



Peace. Justice. Survival.
Paix. Justice. Survie.



April 11, 2018

Honourable Chrystia Freeland
Global Affairs Canada
Office of the Minister of Foreign Affairs
125 Sussex Drive
Ottawa, Ontario, Canada
K1A 0G2

Dear Minister Freeland,

We would like to commend your recent amendment to Bill C-47, to place directly in the legislation a new binding obligation on the Minister of Global Affairs to reject export permits where there is a substantial risk that the export will cause or facilitate serious human rights abuses or undermine international peace and security. In our view this amendment will set firm legal limits on the current, overly broad, discretion of the Minister to grant or deny export permits. Furthermore, and most significantly in our view, this assessment of the presence or absence of a substantial risk will be amenable to judicial review. As to what constitutes a “substantial risk”, we would expect a paramount consideration to be the safety and security of innocent civilians.

Our satisfaction with the new “substantial risk” criteria is offset, however, by the draft legislation’s continuing failure to include arms exports to our largest sector destination – the United States. A fundamental obligation of the Arms Trade Treaty is that states parties control *all* of their conventional arms exports, including parts and components, wherever the destination. Individual states do not have the right to pick and choose what conventional weapons to include or what destinations to exempt. Such action by Canada would make a mockery of the ATT objective to establish the highest possible common international standards in an objective and non-discriminatory manner.

The failure to require export permits for USA-destined armaments also means that Canada will not meet its reporting obligations under the ATT, which must include information on all arms exports to all destinations.

There is another area of grave concern and that is the failure of Bill C-47 to specify what actions Canada needs to take in light of changed circumstances or “new relevant information” - to use the language of the ATT itself - after the original export permit has been granted. Trade agreements involving armaments often take place over a very long period of time – 10 years in the case of the provision of a new generation of Canadian Light Armoured Vehicles to Saudi Arabia, to cite the most obvious example.

The Federal Court has already made it very clear that they will consider any relevant evidence, with respect to an ongoing contract, not just circumstances existing at the time the permit was granted. Similarly, the Canadian government has instituted reviews of particular contracts when new allegations of abuse have come to light. It is therefore not at all clear why Bill C-47 fails to specifically include the duty to reassess in such circumstances. This would provide much-needed clarity for all concerned that Canada will not knowingly be complicit in serious breaches of international humanitarian law, such as those occurring in Yemen by the Saudi-led coalition. In short, Bill C-47 must make the requirement to reassess a clear and unequivocal one.

In our joint letter of October 16, 2017 we included a brief entitled “Bill C-47 and Canadian Accession to the Arms Trade Treaty: Civil Society Concerns and Recommendations”. It identified a number of other serious concerns including the ability of Cabinet to grant exemptions to the new law, the continued exemption of DND from the operation of the Act, the failure to clearly include the Canadian Commercial Corporation within the purview of the revised law and the lack of any formal steps to prevent the unauthorized diversion of Canadian military exports.

In summation, we applaud your much-needed step to establish a clear, binding legal standard for the assessment of arms export permits by the Minister of Foreign Affairs. We urge you to consider the further amendments that we have outlined in this letter, in order to ensure that Canada’s export control system embodies what you recently promised at the Geneva Conference on Disarmament - a rigorous system of a sufficiently high standard so as to instill confidence that Canadian arms will not be used for purposes contrary to international law.

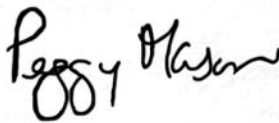
In closing, we want to underscore our deep concern over mounting evidence of internal repression in Saudi Arabia involving Canadian armoured vehicles and the refusal of Global Affairs to release the results of its own investigation into the abuses.

We would welcome the opportunity to discuss these issues in person at your earliest convenience.

Yours sincerely,



Roy Culpeper
Chair, Group of 78



Peggy Mason
President, Rideau Institute on International Affairs

cc. The Right Honourable Justin Trudeau
Prime Minister of Canada, (by email)