

THE ILLEGALITY OF THE UNITED KINGDOM'S CONTINUED SALE OF ARMS TO ISRAEL

Background

The continued governmental approval of arms sales to Israel, despite abundant evidence of the serious violations of international humanitarian law committed throughout the eleven months of Israel's war on Gaza, represents grievous regulatory failure; violating both international treaty obligations and the UK's own frameworks governing arms sales. Data released in June 2024 indicated that more than 100 new export licenses Israel have been approved since October 2023, leading to a total of 345 licenses.¹ As of Monday 2nd September, the government has declined to suspend over 91% of arms export licenses to Israel, claiming that it has been unable to reach a definitive judgement on allegations of illegality within Israel's 'conduct of hostilities'.

Calls for cessation of arms exports

The government has been made well aware of the risks that UK-made weaponry is being used in documented war crimes in Gaza, and has continued to ignore the calls for the cessation of arms exports including calls by:

- GLAN and Al-Haq, 16th October ²
- Campaign Against Arms Trade, 17th October ³
- Civil society groups including ICJP, Human Rights Watch, and Amnesty International, 8th December ⁴
- 16 leading humanitarian and rights organisations including Oxfam and Save the Children, 24th January ⁵
- United Nations Experts and Special Rapporteurs, 23rd February, ⁶ 20th June, ⁷ and 30th July ⁸
- ICJP, 3rd April following the alleged role of UK-made weapons in the killing of aid workers ⁹
- Over 600 legal experts, 5th April ¹⁰
- Over 30 medical professionals who have volunteered in Gaza, 23rd August ¹¹

The Government's legal obligations

Domestic calls for the suspension of arms sales allege that the government is violating its own regulatory framework surrounding arms exports - the Strategic Export Licensing Criteria (SELC). Under this framework, arms cannot be exported where there is a clear risk that they might be used to violate the UK's obligations under international law (Criterion 1) or in the violation of human rights (C. 2b) and violations of international humanitarian law (IHL) (C. 2c).¹²

Criterion 1 (international law) includes the prohibitions under the Arms Trade Treaty (ATT), Article 6.3 of which forbids the transfer of arms for the commission of genocide, crimes against humanity, breaches of Geneva Conventions, and attacks against civilians.¹³ A December 2021 update to the SELC enhanced the focus on the risk of items being used to commit or facilitate serious violence against women or children. According to the UN, women and children are the 'main victims' of the war on Gaza, comprising around 70% of those killed.¹⁴

¹ Department for Business and Trade. (11th June 2024) [Export control licensing data: 31 May 2024](#). Export Control Joint Unit.

² GLAN. (12th January 2024). ['UK Weapons Sales to Israel.'](#)

³ Campaign Against Arms Trade. (17th October 2023). ['Statement on UK Arms Exports to Israel'](#)

⁴ International Centre of Justice for Palestinians. (13th December 2023). ['UK-based Civil Society Groups call on the Government to immediately halt arms transfers to the Government of Israel'](#)

⁵ War Child. (24th January 2024). ['War Child calls on UK to Stop Sending Arms to Israel'](#)

⁶ UNHCR (23rd February 2024). [Arms exports to Israel must stop immediately: UN experts.](#)

⁷ UN Experts (20th June 2024) [States and companies must end arms transfers to Israel immediately or risk responsibility for human rights violations](#), United Nations Human Rights Office of the High Commissioner

⁸ UN News, 30th July 2024, [Independent rights experts urge states to comply with ICJ ruling on Israel](#)

⁹ The New Arab (3rd April 2024) ['Outrage at Israel over killing of 'hero' aid workers in Gaza'](#)

¹⁰ Cécile Ducourtieux (5th April 2024) ['Over 600 UK legal experts urge prime minister to stop arms supply to Israel'](#), *Le Monde*

¹¹ International Centre of Justice for Palestinians (22nd August 2024) ['30 UK-based medical professionals send open letter to Prime Minister demanding a ban on arms sales to Israel'](#)

¹² Brooke-Holland, L. (30th November 2023). ['Research Briefing: UK amends its criteria for arms exports'](#), *Commons Library*

¹³ Foreign and Commonwealth Office. (January 2015). ['Arms Trade Treaty'](#)

¹⁴ Lederer, E.M. (20th January 2024) ['Women and children are the main victims of the Israel-Hamas war with 16,000 killed, UN says.'](#) AP News.

The UK is obliged, as a state party to the Genocide Convention, to prevent the commission of genocide using all means within its power as soon as it is made aware of the risk of genocide.¹⁵ The government was alerted to this risk in November 2023 by the International Centre of Justice for Palestinians (ICJP), reaffirmed by the ruling of the International Court of Justice (ICJ), on 26th January, that ‘there is a real and imminent risk that irreparable prejudice will be caused to the rights [of Palestinians].’¹⁶ The UK is failing in its duty of preventing genocide, and by arming Israel it may in fact be actively participant. The continued sale of weapons to Israel may also render individuals within government liable for prosecution for having aided and abetted the commission of crimes by Israel as per Article 25 of the Rome Statute.¹⁷ Third states such as the UK were also instructed by the ICJ’s latest advisory opinion of the 17th July 2024, not to ‘render aid or assistance’ to the maintenance of Israel’s illegal occupation of Palestinian territory.¹⁸

After having alerted then Business Secretary Kemi Badenoch of her department’s legal obligations and the mounting evidence of violations of international law as early as 16th October 2023,¹⁹ legal proceedings commenced against the government on 6 December 2023.²⁰ The case, filed by Al-Haq and Global Legal Action Network (GLAN), is being supported by the ICJP. As the government has failed to take the requisite action in response, the case will be heard at a court date in November 2024.²¹

UK Government position

For almost 11 months, the government maintained that arms exports to Israel are lawful as Israel has not violated international law. In December 2023, Lord Cameron asserted that there was no clear risk present that items exported to the Israel Defense Forces (IDF) might be used to commit or facilitate a serious violation of international humanitarian law (IHL),²² despite the Foreign Office assessment unit raising ‘serious concerns’ about potential breaches of IHL as early as 10th November 2023.²³ According to reports, the Chair of the Commons Foreign Affairs Committee²⁴ disputed Cameron’s account, suggesting that legal advice in fact did conclude that there is a risk present. Furthermore, in September 2024, Foreign Office sources who were reportedly involved in the drafting of the advice claimed that Cameron had in fact sat on legal advice that stated that there was clear evidence of breaches of IHL.²⁵

The government’s position changed only in September 2024, when advice commissioned in July by the newly elected Labour government concluded that there is a ‘clear risk’ that UK-produced arms and components are being used in violations of IHL, specifically with regards to Israel’s treatment of detainees and its restrictions on humanitarian aid. The advice reached no conclusions as to violations of IHL with regards to Israel’s ‘conduct of hostilities.’²⁶ Following this, on 2nd September 2024, Foreign Secretary David Lammy suspended 30 out of 350 of the UK’s existing weapons exports to Israel.²⁷ The remaining 91.4% of unaffected export licenses includes parts for F-35 multi-role fighter jets, despite the government’s assessment that fighter jet parts are at risk of use in IHL violations. New submissions were consequently made in *Al Haq vs Secretary of State for Business and*

¹⁵ United Nations Office on Genocide Prevention and the Responsibility to Protect, 01/2019, ‘[The Convention on the Prevention and Punishment of the Crime of Genocide \(1948\)](#)’, United Nations .

¹⁶ International Court of Justice (ICJ). (26th January 2024). ‘[Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip \(South Africa v. Israel\)](#)’

¹⁷ International Criminal Court (ICC). (2011). ‘[Rome Statute of the International Criminal Court](#)’

¹⁸ International Court of Justice (19th July 2024), ‘[Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Summary of the Advisory Opinion of 19 July 2024](#)’

¹⁹ GLAN. (12th January 2024). ‘[UK Weapons Sales to Israel](#)’

²⁰ Al-Haq. (6th December 2023) ‘[Legal and human rights groups take UK government to High Court over arms exports to Israel](#)’

²¹ Akkad, D. (23rd April 2024) ‘[War on Gaza: UK legal challenge over arms sales to Israel revived in High Court.](#)’ Middle East Eye.

²² Eadie, Sir J., KC, et al. (12th January 2024). ‘[The King \(on the application of Al-Haq\) v Secretary of State for Business and Trade: Summary Grounds](#)’

²³ Apple, E. (19th January 2024). ‘[Revealed: David Cameron advised continuing arms exports to Israel, accepting Israel has a different interpretation of its International Humanitarian Law obligations](#)’, Campaign Against Arms Trade.

²⁴ Helm, T. (30th March 2024), ‘[UK government lawyers say Israel is breaking international law, claims top Tory in leaked recording](#)’, *The Guardian*

²⁵ Wintour, P and Stacey, K. (3rd September 2024) [David Cameron sat on advice that there was breach of law in Gaza, officials say.](#) *The Guardian*

²⁶ Foreign, Commonwealth and Development Office (FCDO) (2nd September 2024) ‘[Summary of the IHL process, decision and factors taken into account](#)’

²⁷ FCDO (2nd September 2024) ‘[UK suspends around 30 arms export licences to Israel for use in Gaza over International Humanitarian Law concerns](#)’

Trade to challenge this decision, and ICJP continues to advocate for a total, two-way arms embargo on Israel – with evidence of illegal acts within Israel’s conduct of hostilities being self-evident.

Annex: UK Arms Industry and Israel

Since 2015, the UK government has licensed *at least* £474 million worth of military exports to Israel across 965 limited-value ‘standard’ licenses,²⁸ including UK-built parts for missiles, tanks, aircraft, submarines, targeting equipment, radars, small arms and ammunition. The total value of UK arms exports to Israel certainly far exceeds that £474m in ‘standard’ licenses, due to the additional approval of 58 ‘open’ licenses, which permit the transfer of unlimited quantities of particular military goods. Since 2002, the government has also been able to circumvent the application of strategic export licensing criteria on goods sold under ‘incorporation licenses.’ These permit UK components’ sale to third-country destinations, such as the US, for incorporation into military goods for onward export to Israel.²⁹

Type and Volume of UK Arms Exported to Israel

The most significant contribution of the UK to Israel’s military arsenal is through its aerospace industry. UK industry produces approximately 15% of the components that are used in the F-35 combat aircraft, regularly used in bombardment of Gaza since 7th October 2023. In lieu of disclosure of relevant ‘open license’ values, the Campaign Against Arms Trade has estimated that contract values for components of the F-35 total at least around £336m since 2016.

The Department of Business and Trade has clarified that there are 79 UK companies contributing to the production of the F-35.³⁰ Many of these companies specialise in production of individual parts: BAE Systems produces the rear fuselage; Cobham Mission Systems, the refuelling probe; Martin-Baker, the ejector seat; Leonardo, the laser targeting system; and Dunlop Aircraft Tyres, which makes the tyres.³¹ The weapons release cables and laser targeting systems for F-35s are produced in Brighton and Edinburgh by American and Italian firms L3Harris and Leonardo, respectively.³²

F-16s meanwhile comprise the majority of Israel’s aircraft fleet, serving as the ‘workhorse of the Gaza bombing campaign’, with components produced in the UK by companies including BAE Systems and GKN Aerospace.³³ While they have made no such assessment during the past year, the government has previously admitted that UK-made F-16 components have ‘almost certainly’ been used in prior bombing campaigns in Gaza.³⁴

In addition to aircraft components, a broad range of other weapons and technologies produced by UK industry may be being used in operations against Gaza. UK companies are involved in production of the MLRS M270 rocket launcher, and Raytheon’s Glenrothes premises are used to make Paveway IV missiles, which are assembled in the USA after production – potentially for onwards sale to Israel. Instro Precision, a Kent-based subsidiary of Israel’s Elbit Systems, exports targeting equipment for troops and vehicles likely to be used in Israel’s ground operations in Gaza.³⁵ The single-largest license in value approved in recent years is for £182m in military radar technologies,³⁶ the nature and producer of which remain undisclosed.

²⁸ Campaign Against Arms Trade (2023). [UK Export License Data \(Israel\)](#)

²⁹ Select Committee on Defence. (20th May 2002). ‘[Second Joint Report: Defence \(Collaborative Defence Manufacturing\)](#)’, Hansard.

³⁰ Campaign Against Arms Trade. (20th December 2023) [Full list of UK companies contributing to the production of the F-35](#).

³¹ Perlo-Freeman, S., et al. (23rd November 2023). ‘[The UK Companies Arming – and the People Resisting – the Occupation of Palestine](#)’, DeclassifiedUK.

³² Campaign Against Arms Trade. (December 2023) [Gaza and UK Arms Sales to Israel – Fact Sheet](#).

³³ Kusovac, Z. (3rd November 2023). ‘[Analysis: Israel’s Gaza bombing campaign is proving costly, for Israel](#)’, AlJazeera.

³⁴ Miliband, D. (21st April 2009). ‘[Israel \(UK Strategic Export Controls\)](#)’, Hansard.

³⁵ Campaign Against Arms Trade. (December 2023). [Gaza and UK Arms Sales to Israel – Fact Sheet](#).

³⁶ Campaign Against Arms Trade. (2023). [UK Export License Data \(Israel\)](#).