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CANADA

ASSESSING RISK, PREVENTING DIVERSION AND INCREASING TRANSPARENCY: STRENGTHENING CANADA'S ARMS EXPORT CONTROLS IN A VOLATILE WORLD

**Report of the Standing Committee on Foreign Affairs
and International Development**

Sven Spengemann, Chair

**JUNE 2021
43rd PARLIAMENT, 2nd SESSION**

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Chair**

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NOTICE TO READER

Reports from committee presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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has the honour to present its

NINTH REPORT

Pursuant to its mandate under Standing Order 108(2), the committee has studied the granting of arms export permits, with a particular focus on permits granted for exports to Turkey, and has agreed to report the following:

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LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That the foremost consideration informing the Government of Canada’s arms export policy, including the assessment of risk, should be Canada’s domestic and international legal obligations, and that those obligations should be applied universally and consistently in all decisions about permit applications. 24

Recommendation 2

That the Government of Canada ensure that it has access to all necessary expertise, knowledge and information, including diplomatic, in relation to all countries, regions, and military goods, technologies, systems and subsystems implicated by export permit applications that are under review. In any cases where such information, knowledge or expertise does not exist, export permits should not proceed. 24

Recommendation 3

That the Government of Canada pursue regular and meaningful consultations with industry, civil society and independent experts regarding Canada’s arms export policy. 24

Recommendation 4

That, in any cases where civil society and independent experts have raised credible concerns about the misuse of Canadian technology with respect to the arms export permits regime, the Government of Canada take immediate action to understand and investigate those concerns. Should an investigation reveal that there is substantial risk that such an export permit is not compliant with domestic and international legal obligations, that – as in the case at hand – the permit be suspended and/or cancelled. 24

Recommendation 5

That the Government of Canada implement a system that would allow companies seeking permits for the export of military goods and technology to know the status of their application. 24

Recommendation 6

That the Government of Canada explore the most effective means of clarifying the destinations and military goods and technology that are typically considered to be low-risk, and those that are typically considered to be higher risk and therefore likely to involve a lengthy review process within government and/or a high likelihood of permit denial..... 25

Recommendation 7

That the Government of Canada examine how stricter controls could be included in the end-use assurance documents attached to components and subsystems that are exported from Canada and later incorporated in finished military products and systems, with the goal of preventing transfers to any high-risk destinations without prior approval from Canada..... 30

Recommendation 8

That the Government of Canada explore options for an effective and feasible post-shipment verification system that could be applied to military goods and technology being exported to destinations not determined to be low-risk. Prioritization could reflect the volume and type of military goods and technology being exported to such destinations, and any diversion concerns that have been identified. 30



ASSESSING RISK, PREVENTING DIVERSION AND INCREASING TRANSPARENCY: STRENGTHENING CANADA'S ARMS EXPORT CONTROLS IN A VOLATILE WORLD

INTRODUCTION

On 27 September 2020, Canada's embassy in Ankara, Turkey circulated a "flash report" within the Government of Canada highlighting a "major escalation" in what is known as the Nagorno-Karabakh conflict. The disputed territory was the subject of a war between Armenia and Azerbaijan in the wake of the Soviet Union's dissolution, which a 1994 ceasefire did not resolve. In its description of recent events, the embassy's flash report noted discussions on social media regarding the possible use of Turkish Bayraktar TB2 drones by the Azerbaijani side.¹ By 29 September 2020, allegations were being reported in the media that Canadian-made imaging and targeting systems—"sensors" manufactured by L3Harris Wescam—were being used on the drones (unmanned aerial vehicles, UAVs).² These concerns echoed those raised in a September 2020 report published by Project Ploughshares, which claimed that the same technology had been "used extensively by Turkey" in its recent military operations in Syria, Iraq and Libya.³

On 5 October 2020, Canada's then Minister of Foreign Affairs, François-Philippe Champagne, issued a statement indicating that, upon learning of the allegations in relation to Nagorno-Karabakh, he had "immediately directed Global Affairs Canada to

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- 1 Email from Andrea Schoenauer, Ankara mission, 27 September 2020, 12:25 p.m., in [Department of Foreign Affairs, Trade and Development—Documents submitted](#), p. 237. This report references memoranda, briefing notes, emails and other materials received from Global Affairs Canada (GAC) and the Privy Council Office (PCO). Those materials can be accessed on the website of the House of Commons Standing Committee on Foreign Affairs and International Development (FAAE) in [English](#) and [French](#). It should be noted that the analysis in this report reflects the documents received as of 7 April 2021; additional documents were received on 16 June 2021.
 - 2 Steven Chase, "[Ottawa probing allegations Canadian tech used in Azerbaijan-Armenia conflict](#)," *The Globe and Mail*, 29 September 2020.
 - 3 Kelsey Gallagher, [Killer Optics: Exports of WESCAM Sensors to Turkey—A Litmus Test of Canada's Compliance with the Arms Trade Treaty](#), Project Ploughshares, September 2020, p. 7.



investigate these claims.” The minister indicated that the “relevant” arms export permits to Turkey were suspended.⁴

The House of Commons Standing Committee on Foreign Affairs and International Development (the Committee) held two meetings in October 2020 on the situation in Nagorno-Karabakh, including one with officials from Global Affairs Canada. In those meetings, the Committee sought to better understand the origins of the conflict, the process by which arms export permits to Turkey were approved, and the nature and timing of those exports. However, with officials citing the need to respect “commercial confidentiality,” the Committee received only limited information.⁵

Given the importance of this issue, the Committee decided to undertake a study on Canada’s arms export permit system, with a particular focus on permits involving Turkey.⁶ In addition to reviewing the documents it ordered Global Affairs Canada to produce,⁷ the Committee heard from academics, civil society organizations, and industry representatives, and received additional testimony from Global Affairs Canada.

In the course of the Committee’s study, current Minister of Foreign Affairs Marc Garneau released a report summarizing the Government of Canada’s review of arms export permits to Turkey, “which found credible evidence that Canadian technology exported to Turkey was used in Nagorno-Karabakh.”⁸ That use was determined to be inconsistent with Canadian foreign policy and the end-use assurances that had been provided by the Government of Turkey. The findings, published on 12 April 2021, led the Minister to cancel the permits that had been suspended in the fall of 2020.⁹

Concerns about export permits to Turkey, however, had emerged previously. In October 2019, the Government of Canada temporarily suspended the issuance of all

4 GAC, [Statement from Minister Champagne on suspension of export permits to Turkey](#), Statement, 5 October 2020.

5 FAAE, [Evidence](#), 22 October 2020 (Shalini Anand, Acting Director General, Export Controls, Global Affairs Canada).

6 FAAE, [Evidence](#), 29 October 2020.

7 FAAE, [Minutes of Proceedings](#), 11 March 2021; and FAAE, [Minutes of Proceedings](#), 13 April 2021. The Committee has reserved “the right to be granted unfettered access to the unredacted documents upon request to officials at Global Affairs Canada in accordance with the motion [adopted on 29 October 2020].”

8 GAC, [Statement from Minister Garneau to announce the cancellation of export permits to Turkey](#), Statement, 12 April 2021. The technology in question is a camera and target acquisition system—often referred to as “sensors”—produced by L3Harris Wescam in Burlington, Ontario. L3Harris Wescam is a subsidiary of a U.S. defence contractor, L3Harris Technologies.

9 GAC, [Statement from Minister Garneau to announce the cancellation of export permits to Turkey](#), Statement, 12 April 2021.

new permits for the export of controlled goods and technology to Turkey in light of its military actions in northeastern Syria.¹⁰ Notice to Exporters Serial No. 992, issued on 16 April 2020, then advised that—from that date until further notice—permit applications to Turkey would be reviewed on a case-by-case basis against *Arms Trade Treaty* criteria, with a presumption of denial for Group 2 (military) items on Canada's *Export Control List*, unless exceptional circumstances were found to exist, including in relation to North Atlantic Treaty Organization (NATO) cooperation programs. Exporters issued permits prior to 11 October 2019 could continue to export items to Turkey during the period of a permit's validity.¹¹

Even though 29 export permits to Turkey have now been cancelled,¹² a development that was welcomed by many witnesses, the Committee believes this case offers important lessons. The report begins with background on Canada's export controls system for military goods and technology. It then summarizes witness perspectives on the overall challenges facing that system, before addressing specific concerns that were raised about how risk was assessed in the case of the export permits to Turkey. Following the Committee's recommendations in relation to those issues, the Committee puts forward its findings on measures intended to prevent the transfer of military goods and technology to unauthorized users or for unauthorized end uses—i.e., diversion.

CANADA'S EXPORT CONTROLS REGIME

The Export Control List, Permit Applications and Approvals

The primary means by which Canada controls the export of military goods and technology is the *Export and Import Permits Act* (EIPA).¹³ Under section 3(1), the Governor in Council—that is, the Governor General acting on the advice of Cabinet—may establish and update an *Export Control List* (ECL).¹⁴ The current ECL schedule lists

10 The October 2019 suspension “did not affect valid export permits, and Canadian companies holding valid permits were able to continue exporting to Turkey.” See Government of Canada, [Final report: Review of export permits to Turkey](#).

11 Government of Canada, [Notice to Exporters—Export of items listed on the Export Control List to Turkey](#), Serial No. 992, 16 April 2020.

12 GAC, [written responses to questions](#), received on 2 June 2021.

13 [Export and Import Permits Act](#), R.S.C. 1985, c. E-19.

14 [Export Control List](#), SOR/89-202.



nine groups of regulated items.¹⁵ Relevant to the subject matter of this report are dual-use goods (Group 1),¹⁶ munitions (Group 2),¹⁷ and goods controlled under the international *Arms Trade Treaty* (Group 9).¹⁸ Items that fall under Groups 2 and 9 are commonly referred to as “military goods and technology,” a term used throughout this report.¹⁹ Canadian individuals or companies wishing to export such goods and technology must first apply for an export permit.²⁰

The process for assessing those permits was strengthened through An Act to amend the Export and Imports Permits Act and the Criminal Code (amendments permitting the accession to the Arms Trade Treaty and other amendments), legislation that was introduced by the government in April 2017, amended by the Committee in March

15 The *Export Control List* also applies controls in relation to the non-proliferation of nuclear technology (Groups 3 and 4) and chemical and biological weapons (Group 7), as well as to the export of miscellaneous goods (Group 5) and missile technology (Group 6). Group 8 was repealed in 2006, but it is common legal practice to avoid reusing numbers; that is why goods controlled under the *Arms Trade Treaty* are Group 9 rather than Group 8. See Government of Canada, [Questions and answers: Strengthening Canada's export control program](#).

16 Dual-use goods are goods that have both civilian and military purposes.

17 Group 2, “which is comprised of items that are specially designed or modified for military purposes and those that present a strategic military concern, includes items which Canada has committed to controlling for export as a result of its participation in the Wassenaar Arrangement.” There are 22 categories of items under Group 2; examples include firearms, ammunition, explosive devices designed for military use, and imaging and countermeasures equipment designed for military use, as well as specially designed components and accessories. See GAC, [Export and brokering controls handbook](#), amended August 2019. The [Wassenaar Arrangement](#) is a grouping of 42 states that aims “to contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilising accumulations.”

18 Group 9, which is a subset of Group 2, includes “full-system conventional arms in the following categories: battle tanks; armoured combat vehicles; large-calibre artillery systems; combat aircraft; attack helicopters; warships; missiles and missile launchers; and small arms and light weapons.” See GAC, [Export and brokering controls handbook](#), amended August 2019.

19 Government of Canada, [2020 Report on Exports of Military Goods from Canada](#).

20 There is one significant exception. According to Global Affairs Canada, “due to Canada’s close and long-standing military cooperation with the United States, including the 1956 Defence Production Sharing Agreement that underpins the integrated nature of North America’s defence industry, Canada and the United States have reciprocal arrangements to ensure permit-free/licence-free movement of most military items between our two countries.” See Government of Canada, [2019 Exports of Military Goods](#).

2018,²¹ and received Royal Assent on 13 December 2018.²² The related regulations entered into force on 1 September 2019, enabling Canada to become a state party to the *Arms Trade Treaty* (ATT) on 17 September 2019.²³ The objective of the ATT, adopted by the United Nations General Assembly on 2 April 2013, is two-fold:

- Establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms; and
- Prevent and eradicate the illicit trade in conventional arms and prevent their diversion.²⁴

The ATT has 110 states parties.²⁵

Canada's implementing legislation added new section 7.3(1) to the *Export and Import Permits Act*, setting out requirements the Minister of Foreign Affairs must consider when deciding whether to issue an export permit "in respect of arms, ammunition, implements or munitions of war."²⁶ These criteria, which are aligned with the assessment criteria in the ATT, are whether the goods or technology in a permit application:

- a) would contribute to peace and security or undermine it; and

21 FAAE, *Bill C-47, An Act to amend the Export and Import Permits Act and the Criminal Code (amendments permitting the accession to the Arms Trade Treaty and other amendments)*, 42nd Parliament, 1st Session, 1 March 2018. Also see GAC, *Speech by the Honourable Chrystia Freeland, Minister of Foreign Affairs, to the Standing Committee on Foreign Affairs and International Development*, Speech, 8 February 2018.

22 *Bill C-47, An Act to amend the Export and Import Permits Act and the Criminal Code (amendments permitting the accession to the Arms Trade Treaty and other amendments)*, 42nd Parliament, 1st Session (S.C. 2018, c. 26).

23 Government of Canada, *Overview of the Arms Trade Treaty regulatory implementation package*, Background.

24 *Arms Trade Treaty*, article 1.

25 Arms Trade Treaty, *Treaty Status*.

26 *Export and Import Permits Act*, R.S.C. 1985, c. E-19, section 7.3(1). When the Government of Canada deposited its instrument of accession to the ATT, it indicated that, "The assessment criteria and the risk test under the ATT apply to full-system conventional arms (as defined in Article 2 of the treaty). However, Canada will go beyond the ATT requirement and apply the ATT criteria and risk test to the assessment of applications for export permits for military and strategic goods and technology included in the Export Control List." See GAC, *Deposition of Canada's instrument of accession to the Arms Trade Treaty*, Backgrounder.



- b) could be used to commit or facilitate
- 1) a serious violation of international humanitarian law,
 - 2) a serious violation of international human rights law,
 - 3) an act constituting an offence under international conventions or protocols relating to terrorism to which Canada is a party,
 - 4) an act constituting an offence under international conventions or protocols relating to transnational organized crime to which Canada is a party, or
 - 5) serious acts of gender-based violence or serious acts of violence against women and children.²⁷

Canada's implementing legislation also added section 7.4 to the statute, requiring that the minister not issue a permit if, "after considering available mitigating measures, he or she determines that there is a substantial risk that the export or the brokering of the goods or technology specified in the application for the permit would result in any of the negative consequences referred to in subsection 7.3(1)."²⁸

Global Affairs Canada officials described how the assessment criteria are applied. Military and strategic items heading to "low-risk" destinations—e.g., like-minded countries that participate in the same multilateral export control regimes as Canada—are assessed against the risk criteria and can be issued "at the officials level." When there are concerns or the destination is not deemed "low-risk,"²⁹ the application is sent for consultations involving experts within Global Affairs Canada and its missions abroad, the Department of National Defence, "and, as necessary, other government departments and agencies." If no concerns are raised through those consultations, and following "additional management approvals," the permit application is submitted to the

27 [Bill C-47, An Act to amend the Export and Import Permits Act and the Criminal Code \(amendments permitting the accession to the Arms Trade Treaty and other amendments\)](#), 42nd Parliament, 1st Session (S.C. 2018, c. 26).

28 [Export and Import Permits Act](#), R.S.C. 1985, c. E-19. The [2020 Report on the Export of Military Goods from Canada](#) notes that 58 applications for permits to export military, dual-use, and strategic goods or technology were denied in 2020; "5 applications were denied because there was a substantial risk that the proposed Group 2 export would have resulted in one of the negative consequences of the ATT assessment criteria as outlined in section 7.4 of the EIPA." The 2019 [report](#) does not list any permit denials in relation to the substantial risk test.

29 Canada's 2019 [report](#) on the export of military goods lists 31 "low-risk" destinations. Turkey is not on that list.

Minister of Foreign Affairs “in a weekly report for his review and consideration.”³⁰ If, on the other hand, concerns are raised,

the application will be sent to an interdepartmental committee of senior officials for review. If the committee recommends issuing the permit, the application is sent to the minister for his final review and approval. If there is no consensus, or if the committee of experts recommends denial of the permit, the application is submitted to the minister for his final decision.³¹

The minister is also empowered “to suspend, amend or cancel any issued permits in light of any evidence that the items exported are being or will be used in a manner that is not aligned with Canada’s foreign policy, defence and security interests.”³²

A System Under Strain

The Committee was informed that the Canadian defence and security industry employs roughly 60,000 people,³³ that more than 50% of its revenues derive from exports, and that the Canadian market is too small on its own to sustain it.³⁴ In addition to outlining the industry’s importance to Canada’s economy and its defence industrial base, industry representatives all highlighted concerns about the permitting system’s transparency, timeliness, and predictability. The Committee heard that the department’s own service standards for reviewing Group 2 (military) items are not being met, even for low-risk destinations. According to Christyn Cianfarani, President and Chief Executive Officer, Canadian Association of Defence and Security Industries,

[w]e estimate that these delays and uncertainties have cost our members hundreds of millions of dollars in lost contracts and business opportunities. Furthermore, industry's

30 FAAE, [Evidence](#), 13 April 2021 (Bruce Christie, Associate Assistant Deputy Minister, Trade Policy and Negotiations, Global Affairs Canada).

31 [Ibid.](#) Of the 5,300 permit applications that were received in 2020, 1,013 (19.1%) were sent to consultation partners. That was slightly less than the 22% in 2019, but around the same as the 18.9% of the applications that had been sent to consultation partners in 2017, before Canada was a state party to the ATT. The Committee was informed that there are 25 full-time employees who work directly on permit applications, which does not include the consultation partners who may be involved with complex applications. Additional budgetary resources were invested in the management of Canada’s export control regime through Budget 2017. Budget 2021 proposed additional funding. See GAC, [written responses to questions](#), received on 2 June 2021.

32 FAAE, [Evidence](#), 13 April 2021.

33 FAAE, [Evidence](#), 4 May 2021 (Mark Agnew, Vice-President, Policy and International, Canadian Chamber of Commerce).

34 [Ibid.](#) (Christyn Cianfarani, President and Chief Executive Officer, Canadian Association of Defence and Security Industries).



inability to tell its customers, typically other nation states, when they will receive their goods is damaging Canada's reputation as a reliable trading and security partner.³⁵

In addition to lengthy processing times, Mike Mueller, Interim President and Chief Executive Officer, Aerospace Industries Association of Canada, suggested there is a lack of clarity regarding the Government of Canada's risk parameters. Exporters, he said, "are looking for some assurances of where they can and cannot export."³⁶ That sentiment was echoed by Mark Agnew, Vice-President, Policy and International, Canadian Chamber of Commerce, who suggested that, "Communicating earlier regarding a particular export and destination country would be very beneficial and allow companies to focus on the contracts that are most likely to have government support." Such a system, he proposed, could be supplemented by written guidance that would help exporters "in evaluating potential bids, including not only understanding how rules are applied on a country basis but also how assessment criteria are being applied during the evaluation process so that companies can know what considerations they need to proactively address."³⁷ Mr. Mueller also suggested that industry wants to see "a system that offers businesses more detailed information in terms of the progression of the application."³⁸

An Elusive Balance

These "systemic" issues,³⁹ as described by industry, may reflect—in part—the complexities involved in assessing and mitigating risk. According to government officials, their role involves a balancing of Canada's foreign policy interests. Bruce Christie, Associate Assistant Deputy Minister, Trade Policy and Negotiations, Global Affairs Canada, commented that Canada's "export controls are not meant to unnecessarily hinder international trade but rather to ensure that controlled items are exported in a manner that is consistent with our values and interests."⁴⁰ Nevertheless, Mr. Christie also noted that the "introduction of a more rigorous assessment framework," as part of Canada's accession to the ATT in 2019, has led to delays in the processing of permit applications. He observed:

These delays have been noticed by industry, which has been very vocal in expressing its desire for a more transparent, timely and predictable system. We are now considering

35 FAAE, [Evidence](#), 4 May 2021.

36 [Ibid.](#)

37 [Ibid.](#)

38 [Ibid.](#)

39 FAAE, [Evidence](#), 4 May 2021 (Christyn Cianfarani).

40 FAAE, [Evidence](#), 13 April 2021.

how we can streamline our assessment process while maintaining the level of rigour that is required under the law and that Canadians have come to expect.⁴¹

Mr. Christie subsequently acknowledged that it “has become increasingly challenging for us to balance Canadian export interests in military goods and technologies, as well as continuing to apply a rigorous risk-assessment framework using the criteria laid out in the Arms Trade Treaty [...]”⁴²

Michael Byers, Professor, Department of Political Science, University of British Columbia, suggested that this balancing act is made all the more difficult by a structural problem related to Global Affairs Canada’s mandate. He observed that the department has been given responsibility for “those two important tasks—promoting arms exports, and protecting human rights and international peace and security.” Consequently, in his view, “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.”⁴³

Others do not see the balancing of these competing goals as the government’s primary responsibility. Peggy Mason, former Ambassador and President, Rideau Institute on International Affairs, argued that, while Canada does not have “an international legal obligation to export arms,” it does have “an international legal obligation to export those arms in accordance with the obligations under the Arms Trade Treaty.”⁴⁴ She also said that those obligations “have to be applied fully in respect of all prospective recipient countries.”⁴⁵ Referencing section 7.4 of the *Export and Import Permits Act*, which stipulates that the Minister shall not issue a permit where there is a “substantial risk” of certain negative consequences that cannot be mitigated, Ms. Mason later reiterated to the Committee in writing that,

other considerations, such as the broader impact on a trading relationship of a decision to refuse an export permit, are not relevant to the assessment of substantial risk. And if a substantial risk is found that cannot be satisfactorily mitigated, then the permit shall be denied whatever the trade implications.⁴⁶

41 [Ibid.](#)

42 [Ibid.](#)

43 FAAE, [Evidence](#), 27 April 2021.

44 [Ibid.](#)

45 [Ibid.](#)

46 Rideau Institute on International Affairs, [written brief](#), published on 13 May 2021.



ASSESSING SUBSTANTIAL RISK: CANADA'S EXPORT PERMITS TO TURKEY

A Narrow Conception of Risk

In addition to the comments that were made about the overall operation and orientation of Canada's system for controlling the export of military goods and technology, witnesses considered the risk assessment that appears to have informed decision-making in the case of export permits to Turkey. As will be outlined below, some testimony the Committee heard suggested that the larger regional context in which Turkey is a key diplomatic and military actor—and the volatility created by that region's many active and unresolved conflicts—should have received greater consideration, including with respect to Turkey's increasingly assertive foreign policy.

The documents provided to the Committee suggest that Global Affairs Canada officials—when providing advice to the minister on export permit applications for Turkey—attached importance to Canada's relationship with Turkey, both bilaterally and in the NATO context, and to the situation in Syria. On the latter issue, different conclusions were reached about Turkey's role and behaviour in different phases of the Syria conflict. While Turkey's incursion against Kurdish forces in northeastern Syria was seen as a destabilizing move and led to the October 2019 decision to suspend all new export permits for controlled goods,⁴⁷ Turkey's military operation against Russian- and Assad regime-backed forces in Idlib—northwestern Syria—months later was seen as supporting Turkey's legitimate security concerns and helping to forestall a humanitarian crisis.

The 2 September 2020 memorandum for action is the first instance where Turkey's role in situations beyond its own borders and the Syria conflict is detailed.⁴⁸ Global Affairs

47 See, for example Justin Ling, "[Ottawa halts weapon sales to Turkey after it invades Syria](#)," *National Post*, 15 October 2019. The Global Affairs Canada statement quoted in the article conveyed that Turkey's unilateral push into the majority-Kurdish territory of northeastern Syria risked "undermining the stability of an already-fragile region, exacerbating the humanitarian situation and rolling back progress achieved by the Global Coalition Against Daesh, of which Turkey is a member." Furthermore, Global Affairs Canada called "for the protection of civilians and on all parties to respect their obligations under international law, including unhindered access for humanitarian aid."

48 Global Affairs Canada, *Memorandum for Action to the Minister of Foreign Affairs*, BPTS: 03389-2020, 2 September 2020 in [Minister of Foreign Affairs—Documents submitted](#), p. 63.

Canada noted that, since the minister's approval—as recommended—of the Wescam permits for Turkey in May 2020,⁴⁹

Turkey has continued its military engagement in Syria, Iraq and Libya. It also took a strong public stance in favour of Azerbaijan during the recent fighting with Armenia, and adopted a confrontational approach on eastern Mediterranean drilling (with drones escorting drilling vessels) that has fueled tensions with Egypt, France and Greece—all of which could increase the risk of the drones being used in conflict.⁵⁰

Nevertheless, Global Affairs Canada indicated to Minister Champagne that there had been “no indications” that Turkey had violated the assurances it provided to the minister regarding the terms of the arms exports already approved. Those were conveyed during Minister Champagne's 13 April 2020 call with Turkey's Minister of Foreign Affairs, who “provided assurances that these items would be used and are required for Turkey's defensive activities in Idlib.”⁵¹ Global Affairs Canada recommended that another redacted number of applications be approved.⁵²

49 Following Global Affairs Canada's consultations with interdepartmental partners, it was determined that there was no “substantial risk” that any of the items in the export permits and permit amendment requests attached to the 1 May 2020 memorandum would be used for any of the negative consequences specified in the *Export and Import Permits Act*. Minister Champagne's concurrence with the department's recommendation on 6 May 2020 included the stipulation that the permits contained in the memorandum “be valid for only one year.” See Global Affairs Canada, *Memorandum for Action to the Minister of Foreign Affairs*, BPTS: 01794-2020, 1 May 2020 in [Minister of Foreign Affairs—Documents submitted](#), p. 56 and 58.

50 Global Affairs Canada, *Memorandum for Action to the Minister of Foreign Affairs*, BPTS: 03389-2020, 2 September 2020 in [Minister of Foreign Affairs—Documents submitted](#), p. 63.

51 Global Affairs Canada, *Memorandum for Action to the Minister of Foreign Affairs*, BPTS: 01794-2020, 1 May 2020 in [Minister of Foreign Affairs—Documents submitted](#), p. 59. This point was confirmed in testimony by GAC; Mr. Christie told the Committee that “the Turkish government assured us that it would not be using these Canadian sensors, those technologies, for offensive purposes. We knew they were being used in the drones being built in Turkey, but we had no evidence that their use contravened our commitment under the Arms Trade Treaty.” See FAAE, [Evidence](#), 13 April 2021. The 1 May 2020 action memorandum indicates that the items included in the redacted number of export permits were “intended to be integrated into medium-altitude long-endurance [Unmanned Aerial Vehicles—UAVs].” Those UAVs, according to the memorandum, “can be used defensively and offensively.” Elsewhere, the memorandum observes that Turkish-built drones were “key” to Turkey's air campaign in Idlib, and “would likely again act as a significant element in Turkey's operations, were the March 5 ceasefire to collapse” (see p. 58).

52 The minister's decision is not shown in the copy of the 2 September 2020 action memorandum received by the Committee. Emails indicate that Minister Champagne had been scheduled to review the permits on Monday, 28 September 2020. However, reporting from the weekend prior raised the possible transfer of Turkish military equipment to Azerbaijan. A briefing then appears to have been scheduled for 2 October 2020. See email from Robert Coleman, 1 October 2020, 13:25:51, in [Department of Foreign Affairs, Trade and Development—Documents submitted April 7, 2021](#), p. 375. The suspension of relevant permits to Turkey was announced on 5 October 2020.



Reflecting on what transpired, Professor Michael Byers observed that officials are “looking at circumstances in a very narrow temporal and geographic scope.” He continued:

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.⁵³

A NATO Partner and a Unilateral Actor

Turkey was described by Global Affairs Canada as “an important bilateral and strategic partner of Canada and ... a valued NATO partner.”⁵⁴ Others saw a more nuanced picture. Reflecting on Turkey’s military posture, Chris Kilford—who served in the Canadian Armed Forces for 36 years and spent three years as Canadian defence attaché to Turkey with cross-accreditation to Azerbaijan—said he could not think “of any armed forces anywhere in the world that is currently involved in so many armed conflicts, either directly or indirectly, other than Russia.”⁵⁵ Christian Leuprecht, Professor, Department of Political Science, Royal Military College of Canada, observed that “Turkey is undertaking a revisionist and hegemonic foreign policy which, at some times, coincides with our interests and NATO’s interests, but, at other times, does the opposite.” He added that “Turkey often acts in a much more sovereign and unilateral fashion than most other NATO member countries.”⁵⁶

James Fergusson, Professor, Centre for Defence and Security Studies, Department of Political Studies, University of Manitoba, suggested that there have been concerns for several years about Turkey on the part of NATO allies and European Union countries. According to Professor Fergusson:

The difficulty for all concerned is Turkey’s status as a key geostrategic member of the alliance, the implications of coordinated allied military and dual-use export controls on Turkish membership, and in particular its importance relative to NATO deterrence

53 FAAE, [Evidence](#), 27 April 2021.

54 FAAE, [Evidence](#), 13 April 2021 (Bruce Christie).

55 FAAE, [Evidence](#), 13 April 2021. Dr. Kilford, who retired from the Canadian Armed Forces in September 2014, appeared as an individual.

56 FAAE, [Evidence](#), 13 April 2021.

activities on the southern flank and in the Black Sea. It also has implications for peace and stability in south Europe and the Aegean Sea.⁵⁷

The challenge where Turkey is concerned, according to Professor Fergusson, is the “clash” between the legal in-area commitments of NATO allies, such as the article 3 requirement in NATO’s foundational treaty regarding mutual aid and maintenance of allied capacity to resist armed attack, and out-of-area interests that are national in nature. In that regard, he observed, “Turkey has distinctly different interests in the Middle East that are not entirely shared by the rest of the alliance.”⁵⁸

A Missed Warning Sign from Libya?

From the perspective of Project Ploughshares, the risks involved with arms exports to Turkey should have been apparent, particularly in light of Turkey’s involvement in Libya. Kelsey Gallagher, Researcher, Project Ploughshares, drew the Committee’s attention to the December 2019 report of the United Nations Panel of Experts on Libya. In its summary of that conflict, which covers events from 5 September 2018 to 20 October 2019, the panel found that “Jordan, Turkey and the United Arab Emirates routinely and sometimes blatantly supplied weapons, employing little effort to disguise the source.”⁵⁹ The Bayraktar TB2 is listed as one of the unmanned combat aerial vehicles (UCAVs) used in Libya.⁶⁰ The panel indicated that it had written to Turkey and Libya’s Government of National Accord “requesting further information regarding the transfer to Libya of Bayraktar TB2 UCAVs in non-compliance with paragraph 9 of resolution 1970 (2011), but received no response.”⁶¹ The paragraph in question pertains to the arms embargo on Libya, requiring all UN member states to prevent the direct or indirect supply of arms and related material to Libya.⁶² Referring to the Panel of Experts report, Mr. Gallagher asserted that the Bayraktar TB2 “is invariably equipped with Canadian-

57 FAAE, *Evidence*, 11 May 2021.

58 Ibid.

59 United Nations Security Council, *Final report of the Panel of Experts on Libya established pursuant to Security Council resolution 1973 (2011)*, S/2019/914, 9 December 2019, p. 2.

60 Ibid., table 5, p. 32.

61 Ibid., paragraph 121, p. 38.

62 See United Nations Security Council, *S/RES/1970 (2011)*, 26 February 2011.



made Wescam sensors.” He believes “[t]hese findings alone should have made clear the substantial risk associated with these arms exports.”⁶³

The Government of Canada’s April 2021 report on export permits to Turkey describes the UN Panel of Experts report as “possessing a high degree of credibility.” Turkey and Libya’s Government of National Accord reached a security and military cooperation agreement on 27 November 2019. The government’s report notes that,

[t]he Panel of Experts identified numerous instances in which Turkey supplied Bayraktar TB2 UAVs to the GNA during the period between May and December 2019, prior to Turkey’s military intervention. The report noted that by November 2019, Turkey supplied at least 13 Bayraktar TB2 UAVs to the GNA, but likely more. Open-source assessments suggest that Turkey was likely operating the UAVs for the GNA, given the complexity of the system. However, the Panel of Experts’ report does not provide sufficient evidence to determine whether UAVs supplied to the GNA during this period were equipped with Wescam sensors.⁶⁴

Nevertheless, another section of the same report observes that “Canadian sensors are listed as the exclusive sensor technology for Baykar’s UAVs as per its catalogue.”⁶⁵

Among the concerns the Committee heard about Canada’s risk assessment system is that it is reactive,⁶⁶ and overly focused on direct evidence of use⁶⁷ rather than the “prospect” of risk.⁶⁸ The Government of Canada’s April 2021 report indicates that Minister Champagne was informed in early October 2020 “of reports that Turkish-made Bayraktar TB2 UAVs—most likely equipped with Canadian sensors—may have been used in combat operations in Nagorno-Karabakh, Libya and linked to alleged violations of

63 FAAE, [Evidence](#), 10 December 2020. Mr. Gallagher’s report argues that, “It can be reasonably assumed that the UAVs shipped to [Libya’s Government of National Accord, GNA] were equipped with WESCAM units, due to the platform’s reliance upon these sensors, and the apparent absence of any replacements in Turkey or Libya.” The report also asserts that “social media photos and videos of downed GNA TB2s display WESCAM units.” See Kelsey Gallagher, [Killer Optics: Exports of WESCAM Sensors to Turkey—A Litmus Test of Canada’s Compliance with the Arms Trade Treaty](#), Project Ploughshares, September 2020, p. 20.

64 Government of Canada, [Final report: Review of export permits to Turkey](#).

65 [Ibid.](#)

66 FAAE, [Evidence](#), 10 December 2020 (Cesar Jaramillo, Executive Director, Project Ploughshares).

67 FAAE, [Evidence](#), 27 April 2021 ([Peggy Mason](#), former Ambassador and President, Rideau Institute on International Affairs; and [Daniel Turp](#), Associate Professor, Université de Montréal). Focusing on the way the government assesses the risk of gender-based violence, Allison Pytlak, Disarmament Programme Manager, Women’s International League for Peace and Freedom, also argued that the concepts of commission and facilitation are possibly being conflated. Facilitate, she noted, means to “make something possible or easier,” and is not restricted to a finding of “deliberate targeting.” See FAAE, [Evidence](#), 27 April 2021.

68 FAAE, [Evidence](#), 10 December 2020 (Stacia Loft, Articling Fellow, Amnesty International Canada).

international humanitarian law in Syria.”⁶⁹ Mr. Christie told the Committee that, while the government’s review determined that “there may have been credible evidence” that the Canadian sensors integrated in Turkish UAVs were used in Libya, “prior to that we had no evidence that any Canadian military exports, or any technology exports, were being used for offensive purposes in Libya or in violation of our Arms Trade Treaty criteria.”⁷⁰

Professor Michael Byers believes that, “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.” In his view, “That should have been enough to stop the issuing of further arms export permits to Turkey.”⁷¹

A Conflict Thought to be Frozen

When monitoring conflict dynamics, an incident or development that can be later understood as one of the rungs of an escalatory ladder may appear, at the time it is being analyzed, as not having changed a situation in its fundamentals. On the other hand, connections between incidents and actors can be missed, as can the addition of more combustible elements.

Mr. Christie described the Nagorno-Karabakh conflict from Global Affairs Canada’s perspective as having been largely “dormant” before the fighting “erupted rather quickly” on 25 September 2020.⁷² Sandra McCardell, Assistant Deputy Minister, Europe, Arctic, Middle East and Maghreb, Global Affairs Canada, characterized the July 2020 border clashes between Armenian and Azerbaijani forces as taking place “against a backdrop of rising and falling tensions between Armenia and Azerbaijan over the Nagorno-Karabakh region, which have lasted for many years.” She told the Committee that, while the “flare-up” in July 2020 was concerning, it “did not at that time appear to be taking on what we would see down the road, a few months later, as a very significant outbreak of violence and conflict between the two sides.”⁷³

Other testimony emphasized the unsettled nature of the Nagorno-Karabakh conflict, alongside Turkey’s known and growing support for Azerbaijan. Christopher Waters,

69 Government of Canada, [Final report: Review of export permits to Turkey](#).

70 FAAE, [Evidence](#), 13 April 2021.

71 FAAE, [Evidence](#), 27 April 2021.

72 FAAE, [Evidence](#), 13 April 2021.

73 [Ibid.](#)



Professor, Faculty of Law, University of Windsor, who has worked in and on the South Caucasus since 1998, observed that the Nagorno-Karabakh conflict was “never frozen.” In his assessment,

[i]t 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.⁷⁴

Turkey’s arms sales to Azerbaijan, Professor Waters later noted, “increased sixfold the year prior to the conflict.”⁷⁵

The complexity of the risk factors involved in this situation—described as a “tinderbox” by Professor Waters—were apparent in his responses to questions about how the trends and indicators mentioned above should have been interpreted. Professor Waters acknowledged “there have been so many flare-ups of that conflict over time that ... it was difficult to say that this was going to be the one where Azerbaijan would make its major offensive.”⁷⁶ Nevertheless, he also expressed his view 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.”⁷⁷ Bessma Momani, Professor, University of Waterloo, noted Azerbaijan’s acquisition of modern weapon systems over the 10 to 15-year period preceding the conflict, which was enabled by the country’s oil wealth. “Those who are watching the region thought that indeed they were going to try to take back this region,” she said.⁷⁸

74 FAAE, [Evidence](#), 27 April 2021.

75 [Ibid.](#) The Government of Canada’s April 2021 [report](#) on the review of export permits to Turkey notes a 23 June 2020 article in Turkish media reporting that Azerbaijan’s Ministry of Defence “had publically announced, following parliamentary approval, that Azerbaijan was seeking to purchase Turkish-made UAVs.” Another article from 17 July 2020 “reported that Turkish Defense Industries Presidency (SSB) Chairman Demir publically stated that Turkey ‘will always back Azerbaijan with its UAVs, ammunition, missiles and electronic warfare systems’.” A brief provided to the Committee from the Stockholm International Peace Research Institute (SIPRI) notes that Russia was the largest exporter of major arms to Azerbaijan over the 2011–2020 period, followed by Israel, Belarus and Turkey. See Pieter D. Wezeman, Alexandra Kuimova and Jordan Smith, [Arms transfers to conflict zones: The case of Nagorno-Karabakh](#), SIPRI, 30 April 2021.

76 FAAE, [Evidence](#), 27 April 2021.

77 [Ibid.](#)

78 FAAE, [Evidence](#), 13 April 2021.

Reflecting on the role that Turkey played, Pierre Jolicoeur, Professor, Department of Political Science, Royal Military College of Canada, commented that, while Turkey has long been Azerbaijan's ally, its support was more limited in the past, including its involvement in organizing an embargo around Armenia in the early 1990s. According to Professor Jolicoeur, the new factor in the 2020 iteration of the Nagorno-Karabakh conflict was Turkey's "more intense involvement."⁷⁹

As was noted earlier, the Government of Canada relies on expertise and intelligence from Global Affairs Canada and its network abroad as well as other government departments when assessing risk. However, witnesses noted that Canada does not have a diplomatic presence on the ground in the South Caucasus. The Canadian embassy in Moscow, Russia is responsible for Armenia, and the Canadian embassy in Ankara, Turkey for Azerbaijan. Professor Leuprecht argued that, "if we're going to engage in these types of exports into high-risk areas and regions, we need to make sure that we also have our own representation on the ground."⁸⁰ In the view of Professor Waters, "the absence of local intelligence should make us even more vigilant in assessing regional partnerships and the likelihood of armed sales or transfers."⁸¹

The testimony of some witnesses suggested that the export of military goods and technology to countries connected to such complex regions of the world should be subject to a careful risk assessment, or even treated with something akin to the precautionary principle. Professor Byers remarked that, given the high stakes involved in the Caucasus and the Middle East, "perhaps our first goal should be to avoid adding fuel to the fire."⁸²

While keeping in mind that every conflict situation is very complex, having a Canadian diplomatic presence on the ground makes it easier to collect information, giving a more complete picture of what is happening. In the case of the Nagorno-Karabakh conflict, the Committee notes that Canada has no diplomatic presence in the region, in either Yerevan or Baku, despite the government's commitment to engage in the region, and that this could have affected the quality of information available for properly assessing the situation on the ground.

79 FAAE, *Evidence*, 11 May 2021.

80 FAAE, *Evidence*, 13 April 2021.

81 FAAE, *Evidence*, 27 April 2021.

82 *Ibid.*



A Game-Changing Capability

Testimony suggested that advanced drone technology inherently involves risks. Professor Momani sees drones as being a “game-changer” in modern warfare.⁸³ Drones can, she observed, be used “to effectively mimic what air power can do at a fraction of the cost.”⁸⁴

While the Government of Canada relied on assurances that the targeting and acquisition systems being exported by a Canadian company for incorporation on Turkish-made drones would be used for defensive purposes, Professor Leuprecht indicated that assessing drone technology “is highly challenging because it can be dual use for surveillance and humanitarian purposes, or for conflict purposes.” In his view, “That’s why the maximum strategic assessment is absolutely essential.”⁸⁵

Testimony also suggested that, given their range and targeting capabilities, the Bayraktar TB2 drones that Turkey provided to Azerbaijan had an impact on the conflict over Nagorno-Karabakh. Chris Kilford described the drones as follows:

The Bayraktar TB2 drones can loiter overhead for up to 25 hours. They have surveillance capabilities on board, but they also have four weapons hard points. That means that once they identify a target, they can also launch a rocket or a missile against that target. It’s a total package.⁸⁶

In Professor Leuprecht’s view, it is incumbent on the system to be asking “harder questions about the export of technology that might have those sorts of implications and that run counter to Canadian and NATO interests.”⁸⁷

83 FAAE, [Evidence](#), 13 April 2021.

84 [Ibid.](#)

85 [Ibid.](#)

86 [Ibid.](#) According to L3Harris Wescam, the MX-15D sensors are “ideal for medium-altitude covert surveillance, reconnaissance and target acquisition missions from manned and unmanned airborne platforms.” See [L3Harris, Wescam MX™-15D, Airborne Targeting and Designating](#).

87 FAAE, [Evidence](#), 13 April 2021.

The Committee's View

Canada's current system of export controls for military goods and technology seems to be occupying a middle ground where it is seen by civil society as being too permissive⁸⁸ and by industry as too cumbersome. Both perspectives appear to be found in the case of export permits to Turkey, where a lengthy assessment process within government was involved, but the technology in question—the Wescam sensors—was still approved for export despite the risk factors detailed above by the Committee's witnesses.

Different options were put forward to the Committee for how the system could be both strengthened and made more transparent and efficient. These can be summarized as follows:

- Pursuit of meaningful and regular consultations and engagement with civil society and industry representatives;
- Enhancements to the clarity and predictability of the permitting and risk assessment systems that could help industry to avoid unrealistic or problematic endeavours;⁸⁹
- Investment of greater diplomatic and expert resources toward ensuring a deeper understanding within government of the countries and regions affected by—as well as the military goods and technologies implicated in—Canada's arms export policy; and
- Ministerial instruction to government departments that Canada's obligations under international law should be the foremost consideration driving decision-making on the approval of permit applications,⁹⁰ and that those obligations should be applied universally and unconditionally.⁹¹

Specific proposals were also brought forward to address the many—and, according to some, conflicting—roles that have been given to Global Affairs Canada. As noted, the

88 For example, Cesar Jaramillo, Executive Director, Project Ploughshares, expressed his organization's perspective that "most Canadian arms exports help to sustain autocratic regimes, to perpetuate armed conflict or to enable the violation of human rights." See FAAE, *Evidence*, 10 December 2020.

89 FAAE, *Evidence*, 4 May 2021.

90 FAAE, *Evidence*, 27 April 2021 (Michael Byers, Professor, Department of Political Science, University of British Columbia).

91 *Ibid* (Kelsey Gallagher, Researcher, Project Ploughshares).



department is tasked both with advancing Canada’s commercial and diplomatic interests and with imposing restrictions on the export of military goods and technology through the assessment of risk.⁹²

Project Ploughshares wants to see ongoing parliamentary scrutiny through “the establishment of a subcommittee to monitor compliance with arms export controls.”⁹³ Referring to the parliamentary notifications that are required in the Netherlands,⁹⁴ Jean-Christophe Boucher, Assistant Professor, University of Calgary, suggested that Canada could establish “a list of countries where there needs to be an extra level of authorization and notification to Parliament that we are exporting weapons to these countries.” In his opinion, such a practice would enhance transparency.⁹⁵ In contrast to the reporting that is done in the Netherlands, Professor Boucher said that the annual report produced by Global Affairs Canada “does not really allow for an exhaustive analysis of what is being sold and where it is being sold.”⁹⁶

Peggy Mason is calling “for an independent expert agency to impartially administer our arms exports in full accordance with Canadian and international law.”⁹⁷ Doing so, Ms. Mason acknowledged, would be “groundbreaking” on Canada’s part.⁹⁸ In the interim, she is advocating for consultations to be held “on the creation of an arm’s-length advisory panel of experts,” which was announced by the Government of Canada

92 In addition to seeing Global Affairs Canada as “pursuing two contradictory policy objectives,” Peggy Mason commented that “when the minister announces an investigation by Global Affairs, he or she is really asking officials to determine whether they gave him or her bad advice the first time round. How likely are they to do that?” See FAAE, [Evidence](#), 10 December 2020. A [written submission](#) from two attorneys-at-law, Anaïs Kadian and Emilie Béatrice Kokmanian, also questioned Global Affairs Canada’s ability to conduct an impartial investigation. In that regard, they highlight that the April 2021 report on Canada’s export permits to Turkey “does not analyze the Minister’s initial decision to approve export permits for Targeting Sensors to Turkey in May 2020.”

93 FAAE, [Evidence](#), 27 April 2021.

94 In the Netherlands, the House of Representatives is notified—within two weeks of a decision—about new licenses involving the permanent export of complete systems worth more than €2 million to countries other than Australia, Japan, New Zealand, Switzerland, and European Union or NATO member states. The notifications “may or may not be confidential,” and “are accompanied by an explanatory note.” See [Dutch Arms Export Policy in 2019](#), Report by the Minister for Foreign Trade and Development Cooperation and the Minister of Foreign Affairs on the export of military goods, September 2020, p. 13.

95 FAAE, [Evidence](#), 11 May 2021.

96 [Ibid.](#) Australia produces permit statistics on a quarterly basis. See Australian Government, Department of Defence, Defence Export Controls, [Our performance](#).

97 FAAE, [Evidence](#), 27 April 2021.

98 [Ibid.](#)

in April 2020,⁹⁹ and for the mandating of “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.”¹⁰⁰ Christyn Cianfarani provided a different perspective, seeing in the absence of other national models of an arms-length agency or panel an indication “that goods and services of this nature are instruments of foreign policy and fall under the consideration of governments themselves.” In her view, “The government cannot shift its legal responsibility for permit approvals to some external body.”¹⁰¹

The Committee endorses the need for greater transparency and predictability in relation to Canada’s arms export policy, including with respect to the application of the risk assessment parameters that underpin it. The Committee recognizes the importance of Canada’s defence export industry to its defence industrial base and innovative capacity. Nevertheless, the Committee also believes that exports involving volatile regions of the world and emerging military technologies should be approached with a default toward hesitance, without the need for there to be incontrovertible—or overwhelming—evidence of misuse. There is, in other words, no balancing in the Committee’s mind between commercial and diplomatic interests and the assessment of risk, as determined by the legal obligations Canada has undertaken. While Canada’s commercial interests should rightly be promoted abroad, in any instances of conflict between those interests and the probability of risk, the course of action dictated by the risk assessment must prevail.

The Committee is not prepared, at this time, to recommend the creation of a new, independent agency given the likely time and costs involved, the potential for another agency to replicate some of the same concerns identified in this report, and the fundamental connection between export controls and Canada’s international relations. While the Committee is of the view that the resources devoted to the management of Canada’s arms export policy should be enhanced through regularized consultations with industry and independent experts, it is also mindful that the responsibility for upholding Canada’s obligations and interests, and the intelligence necessary to inform decision-making, are found within the governmental system.

99 GAC, *Canada improves terms of light armored vehicles contract, putting in place a new robust permits review process*, Statement, 9 April 2020. The 2020 *Report on the Export of Military Goods from Canada* clarifies that the advisory panel “would not be responsible for evaluating permit applications.”

100 FAAE, *Evidence*, 27 April 2021.

101 FAAE, *Evidence*, 4 May 2021.



The Committee believes that, first, a strengthened and more transparent risk assessment process should be put in place, given time to work, and evaluated. While it believes that Parliament has an important and continuing role to play in that regard, the Committee reiterates to the Government of Canada that parliamentary scrutiny of these matters requires full access to the information the Committee needs—when requested—to conduct its work, in keeping with the rights and privileges of parliamentary committees.

Recommendation 1

That the foremost consideration informing the Government of Canada’s arms export policy, including the assessment of risk, should be Canada’s domestic and international legal obligations, and that those obligations should be applied universally and consistently in all decisions about permit applications.

Recommendation 2

That the Government of Canada ensure that it has access to all necessary expertise, knowledge and information, including diplomatic, in relation to all countries, regions, and military goods, technologies, systems and subsystems implicated by export permit applications that are under review. In any cases where such information, knowledge or expertise does not exist, export permits should not proceed.

Recommendation 3

That the Government of Canada pursue regular and meaningful consultations with industry, civil society and independent experts regarding Canada’s arms export policy.

Recommendation 4

That, in any cases where civil society and independent experts have raised credible concerns about the misuse of Canadian technology with respect to the arms export permits regime, the Government of Canada take immediate action to understand and investigate those concerns. Should an investigation reveal that there is substantial risk that such an export permit is not compliant with domestic and international legal obligations, that – as in the case at hand – the permit be suspended and/or cancelled.

Recommendation 5

That the Government of Canada implement a system that would allow companies seeking permits for the export of military goods and technology to know the status of their application.

Recommendation 6

That the Government of Canada explore the most effective means of clarifying the destinations and military goods and technology that are typically considered to be low-risk, and those that are typically considered to be higher risk and therefore likely to involve a lengthy review process within government and/or a high likelihood of permit denial.

DIVERSION

As with risk assessment, the Committee heard different perspectives on the issue of diversion, which the ATT does not define but calls on states parties to prevent.¹⁰² According to Global Affairs Canada, the *Export and Import Permits Act* “is intended to regulate the movement of controlled goods and technology from Canada.” The department explained that it “does not have the legal authority to control the re-export of Canadian-made strategic goods and technology from one foreign country to another foreign country,” but that it does have the authority to request assurances from consignees “that the controlled good or technology will not be ‘re-exported’ to a foreign country.”¹⁰³

Canada has imposed requirements on permit applicants in relation to end-use assurances through policy¹⁰⁴ and regulation.¹⁰⁵ The *Export and Import Permits Act* prohibits diversion in relation to Canada’s Area Control List and Automatic Firearms Country Control List,¹⁰⁶ the transfer of permits to unauthorized persons,¹⁰⁷ and the submission—knowingly—of false or misleading information, or misrepresentations, in

102 United Nations, *The Arms Trade Treaty*, preamble and article 11. The Government of Canada’s April 2021 [review](#) of export permits to Turkey defines diversion as “the use of an exported item in an unauthorized destination, or for an end-use or by an end-user not identified in the permit application.” The measures Canada takes to prevent and address diversion are applicable to categories of conventional arms beyond those covered by ATT article 2(1); they are, according to the Government of Canada, “also applicable to all military and strategic items listed in Canada’s Export Control List.” See Government of Canada, [Initial Report on Measures Undertaken to Implement the Arms Trade Treaty, in Accordance with its Article 13\(1\)](#), 16 September 2020.

103 Global Affairs Canada, [written responses to questions](#), received on 2 June 2021.

104 Government of Canada, [Export and brokering controls handbook](#).

105 [Export Permits Regulations \(SOR/97-204\)](#).

106 *Export and Import Permits Act*, R.S.C., 1985, c. E-19, [section 15](#). There is one country—North Korea—currently on the Area Control List. The list of countries on the Automatic Firearms Country Control List is established by regulation. See [Automatic Firearms Country Control List, SOR/91-575](#).

107 *Export and Import Permits Act*, R.S.C., 1985, c. E-19, [section 16](#).



permit applications.¹⁰⁸ However, the broader risk of diversion on the part of end-users is not included explicitly in the Act's risk assessment criteria for permit applications.¹⁰⁹

The Meaning and Consequences of Diversion in the Case of Export Permits to Turkey

Some witnesses argued that the UN panel of expert's 2019 report on Libya should have served as a warning sign of the risk of diversion involving permits to Turkey. Kelsey Gallagher suggested that, after witnessing Turkey's "brazen behaviour in Libya, it should have come as no surprise to Global Affairs Canada that the same Canadian weapons would also be found illicitly fuelling the war in Nagorno-Karabakh." He characterized "Turkey's provision of Wescam sensors to its allies" as a "textbook example of diversion, which is the illicit transfer of weapons systems to unauthorized users."¹¹⁰

In the documents provided to the Committee, Global Affairs Canada officials confirmed that, "None of the permits issued to Wescam for items destined to Turkey from January 1, 2016 to September 27, 2020 indicate an end use in Libya, Azerbaijan or Armenia."¹¹¹ Bruce Christie told the Committee that, further to the end-user and end-use assurances that were attached to the permit applications, officials "have been engaged with [their] Turkish counterparts to confirm that the Canadian sensors or cameras that were being exported to Turkey were being used for defensive and humanitarian purposes, but were not being used in the Nagorno-Karabakh conflict."¹¹² Turkey did not provide any information to assist with that determination.¹¹³

The Canadian government's April 2021 report on export permits to Turkey stated that the "department is not in a position to confirm the diversion of Canadian military goods

108 *Export and Import Permits Act*, R.S.C., 1985, c. E-19, [section 17](#).

109 See *Export and Import Permits Act*, R.S.C., 1985, c. E-19, [section 7.3](#). According to policy, when permit applications are sent for consultations within government, one of the questions that will be asked is if there is "a strong likelihood that the proposed export may be diverted from its stated end-use or end-user." Furthermore, Canadian exporters and brokers are advised "that they also have a responsibility to conduct due diligence verifications of actual and potential foreign customers and to provide all relevant information in their permit applications." See Government of Canada, [Initial Report on Measures Undertaken to Implement the Arms Trade Treaty, in Accordance with its Article 13\(1\)](#), 16 September 2020.

110 FAAE, [Evidence](#), 10 December 2020.

111 *Possible Export Permit Linkages to Alleged Use of Turkish Drones in Conflict Zones*, briefing note attached to email from Judy Korecky, Global Affairs Canada, 1 October 2020, 7:15 p.m., in [Department of Foreign Affairs, Trade and Development—Documents submitted](#), p. 4.

112 FAAE, [Evidence](#), 13 April 2021.

113 [Ibid.](#)

and technology exported to Turkey,” but that “the Turkish Government’s actions could be interpreted as being inconsistent with end-use assurances provided to the Government of Canada in March 2020.” The end-use assurances in question, the report clarified, were letters from the Vice President of Turkey’s Presidency of Defense Industries that contained “assurances that Wescam’s sensors ‘are not diverted, re-exported or transferred to any third party for any reason.’”¹¹⁴

Regarding the actions of the Turkish company, Baykar, the Government of Canada’s report concluded that, “based on the information available to the department, Baykar has not violated any of its end-use assurances.”¹¹⁵ That conclusion is based on two factors: that the company was the official “consignee”¹¹⁶ of the Wescam sensors and incorporated those sensors into a finished product—the TB2 UAVs—for use by other customers. The report suggests that direct responsibility for delivering the TB2s to the Azerbaijani Armed Forces rests with the Turkish Armed Forces and not with the consignee—i.e., the company Baykar. The report asserts that “Baykar cannot be held accountable for the actions of the Turkish Government in relation to Nagorno-Karabakh, Syria, Libya or elsewhere.” The report observes that Baykar did not divert Wescam sensors—as imported—to an unauthorized destination or end-user; the company incorporated the sensors into its TB2 UAVs, “precisely as indicated by Baykar.” According to the department, following that process, the TB2 is considered “a new good.”¹¹⁷

114 Government of Canada, *Final report: Review of export permits to Turkey*.

115 *Ibid.*

116 According to the Government of Canada’s *Export and brokering controls handbook*, an example of a consignee can be found in a scenario where a Canadian exporter delivers goods to a company in another country that has won a contract to supply the goods in question to that country’s ministry of defence. In that scenario, the company in the receiving country would be the consignee and the ministry of defence the end-user. If, on the other hand, the goods were delivered directly to the ministry of defence, it would be the consignee and the end-user. A consignee could also be a manufacturer in another country that is using a good or technology produced by a Canadian exporter as part of the production of another system (e.g., parachutes manufactured in Canada for use in ejector seats made by a company in another country for installation in an aircraft being produced in a third country). While the company in the second country—the one that is making the ejector seats—would be listed as the consignee and the end-user, the subsequent use by the company in the third country assembling the aircraft “needs to be fully described in the Canadian export permit application.”

117 Government of Canada, *Final report: Review of export permits to Turkey*. According to a compendium of best practices published by the Secretariat of the Wassenaar Arrangement, a multilateral export control regime in which Canada participates, specifying that the integration of components and subsystems constitutes the “end use” is an approach that is “often used.” The other approach that can be used is to make “an agreed list of acceptable export destinations” part of the end-use assurance for a component or subsystem. “End use controls may also be put in place to restrict the actual end use of an exported final product, either geographically or in some other manner.” See Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, *Public Documents Volume III: Compendium of Best Practice Documents*, December 2019, p. 76.



Furthermore, Global Affairs Canada states that, because Canada does not export complete UAV systems to Turkey, “the continued export of Canadian sensors for use on UAVs is not inconsistent with Article 11 of the ATT” (on the prevention of diversion).¹¹⁸

According to Kelsey Gallagher, the department’s explanation,

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.¹¹⁹

In Mr. Gallagher’s view, this is an issue “that should be addressed.”¹²⁰

Professor Byers is of the opinion that the government’s conclusions on diversion in this case are an example of how the legislation is being interpreted “very narrowly.” He said,

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.¹²¹

Beyond the permits that were cancelled in April 2021, Global Affairs Canada has determined there is no “substantial risk” that the export of Canadian military goods and technology to Turkey will violate the *Arms Trade Treaty* provisions that have been incorporated in the *Export and Import Permits Act*. The report states:

Although there are concerns and risks related to certain aspects of Turkey’s assertive foreign policy, the assessment and decision-making process for pending and future Group 2 permit applications destined to Turkey should continue on a case-by-case basis, as outlined in the April 2020 Notice to Exporters.¹²²

118 Government of Canada, [Final report: Review of export permits to Turkey](#). The same section of the government’s report notes that, “Article 11 of the ATT requires state parties involved in the transfer of the conventional arms covered under Article 2(1) to take measures to prevent their diversion. Article 11 does not apply to parts and components of conventional arms.”

119 FAAE, [Evidence](#), 27 April 2021.

120 [Ibid.](#)

121 [Ibid.](#)

122 Government of Canada, [Final report: Review of export permits to Turkey](#).

Minister Garneau's announcement of his decision to cancel the relevant permits to Turkey also indicated that a dialogue will be initiated "to build mutual confidence and greater cooperation on export permits to ensure consistency with end-use assurances before any further permits for military goods and technology (Group 2) are issued."¹²³

Post-shipment Verification

Kelsey Gallagher told the Committee that Canada's export control regime could be strengthened by the addition of a post-shipment verification process, pointing to Germany and Switzerland as potential models.¹²⁴

A reference document provided to the Committee by the Stockholm International Peace Research Institute (SIPRI) elaborates on several existing post-shipment verification processes, including those developed by the United States and Switzerland. Most of the guidelines that have been developed internationally, SIPRI notes, "emphasize the fact that on-site inspections must be agreed on by both the exporting state and the importing state or end user, and specify that they should be used to inform future export licensing decisions."¹²⁵ The SIPRI document also observes that only a few exporting countries "have developed and implemented comprehensive post-shipment measures that include the possibility of conducting on-site inspections," and attributes their limited adoption to "issues related to national sovereignty, jurisdiction, and trust among exporters and importers."¹²⁶

On the role industry could play in a post-shipment verification process, Yan Cimon, Professor of Strategy, Université Laval, cautioned the Committee about the complexity of having one company "go beyond the other company's boundaries," and even more so when the product is in the hands of government agencies. He observed that service contracts are one way to introduce some supervision of end uses after shipments have been made.¹²⁷

123 GAC, [*Statement from Minister Garneau to announce the cancellation of export permits to Turkey*](#), Statement, 12 April 2021.

124 FAAE, [*Evidence*](#), 10 December 2020.

125 Andrea Edoardo Varisco, Kolja Brockmann and Lucile Robin, [*Post-shipment Control Measures: European Approaches to On-Site Inspections of Exported Military Materiel*](#), Background Paper, Stockholm International Peace Research Institute, December 2020, p. 9.

126 *Ibid.*, p. 5.

127 FAAE, [*Evidence*](#), 4 May 2021.



The Committee's View

The Committee believes that what transpired with the Canadian sensors exported for use on Turkish drones suggests the need for improvements in how Canada's end-use assurances are managed and conceived. The Committee's conclusion is based on its understanding that Canada did not intend—and indeed, would not have authorized—the sensors in question to end up on the battlefields of Libya and Nagorno-Karabakh.

The Committee is also of the view that, notwithstanding the complexities and sensitivities involved,¹²⁸ some form of post-shipment verification system could increase public confidence in Canada's arms export control regime, particularly in cases where concerns have been raised about a recipient's human rights record or foreign policy orientation. That is particularly so if Canada is going to continue to be a significant exporter of military goods and technology and one that exports to destinations beyond its closest allies. Canada, when designing such a verification system, could look to Germany, Switzerland and the United States for inspiration, as well as to a reference document provided to the Committee by the Stockholm International Peace Research Institute. Such a system could also provide valuable information as part of the government's ongoing assessment of risks, enabling a more proactive approach.

Recommendation 7

That the Government of Canada examine how stricter controls could be included in the end-use assurance documents attached to components and subsystems that are exported from Canada and later incorporated in finished military products and systems, with the goal of preventing transfers to any high-risk destinations without prior approval from Canada.

Recommendation 8

That the Government of Canada explore options for an effective and feasible post-shipment verification system that could be applied to military goods and technology being exported to destinations not determined to be low-risk. Prioritization could reflect the volume and type of military goods and technology being exported to such destinations, and any diversion concerns that have been identified.

128 Global Affairs Canada informed the Committee that, at present, the *Export and Import Permits Act* “does not provide Global Affairs Canada with the authority to conduct post-shipment verification.” See [written responses to questions](#), received on 2 June 2021.

APPENDIX A LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

Organizations and Individuals	Date	Meeting
Amnesty International Canada Stacia Loft, Articling Fellow Justin Mohammed, Human Rights Law and Policy Campaigner	2020/12/10	12
Project Ploughshares Kelsey Gallagher, Researcher Cesar Jaramillo, Executive Director	2020/12/10	12
Rideau Institute on International Affairs Peggy Mason, President Former Ambassador	2020/12/10	12
House of Commons Philippe Dufresne, Law Clerk and Parliamentary Counsel Michel Bédard, Deputy Law Clerk and Parliamentary Counsel	2021/03/11	22
As individuals Chris Kilford, Writer on Turkish and Middle Eastern issues Christian Leuprecht, Professor Department of Political Science, Royal Military College of Canada Bessma Momani, Professor University of Waterloo	2021/04/13	26

Organizations and Individuals	Date	Meeting
<p>Department of Foreign Affairs, Trade and Development</p> <p>Shalini Anand, Acting Director General Trade and Export Controls</p> <p>Colleen Calvert, Acting Corporate Secretary and Director General Cabinet and Parliamentary Affairs Division</p> <p>Bruce Christie, Associate Assistant Deputy Minister Trade Policy and Negotiations</p> <p>Sandra McCardell, Assistant Deputy Minister Europe, Arctic, Middle East and Maghreb</p> <p>Andrew Turner, Acting Director Eastern Europe and Eurasia Division</p>	2021/04/13	26
<p>As individuals</p> <p>Michael Byers, Professor Department of Political Science, University of British Columbia</p> <p>Daniel Turp, Associate Professor Université de Montréal</p> <p>Christopher Waters, Professor, Faculty of Law University of Windsor</p>	2021/04/27	30
<p>Project Ploughshares</p> <p>Kelsey Gallagher, Researcher</p> <p>Cesar Jaramillo, Executive Director</p>	2021/04/27	30
<p>Rideau Institute on International Affairs</p> <p>Peggy Mason, President Former Ambassador</p>	2021/04/27	30
<p>Women's International League for Peace and Freedom</p> <p>Allison Pytlak, Disarmament Programme Manager</p>	2021/04/27	30
<p>Aerospace Industries Association of Canada</p> <p>Mike Mueller, Interim President and Chief Executive Officer</p>	2021/05/04	32
<p>As an individual</p> <p>Yan Cimon, Professor of Strategy Université Laval</p>	2021/05/04	32

Organizations and Individuals	Date	Meeting
Canadian Association of Defence and Security Industries Christyn Cianfarani, President and Chief Executive Officer	2021/05/04	32
Canadian Chamber of Commerce Mark Agnew, Vice-President Policy and International	2021/05/04	32
Canadian Turkish Business Council Hon. Gar Knutson, Chair	2021/05/04	32
As individuals Jean-Christophe Boucher, Assistant Professor University of Calgary James Fergusson, Professor Centre for Defence and Security Studies, Department of Political Studies, University of Manitoba Pierre Jolicoeur, Professor Department of Political Science, Royal Military College of Canada	2021/05/11	34
BCF Business Law Dominique Babin, Lawyer and Partner	2021/05/11	34
National Assembly of the French Republic Jacques Maire, Member	2021/05/11	34

APPENDIX B LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

Cimon, Yan

Kadian, Anaïs

Kokmanian, Emilie Béatrice

Leuprecht, Christian

Rideau Institute on International Affairs

Stockholm International Peace Research Institute

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 12, 22, 26, 30, 32, 34 and 40 to 43](#)) is tabled.

Respectfully submitted,

Sven Spengemann
Chair

Supplement to the Standing Committee on Foreign Affairs and International Development Report on Assessing Risk, Preventing Diversion and Increasing Transparency: Strengthening Canada’s Arms Export Controls in a Volatile World

All members of the Standing Committee of Foreign Affairs and International Development support the completion of the final Report. The Conservative, Bloc and NDP members, representing the majority of the committee, recognize that many observations made during the study are not captured in the Report, as the Committee had limited time to complete it before summer adjournment, and wish to add the following evidence, observations and recommendations.

Wescam Sensors to Turkey

In the Government of Canada's April 2021 report on export permits to Turkey, officials noted that the December 2019 report of the United Nations Panel of Experts on Libya, which had examined embargo violations in Libya, “does not provide sufficient evidence to determine whether UAVs supplied to the [Government of National Accord] during this period were equipped with Wescam sensors.”¹ However, the 2021 report states that, “Canadian sensors are listed as the exclusive sensor technology for Baykar’s UAVs as per its catalogue.”² In light of this information, it is conceivable that, with further analysis, Canada could have potentially prevented Azerbaijan's use of Turkish drones equipped with Canadian technology.

It was also public knowledge that during border clashes between Azerbaijan and Armenia in the months and weeks leading up to the conflict in Nagorno-Karabakh, Turkey had voiced its full support for Azerbaijan. Global Affairs noted this in a 2 September 2020 memorandum for action to the Minister.³

Dr. Christopher Waters, Professor, Faculty of Law, University of Windsor, commented that,

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.⁴

¹ Government of Canada, Final report: [Review of export permits to Turkey](#).

² [Ibid.](#)

³ Global Affairs Canada, Memorandum for Action to the Minister of Foreign Affairs, BPTS: 03389-2020, 2 September 2020 in [Minister of Foreign Affairs—Documents submitted](#), p. 63.

⁴ FAAE, [Evidence](#), 27 April 2021.

However, the documents provided to the Committee suggest that Global Affairs Canada officials focused primarily on Canada's relationship with Turkey, as a NATO ally and partner on the situation in Syria, when providing advice to the Minister on export permit applications for Turkey.

A 14 September 2020 briefing note for Minister Champagne raises concerns about the priorities of the Government of Canada in Canada-Turkey relations, as well as concerns about Canada's obligations under the Arms Trade Treaty and Canadian law. The briefing note lists a top objective in the meeting between the Minister and his Turkish counterpart as advancing the candidacy of the Hon. Bill Morneau for Secretary General of the OECD. The briefing note then advises the Minister to indicate to his Turkish counterpart that a decision concerning arms export permits is imminent or approved, suggesting a link between Turkey's support for the Hon. Morneau's candidacy and the approval of arms export permits to Turkey.⁵

Ms. Peggy Mason, a former Ambassador and the President of the Rideau Institute on International Affairs, criticized the approach taken by Global Affairs Canada, stating that,

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.⁶

Mr. Cesar Jaramillo, Executive Director, Project Ploughshares, offered a similar view and said that that, "the law, both domestic and international, demands an objective, reliable system that is free from political interference and economic calculations."⁷ While Dr. James Fergusson, Professor, Centre for Defence and Security Studies, Department of Political Studies, University of Manitoba, instead suggested that, "as long as we as sovereign states, Canada included, are free to interpret these as we will, then the political realities will continue to be at play."⁸

In addition to seeing Global Affairs Canada as, "pursuing two contradictory policy objectives," Ms. Mason commented that, "when the Minister announces an investigation by Global Affairs, he or she is really asking officials to determine whether they gave him or her bad advice the first time round. How likely are they to do that?"⁹

⁵ Global Affairs Canada, [Minister of Foreign Affairs – Documents submitted](#), p. 137, 21 December 2020

⁶ FAAE, [Evidence](#), 27 April 2021.

⁷ FAAE, [Evidence](#), 27 April 2021.

⁸ FAAE, [Evidence](#), 11 May 2021.

⁹ FAAE, [Evidence](#), 10 Dec 2021.

Role of Canadian Arms in the Nagorno-Karabakh Conflict

The Committee heard from witnesses about the significant impact the Bayraktar drones had on the Nagorno-Karabakh conflict. Dr. Kilford, writer on Turkish and Middle Eastern issues, stated, “use of the Bayraktar drones arguably contributed to Azerbaijan’s success more than any other capability in their inventory.”¹⁰ Witnesses emphasised the significance of the Wescam sensors in the Bayraktar drones. Mr. Kelsey Gallagher, Researcher at Project Ploughshares, emphasised that,

they should not be mistaken for mere cameras. The variant of Canadian-made sensors exported to Turkey, the Wescam MX-15D, is also fitted with a laser designator. This component directs munitions toward their targets and is vital to launching modern air strikes.¹¹

Dr. Kilford described the Wescam sensors as of, “a very, very high-quality”¹² making them preferred product for buyers. Dr. Christian Leuprecht, Professor at Canada’s Royal Military College and Queen’s University, emphasized the impact the Wescam sensors had on the conflict and the wider geostrategic status quo,

ultimately, Canadian technology here fundamentally changed the geostrategic status quo, and it changed it in a way that was not in Canada’s interest and not aligned with NATO interests. Canada thus inadvertently aided and abetted a change in the geostrategic status quo.¹³

However, the documents provided to the Committee suggest that Global Affairs Canada officials—when providing advice to the Minister on export permit applications for Turkey—were largely focused on Canada’s relationship with Turkey, both bilaterally and in the NATO context, and on the situation in Syria.

Strengthening Canada’s End-use Assurances

Recommendation 7 of the Report calls for the Canadian government to examine ways to include more stringent controls on end-use assurances that are set out in the documents provided for the export of equipment that is shipped from Canada. We consider it necessary that this include an examination of controls in countries such as Germany and Switzerland, which witnesses pointed to as having models to emulate.

¹⁰ FAAE, [Evidence](#), 13 April 2021.

¹¹ FAAE, [Evidence](#), 10 December 2020.

¹² FAAE, [Evidence](#), 13 April 2021.

¹³ FAAE, [Evidence](#), 13 April 2021.

Supplementary Recommendations

Therefore, following review of testimony delivered to the Committee, the majority members of the Standing Committee on Foreign Affairs and International Development are pleased to submit the following supplementary recommendations to the Committee's Report:

Recommendation 1

That the Government of Canada support a requirement for Parliament to be notified of any significant arms export permit approvals not involving destinations or goods and technology determined to be low-risk.

Recommendation 2

That the Government of Canada ensure that Global Affairs Canada has sufficient capacity and appropriate resources to adhere to the Export and Import Permits Act and the Arms Trade Treaty.

Recommendation 3

That the Government of Canada harmonize the risk assessment process for all exports of Canadian military goods, at all stages, and across all relevant government bodies, including with respect to contracts brokered by the Canadian Commercial Corporation and transfers arranged by the Department of National Defence.

Recommendation 4

In order to enhance diplomatic presence in the region, the Government of Canada should consider establishing an embassy in the South Caucasus.

Recommendation 5

That the Government of Canada should consider creating a new independent body for the review of applications for arms export permits.