

EXPORTING VIOLENCE: CANADA'S ARMS TRANSFERS AND THE DEVASTATION OF CIVIL AND POLITICAL RIGHTS IN GAZA

**Submission to the United Nations Human Rights Committee's 145th
Session on the Occasion of the Committee's Periodic Review of
Canada**

26 January 2026

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I. INTRODUCTION

While Canada positions itself as a global advocate for international human rights, its foreign policy and export practices contradict this image by contributing to serious, ongoing violations of international human rights abroad—in particular, violations of civil and political rights in the Gaza Strip. Canada’s continued direct and indirect arms exports to Israel, including through the United States of America (US), have enabled grave human rights abuses.

This submission illustrates how Canada’s failure to adequately regulate the arms exports that enable Israel’s continued atrocities in Gaza contributes to repeated and serious violations of the International Covenant on Civil and Political Rights (ICCPR or “the Covenant”), despite numerous warnings by United Nations (UN) bodies and Courts. Israel’s bombardment of Gaza, which has been [categorized](#) by the UN Independent Commission of Inquiry on the Occupied Palestinian Territory (hereinafter “Commission of Inquiry”) as genocide, includes killing tens of thousands of Palestinians, imposing a total siege, blocking humanitarian aid leading to starvation, systematically destroying healthcare and education systems in Gaza, and directly targeting women and children.

However, responsibility for the atrocities being committed in Gaza extends far beyond Israel. It is shared by many international actors—including the [various states](#) that continue to produce and provide the weapons that enable Israel’s atrocities. Therefore, it is essential to engage these actors on their human rights responsibilities as well.

Other international human rights bodies and experts have also affirmed the responsibilities of states to suspend arms exports to Israel:

- In a [statement](#) of 23 February 2024, a group of UN Special Rapporteurs and working groups warned that “any transfer of weapons or ammunition to Israel that would be used in Gaza is likely to violate international humanitarian law and must cease immediately.” In noting that “Israel has repeatedly failed to comply with international law,” they specifically called out Canada for not ceasing military exports to Israel.
- In April 2024, the Human Rights Council adopted a [resolution](#) calling on States “to cease the sale, transfer and diversion of arms, munitions and other military equipment to Israel,” due to concerns of human rights violations in Gaza.

- In October 2024, the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) expressed concern about the role of Canadian military exports to Israel in facilitating violations of women’s rights in Gaza and urged it to do more to ensure its military exports do not facilitate violations of women’s rights.
- In March 2025, the Committee on the Rights of Persons with Disabilities (CRPD Committee) [condemned loopholes](#) in Canada’s arms export regime that allow military parts and components to be exported to the United States—where they are integrated into weapons systems and re-exported to other countries, such as Israel.
- More recently, in May 2025, the Committee on the Elimination of Racial Discrimination (CERD Committee) [expressed](#) concern about “significant gaps in Canada’s legal framework” that allow for the indirect export of Canadian arms to Israel via the US, which are used to facilitate violations of international human rights and international humanitarian law.

As such, the authors submit that, in exporting violence through its arms sales and transfers, Canada is in serious breach of its obligations under the ICCPR, including Articles 1, 6, 26, 12, and 9, and recommend that it take urgent measures to comply with the fundamental rights enshrined in the Covenant.

II. KEY HISTORICAL CONTEXT

While the focus of this report is on the war in Gaza since October 7, 2023, violations of the international human rights of Palestinians must be contextualized and understood in relation to a long history of prior systematic human rights violations and denial of self-determination, occupation, and control by Israel on the territory. Israel’s violations of international law with respect to Palestine predate the current assault, [tracing](#) its roots back as far as the 1948 Nakba—the mass displacement and dispossession of Palestinians during the establishment of an Israeli state, involving the settlement and annexation of the Palestinian territory. Despite formal withdrawal of its military presence in Gaza in 2005, the International Court of Justice (ICJ) has [noted](#) that “Israel remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip, including control of the land, sea and air borders, restrictions on movement of people and goods, collection of import and export taxes, and military control over

the buffer zone.” The Court further observed that this exercise of significant control “is even more so since October 7, 2023.”

Further, long before October 7, 2023, many human rights organizations and experts continuously raised serious concerns about the human rights situation in the Gaza Strip. Human Rights Watch (HRW) [reported](#) that the 15-year lockdown of the territory beginning in 2007 effectively created “an open-air prison” for more than 2 million Palestinians. HRW reported that border closures prevented the free movement of the population and severely restricted their access to goods, resulting in the violations of various guaranteed rights and freedoms. Israel’s military attacks on Gaza and the killings of civilians are also not new, with multiple assaults occurring since Israel’s military withdrawal in 2005, [including](#) a 22-day military offensive in 2008.

Thus, the violations alleged in this report must be considered against the backdrop of longstanding violations of civil and political rights in Gaza over multiple decades.

III. ICCPR VIOLATIONS IN GAZA

With respect to occupied territory, both the UN and regional treaty bodies have taken the [position](#) that the occupying state is obligated to observe its human rights obligations extraterritorially with respect to persons or territory over which it has effective control. The Committee has applied this principle to obligations under the ICCPR and, in the case of the Occupied Palestinian Territories (OPT), has [found](#) that Israel is responsible for all conduct by its authorities and agents in those territories that affects the enjoyment of rights under the Covenant.

That said, third-party states such as Canada have obligations under the Covenant with respect to the situation in Gaza as well, as “[every State Party has a legal interest in the performance of every other State Party of its obligations.](#)”

A. Violations of the Right to Self-Determination (Article 1)

The right to self-determination, contained in Article 1(3) of the Covenant, [imposes](#) a positive obligation on States Parties to practically realize and respect the rights of peoples to self-determination. This Committee has previously [called](#) on Israel to recognize the self-determination of Palestinians in the OPT. This obligation, however, does not end with Israel, and is instead an obligation that all States Parties must uphold, including Canada.

Canada [recognized](#) the State of Palestine on September 21, 2025. This positive step in affirming Palestinian self-determination is not solely political or symbolic; it also carries with it fundamental legal consequences and responsibilities that must be respected. By expressly recognizing Palestinian statehood, Canada legally accepts the rights and duties determined for Palestine by international law. As articulated in an October 2025 [Report](#) of the Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, this responsibility includes respecting the principles of non-interference, territorial integrity, political independence, and self-defense.

Canada also [recognized](#) the right to self-determination of the Palestinian peoples, in line with Article 1 of the Covenant. While this recognition of the right to self-determination fulfils part of Canada's obligation, Article 1(3) requires that States Parties "[promote the realization of the right.](#)" As articulated in *General Comment No.12*, the promotion of realizing the right to self-determination includes taking positive action and practical steps to "[facilitate realization of and respect for the right of peoples to self-determination.](#)"

As such, Canada has a legal responsibility to halt intervention in the internal or external affairs of Palestine, as well as refrain from actions that adversely affect the Palestinian right to self-determination. This necessarily includes taking practical measures to support the end of an Israeli occupation in Palestine, including the export of arms used to violate, suppress, and abuse the right to self-determination.

B. Violations of the Right to Life (Article 6)

The right to life is "the supreme right from which no derogation is permitted," and a person cannot be arbitrarily deprived of their right to life "[even in situations of armed conflict.](#)" In particular, the Human Rights Committee notes in [General Comment 36](#) that:

"Practices inconsistent with international humanitarian law, entailing a risk to the lives of civilians and other persons protected by international humanitarian law, including the targeting of civilians, civilian objects and objects indispensable to the survival of the civilian population, indiscriminate attacks, failure to apply the principles of precaution and proportionality, and the use of human shields would also violate article 6 of the Covenant."

Further, "[States parties must take appropriate measures to protect individuals against deprivation of life by other States.](#)" This [includes](#) exercising due diligence to protect the life of persons from

violations by persons or entities whose conduct is not attributable to the State. This applies particularly to “States parties engaged in the deployment, use, sale or purchase of existing weapons,” as they “[must always consider their impact on the right to life](#).” Providing arms to Israel—despite [calls](#) by the UN Human Rights Council (HRC), and multiple [UN Special Procedures](#) to end arms transfers—significantly risks violating the right to life of persons living in Gaza.

As is further explained below, Canada violates the right to life under Article 6 by continuing to supply Israel, directly and indirectly, with weapons that amplify the indiscriminate killing of civilians, limit access to food and healthcare, and aid in the destruction of infrastructure.

a) The Disproportionate and Indiscriminate Killing of Civilians in Gaza

As of January 14, 2026, the [reported](#) number of Palestinians in Gaza killed since October 07, 2023, reached 71,439 people, at least 20,179 of whom are children. In May 2025, of the 59,000 violence-related reported deaths, an [estimated 83%](#) were civilians. While these figures are limited to confirmed reported killings, a [study](#) published in The Lancet in July 2024 estimated that the number of deaths could have reached as high as 186,000 at that time. This [estimate](#) considered not only direct fatalities, but also deaths resulting from the compounded effects of the war, disease, the destruction of health-care infrastructure, and the severe shortage of food. Since October 2023, an [additional](#) 171,324 people have been wounded. One quarter of these cases are considered “[life-changing injuries](#).” The number of injuries continues to rise, with 13,500 injuries [reported](#) in July 2025 alone.

These attacks against Palestinian civilians have been described by healthcare workers as indiscriminate, particularly against children. One doctor interviewed by the Global Human Rights Clinic at the University of Chicago Law School (GHRC) reported about “four children that came in with gunshot wounds [...] one who was fifteen-years-old with a gunshot to the head,” an eight-year-old, and another twelve-year-old, all reportedly targeted by high velocity munitions.¹ During a three-week period, the same doctor documented fifteen cases of children who were shot in the head or neck, a fraction of the total cases involving children that she encountered.²

¹ University of Chicago Law School Global Human Rights Clinic Interview with physicians working in Gaza.

² University of Chicago Law School Global Human Rights Clinic Interview with physicians working in Gaza.

As [concluded](#) by the Office of the High Commissioner of Human Rights, Israel’s use of Canadian-supplied munitions has “systematically violated the principles of distinction, proportionality, and precautions in attack—fundamental principles of international humanitarian law on the conduct of hostilities.” And, [citing](#) Israel’s use of unguided weapons and high-impact munitions that produce excessive civilian deaths, the Commission of Inquiry concluded that Israel has “[intentionally killed Palestinian civilians in Gaza](#).”

b) Limits on Access to Food and Healthcare

Canadian-supplied arms are also [likely](#) to be used by Israel to maintain conditions that make it difficult to survive in Gaza, in violation of the right to life. Currently, “[more than half a million people in Gaza are trapped in famine, marked by widespread starvation, destitution and preventable deaths](#),” with UNICEF [approximating](#) that 640,000 civilians in Gaza are facing catastrophic levels of food insecurity. These conditions are [classified](#) by the Integrated Security Phase Classification as phase 5—the most severe designation of food insecurity. In [August 2025](#) alone, at least 185 persons died of malnutrition. This [famine](#) is man-made: Israel has destroyed Gaza’s domestic food systems, limited imports, and displaced populations away from available food sources and production systems.

Furthermore, aid sites have been used to exacerbate the killing of Palestinians. The Gaza Humanitarian Foundation (GHF), set up to replace UN aid distribution systems, is [accused](#) of the deaths of 1,400 people and the injury of 4,000 others. On July 19, 2025, one doctor cataloged a mass casualty where over 100 patients came into the emergency room with gunshot wounds after attempting to collect food and aid from GHF. Another round of mass casualties came in later that day, similarly, all with gunshot wounds, and after attempting to receive aid from GHF. On August 13, 2025, the doctor reported another mass casualty incident related to food distribution, where he treated over twenty patients in one day. Seventeen of the patients he treated suffered from gunshot wounds, five of whom were dead on arrival.³

Israel’s attacks on civilian infrastructure and Palestinians attempting to access aid, with the assistance of arms exports from Canada, are in direct [violation](#) of Article 6’s obligation to refrain from the destruction of “[civilian objects and objects indispensable to the survival of the civilian](#)

³ University of Chicago Law School Global Human Rights Clinic Interview with physicians working in Gaza.

[population](#).” Over 80% of the infrastructure in certain areas has been [destroyed](#), with several [reported](#) drone strikes on residential blocks. Between 18 March and 9 April 2025, there were 224 Israeli strikes on residential areas. For 36 of those strikes, the only fatalities [recorded](#) were women and children. Reports have shown that Israeli forces “[extensively and systematically](#)” destroyed homes and civilian infrastructure “[indispensable for \[...\] survival](#).”

C. Violations of the Right to Equality (Article 26)

The right to equality is one that is significant to many international human rights treaties and the international human rights system as a whole. The Covenant upholds the right to equality in [Articles 2, 3, and 26](#), which, among other things, guarantees equality with respect to race, religion, national origin, and sex. There is no requirement to show a discriminatory intent under international human rights [law](#); what matters is whether one has been discriminated against in effect.

States have an [obligation](#) to both respect the right to equality, which requires refraining from discriminatory action and ensuring that laws comply with this principle, and to protect the right to equality, which [requires](#) that states positively act to prevent discrimination by non-state actors. States also have an obligation to promote, guarantee, and secure equality through taking “[proactive steps to eliminate structural patterns of disadvantage and to further social inclusion](#)”.

a) Race and National Origin

Palestinians [are](#) a distinct national, ethnic, racial, or religious group who have been subject to severe discrimination in violation of Articles 2 and 26 of the Covenant. This has been confirmed by the International Court of Justice, which [found](#) that Israel responsible for apartheid through measures that physically and legally discriminate against Palestinians under its jurisdiction, and by the Commission of Inquiry, which [found](#) that Israel has committed genocide against Palestinians in the Gaza Strip with the specific intent to destroy the Palestinian group in Gaza. Israel has perpetuated this discrimination through practices of killings, arbitrary detentions, torture of detainees, imposition of conditions inimical to human life, and the prevention of births evidenced by Israel’s attacks on reproductive facilities, which the Commission of Inquiry [found](#) demonstrated Israel’s intent to impose measures that would fundamentally alter families and prevent births within the Palestinian population.

This Committee, the CERD Committee, and the Committee on Economic, Social, and Cultural Rights (ESCR Committee) have continuously [recognized](#) Israel's failure to ensure equal treatment of non-Jewish people within its territory and under its jurisdiction, even before the start of the war in Gaza. However, the war in Gaza has only exacerbated this inequality of treatment towards the Palestinian people.

While not the focus of this report, Canada has contributed to the discrimination against Palestinian peoples not only through the supply of arms to Israel, but also through the suppression of Palestinian protestors and human rights defenders advocating for the rights of Palestinians in its own territory. Irene Khan, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion, noted in a [report](#) to the United Nations General Assembly that Canada was amongst many countries arbitrarily detaining and using excessive force by the police against pro-Palestinian demonstrators. The British Columbia Civil Liberties Association filed [complaints](#) against the Vancouver Police Department in response to the use of excessive force against pro-Palestinian demonstrators through military-grade pepper spray, standing on the backs of handcuffed individuals, and strangling. Canadian civil society organizations have also [called on](#) Canada to end discriminatory practices such as criminalization, professional discipline, and censure against academics and demonstrators who support Palestine, which an open letter signed by over 650 lawyers, law students, and professors across Canada warned was contributing to a "[chilling effect](#)" on freedom of expression.

b) Other Grounds of Inequality and Discrimination—Women, Children, Persons with Disabilities

While discrimination against Palestinians on the basis of race and nationality is a defining feature of the war in Gaza, its effects are inherently intersectional, producing particularly severe and disproportionate harms for women, children, and persons with disabilities.

i) *Women*

The unique needs and circumstances of women and girls are resulting in serious gendered harms and rights violations. More than 700,000 menstruating women and adolescent girls in Gaza are [suffering](#) from insufficient access to feminine hygiene products and inadequate sanitation facilities, including the necessary privacy to maintain their personal dignity. Women in Gaza have [reported](#) using unhygienic cloth, rags, and mattress scraps to manage their periods. The lack of

adequate facilities has also impacted pregnant women. Humanitarian organization CARE reported that women in Gaza had experienced “[a 300% increase in miscarriage due to the lack of neonatal and maternal health care in the region](#).” Health workers have also [reported](#) an increase in premature births and excessive bleeding during pregnancies.

Sexual and gender-based violence has increased since the beginning of the conflict, with ongoing [reports](#) of sexual assault and violence against Palestinian women and girls by Israeli forces. Those held in detention are especially at risk, with [reports](#) of rape, strip searches conducted by male soldiers, and repeated threats of sexual violence. Israeli soldiers have [taken](#) degrading photos of female Palestinian detainees and posted them on social media. Given the cultural and religious norms within Palestinian communities, these experiences are especially harmful to the women and their families, which increases the likelihood that instances of sexual violence go unreported.

ii) Children

The conflict in Gaza has disproportionately impacted children, with severe consequences for their lives and health. The approximate [number](#) of children killed during the hostilities has surpassed 20,000, with at least 1,009 of these children being under the age of one. The Commission of Inquiry [found](#) evidence that Israel was directly targeting children, given the number of reports of head and chest gunshot wounds, likely only possible through intentional targeting. Further, the Commission [concluded](#) that the direct targeting of children by Israeli forces provided evidence of Israel’s genocidal intent to destroy the future existence of the Palestinian people. As of April 2024, the war had left [an estimated](#) 19,000 children orphaned, with an additional 17,000 unaccompanied. Children fleeing crisis, especially those who are unaccompanied, are at heightened [risk](#) of exploitation, including child labor, abuse, and trafficking.

The health crisis in Gaza is also severe, with famine [affecting](#) thousands of children and health concerns, such as diarrhea, impetigo, and even polio, spreading rapidly due to deteriorated living conditions and restricted humanitarian aid. Cases of non-bloody diarrhea among children under five years old have risen 33-fold, while for children aged five and older, cases have increased 98-fold compared to 2022. Bloody diarrhea has surged 22-fold, pediculosis cases have grown eightfold, and impetigo cases have quadrupled compared to the same period in 2022.

iii) Persons with Disabilities

Palestinians with disabilities have also been disproportionately impacted by Israel's military activities in Gaza. Palestinians with disabilities in Gaza often face unique challenges when attempting to flee attacks or respond to evacuation orders, placing them at heightened [risk](#) of being left behind or subjected to attacks. These [challenges](#) are particularly acute for individuals who have been separated from their primary caregivers, lack access to assistive devices, or have not received adequate and accessible warnings or evacuation support. Israel's destruction of Gaza's medical infrastructure has also severely diminished the ability of persons with both new and existing disabilities to access necessary treatment and services. In February 2025, over 70 organizations [asked](#) the CRPD Committee to review the impacts of Canadian arms exports on the rights of Palestinians with disabilities.

D. Violations of the Right to Movement (Article 12)

Israel's widespread displacement campaign in Gaza, enabled by Canada's arms transfers, breaches Article 12 of the Covenant by unlawfully restricting the freedom of movement of Palestinians, by forcing repeated mass relocation, and cannot be justified under the limited exceptions permitted by the Covenant.

Article 12 of the Covenant [guarantees every](#) person lawfully within a State's territory the right to move freely and choose their residence without discrimination of any kind. A State [must not](#) forcibly displace individuals or compel them to relocate. Any restrictions on the right to movement [must use](#) the least intrusive means, [be proportionate](#), be necessary, and be consistent with other rights in the [Covenant](#). This is not the case with respect to Israel's military campaign in Gaza.

From October 2023 to June 2025, the Israeli [military displaced](#) 90% of Gaza's population, more than 1.9 million people. [This displacement](#) is recurring, with Palestinians being forced to relocate an average of 3–10 times since October 2023, as evacuation zones continue to shift.

One doctor interviewed by the GHRC recounted that many civilians she met were uprooted nearly once per week repeatedly for five or six weeks in a row, with some enduring displacement up to twelve times since October of 2023.⁴ She noted that, "everyone is living in tents... the entire

⁴ University of Chicago Law School Global Human Rights Clinic Interview with physicians working in Gaza.

population has been displaced.” The Commission of Inquiry [found](#) that the mass displacement of Palestinian people in Gaza amounted to war crimes related to cruel and inhumane treatment.

In [many cases](#), Israeli attacks began either before civilians received evacuation orders or just hours afterwards, denying Palestinians a meaningful opportunity to flee. Sick, disabled, and elderly people faced a [high](#) risk of abandonment because they did not receive evacuation orders in an accessible way or simply could not physically [evacuate](#) in time. A disability rights activist with a visual impairment was killed in his home because he “[did not receive evacuation information in a timely or accessible format](#).” Additionally, evacuation orders [often threatened](#) to label anyone who remained in evacuation zones as terrorist accomplices, even though many sick, disabled, and elderly people simply could [not leave](#).

Israel’s forced displacement of Palestinians in Gaza cannot be justified under any of the Article 12(3) exceptions. Israel [maintains](#) that displacement and movement restrictions are necessary military measures against Hamas. Officials [claim](#) evacuation directives intend to move civilians away from combat zones, framing them as proportionate responses. Under international humanitarian law (IHL), which applies in conflict and where relevant, is used as the *lex specialis* for interpretation, [Geneva Convention IV](#) and [customary IHL](#) prohibit individual or mass forcible transfers except where required for the security of the civilian population or for imperative military reasons. Even then, evacuations [must be](#) temporary and in satisfactory conditions of hygiene, health, safety, and family unity. [Civilians who](#) remain in place or decline to follow evacuation orders during armed conflict retain their protected civilian status.

In practice, Israel’s systematic mass displacement operation, enforced using arms supplied by Canada, [fails both](#) the IHL criteria and Covenant standards for necessity, proportionality, and minimal intrusiveness. Israel’s displacement orders repeatedly [contained](#) errors and did not give people enough time to reasonably flee.⁵ The orders were often issued via text and [social media](#), despite Israel’s active [destruction](#) of Gaza’s telecommunication [network](#). Israel even released some evacuation orders only in English, [despite](#) many of Gaza’s population speaking Arabic. According

⁵ Human Rights Watch, “Hopeless Starving, and Besieged” (2024) (“Aside from the twenty-four-hour period provided to the UN on October 12, the longest time window identified by Human Rights Watch was given overnight on November 5, with 10 hours 25 minutes, and the shortest time window was 2 hours and 53 minutes, issued after the evacuation window had already begun on November 13. Of the 47 evacuation orders analyzed, 26 orders were posted online after the evacuation window had already begun.”).

to HRW’s [analysis](#) of 184 Israeli military evacuation orders and many satellite images, Israeli forces often designated specific routes or areas as “safe zones” for evacuation, only to later strike those very locations. Israel’s designated safe zones also lacked basic human necessities, such as [food, running water, bathrooms, and shelter](#).

These facts undermine Israel’s claims of civilian protection and demonstrate that these displacements are indiscriminate and punitive, rather than narrowly tailored to legitimate security aims, as [required](#) under international law.

E. Right to Be Free from Arbitrary Arrest and Detention (Article 9)

Israel’s use of security detention, particularly against children, civilians, and those exercising protected rights, constitutes a violation of Article 9 of the Covenant, which is facilitated in part by Canadian weapon exports.

Article 9 of the [Covenant](#) protects individuals from arbitrary arrest and detention, guarantees the right to challenge the lawfulness of deprivation of liberty, and affirms the fundamental right of liberty and security of a person. Detention [must be](#) reasonable, necessary, and proportionate in all circumstances. Security detention, often referred to as administrative detention, [refers to detaining](#) a person without a criminal charge on the premise that they may commit an offense in the future. Security detention is permissible [only in](#) the most exceptional cases, where strictly necessary to prevent a concrete and imminent threat, is limited in duration, and subject to effective judicial control. The State bears the [burden](#) of proving individualized necessity and secrecy of evidence. Incommunicado detention inherently [renders](#) detention arbitrary. Detention for the [legitimate exercise](#) of rights such as freedom of expression, association, or assembly is arbitrary per se.

Following October 7, 2023, Israel conducted mass administrative arrests and enforced disappearances using capabilities bolstered by arms supplied by Canada. This widespread use of administrative detention, particularly against children, reflects a systemic pattern of arbitrary deprivation of liberty in violation of Article 9. As of June 2025, the Israeli Prison Service (“IPS”) held 10,550 detainees and prisoners on “[security grounds](#),” a broad category under IPS Ordinance 04.05.00 that encompasses any offense alleged to have a connection to state security, which is almost [exclusively applied](#) to Palestinians. These detainees are held without charge or trial and often based on undisclosed “[secret evidence](#),” preventing detainees or their counsel from knowing

or contesting the grounds for detention, [in direct violation](#) of Article 9(2)–(4) of the Covenant and the right to judicial review. At the end of September 2025, at least 350 Palestinian children were [detained](#) in Israeli prisons under administrative detention without charge or trial. This use of administrative detention against children, absent individualized necessity and judicial safeguards, fails the necessity and proportionality obligations of [Article 9](#), constituting arbitrary detention. Furthermore, many Palestinians were [detained](#) and interrogated *en masse* without legal representation for screening purposes and intelligence collection about hostages and tunnel locations. Several former detainees [said](#) they were held for remaining in areas under IDF evacuation orders.

Most detainees in Gaza are [denied](#) access to their families, effective legal representation, and judicial protection, while their relatives receive no information about their status or whereabouts. Palestinian women and children [report](#) that the IDF seized their husbands, fathers, and siblings from various parts of Gaza, leaving them with no information on their fate for weeks, months, or even longer. Contrary to international law, Israeli courts [held](#) that authorities are not required to disclose such information, a position that leaves no practical remedy to Palestinians in Gaza who do not even know if their loved ones are alive.

Israel, in violation of Article 9, relies on arrest and detention as tools to silence protected civic activity. Two healthcare workers interviewed by GHRC shared stories from Gazan colleagues about Al-Shifa Hospital staff members who were detained simply for being healthcare workers.⁶ These scrub technicians, nurses, and physicians were tortured, beaten, and cut off from their families, including one nurse who was tortured for 53 days before being released.⁷ [Journalists](#), doctors and medical [personnel](#), [humanitarian workers](#), and human rights [defenders](#) legally present in Israel continue to be arrested and detained as punishment for the legitimate exercise of their rights to freedom of opinion, expression, assembly, association, and privacy.

Israel's use of the [Incarceration of Unlawful Combatants Law](#) as a basis for mass preventative detention operates outside the limits of lawful security detention under Article 9. Israel maintains that the Law [authorizes](#) the detention of individuals from Gaza to prevent security threats, arguing

⁶ University of Chicago Law School Global Human Rights Clinic Interview with physicians working in Gaza (UC 0018, 0001).

⁷ *Ibid.*

that such detention is preventative rather than punitive. However, such domestic laws are only permissible under the [Covenant](#) if their execution results in detention that is not arbitrary, which is not the case with respect to Israel's detention practices. Detention is imposed broadly and [indefinitely](#), without individualized necessity or imminent [threat](#). Proceedings rely on secret or undisclosed material [inaccessible to](#) detainees or counsel, and judicial [review is perfunctory](#), based on ex parte security assessments.

Through its ongoing provision of arms, Canada is complicit in Israel's use of security detention against thousands of Palestinians, including civilians, humanitarian workers, medical staff, and children, converting what should be a narrowly tailored preventative measure into a system of arbitrary, punitive detention in violation of [Article 9](#).

IV. CANADA'S FAILURE TO COMPLY WITH THE COVENANT

A. Canada's Arms Exports to Israel

In Canada, military exports are governed by a permit-based regime. Generally, Canadian exporters are [required](#) to apply for and obtain a permit from the government to export arms.

a) Direct Military Exports to Israel

In the months following October 7, 2023, as Israeli atrocities in Gaza escalated dramatically, so too did Canada's military support to Israel through arms exports. In the three months between October and December 2023 alone, the Canadian government [authorized](#) new permits totaling at least C\$28.5 million (US\$20.8 million) of military exports to Israel. In contrast, the total value of such permits issued in all of the [previous year](#) amounted to just over C\$21 million (US\$15.3 million).

Later, in March 2024, the Canadian government announced that it had stopped issuing new permits for arms exports to Israel since January 8, 2024. Canada was still maintaining this assertion a year later in March 2025, when it told the CRPD Committee during Canada's review that it had "suspended new permits for military items destined to Israel to allow for further review."⁸ This assertion was later revealed to be false; documents obtained by the media [showed](#) that just the

⁸ UN Web TV, [769th Meeting, 32nd Session, CRPD](#) (11 March 2025), *See statement of Deputy Permanent Representative Patricia McCullagh at around 35:15*.

previous month, in February 2025, Canada issued two new permits for military exports to Israel worth a combined total of C\$37.2 million (US\$26.4 million). Canada later revealed that these permits relate to items for Israel's '[Iron Dome](#)' missile system, which defends both civilian and military targets inside Israel, and generally acts as a shield for its attacks on Gaza. It is unknown if there are any other new permits for military exports to Israel that have been issued since January 8, 2024.

Further, existing permits that had already been issued before January 8, 2024, have largely [remained](#) in effect. In September 2024, the Minister of Foreign Affairs announced that Canada suspended about 30 existing permits for weapons exports to Israel—but this represented only a fraction of existing active permits (approximately 200), and the government [gave no](#) information about what permits were allowed to remain active and why. It also chose to suspend the 30 permits rather than cancel them, which means they can be reactivated at any time, and without any notice to the public.

Actual shipping data confirms that arms exports from Canada to Israel continue, regardless of how they are being authorized. Researchers analyzing publicly available data from shipping documents and tax records [identified](#) hundreds of shipments of military-related equipment from Canada to Israel between October 2023 and July 2025.

b) The 'US Loophole' and Indirect Arms Exports to Israel

While these direct exports to Israel are a serious cause for concern, Canada's indirect military exports to Israel pose a potentially far greater problem. This is because a massive loophole in Canada's military exports regime allows permit-free movement of almost all military items to the United States, which is Israel's largest arms supplier. This means that military exports that would otherwise be denied a permit for export directly to Israel can simply be exported to a buyer in the US and then re-exported onward to Israel from there. There is mounting evidence that a substantial volume of Canadian military exports has, in fact, followed this route to Israel throughout the most recent war in Gaza, a problem that Canada has done nothing to address.

Pursuant to diplomatic agreements, Canada has implemented [special regulations](#) that exempt most military exports to the US from requiring individual permits as they otherwise would. The US

[receives](#) nearly half of all Canadian military exports and [supplies approximately](#) 70% of Israel's total arms imports.

Further, Canada has no legal mechanism enabling it to control or restrict the re-export of Canadian military exports onward from the United States to third countries like Israel. In contrast, any reexport of permit-free US military exports to Canada onward to a third country [requires](#) prior approval of the US Directorate of Defense Trade Controls. Canada does not impose similar reexport controls reciprocally.

Although there is scant publicly available information on Canadian arms exports to Israel routed through the US, they are likely far more significant than direct exports. For instance, in just [one transaction](#) announced on August 13, 2024, the Secretary of State approved the sale to Israel of over 50,000 120mm high-explosive mortar cartridges worth US\$61.1 million, to be purchased from a Canadian manufacturer. The Israeli military has deployed 120mm mortars during its operations in Gaza since 2009, including during the most [recent war](#).

According to [media reports](#), the Canadian government reacted to this announcement by writing a letter to the Canadian manufacturer, to “request” that it “temporarily refrain” from exporting the items. However, there is no indication that it made any move to affirmatively block the transaction.

Canada does review some military exports to the US for approval. Even in these instances, it continues to allow military exports to the US that are ultimately destined for Israel. For example, all [major military sales](#) to the US Department of Defense go through the Canadian Commercial Corporation (CCC), a government agency. The CCC [purports](#) to explicitly incorporate human rights commitments into all its operations. Nevertheless, in March 2025, the CCC [approved a sale](#) of 155mm artillery shells to the US intended for onward reexport to Israel, despite [identifying](#) incidents and allegations of Israeli abuses with this type of munition.

Canada is also an integral part of the US military industry's supply chain and provides many key parts and components for US-made weapons. There is evidence that Canadian-made parts and components have gone into some of the key US-supplied military equipment used by Israel to commit atrocities in Gaza. For instance:

- The [F-35 Joint Strike Fighter](#) is a multirole fighter aircraft that Israeli forces have used in the ongoing bombardment of Gaza. An April 2018 study commissioned by manufacturer

Lockheed Martin stated that “[there is \\$2.3 million USD \[approximately C\\$3.2 million\] worth of Canadian components on every F-35 jet manufactured.](#)” In January 2023, the Canadian Minister of National Defense [confirmed](#) that every F-35 contains Canadian components. In June 2024, Israel announced an order for 25 more F-35s in a deal valued at US\$3 billion.

Parts and components are important not only in building new aircraft but also in maintaining current ones, which represent roughly [70% of the total cost](#) of an aircraft. Military expert Josh Paul notes that “modern fighter jets rely on immense amounts of continuous maintenance,” estimating that for every one hour of flying, a fighter jet requires three hours of maintenance. “[If you cut off the supply of spare parts, particularly on something like the F-35s, which relies on a global just-in-time delivery chain, it would very quickly become unflyable.](#)” The F-35 Program’s head of logistics and sustainment, Major General Donald Carpenter, [confirmed](#) in April 2024 that Israel’s fleet was being supported by shipments of replacement parts from partner nations.

- Canadian companies also [provide](#) aerospace parts for Boeing’s F-15 fighter, which Israel has used to [bombard Gaza](#). Canadian companies [provide various components](#) for its manufacture. In April 2024, the [US approved](#) the sale of 50 F-15s to Israel for more than \$18 billion USD.
- Boeing also manufactures the AH-64 Apache attack helicopter, which [Israel has used](#) in its air assault on Gaza. Canadian companies [provide](#) various parts for the aircraft. Israel has requested 12 new AH-64 Apaches from the US, a request that has reportedly been “[advanced and given priority.](#)”

Tracking data appears to confirm that significant quantities of arms have moved from Canada to Israel through the US during the most recent war. A recent report tracked 34 shipments from Canadian suppliers to US F-35 manufacturer Lockheed Martin between April 2024 and August 2025, each with corresponding shipments with identical or similar shipping labels going from Lockheed Martin to Israel just days later. The [report](#) further tracked 433 shipments of explosives moving through Canada from the Polish state-owned giant Nitro-Chem to US Army Ammunition Plants. Nitro-Chem’s TNT shipments to the US have been [linked](#) to US-made munitions used by Israel in Gaza.

c) Canada's Shifting Position

There is a great deal that is still unknown about precisely what Canadian military exports have been going to Israel since the most recent war started. Canada's policy and practices regarding military exports to Israel remain shrouded in secrecy, further obfuscated by government statements that are frequently contradictory, confusing, misleading, and occasionally downright false.

For example, in December 2023, Canada [stated](#) that it had not issued any military export permits to Israel since 7 October 2023. As noted above, the reality was that military export permits were being issued at accelerating rates. When this came out, the government shifted to [asserting](#) that only “non-lethal” military exports were being approved—even though this has no legal significance under either Canadian or international law, as non-lethal military items can still facilitate lethal acts. In March 2024, Canada announced that it had ceased issuing new arms export permits to Israel since January 8, 2024. It maintained this assertion for a while, even as at least two new permits were issued in February 2025. When information of the new permits came out, the government then shifted to claiming that permits were not being issued for items that “[could be used in the current conflict in Gaza](#)”—without specifying whether such items could instead be used outside of Gaza to facilitate the commission of international human rights violations inside Gaza—to say nothing of the escalating state violence in the West Bank or the military strikes against Lebanon and Iran.

Canada has shown the same evasiveness to UN treaty bodies as it has to the public. In Canada's October 2024 review by the CEDAW Committee, the Committee pressed Canada specifically on the issue of indirect military exports to Israel. Noting that Canada “engages in the indirect flow of military exports to Israel through the USA,” the Committee asked what steps Canada was taking “to ensure that arms sold to the US or other countries are not transferred to Israel and used in the violation of the rights of women and girls in Gaza.”⁹ Canada responded evasively by stating that all export permit applications are reviewed under human rights standards, even if they are to the US. It did not mention the fact that most military exports from Canada to the US do not require an export permit application in the first place.¹⁰

⁹ UN Web TV, [2103rd Meeting, 89th Session, CEDAW](#) (16 October 2024). See *Marion Bethel* at around 1:11:51.

¹⁰ A transcript of the relevant portions of the dialogue from the CEDAW Committee session is attached as Appendix B.

The evasive answers continued in Canada's March 2025 review by the CRPD Committee. Aside from falsely stating that Canada had suspended new arms export permits to Israel, Canada also replied to a query about indirect arms exports to Israel through the US by stating that "goods exported from Canada transiting through the United States to a third country—so we're talking about transit or transshipment here—require a Canadian export permit for the third country."¹¹ However, mere transit or transshipment through the US is different from goods being exported to the US and then reexported from the US to a third country, such as Israel—often as a component of a larger weapons system. Committee members expressed frustration with Canada's evasiveness. "Your answer appears a little deceptive [Spanish: 'tramposa']," remarked one Committee member.¹² "There seems to be one major loophole in your answer," echoed another.¹³

B. Canada's Extraterritorial Obligations under the ICCPR

The ICJ has consistently [held](#) that Israel has extraterritorial obligations to uphold the Covenant in Gaza, due to its legal status as an occupying power. This extraterritorial application of the Covenant is clearly articulated in the Committee's [General Comment No. 31](#), and has also been endorsed in leading jurisprudence, including [Al-Skeini v the United Kingdom](#).

Canada, as a State Party to the Covenant, also has extraterritorial obligations where its conduct contributes to human rights violations abroad. Significant [academic commentary](#) points to the need for states to be held accountable for extraterritorial complicity of human rights violations, and as an enabler of Israel's systematic attacks on civilians in Gaza through continued arms exports, Canada has played an implicit role in facilitating catastrophic human rights violations beyond its state borders.

In *Munaf v Romania*, this Committee held that states may be held responsible for violations of the Covenant beyond their borders "if they are a link in the causal chain" that enables these violations, and when the risk of violations is a "[necessary and foreseeable](#)" result of their conduct. Violations must also be judged by the knowledge the State Party had at the time. Canada had extensive knowledge through media coverage, repeated warnings by the UN, and humanitarian reports that

¹¹ UN Web TV, [769th Meeting, 32nd Session, CRPD](#) (11 March 2025), See Patricia McCullagh at around 57:20.

¹² UN Web TV, [769th Meeting, 32nd Session, CRPD](#) (11 March 2025), See Amalia Gamio at around 51:30.

Translated as "I wasn't convinced by the answer you gave."

¹³ UN Web TV, [769th Meeting, 32nd Session, CRPD](#) (11 March 2025), See Markus Schefer at around 47:49. A transcript of the relevant portions of the dialogue from the CRPD Committee's session is attached as Appendix C.

arms were being used to facilitate a genocide in Gaza. Despite this knowledge, Canada continued to export arms—both directly and indirectly—acting as a causal link to enable foreseeable deprivations of civil and political rights in Gaza.

Canada’s extraterritorial obligations with respect to arms exports have also been reiterated by the UN Human Rights Council, including in their 2025 report, which stated that “states must take a variety of legal, institutional, and practical measures to effectively govern arms transfers and activities related to them,” and drew attention to complicity norms in [relation](#) to the Covenant, whereby states have [responsibilities](#) as accessories to the commission of a violation by a third state or non-state actor.

Canada’s conduct also raises serious concerns regarding its obligation to prevent genocide under the *Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)* and customary international law. As a *jus cogens* norm and *erga omnes* obligation, the duty to prevent genocide arises when a state knows of, or should have known of, the existence of a serious risk of genocide. In *Bosnia and Herzegovina v. Serbia and Montenegro*, the ICJ held that possession of “information, voicing serious concern” was sufficient to establish knowledge of the risk of genocide, therefore triggering the duty to prevent.

Leading NGOs, genocide scholars, and UN bodies have issued repeated warnings since October 2023 of atrocities in Gaza. These warnings of war crimes quickly became warnings of impending genocide—with civilians in Gaza broadcasting the horrific conditions, targeted attacks, and grievous violations of international human rights law on social media. In an October 2025 Report, Francesca Albanese described the ongoing genocide in Palestine as a “live-streamed atrocity” and “[a collective crime, sustained by the complicity of influential Third States that have enabled longstanding systemic violations of international law by Israel.](#)”

In November 2024, the UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of Palestinian People stated that “Israel’s warfare in Gaza is consistent with the characteristics of genocide,” and urged member states to “[uphold their legal obligations to prevent and stop Israel’s violations of international law and hold it accountable.](#)” This clear risk of genocide triggered a duty by States, including Canada, to prevent it.

Taken together, these alarm bells from various international bodies and civil society reflect the urgent concern that the risk of genocide in Gaza was apparent, urgent, and in plain sight, and that Canada knew, or should have known, of such risks and immediately halted the flow of arms to Israel. Canada has unfortunately failed to do so.

C. The Obligation to Regulate Corporate Conduct

As this Committee has stated in *Basem Ahmed Issa Yassin et al. v. Canada*, “[there are situations where a State party has an obligation to ensure that rights under the Covenant are not impaired by extraterritorial activities conducted by enterprises under its jurisdiction.](#)” While the extent of these obligations was not determined in the case, the Committee stated that extraterritorial obligations could be extended in circumstances where alleged violations were as serious as those cited in the [case](#), namely restricting freedom of movement (Article 12), subjection to torture (Article 7), or denying minority cultural rights (Article 27).

Other UN treaty bodies have also recognized the obligation of states to regulate corporations to prevent human rights violations. The CRPD Committee has [observed](#) that States have a duty to actively prevent non-state actors and private persons, including businesses, from impeding persons with disabilities’ ability to enjoy and exercise their human rights. The CEDAW Committee has similarly [stated](#) that Canada’s obligations under CEDAW require it to protect women from discrimination by non-state actors, including corporations. The [ESCR](#) Committee and the Committee on the Rights of the Child ([CRC Committee](#)) have also both recognized the responsibility of States to regulate the actions of corporations that may negatively impact human rights in any part of the world.

The Inter-American Commission on Human Rights took a similar approach in its thematic report, [Business and Human Rights: Inter-American Standards](#), explaining that when the State has knowledge of specific facts attributable to some business under its jurisdiction that threatens or violates human rights and the State tolerates or acquiesces to such conduct, this may result in the State’s indirect responsibility for violations of human rights law.

Canada has consistently demonstrated inadequate oversight of its companies' international human rights impacts. Multiple UN monitoring bodies have expressed significant concerns about Canadian corporations' activities abroad and criticized Canada's lack of effective response. These

include the [CEDAW Committee](#), the [ESCR Committee](#), the [CERD Committee](#), and the [CRC Committee](#).

For example, in its 2017 concluding observations, the CERD Committee [urged](#) Canada to enhance the accountability mechanisms for corporations operating overseas to prevent human rights violations. Similarly, in its 2016 concluding observations, the ESCR Committee [recommended](#) that Canada adopt a legal framework to hold corporations accountable for violations of economic, social, and cultural rights in their operations abroad.

UN mandate holders have also highlighted Canada's ongoing regulatory deficiencies.¹⁴ As the Special Rapporteur on the Rights of Indigenous Peoples has noted:

“The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate, and the State has extraterritorial obligations to take steps to prevent and redress infringements of these rights committed abroad by business entities over which it exercises control.”¹⁵

D. Obligations with Respect to Indirect Military Exports to Israel

In the case at bar, Canada's duty to regulate corporate conduct [requires](#) Canada to cease arms transfers to Israel, whether it is direct or indirect. Arms transfers create a clear risk of international law violations, including the prohibition of genocide, which means that States Parties' obligations

¹⁴ Mandates of Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on obligations relating to enjoyment of a safe, clean, healthy, sustainable environment, and the Special Rapporteur of the rights of indigenous peoples, [AL CAN 7/2021](#) (November 2021); Mandates of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right to development; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the right to food; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on the human rights to safe drinking water and sanitation, [AL CAN 5/2020](#), (July 2020); Mandates of the Special Rapporteur on the rights of indigenous peoples; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, [AL CAN 1/2022](#) (June 2022).

¹⁵ Mandates of the Special Rapporteur on the rights of indigenous peoples; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, [AL CAN 1/2022](#) (June 2022).

under the Covenant and *Genocide Convention* with respect to military exports may apply regardless of whether such exports arrive at their ultimate destination directly or indirectly.

A number of other UN international human rights bodies have affirmed this. For example, in a statement of 20 June 2024, a group of several UN Special Rapporteurs, Independent Experts, and Working Groups, emphasized that the obligation to cease military exports to Israel extends to [“indirect transfers through intermediary countries that could ultimately be used by Israeli forces, particularly in the ongoing attacks on Gaza.”](#)

Canada recently underwent its periodic reviews under the CEDAW and CRPD in October 2024 and March 2025, respectively, during which both Committees raised concerns regarding the State’s continued direct and indirect transfer of arms to Israel.

In its Concluding Observations, the CEDAW Committee expressed concern over [“direct or indirect arms transfers by the State party or by private companies under its jurisdiction to third countries, including Israel, for use in conflict zones where they may facilitate violations of women’s and girls’ human rights as well as of international humanitarian law, notably in Gaza.”](#) It urged Canada to implement a transparent accountability mechanism to assess such transfers.

More recently, in its March 2025 Concluding Observations on the combined second and third periodic reports of Canada, the CRPD Committee [remained “concerned](#) that despite assurances by [Canada] that its arms exports and control regime policies are compliant with international and humanitarian law, the exemption of certain export permits for items, parts and components shipped to the United States of America to integrate into larger weapons systems, which are then exported to other countries, may facilitate the violation of the rights of persons with disabilities and jeopardize their access to humanitarian assistance.” The Committee [recommended](#) that Canada conduct a comprehensive analysis to identify and cease its “export of items to other countries, including to the United States, for their integration into larger weapons systems, indirect exports or re-exports” used to facilitate or commit grave human rights violations against persons with disabilities.

Similarly, under its early warning and urgent action procedure, the CERD Committee in May 2025 sent a letter to Canada raising concerns about [“significant gaps in Canada’s legal framework”](#) that allow for the indirect export of Canadian arms to Israel via the US. The Committee noted that such

indirect arms exports “would amount to breaches of the State party’s obligations under the ICERD,” and [requested](#) that Canada provide a response, including information on measures Canada has adopted to prevent direct or indirect arms transfers to Israel by Canada or by private companies under Canadian jurisdiction. There is no evidence that Canada has taken any such steps.

Leaked internal [documents](#) suggest that Canada fears that addressing the gaps in its arms exports regime would upset its US counterparts, but this does not excuse its failure to uphold its international human rights obligations. Given the findings of the Commission of Inquiry regarding genocide committed by Israel against Palestinians in Gaza, coupled with substantial evidence of international human rights violations, Canada has obligations as a third state to prevent arms transfers, whether directly or indirectly, to Israel. This military assistance through arms transfers is proven to be ongoing and violates Canada’s international human rights legal obligations, including under the ICCPR.

V. RECOMMENDATIONS

In light of the foregoing, the authors request that the Committee issue the following recommendations to Canada:

A. Ensure compliance with its obligations under the Covenant and other international human rights law, including the *Genocide Convention*, by:

- Suspending the issuance of all new permits for arms exports directly to Israel;
- Closing the current loophole for indirect arms exports to Israel by imposing export controls for all military exports to all countries, or, alternatively, controls on the re-export of Canadian military exports to a third country;
- Enhancing transparency by publicly communicating information about risk assessments in export permit approval decisions;
- Introducing mandatory human rights due diligence (HRDD) legislation for the arms sector;
- Conducting a review of laws, regulations, and policies for arms exports to prohibit the transfer of arms to all other places where they may be used to commit international human rights violations.

- B. Call for the respect of the ceasefire in Gaza, and compliance with the International Court of Justice Advisory Opinion of 19 July 2024 on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem.
- C. Ensure immediate, impartial, and independent investigations into violations of all allegations of civil and political rights in Gaza, including the role of third-party states in contributing to these violations.

VI. APPENDIX A

Affidavit of Judy Korecky, sworn 20 August 2024, enclosed in PDF version.

Court File No. T-473-24

FEDERAL COURT

BETWEEN:

HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X.Y.,
CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS, and
AL-HAQ – LAW IN THE SERVICE OF MAN

Applicants

-and-

MINISTER OF FOREIGN AFFAIRS and
ATTORNEY GENERAL OF CANADA

Respondents

AFFIDAVIT OF JUDY KORECKY

I, Judy Korecky of the City of Ottawa, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am a Deputy Director in the Export Controls Policy Division of Global Affairs Canada (GAC). I have been working in this position since 2005, and have been working with GAC since 2000. I obtained an LL.B degree in 1997 and an LL.L. degree in 1998. Amongst my responsibilities, I have been involved in amendments to the *Export and Import Permits Act* (“EIPA”), including amendments respecting the Arms Trade Treaty, as well as the creation of *General Export Permit No. 47 – Export of Arms Trade Treaty Items to the United States, SOR/2019-230* (“GEP No. 47”). As such, I have personal knowledge of the matters deposed in this affidavit.

A. General Requirements for Exporting Goods from Canada

2. Pursuant to the EIPA, export permits may be issued to any resident of Canada to export goods and technology included under the *Export Control List* (“ECL”), subject to certain terms and conditions.

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3. The ECL identifies specific goods and technology that are controlled for export from Canada to other countries. The ECL is divided into the following nine “Groups” of good and technologies:

- Group 1: Dual-Use List
- Group 2: Munitions List
- Group 3: Nuclear Non-Proliferation List
- Group 4: Nuclear-Related Dual-Use List
- Group 5: Miscellaneous Goods and Technology
- Group 6: Missile Technology Control Regime List
- Group 7: Chemical and Biological Weapons Non-Proliferation List
- Group 8: Repealed – January 2006 (historical section on the Export Control List)
- Group 9: Arms Trade Treaty

4. Each entry on the ECL under its respective “Group” is known as an “item” and each item is numbered. Items are further divided into sub-items. A list of the goods and technologies controlled on the ECL can be found in “A Guide to Canada’s Export Control List”, which is attached as **Exhibit “A”** to this Affidavit.

B. Individual Export Permits

5. Pursuant to section 7(1) of the EIPA, the Minister of Foreign Affairs (“Minister”) may issue to any resident of Canada a permit to export or transfer goods or technology included in the ECL or to a country included in an ACL. An individual export permit allows exports of goods and technologies to a specified consignee in a single country. A consignee is the foreign party who will be importing the goods or technology from the Canadian exporter into a foreign country. The export permit sets out, among other items, the quantity, technical description, nature of the goods or technology to be exported, as well as the final destination country and consignee.

6. The Export Controls Operations Division of GAC is responsible for issuing, suspending, cancelling, and reinstating export permits on behalf of the Minister. An application must be submitted to the Export Controls Operations Division of GAC in order

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to obtain an individual permit. That application must include, but is not limited to, the following information:

- The name and contact information of the exporter;
- The name and contact information for the consignee;
- The country in which the goods or technology are to be used or the country of final destination;
- The country of origin, the corresponding Item Number in the ECL, and the quantity and unit value, of the goods and technology; and,
- An end-use certificate, end-use statement, or other information to establish that the export of the goods or technology is consistent with the purpose for its control on the ECL.

7. Each application is reviewed on a case-by-case basis for consistency with the EIPA. Particular attention is given to the nature of the item, the country of destination, the purpose and intended use, the record and behaviour of the stated consignee and/or end-user, as well as the risk of diversion.

C. General Export Permits

8. General Export Permits (GEPs) are issued pursuant to subsection 7(1.1) of the EIPA, which authorizes the Minister of Foreign Affairs to issue generally to all residents of Canada a permit to export specified goods or technology subject to the terms and conditions described in the permit.

9. A GEP allows for the export or transfer of certain specified items from Canada to certain eligible destinations by means of a simplified procedure, as opposed to applying for an individual export permit. An exporter must self-assess their export needs against the provisions of a particular GEP to determine if it meets the conditions of the GEP. The exporter need only cite the relevant GEP authority on their export declaration and meet any conditions set out in the GEP, such as reporting obligations. Currently, the Minister has issued 13 GEPs pursuant to section 7(1.1) of the EIPA, for various goods and technology destined to various destinations.

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D. Military Goods and Technology Exports to the United States

10. In this motion, the Applicants seek leave to amend their Notice of Application to include an Order declaring section 2(a) of the ECL to be invalid and unlawful, and an Order quashing GEP No. 47.

11. Due to Canada's close and long-standing trade relationships with the United States, Canada and the United States have reciprocal arrangements to ensure permit-free and licence-free movement of most military goods and technology, as well as other types of goods and technologies, between these two countries.

12. This is reflected in section 2(a) of the ECL, which states:

2 The following goods and technology, when intended for export to the destinations specified, are subject to export control for the purposes set out in section 3 of the *Export and Import Permits Act*

(a) goods and technology referred to in Groups 1, 2, 6, and 7 of the schedule, except for goods and technology set out in items 2-1, 2-2.a., 2-2.b., 2-3, 2-4.a., 6-1, 6-2, 7-2, 7-3, 7-12 and 7-13 of the Guide, that are intended for export to any destination other than the United States... (emphasis added)

13. Despite section 2(a) of the ECL, pursuant to section 2(b) of the ECL certain types of military goods and technology require export permits if they are destined to a consignee in the United States, specifically goods and technology referred to in Groups 3, 4 and 9 of the schedule and goods and technology set out in items 2-1, 2-2.a., 2-2.b., 2-3, 2-4.a., 6-1, 6-2, 7-3 and 7-13 of the Guide.

E. General Export Permit no. 47 (GEP No. 47)

14. On September 1, 2019, GEP No. 47 issued by the Minister came into effect. GEP No. 47 allows for the following military goods and technology listed under section 2(b) of the ECL to be exported to the United States pursuant to this general permit:

- a) Group 2, Items 2-1: Smooth-bore weapons with a calibre of less than 20 mm, other arms and automatic weapons with a calibre of 12.7 mm (calibre 0.50 inches) or less and accessories, and specially designed components therefor.

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- b) Group 2, Items 2-3: Ammunition and fuse setting devices, and specially designed components therefor.
- c) Any goods referred to in Group 9 – “Arms Trade Treaty”.

15. The purpose of GEP No. 47 is to enhance domestic transparency and Canada’s fulfilment of its reporting obligations under the Arms Trade Treaty (“ATT”). The ATT established common standards for international trade in a broad range of conventional arms, with the ultimate goal of ensuring that states have effective national systems to review and control the arms trade. A copy of the Regulatory Impact Analysis Statement (“RIAS”) for GEP No. 47 is attached as **Exhibit “B”** to this Affidavit.

16. GEP No. 47 applies to the export of full system conventional arms and those small arms and light weapons (as opposed to parts and components) that are captured by the ATT and United Nations Conventional Arms Register. The making of GEP No. 47 reflected a balancing of the policy objective of increased transparency over the export of ATT items to the United States with the requirement for ease of movement of controlled items between our two countries given the integration of Canada’s defence production sector with that of the United States.

17. GEP No. 47 does not authorize the export of goods to a country other than the United States.

18. Group 2 of the ECL is comprised of items and components of items that are designed or modified for military purposes. These items have been added to the ECL pursuant to Canada complying with its obligations under the “Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-use Goods and Technology” (the “Wassenaar Arrangement”). The Wassenaar Arrangement was established in 1996. Its purpose is to contribute to regional and international stability by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies. There are 22 categories of items under Group 2, which can be found under “A Guide to Canada’s Export Control List,” attached as Exhibit “A” to this Affidavit.

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19. Group 9 was added to the ECL on June 17, 2019, pursuant to the *Order Amending the Export Control List (Arms Trade Treaty)*, SOR/2019-223. This amendment was part of a broader series of amendments to Canada's export regime to enable Canada's accession to the *Arms Trade Treaty* ("ATT"). The ATT was entered into force in 2014 with the objective of regulating international trade of conventional weapons for the purpose of contributing to international and regional peace, security and stability; reducing human suffering; and promoting co-operation, transparency, and responsible action in the international trade in conventional arms by and among states.

20. The purpose of Group 9 is to enhance transparency and facilitate Canada's international commitments on reporting with respect to ATT items to the United States. Group 9 includes full-system conventional arms in the following categories:

- Items 9-1: Battle tanks that are tracked or wheeled self-propelled armoured fighting vehicles.
- Items 9-2: Armoured combat vehicles 339.
- Items 9-3: Large-calibre artillery systems.
- Items 9-4: Military aircraft and related systems.
- Items 9-5: Military helicopters and related systems.
- Items 9-6: Vessels and submarines that are armed and equipped for military use.
- Items 9-7: Missiles and missile launchers.
- Items 9-8: Small arms.
- Items 9-9: Light weapons.

21. Exporters must notify the Export Controls Operations Division in writing of their intent to use the GEP No. 47 prior to exporting goods pursuant to this GEP. Further, within 30 days after each six-month period ending on June 30 and December 31 of a calendar year, the exporter must provide a report to that Division stating whether they exported a good under the GEP No. 47 during that period and, if a good was reported, they must provide the name and address of each consignee, a description of the good, the relevant Group of the ECL under which the good is captured, and the quantity and value of the good. The exporter must retain the corresponding records for each export pursuant to GEP No. 47 for a period of six years after the year in which the good is exported.

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22. Individual export permits are required for export to the United States of the remaining goods and technology listed under section 2(b) of the ECL. With respect to military goods and technology, these include:

- Group 2, Items 2-2.a.: Guns, howitzers, cannon, mortars, anti-tank weapons, projectile launchers, military flame throwers, rifles, recoilless rifles and smooth-bore weapons.
- Group 2, Items 2-2.b.: Projectors, specially designed or modified for military use, as follows: smoke canister projectors; gas canister projectors; and pyrotechnics projectors.
- Group 2, Items 2-4.a.: Bombs, torpedos, grenades, smoke canisters, rockets, mines, missiles, depth charges, demolition-charges, demolition-devices, demolition-kits, "pyrotechnic" devices, cartridges, submunitions therefor and simulators (i.e. equipment simulating the characteristics of any of these items), specially designed for military use.

23. All items exported from Canada to the United States are thereafter subject to American export controls, regardless of whether a Canadian export permit was required. The Export Controls Division of GAC has no authority over any subsequent export of those goods and technology.

SWORN BEFORE ME at the City of Geneva,

Switzerland, the  of August, 2024

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X 
Judy Korecky

X 
Eric Marin



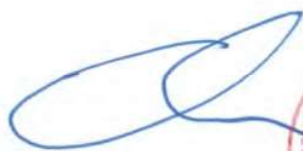
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**This is Exhibit A referred to in
the Affidavit of
JUDY KORECKY
SWORN before me by affiant
on this 20th day of
AUGUST, 2024**

**Les présentes constituent la
pièce A dont il est question
dans l'affidavit de
JUDY KORECKY
assermenté devant moi ce
20 jour de août 2024**


Eric Marin
Conseiller et Consul





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> A Guide to Canada's Export Control List (ECL)

A Guide to Canada's Export Control List (ECL)

A Guide to Canada's Export Control List identifies the items included on the *Export Control List* that are controlled for export in accordance with section 3 of the *Export and Import Permits Act* and for which an export permit is required.

Date of entry into force	Last day in force	Backgrounder	Non-official HTML version
May 2, 2024		Backgrounder – January 2024	A Guide to Canada's Export Control List – January 2024
July 1, 2023	May 1, 2024	Backgrounder – January 2023	A Guide to Canada's Export Control List – January 2023
December 21, 2022	June 30, 2023	Backgrounder – December 2021	A Guide to Canada's Export Control List – December 2021
July 24, 2021	December 20, 2022		A Guide to Canada's Export Control List – December 2020

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A Guide to Canada's Export Control List (ECL)

Date of entry into force	Last day in force	Backgrounder	Non-official HTML version
May 1, 2020	July 23, 2021	<u>Backgrounder: December 2018</u>	<u>A Guide to Canada's Export Control List - December 2018</u>
May 17, 2019	April 30, 2020	<u>Backgrounder: December 2016</u>	<u>A Guide to Canada's Export Control List - December 2016</u>
August 11, 2017	May 16, 2019		<u>A Guide to Canada's Export Control List - December 2015</u>

Date Modified:

2024-06-04

**This is Exhibit B referred to in
the Affidavit of
JUDY KORECKY
SWORN before me by affiant
on this 20th day of
AUGUST, 2024**

**Les présentes constituent la
pièce B dont il est question
dans l'affidavit de
JUDY KORECKY
assermenté devant moi ce
20 jour de août 2024**



**Eric Marin
Conseiller et Consul**





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> [Publications](#) > [Part II: Vol. 153 \(2019\)](#) > [June 26, 2019](#)

General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States: SOR/2019-230

Canada Gazette, Part II, Volume 153, Number 13

Registration

SOR/2019-230 June 17, 2019

EXPORT AND IMPORT PERMITS ACT

The Minister of Foreign Affairs, pursuant to subsection 7(1.1) ^a of the *Export and Import Permits Act* ^b, issues the annexed *General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States*.

Ottawa, June 17, 2019

Chrystia Freeland

Minister of Foreign Affairs

General Export Permit No. 47 – Export of Arms Trade Treaty Items to the United States

Interpretation

Definitions

1 The following definitions apply in this Permit.

Act means the *Export and Import Permits Act*. (*Loi sur les licences d'exportation et d'importation*)

Export Controls Operations Division means the Export Controls Operations Division of the Department of Foreign Affairs, Trade and Development. (*Direction des opérations des contrôles à l'exportation*)

Guide has the same meaning as in section 1 of the *Export Control List*. (*Guide*)

General

Authorization

2 Subject to sections 3 to 6, any resident of Canada may export any of the following goods from Canada to the United States:

- (a) any good referred to in item 2-1 of the Guide;
- (b) any good referred to in item 2-3 of the Guide;

(c) any good referred to in Group 9 of the schedule to the *Export Control List*.

Unauthorized goods

3 This Permit does not authorize

(a) the export of goods to a country other than the United States;

(b) the export of *prohibited ammunition, prohibited devices, prohibited firearms or prohibited weapons*, as defined in subsection 84(1) of the *Criminal Code*; and

(c) the export of any good referred to in item 2-2.a. or 2-4.a. of the Guide.

Conditions

Firearms Act

4 A resident of Canada who exports a firearm under this Permit must

(a) hold a licence under the *Firearms Act* issued by the chief firearms officer of the province in which they reside; and

(b) if the firearm is a restricted firearm, hold a registration certificate for it issued under that Act.

Information

5 (1) A resident of Canada who exports under this Permit a good referred to in Group 9 of the schedule to the *Export Control List* must provide in writing to the Export Controls Operations Division

(a) before exporting under this Permit in a calendar year, their name, address, telephone number, email address and any facsimile number;

(b) within 30 days after each six-month period ending on June 30 and December 31 of the calendar year for which the information in paragraph (a) was provided, a report stating

(i) whether they exported a good under this Permit during that period, and

(ii) if a good was exported,

(A) the name and address of each consignee,

(B) a description of the good, the provision of the schedule to the *Export Control List* that refers to it and the item number assigned to it by the Guide, and

(C) the quantity and value in Canadian dollars of the good; and

(c) within 15 days after the day on which the resident of Canada receives a request from the Export Controls Operations Division, any information referred to in paragraph

(b) that is requested by it in respect of exports during the period specified in the request.

Exception

(2) Despite paragraph (1)(b), a resident of Canada who provides the information referred to in paragraph (1)(a) during the six month period ending on December 31 is not obliged to provide a report for the six-month period ending on June 30 during the same calendar year.

Temporary export

(3) Subsection (1) does not apply to the export of a good if the good is to be returned to Canada and to the resident of Canada who exported it within two years after the day of export.

Good not returned within two years

(4) If a good referred to in subsection (3) is not returned to the resident of Canada within two years after the day of export, the resident of Canada must provide in writing to the Export Controls Operations Division the information referred to in subsection (1) no later than 30 days after the day that is two years after the day of export.

Records

6 A resident of Canada who exports a good under this Permit must retain, for a period of six years after the year in which the good is exported, the following records:

- (a) the date on which the good was exported;
- (b) the name and address of each consignee;
- (c) the quantity and value in Canadian dollars of the exported good; and
- (d) a description of the exported good, the provision of the schedule to the *Export Control List* that refers to it and the item number assigned to it by the Guide.

Coming into Force

S.C. 2018, c. 26

7 This Permit comes into force on the day on which section 6 of *An Act to amend the Export and Import Permits Act and the Criminal Code (amendments permitting the accession to the Arms Trade Treaty and other amendments)*, chapter 26 of the Statutes of Canada, 2018, comes into force, but if it is registered after that day, it comes into force on the day on which it is registered.

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Permit.)

Issues

The Government of Canada wishes to accede to the Arms Trade Treaty (ATT or the Treaty).

The ATT establishes common standards for international trade in a broad range of conventional arms with the goal of ensuring that states have effective national systems to review and control the arms trade. Accession to the ATT gives Canada the opportunity to further strengthen its export control regime. Article 13 of the ATT requires that States Parties report on the export of eight categories of full-system conventional arms listed in article 2(1): battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, and small arms and light weapons. Canada hitherto controlled the export of all ATT-listed items to all destinations other than the United States and only required permits for the export of certain ATT items to the United States (e.g. prohibited firearms and missiles).

On December 13, 2018, *An Act to amend the Export and Import Permits Act and the Criminal Code (amendments permitting the accession to the Arms Trade Treaty and other amendments)* [the Act] received royal assent. However, in line with concerns raised by stakeholders during parliamentary debate on the Act, and with a view to increasing transparency and ensuring full compliance with the ATT, the Government of Canada is

implementing regulatory changes that allow it to collect data to report on exports of ATT items to the United States without requiring individual permits.

Through a separate regulatory package submitted to the Governor in Council (see the Regulatory Impact Analysis Statement for the *Brokering Control List*) an amendment to the *Export Control List* is being implemented to require a permit for the export of ATT-listed items to the United States. This General Export Permit (GEP) facilitates that process and reduces the administrative burden on Canadian companies and the impact on the Canadian economy, while ensuring reporting on the export of ATT items to the United States.

Background

The *Export and Import Permits Act* (henceforth referred to as “the EIPA”) authorizes the Governor in Council to establish a list of goods and technology called the *Export Control List*, which identifies goods and technology that are controlled for export or transfer from Canada to other countries. Most items on the *Export Control List* derive from Canada’s commitments to like-minded countries that participate in multilateral export control regimes or from Canada’s obligations as a signatory to bilateral or multilateral international agreements (Wassenaar

Arrangement, Missile Technology Control Regime, Nuclear Suppliers Group, Australia Group, and the Arms Trade Treaty, amongst others).

The principal objective of Canada's export control regime is to ensure that exports of goods and technology included on the *Export Control List* are in accordance with Canada's foreign and defence policies. Unless otherwise stated, exports or transfers of goods and technology included on the *Export Control List* require a permit issued under the authority of the Minister of Foreign Affairs in order to be lawfully exported or transferred from Canada.

Subsection 7(1.1) of the EIPA authorizes the Minister of Foreign Affairs to issue to all residents of Canada a general permit to export or transfer goods or technology included in the *Export Control List* subject to such terms and conditions as described in the permit. These general export permits allow the export or transfer of certain specified items from Canada to certain eligible destinations by means of a simplified procedure as opposed to the more burdensome and lengthier process of applying for an individual export permit. When making use of a general export permit, exporters must abide by all associated terms and conditions, including any pre-notification or reporting requirements.

During the debates surrounding Canada's accession to the ATT and recent public consultations on "Global Affairs Canada's proposed strengthening of Canada's export controls regime" (December 13, 2018, to February 11, 2019), civil society and certain academic stakeholders called for increased transparency over the export of ATT items to the United States. Industry stakeholders indicated that the permit-free movement of most controlled items between Canada and the United States is vital for the preservation of the Canadian defence industry. Parliamentarians recognized both points of view and the Government of Canada committed to explore options to increase transparency that would not involve a requirement for new individual permits for exports to the United States.

Objective

The objective of *General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States* (GEP-47 or *General Export Permit No. 47*) is to provide a streamlined permitting process for the export of most ATT items to the United States. The reporting requirements in GEP-47 enable the Government of Canada to fill a significant reporting gap and increase transparency by reporting on the permanent export of ATT items to the United States.

Description

Canada currently controls all ATT-listed items for export to all destinations, other than the United States. Controls on the export of ATT items to the United States are currently limited to items such as prohibited firearms and certain missiles. While all ATT items are captured in different parts of Group 2 of the *Export Control List*, a new Group 9 (Arms Trade Treaty) of the *Export Control List* is being established through a separate regulatory package submitted to the Governor in Council in order to capture all ATT items in one distinct identifiable group.

The current reciprocal permit-free movement of most military items between Canada and the United States has been in place since World War II, pursuant to various arrangements between the governments of both countries. A series of Exchanges of Notes between Canada and the United States stemming from the Hyde Park Agreement of 1941 reference the need and the general principles required for greater economic and defence integration. One such Exchange of Notes, dated October 26, 1950, states that “[b]arriers which impede the flow between Canada and the United States of goods essential for the common defense efforts should be removed as far as possible.” The combined regulatory amendments to the *Export Control List* and the creation of the new *General Export Permit No. 47* are not intended to alter this existing and long-standing permit-free movement of such military goods. Canada continues to benefit

from its close defence and security relationship with the United States and continues to have confidence in the highly rigorous nature of the U.S. export control system. This is not impacted by the U.S. administration's recent decision to "un-sign" the ATT. Many of our key ATT partners and allies have expedited licensing measures to the United States, reflecting the high level of confidence in the U.S. export controls system, even though the U.S. is not an ATT State Party.

The Government of Canada believes that it continues to be in Canada's best interest to ensure an expedited process for the movement of military goods between Canada and the United States. Therefore, in parallel with the amendments to the *Export Control List* that require individual permits for the export of all Group 9 items to the United States, the Minister of Foreign Affairs has created this General Export Permit. *General Export Permit No. 47* allows Canadian companies and residents intending to export the majority of goods listed in Group 9 of the *Export Control List* in order to export the goods without applying for an individual permit, if they pre-notify Global Affairs Canada of their intent to export these items in a calendar year. Exporters using GEP-47 are required to report biannually on their exports.

General Export Permit No. 47 authorizes, subject to certain terms and conditions, the export of certain goods listed in the new group. The requirement to report on permanent exports of Group 9 items increases transparency on Canadian ATT exports

to the United States. This is in line with the Government of Canada's commitment to further strengthen the rigour and transparency of Canada's export controls.

Regulatory development

Consultation

Results from the public consultations

Global Affairs Canada has proactively consulted stakeholders interested in this proposal. There are, broadly speaking, three main groups of stakeholders: the Canadian security, defence and aerospace industry; Canadian civil society organizations, including academics, whose work focuses on the global arms trade, human rights, and conflict prevention and mitigation; and Canadian firearms owners and users. These groups were consulted during the recent online consultation entitled "Global Affairs Canada's proposed strengthening of Canada's export controls regime" that was undertaken from December 13, 2018, until January 31, 2019. In addition to the online consultation, departmental officials met with representatives from industry and civil society through a series of meetings, workshops, webinars and round-table discussions that took place across the country between December 13, 2018, and February 11, 2019. Beyond these recent consultations, these groups of stakeholders

were actively consulted throughout the parliamentary process for the amendments to the *Export and Import Permits Act* and in the negotiations of the ATT.

During these consultations, industry stakeholders were supportive of the Government of Canada's intention to join the ATT and were supportive of the proposal to create a general export permit with reporting requirements for the export of ATT-listed items to the United States. Civil society stakeholders also welcomed Canada's desire to accede to the ATT and have urged the Government of Canada to apply further rigour and transparency in its assessments of Canada's controlled exports. During the legislative process, some civil society stakeholders expressed concerns about the existing practice of not requiring permits for the export of all ATT items to the United States. During both parliamentary consideration of the Act and the recent consultations, they asked the Government of Canada to increase its transparency by reporting on ATT exports at least to the same level of rigour as ATT exports to all other destinations.

Canadian firearm owner groups have expressed concerns that the ATT could be used to reintroduce a gun registry and that ATT reporting requirements might include details of individual gun owners, thus leading to a *de facto* gun registry. Officials have sought to clarify that neither the ATT nor its implementation in Canada would result in such changes.

Results from the public comment period following prepublication of the Regulations

The Regulations were published in the *Canada Gazette*, Part I, for public comment from March 16 to April 15, 2019. Emails and notifications of this comment period were sent to over 3 500 groups and individuals including all the participants in the December 2018/January 2019 public consultations on “Global Affairs Canada’s proposed strengthening of Canada’s export controls regime,” industry members, industry associations, non-governmental organizations, and other stakeholders. In-person and telephone engagement sessions were held during the public comment period to provide information and to answer questions about the Regulations.

A total of 12 responses (via emails, meetings and telephone calls) were received during the 30-day public comment period. All responses supported Canada’s steps to accede to the Arms Trade Treaty or were neutral about the broad lines of the Regulations. The Canadian Association of Defence and Security Industries (CADSI) and the Aerospace Industries Association of Canada (AIAC) issued a joint letter of support stating they remain committed to continue working with Global Affairs Canada to assist in a smooth transition to implement the new controls. A joint civil society submission from the Canadian Red Cross and

International Committee of the Red Cross was supportive of the ongoing consultations and steps taken to move towards ATT compliance.

Some concerns and questions, however, were raised about specific elements of the Regulations. Similar to the feedback received during the earlier public consultations, concerns identified by industry included the potential unintended impacts related to the scope of the Regulations. Similar to the feedback received during the parliamentary study of the Act and the earlier public consultations, civil society organizations' set out how they would like to see the Government of Canada do more in certain areas to further strengthen the Regulations and Canada's adherence to the ATT, particularly with respect to increasing transparency and addressing diversion concerns. These comments were articulated in a joint submission from Amnesty International, Canadians for Justice and Peace in the Middle East, Oxfam Quebec, Project Ploughshares and The Rideau Instituted and in a joint submission from the Canadian Red Cross and the International Committee of the Red Cross.

With respect to GEP-47, the aforementioned civil society organizations raised concerns that through issuing a general permit to all Canadians, the Government would not be able to adhere to the ATT requirement to assess the potential risk individual exports under articles 6 and 7 of the ATT. The ATT requires that states implement their obligations in a consistent,

objective and non-discriminatory manner, but it does not prohibit expedited licensing and many allies have also put in place similar measures. It should be noted that Canada's long-standing policy of not requiring individual permits for most items to the United States is based on a thorough assessment of the U.S. as a trusted export destination with a highly robust and rigorous system of export controls. Should circumstances change, the Government maintains the ability to amend the regulations underpinning any general export or brokering permit.

Civil society also requested that the Government amend the record keeping requirement for exporters using the GEP from six years to ten to reflect the requirement in article 12 of the ATT that records be kept for ten years. It should be noted that the article 12 obligations apply only to States Parties and not to individual exporters. Canada will maintain electronic records of all reports received from exporters for the mandated ten-year period. With respect to records held by exporters, the six-year obligation in these Regulations flow from EIPA subsection 10.3(6) and are the standard for export control related regulations under the EIPA.

An industry stakeholder also raised the suggestion that the reporting requirements of the GEP should be waived for those items that have been temporarily imported into Canada from the U.S. and are being returned unmodified. The Government

understands the reasoning behind this suggestion and is considering potential future general export permits to address the export of items that have been temporarily imported into Canada for trade shows, for repair or for return.

Outreach and engagement actions including further face-to-face meetings will be undertaken to clarify the implications of the Regulations, and to help address any questions or concerns.

Instrument choice

Although other non-regulatory instruments were considered, Global Affairs Canada determined that the most effective mechanism to capture data on the export of ATT items to the United States, while still maintaining the free movement of those items and not unduly burdening industry, was through an amendment to the *Export Control List* to require a permit for the export of ATT items to the United States, and the creation of a related general export permit for these newly listed items, with reporting requirements.

One non-regulatory option that was considered was to draw on data already available through Statistics Canada on the export of defence material to the United States. These figures are derived from data collected by the Canada Border Services Agency based on the Harmonized Commodity Description and Coding System (HS codes). However, since there is no correlation between the HS codes used by Statistics Canada and the ATT classifications of

conventional arms, a meaningful comparison of the information from these sources is not possible. For instance, the same HS code may include both controlled ATT items and non-military goods, such as civil-certified aircraft, or guns designed exclusively for industrial uses such as those used in the lighting of gas flares at oil wells. Global Affairs Canada also spoke with international partners who had also attempted to use HS codes for this purpose without success.

Some stakeholders recommended that the Government of Canada consider instituting a policy of voluntary reporting for exporters of ATT items. There are a limited number of companies whose line of business includes exporting such items to the United States and that are already familiar with the export controls system. However, a policy of voluntary reporting would lack rigour as the absence of a legal requirement to report would make it difficult for Global Affairs Canada to follow up with exporters and ensure compliance, particularly individuals and entities not familiar with Canada's export controls and reporting mechanisms.

Regulatory analysis

Costs and benefits

The incremental costs to businesses and individuals of the *Order Amending the Export Control List (Arms Trade Treaty)* derive from the requirement to apply for individual permits for the export of

ATT items to the United States that did not previously require individual export permits (prohibited firearms, prohibited weapons, prohibited devices and items in items 2-4.a and 2-2.a of the *Export Control List*, which includes large calibre weapons, bombs, torpedoes, and missiles). These costs are mostly negated by *General Export Permit No. 47*. However, there is a small new additional pre-notification and reporting requirement for businesses or individuals permanently exporting ATT items to the United States.

As ATT items are controlled by both Group 2 and Group 9 of the *Export Control List*, exporters of ATT items that are exported to non-U.S. destinations are encouraged to also assess the goods they intend to export in light of the new Group 9 when completing their individual permit application, in accordance with the existing practice. Around 25 companies apply for permits to export ATT items to non-U.S. destinations. Global Affairs Canada will advise these companies and work with them to ensure that they understand this minor change that should result in no incremental costs (no new field/box will be added to the export permit application).

The companies that export the larger full-system conventional arms that fall under the scope of the ATT are already familiar with the process for reporting on their exports and imports of these items, and therefore already have administrative procedures in place to address this requirement. There may be

modest costs to those not accustomed to reporting on their exports, such as those in the film industry exporting ATT items to the United States. This is expected to be a small number of cases. With respect to exports of firearms, measures have been put in place to limit the burden with respect to the reporting requirement, as exporters only have to report on permanent exports that are destined for end use by police or military forces in the United States. This scope is compliant with the reporting requirements of the ATT (article 13.3) and the UN Register of Conventional Arms.

Small business lens

Overall, no significant or disproportionate impacts are anticipated for small business. The number of exporters of ATT items from Canada is very low (less than 25 exporters for export to non-U.S. destinations). The new permit aims to lower the administrative burden on business, particularly on small businesses, which are also able to benefit from this streamlined process. Small businesses do not manufacture the items for which the export to the United States requires reporting under this regulatory amendment, except for certain small arms and light weapons.

There are fewer than 10 small businesses that export firearms to the United States. There may also be small businesses operating in other sectors, such as the film industry, that may export ATT

items to the United States. Global Affairs Canada understands that small businesses have special needs, and officials are prepared to assist these businesses in understanding whether they are impacted by the new obligations imposed by this permit and to support them in complying with their reporting obligations under this General Export Permit.

In addition, small businesses will benefit from measures that Global Affairs Canada will implement to support all businesses in their compliance efforts with Canada's export controls. These include

- providing assistance to applicants who need guidance on permit applications and processes through a telephone helpline; and
- a proactive outreach campaign, including updating departmental information resources (such as the Export Controls Handbook).

"One-for-One" Rule

These Regulations are tied to the *Order Amending the Export Control List (Arms Trade Treaty)*, which was approved by the Governor in Council. The "One-for-One" Rule is triggered for the *Order Amending the Export Control List (Arms Trade Treaty)* for increasing the administrative burden under existing regulations. The General Export Permit decreases the additional burden imposed by the *Export Control List* amendment as the General

Export Permit streamlines the authorization process for such exports. Rather than being required to apply for an individual permit, exporters only have to notify Global Affairs Canada of their intention to use the General Export Permit and to report twice a year on actual exports undertaken against the permit or advise that no exports took place. As the increased administrative burden on business associated with the *Order Amending the Export Control List (Arms Trade Treaty)* was exempted from the "One-for-One" Rule because it is required in order to meet Canada's international obligations under the ATT, Global Affairs Canada will not be given a credit for the OUT associated with the General Export Permit.

Regulatory cooperation and alignment

This permit aligns with the practices of almost all of Canada's main allies, who maintain expedited measures for low-risk transactions to certain destinations, while remaining in compliance with the requirements of the ATT. For instance, in the United Kingdom, the *Open General Export Licences* (OGELs) are a form of general licence open to any company registered in the United Kingdom to export certain military items to select destinations, including Canada and the United States. Most OGELs require companies using them to report on any exports undertaken during the previous calendar year. Similarly, European Union *Directive 2009/43/EC* allows for the establishment of common general licences in defined

circumstances where the exports are deemed low-risk. European Union companies making use of these general licences also have to report on the exports undertaken under the licence.

Strategic environmental assessment

In accordance with *The Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals*, a preliminary scan concluded that a strategic environmental assessment is not required. The approved preliminary scan determined that the Regulations are unlikely to result in important environmental effects and that further analysis is not required.

Gender-based analysis plus

An assessment indicates that there are no gender-based analysis plus (GBA+) impacts in this permit. However, there are relevant considerations in the broader context of Canada's accession to the ATT. The ATT is the first international treaty that specifically mentions gender-based violence as an outcome to prevent. By acceding to the Treaty, Canada is supporting this objective.

Rationale

Canada's export control regime aims to balance national and international security concerns associated with the export of strategic and military goods and technology with Canada's interests as a trading nation. The introduction of this streamlined process for exports to the United States allows the Government

of Canada to provide Canadian businesses with a mechanism to remain competitive in the global marketplace while at the same time increasing transparency and ensuring that Canada clearly meets all its obligations under the Arms Trade Treaty.

Implementation, compliance and enforcement, and service standards

Global Affairs Canada's Export Controls Operations Division, which is responsible for issuing export licences, now includes a dedicated compliance section. This section will promote compliance with this permit through its regular mechanisms, such as documentation reviews. Global Affairs Canada is currently exploring additional mechanisms to increase compliance, including through communication products and in-person outreach.

There are certain conditions associated with GEP-47, and exporters need to comply with those conditions in order to lawfully export under this General Export Permit. It is a condition of the General Export Permit that exporters pre-notify their intention to use this permit on an annual basis and report on a semi-annual basis on any permanent exports that have been carried out under the authority of the permit.

Non-compliance with any condition of this General Export Permit could lead to prosecution under the relevant provisions of the Act. The Canada Border Services Agency and the Royal Canadian

Mounted Police are responsible for the enforcement of export controls.

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Footnotes

a S.C. 2004, c. 15, s. 56

b R.S., c. E-19

VII. APPENDIX B

CEDAW Review of Canada - Transcript of Country Dialogue (Excerpt)

89th Session, Committee on the Elimination of Discrimination against Women (CEDAW)

Full video available here: <https://webtv.un.org/en/asset/k10/k10pecn9gn>

Article 12

Rangita Da Silva de Alwis (Sri Lanka):

42:00: In closing, your Excellencies, I want to go back to where I started, with the Women, Peace, and Security Agenda and the [CEDAW's GR 30](#). Minister Joly has made the primacy of reproductive rights and health her priority, and Canada's moral leadership on global women's rights makes a difference in the world. We bear witness to conflict-related reproductive rights violations in many conflict-affected regions. This needs Canada's urgent attention. Pregnant women face food insecurity and other essential objects indispensable for women's survival. In 2019, [UN Security Council Resolution 2467](#) embraced a survivor-centric approach, and you have spoken about that in terms of your work in Canada. How would you include psycho-social support for survivors according to [2417 on food insecurity](#), [2475 on disability and conflict](#) and access to essential services.

*note: this question was not addressed in the immediate follow-up by the state party

Ms. Genoveva Tisheva (Bulgaria):

51:14: Thank you very much, Madam Chair. I would like to go further of the question of Mrs. Da Silva de Alwis and also to congratulate first the state party, the Government of Canada, for the progress made on this issue, for the example that it set, and also for the contribution to international law and justice concerning women's rights. My questions will be in light of the principles and objectives of the CEDAW convention, which are from the very beginning strengthening international peace and security, cooperation between states, but also general and complete disarmament, in particular nuclear disarmament and the strict and effective international control. And also it is affirmed as we all know by the [Beijing Platform for Action](#) section E, but also [Beijing Declaration](#), which is a resolution. So in that respect, **I would like that in parallel of the successes, of the achievements, that there is extensive information on the role of the state party for acts affecting human rights of women in Gaza, specifically their health and reproductive rights as a result of the arm trade and support of Canada to Israeli military forces since the end of 2023. Such actions include, in addition to random killing of pregnant women, but also violations of their reproductive rights, maternal, obstetric, and neonatal care they have the right to. Also attacks and displacement of pregnant women, destruction of infrastructure and health facilities, malnutrition of women and the newborn, lack of access to healthcare, violations of pregnant women's rights at all stages, including giving birth, neonatal care, premature birth, and also deaths of newborns. So my questions are how does Canada regulate corporations in its jurisdiction which contribute to**

human rights violation of women in Gaza through the arms trade, which makes the state party complicit to what has happened, to the actions that are made in Gaza to women? And also what are the steps for the country to refrain from continuing providing arms to the Israeli forces in the immediate future?

Government of Canada (Jennifer Keeling, Deputy Director, Human Rights and Freedoms Division, International Security and Political Affairs Branch, Global Affairs Canada):

1:03:08: Thank you very much. So you've mentioned the feminist foreign policy and the feminist international assistance policy a few times, so I'll kind of skip over that, but to note that regarding sexual and reproductive health and rights, in June of 2019, Canada made a 10 year commitment to global health and rights. And this commitment was announced by the Prime Minister at the [Women Deliver Conference](#) which Canada hosted in Vancouver, BC. Through that 10-year commitment, Canada is providing an average of \$1.4 billion annually to support women's, children's, and adolescent's health around the world, of which \$700 million is allocated to comprehensive sexual and reproductive health and rights. Canada's sexual and reproductive health and right investment make a comprehensive approach with a specific focus on five key neglected or underfunded areas including family planning and contraception, safe abortion services and post abortion care, comprehensive sexuality education, advocacy, and the prevention and response to sexual and gender-based violence.

With respect to humanitarian assistance in conflict situations, in 2022 and 2023, Canada provided \$1.3 billion Canadian dollars in humanitarian assistance in line with Canada's gender equality and humanitarian action sub-policy. And gender equality considerations were integrated into approximately 99% of these humanitarian assistance projects, with the exception of funding for humanitarian logistics operations. This level of gender equality integration continues to be a priority for Canada in 2024. Under [Foundations for Peace, Canada's National Action Plan on Women, Peace and Security - 2023 to 2029](#), the Government of Canada is committed to promoting and supporting women's participation in decision making and ensuring that women are meaningfully included throughout humanitarian action.

1:05:03: I'll turn quickly to the points about Israel and Gaza. And so **Canada has one of the strongest export control systems in the world. And the respect for human rights is enshrined in our legislation and it is a cornerstone of Canada's export controls regime. All export permits application for controlled items are reviewed on a case-by-case basis under Canada's robust risk assessment framework, including against the Arms Trade Treaty criteria, which are enshrined in Canada's Export and Import Permits Act. The Minister of Foreign Affairs will deny export permit applications if she determines that there is a substantial risk that the item could be used to commit or facilitate serious violations of international humanitarian law, international human rights law, or serious acts of gender-based violence or violence against women and children. Since January 8, 2024, the Government of Canada has not approved new export arms permits to Israel and this remains the government's approach. Taking into account the rapidly evolving situation on the ground, Canada suspended a number of export permits for military items destined to Israel during the summer.**

Article 13

Marion Bethel (Bahamas):

[1:11:51](#): And finally, I want to just look at two extraterritorial obligations of Canada that have been briefly mentioned. One is in regard to the deep sea bed mining and ask how does Canada hold deep sea bed mining companies accountable for environmental damage to oceans, marine life, which inevitably impacts negatively the lives and livelihoods of women in the Pacific region and violates their human rights under the Convention? And the issue of Gaza has already been mentioned and what I'd like to put forward here is that **alternate reports indicate that Canada engages in the indirect flow of military exports to Israel through the USA, even though it has suspended many of the permits and licenses to do so. But there is an indirect flow of military exports. What measures is Canada taking to ensure that arms sold to the US or other countries are not transferred to Israel and used in the violation of the rights of women and girls in Gaza?**

Government of Canada (GAC - Daniel Loutfi, First Secretary, Permanent Mission of Canada to the United Nations, Geneva):

[1:25:02](#): Thank you. So with respect to responsible business practice, I believe the question was specific to one sector, but I'm going to answer more generally because these issues arise in a number of sectors and Canada's approach is not sector specific, but takes a broader approach. Canada takes a balanced approach to responsible business conduct, which includes preventative measures, legislation in select areas, and access to remedy in the form of non-judicial dispute settlement mechanisms. Canada's approach to dispute resolution is founded on two mechanisms that reflect the objectives of both the [UN Guiding Principles on Business and Human Rights](#) and also the [OECD Guidelines for Multinational Enterprises on Responsible Business Conduct](#). Canada's approach aims in part at reducing barriers and providing victims of alleged business-related abuses, include women and historically marginalized groups, access to remedy mechanisms to address grievances. Canada has two non-judicial dispute resolution mechanisms. We have a [National Contact Point for Responsible Business Conduct](#) and there's an [Ombudsperson for Responsible Enterprise](#). So briefly the National Contact Point offers dispute resolution for a wide range of issues covered by the OECD Guidelines that includes employment-industrial relations, human rights, environment and bribery and the national contact point can facilitate dialogue or mediation to help resolve complaints involving multinational enterprises either operating in or from Canada. And that's in any sector. The Ombudsperson for Responsible Enterprises is mandated to review complaints regarding alleged human rights abuses arising from a Canadian company's operation abroad. And this is more specific to sector, so this is in the garment, mining, and oil and gas sectors. The Ombudsperson can also undertake a review on their own initiative.

Canadian companies who are involved in a dispute resolution process are expected to participate in good faith. If a company has not acted in good faith, the National Contact Point or the Ombudsperson can recommend implementing trade measures. And so these can include recommending the withdrawal of certain forms of trade promotion support that are otherwise offered by the Government of Canada, as well as the denial of future support from trade entities, such as Export and Development Canada, so that involves specific support that supports Canadian companies with exports abroad.

[1:27:18](#): With respect um to the follow-up question on Israel, um, you know, there uh... the... I believe that the... the aspects of our response that emphasized that no new arms export permits to Israel um have been um... focused on. I also want to reiterate that wherever the export permits are happen- ... wherever the exports are happening, even if they are through the US, all export permit applications of controlled items are reviewed on a case-by-case basis, including against Arms Trade Treaty criteria, which are enshrined in Canadian legislation. And again I'll just reiterate that the Minister of Foreign Affairs will deny export permit applications if she determines that there is a substantial risk that the item could be used to commit or facilitate serious violations of international humanitarian law, international human rights law, or serious acts of gender-based violence or violence against women and children.

VIII. APPENDIX C

CRPD Review of Canada – Transcript of Country Dialogue

(Excerpt)

32nd Session, 768th and 769th Meetings, Committee on the Rights of Persons with Disabilities (CRPD)

Full video of 768th Meeting available here: <https://webtv.un.org/en/asset/k1n/k1n09gnpy1>

Full video of 769th Meeting available here: <https://webtv.un.org/en/asset/k1j/k1jvnn43r1>

Day 1 (768th Meeting):

Article 32

Muhammad Salah Al-Azzeh

[02:04:17](#): Thank you, Madam Chair, for giving me the floor and apologies again for the confusion. Maybe it's the nostalgia for the old methodology. Now my question is for sure on cluster one on 33, 32 sorry international cooperation. And I would like to ask if in Canada you any place have, clear markers in order to track your international cooperation programs, first to make sure that they are inclusive for persons with disabilities. If yes, please elaborate on these markers and if you have some percentages or data to tell us the percentage of inclusivity in these programs in particular regarding funds for other countries, this would be great. *And second, how you make sure that all forms of your international cooperation, including in military aspects for example, does not make any harm for persons with disabilities. In particular when it comes for example for arms and similar equipment, because we learned from some resources about campaigns, advocacy campaigns, and reports they indicate kind of misuse for these equipment and that they had their impact on of course everybody, but mostly also on persons with disabilities.*

*Note: this question was not addressed in the immediate follow-up by the state party.

Day 2 (769th Meeting):

Article 11

Amalia Gamio Rios

[28:22](#): Thank you very much, chairperson, and thank you to the distinguished delegation for the answers they've provided today. I'll try and be very brief but unfortunately, I have to come back to Article 10 because I am concerned about the fact that in practice deaths of persons with disabilities are increasing in this assisted dying context, 60% of them are women and you can add to that people with psychosocial and intellectual disabilities. Sometimes these deaths take place in a private context in a secret fashion. Sometimes the family is only advised subsequently that the family member has been subject to this, and these deaths that are never investigated. I'd like to know what's happening with that. ***On Article 11, I'd like to ask what measures are being taken by the state to avoid the funding of sending weapons damaging the Gazan population, and what is happening in terms of the route through the United States of that which gives rise to hundreds of deaths.***

Government of Canada (GAC – Patricia Lyn McCullagh, Minister-Counsellor and Deputy Permanent Representative, Permanent Mission of Canada to the United Nations, Geneva):

[35:02](#): Thank you very much, Patricia McCullough, Global Affairs Canada. I'm responding to the specific question on measures taken by Canada to avoid sending weapons to Gaza...um... As you may know Canada has one of the strongest export control systems in the world with respect to human rights, which are enshrined in our legislation and cornerstone of our export control regime. All export permit applications for controlled items are reviewed on a case-by-case basis under Canada's robust risk assessment framework. Including against the Arms Trade Treaty criteria...ah... which are enshrined in Canada's Export and Import Permits Act. The Minister of Foreign Affairs will in fact deny export permit applications if there is a substantial risk that an item could be used to commit or facilitate serious violations of international human rights law. And just to add that in response to the ongoing conflict in Gaza-Israel, Canada has suspended new permits for military items destined to Israel to allow for further review into whether the authorized items could be used in a manner inconsistent with Canada's foreign policy objectives. Thank you.

Marcus Schefer

[47:41](#): Thank you, chair. ***I would like first to thank the delegation for their answer on arms export. However, there seems to be one major loophole in your answer. As far as I understand the individualized assessment does not take place in arms exports to the United States. However, there is evidence that the United States then re-exports certain arms in violation of the Arms Trade Treaty of the Geneva Convention, and maybe even of the Genocide Convention. What is the State Party doing to prevent such re-export from the side of the US?***

Amalia Gamio Rios

[51:24](#): *I will be brief, thank you chair. On article 11, I already asked a question on this, but I wasn't convinced by the answer you gave. Canada continues to export arms and weapons components to the United States, and the United States is the main shipper of weapons to Israel. So, the components that go into manufacturing those weapons go to the States and then end up in Israel. So, what are you doing about that point?*

Government of Canada (GAC – Patricia Lyn McCullagh, Minister-Counsellor and Deputy Permanent Representative, Permanent Mission of Canada to the United Nations, Geneva):

[56:35](#): Thank you. Ah...in response to the question about Canada conforming with international law, I'd like to say that Canada is firmly committed to complying with and strengthening international law. With respect to arms transfers, the applicable areas of law are international humanitarian law, the treaty law on the arms trade, and international human rights law. And as I stated earlier Canada's export controls regime is fully compliant with the Arms Trade Treaty as well as with international humanitarian law and human rights law. With your specific...ah...question and in respect to your specific question vice chair, on the United States. I want to emphasize that in this regard goods exported from Canada transiting through the United States to a third country, so we're talking about transit or transshipment here, require a Canadian export permit for the third country when they do leave Canada, thank you.

Marcus Schefer

[2:57:00](#): Thank you chair on behalf of my task force colleagues on the committee I would like to express our gratitude to the Canadian delegation for their positive engagement in this constructive dialogue. I also express the committee's gratitude to the significant commitment and invaluable input from the Canadian Human Rights Commission and organizations of persons with disabilities and other civil society representatives. *It was a positive dialogue, but it would have been more fruitful if there was less reliance on prepared statements that frequently did not answer or go to the heart of our questions, we will only be able to implement the Convention if we actively engage with its logic.*