

KILLER OPTICS

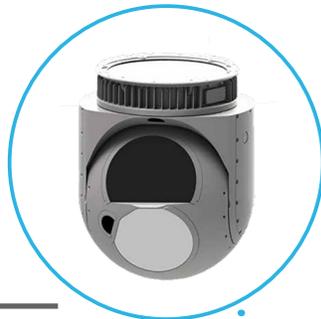
EXPORTS OF WESCAM SENSORS TO TURKEY – A LITMUS TEST OF CANADA’S COMPLIANCE WITH THE ARMS TRADE TREATY

by Kelsey Gallagher, MA

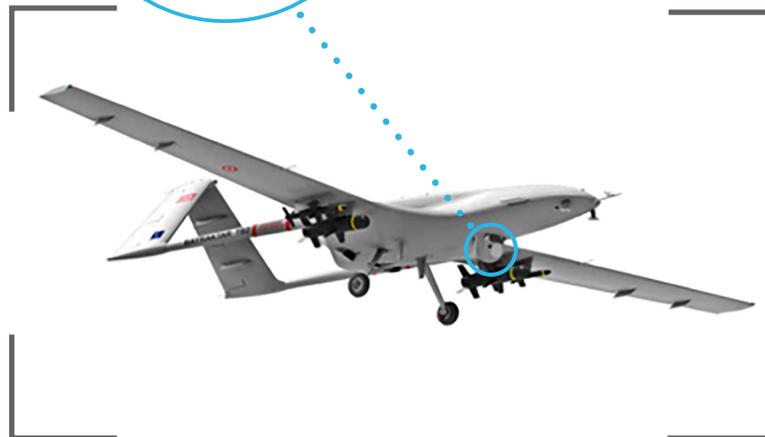
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L3Harris WESCAM, the Canadian subsidiary of U.S. defence giant L3Harris, is one of the world’s leading producers and exporters of Electro-Optical/Infra-Red (EO/IR) imaging and targeting sensor systems, with approximately 500-million CAD in annual exports. Its products are used in more than 80 countries on more than 190 platforms, primarily to perform intelligence, surveillance, target acquisition, and reconnaissance.

At their most basic, EO/IR systems are cameras that capture images across varying spectrums of light. EO/IR sensors are commonly fixed to vehicles and relay a live video feed to an operator. Also used in law enforcement, search and rescue, and media production, most are found in military applications. Unmanned aerial vehicles (UAVs) require EO/IR sensors to facilitate and conduct airstrikes.



Bayraktar TB2 pictured with WESCAM MX-15D.
Adapted from image by Baykar Technologies.



SELLING ARMS TO TURKEY

Since 2017, Turkey has become the second largest customer for WESCAM products, after the United States. Turkey has developed an indigenous UAV industry and is also working to provide indigenous EO/IR units. However, it is expected to be several years before they can begin to replace WESCAM units. At present, Baykar, the manufacturer of Turkey's most popular UAV, the Bayraktar TB2, lists WESCAM as their sole EO/IR provider.

In the last several years, the Turkish military has been active in trying to put down an insurgency in southeast Turkey, and has also become increasingly involved in armed conflicts in Syria, Iraq, and Libya. Reliable evidence strongly indicates that WESCAM EO/IR sensors, mounted on UAVs, have been used extensively by Turkey in these recent military operations.

Some of Turkey's actions have drawn severe rebukes from the international community.

For example, in October 2019, Turkey, along with allied militias under its command, launched Operation Peace Spring in northern Syria. The primary targets were the Syrian Democratic Forces and Kurdish People's Protection Units in Rojava. UN experts estimated that approximately 180,000 people, most Kurds, were displaced in the operation's first two weeks, to be replaced by Sunni Arabs. A number of experts, including U.S. diplomats, characterized the apparently planned displacement as ethnic cleansing. Turkey has also been accused of offensive use of white phosphorus against civilians, which some call a war crime. Many of these actions, if proven, constitute violations of international humanitarian law (IHL).

Turkey was immediately condemned by the European Union for this "unilateral military action" and many countries, including Canada, imposed a weapons embargo on Turkey.

RESPONDING TO MILITARY AGGRESSION

Global Affairs Canada (GAC) determined that Turkey's actions could risk "undermining the stability of an already fragile region, exacerbating the humanitarian situation and rolling back progress achieved by the Global Coalition Against Daesh." In April 2020, the Canadian arms embargo was indefinitely extended. The principled and proactive freeze on Turkish-bound exports was seen as a positive example of Canada's arms-control regime working as it should.

In response, Turkish officials frantically pressured Ottawa to allow an exemption, explicitly for WESCAM sensors. This past June, media reports indicated that GAC had indeed granted a special exemption for WESCAM products. The Canadian government has yet to offer a reason for the decision.

Meanwhile, in February 2020, Turkey made its fourth incursion into Syria since 2016, in retaliation for the killing of 34 Turkish soldiers by Syrian government forces. Unconfirmed reports from the Turkish government claim that the Turkish armed forces destroyed more than 100 tanks and armoured vehicles, killing three top generals and more than 2,200 Syrian soldiers. This operation has been characterized as the first time that Turkey relied on UAVs as the dominant offensive tool.



Screenshot from video feed of the targeted killing of PKK member İsmail Özden in August 2018, with WESCAM graphical overlay visible. Video originally published by Turkish public broadcaster Anadolu Agency.

As well, this year Turkey began conducting airstrikes on Libya with approximately a dozen TB2 UAVs fitted with WESCAM MX-15D units. Because the UAVs are frequently lost or damaged in combat, they must frequently be replaced, which could partly explain ballooning exports of Canadian EO/IR systems to Turkey.

CANADA'S LEGAL OBLIGATIONS

Canada has continued to export arms to Turkey, despite acceding in 2019 to the Arms Trade Treaty (ATT), the first binding framework that aims to regulate the international trade and transfer of weapons, and reduce the human suffering posed by their proliferation. Under the ATT, as well as Canada's Export and Import Permits Act, Canada has an obligation to assess the potential that weapons exported abroad could pose a substantial risk for human-rights violations under international humanitarian law or international human-rights law, could contribute to gender-based violence, or threaten regional peace and security.

Canadian officials apply the "substantial risk test" to determine the likelihood that an export "would result in any of the negative consequences referred to in the ATT assessment criteria." With UAVs now ubiquitous in Turkey's military operations in the region, and the Turkish military's reliance on WESCAM EO/IR systems in its UAVs, it is clear that the continued export of WESCAM sensors to Turkey poses a substantial risk to peace and security in the Middle East and North Africa. When evidence of Turkish violations of IHL is considered, it must be concluded that there is a clear and demonstrable substantial risk that the further export of WESCAM sensors to Turkey could cause harm to civilians and facilitate breaches of IHL.

Canada must also assess the potential that weapons exported abroad could be diverted to an illicit end use or end user. Turkey's recent export to Libya of TB2 UAVs—and therefore of WESCAM MX-15Ds—is a textbook example of diversion.

CONDEMNED BY ITS OWN WORDS

In April 2020, Global Affairs Canada released its *Final Report: Review on Export Permits to Saudi Arabia*, in which it justifies easing the freeze on new weapons export permits to Saudi Arabia that was imposed following the assassination of Saudi journalist Jamal Khashoggi and mounting claims of IHL violations by Saudi security forces in Yemen. The report argues that evidence of Saudi breaches of IHL primarily relate to airstrikes. Therefore, the continued export of Canadian light armoured vehicles—the main focus of the report—did not pose a substantial risk under Canada’s assessment criteria and could resume.

This understanding of risk is problematic, implying that substantial risk can only occur if there is clear and duplicated evidence that IHL violations were facilitated with the exact weapon system exported. However, GAC’s assessment is significant in the case of Turkey, because the report supports the idea that aerospace exports pose a substantial risk when the recipient’s air force is engaged in activities that violate international humanitarian law. Using this logic, it appears that the export of WESCAM systems to Turkey contributes to the violation of IHL and that these exports should thus be halted.

Based on Project Ploughshares’s reading of the ATT, interpretation of domestic arms controls, and analysis of Turkey’s recent conduct during warfare, we believe that the continued export of WESCAM sensors to Turkey poses a substantial risk of facilitating further harm. Thus, we conclude that Canadian officials are obligated by international and Canadian law to mitigate the risks of such transfers, up to and including the cessation of future WESCAM and related exports to Turkey.

The full report can be found on the Project Ploughshares website at https://ploughshares.ca/pl_publications/killer-optics-exports-of-wescam-sensors-to-turkey.

ABOUT THE AUTHOR

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Project Ploughshares is a Canadian peace research institute with a focus on disarmament efforts and international security, specifically related to the arms trade, emerging military and security technologies, nuclear weapons, and outer space.