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Chair

Mr. Dean Allison

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• (1530)

[English]

The Chair (Mr. Dean Allison (Niagara West—Glanbrook, CPC)): Pursuant to Standing Order 108(2), our study on the Canada and United Nations arms trade treaty negotiations will commence.

I want to thank our two witnesses from the Department of Foreign Affairs and International Trade. We have Habib Massoud, who is a deputy director of the non-proliferation and disarmament division.

Welcome, sir.

We also have Paul Galveias, who is the senior export control officer of the exports control division.

Paul, welcome.

Thank you both very much for being here today. I believe you have an opening statement, so I'll turn the floor over to you. We'll give you 10 minutes, and then we'll go back and forth with our colleagues to ask some questions.

I'll turn the floor over to you, sir.

Mr. Habib Massoud (Deputy Director, Non-Proliferation and Disarmament Division, Department of Foreign Affairs and International Trade): Thank you, Mr. Chairman.

Mr. Chairman, an arms trade treaty was first proposed formally in 2009, when the UN General Assembly passed a resolution mandating negotiations on a legally binding international treaty to set common international standards to regulate the import and export of conventional weapons.

Over the last two years, a series of meetings took place in New York to prepare for the negotiations on an ATT. These preparations will culminate in a negotiating conference to be held at the UN headquarters in New York next month, from July 2 to 27.

During these preparatory meetings, the Argentinian chairman of the ATT process prepared draft elements of a treaty text. I believe you have been provided with the chairman's draft text, which is dated July 14, 2011.

The chairman's text is helpful but needs improvement, particularly in sections dealing with the implementation and with transparency and reporting. Nevertheless, we believe it can serve as the working basis for negotiations on a treaty, as long as elements of the text undergo further revisions, particularly to the sections on implementation and on transparency.

[Translation]

An arms trade treaty—or ATT—should one be finalized this summer, will set common standards for national export and import regimes to regulate the international transfer of conventional arms.

Canada and others will advocate that the treaty not set out how each country should organize its own domestic import and export controls but only what the goals of such controls should be.

[English]

Canada believes an ATT should include criteria to determine if exports would, one, violate UN Security Council sanctions; two, contribute to serious violations of human rights; three, contribute to serious violations of international humanitarian law; four, provoke, prolong, or aggravate armed conflict; five, support or facilitate terrorism; or six, support or facilitate organized crime. If so, the arms export would be prohibited. Without these six key criteria, any future ATT would be meaningless.

While the ATT's criteria are meant to disrupt the irresponsible trade in conventional weapons, the treaty should also recognize the legality of the legal and responsible international trade in conventional weapons and respect the lawful ownership of firearms by responsible private citizens for personal and recreational uses such as sports shooting, hunting, and collecting.

• (1535)

[Translation]

In order to do this, the Canadian delegation to the ATT negotiations this summer will propose that two elements be included in the treaty. The first would recognize that the purpose of the treaty is to prevent the illicit and irresponsible transfer of conventional weapons, while the second would acknowledge and respect the responsible and lawful use of firearms for recreational purposes like hunting and sport shooting. Adding these elements to the treaty will focus and define its terms.

[English]

Many of Canada's friends and allies agree with this proposal and have worked closely with the Canadian delegation at the ATT talks to draft text that would be acceptable to a large majority of countries.

The Canadian government will have two goals at these talks.

First, it wants to be sure that the legitimacy of firearms ownership by responsible, law-abiding private firearms owners is recognized, which would be accomplished by our proposal to add the two elements I have just mentioned.

Second, the government wants to ensure that no new burdens are placed on Canadian firearms owners and manufacturers. This second goal has already been largely achieved in the lead-up to the ATT talks this summer.

All the countries participating in the talks now accept that the treaty should set out what countries signing it should do—for example, preventing conventional weapons from falling into the hands of criminals or terrorists—but it should not set out how countries should be doing this; that is, the treaty should not dictate to countries signing it how they should be organizing their own export control regimes, only that the goal of these controls should be to prevent weapons from falling into the hands of criminals, terrorists, and human rights violators.

Canada already has in place a robust system of controls for export of conventional arms. The international standards for export controls that will be established by an ATT will almost certainly be lower than those of Canada's own export control regime. The items being considered for inclusion in an ATT are already subject to export controls in Canada.

[Translation]

Similarly, many of the criteria being contemplated for an ATT are already factors that the government considers when deciding whether or not to authorize an arms export. Therefore, Canada's present export controls will remain largely unchanged by a future ATT. This means that Canadian firearms owners and manufacturers will not have any new rules or regulations imposed on them by an ATT.

[English]

Four weeks have been allocated for the talks this summer to negotiate an arms trade treaty. The four weeks will be difficult, and success is by no means assured. However, Canada will work closely with our friends and allies, including in particular the U.S.A., the U.K., Germany, Italy, Japan, Israel, Australia, and New Zealand, to negotiate an effective ATT that will make a significant contribution to global efforts to keep weapons out of the hands of criminals and terrorists, while at the same time recognizing and protecting the ability of law-abiding private firearms owners to enjoy the recreational use of their firearms in a responsible manner.

Thank you.

The Chair: Thank you very much.

We're going to start with Mr. Dewar.

You have seven minutes, sir.

Mr. Paul Dewar (Ottawa Centre, NDP): Thank you, Chair.

Thank you to our guest. It's good to have you back at the foreign affairs committee.

This is a treaty that many had hoped would be able to curtail the trade in arms. Clearly, as we watch scenarios like Syria happen, we

see that there's an urgency to deal with the proliferation of arms. I have to say that when you look at the conflicts in a multipolar world and at the types of conflicts that we're seeing now, it is absolutely critical that we do this in a multilateral way. As you mention in your overview, we can have our own policies as nation states, but it's clear I think that if we can do it in a multilateral way, it will be more effective, and it will deal with the proliferation.

Just in terms of negotiations, you made a couple of points that have been topical with regard to the treaty. In particular, you emphasized a couple of times that you want to make sure that the treaty is going to, as you put it, “respect the lawful ownership of firearms by responsible private citizens for personal and recreational uses”, and you reference “sports shooting, hunting, and collecting”.

This, of course, became a bit of an issue during negotiations. I'm just wondering about this. Were there other countries that had the same opinion on it that we did? Also, were there other countries that actually didn't find this to be as important an issue as Canada did?

• (1540)

Mr. Habib Massoud: Certainly, many of our allies understand that the purpose of the ATT is to target bad people—let's just say, very generally, terrorists, criminals, and human rights violators—and there has always been the implicit understanding that, look, this is not meant to target legitimate, responsible trade by legitimate, responsible, law-abiding individuals. When I've discussed this with other delegations, they've said, well, of course, you know, that's implicitly understood. The argument the Canadian delegation has returned is, well, that's fine, so let's make it explicitly understood.

The question really has been, how do we protect that interest? We've explored a number of options. Some of them did not meet with much favour. The latest option we are proposing now, that of including text in the preamble, seems to have achieved the greatest support for achieving that goal. But there really hasn't been much disagreement about the goal generally.

Mr. Paul Dewar: Is it safe to say that we were the only ones identifying this as an issue?

Mr. Habib Massoud: No. Initially it was identified by Italy and Japan, which felt that this was important to them as well. We were just more active in exploring options to achieve this goal.

Mr. Paul Dewar: So it's safe to say that with regard to the concern we heard before—and which certainly was that Canada was pushing this issue to the point of saying that we might not be able to sign on—there has been some form of what we'll call a compromise found, a compromise that people can live with.

Mr. Habib Massoud: I hope you're not mistaking goals with approaches, because the goal of focusing the treaty on impeding the trade to terrorists, criminals, and human rights violators has been generally accepted and generally agreed on. It is about how that approach is to be achieved. The simple fact is that, beforehand, delegations said, well, look, this is implied. The Government of Canada said, let's find some way of making it clear, and let's clarify it in this. Some of the approaches we suggested early on did not meet with much favour. It's now the new approach that has met with much greater favour, but the general goal has never been in dispute.

Mr. Paul Dewar: Regarding the corruption of the arms trade, when you look at how we can actually attack that and what would be an effective ATT, how are we able to address that? That's a big issue in the arms trade, as you know. It's about money, and attacking corruption is going to be important. So what's our best way of attacking that problem within this very lucrative business? Something that obviously drives it is money—and misery, I suppose. Can you tell us about how we can get at the corruption within the arms trade?

Mr. Habib Massoud: The chairman has proposed as one of the criteria what impact that will have on corruption in the receiving country. Certainly, we will support the inclusion of that criteria as the chairman has let us set it out, but—and my colleague here can answer this even better—one of the things we are looking at is, for one, that we evaluate an export permit and ask if this is a legal permit and if all things are being done in a legal manner. If there's any illegality involved in an export permit application and we find it including corrupt practices, that permit will be denied.

• (1545)

Mr. Paul Dewar: Do you believe that we have to do a better job as a country in reporting on ourselves? I reference the fact that I tried as recently as a year ago to scope out just what our sales of arms were generally to other countries. There is a bit of a challenge, if you will, with sourcing, because sometimes, as you know, sales are directly over the border and then they kind of disappear with our friends to the south. So do we not have to look at tightening up our monitoring and certainly our reporting of our arms sales?

Mr. Habib Massoud: We report fully consistent with national and international laws. If you want the change in the national laws to have us report more, we'll abide by Parliament's decision.

Mr. Paul Dewar: Yes, I think that would be a good idea.

Voices: Oh, oh!

Mr. Paul Dewar: Do I have any time left?

The Chair: Thirty seconds.

Mr. Paul Dewar: I'll quickly hand it over to my colleague.

Ms. Hélène Laverdière (Laurier—Sainte-Marie, NDP): Okay. I'll be very brief.

Thank you very much for being here. It's nice to see you again.

Just to follow up briefly on what Paul was mentioning about the language in the preamble, because we all know that fine-tuning the language is.... Isn't there already, in the arms trade treaty resolution passed in 2009, wording that acknowledged “the right of States to regulate internal transfers of arms and national ownership, including through national constitutional protections on private ownership,

exclusively within...”? So in the resolution that led to those negotiations, isn't there already some language that simply could be reused?

The Chair: That's all the time we have, but I'm going to ask you to finish the answer, please.

Mr. Habib Massoud: The language you're referring to refers to the internal trade, the domestic trade, and it has been very clear from the very beginning that the ATT is about the international transfer. It does not touch in any way domestic transfer or domestic ownership issues. What we're proposing now is to say, look, in international transfer, transfers that are legitimate, law-abiding, and responsible should not be targeted, and the target of this is irresponsible, illegitimate trade that goes to bad people—for lack of a better word.

The Chair: Thank you very much.

We're now going to move over to Mr. Breitzkreuz and Mr. Dechert for seven minutes, please.

Mr. Garry Breitzkreuz (Yorkton—Melville, CPC): Thank you, Mr. Chair. I'll be sharing my time with Mr. Dechert.

I appreciate the emphasis you've placed on recognizing and protecting the ability of law-abiding private firearms owners to enjoy the recreational use of their firearms in a responsible manner. I see that as a priority. You've mentioned it several times.

In your answers to my colleagues here, who have raised the same kind of issue, you talked about wording in the preamble for addressing this issue. Maybe you could elaborate on that a little more and explain how that is binding on nation states that participate in this. Why isn't it in the main part? Is the preamble as strong a protection for civilian firearms ownership as it would be in the regular text?

My colleague also asked about the changes that have taken place from the previous.... Maybe you could elaborate on that a bit too.

Mr. Habib Massoud: First, let me point out that I'm not a lawyer, so if in a legal discussion I get it wrong, I apologize. But as our lawyers have explained it to me, by putting this text in the preamble...the preamble starts to give a defining character to the whole text. Once you get past the preamble of a treaty and you go into the text, you're starting to go into the details.

The initial text sets out definitional criteria for what is being done here. We are going to be watching carefully the details of the text to ensure that the details are consistent with what we've said. But should there ever be any doubt, should there be any ambiguity, we would be able to go back to the preamble text and say, "Look, we have said...". We have two text preambles. The first text says that the purpose of this treaty is to target terrorists, criminals, and human rights violators. The second text says that the purpose of this treaty is not to impact legitimate, responsible firearms owners.

When we go to the details of the text, should there be any confusion about that or some ambiguity and we need somewhere to be able to define what we can do, we can go back to the text in the preamble and say, look, just in case there was any doubt, here it is. I'll give you a specific example. In the discussions, a number of countries have said we should prevent weapons going to non-state actors. What they really mean by this is that they want to prevent weapons going to the likes of the narco-guerrillas in Colombia or to terrorist groups in the Middle East. That's fine, but if we were to somehow put the words "non-state actors" into the treaty, it could be misinterpreted to mean anyone who is not a government—a company, an individual....

Now, one of the things that we are going to try to do is to say, look, let's not use the words "non-state actors"; let's use the words "illegal armed groups". That better defines it. But should there be any ambiguity about that, we could then turn around and say to look at the preamble, where we have said these people, not those people. That should clarify it, should there be any ambiguity.

• (1550)

Mr. Garry Breitkreuz: Thank you. I appreciate that.

If in that final text things appear.... This is a negotiation that's going to be taking place in July. If civilian firearms are going to be included in there in some way, shape, or form, what would our response be? Would we be concerned about that?

Mr. Habib Massoud: Let me clarify. There is no distinction between civilian and military firearms.

As for what our approach is now, rather than focusing on firearms, we are focusing on the user. So rather than trying to make a distinction about this type or that type, which is, quite frankly, difficult and controversial, we're going to talk about who the users are. Frankly, it's much clearer and much easier to agree on who are legitimate, good, and responsible users and who are illegitimate, bad, and illegal users. We can try to focus it that way instead.

Mr. Garry Breitkreuz: Thank you, Mr. Chair.

Mr. Dechert.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

Thank you, Mr. Massoud, for your comments here today.

In your opening remarks, you mentioned that the international standards for export controls that will be established by an ATT will almost certainly be lower than those of Canada's own export controls regime.

I wonder if you could briefly explain to our committee members the Canadian export controls regime and also how the Department of Foreign Affairs ensures that Canadian exports are sent through rigorous checks before being authorized.

Thirdly, I wonder if you could compare Canada's export control regime to those of other countries.

Mr. Habib Massoud: I will turn it over to my friend here, who knows much more than I do.

Mr. Paul Galveias (Senior Export Control Officer, Export Controls Division, Department of Foreign Affairs and International Trade): Thank you for the question, sir.

To start with your last question first, Canada's export control system is a gold standard. We are recognized internationally as exercising a great deal of diligence by making decisions based on clearly articulated principles, procedures, regulations, and legislation. That in itself differentiates us from many other states that simply have legislation in place but perhaps not the processes or the capacity to exercise exactly what they've signed on to do.

Mr. Bob Dechert: How does the Canadian export control process compare to the United States process, for example?

Mr. Paul Galveias: They're relatively similar.

By way of explanation, if I may, Canada is a member of four existing export control regimes. The one that deals with munitions items primarily is the Wassenaar arrangement. We are one of 41 states that are like-minded and belong to this arrangement of export controls. The United States is a member as well.

We have commonly articulated and commonly understood principles of what we do: transparency, both in conducting our export controls and in how we report on results and items—such as not contributing to destabilizing accumulations of arms in various areas and other states. So as far as we and the U.S. go, we have very similar operating principles that we work on—

Mr. Bob Dechert: Would that be considered—

Mr. Paul Galveias: —but the actual systems are quite different.

Mr. Bob Dechert: I'm sorry to interrupt. How do we compare to China and Russia?

Mr. Paul Galveias: I'm not as familiar with the Chinese system, so I would be unable to give any meaningful comparison.

As far as the Russian system goes, we do not have a single state-authorized exporter for munitions goods, as the Russians do with Rosoboronexport. Russia is a Wassenaar member as well, so it has signed on to the common principles of how export controls can be conducted. The Canadian export control system is, in Canada, predicated upon the Export and Import Permits Act.

Mr. Bob Dechert: How do our checks work? How do we check who the arms might be shipped to?

The Chair: Bob, that's all the time you have.

Go ahead and finish the answer.

Mr. Paul Galveias: The Canadian export control system is concerned not only with the goods that are being exported, but also with the destination—to whom they are going and how they will be used. Depending upon the location, we use, to a greater or lesser extent, a consultative process within the Department of Foreign Affairs and with other government departments that have knowledge of or interest in the area to have them express their concerns and to evaluate, with due diligence, the proposed transfer.

The Chair: Thank you very much.

We're now going to turn it over to Mr. LeBlanc.

Seven minutes, please.

Hon. Dominic LeBlanc (Beauséjour, Lib.): Thank you, Mr. Chairman.

Thank you, gentlemen, for being here.

I want to follow up on a line of questioning that Mr. Dewar and Madam Laverdière began.

I was interested to know that in the preparatory meetings of July 2011 there was a decision to include members of civil society as part of the Canadian delegation. I'm interested in how that process was undertaken, what criteria you used to decide who would be part of that delegation, and if other groups had applied or were interested. I'm just curious as to how you arrived at the composition of the delegation.

• (1555)

Mr. Habib Massoud: The composition of the delegation is the responsibility of the minister. The minister decides who will be on the delegation, so I would ask that you ask the minister that question.

Hon. Dominic LeBlanc: But from your long experience—and I understand that you don't want to speak for the minister—is there typically any kind of criteria, or do you simply get an e-mail that says “this will be the delegation”, and you have no understanding of how that was arrived at?

Mr. Habib Massoud: It's the minister's decision. Mr. should ask the minister.

Hon. Dominic LeBlanc: You're just then informed of the decision. There's no process that goes on in the department to identify groups. At one point there's a ministerial decision as to the composition of the group. Is that...?

Mr. Habib Massoud: We are able to identify what governmental officials are needed and we identify what governmental officials the minister may wish to consider. Then the minister decides who will be on the delegation.

Hon. Dominic LeBlanc: Typically, the members of the delegation would meet with senior officials of the department in planning these meetings, I assume.

Mr. Habib Massoud: There's always a consultation process going on, yes, and we're always talking about what's going to be happening among us. Yes.

Hon. Dominic LeBlanc: Once the delegation is determined by the minister, there would be internal meetings. Members of this

established group would meet, I assume, with you and your colleagues.

Mr. Habib Massoud: We meet at the discussions themselves, at the talks themselves. When I'm leading a delegation, I like to have a morning meeting every day, so—

Hon. Dominic LeBlanc: I understand, but you would meet before you all arrive at the meetings. Presumably you'd meet in Ottawa and you'd meet in various locations.

Mr. Habib Massoud: Or consult by e-mail.

Hon. Dominic LeBlanc: Right, and I assume that typically in preparation for one of these sessions there would be briefings for the minister as well on the approach to be taken at these discussions.

Mr. Habib Massoud: We discuss with the minister what the minister's office might want, of course, to get a better understanding of the minister's instructions to us so we can better formulate our views.

Hon. Dominic LeBlanc: From your experience... I'm obviously interested in the participation of civil society and how these people were selected. I understand that you may not want to discuss that, but I'm trying to get an understanding of what the role of these people would be in the lead-up to the beginning of the negotiations. You're surely not saying that they would just arrive on the day of the meeting and have your morning meeting. They're involved in setting up the preparatory work...?

Mr. Habib Massoud: We have a wide variety of consultations. Before every PrepCom we actually consult quite a few groups. If anybody else wants to write to us and send us their views, we of course welcome it.

But my experience has been that every minister is different. We try to serve the minister as that minister wants. I stopped long ago trying to predict how ministers think, so—

Hon. Dominic LeBlanc: A TV show tried that once, didn't they?

I don't want to interrupt you, but we're running out of time.

Would you be surprised if people who were part of the delegation in which you'll be involved as we head into July of this year were posting, on a website called “canadiangunnutz.com”, references to discussions taking place in the department, offering opinions as to how the government may deal with certain issues, and saying that understanding diplomatese is worse than Klingon?

You don't look like an alien, but you would be surprised, wouldn't you, that people participating as part of your group are on these websites posting stuff like that?

That wouldn't be typical, would it?

Mr. Habib Massoud: First off, speaking fluent diplomatese, I understand why people have trouble understanding it.

Voices: Oh, oh!

Hon. Dominic LeBlanc: You've never posted on the website called “canadiangunnutz” referring to yourself as a Klingon.

Mr. Habib Massoud: I wouldn't refer to myself in that way, no.

Members of the delegation all sign a confidentiality agreement because we have to be able to speak freely. Our Canadian delegation to each of the PrepComs has worked very well. We're very pleased we get along very well. I have never seen the internal confidentiality of a Canadian delegation violated.

Hon. Dominic LeBlanc: So you would be surprised, then, if people purporting to be part of that delegation were offering, on the website, a rather detailed analysis of what the Canadian government would be putting forward at these discussions?

• (1600)

Mr. Habib Massoud: My best guess is that this person was probably not a member of the delegation.

Hon. Dominic LeBlanc: And if the person were either involved with the delegation or a senior official of one of the groups involved with the delegation, you'd want to look into how that happened.

Mr. Habib Massoud: I prefer to trust my colleagues.

Hon. Dominic LeBlanc: You would never verify, though, that this kind of stuff is posted on websites. If somebody were to send you websites....

You're not a police officer or a lawyer, and I understand that, but I'm sort of worried that perhaps there is a tendency to speak freely about what is an important discussion and the role of Canada in those discussions. My concern is that it can be compromised by people who can't resist going on the Internet late at night and posting stuff.

That would be unusual for you, certainly.

Mr. Habib Massoud: I fully trust all members of my delegation. I know there are people who think they know things and will write all sorts of things without actually knowing what the facts are. I have complete trust in every member of my delegation.

Hon. Dominic LeBlanc: Thank you for your answer.

We only have one minute left. Perhaps you could give us a sense of where the resistance would be coming from, what countries. If you're correct to say there's no guarantee of a success next month, where do you see the biggest resistance currently from your impression of where different state parties may be in approaching the discussions next month?

Mr. Habib Massoud: Let me give you the impression of the room I have when I've been at the PrepComs.

There is a great deal...and growing distrust among many delegations. There are some countries that aren't fully convinced. When we say that we want to impede the flow of weapons to human rights violators, to those who aggravate civilian conflicts, to those who are under UN Security Council sanctions, there are some countries that don't actually believe it. There are some countries that think this is an excuse. There's a great deal of suspicion that maybe

Hon. Dominic LeBlanc: Sorry—an excuse in what sense?

Mr. Habib Massoud: There are some who believe that western countries—

The Chair: Go ahead and finish the answer, but then that's all the time.

Mr. Habib Massoud: Some countries think that western countries are simply looking for any excuse to prevent weapons going to them for their own political purposes. They're not quite convinced that we're sincere when we say that we just don't want weapons going to human rights violators. So there's a bit of suspicion.

There are harder-line countries that seem to believe there's some sort of western plot at regime change. They think that the real purpose of the ATT is to be able to give weapons to those we like and to not give weapons to those we don't like, and that there's a political motive beneath all that.

When we come out and say, "No, look, we just think that human rights violators should be prevented from getting weapons, that criminals and terrorists should not be getting weapons", they don't think we're sincere.

The Chair: Thank you very much.

We're going to start our second round of five minutes. We'll probably have a chance for a couple of interventions.

I'm going to start with Ms. Grewal.

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you, Chair.

To Mr. Galveias, currently military goods shipped from Canada to the United States do not require export permits. An arms trade treaty could affect this licence, the free arms trade arrangement with the United States.

Due to the fact that the Pentagon is Canada's largest customer for military goods, what would be the impact of the implementation of such a treaty on relations with the United States?

Mr. Paul Galveias: We envision it having very little impact on our relationship with the United States. Currently, as you mentioned, very few items from Canada require an export permit to the U.S. There's more than one approach that may be taken in evaluating an export, whether an individual permit is required, or an open licence, or a general licence, or even a licensing exemption.

As my colleague has stated, the ATT is seeking, in our understanding, to define what will be controlled, not necessarily how you will go about controlling it. The aspect of national discretion is very important to us in this regard and in our ability to seek to continue in the mutually advantageous and long-standing relationship we've had with the United States.

Mrs. Nina Grewal: I see.

As Canadian practice now stands, Canada would not meet expected arms treaty standards with regard to the treaty's scope because most Canada-U.S. transfer transactions are currently exempted from authorization and are not mentioned. As deputy director of the non-proliferation and disarmament division, what concerns would you advise this government to have in regard to treaty implementation? What position do you expect the United States to take in the negotiations?

Mr. Habib Massoud: The United States has been very supportive of the ATT. It sees, as well as anyone, the need for common international standards.

Really, the goal here is to try to promote greater transparency and confidence among major exporters—that we all try to achieve the same goals. One of the key components, then, is going to be on reporting and transparency so that we can all be confident that we are all fulfilling these obligations we undertake. Therefore, reporting is going to be very important.

However, reporting must also be realistic and practical. For example, under the chairman's text, the chairman seems to believe that we can report in incredible detail about each and every transaction. What we have said in the PrepCom, and others have agreed with us, is that to be realistic and practical, we cannot report in such great detail. Our trade with the U.S. is the classic example of that, where, by all means, we would want to be transparent and open, but the number of transactions between Canada and the U.S. is such that we won't be able to report on each and every transaction.

In any case, there are certain limitations that we and everyone else are going to have in how much and what we can report, including, for example, national security. We don't necessarily want to be able to report in intimate detail how much the Canadian or the American armed forces are buying or selling.

There's corporate confidentiality. We shouldn't ask companies to provide such intimate details about their business transactions. We have to be realistic.

Finally, in the case of Canada, we have the Privacy Act. There's some information that, for private citizens, we just cannot give out, and we don't want to give out.

All that being said, there's still a way of being open and transparent in giving the kind of information that will promote confidence and transparency among the partners of an ATT, and this we would support.

•(1605)

The Chair: You have one minute.

Mrs. Nina Grewal: I'll pass my time to Mr. Van Kesteren.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): Thank you, Chair.

I wasn't expecting to ask a question, but in just listening to the conversation the thing that struck my mind was, when we talk about non-state entities, what happens in the case of rebel groups? I'm thinking specifically of the Afghans. When the Soviet Union invaded Afghanistan, I don't think Canada was a big participant. The United States obviously was, and I think the rest of the world thought that was probably a pretty good idea at that time. What about in cases like that?

Mr. Habib Massoud: That's going to be an interesting dilemma.

Certainly one of the driving factors in this was to ensure that weapons are not going to fuel the types of conflicts we see in Africa, for example. Clearly this has a devastating effect, which we don't want to see encouraged.

We say clearly that we want to be sure that weapons are not going into the hands of terrorists. The reality is that one man's terrorist is another man's freedom fighter. How do we make that distinction? Do

we make that distinction? Should we make that distinction? All excellent questions. I don't have an answer.

The Chair: Mr. Van Kesteren, that's all the time.

Do you have a final comment?

Mr. Paul Galveias: If I may, just in response to your question, sir, under our principal objectives of export controls and trying to balance trade and security, the first criteria that we look at in evaluating any proposed military export is this: does or will this export cause harm to Canada or her allies? The inverse of that is whether this export is a benefit to Canada or her allies.

As my colleague has said, when you look at a situation, it's not just what will be done in terms of international security and whether it will contribute to national or regional security, stability, or conflict. It's also what Canada's wider role is in that particular question.

The Chair: Thank you very much.

We're going to move over to Madam Laverdière for five minutes, please.

Ms. Hélène Laverdière: Thank you very much, Mr. Chair.

Thank you again to the two of you.

Mr. Massoud, when my colleague Mr. LeBlanc raised the issue of the delegation, I was particularly interested to hear you say that the minister was the one who decided who would be in the delegation for the last negotiations. It's interesting. The minister was here a few months ago and I asked him who had decided on the delegation; he said he didn't know. I don't know if he forgot that he had made the decision. Anyway, it was an interesting comment, and I think it furthered our understanding of the file, so I thank you for that.

At the same time, you mentioned that you did consult quite a few groups, but I understand that you consult the people in the delegation by e-mail and that kind of thing, so the consultations are relatively restricted.

I remember some years ago that we used to do large-scale consultations on that whole range of issues, most notably on human security issues. There were very formal, open consultations in which people would come to DFAIT or communicate—it was not Skype at the time, but by some other technology.

Have you seen a change towards fewer consultations in recent years?

•(1610)

Mr. Habib Massoud: It really varies by issue, by forum, by personality, and by interest. It's very difficult to make such a broad generalization. It depends on how much interest there is on the subject. It depends upon who wishes to be consulted. It depends upon personalities. It depends upon ministers, and it depends upon the forum. I find it very difficult to make that kind of generalization.

Ms. Hélène Laverdière: I remember also—I'm sorry to talk so much about my memories, but they are fond memories—that we used to invite a large group when there were discussions or meetings about small arms control, discussions at the UN. There was quite a large *éventail* of NGOs, including Project Ploughshares, I remember, and people like that who we haven't seen in the latest negotiations.

Do we know who from outside of government is going to participate in the upcoming round of negotiations in July?

Mr. Habib Massoud: I can only speak for the Canadian delegation. I can't speak for anyone else who is going to be in the room.

Ms. Hélène Laverdière: You mean you don't know? I'm talking about part of the Canadian delegation. You had the Canadian Shooting Sports Association in past delegations. Do you know if they are going to be there again, or if other organizations are going to be part of the Canadian delegation?

Mr. Habib Massoud: We haven't yet received the minister's decision on who will be in the delegation. I hope we'll be hearing from the minister soon.

Ms. Hélène Laverdière: Okay. Thank you.

Finally, I have to say that we welcome the decision to move back from asking for an exemption for hunting and sporting firearms, because we heard from a number of people about how this would create a problem, particularly with other countries and particularly because there is not even a definition of a hunting or sporting firearm.

Do you expect that the language you want to put in the preamble now won't necessitate the same type of reaction, and will be admitted easily by other countries?

Mr. Habib Massoud: Our goal has never changed. Our goal has always been to protect responsible, law-abiding firearms owners from any impact from ATT. We're simply trying to find the best approach to doing so.

We've changed the approach from trying to define a specific class of weapons to defining a specific class of people. Therefore, the wording we are presenting would indicate that the target of this treaty is criminals, terrorists, human rights violators, and those under security council sanctions. Those who are not to be targeted are legitimate, responsible private firearms owners such as hunters and sports shooters.

The Chair: Thank you very much.

That's all the time we have. I'm going to ask that we suspend our meeting for five minutes.

To our witnesses, thank you very much for taking the time to be here. We'll get our witnesses changed out and we'll come right back with our second round.

Thank you very much.

•(1610) _____ (Pause) _____

•(1620)

The Chair: Thank you.

I want to welcome our guests here as we look at the second hour of our hearings today.

From the Control Arms Coalition, we have Lina Holguin, member, policy director from Oxfam Canada; Kenneth Epps, member, senior program officer from Project Ploughshares; Mark Fried, member, policy coordinator from Oxfam Canada; and Hilary Homes, member, campaigner for international justice, security, and human rights at Amnesty International.

From the Canadian Shooting Sports Association, we have Steve Torino, president, along with Tony Bernardo, executive director.

As well, as an individual, we have Solomon Friedman, lawyer.

Welcome to you all.

I believe you have a well-coordinated strategy in terms of how you will deliver your message. I'd like to see this. This is going to be good.

Mark Fried, you're going to start off, sir, and you're going to pass it over to Hilary Homes. From there it's going to go to Lina Holguin, and then Kenneth Epps will finish.

Mr. Fried, we'll start with you, sir.

Mr. Mark Fried (Policy Coordinator, Oxfam Canada, and Member, Control Arms Coalition): Thank you very much, Mr. Chair.

Bonjour, tout le monde.

On behalf of the Canadian members of the Control Arms Coalition, first let me thank you for taking up this issue and for inviting us to appear as witnesses today.

Oxfam works in 95 countries around the world. We've seen over the decades, particularly in the last 20 years, a marked increase in the number and the severity of armed conflicts and incidents of criminal violence. Disputes that might once have been resolved with fists or sticks are now fought with automatic rifles, bazookas, and grenades. This is feeding a death toll that now stands at about 2,000 people every day dying from armed violence.

We find it outrageous that countries continue selling weapons and ammunition to known human rights abusers, sometimes in violation of UN embargoes, or to countries where corruption and incompetence allow weapons to fall into the hands of terrorists and criminals.

We can do something to rein in this tragedy. With the arms trade treaty we have the opportunity to bring the world up to Canada's high standards for export controls of weapons. We can do so, as was said earlier, in a way that protects the rights of lawful gun owners.

I hope this is an issue that all parties can get behind. A robust arms trade treaty would cover all weapons, ammunition, and components. It would require governments to make a judgment call as to whether a shipment of weapons would likely lead to violations of human rights law or international humanitarian law, or would increase corruption or poverty. If the answer is yes, that shipment should not go forward.

I appreciate your interest in the details and look forward to answering your questions, but let's not lose sight of the big picture. It took over a decade of lobbying by Nobel peace laureates and by our organizations before the United Nations began these negotiations in 2009. We're now in the final stages.

Canada has been a quiet but steady supporter of the arms trade treaty. Some countries will try to water it down or tie it up in endless debate. We need Canada to be a vocal champion of the arms trade treaty.

My colleagues will answer the details. I look forward to your questions.

• (1625)

Ms. Hilary Homes (Campaigner, International Justice, Security and Human Rights, Amnesty International, and Member, Control Arms Coalition): Thanks, Mark.

I'm going to speak briefly on why we need an arms trade treaty and provide a contemporary example of a situation that we hope will be addressed by an effective arms trade treaty.

What exists now in terms of regulating conventional arms is a patchwork of national, regional, and international rules and principles involving few common standards or obligations. There are significant gaps through which too many weapons simply end up in the wrong hands.

States are playing by different rules. Some states like Canada have comparatively tight export controls; others have practically none. Some states abide by arms embargoes, while others seek to get around them for political reasons or simply greed. Some states blatantly back one side in a conflict and sell arms accordingly, regardless of how they will be used.

An arms trade treaty should embrace one simple idea: if there is a substantial risk that arms exported to another country will contribute to serious human rights abuses, those arms transfers must be stopped. We need only look to Syria for evidence of how badly the current system can fail.

Despite an ongoing and serious human rights crisis in Syria over the past year, in which thousands have been killed, arrested, tortured, and many more have fled over the borders looking for safety, the UN Security Council has been unable to impose an arms embargo. Some governments, including Canada, took independent measures to impose sanctions and prohibit arms transfers. Canada's response was in fact very robust, including some seven rounds of sanctions.

For others, however, notably Russia—Russia is, of course, one of the permanent five Security Council members—it remained business as usual. The prevailing attitude can be found in the words of the general director of the Russian state-owned arms manufacturer, Rosoboroneport:

As long as no sanctions have been declared yet and as long as there have been no instructions and directives from the government, we are obliged to comply with our contractual obligations, which we are doing now.

However, you'll notice in that quote it says "as long as no sanctions have been declared".

Russia has played a central role in preventing a wide range of sanctions. It has exercised two vetoes to block UN Security Council resolutions. Russia also voted against a recent UN Human Rights Council resolution condemning the killing of some 108 people, including 50 children, in Houla. Despite being Syria's main weapons supplier, Russian President Putin said on June 1, right after the Human Rights Council vote that "Russia does not provide weapons that could be used in a civil conflict." No information, however, was offered to substantiate that claim.

There are many other cases, many other clear cases, where populations suffer from irresponsible arms transfers, including, notably, Sudan. I would welcome further discussion of these following our presentation.

I'll turn it over to Lina.

Ms. Lina Holguin (Policy Director, Oxfam-Québec, and Member, Control Arms Coalition): Thank you very much for having us here today.

[*Translation*]

Oxfam-Québec and the members of the Control Arms Coalition think that the UN Diplomatic Conference on the Arms Trade Treaty, in July 2012, represents an unprecedented opportunity to greatly reduce the human cost associated with the irresponsible transfer of arms.

An effective ATT must cover the import, export and transit of all types of conventional weapons, their ammunition and related equipment. It must be legally binding and stop the transfer of arms that could be used to violate international human rights and humanitarian law. We are pleased that Canada supports these criteria.

However, the ATT must also prevent arms transfers by states when there is a substantial risk of undermining sustainable development. Unfortunately, Canada no longer supports the inclusion of a socio-economic development criterion in the treaty's parameters. Many civil society organizations, including Oxfam, and states, including the UK, believe that this criterion must absolutely appear in the treaty, since armed violence constitutes a direct obstacle to development. For instance, it has been shown that armed conflicts cost Africa \$18 billion each year. I could also share with you other statistics that are in a new report that we are going to publish this week.

We believe that an arms trade treaty will help create the necessary conditions for true economic and social development, while also controlling the flow of arms that have precisely impeded this development in the past. I am speaking to you as a representative of Oxfam-Québec, but also as a Colombian. I grew up in Colombia, and I know what I am talking about when I say that the resources have been used for war and not for development.

Our position is clear: a weak treaty would be worse than no treaty at all. A weak treaty would simply legitimize the existing system, which is deficient.

Thank you.

•(1630)

[English]

Mr. Kenneth Epps (Senior Program Officer, Project Ploughshares, and Member, Control Arms Coalition): We know that treaty negotiations next month will be challenging. All key elements of the treaty are contested, even its scope. For example, from their recent experience, many states in Latin America and Africa insist that small arms and light weapons must be in the treaty. Yet some states, including China in particular, want small arms omitted from the scope.

Similarly, the majority of states recognize that transfer authorization criteria should be based on international commitments. Some, particularly the U.S., argue that these criteria should be taken into account during transfer authorizations but that states should not be held to a “states shall not” wording in the text. The problem, of course, is that some states will interpret “take into account” as “choose to ignore”.

Two challenges stand out for treaty negotiations. First, the closest document to a draft text is a paper prepared by the chair of the ATT process at the UN, Ambassador Moritán of Argentina. It has wide support and includes all the fundamentals of a strong treaty, but the paper has formal approval only as a background document. The second and perhaps greatest challenge is that the final treaty text must be approved by consensus. This was a condition required for the U.S. to join the ATT process, and it may well become the greatest impediment to effective negotiations.

Nevertheless, we believe Canada can play a significant and supportive role to assist negotiations towards a robust and comprehensive ATT. Canada was an early advocate, co-sponsoring resolutions on the ATT at the UN General Assembly. Canada's national record on export authorization, including its case-by-case assessment of arms export requests and its use of human rights and conflict criteria suggest that Canada can bring substance and comparatively high standards to the negotiation table. A Canadian proposal for preamble language, as we heard earlier, to acknowledge the legitimate use and transfer of firearms for recreational purposes helps to clarify that the ATT is not intended to affect domestic firearms regulation.

In our view, however, Canada should also, first, demonstrate high-level support for an effective treaty via a public statement by the Prime Minister and participation by Foreign Minister Baird in the opening ministerial segment of the diplomatic conference. Second, Canada should return to its earlier support for a strong treaty criterion on sustainable development. And third, Canada should consider including other stakeholders in the conference national delegation, such as parliamentarians and representatives of the broad range of civil society groups that have worked for a robust treaty.

In addition, we call on Canadian parliamentarians to sign the global parliamentary declaration advocating a strong and effective ATT. To date, the document has been signed by over 80 Canadian MPs and senators from all official parties.

To conclude, civil society groups like ours across the globe are convinced the arms trade treaty is an unprecedented opportunity to reduce the human cost associated with inadequate controls on arms

transfers. It can make important contributions to improved safety and security for the countless communities affected by conflict and armed violence. It is an opportunity that Canada and other UN member states should seize.

Thank you for your attention.

•(1635)

The Chair: Thank you all very much.

We're now going to move over to Mr. Torino, who I believe has some opening remarks, and then Mr. Bernardo is going to finish off the intervention.

Mr. Steve Torino (President, Canadian Shooting Sports Association): Thank you very much, Mr. Chairman and members of the standing committee, for inviting the Canadian Shooting Sports Association to participate and express the views of our members and other active Canadian firearm owners and users.

My name is Steve Torino. I'm the president of the Canadian Shooting Sports Association. I also co-chair the firearms advisory committee, reporting to Public Safety Minister Vic Toews. I have occupied this position for the last six years. Previously, I served as chair of the user advisory group on firearms for Justice Ministers Allan Rock, Anne McLellan, and Martin Cauchon from 1996 to 2003, and then I was part of Firearm Commissioner William Baker's program advisory committee for three years, wherein I chaired the firearms subcommittee.

The Canadian Shooting Sports Association represents active target shooters and collectors in Canada. From the volume of communication we've received concerning the upcoming July UN conference on the arms trade treaty, apparently the issue of sporting and hunting firearms being a part of the arms trade treaty has taken on some significance. CSSA has been asked to represent our members' position to the government.

While my colleague Mr. Bernardo will submit the views of CSSA members and of the firearms community in general, I will present some facts that may be pertinent in any discussions and deliberations this committee's members may hold in regard to the arms trade treaty.

Our members' main concern in the past has been and remains the fact that there does not seem to be an agreed upon definition of small arms and light weapons, and each country has either different interpretations or different applications regarding these items. The United Nations small arms survey and others seem to use various definitions, ranging from those found in a 1997 study to those in a 2005 UN version.

In regard to civilian small arms and ammunitions—

The Chair: Mr. Torino, I'd ask you to slow down a little bit, because the interpreters are having a hard time keeping up.

Mr. Steve Torino: Excuse me, Mr. Chairman. Thank you.

In regard to civilian small arms and ammunition, Canada is primarily a nation of importers, not manufacturers. Current import costs of these specific items total some \$250 million, as part of an industry generating some \$6 billion annually in revenue, including costs related to and in support of these activities. Related imported equipment represents about 35% of this amount.

It must also be noted that these importers also import many related outdoor products, such as those for fishing, camping, and other outdoor activities. There are items such as telescopes for firearms and products by camera manufacturers, such as Nikon, Swarovski, etc. Specific clothing and shelter products for such activities are imported by many of Canada's firearms importers.

It must also be said at this point that Canada has probably the strongest import and export controls in the world, and is regarded as having such. Canada's major trading partner in this regard is the United States, accounting for some 65% to 75% of these products as a whole.

The number of small arms in civilian hands worldwide is really unknown at this point. The small arms survey's latest estimate is that there are some 650 million small arms in private hands. This amount increases or changes depending on the type of study done and the timing of such a study.

Canada's homicide rate with firearms is 0.5%, about 175 persons per year out of some 600 total homicides per year. The number of homicides with firearms registered to accused in Canada totals under 3% of that total. The small arms survey claims there are about 245,000 firearms deaths worldwide annually. Canada does not rank among the top 10 countries for possession of legal civilian firearms, according to the small arms survey's latest estimate. This study goes on to state that "...it is inherently impossible to be sure of the total number of all guns".

At this point, the small arms survey also says that with regard to violent deaths listed among the 58 countries that were studied, the rate of violent death for Canada was some 10 times lower than that for the country lowest on the list in their survey.

In summary, the Canadian Shooting Sports' members and Canada's recreational firearms community are greatly encouraged by the government's attention to this issue and respectfully request that this government stay the course, as outlined to date, by any means deemed most effective. National discretion is an excellent criterion for all involved.

I would now respectfully pass the presentation to Mr. Bernardo.

Thank you.

• (1640)

Mr. Tony Bernardo (Executive Director, Canadian Shooting Sports Association): Thank you very much.

Good afternoon, ladies and gentlemen. Thank you for this opportunity to speak to you on a matter of such great concern for over two million Canadians.

My name is Tony Bernardo. I'm the acting executive director of the Canadian Shooting Sports Association. I've been an executive member of the World Forum on the Future of Sport Shooting Activities since 1997 and have been attending and working at the United Nations since 1998 regarding civilian firearms issues. I've addressed the United Nations assembly four times.

As an association, the CSSA has no objection to the concept of a treaty on conventional weapons. Our concerns relate to the firearms that ordinary Canadians use every day. It's no secret that Canada has one of the most stringent sets of controls in the world on the ownership and use of firearms. Bluntly put, we don't need any more. Neither does the United Nations, not if they're actually trying to accomplish something.

The civilian firearms issue is a very important topic to many nations. Moreover, some nations have constitutional protection regarding civilian firearms ownership, protections that prohibit their involvement in any initiative that might undermine those constitutional protections. The issue of civilian firearms is, truthfully, a no-win situation that should be avoided at all costs if there's to be any hope of a functional treaty.

However, in my conversations with members of delegations from countries less developed than Canada, I'm told repeatedly that civilian firearms are almost never a problem. Most people understand that the real issue is the proliferation of exclusively military weapons being illegally sold by countries with less than scrupulous motives.

Have there been any deaths? Well, yes, of course—but not as you might think: 56 million people have died in genocides in the last 100 years, almost all of them murdered by their own governments.

The inclusion of civilian firearms, also called "small arms" at the United Nations, in the former firearms protocol virtually caused the collapse of the entire UN process and left that project in a state of utter failure. In fact, one of the few things that ever came from the firearms protocol was the Canadian firearms-marking regulation—an unmitigated disaster, at best.

For those who are unfamiliar with the marking regulation, permit me a brief explanation.

The UN marking regulations were passed into Canadian law in 2004. As is typical of those days, firearms importers were never consulted prior to the regulations being introduced. The Chrétien, Martin, and Harper governments have successively delayed the implementation since then. The obvious question is "Why?"

Members of the Canadian firearms industry conducted an exhaustive study and concluded the marking requirement was impossible to comply with. An international study reached the same conclusion. Participants in this represented Browning, Remington, Beretta, Sako, Savage, Tikka, Uberti, NORINCO, Ruger, Glock, Smith & Wesson, Heckler & Koch, and several others. These respectable and reputable companies flatly stated that if this were implemented in Canada, they would simply close their Canadian operations, devastating a legitimate billion-dollar industry and putting thousands of Canadians on the unemployment rolls.

These are the consequences of domestic legislation being developed by international forums with little or no understanding of the ramifications of their undertakings. An initiative, started to theoretically ease violence in the world's desperate regions, instead causes unemployment and financial hardship to peace-loving Canada.

We've been assured that the position of the Canadian government is that civilian firearms must not be included within the scope of an arms trade treaty. Indeed, the language of the preamble makes clear the Government of Canada's intention to have civilian firearms regulated domestically, not internationally.

Our support for the treaty process and the Government of Canada's participation in this process remains contingent upon the stated intention being upheld at all levels.

Civilian firearms must be regulated domestically, taking into consideration political, constitutional, and social factors inherent in each nation's makeup. In this instance, the one-size approach does not fit all.

In other words, members of the Canadian Shooting Sports Association are saying there is no good use for overriding one nation's rules based on the demands and needs of another UN state's requirements being applied to all other states without regard for each party's national jurisdiction and legislation. Again, national discretion and jurisdiction should and must prevail. The rules for civilian possession of small arms in one country do not necessarily make sense, nor are they useful, in another country.

●(1645)

It must also be said that we have seen no evidence that this position has changed in any way. We strongly encourage the government to stay the course and protect the rights of Canadian citizens first, before attempting to agree with having an international body regulate what is completely within the purview of Canadian national discretion and jurisdiction.

Article 2 of the UN charter specifically states that there is nothing in the charter authorizing:

...the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state...

Having one set of rules for the use of such items in all countries would be, at most, counterproductive and presumably unacceptable to the UN principle of national discretion and jurisdiction.

Lastly, to conclude, I'd like to say to Mr. LeBlanc that I wrote that, and I am not a member of the Canadian delegation, nor did I violate any confidentiality agreement.

I thank you very much for your time and attention to this, and I appreciate it. Thanks.

The Chair: Thank you very much.

We're going to move on to Mr. Friedman for 10 minutes.

Mr. Solomon Friedman (Lawyer, As an Individual): Thank you.

Good afternoon, honourable members. Thank you very much for inviting me to address you today.

My name is Solomon Friedman. I am a criminal defence lawyer in private practice in Ottawa. Although I maintain a comprehensive defence practice, a significant portion of my work is focused on firearms law, representing law-abiding hunters, target shooters, sportsmen and women, and firearms businesses in Criminal Code and related Firearms Act matters.

As the Government of Canada considers its position on the arms trade treaty, it is important that Parliament be aware of the potential domestic implications of the treaty in general, and in particular of certain more problematic provisions. I preface my remarks by simply noting that there is, as of yet, no official final draft of the treaty before this committee for consideration. Accordingly, issues highlighted today may become moot and new ones may arise. I base my comments, therefore, on the chair's text and on suggested model texts, which have been circulated by the United Nations and various NGOs, and by Canada's official policy statements concerning the proposed treaty.

In my view, there are three distinct areas of concern with regard to the proposed treaty. First, does the treaty signify a step backwards in firearms regulation and a change of direction for this government? Second, will the treaty adversely affect law-abiding gun owners and businesses by influencing domestic criminal and regulatory law and by unduly hampering law reform in Canada? Third, are certain key treaty provisions overly broad in their scope and reach?

With your kind permission, I will address each in turn.

First, the government should be careful that this treaty not signify a regression, a step backwards, in how firearms and gun owners are treated in Canada and abroad. Since 2006, the Canadian government has demonstrated a shift, exemplified in policy, regulation, and most recently legislation, in how Canadian gun owners are regulated under our law. Instead of punishing the law-abiding for the acts of the lawless, the government has consistently signalled that the regulation of firearms should target those who wilfully and unlawfully misuse firearms in a criminal manner.

It is imperative that Canada's involvement with the arms trade treaty not signify either a condemnation of responsible civilian firearms ownership or a step backwards to a time when it was thought—based on ideological speculation, not empirical evidence—that somehow the criminal misuse of guns could be addressed by more onerous and stringent regulation of law-abiding civilian gun owners, be they farmers, hunters, or target shooters.

Aside from the potential for symbolic repercussions, Parliament should be aware that international law, despite being conceived of and legislated thousands of miles away, can potentially have very real implications here at home. Of course, in Canada, unless a treaty is implemented by domestic legislation, it is not, strictly speaking, a part of Canadian law. However, courts are increasingly turning to international law, be it in the form of binding treaties or normative principles, when interpreting domestic law.

For example, a court may consider the arms trade treaty when wrestling with an unclear provision in the Firearms Act or the Criminal Code. Of course, despite Parliament's best intentions, legislators do not always say what they mean and mean what they say. For that reason, Parliament should be particularly concerned with broad, overreaching purposive clauses and preamble-like statements. If these are in conflict with our own domestic approach to regulating firearms, we do not want to put a court in the position of having to square domestic statutory interpretation with Canada's statements on the international stage.

Of course, such a discussion is, by its very nature, entirely speculative. We do not know which provisions of the Firearms Act or the Criminal Code will be litigated and require interpretation by our courts. Similarly, we do not know how a court may choose to use the arms trade treaty as the basis of statutory interpretation. Accordingly, when crafting any treaty provisions, Canada should proceed with caution.

Aside from the courtrooms of this country, the effects of the arms trade treaty may be felt in the chambers of Parliament as well. To illustrate this point, let me turn to the long-gun registry for a moment.

I had the opportunity to testify before the parliamentary committees that reviewed and ultimately passed Bill C-19, both in the House and the Senate. At both these sessions, proponents of the long-gun registry repeatedly cited Canada's international commitments in the UN and other global forums as a purported reason for maintaining the wasteful and ineffective registry.

• (1650)

The Chair: Mr. Friedman, I'll get you to slow down as well so that the interpreters can keep up. Thanks.

Mr. Solomon Friedman: It is important that the government assess this treaty with an eye to not just the current state of firearms regulation in Canada but also to how the law may develop in the future. Make no mistake about it, the Firearms Act is desperately in need of rewrite, revision, and reform. Parliament should not bind itself through treaty commitments or other international instruments and thereby prevent the meaningful reform that is required to restore equity and fairness to the treatment of two million law-abiding Canadian gun owners.

Finally, I would like to point out two particularly problematic provisions that appear in numerous draft texts and proposals for the arms trade treaty.

First, it is essential that any final treaty protect Canada's sovereignty and national discretion in the regulation of civilian-owned firearms. I would therefore commend the government for the approach it has taken to propose the introduction of a paragraph acknowledging and respecting "responsible and accountable transnational use of firearms for recreational purposes, such as sport shooting, hunting and other forms of similar lawful activities". This is a good first step.

Also, many states have argued for a ban on firearms transfers to "non-state actors". The use of this term is overbroad and inconsistent with Canadian domestic law. I would agree, therefore, with Canada's recent proposal that the phrase "illegal armed groups" be used instead. While no one would argue that armed guerrilla groups and insurrectionist insurgents should be denied firearms, the term "non-state actors" on its face connotes any non-government entity or individual, including, it would seem, responsible and law-abiding civilian gun owners.

In closing, I think the most important issue for this committee in considering the arms trade treaty is one of focus. It is clear that Canada should support measures that keep firearms out of the hands of those who seek to do ill, whether it is to terrorize their own people or to topple democratically elected governments.

At the same time, however, Canada must expressly recognize on the international stage, as it has done at home, that the lawful use and ownership of firearms is consistent with both international and domestic peace and security. For that reason, the arms trade treaty should not focus on compliant and law-abiding civilian gun owners. As I have seen time and time again in my firearms law practice, such an approach is ineffective, unworkable, and fundamentally unjust.

Thank you for your kind attention.

The Chair: Thank you, Mr. Friedman.

Members, we'll start with the first round of seven minutes. I will ask you to put your question to an individual, if that's possible, just so we can help our people with the microphones.

Mr. Saganash, the floor is yours, sir.

[*Translation*]

Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP): Thank you, Mr. Chair. I will share my seven minutes with my two colleagues, the one on my left and the one on my right.

I would have liked to ask our witnesses a number of questions, and I thank them for being here today. My question is for the Oxfam-Québec representative, Ms. Holguin.

She said in her presentation that it was unfortunate that socio-economic development is no longer included in Canada's criteria. I think you were all here earlier when we mentioned the six criteria used for that negotiation. I would like Ms. Holguin to give us more detail about this, to clarify the connection she is establishing between these negotiations and socio-economic development, and that she describes to us how these issues could be addressed as part of the negotiations on the United Nations arms trade treaty.

• (1655)

Ms. Lina Holguin: Thank you.

We think that the treaty needs to take these criteria into consideration. Before a country decides to transfer weapons, it must determine whether doing so will contribute to violating human rights or international humanitarian law and hinder development, in which case, those resources should perhaps instead be put toward fighting poverty.

In an Oxfam report that will be published this week, we indicate that, in 2009-2010, fragile states have increased their military spending by 15%. Of course, they could have used those resources to send children to school, improve their health care system or feed people. The treaty's introduction indicates that there is a connection between development and armed violence, and that in the case of a transfer, the country should consider what their responsibilities are.

The effectiveness of aid is also an issue for us. It is something that is extremely important for this government. If we give aid to fragile countries and others, but they use that money to buy weapons, it doesn't make sense. In our report, we give the example of Eritrea, which used 35% of its budget to buy weapons. But 35% of that country's total budget comes from development aid. In other words, the money comes in on one side and goes out the other.

As I mentioned, I'm from Colombia. I've been in Canada for 15 years now, but I grew up there. Colombia has been in a state of conflict for 50 years. None of the children have access to education. Inequality is growing. Why? Because the Colombian government has spent a lot of money in the course of the conflict. Colombia is of enormous economic interest to Canada. So there is not only the question of how effective the aid is; there is also an economic interest. If we want companies to engage in development in Colombia, but Colombia doesn't apply any control of weapons and everyone plays by different rules, it won't work.

I hope that answers your question.

Ms. Ève Pécelet (La Pointe-de-l'Île, NDP): Thank you.

My question is for Mrs. Homes.

You gave the example of Syria, which is fairly recent. Could you please give us more detail about how this treaty will mitigate international armed conflicts? Are there any other examples you could give us in this regard?

[English]

Ms. Hilary Homes: I'm not sure I caught the end of that, but I think I understand generally what you're saying.

The other example I would give, as a contemporary example that hasn't been in the headlines in the same way Syria has, is Sudan.

With the conflict in Darfur, there was a Security Council arms embargo, but it was only on the region. It wasn't on the whole of Sudan. Without going into a lot of detail, arms still were sold to Sudan and they got into Darfur, for all sorts of reasons, and to both sides in that situation. It shows the political will around the rigorosity of an arms embargo and the breadth you need to have to truly deal with an armed conflict. We just don't have enough of that to rely on it.

The other thing is that there is an increasing conflict now between Sudan and the newly independent South Sudan. Again, the international community has really struggled to deal with that through things like Security Council resolutions. There's a lot of attention on what's happening in South Sudan with the refugee flows, but not so much within Sudan. You have the government bombing two southern states, causing hundreds of thousands of people to flee, but they're bombing their own citizens.

I'm picking on the Security Council, but there is a reason for that. You would think that a state bombing its own citizens would result in some sort of Security Council condemnation, and it hasn't. And because that's where.... When I say there are few regulations, we're looking for something where there is a common standard, where people know where that bar is, and we don't have that for the arms trade. Everyone is sort of looking to a different set of rules. We're looking to establish that common set of rules so that even if not everyone has yet signed on to a treaty, the common standard exists, that norm exists, and you can use that as pressure to say, "You are falling short as a state".

It's primarily Russia and China that have been selling to Sudan, but also Belarus. There are a number of states arming South Sudan, which is a new county being seen as a new market.

So it's to be able to bring that norm to these contexts and say, "Don't help fuel a conflict. Look at the abuses that are taking place. Look at how these weapons are being used."

• (1700)

The Chair: Ms. Homes, that's all the time we have.

Mr. Breitzkreuz.

Mr. Garry Breitzkreuz: Thank you, Mr. Chair.

Again I'll be sharing my time.

I have just a comment on what Ms. Homes has been saying, and I think what Mr. Bernardo was saying something very similar to—that a treaty like this probably would have very little effect on a government turning on its own citizens. I think that could be a huge problem, and I don't know that it's going to really be solved by this; I'm skeptical.

To the Canadian Shooting Sports Association, you talked about a consensus being reached in regard to this treaty that I think the U.S. asked for. That could be a real challenge. Maybe you could talk about that a little bit more. What is the American position on this ATT, and what are the positions of other countries that might be a party to it?

Both of you are familiar with the United Nations. Could you maybe talk a little bit about that?

Mr. Tony Bernardo: Certainly, Mr. Breitkreuz.

The U.S. position in regard to the arms trade treaty has not been fully declared. In looking back at previous references, Ambassador Bolton testified to the United Nations last time that the United States would entertain absolutely no measures whatsoever that would impinge upon their second amendment, which is the right of citizens of the United States to keep and bear arms. So it seems that constitutionally any U.S. involvement in something where the firearms of their citizens might be regulated by an international agreement is completely a non-starter. Now, while the U.S. has not declared itself yet with regard to this particular item in the current ATT talks, the U.S. Senate has. After the last conference last summer, the U.S. Senate sent a strongly worded letter to Barack Obama signed by a majority of the senators, which stated that if civilian firearms were going to be included in the arms trade treaty, then the U.S. Senate would refuse to ratify it.

If any member would like a copy of that letter, I have a copy of it.

As for other countries around the world, I think you see countries that perhaps would be quite agreeable to the exclusion of civilian firearms, particularly with regard to their domestic regulation. In previous negotiations that have happened within the UN framework, this has been a constant bugaboo. It's been an irritant going right back to 1995 when this stuff all started. It's always been a roadblock. If there's a legitimate need or legitimate interest in going forward with a real arms trade treaty that deals with the export of military weapons into the underdeveloped areas of the world, then you have to do what you can to make that happen. In doing so, if you include the domestically regulated firearms of civilians in that mix, you're already trying to do a dance with one foot in a concrete block, and it's not going to happen.

• (1705)

Mr. Garry Breitkreuz: Thank you.

Mr. Friedman, I was interested in your testimony. I understand we could sign on to an international treaty at the United Nations without ratifying it here in Canada, and it would be binding upon us. I think I heard you say that. I would like to know how such an international treaty might affect criminal proceedings here in Canada. How would it affect law-abiding citizens here? I wasn't clear. You touched on this, yet I'm not clear as to how that works.

Mr. Solomon Friedman: I'd be happy to clarify that.

In Canada, international law is formally received into domestic law through implementation by statute. That, however, is really not the end of the conversation, particularly when we look at statutory interpretation. Statutory interpretation is probably the most boring class in law school, and it has to do with how we divine the meaning of words and phrases in our legislation. Increasingly—and this is what I refer to—courts are turning to Canada's international commitments to decipher words or phrases that may appear in our own domestic legislation and that, for whatever reason, are unclear. As I said, this is a speculative process, but it's one that has happened again and again, and it has certainly gained favour in Canadian legal circles. The Supreme Court itself is engaged in this. There's nothing new or unusual about it.

I think what should be of concern to the Canadian government when considering the arms trade treaty is ensuring that, for example, when we have overarching statements of principle—let's say, for example, about how Canada ought to view the regulation of firearms, be they civilian or not—those phrases not be inadvertently transmitted and received into our domestic legislation. I pointed to the example of a judge who is trying to weigh a particular phrase in the Criminal Code—and in this case it would be something about firearms transfer, whether it be ownership, registration, or use—who would then look to the international law and say, “Well, if Canada has made this profound and overarching statement on”—let's say—“firearms control, including civilian use, then I should take a harsh or stricter interpretation.” That is precisely how it could affect law-abiding gun owners in Canada.

Ordinarily, for example, when we have an ambiguity in a Criminal Code statute, we say it's resolved in favour of the accused. If, however, there are other interpretive sources, such as international law, that give a different interpretation, that rule may not be followed.

The Chair: Thank you.

Mr. Dechert, you have all of 45 seconds left.

Mr. Garry Breitkreuz: Sorry.

Mr. Bob Dechert: Well, perhaps I can follow up in a later round.

I'll use this time just to clarify a matter that was brought up earlier by Madame Laverdière. She referred to Minister Baird's responses to one of her questions to the committee on December 1, 2011.

I'll just read the question, because it's pretty clear. She seemed to believe that he said he didn't know who appointed the members of the negotiating team. In fact the question from Madame Laverdière was as follows:

With regard to the next round of negotiations, as you know, there are a lot of civil society organizations who have been working on that issue, either globally or in the hemisphere. I was a party to some of those negotiations at one point, and I can tell you that these people brought a lot of expertise and knowledge to the Canadian team as a whole.

In the next negotiations, do you intend to bring all sides of civil society, existing expertise and groups that have participated in previous negotiations?

The minister replied:

As I responded,

—he'd responded earlier to one of her questions about a previous round of negotiations—

I don't know who was part of that delegation. If you have anyone you think could contribute, I'd be very pleased to receive any suggestions you might have.

Ms. Ève Pécelet: Relevance, please?

Mr. Bob Dechert: The point is simply that he responded that he didn't know who was part of the earlier delegation, not that he didn't know who appointed those members.

The Chair: That's all the time you have. Thank you, Mr. Dechert.

Mr. Bob Dechert: Thank you.

The Chair: We're going to move over to Mr. LeBlanc, for seven minutes.

Hon. Dominic LeBlanc: Thanks, Mr. Chairman.

Mesdames et messieurs, thank you for being here, and thank you for giving us the benefit of some interesting perspectives on what is certainly an important issue.

Mr. Torino or Mr. Bernardo, in your work representing your association, have you met with the foreign affairs minister?

• (1710)

Mr. Tony Bernardo: No, not Minister Baird.

Hon. Dominic LeBlanc: Have you met with the Deputy Minister of Foreign Affairs?

Mr. Tony Bernardo: No.

Hon. Dominic LeBlanc: Have you met with a previous foreign affairs minister or any other federal minister?

Mr. Tony Bernardo: Yes, we have.

Hon. Dominic LeBlanc: Which federal ministers did you meet with?

Mr. Tony Bernardo: That would be....

It goes back a ways.

Hon. Dominic LeBlanc: Well, maybe the top three.

Mr. Tony Bernardo: Actually, in terms of meeting with a lot of the foreign affairs ministers, the answer is no.

Hon. Dominic LeBlanc: Other ministers, other federal ministers?

Mr. Tony Bernardo: We meet regularly with Minister Toews. We both sit on the firearms advisory committee. As Mr. Torino said, both of us have been on many of these committees, going right back into the Liberal tenure, because we're acknowledged experts in this field.

Hon. Dominic LeBlanc: But you haven't met with a foreign affairs minister or a secretary of state for foreign affairs, or perhaps a parliamentary secretary for foreign affairs, with respect to this treaty.

Mr. Tony Bernardo: We have met with one minister. That was a few years ago now.

I'm sorry, I'm having a hard time remembering the name.

Hon. Dominic LeBlanc: But it was a foreign affairs minister?

Mr. Tony Bernardo: Yes, sir.

Hon. Dominic LeBlanc: Would it have been since the election of the Harper government in 2006?

Mr. Tony Bernardo: Yes.

Hon. Dominic LeBlanc: When you go back, would you be able to check your records and get back to the clerk with the name of the minister you met with?

Mr. Tony Bernardo: Absolutely. I'm just having a momentary memory block.

Hon. Dominic LeBlanc: Sure. Thank you.

Mr. Tony Bernardo: No problem.

Hon. Dominic LeBlanc: I'd like to ask a question of perhaps Mr. Epps, Mr. Fried, or *peut-être Madame Holguin*.

My colleague asked about the

[*Translation*]

...socio-economic criteria...

[*English*]

which I thought was an interesting perspective.

I think, Madame Holguin, you said in your comments that you would rather have no treaty at all than a weak treaty.

What concerns do you have about this treaty that would make it weak and thereby, in your view, ineffective?

[*Translation*]

I don't know if it was you or one of your colleagues who mentioned this.

[*English*]

Mr. Kenneth Epps: I'll respond.

I may also pick up on the earlier reference to consensus as well. Certainly that is one of the issues we're very concerned about, because the rules of procedure are calling for a treaty agreed by consensus. There's great concern that what we will end up with as a result of consensus is a lowest common denominator document that will effectively be meaningless.

If we move towards that end, I think that's when we would say it would be best not to have a treaty than a weak document that would in fact put in place standards that would be much lower than those of many states, such as Canada, and would justify a lot of states continuing with their current operations around transfers.

I hope I've responded to your question.

Mr. Mark Fried: Perhaps I can add that we hope it will cover all weapons and ammunition, components of weapon systems, and that it will be comprehensive. We hope the criteria will cover three key areas: it will take into account international human rights law, international humanitarian law regarding conflicts, and development; it should not increase poverty or corruption.

Those three criteria areas are crucial.

Hon. Dominic LeBlanc: Perhaps I could ask you.... One of the discussions is with respect to some draft wording, which has been made public or at least has been discussed publicly in a preamble. I understand the argument about using national discretion in the application of obligations. It's restating the obvious in terms of the supremacy of domestic statute law over international obligations, but if it makes people feel better to restate that, that's fine.

If one of the objectives of a treaty is to help develop international standards, and you begin by saying we're prepared to work with other nations under this treaty process to develop international standards but of course none of these international standards will in any way have an impact on our domestic or national standards or national discretion, don't you find that a bit contradictory? On the one hand, a treaty should be to bring countries together and develop at least the framework. And God knows international law is far from perfect, but if it starts the process of creating international standards, do you worry that we then evacuate that within the same process?

•(1715)

Mr. Mark Fried: I don't worry seriously about it, because frankly this is about the international trade in weapons; it's not about domestic regulation. I think Canada has actually provided useful clarification that it should not be about domestic ownership of guns, but it is about the international trade in weapons.

There are very specific rules about trade in bananas, in iPods, in you name it, just about everything, and not on weapons. It seems ridiculous.

I think we can have international standards. Obviously it will take time before every country can live up to them, so helping countries that don't have the actual capacity to enforce the standards should be a key part of the treaty. At some point this will help us move towards international norms that would stop weapons from reaching human rights abusers or from leaking out into criminal elements.

The Chair: You have 30 seconds.

Hon. Dominic LeBlanc: Thank you.

Perhaps a very quick question to Mr. Friedman. You use often, and it's become a sort of *au courant* phrase, "law-abiding citizens". You would agree with me, though, that in a system of the rule of law, like Canada, a citizen can't choose which laws he or she will abide by. You would agree with that, right? To be a law-abiding citizen, you have to abide with all of the laws, including ones you may not agree with.

Mr. Solomon Friedman: Absolutely.

Hon. Dominic LeBlanc: Thank you.

The Chair: Thank you very much.

We're now going to move to our second round. We're going to start with Mr. Dechert for five minutes.

Mr. Bob Dechert: Thank you, Mr. Chair.

Thank you to each of our panellists for being here.

I'd like to start with Mr. Fried. I think you said earlier that you believe the ATT should not target the legitimate civilian use of firearms by sport shooters, hunters, etc. How would you propose that the ATT be drafted in a way so that it doesn't unfairly target those users?

Mr. Mark Fried: I confess I'm not a lawyer and an expert in the drafting of treaty negotiations, but I will say that the proposed solution of including preamble language sounds right to me, as long as it's clearly in the preamble and allows us to get beyond what we consider a misconception that this treaty is about domestic regulation, which it is not. It's about international trade.

Mr. Bob Dechert: So you think that's sufficient as far as it goes, according to the current proposal.

Mr. Mark Fried: As far as I know, but I'm not an expert on this.

Mr. Bob Dechert: Thank you.

I want to raise with Ms. Holguin the whole issue of the socio-economic criteria. How would that work? Earlier my colleague Mr. Van Kesteren raised the issue of the mujahedeen in their struggle against the Soviet Union. Things just popped into my mind, like would Fidel Castro have been able to acquire the weapons necessary

for the revolution in Cuba, or other places like that, with the socio-economic criteria that you're suggesting?

Ms. Lina Holguin: I will respond and then I will pass the time to Hilary to respond to this one.

How we think it will work is it will indicate.... As I said before, I think there first of all needs to be a clear recognition that there is a link between the lack of control of the arms trade and the availability of arms.

It was said before here that small arms possessed by civilians don't harm. As I said, I come from Colombia, and I've seen it: small arms are being carried and they're doing a lot of harm.

In the last meeting in February at the UN, at which I was present, the representative for the Mexican delegation said these arms are used for recreation in Canada, but in Mexico they just change a little piece and then they are the ones being used.

Mr. Bob Dechert: Can I ask you about the socio-economic perspective, though?

Afghanistan is a poor country. It receives aid from many countries to help feed and educate its people, including from Canada. Does that mean we shouldn't supply weapons to the democratically elected Government of Afghanistan to fight, say, the Taliban or al-Qaeda?

Ms. Lina Holguin: I think the treaty is going to establish the criteria that every country will have to evaluate, and those criteria are going to determine whether the transfer could be made or not.

Mr. Bob Dechert: So it's not just that we restrict any sale of weapons to a country that falls below a certain, say, GDP per capita?

•(1720)

Ms. Lina Holguin: No, but I think the idea is that the criteria will be established in a way that countries will need to evaluate.

Maybe you want to respond to this.

Mr. Kenneth Epps: Just quickly on Afghanistan, I think the greatest concern there will be diversion. That would be a situation where one criterion might be more important than another.

Mr. Bob Dechert: If you have al-Qaeda or the Taliban, though, what do you do? You need to obviously—

Mr. Kenneth Epps: But if all the weapons are being diverted to the Taliban, how effective—

Mr. Bob Dechert: What I'm suggesting is, does this mean that we couldn't supply to the democratically elected government and the Afghan National Army, which Canada is training, along with its NATO allies...? Presumably, not many of those weapons get into the hands of the Taliban. Maybe some do, but that happens in every war. If you didn't supply them with weapons, how would they fight the Taliban? How would they fight al-Qaeda?

Let me move on—I know time is running short—to Ms. Homes.

I thought you raised an interesting point about Russia and Syria. You probably know that last week Parliament had a take note debate on what's going on in Syria. It's just dreadful, and we're all very disappointed in Russia's intransigence in that situation. If this arms trade treaty is entered into, do you think Russia would respect that treaty, with respect to selling arms to Assad to use against the people in Syria?

The Chair: I'll ask you to answer, Ms. Homes, but that's all the time we have.

Ms. Hilary Homes: Very quickly, would it change their mind today? I think it would take a bit more work. What it would give us is more tools to say where that line is. Right now, those sales are not illegal. All we have is the argument of saying, look what's going on. We don't have an interrelated set of criteria by which we can judge what's going on, and Russia doesn't report as robustly as we'd like to, and so on. So it's that collection of things that would be brought to the table to increase the pressure on them. Right now, there's a fair bit of diplomatic pressure on Russia. Originally, it was Russia and China, and China moved. Russia hasn't moved as much, but there is significant pressure there. Maybe their position will change a bit. But it's a case of having more tools for that dialogue.

The Chair: Thank you. That's all the time we have, Mr. Dechert.

Mr. Williamson, we'll try to get to you after Madame Laverdière.

You have five minutes.

[Translation]

Ms. Hélène Laverdière: Thank you very much, Mr. Chair.

[English]

Thank you, again, to all of you for very interesting presentations.

One thing I picked up from the presentations is the effect of the current lack of rules on Canada from an aid effectiveness point of view, but also from an economic point of view. I think one of you underlined the fact that we have Canadian businesses all over the world, and what they are doing can often be preempted or disturbed by social upheaval. Of course, that's not even including humanitarian considerations and human rights considerations. So if we look at what it can do to Canada, on top of what it already does to the people in some developing countries, in particular, we see the importance of this treaty.

We've heard other witnesses talk a lot about the effect such a treaty could have on domestic gun ownership. Most of the experts I've heard, including disarmament ambassadors and people like that, have always stated, point blank, that it won't have any effect on domestic policy. But as we've heard other comments...maybe, Mr. Epps, you could react with your point of view on that.

Mr. Kenneth Epps: Thank you.

Well, I'm convinced that it will not have an impact on domestic legal gun ownership and use. There may be some implications we can speculate about, but there is certainly no evidence, based on the treaty negotiations that I've seen to date, that would indicate that there would be any significant impact.

I think where we might see some impact is in Canada's procedures around exports and imports of weapons. Hopefully some of those would include, for example, greater transparency. But on domestic use of firearms, I have difficulty understanding what the problem would be.

• (1725)

Ms. Hélène Laverdière: Thank you very much.

I also have a quick question about civilian firearms. What I have seen myself, when I used to live in Africa, is that in surrounding

countries civilian firearms were doing as much damage as military equipment, if not more, just because they were more readily available. Mr. Fried, would you have any comments on that?

Mr. Mark Fried: Most certainly.

The weapons that we would consider to be for civilian use are commonly used by criminals in developing countries, and I would say in many countries. They're used by criminals and by terrorists.

I think the Canadian government's approach that we heard about earlier today is quite appropriate: not to look at the type of weapon—because any weapon can be adapted for bad use—but to look at the end users themselves. I think this is a much more fruitful discussion than trying to eliminate a class of weapons, because weapons can be used for all sorts of things.

Ms. Hélène Laverdière: I have a very brief question for Mr. Bernardo and Mr. Torino. You answered my colleague Mr. LeBlanc earlier, saying that you have met just once with the foreign affairs minister on this issue. Just to follow up on that, how often have you met with ministerial staff on this issue?

Mr. Tony Bernardo: We have not met with ministerial staff on this issue. The minister we met with before was Minister Bernier, for a very brief time. We have not had meetings with ministerial staff since then.

I think you have to remember that many Canadians are very worried about this because of the last round.

Ms. Hélène Laverdière: We just want to understand the process, really. So I was wondering, who invited you to be part of the Canadian delegation at the talks in July and February?

Mr. Tony Bernardo: I am not part of the delegation.

Ms. Hélène Laverdière: You're not part.

Mr. Tony Bernardo: No, I'm not.

Ms. Hélène Laverdière: Mr. Torino?

Mr. Steve Torino: I was part of the delegation. I don't know who invites. Normally I get a phone call or an e-mail from Habib, asking if I'd like to be part of the delegation as an advisor. That's about it. Otherwise, there is absolutely nothing going on there.

The Chair: Thank you very much. That's all the time.

Mr. Williamson, we probably won't get a full round in, but let's give you a couple of minutes.

Mr. John Williamson (New Brunswick Southwest, CPC): Okay, thank you.

I want to follow up on a line of questioning Mr. Dechert was on. When the fighting began in Libya, as I understand it—and correct me if I'm wrong—some of the sanctions that were in place prevented western nations from helping groups that we called rebels. Could such a treaty, as you envision it, result in the same thing happening if there were vetos at the Security Council, for example, preventing Canada doing what it thinks is the morally correct thing to do in terms of its foreign affairs position?

Ms. Hilary Homes: I think we have to acknowledge that the Security Council is a very political place. Sometimes it votes one way, sometimes it votes another. Putting the criteria into a treaty hopefully takes some of the politics out of it. I don't think you can ever take the politics completely out, but that's our goal.

So what would then be assessed in a conflict like Libya is who were the arms being sold to, and what is their conduct? There would be this set of criteria that would interact, and that would be the judgment. So it's not merely.... An embargo often picks one side or another, sometimes both. What we're trying to do here is say look at the situation, look at what's going on, and who is the end user of whatever it is you are trying to sell? That's the fundamental difference that would happen in a treaty setting.

Ken may want to add to that.

Mr. John Williamson: Well, let me ask a follow-up question, then. Does that mean, then, that you might have a case where the Canadian government is being sanctioned for providing aid to a group that it considers to be an ally or a friend or...?

Ms. Hilary Homes: Again, from our point of view, it's the conduct, and it's the risk that the end user will use the weapons for human rights abuses. That's what we're trying to measure, so we were trying to take some of the politics out of it.

But I think Ken wants to add to this.

• (1730)

Mr. Kenneth Epps: I just want to note the distinction between a UN Security Council embargo and the ATT, because I think there is a fundamental distinction. One is the action of the Security Council that is then binding on all UN member states, so in a sense it's a collective process settled by the Security Council, but it then becomes a requirement of all states. The ATT will require each national government to interpret the treaty in making its decisions about national transfers, and the states will be held to account for those decisions. So it will depend, I think, on how egregious the

situation may be to determine how other states react to national decisions about transfers.

Mr. John Williamson: Do I have time for another one?

The Chair: Sure—a quick question.

Mr. John Williamson: Mr. Friedman, I'm curious about your comments with respect to how such a treaty might impact domestic law here in Canada and the influence that lawmakers or courts take or read in from these treaties.

Mr. Solomon Friedman: Sure, and I think it's very clear to emphasize that this isn't a matter of having a direct binding effect on either courts or lawmakers, right? Of course, every nation state within its own realm of affairs is supreme and sovereign, but at the same time, these are interpretive aids to courts and lawmakers.

My comments simply reflect the need to proceed with caution so that we don't stumble into the law of unintended consequences and, down the road, bind ourselves in a direction that could not necessarily be anticipated today, but because of the interpretive use of international law, may bind courts or may bind parliaments in future law reform.

Mr. John Williamson: Thank you.

The Chair: Thank you very much.

To our witnesses, thank you very much for coming out today.

To the committee, I don't know when votes are going to happen in terms of all the massive ones. I'm hoping that we're still going to be on for Wednesday. In the event that we aren't, I'd like to look at the possibility of trying to meet on Thursday for an hour or so, if that's possible, and trying to reschedule the witnesses. I'm going to look at trying to deal with 3:30 as an option, but we're still hopeful that we'll be meeting on Wednesday at 3:30. Okay? We'll see what happens.

To our guests, thank you very much again for being here.

With that, the meeting is adjourned.

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