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Export of Arms and Military Equipment to Saudi Arabia

Decisions Re-Taken Following Court of Appeal Order dated 20 June 2019

1. Introduction

A. Summary

1. The purpose of this paper is to inform the decisions which, by the Order of the Court of Appeal, dated 20 June 2019, were remitted to the Secretary of State for International Trade to re-take (on the correct legal basis as determined by the Court of Appeal). The decisions are:

   a. Whether to suspend extant export licences for the sale or transfer of arms and military equipment to Saudi Arabia for possible use in the conflict in Yemen; and

   b. Whether to continue to grant further licences for the sale or transfer of arms and military equipment to Saudi Arabia for possible use in the conflict in Yemen.

2. This paper is not intended to replace the regular assessments of Saudi compliance with international humanitarian law that are submitted by the FCO Policy team of the Export Control Joint Unit.

3. CAAT's claim against the Secretary of State is focused on Criterion 2(c) of the Consolidated EU and National Arms Export Licensing Criteria ("the Consolidated Criteria"), which provides:

   "The respect for human rights and fundamental freedoms on the country of final destination as well as respect by that country for international humanitarian law.

   Having assessed the recipient country's attitudes towards relevant principles established by international human rights instruments, the government will...

   (c) not grant a licence if there is a clear risk that the items might be used in the commission of a serious violation of international humanitarian law."[1]

4. The Secretary of State's approach to the grant of licences for the export of material or equipment to Saudi Arabia for potential use in Yemen has always incorporated a detailed and careful review of past allegations of international humanitarian law incidents of concern, as part of the forward-looking risk assessment required by Criterion 2(c). This included analysis, to the extent possible, of whether there were patterns of concern, in particular arising from trends in the number of allegations of civilian casualties and of damage to key civilian infrastructure. The Divisional Court accepted, at §185 of its OPEN Judgment, that *"At all material times the coalition's "past and present record" was viewed by the Defendant through the prism of International Humanitarian Law"*; and concluded that *"all reported incidents were*

[1] The EU's Common Position (2008/944/CFSP) similarly provides that consideration of Criterion 2(c) is based on the Government: *"Having assessed the recipient country's attitude towards relevant principles established by instruments of international humanitarian law."*

[redacted]

being examined and analysed by the Government precisely because the UK Government was concerned to establish the risk of IHL breaches in the future. It is also clear that there was intense focus on the incidents of most concern."

5. The key question in the Court of Appeal was whether (despite those conclusions of the Divisional Court) the Secretary of State needed to go further. The Court of Appeal noted, at §83, that *"...it seems clear that the Government does not seek to assess the likelihood of a breach of IHL having been committed by the Coalition in any specific case."* They held, in summary, that such an exercise needed to be done on the following bases:

   a. At §138 of its OPEN Judgment, they stated: *"The question whether there was an historic pattern of breaches of IHL on the part of the Coalition, and Saudi Arabia in particular, was a question which required to be faced. Even if it could not be answered with reasonable confidence in respect of every incident of concern (which CAAT accepts and so do we) it is clear to us that it could properly be answered in respect of many such incidents, including most, if not all, of those which have featured prominently in argument. At least the attempt had to be made."*

   b. At §144 of the OPEN Judgment, they concluded that, unless such an assessment was made or attempted, *"how was the Secretary of State to reach a rational conclusion as to the effect of the training, support and other inputs by the UK, or the effect of the training, support and other inputs by the UK, or the effect of any high level assurances by the Saudi authorities? If the result of historic assessments was that violations were continuing despite all such efforts, then that would unavoidably become a major consideration in looking at the "real risk" in the future. It would be likely to help determine whether Saudi Arabia had a genuine intent and, importantly, the capacity to live up to the commitments made. We should emphasise that it is not our conclusion that there would only be one answer on future risk if historic violations were found to have taken place, bearing in mind paragraph 2.13 of the User's Guide, and the question whether or not any violations are "isolated incidents", as the Divisional Court put it, in paragraph [208(iii)] of their judgment. That will be for the Secretary of State and his advisers..."*

6. In the light of the Court of Appeal's judgment, the MOD has engaged in further analysis of the incidents of concern recorded on the Tracker, in an attempt to determine the possibility that any such incidents constitute breaches of IHL and/or whether there are patterns of possible violations ("the IHL Analysis"). The methodology for the IHL Analysis is described in more detail in Section II below.

7. It is emphasised that the IHL Analysis is applied in relation to past events and is just one aspect of the prospective risk assessment (the risk that items might be used in the commission of a serious violation of international humanitarian law) which is carried out under Criterion 2(c). §2.13 of the User's Guide gives the following guidance:

   "A thorough assessment of the risk that the proposed export of military technology or equipment will be used in the commission of a serious violation of international humanitarian law should include (1) an inquiry into the

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recipient's past and present record of respect for international humanitarian law, (2) the recipient's intentions as expressed through formal commitments and (3) the recipient's capacity to ensure that the equipment or technology transferred is used in a manner consistent with international humanitarian law and is not diverted or transferred to other destinations where it might be used for serious violations of this law.

Isolated incidents of international humanitarian law violations are not necessarily indicative of the recipient country's attitude towards international humanitarian law and may not by themselves be considered to constitute a basis for denying an arms transfer. Where a certain pattern of violations can be discerned or the recipient country has not taken appropriate steps to punish violations, this should give cause for serious concern." (emphasis and numbering added)

8. This paper therefore draws the IHL Analysis together with other key relevant information and assessments regarding (i) the KSA's attitude towards IHL and (ii) its capacity to comply with IHL. The information and analysis contained in this paper draws on that contained in the IHL Updates, which are produced by the Middle East and North Africa Desk of the FCO ("MENAD"), and from the regular assessments produced by the FCO team in the Export Control Joint Unit ("ECJU").

9. The paper concludes with an assessment carried out by ECJU, in consultation with FCO Legal Advisers, against Criterion 2(c) of the Consolidated Criteria (*"a clear risk that items licensed might be used in the commission of a serious violation of international humanitarian law"*) ("the C2C Analysis").

10. The C2C analysis is informed by:

    a. the IHL analysis;

    b. an analysis of thematic trends drawn from the IHL updates, including analysis of the training provided to the KSA and broader issues, both positive and negative;

    c. the UK's knowledge of the development of KSA systems – including reflection on the impact that they have on reported credible allegations;

    d. an overall 'Stand back' analysis.

11. This paper, including the C2C Analysis, will be submitted to the Foreign Secretary, as a recommendation on the advice he should give the International Trade Secretary on whether the threshold for refusing licences for combat air platforms, munitions and components under Criterion 2(c) has been met. It should be noted that the decision on the application of the Criterion 2(c) test is a regulatory one: political or economic factors may not lawfully be taken into account.

12. The paper adopts the following structure:

[redacted]

Section II explains the methodology which has been employed by the MOD in carrying out the IHL Analysis in relation to each incident of concern recorded on the Tracker.

Section III records and assesses the outcome of the IHL Analysis, including detailed consideration of the [redacted] small number of allegations which have been assessed as "Possible" breaches of IHL.

Section IV contains a thematic analysis of other relevant information regarding the KSA's attitude to IHL compliance.

Section V contains the FCO policy team of ECJU's C2C Analysis.

[redacted]

II. Methodology for the IHL Analysis

A. The Legal Threshold

13. In carrying out the assessment of whether individual incidents of concern amount to breaches of IHL, the MOD has had particular regard to the guidance contained in the User's Guide and to the guidance given by the Divisional Court and endorsed by the Court of Appeal. The Government recognises the basic principles of IHL (as described in the Joint Service Manual of the law of Armed Conflict, Chapter 2) as: (i) military necessity; (ii) humanity; (iii) distinction; and (iv) proportionality. The rules described below flow from these overarching principles.

14. §2.10 of the User's Guide, provides the following guidance on the application of principles of IHL in this context:

"The main principles of international humanitarian law applicable to the use of weapons in armed conflict are the rules of distinction, the rule against indiscriminate attacks, the rule of proportionality, the rule on feasible precautions, the rule on superfluous injury or unnecessary suffering and the rule on environmental protection..."

15. At §22 of the Divisional Court's OPEN judgment, the relevant principles of IHL were summarised as follows:

"They include the following: (1) obligation to take all feasible precautions in attack; (2) effective advance warning of attacks which may affect the civilian population; (3) protection of objects indispensable to civilian population; (4) prohibition on indiscriminate attacks; (5) prohibition on disproportionate attacks; (6) prohibition on attacks directed against civilian objects and/or civilian targets; (7) obligation to investigate or prosecute; (8) obligation to make reparation."

16. The Divisional Court highlighted, in particular, the Principles of Distinction and Proportionality:

a. In relation to the Principle of Distinction, the Divisional Court cited Article 48 of Additional Protocol I to the Geneva Convention. This requires that *"In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives."*

b. In relation to the Principle of Proportionality, the Divisional Court cited Article 8(2)(b)(iv) of the Rome Statute, which prohibits an attack launched on a military objective in the knowledge that the incidental civilian injuries would be clearly excessive in relation to the concrete and direct military advantage anticipated.

17. This summary was adopted at §§23-25 of the Court of Appeal's OPEN Judgment.

[redacted]

18. IHL is binding on States, not on individuals. As §138 of the Court of Appeal's OPEN Judgment indicates, therefore, the question which the Secretary of State must (in accordance with the Judgment) attempt to answer is whether individual allegations of concern constitute breaches of IHL on the part of the KSA. Detailed consideration of the legal principles relating to the conduct of hostilities has largely taken place in the context of prosecutions for breaches of International Criminal Law. In general terms, States themselves have responded to potential breaches of IHL by offering compensation without addressing whether or not the incident constituted a breach of IHL.[2] There is thus little, if any, State practice or jurisprudence concerning the adjudication and determination of breaches of IHL as a matter of state responsibility. As a consequence there remain difficult substantive and procedural questions such as: whether and in what circumstances a State is responsible for an attack which mistakenly causes civilian casualties; the extent to which the key principles of IHL and the evidence relevant to them may overlap; and the type and quality of evidence which might be available and/or necessary to assess the State's responsibility for an incident. As explained further below, the MOD has therefore adopted a broad approach to the assessment.

19. Notwithstanding the close relationship between the UK and the KSA and the unusual level of access to information that that affords, it is nonetheless very difficult to reach any confident conclusions as to whether specific incidents violate IHL. The UK does not have, and would not expect to have, full insight into the airstrikes which are undertaken by the SLC. The Divisional Court, at §181(ii) of the OPEN Judgment, summarised the difficulties inherent in a non-party to a conflict reaching a reliable view on breaches of IHL attributable to another sovereign State:

> *"A non-party would not be likely to have access to all the necessary operational information (in particular knowledge of information available at the time to the targeting decision-maker forming the basis of the targeting decision). An international humanitarian law analysis is necessarily a sophisticated exercise involving a myriad of issues, for instance: (a) whether there was a military necessity to strike the target; (b) whether there was a distinction drawn between military objectives and civilians and civilian objects; (c) whether the intended target was perceived to be a "military" objective; (d) whether any expected civilian loss of life, injury or damage was "proportionate" to the expected military gain; and (e) whether all feasible precautions were taken to avoid and minimise incidental civilian loss of life, injury or damage..."*

20. The Court of Appeal suggested, at §142 of the OPEN Judgment, that the Secretary of State's position that it was inherently difficult to make such assessments was *"something of a contradiction"* with the proposition that the Secretary of State was in a markedly better position to assess events than the NGOs, the UN or others. However:

    a. The Secretary of State may have, and here did and does have, access to more information than is available publicly or to NGOs and the UN, but may still be in a position in which the information bearing on the possibility of breach of

[2] The practice of JIAT, which has on 29 occasions to date indicated that the KSA should pay compensation for loss and damage, is consistent with this.

[redacted]

IHL in relation to a particular incident is materially incomplete. The latter (depending on the nature of the information lacking) may make a conclusion about breach anything from more difficult to not possible;

b. The Court of Appeal acknowledged (at §138) that it might not be possible to make an assessment in relation to every incident. The Court of Appeal did not provide any specific analysis of what information would be required to make assessments or reach conclusions on whether individual incidents constitute breaches of IHL.

21. The experience of the MOD in attempting this exercise has borne out the concerns highlighted by the Divisional Court in the passage cited above from §181(ii) of their OPEN Judgment. In practice, it has been difficult, if not impossible, to make any reliable assessment in the absence of a JIAT investigation giving further details of such matters as: (i) the intended target; (ii) the specific intelligence which led to that targeting; (iii) the surveillance and reconnaissance carried out ahead of a strike; (iv) the weapon used; and (v) other steps taken to identify and minimise potential civilian casualties or damage to civilian infrastructure. Even in those cases where there has been a JIAT investigation, the summaries provided to the UK do not contain sufficient information for the UK to reach a definitive conclusion.

22. Nevertheless, in compliance with the Court of Appeal's Judgment, the individual incidents have been revisited with the specific aim of evaluating the possibility of a breach of IHL. The IHL Analysis has adopted the following approach:

a. The IHL Analysis has been applied to incidents which the MOD assesses are credible – that is, the information and intelligence available indicates that the alleged events are likely to have happened;

b. An evaluation is made, applying the IHL principles identified above, as to whether it is possible that the incident constituted a breach of IHL; or whether it is unlikely that it represents a breach;

c. In a number of incidents, as envisaged by the Court of Appeal, it is simply not possible to make such an assessment due to insufficient information being available. This has also been recorded on the Tracker where appropriate.

23. By setting the threshold as "possible", the IHL Analysis has captured the widest range of potential IHL breaches, so as to provide a base from which to assess the prospective risk for Criterion 2(a). "Possible" breaches of IHL are then treated, for the purposes of the overall C2C Analysis as though they were established breaches. However, this does not prevent consideration that individual 'possible' incidents: (i) may be anywhere on a spectrum of likelihood from "just possible" to "probable"; (ii) may be more or less serious in terms of consequences; (iii) may be more or less of a concern under any of the core IHL heads of analysis; and (iv) may raise greater or lesser incentive to engage with KSA for instance about whether adequate systems are in place to prevent recurrence.

B. Methodology

[redacted]

24. The detailed methodology adopted by the MOD in carrying out the IHL Analysis is as follows:

a. [redacted]

b. The Tracker also records the details released in any JIAT statements which have been released;

c. Since July 2018 (when MOD undertook an ad hoc review of its approach to consider whether there were possible improvements to its processes that might further improve the analysis it provides) MOD has analysed which reported incidents are credible and, if so, has attempted to identify which of the Coalition parties might be responsible;

d. In approaching the "IHL analysis", MOD focussed initially on those [redacted] incidents which were assessed as credible and likely to have been caused by KSA ("Credible KSA");

e. Each of these incidents was examined by a panel comprising an MOD lawyer with experience of operational decision-making, an airman with experience of operational employment of air-delivered weapons and a third member with an understanding of the operational context in Yemen and with responsibility for maintaining the Tracker and MOD database of SLC mission reporting;

f. For each incident, the analysis records the alleged numbers of civilian casualties ("civcas") and alleged damage to civilian infrastructure – in particular by reviewing imagery analysis. It then attempts to evaluate the reliability of that information;

g. For each incident, an assessment has then been attempted across the four principles of IHL which are most relevant in this context: Proportionality; Feasible Precautions; Distinction; and Necessity;

h. The Tracker records the assessment in relation to violation of IHL and the rationale for that assessment;

i. The Tracker also identifies trends in the causes of incidents of concern (whether or not they are assessed on an individual basis to constitute possible breaches of IHL);

j. [redacted] 1/7 of the over all number of Credible Allegations

k. There is a further category of [redacted] incidents which are assessed as credible, but for which the MOD does not have sufficient information to be able to carry out any further assessment ("Credible Unable to Assess").

[redacted]

25. The IHL Analysis is informed by:

a. [redacted]

b. Broader contextual [redacted]

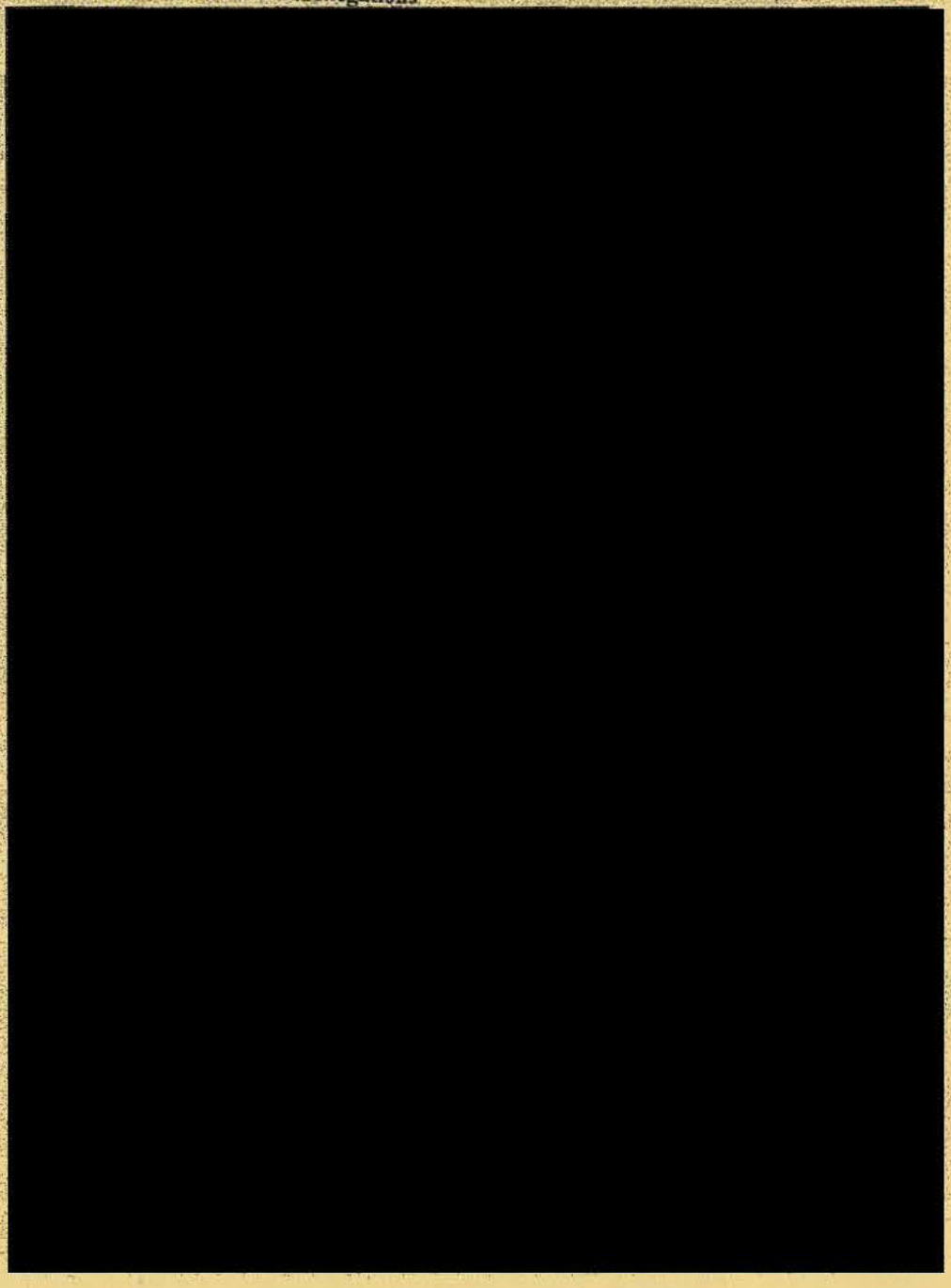
c. [redacted]

d. [redacted]

[redacted]

III. Individual IHL Analysis of historic incidents

A. Overview of Number of Allegations



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B. Summary of IHL Analysis

[redacted]

[redacted]

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[redacted]

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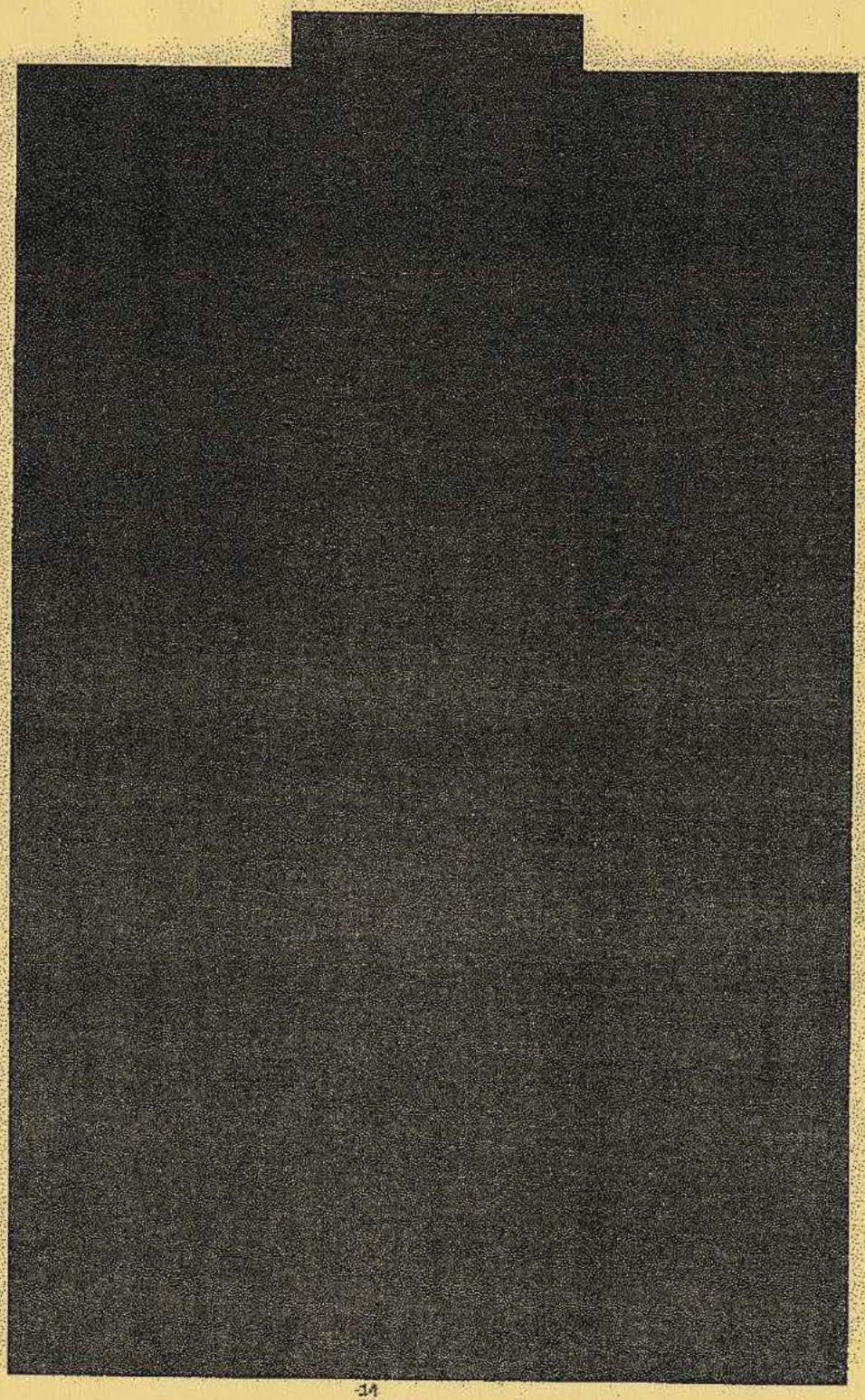
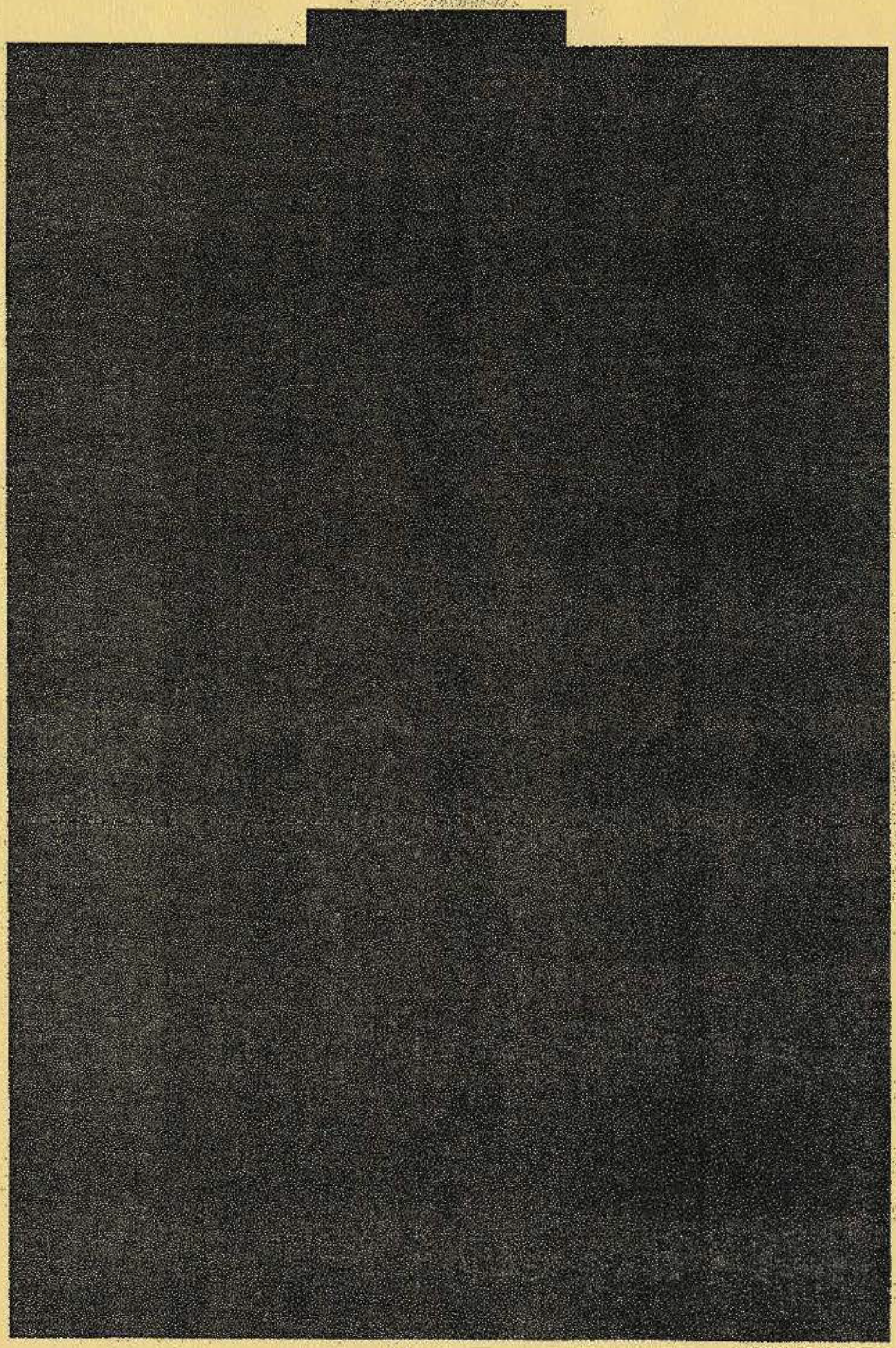
[redacted]

C. [redacted] Possible KSA Breaches

[redacted]





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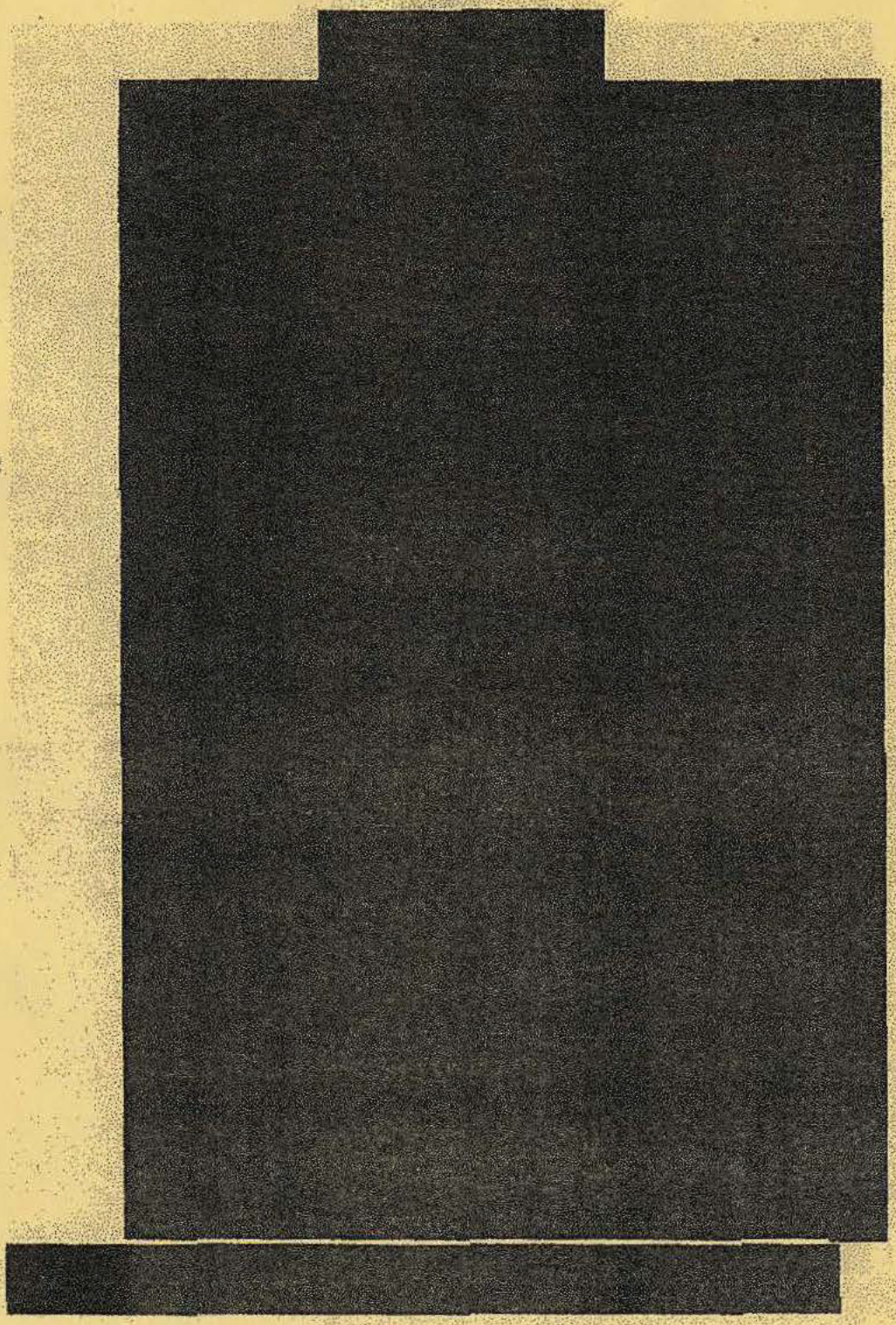

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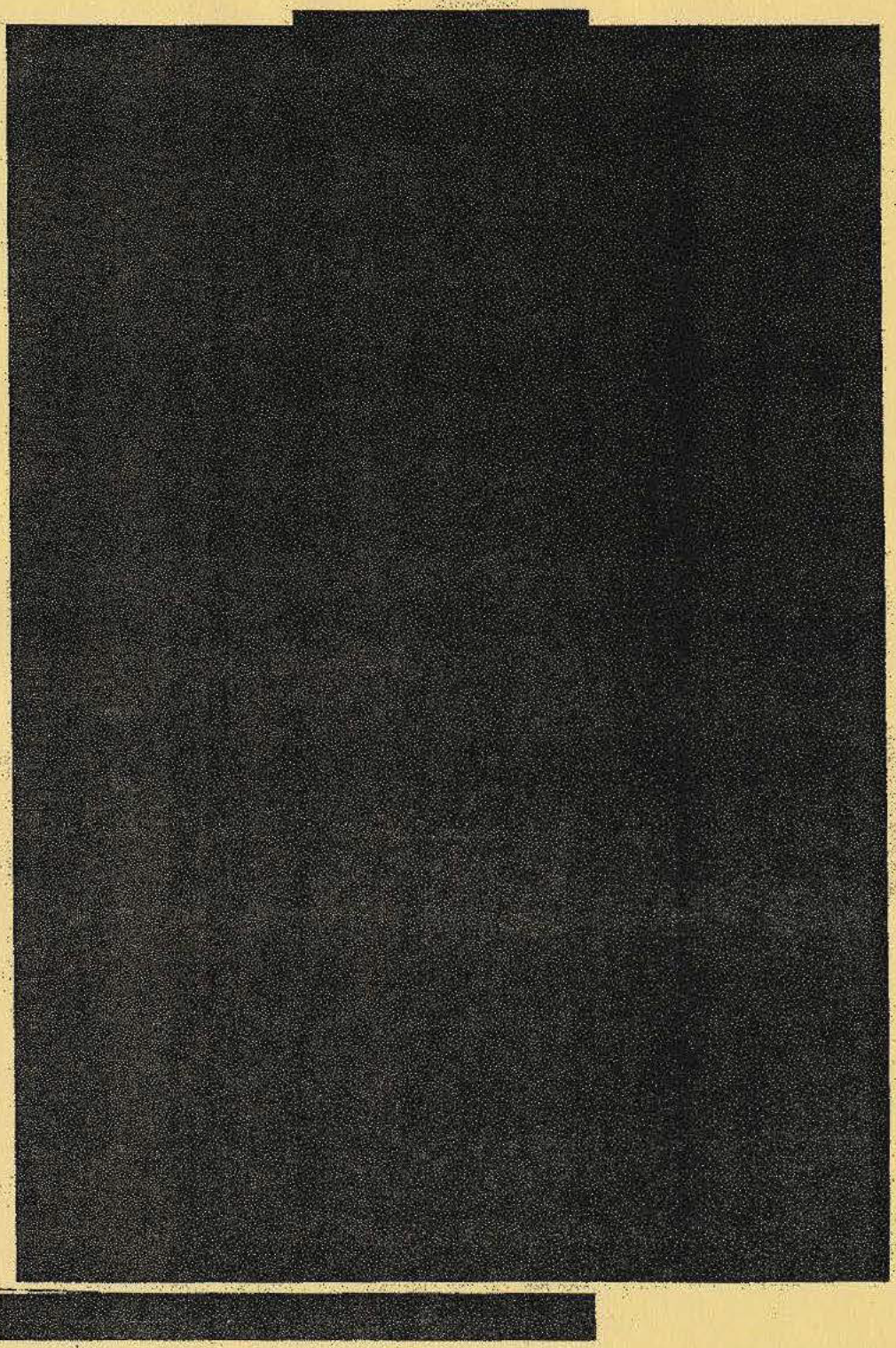

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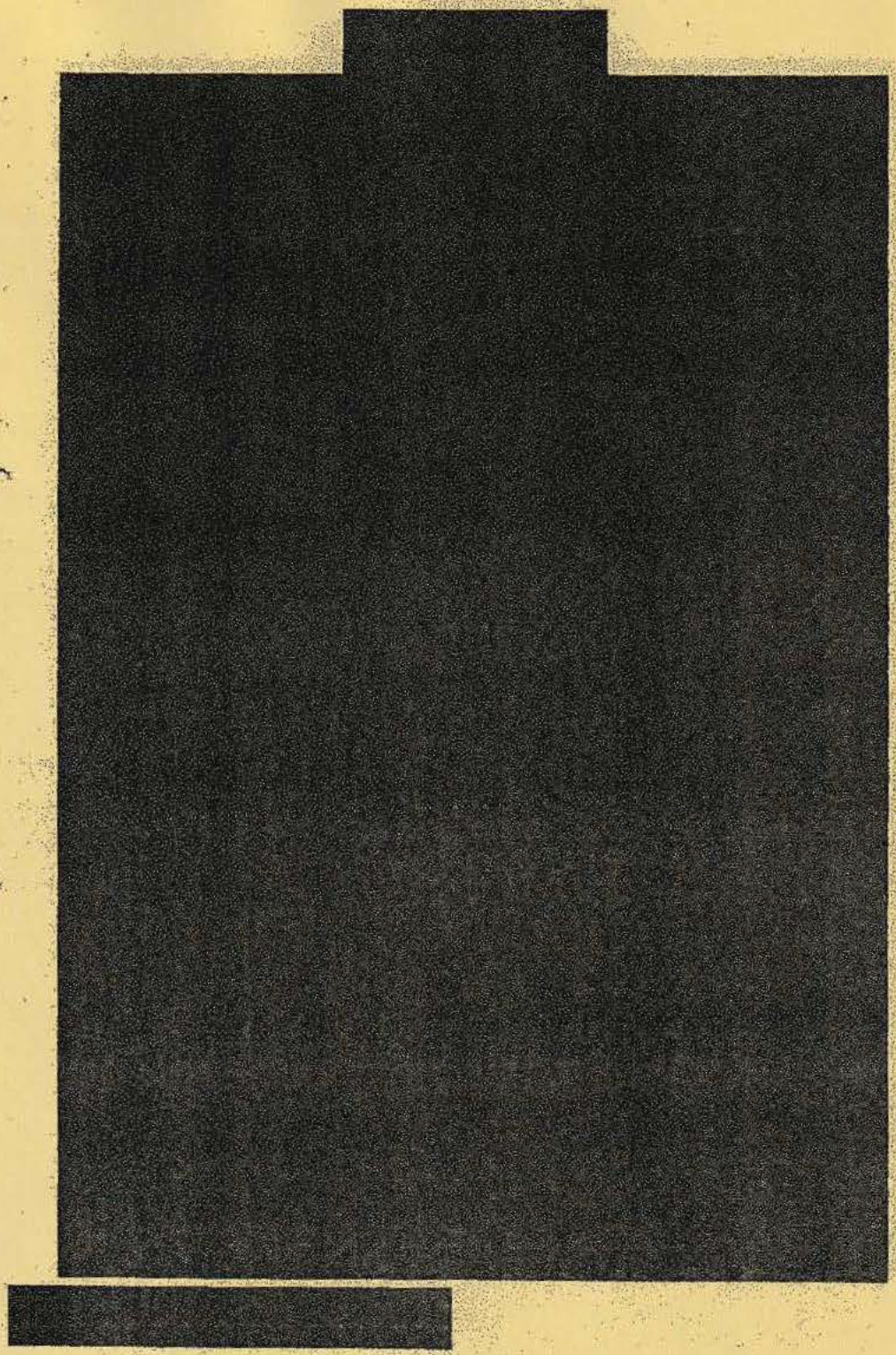

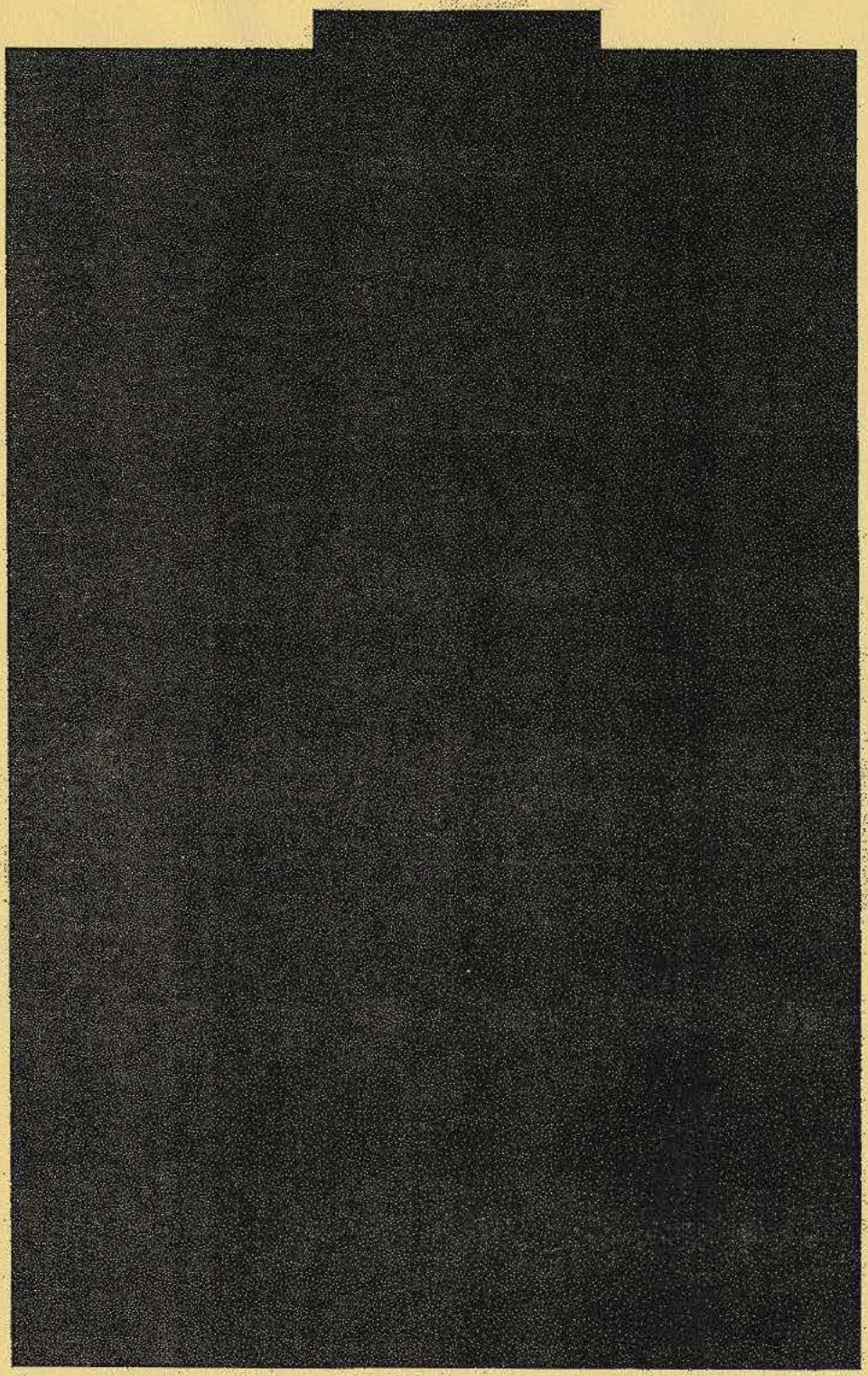

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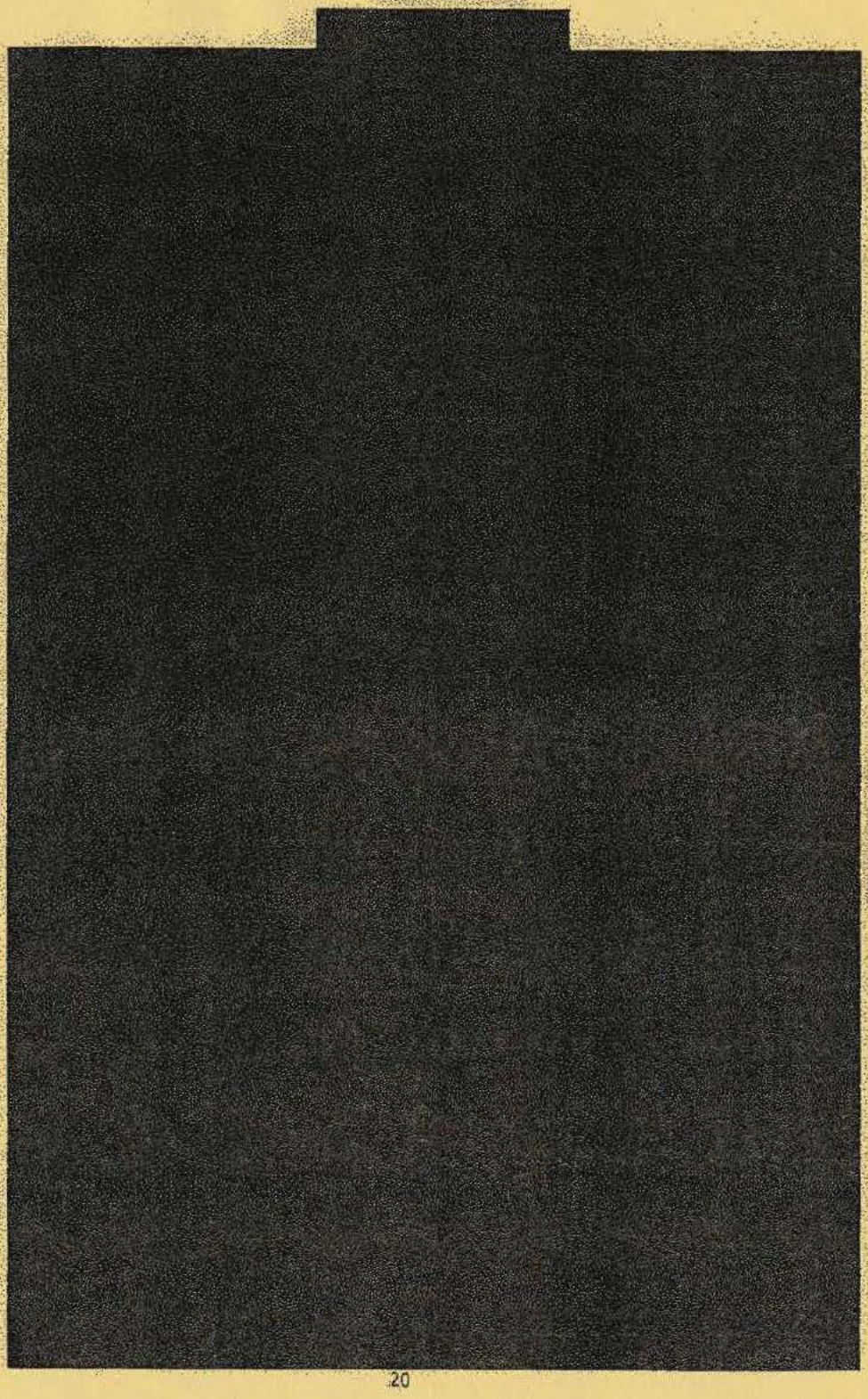

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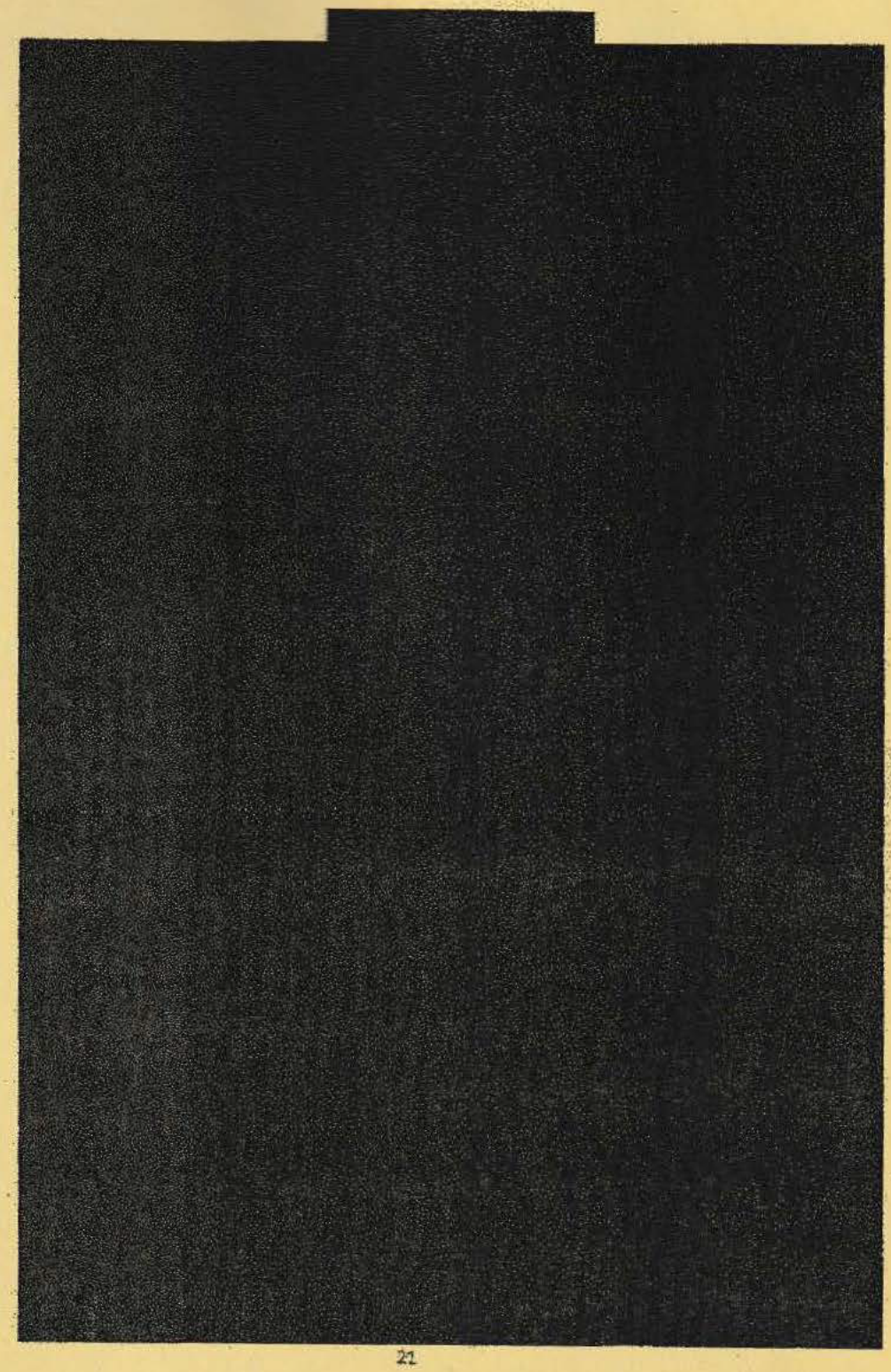

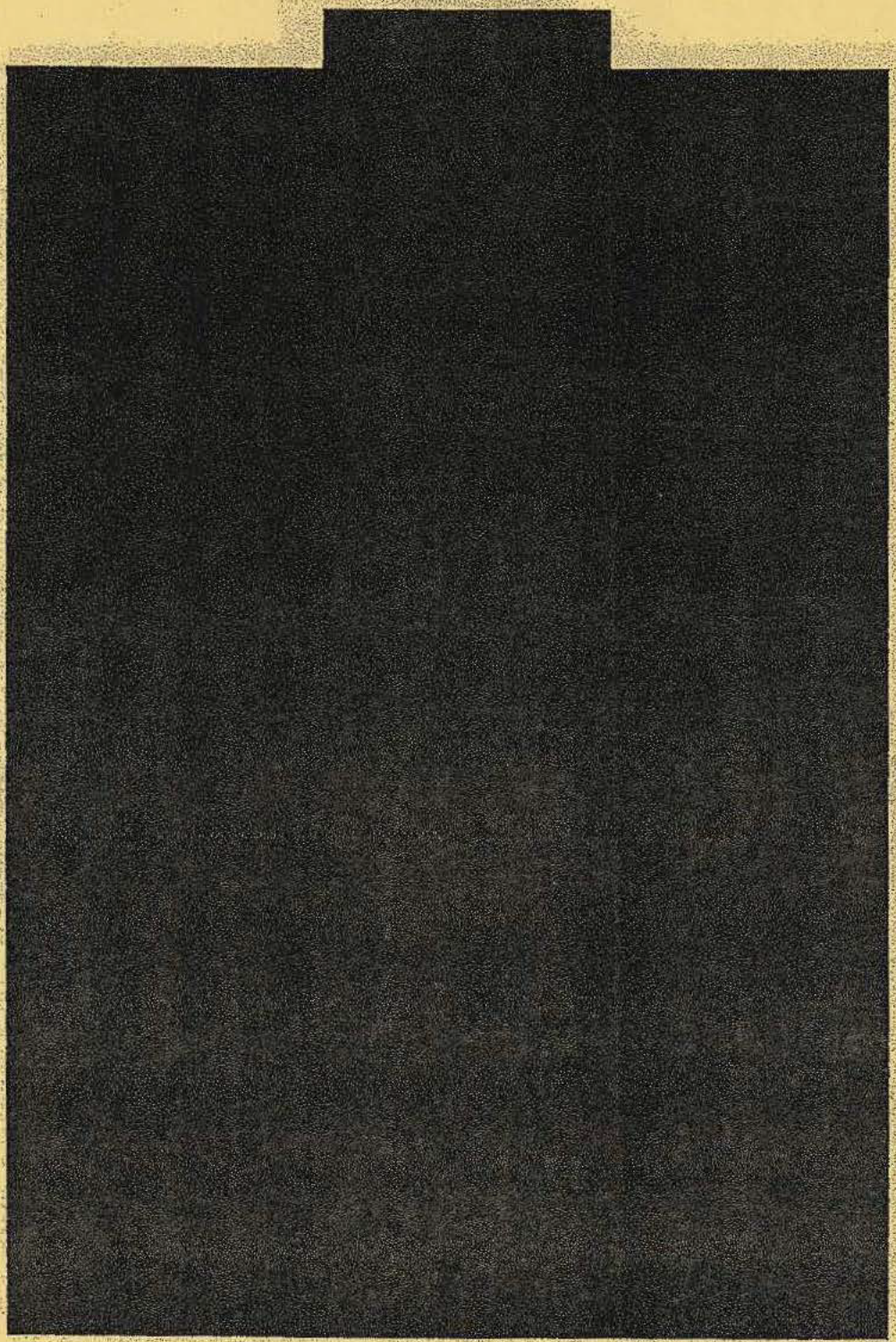

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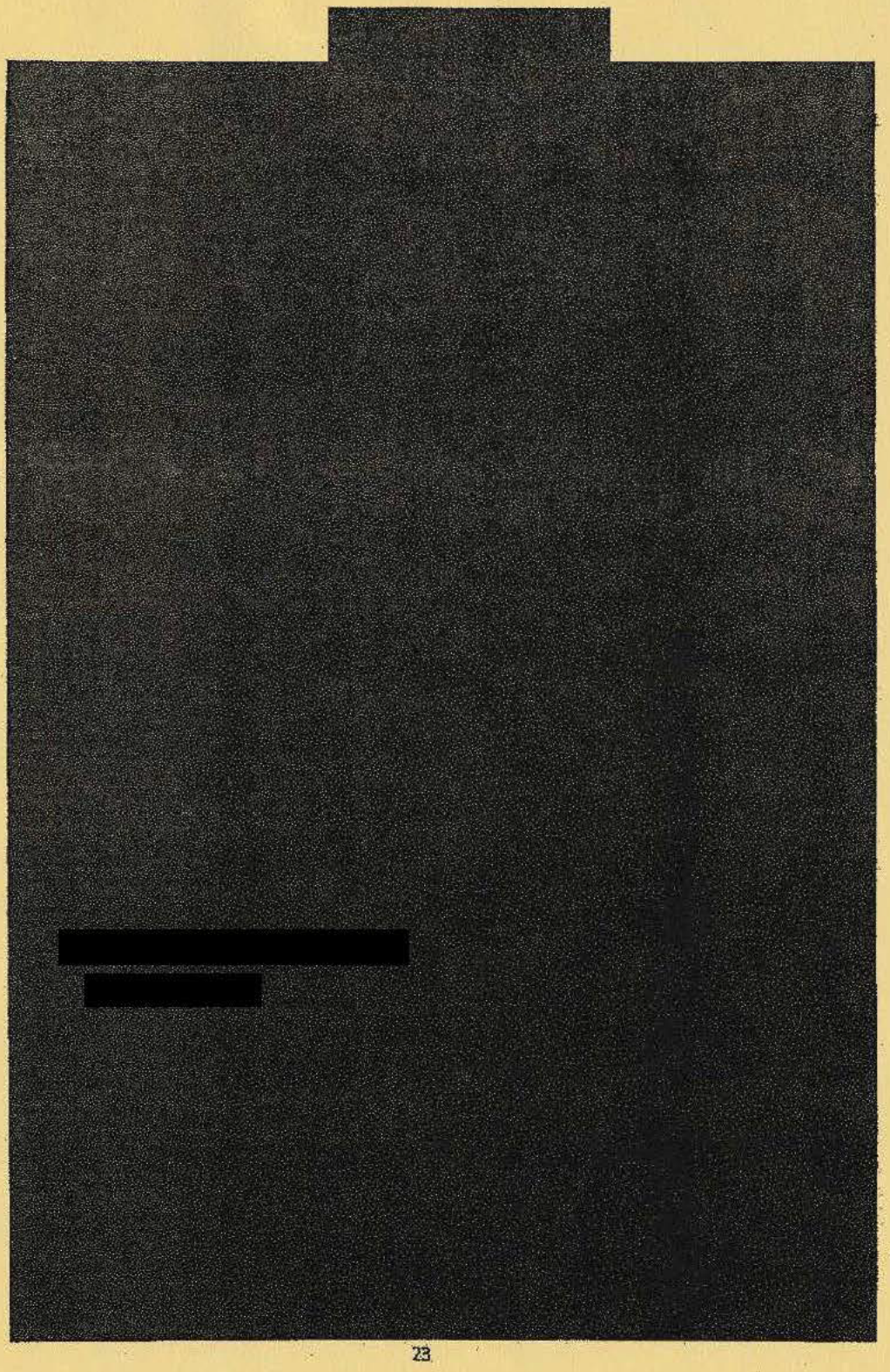
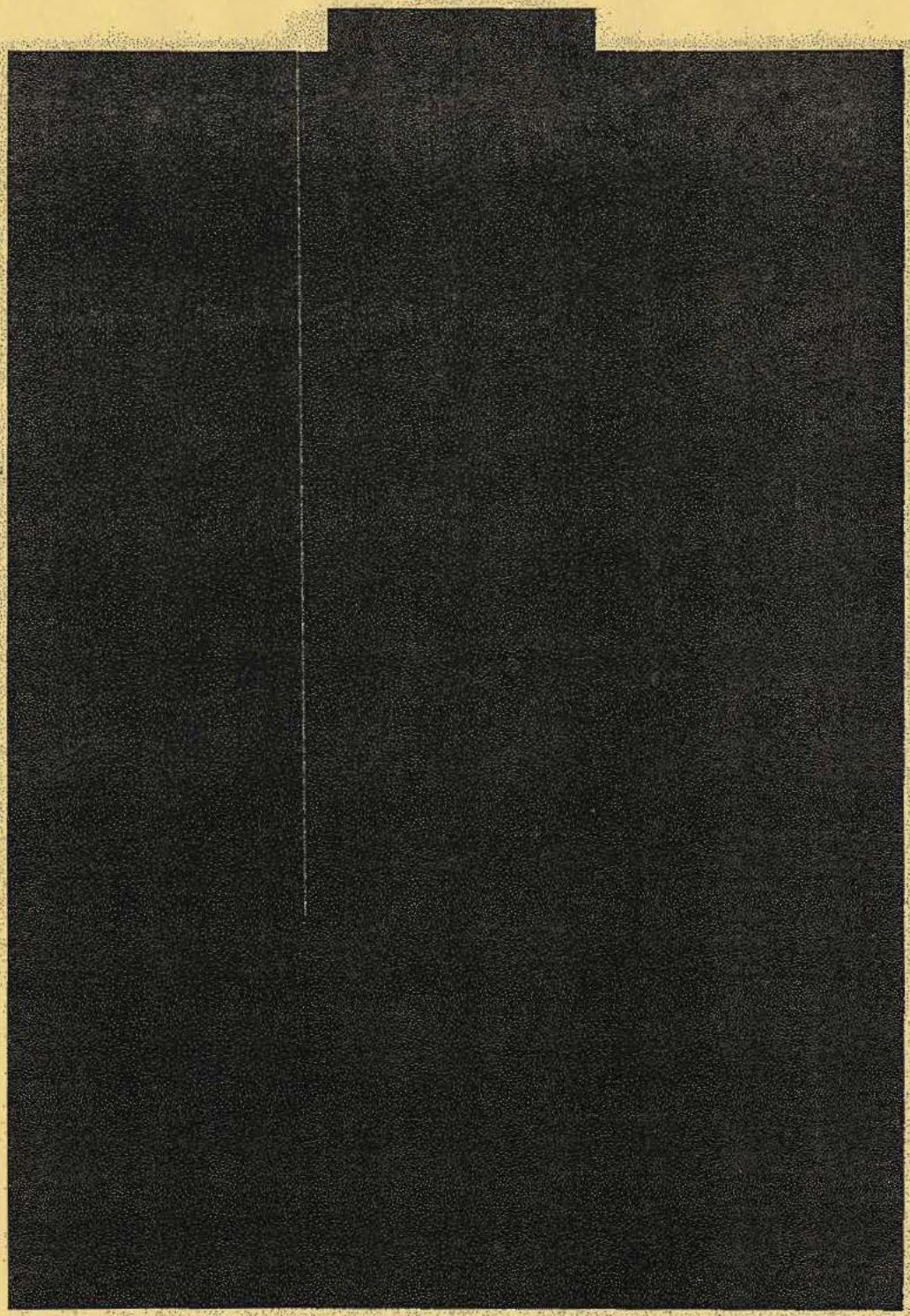
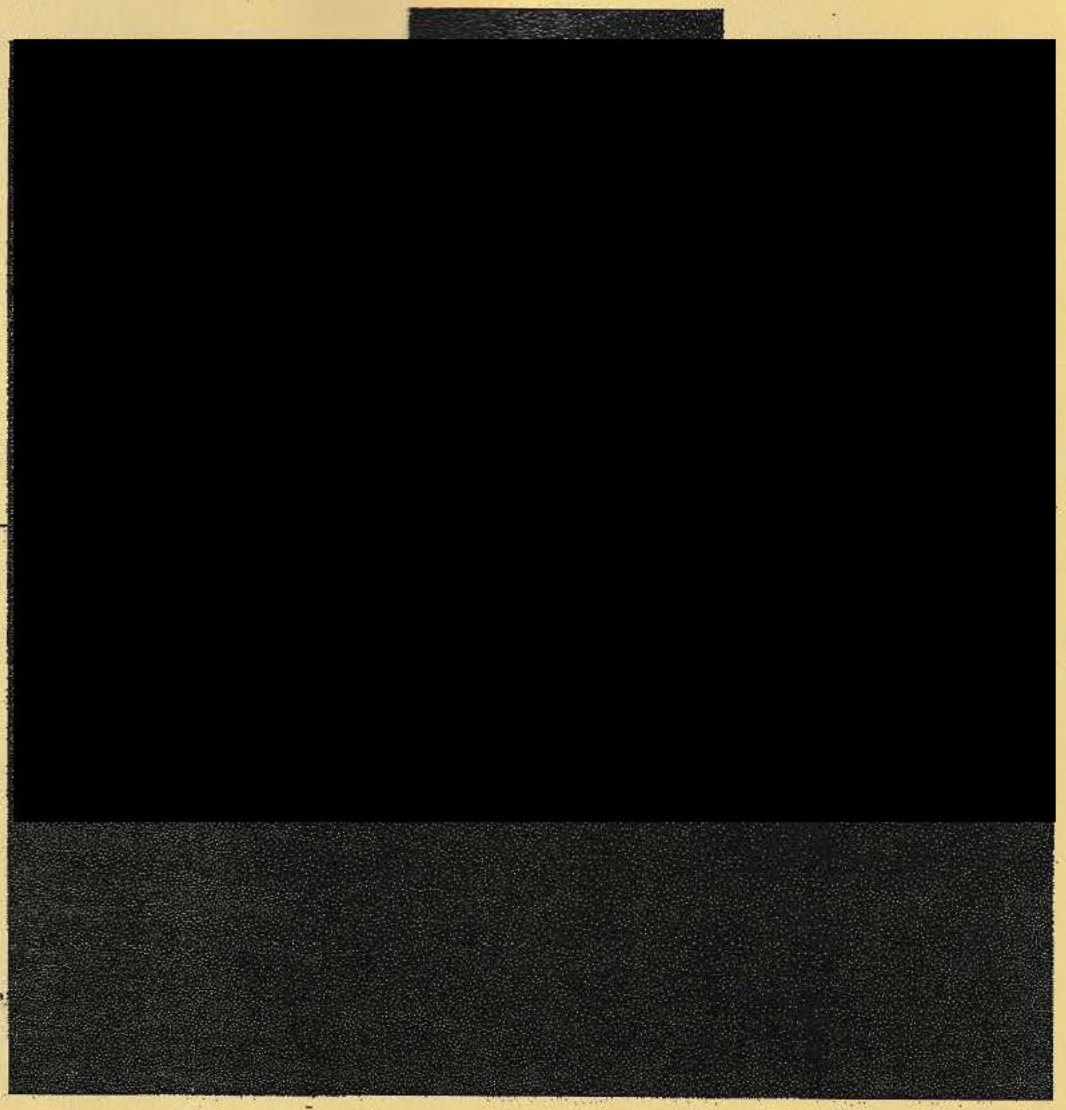






[redacted]

IV. Thematic analysis

[redacted]

A. Targeting

[redacted]

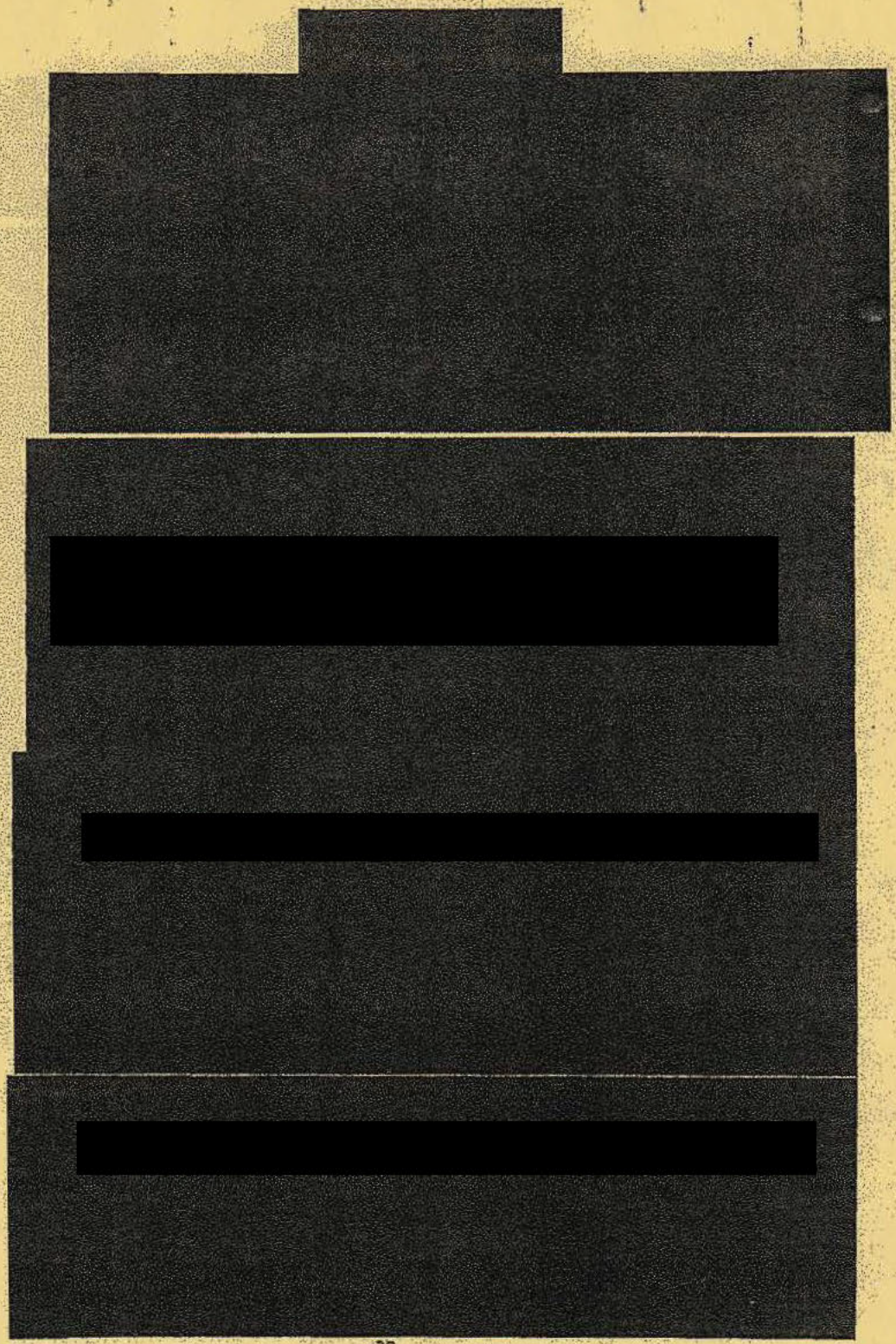
[redacted]

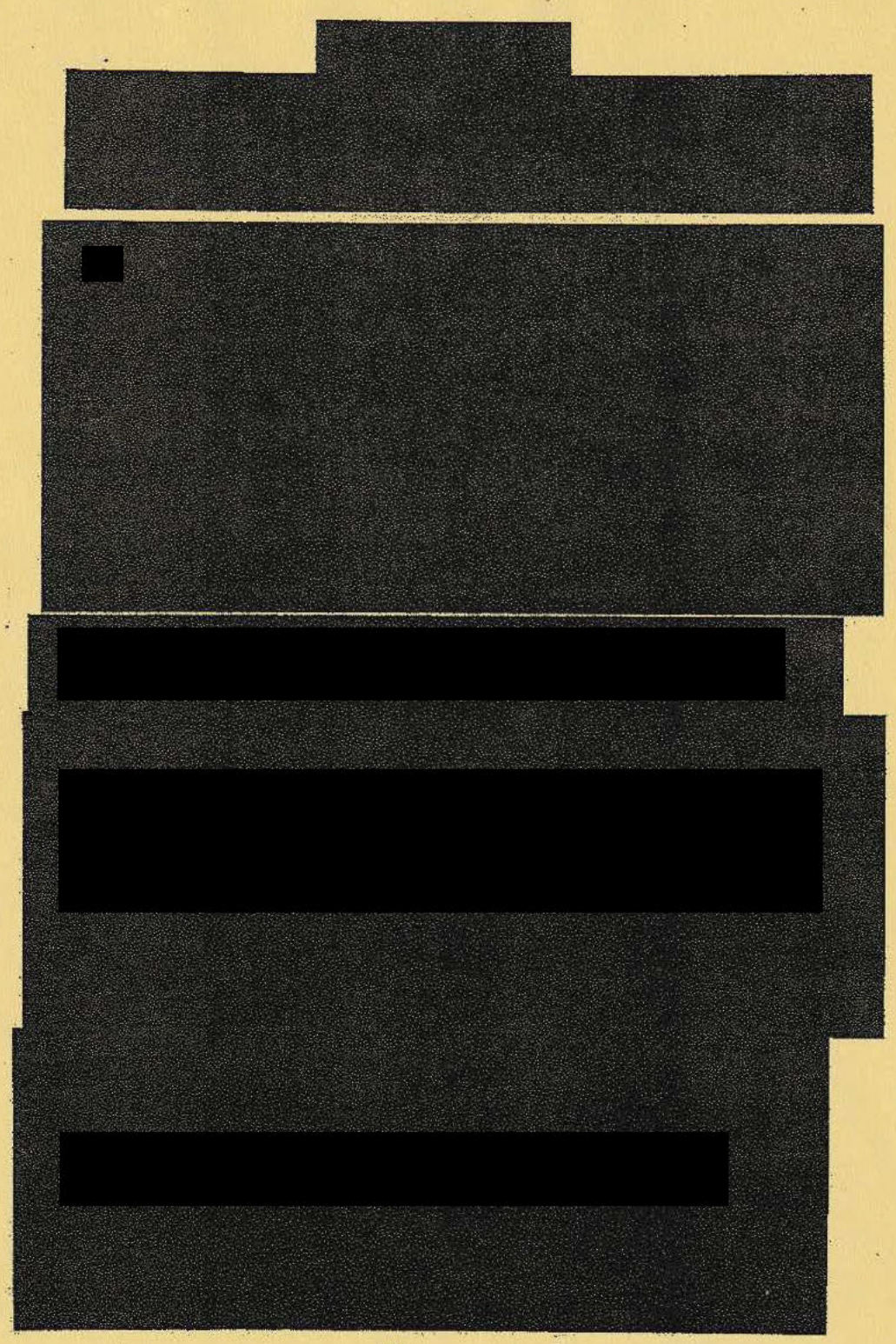
85. A broad statistical analysis indicates that the RSAF made rapid improvements in its understanding of and capability to comply with IHL. [redacted]

[redacted]

88. The high-level picture is thus positive. However, the UK has not accepted this at face value but has continuously taken a more granular approach, identifying particular concerns as they have arisen and engaging with the KSA to address and resolve those concerns.

[redacted]





[redacted]

98. The March 2018 Stock Take acknowledged that liaison officers from the MOD in the Air Operations Centre in Riyadh were not, as a matter of HMG policy, involved in the targeting chain.

[redacted]

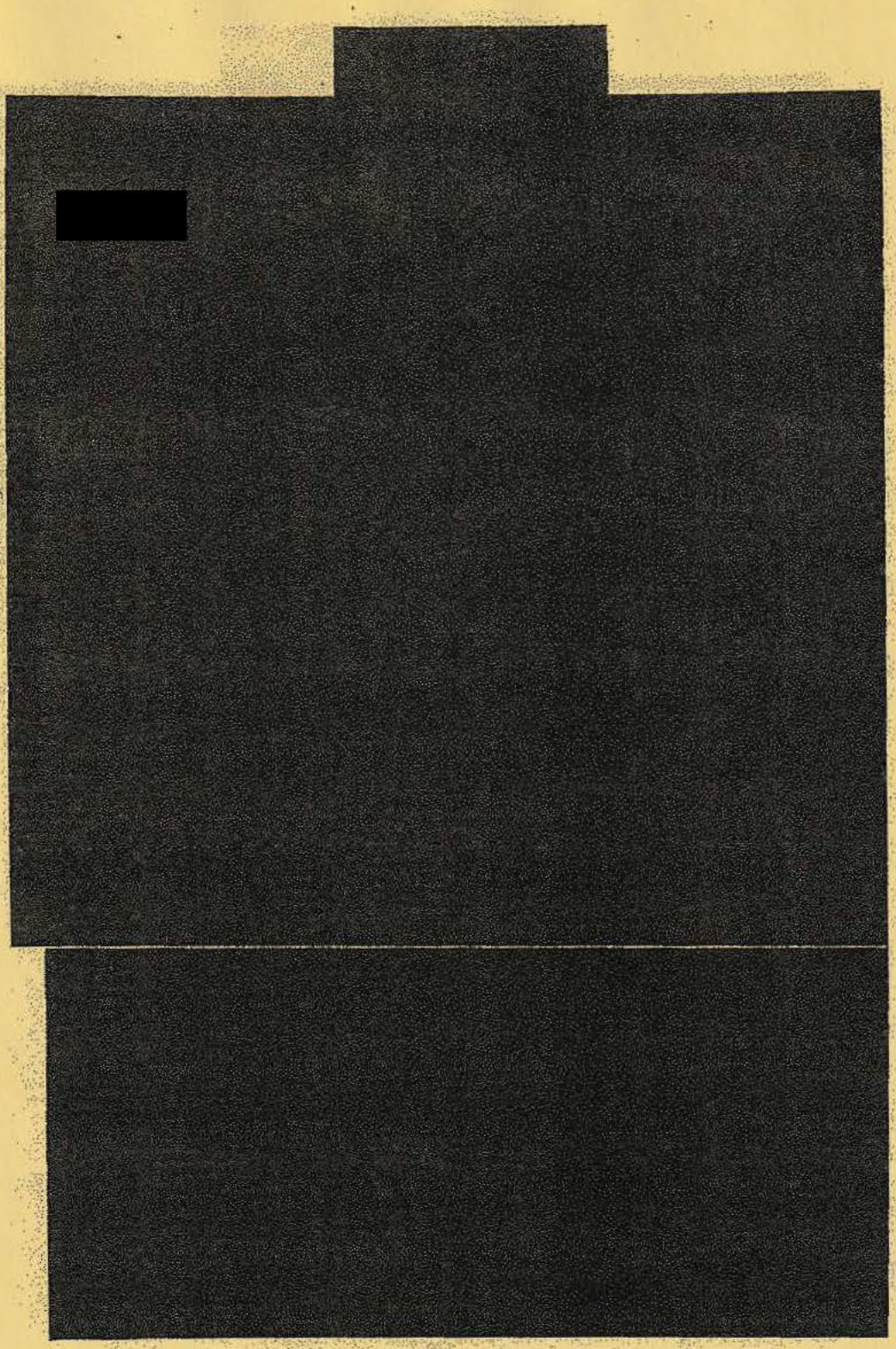
[redacted]

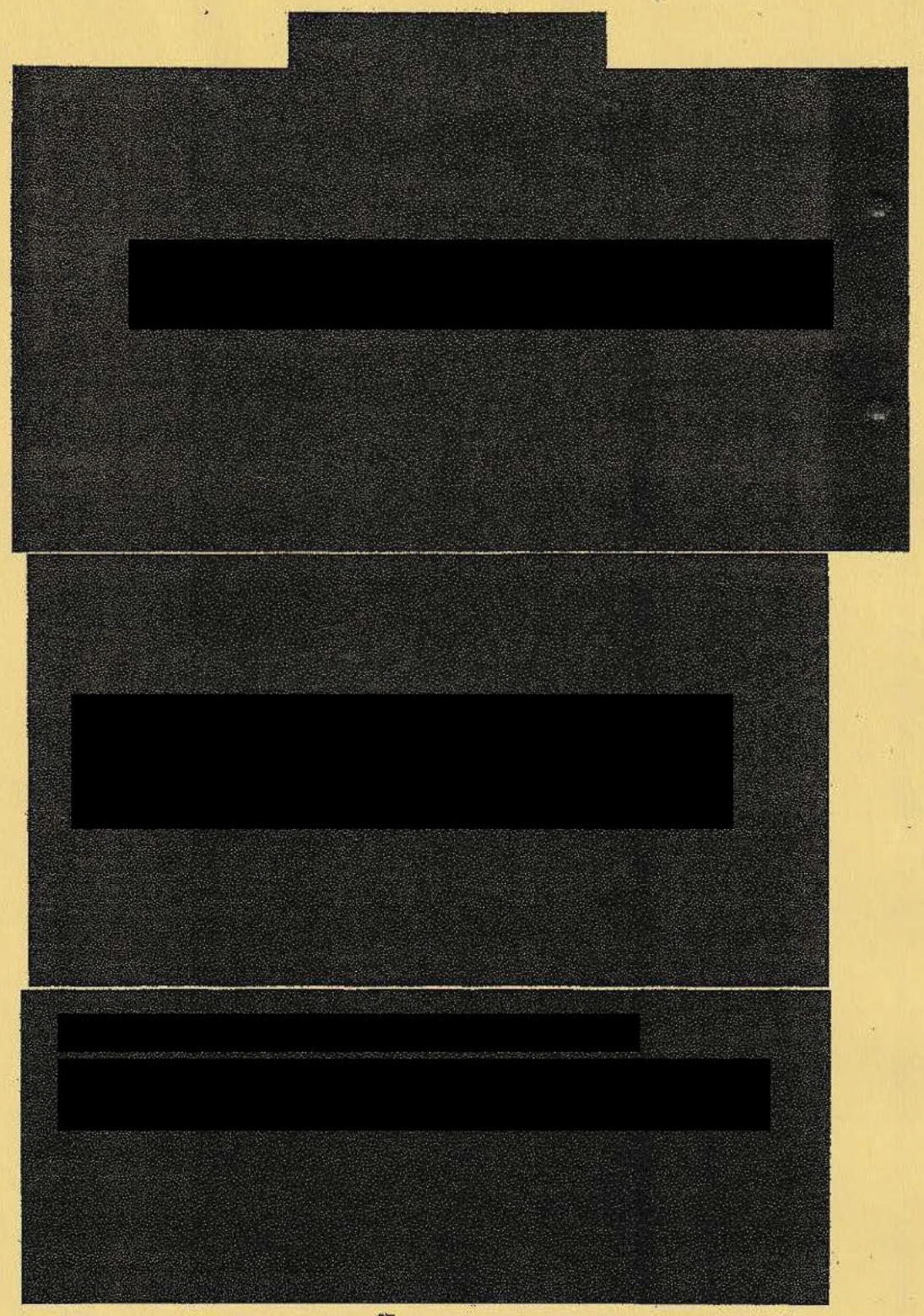
[redacted]

105. [redacted]

On 1 September 2019, JIAT publicised its findings in relation to this incident. It noted that it had found non-compliance with IHL and Coalition rules of engagement, for which the Coalition expressed regret and accepted responsibility. JIAT recommended reparations for the families of the victims and that disciplinary action be taken against those found culpable (including a 2* decision maker). It also recommended that the Coalition's rules of engagement be revised and improved.

[redacted]





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112. Further regular visits to the SAOC have continued through 2019. The Air Component Commander ("ACC") visited SAOC and the Joint Forces Command ("JFC") in April and July 2019.

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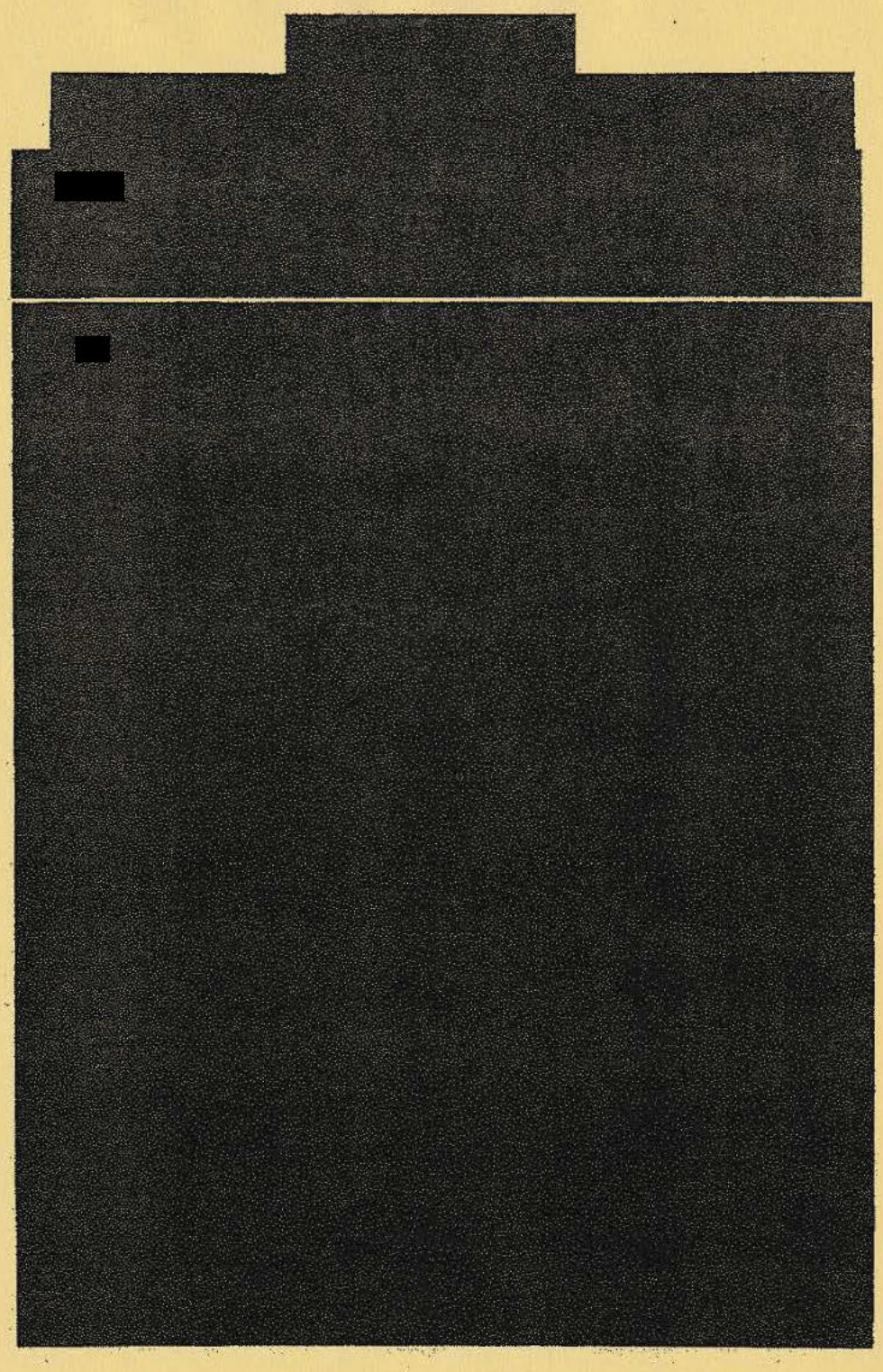

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B. Khashoggi

[redacted]

119. [redacted]

120. There was substantial international pressure, including from the UK, for the KSA government to investigate and provide a credible explanation for the murder. The judicial process is still ongoing, with 11 Saudi nationals on trial for their roles in the incident. Five of those standing trial face the death penalty if convicted.

121. [redacted]

[redacted]

C. US Position

125. Alongside the UK, the US is KSA's other main defence equipment provider. The US is not a signatory to the Arms Trade Treaty and does not have an equivalent legal framework to the UK under which it must assess defence exports, but its position in this area is still relevant to the UK's own decision-making processes and so the FCO monitors it closely.

126. In December 2016, the Obama administration halted the transfer of a shipment of Paveway guided munitions to Saudi Arabia. A number of reasons were cited at the time for this step, which came after the Great Hall Strike of October 2016 and at a time when the US system referred to concerns with Saudi targeting practices and overall prosecution of the air campaign in Yemen. [redacted] It was subsequently reversed by the Trump administration.

127. Congressional pressure has continued to be significant, culminating in meaningful legislative requirements on the US government. Since August 2018, and the coming into force of the John S McCain National Defense Authorization Act for Fiscal Year 2019 (the NDAA 2019"), the US Secretary of State has been required to submit a certification to Congress specifically in respect of air to air refuelling support to Saudi Arabia, which includes an arms sale element. Under section 1290 of the NDAA 2019, this involves a submission to the appropriate Congressional committees that *"the Government of Saudi Arabia...are undertaking demonstrable actions to reduce the risk of harm to civilians and civilian infrastructure resulting from military operations...in Yemen, including by ... taking appropriate steps to avoid disproportionate harm to civilians and civilian infrastructure."*

128. Over the course of 2018 and 2019, Congress voted in favour of a number of resolutions seeking to limit US involvement in the Yemen conflict and, especially following the murder of Jamal Khashoggi in October 2018, increase pressure on Saudi Arabia in relation to its approach to human rights. On occasion, President Trump has vetoed those resolutions that were passed which would have impacted on defence exports.

[redacted]

[redacted] As the US continues to engage at this very serious level, and provide such senior assurances (or certifications) to Congress, this will remain an important relevant factor in our analysis against the Criterion 2(c) threshold.

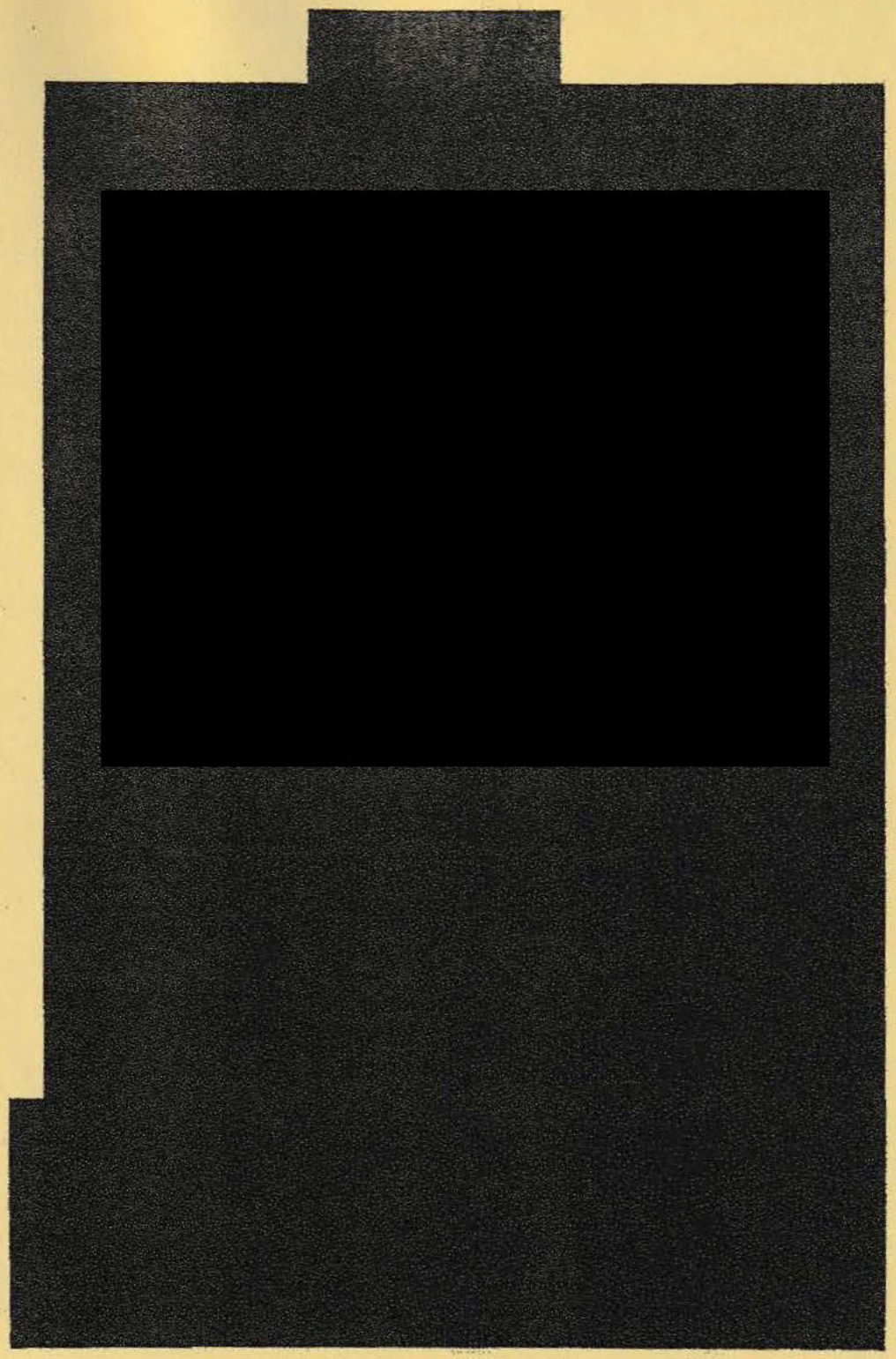
D. German Position

130. In March 2018, Angela Merkel's Christian Democratic Union Party and the Social Democratic Party ("SDP") concluded a Coalition Agreement to form a government, following Germany's federal elections in September 2017. This Coalition Agreement, at the specific request of the SDP, included a commitment to suspend defence exports to the Saudi-led Coalition. Following the murder of Jamal Khashoggi in October 2018, the German government subsequently suspended all defence exports to Saudi Arabia. The SDP-led Foreign Ministry under Maas has been the driving force behind this policy.

131. German defence exports are governed by a very similar framework to the UK under EU Common Position 2008/944. HMG is thus particularly alive to significant EU defence partners' decisions on defence exports. [redacted]

E. Saudi Assurances

[redacted]



[redacted]

F. Conclusions on the Thematic Analysis

134. The KSA has given frequent and consistent assurances to the UK of its commitment to ensure compliance with IHL. These assurances have been given at the highest political and military levels. Significantly, however, this commitment is also evident at a tactical and operational level – particularly through [redacted] which is referred to above and through the attitude of participants in the many training courses which have been provided by the UK and the US.

[redacted]

136. It has reacted positively and swiftly to engagement from the UK and the US in the wake of the two incidents (the Great Hall Strike and the Dhayan bus incident) which have caused the most serious concern.

[redacted]

[redacted]

Section V: Export Control Joint Unit (ECJU-FCO) Assessment

Executive Summary

139. ECJU-FCO has considered the [redacted] 'possible' incidents highlighted [redacted] above as well as the thematic analysis in Section IV, and MENAD's November 2019 update, to inform an overarching assessment of Saudi Arabia's record, attitude, and capability in relation to compliance with the key principles of International Humanitarian Law (IHL). This in turn enables both the retaking of historic decisions and a forward-looking assessment against Criterion 2(c) of the Consolidated Criteria *"whether there is a clear risk that the proposed export might be used in the commission of a serious violation of International humanitarian law"*. We have concluded that, in the light of all the information available to us, there is not a clear risk that the proposed exports might be used in the commission of a serious violation of IHL.

[redacted]

Whether to suspend licences and licensing

142. In circumstances where there are extant licences or licence applications pending for export to *"countries experiencing a sharp deterioration in security or stability"* and therefore *"when conflict or crisis conditions change the risk suddenly, or make conducting a proper risk assessment difficult"*, HMG must consider whether to engage the suspension – as first articulated in a Written Ministerial Statement to Parliament in February 2012, and in various other statements to Parliament since.

143. In the present circumstances, we do not consider that the suspension mechanism would be properly engaged and do not recommend a suspension of licences or licensing. This is because we consider that there has not been such a deterioration in security or stability, bearing in mind the length and intensity of the conflict, and we have enough information available to make an assessment against the Consolidated Criteria (either way)As such, ECJU-FCO is submitting a full recommendation.

[redacted] 'possible' IHL violations

144. In its judgment of 20 June 2019, for the purposes of these recommendations, the Court of Appeal required HMG to attempt to make qualitative assessments as to whether particular incidents constitute IHL violations. This was underpinned by the reasoning that *"if the result of historic assessments was that violations were continuing despite all such efforts, that would unavoidably become a major consideration in looking at the "real risk" in the future"* (para 144). To meet this requirement, and as outlined in section II above, MoD (as the Government Department containing [redacted]

[redacted]

specialist expertise in this area and with access to relevant information and intelligence) has introduced a new methodology through which it assesses credible allegations of IHL violations against, in particular, the relevant IHL principles and rules relating to proportionality, feasible precautions, distinction and necessity.

145. We note that the incidents of concern highlighted by JIAT, Bellingcat, PoE and other NGOs have been considered by MOD in its tracker. The MOD work has informed our consideration of the [redacted] 'possible' IHL violations; we agree with the conscious decision to set a low bar for what could be considered "possible" IHL violations, to ensure that as many incidents as possible are subject to even more detailed and nuanced consideration. Whilst there are still [a number of] incidents awaiting full assessment by MoD, we note that the outcomes of those that have been assessed suggest a low likelihood of further "possible" breaches amongst that group.

[redacted]

147. As we are unable to conclude definitively whether each of the [redacted] possibles' is or is not an IHL breach, we are undertaking deeper consideration of each 'possible' breach as if it were an established breach.

[redacted]

[redacted]

154. It is apparent to us from the analysis above that no pattern which could in itself indicate a clear risk of future IHL violations has emerged. Where a problem has been highlighted – such as dynamic targeting – the Saudis have taken action to remedy the situation, thereby mitigating the future risk.

[redacted]

156. Furthermore, the summary of flagged incidents of concern does not indicate any concerning pattern or trends in the nature of the allegations.

[redacted]

Attitude

158. The analysis above feeds into the issues of KSA's attitude and capability [redacted]

[redacted]

160. Moreover there is evidence that – in keeping with its desire to limit civilian casualties and comply with IHL - Saudi Arabia has been prepared to act to remedy perceived shortcomings. [redacted]

[redacted]

Capability:

164. We have considered Saudi Arabia's attitude towards IHL compliance, but also need to consider its capability to conduct the air campaign in compliance with IHL.

[redacted]

[redacted]

Overall trends

170. In assessing overall trends, we have taken into account the information provided in the IHL update covering the reporting period February 2019 – October 2019. We note that the evidence it presents is consistent with the assessment of the lack of an underlying pattern in the [redacted] possible' IHL violations, a continued determination to avoid IHL violations, and an overall improvement in Saudi capacity. We note that the IHL update assesses that "we have not seen anything to change HMG's existing judgement that the Saudi authorities continue to be committed to following IHL. [redacted] top level political engagement, day to day engagement by BE Riyadh, [redacted] all confirm this judgement".

171. The decision to license combat air platforms, munitions and associated components to the Kingdom of Saudi Arabia for use in military operations in the conflict in Yemen remains finely-balanced. Considering the in-depth information packs provided by the FCO's Middle East North Africa Department to assess the trends in Saudi Arabia's attitude, capability and record over the period of the conflict, and having assessed the [redacted] possible' violations of IHL and found no pattern which could indicate a clear risk of future IHL violations, we assess that there is *not* a clear risk that the proposed exports might be used in a serious violation of International Humanitarian Law.

[redacted] ECJU-FCO

[redacted]

Exhibit 1A