



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **Standing Committee on Foreign Affairs and International Development**

---

FAAE • NUMBER 075 • 1st SESSION • 42nd PARLIAMENT

---

**EVIDENCE**

**Tuesday, October 17, 2017**

—  
**Chair**

**The Honourable Robert Nault**



## Standing Committee on Foreign Affairs and International Development

Tuesday, October 17, 2017

• (1105)

[English]

**The Chair (Hon. Robert Nault (Kenora, Lib.)):** Colleagues, I'd like to bring this meeting to order.

This is meeting number 75 of your committee. We are here pursuant to the order of reference of Tuesday, October 3, 2017, in regard to Bill C-47, an act to amend the export and import permits act and the Criminal Code, regarding amendments permitting the accession to the Arms Trade Treaty and other amendments.

Before us this morning are the departmental officials from Foreign Affairs, Trade and Development, better known as Global Affairs. We have three members from the department on our panel. I understand that Mr. Arbeiter is going to begin the presentation, and I think Ms. Gilmour is also going to follow up with a presentation. Then we'll go to questions.

I'll turn the floor over to you, Richard, to begin the presentation.

[Translation]

**Mr. Richard Arbeiter (Director General, International Security Policy Bureau, Department of Foreign Affairs, Trade and Development):** Good morning.

My name is Richard Arbeiter. I am the director general of the international security policy bureau at Global Affairs Canada.

It is my pleasure to speak to you today. My colleague, Wendy Gilmour, will speak shortly to the details of Bill C-47, which would make amendments permitting Canada's accession to the Arms Trade Treaty, or ATT.

I will address the Arms Trade Treaty, itself—its origins, objectives, advantages, and contributions to an effective rules-based international system.

The proliferation of conventional weapons through illicit or unregulated arms trade represents a significant challenge to international peace and security. Vulnerable populations, including women and girls, are particularly at risk.

Either through a lack of regulation or illicit trade, conventional weapons proliferation can have the following effects: intensify and prolong conflict, leading to regional instability; contribute to violations of international humanitarian law and human rights abuses; hinder social and economic development; and benefit criminals and terrorists.

Canada has long recognized this threat. Indeed, Canada has been at the forefront of promoting export controls as a means to reduce the risks posed by illicit, unregulated trade.

Others too, including our closest allies and like-minded partners, alongside members of civil society, shared Canada's concerns about this challenge.

They determined that there was a need for a clear, internationally agreed-upon set of rules to regulate legitimate arms and thereby reduce the potential for the destabilizing proliferation of conventional weapons. The ATT has its origins in this understanding.

Intensive international negotiations, under the auspices of the United Nations, took place in 2012-13, leading to the development of the Arms Trade Treaty.

The ATT was successfully adopted by the UN General assembly in 2013 by a vote of 153 to three. Only Syria, North Korea, and Iran voted against it. A total of 130 states signed the ATT, and, at this point, 92 have deposited their instruments of ratification or acceded and are now states parties.

For exporting states, including Canada and our allies, one of the primary objectives for the ATT was the desire to see stronger export control standards applied globally, as a measure to combat the many dangers that come from unregulated or illicit conventional arms trade. As well, promoting systematic, considered, and effective decision-making on arms exports ensures that legitimate arms trade can continue in a transparent and responsible manner. Setting clear standards also creates a level playing field for legitimate members of the defence industry.

States affected by armed conflict and instability valued the opportunities afforded by the ATT to improve their national security and the safety of their communities by reducing illicit arms transfers into their territory.

This was also an opportunity to ensure strong humanitarian outcomes through the ATT. Indeed, a primary focus of the ATT is the need to protect innocent victims in conflict situations.

[English]

I would now like to turn to the advantages of the Arms Trade Treaty. Fundamentally, the ATT aims to reduce the widespread availability and misuse of weapons due to illicit, unregulated, or poorly regulated arms trade. To do so, the ATT requires states to have, or to put in place, an effective arms control system to regulate legitimate arms trade.

According to article 1 of the treaty, it sets “the highest possible common international standards” for regulating international arms trade. These standards include provisions in article 6 and article 7 of the ATT, which obligate states to undertake an assessment of how the potential exports will be used.

Article 6 sets out prohibitions where arms must never be exported, for example in cases where they could be used to commit or facilitate genocide or would violate UN arms embargos.

Article 7 lays out assessment factors that a state must take into account when considering individual exports. Article 7 also requires states to not export arms if there is an overriding risk of serious violations of, for example, international human rights law or international humanitarian law. For the first time in an international treaty, this includes an assessment of the potential impact on women and children, including gender-based violence.

Overall, Canada already meets most of the obligations of the ATT, although we must make certain important changes to fully comply with two of its provisions.

As Minister Freeland noted in her speech to Parliament on June 6 that outlined Canada's foreign policy objectives, “Canada has been deeply engaged in, and greatly enjoyed the benefits of, a global order based on rules.” The ATT is part of this effective rules-based international system. Canada's accession provides us an invaluable opportunity to further engage in and strengthen that system. By undertaking legislative changes to join the ATT, Canada will be taking a stronger role in joining our allies to ensure that states have strong and rigorous export controls.

We are lending our voice, alongside the vast majority of our allies, to international efforts to better control the flow of conventional weapons. Our accession to the ATT provides Canada with an additional forum to work with international partners to further improve the practice of export controls globally.

While our existing standards do meet the majority of ATT obligations, for Canada and our allies, accession to the ATT is about reinforcing and promoting our commitment to responsible arms trade.

For many other states, meeting the common standard of the ATT will represent a significant step toward better controlling the conventional weapons that flow through their territories. It is working. A number of states are now working actively to improve national legislation and export control regulation to allow them to join the ATT and meet its obligations. In this way the ATT helps to prevent the export of arms into conflict zones from states that have weak or no export control regimes. It can also make it more difficult for weapons to be acquired through diversion or other illicit means.

Canada is concretely supporting this objective, including through a \$1-million contribution to the UN Trust Facility Supporting Cooperation on Arms Regulation. This flexible mechanism has an impressive track record of supporting states pursuing ATT accession. Canada's contribution will support implementation of the treaty in regions affected by illicit and irresponsible trade in conventional arms. As an example, in 2006 this UN facility contributed to efforts by Ghana, Namibia, and Zambia to prepare legislation and regulations on brokering controls. This facility has also been active

in funding projects across the Pacific island states to promote the inclusion of ATT standards in regional frameworks and national systems.

While we are confident the ATT will make a contribution to improving export controls globally, questions have been raised about its effectiveness, given that a number of major exporting states have chosen to remain outside it. First, while this is true, a significant number of other major exporters of arms, including all members of the European Union, are state parties. Second, the effectiveness of an international treaty cannot only be measured by how many member states it has but by the current and downstream impact it has on the behaviour of those both inside and outside the treaty.

Treaties like the ATT establish international norms that can influence even those who choose to remain outside. The Ottawa convention, or anti-personnel landmines convention, is a prime example of this. Twenty years on, it has set a clear standard against the use of these weapons. This norm has affected the behaviour not only of state parties but of those outside the treaty, many of whom have significantly reduced their use of landmines.

It is fair to say that the full effects of the ATT on international norms will not be experienced overnight. This is typical of international conventions. Over time, as more states undertake the changes necessary to join the treaty, the ATT will continue to contribute to the establishment of a universal standard, setting the bar for what represents responsible trade in arms.

Having outlined the ATT's advantages and contributions, I would also like to clearly address what the treaty does not cover.

The ATT does not place restrictions on the types or quantities of arms that may be bought, sold, or possessed by states. Instead it seeks a global standard on how the impacts of those arms should factor into where they are exported.

•(1110)

The ATT also does not impact, and I would like to underline this, domestic gun control laws or other firearm ownership policies. The sovereign right of states to regulate and control conventional arms in their territory is clearly recognized in the treaty. As the ATT was being negotiated in 2012, additional preambular language proposed by Canada was agreed that recognizes “the legitimate trade and lawful ownership, and use of certain conventional arms for recreational, cultural, historical, and sporting activities”.

The ATT also does not impose new reporting requirements on Canada. It does not require that Canada create a registry of individuals who legally own conventional arms. The reporting obligations in the ATT in article 13 expressly state that the data that is reported to the Arms Trade Treaty secretariat can be identical to what was listed in annual reports to the United Nations Register of Conventional Arms for the specific items covered by the Arms Trade Treaty. Canada has been filing these reports for nearly 25 years, since 1993. The treaty entails no new reporting requirements for Canada.

Article 12, which requires that each state party maintain national records of exports, is also not a new obligation for Canada. Canadian exporters are currently required to keep relevant records to demonstrate that they are in compliance with the Export and Import Permits Act. They have been required to do so for decades. These obligations for exporters will not change.

These records, which are specific to the administration of export and import permits, are only retained in Canada. There is no requirement in the ATT to share national records with other members or with the ATT secretariat. This ensures that personal and business confidential information will remain protected. The Arms Trade Treaty is the first international treaty that seeks to address the problems caused by the illicit trade in conventional arms. By acceding to it, Canada will be joining many of our allies, and we will be serving as a role model for the rest of the world.

With this broad introduction to the ATT and its origins, objectives, advantages, and contributions to an effective, rules-based international order, I will now turn the floor over to my colleague Ms. Wendy Gilmour. She will speak to the specific changes proposed in Bill C-47 and how they will be implemented.

[Translation]

Thank you.

• (1115)

[English]

**Ms. Wendy Gilmour (Director General, Trade and Export Controls Bureau, Department of Foreign Affairs, Trade and Development):** Thank you very much, Richard.

Thank you, Chair and committee members, for the opportunity to be here today to speak to you about Bill C-47.

My name is Wendy Gilmour. I'm director general of the trade and export controls bureau at the Department of Foreign Affairs...at Global Affairs Canada.

**Voices:** Oh, oh!

**Ms. Wendy Gilmour:** I am sorry. We also have our challenges.

**Ms. Hélène Laverdière (Laurier—Sainte-Marie, NDP):** I still have problems with that too.

**Ms. Wendy Gilmour:** I would also like to introduce Robert Brookfield, who is here with us. He is the director general of the trade law bureau. He, with his team, has been integral in helping us to prepare Bill C-47 and to provide advice on Canada's Export and Import Permits Act.

Richard has provided a helpful overview of the Arms Trade Treaty and its positive impact on the development of international norms around effective export controls. I will speak to Bill C-47 and how it will support Canada's accession to the Arms Trade Treaty and strengthen Canada's existing export control program for military, dual-use, and strategic goods and technology.

From a trade controls perspective, Canada's accession to the ATT will cement our leadership role in the global effort to universalize best practices for effective export controls. Canada has played a consistent role in the establishment of international norms to support the effective control of conventional weapons and related goods and technology since the establishment of the Wassenaar arrangement in the aftermath of the Cold War, as well as the subsequent establishment of other key multilateral export control and non-proliferation regimes.

Joining the Arms Trade Treaty community will provide Canada with new opportunities to continue this important work alongside our closest allies and partners, including the U.S. as a signatory to the treaty, and all our other NATO partners who are already states parties.

Turning to specific provisions of Bill C-47, I'd like to highlight two key provisions that are key to our accession to the Arms Trade Treaty.

At present, Canada meets 26 of 28 specific commitments contained in the treaty. The two elements of Bill C-47 address these last two commitments that we do not meet: first, to formalize and make explicit Canada's export permit considerations to ensure that they are consistent with article 7 of the treaty; and second, to regulate arms brokering in accordance with article 10 of the treaty.

Let me first speak to the ATT assessment considerations.

Article 7 of the ATT requires each state party to consider a number of specific risks with respect to the items proposed for export, before authorizing the export to take place. Canada's current export permit considerations are consistent with all these elements as outlined in the ATT, but are established as a matter of policy, not law. In drafting Bill C-47, existing Canadian law and practices were examined, including with respect to other Canadian regulatory programs, as well as the approach taken by our allies who are already members of the ATT. The critical element was the need to create a legally binding obligation for the minister to take the ATT assessment considerations into account in deciding whether to issue an export permit.

The conclusion was that this obligation would be most effectively implemented through regulation. This is consistent with the practices of our common law allies regarding ATT implementation. It is also consistent with Canadian domestic practice. Most notably, Canadian economic sanctions are implemented via regulation established under specific statutes, a design that allows new sanctions to be put in place more efficiently than would be possible through legislative change.

That is a key point, as the advantage of regulation is the ability to accommodate evolving threats and new international norms more quickly than would be possible through changes to legislation. This was a lesson learned in the years following 9/11, when the nexus of terrorism and organized crime were clearly identified as tangible threats to both Canadian and international security. Parliament incorporated these elements into Canada's Export and Import Permits Act, but it took four years to do so.

As Richard pointed out, one of the benefits of the Arms Trade Treaty is that it has advanced international norms regarding our understanding of the link between conflict and serious acts of violence towards women and girls. We should anticipate that our understanding of conflict and instability will continue to evolve, as will the use of technology with respect to conventional weapons and weapons of mass destruction. Establishing export permit considerations in regulation will ensure that Canada's assessment of the risks related to military exports will also continue to evolve.

The new regulation will be consistent with the specific risks identified in article 7 of the treaty. It's critical to Canada's full implementation of the treaty, which in turn is key to Canada's leadership in the effective implementation of a multilateral, rules-based system. Canada's practice with respect to international treaty law is to fully implement all obligations before we accede, and we fully expect and encourage other states to follow this example.

Should Parliament pass this bill, the Minister of Foreign Affairs will move expeditiously with the regulatory process, beginning with prepublication of all new regulations associated with Bill C-47, including the export permit assessment considerations.

• (1120)

Canadians will have an opportunity to provide input into the regulation, as will parliamentarians. Parliament will also have an opportunity to provide oversight via the Standing Joint Committee for the Scrutiny of Regulations.

Let me turn quickly to brokering controls, which is the second element that we are required to change in order to become compliant with the treaty's obligations.

Article 10 of the ATT requires each state to "regulate brokering taking place under its jurisdiction". Bill C-47 will establish new Canadian brokering regulations, first by defining arms "brokering" as arranging or negotiating the movement of listed goods or technology from one foreign country to another foreign country.

The bill will also establish that Canada's brokering regulations will cover any person in Canada, as well as Canadian citizens, permanent residents, and Canadian-registered organizations abroad. These provisions are consistent with the practices of Canada's allies and close partners and will support the full implementation of the ATT's brokering controls.

A number of provisions in the bill are also included simply to add the word "organizations" to the existing provisions in the Export and Import Permits Act. This is because arms brokering activities typically may be carried out by a wider variety of entities than were covered by the existing definition of "person" in the EIPA. Brokering transactions will be subject to the same considerations as our export applications.

Brokering regulations will strengthen Canada's export control system by controlling the movement of listed items outside of Canada, thereby reducing the risk associated with illicit trafficking of arms and military equipment by unscrupulous actors who might seek to operate in jurisdictions with limited domestic oversight. Establishing arms brokering controls places Canada in good company with like-minded nations.

Additional provisions in Bill C-47 will also support strengthening Canada's export controls: notably, modernizing the penalty for a summary conviction of an offence under the EIPA by increasing the fine of \$25,000, which was established in 1991, to \$250,000.

Additionally, the bill will create a statutory requirement and a statutory tabling date for the annual report to Parliament on military exports. Canada led the international community in 1991 in establishing public reporting of military exports, and we will continue to set an effective international example by formalizing the delivery of this report through Bill C-47.

Before I conclude, I would like to take a moment to address an issue that was raised during the debate in the House of Commons, specifically, the permit-free transfer of most controlled goods to the United States.

Canada's defence relationship with the United States is our most important bilateral relationship. Both of our countries have benefited from a shared North American defence industrial base for decades. This was formally established through the defence production sharing agreement in 1957.

This DPISA and other bilateral agreements continue to serve Canadian interests, supporting a robust defence industry of over 63,000 jobs and contributing upwards of \$6.7 billion annually to GDP. The defence manufacturing base supports wages that are approximately 60% above that of the rest of the manufacturing sector, and innovation-relevant occupations account for over 30% of the defence industry's direct employment. These valuable jobs are spread all across Canada.

This industrial activity is directly supported by the ease of access to the U.S. market by Canadian industry. Increasingly, and just as in other sectors, cross-border supply chains require the efficient movement of parts and components in both directions. This is particularly important for small and medium-sized enterprises, which make up the majority of Canadian defence and security firms. Canada is currently the only country that is afforded a licence exemption under the U.S. international traffic in arms regulations, and Canadian regulations reciprocally allow for permit-free movement of most controlled items to the United States.

Accession to the Arms Trade Treaty does not require Canada to amend this practice. This reciprocal permit, or licence-free movement, is entirely consistent with the provisions of the treaty, which does not specify how states parties should organize their export control systems, nor does it rule out expedited processes to assess and authorize exports to certain countries.

Most of our allies and partners have similar systems in place to support their defence relationships while also meeting their ATT obligations. As one example, the Benelux countries—Belgium, the Netherlands, and Luxembourg—all of whom are ATT states parties, have permit-free movement of controlled items between them.

The Arms Trade Treaty is designed to ensure that states parties are able to establish and maintain tailored export control systems that meet their individual defence needs, while also supporting international efforts to combat the illicit trade in conventional arms.

• (1125)

Again, thank you very much for the opportunity to appear today. My colleagues and I would be pleased to answer your questions.

**The Chair:** Thank you very much, Ms. Gilmour, Mr. Arbeiter, and Mr. Brookfield.

Now, we'll go right to questions. We'll start with Mr. O'Toole, please.

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

Thank you very much for appearing before us today. My questions will primarily be for Ms. Gilmour.

Ms. Gilmour, under your purview at the department, whatever we call the department these days, is the trade controls bureau part of your mandate?

**Ms. Wendy Gilmour:** Yes. I am the director general of the trade controls bureau. In order to clarify matters for some of our clients, we now call it the trade and export controls bureau. Typically, when we refer to trade controls, we're referring to the controls imposed further to international trade agreements. For example, like import controls to support supply management. Export—

**Hon. Erin O'Toole:** Are you responsible for the area control list as well?

**Ms. Wendy Gilmour:** Yes, I am.

**Hon. Erin O'Toole:** Right now, how many countries are on the area control list?

**Ms. Wendy Gilmour:** There is only one country. That is North Korea.

**Hon. Erin O'Toole:** How many have been on it historically?

**Ms. Wendy Gilmour:** Over time, I couldn't tell you exactly how many. Myanmar recently came off of it, previously, when things were looking better.

I would turn to my colleague. Where is my colleague?

**Hon. Erin O'Toole:** It could be submitted later. I would be curious about that. It's something that I didn't get from the Library of Parliament.

**Ms. Wendy Gilmour:** Yes, we can do that.

**Hon. Erin O'Toole:** Would it be fair to say that, since 1947, Canada has the ability to both control the trade of specific goods and restrict countries from trade entirely?

**Ms. Wendy Gilmour:** The purpose of the area control list is certainly not to prohibit items. The area control list is a very blunt instrument that means that any good or technology item being exported to a particular country must be subject to a permit.

Belarus was the other one that recently came off.

As I say, it's a blunt instrument. Literally, it means somebody taking Christmas presents home to their grandmother would have to apply for an export permit. It is reserved for those countries which are the most egregious examples in the....

**Hon. Erin O'Toole:** A serious risk.

**Ms. Wendy Gilmour:** Exactly.

**Hon. Erin O'Toole:** In fact, the blunt instrument goes much further than Bill C-47 would to restrict anything going to specific state actors.

**Ms. Wendy Gilmour:** Indeed. The purpose of the area control list is to give the Minister of Foreign Affairs and the Government of Canada the ability to control, but not necessarily restrict, the movement of any items to a country listed on the ACL.

**Hon. Erin O'Toole:** Okay.

What I think a lot of Canadians would find interesting is that, with the Export and Import Permits Act, Canada actually controls groups of goods far beyond traditional arms covered in the trade treaty.

Could you discuss other technologies that are controlled with this legislation?

**Ms. Wendy Gilmour:** The export control list, which is a regulation further to the Export and Import Permits Act, has seven groups. We can provide a full list to the committee should you wish, because I certainly can't remember it all.

**Hon. Erin O'Toole:** Could you just highlight one or two of them for us?

• (1130)

**Ms. Wendy Gilmour:** This is the export control list.

Certainly.

**Hon. Erin O'Toole:** I'm running out of time.

**Ms. Wendy Gilmour:** Groups one and two are items that are listed further to the multilateral Wassenaar regime, which are dual-use goods. Goods that are of use for military purposes, but aren't necessarily only for military purposes. Group two are items specifically designed or modified for military use. Group three and four cover nuclear items. Group five are items listed unilaterally by Canada, like strategic items. It also includes other items further to trade agreements, like peanut butter. Group six is the missile technology control regime. Group seven is the Australia group, which is chemical and biological weapons.

**Hon. Erin O'Toole:** Is it fair to say that we already regulate and control trade far beyond the items listed in Bill C-47?

**Ms. Wendy Gilmour:** There are no specific items listed in Bill C-47. The Arms Trade Treaty lists specific whole system conventional arms. Again, the purpose of the treaty is to bring other countries up to the standard that most of the western countries already have as members of the existing multilateral arms control regime.

**Hon. Erin O'Toole:** I think the term you used was universalized best practices.

**Ms. Wendy Gilmour:** Indeed.

**Hon. Erin O'Toole:** I think you said that we already have 26 of the 28 elements of the treaty in place in Canada. One area would be changing from policy to specific law. It really appears that the definition of broker is the one area that Canada is lacking to the standard of the treaty.

**Ms. Wendy Gilmour:** We have previously not regulated arms brokering activities conducted by Canadians, either inside or outside of Canada. The treaty requires all states parties to regulate arms brokering. We are required in order to be consistent with the treaty obligations to introduce brokering controls.

**Hon. Erin O'Toole:** Have we experienced problems with brokering issues in the past in Canada?

**Ms. Wendy Gilmour:** It is safe to say that we haven't been looking for them because it hasn't been an area of regulation. It is important for... As you pointed out, we mentioned universalization of these norms. In order to encourage all countries to have the same standard, Canada too must meet those standards.

**Hon. Erin O'Toole:** When it comes to "broker", you had said the change is to add "organization" to the definition, rather than just "person". The act actually uses "resident of Canada" as the term, not person.

Is that essentially the expansion, including organizations to capture brokers?

**Ms. Wendy Gilmour:** I would ask my colleague Robert, who is instrumental in this particular piece of the law.

**Mr. Robert Brookfield (Director General, Trade Law, Department of Foreign Affairs, Trade and Development):** The organizational change is actually a very minor technical point to cover not just companies but also unions, other societies—it's a broader term—and to harmonize with the Criminal Code for the criminal provisions.

The actual brokering provisions are new. The brokering provisions require that you need a brokering permit in order to broker, and then

it applies to anyone in Canada, to Canadian citizens, current residents, or Canadian entities or organizations.

**Hon. Erin O'Toole:** Once broker is defined, it would be regulated under the normal course for export permits, which are already in place.

**Ms. Wendy Gilmour:** The act would also allow the minister to establish brokering regulations.

As a result of the act, we will have what defines a broker, who is a broker, and what is brokering activity. The regulations would add further specificity, much like the existing regulations for export permits. We can't just insert the word "broker", so effectively we will be creating new ones.

**Hon. Erin O'Toole:** Would it be fair for me to say—because I see the aspirational elements that you've outlined to this—that Canada has been a leader in this area and that the fundamental change brought with Bill C-47 amounts to an extension of the definition of broker?

Is that really the only substantive change? I know there is our being a leader in a group of nations, those sorts of things. Is that the substantive legal change we're talking about?

**Ms. Wendy Gilmour:** From the perspective of the Export and Import Permits Act, the addition of brokering regulations is the most significant element in terms of the changes to our export permits program at the moment. There are other elements in the bill that serve to reinforce and formalize practices that we are already engaged in.

**Hon. Erin O'Toole:** How many consultations were done with industry with respect to the brokering definition change? Are you aware of any?

**Ms. Wendy Gilmour:** Absolutely, and I think all of my staff participated in others.

We did consultations with the principal industry associations that are covered by export controls, so that's the Canadian Association of Defence and Security Industries, the Aerospace Industries Association of Canada, and the Canadian Association of Importers and Exporters. We also engaged specifically with certain companies. CANSEC, which I'm sure you're all familiar with, is the great gathering spot for the defence and security industry across Canada.

We conducted targeted engagements over the last couple of years, both with groups of companies and with individual companies.

• (1135)

**The Chair:** Mr. O'Toole, thank you very much.

Now we'll go to Mr. Sidhu please.

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

Thank you for appearing in front of the committee this morning.

Coming from a rural riding, when we talk about guns, my people start raising their backs. It's "What now?" The opposition parties always have concern.

This is strictly with Bill C-47. What kind of effect is it going to have on the domestic gun owners? Is there any implication with Bill C-47 to private gun owners at all?

**Mr. Richard Arbeiter:** I can understand how references to an arms trade treaty might illicit some concerns among constituents across the country, and particularly those who have a long tradition and history of gun ownership for recreational and other purposes.

As I said in my opening statement, there is nothing in the ATT that prevents the lawful use of sporting firearms for legitimate purposes such as sport shooting and hunting, nor does it hinder the legitimate trade in conventional arms. The ATT does not affect how states parties manage their domestic firearms policy, nor does it create an international gun registry.

When Canada participated in the negotiations of the ATT in 2012 and 2013, one of the primary goals of the Canadian delegation was to ensure that the legitimate rights of sport shooters, gun collectors, and hunters were protected. We feel that this was achieved through the inclusion of very specific language addressing this issue in the preamble of the ATT, which reads:

Mindful of the legitimate trade and lawful ownership, and use of certain conventional arms for recreational, cultural, historical, and sporting activities, where such trade, ownership and use are permitted or protected by law...

That is indeed the case in Canada. This language and its placement in the preamble sets the context for the ATT, and makes it clear that it is not intended to challenge or prevent legitimate trade and ownership of conventional arms where permitted by domestic law.

**Mr. Jati Sidhu:** Are there any record-keeping changes in this legislation?

**Mr. Richard Arbeiter:** Once again, others can chime in. There are no changes to the record-keeping aspect here. As I noted also in my opening statement, we have been submitting reports to UNCAR since 1993. That is 25 years. The text of the Arms Trade Treaty actually stipulates explicitly that the same information that has been provided to UNCAR can be provided to the ATT secretariat. There is no change in the substance and content of our reporting requirement as per the ATT.

**Ms. Wendy Gilmour:** From an export and import permits program perspective, there is no change for Canadian firearms owners to the existing process to export or import their firearms in and out of Canada. The record-keeping that is attached to the Export and Import Permits Act is specific to the administrative practice for us to indeed verify compliance with the Export and Import Permits Act. It is also used by Canada Border Services Agency under the Customs Act, so it is the normal record-keeping required for administrative practice for export and import permits, and there are no changes in Bill C-47 to anything that is currently the case right now.

**Mr. Jati Sidhu:** Okay. I have a question on a different issue, land mines.

As Canada is already a signatory to treaties such as the Ottawa treaty on land mines, how does Canada ratify the ATT through Bill C-47 within those existing frameworks?

**Mr. Richard Arbeiter:** International conventions like the Ottawa convention and the ATT are intended to create an international standard and are intended for all states parties to try to come up to that standard. We view the Ottawa convention not only as a Canadian success but certainly as an international success, because it created a different kind of international norm that we still feel has positively, significantly, and constructively affected both those within the treaty and those outside the treaty, 20 years later.

The Ottawa convention deals with a different category of weapons than the Arms Trade Treaty does, so to respond to your question, they are certainly complementary to one another, but they are not integrated in that sense.

Our hope is that, indeed, the Arms Trade Treaty over time can create the same kind of standard that affects how other countries choose to regulate the export of arms for the weapons included in the ATT within their territories. Fundamentally, the goal of the ATT was to create that kind of a standard, to learn the lessons from the Ottawa convention and other conventions that have been developed and established over time, and to encourage as broad adherence as possible to the elements contained within the treaty.

● (1140)

**Mr. Jati Sidhu:** How will Bill C-47 impact the reduction of terrorism around the world in the context of import and export? How do we monitor it? You did touch on that issue a little. Can you explore a little more whether it's going to help reduce terrorism around the world?

**Mr. Richard Arbeiter:** Sure. I can start on that, and others can come in as well.

Fundamentally, the ATT is seeking to establish common standards that reduce the illicit trade in arms. Terrorist organizations and groups do seek to acquire arms, including the arms that are included in the treaty. The thinking is that, as states introduce stronger assessment criteria within their systems, that will help to capture arms that may have been procured by terrorist organizations, whether through better brokering controls or better assessment criteria, as those states, particularly in areas affected by conflict, introduce in their system a higher standard of export controls that reduces the ability of terrorist organizations to acquire the weapons in the same way they may have done in the past.

The assessment criteria in article 7 that my colleague Ms. Gilmour and I spoke to speaks about assessing the risk to peace and security that the export of the particular weapon could have, and it obligates states to take that into consideration in their assessment of whether the particular weapon should be exported.

Again, by obligating states parties to take that into consideration, our hope is not only that the system will be stronger, but that states themselves will assess that criteria within their decision-making process.

**Mr. Jati Sidhu:** Do I have time to add something?

**The Chair:** No, Mr. Sidhu. Thank you very much. I appreciate that.

[*Translation*]

Ms. Laverdière, you may go ahead.

**Ms. Hélène Laverdière:** Thank you, Mr. Chair.

Thank you all for being here today.

I'd like to preface my remarks by saying how pleased I was to hear so many references to the Ottawa convention, or Anti-Personnel Landmines Convention, and the fact that it had influenced the behaviour of states outside the treaty.

I would think it could serve as a model in the case of nuclear disarmament. I, for one, think it's a shame that the minister never mentioned the Ottawa convention in her major address on foreign policy. This year marks the 20th anniversary of the convention, after all.

Now, I'll turn back to the subject before us.

There's obviously no denying that my colleagues in the NDP and I are thrilled with Canada's decision to join the Arms Trade Treaty. That said, I have serious reservations about the implementation bill, and I'm not the only one, given some of the comments we've heard to that effect.

My first question is this. Is the government open to amendments to the implementation bill allowing Canada's accession to the Arms Trade Treaty?

• (1145)

**Mr. Richard Arbeiter:** First, thank you for the question.

Second, I don't think that's a question for department officials but, rather, for committee members. Our role isn't really to comment on the development of the bill.

**Ms. Hélène Laverdière:** Very good. Thank you.

Now, I'd like to discuss one of the main problems with the bill.

I imagine you're familiar with the document produced by a host of organizations, including Amnesty International Canada, Project Ploughshares, the Rideau Institute, Oxfam International, the Confédération générale des petites et moyennes entreprises, or CGPME, and many others. The document summarizes a number of flaws in the bill that were raised by various experts and stakeholders. Multiple organizations have been working for years, decades in fact, on the Arms Trade Treaty issue, some dealing specifically with the arms trade issue as a whole.

Article 5 of the treaty requires, and rightly so, that "Each state party shall implement this treaty in a consistent, objective and non-discriminatory manner...."

However, our control system will not take into account our exports to the United States, and that includes export permits as well as reporting. No additional information on arms exports to the United States will be provided. We talked about transparency, a concept I support. Nevertheless, the failure to include these exports does nothing to improve transparency, especially given anecdotal evidence showing, for instance, that Canadian arms components ended up in countries like Nigeria after going through the United

States. The evidence remains anecdotal since we don't have any information on that.

Why is Canada implementing the treaty in a discriminatory manner? Why doesn't the new system include our exports to the U. S.?

**Mr. Richard Arbeiter:** I'll answer that first, before turning the floor over to my colleague.

Earlier, someone asked whether industry had been consulted. I would just like to point out that we also consulted very closely with members of civil society, including most of the stakeholders who contributed to the document. We conducted a number of consultations over the past two years. The discussions are ongoing because we very much appreciate the perspectives of civil society here, in Canada, and internationally.

**Ms. Wendy Gilmour:** Thank you very much, Mr. Arbeiter.

Ms. Laverdière, thank you for your question.

I'm going to switch to English so that I can give you an exact response.

[*English*]

First of all, as I outlined in my opening statement, there is nothing in the ATT that requires states to have exactly the same type of export control systems across the ATT states parties, and there's nothing in the treaty itself that precludes states from entering into arrangements for expedited permitting or some means of generalized permitting, to allow for special defence relationships and to answer to their own defence and security interests.

I'll ask Robert to speak specifically to the element in the treaty that speaks to non-discrimination, but we are entirely consistent with the treaty and the non-discrimination clause by having different risk management frameworks for different types of exports to different countries. The overriding principle in our establishment of export control policies with respect to the United States is the support for the special defence relationship that exists between our two countries. The integrated North American defence industrial base, which as I said is a formal arrangement that dates back to 1957, is not inconsistent with the ATT. I'll speak to reporting provisions in a moment, but I'll first let Robert speak to the non-discrimination clause.

[*Translation*]

**Mr. Robert Brookfield:** The first paragraph of article 5 of the Arms Trade Treaty states that the treaty must be implemented in a "consistent, objective and non-discriminatory manner, bearing in mind the principles referred to in this Treaty."

The non-discrimination issue is very broad, and the treaty provides for a lot of flexibility. It really comes down to the facts and situation. As Ms. Gilmour mentioned, the situations are not the same in Canada, the United States, and other countries.

Russia and China have very similar situations, with a difference at the political level only. The non-discrimination provision takes into account the facts. The treaty does not merely require that all countries be treated the same, because the facts are different.

•(1150)

**Ms. Hélène Laverdière:** My understanding of the expression “non-discriminatory” is very different. To my mind, it means that everyone should be treated the same way.

You also said you were going to comment on the “reporting provisions”, to use your exact words.

**Ms. Wendy Gilmour:** When I speak French, I start in French, but, then, I always switch to English to refer to specific terms. My apologies.

[*English*]

At the moment, Canada produces a number of different reports based on our export permit data. We report to Parliament on military exports under group two of the export control list. This is the report that will become a statutory requirement under Bill C-47 if adopted by Parliament, with a statutory tabling date to make it more transparent and predictable for those who are interested in these statistics.

As Richard has said, we also report to the UN Register of Conventional Arms on specific exports of categories of items as defined by the UN on an annual basis. Reports to Parliament and UNCAR do not include our exports to the United States because as a result of our expedited permitting process we don't capture the data in the same way for exports to the United States. Instead, our exports to the United States are reported under the harmonized tariff and reported by Customs Canada to Statistics, so the two reports don't line up.

Again, the practice by many other states parties who have now had the Arms Trade Treaty in effect since 2014 has also been—where they have these types of expedited permitting—to not include those types of statistics in their reporting.

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

**Mr. Raj Saini (Kitchener Centre, Lib.):** Thank you very much for being here. I just want Ms. Gilmour to clarify one point. I think somebody mentioned a different article, but article 12 subsection 1 of the ATT requires states to keep national records of exports of conventional arms, something that Canada has done since 1947. Other than changing the length of time, is there any other reporting requirement?

**Ms. Wendy Gilmour:** The ATT does not create any reporting requirement that Canada currently does not do. Richard spoke to that, and maybe he can clarify in a moment. As I outlined during my remarks, the data that is collected and kept by the export permit programs is specific to the administration of the Export and Import Permits Act and allows us to ensure compliance with the act and to provide information in the event of a determination or suspicion of non-compliance—a violation of the act. There is nothing in Bill C-47 that would change our current practice—six years' retention of data—which is consistent across other Canadian statutes as well.

**Mr. Richard Arbeiter:** I'll just again reiterate what was articulated in my opening statement with regard to article 12. Article 12 requires a state party to have a national domestic record-keeping system in place. There is no requirement to share these records with the ATT secretariat or with other states parties. General record-keeping for compliance, as you've noted and Ms. Gilmour

noted, has been on the books since 1947. These requirements are not new, and they will not change with Bill C-47.

**Mr. Raj Saini:** Thank you very much for that clarification.

I have a question about clause 16.

One of the things I've noticed in clause 16 is that the fine for a summary conviction is now \$250,000. I understand that's a dramatic change from 1991 when it was \$25,000, and prior to that it was \$5,000.

Can you talk about why there was such an increase in penalties, and what impact you think that increase will have?

**Ms. Wendy Gilmour:** I don't, off the top of my head, know what the inflationary change between \$25,000 in 1991 and today would be, but it would be considerable.

What is important with respect to the provision in Bill C-47, and the change to the penalty for a summary conviction, is that the intent is to ensure that Canadians and those who are subject to the provisions of the Export and Import Permits Act are understanding the fact that its offences are serious, and that an offence under the act is serious.

Indeed, there are changes to the Criminal Code, which perhaps Robert can speak to, in Bill C-47 that embeds the offences under the Export and Import Permits Act.

From a perspective as the administrator of the Export and Import Permits Act and the program, I'm being told there are other examples of summary conviction penalties in other statutes, which we also took a look at. The United Nations Act has, as its summary conviction penalty, up to \$100,000. The Canadian Environmental Protection Act has up to \$300,000, so this ensures consistency.

My point would be that it is very important for Canadian exporters, who are subject to the Export and Import Permits Act—and soon, should Parliament adopt Bill C-47, Canadian brokers—to understand the seriousness of complying with the act, and their responsibility to apply for an export permit or a brokering permit, and then to abide by the terms of those permits.

It simply modernizes this provision in the existing EIPA, and we believe sends an important signal to encourage compliance with the act and all of its provisions.

•(1155)

**Mr. Robert Brookfield:** It adds to the maximum for summary convictions. The indictable offences provision already exists to provide an unlimited amount of potential fines, so this is really giving tools for prosecutors to ask and for judges to order larger amounts in the case of the prosecution and conviction.

**Mr. Raj Saini:** I want to pick up on one point you mentioned in your preamble. You mentioned in some of your comments the effect this will have in certain vulnerable countries.

The latest statistics I've read is that right now the illegal arms trade in Africa is about \$18 billion U.S. annually. That equals the amount of foreign aid that Africa receives, which is about 15% of GDP if you drill down that number.

By trying to make this a more transparent process, and maybe trying to redirect that development aid, how do you think the implementation will be on the ground for this treaty? Where do you see the benefits in Canada trying to accede to this treaty, not only to maintain our leadership in world affairs but also to implement it, and affect the people we're trying to save in all countries?

**Mr. Richard Arbeiter:** I think you're right. There are two parts of it. There's the standard bearing role, encouraging others through modelling good behaviour, and then there's the tangible support. I referred in my remarks to a financial contribution that we've made to an organization that has been working with several countries, including in Africa—I think I referred to Namibia, Ghana, and Zambia—to provide the capacity building support to bring their systems into line with the ATT.

What this means in practice is looking at legislation, regulation, their system, looking at their customs controls, looking at their border controls, and helping them to establish systems on entry and exit of the goods that they import and export to have more rigorous control over arms that are covered under the ATT.

That is not something that happens overnight. Building an effective system in parts of the world that may not have strong existing controls is a longer term process, but the ATT represents, for them, an obligation that compels certain behaviour to bring them into line and to seek, if they so choose, international assistance and the kind of capacity building support that I've outlined to strengthen their internal controls, which is all a good thing.

Among the 92 countries that are already states parties, there is a huge number that happen to be in regions of the world that are affected by conflict. This is an opportunity for them to work with partners to seek support. There is indeed a whole section in the Arms Trade Treaty around international co-operation and around the kind of assistance that can be made available to countries that are seeking to adhere to its obligations over time, so that they can build the kinds of controls that are absolutely important.

We see that as a strong benefit to not only international peace and security, but Canada's interests in international peace and security.

• (1200)

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

Ms. Vandenberg, go ahead, please.

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

In paragraph 4 of article 7 of the Arms Trade Treaty, when they talk about the criteria for export permits, it explicitly says that countries will “take into account the risk of the conventional arms... being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children.”

I noted, Mr. Arbeiter, that in your remarks you had mentioned that this is the first time this kind of a clause is in a treaty like this.

**Mr. Richard Arbeiter:** Yes.

**Ms. Anita Vandenberg:** Right now my understanding from Ms. Gilmour is that we have certain policies around our export controls. This particular bill, though, Bill C-47, is going to make it explicit. We will have to put that in regulation and it will be legally binding.

Given that this requirement to look at acts of gender-based violence for the first time is in the treaty, does that mean that by explicitly requiring that in regulation, we will be able to strengthen our current policies in terms of making sure that any arms we're exporting aren't going to be used against women and children?

**Ms. Wendy Gilmour:** The purpose of placing or of establishing an ability for the minister to create a regulation and to put these criteria into regulation is to make all of the criteria that are in the Arms Trade Treaty explicit and very transparent, in particular for Canadian exporters, so that they understand how their exports are going to be assessed in applying for a permit.

At present, we have export permit assessment criteria that were established by policy in 1986, and then subsequently other policy objectives were added, such as a specific reference to weapons of mass destruction and so forth.

The ATT assessment criteria expands on our existing elements and will then establish in the regulation the specific elements. We already take into account in our export permit considerations, by policy, the possibility for a risk with respect to gender-based violence, with respect to regional instability, international instability, the risk of a serious human rights violation, international humanitarian law violations, but this will make it absolutely explicit and a legally binding requirement for the minister in making decisions on export permits.

**Mr. Richard Arbeiter:** Can I simply just add to that? The government has consistently made clear it's commitment to working to prevent sexual and gender-based violence and is proactively using all of the tools available at its disposal to encourage more positive work on this issue. We're delighted that it's in the treaty, but it is only natural that we would seek in our assessment process to ensure that this consideration is taken into account in how we make decisions about the export of these weapons as well.

**Ms. Anita Vandenberg:** If I am understanding correctly then, right now it's a matter of policy.

**Ms. Wendy Gilmour:** Yes.

**Ms. Anita Vandenberg:** Of course, our government has prioritized this in all areas of international development. This will make it not just policy; this will make it legally binding. This and any future governments would then be bound by this as opposed to just having a policy that could be more readily changed. Is that...?

**Mr. Richard Arbeiter:** That is correct.

**Ms. Anita Vandenberg:** I know there are those who have suggested that it be done in legislation as opposed to regulation. I noted, Ms. Gilmour, that you spoke about different circumstances in the past, like after 9/11, when things evolved, and it took a very long time to change the legislation.

In areas like gender-based violence, the fact that this is the first time it's explicit in a treaty means that this may evolve as well. We could in the future want explicit mention of things like transgender rights or other things. By having it in regulation, will it make it easier to be able to evolve, add, be flexible, and adapt as our understanding of rights internationally expands?

• (1205)

**Mr. Robert Brookfield:** Yes, that's correct. The regulations and legislation obviously are both binding legally, but the legislation gives the authority to pass the regulations, so it gives the broad scope. This legislation, in implementing the Arms Trade Treaty, would give legislation the authority to implement at the level the ATT requires and broader, and those can be changed by regulation, the same way that sanctions law, for example, and the UN-ACT or the Special Economic Measures Act are done by regulation to allow more flexible movement.

That contrasts a policy that, as you say, has some legal effect potentially but can be changed more.... In fact, there's a legal obligation to consider exceptions to policy where there is a legal obligation to comply with regulations and legislation.

**Ms. Anita Vandenberg:** Mr. Arbeiter.

**Mr. Richard Arbeiter:** I was just going to say that the key message is that they both have force of law. Your question, I believe, was about downstream efficiencies. As Ms. Gilmour pointed out in her remarks, there are greater efficiencies in regulation than legislation. The answer is yes.

**Ms. Anita Vandenberg:** You mentioned that, on those regulations, there would be civil society input, there would be consultation, and there would be parliamentary input. Presumably also as you go forward and as regulations adapt and expand, there would also be consideration of input through consultation for that.

**Ms. Wendy Gilmour:** It is a very important element of the regulatory process that there is a mandatory prepublication through *Canada Gazette* or a mandatory consultative process that allows all Canadians, anyone with a particular interest in a particular regulation, to feed into that regulatory process before it is then reconsidered and adopted by a Governor in Council.

**Ms. Anita Vandenberg:** Thank you.

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

Mr. O'Toole, go ahead, please.

**Hon. Erin O'Toole:** Thank you very much.

I think it's important to clarify the last exchange, Ms. Gilmour, because I think I've heard several of my Liberal colleagues suggest that our export control system did not anticipate gender-based violence, ethnic cleansing, or issues like that before issuing an export permit. I did hear you say that since 1986 issues like that would be taken into consideration. Is that correct?

**Ms. Wendy Gilmour:** In 1986, the cabinet adopted a series of policy guidelines that instructed the export controls program to closely control exports with respect to certain criteria: countries of instability, countries subject to sanctions, and countries with serious human rights records.

**Hon. Erin O'Toole:** Do you recall which cabinet that was?

**Ms. Wendy Gilmour:** In 1986...? It was Joe Clark who issued the press release.

**Hon. Erin O'Toole:** Okay, Joe Clark.

**Ms. Wendy Gilmour:** He was foreign minister at the time. Somewhere I have a copy of his press release.

**Hon. Erin O'Toole:** Thank you very much.

I'm going to go on to some questions Mr. Arbeiter mentioned in his response to my colleague Mr. Sidhu's questions.

You said you understood that changes like this might elicit concerns from hunters, sport shooters, and those sorts of people, and that in your view, the preamble protects those legitimate rights.

Is that a fair summary of your response to Mr. Sidhu?

**Mr. Richard Arbeiter:** Yes, there were other elements to it, but I did specify, in my opening remarks and in my response, that the preamble sets the context for the treaty. The ATT doesn't cover domestic gun ownership. It is focused on the export of the weapons included in the treaty.

**Hon. Erin O'Toole:** You've been involved with the file for a few years. Are you familiar with Canada's interventions in 2011 to specifically exclude sport shooters or hunters from this regime?

**Mr. Richard Arbeiter:** I was not responsible for this issue in 2011.

**Hon. Erin O'Toole:** Ms. Gilmour, were you?

**Ms. Wendy Gilmour:** I took over responsibility for the bureau in 2015. The critical element, though, that I would emphasize—

**Hon. Erin O'Toole:** Please, give me one moment.

Could we hear from whoever at the department was involved in the conversations? I'll quote Professor Kent Roach, a well-known professor when it comes to preambles. He says,

Preambles can oversell legislation either by expressing unrealistic hopes that are not always supported by the fine print or the text of the law or by suggesting that "we can have it all".

The lawyer in me would much rather have a specific section that shows reasonable use by a hunter or a sport shooter to be excluded, as opposed to a preamble. A preamble has less weight than specific text of law. Is that fair to say, Mr. Brookfield?

**Mr. Robert Brookfield:** Yes, but as a drafter of treaties, I would also note that there are often many people who want to have their own exceptions or other provisions put into a treaty.

**Hon. Erin O'Toole:** That makes it complicated, yes.

**Mr. Robert Brookfield:** My response to them is to look at the substantive obligations. Do you need a carve-out or not. I won't speak to that particular discussion in 2011, but the preamble provides some colour and then the real question is whether you need something beyond the preamble, or whether you even need a preamble.

•(1210)

**Hon. Erin O'Toole:** What my friends in the government sometimes try to suggest is that the legitimate concerns you spoke about would be best addressed by a specific carve-out. This was not acted upon. It's my understanding—I was not in cabinet at the time, nor was I an MP in 2011—that Canada suggested specific carve-outs to address reasonable concerns, but we're going to tell these people that their concerns are addressed by the preamble.

Is it fair to say it would be more clear if their concerns were addressed specifically with a section in the treaty itself?

**Mr. Richard Arbeiter:** I would focus on article 1, which outlines the purpose of the treaty. There is no reference in article 1 to domestic gun ownership, which suggests that the purpose of the treaty is not to regulate domestic gun ownership.

**Hon. Erin O'Toole:** What I'm trying to point out is that some of these concerns are reasonable. There was a decision made to exclude carve-outs for hunters, for example. My concern is that this could be portrayed as interfering with gender-based violence or sales to corrupt regimes, things like that.

My first round of questioning seemed to indicate that Canada was fully compliant with all aspects of this treaty, with the exception—as Ms. Gilmour mentioned—of specific language around the “brokering” definition. The Liberals sometimes like to try to overplay concerns that some groups might have about it, but the “brokering” definition is really the most substantive change to the existing export permit regime in Canada. That's my suggestion. Is that fair for me to state?

**Ms. Wendy Gilmour:** From the perspective of a Canadian exporter or broker, the addition of brokering regulations will be a substantive change. I would also suggest that if you are someone who intends to violate the act, conviction of a summary offence is a more substantive penalty.

**Hon. Erin O'Toole:** Did we have brokers violating export permits in the last 10 years?

**Ms. Wendy Gilmour:** Brokering has not been covered by Canadian statute, so we have no—

**Hon. Erin O'Toole:** Have we had an exporter violate their export permit?

**Ms. Wendy Gilmour:** There have been convictions. There have been charges laid under the Export and Import Permits Act, and there have been successful convictions under EIPA as well.

**Hon. Erin O'Toole:** Could we get a summary of those convictions for the last 10 years? I know you don't have it at your fingertips, and I wouldn't expect you to.

**Ms. Wendy Gilmour:** Yes.

**Hon. Erin O'Toole:** What I'm taking from your testimony is that Canada was complying with 26 of 28 provisions. One of those two we needed to get into balance by switching policy created by the Mulroney government into law, and the final real substantive change is the brokering piece.

I'd like to get an understanding of whether we have had some issues with our export permits in the last decade. I think the testimony you've given, Mr. Arbeiter, is true. Canada can have a role

here, but to suggest we had to clean up our own act is probably vastly incorrect.

**The Chair:** Thank you, colleagues. We'll get that information for the committee.

You were doing a great job there, Mr. O'Toole.

Now we'll go to Mr. Wrzesnewskyj, please.

**Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.):** Thank you, Chair.

It almost appears that the water is being muddied a little bit, and I'd like clarity. Can you clarify whether Bill C-47 will affect domestic gun ownership in any form?

**Ms. Wendy Gilmour:** It will not.

**Mr. Borys Wrzesnewskyj:** Thank you.

I'd like to follow up on the line of questioning of Mr. Saini.

The arms industry is a multi-billion dollar industry. There is clearly a dark side to it. That's what this treaty is attempting to address. Literally, human lives are lost because of the dark side of this industry.

When we look at the numbers involved, I think it's laudable that the fines have been increased to \$250,000, but when the average deal runs in the millions of dollars, that's the equivalent, for someone brokering these sorts of deals, of getting a traffic ticket. Would it not be reasonable to have something comparable to the environmental fines issued for exceeding effluence discharges, for instance?

Human lives are very directly on the line here. With businesses on such an enormous scale, would it not make sense to have fines that are tied to the dollar amounts of the deals done? They could be for the full amount. If, for example, there is a deal worth \$10 million involving small arms to a third party, then that would be the size of the fine.

•(1215)

**Mr. Robert Brookfield:** I'd like to highlight again that Bill C-47 amends the summary conviction maximum to be \$250,000. The act will continue to allow for an unlimited amount of funds for indictable convictions. It will be up to the prosecutor and the judge to decide whether they bring it as a summary conviction or indictable offence, and then discretion will be given to the judge to decide the appropriate circumstances and what the fine or other penalties would be.

**Mr. Borys Wrzesnewskyj:** To that point, doesn't that in fact weaken it? If you're trying to defend yourself, a lawyer would point out that, if you take a look, we have this legislation that caps fines at \$250,000. That could in fact play into the argument that a fine should be closer to that amount in the most recent legislation that was passed in regard to illegal trafficking or brokerage of arms.

**Mr. Robert Brookfield:** I'm not an expert in criminal law convictions—we deal with the Export and Import Permits Act and other things—but I can say that it would be up to the prosecutor whether or not to bring an indictable offence. Presumably, if the offence was beyond the scope of the summary conviction maximum, it would be brought as an indictable offence. They would make the argument that there is a reason we brought this as an indictable offence rather than as a summary conviction, and the maximum for summary conviction could be one of the elements as to why it was appropriate to bring it as an indictable offence. Jail time could be another factor.

**Ms. Wendy Gilmour:** I think there's an important point, which I was going to reiterate.

It's not just the fine. With a summary conviction, jail time of up to one year is provided for. For an indictable offence, jail time of up to 10 years is provided for at the judge's discretion. Those are fairly significant penalties associated with a violation of the Export and Import Permits Act.

**Mr. Borys Wrzesnewskyj:** If we have the tools in place to allow for higher fines, why, in this instance, would we not consider not limiting the fine to \$250,000?

**Mr. Robert Brookfield:** Summary conviction offences, as Ms. Gilmour pointed out, in other legislation have lower caps. The whole point of a summary conviction offence is that it's intended to be for a less significant offence overall. I'm not a prosecutor, nor am I an expert in criminal law. Where that line varies would be an issue for the criminal prosecutor. The point is, if you decide that it's in the lower threshold and appropriate for summary conviction, increasing it to \$250,000 gives broader scope for bigger punishment within the lower category.

**Mr. Borys Wrzesnewskyj:** Have we provided parameters and definitions of what would be considered a lower category, or the type of illegal arms trafficking that would qualify for this lower category, as opposed to a higher fine?

**Mr. Robert Brookfield:** I'm not aware of that being done in any legislation. The difference between a summary offence and an indictable offence is something that's quite common in the Criminal Code and in other criminal sanctions. It's generally a question for prosecutors, judges, and defence attorneys to argue about.

**Mr. Borys Wrzesnewskyj:** I'll leave that line of questioning, although I'm still not quite sure that \$250,000 is an adequate amount.

I fully support—and I think most of us here fully support—the whole concept of a rules-based international system. Could you provide us with a list of countries that is organized by volume in arms trade and that is cross-referenced with those countries that are signatories to the ATT or are in the process of ratifying and acceding to it? That can be provided at a later date.

The reason I ask for that—and I think it's quite important—is that there's this other component to it. There are countries that we're particularly worried about, whether they have an international rules-based, treaty-based system, like Russia, or whether they are gross human rights abusers, like Myanmar. In our hemisphere we're terribly worried about the situation in Venezuela. None of those countries are on this particular list. This is, I assume, a first round in

trying to get as many countries as possible onto the list and to sign up.

Are we aware that there might be a second round, where we'll start...? This is the foundation for an international system that would control arms. It's still lacking teeth in many ways. Are there any plans that you could share with us—or maybe Canada can be an initiator once we've ratified—regarding a second round that would see a strengthening of the ATT system that's being put in place?

• (1220)

**Mr. Richard Arbeiter:** We can certainly provide a list of countries to the committee that have signed, ratified, or acceded to the Arms Trade Treaty. You are correct in identifying that there are notable exceptions to that list.

In terms of second rounds, the treaty provides for regular review of implementation among states parties. In my opening statement I talked about having another opportunity for Canada to influence export controls internationally over time, and our participation as a state party, should Canada accede, would allow us to participate in those discussions, just as we've participated in the review of other international conventions that we've signed on to.

The intent, of course, is to encourage others to also sign on over time by making the standard as universal as possible. It will take a number of years until it is actually the international standard. I can't give you a set date for a second round. This happens over time as states come to their own conclusions. Hopefully they are influenced by the model shown by Canada and other countries that have chosen to accede following the entry into force of the treaty. Certainly the review among states parties does afford that opportunity to work with partners to think about how we can encourage others to also come online.

**The Chair:** Thank you.

We'll go to Mr. Genuis, please.

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

**The Chair:** We have a significant amount of time, so we'll just keep going around with five-minute rounds. Take your time.

**Mr. Garnett Genuis:** Thank you, Mr. Chair.

I'd like to clarify something. My understanding of the way the arms control system is structured—and would still be if C-47 were to pass—is that ultimately it's up to ministerial and cabinet discretion in terms of whether a particular export is allowed to go to a particular country or whether particular countries are listed. Am I correct in that understanding?

**Ms. Wendy Gilmour:** The Export and Import Permits Act is under the authority of the Minister of Foreign Affairs.

**Mr. Garnett Genuis:** Perfect.

**Ms. Wendy Gilmour:** She has wide discretion to issue or not to issue a permit. What the Arms Trade Treaty does is to reinforce specific prohibitions that exist under Canadian law right now, for example with respect to arms embargoes that are in place further to UN Security Council action, which we implement under the United Nations Act, and others.

**Mr. Garnett Genuis:** That's great. Thank you.

I was looking at some of the guidelines with respect to export control, and I was reading on the Foreign Affairs website, "the Government of Canada strives to ensure that, among other policy goals, Canadian exports are not prejudicial to peace, security or stability in any region of the world or within any country."

**Ms. Wendy Gilmour:** Yes.

**Mr. Garnett Genuis:** The minister's making that determination, but ultimately the understanding is seeking to not undertake arms exports that are prejudicial to peace.

I wonder if you can comment on this. Maybe it's a question more for the minister, but can you comment on how the decision was arrived at that in light of the Artsakh controversy the arms export to Azerbaijan was not prejudicial to peace in the region? Do you know how that determination was arrived at?

• (1225)

**Ms. Wendy Gilmour:** I cannot comment on any specific export permit. Those elements are further to commercial confidentiality, because it's commercial activity on the part of Canadian companies where absence of permit...

What I can say very explicitly is that how export permit decisions are arrived at is that on receipt of an export permit application there is an assessment of the risks posed by the specific good or technology being exported, the country to which it's being exported, and the end user and the end use that the export will be put to against the range of considerations, which we have discussed already are very similar to that in policy that currently exists under article 7 of the treaty.

**Mr. Garnett Genuis:** Can I ask, then, with respect to the particulars of the export to Azerbaijan, would there have been some kind of an effort to guarantee that that military equipment would not be used in subsequent fighting with Armenia?

**Ms. Wendy Gilmour:** I cannot comment on any specific export permit determination. When we look at an export permit application, as I said, we're assessing for risks. The likelihood that a particular Canadian good or technology is going to contribute to regional or international security would be one of the elements. If we believe there is a significant risk that something would be prejudicial to Canadian security and stability in any region of the world or within any country, which is what section 7 of the Export and Import Permits Act says at present, then we would probably recommend to the minister not to issue the permit. The ultimate decision would be that of the Minister of Foreign Affairs.

**Mr. Garnett Genuis:** Maybe I'd observe, then, and welcome your comment on this, but it seems a little bit strange that commercial considerations are invoked to not disclose information about what is in reality a question of peace and security and international politics in terms of whether or not military equipment is used by a particular nation in the context of a conflict with another nation. It seems like a

little bit of a problem of public accountability when we have stated objectives of policy not having a negative impact on peace and security, yet we have arms sales going to a country which...

We're not talking about ancient history here. Last year 350 people were killed in a four-day war or border clash, however you want to describe it, over Artsakh or Nagorno-Karabakh, again whatever you want to call it, but involving Armenia and Azerbaijan. Canada having authorized this export, it raises questions, simple questions, that I would be curious to know the answers to in terms of what kinds of assessment went on. I think there's maybe a public interest in knowing that, but I guess what you're telling me is that you're unable to comment on the particulars of that.

**Ms. Wendy Gilmour:** I cannot comment on the particulars of any individual export permit. I would say, however, that Canada remains a world leader with respect to the transparency of our military exports. We have the "Report on the Export of Military Goods from Canada", which has been in place since 1991, that outlines Canada's authorized exports by the specific type of good and the value to particular countries over the course of the year. That provides a greater level of transparency than exists in most other countries.

**Mr. Garnett Genuis:** Very quickly, is there nothing in Bill C-47 that would take away the ability of the minister to authorize the sale of further military equipment to a country like Azerbaijan?

**Ms. Wendy Gilmour:** It is within the minister's discretion to issue a permit. There are specific prohibitions already included in the Export and Import Permits Act. For example, the automatic firearms country control list prohibits the Canadian government from authorizing an export permit of a prohibited weapon to a country that's not on the AFCCL. We have prohibitions in place with respect to economic sanctions, both under the United Nations Security Council and under the Special Economic Measures Act that would prohibit the minister from issuing a permit in those instances.

**The Chair:** This is the last question, Garnett.

**Mr. Garnett Genuis:** Thank you, Mr. Chair.

The prohibitions you just described, of course, already exist and they're unchanged.

**Ms. Wendy Gilmour:** Exactly.

**Mr. Garnett Genuis:** Thank you.

[Translation]

**The Chair:** Ms. Laverdière, you may go ahead.

**Ms. Hélène Laverdière:** Thank you, Mr. Chair.

I'd also like to thank my colleague for his questions. The same questions could have been asked about Saudi Arabia, but we won't focus on that today.

I'd like to come back to the matter of regulations versus statutes. I think everyone would agree that including a provision in a regulation is not the same thing as setting it out in a statute.

It was said that regulations are more manageable because they can be amended to accommodate evolving threats. Elements can be added, for instance. It is therefore much easier for a government to make changes to regulations. That's precisely what worries me; the regulations could, in fact, be used to add new criteria.

In the past, we've seen governments that did not at all support the Arms Trade Treaty and that could have chosen to make changes to dilute the regulations. I want us to be able to adapt to evolving situations, but I'm convinced that can be done through the regulations.

That said, the Arms Trade Treaty contains very specific criteria, which will not be as easy to change over time. These are criteria set out in an international treaty that Canada wants to join. However, the criteria do not appear in the implementation bill, and I find that problematic.

Would you care to comment on that?

• (1230)

[English]

**Ms. Wendy Gilmour:** I think we'll start with Robert, to speak about regulation versus law.

[Translation]

**Mr. Robert Brookfield:** Yes, it's entirely true that the regulations are more flexible because they are established at the executive level. They are, nevertheless, just as binding as a statute. I appreciate, then, that we are talking about a matter of principle as well as flexibility.

I would point out that the name of Bill C-47 refers to "amendments permitting the accession to the Arms Trade Treaty and other amendments". The regulatory authority, then, will be interpreted from that standpoint. I can't speak to the full extent of that interpretation, but the intent is certainly to have the regulations implement the obligations, indeed, follow through on the obligations. For example, when it comes to brokering—

**Ms. Wendy Gilmour:** In French, the term is *courtage*.

**Mr. Robert Brookfield:** Yes, brokering or *courtage* in French. The treaty deals with a smaller group, which is what we would expect here, in the regulations and in the statute. Yes, they could be more flexible, and, yes, they could be changed. However, because of the legislation's name and the regulation-making authority set out in the bill, it will have some impact on flexibility when regulations are being made.

[English]

**Ms. Wendy Gilmour:** I would add that when Canada becomes a state party to the Arms Trade Treaty, its elements are obligations on us, as they are on every country. The additional elements, with the evolution of the regulation to accommodate new and evolving security threats, do not in any way change our obligation or any future government's obligation to consider the specific elements in article 7 of the treaty.

[Translation]

**Ms. Hélène Laverdière:** We could discuss it at length, but I still have trouble understanding why the specific elements of article 7 can't be included in the bill. It's important to make sure that certain guarantees underlie Canada's implementation.

We've seen deviations in other cases, such as that of cluster munitions, where the implementation bill passed by the Conservative government did not respect the spirit of the act. It seems to me that we would have had, and would have, much more robust guarantees if the elements contained in the convention had been laid out in the statute. I'll have a chance to come back to that point over the next few days of debate. Clearly, it would still be possible to add other criteria, but it would be mandatory to apply the criteria to evolving situations. We want to accede to the treaty, but I can't see how that implementation is going to take shape. We say that we want to join the treaty now but that we may want to be able to change certain elements in the future. Regardless, it's an issue we'll have a chance to revisit.

[English]

I'm sorry. I will have to switch to English. My notes are in English.

[Translation]

**Ms. Wendy Gilmour:** As you prefer.

[English]

**Ms. Hélène Laverdière:** You spoke about having different risk management frameworks and a different risk management framework for the United States, if I understood correctly. Is it possible for you to give us more details about the risk management framework for the United States?

[Translation]

**Mr. Richard Arbeiter:** Very quickly, I would just like to come back to the previous point and say that we are taking the same approach as the United Kingdom, Australia, and New Zealand. That means that using

• (1235)

[English]

regulation versus legislation is not particular to Canada. It is an approach that our allies have also chosen to adopt.

I also want to underline again that it is the intent of the government to reflect the criteria in article 7 in the regulation.

[Translation]

**Ms. Hélène Laverdière:** Just to reiterate my last point,

[English]

governments change.

**Mr. Richard Arbeiter:** Once Canada has taken on an obligation, that obligation stands for future governments, whoever forms them.

**The Chair:** Thank you very much. Mr. Aboultaif, please.

[Translation]

**Ms. Wendy Gilmour:** I'll come back to your question.

**Ms. Hélène Laverdière:** Thank you.

[English]

**Mr. Ziad Aboultaif (Edmonton Manning, CPC):** Thanks again for appearing in front of the committee this morning.

A couple of things came to mind when I heard what you said. First, three out of the six major exporters of arms have not entered the agreement. Can I suggest that in the absence of these three exporters, the agreement will not be as effective as we would like to believe?

**Mr. Richard Arbeiter:** I'll start with a general reflection on treaties and then turn it over to my colleague. I'll tell you the example of the comprehensive test ban treaty, which has not come into force and which a number of countries have not ratified, but since it was negotiated there is only one country in the world, North Korea, that has chosen to test nuclear weapons.

The argument that was outlined in my opening statement about the importance of norm building affecting those within and outside treaties certainly applies to the CTBT. It has established an international standard that all but one country in the world has adhered to. It has also created other mechanisms to help countries come into line with it. The CTBT has created a monitoring system that would not have existed without its negotiation. This is simply to say that conventions and norm building are not a perfect science; however, we are confident that having an ATT that describes a standard that applies to those who have chosen to accede will also influence the behaviour of others over time.

**Ms. Wendy Gilmour:** I support what Richard has said.

The other thing to keep in mind is that our intent from the export control community, and it is a fairly wide multilateral community that co-operates on the establishment of effective export control regimes, is to broaden that to as many countries as possible. The countries that are at risk of instability or are currently experiencing conflict need effective export control regimes, so while the intent of the treaty is universalization with every country in the world being part of it, there are incremental steps along the way that don't diminish the treaty's effectiveness.

**Mr. Ziad Aboultaif:** With regard to an earlier exchange with Mr. O'Toole, the core element in this agreement is the brokerage. That's what I've observed, at least in listening to you. That leads me to a question.

Are all industries in Canada affected by the new regulations that will occur? Could you name the industries? As far as I can see, every industry in Canada—trade industry, export industry—is going to be affected by this new set of regulations that is set at the minister's discretion. I'm concerned, to be honest with you, that there will be a cost associated with implementing these new rules and regulations. Have you figured out those costs at all in suggesting that the minister go forward with the changes and suggesting that the minister should sign the agreement?

My question is twofold. Are all industries in Canada going to be affected by this, all the brokers basically? What are the costs associated with that for the private sector, as well as for the government?

• (1240)

**Ms. Wendy Gilmour:** In terms of the industries or sectors that are affected, in Canada all Canadian industries that are in the business of exporting controlled goods are already subject to the Export and Import Permits Act and have been since 1947 or before. They are very familiar with our program. They may want us to issue decisions

more quickly, which we try to do, but we have an active and ongoing productive dialogue with Canadian industry over the implementation of export permits.

Brokering permits are something new. Brokering regulations, as outlined in Bill C-47, will cover not just those in Canada but will cover Canadian citizens, permanent residents, and organizations registered in Canada that are resident and operating from overseas. In the course of our consultations on the development of the bill and our engagement on brokering activities, we have tried to engage as many Canadians as possible. This includes going out to all of our posts abroad to engage with their resident Canadian communities to determine who may be covered by the brokering regulations.

We don't have a perfect idea at this point, so part of the intent through the establishment of the regulations is to consult with the affected communities further to make sure that their perspective is taken into account in establishing the regulatory regime to make it as predictable and as transparent as possible.

With respect to the costs of implementing the brokering system, the government in its decision to strengthen our export control regime and to accede to the Arms Trade Treaty identified \$13 million over five years in budget 2017, on which Parliament has voted, to Global Affairs Canada.

We will make best use of those resources by implementing the brokering regulations in a way that has minimum impact on legitimate business, but obviously creates a regime in which businesses that are not legitimate could be identified and brought into compliance with the act, as Parliament would adopt it.

Thank you very much.

**The Chair:** Now we'll go to Mr. Sidhu.

There are 15 minutes left, colleagues. We'll try to get three more colleagues on the list, so let's stick to five minutes each.

Mr. Sidhu.

**Mr. Jati Sidhu:** Thank you, Mr. Chair.

I'm all about Bill C-47 today. Could you speak a little more about the impact on the Canadian economy of trading with other nations, good or bad? I need to know a little more.

**Ms. Wendy Gilmour:** Canada is an export-driven economy. Trade is extremely important overall to the Canadian economy. The defence and security sector is a particular sector that is export driven. Approximately 60% of the revenue of the defence and security sector in Canada is derived from exports.

As I mentioned earlier, that is about \$6.4 billion in annual revenue per year in a sector that is spread across Canada, with hundreds of firms represented in every region, every province of Canada.

Having an effective export control regime supports the defence and security industry because their exports.... As with many industries these days, their supply chains are global. They are operating in many different jurisdictions. Therefore, Canada's regime supports their ability to access legitimate trade opportunities, and when they're operating in jurisdictions that have similar export control regimes, they know that we have a consistent approach.

**Mr. Jati Sidhu:** Now, 130 countries have signed ATT and the U.S.A. hasn't. You don't have to answer this question if it's not in your jurisdiction, but I'm wondering about the kind of impact there will be, going forward, with the U.S.A. not being on board. Do you see them coming on board, and do you see any negative or positive impacts if they don't?

• (1245)

**Mr. Richard Arbeiter:** I would simply clarify that the U.S. did indeed sign the ATT. They did not ratify the ATT, but they did sign, as did all other members of NATO and the G7. That would include Japan. Just to be absolutely clear, they did sign on to the ATT.

**Mr. Jati Sidhu:** Thank you.

**Ms. Wendy Gilmour:** I would just say that the U.S. has an export permit and export control system that is very comprehensive and already includes all of the elements in the treaty. They have an active brokering regime. They assess their export permits for considerations that are similar to ours and to those of other members of NATO. They also participate in each of the four multilateral export control regimes alongside Canada and all of our NATO partners and close allies.

**Mr. Jati Sidhu:** Thank you, Mr. Chair.

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

[Translation]

Ms. Laverdière, you may go ahead.

**Ms. Hélène Laverdière:** I'd like to stay on the same topic.

You mentioned that the Americans had a very rigorous control system. I'm going to pick up on the Nigeria example I brought up earlier. Canada does not export arms to Nigeria, but the Trump administration reversed the Obama administration's decision, such that arms exports to Nigeria are now permitted.

Consequently, certain items produced in Canada have ended up in Nigeria by way of the United States, without any direct control on Canada's part. That was reported in the media two or three weeks ago. Canada has a policy of considering the end-user. How can we do that, however, when we are dealing with the United States, especially given the relaxing of rules that seems to be happening under the Trump administration?

[English]

**Ms. Wendy Gilmour:** Thank you very much for the question. It's actually a good segue back to respond to your question on the risk management frameworks, if I may.

As with any regulatory program, we have relatively limited resources for the number of permits and applications we have to assess. The government makes decisions on export permits based on broad assessments of the likelihood of risks being realized in certain jurisdictions. We also have to keep in mind that the nature of the

Canadian defence and security industry is that in Canada, we primarily manufacture parts and components. We are integrated into global supply chains of other major prime contractors, which we call "original equipment manufacturers", all over the world.

Take NATO as an example. Some of you have referred to the export controls website. We outline there that we have certain countries that by policy we consider "open policy" countries. We assess those countries based on their export control regimes and their approach to how they assess their exports. The Canadian part or component going to a NATO country, for example, has a different level of scrutiny attached to it than a Canadian export that would be going directly to, for example, a country at risk or in conflict, such as in Africa or elsewhere.

Similarly, with our exports to the United States, we have assessed the risks that could be posed by particular exports to the U.S.—to NATO, to Australia, to Japan, and others—and we've assessed those risks as fairly low given the nature of their export regimes and the requirement for onward permits from those jurisdictions to then go to third countries.

[Translation]

**Mr. Richard Arbeiter:** I'm going to make a few comments in English, if you don't mind.

[English]

We co-operate with the United States in all of the four export control regimes. We share objectives about preventing the acquisition of these arms by terrorists, organized crime, or those who are engaged in armed conflict. These are discussions that we have multilaterally and bilaterally on a regular basis. We'll continue to do so, and in the areas of concern certainly expect to continue that kind of close co-operation with the U.S. to prevent the acquisition of these weapons by either terrorist groups or organized crime or armed conflict groups.

• (1250)

**Ms. Hélène Laverdière:** Or, hopefully, governments that abuse human rights too.

[Translation]

How will this bill and the treaty impact cases such as that of the Streit Group, a Canadian company that sold arms to South Sudan and Libya, in violation of various sanction regimes? Will the bill and the treaty cover that?

[English]

**Ms. Wendy Gilmour:** As I mentioned earlier to your colleague, I cannot speak about any specific Canadian company or specific case. I can speak about the elements of Bill C-47 and the establishment of a brokering regime, which would create the requirement for any Canadian citizen, permanent resident, or organization registered in Canada to apply for a permit in order to arrange or negotiate the movement of a controlled item from a foreign country to another foreign country. The regulations will provide further precision on how we define certain types of transactions if there are certain things that we would wish to exclude.

For example, we very likely will apply general brokering permits to certain types of transactions. The principle being that we can apply the very valuable resources that are afforded to us by government for the administration of the program, we want to focus on the highest-risk transactions and not use the resources to assess transactions that are likely to be of low risk. What will be critical in assessing any particular case is to look at the person or covered organization that is the directing mind: those responsible for the transaction.

Organizations and companies that are not registered in Canada will not be covered by Canadian law. That would be an extraterritorial reach that would be inappropriate, or at least not consistent with how Canadian law is usually applied.

**The Chair:** Thank you.

We'll go to Mr. Saini, please.

**Mr. Raj Saini:** Thank you, Mr. Chair.

I hate going back to the past, but Mr. O'Toole raised a question and said we were overplaying our concerns. Being a pharmacist, I want to allay some of his concerns through you.

During the negotiations of 2012-13, there were certain key red lines in the U.S. negotiations. Some of the red lines were as follows:

The Second Amendment to the Constitution must be upheld.

There will be no restrictions on civilian possession or trade of firearms otherwise permitted by law or protected by the U.S. Constitution.

There will be no dilution or diminishing of of sovereign control over issues involving the private acquisition, ownership, or possession of firearms, which must remain matters of domestic law.

Senator John Kerry made a comment, as follows:

This treaty reaffirms the sovereign right of each country to decide for itself, consistent with its own constitutional and legal requirements, how to deal with the conventional arms that are exclusively used within its borders.

On top of that, if you look at the Arms Trade Treaty in article 2, which goes with the scope, you'll see that it says, "This Treaty shall apply to all conventional arms within the following categories". One of the principles is as follows: "Non-intervention in matters which are essentially within the domestic jurisdiction of any State in accordance with Article 2 (7) of the Charter of the United Nations".

Just out of curiosity, is that enough information to satisfy that domestic arms regulations in this country will not be affected?

**Mr. Richard Arbeiter:** I won't comment on U.S. interpretation, but certainly our interpretation is that there is no impact on domestic gun ownership issues here in Canada.

**Mr. Raj Saini:** If there was a concern but Canada did sign...or not sign but conformed to the treaty in 2013.... If there was a concern at that time, why would they have signed? I don't understand.

**Ms. Wendy Gilmour:** The U.S., do you mean?

**Mr. Richard Arbeiter:** The U.S....?

**Mr. Raj Saini:** Canada.

**Mr. Richard Arbeiter:** We did not sign—

**Mr. Raj Saini:** Not sign, but you agreed to the principles of the treaty, or voted for it.

**Mr. Richard Arbeiter:** This is a kind of multilateral question. When the Arms Trade Treaty was brought before the UN General Assembly, we, alongside the other 150-odd—

**Mr. Raj Saini:** It's 154.

**Mr. Richard Arbeiter:** Okay.

We approved of it at the time.

There is then a process whereby states have to choose to sign the treaty, and then once they've signed the treaty, deposit their instruments of ratification, which is a fancy way of saying that we are demonstrating that we meet all of the obligations that we signed on to. Once a certain threshold of states signs and deposits their ratification, the treaty is considered to be in force. Others, like Canada, which chose not to sign the treaty at the time, then have to accede to the treaty.

Bill C-47 reflects the government's decision to accede to the treaty afterwards.

• (1255)

**Mr. Raj Saini:** Which three countries didn't sign?

**Mr. Richard Arbeiter:** The three countries that didn't approve it when it was considered by the general assembly were North Korea, Syria, and Iran.

**Mr. Raj Saini:** There were 23 countries that abstained at that time.

**Mr. Richard Arbeiter:** Yes.

**Mr. Raj Saini:** The process at that time, which started prior to that.... The initial sentiment of the Arms Trade Treaty was that it should be governed by consensus, rather than majority rule. Within those 23 countries, there were some that were upset that this had changed from majority rule to consensus. Some of them had ascribed to the Wassenaar agreement that was signed at that time, which was another 41 countries. With that agreement now there's a lot of talk that they will have to accede to the Arms Trade Treaty, because a lot of those countries also want to start exporting arms.

In terms of the arms treaty regime around the world, would you suggest that right now this is the best mechanism we have for world peace, but more importantly, to make sure that those vulnerable countries have protection in law that will not allow conventional arms to be sold in an illegal way?

**Mr. Richard Arbeiter:** Yes. Treaties take a long time to come to be. Initial discussions around this issue were around the years 2000, 2001, and 2002, and then there was a further 10 years of work with others, then the intensive negotiations in 2012-13, and then three years since then as the treaty came into force and countries decided to undertake the kind of work they needed to meet its obligations. It's certainly not only our interpretation, but the majority of states have decided that this is an effective tool for better regulating the illicit trade and unregulated export of conventional arms.

Are we done?

**The Chair:** I was talking to him, but you can finish up, Mr. Arbeiter. I wasn't cutting you off. I was signalling to Mr. Saini that his time was up. I don't usually cut the witnesses off unless they're very long-winded.

**Mr. Richard Arbeiter:** I should have stopped at “yes”.

**The Chair:** With that, I will conclude today's discussion. I want to thank our witnesses very much for a very robust discussion about Bill C-47. We've just begun our look at Bill C-47 from the obligation of the House and the order. I want to remind our friends from the department that we may call you back if it's necessary as we review Bill C-47.

Colleagues, thank you for the two hours. It was very well done. We'll see you on Thursday for probably the same area of discussion. Have a good day.

The meeting is adjourned.

---





Published under the authority of the Speaker of  
the House of Commons

---

### SPEAKER'S PERMISSION

---

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

---

Also available on the House of Commons website at the following address: <http://www.ourcommons.ca>

Publié en conformité de l'autorité  
du Président de la Chambre des communes

---

### PERMISSION DU PRÉSIDENT

---

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

---

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : <http://www.noscommunes.ca>