

# Commentary



MAY 2021

## Understanding the role of weapon exports in Canadian foreign policy

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### Introduction

In October 2020 it became apparent that Azerbaijan, in its conflict with Armenia over the enclave of Nagorno-Karabakh, was relying heavily on drones. This included Turkey's Bayraktar TB2, assembled with equipment from the United States, Germany and Canada, notably L3 Harris WESCAM surveillance targeting systems and Bombardier propulsion systems manufactured in Austria.

Drones were *the* key weapon system that enabled Azerbaijan to change the geostrategic status quo in its conflict with Armenia over Nagorno-Karabakh, and this particular drone was arguably the most sophisticated among the half-dozen types of drones in this theatre of operations. At stake here is not only human rights but the fact that Turkey leveraged Canadian-supplied equipment to destroy the status quo of a frozen conflict – and may well do so again; for instance, Turkey's naval deployment to assert its claims over underwater hydrocarbons in the Mediterranean in waters also claimed by Greece and Cyprus, and its apparent violation of a weapons embargo in Libya.

Canadian defence technology thus risks being leveraged by the Turkish navy for purposes that may run counter to Canada's and NATO's interests, possibly bringing Turkey into direct conflict with another NATO member,

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and thus potentially contributing to further regional instability. In other words, export permits granted to Turkey matter beyond the particular use of drone technology provided by Turkey to Azerbaijan in the Nagorno-Karabakh conflict.

Throughout early 2020, Turkey lobbied the Canadian government heavily and directly to issue an export control licence (ECL). Was it predictable that granting a permit posed a high risk of being used in ways that may run counter not only to the permit but to Canadian interests?

The multilateral arms control regime works because it is based on international coordination on what to control and how to control it. Canada joining the Arms Trade Treaty (ATT) in 2019 qualitatively raised the game significantly, with Canada now widely recognized as having among the most robust processes in the world. Arms exports to Turkey had been subject to heightened scrutiny by Canada and many allies since October 2019, following Turkey's incursion into northern Syria: issuance of new permits was suspended, but valid permits remained in place. Not until April 2021 did the Minister of Foreign Affairs cancel all export permits to Turkey.



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Yet Turkey had been vocal in encouraging Azerbaijan to change the status quo – by military means – and was providing support to that end. In April 2020, Canada's Minister of Foreign Affairs exercised discretion in approving the permit anyway. This is all the more paradoxical given the exceptional degree of scrutiny export permits have received under the current government.

On the face of it, at issue is (1) whether Turkey complied with its obligations under Canada's export control regime and (2) the consequences that follow for Turkey – or, for that matter, any other country that might violate the conditions under which an ECL was granted. Canada has a keen interest in ensuring that receiving countries meet their obligations *de jure* and *de facto*, for the sake of its own interests, for the sake of regional and global stability, and for the sake of the legitimacy of the aforementioned international arms control regimes and associated transnational norms.

However, what is really at stake is the discretion exercised by the Minister and government that naively took at face value assurances provided by Turkey. To be sure, the onset of conflict is impossible for Canada to anticipate: it could be days, weeks, months or years away. This case is particularly troubling though, insofar as Turkey appears to have misled the Canadian government about its intended end use of the technology in question.

Turkey's President Erdogan called Prime Minister Trudeau while hosting Ukraine's President Zelenskiy for dinner. Russia has since cautioned Turkey to cease drone exports to Ukraine, which validates reporting on the end use of 48 TR2 drones by Ukraine. This would also explain why the inter-departmental risk assessment did not flag this permit as particularly high risk: in light of Canada's long-standing military support to Ukraine, Turkey would have known that Canada would likely agree to end use of Bayraktar drones by Ukraine, but not by another third party, notably Azerbaijan. That is, Turkey's lobbying and transaction dates coincide conspicuously with subsequent, and ostensibly intended, end use by Azerbaijan.

## Background

By acceding to the Arms Trade Treaty in September 2019, Canada enshrined the ATT assessment criteria into Canadian law. That makes Canada a signatory and a party to the ATT; Turkey is a signatory but not a party to the ATT. Canada and Turkey also both belong and adhere to the four principal arms export control regimes: the Wassenaar Arrangement, the Nuclear Suppliers Group, the Missile Technology Control Regime and the Australia Group. NATO membership imposes additional constraints and obligations on both countries.

The export control regime provides a minimum test and threshold for evidence, but the Minister of Foreign Affairs retains considerable discretion (and associated risk) in issuing permits. That is a recognition of the fact that defence exports are an instrument of foreign policy. The ATT narrowed discretion somewhat by increasing discipline for the Minister.

The ATT's concept of brokering introduces the principle of end use. Rather than simply replicating standard export permits, implicit to the ATT is a recognition that not all allies have the same standards. Brokerage allows for lists and countries that may well, and do, differ from schedules for allied and partner countries. Indeed, Turkey was intentionally omitted from these schedules, which means ECLs to Turkey would receive a level of scrutiny that did not apply to other NATO or select allied and partner countries. As a result, even though Turkey is a NATO ally, defence exports to Turkey require a brokerage permit.

From the 1950s through the 1970s, when NATO had fewer members than it has today, member states developed a mechanism to fast-track exports in support of NATO operations. That was during the Cold War, when operations and interests were more clear-cut than they are today. Nowadays various NATO member countries are engaged in a range of conflicts, such as "counter-terrorism" and "counter-insurgency" missions. Many of these are neither NATO missions, nor are they missions that have been approved by NATO (through the Atlantic Council and member states).

In addition, supply systems have evolved: countries keep lower stocks, and more of the supply chain is in the hands of private vendors. As a result, governments have less control over exports. At the same time, exports of dual-use technology have become a major issue. As a result, the scope of delegated authorities has narrowed.

The basic question that informs Canada's export control regime is whether to trust what Canada is being told by the receiving country about the intended end user and end use. For what under the regime is known as an "open country," the minister has discretion as to whether to delegate authority to grant export permits (which ministers have conventionally done, with some exceptions), and the level of scrutiny to be applied. These decisions are not part of the legislation per se; rather whether, when and what questions to ask is a policy choice. That explains why the inter-departmental risk assessment did not end up flagging the April 2020 permit as high risk – the bureaucracy arrives at its assessment within the confines of the method the Minister asserts in the relevant policy.

It is this method that determines the extent to which Canadian intelligence and the possible geostrategic consequences of exports are taken into account. However, since Canada does not have embassies in either Baku (which is covered by Canada's mission in Ankara) or Yerevan (which is covered from Moscow), Canada's geostrategic assessment may not have been as sensitive to potential end use of Canadian technology as it should.

By and large, the Minister delegates to the civil service authority for approval of export permits to NATO allies based on the certificate of end use. Once trust is called into question, however, as in the case with Turkey, political approval is required. In other words, the Minister's decision in April 2020 was a distinctly political decision. That is, this decision is not a failure of Canada's export control regime itself. Defence exports to Turkey had not been banned per se. In October 2019, only exports of kinetic weapons were frozen; other transaction depended on the nature of the good in question.

## Analysis

The Canadian government has a number of options to gauge the consequences of any specific transaction. First, a Minister could request a risk assessment on every transaction (and remove all discretion from the civil service). That would not have made a difference in this case: this decision already required approval by the political authority, based on a risk assessment using a method determined by policy, that is, set by the Minister.

Second, Canada could request a bilateral post-shipment verification mechanism to accompany certain or all ECLs. However, such mechanisms are not provided for in current Canadian legislation and, in any event, are cumber-

some and of limited effect. Switzerland has such a system, but it is necessarily limited in scope: you can count arms, but how do you verify components such as computer chips?

Under the Obama administration, the United States had a verification protocol with China for certain dual-use technology to count inventory provided to certain state-owned enterprises. Certain countries, including in the Middle East, have shown themselves sympathetic to such as bilateral protocols, precisely because they know that misuse of ECLs such by Turkey put their own defence imports at risk. However, post-shipment verification may make sense in some cases, such as the export of light armoured vehicles to Saudi Arabia, since those vehicles can readily be counted and their location ascertained.

The third option is a broad multilateral mechanism. However, such a possibility is unlikely, both because it would dilute the (fairly robust) Wassenaar Agreement (to which Russia is a partner) and because, nowadays, countries such as Russia would likely be loath to sign on to any new export control constraints.



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Lastly, a plurilateral code of conduct for select jurisdictions and companies may be conceivable. But the scope would need to be carefully defined, such as distinguishing between military and dual-use technology. To this end, drones are highly problematic, both because of the technology involved and because of their use: they are highly mobile, and, in the case of the particular drone in question, can be used for surveillance or to enable targeting.

We can also identify an additional problem: select Canadian interest groups with a long-standing agenda tend to capitalize on any Canadian export control controversy to call into question Canada's export regime wholesale. Such groups tend to want to stop, or at least slow, the approval of weapons exports.

Yet such an approach is highly problematic. For instance, they fundamentally misread the international security environment. Like many Canadians, they prefer to moralize, seeing the world for what they wish it were, rather than understanding the world for what it is. Ours is a world that is highly competitive and contested across all domains, where highly committed adversaries act persistently below the threshold of nuclear force, employing assertive political, economic and military tactics.

Simply put, we live in an age of permanent conflict across all domains. Canada's adversaries possess, deploy and are developing a spectrum of capabilities and actions that are comprehensive and extremely threatening. Much of that

threat is driven by technological change. Canada is no longer immune from sophisticated threats in a challenging world. Canada will be paying a very high price if it fails to pay attention. Technological innovation by means of a vibrant and robust security and defence industry is vital to effective deterrence: preventing the adversary's ability to achieve their aims. Canada also has an obligation to contribute to the security and defence of its allies and partners.

Moreover, Canadian security and defence spending is too modest and its procurement system too cumbersome (not by consequence, but by design) to sustain a domestic security and defence industry on its own. As the 10th largest economy in the world, Canada also has domestic, continental, regional, international and global security interests at stake. Its standing as a top 10 arms exporter in the world is thus commensurate with its economic heft: 640 firms generated \$10.7 billion in defence sales in 2018.

Canada's prosperity thus depends on both its ability to assert its interests, and its ability to nurture a high-tech security and defence industry. In 2018, the Canadian defence industry contributed over \$7 billion in GDP and generated almost 64,000 jobs, which are distributed across the country: 41 percent in Ontario, 23 percent in Quebec, 19 percent in Atlantic Canada, and 17 percent in Western Canada.

This sector also generates some of the most important investments and developments in research, development and innovation in the country (\$415 million in 2018): 4.5 times that of the Canadian manufacturing average in 2018. Ninety percent of those firms have fewer than 250 employees: that is, slowing or halting their exports means the probable demise of these firms in relatively short order. In 2018, 46 percent of sales were in Canada, 24 percent in the United States, 7 percent in Europe, 5 percent in Asia and Oceania, and 1 percent to the rest of the world – and 17 percent in the Middle East and Africa, which is well below that region's share of global arms imports. In other words, over 80 percent of Canada's arms sales support NATO members and other close allies.

## Assessment

We need to be realistic on what a fundamental change to Canada's approach to arms exports could achieve. Canada throttling or ceasing arms sales would simply have no impact on the arms trade. It would, however, have a diffusion effect: Purchasers would acquire services, technology and arms from other suppliers. Turkey procuring a Russian missile defence system after being rebuffed by allies is a case in point. In addition, as the above analysis shows, throttling or ceasing arms exports would result in disproportionate harm to Canadian security and prosperity.

Weapons exports are an instrument of foreign policy. They, and the condi-

tions Canada attaches to their end use, give Canada some leverage: if Canada got out of arms exports, those countries would still procure weapons, but at a heightened risk of procuring weapons from countries far less scrupulous than Canada. So, throttling or ceasing Canadian arms exports would actually make the world less safe and increase the prospect of conflict and human rights violations.

In addition, Canada's export control regime is robust. There is no systematic evidence to call the regime as a whole into question. Although Turkey is the fourth most important destination for Canadian military exports, sales of Canadian weapons technology to Turkey have long been disproportionately small relative to the fact that Turkey was the world's largest importer of major weapons between 1991 and 2017. Following Turkey's military incursion into northern Syria, all major European arms exporters (the Czech Republic, Finland, France, Germany, Italy, the Netherlands, Spain, Sweden and the UK) along with Canada halted, restricted or suspended arms export licence approvals for Turkey.

## Conclusion

Turkey has built up a substantial defence industrial base that meets about 70 percent of domestic demand (much of it produced under licence) and has become a significant arms exporter, especially to Saudi Arabia, Turkmenistan and the UAE. Canada and allies have recognized that Turkey's revisionist and hegemonic foreign policy along with its export patterns pose a heightened risk to Canadian interests, regional stability and human rights.

The consequences of a ministerial decisions should not be borne by the export regime or the Canadian defence industry. Rather, the Canadian government appears to have been misled about end-use, it caved to aggressive lobbying, and failed to use a more appropriate risk assessment methodology to account for geostrategic risk associated with the export of dual-use technology.

To be sure, end use is necessarily difficult to determine, but the *Globe and Mail* sent a reporter to examine claims of Canadian technology appearing on the battlefield, at a time when Canada had no diplomats in Baku or Yerevan that could have helped anticipate or observe the illicit transfer of Canadian technology. The location of Canadian embassies, too, is a political choice: Canada opted to profit from an ECL without balancing that risk with an investment in better geostrategic intelligence on the ground.

Finally, even after credible reports of potential violation of end use conditions by Turkey emerged, it still took the minister an additional half a year to revoke ECLs to Turkey for good. The responsibility for these decisions lies with politics, not with the ECL per se. Moreover, these outcomes are particular to Turkey and should not be transposed onto the ECL or to exports to other countries.

# About the author



Strategist, author and thought-leader, **Christian Leuprecht** (PhD, Queen's) is Class of 1965 Professor in Leadership, Department of Political Science and Economics, Royal Military College, Director of the Institute of Intergovernmental Relations, School of Policy Studies, Queen's University, Adjunct Research Professor, Australian Graduate School of Policing and Security, Charles Sturt University, and Munk Senior Fellow in Security and Defence at the Macdonald-Laurier Institute.

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Leuprecht holds appointments to the Ontario Research Fund Advisory Board, the board of the German Institute for Defence and Strategic Studies, the Police Services Board of the City of Kingston, the Centre sur la gouvernance sécuritaire et de crise (CRITIC) and the Polar Research & Policy Initiative in the UK.



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