



## **Arms exports to Saudi Arabia: how the UK is damaging the rules-based international system and ultimately our own national interest**

*Informal note by UNA-UK – Spring 2018.*

### **The Arms Trade Treaty and Yemen – Saudi sales against the national interest**

The UK Government's own analysis inextricably links Britain's security to the health of the rules-based international system. The UK's foremost security strategy document, the National Security Strategy and Strategic Defence and Security Review 2015 (NSS/SDSR), identifies "the erosion of the rules-based international order" as a particular challenge which is likely to "drive UK security priorities for the coming decade" and one which would make it "harder to build consensus and tackle global threats".<sup>1</sup>

Correspondingly, the NSS/SDSR identifies as a priority for the period up to 2020, the need to "help strengthen the rules-based international order and its institutions [...] [working] with our partners to reduce conflict, and to promote stability, good governance and human rights". The NSS/SDSR explains that such priorities "underpin" the UK's vision of "a secure and prosperous United Kingdom, with global reach and influence".<sup>2</sup>

UK Government representatives frequently refer to the importance of the rules-based international system. In her address to the UN General Assembly in September 2017, Prime Minister Theresa May stated that "it is this rules-based system which we have developed ... which enables the global cooperation through which we can protect those values."<sup>3</sup>

Secretary of State for Foreign and Commonwealth Affairs Boris Johnson said in December 2016 that "we need to redouble our resolve, to defend and preserve the best of the rules-based international order"<sup>4</sup>, while in November 2015, former Secretary of State for Foreign and Commonwealth Affairs and current Chancellor of the Exchequer Phillip Hammond said "The UK has a greater stake than most in securing a world that operates according to a rules-based system. [...] The rules-based international order is not only in Britain's interest but in the interest of building a more stable, secure and prosperous world."<sup>5</sup>

The Arms Trade Treaty (ATT)<sup>6</sup>, ratified by the UK in 2014, is considered by the UK Government to be a key building block of the rules-based international system, and one which, according to the UK's National Counter Proliferation Strategy, can deliver a "step-change in the rules-based international system governing the trade in conventional

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<sup>1</sup> National Security Strategy and Strategic Defence and Security Review 2015, p 15  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/478933/52309\\_Cm\\_9161\\_NSS\\_SD\\_Review\\_web\\_only.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478933/52309_Cm_9161_NSS_SD_Review_web_only.pdf)

<sup>2</sup> *Ibid*, pp10-11

<sup>3</sup> <https://www.gov.uk/government/speeches/theresa-mays-speech-to-the-un-general-assembly-2017>

<sup>4</sup> <https://www.gov.uk/government/speeches/beyond-brexit-a-global-britain>

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<https://www.una.org.uk/sites/default/files/Reply%20from%20Philip%20Hammond%20to%20letter%20to%20FCO%20on%20SDSR.pdf>

<sup>6</sup> The text of the Arms Trade Treaty can be found at <https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>.

arms”.<sup>7</sup> Other important components of the rules-based international system relevant to arms export licencing decisions include the Mine Ban Treaty<sup>8</sup>, the Convention on Cluster Munitions<sup>9</sup> and the Responsibility to Protect (R2P).<sup>10</sup>

An example of incoherence in UK Government policy in arms export licencing has been the UK’s authorisation throughout 2016 and 2017 of arms transfers to members of the Saudi-led coalition (SLC) of states prosecuting the war in Yemen (characterised by the UN as being responsible for “widespread violations of international humanitarian law”)<sup>11</sup>, where there is a risk that those arms might be used in that conflict. The situation in Yemen raises concerns over UK complicity and undermines UK international obligations, such as those contained in the ATT and R2P. The perception of selectivity in meeting such obligations is damaging the rules-based international system more broadly and reduces the UK’s power to move international political opinion.

In September 2017, the Head of the International Committee of the Red Cross remarked that “in Yemen, I saw how the war is eroding almost every aspect of people’s lives. The arms trade is rife and continues to flow despite repeated violations of international humanitarian law [...] the words of the [ATT] remain hollow if they are not matched with actions, and result in changes in policies and behaviour.”<sup>12</sup> It is a widespread view held by legal experts and prominent lawyers<sup>13</sup> that States Parties of the ATT who continue to transfer weapons to the Kingdom of Saudi Arabia (KSA) of weapons which may be used to intervene in Yemen are in breach of their obligations – an impression which is having a negative effect on the Treaty. (See Section Four below)

The UK, with cross-party consensus, played an integral role on the world stage in the development phase of the ATT in its eventual adoption in 2013. The UK considers Treaty universalisation to be a foreign policy objective. Consistent implementation to a high standard by major exporters and supporters of the Treaty is important if it is to become the credible and effective instrument originally envisioned by the UK.<sup>14</sup> But undermining the ATT on one hand while simultaneously encouraging non-States Parties to join the Treaty on the other gives an impression of incoherence that is damaging the UK’s international standing and is unlikely to be the most effective strategy for Treaty universalisation.

As a permanent member of the UN Security Council and the lead country (or “penholder”) on Yemen and the Protection of Civilians in Armed Conflict within the Council, the UK’s conduct with regards to Yemen has not gone unnoticed internationally.<sup>15</sup> Russia has used support for the Saudi-led coalition to justify its support to Assad’s regime in Syria<sup>16</sup>. Other states have made reference to the negative impact that transfers to the coalition are having on civilians in Yemen and on the ATT<sup>17</sup>. And a lack of Council action on Yemen has led questions to be asked about the UK’s role as penholder: Yemen has been gripped by conflict for almost three years, it is surprising to note that during this period there has been just one substantive Security Council Resolution and a handful of Presidential Statements and Press Statements on Yemen.

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/510716/National\\_Counter\\_Proliferation\\_Strategy\\_to\\_2020\\_-\\_updated\\_24\\_March.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510716/National_Counter_Proliferation_Strategy_to_2020_-_updated_24_March.pdf)

<sup>8</sup> [http://www.un.org/Depts/mine/UNDocs/ban\\_trty.htm](http://www.un.org/Depts/mine/UNDocs/ban_trty.htm)

<sup>9</sup> <https://www.un.org/disarmament/ccm/>

<sup>10</sup> <http://www.un.org/en/genocideprevention/about-responsibility-to-protect.html>

<sup>11</sup> [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2017/81](http://www.un.org/ga/search/view_doc.asp?symbol=S/2017/81)

<sup>12</sup> <http://www.middleeasteye.net/news/unregulated-arms-trade-has-lead-grim-humanitarian-situation-yemen-says-icrc-21865035>

<sup>13</sup> <https://www.matrixlaw.co.uk/news/matrix-members-find-uk-government-is-in-breach-of-national-eu-and-international-law-and-policy/>

<sup>14</sup> <https://www.gov.uk/government/news/arms-trade-treaty-enters-into-force>

<sup>15</sup> See, inter alia, <http://www.mwatana.org/en/2652017622>, [http://www.securitycouncilreport.org/monthly-forecast/2017-07/in\\_hindsight\\_council\\_action\\_and\\_inaction\\_on\\_yemen.php?print=true](http://www.securitycouncilreport.org/monthly-forecast/2017-07/in_hindsight_council_action_and_inaction_on_yemen.php?print=true) and [http://russiaun.ru/en/news/so\\_srrs](http://russiaun.ru/en/news/so_srrs).

<sup>16</sup> <https://www.nytimes.com/2016/10/18/world/vitaly-churkin-russia-united-states.html>

<sup>17</sup> (see e.g. Security Council statements by Uruguay and Venezuela <http://undocs.org/S/PV.7797>)

## **R2P and Yemen – why has the UK not considered an arms embargo?**

R2P is a globally agreed doctrine for preventing atrocity crimes (war crimes, crimes against humanity, ethnic cleansing and genocide) by prioritising the protection of civilian life.<sup>18</sup> Following the 1994 Rwandan Genocide and other failings on the part of the international community to protect civilians from atrocities, the doctrine of R2P was developed and was subsequently endorsed unanimously by world leaders at the 2005 United Nations World Summit<sup>19</sup>. Over the coming years, the doctrine was reiterated in other UN fora, including the General Assembly<sup>20</sup> and the UN Security Council.<sup>21</sup> Its three “pillar” approach places primary responsibility on states themselves to prevent atrocities. If they are unable to do so then pillar two calls on the international community to step into the gap. If they are unwilling to do so then pillar three calls for more coercive means to come into play.

The UK’s foremost strategy document, the National Security Strategy and Strategic Defence and Security Review 2015 (NSS / SDSR) makes clear the UK’s support for the doctrine, stating that “We will use UN mechanisms such as the Responsibility to Protect [...] to drive global change, in line with British values”<sup>22</sup>. The 2016 update to the NSS / SDSR notes with concern the “pushback from other countries at the United Nations [...] against concepts such as the responsibility to protect” and linking such developments to the “erosion of the rules-based international order, making it harder to build consensus and tackle global threats.”<sup>23</sup>

The credible allegations of atrocity crimes in Yemen<sup>24</sup> should act as a trigger mechanism for a response from the UK Government under the doctrine of R2P involving the graded application of a “toolkit” of measures against perpetrators, which should include the consideration of an embargo on arms exports.<sup>25</sup> The fact that, far from doing so, the UK declares a credibly alleged perpetrator<sup>26</sup> to be an “important ally”<sup>27</sup> increases the perception that the doctrine of R2P is being applied selectively when it aligns with strategic objectives and is not the strategic objective itself. This misinterpretation of R2P undermines the credibility of UK initiatives in other situations where atrocities may be taking place (such as in Myanmar and Syria) and contributes to the weakening of this vital global norm.

## **Conclusion**

Current UK actions are weakening the international system which the UK itself has identified as vital to the UK’s future security and prosperity.

To forge the new alliances and trade deals after Brexit, and to “earn its keep” on the UN Security Council, British foreign policy must be credible. To be credible it must be consistent and in compliance with international norms. UK

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<sup>18</sup> <http://www.un.org/en/genocideprevention/about-responsibility-to-protect.html>

<sup>19</sup> <http://responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/398-general-assembly-r2p-excerpt-from-outcome-document>

<sup>20</sup> [http://responsibilitytoprotect.org/Resolution%20RtoP\(3\).pdf](http://responsibilitytoprotect.org/Resolution%20RtoP(3).pdf)

<sup>21</sup> [https://www.un.org/ruleoflaw/files/S-Res-1674%20on%20protection%20civilians%20in%20armed%20conflict%20\(28Apr06\).pdf](https://www.un.org/ruleoflaw/files/S-Res-1674%20on%20protection%20civilians%20in%20armed%20conflict%20(28Apr06).pdf)

<sup>22</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/555607/2015\\_Strategic\\_Defence\\_and\\_Security\\_Review.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/555607/2015_Strategic_Defence_and_Security_Review.pdf) (pg 63)

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/575378/national\\_security\\_strategy\\_strategic\\_defence\\_security\\_review\\_annual\\_report\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/575378/national_security_strategy_strategic_defence_security_review_annual_report_2016.pdf) (pg 6)

<sup>24</sup> [http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_hrc\\_33\\_38.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_33_38.pdf) (pg15)

<sup>25</sup>

<http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Foreign%20Affairs/Violence%20in%20Rakhine%20State/written/71769.html>

<sup>26</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20638&>

<sup>27</sup> <https://www.gov.uk/government/news/prime-ministers-visit-to-saudi-arabia-and-jordan-april-2017>

actions with respect to Yemen have had the opposite effect, and deepened UK complicity in violations of international law and potential atrocities.

UNA-UK urges the UK to reconcile its actions with its security strategies and international obligations by consistently upholding the rules-based international system, including through the consistent implementation of the Arms Trade Treaty and through the consideration of arms embargoes to credibly alleged perpetrators of atrocity crimes under the doctrine of the responsibility to protect.

**The UK should immediately suspend arms exports to Saudi Arabia and other countries where UK weapons might be used to commit serious violations of international humanitarian law or war crimes.**

Visit [www.una.org.uk/scorecard-responsible-arms-trading](http://www.una.org.uk/scorecard-responsible-arms-trading) for more info.