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# Standing Committee on Foreign Affairs and International Development

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Chair: Mr. Sven Spengemann





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• (1535)

[Translation]

**The Chair (Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.)):** Welcome to the 30th meeting of the Standing Committee on Foreign Affairs and International Development. Pursuant to Standing Order 108(2) and the motion adopted by the committee on Thursday, October 29, 2020, the committee is continuing its study on the granting of arms export permits, with a particular focus on permits granted for exports to Turkey.

[English]

As always, I encourage all participants to mute their microphones when they're not speaking, and to address comments through the chair. When you have 30 seconds remaining in your questioning time or testimony, I will signal you with this yellow piece of paper. Interpretation services are available through the globe icon at the bottom of your screens.

I would like to welcome our witnesses for the first panel. With us this afternoon, we have Michael Byers, professor with the department of political science at the University of British Columbia. Welcome back, Professor Byers. It's good to see you.

We also welcome Christopher Waters, professor with the faculty of law at the University of Windsor; and Peggy Mason, president of the Rideau Institute on International Affairs and former ambassador. It's good to see you, Ms. Mason.

Professor Byers, the floor is yours, for five minutes.

**Dr. Michael Byers (Professor, Department of Political Science, University of British Columbia, As an Individual):** Thank you. It's a great pleasure to be here.

I'd like to begin by applauding Foreign Affairs Minister Marc Garneau's decision to cancel 29 export permits on April 12 of this year. It was a decision that was required under the Arms Trade Treaty. It was the right decision, and good for Minister Garneau for taking that step.

I've been involved in this file since 1992, when I briefly worked in the legal office of what was then External Affairs Canada. Barbara McDougall was the minister, and the Mulroney government was pushing hard for a meaningful arms trade treaty to be negotiated at the United Nations.

A treaty did not come into effect until 2014, but it was in large part as a result of continued Canadian diplomacy and strong multi-partisan support. This is not a partisan issue. We've been pushing

for a meaningful arms trade treaty for three decades across all governments.

At the same time, as we seek to advance the Arms Trade Treaty, to protect human rights, and to protect international peace and security—

**The Chair:** Professor Byers, may I interrupt you for 30 seconds. We can hear you, but interpretation requires a slightly louder sound. If you could raise your microphone closer to your mouth, that will make all the difference.

Please continue.

**Dr. Michael Byers:** I'm sorry. The clerk warned me that this would happen.

We also have a significant arms industry in this country, and arms exports contribute to the Canadian economy, and that is fair enough.

The problem is that some of the main markets for our arms and arms systems are autocratic, or at least not fully democratic countries like Saudi Arabia and Turkey, and so a lot of careful monitoring and tough decision-making are needed to ensure that we fulfill the two goals of promoting the Canadian economy and fulfilling our obligations under international law.

The problem in Canada is that we've given the same department the responsibility of doing those two important tasks—promoting arms exports, and protecting human rights and international peace and security. That department is Global Affairs Canada.

I feel a great deal of sympathy for the civil servants who have to implement those competing goals within that one department. It's an almost impossible task. As a result of that, they end up making decisions that don't fulfill either task fully, and they fail, in particular, as far as my main concern goes in the fulsome application of the Arms Trade Treaty. They fell short in their recommendations for implementing legislation. Thanks to this committee and its colleagues in the Senate the resulting improvements in that draft legislation have brought us closer to full implementation.

In terms of the actual implementation, they also make mistakes. They interpret the implementing legislation very narrowly. For instance, they're telling you that there is not a diversion when we're talking about these Wescam targeting systems for drones, because they regard the Wescam targeting system as simply a component and not the weapon system itself. That's a very narrow interpretation when, in fact, the targeting system is the eyes of the machine. It is the central component in making these drones operative and effective, but they are trying to tell you that, no, they're not actually the weapon system. They are just a part like a widget on a larger machine.

They are also looking at circumstances in a very narrow temporal and geographic scope. A narrow sliver of northern Syria is the focus of granting an exemption to a suspension of licences when these drones could operate for half a day, and can fly thousands of kilometres. A drone that's on a mission protecting civilians in northern Syria might then be diverted by the operators to fulfill a different mission just 100 kilometres away in northern Iraq. They are looking at narrow geographic and temporal scope; thinking about these drones, and their operations, and these targeting systems in terms of a month, or maybe a year; and not realizing that the operators or the assistants will be operating them for a decade or more.

We have all these kinds of problems that arise. As a result of this, we're missing out on the big picture. We're selling weapons to countries that are engaged in adventurism abroad, maybe engaged in human rights violations, maybe doing so for decades into the future; and we're not thinking about patterns. We're not thinking about whether this is a good idea. We're focused on the narrow here and now because of this competing set of goals that the civil servants face.

I have some ideas as to how we might solve that.

Thank you.

• (1540)

**The Chair:** Thank you very much, Professor Byers.

Professor Waters, we will now turn the floor over to you for opening remarks, for five minutes, please.

**Mr. Christopher Waters (Professor, Faculty of Law, University of Windsor, As an Individual):** Good afternoon, and thank you for the invitation.

I have worked on and in the South Caucasus, namely Armenia, Azerbaijan and Georgia, since 1998. This includes legal research, law teaching and election monitoring in all three countries. I've also visited Nagorno-Karabakh for my research, albeit some years ago.

International humanitarian law or the law of armed conflict is my main field of study and it is within that regional and legal framework in mind that my comments are framed.

Let me start by welcoming the decision by Minister Garneau earlier this month to cancel the export permits to Turkey that were suspended earlier in the fall. It was the right decision and a decision of integrity. However, contrary to demonstrating how robust our arms export control regime is, the entire episode shows that our controls fall short. My conclusion is that there was no basis for Canada to

trust the Turkish regime with Canadian-made weapons in the first instance, and that we need to move towards a more proactive way of assessing our arms exports.

As you know, the ATT and Canada's implementing legislation is the directly applicable legal framework. One of the problems as we learn to apply the framework, however, is that relevant considerations for determining whether a substantial risk exists that Canadian-made weapons could be used to commit serious violations of international law are not spelled out.

Global Affairs Canada has set out a definition of substantial risk, but relevant specific considerations regarding risk assessments are not identified. Nonetheless, there is best practice out there. For example, the International Committee of the Red Cross, even before the ATT, provided a list of proposed indicators states could use in assessing the risk that arms exports might be used in the commission of serious violations of international humanitarian law. In other words, the substantial risk test or the value of mitigating measures need not be so open-ended as is currently the case.

Practical questions to ask as suggested by the Red Cross include whether the recipient maintains strict control over its arms and their further transfer, whether a recipient has committed serious violations of IHL—international humanitarian law—or has taken all feasible measures to prevent violations, and whether the recipient country has in place the legal, judicial and administrative measures necessary for the repression of violations of IHL.

Let's apply some of these suggested criteria to Turkey. For starters, we know from Libya that Turkey has not maintained strict and effective control over its arms. Second, while the drafters of Global Affairs' final report on the review of export permits suggest that "the Turkish military is a professional army that acts in accordance with its international obligations", military coups, attempted coups and purges are regular features of Turkey's modern history. Further, as the Erdogan regime becomes more bellicose at home and abroad, credible reports of IHL violations by Turkish and Turkish-backed fighters have been revealed in recent years, including in Syria in the fall of 2019.

Now perhaps all of this would lead us to a proceed-with-caution type of approach rather than a red flag if there were democratic oversight of the Turkish military domestically. After all, every country has challenges when it comes to military oversight. Nonetheless, Turkey is in the hands of an authoritarian government with little respect for human rights. The judicial harassment of civil society actors is well known and the judiciary itself has been compromised through purges. There is no true domestic oversight of the Turkish military or executive.

Let me turn back now squarely to the Nagorno-Karabakh conflict. The conflict was never frozen. It was a simmering one that frequently boiled over, and, in most years, left scores of casualties. It was also a conflict with long-standing Turkish support for Azerbaijan. The Turkish state has proven itself intransigent in terms of any real desire to repair the relationship with Armenia, and meanwhile, the relationship with Azerbaijan has only been strengthened in recent years for cultural and strategic reasons. Turkey trains officers of the Azeri armed forces; it supplies weapons to Azerbaijan and it holds military joint exercises with Azerbaijan.

If the arms sales to Turkey, and Saudi Arabia as well, reveal weaknesses in our control mechanisms, how can we do better? It's clear from previous testimony before this committee that Global Affairs engages in consultation with industry partners. What about consultation with human rights or other civil society groups? Why is it up to journalists, NGOs and diaspora communities to bring violations of end-user agreements to Canada's attention?

In the case of the South Caucasus, part of the problem is that we have no real presence on the ground, no embassies and, frankly, little diplomatic capital. But the absence of local intelligence should make us even more vigilant in assessing regional partnerships and the likelihood of armed sales or transfers.

Other witnesses appearing before the committee have noted that there are competing interests. Some have labelled it a "conflict of interest" between promoting Canadian-made defence products and abiding by our global commitments.

One thing is clear: The current system can lead to diplomatic setbacks when permits are suspended or cancelled. And hurt feelings in significant diaspora communities, in this case the Armenian diaspora community, surely are not good for Canadian business or good for our multicultural polity.

- (1545)

Possible solutions include routinized parliamentary scrutiny, independent oversight or expert opinions and, at the very least, structured consultations with civil society groups and more concrete criteria to apply the substantial risk test.

Thank you.

**The Chair:** Professor Waters, thank you very much.

We'll now turn the floor over to Ambassador Mason.

You will have five minutes for opening remarks. Please go ahead.

**Ms. Peggy Mason (Former Ambassador and President, Rideau Institute on International Affairs):** Thank you very much.

Let me first express my deep dismay and solidarity with the people of India as they struggle with this terrible pandemic.

Let me next associate myself with the remarks of the two previous speakers.

Today I want to briefly look at how Canada assesses substantial risk, looking first at Saudi Arabia and then at Turkey.

Many allies have now suspended or banned their arms exports to Saudi Arabia because of their potential use in the devastating Yemen conflict, with the Biden administration being the latest example. Going by Canada's now infamous April 2020 report ending the ban on new export permits for LAVs to Saudi Arabia just when the existing permits were running out, Canada would no doubt respond, if they had publicly responded, which they did not, that the U.S. case is different because they were providing weapons being used in Saudi air strikes that are implicated in so many human rights abuses, up to and including war crimes, while conveniently ignoring all the evidence of grave human rights abuses against innocent civilians involving ground forces, including Saudi-led forces.

How does Canada explain the 2019 Belgian government ban on the export to Canada of gun turrets, extended in February 2020, because they were destined for incorporation into Canadian armoured vehicles, or LAVs, headed for Saudi Arabia? Clearly, Belgium does not subscribe to Canada's cynical analysis of substantial risk. Canada is trying to ignore the meaning of a substantial risk of facilitating serious human rights violations, pretending that there must be direct evidence of the use of a Canadian export to commit an atrocity rather than direct evidence of a substantial risk that Canadian exports will be used to commit or to facilitate such atrocities.

To help export control agencies in their national assessments—the second professor today referred to this as well—there is a growing body of international best practices being developed. He mentioned the ICRC. I would refer to very recent collaborative work by Harvard Law School, in which Global Affairs officials were consulted. They specifically reference in their report the use of armoured vehicles to transport women and girls to places of sexual violence and abuse.

They go on to say the following:

"Facilitate" is a broader concept than commission. To facilitate [gender-based violence] means to make an act of [gender-based violence] easier to commit or occur. Facilitation can encompass a wide range of acts, in some cases several steps removed from the harm itself.

Canada's fundamental misunderstanding of what is required for a proper assessment of substantial risk in relation to human rights violations is glaringly indicated in this response given by Assistant Deputy Minister Bruce Christie on April 13 before this committee regarding the Wescam exports to Turkey:

However, when we assessed the permit applications and whether they had contributed [to human rights violations], we didn't look at whether human rights violations had been impacted in the region. We looked at whether the Canadian technology contributed to any human rights violations, or any violations of international humanitarian law. In the Export and Import Permits Act and the Arms Trade Treaty criteria that are now enshrined in the act, we do not have the legal right to look into human rights violations writ large. We look at whether human rights violations were caused as a result of the Canadian export of military technologies.

That is completely wrong. It is necessary, in assessing risk, to look at the overall situation of human rights violations. Without doing this, it is impossible to assess the risk of potential Canadian violations. All Canada is doing is assessing evidence of direct past use with Canadian equipment, and this is not the proper test. It's like trying to determine if Canadian exports will be destabilizing in a vacuum without looking at the overall conflict situation. What stronger evidence could there be of the need for a completely different approach?

• (1550)

In summation, I refer members of the committee back to my first appearance before you on this study. I concluded my presentation with a call for an independent expert agency to impartially administer our arms exports in full accordance with Canadian and international law. In the meantime, immediately and finally begin consultations on the creation of an arm's-length advisory panel of experts promised in April 2020 and mandate an independent expert legal opinion on compliance with Canada's international legal obligations as an integral part of the current global affairs export permit application process.

Thank you very much.

**The Chair:** Thank you very much.

I'd like to thank all three of our witnesses for their opening statements. I'll just give a quick reminder as we go into the discussion that for those of you who are using in-line microphones, keep them as close to your mouth as possible. We're doing quite well on sound quality this afternoon. There are no major concerns if we just keep doing what we have been.

We will now go to our first round of questions. They consist of six-minute segments. The first one goes to Mr. Chong.

Please go ahead.

**Hon. Michael Chong (Wellington—Halton Hills, CPC):** Thank you, Mr. Chair.

My first set of questions is for Professor Waters.

I'd like to ask him about what we knew in September last year about the conflict in the Caucasus. There was a briefing note to the Minister of Foreign Affairs in mid-September in preparation for his meeting with his Turkish counterpart.

What was interesting to me was that in the briefing note there was mention of Turkey's actions in the eastern Mediterranean. There was mention of Turkey's role in the region with Syria and other actions that Turkey had conducted, but there was no mention of the previous summer's conflict in the Caucasus.

Personally, I found that surprising, so I wanted to ask you if there were any signs that previous summer that Azerbaijan would seek to recapture territory in Nagorno-Karabakh in 2020 and that Turkey would provide material support to that.

**Mr. Christopher Waters:** Mr. Chair, thank you for the question.

Let me give one really concrete indicator. Arms sales from Turkey to Azerbaijan increased sixfold the year prior to the conflict. There were certainly movements on the ground in terms of troop build-up. There were increased joint exercises with Turkey in the lead-up to the conflict. Like other observers of the south Caucasus situation, there have been so many flare-ups of that conflict over time that I think it was difficult to say that this was going to be the one where Azerbaijan would make its major offensive.

I think that actually goes to my larger point, which is that this has been a tinderbox for some time. As you'll recall, Turkey cut off the border with Armenia in 1993 and there has been little substantive change to that since. Aside from a brief attempt at rapprochement in Armenian-Turkish relations in the first decade of this century, Turkey has been arming Azerbaijan and participating in joint exercises in Azerbaijan.

To some extent, I think the bigger question is.... This was going on for a couple of decades now and it really wasn't about one military offensive, but a pattern of aggression back and forth, frankly, along the line of demarcation.

• (1555)

**Hon. Michael Chong:** There were reports of drones being used during the summer clashes along the border between Armenia and Azerbaijan. Was that fairly widely known as well?

**Mr. Christopher Waters:** I'm not in the position to comment authoritatively on that, to be honest with you.

**Hon. Michael Chong:** My other question concerns something you referenced in your opening remarks. The Canadian embassy in Moscow is responsible for Armenia; the Canadian embassy in Turkey is responsible for Azerbaijan. The documents that we received from Global Affairs indicated that there were challenges that Global Affairs had in getting information on the ground.

Do you think we should have a locally established mission in those two countries?

**Mr. Christopher Waters:** One hundred per cent, Mr. Chair.

I recall being at a state dinner for a visiting Canadian dignitary. This is going back to the late nineties. I think it was for a Speaker of the Senate. The deputy prime minister of Jordan stood up at the banquet, and his initial remark was, "Where's Canada?"

It's sad to say that this many years later it's still the case that there's no real diplomatic presence on the ground. Even if it's expensive or cumbersome to put in three new embassies all at once, at the very least we should have a real diplomatic representation in Tbilisi, the capital of Georgia, which is, if you like, somewhat neutral ground for the South Caucasus. We're essentially absent from the South Caucasus despite the strategic importance of the area, despite the large Armenian diaspora within Canada and despite real opportunities.

Just to give an example, it's an untapped market for universities in terms of recruiting from that area. I know that this is taking us far beyond the discussion today, but it's a really important region. We don't understand it here in Canada, and we've never made any real attempt to come to grips with it. In that context, when assessing substantial risk, as Ms. Mason referred to, we're somewhat blind in this regard. In the absence of real intelligence, I think we should be taking a really precautionary approach.

Thank you.

**Hon. Michael Chong:** Those are all my questions for this round. Thank you.

**The Chair:** Thanks very much, Mr. Chong.

We will now go to Dr. Fry, please, for six minutes.

**Hon. Hedy Fry (Vancouver Centre, Lib.):** Thank you, Chair, and thanks to everyone for excellent and very thought-provoking presentations.

I think we've heard from Ms. Mason about the conflict of interest. We've heard from Michael Byers about the conflict of interest, and we've heard from Mr. Waters about the conflict of interest. I think this is complex, and conflict of interest is inherent in almost everything. I wondered if you could give me some answers.

There's one question that I'd like Mr. Byers to eventually answer if he can, because I'm trying to keep my questions as short as possible so you can get an opportunity to answer. What are your suggestions for dealing with the conflict that you mentioned in your presentation?

I also wanted to ask Mr. Waters and Ms. Mason a question about conflict. We think that Turkey is an essential ally when it comes to fighting Daesh and when it comes to dealing with all of these issues, so there's that piece: Turkey is a good ally and Turkey is working with us to defeat Daesh. When we see that Turkey goes after Syria in terms of its leader, Assad, we are all happy for this, and then Turkey goes ahead and does something that we don't necessarily agree with as consistent with our values.

The big question is, how do we resolve that essential conflict? That is a big part of the conflict. Turkey is the good guy here but a bad guy there and whatever, and it is a conflict that has to be reconciled. How do we do that?

I wanted to comment on the Nagorno-Karabakh issue. I'm the Canadian head of delegation for the OSCEPA, and I can tell you that we—all of us on the OSCE Parliamentary Assembly—kind of [*Technical difficulty—Editor*] every meeting, it would be Armenia saying “blah” to Azerbaijan and Armenia saying “blah” to Azerbaijan. Everyone saw this as an ongoing animosity, anger and a bang-

ing of shoes on the table, etc., so no one was prepared in terms of what is called a “frozen conflict”—which really isn't a frozen conflict—for this flare-up to occur when it occurred in the summer.

I think therein lies that conundrum: How do you pay attention to some people who continue to shout at each other and threaten each other while nothing happens and then suddenly something happens?

How do you resolve these inherent conflicts in how this plays out in the region?

Mr. Byers, if you don't mind, can you tell me your recommendations for the economic versus values conflict?

• (1600)

**Dr. Michael Byers:** Thank you, Dr. Fry. It's very good to see you again.

**Hon. Hedy Fry:** It's nice to see you, Michael.

**Dr. Michael Byers:** I have a couple of recommendations. One is that the Minister of Foreign Affairs has to clearly instruct his civil service that Canada's obligations under international law have to be kept foremost. They must be given a robust interpretation, consistent with 30 years of Canadian foreign policy in pursuit of a meaningful arms trade treaty, so ministerial instruction that the Arms Trade Treaty comes first.

I would also strongly endorse Ambassador Mason's recommendation that an independent agency be built to remove this conflict of interest from these civil servants who try very hard and are not successful in balancing these goals.

I think it's really important that we develop expertise, not only in the Caucasus, but also in these new weapon systems and the considerable impact and difficulties they will raise in the years and decades ahead. These Wescam targeting systems are among the very best in the world. They are the only ones that are not made in the United States or Israel that a country like Turkey has access to. They are really, really good, and they are the heart of these drone systems.

These drone systems are proliferating. We've seen them in Nagorno-Karabakh, in Libya, in Yemen. Wescam sells these targeting systems to Saudi Arabia, so it's possible that they are being used in Yemen.

We have a proliferation issue here, and Canada is at the heart of it, because these extraordinary systems are being built in Ontario.

The foreign ministry has to get on top of this and has to have experts in weapons systems in the region. It has to have people on the ground. We have to do this properly, because otherwise, we will be contributing to suffering and destabilization.

**Hon. Hedy Fry:** Thank you, Michael.

Chair, do I have a little bit of time to hear from Mr. Waters and Ms. Mason on the conflicts?

**The Chair:** You have a minute left, Dr. Fry.

**Hon. Hedy Fry:** Well, I don't have a minute. I will shut up.

I think Mr. Waters and Ms. Mason can share that minute, if they can quickly cut to the chase.

**Mr. Christopher Waters:** Go ahead, Ambassador.

**Ms. Peggy Mason:** Thank you very much.

The Arms Trade Treaty legal obligations give no exemption for allies. Every country that you might export to is an ally of another country. The Arms Trade Treaty obligations have to be applied fully in respect of all prospective recipient countries. We don't have an international legal obligation to export arms, but we do have an international legal obligation to export those arms in accordance with the obligations under the Arms Trade Treaty.

I think that's a very, very important point. In other words, the balancing analogy is not accurate.

**Hon. Hedy Fry:** I'm sorry, Mr. Waters, but maybe you can include that in your response to another member.

**The Chair:** If you have a very quick answer, Professor Waters, we'll give you the time.

**Mr. Christopher Waters:** Thank you, Mr. Chair.

I agree with both Professor Byers and Ambassador Mason about some of the proposed solutions.

Dr. Fry, in respect of the question of looking at two sides with intransigent views, at the very least, I think Canada should have engaged and pressed more robustly for progress with the OSCE Minsk Group. I'm not saying that Canada's involvement would have been a game-changer—it probably wouldn't have—but we should have been there really pressing hard for that process.

Thank you.

• (1605)

**The Chair:** Thank you so much.

Thank you, Dr. Fry.

[*Translation*]

Mr. Bergeron, you now have the floor for six minutes.

**Mr. Stéphane Bergeron (Montarville, BQ):** Thank you, Mr. Chair.

Good afternoon, everyone.

I want to thank our witnesses for their contribution to the work of this committee. We appreciate it. Unfortunately, we still don't have enough time to delve deeper into the issues.

I have a question for Ms. Mason, the former ambassador.

Ms. Mason, when the Government of Canada decided, based on an extremely lenient report by Global Affairs Canada, to lift the moratorium on arms sales to Saudi Arabia, the Prime Minister defended himself. He said that the government would appoint Minister Champagne to this department, along with an independent panel of experts with a mandate to advise us on whether to authorize a given arms sale.

Several months and one minister later, this panel still doesn't exist. We met with Global Affairs Canada officials a few days ago. When I asked about this issue, I was told that the panel was still being set up. However, a number of civil society organizations have written to the minister to express their interest in being part of the panel. Global Affairs Canada hasn't responded to the civil society organizations that expressed interest.

Do you see this attitude on the part of Global Affairs Canada as a way of indefinitely postponing the establishment of the panel so that it can continue to do whatever it wants, basically?

**Ms. Peggy Mason:** In short, that's unfortunately the case. Since civil society didn't have the opportunity to virtually consult this panel of experts, we missed the signs pointing to the seriousness of the situation.

**Mr. Stéphane Bergeron:** I was talking about a lenient report prepared by Global Affairs Canada to authorize the lifting of the moratorium on arms sales to Saudi Arabia. We're dealing with a report of the same ilk, so to speak, on the sale of military equipment to Turkey. According to the report, there was no substantial risk that Canadian military goods and technology exported to Turkey would be used to undermine peace and security or to commit or facilitate any of the negative consequences listed in the act.

In light of such a lenient report on the sale of arms or military equipment, which has been used in the Nagorno-Karabakh conflict, possibly in Syria, and perhaps in Libya as well, how can we say that this doesn't undermine peace and security and yet decide to put a definitive stop to exports?

If these exports truly didn't undermine peace and security, why are we suddenly deciding to suspend the sale of this equipment to Turkey? Isn't Canada's position contradictory?

[*English*]

**Ms. Peggy Mason:** Yes, there's an absolute direct conflict. The difference is quite clear, because The Globe and Mail got evidence on the ground. It hired someone on the ground to take those pictures of the captured Wescam technology, and it couldn't be disputed.

While there's an abundance of evidence with respect to Canadian complicity in human rights violations in Yemen, with Saudi Arabia's use of Canadian-made equipment, there is no smoking gun. It's not as direct. There are many photos, but the photos are unofficial, and you don't have the kinds of statements that The Globe and Mail was able to make. Unfortunately, even though there is a huge amount of evidence, there's also another factor.

When you finally show photos, and show that LAVs have been involved, it is said, "Oh, those are old LAVs, they're not the new ones we're exporting". That is an extraordinary statement, but even if true, the contract also includes ongoing service and maintenance of older vehicles.

There again, Canada is complicit, and it is not looking for any possible ways to stop these exports. It's really important to understand that Canada is one of the few, if not the last exporting nation, standing when it comes to this, including France. It's not the norm. Most of our allies stopped some time ago.

• (1610)

[Translation]

**Mr. Stéphane Bergeron:** Would any of the witnesses like to comment on this?

[English]

**Dr. Michael Byers:** In terms of international peace and security, the Government of Canada knew as early as 2019 that Turkey was violating the United Nations arms embargo in Libya and that it was doing so with the type of drone that is, in fact, built around the Wescam system.

Even though the government did not have proof that Wescam equipment was being used in Libya, there was certainly, within the expert community, no doubt whatsoever that we were implicated there. That should have been enough to stop the issuing of further arms export permits to Turkey.

[Translation]

**The Chair:** Thank you.

Thank you, Mr. Bergeron.

[English]

Thank you very much, Professor Byers.

We will now turn the floor over to Mr. Harris, for the final round of six minutes.

**Mr. Jack Harris (St. John's East, NDP):** Thank you, Mr. Chair.

Thank you to our witnesses.

First of all, Professor Byers, it's nice to see you again after so many intervening years. Thank you for coming to the committee.

You talked about the necessity of the current minister, Mr. Garneau, ensuring that there's a robust assessment of risk by Global Affairs Canada. One of the constant mantras of the previous minister—and even being told by officials within Global Affairs—is that we have one of the most robust arms-control systems in the world. Is there any credibility to that assessment, sir?

**Dr. Michael Byers:** Thank you for that question. It's good to see you again.

The assertion that Canada has one of the most robust systems is false. There is a loophole the size of a bus in our implementing legislation, and that concerns exports to the United States. Right there is a fatal flaw in that assertion.

Second, the actual implementing legislation does not completely fulfill the Arms Trade Treaty. They keep talking about substantial risk. Substantial risk is not the language used in the Arms Trade Treaty. You're required to take mitigating measures, and if there's an overriding risk in terms of those mitigation measures' being insufficient, then you can't export. So, it's not substantial risk; it's whether you can mitigate or not, whether you can eliminate risk. Even there the department is putting forward a bit of a misrepresentation as to what Canada's international legal obligations are.

But then, as I said in my introductory remarks, the department has gone on to apply the implementing legislation as narrowly as possible. For instance, it's arguing that these targeting systems will make a widget on the side of a naval ship when, in fact, they're the core of the system. It's narrowing the geographic and temporal scope. In other words, it's trying to balance the economic incentive for exports against the implementing legislation and is consistently failing to get it right.

**Mr. Jack Harris:** What do you make of some of the exemptions that were developed over the course of...well, going from what allegedly was a ban in October 2019, which wasn't a ban at all—in fact, the department wasn't able to articulate what had been decided because there was no memorandum on it—to, in April, easing and doing them on a case-by-case basis, with exemptions that included good bilateral relations with partners—and in October we had a suspension. There's all of this very fluid kind of information with, apparently, no real control. What do you make of all of that?

• (1615)

**Dr. Michael Byers:** Oh, I think it's mostly smoke and mirrors designed to mislead people like you.

For instance, suspending the granting of new arms exports without touching existing arms exports really wasn't accomplishing very much apart from enabling the department to say it was doing something.

Now, the actual cancellation of the export permits, like Mr. Garneau did on April 12, is meaningful, and again I celebrate that. I hope you'll follow through with clear instructions to his department that the Arms Trade Treaty has to come first, that they have to stop compromising on our obligations.

But, no, the whole history is actually quite sordid. It shows a pretense at actually implementing, rather than dealing with our obligation seriously.

**Mr. Jack Harris:** Professor Waters, I have a question.

You, obviously, talked about the relationships or the goings-on in Nagorno-Karabakh, but the department seemed to be making the case that they didn't know anything was going on in Azerbaijan until September, until they read Ploughshares' piece, etc. However, in the memos being released through our request for documents, there's reference to Global Affairs owing the minister's office a response to some questions as discussed at an April 21 briefing—and this is from the minister's office. For Azerbaijan, the question is as follows:

Azerbaijan: [Redaction] Could the item be used in the Nagorno Karabakh conflict? Does the company still want the product—have we confirmed that with them?

What does that indicate to you, sir—on May 22 referring back to an April 21 ministerial briefing and an unanswered question?

**Mr. Christopher Waters:** Mr. Chair, what that raises to me is this: Why are we relying on Project Ploughshares? Thank goodness they had the temerity and the resourcefulness to bring this to everyone's attention, but why are we relying on an NGO when the NGO Project Ploughshares themselves have said in previous testimony before this committee that Global Affairs Canada has many times more resources.

I believe that any deep reading of the intelligence would have revealed—including because of Azeri arms sales and joint exercises—that there was a build-up of forces and that Turkey was behind this.

**Mr. Jack Harris:** We also have a reference to a memorandum sent by our embassy in Ankara. I think they called it a “flash report” from Canada's embassy in Turkey highlighting a major escalation of the Nagorno-Karabakh conflict. The flash report also mentions that in June 2020, Turkey and Azerbaijan announced Azerbaijan's purchase of six TB2 drones but that the deal's completion had not been confirmed—

**The Chair:** Mr. Harris, I apologize. We'll have to leave it there in the interest of time, but you'll have a chance to circle back in the second round on that question. It's on the record as you've stated it.

Colleagues, we've gone through the first round of questions. If we're disciplined, we should be able to get through a partial second round, at least to the point that every party represented will have a chance to ask its round of questions. Why don't we go straight into that second round now with a five-minute allotment for Mr. Chong?

Please go ahead.

**Hon. Michael Chong:** Thank you. I just have a quick question for Professor Waters before I go to Madam Mason and Professor Byers.

In April last year, the Prime Minister and the Turkish president had a phone call meeting. There were reports at the time that the issue of the arms export ban had come up and there were reports that the Prime Minister had agreed to take a look at it.

Do you think that was the point at which Canada decided to approve these drone systems for export?

**Mr. Christopher Waters:** Mr. Chair, I don't have any knowledge at all on that point, sorry.

**Hon. Michael Chong:** Okay, thank you.

I have a question now for Madam Mason and Professor Byers about something they've been talking about, which is the establishment of an arm's-length agency to assess arms exports.

I'm always a bit hesitant about creating a new Government of Canada agency. The last time I checked, I think there were some 204 “ABCs”, to use an acronym for them. It reminds me of a book I once read by Joseph Tainter about the collapse of complex societies, and I think at some point his thesis was that, by tacking on another agency, you get negative marginal returns.

That said, can you tell us what set-up other countries have and what best practice is in other countries for the assessment of these arms exports? Do they have independent agencies? How do they set it up? What are other countries' models that we can look at?

• (1620)

**Ms. Peggy Mason:** There haven't, insofar as we can determine, been any. No country that we've been able to find has set up an independent agency, so this would be groundbreaking for Canada. Unfortunately, as I've mentioned before, most of the other countries, allies, are doing a much better job in-house of managing their obligations under the Arms Trade Treaty, so perhaps this is—

**Hon. Michael Chong:** Madam Mason, I'm sorry to interrupt, but you've worked at Foreign Affairs before. We were told by some of the officials that they process some 6,000 applications, and if that's on an annual basis, that has to be 120 a week.

How many people work in that group, roughly? Are we talking dozens and dozens, or a dozen? Do you know how many people work in that group?

**Ms. Peggy Mason:** I don't know the exact numbers. I do know that, in all of the work that's done with best practices, they do emphasize the heavy, heavy workloads that foreign affairs and trade ministries are facing in processing these applications. That's why they emphasize the best practices, as set out: Here are four questions to ask; then proceed to this; then proceed to that, etc. So there are ways to routinize and systematize to make the workload much more manageable. Canada's problem is—and that's what I tried to emphasize in my testimony—that we don't have the fundamentals right when you've got the deputy minister coming before you and saying that he couldn't find any direct use of Canadian equipment when they did their first assessment of Nagorno-Karabakh before other evidence was presented. That's not the proper test. Canada is not looking at the best practices that could help it manage the workload better.

**Hon. Michael Chong:** It seems to me there is a lot of open-source data and information on what's going on. Obviously that has to be treated with some trepidation, but there is lots of information out there that's been reported on, which the department has access to.

In terms of having a stronger arms-export regime, do you know how many permits a year are not approved? How many permits are denied? Do we have any information on that? I know, Professor Byers, you had previously made mention of that when the act came into being. Do we know how many permits are denied, other than what was in the big announcement we just had from Minister Garneau?

**Ms. Peggy Mason:** Are you asking that of Michael?

**Hon. Michael Chong:** That is for both of you.

**Ms. Peggy Mason:** We don't, and that's another point that needs to be made. Transparency is one of the fundamental principles of the Arms Trade Treaty, and Canada is failing lamentably at that as well, so in fact we don't know how many are denied.

**The Chair:** Mr. Chong, we'll have to leave it there. Thank you very much.

The next round goes to Ms. Saks for five minutes.

**Ms. Ya'ara Saks (York Centre, Lib.):** Thank you, Mr. Chair, and to all of our witnesses today.

I'd like to kind of circle in on the particulars of the Nagorno-Karabakh situation if we can, because in any conflict—and this is a long-standing conflict—there are geopolitical considerations. We talked a lot about conflict of interest, but the conflicting interests of the parties that are involved and the allies that are supporting them are calculations that go into this equation.

Professor Waters, can you explain to us the long-standing origins of the Nagorno-Karabakh conflict? How far back are we going?

**Mr. Christopher Waters:** As in many of the conflicts in the South Caucasus, there are competing stories or narratives of civilization, of origin and so on, but really the modern origins of the conflict go back to the early days of the Soviet Union when an Armenian enclave was made part of Azerbaijan. I know many people would disagree with that assessment, but in crude terms that's largely accurate. Then fast-forward to the breakup of the Soviet Union and the declaration of the Nagorno-Karabakh Republic, frankly under the tutelage of Armenia and essentially incorporated into the state of Armenia in many important respects.

I alluded to this in my remarks, but one of the things I find extraordinary about this whole situation is that in the views of the Armenian diaspora in Canada, Turkey's and Azerbaijan's actions have constituted continuing acts of genocide. Leaving aside the relative merits of that argument, this is nonetheless a situation we should have been approaching with extraordinary care and attention, and I don't have the sense that those were there. I don't have the sense from the heavily redacted documents. I don't have the sense from the department's report that this was something that should have been approached with greater attention than it was.

• (1625)

**Ms. Ya'ara Saks:** I understand.

**Mr. Christopher Waters:** That's what I find shocking, to be honest with you.

**Ms. Ya'ara Saks:** Very well.

At the beginning of November 2020 a ceasefire between the parties was declared. Considering all the factors involved and that there's a whole Russian component to this that we haven't even gotten to yet, what are the chances of the ceasefire being sustainable?

**Mr. Christopher Waters:** The ceasefire is probably sustainable for the next five years, the term of the agreement. Russian peacekeepers were quickly put into place, and unlike previous attempts at ceasefires, this one appears to be holding.

There are numerous problems, including the fact that it appears Azerbaijan is still holding Armenian prisoners of war and civilians are still being prevented from having freedom of movement. There are property restitution issues, but by and large the ceasefire is holding and is proving effective.

**Ms. Ya'ara Saks:** Chair, how much time do I have?

**The Chair:** You have a minute left, Ms. Saks.

**Ms. Ya'ara Saks:** Okay.

I'd like to pivot to Professor Byers, if I may, switching back to the geopolitical concerns. Again, I harken back to conflict of interest versus conflicting interests and where Canada places itself in all of this.

What role did Russia play in this conflict? Since 1998, in the post-Soviet era that Professor Waters referenced, there have been a lot of machinations about this. But we also have to consider our role vis-à-vis the Russian role in the region with Armenia. Do you have any comment on that?

**Dr. Michael Byers:** The only thing I will say is that there are some very high stakes involved in the region. Russia, for instance, is very active in Syria and not just in the Caucasus. But I should say that perhaps our first goal should be to avoid adding fuel to the fire. And these systems, these Wescam systems, are fuel to the fire because they enable the countries that acquire them to conduct raids into a foreign territory at no risk to a pilot's life. They're essentially covert, and they're highly dangerous as a result.

It just so happens that an American-made company produces these extraordinary systems in Ontario, and we allow them to export these to almost anywhere. We need to tighten that up.

**The Chair:** Thank you very much, Ms. Saks.

We have two quick rounds left to be asked, of two and a half minutes each.

[*Translation*]

You have the floor, Mr. Bergeron.

• (1630)

**Mr. Stéphane Bergeron:** Thank you, Mr. Chair.

My question will be relatively brief.

We saw a few moments ago that the pre-export mechanisms established by Global Affairs Canada prior to the authorization of arms exports are somewhat lax, even lenient. There isn't any post-export mechanism, as in the case of Switzerland or Germany, for example, which have a post-shipment verification regime.

How can Global Affairs Canada continue to claim that Canada has one of the most stringent arms export control regimes in the world?

[*English*]

**Dr. Michael Byers:** I'm happy to take a crack at that question.

We do need to look at best practice, and some of our European allies represent that best practice. If that means that we need to staff up the relevant parts at Global Affairs Canada, then that's something we should do. This is an industry that's worth billions of dollars in exports each year. It also directly implicates our global reputation as a country that supports human rights. So this is important. We should staff up. We should be able to do it properly. If it turns out that Global Affairs Canada cannot do this effectively and justly with those additional resources, at that point we should consider establishing a separate agency to take over the job.

Thank you.

**Ms. Peggy Mason:** If I can jump in on that too, the Arms Trade Treaty actually requires ongoing monitoring after exports take place to ensure that the end use and the end-user are respected. The industry, has a role to play here. Global Affairs at one point, when the ATT came into effect, did. The director general of trade and export controls made a very good statement to industry saying, look, you've got to get on the ball here and you've got to know what's happening yourself. For many of these products there's ongoing servicing, so the company is in a position to have people on the ground to also monitor what's going on. They have to take that seriously, as well as Global Affairs.

[Translation]

**Mr. Stéphane Bergeron:** With regard to the same issue, Ms. Mason, Canada adheres to the Organization for Economic Co-operation and Development's guidelines, including the following:

2. Within the context of their own activities, [enterprises should] avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.

Do you think that Canada is living up to the demands that it places on its enterprises?

[English]

**The Chair:** A brief answer, please.

**Ms. Peggy Mason:** No. That's the brief answer.

We're not. We have nothing to be proud of here.

[Translation]

**The Chair:** Thank you, Mr. Bergeron.

[English]

The final intervention for this panel goes to Mr. Harris for two and a half minutes, please.

**Mr. Jack Harris:** Thank you, Chair.

Professor Waters, if you want to answer that previous question about the knowledge coming from the Turkish embassy, go ahead, and could you briefly add whether or not you think Canada should pursue the dialogue—you talked about embassies in Yerevan and Baku—to be able to carry out that work?

**Mr. Christopher Waters:** I recognize that in the era we're in, when we're not expanding our diplomatic presence in a massive way, that maybe the only embassy we should put in is in Tbilisi in Georgia. At least we would have a presence on the ground and one that was on somewhat neutral territory.

Structurally, even, putting Azerbaijan interests into Turkey and putting the Armenian ones into Russia frankly sends some really odd geopolitical messages.

I think the dialogue on the ground would be really important. Let's show up, and an embassy in the region would be a good place to do that.

**Mr. Jack Harris:** That's fair enough.

Professor Mason, you talked about the application of the assessment. First, is the legislation adequate, or do we need to change that, or change the method of assessment?

Secondly, Professor Byers talked about how dangerous drones are. Is there any special consideration that should be given in dealing with arms exports of drones, or the kind of drone technology we're talking about here that's the essence of a drone? Could you reflect on that briefly, please?

**Ms. Peggy Mason:** I think I have a slight disagreement with Professor Byers with respect to the substantial risk. In my view, we're both lawyers and lawyers can argue over these things, but I think “overriding risk” and “substantial risk” are equivalent terms.

The problem with Canada is that we don't actually assess substantial risk. We assess evidence of direct use, which as I said is not the proper test. I would associate myself with the other statements that have been made on the drones, that when you have this kind of technology, which I think one witness, Bessma Momani, said is a “game-changer” in the way they can impact the conflict, extra care, extra precaution is warranted, the precautionary principle application, to use Professor Waters' term.

• (1635)

**The Chair:** Mr. Harris, thank you very much. We'll have to leave it there in the interests of time and our second panel.

On our collective behalf, I thank our three witnesses for being with us. Thank you so much for taking the time, for bringing us your expertise and your testimony. We'll let you disconnect.

Madam Clerk, we'll suspend briefly to sound-check our second panel, and then we'll resume the discussion.

Thank you so much.

• (1635)

(Pause)

• (1635)

[Translation]

**The Chair:** Fellow members, we'll continue this afternoon's discussion. I want to let the new witnesses know that I encourage all participants to mute their microphones when they aren't speaking and to address all their responses and questions to the chair.

When you have 30 seconds left, I'll wave this piece of paper. As always, the interpretation is available through the globe icon at the bottom of the screen.

[English]

I now welcome our witnesses in our second panel. We have with us this afternoon Daniel Turp, associate professor, Université de Montréal; Allison Pytlak, disarmament programme manager, Women's International League for Peace and Freedom; and from Project Ploughshares, Cesar Jaramillo, executive director, and Kelsey Gallagher, researcher.

Professor Turp, I will ask you to begin with opening remarks for five minutes, please.

[Translation]

You have the floor.

**Mr. Daniel Turp (Associate Professor, Université de Montréal, As an Individual):** Thank you, Mr. Chair.

I want to acknowledge the members of the Standing Committee on Foreign Affairs and International Development. I served on this committee for a number of years, along with Bill Graham and Irwin Cotler. In those days, we had some very good debates. I remember our debates on the legislation to implement the Rome Statute of the International Criminal Court. At that time, we heard from Judge Philippe Kirsch, who went on to become the president of the International Criminal Court.

I'll speak briefly, but I must leave at 5 p.m. Unfortunately, I can't be here for all the work, meaning until 5:30 p.m., for personal reasons.

I want to start by saying that I'm pleased that a House of Commons standing committee can address the issue of arms exports. I believe that Parliament plays a vital and fundamental role when it comes to this issue. The government shouldn't be the only party involved. Parliament is responsible for oversight. However, in my opinion, it hasn't really fulfilled this responsibility in previous parliaments. Since the committee has a mandate to study the issue of arms exports to Turkey, it has the opportunity to fulfill the responsibility to some extent.

I hope that this will continue and that a regime can be put in place to ensure that Parliament addresses the arms exports issue on a much more regular basis. In my opinion, transparency and democracy are at stake. The government must be accountable to parliamentarians for the implementation of a treaty such as the Arms Trade Treaty and for compliance with the export and import legislation that implements the Arms Trade Treaty. That's my first point.

Second, when the committee finishes its work, I want it to rule on an important issue regarding Canada's compliance or non-compliance with international law and the Arms Trade Treaty in the specific case of drone exports to Turkey. According to some non-governmental organizations, these exports violated the Arms Trade Treaty.

I want to be sure of this. I believe that parliamentarians are in a good position to make a finding on whether the Arms Trade Treaty has been violated. Canada didn't suspend its export permits. It could have done so, but it didn't. This is likely a violation of international law and the Arms Trade Treaty.

Not many other entities could rule on whether this violation occurred. You're in a good position to do so. I believe that a finding of a violation or non-violation would lend your work a great deal of credibility.

As you know, I'm interested in arms exports to Saudi Arabia. I've taken legal action a number of times in federal court to try to get export permits cancelled. I think that it would be quite worthwhile for the committee members to look at the double standard when it comes to export control and the granting or suspension of permits.

As noted by Steven Chase, who takes a keen interest in these issues, Turkey is accusing Canada of applying a double standard. I think that the committee should also look at this matter.

• (1640)

I'll make one final point. I believe that, as others have said, Canada isn't applying the right test when it comes to arms export and import controls. Canada or Global Affairs Canada isn't applying the substantial or overriding risk test under the treaty correctly. The implication is that the test must assume that arms have been used to establish the possibility and necessity of a permit suspension or cancellation.

This is the wrong test. Ms. Mason said that and I agree with her. This would require you to rule on how the notion should be interpreted, both in the legislation and in the Arms Trade Treaty.

Thank you for your attention.

• (1645)

**The Chair:** Thank you, Professor Turp.

[English]

I understand that Project Ploughshares and Women's International League for Peace and Freedom have coordinated their remarks, so we will go in sequence to Mr. Jaramillo, Mr. Gallagher and finally to Ms. Pytlak for a combined total of 10 minutes, please.

Mr. Jaramillo, the floor is yours. Go ahead, please.

**Mr. Cesar Jaramillo (Executive Director, Project Ploughshares):** Thank you, Chair. Thank you very much for having me here.

When Project Ploughshares appeared before this committee last December, you heard that Canadian arms exports to Turkey were being unlawfully diverted to the conflict in Nagorno-Karabakh. Given the weight of the evidence, we argued for all relevant export permits to be cancelled.

Global Affairs Canada has since acknowledged these instances of diversion and proceeded to cancel the export permits, so we are no longer trying to persuade this committee of what is now an established truth. There are important lessons to be learned from this experience, some of which speak to worrying shortcomings in Canadian arms export controls as currently implemented.

First, Canada failed to act proactively. It was civil society and the media, not the Canadian government, that first identified and drew attention to Turkey's diversion of Canadian arms exports. This raises questions not only about Canada's ability to monitor its own exports but also about its willingness to effectively implement export controls in the absence of public pressure.

Second, parliamentary oversight works and we need more of it. This study on arms exports to Turkey and the subsequent government decision to cancel the export permits should underscore this point. We commend members of this committee for your judicious work and reiterate our call for the establishment of a subcommittee to monitor compliance with arms export controls.

Third—and contrary to repeated statements by government officials—the threshold for denying arms export permits is risk of misuse, not conclusive evidence that such misuse has occurred. In the case of Canadian exports to Turkey, the risk of diversion and misuse should have been apparent well before the conflict in Nagorno-Karabakh erupted. Surveillance and targeting sensors produced in Ontario had already been found in numerous conflict zones, including Syria, Iraq and Libya.

Fourth, there are important questions about Canadian policy coherence following the cancellation of arms exports to Turkey. Canadian-made weapons are still being exported to recipients such as human rights pariah Saudi Arabia, where there are also clear grounds for the cancellation of export permits. Why this is the case remains an open question that merits further scrutiny.

Last, let us recognize the legal rationale underpinning Canadian export controls. Despite what the committee may have heard from other witnesses, this debate is not about some ethereal notion of taking the moral high ground—even as there are clear ethical implications to export control decisions. It is ultimately about compliance with the law. The law, both domestic and international, demands an objective, reliable system that is free from political interference and economic calculations.

Kelsey?

**Mr. Kelsey Gallagher (Researcher, Project Ploughshares):** Thank you, Cesar.

Thank you for having us today.

Canada's recent cancellation of export permits for Wescam surveillance and targeting sensors to Turkey is a very positive move, consistent with domestic and international obligations, and it sets a concrete precedent applicable to other problematic arms deals. However, the events leading to the cancellation illustrate serious issues in the effective implementation of Canada's arms control regime.

Following Turkey's unilateral invasion of northern Syria in October 2019, Canada suspended the issuance of new arms export per-

mits to Turkey. Initially this appeared to be a proactive move in response to a well-founded risk of misuse of the exports in question, yet the suspension did little more than temporarily interrupt the flow of weapons to Turkey.

Under political pressure from the Turkish government, Global Affairs Canada soon moved to quietly release dozens of the weapons exports that had been recently suspended, under a growing list of exemptions. The most common basis for these exemptions was whether a permit denial would result in “especially negative impacts on bilateral relations”.

Goods exempted from the suspension include a series of weapon systems, notably among them the Wescam sensors. These exemptions demonstrate a creeping politicization of Canada's regulatory regime. Neither Canadian law nor the Arms Trade Treaty allows for political calculations when assessing the risk that individual arms exports may be used to violate human rights or be diverted to an unauthorized user.

Wescam sensors face risk of both, as evidenced by Turkey's behaviour in more than one conflict zone. This should have been clear to Canadian officials at the time of authorization. These risks again materialized as Wescam sensors began guiding air strikes in Nagorno-Karabakh in violation of end-user assurances and arguably against Canadian interests in the region.

As the documents released to this committee demonstrate, Canadian officials continued pushing for the approval of Wescam SCAM exports to Turkey merely three weeks before violence resumed in Nagorno-Karabakh.

Canada's recent revocation of permits for certain Turkish-bound weapons is indeed a welcome move and one that has concrete impact, as this technology is not easily or immediately replaceable. However, it comes on the heels of a major failure in Canada's regulation of the trade and transfer of weapons. In order to effectively control Canadian arms exports, the Government of Canada must apply risk assessment standards universally and unconditionally, unfettered by political considerations or fear of upsetting potential customers.

Thank you.

• (1650)

**The Chair:** Ms. Pytlak.

**Ms. Allison Pytlak (Disarmament Programme Manager, Women's International League for Peace and Freedom):** Thank you for inviting me to speak today.

We were also pleased to hear that the Government of Canada has cancelled permits to Turkey for the L3Harris Wescam surveillance and targeting sensors. Given the volume of information indicating the diversion of this equipment to other end-users, this is a positive step that is in keeping with Canada's domestic and international obligations. It also sets a precedent that can be applied elsewhere, and we welcome the interest of this committee in the matter.

Yet while this was the right decision to make, there are concerns that need to be registered and lessons learned along the lines of points made by the representatives of Project Ploughshares. I want to focus my statement, however, on a particular aspect of the final report of the review, and that is the gender-based violence or GBV risk assessment, under criterion 6. I have to say that for a government that considers itself to be feminist, that acts as a gender champion within multilateral disarmament fora and that will soon formally release its feminist foreign policy, the quality of the GBV risk assessment is lacking.

The findings in this section of the report overlook vital information and do not demonstrate an understanding of core legal concepts. For example, the Turkish military has become increasingly involved in armed conflicts in Syria, Iraq and Libya since 2016. This is where the technology in question is being used, technology that has been described as “essential” to Turkey's deployment of its uncrewed aerial vehicles, or UAVs, and for launching air strikes.

Yet within the paragraph titled “Gender-based violence in the context of the conflicts in which Turkey is involved”, there is not actually any mention of GBV in those contexts, even though its prevalence is well documented by credible and easy-to-locate sources. Instead, the report states simply that Turkey has not “deliberately targeted children, women, or civilians”, comments on its membership within the Convention on the Rights of the Child and states that Turkey takes in refugees.

This is concerning. It is concerning first because the report fails to include any reference to or findings for the risk of gender-based violence in the context of the conflicts where Turkey is involved and where it is using the equipment in question.

Second, the use of the words “deliberately targeted” indicates that the concepts of “commit” and “facilitate” are possibly being taken to mean the same thing. In legal usage, the word “commit” implies directly carrying out an action, whereas “facilitate” is understood to mean “make something possible or easier”. “Facilitate”, in other words, encompasses a broader range of conduct and arms usage.

A risk assessment is meant to assess for just that—the risk of GBV being committed or facilitated by the items in question, and not deliberate targeting. It bears repeating that GBV is wider than violence against women alone and can also include socio-economic and psychological or emotional violence alongside physical and sexual violence.

Multiple credible sources have documented GBV in Syria, Libya and Iraq and affirm that its prevalence has been greatly exacerbated by protracted armed conflict and violence in all those locations. For instance, in 2018, the UN Commission of Inquiry on Syria confirmed that sexual and gender-based violence against women, girls,

men and boys was a “devastating and pervasive feature of the conflict”. GBV is also pervasive within Turkey's refugee camps and in occupied Afrin. It is therefore difficult to understand how this information could have been omitted from the report and from a GBV risk analysis.

Men and boys also experience GBV and are sometimes uniquely at risk in relation to UAVs and signature strikes. Some militaries use sex—and in particular maleness—as a characteristic by which to determine a target. As a result, military-age males are more at risk of becoming victims of inaccurate targeting. This is problematic because it erodes civilian rights to protection in conflict and has human rights implications and further suggests that sex can be a key signifier of identity, which itself constitutes a form of GBV.

Finally, it's worth noting that in March 2021 Turkey withdrew from the Istanbul convention on preventing and combatting violence against women, a convention referenced in the report. This move has prompted a strong reaction from many high-level officials within the UN human rights community and Turkish feminists, some of whom have also registered concern over increasing levels of femicide and anti-LGBTIQ activities of people within Turkey.

The reason why I am making these very specific points is partly in response to the quality of this particular assessment, but more broadly to offer insights that can hopefully improve the quality of future, or in-progress, GBV risk assessments, such as in relation to Saudi Arabia, as one example.

To close, I would just point out that it is anticipated that our foreign minister will formally launch Canada's feminist foreign policy in the coming weeks.

• (1655)

In order for us to have credibility as a feminist country, we need to, at a minimum, do more to prevent GBV at home and abroad. We also recommend bolder action in the context of Canadian arms transfers and military relationships writ large, because equipping and emboldening aggressive militarism is fundamentally incompatible with a feminist approach.

Thank you for your time and attention, and I look forward to your questions.

**The Chair:** Thank you so much.

[*Translation*]

Mr. Bergeron, do you have a point of order?

**Mr. Stéphane Bergeron:** Mr. Chair, with your permission, I want to acknowledge my former colleague Daniel Turp. He'll be leaving us in three minutes and unfortunately I won't have the opportunity to ask him any questions. I was pleased to have the chance to ask him a few questions about this issue, which is of great interest to him and to me. I wanted to greet him anyway.

Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Bergeron.

[*English*]

Colleagues, we will now go to round one, which consists of four sets of interventions of six minutes each.

Leading us off will be Mr. Morantz.

Go ahead, sir.

**Mr. Marty Morantz (Charleswood—St. James—Assiniboia—Headingley, CPC):** Thank you, Mr. Chair.

Mr. Jaramillo or Mr. Gallagher, I want to ask you a few questions.

In the last week, we had Dr. Leuprecht here. He talked about this idea that arms exports are essentially an instrument of foreign policy. In other words, when governments are deciding whether or not to issue arms export permits, one of the things they'll look at is whether it is in their foreign policy interests.

He said that this comes into direct conflict with the idea that Canada has international obligations as well around international humanitarian law, and to make sure there's a risk assessment process in place that guards against violations of those laws.

I'm wondering if you agree with Dr. Leuprecht's idea and if you could comment on it.

**Mr. Cesar Jaramillo:** With respect to Mr. Leuprecht, I wholeheartedly disagree with that notion.

Export controls are very well defined, especially contemporary export controls. They are meant to reduce risk and reduce human suffering, and the equation really does not allow for political considerations, penalties, jobs or any extraneous arguments. This is a very simple equation. If there is a risk of misuse, one should not export, especially if Canada holds the position that we have some of the strongest export controls in the world.

There is an alternative, and that is to overlook risk for profit or for other reasons. However, then we would have to change the narrative that we have some of the strongest export controls in the world. We could perhaps overlook risk and say that we have “okay” export controls or “mediocre” export controls.

If we are to hold the claim that we have some of the strongest export controls in the world, we should adhere to the provisions and expectations of widely recognized instruments, such as the Arms Trade Treaty, which places a premium on risk and the prevention thereof.

**Mr. Marty Morantz:** I agree with you. I guess my question was really more around whether or not foreign policy interests happen anyway, despite what you're saying is the way it really should be happening.

That leads me to my next question.

There's a briefing memo, dated September 14, 2020, to the Minister of Foreign Affairs, about a phone call he was to have with his counterpart in Turkey.

In that memo, there are some placeholder comments about his telling his counterpart that he has good news, namely, that he has approved a number of permits. This memo and call, by the way, took place before the Wescam sensor was found on the ground in Nagorno-Karabakh, so the minister would have had no reason to think this conversation was going to be scrutinized in the future.

He said, “Pleased to let you know I have approved a number of permits on an exception basis” as a placeholder comment. Or, another comment might have been, “I am aware of the concerns you've raised with my officials about a number of export permits and I will be considering those very soon, as a priority... Pleased to note as discussed earlier, Canada has recently made significant changes to Canada's export policy towards Turkey, relaxing restrictions”.

That's the first part of the conversation, harkening back to my first question to you.

The second part of the question—

• (1700)

**Mr. Robert Oliphant (Don Valley West, Lib.):** Mr. Chair, on a point of order, I have a great deal of concern that a briefing note is being presented as though it was a verbatim understanding of a conversation that was held. What Mr. Morantz is referring to is a briefing note, but he is presenting it as though that was what the minister said—

**Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC):** That's debate.

**Mr. Robert Oliphant:** —and I have a great deal of concern about that.

**The Chair:** Thank you for the point of order, Mr. Oliphant. I believe it's on the threshold of being debate. You are next in line. You are free to re-address that issue as you see fit.

Mr. Morantz, you have the floor back. Go ahead, sir.

**Mr. Marty Morantz:** I can understand why Mr. Oliphant wouldn't want me to raise this point, and it may or may not have happened in the conversation, but it is in the briefing note from the public service to the minister.

In the very next breath, it says, under the heading “OECD Secretary General Campaign”, that “Canada is nominating Bill Morneau, our former Finance Minister, for the position of the Secretary General at the OECD. Mr. Morneau is a strong candidate and would be an asset to the OECD”. I could go on. There are more statements about how great Mr. Morneau is. He had just resigned because of a scandal, which is a bit odd.

I just wonder, Mr. Jaramillo, whether you're concerned about foreign policy interests coming into the decision-making paradigm in this instance, given what that memo says.

**Mr. Cesar Jaramillo:** Irrespective of the specific content or the wording of the conversations, I will say that if the predictable objective application of export controls gives way to political interference, the trust is eroded. The trust and the reliability of the export control system is eroded and that should not be taking place.

**Mr. Marty Morantz:** Thank you.

Mr. Chair, those are my questions.

**The Chair:** Thank you very much, Mr. Morantz.

We next go to Mr. Oliphant for six minutes.

**Mr. Robert Oliphant:** Thank you, Mr. Chair. I would just begin by saying that a briefing note does not have a next breath. That would imply it was a conversation. I would also add that I receive briefing notes regularly for conversations that I have with diplomats and with officials from other governments, and I ignore some of the words, and I use some of the words and I make them my own words and use my own judgment based on that. I would expect any minister of foreign affairs of Canada—regardless of the party that they're from—to do the same.

I want to begin with some questions for Project Ploughshares.

First, I want to thank you, Project Ploughshares, which I have been associated with off and on for about 30 years, for your work on this file. Thank you for drawing attention which led to a suspension of permits, and thank you for your ongoing work and the consideration that I know went into the report that the officials prepared for the minister, which led to a cancellation of permits.

I think that shows that, while imperfect, something worked, at least in this case. What I'd like to know a little bit about is your methodology, how you get information, how you're on the ground—I know you're mostly in Waterloo—what you hear, how you're connected, and whether you can just give me a sense, not for a long time, but your methodology for intervening.

**Mr. Kelsey Gallagher:** I could probably speak to that. Tracking Canadian arms exports usually starts with government data, as it did in the case of Turkey. We saw that for annual exports to Turkey, there was really kind of a crescendo, starting with a trending up in 2016, and then we read between the lines in the kind of data that was being reported by Global Affairs Canada in the annual report on military exports.

From there, we look at other datasets. We would look at, for instance, StatsCan datasets to see with a greater sense of detail what exactly is being exported, and then we can look at the recipient and see what kind of weapons they're using, and if it's a component like a Wescam sensor, then we can see what kind of aircraft they have, and from there on make a determination as to where these sensors are going and what they're being used on. Then we pass that—in particular, in the case of Turkey, there was a large amount of open source data, a lot of images and videos posted on social media, most of which weren't used in our reporting. That showed us with a greater degree of certainty that indeed, Canadian sensors were being used by Turkish forces in more than one place.

• (1705)

**Mr. Robert Oliphant:** Thank you.

Following up on your testimony, Mr. Gallagher, three or four times you inferred that there was political interference in the process. I am wondering whether you have proof of that or what proof you have that these decisions were not made totally objectively and with the information that was received through open sources and government sources, ultimately decisions that were made to both suspend and cancel permits?

**Mr. Kelsey Gallagher:** That claim was made in light of the nearly 1,000 pages of documents that have been published via this committee. With regard to the exemptions to the original suspension of October 2019, from those documents we can see that the export permits, in particular for the Wescam sensors but also for other Canadian weapons, were almost universally granted. I believe it was exception D that said that if there were going to be negative blowback bilaterally, then this should go forward. From our perspective, that's clouding the judgment of officials at Global Affairs Canada.

**Mr. Robert Oliphant:** With all due respect, I don't see that as proof. I see that as indicating that something was said, something happened, and you've drawn the link between them, but do you actually have evidence that there was any political interference whatsoever?

**Mr. Kelsey Gallagher:** Overall, from the number of conversations going back and forth from Turkish to Canadian officials, arguing for the freeing up of these permits, including several memos to the Minister of Foreign Affairs, it was clear that a case was being made by Turkish officials to free up these permits.

**Mr. Robert Oliphant:** I don't disagree with you that a case was being made. I also don't disagree with you that, in diplomatic relations, it's all about dialogue. It is about a constant conversation. That's what we have proof of, that there was a constant conversation.

Ms. Pytlak, as you are probably aware, Canada has expanded its definition of gender to include gender identity, gender expression, and perceived gender, when it comes to arms trade treaty issues.

Have other countries done that?

**Ms. Allison Pytlak:** It's really important to highlight that gender does not equal women, and women's issues alone. It has a much deeper, richer, and wider meaning than that. Different states are working with a broad definition. Gender-based violence and gender were the focus of the Fifth Conference of States Parties to the Arms Trade Treaty. In the course of that meeting cycle, states parties, including Canada before it was a states party, engaged in a lot in discussion, working out what this concept means.

I have noted that—

**Mr. Robert Oliphant:** Would it be fair to say Canada provided leadership on that topic?

**Ms. Allison Pytlak:** Not leadership quite yet. This was a bit before Canada came on board as a full states party, but it participated actively as a signatory.

**Mr. Robert Oliphant:** Thank you.

**The Chair:** Thank you, Mr. Oliphant, we'll have to leave it there.  
[*Translation*]

Mr. Bergeron, you now have the floor for six minutes.

**Mr. Stéphane Bergeron:** I have two comments, Mr. Chair.

I want to start by thanking the witnesses for their extremely helpful and meaningful participation in the work of this committee.

I wanted to put my questions to my former colleague, Daniel Turp, who says that Canada has a double standard when it comes to arms sales, particularly to Saudi Arabia and Turkey. Mr. Morantz brought up the fact that we asked Mr. Leuprecht a number of questions. I even asked him about this double standard. I was very surprised that he didn't seem to think that Canada had this type of policy. I would have liked Mr. Turp to elaborate on this issue.

I also want to follow up on Mr. Oliphant's question about Project Ploughshares' procedures. Committee witnesses have often said that Global Affairs Canada lacks sufficient resources to carry out the verifications properly. We found that few verifications are conducted, either before or after the fact. In contrast, Project Ploughshares, which has far fewer resources, can uncover extremely relevant information, such as the use of drones with Canadian remote sensing equipment in the Nagorno-Karabakh conflict.

We should have been alerted to this situation. In December 2019, the United Nations panel of experts on Libya presented a report to the Security Council, which stated that Turkey had regularly supplied arms to parties involved in the conflict, including Canadian arms. This shows that Turkey has taken advantage of loopholes in the Canadian arms export system.

In light of this fairly harsh United Nations ruling, how can Global Affairs Canada continue to claim that Canada has one of the most stringent arms export control regimes in the world?

• (1710)

[*English*]

**Mr. Cesar Jaramillo:** Thank you, Mr. Bergeron. Please don't take this to mean we are praising our own work, but you make a very valid point.

If Project Ploughshares, or any other civil society organization, with a fraction of the resources the Canadian government has, were able to put this together, surely it is a reasonable assumption that the Canadian government would be able to do this with all of its apparatus, resources, consulates, embassies, money, etc.

One has only to look at the sequence of events here. When civil society put out this information, the media caught onto it, and then the Canadian government issued the suspension. There is a bit of a causal relationship here, and again, one must ask, would Canada still be exporting weapons to Turkey had the government not been alerted about their use? Secondly, related to this, does the government need to be alerted externally about the use of the exports it is authorizing?

**Mr. Kelsey Gallagher:** If I may, I would just add that I believe past witnesses have brought this up, but, yes, building on what

Canada has now, a good addition would be some regime of post-shipment verification. Other countries that have done this recently, I believe, are Germany and Switzerland, and they have found their arms being misused, including small arms, which frequently fall victim to diversion. This is something that Canada could, and we think that it should, look at implementing. It's not a radically new idea. We can talk to allies and figure out how they've implemented it and move forward with tracking Canadian weapons.

On top of that I would echo the sentiments of my colleague Cesar in saying that Global Affairs Canada should be more proactive.

Mr. Bergeron, you correctly bring up the report by the UN panel of experts on Libya and the situation in 2019. Why or how Canadian officials were not aware of that report and not aware of the fact that Turkey was sending TB2s to Libya in violation of the UN arms embargo is beyond us. On top of that, we now know as a result of these documents that have been released that Canadian officials knew these sensors were being used on TB2s at the time. Again, that's the Turkish drone. Officials really should have put two and two together and come to the conclusion that there was at least substantial risk that Wescam sensors were being diverted to Libya. However, they didn't and we would chalk this up to more of reactive approach rather than a proactive approach.

[*Translation*]

**Mr. Stéphane Bergeron:** Unfortunately, I have only 30 seconds left. I'll ask my question a little later.

I'll ask Ms. Pytlak a very brief question.

Ms. Pytlak, one argument often put forward is that drones make it possible to carry out more surgical attacks—if I can put it that way—aimed at military targets while sparing civilian targets.

How credible is this argument, which seems to justify the sale of equipment to create drones after the fact?

• (1715)

[*English*]

**The Chair:** Just a brief answer please.

**Ms. Allison Pytlak:** I know that is the idea of drones and drone technology, but I would say that it's not been the practice. If you look at civilian casualty reporting done, particularly by a group called Airwars, you'll see that the vast majority of casualties are actually civilians, and they attribute that to poor intelligence and poor targeting practices. As I was trying to illustrate in my example, sometimes you just see a military-age male and assume that it's the combatant whom you're looking for without going a little bit deeper and seeing if it's actually the target you want. As a result, there are a lot of unintended civilian casualties from drone strikes.

**The Chair:** Thank you very much.

[*Translation*]

Thank you, Mr. Bergeron.

[*English*]

Now we will give the floor to Mr. Harris for the final intervention of six minutes.

**Mr. Jack Harris:** Thank you, Chair.

First of all, thank you to all of our witnesses today, including Dr. Turp who has now moved on.

Mr. Jaramillo or Mr. Gallagher, either one, can respond.

I'm a little bit confused and perhaps you can help me here. The assertion was made...and both of you have praised the government for cancelling permits to Turkey, but I'm not certain of the extent of that cancellation. Of course, we do know that they're going to be granting permits or are dealing with the assessment of permits on a case-by-case basis as cases go forward, so we'll deal with that later. That said, I'm concerned about what exactly was in fact cancelled, because in a briefing note prepared by Global Affairs Canada for Minister Champagne's discussion with the Turkish Minister of Foreign Affairs following the October 5, 2020, suspension of certain arms exports, it emphasizes that the decision affects "those export permits related to the conflict in Nagorno-Karabakh", and that no other permits had been suspended. Only those related to Nagorno-Karabakh had been suspended on October 5.

Then the announcement made by Minister Garneau on April 12 indicates that on completion of the review, the minister announced the cancellation of the export permits to Turkey that had been suspended in the fall of 2020. That seems to me to indicate that the only permits that were actually cancelled were any ones having to do with Nagorno-Karabakh, and I think there was some indication in the documentation we've seen that there were applications under review, but not processed in relation to Nagorno-Karabakh. It seems to me that we may actually have a limited cancellation. Would you care to comment on that? Was that your conclusion as well?

**Mr. Kelsey Gallagher:** Yes, our assessment was that the cancellation covered 29 permits—that's what's been reported—and the permits covered two companies, the first being Wescam. The second company, to my knowledge, has not been named. Past that, many other weapons continue to be exported to Turkey. Some examples would be industrial goods for the production of bullets, and rocket motors for drones—which we don't have a lot of information on—and satellite parts produced by MDA in Canada. They're a controlled good. They're not weaponized, so they're obviously less of a concern, but they're a controlled good. There are a series of weapons and components that continue to be exported that were not covered by the cancellation.

**Mr. Jack Harris:** That assessment of it being related to Nagorno-Karabakh may or may not be correct, is that what you're saying?

**Mr. Kelsey Gallagher:** Our interpretation was in concerned any of the those permits related to Wescam or that second company's products going to Turkey. It could be narrower, but that wasn't our reading.

• (1720)

**Mr. Jack Harris:** Thank you.

My second question is related to the assessment in the Global Affairs Canada report that once the export permit is granted to Baykar, they take the Wescam product and attach it to a drone, whereupon it becomes a new good and is therefore not subject to the diversion rules. Is that your assessment, or is that a way of getting around the obligations under the Arms Trade Treaty?

**Mr. Kelsey Gallagher:** The way it works with diversion is that on the export permit, a consignee is listed alongside an end-user. These can sometimes be the same entity, for instance, the Turkish military or the Turkish air force. In the case of the permits you're referring to, the consignee was Baykar and the end-user was Turkey or some stripe of the Turkish security forces. In those instances, because the Wescam sensors, as per the final report's reading, were incorporated into a drone and therefore changed the nature of the weapon system, the end-use stopped with Baykar at that point. However, there were other permits in which the consignee and the end-user were the same entity, which was the Turkish security force, whether that be the police, the army, the navy, the air force or that sort of thing.

**Mr. Jack Harris:** Is there then an obligation under the ATT to get assurances from the government involved that there will be no diversion to a third party or to a third country, or is that the end of the story?

**Mr. Kelsey Gallagher:** My colleagues are welcome to jump in here. An end-user certificate is implied to be the assurance. At the that there is perceived to be some risk, that could be mitigated by further assurances, verbal or written, whereby you go to the end-user—the consignee—and say that you want to be certain these won't be diverted, misused or so forth. That would be an additional assurance and therefore a mitigation measure.

**Mr. Cesar Jaramillo:** Absolutely. Any deviation from the end-user assurances is categorically a violation of the Arms Trade Treaty. There is no question about that. We cannot—

**Mr. Jack Harris:** I'm sorry to interrupt you, but we have limited time. If the end-user is Baykar and they take it, put it in a drone and they're the end-user and they say that's fine, there's really no control beyond that. The consignee, being Baykar, can presumably then sell it to whomever that company wants. Canada has no control over that. That seems to me to be a big hole, if that's correct.

**The Chair:** Just give a very brief answer, please, in the interest of time.

**Mr. Kelsey Gallagher:** This could certainly be viewed as a loophole. We see this with other Canadian products, namely Pratt & Whitney Canada engines. The end-user is viewed as the company that's putting it into an airplane; therefore, the end-user would be viewed as Switzerland, which has a stellar human rights record. That plane is then turned around and provided to a serial human rights abuser. Yes, that is certainly something that should be addressed.

**The Chair:** Thank you very much.

Thank you, Mr. Harris.

Colleagues, we're inside of 10 minutes of scheduled time with our witnesses. I would propose, if the committee agrees, that we go to a quick round, allowing each party to ask a follow-up question of up to three minutes. Everybody will get a chance to ask that second question. This is respectful of our witnesses' time, but also of the constraints of our colleagues and the House of Commons. If we're okay to proceed on that basis, I would ask Mr. Chong to lead us off, with a brief question-and-answer follow-up.

**Hon. Michael Chong:** Thank you, Mr. Chair.

I just want to follow up on what Mr. Jaramillo has talked about, about his view that no political consideration should come into play when evaluating the applications for these permits.

I just want to note that in April 2020, last year, the Canadian government announced an extension of the ban on arms exports that had been put in place earlier, and subsequent to that announcement, the Prime Minister had a phone call on Thursday, April 23, 2020 with Turkish President Erdogan. The Prime Minister's readout made no mention of any discussion of arms exports during that call, but there were plenty of reports outside of Canada from reputable news organizations that indicated the arms export ban was discussed.

In fact, there is a publication by the name of Middle East Eye that Jamal Khashoggi used to write for prior to joining The Washington Post. There was a news article in that publication that indicated that President Erdogan had called Prime Minister Trudeau to discuss the ban. A Turkish official is quoted in the story, referring to the Prime Minister, as saying:

'Trudeau didn't provide any reasoning for his decision to extend the ban in the call', the Turkish official said. 'He said they would take some steps to alleviate Turkish concerns regarding the exports; that they would review everything case by case.'

I just want that on the record because there was some discussion earlier about political considerations in the approval of these exports.

I have a quick question for Mr. Jaramillo.

Earlier in testimony at another committee meeting we had, you indicated that Switzerland and other countries have a post-approval process by which they go to the country to verify that the conditions of the permit are being upheld. Could you tell us a little bit about that?

• (1725)

**Mr. Cesar Jaramillo:** On the first point, I want to make it very clear that it is not a matter of opinion or interpretation to say that

there should not be political interference. I'm not saying that it doesn't happen, but I am saying it should not happen, and certainly not in a country like Canada that prides itself on having strong export controls. It should not be. The relevant legislation, domestic or international, does not make allowances for such political interference.

On the question of post-export verification, I think the circumstances and this very experience show the dire need for Canada to establish effective post-export monitoring and verification mechanisms, whether it be through its consulates in the recipient countries or through other measures, and consult with allies as appropriate to establish such mechanisms so that we can be assured that our exports are not being misused and that the end-user assurances are being upheld.

**The Chair:** Thank you very much.

We'll have Ms. Sahota, please, for three minutes.

**Ms. Ruby Sahota (Brampton North, Lib.):** Thank you, Mr. Chair.

Ms. Pytlak, I want to get your view. We've heard from a panel before you as well, and there has been a lot of conversation about having an independent, impartial arms export control agency, but I haven't heard a lot of examples given as to what we should model this export agency after.

Also, regarding the test that has been talked about, the test needs to be changed, and it needs to be a risk-based test. If we were to move to such a test, I want to have more examples of what that test would look like and whether having such a test would create very unstable conditions for our defence production industries, our economy here, or if it would give our businesses stability in knowing that they can continue production of certain goods because they would have a market for them.

**Ms. Allison Pytlak:** Those are very good questions.

On the question of risk, this is the language of the Arms Trade Treaty. The treaty says "overriding" risk, but I know that the Canadian government uses "serious" risk. Other countries use "clear" risk. This has actually been a subject at the Arms Trade Treaty meetings that have been taking place this week. Intersessionally they've been unpacking and comparing how different states parties understand and use these different terms across their own implementation of the treaty.

The risk criteria are already there, which I think sometimes is easy to forget in looking for the certainty of what will happen with the item in question. It is really important to be mindful of the fact that the treaty is meant to assess for the risk of something happening. I do think that the more states parties to the ATT can engage with one another and provide examples of what that looks like when they've made denials based on risk helps build international understanding around what that looks like practically. That might help give some of the certainty that you're speaking of to those who are concerned.

I completely agree that parliamentary oversight or some other independent oversight mechanism would be a really good route to go in Canada and elsewhere. I think it sort of speaks to some of the concerns that Cesar and Kelsey raised around the possible politicization of processes and arms transfer decision-making. I think it also speaks to why we have these export controls in international law and checks and balances in the first place. I really welcome this committee having a conversation about this today. I meet often with legislators from different countries in the context of ATT work, and my impression is that it's a very big issue. International arms trading is a very dense issue. The more that can be done to build capacity understanding on that will really improve arms export controls globally.

• (1730)

**Ms. Ruby Sahota:** Very quickly—

**The Chair:** Thank you, Ms. Sahota. We're out of time.

[Translation]

Mr. Bergeron, you have the floor for three minutes.

**Mr. Stéphane Bergeron:** We know that Turkey and Canada are allies in the North Atlantic Treaty Organization, or NATO, a defensive military organization. Obviously, allies tend to want to help each other out so that all allies are as well equipped as possible for collective defence.

With that in mind, would you say that Turkey is using its NATO membership to obtain high-tech products from its allies, which it then uses to develop extremely effective weapons for local or regional conflicts, thereby increasing its geostrategic influence?

[English]

**Mr. Cesar Jaramillo:** Thank you, Mr. Bergeron. I would say that Turkey has certainly shown itself willing to leverage its membership in NATO to get other countries to skirt their Arms Trade Treaty obligations. We cannot control that. We cannot control what the Turkish government does or the phone calls their political leaders make. What we can control is the strength of our own export decisions, our authorizations and our denials.

To be blunt, NATO membership does not in itself generate a reason for an exemption or different treatment or differential treatment of Turkey. They can try it, but we should not allow it.

In the final report on exports to Turkey, which was issued just weeks ago, the Canadian government says they are assessing export permits on a case-by-case basis and assessing whether there are exceptional circumstances, including NATO co-operation programs. I will tell this committee that from the perspective of the Arms Trade Treaty, which we follow very closely—we have attended every conference of states parties—that is not a valid exemption. Allies don't let allies commit human rights violations. Allies don't enable allies to skirt obligations under the Arms Trade Treaty.

[Translation]

**Mr. Stéphane Bergeron:** We fully understand that no permits were granted to export this equipment to Azerbaijan. These were permits granted for exports to Turkey. The understanding was that Turkey shouldn't use these weapons outside its borders in offensive missions or in regional theatres of operations.

Should our recent experience prompt Canada to pay much closer attention to how it conducts business with its NATO allies or any other alliance?

[English]

**The Chair:** Make it a brief answer, please.

**Mr. Cesar Jaramillo:** Yes, it should, but the risk was foreseeable at the time that the conflict in Nagorno-Karabakh erupted. Turkey had already exhibited similar behaviour and Canadian equipment had already been found in places where it shouldn't have been.

**The Chair:** Thank you so much.

[Translation]

Thank you, Mr. Bergeron.

[English]

For the final round of interventions this afternoon we will turn the floor over to Mr. Harris for three minutes, please.

**Mr. Jack Harris:** Thank you, Chair.

Mr. Jaramillo, may I suggest that caution needs to be used when we hear about including exemptions related to NATO operations. That's been used in the past to also indicate that there are several other exemptions, including the one in relation to bilateral relations and interference in bilateral relations. I would be concerned about that if I were you.

I wanted to ask another question of you, Mr. Jaramillo, in relation to the concerns about Libya and the fact that there was an arms embargo in place. Is your assessment about Libya influenced at all by the fact that Turkey was supporting a United Nations-recognized government there? Is that a factor in that consideration? Why, or why not?

• (1735)

**Mr. Cesar Jaramillo:** I can appreciate the question, but I cannot speculate as to the factors that were in place.

I can say with certainty that the embargo was in place and there was every expectation that the Canadian government would have known. If exports continue despite an arms embargo, there are only two explanations. One is willful blindness: They knew, but didn't act on it. The second is, perhaps embarrassingly, that we didn't know when we've should have known.

Neither one really paints a positive picture about the strength of our export control system.

**Mr. Jack Harris:** You're still asserting that this makes Canada in violation of the arms embargo as well?

**Mr. Cesar Jaramillo:** Yes, indeed, and it's in violation of the Arms Trade Treaty, which specifically prohibits exports to countries where there is an arms embargo in place.

**Mr. Jack Harris:** Thank you.

I have one question in relation to the issue of gender-based obligations.

Do you share Global Affairs Canada's assessment that there's no substantial risk of gender-based violence in the context of arms export to Turkey? You did mention something about that, Ms. Pytlak. Could you elaborate on that slightly?

**Ms. Allison Pytlak:** No, I don't share their analysis. I think that there is a lot of very credible evidence that has highlighted gender-based violence pervasive in many of the contexts where Turkey is involved militarily. I think that their further aggression in those areas will only exacerbate and increase gender-based violence.

Experts agree that protracted conflict only makes gender-based violence worse, deeper and more protracted. That's why I think it

would have been hard for them to not come across this information had they done a very thorough GBV risk assessment. I wanted to speak to that today to offer where they can do better in future GBV risk assessments.

[*Translation*]

**The Chair:** Thank you, Ms. Pytlak.

Thank you, Mr. Harris.

Fellow members, on behalf of all of us, I want to thank our witnesses on the second panel for being here, for their expertise and for the service that they provided.

[*English*]

Colleagues, with that we thank our witnesses. We're a little bit past the end of scheduled time.

We stand adjourned until our next session.

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