



## RESTORING CANADA'S ARMS CONTROL AND DISARMAMENT CREDENTIALS



### A 2022 TO DO LIST FOR THE FEDERAL GOVERNMENT

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**M**ore than a year and a half after Canada's unsuccessful run for a seat on the UN Security Council, shortcomings in Ottawa's arms control and disarmament agenda remain prominent. As the international community continues to face multiple, overlapping security challenges at the start of 2022, the federal Cabinet installed last October has a fresh opportunity to take stock of Canada's foreign policy priorities.

Recently appointed ministers for both Foreign Affairs (Mélanie Joly) and Defence (Anita Anand) have been presented with neglected portfolios in dire need of a revival. It is high time to restore Canada's arms control, disarmament, and international security credentials.

#### WAKE-UP CALL

In June 2020, Canada lost its bid for a seat on the United Nations Security Council (UNSC). Prime Minister Justin Trudeau had pushed hard for this coveted international post, personally lobbying for the support of world leaders.

The UNSC has 15 seats. In addition to five permanent seats (held by the United States, Russia, China, the United Kingdom and France), the other 10 rotate among UN members that are elected by the UN General Assembly for two-year terms. Canada attempted to win support for one of two available seats from the *Western Europe and others* group, but gained only 108 votes, losing to the only other contenders, Ireland (with 128 votes) and Norway (130 votes).

While there were factors at play in the UNSC election that Canada could not control, its spotty record on arms control, disarmament, and international security surely worked against it. The record of Ireland's and Norway's security policies is instructive.

Ireland is widely regarded as a champion of humanitarian disarmament initiatives and has for some time been a leader of a multilateral effort to develop a political declaration on the protection of civilians from explosive weapons in armed conflict. Norway was an early supporter of multilateral efforts toward the Treaty on the Prohibition of Nuclear Weapons. Last December the Norwegian foreign ministry announced that the country will attend the treaty's first Meeting of States Parties as an observer, becoming the first NATO member to confirm its participation.

## A WORLD UNDER THREAT

The Doomsday Clock maintained by *The Bulletin of the Atomic Scientists* represents the world's vulnerability to man-made global catastrophe. This year the clock remained at 100 seconds to midnight—or Doomsday—for the third year in a row. It has never been closer.

Chief among these threats is the existence of nuclear weapons. Nuclear-weapon states and many of their allies, including Canada, continue to endorse nuclear deterrence as a legitimate, even necessary, security doctrine.

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As the vast social, scientific and economic benefits to humanity of outer space applications expand, the sustainability of this critical domain continues to face critical challenges. Key among them: no clear norms are in place today to prevent an arms race in outer space. Worrying developments—including the testing of anti-satellite weapons (ASATs) threaten to normalize the militarization of this critical domain.

The rapid advancement of emerging military technologies is both pushing and testing legal and ethical boundaries that protect us all. Although not yet deployed, fully autonomous weapons systems or killer robots, which could select targets and employ lethal force with no human involvement, are under development.

Unscrupulous arms transfers continue to play a direct role in the violation of human rights, the perpetuation of autocratic regimes, and the exacerbation of armed conflict. Arms manufacturers and exporters, such as Canada, are facing increased scrutiny over their export decisions and the extent to which they are effectively complying with domestic and international arms controls.

More than 20 years after the UN Security Council first adopted the resolution on the Pro-

tection of Civilians in Armed Conflict, and more than 70 years after the enactment of the last of the Geneva Conventions, the international community has yet to adequately respond to and prevent some of the most injurious manifestations of armed conflict. With civilians bearing the brunt of contemporary warfare, the development of robust new standards that protect the lives and livelihoods of noncombatants must become both a policy priority and a humanitarian imperative.

As an affluent middle power, Canada is well positioned to engage constructively and proactively on all of these and other important matters. However, the nature of Canada's recent engagement on many multilateral security issues leaves a lot to be desired. At best, it is not pulling its weight in the most effective ways possible. On some files, Canada has functioned as a spoiler, aligning its policies with military allies, even when they conflict with multilateral efforts to meet some of the world's most pressing challenges.

## TOP PRIORITIES



### RID THE WORLD OF NUCLEAR WEAPONS

#### THE CONTEXT

The existence of nearly 14,000 nuclear weapons constitutes a clear and present threat to global security. They continue to form a cornerstone of national security policy for many states, even those without nuclear weapons. Within the North Atlantic Treaty Organization (NATO), to which Canada belongs, a nuclear-weapon state can make its weapons available to alliance members. Currently, virtually every state that possesses nuclear weapons is spending copious amounts of money modernizing their arsenals, thereby indefinitely delaying the journey to abolition.

The current global nuclear disarmament regime is also threatened by, inter alia, unstable strategic relations between Russia and the United States (and, more generally, between Russia and NATO), ongoing challenges to the pursuit of a Mideast zone free of weapons of mass destruction, and North Korea's nuclear weapons program.

The last Review Conference of the Nuclear Non-Proliferation Treaty (NPT), held in 2015, failed to reach consensus on an outcome document, typically seen as a minimum measure of success. This failure indicated the profound inadequacies of the global nuclear disarmament and nonproliferation regime. The 2020 Review Conference, delayed by the COVID-19 pandemic and now scheduled for August 2022, may be the most challenging since the NPT entered into force almost half a century ago.

The adoption (July 2017) and subsequent entry into force (January 2021) of the Treaty on the Prohibition of Nuclear Weapons (TPNW) have come to embody the frustration of the majority of the world's countries with policies and actions that perpetuate nuclear weapons.

Canada's official position is similar to the one held by virtually all states: it supports the eventual elimination of nuclear weapons. Yet it continues to endorse the nuclear deter-

rence doctrine of nuclear-weapon states, even as the multilateral policy landscape on which nuclear disarmament negotiations occur is being reshaped. Like most NATO members, Canada boycotted multilateral negotiations on the TPNW.

Canada and its nuclear-armed allies continue to insist on a “step-by-step” process that has only succeeded in stalling nuclear abolition. Steps include the entry into force of the Comprehensive Test Ban Treaty, which some of these same states have failed to ratify, and the negotiation of a Fissile Material Cut-Off Treaty at the Conference on Disarmament, which has been deadlocked for more than 20 years.

#### WHAT CANADA SHOULD DO

- Prioritize nuclear disarmament in the mandates of the Foreign and Defence ministers and participate constructively in the 2022 NPT Review Conference.
- Implement the 2018 recommendation of the House of Commons Standing Committee on National Defence that Canada take “a leadership role within NATO in beginning the work necessary for achieving the NATO goal of creating the conditions for a world free of nuclear weapons.”
- Attend the first Meeting of States Parties of the TPNW as an observer and take the necessary measures to become a state party.
- Work with partners in the 15-member Stockholm Initiative to advance the series of “stepping stones” to reduce nuclear risks and the role of nuclear weapons in security doctrines; support efforts to salvage the Joint Comprehensive Plan of Action (Iran nuclear deal); and consider alternatives to the Conference on Disarmament as a forum to develop a multilateral treaty to regulate fissile materials.
- Liaise with civil society nuclear disarmament experts and engage regularly with the nongovernmental sector on eliminating nuclear weapons.



## PREVENT AN ARMS RACE IN OUTER SPACE

### THE CONTEXT

The prevention of an arms race in outer space (PAROS) has been a priority of the international community, including Canada, for four decades, but there has been little progress on arms control measures that would preserve outer space as a peaceful domain free of weapons. As a result, an arms race has bubbled beneath the surface and now threatens to boil over.

The development of counterspace capabilities is escalating and proliferating. Interference with satellites, including the jamming of satellite communications and dazzling of their sensors, is rampant.

Four states (Russia as recently as November 15, 2021) have demonstrated a hit-to-kill anti-satellite capability using ground-based weapons systems. These weapons tests not only

demonstrate the ability and possible intent to threaten essential space systems of competitors and adversaries but cause environmental and humanitarian harm through the creation of debris that indiscriminately threatens all space objects.

There is evidence of accelerating development of other anti-satellite capabilities, such as directed energy weapons, and the orbiting of anti-satellite capabilities in space is a real possibility. As well, several states have created new military units dedicated to warfighting operations in space.

A reason for cautious optimism can be found in a new initiative by the United Kingdom to start a dialogue on norms of behaviour in space. Thirty states plus the European Union and nine nongovernmental and international organizations submitted briefs that detailed the behaviours or activities that seem threatening and reassuring, as well as opportunities to find common ground. This dialogue is set to continue in 2022 at an Open-Ended Working Group.

#### WHAT CANADA SHOULD DO

- Call for a moratorium on the testing of kinetic ASAT weapons and support international efforts to develop a legally binding ban.
- Engage actively in the Open-Ended Working Group on norms of behaviour in space.
- Promote the peaceful use of outer space and denounce all rhetoric that views space as a warfighting domain at all relevant domestic and international forums.
- Involve civil society in discussions on the strategic, environmental, and humanitarian risks of warfighting and the use of weapons against space systems to inform future international arms control efforts.



## EFFECTIVELY REGULATE THE ARMS TRADE

### THE CONTEXT

Every day, civilians are killed, injured, displaced, subjected to sexual violence, and faced with other abuses due to the uncontrolled flow of weapons. The international arms trade, which accounts for about one per cent of global trade but about half of all corrupt transactions, is at once deadly, destabilizing, and notoriously unregulated.

The Arms Trade Treaty (ATT) is the first binding international framework that aims to comprehensively regulate the trade and transfer of conventional weapons as a way to contribute to *international and regional peace, security, and stability and so reduc[e] human suffering*. By January 2022, 110 states had fully ratified the treaty.

After years of advocacy by civil society and the Canadian peace and disarmament movement, Canada acceded to the ATT on September 17, 2019. While the accession was a major step forward, implementation has fallen far short of treaty obligations. In December 2018,

the Canadian Parliament passed Bill C-47, the legislation that permitted accession to the ATT. However, it did not respond to key provisions of the treaty and failed to rectify existing faults in Canada's Export and Import Permits Act (EIPA) that did not meet ATT requirements. For example, under the ATT, export permits are not to be granted if there is a "substantial risk" that weapons will be misused. However, no definition of "substantial risk" is currently included in the EIPA.

As well, most Canadian arms exports to the United States, the largest consumer of Canadian weapons, are not regulated through the licensing of conventional export permits. As a result, they are not subject to the standardized risk assessment and are not reported by the Canadian government. This loophole violates key obligations under the ATT.

Again, some government agencies and departments are free from export regulations. The Department of National Defence (DND) clearly states that it is not subject to any arms controls and that the Canadian military, like many other national militaries, is free to sell or donate surplus military goods to allied countries outside of the standard regulatory channels. This practice is inconsistent with Article 5 of the ATT, which calls for controls to be implemented in a consistent and non-discriminatory manner.

In perhaps its most egregious misstep, Canada continues to export weapons valued well in excess of a billion dollars each year to Saudi Arabia, a country that is actively at war in Yemen where it stands accused of breaching international humanitarian law. Canada has also recently exported weapons to most other members of the Saudi-led coalition in Yemen, including the United Arab Emirates, Kuwait, Qatar, Egypt, and Jordan. However, under Article 7 of the ATT, Canada cannot export weapons when there is a substantial risk that such transfers might be used to facilitate serious human rights abuses – as is the case with Saudi Arabia and its allies in the war in Yemen.

#### WHAT CANADA SHOULD DO

- Incorporate fully all provisions of the Arms Trade Treaty, particularly those found in Articles 6, 7, and 11, into the EIPA. The EIPA must also be updated to include a universally accepted definition of "substantial risk."
- Revoke all arms export permits to belligerents in Yemen.
- Remove existing regulatory and reporting loopholes for all military exports to the United States.
- Harmonize export licensing across all government bodies for all relevant military goods.
- Establish a subcommittee of the House of Commons Standing Committee on Foreign Affairs and International Development to monitor export controls; and an independent advisory panel of experts, which would include civil society organizations, that would review best practices by ATT State Parties on arms exports.
- Institute standardized post-shipment verification measures that can detect the diversion of Canadian weapons and build trust with importing parties.



## ENSURE HUMAN CONTROL OVER NEW MILITARY TECHNOLOGIES

### THE CONTEXT

Advances in artificial intelligence (AI) and robotics are transforming warfare. Many countries, particularly the United States and China, are investing in more autonomous weapon systems and making broader use of AI to augment human decision-making in warfare. Crucially, a great number of countries, including Canada, are focusing on research and development in the area of autonomous military systems.

Some weapon systems that currently operate with human control and oversight can also function without significant human control. Developments in machine learning, facial recognition technology, as well as other advancements, appear to be guiding or nudging human decision-making in particular directions, diminishing the level of human control.

The implications and risks of unpredictable and uncontrollable systems have been voiced by prominent AI experts and civil society organizations. Concerns are being raised about automation bias, the overreliance on technology; automation surprise, which occurs when systems act in unanticipated ways; and mode confusion, which occurs when user interface information is unexpected.

Discussions on the regulation of autonomous weapons have been taking place since 2014 at the United Nations Convention on Certain Conventional Weapons (CCW). While the vast majority of countries agree on the need for human control over weapon systems, they differ on how to achieve such control. All agree that existing international humanitarian law applies to autonomous weapons, but don't agree on whether existing laws are sufficient to determine human accountability for actions performed by a system that can perform some or many functions without direct human instruction.

Canada's position on autonomous weapons has largely been muted, with a short-lived period of promise that did not materialize in any leadership at the CCW or beyond it. When the issue arose on the international agenda in 2014, Canada supported a degree of human control over weapon systems and in the 2017 *Strong, Secure, Engaged* defence policy stated that the "Canadian Armed Forces is committed to maintaining appropriate human involvement in the use of military capabilities that can exert lethal force." It was never entirely clear what this means in practice, including whether there may be scenarios in which human involvement is not considered necessary.

A somewhat unexpected official change in position came about when it was announced that Canada would support efforts towards a ban on fully autonomous weapons, according to the mandate letter given to Minister of Foreign Affairs François-Philippe Champagne on December 13, 2019. This letter instructed the Minister to "advance international efforts to ban the development and use of fully autonomous weapons systems." However, this mandate has not been implemented. Indeed, when current Minister of Foreign Affairs Joly was given her mandate letter the reference to autonomous weapons was removed. With or without the mandate in place, Canada has been largely silent in CCW discussions.

In contrast to this silence, Canada is a strong promoter of responsible civilian AI development. Canada, along with France, pushed for the creation of the Global Partnership on

Artificial Intelligence. Canada was the first country to publish its national strategy on AI. As such, there are opportunities for Canada to show leadership in the governance of new military technologies and, specifically, autonomous weapon systems.

#### WHAT CANADA SHOULD DO

- Support international calls to ban autonomous weapons that function without meaningful human control, and support regulatory efforts at the CCW and outside of CCW if it remains deadlocked.
- Host an international conference on autonomous weapons in the near future.
- Release a clear national policy on military applications of AI.
- Convene a group of domestic experts, including members of academia, industry and civil society, to advise Global Affairs Canada and DND on emerging technologies.



## STRENGTHEN THE PROTECTION OF CIVILIANS IN ARMED CONFLICT

### THE CONTEXT

The use of explosive weapons in populated areas (EWIPA), with its devastating impact on civilian lives and livelihoods, has become a top humanitarian priority. There is undeniable evidence of EWIPA use by both state and non-state actors in some of the most devastating contemporary conflicts.

When explosive weapons – aircraft bombs, heavy artillery, rockets, grenades, and improvised explosive devices – are detonated in populated areas, a staggering proportion of casualties are civilians. According to a report issued by UK-based group Action on Armed Violence, between the years 2011 and 2020, 262,413 civilians were killed or injured by EWIPA – 91 per cent of all casualties.

But the devastating effects of EWIPA go far beyond immediate death and injury. Extensive damage to critical civilian infrastructure and essential services – including those related to health care, sanitation, and power – causes long-term harm and suffering, which are often underreported. EWIPA use also causes psychological trauma, hampers the work of humanitarian relief agencies, and drives forced displacement.

We already know how to solve this problem: states and non-state actors must stop using explosive weapons with wide-area effects in towns, cities, and other populated areas; and all available agencies must provide aid to those already affected by EWIPA.

An ongoing multilateral process led by the government of Ireland aims to address this problem through a politically binding declaration. The next, and final, round of multilateral consultations on this declaration is scheduled for February 2022 at the United Nations in Geneva. The expectation is that the draft text of the political declaration will be finalized then, ready to be adopted by supporting states.

The hope is that once there is a clear multilateral norm proscribing the use of EWIPA, its spirit and specific commitments will gradually be reflected in the military doctrines of many countries around the world.

#### WHAT CANADA SHOULD DO

- Participate actively and constructively in the next round of consultations in Geneva, supporting a clear, unambiguous commitment to avoid the use of explosive weapons with wide-area effects in populated areas.
- Support a political declaration that goes beyond existing obligations to international humanitarian law to break new ground in protecting civilians from the devastating effects of armed violence and providing victim assistance.
- Review rules of engagement across all branches of the Canadian Armed Forces to ensure the highest standards are in place to protect civilians from the use of explosive weapons in populated areas.
- Consider the likelihood of the use of EWIPA during the risk assessment of prospective Canadian arms exports at Global Affairs Canada and deny authorizations when such a risk is identified.

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