



Department for International Trade

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The Rt Hon Emily Thornberry MP
House of Commons
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Our ref: MCB2020/04482

By email: thornberrye@parliament.uk

6th October 2020

Dear Emily,

Thank you for your cross-party letter of 10th September 2020 about the recent UN Group of Eminent Experts (GEE) report dated 9th September 2020.

My written statement to the house on 7th July 2020 clearly set out the steps HM Government had taken to comply with the Court of Appeal judgment of 20th June 2019 and the outcome of our assessment against Criterion 2c. Additional clarification of the 7th July Statement was provided in response to your urgent question of 13th July.

HM Government takes allegations about IHL breaches seriously and we consider all relevant information including reports from the UN and NGOs. Whenever the UK receives reports of alleged violations of IHL, we routinely seek information from all credible sources, including from NGOs and UN mechanisms such as the Group of Eminent Experts (GEE).

The Divisional Court noted (and the Court of Appeal agreed) that we applied a rigorous and robust, multi-layered process of analysis to making our licensing decisions.

The Court recognised that HM Government have access to information, not available to NGOs or others which we are able to take into account in our IHL Analysis when assessing against Criterion 2c of the Consolidated EU and National Arms Export Licensing Criteria (The 'Consolidated Criteria').

In applying the Consolidated Criteria, HM Government has always taken account of available reliable evidence, including for example, reporting from diplomatic posts, relevant reports by international bodies, such as reports from the UN - including reporting by the UN Group of Eminent Experts, and intelligence and information from open sources and non-governmental organisations.

The release of more specific information about the assessments made as part of the IHL Analysis could seriously jeopardise HM Government's bilateral relationship with Saudi Arabia and, more specifically, the receipt of confidential information in future.

Additionally, the IHL Analysis may incorporate intelligence obtained through the United Kingdom's sovereign assets or through cooperation with other States. Releasing details about the conclusions reached or not reached could enable conclusions to be drawn regarding the scope of any such assets, to the detriment of national security. We are therefore not able to go into the details of individual assessments.

We trust you appreciate that releasing information into the public domain which might be to the detriment of national security would not be appropriate. We have been open and transparent and on 11th September 2020 in response to PQ reference UIN: 84666 were able to share additional information about our IHL Analysis which we repeat here to further your understanding.

Our IHL Analysis was applied to 310 incidents. As of 30th April 2020, there were 528 allegations entered on the MOD Tracker, of which 19 were assessed to be duplicates and 166 were assessed to be “not credible” – that is, the information and intelligence available indicates that the alleged events were not likely to have happened or were not likely to have involved fixed-wing aircraft operated by the Saudi-led Coalition. A further 33 allegations were awaiting assessment.

Of the 310 incidents that our IHL Analysis was applied to, a small number of have been treated – for the purposes of our analysis – as violations of International Humanitarian Law (IHL).

In addition to analysing whether there are patterns and trends across the incidents treated as violations of IHL, we have also looked for patterns and trends across the incidents which have been assessed as being unlikely to be breaches of IHL and those for which there is insufficient information to make an assessment.

This analysis has not revealed any such patterns, trends or weaknesses. It is noted in particular that the incidents that have been assessed to be possible violations of IHL occurred at different times, in different circumstances and for different reasons.

The IHL analysis is one part of the overall assessment against Criterion 2c of the Consolidated EU and National Arms Export Licensing Criteria (The ‘Consolidated Criteria’).

As Secretary of State for International Trade, I do not consider it appropriate for me to make an oral statement to the House specifically about the UN Group of Eminent Experts’ latest Report.

The UK supports the UN Group of Eminent Experts as an important mechanism for ensuring accountability and supporting the promotion and protection of human rights in Yemen. As a member of the UN Human Rights Council, we supported the creation of the Group in 2017 and renewal of its mandate in 2018 and 2019. The UK calls on all the parties to the conflict in Yemen to engage constructively with the Group.

Yours sincerely,



THE RT HON ELIZABETH TRUSS MP
Secretary of State for International Trade
& President of the Board of Trade