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Chair

The Honourable Robert Nault

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• (1105)

[English]

The Chair (Hon. Robert Nault (Kenora, Lib.)): Colleagues, we are here pursuant to the order of reference of Tuesday, October 3, 2017, on Bill C-47, an act to amend the Export and Import Permits Act and the Criminal Code.

We have three witnesses this morning. We will allow them to make short presentations and then get into the usual Qs and As.

The witnesses are the Canadian Association of Defence and Security Industries, the Control Arms Secretariat, and the Canadians for Justice and Peace in the Middle East.

From New York, we have Anna Macdonald, the director of the Control Arms Secretariat.

I'm going to turn the floor over to you for your presentation.

Ms. Anna Macdonald (Director, Control Arms Secretariat): Thank you very much for this opportunity to address the Standing Committee on Foreign Affairs and International Development.

The Arms Trade Treaty is an amazing document. It took over 10 years of campaigning and six years of UN processes to come into being. It has the potential to bring the arms trade under control and prevent the devastation wrought every day through arms-fuelled poverty, conflict, and human rights abuses. Throughout the world, both the persistence of cyclical conflicts and high levels of armed violence are hampering development, increasing human rights abuses, and exacerbating poverty.

Before the ATT, there was no global treaty regulating the trade in conventional arms and little to prevent the high number of weapons that end up in the illicit market. The ATT therefore offers an important humanitarian tool for addressing the challenges posed by the poorly regulated flow of weapons to some of the world's least developed areas and to conflict zones.

I am the director of the Control Arms coalition, which brings together hundreds of non-governmental organizations from all regions of the world and from many different fields, including human rights, poverty alleviation, conflict reduction, weapons specialists, health, youth, gender, and survivor networks, parliamentary networks, and legal expertise.

Control Arms provides evidence-based research and analysis, conducts outreach to government supporters and the public, builds capacity and expertise among both governments and civil society,

and facilitates policy dialogue. We have an emphasis on support and training in the global south and in monitoring of Arms Trade Treaty implementation.

Canada's absence from the ATT was a strange exception over the last few years, and we are greatly encouraged by the current government's commitment to accede to the treaty in the near future. This presents a tremendous opportunity for a return to the leadership in disarmament and peace issues for which Canada was once renowned, for example, through the leadership which led to the Ottawa convention and subsequent mine ban treaty signed in Ottawa in 1997.

The current process toward accession also presents a great opportunity to modernize Canadian export control legislation toward high standards in transparency and accountability and with a firm basis in international human rights and humanitarian law. We welcome some of the positive considerations in Bill C-47, such as the inclusion of brokering and the extension to extraterritorial controls on brokers. However, we share our Canadian partners' concerns on some of the flaws in the legislation, which I would encourage you to reconsider. The most important and relevant aspects of the ATT I would like to highlight in this regard are as follows.

First, there is the purpose of reducing human suffering. Central in the object and purpose of the ATT in article 1 is the purpose of reducing human suffering. This is the goal that must remain paramount in all efforts to universalize and implement the treaty. This is an instrument specifically designed to reduce the human suffering resulting from armed violence and armed conflict, not only in the direct deaths and injuries caused by weapons but also through trauma, displacement, economic impoverishment, torture, and oppression. Therefore, Canadian legislation must also be oriented toward this goal of reducing human suffering.

Second, there is the aim of the highest possible common standards, which article 1 also calls for, meaning that there should be no exemptions or exceptions. The continued exclusion of exports to the U.S., constituting as they do over 50% of Canadian arms exports, is a significant omission. Canada will be undermining common standards by excluding a major arms importer and exporter that's unlikely to become a states party in the near future. Article 2 additionally emphasizes that the treaty is applicable to all exports covered under the scope, and article 5 calls on states to implement ATT in a consistent, objective, and nondiscriminatory manner. To our knowledge, there is no other country that enables such a specific export destination to be exempted from its legislation in its ratification or accession to the ATT. To do so would be both unusual and undermining to the core principles of the treaty. The very nature of the ATT is that it is global, the first treaty to regulate the trade of conventional weapons, and therefore aims for universal adherence to high common standards.

Third is the importance of absolute prohibitions and risk assessment. The heart of the treaty is in articles 6 and 7, which cover prohibitions and risk assessments. These articles are very clear and unambiguous that a state "shall not" authorize an arms transfer where it has knowledge the arms will be used in war crimes, in violation of international agreements to which it is a party, or where a risk assessment results in overriding risk. Canadian proposed legislation, which will allow the foreign affairs minister to merely take into account such risks, sets a much lower threshold. In our view, this would mean Canada would not be in compliance with the ATT.

Additionally, I would like to encourage you to consider appropriate parliamentary structures that would enhance oversight and transparency. We have found around the world a strong correlation between active parliamentarians in both the speed of ratification and accession and effective treaty implementation. In the U.K., for example, the committee on arms export controls functions as an additional cross-party oversight mechanism, which holds ministers to account and hears evidence from expert stakeholders.

Finally, I would draw your attention to the inclusion in article 7 of specific language on "gender-based violence", mandating the risks of gender-based violence to also be considered as part of the authorization assessment. This is the first treaty ever to include specific language on GBV and its operative provisions, and I encourage the Canadian government to explore all possible ways to ensure that this groundbreaking aspect of the treaty is implemented.

In conclusion, the two most important flaws in the proposed legislation, which I encourage you to reconsider, are, first, that Bill C-47 does not cover arms exports to the U.S. and that this therefore leaves a large percentage of exports that will be excluded from the treaty provisions, and, second, the lack of legal limits on the discretionary power available to the foreign affairs minister.

Control Arms supports the universalization and implementation of the ATT, and we believe that it can have a positive humanitarian and human rights impact. We urge you to seize this opportunity to reposition Canada once again as a leader in disarmament and peace-building and to demonstrate the highest possible standards in bringing the arms trade under control.

Thank you.

• (1110)

The Chair: Thank you very much, Ms. Macdonald.

Now we'll go to Ms. Cianfarani, who is representing the Canadian Association of Defence and Security Industries.

Ms. Christyn Cianfarani (President and Chief Executive Officer, Canadian Association of Defence and Security Industries): Ladies and gentlemen, honourable members, good morning and thank you for inviting me to speak to you today.

I'd like to take the next few minutes to give you the perspective of my industry, the Canadian defence and security industry, on the United Nations Arms Trade Treaty and the importance of raising the bar globally to a unifying standard and reducing weapons proliferation.

CADSI is the national voice of more than 800 Canadian defence and security companies that produce world-class goods, services, and technologies that are made across Canada and sought the world over. Our member companies contribute to the employment of more than 63,000 Canadians across the country, pay wages 60% higher than the average manufacturing wage, and generate \$10 billion in annual revenues.

If you refer to the most recent "State of Canada's Defence Industry" report, which is from 2014, you'll notice that our industry's major segments pertaining to revenues include aircraft fabrication, structures, components, and maintenance, repair and overhaul at 31%; combat vehicles and related maintenance, repair and overhaul, and other related defence goods and services at 28%; command, control, communications, computers, intelligence, surveillance, and reconnaissance, or C4ISR, including avionics and simulation systems and other electronics at 25%; naval ship fabrication, structures, components, and maintenance, repair and overhaul at 9%; firearms, ammunition, missiles, rockets, and other munitions and weapons at 4%; troop support at 2%; and live personnel and combat training services at 1%.

Our members take pride in delivering defence and security goods, services, and technologies to the Canadian Armed Forces, Coast Guard, and security service providers to keep Canadians safe and secure on a daily basis. The most relevant number to this discussion, however, is that 60% of our sector's revenues come from exports. That means our members' innovative technologies, products, and services are sought out by governments across the globe. The fact that Canadian companies are highly competitive in highly regulated and protected foreign markets suggests our industry is both innovative and productive. In other words, ours is an industry that Canadians should value. We need to recognize that defence exports are essential to maintaining leading-edge industrial capabilities, a skilled and knowledgeable workforce, and an advanced technological base here at home.

Before discussing the UN ATT specifically, I'd like to point out that the existing Canadian export control regime, which our members adhere to on a daily basis, is highly robust and rigorous. The Canadian defence export regime consists of three separate approval processes and sets of regulations: the automatic firearms country control list, the controlled goods program, and the Export and Import Permits Act. It involves multiple federal government departments, including Global Affairs Canada, Public Services and Procurement Canada, National Defence, and Justice Canada. If you haven't had a chance to peruse the depth and breadth of these documents, I actually have them here with me today.

Canada's accession to the UN ATT will further enhance our very strong defence export regime and raise the bar globally for other countries whose defence export control processes are not up to Canada's very high standards. The treaty places additional burdens on countries that export small arms and military equipment, to ensure the weapons are not diverted to third parties or misused by the actual recipients. It will also regulate the practice of brokering, where weapons are exported from one third country to another. This is in part why CADSI called on the government last year to accede to the UN ATT.

In Canada the government sets tough parameters, rules, and regulations on defence exports, and our companies follow them. In terms of the new requirements on defence exports that arise out of Canada acceding to the UN ATT, we only ask that government continue to provide a predictable and timely framework within which businesses can operate. Industry needs a process that allows our companies to fairly pursue market opportunities with the confidence that they are supported by their government.

It's important that the government communicate as early and clearly as possible regarding its comfort with exporting a particular good to a particular country and end-user. Companies do not want to invest significant resources in pursuing potential sales opportunities if the government denies them the permit at the end of the process. The export licence is the final stage in the process, not the first.

• (1115)

In conclusion, CADSI fully supports Canada's acceding to the UN ATT. All of our allies are signatories to this treaty, and Canada should be as well. The Canadians who work for defence and security companies care and are concerned about the world in which they

live, and are proud of what they do, make, and sell. They share the same basic values that we all share.

I'd like to thank the committee for providing our industry with an opportunity to appear before you today to share this message, and I welcome any questions you may have.

The Chair: Thank you very much.

I'll go now to Mr. Woodley, who's representing Canadians for Justice and Peace in the Middle East.

Mr. Thomas Woodley (President, Canadians for Justice and Peace in the Middle East): Good morning.

My name is Thomas Woodley. I'm the president of Canadians for Justice and Peace in the Middle East.

I first wish to thank the committee for this kind opportunity to speak to you this morning. It's a privilege, of course, to be here. I look forward to a frank and honest discussion about Canada and its role in the sad realities of the international arms trade today.

CJPME is an organization, my organization, whose mission is to empower Canadians of all backgrounds to promote justice, development, and peace in the Middle East. We have about a dozen activist groups across the country, and we have approximately 125,000 Canadians who have participated in our activities and campaigns over the years. Because of the devastating role that arms have played in the Middle East over the years, my organization has become increasingly involved in attempts to limit the flow of arms to the Middle East.

CJPME was thrilled when the international Arms Trade Treaty was first concretely debated in 2012, then adopted by the UN General Assembly in 2013, and entered into force in 2014. However, despite our excitement at the adoption of the ATT by much of the world community, we were saddened and upset by the Canadian government's reluctance to consider signing the treaty for many of the past several years.

It's important to note that at the same time the ATT was creating greater hope for higher standards and greater transparency in the movement of arms around the world, Canada was negotiating one of its largest arms deals ever with a serial human rights abuser, Saudi Arabia. This arms deal has been in and out of the news over the past two or three years, as you all know, I'm sure, with two successive governments providing shifting justifications for the sale, despite the fact that Saudi Arabia regularly ranks among the worst of the worst of human rights violators.

In fact, a survey of Canadians just two months ago, in September, by Nanos Research for the *The Globe and Mail* found that 64% of Canadians oppose or somewhat oppose the Canadian government's decision to sell light armoured vehicles to the Saudi government. Despite the fact that it's common sense, as demonstrated by the survey results, that this sale should not have been approved, Canada's existing export controls, as embodied in the Export and Import Permits Act, EIPA, failed to prevent the sale. There is clearly much to say about this sale, but it's obvious that for a strong majority of Canadians, the current EIPA provisions did not properly function to prevent this sale.

We had high hopes that the new government would sign on to the treaty in a way that would address the long-standing shortcomings of Canada's existing arms export controls. Nevertheless, when Bill C-47 was introduced, it was immediately clear that many of the fundamental objectives of the ATT were being circumvented through the provisions of the bill, whether through omissions, through exclusions, or through deferral to regulations, whether intentionally or unintentionally.

The committee has already heard from a number of witnesses, and I believe there are important points to make regarding some of the testimony that the committee has already heard. I'll address three points.

The first is the need for a legally binding obligation in Bill C-47 on the minister. A witness for the government admitted the following:

Article 7 of the ATT requires each state party to consider a number of specific risks with respect to the items proposed for export, before authorizing the export to take place...The critical element was the need to create a legally binding obligation for the minister to take the ATT assessment considerations into account in deciding whether to issue an export permit.

First, we must be clear that the ATT establishes strict prohibitions on arms exports, depending on an objective risk assessment, and that simply requiring taking considerations into account will not satisfy Canada's obligations under the treaty.

The same witness went on to suggest that the ATT requirement was "most effectively implemented through regulation". My organization would vigorously disagree with this conclusion. Implementation of this obligation via regulation may be the easiest or most malleable implementation, but it creates a glaring loophole that could lead to high-risk arms sales being approved. In fact, it is precisely this type of loophole that led to the \$15-billion Saudi arms deals to be approved under the existing EIPA regulations, against the better judgment of the Canadian public.

As such, my organization agrees with the testimony provided by several other witnesses before this committee which asserted that in order to comply with the ATT fully, Bill C-47 must oblige the Minister of Foreign Affairs to deny exports that carry an overriding risk of contributing to undermining international peace and security, or committing or facilitating serious violations of international law.

Our recommendation would be that Bill C-47 establish an obligatory minimum threshold for export approval as per the ATT. I posit, for example, that there is no need for flexibility around the question of whether or not Canada should approve an arms sale if the arms in question risk being used in human rights violations. If,

according to government witnesses, additional flexibility is required to accommodate evolving threats and new international norms, let additional regulations address this need above and beyond the minimum threshold demanded by the ATT and codified in Bill C-47.

- (1120)

Regarding the need to report arms sales to the U.S. under Bill C-47 implementation of the ATT, a witness for the government suggested that accession to the ATT would not require Canada to track and report arms sales to the U.S. Nevertheless, a plain-English reading of the ATT would suggest otherwise. Article 1 of the ATT insists on the highest possible common international standards in the sale of arms, yet Canada's existing arrangement with the U.S. has neither a high standard nor a common standard.

Article 2 of the ATT makes clear that this implementation applies to all arms exports of acceding nations. Exempting Canadian arms exports to the U.S. specifically contradicts this obligation.

Finally, article 5 of the ATT calls for the treaty to be implemented in a consistent, objective, and non-discriminatory manner. A separate, less stringent process for Canadian arms exports to the U.S. clearly is not the consistent standard demanded by the ATT.

The government witness suggested that the ATT does not specify how states parties should organize their export control systems. This may be a fair statement as long as the export systems in question do not violate a nation's obligations under the ATT. However, Canada's arrangement with the U.S. under the defence production sharing agreement clearly does not meet Canada's obligation under the ATT.

For my final point I would suggest that as we consider Bill C-47, we should try to segregate the decision between our ethics and Canadian jobs. I suspect that privately many of the committee members here are as uncomfortable as I am with Canada's \$15-billion arms deal with Saudi Arabia. However, because proponents of the deal have positioned it as a choice between questionable risks on the one hand and Canadian jobs on the other, the issue becomes a political hot potato. It is not surprising that elected representatives in successive governments would take the approach they have given that the alternative would be a form of political self-flagellation.

Therefore, I would recommend that Canada's implementation of the ATT include provisions to enable lawmakers to avoid this type of catch-22. Perhaps as a result of the role of the Canadian Commercial Corporation, the Saudi arms deal from the get-go was presented as a trade-off that would jeopardize well-paid Canadian defence jobs in London, Ontario.

Under Canada's accession to the ATT, the ethical issue should be addressed much earlier in the sales process, long before people are calculating the trade-off in Canadian jobs.

Naturally, a legally binding obligation on the minister, as required by the ATT, could help prevent many morally questionable deals from even being considered, but beyond that, CJPME would recommend that lawmakers look at other ways to segregate and front-load the ethical considerations of the deal before the potential economic benefits of the deal are promoted publicly. As mentioned above, there may be implications in terms of the ongoing role attributed to the Canadian Commercial Corporation.

The above discussions highlight some of our top concerns with the pending legislation. CJPME would recommend that if they have not already done so, committee members should be sure to review a document issued by a group of Canadian NGOs, CJPME included, entitled "Bill C-47 and Canadian Accession to the Arms Trade Treaty Civil Society Concerns and Recommendations".

This document was officially released on October 16 and was the result of deliberations between many of Canada's leading NGOs on this issue, including CJPME. It details a number of items that go beyond the scope of my presentation here today.

I believe Canada has the opportunity to prevent unnecessary misery and suffering around the world as a result of unwise or illicit arms sales. My organization and I exhort this committee to propose the amendments necessary to ensure that Canada's accession to the ATT adheres to both the letter and the spirit of the treaty.

Thank you for your attention. I welcome any comments.

• (1125)

The Chair: Thank you, Mr. Woodley.

Thank you to all the presenters.

Now we'll go straight to questions.

Mr. Genuis, go ahead, please.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you, Mr. Chair.

Thank you to the witnesses.

Maybe I'll start off with just a couple of observations. We heard again the observation on the value of parliamentary oversight. I note that our caucus supported at the beginning of this Parliament a motion to have a subcommittee of this committee look at issues around arms control, through a parliamentary process of course.

We had, I think, some recognition of the fact that we already have a strong oversight system in place, one that involves political discretion but that is a very strong system structurally. There was also the observation on the value of having good information in advance for civil society as well as for the arms manufacturing industry so there's some certainty moving into that process.

My questions will be generally for Ms. Cianfarani.

First of all, I would like to ask you about the impact this bill will have on subsidiaries. For instance, if we're looking at major American companies that have subsidiaries here in Canada, are there particular effects on them resulting from this bill that we should be aware of?

Ms. Christyn Cianfarani: Those subsidiaries are already subject to Canada's export permit requirements. The UN ATT will represent the fourth set of rules and regulations. When goods and services come from the United States, not only do the export permits from the United States follow those goods and services, but they are also swept up when they are implemented within Canadian platforms in Canada's export regime leaving the country. When both coming in and leaving the country, the goods and services are subject to Canadian export laws and permits and those from the receiving country.

Mr. Garnett Genuis: The protections already exist, and I appreciate that. Is there any added burden that this legislation will create for those types of operations in particular?

Ms. Christyn Cianfarani: First of all, we have yet to see the regulations, so it's hard for us to judge what it will entail. We are expecting, though, that because of the additional requirements around brokering, there will likely be additional governance structures put in place in companies, the need to identify who their agents are, and the need for these third party agents to have permits. This structure or this set of governance and these additional rules will most likely necessitate additional processes within companies in order to support the legislation.

Mr. Garnett Genuis: At a basic level, we know additional processes entail additional economic costs, for better or worse. We already have a strong system in place right now, but what you're saying is that through these brokering requirements, there will be additional processes and costs that will affect these subsidiaries.

Ms. Christyn Cianfarani: We fully expect that, yes.

Mr. Garnett Genuis: There is also a level of uncertainty about what exactly that will look like. We've heard from a variety of stakeholders that the government has provided a fair bit of flexibility for itself in terms of what it might or might not say regarding the regulations.

• (1130)

Ms. Christyn Cianfarani: Yes, indeed, although we expect to have conversations with the government as it rolls out the regulations. They have already consulted with us throughout this legislative process, and we would fully expect to be providing feedback during the regulatory phase as well so that we can prepare ourselves.

Mr. Garnett Genuis: One of the categories of concern we've heard about is from law-abiding firearms owners in Canada. There is some language in the preamble of the bill that is designed to reassure people in that community, but there's nothing in the text of the bill that actually provides substantive reassurance that there won't be, for instance, the collection of data that would effectively amount to a backdoor long gun registry. We have heard some witnesses propose what we've discussed before, which is the possibility of an amendment in the text of the bill that would very clearly prevent that kind of an evolution. Ms. Cianfarani, do you have thoughts on whether that type of an amendment would be acceptable to the people you represent?

Ms. Christyn Cianfarani: We don't have any thoughts on whether or not the amendment is required for the independent firearms owners because we don't represent that crowd of individuals. However, we don't see right now any need for such an amendment in the legislation.

Mr. Garnett Genuis: It's interesting because this is what's come up a few times. We have people who don't have a problem with that assurance maybe, but aren't sure if it's necessary. It's interesting that we're hearing from the firearms community that they would like that kind of reassurance.

I'll ask the other witnesses a question in the time we have left. Obviously, if we accept what the government says at face value, they're saying that the goal of this isn't to impact law-abiding firearms owners or lead to an increased paper burden or increased amount of data. Do you see any harm in putting that clarification not just in the preamble but in the text of the legislation?

Ms. Anna Macdonald: I think it would be unnecessary. The Arms Trade Treaty is about the international transfer of arms and ammunition between countries and territories that import, export, transit, and transship. It's not about domestic gun ownership, so I would see such wording as unnecessary.

Mr. Thomas Woodley: For my part, I really don't consider myself a subject matter expert in the area that you're probing.

Mr. Garnett Genuis: Okay.

The Chair: Mr. Levitt, please.

Mr. Michael Levitt (York Centre, Lib.): Thank you very much for your testimony.

Ms. Macdonald, I wonder if I could start with you. I want to explore a little more deeply the gender issues that you raised and the impact on women and girls. I don't want to put words in your mouth, but you said you didn't feel that there was adequate recognition of this in what's currently before us as it relates to the ATT. In the ATT, there is article 7(4):

The exporting State Party, in making this assessment, shall take into account the risk of the conventional arms covered under Article 2 (1) or of the items covered under Article 3 or Article 4 being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children.

We heard from Mr. Butcher from Oxfam last week that those articles would become binding because we sign on, regardless of the specific language in the regulations or legislation. Is there an additional step necessary, or do you feel that this will cover that? That's certainly what we had been told.

Ms. Anna Macdonald: Yes, I would agree with the colleague from Oxfam that it will become binding when you accede to the treaty. What I was doing in my statement was merely highlighting that this is a significant and important area of the treaty because it's the first treaty to specifically address gender-based violence.

I consider it an achievement that the language is put in there. I'm just encouraging Canada to take advantage of this provision in the treaty. Given that there's a strong correlation between that provision and the Canadian government's desire to see a reduction in gender-based violence around the world, this provides you with an additional instrument to pursue that policy.

Mr. Michael Levitt: Absolutely. From your perspective, can you tell us a little bit to give us some background on the illicit arms trade and the gender impact and, in particular, how women and girls are affected? Can you give us a little more background on that?

•(1135)

Ms. Anna Macdonald: It does specifically particularly relate to the use of small arms and light weapons which, as you know, are included in the treaty under the scope. The aim of the ATT is to ultimately reduce the number of illicit weapons in circulation by first regulating the licit trade. One reason it came into being is that there have been efforts by the UN and by many countries to tackle the illicit trade, for example, through the UN program of action on the illicit trade of weapons; however, most weapons, 99% of weapons, begin in the licit trade.

There's this huge grey area between the licit trade and the illicit trade. Unless you're effectively regulating and controlling the licit trade, you have no really effective means of preventing the large number of weapons that end up in the illicit trade. One purpose of the ATT is that, ultimately, if effectively implemented by a wide number of countries, we should see fewer weapons in the illicit trade, which will also contribute to a reduction in gender-based violence and violence against women and children.

The language of gender-based violence is important because gender-based violence, of course, could be violence that is specifically targeted at women and girls because of their gender. It can also be violence that's specifically targeted at men and boys because of their gender. In the implementation of the treaty, we're encouraging governments to develop guidelines. Indeed, we're doing work ourselves to support governments in the development of guidelines and indicators you would be looking at if you were making a risk assessment for an application for an arms transfer of what a risk of gender-based violence might look like to help guide and support officials in adequately taking that decision. It would be a range of publicly available human rights and humanitarian information as well as many other topical reports that might exist on a particular destination.

Mr. Michael Levitt: Thank you.

Ms. Cianfarani, I want to stay on the same topic with you. I think Ms. Macdonald hit the nail on the head. The protection of women and girls has been an identified priority for our government, and there is a focus on that in terms of our feminist foreign policy.

Can you also speak to how you view the impact of this agreement on that, again taking a gender-based analysis of this issue?

Ms. Christyn Cianfarani: In my industry association head, I would simply say that the scope and the breadth to which we apply instruments of foreign policy for gender-based issues are the responsibility of the elected officials of the Government of Canada. If you are asking me as a woman—and perhaps that is why you're asking me—again, I think that using export controls as a tool of foreign policy, and in this particular instance to reduce gender-based violence, particularly against women and girls, as a Canadian, I place a high value on that.

Mr. Michael Levitt: Thank you.

I think I want to stick with you for another couple of questions.

The purpose of this treaty is to eradicate the illegal international arms trade and to set standards to prevent human rights abuses caused by the flood of illegal weapons in conflicts around the world. The accessibility of weapons, especially small arms, fuels conflicts around the world and contributes to human rights abuses.

Can you comment on this and on, from your perspective, why regulating the international arms trade and eradicating the illicit arms trade is so important? What are the challenges that your association sees?

Ms. Christyn Cianfarani: Again, I think we need to ensure that we understand that export controls, sanctions, arms embargos, asset freezes, financial prohibitions, and things like that are all instruments of foreign policy that the government has at its discretion to apply. In the case of export controls, this is the regulation of a particular good being used in a particular circumstance vis-à-vis a particular country.

With respect to our industry, we, as mentioned, already follow three export control regimes, which control the flow of goods and services in the regulated market. With respect to the UN ATT, we will have the additional legislation that binds the Minister of Foreign Affairs with respect to the criteria taken into consideration for arms sales, which is at the government level, and the additional brokering regulations for the industry as a whole.

• (1140)

The Chair: Thank you, Mr. Levitt.

Mr. Michael Levitt: My time is up?

The Chair: Yes, sorry about that.

[Translation]

Ms. Laverdière, you have the floor.

Ms. Hélène Laverdière (Laurier—Sainte-Marie, NDP): Thank you very much.

Thank you very much to the three witnesses for being here.

Ms. Cianfarani, I think we really agree on the basics, including the need for a transparent and predictable process.

I have a comment for Ms. Macdonald. On two occasions, either in committee or in the House of Commons, I have recommended that Canada create a committee to examine the issue of arms exports on a recurrent basis. Unfortunately, it has not worked, but I will certainly try a third time and we will keep you informed at that time.

The bill as presented does not include a legal obligation for the minister to refuse to grant certain export permits. In my opinion, this

places the minister, who has to make the decision, in a more difficult position owing to all kinds of domestic and international pressure. On the other hand, if the minister had a legal instrument allowing her to say to certain partners of Canada that, legally, she cannot grant that export permit, I think that would protect her.

What do you think?

My question is for Mr. Woodley and Ms. McDonald.

[English]

Mr. Thomas Woodley: One of the things I would like to emphasize is that those of us who have a certain focus on human rights are certainly not against commerce, and we are certainly not against Canadian industry being very productive and successful. I think, to your point, human rights and making human rights part of our political platform and our political strategy is not to say that we want to end all communications and all commerce with a particular country with a particular regime, but rather to put healthy pressure on those regimes, on that commerce, such that the governments in question will move in the direction in which we would like them to move in terms of respect for human rights. By actually putting specific obligations into Bill C-47 itself, we sort of liberate the process to do what it's meant to do, which is that we want to raise the bar for human rights, whether it be with Saudi Arabia or any other country. That's not to say we don't want to do commerce with anyone, but let's raise the bar: look, it's out of our hands; we've made this commitment to human rights.

I'll let others comment, but that would be my take.

Ms. Anna Macdonald: I would like to add that I would very much agree with the question, that it would be better for the minister if there were clear legal limits. I would also like to underline that in our understanding of the treaty, article 6 and article 7 are very clear on this. The language is that the government shall not authorize an arms transfer if the subsequent criteria are not met.

In article 6, if there is knowledge of the use of those weapons for war crimes or violations of international agreements, the government shall not authorize the transfer.

In article 7, if after conducting the risk assessment, it is deemed that there is an overriding risk of the use of those weapons for violations of human rights or humanitarian law or for acts of gender-based violence, the government shall not authorize.

It's a very clear, unambiguous legal obligation, and it's not one that is left to discretion. It's not the case that you consider the risk and then are entitled to make a judgment about whether you shall or shall not; if that risk exists, you shall not authorize.

In our opinion, there should be those legal limits, a clear legal obligation on the minister. Indeed, that is what exists in the other countries that have thus far ratified and acceded to the treaty. If you examine the legislation from European countries, African countries, Latin American countries, and others that have ratified the treaty, you will see that clear legal obligations exist for their ministers. We believe it should be no different for Canada.

• (1145)

[Translation]

Ms. Hélène Lavardière: What concerns me is that other countries have a legal obligation in their legislation. Canada does not do this, which violates the spirit and the letter of the treaty. I am concerned. Similarly, Canada makes a huge exception for the United States, which also violates the spirit and the letter of the treaty. I am concerned. I wonder whether Canada is watering down the treaty because the legislation implementing the treaty is so weak.

[English]

Mr. Thomas Woodley: My belief is that we are not setting an example. Other witnesses have declared that we are setting an example, but I don't see that. I see Bill C-47 as a sort of watered-down implementation, with incomplete processes to actually bring the intents of the ATT to the fore. I see it as a flawed bill, and I really think it needs serious amendments to bring it to the standard that the ATT is actually targeting.

The Chair: We'll go to Mr. Saini, please.

Mr. Raj Saini (Kitchener Centre, Lib.): Ms. Cianfarani, I would like to start with you.

We've heard that this treaty is going to establish a new global standard for the import and export of arms. I'm sure that in your line of work you have to deal with different export and import regimes, and that you want to ensure that the legitimate businesses have confidence when working in other countries.

I liken your organization to the AeroSpace and Defence Industries Association of Europe. If you look at what they've tried to do as an organization, you'll see that they have tried to raise the level to say that corporate responsibility in many ways brings a competitive advantage, that their industries are trying to seek a level playing field, and that an ATT regulating legal trade in conventional arms will be an important step in levelling that playing field.

My question for you is what this kind of global standard means for your ability to do business in other parts of the world.

Ms. Christyn Cianfarani: As you can imagine, it is very important that we're operating on a level playing field, if not at a competitive advantage, when we have those opportunities.

We believe that because the UN ATT does seek to raise that bar globally, what it means is that no other country where there are signatories to this treaty will be at an advantage for facilitating the export and/or import of defence goods and services in a more expedient or fluid manner than we can in Canada. It simply sets the playing field at a level standard, which is incredibly important given the fact that the market is so tightly managed from one country to another.

Mr. Raj Saini: I'm going to read a quote. It's what U.K. foreign secretary William Hague said when they were getting towards the

end of the negotiations for the ATT in 2013. What he said about this treaty was that it:

will not stigmatise the legitimate trade in arms. Instead, it will protect it, establishing global commitments on national arms export controls and a baseline for robust controls that ensure countries can defend their citizens without undermining human development.

I have two questions. Do you agree with this assessment, this statement that this treaty will not really affect any kind of domestic commerce? In fact, will it add legitimacy to an industry that sometimes is misunderstood or where there's sometimes no clear understanding of what certain companies do?

Ms. Christyn Cianfarani: I don't think the industry as it stands in Canada is in any way illegitimate or in any way illicit. This industry, for many years now, has been heavily regulated, as I've pointed out, under three separate export control regimes. As I think the committee has been made aware, the UN ATT will only add two, so we are at 26 out of 28 global standards for international arms regulations.

I think Canada should be proud of its position currently. I think this will increase the level of the standard here in Canada, but also, and more importantly, in other nations that are brokering defence products and services at standards that are lower than those we experience here in Canada.

• (1150)

Mr. Raj Saini: Going back to my original point, I was talking about the AeroSpace and Defence Industries Association of Europe. They felt that accession to the ATT would be a necessary step to increase their profile and their social responsibility, but also, it would add legitimacy, it would create a framework where they were better understood, and it would create a level playing field globally.

From what I read from your industry, it seems that the idea is almost the same. You want to sign on to the ATT to create that level playing field, not that your industry is illegitimate, but more in the sense that when you're dealing with global partners and global commerce, the countries that deal with Canada would have a higher level of understanding of exactly what we do.

Ms. Christyn Cianfarani: It's certainly why we called for the government to accede to the UN ATT. We felt that Canada already functioned at a very high standard. This would simply solidify the standards to which we are already operating. It makes a global statement about our position as Canadians and in this industry on the significance of how the regulations play a role in our corporate social responsibility.

Mr. Raj Saini: Do I have any more time?

The Chair: You can have one more question.

Mr. Raj Saini: It's a big question. You know that I don't ask long questions. Should I ask it?

The Chair: Sure.

Mr. Raj Saini: Thank you.

I have one more question, a small question. One of the things that the treaty obviously is trying to do is prevent the diversion of arms. If you could familiarize us with your industries, what specific things do you currently have in place to combat that, and how do you feel that the successful adoption of this treaty on a global scale will prevent the spread or the diversion of weapons?

Ms. Christyn Cianfarani: Right now, imports and exports are tracked under the three programs: the controlled goods program, the Export and Imports Permits Act, and the automatic firearms country control list. Effectively, as a Canadian, when you export, you are tracked into which regimes you are selling your goods and services.

What the UN ATT will do is look at the third parties that are acting as agents or brokers, which is that extra layer of movement of goods and services between countries, from country to country, by an agent or a third party. That additional activity is heavily targeted on the movement or diversion of defence goods and services between nation-states and between organizations and persons.

Mr. Raj Saini: Thank you very much.

The Chair: Thank you, Mr. Saini.

Mr. Sidhu, please.

Mr. Jati Sidhu (Mission—Matsqui—Fraser Canyon, Lib.): Thank you, Mr. Chair.

Thanks to all three of you for your testimony this morning. I think the pressure is on Ms. Cianfarani.

Ms. Christyn Cianfarani: I'm a popular lady, I suppose.

Mr. Jati Sidhu: You mentioned that \$10-billion industry and that we have 650 outfits producing firearms. It's good that you're protecting human suffering, but my thinking at the other level is about what kind of mechanism your associations has so that it doesn't fall into the wrong hands.

We see that once a week around the world we have a mass shooting. How do we prevent that? What's your take on that?

Ms. Christyn Cianfarani: Our obligations under the regulations begin and end with the conclusion of our contracts. Effectively, we're governed under these regulations from the time at which we enter into a contract with a third party or a nation-state to the time of completion of that contract with the third party.

• (1155)

Mr. Jati Sidhu: Okay.

Ms. Christyn Cianfarani: I would also like to point out that I'm not sure in your prelude whether or not your facts were aligned.

We're 63,000 Canadians, about 800 companies—ISED will tell you about 650—and 4% of our industry deals in small arms, firearms, and munitions. The vast majority of our industry makes aircraft components, parts, and maintenance, repair and overhaul for airframes.

Mr. Jati Sidhu: You mentioned Canada's absence from the ATT. Now with Canada's accession to the ATT, what kind of impact do you think it's going to have on your industry, being the Canadian part of that?

Ms. Christyn Cianfarani: Well again, this will add additional activities within our corporations to regulate, track, and record, and most likely additional governance structures for the activity of brokering within our companies.

Mr. Jati Sidhu: Can you compare other countries that have benefited in being part of the ATT?

Ms. Christyn Cianfarani: I haven't done any studies on other countries and their behaviours with respect to the UN ATT and whether or not that's changed their behaviours.

I would suggest that would be a study that would have been undertaken by Global Affairs Canada vis-à-vis Canada's position and other nations.

Mr. Jati Sidhu: Is there anybody else on the panel who would speak to that?

Mr. Woodley.

Mr. Thomas Woodley: Relating it to the previous question by Mr. Saini, when I was talking to members of Parliament about the Saudi arms deal, a lot of people, as I mentioned a moment ago, had concerns about it but didn't want to go up publicly against the deal. One of the excuses I heard for the deal was that if Canada doesn't sell these arms to the Saudis, somebody else will.

I think in terms of levelling the playing field, if we can get everyone to sign on to the ATT, then you won't have a situation like, "Well we're missing out on this business, because if we don't do it, the Russians or Germany or Italy will do it", or something like that.

I think it's important for all countries to have an honest implementation of the ATT, such that these rogue regimes don't have recourse to go to another country that will sell them those arms. I think it does level the playing field in a very important way, as long as everyone implements it in an honest way according to the intent of the treaty itself.

The Chair: Thank you, Mr. Saini.

Ms. Anna Macdonald: If I may add as well, I would say, yes, we've seen some impact already from the ATT when we look at the arms transfer decisions that governments are making around the world. Previously, there was no global regulation on the conventional weapons trade. We had a patchwork system of regulations where some individual countries had export controls that were quite strong, others had weak controls, and some had none at all.

One of the positive things that we've seen already with the 92 states parties that we currently have and 40 or so additional signatory countries is governments moving to put controls in place for both the export and import and also the transit of weapons through their territories, which is an important step towards reducing the diversion that a previous questioner was talking about. Diversion is clearly an enormous problem particularly in the field of small arms and light weapons, but not only for that, in terms of the illicit trade.

When we have analyzed specific countries, for example, relating to what Thomas was just saying with regard to arms exports to Saudi Arabia, we have seen some countries have stopped their arms exports to Saudi Arabia and associated coalition partners because of the humanitarian atrocities taking place in Yemen. Others have placed additional restrictions on their authorization mechanisms to reduce the number of weapons that are going to Saudi Arabia because of the conflict and the situation in Yemen. Yes, we are starting to see some changes in government behaviour both in terms of decision that they're making, and also around the world, importantly, in the establishment of systems where there were previously none.

The Chair: Thank you, Ms. Macdonald.

We'll go to Mr. O'Toole, please.

Hon. Erin O'Toole (Durham, CPC): Thank you very much, Mr. Chair.

Thank you to all our witnesses today.

I'm going to use what little time I have to ask Ms. Cianfarani some questions.

It's nice to see you. We served in the military together. You've transitioned very well.

How many people are employed by the aerospace, defence, and security industries, writ large, in Canada?

• (1200)

Ms. Christyn Cianfarani: There are 63,000 if you take the military portion of the aerospace industry.

Hon. Erin O'Toole: It's probably one of the lead industries in terms of the employment of Canadian Armed Forces veterans.

Would that be fair to say?

Ms. Christyn Cianfarani: Certainly, a lot of veterans come out and seek employment in the industry. It's very familiar. They know very well the goods and services that we produce.

Hon. Erin O'Toole: That's everything from security right through to flight simulators and the like. Everything would be caught within that industry's scope?

Ms. Christyn Cianfarani: Absolutely.

Hon. Erin O'Toole: I'm going to refer to the testimony by Mr. Gilmour and Mr. Arbeiter, from the department, who said Bill C-47 was an attempt to "universalize best practices". Almost all parties have acknowledged Canada has had since about the 1950s these best world-leading practices.

You've mentioned that 26 of 28 elements of the ATT we're already in line with. I would suggest that actually it's 27, because we've had formalized policies since the 1980s and those policies are now going to be law.

Ms. Christyn Cianfarani: Legally binding, correct.

Hon. Erin O'Toole: The one area where there's substantive change is the brokering provisions.

Has Canadian industry had a problem with respect to export controls by brokers in our domestic marketplace to your awareness?

Ms. Christyn Cianfarani: Not to our knowledge.

As I mentioned, the regulations right now go from a single company to an end state. If those companies are employing brokers in the process through which they are transacting, what I would have heard would have been the activities that are occurring between that company and that broker that functions as a form of consultancy for a company. It's unlikely that I would hear of any issues coming from what might be perceived as brokering challenges.

Hon. Erin O'Toole: I've heard some of the witnesses today talk about diversion. Certainly, internationally, that's a concern where international brokers might divert outside of the intended export scope. Certainly, that's extraterritorial to Canada. Brokering in Canada we can regulate but diversion elsewhere we cannot.

Ms. Christyn Cianfarani: Correct. This legislation will still leave that as an extraterritorial consideration.

Hon. Erin O'Toole: Okay.

Have any of the wholly-owned subsidiaries of aerospace or defence companies indicated that enhanced regulation and red tape with brokering in Canada might lead their subsidiaries to be less competitive for international work?

Ms. Christyn Cianfarani: First and foremost, most companies are operating on a significant scale in the sector. We're not talking about small businesses. They're generally exporting into global supply chains, the larger firms that have very large export control units within their own organizations. These are the ones that are typically employing agents or third parties, and these are the ones that already have some form of structures and corporate governance ongoing with respect to the export control regimes, which are very substantive at this point in time. While companies have raised that they think there will be additional processes that need to be put in place, potentially additional paper work to be put in place, there has been no gross level of concern about this legislation adding some undue burdens. We have yet to see that—

Hon. Erin O'Toole: It will come maybe with the regulations.

Ms. Christyn Cianfarani: That's right. We have yet to see the regulation, so we would reserve judgment until we can actually assess what the regulation is going to do to the corporations.

Hon. Erin O'Toole: I have one final question because I'm limited in time.

In many ways you might be able to say that our defence aerospace security industry is created or supported by our ITB regime, our industrial technology benefits, from our own defence procurement. Could you talk a little bit about that and how many of the subsidiaries of larger global players are a result of our domestic ITB regime?

•(1205)

Ms. Christyn Cianfarani: I would say that our industry is kind of a result of a couple of things. One is that companies that sell into Canada, into our domestic market, are required to put dollar for dollar into the Canadian economy. Over the years, many foreign subsidiaries have established footprints here in Canada. We've seen that most recently with the fixed-wing search and rescue program's joint venture with Airbus and PAL Aerospace, for example. There are many, many other examples: Lockheed Martin Canada, Boeing in Canada, etc., etc. This creates this sort of mechanism by which we motivate companies to put footprints and do business in Canada.

The reverse is also true in that the export regime from which we draw 60% of our revenues is absolutely essential to the growth of Canadian businesses here at home. Canadian companies take those revenues, reinvest them in their Canadian operations, and the products and services of the next generation get provided to our domestic forces, both our Canadian Forces and our Coast Guard, which keeps us at the leading edge, at the forefront of national security. It works both ways.

The Chair: Thank you, Mr. O'Toole.

The last questions go to Ms. Vandenbeld, please.

Ms. Anita Vandenbeld (Ottawa West—Nepean, Lib.): Thank you.

Thank you very much, all of you, for this incredibly informative testimony.

I'd like to pick up on the brokering controls, Ms. Cianfarani. In this committee we've heard a lot of testimony. We also, when we were in Washington, spoke with the Department of State and asked questions in terms of brokering controls. One of the things we heard is that the Department of State is working with Global Affairs Canada to work toward, in the next 18 months, increases in our brokering controls because they, in fact, have controls that were done in anticipation of an eventual ratification of the Arms Trade Treaty.

Is this something you are aware of, the kinds of controls the Americans have, and the integration between the industries that we have in the two countries?

Ms. Christyn Cianfarani: I don't know about the nuance of the controls that they have in place, but I do know the current regimes in place in the United States. Canadian companies are subject to them when we re-export out of the U.S., the U.S. being one of our largest markets. When we export into the United States, and then our components or technologies become part of their platforms, which are then re-exported, we are subject at that time to the U.S. export control regimes, of which there are four: the Arms Export Control Act, the U.S. international traffic in arms regulations, also known as ITARs, the U.S. commerce control list, and the U.S. export administration regulations. Those four regimes themselves are already up to the UN ATT's standard on brokering. By nature, the United States is actually operating under the same regulation platform, or the same level of regulation, as the UN ATT. Therefore, one would assume that the brokering controls that are in place under those four regimes, to which Canadians are subject, would be by nature being brought to Canada, as the exchange between Canada

and the United States is, I think, one of the strongest between two countries.

Ms. Anita Vandenbeld: Thank you.

One of the things we heard from Mr. Butcher from Oxfam was that the Arms Trade Treaty itself is not explicit in terms of how arrangements are done between countries, as long as they meet the objectives of the treaty. He gave, as an example, Luxembourg and Belgium and the kinds of arrangements they have.

Would the arrangement that Canada has with the United States now, in your view, once Canada accedes to the treaty, be something that is sufficient in terms of compliance with the Arms Trade Treaty?

Ms. Christyn Cianfarani: Yes. The Arms Trade Treaty does not impose any additional constructs between nations. As we mentioned, Canada is subject, when it exports out of the United States, to the United States export control regimes that are in place.

I think it's exceptionally important that we all understand that Canada and the United States have one of the most unique sharing relationships or defence common industrial base relationships in the world. This is sort of codified in two agreements, the defence production sharing agreement and the defence development sharing arrangement. Those two agreements allow for Canada and the United States to have what is called a common industrial base, and that is exemplified in our relationship in NORAD. There are no two other countries that share technologies, goods, and a common industrial base, like Canada and the United States do today, and I would say that we need to be mindful of that very special relationship that we do have with the United States.

•(1210)

Ms. Anita Vandenbeld: Okay, thank you.

I'd like to go to Ms. Macdonald.

In terms of some of the things we've heard, just to clarify, a lot of the Westminster Parliaments, and Mr. Butcher was quite explicit on this with regard to the U.K. and we've heard about New Zealand and Australia, a lot of Westminster democracies put a number of these things into regulation or policy, as opposed to specifically in the language of the bill. One of the things he said to us is, regardless of how a country chooses to do that, whether it's through regulation or legislation, we are legally bound. Once we accede to the treaty, that is a legally binding commitment on Canada. There's actually quite a bit of flexibility in terms of how countries do that.

In terms of the language, I know that in article 7 there are a number of places, for instance in number 1, where it says "taking into account relevant factors". Number 2 says "shall also consider whether there are measures that could be undertaken", and then even in the gender-based violence one, it says "shall take into account the risk".

Given that the language of the treaty itself and the language of the bill are very similar and that the treaty, the part that you cited in paragraph 3, whether the exporting state party “shall not authorize the export”, if it doesn't meet these, Canada will have legally binding legislation we would have to comply with. Is that correct?

Ms. Anna Macdonald: Yes, that's correct. You would have to comply with that, and I think article 7 is fairly unambiguous in the language there. When a certain threshold is met, then the transfer shall not be authorized.

There is, as you highlighted, a mechanism there for mitigation, which allows an exporting state or a state granting an export licence to engage in dialogue with an importing state around mitigation which could, in theory, be... For example, if you were seeking to export to a destination where there were significant human rights concerns, you could engage with that government around measures to reduce those human rights concerns and, perhaps, return to the export in some period after standards might have improved or changed. But yes, I think the language is clear.

I would add, on your previous point around the relationship with the U.S. and the exemptions there, I think that would be contrary to the ATT to allow the continued exclusion of the U.S. from legislation because of the very clear language around highest possible common international standard, because the purpose of this treaty is very much about trying to globalize, universalize, the same standards and decision-making processes for all countries.

I don't think it affects relationships with countries. I think, as my colleague from Oxfam also highlighted, if you look at the EU, there are obviously close relationships between many countries within the EU with regard to trade, and they have slightly lighter touch processes that they therefore have for authorizations, but they are still subject to those processes. They are not excluded from them. There is no exemption from country A to country B in terms of the arms authorizations, so I see no reason why Canada would need to have a continued exemption with the U.S. Indeed, I would believe that would be contrary to the obligations in article 2 and article 5 of the treaty.

Ms. Anita Vandenberg: To be clear, we're talking about continuing existing—

Ms. Anna Macdonald: Yes.

Ms. Anita Vandenberg:—arrangements. We're not talking about exemptions. We're talking about arrangements that are in place and we would be working with the Americans to improve those as well.

I know I only have a few seconds left, but this is for all of you.

The purpose of the treaty, as you said, Ms. Macdonald, is to reduce human suffering. The purpose behind this treaty is not about domestic lawful gun ownership used for sports or hunting. It is really about the women in the Congo I talked about earlier, who are being raped at gunpoint, and trying to make sure that kind of thing is not happening in conflict situations around the world. I don't really expect you to respond, as I know the chair is waving at me, but, in a few seconds, could I get your comments on that?

● (1215)

Ms. Anna Macdonald: Yes, I absolutely agree. It is about reducing human suffering, but it is also about the international flow of weapons and reducing the current situation where we have a poorly regulated or unregulated flood of weapons around the world.

The Chair: Thank you, colleagues, for that.

I want to thank the witnesses, Ms. Cianfarani, Mr. Woodley, and Ms. Macdonald. We very much appreciate your testimony. It's always helpful. We did go over time, so I appreciate your allowing us to do that, but I thought it was important to spend some time talking about these matters.

Again, on behalf of the committee, thank you very much for your presentations.

Colleagues, we'll take a break and then go in camera for about half an hour for a couple of matters. That's all it should take.

[Proceedings continue in camera]

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