



Business and Trade Committee

House of Commons, London SW1A 0AA

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Rt Hon Kemi Badenoch MP
Secretary of State
Department for Business and Trade

[by e-mail]

15 May 2024

Dear Secretary of State

Thank you for helping to facilitate Select Committee scrutiny of UK arms exports. The Committee is grateful to you for helping Parliament to fulfil its duty to scrutinise your decisions and to ensure political accountability. I am writing today to set out why the Committee expects full disclosure of the information that we requested in writing and full answers from Ministers at the oral evidence session on Tuesday 21 May.

In your letter on UK arms exports to Israel dated 24 April, you stated that “some of the information requested has already been included in the Government’s submissions in the Judicial Review brought by Al-Haq. As I’m sure you will understand, I cannot comment on ongoing legal proceedings.” The Al-Haq case involves a judicial review of the Government’s export licences for the sale of UK weapons capable of being used by Israel in Gaza.

To ensure that the Committee’s scrutiny work delivers maximum transparency, I have taken advice from the House of Commons Table Office. I can confirm that the House of Commons sub judice resolution does not apply to the Business and Trade Committee oral evidence session on UK arms exports to Israel on Tuesday 21 May 2024. The sub judice resolution does not apply, because the Al-Haq case involves a judicial review of a ministerial decision.

Judicial review of ministerial decisions is explicitly covered by the ministerial decision exemption set out in the sub judice resolution of the House of Commons of 15 November 2001, which is included as an appendix to the House of Commons Standing Orders. The ministerial decisions exemption is clear: “where a ministerial decision is in question ... reference to the issues or the case may be made in motions, debates or questions.” In such cases, ministerial accountability to the House cannot simply be overridden by ministerial accountability to the courts.

Ministers and officials can comment in oral or written evidence to Parliament on ministerial decisions subject to judicial review and their comments will be privileged. Judicial review of a ministerial decision does not prevent Ministers and officials from providing the fullest possible answers to the Committee’s questions, as required by the Ministerial Code.

The Al-Haq case will not be heard until October. I am sure that you agree that it cannot be right that the Business and Trade Committee, and by extension the House, should be denied access to the information that it needs to scrutinise UK arms exports to Israel.

Given that the House authorities have confirmed that the sub judice rule does not apply in this case, I would be grateful if you were to explain the basis for your reluctance to provide the information requested in my letter dated 4 April.

I am copying this letter to the Deputy Foreign Secretary and Minister Mak, because they are scheduled to provide oral evidence on 21 May. I look forward to full disclosure of the information requested by the Committee both in writing and at the forthcoming oral evidence session.

Yours sincerely

A handwritten signature in black ink, reading "Liam Byrne". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rt Hon Liam Byrne MP
Chair of the Business and Trade Committee

CC: Deputy Foreign Secretary, Rt Hon Andrew Mitchell MP
Under-Secretary of State, Department of Business and Trade, Alan Mak MP