



Kate Forbes MSP
Deputy First Minister and Cabinet Secretary for the Economy
The Scottish Government
St. Andrew's House
EH1 3DG

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Dear Deputy First Minister,

I am writing to express Amnesty International's concern that the current human rights due diligence process at Scottish Enterprise is inadequate, and risks failing to ensure that Scotland upholds its international obligations. There is a need for an urgent review of this process, as part of a broader review of funding provided by Scottish Enterprise to arms companies.

Freedom of information (FOI) disclosures show that in recent years, no company applying to Scottish Enterprise for grants has been refused support based on human rights considerations. As a result, several million pounds of Scottish public money has been granted to arms companies¹ linked to states accused of international humanitarian law breaches and potential war crimes, such as Saudi Arabia and Israel.

We believe that the Scottish Government's reasoning - that Scottish Enterprise does not finance projects related to the manufacture of arms - is no justification for a lack of robust due diligence, particularly as there does not appear to be any publicly available evidence of monitoring to support this claim or guard against unintended consequences.

Human rights due diligence process

We believe there to be a lack of clarity around how Scottish Enterprise conducts its human rights due diligence checks, but there is evidence to suggest it does not follow the UN Guiding Principles (UNGPs) on Business and Human Rights. According to the UNGPs, state agencies providing financial support should consider the actual and potential impacts on human rights of beneficiary enterprises and require them to conduct due diligence. As the risk of gross human rights abuses is heightened in conflict-affected areas, states should take additional steps to ensure that business enterprises operating in these contexts are not involved with such abuses. The UNGPs make it clear that businesses should address the human rights impacts of their relationships with any entities in their value chain, including state or non-state actors directly linked to the company's business operations, products or services.

However, according to information provided to Amnesty International by Scottish Enterprise via FOI requests, the level of checks performed on a company is dependent only on the level of financial support it receives, rather than the company's involvement with or links to human rights abuses, including war crimes and crimes against humanity. This casts serious doubt upon the credibility and effectiveness of a process that should be designed to protect against human rights abuses and not to waive through companies whose activities are linked to such abuses.

The Scottish Government's policy on funding arms companies

The Scottish Government's position is that it does not fund the manufacture of weapons, yet grants are provided to some of the world's biggest arms companies. Again, public lines of response on this issue are

¹ By which I refer to the full value chain of actors producing goods or providing services that are directly connected to military, security and policing operations.



undermined by information disclosures which show that trade union representatives within Scottish Enterprise approached Scottish Enterprise management to express concerns raised by union members in relation to support for defence contractors and their supply chain companies providing weapons to Israel. The matter was deemed too 'complex' to be answered internally and was escalated to the Scottish Government for a response. It is difficult to understand why such action would have been necessary if the Scottish Government's policy on funding for arms was being implemented in line with public statements.

While the Scottish Government has stated repeatedly that grants are intended to help encourage companies' diversification away from manufacturing munitions, it is also unclear whether the millions of public money spent on this aim is having a positive impact. Ultimately it is wholly unsatisfactory to claim Scottish Enterprise grants are not involved in the manufacture of arms without an ongoing monitoring process in place which takes account of the complexity of international manufacture and supply chains.

ICJ findings and international obligations

Following strong legal findings from the International Court of Justice (ICJ), all third states have clear obligations to prevent atrocity crimes. In May the ICJ ruled that Israel must halt all military operations in Rafah as any ongoing action could constitute an underlying act of genocide. In July the Court further directed states not to render aid or assistance to maintain Israel's unlawful occupation and annexation of Palestinian territories.

Scottish ministers are correct to highlight to the UK Government its own risk of complicity in such crimes by Israel if it continues to permit the export of weapons. However, it is entirely inconsistent to turn a blind eye to the possibility that the Scottish Government's own financial support for arms companies may be involved, whether directly or indirectly, in manufacture and supply chains.

Review of Scottish Enterprise funding for arms companies and human rights due diligence process

We welcome the commitment given by the First Minister on October 3rd to further explore what action the Scottish Government can take that will "*properly address our legal responsibilities and the moral and ethical issues*" associated with grants to arms companies.

We would highlight however that the Scottish Government's legal responsibilities in relation to this matter extend far beyond consideration of whether companies are being fairly dealt with. As outlined above, the Scottish Government has not just a moral, but legal responsibility to comply with its obligations in relation to international law.

That is why Amnesty is calling for an urgent review of Scottish Enterprise's human rights due diligence process, as part of a broader review of funding for arms companies. The review should seek to determine whether public funding in any way contributes to the supply of weapons or their components to any state accused of international humanitarian law violations or crimes against humanity, which risks using those items in the commission of serious violations of international law. The review's terms of reference should be set in consultation with stakeholders and informed by international principles relevant to the arms trade and conflict affected areas.

We would also welcome your response to the following questions:

- The Scottish Government has repeatedly stated that it does not directly fund the manufacture of weapons. Is the Scottish Government clear in its understanding that some recipients of grants do develop and manufacture arms at sites around the world, including in some cases at their Scottish sites?



- What specific measures is the Scottish Government taking to ensure that the services and grants provided are not indirectly contributing to other military related projects in global operations, supply chains or in relation to the use of products and services?
- What monitoring takes place to evaluate whether grants are impactful in achieving diversification away from arms manufacture?
- What steps has the Scottish Government taken to date to explore whether companies linked to breaches of international humanitarian law can be excluded from receiving grants?

I look forward to your response.

Yours sincerely,

Neil Cowan

Scotland Programme Director, Amnesty Internatioal