



Foreign, Commonwealth
& Development Office

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Sarah Champion MP
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1 September 2025

Dear Sarah,

Thank you for your letter of 12 August 2025 on the subject of arms exports to Israel and the global F-35 programme. I am copying this letter to the Secretary of State for Business and Trade and the Chair of the Business and Trade Committee.

Sadly, since I gave evidence before the Committee in July, the appalling situation in the Occupied Palestinian Territories has continued to deteriorate, and Israel has announced an expansion of military operations in Gaza. As I said in a joint statement with allies on 9 August, the UK strongly rejects this decision. It will aggravate the catastrophic humanitarian situation, endanger the lives of the hostages, and risks further mass displacement of civilians. We also condemn in the strongest terms Israel's decision to approve plans for settlement construction in the E1 area, East of Jerusalem. Israel's Ambassador to the UK was summoned to the Foreign, Commonwealth and Development Office on 21 August in response to this decision.

The UK is not 'arming' Israel's war in Gaza. As you know, one of our first acts in government was to review and suspend export licences that might be used by the IDF in the conflict in Gaza. We have successfully implemented the suspension announced on 2 September 2024 and continue to refuse all such licence applications. As set out to Parliament, the only exception to the suspension is exports to the global F-35 programme.

We are facing a critical moment for European security and war on our continent and the Government has a duty to consider the full implications of all arms export decisions. The F-35 partnership is the largest defence programme in the world with over 1,000 F-35 aircraft in service globally. It is being used every day to keep allied airspace secure and deter Russian aggression. Undermining the programme would significantly disrupt international peace and security, NATO deterrence and European defence. It is for that reason alone that we took the decision to continue exporting to the global programme. However, as we announced last September, we have stopped direct exports of F-35 parts for use by Israel.

You asked several detailed questions on how continued exports to the global F-35 programme are consistent with international law, for which answers are provided below. I also note that the Government's legal position on these was set out in detail in the Skeleton Argument from the recent Al Haq Judicial Review, which was shared with the Committee by the Secretary of State for Business and Trade. This Government will always act in line with domestic and international law.

Genocide Convention

Q1: Does the Government accept that the duty to prevent genocide has been triggered? If so, at what point was this duty triggered? If not, why not?

Q2: If the Government accepts that the duty to prevent genocide has been triggered, what steps is the UK taking to employ "all means" and do "all in their power" to prevent genocide, as far as possible?

Q3: How does the exemption for F-35 components comply with the duty to prevent genocide?

The Government's position is covered in detail in paragraphs 87-101 of the Skeleton Argument from the Al Haq Judicial Review. The duty to prevent genocide under Article I of the Genocide Convention (1948) arises when the UK learns, or should normally have learned, of the existence of a serious risk of genocide. From that moment on, if we have available the means likely to have a deterrent effect on those suspected of preparing genocide or reasonably suspected of harbouring genocidal intent, the UK is under a duty to employ all means reasonably available to us to prevent genocide. This position is in line with the decision of the International of Justice (ICJ) in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro, 2007).

The Government has carefully considered the risk of genocide, including when permitting exports to the F-35 global programme. The high civilian casualties, including women and children, and the extensive destruction in Gaza, are utterly appalling. Israel must do much more to prevent and alleviate the suffering that this conflict is causing. As per the Genocide Convention, the crime of genocide occurs only where there is specific "intent to destroy, in whole or in part, a national, ethnic, racial or religious group." The Government has not concluded that Israel is acting with that intent.

As you highlight, the ICJ is considering a case brought by South Africa against Israel, under the Genocide Convention, and has ordered Provisional Measures, including on humanitarian access in Gaza. Israel is under an obligation to implement such Measures as a matter of international law. The UK has repeatedly recognised the horrors of the conflict in Gaza and has called upon Israel to comply with the Court's orders. The case is ongoing and the Court is yet to hear and rule on the merits. To date, the ICJ has neither found that Israel has breached its obligations under the Genocide Convention, nor ruled on the plausibility of Israel committing genocide. Accordingly, we do not consider that the ICJ's Provisional Measures Orders should be regarded as creating an awareness of a serious risk of genocide.

Geneva Conventions

Q4: What is the Government's legal basis for the contention that CA1 does not contain third party obligations and does not, therefore, require the UK to ensure respect of IHL by other states?

Q5: Does the Government's assessment that there is a "clear risk" of serious violations of IHL extend to the use of F-35 components?

Q6: What is the Government's assessment of the compatibility of the export of F-35 components vis-a-vis its duties under any CA1 third party obligations?

I have set out the government's position on Common Article 1 (CA1) of the Geneva Conventions in my 14 August letter to the Committee, so I won't repeat the detail here. In summary, it is the UK's long-standing view that CA1 does not impose a legal obligation to ensure that other States also respect the Geneva Conventions. In the judgment handed down on 30 June, the High Court acknowledged that there are substantial differences of practice and opinion on this question, something the ICRC also recognises.

The government's position on CA1 does not prevent us from calling out Israel's actions, and stressing the urgent need to protect civilians and bring this conflict to an end. We continue to assess there is a clear risk that exports to Israel for use in the Gaza conflict might be used to commit or facilitate a serious violation of IHL. That is why we have suspended, and continue to refuse, export licences.

Arms Trade Treaty

Q7: In circumstances where the Government has determined that there is a "clear risk" of serious violations of IHL being committed by Israel, does the Government assess that there are "substantial" or "reasonable" grounds to believe that the F-35 components would be used in the commission of such crimes?

Q8: What legal authority does the Government rely upon to support its position that a positive contribution to peace and security is to be balanced against a clear risk of the arms being used to commit serious violations of IHL/IHRL?

The UK's commitment to the Arms Trade Treaty goes back nearly 20 years. We have played a leading role in setting its standards and take its implementation extremely seriously. The Government's legal position on compliance with the Treaty is set out in detail in the Skeleton Argument shared with the Committee. Specifically, paragraphs 73-78 refer to Article 6(3) and paragraphs 79-86 address Article 7.

The text of Article 6(3) is very clear that it requires "knowledge at the time of authorization that the arms or items would be used in the commission" of certain crimes. We are clear that this means the State must have actual knowledge that UK exports would be used in the commission of those crimes. While we have assessed there is a 'clear risk' that exports to Israel for use in the Gaza conflict 'might' be used to commit or facilitate a serious violation of IHL, that is a significantly lower threshold than that set out in Article 6(3). We are unaware of any possible breaches of IHL having been linked to the limited evidence of F-35 use in Gaza and it is worth remembering that, where UK-produced F-35 parts go to the global spares pool, Israel operate a very small proportion of over 1,000 F-35s in the global fleet.

As exports to the F-35 global programme are consistent with Article 6 of the Arms Trade Treaty, we have also considered them under Article 7. I note this was also the topic of detailed correspondence with the Business and Trade Committee. Article 7(1) explicitly requires us to assess the potential that the items (a) would contribute to or undermine peace and security; and (b) could be used to commit or facilitate a serious violation of IHL or IHRL. Article 7(2) requires that we consider mitigating measures and Article 7(3) then states that an export shall not be authorised if the exporting State Party determines that there is an “overriding risk” of any of the negative consequences set out in Article 7(1). The ordinary meaning of the term “overriding” in Article 7(3) - interpreted according to the Vienna Convention on the Law of Treaties - shows that there is a balancing exercise to be completed, which interpretation is supported by the negotiating history. Indeed, it is clear from Article 7(1) that there may be factors favouring an export, which should be weighed against the risks. I would also note that the Government has taken mitigating measures, including stopping direct exports of F-35 parts for use by Israel.

Articles on State Responsibility

Q9: Does the Government have knowledge that Israel is committing internationally wrongful acts?

Q10: Does the Government assess that the export of F-35 components is aiding or assisting in the commission of these internationally wrongful acts?

The government has carefully considered its obligation not to aid or assist internationally wrongful acts, as reflected in Article 16 of the Draft Articles on State Responsibility. The detailed legal position on this is set out in paragraphs 102-112 of the Skeleton Argument. Breach of this obligation requires a material contribution with actual knowledge of the internationally wrongful acts and for the UK to have intended to facilitate them. As stated to Parliament, we decided to continue exports to the F-35 global programme to protect its role in NATO and international peace and security. Despite the number of casualties and scale of destruction, the government does not have knowledge to the requisite degree specifically linking F-35 use to internationally wrongful acts in Gaza.

I recognise that not everyone will agree with these conclusions, but they have been arrived at through detailed and careful ongoing assessments. I have been absolutely clear in my condemnation of the manner in which Israel is conducting its campaign. Working with our international partners, this Government will continue to make efforts to bring this conflict to a halt.

Yours ever,

A handwritten signature in dark ink, appearing to read 'D. Lammy', with a stylized flourish at the end.

THE RT HON. DAVID LAMMY MP
Secretary of State for Foreign, Commonwealth and Development Affairs