

Committees on Arms Export Controls

Oral evidence: 2017 Arms Export Controls Annual Report, HC 1809

Wednesday 20 March 2019

Ordered by the House of Commons to be published on 20 March 2019.

[Watch the meeting](#)

Members present: Graham P. Jones (Chair); Ann Clwyd; Dr Julian Lewis; Mark Menzies; Lloyd Russell-Moyle; Mr Bob Seely; Henry Smith; John Spellar; Stephen Twigg.

Mr Ranil Jayawardena also attended, pursuant to Standing Order No. 137A(1)(e).

Questions 51–121

Witnesses

I: Paul Everitt, Chief Executive, ADS, and Stephen Phipson, Chief Executive Officer, Make UK.

[Written evidence from ADS.](#)

Examination of witnesses

Witnesses: Paul Everitt and Stephen Phipson.

Q51 Chair: Thank you, Paul and Stephen, for coming before the Committee today. Just to forewarn you, we have about an hour and roughly 15 questions, so we will try to keep the session sharp and short.

Either one of you may wish to answer the first question. The Government's most recent annual report covers arms exports in 2017. What improvements were made in 2017? Since then, in terms of the control of arms exports, what have been the negatives?

Stephen Phipson: Let me have a stab at that to start with. What improvements have there been? Overall, if you look at the export results of the country in terms of defence, there was a welcome increase to £9 billion from £7 billion-ish in the period before.



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We still have dominance in the air combat sector, which represents about 70% of the exports, but what was interesting, and is not yet included in the numbers, was the new exports on things like maritime—the Type 26 exports, for example. We are looking at some diversification from our traditional reliance on the combat air sector. There is quite an interesting point there.

There is still quite a high dominance in terms of what we are doing in the middle east. Of course, there were some announcements about some new contracts for the UK in new countries, which were welcomed—I would cite Qatar as one example. There has been a broadening out, generally, of some of the traditional areas of defence export, which I think the industry welcomes. There is a much broader base going forward, which really cements the fact that the UK still maintains its position as about the second largest exporter in the world.

Q52 Chair: I want to talk about the licences. What has changed in the licences in arms exports? That is what I was trying to refer to.

Paul Everitt: From our members' perspective, we would say that the system is in a stable position. By and large, it operates reasonably effectively, but there is a long-standing series of areas where we think there are opportunities to improve how the licensing regime works. One of those is about how we use open and open general export licences to reduce the overall volume that are subject to a huge amount of scrutiny.

We have sought on a number of occasions to have a more proactive advisory service, so that before companies begin the process of thinking about whether they might export goods, there is an opportunity to engage with a more informed governmental voice to help them to understand both what is appropriate and where might be appropriate.

Finally, we still find that the most common form of complaint from members is that they have applied for a licence, the process has begun and at some point further on they are asked for further information, which is fine, but then the process has effectively started again. We have consistently asked for some analysis to better understand what information those who are applying are failing to provide, so that we can address that in the training regimes that both the joint unit and the industry offer, but to date we have not had an opportunity—or the unit has not had an opportunity—to pool that data.

Q53 Chair: Members of the Committee have some concerns about open licences, particularly to the middle east, so I think it is fair to ask about the balance of use between standard and open licences. Do you think that there is enough transparency around open licences?

Stephen Phipson: There is certainly a very rigorous process. It is really for repeat products to the same end customer—

Chair: That wasn't my question. My question was whether there is transparency around open licences and whether the balance is right.

Stephen Phipson: Again, in terms of the information that industry is asked to submit and work on, they do that and they comply with the regulations. If there is a requirement to do more, they will do it.

Paul Everitt: We would say that from our point of view the balance is appropriate. In terms of information, as Stephen said, I think people are comfortable—they do provide information. That information needs to be more efficiently or effectively recorded so that it can be better analysed, but there are no issues concerning—

Q54 **Chair:** So it would be better if more information were provided on open licences. Would that be your view, Paul?

Paul Everitt: I wouldn't say that that was my view. I think plenty of information is provided; the issue is how it is collected and how it can be analysed. Part of the problem is that one of the supposed benefits of the upgrading, or the change, from the SPIRE to the LITE system is the integration of data from both the SPIRE system and HMRC, which would provide the more rounded information that I think people are looking for.

From an industry point of view, there is no issue with providing the information, because it is provided. The only issue for us is things that are linked to commercial confidentiality. Clearly there is a level of information that people would be happy to have in the public domain, but there is certain information, like the detailed contractual arrangements that might be in place, that they would clearly not be happy to have in the public domain.

Q55 **Mr Jayawardena:** Further to the Chairman's questions, I wonder whether I can probe a bit deeper. Has anyone been consulting you on what further data could be publicly available on open licences? You are saying that there is information out there. Has anyone consulted you on that? What do you regard as the most important information that ought to be in the public domain, and why?

Paul Everitt: We have definitely not been consulted.

Stephen Phipson: We have not been consulted.

Mr Jayawardena: There is a lot of the rest of the question that I am expecting an answer to.

Paul Everitt: The information that is available on how much, what for and where seems to be the thing that the majority of people would be interested in.

Q56 **Mr Jayawardena:** Is that it? You don't think that anything else could be made publicly available.

Paul Everitt: No, I am just saying that I would imagine that those are the things that people would be most interested in. Information at a detailed level is provided in every export licence application. Information is available to the joint unit in order for it to make its considerations. How much of that information they believe needs to be put into the public



domain is a question that we would be happy to have a discussion about, but that is not the discussion that we have been asked for. How much information people want in order to make an appropriate decision is a different question from how much information needs to be in the public domain in order for people to feel that there is an appropriate level of transparency. From an industry point of view, we are very happy that there is an appropriate level of transparency.

Chair: Can you keep it short, Lloyd?

- Q57 **Lloyd Russell-Moyle:** In 2012, the Government said that they had consulted and many companies had said that it would be too much of a burden. Last year, you said that it would not be a burden, because you already get that information, and that is what you have just said to us today—but in answer to Ranil's question you said that you were not consulted. I just want to be clear on that contradiction. Can you confirm that if you were consulted now, you would be happy for the information that we are talking about—the numbers of units that are shipped—to be known?

Paul Everitt: I cannot remember back to 2012, to be honest—I don't think I was doing this job in 2012, so I cannot say whether we were or were not consulted. I may need to write to you to confirm that.

What we are saying is that we believe that data is being collected. As long as it is an efficient process of collection and there is a discussion around what is actually going to be put into the public domain, that is fine. As I say, there will be issues around commercial confidentiality that people will be concerned about. For instance, providing information on an end customer, a product and exactly how many units may not be helpful from a competitive point of view, but I am sure that there are ways and means by which appropriate transparency can be provided. I do not feel that it is a big or contentious issue for us.

Stephen Phipson: No, and I would not like you to have the impression that industry is in some way reluctant to do this. They are generally not reluctant, apart from things that might be commercially sensitive—there would have to be some debate and some protections around that. I think they would say that the important thing is that there should not be double inputting of data. With the LITE system and HMRC's system, the key is combining the data, not asking industry to put lots of duplicate data into these databases.

- Q58 **Stephen Twigg:** I am going to ask some questions about the consolidated criteria, and mostly about their application. Do you think that the drafting of the existing criteria is fit for purpose? If not, are there changes that you would suggest?

Paul Everitt: We have to say that our members have not expressed any concerns about the drafting of the consolidated criteria.

Stephen Phipson: We have seen none of that.



- Q59 Stephen Twigg:** In terms of the application, can you talk us through how far you see it as your responsibility or your members' responsibility to look at the criteria, or how far you think that that is the job of the Government to determine?

Paul Everitt: It is the Government that makes the decisions on export licences. The consolidated criteria will be a background to the considerations that companies make. That is a vast generalisation, because there will be some companies that are very sophisticated, and there will be others that are just point of sale-type activities. That is the background to what they do, but in the end their focus will be: "Is the technology that I am producing something that I wish to export?" So, is it exportable? There are a variety of different methods that they will go through to check that. If it is exportable, which markets are most appropriate? Again, they will go through a process to try to determine what those may be. That is if a company is being proactive about its plans.

For most people, what they want is to sell things to places where it is relatively easy and convenient to do so. Clearly, if they are approached by a country or an end user and they are interested, they might go through a process that is more specific to that one. In the main, it is a market-driven consultancy activity, because they will be aware that, in the end, the decisions about what is appropriate will be taken through the export licensing process.

- Q60 Stephen Twigg:** Presumably companies that have been part of this process for years will have a sense of the criteria and how that applies. Will that shape that or not at all? It sounds like you are saying the companies will just decide, "I want to try to sell this, and I'll let the Government tell me if I may."

Paul Everitt: No, but I think they will make a decision. Clearly the more sophisticated businesses will be saying, "There are certain markets that we are not going to think about—there's not a lot of point for a whole variety of reasons." Similarly, there will be companies with particular technologies that they know will not be appropriate in particular markets. Therefore, nobody is in the business of trying to waste their own or anyone else's time. Again, the consolidated criteria are the background to those decisions; they are not what they would themselves use to make a decision about whether something is appropriate—otherwise, they would be doing the job of the export licensing.

- Q61 Ann Clwyd:** In her evidence, Dr Anna Stavrianakis described the Government's application of the criteria as "reckless" rather than robust. What is your reaction to that?

Stephen Hipson: Well, I wouldn't use the word "reckless". Having been part of these processes for many years, it is a very robust system. I would be interested to know exactly why she thought it was reckless. In many cases it is quite robust, and the process of defence exporting involves a lot of early Government involvement in a lot of these decisions, because most of them are political decisions at the end of the day, in terms of people deciding to select British equipment over other people's equipment.



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There is a long process of engagement right from the beginning of those campaigns, rather than the impression that we are just going out there trying to market things in a commercial market—there is not free trade in these items. Normally there is a lot of robustness around that approach in whether we want to—as a country—export that type of equipment, whether it is the right partner that we are exporting to, and what are its strategic objectives, rather than just a commercial imperative. In that sense, the way the process works is quite robust.

Paul Everitt: From our members' point of view, it is a robust process. I can understand that not all of the decisions are ones that everyone will agree with. Similarly, from an industry perspective, it is a system that appears to take quite a long time and a great deal of consideration, when there are sensitive issues at stake.

Q62 **Ann Clwyd:** How does the UK compare with other countries in the application of the criteria?

Stephen Hipson: Having seen that first hand through exporting around the world, we are absolutely the gold standard. We apply the highest standards when we license and consider export considerations, adherence to international treaties and all the rest of it. Other countries are not as robust as we are, and I have absolutely seen that at first hand. We are at the leading edge of many of those considerations.

Paul Everitt: I share that view.

Q63 **Ann Clwyd:** What would be the potential impact on industry in the UK of having different criteria thresholds for some countries when assessing licence applications?

Stephen Hipson: We already have a high bar, so think about it in that respect, and we do well with a high bar. It is often about other considerations—obviously the technical considerations, or the relationship between our armed forces and the armed forces that we are selling to. It is often about that relationship as the strength, rather than anything else.

Of course, there is always a limit to this. If you set it so high that it is impossible to do any defence exports, then that will have a significant effect. Defence exports are a major part of the defence industry in this country, and we have created that in terms of the way that we operate our MOD budget. If you increased the criteria so that it was impossible to export anything in extremis, then it would have a very detrimental economic effect on the sector, and on the MOD's ability to procure equipment.

Q64 **John Spellar:** Could I also ask what the regional impact would be? The industry is not universally spread, or not universally concentrated, across the country.

Stephen Hipson: Exactly, and it depends what sector. If you look at combat air, then obviously Lancashire has a very high intensity, with the Typhoon production area. If you look at military engines, then Bristol



would be impacted, so there is a regional impact depending on which sector inside the defence market you are looking at, effectively.

- Q65 **John Spellar:** To what extent, in terms of the development of skills and the maintenance of capacity, is there interaction between the military side of the industry—particularly in the supply chain—and the civil side of the industry?

Stephen Phipson: Quite a lot. All the basic skills, like apprentice training for example, are common between all manufacturing sectors. The fact that we need CNC operators to operate machines is the same in the defence world as it is in other worlds.

Where it starts to diverge is in some of the technology areas, where the technology bars in defence are either classified or are very much more sophisticated than is required in the commercial sector. If you look at a mountain of skills, in terms of the dispersion of high skills at the top and more general skills towards the bottom, most of it—80% of it—is common across the commercial and defence sector, but there are some very specific skills that we need, particularly in design and electronics. They are very much specific to the defence world.

Paul Everitt: It is important to recognise that the defence exports are not of themselves—we like to export, and that is a good thing, but the primary customer is the MOD, and the exports are one of the ways that you either make what is being made available to the MOD—to the UK customer—more affordable, or a way in which you sustain capability that the UK customer cannot necessarily sustain in the immediate term. Exports are good, and people get benefit from them, but there is a strategic interest from a UK point of view in ensuring that we have a reasonable level of defence exports, because that helps the domestic customer.

- Q66 **Ann Clwyd:** Can you tell me what the industry's assessment is of the rationale for Germany's moratorium on arms exports to Saudi Arabia?

Paul Everitt: I think the industry would say that that is a decision for the German Government, and as far as it impacts on the collaborative project that is Typhoon, that is a discussion that the UK Government and the German Government should be having. From an industry point of view, while it is unfortunate that one of the partners in a multinational collaborative programme takes a different point of view, it is not wholly unusual.

Normally in these sorts of areas, the partners get together at an early stage in the development of a product and agree what the export opportunities and export markets are, and by and large that is sustained. However, clearly, over a longer period of time, there can be changes in those international relationships. There is an economic consequence, if you like, but most of those involved in these types of activities recognise that that is a risk they run, given the business that they are in.

- Q67 **Ann Clwyd:** Would you say that Germany or the UK are interpreting the EU common criteria correctly in this case, or is it possible that, within the



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guidelines, both countries can arrive separately at conflicting interpretations?

Paul Everitt: I think that there are certainly occasions when countries take different views—there have been in the past and I am sure there will be in the future. From an industrial point of view, it is not for us to judge whether a Government are right or wrong. It is a decision that they make.

Q68 **Ann Clwyd:** To what extent does the German moratorium represent a further layer of arms controls applied on top of the UK's export controls?

Paul Everitt: Again, there are always circumstances with multinational endeavours where there may be, at some point, differences of opinion. In general, industry would like a coherent and consistent approach. In most of those collaborative projects over quite a long period of time, there have been relatively few occasions when there has been a difference of opinion.

Q69 **Ann Clwyd:** What, then, should the UK industry do about the prospect of future unilateral export bands being applied by partner states, and what other lessons can be learned from those cases?

Stephen Phipson: Good point. The Typhoon, for example, is a Government product that is then subcontracted to industry to build. We build 37% of it in this country, through BAE systems, which is our prime integrator. The other four nations contribute similarly to it, through a treaty between the countries. The industry view would be, "Have you made the proper Government agreements and have we got certainty to co-invest in this programme going forward? If you are going to change the criteria, why should we put private money into these ventures?"

It is looked at through that lens, which is somewhat different from imagining that it is not a commercial product at all. It is a Government product that has been agreed by treaty. There are a few of those pieces of defence capability—Typhoon is the biggest example—where we are in a joint venture with other partner countries around Europe. Changes like that affect the construction of that complete consortium. Industry's concern is this: if you are going to keep changing the rules, how can we invest and how can we protect jobs in this country to be able to deliver effectively?

Q70 **Stephen Twigg:** You spoke earlier about how you see the risk of a higher threshold in the criteria, and the potential risk that could carry for industry in this country. Is the implication of that that you would prefer the threshold to be lower than it is at the moment?

Stephen Phipson: No, I think that we are doing very well with the thresholds at a very high international bar. It is good that we are known for that as well as for lots of other areas in which we are known as class leading, which is how we are able to maintain a significant defence exports capability in this country, against what is a completely and utterly different environment.

A competitor is the American Government, with FMS, which is not the same sort of thing that we or the rest of the European nations do. When



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you talk to France and Germany—well, Germany not so much now—but France in particular, and others and us, then combined, the issue that enables you not to compete with but to convince the partner nation to work with you on defence capability is the FMS system, which is a completely different legal construct from the way in which we do it.

- Q71 **Stephen Twigg:** Can you give an example of the sort of thing that would therefore go through in France or the United States but would be blocked here because we have this tougher regime? What sort of product are we talking about?

Stephen Phipson: It happens a lot at the sub-system level more than anything else. We supply components to French engines used on combat systems where we effectively have no control over the end use of that product. We do not know whether the French Government are going to deploy them, because in some cases they deploy in different areas from where the UK does. We lose control of things like that, so as a country, we would not generally allow those things to be exported.

- Q72 **Stephen Twigg:** Can I ask about the Department for International Development? Obviously, DFID has a particular role with regard to criterion 8 and the consolidated criteria. Does industry engage with DFID, either prior to particular licences or in a more general policy sense?

Stephen Phipson: “No” is the answer.

Paul Everitt: No. In some respects, we would quite like to, perhaps less on licensing but more on the activities that they undertake in a number of countries around the world, which are exactly the type of activities that some of our members provide, whether security of one form or another or services or equipment. They tend to be quite—I don’t want to overstate it, but it is not a conversation they are particularly keen to have.

- Q73 **Stephen Twigg:** Right. With regard to licensing, this Committee and the International Development Committee have recommended a greater role for DFID. Is that something that industry would welcome?

Stephen Phipson: I think they would welcome whatever the Government decide to do about that. The Foreign Office has obviously got a large input into how the way licences work anyway. I suppose the only push-back you get is, “Let’s not make the process even longer and more bureaucratic than it is now, because it is quite an onerous process, particularly for small and medium-sized enterprises, to get through the licensing criteria.” With that caution in mind, it is a decision for Government, but the industry would, of course, comply with it.

Chair: The Chair of the Defence Committee.

- Q74 **Dr Lewis:** Gentlemen, the Government previously rejected the idea of creating an additional licensing criterion relating to corruption. How do you react to that and to the Government’s suggestion that the Bribery Act 2010 is adequate for addressing corruption in arms exports?

Stephen Phipson: My reaction to that is that the Bribery Act is a world standard for anti-bribery and dealing with corruption in all sectors, including defence. We are more than adequately covered by that.

In terms of adding another layer to the licensing regime, there is some merit in perhaps talking about where something has been highlighted as a particular risk in a country, for example. However, in terms of how this has been handled in the past, we already have a very strong regime there, so there would have to be quite a reason for adding that to the licensing criteria, I think.

Q75 **Dr Lewis:** Are there any definitions of corruption that would not be caught by the terms of the existing Bribery Act?

Stephen Phipson: I do not suppose it is corruption, but maybe the approach of other Governments when they are marketing their defence capability—it is not corruption, but perhaps there is another word to describe it—where in exchange for a fast jet contract, you get aircraft slots at commercial airports and all sorts of other things that we do not tend to link together.

Q76 **Dr Lewis:** Unfair competition, in other words.

Stephen Phipson: Just a different approach to competition, perhaps. I would not classify it as bribery and corruption, but it is a different approach that sometimes industry will call out.

Q77 **Dr Lewis:** Something else the Government rejected was a call from these Committees last year to make public the names of those against whom action has been taken under the Bribery Act. They said they would publish details of convictions in the annual report where they relate to arms export dealings. Do your members regard that as a good step forward? What impact does that have on transparency and confidence in the system?

Paul Everitt: I think people are happy.

Stephen Phipson: There is no push-back at all; they are completely willing to be as transparent as is required in terms of that.

Q78 **Dr Lewis:** Moving on, Privacy International told these Committees that the current consolidated criteria for assessing surveillance technology licences are inadequate. What do you see as the current strengths and weaknesses of the criteria in relation to such technology? Will it always be the case that any controls will inevitably lag behind the rapid pace of developments in the surveillance technology sector?

Paul Everitt: I think, again, the criteria are drawn broadly enough to address any concerns around the invasion of privacy or other things, if it was necessary. Yes, there are challenges around how technology develops, but the criteria are not a hindrance to making decisions.

In fact, we would say, certainly from a UK point of view, that some of the challenges we face are around how other countries, in Europe and

elsewhere, interpret what is termed as mass-market or consumer products and services. In some markets—Ireland, France—a lot of the cryptography that the UK Government would look to license or have onerous restrictions on is not licensable at all, and that is because it is viewed to be commercially available technology.

The challenge is to have greater clarity on commercial technology. We live in a world in which everyone is connected and interconnected for better or for worse. On the one hand, the UK Government and Governments around the world encourage people to be cyber-aware and to put in place appropriate protections so that they are safe and secure.

Very often that means they need to have systems with appropriate levels of security embedded in them, whether that is a public wi-fi system or their own communications or telephone systems. That is not, as we would see it, something that should be a concern in terms of a higher level military-grade surveillance technology. There is a need to perhaps reflect on what is the normal and the standard that we would expect companies to have in their businesses in order to keep themselves secure from organised crime or other perpetrators and the sorts of things that should only be available to Government agencies and agencies that we were wholly confident in.

Stephen Phipson: There is a challenge here, and I can see it from the export control parts of Government. This technology, as Paul describes, is moving at such a pace. Very often the commercial capability will sometimes be equal to or exceeding the military capability.

When they are dual-use products, you can see this in the space industry in particular where commercial satellite technology reaches resolutions that in some cases exceed what was the military capability of a few years ago and would not be licensable under normal circumstances, whereas other countries have tried to adapt and adjust their criteria to make sure that they can compete on the international stage with those commercial capabilities. So there is that issue about resourcing properly the way that we define our criteria and export control licences to make sure they can capture that.

Is it really a threat or is it just looking at old criteria applied to new technologies? That is a real problem. Really bringing that into sharp focus is the cyber-security area that is moving forward at such a rapid pace. Making sure that we have proper control of that technology that is exported and then making sure we do not go over the top and prevent the exporting of proper commercial technologies is really important. Again, I would point out that resourcing that properly to make sure the Government can keep up with the technical changes is probably critically important.

Q79 **Dr Lewis:** Why do you think Privacy International is so concerned that the existing criteria are inadequate?



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Stephen Phipson: I think it is more about it being dynamic and about it catching up. I think it is both those things. Again, it is all about making sure that in both directions—I am not arguing just for one direction—we keep up with the pace of change and what is happening.

The technology in your iPhone would have been completely banned 10 years ago in terms of any export licensing ability because of its capability. We have now moved forward from that, so we should make sure that our system is agile enough to keep up.

- Q80 **Lloyd Russell-Moyle:** Privacy International has suggested in evidence to us that, “to make sure...exports do not lead to internal repression”—which is, of course, a requirement—there should maybe be a test of the legal system in the end-user country to ensure that they have robust systems to ensure against internal repression. Would your members support such a suggestion? What would be their concerns if it were to be put in place?

Paul Everitt: I suspect the criteria are broad enough so that if the Government had any concerns about particular countries, there are grounds for them to be able to restrict applications.

To pick up Stephen’s thread, there needs to be an understanding of what technology is being used for, who it is going to, and differentiating between where there may be a legitimate reason to check on the robustness of a country’s legal system when it is high grade military surveillance technology, as opposed to the commercial equipment that many, whether it is Government or critical national infrastructure in a country, may well be being encouraged to acquire simply to protect themselves against a range of other threats.

- Q81 **Lloyd Russell-Moyle:** Cyber-security is important nowadays in a very different way from how it was 10 years ago. Do you know whether your members monitor whether the cyber-security or surveillance products—particularly the high-grade cyber-security, which is what we are really focusing on—are being used for internal repression once they have been exported? We heard previously that there would be a possibility, either via the back end or via servicing, to make sure that they were not being used in nefarious ways.

Stephen Phipson: When you talk about the top-end capability in cyber, the answer is yes: they are normally fully involved in the operation centres, the set-up, the running and the surveillance of those things, and they are acutely aware of the use of the equipment or the cyber system to make sure that it is being used appropriately, as was originally agreed. Very often, particularly in the high-grade cyber, Government are involved as well, so there is a degree of control over what is going on.

- Q82 **Lloyd Russell-Moyle:** That is really interesting. Of course, in the case of Matthew Hedges—as you will know, he was given a life sentence in the UAE for spying, but thankfully we managed to arrange for him to return—his captors said that they used state surveillance equipment to track him down and arrest him. We in the UK have given mass IP internet



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surveillance equipment licences to the UAE. Would it be possible for your members to see whether equipment was used in the kinds of activities that captured Matthew Hedges?

Stephen Hipson: I don't know about that specific case.

Q83 **Lloyd Russell-Moyle:** I don't mean specifically, but would they have the capacity to do that?

Paul Everitt: I couldn't answer that question.

Stephen Hipson: I don't know the answer, no.

Paul Everitt: We can make some inquiries to see whether people are able to provide a more clear answer.

Lloyd Russell-Moyle: I would appreciate it if you got back to me in writing.

John Spellar: To the Committees, surely.

Q84 **Lloyd Russell-Moyle:** Yes—I am speaking on behalf of the membership.

The rationale for controlling dual-use technology has traditionally been centred on the worry that it will go from civil to military, but when we talk about surveillance and cryptography, we are actually talking about the opposite direction of traffic: the technology is going from military use to being used to snoop on people. Is there a fundamental problem with trying to use arms export controls to regulate this kind of technology? Do we need a slightly different regime to prevent technology from moving in the opposite direction?

Stephen Hipson: Going back to my previous point, that comes into sharp focus in the cyber world in particular. That is the problem, because very often you have commercial capabilities that are equal to some nations' military capabilities. They are extremely strong, and it is about keeping up with those developments. I am not exaggerating when I say that there is almost a monthly iteration of this technology—it is moving very, very quickly. As we get more into the artificial intelligence world and as those systems develop, it will get even more rapid. Having more resources to make sure that we are on top of developments, so we can see the flow in both directions, is definitely important. If we do not do that, we will end up not licensing things that we should license and so on and so forth. I think there is a need for the licensing regime to keep up with the technology.

Paul Everitt: We have to be careful in making judgments. If we put it the other way, there is an awful lot of concern in lots of societies about serious organised crime, terrorism and a range of other things. People clearly want their law enforcement agencies to have the ability, within the appropriate legal constructs, to disrupt those activities. We need to apply a certain level of sense, and that is what we as an industry assume is happening in the licensing regime to ensure that most of the kinds of things that our members do are done within a Government construct or at

least closely associated with a UK Government relationship with whoever we are selling to. In the end, there has to be a level of trust and confidence that we are handing over equipment that will be used appropriately.

- Q85 **Lloyd Russell-Moyle:** And your view is that the Government is the only body that should make a judgment on that—not yourselves or your members.

Paul Everitt: Companies will make a judgment about where they want to sell their products, and that is for them to decide. But in sensitive areas, in order for it to be appropriately managed, somebody has to make that decision, and it should be within a governmental framework. Otherwise, different people will make different judgment calls. Some will make good calls, and some will make bad calls—not necessarily because they are inappropriately motivated. Therefore, it has to be a governmental decision. Once you move away from that, you can never be certain of what the outcomes will be, so you need that consultation in place. That is why industry in the UK is comfortable, and why many of the people we deal with in international markets are comfortable: the Government is making those calls.

- Q86 **Lloyd Russell-Moyle:** But industry often has its own criteria or ethical standards that it will also abide by.

Stephen Phipson: It does, and many boards go through a very strong compliance process when it comes to taking on new customers and new projects. The other point, though, is that Government has a lot more information than industry does about other matters to do with those countries and where equipment is exported to. As we said, the input from other Departments is absolutely vital to those decisions. There are many cases where industry would complain that something has been refused and they have not been told exactly why, because there have been other criteria around that decision and the Government has the information. The responsibility is not all on Government, but it has a vital role to play in this, because it can bring to bear all these other resources.

- Q87 **Chair:** Can I come in with a further question? The US Government are consulting on which dual-use technologies could have their controls downgraded, and which ones need strengthening. There is a question of whether we should be conducting a similar review.

When we talk about surveillance and technology advancing, where drones fit in this comes to mind. It is technology that is advancing at a rapid rate that is effectively surveillance technology, but actually we have seen it used in combat theatre as a military weapon, even if in an amateur or handmade way. More significantly, there is some commercial production used in armed conflict. Do you think that we should follow the US Government in conducting a review? I think that is what Lloyd is leading up to ask—that we need to get deeper into this.

Stephen Phipson: I think there is certainly a case for strengthening the resources that we have in Government to make sure that we are keeping



up with the technological changes in both directions: whether things are capable of being used in a military sense when we think they are commercial ones, and vice versa. That just needs a lot more agility, because we are in a phase now where a lot of these technologies—I can give you a whole other list of things—are advancing at such a pace that we need to make sure the licensing regime keeps up with them.

- Q88 **Chair:** Just on drones, which often come up and are a typical example of something that is very relevant now, should we be looking at dual-use licensing, even for the technology or some of the parts or components?

Paul Everitt: I should be slightly careful, because this is more of a personal than a considered industry view. If we look at the UK, this is much more about the regulatory framework that we use to allow these products on to the market. On one hand they are classified as aircraft, so even relatively small drones are regulated as aircraft, which means that there are very serious restrictions on what you can do—hence there was some delayed reaction at Gatwick over the festive period. There is also a very difficult legislative framework for the technology that you would use to intercept them. Because it is a jamming technology that you use in order to intercept a drone, it is not allowed to be used unless it is under very strict rules.

- Q89 **Chair:** Before I bring Lloyd back, I have one straightforward question: should we, like the US, be undertaking a review?

Paul Everitt: I think—I am just looking at my colleague—we responded to the US. I would say just that we probably need to think slightly differently. There is a suggestion that the US approach is actually more about trade issues rather than technology issues, and about who it does and doesn't want to trade with and the conditions of it. There is definitely, as Stephen said, a rationale for looking at the technology and how we make sure that we have a regulatory regime that is adapting to it, and able to adapt to it. That is absolutely key.

Chair: Lloyd, did you want to come back in?

- Q90 **Lloyd Russell-Moyle:** I am interested in how you get the expertise on different things into the Government licensing system, as opposed to what you will have. Drones, technologies and all these things are good examples, but the joint unit is a very small unit.

Stephen Phipson: It is, yes.

Lloyd Russell-Moyle: You will have the expertise and technology. That is why a code of ethical understanding and a code of where companies are trying to get to and want to sell is so important, as well as the consolidated criteria. Companies will maybe say, "We want to make sure this technology is used for the safety of civilians." I know that one of your members, Raytheon, says "We take pride in our ethical culture to do the right thing and preserve human rights," and I know, Paul, that you have been mandated to speak on behalf of Raytheon here.

With some of those ethical codes that Raytheon lays out there, or that



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other companies lay out—many companies have them—do they not then struggle to uphold some of the things that we see happening in the Yemen? We know that the use of some of those weapons and the bomb strikes—I could go through a long list, but I’m not going to—are causing human rights concerns, and some of those bombs are probably built in Britain. Does that not concern your members? I’m not talking about the licensing system. Your members have the knowledge about where these are, probably sometimes more knowledge than the Government. Is it not then important for the member to act on their own ethical standards, and not just to rely on the Government standard?

Paul Everitt: Again, it is very easy to get drawn into the specifics. We understand the sensitive nature of what goes on in Yemen, and the current issues. The individual companies are part of Government-to-Government arrangements under which they are contracted by their own Government to provide support, so that provides a rather different context. They are also part of long-running arrangements that will have been in place over many, many years.

I think that our companies will be turning down more business than you probably are aware of, or I am aware of, because they do not want to do business with particular people. However, there is a nature of our work that is directly around those Government-to-Government relationships, and the judgments as to whether or not that is appropriate are made by those Governments.

Q91 **Lloyd Russell-Moyle:** So even if it breaks Raytheon’s code of conduct, they would still approve it, because it is a Government-to-Government contract in that sense?

Stephen Phipson: In the US, they have no choice. They have to.

Q92 **Lloyd Russell-Moyle:** Yes, but with the UK, there is a Government-to-Government contract as well.

Stephen Phipson: Yes, there is.

Lloyd Russell-Moyle: So even though there is choice there—

Paul Everitt: It would be difficult to say what—

Lloyd Russell-Moyle: I am asking you because Raytheon have specifically said that you will speak on their behalf.

Paul Everitt: That is news to me, in terms of the specifics of this particular issue. As I have said already, the whole point of a licensing regime is that it is responsive to the moment and it is possible to change the permissions if the Government choose to do that. It is appropriate for Government to make those decisions, and given the nature of the work that people are engaged and involved in, they accept that that can happen.

Q93 **Lloyd Russell-Moyle:** One last very quick thing. You mentioned the numbers of jobs that may have been turned down. I wonder if there is a



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quantifiable number that you could give, and maybe you could go back and see if there are numbers about how many jobs to countries companies have turned down on their own ethical standards, before they have even processed it to the—

Paul Everitt: I wouldn't be able to give those numbers. I'm not sure that it would be helpful to try to ask them that, because again, the judgments that they would make are, "These are not countries that we wish to do business with."

- Q94 **Lloyd Russell-Moyle:** That is why it would be an interesting judgment, because these are not then presented to the joint unit. We see that there is another filter here to identify where rogue states may be trying to purchase weapons, where they are stopped along that line, and where the faults might be. I wonder if you could go back to your companies and ask how many countries and bids they have turned down for weapons that would require—

Paul Everitt: I mean, we can ask the question. Very often, it would be competitions they choose not to take part in, which is rather different.

Lloyd Russell-Moyle: Yes, okay.

Chair: And any inquiry is more broadly about defence and security, as well as weapons.

- Q95 **Stephen Twigg:** I just want to follow up on Lloyd's last question before I move on to my questions, because it was important. There is a question about certain countries where companies might just think, "Don't touch that country," but there might be countries to whom they would be willing to sell certain products, but not others that could potentially open them up to questions about abuses of international law. Is that something on which more information could be provided from your members?

Stephen Phipson: Paul's members may well come up with the data, but I doubt they will in many respects. It is worth remembering that at an early stage, normally the companies involve the Government because they have to get permissions through the MOD to export a certain type of defence capability. They will be talking in those terms about doing it.

To give you one specific example, I know of a country, but not a campaign, that is quite difficult for the UK to export security equipment to, which is Nigeria. That is because of the environment around bribery and corruption in that country, which is well documented. The Government would prefer them to do that, saying, "If you can find a way through it, it would be helpful to the relationship." There you will see companies deliberately making broad decisions not to go in because the risk is too high.

- Q96 **Stephen Twigg:** That is a helpful example. If there are others that you can communicate with us, even on a private basis, that would be helpful for our deliberations going forward.



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Dare I take us to Brexit? What are your members' concerns, if any, about the impact that Brexit might have on the industry?

Stephen Phipson: That is the rest of the evening gone.

Chair: I remind the Committee that we are running behind schedule. I know it is an important subject.

Paul Everitt: By and large, we now have an understanding of how the UK will approach licensing and how our EU partners will. In terms of the equipment on the military list, I do not think it will change a great deal. In terms of dual use for the UK, there will be more administrative burdens associated with it, but people at least have an understanding of what it is. While there may be other issues that are causing them concern, the licensing ones are ones that they at least have emerging clarity on.

Q97 **Stephen Twigg:** I understand that the EU is currently reviewing the common position. Is that something that your members are engaged with? From a UK point of view, it is a slight curious time for that to come out.

Stephen Phipson: They are. You have to remember that many of the defence contractors are actually European companies. With the exception of BAE Systems, which is specifically UK, most of the rest of the large ones—the large primes, in particular—are across Europe. They are involved in those discussions. They are worried about any kind of divergence, where there would be different sets of criteria. If you are a company that is across Europe, that is really hard to manage.

Q98 **Stephen Twigg:** So I take from that that you are absolutely saying, "No divergence, please."

Stephen Phipson: That would be preferable.

Q99 **Chair:** To be absolutely clear about information sharing, we obviously now have the UK diverging from the EU and EU systems. We now have information sharing on licences and prosecutions that member nations ought to be notified of because of their activity. Will the system as it stands now remain in place, whatever the outcome of Brexit?

Stephen Phipson: It is difficult for us to have an opinion on that. That is obviously a decision between the Governments. We would prefer it to stay in place if that was at all possible to ensure that that consolidated approach was there. It is a much more robust system. It has to be for Governments to come back and tell us where we are.

Paul Everitt: There were defence and security aspects within, albeit a sketchy political declaration—

Stephen Twigg: "Sketchy" is a good word.

Paul Everitt: They want reassurance that in the event that we have a deal, most of these arrangements would be sustained. If there is no deal, there is concern that that is less clear.



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Q100 Chair: You have been given an indication that it will be sustained, which is very helpful. If we leave next Thursday, you are confident that information sharing will be sustained on licences, rogues, prosecutions—the current information sharing system—

Paul Everitt: No, I said if there was a deal. It will be less clear if there is no deal.

Chair: I think that probably makes it clearer that it is less clear, if that makes sense.

Stephen Phipson: I think if you were to ask any of the defence companies at the moment, they would say they are not clear on anything to do with Brexit whatever.

Stephen Twigg: Finally, just on this EU review of the common position, I think the suggestion is that your members are engaging with that. Is there any sense of what that is likely to lead to?

Stephen Phipson: Not at this stage, no. It is early in the process, but they are fully engaged. Because of the nature of those companies, they are across Europe.

Paul Everitt: From our point of view, that is being addressed through our European association, of which we are a member and will continue to be.

Q101 Stephen Twigg: In terms of what you have said in previous answers, the industry would not be looking to dilute the common position.

Stephen Phipson: No.

Chair: We are up against time, so I will bring Lloyd in.

Q102 Lloyd Russell-Moyle: We have heard concerns about brokerage, brass-plate companies and extraterritoriality—I always get that word slightly wrong—and the ability for Britain to impose the consolidated criteria on subsidiaries of companies outside of the UK, and, in this sense, outside of the EU, because it is a joint position. We had this conversation last time, including around BAE. BAE wrote to me and said to the Committee that all their exports from the EU now go through the joint unit here in the UK. Are there further things that industry is doing to allay these concerns, and do any of your members export from jurisdictions outside of the EU?

Stephen Phipson: Raytheon certainly does, and Lockheed Martin—all the American primes.

Paul Everitt: In fairness, their UK business is incorporated in the UK. Let me deal with the brokerage one first. We have had the exchange, and certainly we have had some engagement, with NGOs around this, and I think we are all in the same place. The UK Government has the powers to address that situation either through the licensing regime and/or through the Companies Act and disqualification of directors.



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For us, and certainly the NGOs that we have engaged with, we have no reason to want to see people being non-compliant or to see businesses not acting in an appropriate way, because all that does is create a bad atmosphere for those who are compliant. If circumstances are identified where things could be done, we would encourage Government to do all of the things that they can do within the scope of the law that is already available to them.

On extraterritoriality, there are some challenges. Where people have subsidiaries in non-EU countries, they would primarily be governed by the rules that exist in those places. Many companies may take a similar role to that which BAE does. I don't know, but, again, I can check on that. Clearly, there is a challenge. It is a Government issue as to how they wish to interact with some of those particular Governments.

Q103 Lloyd Russell-Moyle: It would be interesting if you could go back and see, particularly if the UK subsidiary makes parts here and then channels them through other jurisdictions, and if you could see whether they are non-EU jurisdictions.

Paul Everitt: In most of the businesses that we deal with, they are supply chain issues, so they will come either to the UK or to an EU base.

Q104 Lloyd Russell-Moyle: I get that. I am interested in whether they use third, non-EU countries and then supply to countries on the FCO countries of concern list. I don't know if that information is available, but I would appreciate it if you could go back and see.

Paul Everitt: I can try and ask.

Q105 Lloyd Russell-Moyle: I understand why BAE did this, because there were accusations that they were using some of their other branches to channel business through so as to avoid this. They seem to be pledging to do the right thing now to bring it onshore, effectively. What we don't want to see is other companies undercutting that good will by still using the loopholes, so it would be good to test whether other companies are still doing that—and whether BAE is doing this with all of their work, not just the EU work. Can you go away and test that for me?

Paul Everitt: I can test it, yes.

Q106 Chair: Would you send a letter to the Committee?

Paul Everitt: I will collect the various questions that we will look to ask and we will ask them.

Chair: That is marvellous. Your generosity in response to that question has been noted by the Committee.

Q107 Ann Clwyd: What would it take for UK brokering controls to be rigorously enforced in cases where UK nationals are operating overseas, supplying arms to embargoed countries?

Stephen Phipson: We already have quite a tough regime for that.



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Paul Everitt: I am not a legal expert in those circumstances. Again, to be clear, we believe that anybody acting inappropriately should face the full weight of the law. From a UK industry point of view, I am not sure that we would be in a position to know exactly what the Government need to do to clamp down on UK nationals operating in non-EU countries, doing things that they should not do.

Ann Clwyd: You will not be able to answer the next question, then, but perhaps you will write to the Committee again.

Paul Everitt: I do not think that is our area of expertise, nor is it our companies'. I am sure that there are plenty of legal offices, or indeed—

Stephen Phipson: The Attorney General.

Paul Everitt: They would have an answer to that. We are just clear that people who behave inappropriately should face the weight of the law.

Q108 **Ann Clwyd:** I was going to ask you what action your UK-registered members are taking to lessen their usefulness to the non-UK arms brokers, and what can be done to stop their involvement in illicit arms sales.

Paul Everitt: I am not aware of any of my member companies that have been involved in any illicit arms sales. If there is any evidence that any of my member companies or companies in the UK have been doing that, I would do everything I can to ensure that they faced the full weight of the law. As I say, what we want is an industry that we can all be proud of. If people are acting inappropriately, my team and I will do anything and everything we can to make sure those people face the law, because it is not right.

Q109 **Chair:** Finally, in your evidence to the Committee, you state that deeper auditing—which is something the Committee is interested in—of the end use of UK arms exports cannot be adequately performed within the current level of resourcing and existing workload. I would add that the Committee's workload can probably be included in that. Do you have any estimate of the level of extra resource that would be required? Could such audits be funded by the industry?

Paul Everitt: The point we were making is that end-use audits would be an additional requirement, and somebody would have to find the resources to be able to do that. Exactly how much, again, depends on how much you want to do.

From an industry point of view, we go through quite a level of due diligence on end users as part of any licence application, and information about the end user is available. To some of the comments earlier, Government is in a much better position to be able to know whether the end users are using the equipment supplied to them in an appropriate way. Many of our members will have an ongoing relationship with those end users, because it is not a point sale; it is part of an ongoing relationship, so we will be fairly confident about exactly who and what



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they are, but there are always opportunities for activities to go on that we cannot know about and would not know about, whereas Government are much more able, through the channels that they would have, to have those relationships.

The point we are making is that, for the overwhelming majority of the exports that we are engaged and involved in, this is not a major issue. There will inevitably be some for which, rightfully, there is concern, but expending huge amounts of effort on, if you like, established relationships where there are already compliant regimes in place is not, I suspect, helpful.

Q110 **Chair:** I think the Committee is looking at the Government's position in terms of end-use monitoring, but some of these platforms are highly technical, so you will be involved in them. You mentioned that you do monitor the end use of some of these platforms. In some cases, that will be a necessity, I presume, rather than an obligation—well, it may be an obligation, too.

Paul Everitt: Again, it depends. We are talking about anything from the supply of some body armour through to a Typhoon jet.

Q111 **Chair:** The comparison that you make is the one that was going through my mind. You may do one, but not the other. I just wondered what end-use monitoring—not necessarily was undertaken, but you were observant of. And what is your relationship with Government in terms of monitoring those highly technical platforms and their end use?

Paul Everitt: Again, I am not able to provide you with an answer, because I don't actually do—obviously, it will be individual companies, and again, it will vary from company to company and project to project. If you are looking at some of those major platforms, that is part of a Government-to-Government relationship, and it is the Government who will be holding the other Government to account for their use of them.

Q112 **Chair:** But if it were helicopters, wouldn't it be your members that would be observant as to their end use? From a technical point of view, it—

Paul Everitt: The answer is that it will depend. In some cases—this has happened in the past—they will have just bought a helicopter and they will provide all the service and support for it themselves; in other cases, the company may be involved. But again, that is likely not to be just a commercial transaction; it will be part of a Government relationship.

Q113 **Chair:** There is also the servicing. There is also the capability. So the end-use monitoring in a combat zone, I thought, would be critical to the production of the particular unit or platform.

Paul Everitt: I am not sure I understand the question that I have been asked.

Q114 **Chair:** If, for instance, you were selling helicopters for use in a combat zone, you would want to know operationally how they performed, and you would need to monitor that in order for the helicopter to be refined,



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modified or whatever was necessary—or even accepted as industry-leading. Whichever it was, your members would still monitor end-use performance, particularly under stress, which would be in a combat zone. Would that be a fair point?

Paul Everitt: If we were talking about the UK, absolutely, because they would be involved in all aspects, but it might not necessarily be the case in other parts of the world.

Q115 **Chair:** And any end-use information that it was thought might be relevant to the Government your members would supply?

Paul Everitt: The Government would be best placed to know and understand—

Q116 **Chair:** But your members, if they were privy to information about end use, would supply that information to the Government?

Paul Everitt: I am sure they would, yes.

Q117 **Chair:** You are sure they would? Are you 100% confident?

Paul Everitt: Again, the relationships of those types will be between the Governments concerned. The industrial player will be delivering a product and service, but the oversight of it will be done through Government channels.

Q118 **Chair:** But the technical oversight will of course be by the—

Stephen Phipson: Not necessarily. In terms of 159s and 101s, which is what you are talking about, I assume, with the Westland helicopter programmes, some Governments do all of that themselves, on the Government-to-Government contract, and we just supply the equipment and spare parts. Maybe through the spare parts, you can get some sense—another thing is that they are doing health and usage monitoring systems and downloading all the data and doing a full managed service. So it depends. It's difficult to set one criterion for all of them. And all of those—certainly the military helicopter programmes—are through a Government campaign, effectively. There is not free marketing going on of 159s and 101s.

Q119 **Chair:** No; I appreciate the point that you make. Finally, I just come back to the question that I asked. If you were privy to information, at a technical level, that you thought would be of interest to the Government in terms of arms export controls, you—your members—would automatically provide that information to the Government?

Paul Everitt: I would say that there is a close relationship between my member companies, which are providing—

Q120 **Chair:** I am not getting to 100%, am I? I am trying to get you to 100%.

Stephen Phipson: I think the trouble is that it's case by case. Having seen this at first hand, I can say that everyone has a different arrangement, but I can tell you that the Government and particularly the

MOD are normally in the middle of those relationships, so they see as much data—

Q121 **Chair:** So we are not going to get to 100%?

Paul Everitt: Again, it depends on the relationship. Strangely, sovereign Governments are not necessarily keen that everybody should know everything about what they do, so they will be putting in place constructs to ensure that they are able to keep secure what they choose to keep secure. No one is ever going to know everything.

Chair: Thank you very much, Paul, and thank you, Stephen, for coming to the Committee today. We really appreciate it. That ends the session.