



Senator the Hon Christopher Pyne
Minister for Defence



Senator the Hon Marise Payne
Minister for Foreign Affairs



25 September 2018

Dear Ministers,

RE: Australia's military exports to Saudi Arabia

We are writing in relation to the conflict in Yemen and seeking urgent action regarding Australia's military exports to Saudi Arabia.

As you are aware, a Saudi Arabia-led military coalition has been involved in a brutal conflict in Yemen since March 2015. The conflict has claimed the lives of thousands of civilians. It has left the country on the brink of famine and led to the largest humanitarian crisis in the world, with over three-quarters of the population (22.2 million) in need of emergency aid.

We have consistently raised concerns about the conduct of hostilities by all parties to the conflict and its devastating impact on the civilian population. According to the United Nations and non-governmental organizations, the conflict has involved numerous unlawful attacks on civilians in violation of international humanitarian law, many of which amount to war crimes. These include airstrikes and other indiscriminate attacks on civilian sites including hospitals, schools, markets, homes and, most recently, a bus filled with children.

Over the past two months, there has been an apparent increase in the number of airstrikes hitting sites originally used for non-military purposes, according to the Yemen Data Project: the number of airstrikes on sites originally used for non-military purposes (39%) was more than double that of military sites (18%) in August.

With the resumption of a military offensive on Hodeida city on September 7, the risks to civilians have never been higher. Fierce fighting has erupted over control of the main road linking Hodeida with the capital, Sanaa. The fighting threatens to disrupt the supply of food, fuel and humanitarian aid to millions of civilians whose lives depend on it. It has become almost impossible to bring humanitarian supplies from the port out of Hodeida to other parts of the country. There are also concerns about potential damage to port infrastructure and other storage facilities (including World Food Programme wheat silos) critical to the supply of food and other essentials to the civilian population.

As the conflict escalates and more civilian lives are put at risk, we are seeking urgent action from the Australian government in three key areas.

1. Guarantees that Australian military exports to Saudi Arabia and other coalition forces are not being used in violation of international human rights and international humanitarian law

To date, the Australian government has refused to disclose the details of its military exports to Saudi Arabia, despite concerns about them potentially being used by a warring party that has committed numerous violations of the laws of war, which could make Australia complicit in war crimes.

In previous roles, you have both responded to requests for details about military transfers to Saudi Arabia. In letters dated 28 July 2017 and 25 October 2017, Minister Payne as then Minister for Defence, stated that “Defence does not release the details of exports to protect the commercial-in-confidence- information of exporters.” The position was reiterated in a letter from Minister Pyne dated 18 September 2018.

We understand that Australian military export applications are assessed against five criteria: international obligations, national security, human rights, regional security, and foreign policy. However, despite repeated requests, you have both been unwilling to disclose details of how Australia has satisfied its obligations under the Arms Trade Treaty to assess whether there is a clearly identifiable risk that the exported goods would be used to commit or facilitate violations of international human rights and international humanitarian law.

While our organisations recognise that details of military transfers may legitimately need to be kept confidential for commercial and security reasons, we believe these concerns should not be used as an excuse to subvert even the most basic transparency and accountability norms.

Accordingly, we reiterate again our request for the Australian government to disclose the details the type and intended use of its military exports to Saudi Arabia. Furthermore, we request the Australian government to provide written assurances that such assets are not being used to commit or facilitate violations of international human rights and international humanitarian law.

2. Suspending military exports to Saudi Arabia

According to the United Nations, coalition airstrikes have caused the greatest number of verified civilian casualties in Yemen’s armed conflict. Accordingly, irrespective of whether Australian defence assets are being used in apparently unlawful attacks, it is critical for Australia to take measures to demonstrate its opposition to these violations of international law.

Accordingly, we are also calling on the Australian government to cease supplying military assets to Saudi Arabia until it halts unlawful airstrikes and other attacks in violation of international law and conducts genuine investigations and prosecutions of alleged war crimes by its forces.

We believe this would send a strong signal to Saudi Arabia and other members of the coalition that Australia will not tolerate violations of international human rights and international humanitarian law. This would bring Australia into line with the strong positions

adopted by the Belgian, Dutch, and Norwegian governments who have halted or restricted the supply of arms to warring parties in Yemen. The European Parliament has also repeatedly called for an arms embargo.

3. Renew the mandate of the Group of Eminent Experts in Yemen

It is essential that the international community maintains and strengthens efforts to deter ongoing violations and abuses of international law by all parties to the conflict, and to ensure that perpetrators of serious crimes are held to account.

In the interest of effective and meaningful efforts towards accountability, we are calling on the Australian government to use its seat on the UN Human Rights Council at the 39th session to support and cosponsor the resolution to renew the mandate of the Group of Eminent Experts in Yemen. This is critical to ensuring the Group of Eminent Experts can continue its vital work to investigate all alleged violations and abuses of international human rights and humanitarian law, to establish the facts and circumstances and identify those responsible. The fate of the Yemen inquiry will be decided this week in Geneva, and we note that Australia, while professing support for renewal of the mandate of the Group of Eminent Experts, has not yet cosponsored the resolution led by the Netherlands, Canada, Belgium, Luxembourg and Ireland to accomplish this goal. We urge you to cosponsor the resolution as a matter of priority.

Should the Council fail to renew the mandate of the Group of Eminent Experts, this would send a dangerous signal to parties to the conflict that violations of international law may be perpetrated in Yemen with impunity.

Our organisations would like to request a meeting with you to discuss the issues and recommendations in this letter. To make arrangements or for any questions, please contact Majella Hurney, Head of Policy & Advocacy, Save the Children Australia on +61 432 210 052.

We thank you for your time in considering this letter.

Yours sincerely,



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CC: The Hon Steven Ciobo MP, Minister for Defence Industry