81 Mike Crockart: Have you done any work on a list of organisations that will be consulted?

Vince Cable: When the consultation is launched, we will cover as much ground as possible—people in the industry and campaigning groups on the other side. Do we have a standard list?

Edward Bell: I think it would be a bit difficult to finalise a list. We do not have a final list of organisations we will consult, but certainly the commitment is to launch that public consultation by the end of March.

Chris Chew: It will be a public consultation, so anyone can respond, but we can proactively send it to specific organisations, and we will send it to the people who have brokering licences now, because clearly they will have an interest. We can also send it to the NGOs that have regularly expressed an interest in this subject, so that they can comment.

Q82 Mike Crockart: I realise that this is asking how long is a piece of string, but if we have figured out when the likely start of the consultation is, do we have a time scale for when it would finish and any results might be available?

Chris Chew: The usual procedure is to consult for between six to 12 weeks, so we would need to consider what the appropriate period was. For a very specialist subject such as this, which affects quite a narrow group of people, a shorter consultation period might be more appropriate, but we are open to suggestions and comments.

Q83 Mike Crockart: It is just that this is a long-awaited piece of work, so it would be good to have an end time scale in mind.

Vince Cable: We fully understand that. It has been protracted and we are keen to get this moving.

Q84 Mike Crockart: One other thing you said was that, “In addressing these questions we will seek to learn lessons from those countries that have introduced registration of brokers.” Has any work been done to find out more and to see which countries have which systems?

Chris Chew: We know roughly which countries have a register. The NGOs have highlighted that in a number of their submissions to the Committees, and there are submissions to bodies such as the Organisation for Security and Co-operation in Europe. So we know which countries have registers, and the intention is to write to them formally on a Government-to-Government basis and seek evidence from them on how it helps them to regulate brokers, what advantages they see and what difficulties, so that we get direct evidence from them that we can then take into account.

Q85 Mike Crockart: How many countries are we talking about?

Chris Chew: From the submissions I have seen previously, somewhere in the region of 12 to 15 EU member states have registers of brokers. Interestingly, most of the large exporters—Germany, France, Sweden—do not, so we will also want to understand why that

as, as well as why Spain, Portugal, Bulgaria and Romania, for example, do have one. We will be looking at the totality of the evidence.

Q86 Mike Crockart: My final question is again on time scales. Will you be looking to write to those countries within the same sort of time scales—contacting them by the end of March and looking for them to—

Chris Chew: We will do that in parallel with the public consultation, and then, when we publish the response to the consultation, we will include the views expressed by the other Governments—provided they do not tell us that the information is confidential, of course.

Q87 Chair: Secretary of State, I made the same point that Mike Crockart has been making in a Westminster Hall debate: the need, after this long period of time, to bring the consultation to a ministerial conclusion and hopefully to have the register in place. We hope that will be your decision and that, by the time you come in front of us for what will probably be the last time—about this time next year—we will be able to question you about an up and running, pre-licence register of arms brokers. I hope you will give that the priority that it requires in your Department.

Vince Cable: Thank you.

Chair: I am going to return to the issue of the DSEi trade exhibition, where, once again, and disappointingly, items were found that should not have been there.

Q88 Peter Luff: Secretary of State, I think we can agree that the DSEi, well run, is an important contribution to our economic ambitions, our security objectives and the growth of our defence industries. It is all the more important that it is run consistently well. Can you explain why once again we found companies promoting banned goods at the exhibition?

Vince Cable: Going back to what the exhibition is, as you know—you have been as involved in it, as I have—it is commercially run by Clarion, and has been for over a decade. The Government's contribution is to invite a selected list of visitors, but it is overwhelmingly a commercial event. To ensure that past episodes are not repeated, or are at least minimised, a memorandum of understanding was drawn up with the organisers this year to have a tight set of rules. The basic outcome is that if an exhibitor—there are 1,300 of them; it is not a small exhibition—breaks the rules, as last year a Russian operation did, they are stopped immediately and action is taken to prevent illegal activity taking place.

Q89 Peter Luff: I will come to the nature of that action in a minute. Do you not think that we should at least be able to screen the product brochures to ensure that unacceptable products are not being offered for sale at the exhibition?

Chris Chew: With 1,300 or more exhibitors, that is potentially quite a daunting task. If each exhibitor brought 10 different brochures it would be problematic. It is clear that we need to do more in advance of the show to identify where problems might lie, but I don't think we can say anything other than we need to work harder.

Edward Bell: I think we do. I was keen to put a memorandum of understanding in place with Clarion this year. It is a good mechanism. During the exhibition we have a strong presence of personnel from the Export Control Organisation, HMRC and the police. That is why we picked up the infringements. Yes, we need to work harder at that, but we put a good mechanism in place this year to hold Clarion to account. My colleague's point is well made, though: there are more like 1,500 exhibitors, so it is quite a daunting task.

Q90 Peter Luff: I think the companies concerned were ejected from the exhibition.

Edward Bell: Yes, they were.

Chris Chew: Two were, I think.

Edward Bell: Yes, two companies were ejected.

Q91 Peter Luff: Are any other sanctions possible against companies that transgress?

Vince Cable: If they have committed a criminal offence, action can be taken.

Edward Bell: I think the material was handed over to Customs, so that will have been considered.

Q92 Peter Luff: Do you think it would help confidence in the exhibition if the Government made more public what happened to the exhibitors who broke the rules—if there was greater transparency about the punishments?

Chris Chew: There has been media reporting about the event. I am not sure what more we could say. If Customs investigates and concludes that prosecution is appropriate, that would be in the public domain and it would send a strong signal, but it would be a matter for Customs and we cannot comment on that.

Q93 Peter Luff: Should Governments collectively highlight to exhibitors that if they break the rules, legal sanctions can be enforced against them?

Edward Bell: I think we should look at that in relation to the next exhibition. We should revisit the memorandum of understanding to see whether we can reinforce those messages.

Q94 Peter Luff: This is the world's leading exhibition of its kind, but we have other exhibitions at which defence and security export products are marketed. The UK Working Group has suggested that any company that has not signed the arms trade treaty should not be allowed to participate. I appreciate that there are some countries on that list that might cause some difficulties, but what do you think of that suggestion?

Vince Cable: We have certainly thought about it. As you imply in your question, there would be some strange omissions. Apparently, Canada has not signed the treaty—no doubt it will do in time—so it is an arbitrary cut-off. The arms trade treaty was a big success, and we are proud of our role in it. We are encouraging as many countries as possible to sign and ratify it, but we should not penalise countries that have not—Canada is the most obvious one, but I am sure there are others that are not controversial.

Q95 Peter Luff: Speaking personally, I think there are some problems with that suggestion. The other suggestion that has been made is that companies, or subsidiaries of companies, that produce cluster munitions should in no circumstances be allowed to exhibit. I think that must be much easier to do and agree with.

Vince Cable: I think that cluster munitions are not legal activity anyway.

Q96 Peter Luff: Any company that has not signed a written guarantee that they do not produce them anywhere in their organisation should not be allowed to participate. To me, that seems to be a reasonable ask.

Vince Cable: At first sight it does, but there are a whole lot of other banned substances, aren't there?

Q97 Peter Luff: But we played a leading role in the campaign against cluster munitions.

Vince Cable: I think that fits within what Mr Bell said about ensuring that the memorandum of understanding with the company next year is more foolproof and explicit and that the guarantees sought of the companies follow up the suggestions you made.

Peter Luff: I look forward to your response to that particular suggestion.

Q98 Chair: Secretary of State, I want to turn now to the very important issue of the export approvals by this Government and the previous Government of dual-use chemicals to Syria, in particular, sodium fluoride and potassium fluoride. They are dual-use because, in addition to their civil uses, they are precursor chemicals in the manufacture of sarin, and we

now know that there have been 14 or more sarin attacks in the appalling hostilities taking place in Syria.

I want to start with a significant issue, which, up until now—possibly by the end of this session it will be different—has been a point of major difference between the Committees and yourself: your refusal thus far to name the companies who applied for the seven dual-use chemical export licences. The implication for the Committees of you not being prepared to name those companies publicly is that we are not able to take public evidence from them.

In your letter to me of 25 October, you set out three justifications for refusing to give these Committees the companies' names. I dealt with those justifications in turn in the Westminster Hall debate. Those were, in summary, that you felt you were bound by provisions of the Freedom of Information Act; you were concerned about reputational risk to the companies; and you highlighted that one company had expressed concerns, although no evidence was provided, that it might put some individuals in that company at risk.

Subsequent to the Westminster Hall debate, I took advice from the Clerk of the House on your first point as to whether the Freedom of Information Act provisions have any relevance in this context. He replied, "You asked me to confirm that House of Commons Select Committees are not governed or circumscribed by the Freedom of Information Act with regard to the evidence they seek in the course of their inquiries. I can readily confirm that proposition." The Clerk of the House concludes his letter in reply to me by saying, "In conclusion, the Freedom of Information Act does not prevent your Committees from requesting the names of the requestors granted licences for dual-use chemicals for Syria between 2004 and 2012, nor does the Act preclude the Secretary of State from providing those names." I think that deals with the Freedom of Information Act point.

As far as the other two arguments are concerned, I merely repeat what I said in the Westminster Hall debate: namely that if witnesses to Select Committee inquiries could claim that possible reputational risk to themselves, or possible unsubstantiated, non-evidenced possible risk to a member of their staff, would be valid grounds for not appearing before them, that would have more or less collapsed the entire Select Committee system. These Committees would not be willing to establish any such precedent, which would have far-reaching implications for the Select Committee scrutiny system in the House of Commons.

In the end of my remarks in the Westminster Hall debate, I said that in the light of the points I had made, I hoped that you would reconsider your position. Can you now tell the Committees whether you have reconsidered your position, and if so, whether you will now agree to give us the names, so that we can use those names publicly and ask the companies to give public evidence to the Committees?

Vince Cable: I have made a proposal to you, so that you can have a discussion with the companies concerned. I think there were several steps in your preamble that I would like to go over, to explain how we got where we are, if you don't mind. My starting point throughout is that I would like the companies to give you evidence but there are various, I think legitimate, reasons why we cannot just hand over the names.

If you don't mind, let me just go over the sequence. We are dealing with five licences applying to two companies in the period before 2012. Those were toothpaste material manufacturers. Subsequent to 2012 there was one company involved in two licences to supply material that was going to be used for aluminium windows. That was the basis of their application. The second were never sent, as you know, because the European Union regulations came in. That was what actually happened.

In terms of making available the names so that you can cross-question the companies on that, I asked them whether they would waive confidentiality. All our applicants give information on a confidential basis; that is the basis on which export licensing operates. I asked if they were happy to waive that, because I thought it would be good for the Committees and public interest if they were to appear. One company was happy to do so; the other two were not. I could see that that created a difficulty for your Committees. I then proposed that we take advantage of precedent and invite the companies here on the basis that they give you evidence on a confidential basis. Two of the three companies involved are happy to do that; the other is not.

I think the reasons are perfectly plausible and common sense when you reflect on them. You are a mainstream manufacturer, producing common substances, hundreds of thousands of tonnes of which are produced all over the world, which are wholly innocuous. There is no suggestion that they have behaved in any way improperly. What they fear, I think understandably, is that articles might appear in a newspaper saying, "Company X involved in chemical weapons probe", with names, addresses and individuals. If I were in that company, I would quite reasonably be concerned about the fallout from that. That is why they are reticent to give evidence.

I am anxious to be as co-operative as possible with you. We do not wish to have a dispute between the Government and the Select Committees. You have a job to do and we do. That is why I put forward the proposal that you hear them on a confidential basis, and that way you can check out the story that they have given.

Q99 Chair: Secretary of State, I stated in the Westminster Hall debate why the compromise you have put forward was not satisfactory: it prevents the Committees from reporting on or citing the evidence that they received, and prevents them performing their paramount duty of reporting to Parliament. That remains the position.

You cite confidentiality of your dealings on export licences, but the reality, as I listed in the Westminster Hall debate, is that you have been prepared to disclose all the other key items with just one exception, which is the names of the companies. You have disclosed the dates of approval of the licences, the chemicals that were approved, the quantity of the chemicals approved in each case, the financial value of each contract and the name of the bodies in Syria to which the licences were granted. So much for confidentiality. You have been prepared to disclose, in response to questions we have put to you, all that information. The one and only piece of information that you are not prepared to disclose publicly is the names of the companies. That does not seem to us to be an acceptable position.

As for your arguments about reputational risk and so on, any number of Select Committee inquiries are going on all the time in which witnesses could say, “Well, there is a possible risk to my reputation if I come before this Committee.” It is the reality of life that, if Select Committees are to do their job properly, they have to call witnesses and take public evidence.

I will make this point. The issue for these Committees is your Department and the handling of these licence applications within your Department. Very significantly, another item you have disclosed is that not one of these single export licences was put to Ministers, despite it being well known that those are precursor chemicals for the manufacture of chemical weapons; that Syria is one of the largest holders of chemical weapons in the world; and that Syria is a non-signatory of the chemical weapons convention. Despite all those things being in the public domain, according to the evidence you have given us in writing, not one of those export licences was ever put to Ministers.

This is a necessary and proper area of inquiry for these Committees to explore in a public and open fashion. Once again, Secretary of State, I am asking you to consider what we have said to you and to reconsider your position, and tell us whether you will, after reflection, enable us to take public evidence from the companies concerned, as part of our scrutiny of your Department.

Vince Cable: I will obviously consider what you have said and the strength of feeling with which you have expressed it, but I do not think we can change the position we have adopted. Can I just make two points? First, there is an enormous difference between the confidentiality that is sought in hundreds of Select Committee inquiries by people who are worried about their reputation, and the problem we are faced with here of a company making fairly standard chemical products at risk of being accused indirectly or by innuendo of being involved in chemical weapons exports, with all the horrendous consequences of that. I think that is a unique situation.

Secondly, under the international classification, the chemicals are dual-use products. I think my Department quite reasonably did not refer them to Ministers by applying a bit of common sense. After all, toothpaste and cleaning fluids for windows are not, by most people’s understanding, chemical weapons. Domestos is a weapon of mass destruction because it contains chlorine; nitrogenous fertilisers are weapons of mass destruction, as the IRA demonstrated. We would not in normal circumstances regard these standard products, manufactured in hundreds of factories all over the world on a large scale, as subject to risk. I think it was perfectly reasonable that my officials showed a little common sense in applying the licensing criteria.

You have obviously expressed yourself very strongly. I shall have to reflect on your views. My wish is to be as helpful as possible, but I think the request for confidentiality by the companies concerned is reasonable, and I hope I have given you those reasons.

Q100 Chair: I will just say finally to you that your comments seem almost to put the companies and your Department into equivalent positions. They are absolutely not in equivalent positions. The companies are commercial organisations, carrying out perfectly

normal business in civil activities, to which you have referred—toothpaste manufacture, aluminium window frames and so on. That is a totally legitimate undertaking, and as you have rightly pointed out and I have confirmed to you, they took entirely the right steps to make the necessary export licence application as those are dual-use chemicals.

The responsibility lies with Government and your Department. It is your Department that has access to all the necessary intelligence information. It is your Department that has access to the nature of the bodies in Syria to whom the chemicals were going. It is your Department that has the intelligence enabling it to judge the risk of any of these bodies being, basically, front companies under the control of the Assad regime or someone else from which they might be able to obtain quantities of these chemicals. All that information lies within Government. All those issues are the Government's responsibility. I put it to you that it is not reasonable to suggest that there is some form of equivalence between the company and the Government. This was a Government decision, and the Government alone could take the decision in light of the intelligence and information that it alone has.

Vince Cable: That is absolutely correct, Chair, and we fully understand that. That is why it is absolutely right that you question the Department and the officials involved about why they made the decision and whether that was reasonable. What you are asking for—me to give you the names of the companies involved—is a different question which raises different issues of principle. By all means, interrogate me and the officials about how that decision was made. That was our responsibility.

Q101 Ann McKechin: Can we turn to the detail of the two licences granted in 2012 for the purpose of manufacturing aluminium pipes? These licences were granted when conflict had already commenced within Syria, so this was not a normal, day-to-day commercial transaction—you were dealing with a country at war with itself. Also, the recipient company, which you have disclosed to the Chair, Awad Ammora Co & Partners, based in Damascus, had been identified in previous media reports to be a front company for the Assad regime. If that was so and you were aware of those claims, why was the licence application granted?

Vince Cable: Those reports were investigated and found to have absolutely no substance.

Q102 Ann McKechin: This was a report of the Senate investigation of the oil for food scandal. The company was named in a Senate investigation. So you thought that that report was unsubstantiated?

Vince Cable: They were not named, but my understanding was that both public source and intelligence material was checked. Clearly, the accusation made is serious, and my understanding is that those were checked before the licences were approved. Can you confirm that?

Chris Chew: The allegations that were reported by the UN oil for food programme were that Awad Ammora were approached by Iraq in order to circumvent the UN sanctions. The reports did not say that Awad Ammora were a front company for the Assad regime. We have no information from any source that links Awad Ammora to the Assad regime and we are not aware of any information to that effect.

When we looked at these licences, we looked at the information we had about Awad Ammora and we looked at the concerns and the possible uses for the chemicals. There was nothing to link Awad Ammora to the Syrian Government or to a chemical weapons programme. Because this was a legitimate—

Q103 Ann McKechin: Mr Chew, can I just clarify? Are you saying that this company was not mentioned in any document produced by the US Senate inquiry—yes or no?

Chris Chew: The documents I am aware of are the reports of the UN oil for food programme and the circumvention of—

Q104 Ann McKechin: I am talking about the US Senate inquiry, of which I am sure that the Foreign Office would have been aware and which would have been on the record. I would have thought that any inquiry carried out by the US Senate would have been of interest and relevance in terms of preparing an intelligence report in relation to this issue. Because it is important that we have this detail on the record, I am asking you to clarify that it is your contention that this specific company was not referred to as part of the inquiry by the Senate into the oil for food scandal.

Vince Cable: That was not what Mr Chew said, I think. He said that it may well have been referred to, but there was no evidence that it had any connection with the Syrian regime.

Chris Chew: We were not and are still not aware of any information that links Awad Ammora to the Syrian Government. That is what I can say categorically.

Edward Bell: Perhaps I can add that I looked very carefully at this case this summer, coming in as someone fresh to the Export Control Organisation, with no history and no baggage. I looked at all the files and at all the classified and unclassified information that was available to me, and I spoke to officials at the Foreign Office, MOD and other agencies who would have been involved in providing professional advice when the applications were being processed.

Having looked at all that information, I am confident that the officials who made the decisions made reasonable decisions on the basis of the information that they had in front of them. In relation to Awad Ammora Co & Partners, I am aware of two reports, and although I do not have any knowledge of what the Senate said, I am aware of the link to the UN oil for food programme and the suggestion, although I am not entirely sure about it, that the company had been approached for the procurement of aluminium tubes. I certainly consulted agencies on that. Clearly, I cannot talk about classified information—

Ann McKechin: I accept that.

Edward Bell: —but I certainly investigated that, and we do not have information that confirms those allegations.

Q105 Ann McKechin: The second thing I want to clarify is that two months after the licences were granted, the European Union included the materials in its sanctions list. It would be surprising to many people if, at the time the licences were granted in January, there had not been some sort of discussion at ministerial level at the very least, if not among officials, about imposing sanctions on the Syrian regime. If that dialogue was ongoing, why were any licences any granted? Surely a hold should have been put on applications until that dialogue had resolved the position of the European Union?

Edward Bell: Clearly sanctions were being discussed at EU level around that time. Sanctions were eventually introduced in June 2012, and the two licences that we are talking about were subsequently revoked. On investigation, we established that no goods were shipped against those licences. What officials cannot do is pre-empt sanctions; the officials would have made the assessment on the basis of the information and the consolidated criteria.

Q106 Ann McKechin: So you did not think that you could place the applications on hold or have a dialogue with the companies to say, “We have concerns, given the situation in Syria, about your application. Can we hold it until there have been further discussions?” Was there no attempt to hold back applications, given that there was an active dialogue about sanctions? That seems quite extraordinary.

Chris Chew: The licences were applied for in August 2011, I believe, and they were not granted until January 2012, so there was extensive consideration—

Q107 Ann McKechin: But the situation in Syria was changing rapidly at the time, and it was worsening considerably by January.

Vince Cable: I think it is fair to say that I have introduced, as you know, a system of suspension of licence applications where there is uncertainty about the environment, but you are talking about decisions that were made significantly before that change of policy.

Chris Chew: The arms embargo on Syria was imposed in May 2011. That was when the first sanctions were imposed, and between that time and the end of 2011, there were 10 amendments to those sanctions, so there were continuous discussions about actual sanctions, potential sanctions and some of those discussions came to nothing. At one point, there were discussions about possible sanctions on the export of phosphates to Syria, because they can be used in the manufacture of explosives. That has not happened; there is no embargo against those items. Although all those discussions were taking place, we could not know that those actual chemicals would be subject to the sanctions until the EU agreed them, which was not until June 2012. We have accepted that, once the EU did decide, we were somewhat tardy in

revoking the licences, and we have put measures in place to ensure that does not happen again, but at the time we granted the licences, we did not know for sure, and we could not have predicted for certain, that the chemicals would be subject to sanctions five or six months later.

Q108 Mike Gapes: It may be true that the EU arms embargo was imposed in May 2011, but prior to that there was a European Union regime with regard to the consolidated criteria; there were also issues that were discussed about dual-use material; and there was, of course, our national legislation with regard to these issues, so it is not as though there was nothing before May 2011. Clearly the assessment could have been made, even before then, about the possible implications of these things.

Chris Chew: Exactly. These chemicals require an export licence to all destinations outside the EU, and that has been the case for a very long time—it pre-dated May 2011. Those assessments were made. An assessment against the consolidated criteria was undertaken. It took us about five or six months to undertake that assessment. We looked at all the available evidence. We found no information that was sufficiently strong to suggest that there was any risk of diversion to any illicit activity, and on that basis there were no grounds to refuse the licence under the criteria and so the licences were granted. That was the process we went through; it is the standard process. As Mr Bell said, he reviewed the process and found that it was a reasonable process to undertake. So we stand by the decision that was taken at the time. In hindsight, I can see how it looks problematic, but on what we knew at the time it was the right decision.

Q109 Chair: Secretary of State, I am concerned by the responses from both your officials. It seems to me that far too limited a view was being taken. Your Department knew that Syria was a major holder of chemical weapons. Your Department knew that Syria was a non-signatory of the chemical weapons convention. Your Department knew there was a raging civil war going on in Syria. It has not been disclosed to the House whether your intelligence sources had informed your officials that there may have already by that time been small sarin attacks—the 14 events to which the Prime Minister has referred, and to which he has been reluctant to attach any dates. Your Department knew that there was a serious risk, with a civil war going on.

In addition, by January 2012—I have the EU document extending the sanctions to a very large number of dual-use chemicals—your Department must surely have had sight of preliminary drafts of the EU directive that was finally agreed in June. I find it extraordinary that, with that combination of factors, your Department should have still approved those two licences in January 2012. When your officials say, “Well, we don’t do anything until something has actually happened in terms of treaty,” I have to say that that is completely contrary to a whole series of steps which you have rightly taken on a precautionary basis.

You have been informing these Committees and the House of precautionary halting of various arms exports to Argentina. We do not wait for the Argentinians to do something against the Falklands before you rightly call a halt on certain arms exports to Argentina.

Recently you have announced, on a precautionary basis, suspensions and revocations with regard to Egypt. So the policy you are following is not one of just waiting until some new document is in place before you look afresh at whether particular export licences are granted. Ministerially, you rightly look at the wider picture, and where precautionary steps are taken, you take them. So I must put it to you, I remain unpersuaded and concerned that these two licences in January 2012 should ever have been approved.

Vince Cable: The simple answer is that, in the case of Argentina and Egypt, as I recall, the licences related to weapons, whereas in this case I think we are talking about bog-standard chemicals, which the officials had absolutely no reason whatever to believe had any connection with chemical weapons or were likely to be used in that capacity. That was the judgment they made, and I have to say it seemed reasonable. The matter did not come to Ministers, as you have noted, but it seems to me that the officials were acting perfectly intelligently on the basis of the information they had.

Chair: We now move on to your licence suspension mechanism.

Q110 Sir Malcolm Bruce: This mechanism was introduced in a Foreign Office statement of 13 October 2011. Reference was made to “immediate licensing suspension to countries experiencing a sharp deterioration in security or stability.” That is generally to be welcomed, but it subsequently seems that it was not entirely clear how and when the suspension would be applied, and we were told that the only time it was applied was when the situation in Egypt deteriorated so badly, so the first question is: how high has the bar been set?

The second question is: at what point do you actually suspend a licence? If a two-year licence is exhausted, it doesn’t matter—it is finished—but if it is extant, there is still the potential to supply. It was not entirely clear what would be suspended at what point, but I guess people would hope that, once you had decided that the situation had deteriorated and arms should not be supplied, you should have the capacity to stop any shipments immediately. However, that appears not to be the case—or can you explain precisely how it works?

Vince Cable: Let me explain. I think it is clear, again in retrospect, that the European Union were applying a lower bar. I did introduce the suspension process, and this partly reflects our earlier discussion of the very good examples you used of what happens when the licensing Government are faced with a rapidly evolving situation. The suspension mechanism, which I think I presented to the House, related to new applications and applications in process. When the European Union introduced their suspension mechanisms for Egypt, they went further—the bar was lower, and it applied to extant licences. Perfectly understandably, that has created some confusion, and I think the view we now take in the Department is that what we need is clarity and simplicity. The European Union suspension mechanism seems to us to be sensible. We are thinking about how we can assimilate it into our existing processes, so that we do not have a British system and a European system operating on different principles. We are trying to absorb the lessons of that Egypt case, and we will apply them in our domestic process.

Q111 Sir Malcolm Bruce: Are there any practical difficulties? The public would take the view that you have issued a licence in good faith, let us assume, in a situation where the licence was justified. Then, let us say, the circumstances change sharply and you conclude that it is no longer appropriate for exports to happen. The public would therefore expect any shipment that is ready to go to be stopped, but it appears that that is not the case and only new licences are stopped or not applied. That is the point: the public would expect that, if you come to that judgment, you can intervene and stop the shipment.

Vince Cable: I think that is the point we have now come to.

Edward Bell: Absolutely. The situation that was established by the Foreign Affairs Council on 21 August takes us beyond the previous announcement, effectively, of suspension only of new licence applications. Given that experience with Egypt, we are going to look now at whether we need to formalise that. But effectively, we have moved beyond the previous position because of the Egypt situation.

In the case of Egypt, you will see that the announcement was made on the 21st and action was taken one week later. There are practicalities, clearly, around identifying the licences and assessing them against the criteria, and it does take a short while to do that. But we moved as quickly as we could, we really did.

Vince Cable: Can I reiterate that, until I introduced that new system, there was no suspension mechanism at all? Now there is, and the question now is where the bar should be.

Q112 Sir Malcolm Bruce: It was welcome and what people were looking for. Presumably, once you have made the decision, you can pick up the phone and say to a company, “Have you got any shipments? Stop them immediately.” You can pretty well do that straight away.

Vince Cable: That is effectively—

Chris Chew: —what we did in relation to Egypt.

Q113 Chair: Secretary of State, do you agree that both suspension and revocation are relatively frail protections, because once a shipment has left these shores and has passed to whichever country it is going to, it is effectively outside UK control? Does not that highlight the critical importance of the original decision as to whether or not an export licence is granted? As you will know, these Committees, in successive reports in this Parliament, have for that reason unanimously recommended that you adopt a more cautious approach to export licence approvals for authoritarian regimes.

Vince Cable: You are quite right, and we have adopted a more cautious approach. The suspension mechanism is part of that approach. As Sir Malcolm has identified, following the European Union precedent, we are now having to think about a lower bar.

Chair: We are now going to move on to the issue of shipments by UK subsidiaries.

Q114 Mike Gapes: Secretary of State, we understand that a UK company, Survitec Group, had supplied via its subsidiary based in Singapore, W.H. Brennan, equipment—including smoke grenades, stun grenades, tear gas projectiles and grenades, pepper spray refills, rubber bullets and 300 multiple projectile cartridges—that went to the police in the Maldives. The police in the Maldives were involved in some pretty brutal activity to prevent a rerun of an election following the coup in 2012 and the political crisis that followed. We were told that that was outside the UK’s legal jurisdiction.

What is the point of this country having controls over British companies and their export regime if they can use a subsidiary of the same company in another country? Do the Government not have any view about that? Don’t we have any sanctions? The United States, for example, has extraterritoriality, and there are other issues that apply. Surely such a practice drives a coach and horses through attempts to control equipment going to a country that might use it for the wrong purposes when there is an internal conflict?

Vince Cable: Your central point is correct. The Americans have extraterritoriality and we do not. That affects a whole set of issues, such as extradition, where we have a very different view from the Americans. We do not apply our law extraterritorially. The issue that you raised is, from an ethical point of view, very strong, but it would apply to any aspect of an activity by a British subsidiary overseas. You referred to selling weapons to the Maldives, but if a subsidiary of a British company behaved badly overseas in relation to their labour force or their environmental standards or whatever, the British Government do not have legal sanctions over them. If a British company overseas breaches British minimum wage legislation, I cannot invoke that legislation.

Q115 Mike Gapes: Do you accept, Secretary of State, that there is a serious flaw in the current situation? Were it to export from its UK facilities, a company would be subject to controls and perhaps not allowed to export, yet it can use its subsidiary—a subsidiary of a British company—in another part of the world to do the same export, and we do nothing about it.

Vince Cable: It is a frustration and a “flaw,” if you like, but it can be remedied only by fundamentally changing the whole basis on which we operate law in the UK.

Q116 Mike Gapes: Should we not start thinking about that? Otherwise, in this globalised world, companies will increasingly get around our export control regime by using their subsidiaries in other parts of the world.

Vince Cable: But it applies to every aspect of corporate behaviour.

Q117 Mike Gapes: It may do, but is it not time that we started to look at that? Otherwise, our standards are just words and are not applied.

Vince Cable: It is words. One of the things I did was that in October I launched with the Foreign Secretary a set of principles for British companies operating overseas. It was an action plan under United Nations auspices to set standards on human rights that we expect British companies to honour when they are operating overseas. It does not have legal sanctions, and we could not make those legal sanctions unless we completely overthrew the basic principles we have in the way we apply law in the UK.

Q118 Mike Gapes: Other countries do.

Vince Cable: The United States does, but I do not think anybody else does. I agree that there are anomalies in this field. There are some areas where we do apply extraterritoriality—overseas paedophiles, I think, is one—but in most cases we do not, and it would involve a very radical change.

Mike Gapes: There are precedents.

Vince Cable: I accept that.

Chair: Secretary of State, I have to put on the record here that the only reason why extraterritoriality is not extended to the remaining category C goods on the military list is because that was resisted by the previous Government and, most regrettably, it continues to be resisted by the present Government. It is an extraterritoriality that this Committee, in both the previous Parliament and the current one, has unanimously urged on successive Governments.

We now come to another important and growing area of concern, which is the export of UK surveillance equipment.

Q119 Ann McKechin: *The Guardian* reported on 18 November that more than 70 UK companies are selling surveillance technologies that promise off-the-shelf equipment to allow you to snoop, in effect, on millions of people's e-mails, phone calls and text messages. In that article, the Government were quoted as stating that further regulation was necessary, and that they recognised that although the products had legitimate uses, some of them could be used to conduct espionage. The article stated that it was your intention to announce new rules about the sale of such equipment. It was mentioned that the new protocols were likely to be announced this month, and I wonder whether such an announcement has been or will be made.

Vince Cable: I will give you a broad statement and ask officials to follow up. We are aware of the problems around surveillance equipment. They are subject to control, I think, in two cases: first, where you have encryption, and secondly where it is part of a weapons

system or has clear military use. Our Department has been engaged with the Foreign Office in trying to update the Wassenaar convention, under which those definitions are applied. Perhaps my officials can bring us up to date.

Edward Bell: I defer to my colleague, who was at Wassenaar when the decision was made.

Chris Chew: On 4 December, the participating states of the Wassenaar arrangement agreed to adopt new controls on two specific technologies. One is software tools that allow someone to insert what is effectively a virus on someone's computer or smartphone, which extracts data or tracks their movements without their knowledge. The second is equipment or software that extracts data from internet traffic and can extract information about who you communicate with and what your social networks are. Those controls were agreed and the 41 participating states of the Wassenaar arrangement have committed to introducing those controls. The UK, along with France, has been instrumental in reaching that agreement and it is something that we worked very hard to achieve. We now need to get those changes implemented in EU law through the EU dual-use regulation, and we will be working hard to make that happen.

Q120 Ann McKechin: Can you give us any kind of indicative timetable for when you think you will be able to implement that change?

Chris Chew: There is a window of opportunity between now and the European Parliament elections in May next year, because it needs the approval of the European Parliament. If we cannot do it in that time, we will have to start from whenever the European Parliament first sits after the May election, so it would be the second half of the year. So there is a small window of opportunity to do it in the next four or five months, but if not it would be the second half of the year.

Q121 Ann McKechin: And it would be your intention to wait for this to happen at EU level rather than to do it unilaterally?

Chris Chew: Our whole approach to this problem has been to do it on a multilateral level through international partners so, yes, that would be our intention.

Ann McKechin: Thank you.

Chair: Lastly, we have two areas of questioning on your Export Control Organisation, Secretary of State. The first is on the processing of applications.

Q122 Mike Crockart: I have a question about good process and about process that is perhaps not quite so good. The annual report on strategic export controls stated that for 2012, the Export Control Organisation had improved its processing of SIELs to 71% processed within 20 working days and 95% processed within 60 working days, so it met the targets of

70% and 95% respectively. The latest quarterly figures show that 80% were completed in 20 working days and 97% within 60 working days. That is a significant improvement. Perhaps you can outline how that improvement from previous years has been achieved.

Edward Bell: Performance has certainly improved in 2013. We have improved performance in a number of ways. We have looked at the way that the online systems that we use operate. So there are enhancements that have come through the online system that we use for processing licence applications and we looked at the way that we have been deploying our staff both here and in the Departments that we work through across Government. So it has been a combination of looking at the ways that we work and the systems that we use to process licence applications. At this stage, certainly on standard individual export licences, we are around 80% on the primary target, which is 70% within 20 working days, and we are actually at about 98.5% on the new secondary target that we introduced this year, which is 99% within 60 working days.

We have seen improvements also in processing times for open individual export licences, where some 75% are now being processed within 60 working days against a 60% target. So we have seen improvements in that area. There is one area where we've still got some work to do and that is the handling of appeals. I take personal responsibility for that because I am one of the people who looks at appeals as I am not involved in the day-to-day process of approving licence applications. Looking at 2012, we had around 22 appeals and only five, I'm afraid, were completed within the target of 20 working days. So we've got to do some work there. Some of those cases are quite complex. They will involve going to Ministers and as a consequence will take extra time to process. But it is an area that we really do need to improve.

Q123 Mike Crockart: Yes. That is a bit of an understatement, to be honest. Looking at the statistics for the last five years, this has been a long-term problem. I wonder whether you have any feeling for why that is, because it has gone from 69% in 2008 to 68% to 51% to 26% to 23%. So that is a trend that has been in progress for five years. It feels a bit late to be sitting here saying, "We are aware of this and we are looking at this." It is a trend.

Edward Bell: It is never too late to put things right, of course.

Q124 Mike Crockart: Yes, but what has gone wrong?

Edward Bell: I think this is about the resources.

Q125 Mike Crockart: Why has this not got the priority that it obviously needs?

Edward Bell: I think because the focus has been elsewhere in terms of the processing time for licences. We do need now—we will do it urgently—to focus on appeals. We are talking about a small number of cases in any one year, but that should not be an excuse for not ensuring—

Q126 Mike Crockart: No, but I would have expected the excuse to be that you have a large number of appeals and that is what causes the issue. A small number of appeals makes it worse, doesn't it?

Edward Bell: These do tend to be complex cases. They will often involve the review of classified information, so we have to ensure that the people taking the appeals have the appropriate clearances. I think we just have to hold up our hands and say, "Look, it has not been working. We need to improve the performance and we will improve the performance in the coming year."

Q127 Mike Crockart: The Export Group for Aerospace and Defence told the Committee that they think it is down to a lack of resource. Is that the basic issue?

Edward Bell: I think it is a combination of factors. I think it is about the complexity of the cases and ensuring that we have sufficient people who have appropriate security clearance to take those cases. So it is not just about resources, but resources are certainly a feature. The question is security clearance, rather than the number of people available to do the work.

Q128 Mike Crockart: But we can expect in the next year to be a lot closer to the aim of 60%, rather than 23%.

Edward Bell: *indicated assent.*

Q129 Katy Clark: The Export Control Organisation website is now located at gov.uk. The Export Group for Aerospace and Defence have said to us that while they think it contains lots of useful information, it is difficult even for regular users to find what they need on it. Is that something you are aware of, and is it something you are doing anything about at the moment?

Vince Cable: There have been a whole lot of issues around the establishment of gov.uk. I think it is now in a much better state than it was when it was originally launched, but I think we are aware that there has been some dissatisfaction in the process.

Chris Chew: gov.uk is structured in a very different way from the previous departmental websites and we had no choice in that; we had to fit to the structure that was given to us. That created some issues with how we organised the information and also the way you search for information is different. I think there has been a learning curve, certainly for us in how we present that information, but also for exporters in how they access it. We have very recently made some changes to the information that is on there and we continue to review it and to try to improve it, so it is an ongoing process. We know there have been some difficulties but we are committed to working to improve it and that is what we are doing.

Edward Bell: We are aware of the concerns and we are addressing them.

Katy Clark: So we should expect improvements.

Chair: Secretary of State, Mr Bell and Mr Chew, thank you very much indeed for being with us this afternoon.

