

Supplementary written evidence submitted by the Control Arms UK¹

Summary of Key Recommendations

Structure and operation of the CAEC

The CAEC to request the Leader of the House, in consultation with the Shadow Leader of the House, to reconstitute the CAEC as a permanent body with the powers of a select committee. Membership of the new Committee, which could be a select committee of the House of Commons or a Permanent Joint Committee of Commons and Lords, would be a primary committee assignment.

Terms of reference of the current enquiry

The CAEC should redraft the Terms of Reference of its current enquiry (and any future enquiries) to state explicitly that assessing individual licensing decisions is a core part of the enquiry.

Licensing decisions of potential concern

The CAEC should seek from the government

- detailed evidence on the scale and nature of arms delivered to Egypt, Saudi Arabia, Turkey and UAE, and on the grounds for determining that none of these approved transfers were problematic under the Consolidated Criteria
- a detailed explanation of how the government manages the export control process for prospective and ongoing arms deliveries to countries it identifies as Human Rights Priority Countries
- clarity about whether and how the new risk assessment methodology was applied to all the destinations listed above.

Sniper rifles

As we set out in our March 2021 memorandum to the CAEC, we continue to recommend that

- The government should explain how its approach to assessing licence applications for exports of sniper rifles and related equipment and technology is consistent with its obligations under the Consolidated Criteria
- The government should produce a dedicated section in its Annual Report setting out all sniper-rifle-related export and brokering licences approved or refused and the rationale for approving or refusing licences for transfers to a list of “sensitive” countries (to be agreed with the CAEC)

¹ Control Arms UK is the UK national platform of the Control Arms Coalition, an international coalition of non-governmental organisations, research institutions and other civil society organisations working for effective controls on the international arms trade. Each individual organisation brings different areas of policy expertise encompassing a wide range of related policy concerns and therefore may not address or take specific views on or endorse all areas contained within this submission. The members of Control Arms UK for the purposes of this submission include [Action on Armed Violence, Amnesty UK, Article 36, Omega Research Foundation, Oxfam, Saferworld, Shadow World Investigations, United Nations Association-UK].

- The CAEC should investigate whether and how a whole-of-government approach is or is not taken to export control enforcement, including by calling a cross-departmental panel of witnesses to give oral evidence.

Arms exports and corruption

The CAEC to

- press the government to introduce either
 - a new criterion in the consolidated criteria that specifically addresses corruption risks, or
 - new language within existing criteria to affect that corruption risks must be assessed, and guidance on how they should be assessed;
- call upon the government to introduce
 - ‘know-your-client’ requirements that would require licensees to disclose the beneficial ownership of any third-party exporters, recipients and ultimate end users;
 - a requirement that licence applications must include a declaration by the applicant that the export contract has not been obtained through bribery or corruption
- ask the government to clarify whether evidence or clear risk of corruption in relation to an export contract is grounds for licence applications to be refused and extant licences to be revoked.

Surveillance Technology: Pegasus spyware

- The CAEC to press for the reclassification of spyware and related technology, including zero-click systems, into Category A of the UK trade control framework to prohibit the advertising and marketing of these goods at UK trade fairs and to prevent UK persons anywhere in the world brokering these goods and technologies
- The UK government to amend its own dual-use controls to fully align with the re-cast EU Dual-use regulation (updated since the UK left the EU), which specifically strengthened EU controls on surveillance technology, including a new catch-all provision related to these goods
- The CAEC to ask the government what assessment it has made of whether any senior UK government figures, civil servants, including officials working in UK embassies overseas, have been exposed to Pegasus spyware, and what steps are being taken to ensure government communications are not compromised given the fundamental threats this technology now poses

UK MOD surplus sales: small arms

The CAEC to press the MoD

- for an urgent retraction of the current DESA brochure and clarification that firearms, including 9mm semi-automatic pistols, are not crowd-control weapons
- to explain when the earlier policy of destroying surplus automatic weapons was changed, by whom, and where information about this policy change appears in the public domain

- to reinstate the former UK policy, consistent with the UN Programme of Action and related policy commitments to curb illicit small arms proliferation, of destroying surplus small arms
- to explicitly acknowledge that any changes to our small arms (anti-) proliferation policy will in future be duly notified in the government's annual report on strategic export controls, as is appropriate given the heightened international concern over the proliferation of small arms and light weapons

UK used to circumvent Danish arms export rules

The CAEC to explore in detail whether the existing control system is fit-for-purpose to manage the issue of company parent-subsidiary arrangements and whether changes are necessary

The UK and international processes

The UK government should

- join the group of countries calling for a new international legal instrument to address the problem of autonomous weapons through a structure of prohibitions and positive obligations to ensure meaningful human control
- reassert its commitment to multilateralism and the rule of law by supporting efforts to develop meaningful controls on weapons proliferation and misuse where they are lacking and by fully and robustly implementing all of its existing obligations in this area

Introductory note

1. This memorandum should be viewed as supplementary evidence from Control Arms UK members, as this is further evidence to what is a rolled-over enquiry from last year's CAEC sessions. To reflect the range of concerns expressed by Control Arms UK members, it should be read in conjunction with the evidence previously submitted in March 2021, as well as the Control Arms UK memorandum on arms export licensing to Israel, submitted in July 2021. The purpose of this memorandum is to provide key updates to our previous submission as well as to highlight additional issues and topics of concern that have emerged since the CAEC re-convened last year

Structure and operation of the CAEC

2. We reiterate the concern expressed in our March 2021 memorandum that despite the best intentions of its members, the CAEC as currently constituted is struggling to give the level of attention that rigorous oversight of the UK's arms transfer policy and practice requires. We believe the time has come to set up an alternative structure. There are a number of issues that lead us to this conclusion, including
 - The last few iterations of the CAEC have taken far too long to become established and then to commence work
 - The complicated quorum arrangements and the fact that CAEC duties are additional to other (primary) committee obligations of members stand in the way of effective efficient functioning

- The last report of the CAEC was published more than three years ago and covered licensing activity in 2016
- We are still in effect operating under the rolled-over Terms of Reference for an enquiry that was to have been completed by now
- Ministers have yet to appear before the CAEC in this parliament.

3. Recommendation

- **The CAEC to request the Leader of the House, in consultation with the Shadow Leader of the House, to reconstitute the CAEC as a permanent body with the powers of a select committee. Membership of the new Committee, which could be a select committee of the House of Commons or a Permanent Joint Committee of Commons and Lords, would be a primary committee assignment.**

Terms of reference of the current enquiry

4. The Control Arms UK considers parliamentary examination of specific licensing decisions to be a critical part of the national export control system. A similar view was held by the High Court when in 2017 it concluded that a person charged with making licensing decisions should be politically responsible for them, and noted the role played by the CAEC in this regard.² It is therefore of concern that the Terms of Reference of the current enquiry state “[t]he Committee is unable to consider individual cases but may use them to highlight overarching policy concerns.” It is unclear why the CAEC feels unable to perform this function, especially given it has done so in the past, most notably during the 2010-15 parliament under the Chairmanship of Sir John Stanley, and we urge the CAEC to reconsider this approach.

5. Recommendation

- **The CAEC should redraft the Terms of Reference of its current enquiry (and any future enquiries) to state explicitly that assessing individual licensing decisions is a core part of the enquiry.**

Licensing decisions of potential concern

6. Further to our recommendation above and to paragraphs 9 to 20 from our memorandum of March 2021, in which we highlighted concerns about licences granted for exports to Egypt, Saudi Arabia, Turkey and UAE up to 30 June 2020, below we look at licences of concern granted to those same countries for the period 1 July 2020 to 31 March 2021, as well as other licences of potential concern for arms transfers to several other destinations since the beginning of 2020. In all cases, the specifics referred to are indicative, not comprehensive.

² [2017] EWHC 1726 (QB), Case No: CO/1306/2016, CAAT vs SSIT, Approved Judgment 10/07/2017, para 33, <https://www.judiciary.uk/wp-content/uploads/2017/07/r-oao-campaign-against-arms-trade-v-ssfit-and-others1.pdf>.

Updates since end of June 2020; licences granted from 1 July 2020 to 31 March 2021

7. Saudi Arabia: It was a return to 'business as usual' once the moratorium of new licences for exports to Saudi Arabia was lifted on 7 July 2020. More than 100 standard licences and 19 open licences have since been issued for a wide range of military items, including for targeting, rangefinding, electronic warfare and airborne-refuelling equipment; and components for combat aircraft, combat helicopters, combat vehicles, combat naval vessels and UAVs. The value of standard licences issued for ML4 equipment (bombs, torpedoes, rockets, missiles, etc.) over the nine months was £1,443 million, including £500 million for air-to-air missiles, £100 million for air-to-surface missiles, and £774 million for components for bombs.
8. Egypt: 19 standard licences worth £97 million and 10 open licences were issued for the transfer of military items during this period. Standard licences were approved for *inter alia* torpedoes and for components for combat aircraft, combat helicopters and air-to-surface missiles. Open licences were issued for *inter alia* components for combat aircraft, combat helicopters, imaging equipment, airborne refuelling equipment, aircraft cannons, depth charges, air-launched rockets, air-to-air missiles, air-to-surface missiles, naval guns and mines, torpedoes, surface-to-surface missiles and assault craft. Open licences were even issued for items related to the *production* of combat helicopters. While we have serious concerns that licensing practice for Egypt is failing to take proper account of the Consolidated Criteria, that the UK is helping Egypt to develop offensive military production capacity is even more worrying.
9. UAE: 94 standard licences worth £239.5 million and nine open licences were issued for the transfer of military items during this period. Standard licences were approved for *inter alia* components for combat naval vessels, combat aircraft, aircraft cannons, combat vehicles and air-to-surface missiles. Standard licences were also issued for UAVs and technology and components therefor, for small arms ammunition, for a military patrol/assault craft, for targeting and rangefinding equipment, and for night sights and gun silencers. A licence valued at £45 million was issued for launching/handling/control equipment for munitions. Open licences were issued for electronic warfare equipment and airborne refuelling equipment and technology and components therefor.
10. Turkey: 76 standard licences worth £29.3 million and three open licences were issued for the transfer of military items during this period. Standard licences were approved for *inter alia* small arms ammunition and components for combat aircraft, combat helicopters, combat vehicles, tanks, submarines, UAVs and military patrol/assault craft. Open licences were issued for *inter alia*: aircraft cannons; command communications control and intelligence software; components for machine guns, aircraft cannons, naval guns, air-launched rockets, naval mines, surface-launched rockets, torpedoes, targeting equipment, combat naval vessels, military patrol/assault craft, submarines, combat aircraft, combat helicopters, electronic warfare equipment, and launching/handling control equipment for missiles, munitions and rockets; and technology for air-launched rockets, air-to-air missiles, air-to surface missiles, combat

aircraft, combat helicopters and for launching/handling control equipment for missiles and munitions.

Examples of additional licences of potential concern granted from 1 January 2020 to 31 March 2021 for arms transfers to countries listed as among the government’s Human Rights Priority Countries.³

11. From January 2020 to March 2021 the government licensed military items for export to most of the destinations it identifies as Human Rights Priority Countries. Examples include but are not limited to:
12. Bahrain: 28 standard licences worth £15 million and 11 open licences were issued for the transfer of military items during this period. Standard licences were approved for *inter alia* 360 sniper rifles, for gun silencers, and for technology and components for sniper rifles, while one standard licence was granted for assault rifles, machine guns and a sniper rifle for “leisure/hunting/sporting purposes, including use by athletes in training and competition”. Bahrain was included as a destination for exports under an open licence of *inter alia*: components, technology and equipment for the use of combat helicopters, combat aircraft and combat vehicles; and technology for equipment for the use of combat aircraft and combat helicopters.
13. Bangladesh: 32 standard licences worth £44 million and eight open licences were issued for the transfer of military items during this period. Standard licences were approved for *inter alia* 180 sniper rifles and components for sniper rifles and for 46 machine guns. Open licences were issued for *inter alia* components for combat aircraft, combat helicopters and combat naval vessels.
14. China: 43 standard licences worth £3.2 million and 10 open licences were issued for the transfer of military items during this period, including components for submarines, combat vessels, combat helicopters and assault craft, and for components and technology for combat aircraft.
15. Israel: 139 standard licences worth £39 million and eight open licences were issued for the transfer of military items during this period, including grenade launchers, and components for combat helicopters, military patrol/assault craft, military aircraft head-up/down displays, UAVs, tanks, targeting equipment, imaging equipment, electronic warfare equipment, sniper rifles, combat aircraft, artillery ammunition, combat vehicles, submarines, surface-to-surface missiles, combat naval vessels and military radars.
16. Pakistan: 82 standard licences worth £7.1 million and 10 open licences were issued for the transfer of military items during this period. Standard licences were approved for *inter alia*: components for combat naval vessels, combat helicopters and combat

³ ‘Human Rights & Democracy: The 2020 Foreign, Commonwealth & Development Office Report’, Presented to Parliament by the Secretary of State for Foreign, Commonwealth & Development Affairs by Command of Her Majesty, July 2021, <https://www.gov.uk/government/publications/human-rights-and-democracy-report-2020>.

aircraft; small arms ammunition and components therefor; weapons night sights; four sniper rifles and sniper rifle components valued at over £1.5 million; and 725 assault rifles (sourced from Brazil). One of the open licences was for an extremely broad range of software, equipment for the use of, components, technology, accessories and unfinished products for military items from at least 11 of the 22 military list categories.

17. Turkmenistan: 11 standard licences worth £3.7 million and one open licence were issued for the transfer of military items during this period, including for electronic warfare equipment, components and technology for combat naval vessels, and components for combat aircraft.

18. Recommendations

- **CAEC should seek from the government**
 - **detailed evidence on the scale and nature of arms delivered to Egypt, Saudi Arabia, Turkey and UAE, and on the grounds for determining that none of these approved transfers were problematic under the Consolidated Criteria**
 - **a detailed explanation of how the government manages the export control process for prospective and ongoing arms deliveries to countries it identifies as Human Rights Priority Countries**
 - **clarity about whether and how the new risk assessment methodology was applied to all the destinations listed above.**

Sniper rifles

19. The Control Arms UK March 2021 memorandum highlighted the scope and scale of licensing of sniper rifles and related equipment by the UK up to the end of June 2020, including to destinations that we feel need careful oversight by the CAEC.
20. This memorandum updates the information previously provided, drawing in information published in the subsequent three quarterly reports, covering from 1 July 2020 to 31 March 2021, which leads us to continue to have concerns about the way the government manages exports of sniper rifles. As before, the (summarised) licensing information data here is indicative, not exhaustive.⁴
- Bahrain: 362 sniper rifles, and components and technology for sniper rifles (no meaningful information on values)
 - Bangladesh: 180 sniper rifles, and components and technology for sniper rifles; valued at £586,000.
 - Georgia: components for sniper rifles; valued at £1,340.

⁴ Note that the nature of the UK's reporting is such that, depending on the range of items included under any one licence, the level of precision of information provided on the value of approved exports of particular items under SIELs can vary considerably. This accounts for the variation with respect to values as summarised in this list. The UK does not report on the quantities of components and technology licensed, and while the number of complete small arms are usually reported, this is not always the case. Although on many occasions the same licences provided for the export of ammunition, we have not included information on ammunition here as the reporting does not make clear whether this ammunition was intended for use with sniper rifles.

- Indonesia: 32 sniper rifles; valued at less than £285,500.
- Israel: one sniper rifle, components for sniper rifles; £4,489
- Jordan: five sniper rifles, and components and technology for sniper rifles; valued at less than £39,000.
- Kuwait: eight sniper rifles, and components for sniper rifles; valued at less than £314,340.
- Malaysia: 80 sniper rifles, and components and technology for sniper rifles; valued at between £500,000 and £983,390.
- Mongolia: two sniper rifles, and components for sniper rifles; valued at less than £13,910
- South Africa: 1,400 sniper rifles, and components and technology for sniper rifles; valued at approximately £10 million.
- Thailand: nine sniper rifles, and components for sniper rifles; valued at between £13,500 and £54,230.
- UAE: seven sniper rifles, and components for sniper rifles; valued at less than £100,000.

21. Recommendations

As we set out in our March 2021 memorandum to the CAEC, we continue to recommend that

- **The government explains how its approach to assessing licence applications for exports of sniper rifles and related equipment and technology is consistent with its obligations under the Consolidated Criteria**
- **The government produces a dedicated section in its Annual Report setting out all sniper-rifle-related export and brokering licences approved or refused and the rationale for approving or refusing licences for transfers to a list of “sensitive” countries (to be agreed with the CAEC)**
- **The CAEC investigates whether and how a whole-of-government approach is or is not taken to export control enforcement, including by calling a cross-departmental panel of witnesses to give oral evidence.**

Arms exports and corruption

22. The UK’s National Anti-Corruption Strategy 2017-2022 acknowledged that ‘corruption threatens our security and prosperity, both at home and overseas.’ In particular, corruption undermined the capacity of national security institutions to fulfil their roles and, in certain cases, underpinned and facilitated an increased threat of terrorism.’⁵
23. Myriad research indicates that the arms trade is particularly susceptible to corruption, amounting in some accounts to around 40 per cent of all corruption in global trade.⁶

⁵ United Kingdom Anti-Corruption Strategy 2017-2022, p. 7, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/667221/6_3323_Anti-Corruption_Strategy_WEB.pdf

⁶ See, for example: Joe Roeber, ‘Hard Wired for Corruption: The Arms Trade and Corruption,’ *Prospect*, 28 August 2005, <https://www.prospectmagazine.co.uk/magazine/hardwiredforcorruption>; and Sanjeev Gupta, Luiz de Mello and Raju Sharan, ‘Corruption & Military Spending’, *IMF Working Paper WP/00/23*, February

24. In three submissions to CAEC starting in 2018, Corruption Watch UK (now known as Shadow World Investigations) gave detailed evidence of systemic corruption in arms exports globally by, among others, BAE Systems, Rolls Royce, Airbus and Leonardo, all of whom are also major contractors to the MoD. Since then a number of additional investigations into corruption have been concluded with, for instance, a British subsidiary of Airbus, GPT, pleading guilty to corruption in transactions with Saudi Arabia in April 2021.⁷
25. Numerous investigations and/or legal proceedings into arms export corruption by British-based companies are ongoing. In the time since the corruption submissions to CAEC it has repeatedly been confirmed that major buyers of British weapons are among the most corrupt of destination countries in relation to arms procurements.⁸
26. By CAEC's own account, HMG has failed to respond adequately to its concerns about corruption in arms exports⁹; we urge the CAEC to pursue this issue with the government.
- 27. Recommendations:**
- **The CAEC to**
 - **press the government to introduce either**
 - **a new criterion in the consolidated criteria that specifically addresses corruption risks, or**
 - **new language within existing criteria to the affect that corruption risks must be assessed, and guidance on how they should be assessed; guidance on how they should be assessed; and publish the rationale of the decision**
 - **call upon the government to introduce**
 - **'know-your-client' requirements that would require licensees to disclose the beneficial ownership of any third-party exporters, recipients and ultimate end users;**
 - **a requirement that licence applications must include a declaration by the applicant that the export contract has not been obtained through bribery or corruption**
 - **ask the government to clarify whether evidence or clear risk of corruption in relation to an export contract is grounds for licence applications to be refused and extant licences to be revoked.**

2000, <https://papers.ssrn.com/sol3/Delivery.cfm/WPIEA0232000.pdf?abstractid=879367&mirid=1>.

⁷ 'GPT pleads guilty to corruption', UK Serious Fraud Office News Release, 28 April 2021, <https://www.sfo.gov.uk/2021/04/28/gpt-pleads-guilty-to-corruption/>.

⁸ See, for example: 'Government Defence Integrity Index 2020', *Transparency International: Defence & Security*, <https://ti-defence.org/gdi/>; and 'The Corruption Tracker Project', <https://corruption-tracker.org/>.

⁹ See, for example, 'Scrutiny of Arms Export Controls (2011): UK Strategic Export Controls Annual Report 2009, Quarterly Reports for 2010, licensing policy and review of export control legislation', Committees on Arms Export Controls, 5 April 2011, <https://publications.parliament.uk/pa/cm201011/cmselect/cmquad/686/68613.htm#note171>.

Surveillance Technology: Pegasus spyware

28. Over the last two years, there have been growing revelations about the global misuse of surveillance software, most notably technology known as “zero click” spyware which can be remotely and secretly installed on a target’s mobile phone. Once installed, it allows complete access to the device’s messages, emails, media, microphone, camera, calls and contacts. One of the most notorious spyware systems of this type, Pegasus, manufactured by Israeli company NSO Group, has been used to hack the mobile devices of a large number of people, including journalists and human rights defenders and potentially several Heads of State and hundreds of government officials around the world. The growing body of evidence clearly suggests these systems now pose unprecedented proliferation risks, including with respect to grave human rights abuses and national security.
29. NSO Group have been advertising in at least two UK trade and security fairs since 2019, including the Home Office-sponsored “Security and Policing Trade Fair” held in Farnborough in March 2020 and, more recently, at the International Security Expo held in September 2021 in London. In the case of the September security fair, the organisers confirmed, when challenged, that Pegasus spyware would not be on the NSO Group stand. Nevertheless, there is currently no restriction on the marketing, advertising, or promotion of spyware at UK trade shows.
30. Earlier this year, a major investigation¹⁰ showed how some 50,000 people around the world were selected as potential targets of Pegasus, with at least 180 journalists in 20 countries selected for potential targeting from 2016 to June 2021, alongside scores of human rights defenders and other activists. Since then, Amnesty has identified more individuals targeted by the spyware, highlighting an ever-growing scale of abuses linked to Pegasus spyware.
31. Evidence has also emerged showing that family members of the Saudi Arabian journalist Jamal Khashoggi were targeted by Pegasus before and after his murder in 2018. In September 2021, it was reported that traces of the spyware had been found on the phones of at least five French cabinet ministers.¹¹
32. In August 2021, in response to revelations about the scale of the misuse of Pegasus spyware, UN experts again reiterated calls (first made in 2019 by UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye) for an immediate moratorium on the sale, transfer and use of surveillance technology, until human rights-compliant regulatory frameworks are in

¹⁰ ‘Pegasus Project: massive data leak reveals Israeli NSO group's spyware used to target activists, journalists, and political leaders globally’, *Amnesty International UK press release*, 18 July 2021, <https://www.amnesty.org.uk/press-releases/pegasus-project-massive-data-leak-reveals-israeli-nso-groups-spyware-used-target>.

¹¹ Jon Henley and Stephanie Kirchgaessner, ‘Spyware found on phones of five French cabinet members’, *The Guardian*, 23 September 2021, <https://www.theguardian.com/news/2021/sep/23/spyware-found-on-phones-of-five-french-cabinet-members>.

place. Control Arms UK members strongly support these calls. Pending the development of an effective global framework to address the acute human rights and other security risks associated with the use of these types of goods and technologies, we urge the Department for International Trade to amend our current trade control system to urgently move intrusion software and related licensable goods and technology into Category A of the UK's current trade controls system. This would prevent the marketing and promotion of these categories of goods at UK trade fairs and by UK persons or companies operating anywhere in the world. We believe this would align UK export controls in this area with its wider human rights work around the world, specifically in relation to open societies and media freedom.

33. Several current members of the Control Arms UK were part of a joint Government, industry, and civil society stakeholder group responsible for the strengthening of our brokering and trafficking controls in the early- and mid- 2000s, including the development of the three-tiered trade control system to reflect differing levels of concern and to help prioritise the most stringent controls around goods and technologies that present the most pressing and serious harm. We believe the evidence is now clear and compelling that Pegasus spyware and other similar zero-click spyware systems pose such serious human rights and other proliferation concerns that it clearly meets the threshold for being included in the highest tier of our brokering and trafficking regulations to capture advertising, marketing, and promotion activities.

34. Recommendations:

- **The CAEC to press for the reclassification of spyware and related technology, including zero-click systems, into Category A of the UK trade control framework to prohibit the advertising and marketing of these goods at UK trade fairs and to prevent UK persons anywhere in the world brokering these goods and technologies**
- **The UK government to amend its own dual-use controls to fully align with the re-cast EU Dual-use regulation (updated since the UK left the EU), which specifically strengthened EU controls on surveillance technology, including a new catch-all provision related to these goods**
- **The CAEC to ask the government what assessment it has made of whether any senior UK government figures, civil servants, including officials working in UK embassies overseas, have been exposed to Pegasus spyware, and what steps are being taken to ensure government communications are not compromised given the fundamental threats this technology now poses.**

UK MOD surplus sales: small arms

35. At DSEi 2021, it emerged that the MoD's Defence Equipment Sales Authority (DESA) was advertising surplus small arms in its sales brochure, available on its stand.¹² The two weapons listed were the L110A2 fully automatic light machine gun

¹² Ministry of Defence, Defence Equipment Sales Authority brochure, 2021 (obtained from DSEi, September 2021, and held on file in Omega Research Foundation archive), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015447

and the Sig Sauer 9mm L105A2 pistol. This it is doing not only on its own behalf, but DESA also recently entered into an agreement to market surplus equipment with the South African Defence Disposal Solutions (DDS), which is “tasked with selling excess and obsolete defence materiel on behalf of South Africa’s Department of Defence to the ‘best advantage’.”¹³

36. Of particular concern was that the Sig Sauer pistols were specifically listed as weapons suitable for crowd control in both the DESA and the DESA/DDS brochures. It is alarming that the UK government would promote the use of firearms for crowd-control purposes, as to do so places the UK in breach of its international human rights obligations. The use of firearms and live ammunition is prohibited under existing obligations to respect the rights to peaceful protest, assembly and association. The UN Basic Principles on Use of Force and Firearms specifically state that firearms should not be used to police public assemblies unless in exceptional circumstances where it is strictly necessary to protect life. Recent guidance issued by the UN Office of the High Commissioner for Human Rights (OCHA) states that “[t]he use of firearms to disperse an assembly is always unlawful.”¹⁴
37. It is deeply regrettable, that when challenged about the use of the phrase “crowd control” in its promotion of SIG pistols, the MoD chose not to retract the statement, but instead issued the following statement: “Descriptions listed in sales brochures are not suggestions of use.”¹⁵
38. Control Arms UK members are astonished at this reply. We believe the product listing and wording used in a promotional brochure is by very definition a suggestion of the purposes for which the weapons can be used.
39. Control Arms UK is also deeply concerned about the promotion of surplus fully automatic firearms which we believe runs counter to the UK’s existing commitments under the UN Programme of Action on small arms and light weapons, and related efforts to curb illicit small arms proliferation. These all recommend that surplus small arms from government stockpiles should be destroyed rather than re-exported. Indeed, as far as we understand it, existing UK government policy has been to destroy automatic weapons and not to offer them for re-sale. This was confirmed in an MoD answer to a FOI request from December 2017, which stated “[i]t is Government policy that small arms which are declared surplus by the Ministry of Defence – other

[/DESA_Sales_Brochure_2021.pdf](#).

¹³ ‘Armcor’s used defence equipment stock boosted by UK materiel’, *defenceweb*, 1 July 2021, <https://www.defenceweb.co.za/featured/armscors-used-defence-equipment-stock-boosted-by-uk-materiel/>. The joint Defence Equipment Sales Authority-DDS/Armcor brochure is available at <https://www.armscor.co.za/wp-content/uploads/2021/03/Rich-V1.pdf>.

¹⁴ ‘Guidance on less-lethal weapons in law enforcement’, *UN Human Rights Office of the High Commissioner*, 2020, https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf.

¹⁵ Cahal Milmo, ‘Ministry of Defence advertised surplus military pistols as “crowd control” weapons at arms fair showcase’, *inews*, <https://inews.co.uk/news/ministry-defence-surplus-pistols-crowd-control-arms-fair-1208365>

than automatic weapons which are routinely destroyed – are made available only to Governments.”¹⁶

40. It would appear therefore, that UK government policy to destroy surplus automatic weapons has changed and as a result, existing government policy to curb small arms proliferation has been significantly weakened. We cannot, however, find any formal record of that policy change being announced.

41. Recommendations:

- **The CAEC to press the MoD**
 - **for an urgent retraction of the current DESA brochure and clarification that firearms, including 9mm semi-automatic pistols, are not crowd-control weapons**
 - **to explain when the earlier policy of destroying surplus automatic weapons was changed, by whom, and where information about this policy change appears in the public domain**
 - **to reinstate the former UK policy, consistent with the UN Programme of Action and related policy commitments to curb illicit small arms proliferation, of destroying surplus small arms**
 - **to explicitly acknowledge that any changes to our small arms (anti-) proliferation policy will in future be duly notified in the government’s annual report on strategic export controls, as is appropriate given the heightened international concern over the proliferation of small arms and light weapons.**

UK used to circumvent Danish arms export rules

42. Investigative journalist organisation Danwatch, working with Lighthouse Reports and Danish TV station TV2, has recently reported that Danish software company Systematic A/S has been using its UK subsidiary to circumvent Danish export controls.¹⁷
43. Danwatch reports that in October 2018 Systematic withdrew an application for a licence to export its Sitaware command-and-control-system software to the UAE armed forces after the Danish Foreign Ministry had decided to refuse the application but just before it formally announced that decision. In November 2018 Denmark stopped issuing any licences for arms exports to UAE on account of the risk those arms might be used in the Yemen war. Danwatch further reports that Systematic’s subsidiary in the UK, Systematic Software Engineering Limited (SSEL), applied for

¹⁶ Defence Equipment & Support, 15 December 2017, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/671541/2017-10368.pdf.

¹⁷ Nikolaj Houmann Mortensen, ‘Despite a Danish export ban, Denmark’s largest IT company is arming the UAE military’, *Danwatch*, 20 September 2021, <https://danwatch.dk/en/undersogelse/despite-a-danish-export-ban-denmarks-largest-it-company-is-arming-the-uae-military/>.

licences to export Sitaware software to UAE armed forces on 8 and 28 November 2018, with permission granted by DIT in February 2019.

44. Our understanding is that the lack of formal notice of refusal due to the timely withdrawal of the application by Systematic A/S meant that under the Danish system this was not communicated to other EU member states (the UK still being in the EU at this time) via the licence denial notification and consultation mechanism.
45. And while we would argue that the UK should not have been issuing export licences for command-and-control software to UAE in 2018-19, it would seem that the UK should not be held accountable for not knowing about or investigating what had happened in Denmark.
46. It is clear, however, that this case raises disturbing questions about the way manufacturers can use cross-border company structures to subvert government intention and policy on arms exports. According to Companies House, SSEL currently has just two directors, of whom one, Michael Holm is the CEO of the Danish parent.¹⁸
47. We have raised in the past concerns about UK companies using overseas subsidiaries or affiliates to circumvent UK controls; this represents the same phenomenon, but in the opposite direction. The UK is opposed to this type of jurisdiction-shopping; indeed this is one of the rationales for UK championing regional and international arms transfer control agreements, but up until now has not seen fit to address this directly. Being used in this way by Systematic A/S points to the need for the UK to protect its reputation and bring this type of activity under meaningful control.

48. Recommendation

- **The CAEC to explore in detail whether the existing control system is fit-for-purpose to manage the issue of company parent-subsidiary arrangements and whether changes are necessary.**

The UK and international processes

49. The Control Arms UK is concerned that although the UK remains involved in international processes relating to arms management and disarmament issues, its role in recent years has changed. Whereas once it was at the forefront of efforts by states to advance international norms and practices, as evidenced by its proactive role in helping bring about the Arms Trade Treaty (ATT), the UK tends now to be fundamentally lacking in ambition and more inclined to urge caution than to take a lead, to the point where it can be seen to be undermining disarmament and arms control/management discourse through its own behaviour. This posture would seem at odds with the professed idea of 'Global Britain', as articulated for example in the UK's 2021 Defence Command Paper.¹⁹

¹⁸ See Companies House, <https://find-and-update.company-information.service.gov.uk/company/02753294>.

Lethal Autonomous Weapons Systems (LAWS)

50. In discussions currently ongoing at the Convention on Certain Conventional Weapons (CCW) on emerging technologies in the area of LAWS, the government's position has been somewhat ambiguous. At meetings of the Group of Governmental Experts the UK has made some constructive contributions about the need to maintain human control over weapons systems and the forms that such control might take, yet it has also made concerning arguments in favour of increased autonomy. In addition, the government maintains that no new law is necessary and existing international law is sufficient to address the unprecedented challenges to human dignity and meaningful human control over the use of force posed by increasing autonomy in weapons systems, which have both ethical and legal implications. This is despite the CCW's preamble affirming the "need to continue the codification and progressive development of the rules of international law applicable in armed conflict." Rejecting any new regulation places the government in an increasingly marginal position, as growing numbers of countries recognise the need for a structure of regulation including prohibitions on unacceptable systems and positive obligations for meaningful human control. Many countries in the CCW are now calling for an international legal instrument to be negotiated. These include Algeria, Argentina, Austria, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Iraq, Mexico, New Zealand, Pakistan, Palestine, Panama, Peru, the Philippines, Sierra Leone, Sri Lanka and Uruguay. The UK's current stance places it alongside India, Israel, Russia, the US and other countries who also seem to favour more autonomy and who are likely to block any proposal for a mandate to negotiate a new protocol to the CCW to regulate autonomous weapons at this year's crucial Review Conference.

ATT

51. Whereas the UK was among the leading states advancing the ATT before and during its negotiation stages, more recently UK conduct during the annual Conference of States Parties (CSP) process and in treaty implementation could most readily be described as 'foot-dragging'.
52. For example, during the sixth CSP in August 2020 the UK was one of very few countries that chose to object to draft decisions proposed by the ATT Presidency in order to continue the programmes of work for the three sub-Working Groups on Effective Treaty Implementation. In light of the COVID-related challenges the CSP faced in keeping the process on track, the actions of the UK and a small number of other States Parties prevented the adoption of what were fundamentally procedural and uncontroversial decisions. UK statements to the CSPs are typically supportive of the process but will frequently include language such as "[w]e must ensure however that we do not create unnecessary barriers and unrealistic requirements for States

¹⁹ 'Defence in a Competitive Age', Ministry of Defence, March 2021, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974661/CP411_-_Defence_Command_Plan.pdf, describes the UK as "leading thinking in Europe on new trends such as adapting defence to climate change, evolutions in space and cyberspace, arms control."

Parties.”²⁰ These types of qualifications are unhelpful and undermine the UK’s commitment to a Treaty it played such a central role in securing.

53. Other issues of concern include UK arms export policy in the context of the Yemen war, which has been extremely damaging to the UK’s credibility in ATT circles, while in its first five annual reports to the ATT the UK did not report on imports, in direct contravention of one of the ATT’s most clear-cut obligations.²¹ We were pleased that with its latest annual report (for calendar year 2020) the UK has begun to report on imports for most of the categories of arms included in the scope of the Treaty, however it still does not report imports of small arms and light weapons, sending a very poor signal to other States Parties.

54. Recommendations

- **The government should join the group of countries calling for a new international legal instrument to address the problem of autonomous weapons through a structure of prohibitions and positive obligations to ensure meaningful human control**
- **The government should reassert its commitment to multilateralism and the rule of law by supporting efforts to develop meaningful controls on weapons proliferation and misuse where they are lacking and by fully and robustly implementing all of its existing obligations in this area.**

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²⁰ From the UK statement to the seventh Conference of States Parties to the ATT, ‘Agenda item 4: Thematic discussion on small arms and light weapons, and stockpile management’, 30 August 2021, [https://thearmstradetreaty.org/hyper-images/file/UK%20-%20Thematic%20discussion%20CSP7%20\(final%20for%20website\)/UK%20-%20Thematic%20discussion%20CSP7%20\(final%20for%20website\).pdf](https://thearmstradetreaty.org/hyper-images/file/UK%20-%20Thematic%20discussion%20CSP7%20(final%20for%20website)/UK%20-%20Thematic%20discussion%20CSP7%20(final%20for%20website).pdf).

²¹ ATT Article 13.3 states: “Each State Party shall submit annually to the Secretariat by 31 May a report for the preceding calendar year concerning authorized or actual exports and imports of conventional arms covered under Article 2 (1).”