

Committees on Arms Export Controls

Oral evidence: UK arms export during 2016, HC 666iii

Wednesday 18 April 2018

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Watch the meeting

Members present: Graham P. Jones (Chair); Ann Clwyd; Leo Docherty; Mike Gapes; Julia Lopez; Lloyd Russell-Moyle; Royston Smith; Stephen Twigg; Catherine West.

Questions 124-189

Witnesses

[I](#): Philip Bramwell, Group General Council, BAE Systems, Sue Tooze, Senior Manager, UK Exports and Control, BAE Systems, and Andrew Cowdery, Director, Government Affairs, Leonardo.

Examination of witnesses

Witnesses: Philip Bramwell, Sue Tooze and Andrew Cowdery.

Q124 **Chair:** Thank you for coming to what is quite an important Committee. We appreciate your attendance. Would you like to introduce yourselves?

Andrew Cowdery: I am Andrew Cowdery, Director of Government Affairs in Leonardo. I have a vast amount of experience in the aerospace and defence business.

Philip Bramwell: I am Philip Bramwell, the Group General Counsel of BAE Systems. I am responsible for legal and compliance advice to the board and for the legal and compliance function worldwide.

Sue Tooze: I am Sue Tooze from BAE Systems. I am responsible for UK and EU controls.

Q125 **Chair:** Thank you very much for attending. I am going to ask the first question, probably to Philip. What is your general experience of applying for export control licences and how, if at all, has it changed since the establishment of the Export Controls Joint Unit in 2016?

Philip Bramwell: I will make a general remark and then I will leave it to my expert practitioner colleague to talk about the absolute online detail. Our experience of the export control regime is that it is a comprehensive and testing regime overall—one that we feel comfortable operating within and employ significant resource to comply with. At a macro level, that is our view of the export control regime in this country.

Sue Tooze: From a practical perspective, since the ECJU was formed, although we appreciate that having everybody together in one place will facilitate scrutiny of licences, we have not seen a great deal of difference in the way that licences are processed. I think there was a small hiatus when there was a changeover, but that has been everything.

Q126 **Chair:** So you are going to have a new system brought in, the new LITE system. I know that ADS, when they came before us before, talked about some issues with the open individual licensing system being “fraught with perceived problems and delays”. Is that your experience? How do you feel the new system will work?

Sue Tooze: We see longer delays over processing of OIELs, which are the open individual export licences. That is something that industry has reported across the board. From the perspective of LITE, we see it as being a replacement to SPIRE, so I am not sure that the system itself will make any difference to that. We are anticipating that there might be better abilities to produce reports from the LITE system. Certainly when it comes to transparency reporting, we are hoping that in due course that will interface with the CDS system that HMRC is implementing, and hopefully reduce the amount of duplication of reporting that we have.

Andrew Cowdery: I would endorse what Sue says. Clearly, we are not yet familiar with the full implementation of LITE. From what we know, it will automate a number of the current manual activities. That has to be encouraged. I think the interface with the information into the CDS will allow information to be generated once but used many times, and that has to be beneficial both to HMG and to industry.

Q127 **Chair:** To Sue: will there be any issues with licensing on collaborative projects such as the Typhoon? Will that work with the new system? There won't be any issues there, will there?

Sue Tooze: We hope that is going to work smoothly as well, and because a lot of those relationships and programmes are well established, we do not anticipate any issues there.

Q128 **Leo Docherty:** Starting with you, Sue, what proportion of licence applications that you make each year are for standard individual licences, and what proportion are for open individual licences?

Sue Tooze: I am not able to tell you immediately what the percentage is. Certainly, we are encouraged by Government to use open licensing wherever that is possible. From that perspective, that is what we do. When we apply for standard licences, it is usually because there is not an open licence available. From the transparency reporting and the general percentage of licences, you can see that we use, and industry uses, open licences far more, because that is the route that Government wish us to take and it is most efficient.

Andrew Cowdery: We are in the same situation. I would say that the majority of the licences last year were made under the open general licence arrangements.

Q129 **Leo Docherty:** How often are you subject to compliance audits relating to your use of open general licences?

Sue Tooze: We have audits on a regular basis. There is usually an audit within six months for first registrants. As established companies, we have audits on a regular basis and they tend to be dependent on the compliance level from the audit before. Usually, we would expect to have an audit every other year for established companies and sites.

Andrew Cowdery: In Leonardo, we have five sites. Each of them hold individual licences because of the type of capability and products that are being manufactured and supplied. It is between 18 and 24 months that we have the auditing process.

Q130 **Ann Clwyd:** How content are you with the application of the consolidated criteria to licence applications?

Andrew Cowdery: We are content. Clearly, it has been in place for some time. We have a familiarity with the way in which it is applied. We are using the information contained in the consolidated list. We are very comfortable with it.



HOUSE OF COMMONS

Q131 **Ann Clwyd:** Do you find the amount of information provided on how the licensing applications are arrived at to be adequate?

Andrew Cowdery: The simple answer is yes.

Q132 **Ann Clwyd:** Do you undertake an internal assessment of whether you think a licence application is likely to be granted? How often are you right?

Andrew Cowdery: From a Leonardo point of view, when we are undertaking our assessment of a bid, we look very carefully at the country and the opportunity for the technology that will be supplied. There is an element of assessment that is done at the very early stages in the bid cycle on whether a licence will be granted. There is an assessment that is undertaken in terms of the country, the customer and the equipment that is being supplied. In some cases, clearly, if the information is such, we will stop bidding at that point in time, so no request for an export licence will be made.

Philip Bramwell: The same is true in BAE Systems. It is an early-stage process when the executive committee is considering future opportunities. We make a country risk assessment, as well as what we call a responsible trading principles risk assessment, to determine whether we are happy for the business to go forward and prepare to bid.

Defence procurement cycles are so long; you have an awful lot of advanced notice to avoid false starts. Spending a great deal of money and many years in the field in a country where, ultimately, you are not willing to proceed is best avoided.

Q133 **Ann Clwyd:** Are you often right, or are you sometimes wrong?

Philip Bramwell: I am sure that sometimes we are wrong. I suspect that we no-bid certain work that we could ultimately bid for, but we are applying a slightly different, wider set of criteria than the export licensing criteria.

Q134 **Ann Clwyd:** Are you 50% right, or 80% right?

Philip Bramwell: We rely on our export control colleagues. I suspect that we are right more times than we are wrong, but probably 20% of the time we will decide, even if we think a project is eligible in theory for a licence, not to proceed with trying to get one, for other reasons.

Q135 **Ann Clwyd:** Leaving aside the question of how the consolidated criteria are applied in practice, how appropriate are the criteria themselves and are there any changes that you would like to see?

Sue Tooze: Because the criteria are agreed across the EU, and because there is a very consistent—not an entirely consistent—approach to interpretation, there is certainty about the criteria that are applied to licencing. We feel that that works effectively, and we don't have any particular suggestions about how that might be changed.

Andrew Cowdery: Clearly, the nine criteria are well drafted. They are applicable across Europe; therefore, from my point of view, we are comfortable.

Q136 **Chair:** Post-Brexit, you would want them to maintain alignment?

Andrew Cowdery: That would be our position. Clearly, they are in place today, and we would like to see them in place post-Brexit.

Q137 **Julia Lopez:** Have any of you had experience of challenging a refusal to issue a licence? If so, how did you find that process?

Sue Tooze: We haven't had a refusal to issue a licence, but it is common practice to receive requests for further information. That is because the ECJU, or the bodies that have the licence for review, often require further information from us, and that is all done online through the SPIRE system. It happens quite frequently that we are asked for further information. It happened quite recently.

Q138 **Chair:** ADS, when it came before us in a previous session, advocated the introduction of an open general export licence to cover non-contentious cryptographic goods. Are you supportive of that?

Sue Tooze: We do have an OGEL—an open general licence—at the moment, which was released in April. It doesn't quite meet the requirements of industry, so that is something we would look to improve, as it is proven in use. Then we can say what areas might need to be improved. There has also been some guidance about how that is to be used for industry. It doesn't particularly change the position on competitiveness for the UK, because our criteria for the use of those licences tends to be more onerous than it is in other parts of the EU or the US. It is a step forward, and we look forward to working on that and seeing where it can be improved.

Q139 **Chair:** Within cryptographic goods, what technology would you want to see covered by the licence? What do you think should be covered by the licence?

Sue Tooze: The EU's proposed recast of the dual-use regulations addresses some of those issues—perhaps more widely than some parties would like. It is perhaps more restrictive than others. At the moment, that is on its route through consultation between the Commission, the Council and the Parliament. It will be interesting to see what is produced at the end of that.

Q140 **Lloyd Russell-Moyle:** What internal safeguards, if any, do your respective companies have in place to ensure cryptographic goods are not being used for internal repression or against national security once they have been released to the final recipient?

Andrew Cowdery: From a technical point of view, any equipment that is supplied with a cryptographic content—a lot of equipment has cryptographic elements in it that have no use other than for the purpose for which it is sold—is examined by the engineering community and goes



HOUSE OF COMMONS

through a rigorous test before we release it in an offer and then a subsequent supply contract. There is a process in place, through which engineers look at the cryptographic content with a view to saying, "Could this be extracted and reused for other purposes?"

Philip Bramwell: It is slightly different, in the sense that we perform those engineering tests, and basically test the integrity of the software and its resilience and protection. Prior to any export of such goods, or indeed any goods, we apply a set of what we call responsible trading principles, which we publish on our website, to make a determination in advance about whether, in accordance with our responsible trading policy, we think it is appropriate to export that type of equipment to that market. We have to be satisfied about who is going to use it for what purpose and what capabilities the equipment offers, and be satisfied that we are very confident about end-user requirements.

Q141 **Lloyd Russell-Moyle:** I noticed it was reported in *Private Eye* last week that you had said at one of the trade fairs that BAE Systems is selling cryptographic material to 40 to 50 different countries. On the register of licences issued, I can see only four or five licences for cryptographic material. As UK representatives of BAE Systems, is it that you are using subsidiaries in other countries to get around the UK licensing system?

Philip Bramwell: We would not do that.

Q142 **Lloyd Russell-Moyle:** Where does that number—40—come from?

Philip Bramwell: I don't know, not being an avid *Private Eye* reader.

Sue Tooze: I do not know where that number came from or where the quote came from, I am afraid. If you provided more information, perhaps we could comment on it, but I am not aware of that number.

Q143 **Lloyd Russell-Moyle:** So you do not ever use subsidiaries in other countries to try to get around UK licensing?

Philip Bramwell: We do not, and would not in principle.

Sue Tooze: Absolutely not.

Q144 **Lloyd Russell-Moyle:** In the Danish case in 2015, the UK Government had denied a licence on cryptographic information a few years earlier but your Danish subsidiary then applied for a licence. The UK Government objected to the Danish Government, saying that they would reject this licence and that they had rejected one that they believed was materially similar, but you still went ahead with that application and the licence was granted by the Danish authorities. I note you have shut down the Danish subsidiary. Is that because of some of that nefarious activity?

Philip Bramwell: No, not at all. Different European countries will put different nuances on their interpretation of what is permitted. That was Danish technology, and the Danes decided to award it a licence. What we have done now, largely for cost-saving and ordinary commercial reasons, is closed down that Danish operation. All our exports, irrespective of



HOUSE OF COMMONS

where equipment might be manufactured in Europe, will come through the UK export licensing system.

Q145 **Lloyd Russell-Moyle:** So in future it is all going to come through here, and it will all be checked against our system?

Philip Bramwell: Correct.

Lloyd Russell-Moyle: Fantastic. That is good news.

Q146 **Mike Gapes:** Would you like to see any other open general licences introduced?

Andrew Cowdery: The answer is no. We are comfortable at the moment, in our trading activities, that the open licences cover all the capabilities and products that we have in Leonardo in the UK.

Sue Tooze: Likewise. The cryptography licence would have been the obvious candidate.

Q147 **Mike Gapes:** But there is no other area that you want to go to.

Sue Tooze: There is not anything that springs immediately to mind on that, no.

Q148 **Mike Gapes:** What is your view of the Government's system of reporting on strategic export licences? Do you have any concerns about it? Do you think it is adequate?

Sue Tooze: We are supportive of the system. We are supportive of the transparency initiatives. We hope that the LITE system will give a smoother facility for that to be undertaken.

Andrew Cowdery: At Leonardo, we prepare all the information for internal purposes as well as for external use. It gives us information and provides broader information to the public, so from our point of view, we are happy to support that.

Q149 **Mike Gapes:** We have heard that there is a poverty of information about reporting of exports under open licences. The chief executive of ADS told us last month that the information about what is exported under open licences is already held by industry. Would you have any objections to that information that is held by industry being reported by the Government?

Sue Tooze: It would depend on exactly what information was reported, because obviously there are some confidentiality provisions in our contracts. However, generally, we are supportive of transparency of reporting. We have taken part in any consultations with the Government that have taken place, and we would be happy to do so in the future.

Q150 **Mike Gapes:** So if there is a poverty of reporting, it is not because of industry but because that is the position that the Government have taken?

Philip Bramwell: Currently, yes.



HOUSE OF COMMONS

Q151 **Royston Smith:** What impact, if any, has the arms trade treaty had on industry?

Sue Tooze: It is very early days to say what the impact is. We have obviously, again, been supportive of the consultative work on the arms trade treaty and of Government initiatives there. It will be interesting to see how that develops, and how the treaty is implemented going forward. It is early days at the moment.

Andrew Cowdery: I would say exactly the same. Clearly it is a step in the right direction. We are supportive, but it is very early in the process to understand whether it will have an impact on our business. These programmes take a long time to gestate, and clearly we will have to wait and see what the impact will be on our business. At the moment, it is not having any impact.

Q152 **Royston Smith:** Any predictions about what you think might happen?

Andrew Cowdery: No. I am certainly not building into our plans that it is going to have an impact.

Q153 **Royston Smith:** Okay. Control Arms UK argues that the UK should operate a presumption of denial in respect of licence applications for exports to countries that are not signed up to the arms trade treaty. How do you—again, one from each, if you don't mind—view that proposal?

Sue Tooze: At the moment, we do not understand the rationale of some of the countries that have not signed up to the arms trade treaty. There might be perfectly good reasons why they have not signed up, but we do not understand them.

Q154 **Royston Smith:** What sort of perfectly good reasons, would you think?

Sue Tooze: I don't know. That would be for them to say. Again, we do not understand how they would equate to those countries not being a suitable recipient of goods. I think that is something that would need to be considered further.

Q155 **Royston Smith:** But what do you think about the presumption of denial?

Sue Tooze: I think it is a little too early to say on that one.

Q156 **Chair:** Are there any countries in particular that you think could meet the arms trade treaty but have not signed up to it? Do you have any countries in mind?

Sue Tooze: Certainly, the US has signed but not ratified the treaty. That is an outstanding example of a country we do export to.

Q157 **Chair:** Are those countries that have not signed the arms trade treaty a concern for BAE systems?

Sue Tooze: I think that is more a concern for the Government, and is more a political decision really.



HOUSE OF COMMONS

Andrew Cowdery: I think we are of the same mind. It is for the Government to decide whether a country that has not signed a particular treaty should therefore be denied. *[Interruption.]* As far as I am concerned, it is for Government to make the decision. Clearly we cannot get an export licence in those events, so we would go through the process—

Lloyd Russell-Moyle: You would have to prove the higher bar.

Q158 **Catherine West:** The European Commission proposes to revise the EU regulation on the control of export of dual-use items, to take into account repressive regimes' misuse of new technologies. How do you view those proposed changes?

Sue Tooze: We welcome those changes. We think that the regulation has some very good things in it. There are some areas of the regulation that need more clarity and definition around, for example, the proposed end-use catch-all, and certainly around the definition of human rights—which human rights would apply. There is some work still to be done, but generally we see that as a step forward.

Q159 **Catherine West:** In general terms, how closely, if at all, do you believe that the UK should align itself with the EU's position on arms export control after Brexit? You have slightly answered that to the Chair, but perhaps say something for the record, just to have it there.

Sue Tooze: That would make sense, certainly in the first instance, because that would give some certainty to exporters about the licensing criteria that would be applied. We would not, in the initial stages, want to diverge too far from what the EU is doing, because we have supply chains that move throughout the EU and the UK.

Q160 **Catherine West:** Specifically, do you see the common position denial notification and consultation mechanism, which is the current procedure, carrying on?

Sue Tooze: Yes. This is obviously a question for the Government to answer in due course, but we would see that initially things will probably stay very much the same. Again, that is a question for the Government to answer.

Q161 **Catherine West:** It's okay—I'm a Labour MP, and I think the Government have a lot of questions to answer. I have asked the most questions about exiting the EU of any Member of Parliament. Finally, on the specific preparations, how ready do you think the sector is mentally? Details-wise, if Parliament is not clear it is difficult for the sector to be clear, but the realpolitik of it is—

Andrew Cowdery: We have run a number of scenarios. It applies more, in Leonardo's case, not to the export licensing, but to the management of customs and tariffs. The additional resources that we would require are more linked into changes in customs and how we manage the administration rather than in the export licence, on the assumption that we believe we should continue to do what we do today. If we bring in

automation, clearly the number of resources that we have and the subject matter experts would remain the same as far as licensing controls are concerned.

Q162 Catherine West: In terms of the debate around the customs union, how would that affect the sector in general, because is it goods, services or a combination of both?

Andrew Cowdery: Any change that implies more administration will have an impact on the industry. We have a very complex European supply chain. If we have to manage that in a different way from how we manage it today, clearly it will have an impact on process and on resources and delays.

Q163 Chair: Just a question. In terms of alignment around the consolidated criteria and other processes, have you made representations to the Government regarding alignment and your desire to maintain the current alignment? Is that something that Leonardo and BAE Systems have done?

Sue Tooze: I don't believe we have independently. Obviously, we are members of trade bodies such as ADS, which makes representations on behalf of industry. I don't believe that that has specifically been addressed.

Chair: Interesting.

Q164 Mike Gapes: Do you use agents to secure export opportunities? If so, what conditions do you apply to them and the work that they do for you?

Philip Bramwell: Yes. We need to get our vocabulary right here because an agent is someone entitled to bind a principal—a very heavily authorised person. We use advisers, a very limited number of them these days. Probably half of them are technical experts of one sort or another, some of them strategic. We put them through an exhaustive process that we have evolved over the last decade, which is not only Bribery Act-compliant but also meets the standards that were laid down in the Woolf report, whose 23 recommendations made in 2008 we implemented in full. They consist of, first, a series of checks to know with whom you are doing business: where are they based, what is their background, are they appropriate persons to do business with? Secondly, we would send one of our central compliance team to go and personally interview them and understand their business conduct, beliefs and commitments.

Q165 Mike Gapes: Would that be in this country, or—

Philip Bramwell: No, overseas—anywhere in the world. A member of our Farnborough-based team would go out and interview potential advisers. Thirdly, we would put them through, probably unlike any other company, an external panel that has in its majority experts—business conduct lawyers, experts in bribery and corruption—and the test and standard that we expect that panel to apply is that there must be no actual or apparent risk of corruption of any kind associated with the appointment. We then ensure that any reward associated with the appointment is proportionate

to the work done and value delivered by the adviser. Finally, we appoint agreement monitors in the business to oversee the delivery of the services or advice that the adviser is going to give during the course of what will initially be a two-year appointment.

Q166 Mike Gapes: Are there any other people who would work as an agent for you, other than these advisers?

Philip Bramwell: No.

Q167 Mike Gapes: Is that your position, Mr Cowdery?

Andrew Cowdery: We have a similar policy as well. Clearly, parts of the business were in BAE Systems when the Woolf report was published, so we implemented the same type of procedures in the company that is now known as Leonardo. In addition, in 2014, Leonardo commissioned its own report similar to Woolf, but this time from the Italian business. It was known as the Flick report after Professor Flick. That came up with a number of recommendations—very similar in some cases to the Woolf report—and we implemented those in full. We apply very similar processes and procedures to the appointment of advisers.

Q168 Mike Gapes: How significant to your businesses are these advisers?

Philip Bramwell: I don't think they are critical. Twenty five years ago, in the defence industry and many others, there was a tendency for people trying to export to 130 or 150 markets to outsource their business development activity to advisers or other intermediaries. That is no longer a viable system under the current law; you cannot oversee that many people.

One of the fundamental decisions that BAE Systems took a decade ago was to insource business development and to open its own offices in a more limited range of countries. We have 20 offices staffed by BAE Systems personnel around the world. We have a smaller number of addressable export markets now as a company.

Q169 Mike Gapes: All working to the same standard?

Philip Bramwell: All working to identical standards worldwide.

Q170 Catherine West: The Woolf report presumably came out of the SFO situation?

Philip Bramwell: No—well, yes! In some ways, there was an ongoing SFO investigation that started in 2003 and was continuing. Shortly after I joined the company, the then chairman, Sir Richard Olver, commissioned Lord Woolf, irrespective of his findings, and together with the head of the Institute of Business Ethics and two very eminent business leaders, Sir David Walker and Douglas Daft, to tell us what we needed to do to position ourselves as a leader in ethical business and to restore our reputation for ethical business conduct. The 23 recommendations were what we got. It took us three years to implement them. We had our implementation of them externally audited by Deloitte and reported publicly.

Q171 Catherine West: Do you feel that you have brought the standard up internationally as a result of that, or do you think it has made you less competitive, in a way?

Philip Bramwell: No; I think we have transformed the standard of business dealings within BAE Systems. We have put a massive amount more resource into compliance, we have created policies that are very explicit where before none existed and we invest very heavily in our code of conduct, and it has served us extremely well.

I don't think any defence contractor in the western world is willing to take the risk of being accused of corruption anymore. Our customer base has also massively invested in anti-corruption measures in defence procurement around the world. I think there is a recognition that contracts that are tainted by corruption are toxic and not ones that we want.

Q172 Lloyd Russell-Moyle: Andrew, I wanted to ask you particularly about the Flick committee, which was of course set up in 2013 and which issued a number of recommendations for your company. In 2014, AgustaWestland took on the agent Kim Yang. In 2016, he was convicted of corrupt practices. Does that demonstrate that the Flick committee was all mouth and no action?

Andrew Cowdery: I can't comment, in terms of the reference, because at the present moment there is an ongoing Indian investigation that has not yet made any additional charges. It is an ongoing process that I am unable to comment on.

Q173 Lloyd Russell-Moyle: He is facing extradition charges to India. In 2016, the Norwegian Council on Ethics, which advises the Norwegian state sovereign fund—one of the biggest sovereign funds in the world—said that your company had unacceptable risk of corruption because of the use of agents, of which they counted up to 200. You have been put on the at-watch list by the Norwegian state bank, and if you don't clean up your act they will take action and disinvest from you. Is this a sign that you haven't taken the use of agents and their corrupt practices seriously?

Andrew Cowdery: Again, I cannot comment on third parties' views of Leonardo. What I can comment on is what I know is going on in the business, and what is going on in Leonardo is that we are implementing and have followed very rigorous standards with respect to the appointment and management of advisers, and that we have a strong and rigorously implemented ethics policy.

Q174 Lloyd Russell-Moyle: I understand that, and part of me wants to take your word for it, but usually with these things we like to have some independent verification from outside as well. The two independent verifications—the justice system and the Norwegian Council on Ethics, which is not a left-wing loony think-tank, but the adviser to the state sovereign fund of Norway—have both said clearly that you are not achieving those things. Why is there a gap between what they see and what you believe is happening?



HOUSE OF COMMONS

Andrew Cowdery: We carry out independent audit as part of our process of implementing ethics but also compliance with the bribery and corruption Act in the UK. That is regularly undertaken both by independent third parties and as part of the audit process we go through on an annual basis. Internally, we are able to subject our processes and people to independent assessment that we are actually doing what we have indicated in those processes.

Q175 **Lloyd Russell-Moyle:** Wouldn't it be an idea to release the names of the agents that companies use, as is done in some other industries, so that the public could see that you are following your fantastic high standards, as you say?

Andrew Cowdery: First, it is not agents; it is advisers. But—

Lloyd Russell-Moyle: Sorry—wrong terminology.

Andrew Cowdery: There are clearly some confidentiality arrangements that might prevent that, but—

Lloyd Russell-Moyle: But they are your confidentiality arrangements.

Andrew Cowdery: No, no. In many cases they are advisers, particularly when they are providing information to us which is sourced from particular intellectual property areas that they have investigated in order to help us, particularly on market analysis and assessments of the business opportunities in those countries.

Q176 **Leo Docherty:** On that note, can you say what standards you adhere to as regards making public the names of advisers? What due diligence do you apply when you make these appointments?

Andrew Cowdery: The due diligence is undertaken by a compliance team inside Leonardo. They are independent of the businesses that are doing the day-to-day sales and marketing activity. They operate a due diligence process not dissimilar from the one that Philip has mentioned within BAE Systems. It is also subjected to independent third-party assessment in terms of information that goes into the due diligence process. It then goes through an assessment in the company before any appointment is made of advisers.

Q177 **Leo Docherty:** Is whether or not we make their name public with regard to a certain standard or law?

Andrew Cowdery: It's the definition of what you mean by an adviser. We have advisers who are simply providing us with information regarding the size of the market and the changes to legislation that are happening in those countries as part of giving us enough information on the country and the future changes in it to allow us to sensibly understand when we bid a project that we are bidding into an environment that we understand.

Q178 **Leo Docherty:** How would you view the possible introduction by the Government of a stricter regime in this regard, such as the introduction of a register of advisers or brokers, or new powers to strike off or wind up



HOUSE OF COMMONS

brass-plate companies?

Sue Tooze: I think there is a slightly different term there. The brokering element in terms of trade controls is a different thing from the use of advisers. Previously, there was a proposal to introduce a register of arms brokers, and obviously there are concerns about the brass-plate company type of activities, which are not the type of activities that we are involved with. That was rejected previously on several bases.

Philip Bramwell: In many cases this is an intensely competitive business when you are trying to compete for exports. We have our own personnel shuttling backwards and forwards to markets, sometimes over a period of years. What you are trying to do is get sufficient understanding about the opportunity, where your equipment might have a competitive edge or where it more closely meets the evolving needs of the local military customer. What we are trying to do is sustain a competitive edge and stand a better chance of winning very valuable export contracts. So we would, I think, regard the identity of those agents as commercially confidential and if there were a way of preserving the confidentiality of their identity, which we have a lawful right to do, I do not think we would oppose, in principle. We are very confident about the processes through which we apply them, but would be nervous about our competitors having access to our information.

Q179 **Lloyd Russell-Moyle:** You have both been subject to corruption allegations in the past, and we have heard in the Flick report and other reports how you are trying to turn this around and effectively clean up the industry. Have you done particular actions to try and mitigate the risk of corruption taking place in your supply chains, further out of your companies?

Philip Bramwell: Yes. Maybe I will start, and because Leonardo is a supplier of ours they might be able to give you an end-user perspective; but we do flow down into our supply chain a requirement that our suppliers operate the same standards of responsible business conduct and ethical trading as we ourselves do. We will meet with suppliers, so that will be a contractual condition. We will invite suppliers to our ethics training meeting. We will liaise with them, make available information about the standards to which we expect them to operate; so the answer is absolutely yes.

Andrew Cowdery: Leonardo is one of the largest suppliers to BAE Systems with our engagement on a number of programmes. I can confirm, firstly, that that is flowed down as part of the contractual obligations that we have and, again from a Leonardo point of view, we flow our requirements regarding ethical practices throughout our supply chain. It is becoming an important element of our relationship with our supply chain because at least 50% by value of our products are sourced from outside—not only in the UK but also from overseas—so it is an important element and, again, we are assisting some of our suppliers to understand, and to help them with online access to our own ethical processes and policies.



Q180 Lloyd Russell-Moyle: You have mentioned—particularly Mr Bramwell—that being involved in corrupt practices is just becoming politically toxic and something that you don't want to be involved in. What level of corruption do you think exists at the moment? I ask that question on the basis that in 2011 the US Department of Commerce said that 50% of all corrupt practices in the whole of the US were based in the defence industry. We have a number of other reports that put it at probably about 40% of the transactions that have some level of corruption. This is from 2011—around that time. I know that we have made a big change, so what kind of residual level that is still to be weeded out do you think you have left—because I assume you haven't managed to turn it around totally?

Philip Bramwell: I can be very confident that there is no possibility of BAE Systems paying a bribe anywhere in the world, and that we would walk away from any opportunity where we felt that bribes were being solicited.

Q181 Lloyd Russell-Moyle: How do you enforce that with your staff? So if a staff member gets offered that, how does that— what mechanisms?

Philip Bramwell: That would immediately— we have very comprehensive reporting mechanisms. It is a fundamental duty of every BAE Systems employee to be accountable for compliance with the company's responsible business standards. If they didn't report it up the line, they could report it to a local ethics officer, to a local legal department, or to our confidential helpline, which is independently run and managed. Indeed, we have had such reports from employees. We have had employees who have been approached by representatives of foreign Governments—at cocktail parties, in fact—and they felt that was an approach soliciting a bribe and it has been reported, and we have then duly reported it to the local country.

Also, in two countries to which we export or, actually, both have operations in, when we have acquired businesses and delved down into their records, and have had concerns about previous foreign bribery, we have been the first company ever to make a voluntary self-disclosure of our concerns to the local police force and law enforcement authorities. In both cases, that had never been done before by indigenous companies in those countries. We believe that we walk the talk. We practice what we preach to our supply chain and our employees. We are passionate about that. You need to remember that for our youngest employees, the facts giving rise, for example, to the US settlement occurred before they were born, so this is a constant reinforcement mechanism across the workforce, for those who don't have the corporate memory of the pain that the company went through a decade ago.

Q182 Lloyd Russell-Moyle: Do you think—maybe Andrew—that BAE systems and maybe even Leonardo have led the way on this? Have other companies followed, or did BAE Systems go out on a limb and Leonardo follow very closely behind, but other companies really were not interested in this? What is the sector-wide effect of this?



HOUSE OF COMMONS

Andrew Cowdery: Clearly, the fact that the major companies have addressed the concerns is a major step forward. Knowing whether we have had a significant impact on the totality of international trade is very difficult to say. Clearly, we have the massive support of the UK Government, in terms of their support for the work that we have been doing in the international markets. I would say that we have had an impact, primarily because we are not only doing it internally, but we are publicising it in all that we do, both on our websites and in any of the customer and supplier communications. I think we are trying to get that communication out to the wider community.

Philip Bramwell: I think the work of the NGOs, the OECD and the British Government with the Bribery Act has made a sharp difference around the world. What you see as you move around the world is national Governments themselves now taking initiatives to eliminate corruption from their own supply chains. National Governments do not want their country to be known for being corrupt. That means that we are not disadvantaged in procurement processes.

Q183 **Lloyd Russell-Moyle:** I will pass over to my colleague. I will just say one thing. The Department of Justice settlement dealt with details up to 2007, so unless you are employing 10-year-olds, they were born when some of the issues were affected. I buy that you have turned the ship around, but I think it is important that we are accurate about when the charges erupted.

Philip Bramwell: I also agree that it's important that we are accurate. The charges were based on a letter sent in November 2000 by a former, former, former chief executive of BAE Systems. That is the representation, which BAE Systems breached, so that was the operative cause of the settlement. Of course, our young apprentices were not born in the year 2000.

Mike Gapes: I was on the Defence Committee when those remarks were made, so I have a long memory.

Q184 **Stephen Twigg:** In the light of this, is it time now to add an additional criterion to the consolidated criteria that deals expressly with corruption?

Philip Bramwell: I think that would be an unfortunate move, to conflate two regulatory objectives into one set of regulations aimed at arms export control. The United States, for example—which is in a regulatory and law enforcement way some years ahead of Europe—has two distinct regimes, the FCPA dealing with overseas bribery and corruption on the one hand, and the Arms Export Control Act and the International Traffic in Arms Regulations on the other. The US customer community has a suspension and debarment regime, which, taking into account non-compliance with either or both of those, can move to suspend and debar a defence contractor from pursuing Government contracts. For a defence contractor, it is fair to say that is terminal.

Stephen Twigg: What was the phrase?

Catherine West: Terminal.

Stephen Twigg: I can't tell whether you are arguing in favour of or against what I have asked you about.

Philip Bramwell: I am saying that the Bribery Act represents a comprehensive anti-bribery and corruption framework, which is, I would argue, having the desired effect among the companies that it regulates. A conviction for bribery and corruption under that Act, including, under section 7, a conviction of an adviser—an associated person retained by a company—would be a factor that would inevitably be taken into account by purchasers. There are many countries around the world where, if you have a conviction for bribery, you are ineligible to participate, so you would not get a licence application in that case—you would never get that far.

Q185 **Stephen Twigg:** So are you saying it would not do any harm, but you do not think it would be necessary, because of other provisions such as the Bribery Act? Or am I misunderstanding?

Philip Bramwell: It could conceivably do harm, because one of the issues that the industry generally has to contend with is the frequency of allegations of bribery and the length of time that investigations take. Therefore, looking at the amended criteria, you would have to determine whether a mere allegation was enough, or whether a conviction should be something that is relevant.

Q186 **Stephen Twigg:** My understanding is that the European Union are looking to add corruption to the EU common position—is that your understanding?

Philip Bramwell: I'm not aware they are.

Sue Tooze: I'm not aware of that. One thing that would need to be considered would be that if the UK did that, it would need to be agreed across the EU as well, to give consistency. That is another consideration.

Q187 **Stephen Twigg:** Yes, but if that consistency were there, and if, from your point of view, there was some reassurance about the threshold—I take your point about allegations—might it at least be something that you would be open to?

Philip Bramwell: Yes. I don't think we would resist that. We would just like to see a proposal.

Q188 **Chair:** One final question. You mentioned a system of regulation in the United States. Do you think that that is better than the system we have in Europe and the UK, or do you think that the system we have in Europe and the UK is better? You touched on it yourself, so I am just teasing it out.

Philip Bramwell: I have to be careful here, with an American wife, but I think they are different. They have slightly different origins—where they came from. The US export control regulations are enormously voluminous



HOUSE OF COMMONS

and onerous, so it is a terribly rules-based system. I think it is fair to say that, at a high level, we have a slightly more principles-based system over here, which is equally exacting. In the main, most British and American defence companies, particularly British companies, have to deal with both regimes and can operate them pretty comfortably now in parallel.

Sue Tooze: Yes, I think that is true. We have a robust system, which ensures that the most sensitive items to the most sensitive locations are given the greatest scrutiny, while reducing administrative effort for the less sensitive items. We feel that it works well and it is robust.

Q189 **Ann Clwyd:** Some of us were involved in the al-Yamamah questions some years ago. The Serious Fraud Office stopped its investigation in 2006, but have there been any recent questions to anybody in the company about al-Yamamah?

Philip Bramwell: No.

Chair: On that note, thank you very much for your time. Philip, Sue, Andrew, thank you for coming. The Committee will reconvene at the next meeting.