

Memo to the Committees on Arms Export Controls: Follow-up to 2 February evidence session

Professor Anna Stavrianakis, University of Sussex

This memo contains suggestions as to two areas CAEC should explore in future work, as requested.

1) Examine *how* arms export decisions are made.

Scrutiny of UK arms export policy is often based on controversies as a result of civil society and media attention to cases where the UK government licences exports that seem to contravene the government's legal and policy commitments. Before the current CAEC was reconvened, the Committees last met on 22 May 2019; their last quorate meeting was 30 January 2019; and the last CAEC report was 18 July 2018. There is thus a considerable absence of parliamentary scrutiny over the past two and a half years, at a time when UK policy has been implicated in the biggest arms export controversy since the arms to Iraq scandal and Scott Report of 1996, due to the role of UK-supplied weapons in the war in Yemen. Beyond the case of Yemen, there are a range of other arms export policy areas that warrant parliamentary scrutiny, including the transfer of military and surveillance equipment for use in policing protest during the Covid-19 pandemic, the sale of tear gas, rubber bullets and riot shields to the USA for the suppression of Black Lives Matter protests, policy towards China and Hong Kong in light of the imposition of security law, and the listing as priority export markets for UK-made weapons countries that appear on the FCDO's own list of "human rights priority countries".

There is therefore a need to resurrect parliamentary scrutiny of *how* arms export decisions are made in order to open up the black box of decision-making for the purposes of effective decision-making and accountability. CAEC could explore how decisions are made by examining: the effectiveness of the Export Control Joint Unit and how different departments involved in export licensing work together in terms of information-sharing and making recommendations; what evidence sources are consulted, including both open and closed sources; how competing information is weighed and adjudicated; how UK commitments are interpreted, including with regard to legal advice; and what form ministerial involvement takes. Taking evidence from ministers and a range of officials from across the departments involved in licensing would allow the CAEC to get past the superficial repetition by the government that it has a robust regime that assesses applications on a case-by-case basis against the Consolidated Criteria, and examine in detail how decisions are made.

This may not seem like a new issue but it is a pressing issue and in my view the core area for parliamentary scrutiny and accountability. The presence of two former ministers on the CAEC, including in the Chair, who have experience of what these issues look like from within government, makes this a particularly timely moment for the CAEC to resurrect this task.

2) Turn the Committees into a full and permanent standing Select Committee.

When the CAEC has functioned well, it has been a world leader in parliamentary scrutiny. However, at other times it has fallen short, notably during the last two parliaments, as indicated above. A significant factor in the challenges CAEC faces is its unwieldy nature: its indirect membership through four component committees; complicated and cumbersome quorum rules; and at times of controversy it has collapsed into near-irrelevance. While there have often been a number of MPs with a real commitment on the issue of arms export controls, inter-party politicking amplified by bureaucratic obstacles have led to inertia and at times paralysis and a lack of institutional memory. A Select Committee with a dedicated staff, a paid chair elected by all MPs, MPs dedicated specifically

to it, and the power to summon witnesses for inquiry would allow CAEC to do the work it needs to do.

Precedent for such a move exists with the 1997 establishment of the Environmental Audit Committee. I understand that in order to form a new permanent select committee the House of Commons would have to agree to change the Standing Orders. Usually it is the Government who would bring forward a motion to establish a new Select Committee; however, it may also be possible for the four select committees to apply for a debate through the Backbench Business Committee if they wished to do so. This may not be a topic for an inquiry but is one that would be a major legacy of this CAEC, if it were successful.

19 February 2021