



Oral evidence: [Scrutiny of Arms Exports 2015](#), HC 608

Monday 1 December 2014

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Members present: Sir John Stanley (Chair); Richard Benyon; Ann Clwyd; Mike Crockart; Mike Gapes; Fabian Hamilton; Dr Julian Lewis; Ann McKechin

Questions 75-171

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

Q75 Chair: Secretary of State, thank you for coming to the Committees once again and for bringing your officials Mr Edward Bell and Mr Chris Chew. I would like to start with the issue of the export of arms from the UK that could be used for internal repression in relation to the consolidated criteria.

In your ministerial statement on 25 March, you said: “None of these amendments should be taken to mean that there has been any substantive change in policy.” Yet, one of the amendments you did make was the dropping of key wording—what we in the Committees call the “broad test”—in the previous Government’s consolidated criteria. That key wording was: “An export licence will not be issued if the arguments for doing so are outweighed...by concern that the goods might be used for internal repression”. It was the unanimous view of all four Committees that the wording which I just quoted did represent an important statement of policy. That was also the view of the Foreign Office Minister concerned in the previous Government, the right hon. Member for Neath, Peter Hain.

When we had a debate in Westminster Hall on 30 October, I said: “In the light of those facts, as far as the Committees are concerned—we made this clear in our report—only one, regrettable conclusion can be drawn from those important exchanges on arms exports and internal repression: the Government have made a significant change in policy, but have not been prepared to acknowledge that such a change has taken place. I put it formally to the Government that they should consider most carefully whether they should now offer an apology to the Committees and the House for making a change in policy without being prepared to acknowledge that to the Committees.” Secretary of State, do you wish to make an apology to the Committees and the House for your statement that there had been no material change of policy, notwithstanding the fact that, in the view of the Committees and the former Minister of State for Foreign Affairs, the policy statement that was dropped was a significant one?

Vince Cable: Sir John, you raised this with me at the end of our last session. I have not come to offer an apology, because I am quite clear that we have not changed the policy. What you are referring to, I think, is the language in criterion 2, which is in relation to

domestic repression and makes it clear that there should be a “clear risk”. That is the criterion that we have adopted in arms licensing. I know that you make a distinction between the narrow and the broad test—the broad test being in the preamble. But we have operated the narrow test, as I think you called it, that there should be a clear risk consistently. There has certainly been no conscious effort by me or my colleagues to change policy.

I am assured that, under the previous Administration, exactly the same set of principles were applied. There is one exception which we have formalised, which is in the case where risk is not clear and when there is rapid movement and uncertainty. That is why we brought in the suspension system, which was applied in the case of Egypt and, I think, elsewhere. That is where we stand. To answer your question directly: we are quite categorical that there has not been a change of policy.

Q76 Chair: Secretary of State, the words will have to rest as they are. In the Committees, we are quite clear that the wording of the broad test is separate from the wording of the clear risk test. It is much more widely drawn, and in the Committees’ view it represents a statement of policy as endorsed by the Minister responsible for the previous consolidated criteria. Once again, I point out to the Secretary of State that although he has used the word “preamble”, that word does not appear anywhere in the previous consolidated criteria of October 2000. However, you have given your response, and it will be for the House and those outside the House to draw their own conclusions. We are now going to move on to the issue of DSEi exhibitions and prosecutions.

Q77 Dr Lewis: Yes, this is a major exhibition. As the Secretary of State knows, it occurs every two years. At the last one, in 2013, there were over 1,300 exhibitors, so it is a big feat of organisation. You will recall that at the 2013 event a French firm and a Chinese firm were discovered to be offering in their catalogues equipment including leg irons and electric shock batons. After the matter was raised in Parliament by our colleague Caroline Lucas, the organisers did take action. They ordered the Chinese and French companies to dismantle their stalls and they kicked them out. Nevertheless, there is still some confusion as to whether or not simply displaying pictures of equipment in a brochure in itself amounts to a breach where we are dealing with category A items. The Government do not appear to accept that displaying brochures containing prohibited items at the arms fair breaches UK export controls. We would like to know whether the Government will review the appropriate legislation to ensure that companies that break the law—as we see it, at any rate—can be prosecuted in the future.

Vince Cable: Well, I think that your concluding question is a very fair one. Obviously, we are concerned when appalling material of that kind is displayed. I think that it is exceedingly infrequent, as your statistics suggest. There were 1,300 exhibitors and two of these examples. As you know, we have a memorandum of understanding with the organisers, Clarion, to make sure that this kind of thing does not happen, but it can. You are right that there have been these two very bad cases.

What happens in these instances is that the police look at it and there is an investigation into whether the offenders can be prosecuted. I think that in these cases and in previous ones, it has not been possible to stand up a criminal case. Whether that was because of weakness of evidence or weaknesses in the legislation in the instances cited I do not know. You have asked a fair question in asking us to look at the legislation in order to make sure

that these breaches cannot be tolerated, but maybe the officials can add some detail. I do not know.

Chris Chew: The law is quite clear. It says that what is prohibited is an act calculated to promote the supply or delivery of category A goods where the person knows that their actions will result in those goods being moved between two overseas countries. The question that the enforcement authorities and the Crown Prosecution Service have to address is whether the existence of a brochure at a trade fair is sufficient evidence to be able to prove a criminal offence in a court of law. In each case where this has arisen, they have decided that it is not strong enough evidence, and so they have not brought a prosecution. Whether changing the law would make it easier is obviously a question you will have to look at, but it comes down to the question of whether the evidence is strong enough to convince a court to convict.

Q78 Dr Lewis: Well, presumably, the point is that the evidence is absolutely conclusive that they advertised this banned equipment, because they did advertise it. The only question is whether the law needs to be tweaked so as to include the act of advertising in the concept of promoting, as you have described it. If you find that the law is inadequate to include the advertisement of banned items in this way, are you willing to consider changing it?

Vince Cable: Well, obviously, we would consider it, but we did not get advice back from the prosecutors that they were not able to proceed because of the weakness of the law, but if that is the case, the proposition is perfectly reasonable.

Q79 Dr Lewis: Thank you very much. Briefly, are you aware of any new procedures that have been put in place to ensure that this sort of material is not displayed at the next conference?

Vince Cable: There is a memorandum of understanding. My understanding is that officials are meeting to discuss the 2015 conference precisely to ensure that this does not happen again. Is that right?

Edward Bell: Yes. I have been in correspondence with Clarion today, so there will be a review, alongside looking at the legal mechanism, to see whether the existing memorandum of understanding could be strengthened to try to stop that kind of incident from happening again.

Q80 Dr Lewis: And you will let us know what the outcome of that is, presumably.

Edward Bell: Absolutely, and we would publish a copy of the memorandum for 2015 for the next DSEi, assuming that we put that same mechanism in place. We would publish that in the Libraries of both Houses.

Q81 Dr Lewis: Finally from me, there has been a suggestion that companies from countries that have not signed the relevant arms treaties, such as the Arms Trade Treaty and the Convention on Cluster Munitions, should not be invited to display or attend arms fairs in the United Kingdom in the future. Is that something that the Government are considering?

Vince Cable: There are very large numbers of countries that have not yet signed the treaty. Obviously, we want them to do so.

Chris Chew: Including Canada.

Vince Cable: I believe Canada is one. There have to be some wider criteria.

Q82 Dr Lewis: So you think that might be a step too far at the moment?

Vince Cable: It might be a step too far.

Chair: Order. I believe that we may be having some problems with the amplification; I would be grateful if witnesses would kindly project their voices as best they can, so that members of the public can hear the answers.

Q83 Ann McKechin: Secretary of State, you have mentioned that there are large numbers of sales at the exhibitions and that these are isolated incidents. Nevertheless, there have been five incidents in a nine-year period. I am stretched to think of any other trade exhibition where torture equipment has been found. The seriousness of the issue cannot be underestimated. Given that your own prosecutors have not been prepared even to test a case in the courts for any prosecution, surely by now there must be a *prima facie* argument: the law needs to change and, until it does, the risk of a repeat of the incident is very likely.

Vince Cable: Well, I completely accept that the display of torture equipment is utterly unacceptable and everything must be done to ensure that it does not happen again. That is absolutely right. On the basis of nine cases in eight years—

Chris Chew: Five in nine.

Vince Cable: Five in nine, each of which has more than 1,000 exhibitors; the incidence is quite low, but it should be zero. We have not yet established—I want to go back from this hearing and establish this—whether the problem is a failure of the law or of enforcement. We will report back to you on that. If it does require legal tightening, I accept the—

Q84 Ann McKechin: It is just that you wrote to the Chair in April on this very point and said that, “it may be necessary to prove a link between the display of literature and the eventual movement of the goods”. We are now seven months along. I had an e-mail today from Mr Porter, a managing director of Clarion Events, who says that his internal team conducts a series of tests to check that exhibitors are complying with the law. Could we have some kind of indication, before the Committees make their report, as to what that memorandum of understanding is and what enhanced internal checks Clarion is now proposing to make to ensure that there is no repeat?

Edward Bell: Yes, in time for the report; the next annual report of the Committees—

Q85 Ann McKechin: Yes, but obviously we need to report before the general election.

Edward Bell: When is that scheduled now?

Q86 Chair: Secretary of State, in following up Ann McKechin’s question, we would be grateful for a letter with the information for which we asked by 15 December, please.

Vince Cable: Okay. We will endeavour to do that.

Chair: We now want to move on to the licences granted to private maritime companies for anti-piracy purposes.

Q87 Mike Gapes: Secretary of State, as you know, we have been pursuing this issue for some time. You wrote to the Chairman in June and pointed out that, although 181,708 individual items were licensed for anti-piracy operations over a two-year period, only 3,273 were actually shipped, which is 1.8%. What is the reason for that variation between the number of items licensed and the number actually sent?

Vince Cable: The reason, as I understand it, is that the company involved massively over-budgeted or overestimated the likely demand for their services, and they applied for a licence that was way in excess of the likely market involved.

Q88 Mike Gapes: This isn't just one company; it is many companies.

Vince Cable: Well, there are several; I can't give you an exact figure. It is clear that there is a serious disparity. It does not make a great deal of sense to be licensing on that scale. As I understand it, procedures have now been tightened up considerably, so that licences are issued only when they are considered to be realistic, quite apart from the propriety of the people involved.

Q89 Mike Gapes: How can you do that?

Vince Cable: Well, the propriety of the people involved is based on the fact that the people who do this anti-piracy work have to have a licence. That licence is based on compliance with some fairly tough international rules governing the operation of weapons, training and so on. There is a process here.

Q90 Mike Gapes: But the Export Control Organisation has therefore changed its procedures.

Vince Cable: Yes, I think it has tightened them up, but Edward can explain more.

Edward Bell: Yes, in terms of the supply of weapons, I was questioned on this when I appeared last year, and we looked at that in detail. Hence the letter back in June. A number of companies supply weapons to private marine security companies. It became clear following a dialogue with some of those companies that, when they apply for a licence for a two-year period, they are not clear at that stage how much equipment they are going to supply. The numbers represent a high level of ambition. Clearly, on looking at that, although we did not have any concerns about the licences, the huge disparity between what was licensed and what was shipped suggested that we needed to put stronger arrangements in place, and we have done that. We have moved from a position where we have companies holding numbers of licences to a company holding one licence with particular terms and conditions that we can monitor closely. One aspect there is that we are now insisting that the companies will report on shipments on a quarterly basis. We will make that information available with the regular publication of quarterly data. It is now being monitored very closely in addition to the general case-by-case assessment of the licence.

Q91 Mike Gapes: Thank you. But when there is a shipment of arms of some kind, what happens in this example? A private maritime security company, the Gulf of Aden Group Transits Ltd, recently ceased trading. What happens to the arms that have been licensed and shipped by that company for anti-piracy operations?

Edward Bell: The anti-piracy operations are changing, for sure, and the sector is certainly contracting. One issue we have been looking at is the way that we license the private marine security companies, as opposed to the companies that supply weapons to those companies. Part of that dialogue this year has been focused on what happens when a company goes into administration. Just to be clear, if a private marine security company goes into administration, it is required by law to secure a trade licence in order to sell its weapons on to another company. When it applies for that licence, it will be subject to the same level of high scrutiny that the previous licence received.

Q92 Mike Gapes: As I understand it, and we have been informed by some experts in this area, private maritime security companies quite often share arms and equipment with other companies on a kind of floating armoury. The weaponry remains at the same point, but they transfer the ownership. Is that what you are referring to?

Edward Bell: No. There are floating armouries that are used by private marine security companies, but they must ensure that when they are using those facilities the weapons are stored properly. I have visited companies in the field—well, I have visited them in the UK—and have looked in detail at their record keeping and their arrangements. It is not a question of sharing. A floating armoury might be used by a number of companies, but each company must have a secure facility within that armoury.

Q93 Mike Gapes: So it could potentially be used by companies that we have licensed, but also by those that we, for whatever reason, have not licensed. Is that true?

Chris Chew: No, the licences that we grant to those companies only permit use of those weapons by that company. It does not allow them to pass—

Q94 Mike Gapes: But they could be on a floating armoury that has a different collection of companies.

Chris Chew: If they are passing their weapons on or allowing them to be used by someone else then that would be a breach of their licence condition. If there is evidence of that happening, then we would obviously want to see specific details and then we can take it up with the companies concerned.

Q95 Mike Gapes: Are you telling me that there are no cases where companies have supplied or shared arms and ammunition with companies that are not licensed by us?

Chris Chew: I'm not saying it has never happened; I'm saying that it would be a breach of the licence conditions and that if it is happening—

Q96 Mike Gapes: Are you aware of any circumstances where it has happened?

Chris Chew: I'm not personally, no.

Edward Bell: I'm not aware of any cases.

Q97 Mike Gapes: Have you investigated whether it is happening?

Edward Bell: I don't believe we have had a specific investigation on that point, but it is the sort of point that would come up during a post-licensing audit.

Mike Gapes: Perhaps you can update us and send us a note on the issue.

Q98 Chair: Could we have that by 15 December, please?

We now turn to arms export policy to countries of concern, starting with Israel. Secretary of State, I wrote to you on 14 August this year as follows: "Following your statement on 12 August that the Government would suspend 12 of its extant arms export licences to Israel in the event of a resumption of significant hostilities, please could you identify which are the 12 extant licences to which you were referring within the list of the 470 extant licences to Israel that you detailed in your reply to me of 12 May 2014?" In your reply to me of 3 September, you responded to my request as follows: "We do not feel it would be right at this stage to give public exposure to the licences." I have to say that that seems to us a flimsy and non-transparent reply to a straightforward request for information.

Given the terms in which you replied, the Committees are left wondering whether the real reason for your unwillingness to tell us the details of those 12 licences is to protect the Government from possible embarrassment—first because the Government have approved the 12 licences in question, which is why they are extant, and secondly because the Government have clearly identified those 12 licences and the arms, components and technology covered by them as items that could well be used for internal repression if there is a resumption of significant hostilities. As you have concluded that that could happen in the future, it would seem likely that those British items may already have been used by the Israel Defence Forces in the recent actions that they have taken in Gaza, resulting in the death of very substantial numbers of men, women and children who were not in any way Hamas militants. So, Secretary of State, I have to ask you: why are the Government not prepared to reveal the details of the 12 licences to this Committee?

Vince Cable: Let me take the second part of your question first and lead into the first one, which is the issue of transparency and declaration. The reason why we have not volunteered the detail is precisely the same reason that we have not volunteered that information to you on exports to Russia. It has nothing to do with the merits or otherwise of the country. It is to do with the fact that these are extant licences. They are open operational licences, and there is an assumption in the Government that any company that was exposed in this way could reasonably sue the Government. That is why we have not done it. What we have done in the past to try to help you in your work—you will know this in relation to the exchanges we have on Syria—is that where material is confidential we are very happy to release it on a confidential basis, so that you can be clear yourselves on what is happening, but as for the public declaration of information on extant export licences, that is something we do not release, whether on Israel, Russia or any other country. That is the explanation.

With regard to the licences themselves, let me explain what was rather a complicated story over the summer. When the fighting broke out, it was very clear that issues of arms

licensing would occur. An investigation was initiated into what equipment was involved. I think, in parenthesis, it is important to explain that our trade with Israel does not consist of selling tanks or aircraft to their defence services. Much of it covered by the licensing regime consists of the supply chains of complex electronic equipment. Because Israel is a very high-tech exporter, British companies are involved with those supply chains, so it is not a straightforward matter.

There was an investigation undertaken into, as you say, 400-plus items. Of those, it was identified that 40 could conceivably or potentially be used in a way that would be against the consolidated criteria in the Gaza conflict. Of those 40, 12 were identified as potentially presenting a risk. That is why the action was subsequently taken. That is the numerical explanation.

In terms of where we are going now—this answers both parts of your question—we have initiated an investigation into all of the extant licences to Israel—what they are, what potential risks they might pose, and whether an error was made in maintaining them—and we are going to present this report in full. We will make it available to you when it is ready, subject of course to the confidentiality proviso that I stated at the beginning. Is that a correct summary?

Edward Bell: Yes. A review of extant export licensing and the licensing of new applications for Israel is under way, and we will make the results of that review public.

Q99 Chair: Secretary of State, I found the first part of your answer completely extraordinary. You do reveal details of extant licences. May I refer you to annex 9 of our latest report, where there are 200 pages of details of extant licences to countries of concern, including Israel? With the greatest respect, it is absolute nonsense for you to say that you do not give details of extant licences. You do. You have given them to the Committee, and the Committee has published them. If you are referring to names of companies, I stress that in the original letter I sent to you, I did not ask for the names of the companies. I merely asked for the details of the extant licences.

Vince Cable: In that case, I misunderstood your original question. I thought that you wanted full information, rather along the lines of our previous correspondence on Syria. Information compatible with what we have done before is certainly not a problem—it shouldn't be a problem, and we will make it available.

Q100 Chair: Will you then very kindly tell us, by 15 December, to which 12 among the 470 extant licences to Israel you were referring in your reply to me? Can we have that information?

Vince Cable: Absolutely; that is not a problem. I thought that you were asking for the names of the companies, which is where it is difficult.

Chair: No; there was no reference to the names of the companies in my original letter, or in my question.

Q101 Richard Benyon: Secretary of State, in your announcement in August about the possibility of suspending and revoking arms export licences to Israel, you used the words “in

the event of a resumption of significant hostilities”. It has been put to us that the phrase “significant hostilities” appears nowhere in existing transfer control criteria, nor in any user guides on the implementation of criteria currently used by licensing officials working across the EU. Can you or your officials tell me where the phrase “significant hostilities” comes from? There is concern that it demonstrates a weakening of UK arms export policy.

Vince Cable: Well, I think that that is a question you will have to put to the Foreign Secretary, because it came from his judgment. As you know, I do not run my own foreign or defence policy; we rely on the Foreign Office for advice on judgment of military situations, and he advised us that that would be an appropriate criteria.

Q102 Richard Benyon: Even though your Department has primary responsibility for the issuing of export licences?

Vince Cable: Yes. We rely on the Foreign Office for advice on the political, human rights and conflict elements within it.

Q103 Richard Benyon: But surely you govern the policy in these areas. If another Department tries to push a different agenda that would change your Department’s policy, would there not be a full and frank discussion, shall we say?

Vince Cable: There were full and frank discussions, and that was the outcome.

Q104 Richard Benyon: It was reported in *The Independent* on 23 November that Britain approved the sale of arms to Israel worth more than £7 million in the six months before the offensive in Gaza earlier this year, including components for drones, combat aircraft and helicopters, along with spare parts for sniper rifles. We have all been the victim of improper press reporting, but if that is true, that would suggest rather more than simply systems, although you are right to say that Israel is a very high-tech country with a very advanced economy, and there is a free flow of IT and related technologies between ourselves and them. This comes down to there being a clear risk that certain types of arms and their components have been used by Israel and could be used in future. Surely this is the point in time at which the licences should be revoked.

Vince Cable: Well, what I would say about that is that the Chairman has already asked for a list of the extant licences, and when that is available to you I think that that will answer your question. I would just make one other point: various groups have taken legal action in a judicial review on this particular set of issues, so there is obviously a limit to what we can say on the question that you have just asked without creating serious problems and compromising the Government’s position, much though I would love to be as open with you I can.

Chair: We are going to turn to the subject of Hong Kong.

Q105 Mike Gapes: As you know, Secretary of State, the Hong Kong police started to use tear gas against peaceful demonstrators in September. There has been a lot of concern that some of the tear gas canisters were supplied by the UK, and there has been some pressure for the revoking of licences. Your ministerial colleague from the Foreign and Commonwealth

Office, Mr Swire, said in an answer last month that the Government have decided not to block the sale of tear gas to Hong Kong, yet on our televisions in the past two days, we have seen that the Hong Kong police have resumed the use of tear gas and have fired significant amounts into the demonstrators. Isn't it time for our Government to clarify that we do not wish to be complicit in the behaviour of the authoritarian regime in Beijing and its local representatives, who are using tear gas against peaceful protesters?

Vince Cable: We will hopefully get advice very quickly about whether the events of the past few days change the situation. On the judgment that was made earlier not to cancel the extant licence, tear gas was used once in the early stages of the demonstrations. Subsequently, a judgment was made by the people who give us advice about the foreign affairs aspect of it that the Hong Kong police were handling it in a proportionate way.

Q106 Mike Gapes: Do you agree that they are not handling it in a proportionate way now?

Vince Cable: Well, I'm not in Hong Kong, so I am not able to assess the situation myself. We will urgently seek and obtain advice about whether the position has changed, such that we need to review the decision.

Chair: I want to turn now to Russia.

Q107 Mike Crockart: My question really has been dealt with, to a large extent, by your answer to the questions about the extant licences with Israel. Perhaps we can deal with it quickly if you make a commitment to provide information to the Committee in the same way that you committed to providing details about the Israeli licences. My question relates to the request we made to you to provide information about extant arms export licences to Russia on a non-confidential basis, looking at end-user details, rather than company names. The reply that you gave to the Committee on 10 September stated that you were prepared to disclose the end users only on a confidential basis. From the answer that you gave a few moments ago about Israel, that seems no longer to be the case, perhaps relating to the exporting companies.

Vince Cable: Well, the end users are companies. Obviously, they are Russian rather than British in this case. The original point that your Chairman made is that there is no problem with releasing the licence data, as regards the material. However, when you start naming companies, you are in somewhat different territory. Perhaps you can clarify that, Edward.

Edward Bell: Certainly we are concerned that we would be laid open to challenge for breach of confidentiality by the exporters if we were simply to reveal those details. That would be different from revealing, in broad terms, what was covered by export licences. In fact, for Israel, in the 12 August statement about the Government's policy, we gave an indication of the types of equipment that are covered by the 12 licences. There is a distinction between information about what the licences contain and details about the names of end users, exporters and so on, which for extant licences may lay us open to challenge on grounds of breach of confidentiality. That is the concern.

Q108 Mike Crockart: The argument that we made at the time is that you provided the names of end users for dual-use chemical exports to Syria.

Edward Bell: For licences that were no longer extant, and when sanctions prohibited the further granting of licences, but the vast majority of extant licences for Russia are not for items covered by sanctions. The information you are looking for does not concern items that are subject to sanction, so the circumstances are different.

Q109 Mike Crockart: So you would not draw any great difference between the end users and the companies doing the exporting?

Edward Bell: There is a difference, clearly, but—

Q110 Mike Crockart: Surely you should be able to give one and not the other.

Chris Chew: In either example, it could reveal commercially sensitive information, because there is already information about what the licences cover, which we have published. If you then match that with information about the end user, that could reveal sensitive information about specific contracts, because you know who the customer is and you know details of the licence. It would be the companies' concern that it may then be possible to infer who the supplier is, or what the commercial terms of the contract are. We need to take account of the concerns of exporters that each little bit of information we release adds up to a bigger picture that could itself be sensitive.

Q111 Chair: Secretary of State, this raises a wider issue that I think is very important for the Committees and the Government. The distinction that needs to be made is between disclosing the country of destination of an approved arms export and disclosing, in addition, the end user within that country. The British Government rightly disclose the country of destination. With respect, I disagree with your official: as far as the Syrian dual-use chemicals are concerned, those were very near-time end users, including the end user of the dual-use chemicals that the Government agreed in January 2012, just before the EU embargo went on.

I also remind you that you disclosed to the Committees, in response to our questions, the end users of export licences for sniper rifles to Ukraine. You have clearly been willing to disclose the end users in certain circumstances. I put it to you that this is critically important information, in terms of transparency and accountability to Parliament. I believe that it overrides the commercial sensitivities to which you have referred. What is critically important to put into the public domain is whether the export within a particular country has been approved to go to, say, a private sector company or to a state security organisation. That is particularly relevant for a country of human rights concern. I therefore put it to you for serious consideration that the Government should move its policy on and, as a matter of course, should be disclosing both the end users within countries and the country of destination.

Vince Cable: Well, we will obviously reflect on your thought. The obvious point is that when we are talking about exports to Russia, for example, the distinction between a commercial and a state operation may be a little bit blurred.

Q112 Chair: It is very important when it comes to a country like Israel. I think you would agree.

Vince Cable: That may also be true of Israel. It would be attractive from a of view of principle to make a hard and fast distinction, but the point that Mr Chew made a few moments ago is that you can build up a picture, at the end of which you have effectively announced publicly who the British company is, with all the implications that that has. There is an element of information striptease going on here, and the question is: where do you stop?

Chair: We will move on to deal with the very important issue of exports of surveillance technologies.

Q113 Ann McKechin: Secretary of State, you will be aware that new EU regulations are due to come into effect later this month. Can you confirm to the Committees what the new regulations cover and what impact they will have on UK exports of this type of technology?

Vince Cable: I will ask the officials to give you more detail, but there have been a lot of discussions within the context of the Wassenaar treaty about how exactly we handle surveillance. As you implied in your question, this is increasingly becoming an object of concern.

Edward Bell: I might ask my colleague Mr Chew, because he has been directly involved with the Wassenaar discussions.

Chris Chew: Specifically on the topic of surveillance, three new controls are relevant. One is on mobile phone intercept equipment. The second is on what is known as remote intrusion software, which is software that an attacker uses to gain access to someone's computer or mobile phone. The third is on a type of software which enables you to analyse telecommunications data and extract information about people, who they are communicating with and who is in their social networks. Those are the three specific controls which will be introduced.

Q114 Ann McKechin: Have you any idea of the scale of this technology, which is on the market and would be impacted by these regulations?

Chris Chew: Well, regarding the remote intrusion software, we know of one specific UK company, and there has been a great deal of media attention around the company Gamma and the FinFisher product. I think it would be fair to say that this new control is targeted very much at that type of product.

Q115 Ann McKechin: Will you have to amend UK legislation as a result of the EU directive?

Chris Chew: It will apply directly in the UK, so we do not have to do anything else.

Q116 Ann McKechin: So you will not require any additional processes. Will the UK be advocating the inclusion of further categories of surveillance technologies into the Wassenaar agreement? These are clearly very fast-changing technological developments and, understandably, legislators are finding it difficult to keep up to speed. I wonder whether you have any concerns about any other type of equipment.

Chris Chew: This year we have been discussing within Wassenaar some possible new controls on what are referred to as forensic tools, which is where a law enforcement agency captures the data that are on your computer device. The Wassenaar arrangement is actually meeting tomorrow and Wednesday to either approve or not approve those controls, so I cannot tell you now what the outcome will be. We keep the situation under review. As you say, it is a very fast-moving and very complex area, so we keep an open mind on that.

Q117 Ann McKechin: Can I take it that the UK Government will be supporting the inclusion of these additional items tomorrow?

Chris Chew: Yes.

Q118 Ann McKechin: Secretary of State, you will be aware that Germany took unilateral action to tighten up its own regulations earlier this year. Does the UK have any plans to do likewise in the event, for example, that there was not agreement at the Wassenaar negotiations?

Vince Cable: Well, we do not have any plans at the moment.

Chris Chew: There are no plans at the moment.

Vince Cable: We will obviously look at the German model. If it sets a good example in this field, we would not want to be too far behind.

Chair: We come now to the Export Control Organisation's computer system.

Q119 Mike Crockart: The Committees visited the Department, had a tour and were shown the SPIRE system. We had a glowing show of how good it was and how well it was functioning. Unfortunately, about a week later we met the Export Group for Aerospace and Defence and they painted a rather different picture of what their experience had been over the previous few months. How did we get into the situation where there were such major problems with the SPIRE system?

Vince Cable: Well, I think there were several different issues. One is that there was a problem with the subcontractor or contractor which we used to install new software earlier in the year. That affected BIS, DECC and UKTI, and it affected the export control operation. There was some disruption, but as I understand it this did not affect in any radical way the ability of the organisation to meet its basic targets. I think that 99% are met within 60 working days, and we expect that target to be met and the performance standards to be improved overall. I think there is a separate point, which I know your Committees made, about the degree of staffing and therefore the ability to provide wider services to the exporting community. There are legitimate issues to be raised there, but there was a specific computer IT issue which caused quite serious disruption, which I think has now been remedied and caught up. Is that not correct?

Edward Bell: Yes, the SPIRE system was not the issue. The Department, along with several other Departments, cut over to a new departmental computer system, and the export licensing staff accessed the SPIRE system through that portal. That is what was causing the problems.

Q120 Mike Crockart: This isn't something that could have been foreseen or tested before it happened.

Edward Bell: The degree of impact was certainly not expected. What I would say about the specific export control response is that we did move very quickly to put contingency measures in place. We communicated with exporters. We alerted them to the problem. We gave them access to a helpline so that they could tell us if they might lose exports because of delays to licensing. I am pleased to say that as a consequence, during the high summer months when we experienced problems, the problems were really ironed out by September-time. I have certainly had no reports of exporters losing business as a consequence of delays to licensing. We made a good recovery and now certainly the year-to-date figures show that we are on target. I am pleased to report that we did come back very well.

Q121 Mike Crockart: If we move on to particular things that were within the control of SPIRE, which is your Department's responsibility, the particular point which EGAD talked about was the withdrawal of the control classification service. They have reported that that one single thing has had a big impact on the industry users. That seems to me a fundamental flaw in the design of the new system, whereby the requirements of your end users were not taken into account and a piece of functionality that they used was removed without their knowledge. How did we get into that situation?

Edward Bell: Well, I took the decision and certainly informed Ministers that, as part of our response to the problems that we experienced with IT in the summer, we should suspend one of our advisory services in order to divert resources to protecting the core licensing service. Now that we have come through that period, I have reviewed the resources available and I remain concerned that we do not have sufficient resources to provide the kind of service that exporters are looking for. In fact, that service has changed over several years and the number of users of it has declined considerably over the last three or four years—it has gone from over 1,000 to more like 300 in the last year—but we have committed to work with industry, in the context of budget plans for 2015-16, to see whether a service could be established.

Q122 Mike Crockart: It sounds like you are saying to me that there are no real plans to replace that.

Edward Bell: No, we want to replace it but within the current resource that we have available, it is just not practical.

Mike Crockart: I'll let you off.

Chair: We now move on in the remaining minutes to the Export Control Organisation's performance.

Q123 Fabian Hamilton: Secretary of State, just further on what Mike Crockart said about EGAD. The other evidence that we received from them told us that a "very high proportion" of export licences applications were being returned with requests for corrections or further information, but that the requests for further information were generally "trivial" or that the information had already been supplied. This had "caused instances where shipments have

been delayed, impacting on customer confidence and their perceptions of the UK as a reliable supplier.” I wonder what the ECO is doing to reduce the number of applications being returned.

Vince Cable: Well, I do come across some of these examples because MPs write to me about them, but the question is whether they are proportionately very large in relation to the thousands of licences that are issued. Obviously, the response should be common-sensical rather than bureaucratic, and I am sure that is how our guys behave, isn’t it?

Edward Bell: Yes. The two main reasons why we would go back to an exporter during the licensing application process for further information are, first, because there are insufficient end-user details—in other words, the exporter has not told us clearly about the end user for their products—and secondly, if they have provided insufficient technical information for a proper assessment to be made. This is an historic issue. I think from my conversations with EGAD—I go to their conferences and speak with them frequently—some of the things that they were saying to you were based on very old anecdotes. Certainly in the last year we have focused on how we can reduce the number of requests for further information. A lot of our training effort is put in to these very points of technical information and how to make better licence applications. We focus clearly on how we can reduce the numbers but I do remain concerned that EGAD are basing some of the statements they have made on some quite historical anecdotes. I don’t believe that represents the position today.

Q124 Fabian Hamilton: So, Mr Bell, you would say that you are no longer requesting information that has already been supplied, for example. That is not the case anymore.

Edward Bell: No, no. We certainly should not. If we are, we should do something about it and we will.

Q125 Fabian Hamilton: One thing that EGAD told us, and I am sure they have told you when you have met at conferences, is that many problems encountered with the ECO are because staff need “the requisite knowledge and experience of what can be quite a complex set of systems to operate and a complex industry to understand” and that ECO staff lack that knowledge. Are you saying that is out-of-date information, that you no longer have that problem and your staff are now adequately trained?

Edward Bell: I believe so, yes. I think there is more we can do to ensure that staff are properly trained, and I am sure there are staff who require more training input than others. I believe that the situation described by EGAD is an historical one. We have worked with EGAD closely in the last year to move on from that. I am not saying it is a perfect position but I think we have moved on from the one that EGAD described.

Chair: We want to move now to the EU torture regulation.

Q126 Dr Lewis: In 2006, the EU introduced the world’s first multilateral trade controls to prohibit the international trade in equipment that has no practical use other than for the purposes of capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. We recently took oral evidence from Amnesty International who are concerned that there remain some loopholes in this system. They feel that, as the EU is currently reviewing that system, the Government ought to take the opportunity to try to close the

loopholes. In particular, they talk about “torture end-use control”, which I take to mean knowing exactly what the equipment concerned will be used for.

Apparently, when we take these decisions at the moment, if something is not included in an annex specifically related to this document, it could slip through the system, whereas it might be caught if the applications relating to such equipment were forced to say exactly what it is going to be used for. According to Amnesty International, the Government have stepped back from a commitment to try to close that loophole by requesting this description of what the equipment will be used for. They feel, and we are inclined to agree with them, that now is a good time to try to close the loophole. Can you tell us exactly what recommendations the UK is making to tighten up the regulations in light of the representations made?

Vince Cable: I am familiar in broad terms with the regulations and how they can and cannot be applied, because I utilised them, if you remember, to stop the export of chemicals to the United States in respect of executions. That had a significant impact on the debate on capital punishment in the United States. So we are aware of the potential for working with those regulations. I was not aware of the loopholes that you describe, but you raise a legitimate issue that we have to investigate. I do not know if the officials can amplify that. Certainly, if there are holes that are unplugged we need to see how we could plug them.

Chris Chew: Discussions are continuing in Brussels about possible reform of the so-called torture regulation. There is no proposal on the table for an end-use control but we continue to discuss with the other member states and the European Commission what this amended regulation should look like. We are engaging constructively but there is no specific proposal on the table at the moment.

Vince Cable: And I think we would want to lead the debate and be positive on the issues that Dr Lewis is concerned about.

Edward Bell: Yes. On the whole we have favoured list-based controls as a better approach to controlling goods, but we are not closed to the idea of end-use controls, in principle, at all. I referred in my previous answer to the importance of having good end-use information, and that applies to any export licence application that we process. We need to know what the exports are going to be used for.

Dr Lewis: We will take that as a positive sign that you might at least raise the matter as these negotiations continue. Thank you.

Q127 Chair: I think the key issue that Julian Lewis has raised is, what are the specific proposals that the British Government are inputting into this review? That is of material interest to the Committees. I hope we can receive information in response to that question, Secretary of State, before our 15 December deadline, which relates to the timetable we set for getting our next report before the House.

Vince Cable: We will do our best.

Chair: Secretary of State, we are grateful to you and to Mr Chew and Mr Bell. Thank you very much for your evidence. If you could respond by 15 December with the additional written information that we requested, that would be very helpful to us. Thank you.

Examination of Witnesses

Witnesses: **Rt Hon Philip Hammond**, Secretary of State for Foreign and Commonwealth Affairs, **Jessica Hand**, Head, Arms Export Policy Department, and **Peter Jones**, Director, Defence and International Security, Foreign and Commonwealth Office, gave evidence.

Q128 Chair: Secretary of State, I welcome you and your officials, Mr Peter Jones and Ms Jessica Hand. Thank you for joining us today.

Foreign Secretary, we want to start with one of the key issues in the export policies that are being followed to countries of particular concern. I want to start with Russia. I wrote, as you know, to the Prime Minister on 23 July, and you replied with your letter to me of 19 August. In my letter to the Prime Minister, I specifically highlighted that there were no less than 285 extant British Government approved arms export licences to Russia. In addition, your parliamentary Under-Secretary of State, Tobias Ellwood, in his letter to me of 13 November this year, revealed the scale of the open licences to Russia, as opposed to standard individual licences. He said: “In addition to this, Russia was removed”—that is following recent policy decisions—“as a permitted destination from 50 open-ended export licences and one open individual trade control licence, and was also removed as a permitted destination from the cryptography open-ended export licence, which affected 55 licences.” Foreign Secretary, given the well-established and deeply regrettable Russian track record of expanding its influence territorially, which we have seen in Moldova, Georgia and now Ukraine, plus the fact that Russia is one of the countries of top human rights concern—as designated by your own Department—it would seem that the Government’s arms export policy towards Russia has been extraordinarily lenient and, some might say, reckless. How do you respond to that?

Mr Hammond: I would respond by saying that our response to Russia’s aggression in Ukraine and the illegal annexation of Crimea has been pursued essentially through our EU engagement: trade sanctions and other measures, including restrictions on arms exports through the EU. The history is that, in March 2014, the UK introduced a series of national measures, including the suspension of extant licences and of consideration of new licences for goods for Russian military and military end users that could be used against Ukraine. The figures that you quoted from Mr Ellwood relate, I think, to that exercise.

Once the EU imposed sanctions in July—an exercise in which we would claim no little part; we have been the protagonists throughout in seeking comprehensive EU sanctions against Russia—we then swung in behind those comprehensive sanction measures to make sure that our response aligned with our European partners. It is very clear to us that we deliver maximum effect against Russia by having solidarity across Europe in responding. Licences that are then covered by the EU measures have now been revoked. For those that were not covered by the EU measures, the suspension has been relaxed, so that we have symmetry across the European Union countries in their response.

Q129 Chair: But given the scale to which I referred of British Government-approved arms export licences to Russia, is not this yet another example of shutting the stable door after the arms have bolted?

Mr Hammond: No. Clearly, it is very easy to talk about arms licences to Russia, but, as you and members of the Committees will know very well, many of these licences are for

components and dual-use items. It is not as if we are by and large exporting completed military systems to a country like Russia. It is important overall, in dealing with our response to Russia, that we calibrate that response. We needed to signal very clear disapproval of Russian behaviour. We needed to signal that Russia will pay a price for that unacceptable behaviour. We also needed to signal that if Russia starts to move into compliance, we will be able to recalibrate our response appropriately and that we have further steps we could take if Russia were to take further unacceptable measures and steps of aggression. That is very important. We have to be very careful that we do not play all the cards in our hand and leave ourselves in a position where further Russian escalation cannot be responded to within the scope of economic and trade sanctions of the type that we have already set out.

Q130 Chair: I hope, Foreign Secretary, that you would reflect further on the distinction you have made between a component of a lethal weapon and a complete lethal weapon. I would suggest that a critical component is every bit as much an arms export as a completed item.

Mr Hammond: Of course that is right, Chairman, but you will recognise that many such components will be dual use. It is often the case that components that are widely used in, for example, cellular telephone systems have military applications and may be subject to licensing because of those military applications. A significant volume of components exported will probably be used in civilian telecommunications, but because there is an application in military use, they will be controlled items none the less.

Q131 Mike Gapes: Secretary of State, can I take you to the actual words of your predecessor in a statement on 18 March? He said that this would apply to weaponry for “armed forces or other state agencies which could be or are being deployed against Ukraine.” Isn’t it a fact that virtually every weapon or component of a weapons system that we export to Russia, given the nature of the Russian state, could be used against Ukraine? Why was the revocation position so limited?

Mr Hammond: “Is likely to be” is probably—

Q132 Mike Gapes: I am quoting the exact words.

Mr Hammond: I am telling you the way I would look at it. It is a question of whether it is likely to be. We know what the Russians are doing in Ukraine, and we know how they are providing support to the separatists and the type of support that they are providing, the types of weapons systems involved and the types of Russian forces that have been involved in this conflict, and we can make a judgment on that basis. Again, the important thing to emphasise is that this is not now unilateral British action; this is action that we are taking together with our European Union partners in order to make it more effective. Sometimes, when we do things at 28 that have to be agreed at 28, there is an element of compromise in order to get agreement at 28.

Q133 Mike Gapes: Since March, and since the Russian aggression over the summer, there has been an increase in incursions of Russian aircraft or naval vessels into the territorial waters and airspace of our partners in NATO, of our own country and of European Union partners who are not in NATO such as Sweden. Given that increased Russian aggression in Ukraine and that other Russian behaviour, shouldn’t we be reviewing the whole policy with regards to arms exports to Russia? Over recent months, there has clearly been a significant

change in the attitude of Putin and his Administration not only to the European Union but to NATO.

Mr Hammond: I understand the thrust of the question, but I imagine the Committees will jealously guard the principle that we should use the consolidated criteria when deciding how we should respond to arms export licensing questions. The extremely aggressive probing of our airspace by Russian aircraft is an issue that concerns us, but it does not, in my interpretation, engage any of the consolidated criteria, and therefore it would not be an appropriate use of the arms export licensing regime to respond to a behaviour that we didn't like but that didn't engage the consolidated criteria.

Q134 Mike Gapes: But, Secretary of State, virtually every country in the European Union is also in NATO. Isn't the reality that we are facing a consolidated Russian offensive against Europe and its interests, the NATO European partners and the European Union countries? Isn't it time that we had joined-up government internationally in terms of our collective response to that?

Mr Hammond: It is true that many of the European Union countries are in NATO, although of course Sweden—a country that has recently had a particular problem with unidentified foreign naval vessels in its waters—is not a NATO member. Of course it is entirely appropriate for NATO countries in particular to work together to respond to what is a change in the tone of Russia's dealings with NATO and, indeed, the non-NATO European countries. You are absolutely right that there is a distinct sense of a resetting of the relationship, and we have to be prepared to respond to that. My point is simply that the application of the consolidated criteria to applications by British businesses for licences to export their products is an established mechanism. Applying it consistently is important, because failure to apply it consistently would almost certainly lead to judicial challenge by companies that feel they have been disadvantaged.

Q135 Mike Gapes: May I take you a step further? Last week, France announced that it is suspending until further notice the delivery of the two Mistral helicopter carriers that had been agreed with Russia. President Hollande said at the G20 summit, "I will take my decision without any pressure, wherever it may come from, and based on two criteria—the interests of France and the appreciation I have of the situation." Shouldn't there have been a third criterion in President Hollande's remarks, which is precisely what you just said about the European Union's consolidated criteria and the European Union regulation? Shouldn't that also apply to France, as well as to the UK, given what you just said?

Mr Hammond: The complication in relation to the Mistral contract is that it is a historic contract—a contract already entered into. The European Union sanctions explicitly do not include contracts already extant. They are forward-looking, in terms of new engagements and commitments to supply to Russia.

Q136 Mike Gapes: So in future, the UK, France and every other country should adopt a policy on exports revocation and suspensions entirely based on the European Union criteria?

Mr Hammond: In the case of the UK, the European Union guidance is incorporated into our own consolidated criteria. The current set of European Union sanctions against Russia are a specific Foreign Affairs Council-mandated set of sanctions, which include

restrictions on arms exports that were put in place specifically in response to Russian aggression in Ukraine, and therefore they sit outside the routine evaluation of export licence applications against the criteria. So there is an overriding body of EU law that now applies.

Q137 Mike Gapes: But UK policy will be to consider the criteria and the EU's common position before we make any decision.

Mr Hammond: The UK's position now is that, first, we will apply the EU sanctions. If an application for licensing is not caught by the EU sanctions, we will then apply the consolidated criteria and make a decision on a case-by-case basis according to the consolidated criteria.

Q138 Dr Lewis: Very briefly, I want to be absolutely clear about the last point that Mr Gapes pursued. Am I right in saying that your position is that, as part of the specific sanctions we apply against Russia because of its behaviour in Ukraine, we might include extra restrictions on arms exports, but we would be doing that under the separate issue of Russian aggression, not under the mantle of our specific criteria for dealing with arms exports?

Mr Hammond: That's right. We would apply the European sanctions first, and for anything that gets over that threshold, we would look at our own consolidated criteria.

Q139 Dr Lewis: So just because the consolidated criteria are not applied, that does not mean that we will not stop the particular arms export if it falls under the sanctions.

Mr Hammond: If it falls under the sanctions, it will be stopped. The sanctions effectively have the status of European law.

Q140 Chair: Foreign Secretary, can we now turn to Hong Kong? The Business Secretary, Vince Cable, in his letter to me of 28 October, said, "The Foreign Secretary has advised me that the use of tear gas by the Hong Kong Police was an uncharacteristic response at an early stage of the protests, the scale of which caught the police by surprise, and was not indicative of a wider pattern of behaviour that would cross the threshold of Criterion 2. It is his view that, since that incident, the Hong Kong Police have generally approached the protests carefully and proportionately. I have accepted this advice." Foreign Secretary, what were your grounds for believing that the use of tear gas by the Hong Kong police against purely peaceful demonstrators was a one-off aberration?

Mr Hammond: First, if I may refer back to the session that you have just had with Dr Cable, which I was watching, I think that Mr Gapes suggested that tear gas has been used again in the past few days. Our assessment and understanding is that a different material—pepper spray—has been used over the past few days. We are aware of only one incident in which CS gas has been used, which is 28 September. We believe that that was a single use of CS gas. Since then, statements by the Hong Kong police and the Hong Kong Special Administrative Region Government about how they intend to manage these processes have reassured us that we do not expect to see inappropriate use of CS gas by the Hong Kong police.

However, I should say, Chairman, that CS gas is supplied as a public order policing tool. When we grant a licence for the supply of CS gas to a police force, we should expect

that it may be deployed, in appropriate circumstances, in a public order policing situation. It is not the case that any use of CS gas would automatically lead to circumstances in which it would be appropriate to revoke or suspend a licence. It would be disingenuous of us to supply a product, the sole use of which is as a public order policing control tool, and then say that any use of it would be inappropriate. We would have to look at the circumstances of use to ensure that it was proportionate and appropriate.

I have seen words used in the media and elsewhere that I do not think are appropriate, so I would draw a distinction between public order policing and internal repression. Public order policing is a legitimate activity. If it is carried out properly, with proper restraint and proportionality, it is something that we would expect Governments to do. Internal repression is clearly a different issue. If any materials that were supplied for the purpose of public order policing were diverted to be used in internal repression, that would clearly give rise to the need to review the licence under which they had been exported.

Q141 Chair: Would you agree, Foreign Secretary, that the critical issue is whether the demonstrators are demonstrating purely peacefully or engaging in activities that could cause harm to members of the police forces or others? If you accept that that is the critical issue, is the Government's policy that British-exported tear gas should not be used against those who are exercising their right to demonstrate purely peacefully?

Mr Hammond: Our position on the demonstrations in Hong Kong is that it is very important that we preserve and protect the right of peaceful demonstration in Hong Kong. That is one of the characteristics of life in Hong Kong that is protected under the joint declaration to which we and the Government of the People's Republic of China were signatories. We would certainly not condone the use of CS gas, British-supplied or otherwise, in inappropriate circumstances. It would depend entirely on the circumstances.

As I have said, our understanding is that the use of CS gas on 28 September was an isolated incident. We have seen nothing to suggest that the Hong Kong police are going to make use of CS gas on a routine basis to deal with the current wave of demonstrations. If we were to see anything of that nature, we would obviously have to look very carefully at the circumstances of such use. At the moment, the question does not arise because we have seen nothing to indicate systematic use.

Q142 Mike Gapes: Secretary of State, are you saying that you are absolutely sure that tear gas has not been used? There were reports on Al Jazeera four hours ago and UPI—I am looking at the websites now—suggesting that pepper spray and tear gas have been used.

Mr Hammond: You may be ahead of me. I cannot claim to be studying this in real time.

Q143 Mike Gapes: The reports may not be true and the journalist may have written something inaccurate, but it is clear that the situation in Hong Kong is getting very tense. The Business Secretary referred to the possibility of a need to review urgently the position regarding the circumstances. Can you assure us that, if tear gas has been used, there will be a change of Government policy, because it will then become a systematic use rather than a one-off?

Mr Hammond: It would be inappropriate for me to give you that assurance in this forum. What I can assure you is that, if there is evidence that UK-sourced CS gas has been used, we will of course review again the extant licences. That would be entirely appropriate.

Chair: We now want to turn to Bahrain.

Q144 Ann Clwyd: Foreign Secretary, after 2011 the King set up a commission of inquiry. That commission made a number of recommendations, some of which have been followed but in the eyes of others, the most important ones have been ignored. We have heard frequently from Sir Nigel Rodley, who was on the commission of inquiry, about his disappointment at the slowness of reforms. Security forces have continued to arrest demonstrators arbitrarily on the streets. Some people have been given long prison sentences. Certainly, high-profile critics of the Government remain in jail on charges that relate solely to exercising their right of freedom of expression and assembly. Of course, the judicial system, headed by the royal family, has yet to hold to account any senior officials responsible for some of the events of 2011, particularly important violations such as torture-related deaths in detention.

Elections have just taken place, which were boycotted by the opposition, who dismissed the elections as a farce. Given Bahrain's continuing poor human rights record, why does it remain a priority arms export market for the UK?

Mr Hammond: I think those are two different questions. With respect, you would have to address the question about why it remains a priority arms export market to the DSO and perhaps the Business Secretary. That will relate, first, to opportunity. The Bahrainis have certain requirements for items such as sophisticated fighter jets—not something that we would judge likely to be used in internal repression. They are also an important partner is pursuing agendas that are strategically important to the UK, both against ISIL recently and longer term, ensuring freedom of navigation in the Gulf.

I recognise that Bahrain still has a distance to go in creating a proper and satisfactory human rights environment, but my judgment is that it is moving in the right direction. Steps that were taken after 2011 were positive, in contrast to what we have seen in many other countries where similar events have occurred and the response has been for the regime to turn its back on criticisms of its human rights record.

The regime in Bahrain has engaged; it set up the commission; it is responding and has implemented some of the measures recommended by the commission, not all of them. We are engaged with the Government of Bahrain in encouraging them to continue down that route, providing them where we can with technical support and assistance to implement recommendations. I see Bahrain as a country where we should be hopeful that, with continued engagement and encouragement from the UK, it is heading and will continue to head in the right direction. I am afraid I think that disengagement would be rather more likely to lead to the triumph of those elements that do not wish to see Bahrain addressing these challenges and engaging with its international critics in a constructive way.

Q145 Ann Clwyd: You gave your view earlier that certain arms exports to Hong Kong have not been used. In the same way, can we be assured that arms exports to Bahrain are not being used against protestors? If you are sure, exactly how are they being monitored?

Mr Hammond: In the immediate aftermath of the events of 2011, we did review all licences, and we revoked a number of licences that we felt were not being used in accordance with the consolidated criteria. Twenty-three single licences and seven open licences to Bahrain were revoked at that time.

I was asked why Bahrain was a priority export market for the Defence Sales Organisation. I think I am right in saying—this is from my knowledge in my former role as Defence Secretary—that that relates to Bahrain's interest in acquiring a new fleet of high-sophistication fighter jets. We would obviously have to look at any proposal to export fighter jets to Bahrain in the context in which such an application was made, but my initial judgment would be that this is equipment highly unlikely to be used in internal repression—it is not equipment of a type that would be appropriate to be used in internal repression.

Q146 Ann Clwyd: I also sit on a committee in the Inter-Parliamentary Union that looks at the human rights of parliamentarians, and Bahrain frequently comes up before our committee—in fact, we are doing something on this in about two months' time. That is because a number of former Members of Parliament have had their nationality revoked. I think we are being too complacent towards Bahrain. As I said at the beginning, they have made progress, but not against high-level officials who are closely linked with the royal family and who were charged with the kind of behaviour that has been described and that is possibly linked to torture and other accusations. Lower-level officials have been charged, but not the higher ones, who presumably give the orders.

Mr Hammond: Bahrain remains a case study on the Foreign and Commonwealth Office's annual human rights report and is reviewed bi-annually. There is an element of judgment involved in these calls, and I am simply expressing my judgment that, in a world in which there are very many regimes which are not compliant with what we would consider to be a full human rights regime, where countries are making an effort to move themselves to towards compliance, it is appropriate that we should support them and encourage that move. There are many, many countries which are making no discernable effort to move towards compliance with what is generally accepted as a universal set of human rights, and I think we should reserve our more aggressive response for those countries, while seeking to encourage those that are willing to move in the right direction to go further and faster. That is exactly what we are doing. I shall be in Bahrain this coming weekend for the Manama dialogue, and I shall, again, encourage everyone that I have the chance to talk to to continue down this road and remind them that the world is watching and that their status and reputation in the world depends on how quickly they are able to progress in implementing this agenda.

Chair: Foreign Secretary, we want now to move a little further down the Gulf to Qatar.

Q147 Dr Lewis: It is one thing to concentrate on whether weapons are being used for internal repression, but it is another to focus on whether they are being given to a country that is arming our deadliest enemies. In the case of Qatar, one is put in mind of Lenin's famous dictum that the capitalists will sell us the rope with which we shall hang them.

In September, the *Telegraph* did an in-depth report. Referring to Qatar, it stated: “The fabulously wealthy Gulf state, which owns an array of London landmarks and claims to be one of our best friends in the Middle East, is a prime sponsor of violent Islamists”. It went on to detail not only the payments, believed to run at over \$2 million a month to al-Qaeda in Iraq from individuals within Qatar, but it referred to Qatari arms flights, which are landing in the city of Misrata where the Islamist militias have their stronghold, and this is long after the fall of the capital and the removal of Libya’s Government. So how can we be in a position to justify continuing to export arms to Qatar while it is directly arming Islamist militias and/or turning a blind eye to wealthy individuals who are funding ISIL?

Mr Hammond: Let us first deal with the funding question. We are of course aware of reports that individual citizens from the region—not just Qatar, but from the region—may be providing or may have provided support to not only ISIL, but other militant organisations as well. We have determined that there is no evidence to suggest that the Government of Qatar, or any of the Governments that we engage with in the Gulf, is involved in this regime. We welcome the fact that Qatar has recently legislated to prevent terrorist funding by regulating charities that are involved in political movements or that send money abroad, and we are working with the Qataris to encourage the swift implementation of this legislation.

The Emir of Qatar was in London relatively recently. As we always do, we raised these issues and concerns with him, and he engaged very openly and frankly with us about the challenges of policing money flows. We know about those, because of course we have had to deal with them as well. But that confirmed his absolute determination to comply with the UN Security Council resolution that we were instrumental in bringing about, which seeks to cut off not only the flow of foreign fighters, but the flow of finance to ISIL in Iraq and Syria.

On the question of supply of weapons to Qatar—

Dr Lewis: To Libya.

Mr Hammond: It was concerning the supply of weapons to Qatar. Our sales of defence exports to Qatar are relatively modest, as you will know, but of course, any application for a licence for export of arms to Qatar will be assessed against the consolidated criteria. That will involve a look at the intended end-use destination of those weapons, if there is any evidence of re-export.

Q148 Dr Lewis: But as we know—this was why I briefly referred to Libya again—flights are taking arms from Qatar to Libya. Are you really confident that we can have any assurance that arms that go from this country to Qatar will not end up strengthening the hands of Libyan Islamists, who are not acting in any way in democratic interests in post-Gaddafi Libya?

Mr Hammond: That is a very generic question. Obviously, the assessment on an individual export depends on what the item is and what the type of equipment or componentry is. I have seen no evidence to suggest that any equipment exported from the UK has been re-exported. This would be in contravention of the export licence if the end-user destination was Qatar and it has been re-exported to Libya. If we were to become aware of any such breach of the terms of a licence, clearly, we would have to respond to that.

Q149 Dr Lewis: Are you satisfied, then, that these reported Qatari arms flights to Libya are being done without the knowledge and approval of the Qatari Government?

Mr Hammond: No, sorry; that's not what I was saying. I was saying that, in the case of any such flights, we have no evidence to suggest that any British-supplied equipment—the subject of an export licence with Qatar as the main destination—was involved in any such shipments.

Q150 Dr Lewis: Yes, but surely the point is that if the Qatari Government is providing arms to our Islamist enemies, that should have a bearing, should it not, on whether we permit arms exports to continue to that country?

Mr Hammond: Once again, I find myself being rather more purist than the Committees. My understanding is that the consolidated criteria are the test by which we must assess an application for an arms export licence. I think I can safely say that if we are confident that the UK supply in question is not going to be diverted, which would be in contravention of criterion 7, and is not going to be used in a way that is incompatible with or that triggers any of the other criteria, then, whether we like what that particular Government are doing elsewhere or with other equipment that it sources from other jurisdictions would not affect the way we apply the consolidated criteria. That is not to say that, in relation to any country, the UK Government could not decide to operate a more restrictive policy if they chose to do so for political reasons, but the application of the consolidated criteria to the arms export licensing regime is, I would suggest, quite straightforward and needs to be protected in the way it operates; otherwise, I think we will be subject to all sorts of legal challenge.

Chair: We now want to come to arms exports to Kurdish groups who are opposing ISIL.

Q151 Ann Clwyd: The Foreign Affairs Committee has recently been to Iraq and Kurdistan and saw some of those weapons which have been delivered to the Kurds. We saw them being trained in their use. The fear is that, after what happened in Mosul where the American-provided equipment was captured, something similar may happen to this equipment because of the involvement of Turkish and Syrian-based Kurdish groups now working in Iraq to try to defeat ISIL. What protection is there and what observation is being made to ensure that the same thing does not happen with the arms that are being gifted to the Kurds in Iraq?

Mr Hammond: First, I, too, went to Irbil and saw peshmerga training with the heavy machine guns that we had supplied. We have calibrated carefully the equipment that we have supplied to the peshmerga to respond to their operational needs, but with an awareness of the potential risk that inevitably exists. We have sought a series of assurances from the KRG that weapons will be used to meet urgent operational requirements, that they will remain in Iraq, that they will be used in fighting ISIL or for the defence of the civilian population only, that they will not be stockpiled for other purposes and that they will be used in accordance with international law including international humanitarian law. We have also satisfied ourselves that the peshmerga have a weapons management system in place that allows them to monitor compliance with those assurances, and that weapons are being used and stored securely. So a number of steps have been taken. It is also very important to note that all supplies of weapons to the Kurds have been at the request of the Government of Iraq. This delivery of weapons is

at the request of the sovereign Government responsible for the territory to which the weapons have been delivered.

Chair: Foreign Secretary, we take a close interest not only in commercial exports from the UK, but also in equipment gifted by the British Government. We want to come now to gifted equipment going to opposition groups in Syria.

Q152 Fabian Hamilton: Your predecessor William Hague made a statement on 10 July 2013 in which he said that the UK Government, having “already provided more than £12 million in non-lethal assistance to the National Coalition, local councils and civil society” in Syria, would provide a further £20 million “in non-lethal assistance in the coming months, including communications support and training for the National Coalition”. Is it still Government policy to ship only non-lethal equipment to opposition groups that are opposing either the Syrian regime or ISIL—otherwise known as the Islamic State—in Syria?

Mr Hammond: It is.

Q153 Fabian Hamilton: You don’t want to expand on that at all?

Mr Hammond: No. That is the Government’s position. We have made it clear on multiple occasions in Parliament that our decision is that we will not at the present time supply lethal equipment to the Syrian opposition. We supply a range of non-lethal equipment, and we supply them with technical support. We have done quite a lot of work with them on civil policing and on civil defence response in areas of the country which are controlled by the moderate opposition, but we do not supply them with lethal equipment.

Q154 Fabian Hamilton: Given the onslaught against them by ISIL, is it not time to change that view?

Mr Hammond: The Government’s judgment at the moment is that we do not wish to change that position. There are many others supplying lethal equipment to Syrian opposition fighters. Our judgment at the moment is that the complexities of monitoring and managing the supply of such equipment in such a complex situation on the ground make it something that we would find challenging. We do not feel that there is a necessity for this, given the substantial amounts of lethal equipment that are getting through to the Syrian opposition.

Chair: We come now to the Arms Trade Treaty.

Q155 Ann McKechin: Foreign Secretary, the Arms Trade Treaty comes into effect on 24 December, as you know. Could you describe briefly to the Committees what you think the impact will be on UK arms exports?

Mr Hammond: Because we have an export control regime that is already very transparent and very rigorous, the impact for the UK will be relatively limited. As you know, we changed the regime as we needed to through secondary legislation before we ratified the Arms Trade Treaty, in order to ensure that our arms export licensing regime is now fully compliant with the treaty. This treaty is not going to have a major behaviour-changing impact in the UK, because we already have a very rigorous regime. The purpose of promoting the treaty was to ensure similar levels of transparency and rigour in countries across the world.

Q156 Ann McKechin: May I just confirm that the secondary legislation to which your official pointed you is now in force?

Mr Philip Hammond: I imagine it must be, yes.

Q157 Ann McKechin: It is, thank you. May I also ask what action the UK Government are currently taking to encourage the permanent members of the UN Security Council which have not yet signed or ratified the Arms Trade Treaty to do so? Clearly, the more countries that join the treaty, the more effective it will actually be in practice.

Mr Hammond: We agree with that. We think that it would be a powerful signal if all the P5 states were to accede. You will know that France and the UK have ratified the treaty. The US has signed the treaty but not ratified it, and the truth is that internal domestic political issues with the gun lobby in the US are going to present great difficulties for the US in moving forward with ratification. Russia and China have neither signed nor ratified the treaty. We continue to press all three non-ratifying P5 members to move forward with this, because we believe that there is significant benefit in universality. A common P5 position will send a very strong signal to other states who have not yet signed. For those other states, where we can, we are seeking to offer technical support and assistance to move to a position to sign the treaty. And where people have signed, we are seeking to offer technical support and assistance to introduce compliant regimes to honour their obligations under the treaty.

Q158 Ann McKechin: As you know, the Committees very much welcome the approach that the Government has taken to date, but there have been calls for it now to start to consider excluding countries, and companies from countries, that have not yet ratified the treaty or other arms control treaties from attending or exhibiting at UK-based arms fairs, for it not to promote arms sales in those countries and for open licences not to be issued to those countries. In effect, that would be a step-by-step process to increase pressure over a period of time. Has the Government considered how we can try to increase pressure if its diplomacy through polite inquiries and requests does not prove to be effective?

Mr Hammond: The Government will pursue this agenda by pointing its partners—potential signatories—to the benefits of the Arms Trade Treaty and, in particular, to the benefit that the Arms Trade Treaty-compliant regimes can deliver in terms of slowing or halting the proliferation of weapons into the hands of terrorist groups and others who seek to disrupt international good order. But we do not judge that using the Arms Trade Treaty as a stick to beat non-signatory powers with in terms of our trading activity would be appropriate, certainly not at this stage.

Q159 Ann McKechin: Has there been any discussion at EU level about whether there should be a common EU approach to encourage other countries to join and ratify the treaty?

Jessica Hand: Yes, there has. It has come up repeatedly within the context of COARM, and European partners are working together to provide assistance and to reach out and encourage more and more countries to sign and ratify the treaty. That will continue, even beyond it entering into force.

Chair: Foreign Secretary, we want to come on to the meeting on the human consequences of the use of nuclear weapons.

Q160 Mike Gapes: As you know, Foreign Secretary, there is a major conference in Vienna next week on the humanitarian impact of nuclear weapons. One hundred and fifty countries will attend that conference and the United States recently announced that it would attend. So far, our Government has not committed to attend. I asked your predecessor last week in the business statement whether we were about to make any announcement, and he said that I would have to wait until this week. I ask you today: can we change our previous position and join the United States in attending this conference in Vienna?

Mr Hammond: It is clearly possible.

Q161 Mike Gapes: Is it likely?

Mr Hammond: This week has another four days left to run, but I can reconfirm that we will announce our decision during the course of this week. We are discussing it with our international partners. You have already said that the United States has broken with its previous practice in deciding to attend. France, another P5 power with whom we are closely aligned, has decided that it will not attend. Therefore, unfortunately, there will not be a united P5 position. So we now have to make a decision whether to attend or not, knowing that there will be a split position in the P5. We will make that position clear. I am going to Brussels tomorrow and I will be meeting with both the Americans and the French, and we will make our position clear imminently.

Q162 Mike Gapes: Are you going before Foreign Office questions or after?

Mr Hammond: I am going immediately after Foreign Office questions.

Q163 Mike Gapes: So we will not get an answer at Foreign Office questions either.

Mr Hammond: It doesn't sound likely, does it? You never know. It is worth a try.

Q164 Mike Gapes: Yes. Maybe it will be the business statement on Thursday.

Mr Hammond: It will be you or Mr Robertson, no doubt.

Chair: Foreign Secretary, I want to come to your dimension on an issue that we raised with the Business Secretary on surveillance technologies.

Q165 Mike Crockart: Obviously, the growing area at the moment is the UK licensing of surveillance technologies to countries of human rights concern. It is an area that I know the Department is live to. In the report "Good Business: Implementing the UN Guiding Principles on Business and Human Rights", which came out last year, you said that you intended to "develop guidance to address the risks posed by exports of information and communications technology that are not subject to export control but which might have impacts on human rights including freedom of expression on line." Can you update the Committees on how that is going?

Mr Hammond: Yes, I am happy to do so. On 26 November, techUK, which is a technology trade association, published new guidance for companies entitled “Assessing Cyber Security Export Risks”. It covers cyber-security and cyber-surveillance products. It focuses on human rights issues and is designed to help companies improve their due diligence processes in line with the UK’s business and human rights action plan. The guidance is owned by techUK on behalf of the UK technology industry, and it was produced with the assistance of HMG—the Foreign Office—as well as companies, industrial players and the Institute for Human Rights and Business, an NGO which acted as a bridge to consult other NGOs, including Human Rights Watch and Privacy International, in developing this guidance. That is now published and is there for the use of companies operating in the sector.

Q166 Mike Crockart: To my embarrassment, I have not read that yet.

Mr Hammond: I am glad to be able to convey a piece of information.

Q167 Mike Crockart: It will be my reading for later on today. What implications does that have for Government? Those are recommendations for business as to how they conduct their business, but there is equally a licensing implication here in that the UK Government should have a view on whether particular technologies should be able to be exported to particular countries of concern. What is the next step for the UK Government?

Mr Hammond: The Government do, indeed, have such a view, and it is enshrined in the consolidated criteria. The question in relation to any surveillance technology being exported to any particular country is: does it engage any of the consolidated criteria? Where it does, we will deal with it in exactly the same way as if it was an application to export fighter jets, machine guns or land mines.

Q168 Mike Crockart: Are you happy that that is a significant enough test, given the particular difficulties with this technology? Of course, the argument is often made that this technology is merely used to back up the legal regime in the country. But in some of the countries that we are talking about, the legal regime itself is open to question as to whether it is significantly free of Government. With that in mind, do you think that—

Mr Hammond: You might be raising a question that is a bigger one for the future about whether the criteria need to be reviewed from time to time as technologies evolve. That may be something that the Committees want to think about and express a view on, but our position is that we will apply the consolidated criteria as they exist to these proposed transfers. What you are perhaps highlighting is something that is self-evidently true—that it is much more challenging to apply the export control regime to dual-use goods than to pure military exports, where the end use is always fairly clear. In this case, there may be end uses that are entirely beneficial and other end uses that would be much less acceptable. A judgment has to be made about how the technologies in question are likely to be used in practice.

Chair: Foreign Secretary, lastly a question about export policy towards Israel, which the Business Secretary generously passed across to you.

Q169 Richard Benyon: Following public concern about events in Gaza, the Government announced the possibility of suspending and revoking arms exports licences to Israel and, “in the event of a resumption of significant hostilities”. It has been put to the Committees that the words “significant hostilities” appear in no user guides or any existing transfer control criteria. I put it to Dr Cable that this is a possible shift in policy and he said, “Not me, guv.” He said that the Foreign Secretary makes the decisions and his Department just implements the policy.

Mr Hammond: The Foreign Secretary provides advice to the Business Secretary, who makes the decision—[*Laughter.*] That is the legal position.

Peter Jones: That is absolutely correct.

Mr Hammond: The Foreign Secretary and the Defence Secretary provide advice. Export licensing decisions are made by the Business Secretary; he is the Secretary of State as provided for in the legislation. However, I am not seeking to hide behind that. I provide advice, and I will tell you how we arrived at the expression of that advice. The question of this came in the aftermath of Operation Protective Edge in Gaza, when we reviewed the extant licences and identified 12 licences that relate to technology or items that we believe might give rise, in the circumstances of renewed conflict, to a concern about their use in contravention of criterion 2c—the international humanitarian law criterion. Unless and until there is a resumption of significant hostility, we do not judge that the items delivered under those 12 licences give rise to that concern. If there was a context of a significant hostility, we judge that the precautionary principle would apply and the licences should be suspended.

Q170 Richard Benyon: I am sorry to be a pedant, but the phrase “significant hostility” potentially then shifts in terms of how policy is decided in these areas.

Mr Hammond: No. The issue is, where licences are extant and there is only turbulence in the situation and changing facts on the ground, we would expect to regularly review whether any of the consolidated criteria were engaged. In this case, we were under pressure to set out our views about these 12 licences. We have, gratuitously—there is no obligation on us to do this—expressed in advance what we think the situation would be. We have identified 12 licences and said that if a set of circumstances on the ground were to arise—that is, there were to be a resumption of significant hostility—the advice that I would expect to give to the Business Secretary in those circumstances is that it would be appropriate to suspend those 12 licences. We have provided a forewarning of the advice that would likely be delivered in those circumstances.

Q171 Fabian Hamilton: A very simple question: can you reassure the Committees, Foreign Secretary, that that there is not one rule for Israel, which is often in the headlines about its conflicts, and another rule for everybody else? Will what you apply to them apply to everybody else?

Mr Hammond: Yes, we use the same consolidated criteria, and in this case we have a slightly unusual situation because there has been period of intensive conflict, which has ended. That conflict is not continuing. We have looked at the systems and components that are licensed for export in the light of whether there is a risk that they would be used in breach of international humanitarian law. In the case of these 12 licences, we have judged that there

would be such a risk if significant hostilities were to resume. That is why we have made the announcement that we have.

Chair: Foreign Secretary, Ms Hand, Mr Jones, thank you very much indeed.