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Court File No. T-473-24

FEDERAL COURT

BETWEEN:

**HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X. Y.,
CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS, and
AL-HAQ - LAW IN THE SERVICE OF MAN**

Applicants
(Appellants)

- and -

**MINISTER OF FOREIGN AFFAIRS
and ATTORNEY GENERAL OF CANADA**

Respondents
(Respondents in Appeal)

- and -

**PRATT & WHITNEY CANADA CORP, TTM TECHNOLOGIES TORONTO INC,
GEOSPECTRUM TECHNOLOGIES INC, EXCELITAS CANADA INC,
APOLLO MICROWAVES LTD**

Respondents
(Respondents in Appeal)

**APPEAL MOTION RECORD OF THE APPLICANTS (APPELLANTS)
VOLUME 1 OF 2**

February 3, 2025

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TAB 1

FEDERAL COURT

BETWEEN:

**HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X. Y.,
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GEOSPECTRUM TECHNOLOGIES INC, EXCELITAS CANADA INC,
APOLLO MICROWAVES LTD**

Respondents
(Respondents in Appeal)

**NOTICE OF MOTION TO APPEAL
(Motion to Appeal Order of Associate Judge)
Pursuant to Rule 51 of the *Federal Court Rules***

TAKE NOTICE THAT THE APPLICANTS (APPELLANTS) will make a motion to the Federal Court under Rule 369 of the *Federal Court Rules* (the “*Rules*”), to be determined by a single judge of the Federal Court pursuant to Rule 51.

THE APPLICANTS (APPELLANTS) APPEAL to the Federal Court from the Order of Associate Judge Cotter of the Federal Court, dated December 20, 2024 by which leave was denied in part for the Applicants’ motion to amend the original notice of application for judicial review, dated March 5, 2024 and bearing the Court file number T-473-24.

THE MOTION IS FOR:

1. An Order setting aside Paragraph 3 of the Order of Associate Judge Cotter, dated December 20, 2024 (“the Order”);
2. An Order setting aside Paragraph 1 of the Order insofar as it denies the Applicants leave to file the “*Charter* Amendments” and the “Indirect Arms Exports Amendments” referred to in the Reasons attached to the Order;
3. An Order granting the Applicants leave to amend the Notice of Application dated March 5, 2024 in the form attached as Exhibit “Q” to the Affidavit of Henry Off, affirmed August 5, 2024, in the Applicants’ Motion Record by:
 - a. clarifying, for greater certainty, that the decision in question in the application for judicial review, namely the Minister of Foreign Affairs’ (the “Minister’s”) issuance of permits to broker or export military goods or technology “to Israel, or ultimately destined for Israel” (the “Decision”) includes the decision to authorize the transfer of military goods and technology to Israel that can and does occur indirectly through third countries, notably the United States (“US”);
 - b. seeking an order for declaratory relief that the Minister’s Decision violates section 15 of the *Canadian Charter of Rights and Freedoms* (the “*Charter*);

- c. seeking an order for declaratory relief that section 2(a) of the Export Control List, SOR/89/202 is invalid and unlawful; and
 - d. making other related and consequential further amendments to the Notice of Application;
4. An Order that no costs shall be awarded against the Applicants for this appeal motion;
 5. An Order for the costs of this appeal motion;
 6. An Order extending or abridging any requisite timelines for the Applicants under the *Federal Courts Act* or *Federal Court Rules* or as may be contained in the Order, including but not limited to an extension of time to serve the Applicants' Motion Record on all Respondents and file with proof of service;
 7. An Order that all steps in the proceeding, as presently constituted, proceed without delay; and
 8. Such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. The Associate Judge erred in denying the Applicants leave to add the *Charter* Amendments by:
 - a. Conflating the legal test applicable to the final determination of a section 15 challenge on its merits with the test for whether a pleading is sufficient to support a section 15 claim, thereby erroneously determining that the Applicants do not meet the threshold test for adding a *Charter* claim under section 15; and/or

- b. Applying a test for sufficiency of pleadings that would require the Applicants to plead improper legal argument and not just material facts; and/or
 - c. Failing to identify clearly pleaded material facts and legal bases presented by the Applicants to support a section 15 claim and thereby satisfy the pleading requirements for a notice of application for judicial review.
- 2. The Associate Judge erred in denying the Applicants leave to add the Indirect Arms Exports Amendments by:
 - a. Misapprehending the meaning of the word “delay” for the purposes of the applicable legal test by conflating it with mere complexity of the proceeding – divorced from key relevant factors such as steps already taken in the proceeding that would have to be revisited, or already in progress that would have to be suspended – therefore effectively applying the wrong legal test;
 - b. Drawing factual conclusions with respect to delay or complexity of the proceeding without an evidentiary basis for doing so;
 - c. Finding that *General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States*, SOR/2019-230 [*GEP No. 47*] is not encompassed in the language of the original Notice of Application based on the incorrect observation that the original Notice of Application does not mention permits that were issued before October 9, 2023 (as *GEP No. 47* was);
 - d. Failing to consider the timeliness with which the Applicants filed a motion to amend the Original Notice of Application, after having learned for the first time of several additional Respondents to be added to the proceeding; and/or

- e. Holding the Applicants to an unreasonable standard with respect to proceeding with this judicial review application in the absence of the Respondents' transmittal of the Certified Tribunal Record, to date, despite the requirements of Rule 318.
- 3. Rules 3, 4, 8(1), 8(2), 51, 75, 104(1)(b), 174, 303(1), 317, 318, 359, 364, 369, 400(1), and 400(3) respectively, of the *Federal Court Rules*.
- 4. The Applicants propose that this appeal motion be considered in writing and without personal appearance.
- 5. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be relied upon in support of this motion:

- 1. The Applicants' Motion Record on a motion to amend the Notice of Application, dated August 6, 2024;
- 2. The Respondents' Responding Motion Record, dated August 21, 2024;
- 3. The Applicants' Reply Motion Record, dated September 3, 2024;
- 4. The Order and Reasons of The Honourable Associate Judge Cotter, dated December 20, 2024; and
- 5. Such further and other materials as counsel may advise and this Honourable Court permit.

Date: February 3, 2025

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MINISTER OF FOREIGN AFFAIRS and AGC, and
 PRATT & WHITNEY, TTM, GEOSPECTRUM,
 EXCELITAS, and APOLLO MICROWAVES

Applicants (Appellants)

Respondents (Respondents on Appeal)

FEDERAL COURT
 Proceeding commenced at Toronto

NOTICE OF MOTION TO APPEAL
(Motion to Appeal Order of Associate Judge)
Pursuant to Rule 51 of the *Federal Court Rules*

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TAB 2

FEDERAL COURT

BETWEEN:

**HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X. Y.,
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APOLLO MICROWAVES LTD**

Respondents
(Respondents in Appeal)

WRITTEN REPRESENTATIONS OF THE APPLICANTS (APPELLANTS)
(Motion to Appeal Order of Associate Judge)
Pursuant to Section 51 of the *Federal Court Rules*

OVERVIEW

1. The Applicants bring a motion under Rule 51 of the *Federal Court Rules* (the “*Rules*”) to appeal the Order of Associate Judge Cotter, dated December 20, 2024. The motion is in

writing under Rule 369 of the *Rules*, to be determined by a single judge of the Federal Court pursuant to Rule 51(1).

Appeal Motion Record of the Applicants (the “Appeal MR”), Tab 1: Notice of Motion.

FACTS

2. The Applicants filed a Notice of Application on March 5, 2024 (the “Original Notice of Application”) against the Minister of Foreign Affairs and Attorney General of Canada (the “Government Respondents”), which seeks judicial review in respect of the issuance of export and brokering permits for arms, ammunition, implements or munitions of war (collectively, “military goods or technology”) to or ultimately destined for Israel, as authorized by the Minister of Foreign Affairs (the “Minister”) at any time on or after October 9, 2023, or prior to that date but continuing in effect on or after October 9, 2023.
3. In April 2024, various news media reported that the US was poised to approve a sale of F-15 fighter aircraft to Israel. Information previously available suggested that Canadian arms exporters supply some of the parts and components for the F-15.
4. On May 30, 2024, the Applicants gave notice to the Government Respondents of their intention to amend the Notice of Application. The Government Respondents confirmed receipt in writing on June 18, 2024.
5. Shortly afterwards, the Applicant began learning the identities of companies that hold permits relevant to the orders sought in the Original Notice of Application. Between June 26 and July 10, 2024, the Applicants learned the identity of five such companies: the Respondents Excelitas Canada Inc. (“Excelitas”), TTM Technologies Toronto, Inc.

(“TTM”), and GeoSpectrum Technologies Inc. (“GeoSpectrum”), as well as L3 / Wescam Inc. (“L3”) and General Dynamics Land Systems-Canada (“General Dynamics”).

6. On July 12, 2024, the Applicants circulated a copy of the draft proposed Amended Notice of Application to the Respondents and counsel for the companies whose identities they had learned. These included:
 - a. The “Indirect Arms Export Amendments,” which sought to add clarity and precision to the Notice of Application by expressly identifying the specific mechanisms which the Applicants believe are used to authorize military exports to the US for F-15 aircraft - General Permit No. 47 — Export of Arms Trade Treaty Items to the United States, SOR/2019-230 (“GEP No. 47”) and section 2(a) of the Export Control List, SOR/89-202 - which allow Canadian military exports to go to the US without the need to apply for an individual permit that would enable Canadian government officials to consider the use such exports would be put to and whether it is consistent with Canadian human rights obligations before approving them; and
 - b. The “*Charter* Amendments,” which sought to add requests for relief under s. 15 and s. 24(1) of the *Charter*;
7. On July 29, 2024 the Government Respondents notified the Applicants that, given the Applicants’ proposed amendments, it takes the view that L3 and General Dynamics are not directly affected and thus need not be added as Respondents. The Government Respondents further notified the Applicants that there were two other companies they believed should be added as Respondents to this proceeding: the Respondents Apollo Microwaves Ltd. (“Apollo”) and Pratt & Whitney Canada Corp. (“Pratt & Whitney”).

8. On August 6, 2024, having now come to know of the identities of all the companies that the Government Respondents considered to be necessary Respondents, the Applicants proceeded with a single motion to amend the Notice of Application that encompassed amendments to add the necessary Respondents, together with the originally contemplated Indirect Arms Exports Amendments and Charter Amendments.
9. No other major step in the proceeding has occurred. As part of the Original Notice of Application, the Applicants filed a Rule 317 request for material relevant to the application that is in the possession of a tribunal (i.e., the Minister of Foreign Affairs or associated decision-making body) whose order is the subject of the application and not in the possession of the party (i.e., the Applicants).
10. The Respondents did not comply with their obligation under Rule 318(1) of the *Rules* to transmit the Certified Tribunal Record (CTR) within 20 days after service of the Applicants' request under Rule 317 (i.e., by March 25, 2024). To date, neither have the Respondents informed all parties and the Administrator, in writing, of the reasons for the objection, as required by Rule 318(2).
11. There have been two (2) case management conferences in this matter, both before Associate Judge Cotter: one on July 11, 2024 and one on July 30, 2024.
12. The Respondents served and filed their Responding Motion Record on August 21, 2024.
13. Following a Direction from Associate Judge Cotter on August 27, 2024, the Applicants served and filed their Reply Motion Record on September 3, 2024.
14. On December 20, 2024 – three-and-a-half (3.5) months after the parties submitted their motion materials in writing – Associate Judge Cotter rendered an Order denying the Applicants leave in part to amend their pleadings (the “Order”).

ISSUES:

15. The issues in this motion are:

Issue #1: Did the Associate Judge err by incorrectly articulating the legal test on amending pleadings?

Issue #2: Did the Associate Judge err by misapplying the law on amending pleadings with respect to the Applicants' motion for leave to add the Indirect Arms Exports Amendments?

Issue #3: Did the Associate Judge err by misapplying the law on amending pleadings with respect to the Applicants' motion for leave to add the *Charter* Amendments?

SUBMISSIONS:**A. Standard of Review**

16. The standard of review on an appeal pursuant to Rule 51 of the *Rules* is correctness on a pure or extricable question of law, and palpable and overriding error on a question of fact or a question of mixed law and fact.

Hospira Healthcare Corporation v Kennedy Institute of Rheumatology, [2016 FCA 215](#) at para 79, citing *Housen v Nikolaisen*, [2002 SCC 33](#) at paras 8, 10, 36; aff'd in *Proslide Technology, Inc. v Whitewater West Industries, Ltd.*, [2024 FC 175](#) at para 16.

17. Many errors committed by the Associate Judge involve either applying the wrong legal test, interpreting the legal test and/or the law in the wrong way, and/or ignoring relevant factors, and are therefore reviewable on a standard of correctness.

Canada (Attorney General) v Best Buy Canada Ltd., [2021 FCA 161](#) at para 26.

18. In other places, the Associate Judge made clear factual misreads or misstatements of the contents of the Applicants' proposed Amended Notice of Application, which constitutes palpable and overriding error.
19. The Federal Court of Appeal described a "palpable" error as one that is obvious and an "overriding" error as one that goes to the very core of the outcome of the case.

***South Yukon Forest Corp. v R*, 2012 FCA 165 at para 46.**

B. Test for Amending Pleadings

20. The test for amending pleadings is presented systematically in *Australian Mud Company Pty Ltd. v Boart Longyear Group Ltd.*, [2024 FC 1217](#) at paras 12-14:

[12] As set out in Rule 75 of the *Federal Courts Rules*, the Court may at any time allow a party to amend a document on such terms as will protect the rights of the parties. The general rule on amendment is that "an amendment should be allowed at any stage of an action for the purpose of determining the real questions in controversy between the parties, provided, notably, that the allowance would not result in an injustice to the other party not capable of being compensated by an award of costs and that it would serve the interests of justice.": *Canderel Ltd v R* (1993), [1993 CanLII 2990 \(FCA\)](#), [1994] 1 FC 3 (FCA) at page 10; *Enercorp Sand Solutions Inc v Specialized Desanders Inc*, [2018 FCA 215](#) [*Enercorp*] at para 19. However, an amendment should not be allowed unless it has a reasonable prospect of success: *Teva Canada Limited v Gilead Sciences Inc*, [2016 FCA 176](#) at paras 29-30. If it is plain and obvious that the amendment would be struck if pleaded, it should be denied: *Enercorp* at para 22; *McCain Foods Limited v JR Simplot Company*, [2021 FCA 4](#) at para 20, leave to appeal refused, [2021 CanLII 58911](#).

[13] Once it has been established that a proposed amendment has a reasonable prospect of success, consideration will be given to other factors consonant with the interests of justice, such as (*Janssen Inc v AbbVie Corporation*, [2014 FCA 242](#) [*AbbVie*] at para 3; *Continental Bank Leasing Corp v R*, [1993] 93 DTC 298 (TCC) at page 302):

- a) the timeliness of the motion to amend;
- b) the extent to which the proposed amendments would delay the expeditious trial of the matter;

- c) the extent to which a position taken originally by one party has led another party to follow a course of action in the litigation which it would be difficult or impossible to alter; and
- d) whether the amendments sought will facilitate the Court's consideration of the true substance of the dispute on its merits.

[14] These factors are non-exhaustive and non-limiting and require a balancing exercise; consideration will be given to simple fairness, common sense and the interest that the courts have that justice be done: *AbbVie* at para 3.

- 21. Bald allegations are not, by themselves, a basis for refusing leave to amend a pleading.

Miguna v Ontario, [2005 CanLII 46385 \(ONCA\)](#) at para 22.

Issue #1: The Associate Judge Erred By Incorrectly Articulating the Legal Test on Amending Pleadings

- 22. The Associate Judge applied the wrong legal test. Specifically, he entirely omitted the first part of the test, that “an amendment should be allowed at any stage of an action for the purpose of determining the real questions in controversy between the parties, provided, notably, that the allowance would not result in an injustice to the other party not capable of being compensated by an award of costs and that it would serve the interests of justice.”
- 23. The Associate Judge merely identified and discussed the relevant factors in the second part of the test. However he did not first identify and instruct himself as to the overarching principle that “an amendment should be allowed at any stage of an action for the purpose of determining the real questions in controversy between the parties.”
- 24. This is a crucial oversight that drastically alters the legal test. It leaves out what the Court of Appeal has described as the “controlling principle” of the test.

Canada v Pomeroy Acquireco Ltd., [2021 FCA 187](#) at para 4.

25. After all, the relevant factors to be considered in a legal test are meaningless when disembodied from the framework of the general standard against which they are to be applied. This is particularly the case here given that the overarching standard is one of permissiveness or accommodation – that an amendment generally “should be allowed.”
26. By ignoring the “controlling principle” of the test, the Associate Judge erred in law. This error is not superficial. On the contrary, as seen below, it thoroughly infuses how he applied the test and his resulting decision to deny the Applicants leave to add the Indirect Arms Exports Amendments and the *Charter* Amendments.

Issue #2: The Associate Judge Erred By Misapplying The Law On Amending Pleadings With Respect to the Indirect Arms Exports Amendments

The Associate Judge committed several reviewable errors in his analysis of delay

27. The Associate Judge found that the delay factor “alone is sufficient reason not to permit [the Indirect Arms Exports] amendments.” However, the conception of delay he applied was limited to his assessment of the complexity the proposed amendments would add to the proceeding. In other words, he conflated delay with mere complexity.
28. Had he instead started, as he should have, from the general guiding principle that amendments ought to be accommodated where it would not do an injustice to the other party, he would have applied a more nuanced understanding of delay incorporating such factors as what steps had already been taken in the proceeding that would need to be revisited, or what steps were already under way in the proceeding that would have to be suspended.

29. A litigant has the right to make a complex claim. A pleading is not dilatory solely by reason of being complex. Delay, for the purpose of a test that adopts the primacy of accommodating an amendment as a central guiding principle, must connote some measure of *undue* delay - that is, the extent to which an amendment is disruptive, sets back something that is already in motion, or generally puts to waste any time or resources that have already been expended.
30. For instance, this Court in *Andersen Consulting v Canada (C.A.)*, 1997 CanLII 6376 (FCA), [\[1998\] 1 FC 605](#) [*Andersen Consulting*] recognized the need for “flexibility” in granting amendments to pleadings, generally (para 16). The Court granted leave to amend the pleadings, considering that the proceeding is “still early in the process and the discoveries are not yet completed” and that there would be no prejudice or injustice to the respondent in allowing the amendments (para 18).
31. In *Kouridakis v Canadian Imperial Bank of Commerce*, [2025 FC 60](#) [*Kouridakis*], the Federal Court denied a party leave to amend their record, where the party could have but did not seek leave to amend their proceedings for almost 9 months and requested leave to amend at the hearing for two judicial reviews. The Court found that it was more consonant with the interests of justice to dismiss the party’s leave to amend (paras 52-54).
32. In *Proslide Technology, Inc. v Whitewater West Industries, Ltd.*, [2024 FC 175](#) [*Proslide*], the Court also analyzed delay in the context of steps already taken or scheduled in the proceeding, noting that the “risk of further delays” was “substantial,” where the proceeding was “only a handful of months” before trial (para 47). The Court nevertheless remained cognizant of the general rule on amendment while reasoning in a considered manner through the test for amending pleadings (para 48).

33. ‘Timeliness’ was also discussed in the recent Order of Associate Judge Crinson in *Adeia Guides, Inc. v BCE Inc.*, [2024 FC 1842](#):

[7] Timeliness of a motion to amend a pleading, or at least giving notice to the opposing party is relevant both retrospectively and prospectively. Retrospectively, timeliness may be relevant to particular strategic steps that were, or were not, taken that may have been different had the proposed amendments been introduced earlier. Prospectively, the timing of the proposed amendment may impact upon the timing of steps leading to trial or even result in a delay of trial. For example, follow up discovery may have been delayed in order to allow discovery related to the proposed amendments, which was not possible in this case as the amendments have not been introduced until after completion of follow up discovery.

34. Here, the Application for judicial review is procedurally at a very early stage. It is nowhere near the stages reached in *Kouridakis* or *Proslide* and is at an even earlier stage than in *Andersen Consulting*. In fact, the only major procedural step taken prior to the filing of the Applicants’ Motion to Amend was the filing of the Original Notice of Application that initiated this proceeding. No trial date is being contemplated at this early stage.
35. Informational imbalance provides important additional context here. The government keeps all but the most generalized data on military exports from the public. All relevant information is in the hands of the Government Respondents, who have yet to deliver the CTR as they were supposed to in March 2024. The Applicants are thus operating in a virtual informational vacuum, and accordingly can only frame the relief they seek in general terms.
36. Nevertheless, the Applicants have acted promptly whenever they have received new relevant information from the government Respondents or from publicly available sources. When solid information emerged of plans to send Canadian military exports to Israel through the US, they promptly prepared the Indirect Arms Exports Amendments.

Similarly, when the government Respondents provided them with the names of companies the government Respondents believed were affected by the Application, they promptly moved to add these companies as respondents. In fact, since the government Respondents have yet to deliver the CTR, the Applicants still have not seen the permits in question and are relying solely on information from the government Respondents.

37. As such, the proposed amendments, at most, merely add clarity and definition to the proceeding – they do not delay it.
38. Indeed, there is no precedent case where an Applicant or Plaintiff was denied leave to amend a pleading on the basis of delay at such an early stage of a proceeding.
39. The Associate Judge also failed to consider *net* delay – that is, the delay (and risk of conflicting judgments) that would result in the alternative scenario if the Applicants were forced to file a separate application in lieu of amending. By tabulating the costs on one side of the ledger, but failing to offset them against the costs on the other side, the Associate Judge skewed the test and failed to take into account an important relevant factor. This, too, constitutes an error of law.

***Canada (Attorney General) v Best Buy Canada Ltd.*, [2021 FCA 161](#) at para 26.**

40. The Associate Judge further erred in law in his analysis on delay by asserting that a great number of necessary respondents would need to be added to the proceeding because the Applicants seek to challenge an enactment, *GEP No. 47*, that confers a right on “any resident of Canada.”
41. The fact that many members of the public may be impacted by a proceeding does not make them all necessary parties to the proceeding. As the Court of Appeal noted in

concluding that the Commissioner of a Commission of Inquiry was not a necessary respondent in a challenge to the Commissioner's Report:

What makes a person a necessary party? ... It is not merely that he has an interest in the correct solution of some question involved and has thought of relevant arguments to advance and is afraid that the existing parties may not advance them adequately. That would mean that on the construction of a clause in a common form contract many parties would claim to be heard, and if there were power to admit any, there is no principle of discretion by which some could be admitted and others refused. The court might often think it convenient or desirable that some of such persons should be heard so that the court could be sure that it had found the complete answer, but no one would suggest that it is *necessary* to hear them for that purpose. [Emphasis original; emphasis added]

Stevens v Canada (Commissioner, Commission of Inquiry) (C.A.), 1998 CanLII 9074 (FCA), [1998] 4 FC 125 [Stevens] at 137.

42. The Court of Appeal concluded that the Commissioner was not a necessary party because the applicant sought no relief against the Commissioner personally.
43. This Court has similarly noted the “absurdity” of a result that “would require that all others that are equally affected also be recognized as necessary parties.”

Reference re subsection 18.3(1) of the Federal Courts Act, R.S.C. 1985, c. F-7, 2019 FC 261 at paras 40-41.

44. Absent a specific legislative provision, where no relief is sought against a person and no allegations are made against them, the person will not be considered a necessary party.

Laboratoires Servier v Apotex Inc., 2007 FC 1210 at para 17.

45. The Associate Judge also made findings of fact as to delay based on mere speculation unsupported by evidence, stating in his own admission, “there is no evidence on the specific number of potential respondents if the Indirect Arms Exports Amendments were to be permitted.”

Order at para 40.

46. This, too, is an error of law – magnified by the fact that the Respondents produced an affidavit from a witness who could easily have spoken to any increased complexity of the proceeding, but did not.

***Canada (Attorney General) v Best Buy Canada Ltd.*, [2021 FCA 161](#) at para 25; Responding Motion Record of the Respondents, dated August 21, 2024, Tab 1: Affidavit of Judy Korecky, sworn August 20, 2024, at pp 1-38.**

47. On the other hand, the Associate Judge also excluded evidence from the Applicants on the erroneous basis that it was improper hearsay evidence. These news articles show that, at the time they filed their Notice of Application, the Applicants had no affirmative information that Canadian arms exports were going to Israel via the mechanisms targeted in the Indirect Arms Exports Amendments. They could therefore not have included these pleadings earlier, which is relevant to the analysis on the timeliness of the Application to Amend. The Applicants thus rely on these news articles not for the truth of their contents, but for the fact that they were published.
48. The timeliness of an application to amend relative to when the applicant learned of new information is relevant to the factor of delay. In *RE/MAX, LLC v Save Max Real Estate Inc.*, [2022 FC 1268](#), the Case Management Judge noted an “inordinate unexplained delay of 18 months” where the Plaintiff learned of applicable facts during an examination for discovery but only brought a motion to amend 18 months later, where the trial of the matter had already been scheduled to commence in September of 2022 (paras 11-13).

The Associate Judge erred in his analysis of the true substance of the application

49. The Associate Judge also erred in identifying individual permits as the true substance of the application under the last factor in the test. The entire focus of the Original Notice of

Application is clearly on the role of Canadian arms exports to Israel in facilitating serious human rights violations committed by Israeli forces. There is nothing to suggest that the Applicants are concerned only with Canadian arms exports that are sent to Israel directly. On the contrary, the language of the Notice of Application refers expressly to indirect exports “ultimately destined for Israel” in multiple places.

Original Notice of Application, dated March 5, 2024 at paras 1.a), 1.h) under Part 1; paras 17, 28, and 37 under Part 2; and paras b), c), d) and h) under Part 5.

50. The Associate Judge’s erroneous conclusion on the true substance of the application also rested on a clear misreading or oversight in reading the Notice of Application. He asserts that *GEP No. 47* is not encompassed in the relief sought in the Notice of Application, because the Applicants seek relief only with respect to permits issued after October 9, 2023, and *GEP No. 47* was issued before that date.

Reasons at para 39.

51. However, subparagraph 1.h) of the relief sought in the Notice of Application clearly seeks the cancellation of “permits issued since October 9, 2023, or prior to that date but continuing in effect on or after October 9, 2023” - language which clearly encompasses *GEP No. 47*. Thus, the Associate Judge erroneously concluded that *GEP No. 47* did not already fall within the scope of the Original Notice of Application as worded.

The Associate Judge erred in placing determinative weight on a single factor and ignoring the others

52. Not only did the Associate Judge apply the incorrect legal test for amending a pleading, but his balancing of the relevant factors - or more accurately, lack thereof – is also dissonant with existing case law.
53. In *Janssen Inc. v Abbvie Corporation*, [2014 FCA 242](#), Janssen Inc. appealed a decision of a judge of the Federal Court dismissing Janssen’s motion to amend a document (para 2). The Federal Court of Appeal overturned the judge’s decision, finding that the judge did not give sufficient weight to all the relevant considerations and that the amendment sought by Janssen should be allowed (para 4). Timeliness and delay featured prominently in the judge’s assessment. With respect to timeliness, the proceeding had commenced in 2009, and Janssen sought amendments in 2014, due to the changing nature of the case between those years (paras 6-7). With respect to delay, this proceeding was approaching trial, and Janssen’s motion to amend the document would require, according to *Abbvie*, a two-month delay at minimum (para 8). The Federal Court of Appeal held that the judge failed to have more fully considered other important factors in this case – namely, that (a) any injustice to the other party is capable of being compensated by an award of costs, and (b) the interests of justice would be served (para 9). In particular, the Federal Court of Appeal observed that the judge said little about the interests of justice. It issued guidance on the test for amending a pleading:

[18] The jurisprudence on amendments teaches us that no single factor is determinative. The list of factors to be considered is not exhaustive. This is a balancing exercise and although no single factor predominates, proper weight has to be given to the relevant factors applicable to each particular case. In our view, the Judge misapplied the stated test and failed to give proper consideration to the relevant factors including the particularity of this case which involves novel

technology with complex scientific and commercial realities going at the heart of the patent bargain between the inventor and the public. Had the Judge considered all of the relevant factors and applied them appropriately to the case at hand, he would have allowed the amendment. [Emphasis added].

54. The Associate Judge’s assessment that delay “alone is sufficient reason not to permit these proposed amendments”, at such an early stage of the proceeding, reveals his fundamental misunderstanding of the legal test and the logical contradiction with the Federal Court of Appeal’s clear guidance that “no single factor is determinative.”

***Janssen Inc. v Abbvie Corporation*, [2014 FCA 242](#) at para 18.**

55. Notably, this Court has been clear that “The fact that the proposed amendments might make the case more difficult for a party to win is not the kind of prejudice that is in issue on motions to amend the pleadings.”

***Andersen Consulting* at para 18.**

56. This Court has also explained that “non-compensable prejudice does not include prejudice resulting from ... the fact that the amended plea may increase the length or complexity of the trial.”

***Apotex Inc. v Pfizer Canada Inc.*, [2017 FC 951](#) at para 61.**

57. The Associate Judge’s overemphasis on delay to the neglect of other factors represents a sharp departure from leading case law.

Applying the correct legal test properly, the Indirect Arms Exports Amendments should be allowed

58. Applying the proper legal test and correctly taking into account all the relevant factors, it is clear that the Indirect Arms Export Amendments should be allowed. The proceedings are at an early stage where no other decision of this Court has refused an amendment on

the basis of delay or timeliness before. The amendments would enhance the Court’s consideration of the true substance of the proceeding, which is Canadian military exports to Israel, regardless of the precise mechanism or route they take to get there.

59. The Applicants received information in April 2024 that provided a basis to believe that Canadian military exports were being sent to Israel through the US. In May 2024, they advised the government Respondents of their intent to move to amend the Original Notice of Application accordingly. In July 2024 they received from the government Respondents the list of companies the government Respondents believed were necessary respondents, and filed the motion to make all these amendments promptly in August 2024.
60. The Applicants, who are at a severe informational disadvantage with respect to data on arms exports, have at all stages moved expeditiously upon receiving new information. In light of the permissive “controlling principle” governing the test of whether an amendment should be allowed, and given that this Court has never refused an amendment at such an early stage for reasons of delay, it is clear that the Indirect Arms Exports Amendments ought to be allowed.

Issue #2: The Associate Judge Erred By Misapplying The Law On Amending Pleadings With Respect to the *Charter* Amendments

61. The Applicants clearly pleaded material facts that constitute “sufficient detail” to support the section 15 *Charter* claim and relief sought.

Mancuso v Canada (National Health and Welfare), [2015 FCA 227](#) at para 21; *Payne v Canada*, [2025 FC 5](#) at para 43.

62. Elements that the Applicants have pleaded that provide “sufficient detail” capable of supporting a section 15 claim on the grounds alleged include:
- a. Race or national or ethnic origin: “Acts of genocide,” “Inciting violence against the Palestinian civilian population, calling for collective punishment of civilians in retaliation for the Hamas attack of October 7, 2023, and inciting the commission of genocide against the Palestinian people in Gaza,” “violations by Israel of its obligations under the *Convention on the Prevention and Punishment of the Crime of Genocide*,” “plausible that genocide was being committed in Gaza”;
 - b. Sex: “Sexual assault of Palestinian women in detention centres, including rape”;
 - c. Age: “Targeting of Palestinian children (including reports of the deliberate killing of children by IDF snipers)”;
 - d. Disability: “Targeted attacks on hospitals,” “Attacks on humanitarian aid convoys.”
63. Acts of genocide and other acts targeting the Palestinian civilian population are clearly capable of supporting a section 15 discrimination claim on the basis of race or national or ethnic origin.
64. Similarly, sexual assault and targeting of Palestinian children provide a clear basis for claiming discrimination on the basis of sex and age, respectively.
65. As for disability, it is also well established that armed conflict – and particularly attacks on health care and other essential services – has a disproportionate impact on persons with disabilities. For example, UN Security Council Resolution 2475 acknowledges “the disproportionate impact that armed conflict has on persons with disabilities, ... including

... lack of access to basic services.” Such “basic services” include “health care services.” Under Article 25 of the *Charter of the United Nations*, Canada is under an obligation to “accept and carry out” Resolutions of the Security Council.

United Nations Security Council Resolution 2475, [UN Doc S/RES/2475](#), 20 June 2019; Charter of the United Nations, 26 June 1945, [Can TS 1945 No 7, art 25](#).

66. The Applicants have duly pleaded that (a) Canada is providing military exports to Israel; and (b) Israel is committing the above acts through application of military force. This should be sufficient “material facts” to meet the (threshold) requirements of Rule 174 of the *Rules*. Given that further information not currently available will emerge in due course through the CTR and affidavit evidence, it is at least arguable that the Applicants will be able to establish a “sufficient causal connection” linking the conduct of Israel with Canada’s *Charter* obligations.

***Canada (Attorney General) v Bedford*, [2013 SCC 72](#) at para 75.**

67. However, the Associate Judge suggested that the Applicants should go beyond pleading material facts and plead legal argument, based on the test in *Sharma*. This is a clear error as the purpose of pleadings is to set out material facts and not merits-based legal argument.

***R. v Sharma*, [2022 SCC 39](#) at para 28.**

68. The Associate Judge failed to identify the Applicants’ clearly pleaded material facts and legal bases to support a section 15 claim, and/or imposed an inappropriately high standard for adequacy of pleadings. These constitute reviewable errors.

COSTS

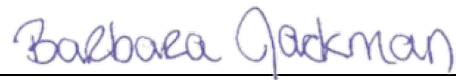
69. The Applicants respectfully seek costs from the Government Respondents in relation to this appeal motion, pursuant to Rules 400(1) and 400(3) of the *Rules*, which provides the Court with broad discretion in awarding costs, considering factors such as the result of the proceeding, the importance and complexity of the issues, the amount of work, and any other matter that it considers relevant.
70. The Applicants submit that an award of costs is appropriate to compensate for success, as may be, on issues it has raised in this appeal motion; the nature of legal and factual issues on appeal requiring significant preparation; and/or the importance of the issues on this appeal for a novel case of public interest.
71. The Applicants propose to provide costs submissions and submit a Bill of Costs detailing the quantum of costs on this appeal motion, as may be ordered by this Court.
72. In the alternative, the Applicants seek costs in accordance with Tariff B of the *Rules*.

ORDER REQUESTED:

73. For the foregoing reasons, the Applicants (Appellants on this appeal) respectfully request:
 - a. An Order setting aside Paragraph 3 of the Order of Associate Judge Cotter, dated December 20, 2024 (“the Order”);
 - b. An Order setting aside Paragraph 1 of the Order insofar as it denies the Applicants leave to file the “*Charter* Amendments” and the “Indirect Arms Exports Amendments” referred to in the Reasons attached to the Order;
 - c. An Order granting the Applicants leave to further amend the Amended Notice of Application to include:

- i. the *Charter* Amendments;
 - ii. the Indirect Arms Exports Amendments;
 - iii. declaratory relief that section 2(a) of the Export Control List, SOR/89/202 is invalid and unlawful; and
 - iv. other related and consequential amendments;
- d. An Order that no costs shall be awarded against the Applicants for this appeal motion;
- e. An Order for the costs of this appeal motion;
- f. An Order extending or abridging any requisite timelines for the Applicants under the *Federal Courts Act* or *Federal Court Rules* or as may be contained in the Order, including but not limited to an extension of time to serve the Applicants' Motion Record on all Respondents and file with proof of service;
- g. An Order that all steps in the proceeding, as presently constituted, proceed without delay; and
- h. Such further and other relief as counsel may advise and this Honourable Court may deem just.

Date: February 3, 2025



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MINISTER OF FOREIGN AFFAIRS and AGC, and
PRATT & WHITNEY, TTM, GEOSPECTRUM,
EXCELITAS, and APOLLO MICROWAVES

Applicants (Appellants)

Respondents (Respondents on Appeal)

FEDERAL COURT
Proceeding commenced at Toronto

**WRITTEN REPRESENTATIONS
OF THE APPLICANTS (APPELLANTS)
(Motion to Appeal Order of Associate Judge)
Pursuant to Section 51 of the *Federal Court Rules***

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SCHEDULE “A”
LIST OF AUTHORITIES

	Case Law	Paragraphs
1	<i>Hospira Healthcare Corporation v Kennedy Institute of Rheumatology</i> , 2016 FCA 215	79
2	<i>Housen v Nikolaisen</i> , 2002 SCC 33	8, 10, 36
3	<i>Proslide Technology, Inc. v. Whitewater West Industries, Ltd.</i> , 2024 FC 175	16, 47-48
4	<i>Canada (Attorney General) v. Best Buy Canada Ltd.</i> , 2021 FCA 161	25, 26
5	<i>South Yukon Forest Corp. v R</i> , 2012 FCA 165	46
6	<i>Australian Mud Company Pty Ltd. v. Boart Longyear Group Ltd.</i> , 2024 FC 1217	12-14
7	<i>Miguna v Ontario</i> , 2005 CanLII 46385 (ONCA)	22
8	<i>Canada v. Pomeroy Acquireco Ltd.</i> , 2021 FCA 187	4
9	<i>Andersen Consulting v. Canada (C.A.)</i> , 1997 CanLII 6376 (FCA), [1998] 1 FC 605	16, 18
10	<i>Adeia Guides, Inc. v. BCE Inc.</i> , 2024 FC 1842	7
11	<i>Kouridakis v. Canadian Imperial Bank of Commerce</i> , 2025 FC 60	52-54
12	<i>Adeia Guides, Inc. v. BCE Inc.</i> , 2024 FC 1842	7
13	<i>Stevens v. Canada (Commissioner; Commission of Inquiry) (C.A.)</i> , 1998 CanLII 9074 (FCA), [1998] 4 FC 125	137
14	<i>Reference re subsection 18.3(1) of the Federal Courts Act, R.S.C. 1985, c. F-7</i> , 2019 FC 261	40-41
15	<i>Laboratoires Servier v. Apotex Inc.</i> , 2007 FC 1210	17
16	<i>RE/MAX, LLC v. Save Max Real Estate Inc.</i> , 2022 FC 1268	11-13, 41
17	<i>Janssen Inc. v. Abbvie Corporation</i> , 2014 FCA 242	2, 4, 6-9, 18
18	<i>Apotex Inc. v. Pfizer Canada Inc.</i> , 2017 FC 951	61

19	<i>Mancuso v Canada (National Health and Welfare)</i> , 2015 FCA 227	21
20	<i>Payne v. Canada</i> , 2025 FC 5	43
21	<i>Canada (Attorney General) v. Bedford</i> , 2013 SCC 72	75
22	<i>R. v. Sharma</i> , 2022 SCC 39	28

SCHEDULE “B”

TEXT OF STATUTES, REGULATIONS & BY-LAWS

International Law

United Nations Security Council Resolution 2475, [UN Doc S/RES/2475](#), 20 June 2019

Expressing serious concern regarding the disproportionate impact that armed conflict has on persons with disabilities, including abandonment, violence, and lack of access to basic services, stressing the protection and assistance needs of all affected civilian populations, and emphasizing the need to consider the particular needs of persons with disabilities in humanitarian response,

...

5. Encourages Member States to take appropriate measures to ensure that persons with disabilities have access on an equal basis with others to basic services provided in the context of armed conflict, including education, health care services, transportation and information and communication technologies and systems;

Charter of the United Nations, 26 June 1945, [Can TS 1945 No 7, art 25](#)

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Federal Courts Rules (SOR/98-106)

Rule 3

General principle

3 These Rules shall be interpreted and applied

- (a) so as to secure the just, most expeditious and least expensive outcome of every proceeding; and
- (b) with consideration being given to the principle of proportionality, including consideration of the proceeding's complexity, the importance of the issues involved and the amount in dispute.

Rule 4**Matters not provided for**

4 On motion, the Court may provide for any procedural matter not provided for in these Rules or in an Act of Parliament by analogy to these Rules or by reference to the practice of the superior court of the province to which the subject-matter of the proceeding most closely relates.

Rule 8(1)**Extension or abridgement**

8 (1) On motion, the Court may extend or abridge a period provided by these Rules or fixed by an order.

Rule 8(2)**When motion may be brought**

(2) A motion for an extension of time may be brought before or after the end of the period sought to be extended.

Rule 51**Appeals of Prothonotaries' Orders****Appeal**

51 (1) An order of a prothonotary may be appealed by a motion to a judge of the Federal Court.

Service of appeal

(2) Notice of the motion shall be served and filed within 10 days after the day on which the order under appeal was made and at least four days before the day fixed for the hearing of the motion.

Rule 75**Amendments with leave**

75 (1) Subject to subsection (2) and rule 76, the Court may, on motion, at any time, allow a party to amend a document, on such terms as will protect the rights of all parties.

Limitation

(2) No amendment shall be allowed under subsection (1) during or after a hearing unless
 (a) the purpose is to make the document accord with the issues at the hearing;
 (b) a new hearing is ordered; or

(c) the other parties are given an opportunity for any preparation necessary to meet any new or amended allegations.

Rule 104(1)(b)

104 (1) At any time, the Court may

...

(b) order that a person who ought to have been joined as a party or whose presence before the Court is necessary to ensure that all matters in dispute in the proceeding may be effectually and completely determined be added as a party, but no person shall be added as a plaintiff or applicant without his or her consent, signified in writing or in such other manner as the Court may order.

Rule 174

Material facts

174 Every pleading shall contain a concise statement of the material facts on which the party relies, but shall not include evidence by which those facts are to be proved.

Rule 303(1)

Respondents

303 (1) Subject to subsection (2), an applicant shall name as a respondent every person
(a) directly affected by the order sought in the application, other than a tribunal in respect of which the application is brought; or
(b) required to be named as a party under an Act of Parliament pursuant to which the application is brought.

Rule 317

Material from tribunal

317 (1) A party may request material relevant to an application that is in the possession of a tribunal whose order is the subject of the application and not in the possession of the party by serving on the tribunal and filing a written request, identifying the material requested.

Request in notice of application

(2) An applicant may include a request under subsection (1) in its notice of application.

Service of request

(3) If an applicant does not include a request under subsection (1) in its notice of application, the applicant shall serve the request on the other parties.

Rule 318**Material to be transmitted**

318 (1) Within 20 days after service of a request under rule 317, the tribunal shall transmit

- (a) a certified copy of the requested material to the Registry and to the party making the request; or
- (b) where the material cannot be reproduced, the original material to the Registry.

Objection by tribunal

(2) Where a tribunal or party objects to a request under rule 317, the tribunal or the party shall inform all parties and the Administrator, in writing, of the reasons for the objection.

Directions as to procedure

(3) The Court may give directions to the parties and to a tribunal as to the procedure for making submissions with respect to an objection under subsection (2).

Order

(4) The Court may, after hearing submissions with respect to an objection under subsection (2), order that a certified copy, or the original, of all or part of the material requested be forwarded to the Registry.

Rule 359**Notice of motion**

359 Except with leave of the Court, a motion shall be initiated by a notice of motion, in Form 359, setting out

- (a) in respect of a motion other than one brought under rule 369 or 369.2, the time, place and estimated duration of the hearing of the motion;
- (b) the relief sought;
- (c) the grounds intended to be argued, including a reference to any statutory provision or rule to be relied on; and
- (d) a list of the documents or other material to be used for the purposes of the motion.

Rule 364**Motion record**

364 (1) Unless the Court orders otherwise, a person bringing a motion shall serve a motion record and file an electronic copy of or, subject to rule 72.4, three paper copies of that record.

Contents of motion record

- (2) A moving party's motion record shall contain, on consecutively numbered pages arranged in the following order,
- (a) a table of contents;
 - (b) the notice of motion;
 - (c) all affidavits and other material served by the moving party for use on the motion;
 - (d) subject to rule 368, the portions of any transcripts on which the moving party intends to rely;
 - (e) subject to rule 366, written representations; and
 - (f) any other filed material that is necessary for the purposes of the motion.

Service and filing of motion record

- (3) Subject to subsections 51(2), 163(2) and 213(3), on a motion other than a motion under rule 369, the motion record shall be served and filed at least three days before the day set out in the notice of motion for the hearing of the motion.

Rule 369

Motions in writing

- 369 (1)** A party may, in a notice of motion, request that the motion be decided on the basis of written representations.

Request for oral hearing

- (2) A respondent to a motion brought in accordance with subsection (1) shall serve and file a respondent's record within 10 days after being served under rule 364 and, if the respondent objects to disposition of the motion in writing, indicate in its written representations or memorandum of fact and law the reasons why the motion should not be disposed of in writing.

Reply

- (3) A moving party may serve and file written representations in reply within four days after being served with a respondent's record under subsection (2).

Disposition of motion

- (4) On the filing of a reply under subsection (3) or on the expiration of the period allowed for a reply, the Court may dispose of a motion in writing or fix a time and place for an oral hearing of the motion.

Rule 400(1)

Discretionary powers of Court

- 400 (1)** The Court shall have full discretionary power over the amount and allocation of costs and the determination of by whom they are to be paid.

Rule 400(3)**Factors in awarding costs**

(3) In exercising its discretion under subsection (1), the Court may consider

- (a) the result of the proceeding;
- (b) the amounts claimed and the amounts recovered;
- (c) the importance and complexity of the issues;
- (d) the apportionment of liability;
- (e) any written offer to settle;
- (f) any offer to contribute made under rule 421;
- (g) the amount of work;
- (h) whether the public interest in having the proceeding litigated justifies a particular award of costs;
- (i) any conduct of a party that tended to shorten or unnecessarily lengthen the duration of the proceeding;
- (j) the failure by a party to admit anything that should have been admitted or to serve a request to admit;
- (k) whether any step in the proceeding was
 - (i) improper, vexatious or unnecessary, or
 - (ii) taken through negligence, mistake or excessive caution;
- (l) whether more than one set of costs should be allowed, where two or more parties were represented by different solicitors or were represented by the same solicitor but separated their defence unnecessarily;
- (m) whether two or more parties, represented by the same solicitor, initiated separate proceedings unnecessarily;
- (n) whether a party who was successful in an action exaggerated a claim, including a counterclaim or third party claim, to avoid the operation of rules 292 to 299;
 - (n.1) whether the expense required to have an expert witness give evidence was justified given
 - (i) the nature of the litigation, its public significance and any need to clarify the law,
 - (ii) the number, complexity or technical nature of the issues in dispute, or
 - (iii) the amount in dispute in the proceeding; and
- (o) any other matter that it considers relevant.

HAMMAM FARAH, HIBA FARAH,
AYMAN OWEIDA, X. Y., CLAIHR, AL-HAQ

- and -

MINISTER OF FOREIGN AFFAIRS and AGC, and
PRATT & WHITNEY, TTM, GEOSPECTRUM,
EXCELITAS, and APOLLO MICROWAVES

Applicants (Appellants)

Respondents (Respondents on Appeal)

FEDERAL COURT
Proceeding commenced at Toronto

**WRITTEN REPRESENTATIONS
OF THE APPLICANTS (APPELLANTS)
(Motion to Appeal Order of Associate Judge)
Pursuant to Section 51 of the *Federal Court Rules***

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Counsel for the Applicants (Appellants)

TAB 3

e-document		T-473-24-ID 37	
F I L E D	FEDERAL COURT COUR FÉDÉRALE		D É P O S É
August 06, 2024 06 août 2024			
T-473-24			
Andrew Murray			
TOR		13	

Court File No. **T-473-24****FEDERAL COURT****BETWEEN:**

**HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X. Y.,
CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS, and
AL-HAQ - LAW IN THE SERVICE OF MAN**

**Applicants
(Moving Party)**

- and -

**MINISTER OF FOREIGN AFFAIRS
and ATTORNEY GENERAL OF CANADA**

**Respondents
(Responding Party)**

**MOTION RECORD
OF THE APPLICANTS (MOVING PARTY)**

August 6, 2024

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Lawyers for the Applicants

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Federal Court of Canada
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Toronto, ON M5V 1Z4

AND TO: Attorney General of Canada
Department of Justice Canada
Ontario Regional Office
National Litigation Sector
120 Adelaide Street West Suite #400
Toronto, ON M5H 1T1

Per: Sean Gaudet (LSO #35204R)
Andrea Bourke (LSO #45892K)
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Lawyers for the Respondents

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TAB 1

FEDERAL COURT**BETWEEN:**

**HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X. Y.,
CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS, and
AL-HAQ - LAW IN THE SERVICE OF MAN**

**Applicants
(Moving Party)**

- and -

**MINISTER OF FOREIGN AFFAIRS
and ATTORNEY GENERAL OF CANADA**

**Respondents
(Responding Party)**

NOTICE OF MOTION

TAKE NOTICE THAT THE APPLICANTS will make a motion to the Court in writing under Rules 369 and 385 of the *Federal Court Rules* (the “*Rules*”), to be determined by the Honourable Associate Judge Cotter as Case Management Judge pursuant to Rules 75 and 104(1)(b).

THE MOTION IS FOR:

1. An Order granting the Applicants leave to amend the Notice of Application dated March 5, 2024 by:

- a. adding Excelitas Canada Inc. (“Excelitas”), TTM Technologies Toronto, Inc. (“TTM Technologies”), GeoSpectrum Technologies Inc. (“GeoSpectrum”), Apollo Microwave Ltd. (“Apollo”), and Pratt & Whitney Canada Corp. (“Pratt & Whitney”) as Respondents to this judicial review application;
- b. adding or clarifying, for greater certainty, that the decision in question in the application for judicial review, namely the Minister of Foreign Affairs’ (the “Minister’s”) issuance of permits to broker or export military goods or technology “to Israel, or ultimately destined for Israel” (the “Decision”),
 - i. includes the decision to authorize the transfer of military goods and technology to Israel that can and does occur indirectly through third countries, notably the United States (“US”); and
 - ii. excludes the decision to issue permits for the transfer of military goods or technology with the express intention that they be subsequently transferred to a country other than Israel and never put to military or other active use in or by Israel;
- c. seeking an order for declaratory relief that the Minister’s Decision violates section 15 of the *Canadian Charter of Rights and Freedoms* (the “*Charter*);
- d. seeking an order for declaratory relief that section 2(a) of the Export Control List, SOR/89/202 is invalid and unlawful;
- e. requesting relief under section 24 of the *Charter*.

- f. making other related and consequential amendments to the Notice of Application, in the form attached as Exhibit “Q” in the Affidavit of Henry Off, affirmed August 5, 2024.
- 2. An Order that no costs shall be awarded for or against the Applicants for this motion; and
- 3. Such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- 1. The Applicants filed a Notice of Application on March 5, 2024, which seeks judicial review in respect of the issuance of export and brokering permits (together, “export approvals”) for arms, ammunition, implements or munitions of war (collectively, “military goods or technology”) to or ultimately destined for Israel, as authorized by the Minister of Foreign Affairs (the “Minister”) at any time on or after October 9, 2023.
- 2. The Notice of Application seeks orders quashing such existing permits and requiring the Respondents to cease issuing further permits, as well as various declaratory relief, including declarations that the Minister’s Decision violates the *EIPA*, the *Charter*, and international law.
- 3. The proceeding remains in the early stages as the Respondents have not produced the Certified Tribunal Record, which was requested by the Applicants in the Notice of Application pursuant to Rule 317.

4. Nor have the Respondents informed all parties and the Administrator, in writing, of the reasons for their objection to the Applicants' Rule 317 request, pursuant to Rule 318(2).
5. Given the early stage of the proceeding, the Applicants seek to amend the Notice of Application to facilitate the Court's consideration of the merits of the application and provide more notice and greater detail about the legal arguments that the Applicants intend to raise in this proceeding.
6. The Applicants' proposed amendments to the Notice of Application can be broadly classified into three categories.
 - a. The first set of amendments (the "Arms Companies Amendments") addresses recent exchanges with the Respondents and some of the arms companies that were implicated in or directly affected by the original Notice of Application. It seeks to exclude from the scope of the proceeding permits for the export of military goods or technology that are expressly not intended for military or other active use in or by Israel, and to add arms companies that hold the remaining permits as named Respondents.
 - b. A second set of amendments (the "*Charter* Amendments") seeks to add a declaration for violations of Canada's obligations under section 15 of the *Charter* and to explicitly reference relief under 24(1) of the *Charter*.
 - c. The last set of amendments (the "Indirect Arms Exports Amendments") seeks to add further precision to the relief requested,

particularly with respect to indirect arms exports to Israel through third countries, notably, the US.

7. First, since the filing of the Application, the Applicants have received letters from companies that hold permit(s) relevant to the order(s) sought in the Application.
8. Some companies requested that the Applicants amend the Notice of Application to exclude from its scope any export permits related to the export of equipment to Israel for repair or replacement purposes.
9. Some companies requested to be added as Respondents to the Application in the event that their permits were included within the scope of the proceeding.
10. On July 12, 2024, the Applicants sent proposed amendments to the Respondents.
11. On July 29, 2024 the Respondents provided the Applicants with the names of five (5) companies that it considered to be implicated under the Applicants' proposed amendments, and thus need to be added as Respondents.
12. The Applicants seek to name the five (5) directly affected companies as Respondents to this proceeding, as parties who ought to have been joined as a party or are necessary parties.
13. The Applicants have accordingly named these five (5) companies as Respondents in the proposed Amended Notice of Application
14. Second, the Applicants seek to amend the Notice of Application to ensure consideration of relevant *Charter* rights in such circumstances, specifically section 15 of the *Charter*, and to request relief under section 24 the *Charter*.

15. Finally, the Applicants seek an order that General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States, SOR/2019-230 be quashed, and a declaration that it as well as section 2(a) of the Export Control List, which exempts certain classes of military goods and technology from export control if intended for export to the US, is unlawful and invalid.
16. The amendments to the Notice of Application proposed by the Applicants:
 - a. are being brought at an early stage of this proceeding;
 - b. will not unduly delay the hearing and determination of the judicial review application;
 - c. serve the interests of justice while causing no demonstrable prejudice or injustice to the Respondents; and
 - d. facilitate the Court's consideration of the merits of the application, and are therefore necessary for the purposes of adjudicating the real controversy between the parties;
17. The Respondents have agreed to have this motion decided in writing.
18. Rules 3, 75, 104, 303, 317, 318, 364, 369, and 385, respectively, of the *Federal Court Rules*.
19. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be relied upon in support of this motion:

1. Affidavit of Henry Off, affirmed August 5, 2024;

2. Such further and other materials as counsel may advise and this Honourable Court may permit.

Date: August 6, 2024

Barbara Jackman

per:

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HAMMAM FARAH, HIBA FARAH,
 AYMAN OWEIDA, X. Y., CLAIHR, AL-HAQ
 Applicants (Moving Party)

- and -

MINISTER OF FOREIGN AFFAIRS
 and ATTORNEY GENERAL OF CANADA
 Respondents (Responding Party)

FEDERAL COURT

Proceeding commenced at Toronto

NOTICE OF MOTION

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Counsel for the Applicants

TAB 2

FEDERAL COURT**BETWEEN:**

**HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X. Y.,
CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS, and
AL-HAQ - LAW IN THE SERVICE OF MAN**

**Applicants
(Moving Party)**

- and -

**MINISTER OF FOREIGN AFFAIRS
and ATTORNEY GENERAL OF CANADA**

**Respondents
(Responding Party)**

**AFFIDAVIT OF HENRY OFF
Affirmed August 5, 2024**

I, HENRY OFF, Lawyer, of the City of Toronto, Province of Ontario, AFFIRM
THAT:

1. I am a Board Member of Canadian Lawyers for International Human Rights (“CLAHR”) and have knowledge of the matters hereinafter deposed, except where I have been provided with information from sources other than my own personal knowledge, the sources of which are stated and which I believe to be true.

A. Background

2. On January 28, 2024, CLAIHR, Ayman Oweida, X.Y., and Al-Haq - Law in the Service of Man, sent a letter to the Minister of Foreign Affairs (the “Minister”). In this letter, we advised the Minister that the issuance of permits to export military goods and technology destined for Israel after October 7, 2023, was unlawful under both domestic and international law. We asked the Minister to confirm that she had taken steps to stop the exports of military goods and technology from Canada to Israel. Given the urgency of the matter, we asked the Minister to respond to our letter within fourteen (14) days. A copy of this letter is appended as **Exhibit “A”**.
3. The Minister did not respond.
4. On March 5, 2024, CLAIHR, Ayman Oweida, X.Y., Al-Haq - Law in the Service of Man, Hiba Farah, and Hamman Farah (together, the “Applicants”) filed a Notice of Application commencing this proceeding against the Minister and the Attorney General of Canada (together, the “Respondents”).

B. Events Since Filing of the Notice of Application

5. Since the Applicants filed the Notice of Application, there has been ongoing press coverage of military exports to Israel. I am attaching several articles relevant to the Applicants’ decision to seek to amend the Notice of Application. These include:

- a. **Exhibit “B”** to my affidavit is a copy of a news article published online by The Maple on March 20, 2024 titled “Trudeau Government Will Not Revoke Existing Permits for Israel Military Exports.”
- b. **Exhibit “C”** to my affidavit is a copy of a news article published online by CNN on April 1, 2024 titled “Biden administration set to greenlight \$18 billion sale of F-15 fighter jets to Israel.”
- c. **Exhibit “D”** to my affidavit is a copy of a news article published online by The New York Times on April 2, 2024 titled “Biden Administration Presses Congress on \$18 Billion Sale of F-15 Jets to Israel.”
- d. **Exhibit “E”** to my affidavit is a copy of a press release published online by Heroux-Devtek on May 21, 2019 titled “Heroux-Devtek firms up landing gear supply agreement for Boeing's F/A-18 program and expands scope to Boeing's Advanced F-15 program, spare parts and services.”
- e. **Exhibit “F”** to my affidavit is a copy of a press release published online by Magellan Aerospace on March 6, 2023 titled “MAGELLAN AEROSPACE SIGNS AGREEMENT WITH COLLINS AEROSPACE FOR COMPLEX CASTINGS.”
- f. **Exhibit “G”** to my affidavit is a copy of a news article published online by The Times of Israel on June 4, 2024 titled “Israel inks deal to buy 25 more F-35 fighter jets for \$3 billion.”

- g. **Exhibit “H”** to my affidavit is a copy of a news article published online by The Times of Israel on November 6, 2023 titled “IDF chief says Israel ‘knows how to reach anywhere in the Middle East’.”
- h. **Exhibit “I”** to my affidavit is a copy of a study published online by PricewaterhouseCoopers LLP, dated April, 2018 titled “Lockheed Martin: Study of Economic Impact in Canada.”
- i. **Exhibit “J”** to my affidavit is a copy of an announcement published online in or around January 2023 by the Department of National Defence, titled “Announcement regarding the F-35 acquisition.”
- j. **Exhibit “K”** to my affidavit is a copy of a news article published online by the BBC on April 15, 2024 titled “Gaza war: Where does Israel get its weapons?”

C. Status of the Proceeding

- 6. This proceeding remains in the pleadings stage as the Respondents have not produced the Certified Tribunal Record (“CTR”), which was requested by the Applicants, pursuant to Rule 317, in the original Notice of Application.
- 7. The Respondents did not transmit the CTR to the Registry or to the Applicants within 20 days after the Applicants served a request under Rule 317, pursuant to Rule 318(1).
- 8. Nor have the Respondents informed all parties and the Administrator, in writing, of the reasons for their objection to the Applicants’ Rule 317 request, pursuant to Rule 318(2).

D. Amendments to the Notice of Application

9. The Applicants gave notice on May 30, 2024 to the Respondents of their intention to amend the Notice of Application, of which the Respondents confirmed receipt in writing on June 18, 2024.
10. Between June 26 and July 10, 2024, the Applicants were notified that five (5) companies hold permit(s) relevant to the orders sought in the original Notice of Application:
 - a. Counsel for Excelitas Canada Inc. (“Excelitas”) wrote to counsel for the Applicants advising that Excelitas holds permit(s) relevant to the orders sought in the Application and requesting that Excelitas be added as a named Respondent in the Application. A copy of the letter from Excelitas’ counsel, dated June 26, 2024, is appended as **Exhibit “L”**.
 - b. Counsel for L3 / Wescam Inc. (“L3”) wrote to counsel for the Applicants advising that L3 holds permits relevant to the orders sought in the Application and that L3’s export permits relate to the export of equipment from Canada to the original equipment manufacturer in Israel for repair or replacement purposes. Repaired or replaced equipment are then returned to Canada. L3 thus requested that the Applicants amend the Notice of Application to exclude from its scope any export permits related to the export of equipment to Israel for repair or replacement purposes. A copy of the letter from L3’s counsel, dated July 2, 2024, is appended as **Exhibit “M”**.

- c. Counsel for General Dynamics Land Systems-Canada (“General Dynamics”) wrote to the Federal Court Registrar, copying counsel for the Applicants, notifying the Court that the company holds permits relevant to the Application. A copy of this letter, dated July 9, 2024, is appended as **Exhibit “N”**.
 - d. Counsel for TTM Technologies Toronto, Inc. (“TTM Technologies”) wrote to the Federal Court Registrar, copying counsel for the Applicants, notifying the Court that the company holds permits relevant to the Application. A copy of this letter, dated July 9, 2024, is appended as **Exhibit “O”**.
 - e. Counsel for GeoSpectrum Technologies Inc. (“GeoSpectrum”) wrote to the Federal Court Registrar, copying in counsel for the Applicants, notifying the Court that the company holds permits that may be relevant to the Application. A copy of the letter from GeoSpectrum’s counsel, dated July 10, 2024, is appended as **Exhibit “P”**.
- 11. The Applicants, Respondents, counsel for a prospective intervener, and counsel for some of the companies attended a Case Management Conference (“CMC”) before Associate Judge Cotter on July 11, 2024.
 - 12. On July 12, 2024, the Applicants circulated a copy of the draft proposed Amended Notice of Application to the Respondents and counsel for companies that participated in the July 11, 2024 CMC.
 - 13. On July 29, 2024 the Respondents notified the Applicants that, given the Applicants’ proposed amendments, it takes the view that L3 and General

Dynamics are not directly affected and thus need not be added as Respondents.

14. Further, on July 29, 2024 the Respondents notified the Applicants that there are two other companies they believe should be added as Respondents to this proceeding: Apollo Microwaves Ltd. (“Apollo”) and Pratt & Whitney Canada Corp. (“Pratt & Whitney”).
15. The parties and counsel for some of the companies attended a second CMC before Associate Judge Cotter on July 30, 2024.
16. The Respondents take the position that the Applicants should amend their Notice of Application to name the following five (5) companies as Respondents: Excelitas, GeoSpectrum, TTM Technologies, Apollo, and Pratt & Whitney.
17. The Applicants agree to include these five (5) companies as Respondents to this proceeding.
18. In light of the foregoing information and recent developments, the Applicants now seek leave to amend the Notice of Application issued on March 5, 2024 to more precisely reflect and address the legal issues in dispute in this proceeding and to ensure that holders of permits that are relevant to the orders sought in the Application are included as Respondents. A copy of the proposed Amended Notice of Application is appended as **Exhibit “Q”**.
19. I make this affidavit in support of the Applicants’ motion to amend the Notice of Application in this proceeding, and for no other improper purpose.

AFFIRMED by videoconference by HENRY OFF)
 at the Municipality of Queensland in the Province)
 of Nova Scotia BEFORE ME at the City of Toronto)
 in the Province of Ontario, this 5th day of August)
 2024 in accordance with O Reg 431/20,)
 Administering Oath or Declaration Remotely.)



Commissioner for Taking Affidavits, *etc.*
 James Yap, LSO #61126H



HENRY OFF

EXHIBIT A

This is **Exhibit “A”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits
(or as may be)
James Yap, LSO #61126H

28 January 2024

BY EMAIL ONLY

The Hon. Mélanie Joly
Minister of Foreign Affairs, Canada
House of Commons
Ottawa, Ontario K1A 0A6
melanie.joly@international.gc.ca

Dear Minister Joly,

Re: Canadian military goods and technology transfers to Israel since 7 October 2023

We are a coalition of Canadian and Palestinian individuals and entities, including:

Canadian Lawyers for International Human Rights (“CLAHR”), a Canadian non-governmental organization comprised of lawyers, law students and legal academics, among others, working to promote international human rights within and in connection to Canada;

Al-Haq - Law in the Service of Man (“Al-Haq”), an independent Palestinian human rights organization that seeks to promote and defend the rule of law and respect for international humanitarian law and international human rights law, and fight impunity by holding perpetrators accountable, irrespective of their nationality;

Ayman Oweida, a Palestinian-Canadian currently residing in Québec with family in Gaza, some of whom have been killed in suspected international crimes; and

██████████, a 26-year old Palestinian woman from Gaza who is currently seeking asylum in Canada, and whose direct family still resides in Gaza.

On 26 January 2024, in proceedings instituted before the International Court of Justice (ICJ) by South Africa against Israel concerning alleged violations in the Gaza Strip of Israel’s obligations under the Genocide Convention, the ICJ concluded that “the catastrophic humanitarian situation in the Gaza Strip is at serious risk of deteriorating further” and that “there is urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused to the rights” of Palestinians in Gaza under the Convention.¹ The ICJ also recalled that under the Convention, all States Parties, including Canada, must “ensure the prevention, suppression and punishment of genocide, by committing themselves to fulfilling the obligations contained in the Convention.”² These and other legal obligations, both domestic and international, have profound implications for the transfer of military goods and technology from Canada having Israel as their ultimate destination.

Our concerns relate to the approval of permits for the brokering and exporting of military goods or technology (including arms, ammunition, and implements or munitions of war) that are transferred to Israel, which are then deployed in the Occupied Palestinian Territory, specifically the Gaza Strip and the West Bank, including East Jerusalem.

¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, [Order on the Request for the Indication of Provisional Measures](#), ICJ, 26 January 2024 at paras 72, 74. (“Provisional Measures Order”)

² [Provisional Measures Order](#) at para 33.

You and the Canadian government are obliged under domestic and international law to deny such permits where there exists a substantial risk that the goods or technology in question could be used to commit or facilitate a violation of international humanitarian law (“IHL”) or of international human rights law (“IHRL”), or serious acts of violence against women and children. A parallel obligation also exists where there is a substantial risk that any goods or technology exported may be used to commit or facilitate acts or omissions that engage the rights guaranteed under section 7 of the *Canadian Charter of Rights and Freedoms*.

Mandatory Review of Export and Brokering Applications under the Export and Import Permits Act (“EIPA”)

In deciding whether or not to approve a permit in respect of arms, ammunition, implements or munitions of war as Minister responsible for the application and enforcement of the EIPA, you must take into consideration:

- (a) whether the goods or technology specified in the application for the permit would contribute to or undermine peace and security; and
- (b) whether they “could be used” to commit or facilitate a serious violation of IHL or IHRL, or serious acts of violence against women and children.

If you determine that there is a “substantial risk” that the military goods or technology specified in the application for the permit could be used to commit or facilitate a serious violation of IHL or IHRL, or serious acts of violence against women and children, after considering available mitigation measures, you must not issue the permit.³

Furthermore, any permit issued to approve the export or brokering of military goods and technology in circumstances where there is a risk that those items could be used to commit or facilitate a serious violation of IHL or IHRL may engage the rights to life, liberty, and security of the person protected under section 7 of the *Charter*. Serious violations of such fundamental rules of international law could never be in accordance with the principles of fundamental justice, nor demonstrably justified in a free and democratic society.

With respect to international legal obligations, as a signatory to both the 1949 Geneva Conventions⁴ and the Genocide Convention, Canada has an obligation to prevent the commission of genocide and to ensure respect for the provisions of the Geneva Conventions. Canada’s transfer of military goods and technology to Israel may constitute violations of Canada’s obligations under these Conventions, and may constitute complicity in acts of genocide and grave breaches of the Geneva Conventions.

The “Substantial Risk” Posed by Military Goods or Technology Transfers to Israel

Since 2007, Israel has imposed an air, land and sea blockade on the Gaza Strip, collectively punishing its entire population and earning Gaza the label of the “world’s largest open-air prison”.⁵ While Israel’s inflicting of collective punishment on Palestinians has long been an ongoing

³ Export and Import Permits Act (R.S.C., 1985, c. E-19), s. 7.3(1) and 7.4.

⁴ As implemented into Canadian law through, *inter alia*, *Geneva Conventions Act* (RSC, 1985, c. G-3).

⁵ Human Rights Watch, “[Gaza: Israel’s ‘Open-Air Prison’ at 15](#)”, 14 June 2022.

catastrophe,⁶ the current hostilities have brought the scale of punishment to a new level.⁷ Shortly after Hamas' attack against Israel on 7 October 2023, Israel announced a "total blockade" on Gaza, preventing the entry of food, water, medicine, fuel, and electricity, and Israel's military operations in Gaza have resulted in tens of thousands of civilian deaths, the widespread destruction of Palestinian infrastructure, and the mass forced displacement of Palestinian civilian populations. These acts, among others, constitute serious violations of IHL and IHRL, and serious acts of violence against women and children. In its application to the ICJ, South Africa qualifies them as genocidal because they are intended to bring about the destruction of the Palestinians in Gaza as part of the broader Palestinian national, racial, and ethnical group.

That Israel's acts and omissions in relation to Palestinians in Gaza violate the Genocide Convention

is the shared view of numerous other States parties to the Convention [...]. United Nations experts have also repeatedly sounded "the alarm" [...] that [...] there is a "risk of genocide against the Palestinian people". [...] The Committee on the Elimination of Racial Discrimination [...] has also called on "all States parties" to the Genocide Convention to "fully respect" their "obligation to prevent... genocide".⁸

Israel's military attacks on Gaza have involved the sustained bombardment of one of the most densely populated places in the world. As of 26 January 2024, 1.7 million people were estimated to be internally displaced. Between 7 October 2023 and 26 January 2024, at least 26,083 Palestinians were killed in Gaza,⁹ including 10,000 children.¹⁰ 64,487 Palestinians were injured¹¹ and around 7,000 persons were missing under the rubble, including 5,000 children and women.¹² As of 23 January 2024, there were well over one million children in shelters at risk of dehydration, starvation, digestive and respiratory diseases, skin diseases, and anemia, and well over 50,000 pregnant women in shelters without water, food and healthcare, with about 180 women giving birth daily in unsafe and inhumane conditions.¹³

Furthermore, as South Africa stated,

Israel has also laid waste to vast areas of Gaza, including entire neighbourhoods, and has damaged or destroyed in excess of 355,000 Palestinian homes, alongside extensive tracts of agricultural land, bakeries, schools, universities, businesses, places of worship, cemeteries, cultural and archaeological sites, municipal and court buildings, and critical infrastructure, including water and sanitation facilities and electricity networks, while pursuing a relentless assault on the Palestinian medical and healthcare system. Israel has

⁶ UN Office for the Coordination of Humanitarian Affairs (UN OCHA), "[Israel's collective punishment of Palestinians illegal and an affront to justice: UN expert](#)", 17 July 2020.

⁷ Amnesty International, "[Israel/OPT: Israel must lift illegal and inhumane blockade on Gaza as power plant runs out of fuel](#)", 12 October 2023.

⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, [Application instituting proceedings and request for the indication of provisional measures](#), ICJ, 29 December 2023 at para. 3 ("South African Application", references omitted).

⁹ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

¹⁰ Save the Children, "[Gaza: 10,000 Children Killed in Nearly 100 Days of War](#)", 11 January 2024;

Palestine Red Crescent Society, [Response Report # 288/2024](#), 23 January 2024.

¹¹ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

¹² Palestine Red Crescent Society, [Response Report # 288/2024](#), 23 January 2024.

¹³ Palestine Red Crescent Society, [Response Report # 288/2024](#), 23 January 2024; Palestine Red Crescent Society, [Response Report # 283/2024](#), 19 January 2024.

reduced and is continuing to reduce Gaza to rubble, killing, harming and destroying its people, and creating conditions of life calculated to bring about their physical destruction as a group.¹⁴

These acts constitute serious violations of IHL and IHRL, and serious acts of violence against women and children, as provided by the EIPA.

Other states, such as Italy, have recognized and reportedly met their domestic and international obligations, since 7 October 2023, to halt the transfer of military goods and technology to Israel so as not to “risk [their] weapons being used to commit what could be construed as war crimes”.¹⁵ Where states have not met their obligations, lawsuits in respect of arms transfers to Israel have been filed, namely in the Netherlands, the United Kingdom, and the United States.¹⁶

In light of the foregoing and for the reasons set out in greater detail in the attached Schedule, we ask you to confirm that you and/or the Canadian government:

- have canceled or suspended all permits (including general permits) to export or broker military goods or technology destined for Israel that were issued or active after 7 October 2023;
- have denied all applications to export or broker military goods or technology destined for Israel that were received or assessed after 7 October 2023;
- will issue no further permits to export or broker military goods or technology destined for Israel and/or where Israel is the end-user until such time as Israel ceases to violate international law as described in the attached Schedule;
- will immediately prevent all transfer of military goods or technology that are assembled in a third state before being transferred to Israel as an end-user until such time as Israel ceases to violate international law as described in the attached Schedule; and
- have removed or will immediately remove Israel from the Automatic Firearms Country Control List.

Please provide a full response, including confirmation of the above, together with a full and detailed explanation of what measures have (or have not) been taken to comply with your legal obligations, as well as detailed information on permits that have been issued for the brokering or exporting of military goods or technology transferred to Israel since 7 October 2023.

Canadians are entitled to transparency from their government on pressing matters of fundamental importance such as this. Given the urgency of the situation, please provide your response within fourteen (14) days.

¹⁴ South African Application at para 4.

¹⁵ See for example The Times of Israel, “[Italian FM reveals country ceased arms shipments to Israel starting October 7](#)”, 21 January 2024.

¹⁶ Al Jazeera, “[Netherlands accused of war crimes complicity for Israeli military supplies](#)”, 4 December 2023; The Guardian, “[UK government faces legal challenge over arms exports to Israel](#)”, 6 December 2023; Campaign Against Arms Trade, “[Revealed: David Cameron advised continuing arms exports to Israel, accepting Israel has a different interpretation of its International Humanitarian Law obligations](#)”, 19 January 2024; Center for Constitutional Rights, “[Defense for Children International - Palestine v. Biden](#)”.

Thank you in advance for your prompt reply.

Yours truly,



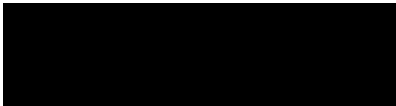
James Yap
President, Canadian Lawyers for International Human Rights



Shawan Jabarin
General Director, Al-Haq



Ayman Oweida



CC: The Hon. Arif Virani
Minister of Justice, Canada
arif.virani@parl.gc.ca

Encl. (1): Schedule to the 28 January 2024 letter from CLAIHR, Al-Haq, Ayman Oweida and



**SCHEDULE TO THE 28 JANUARY 2024 LETTER FROM CANADIAN
LAWYERS FOR INTERNATIONAL HUMAN RIGHTS, AL-HAQ - LAW IN THE
SERVICE OF MAN, AYMEN OWEIDA AND [REDACTED]
TO THE MINISTER OF FOREIGN AFFAIRS OF CANADA**

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I. APPLICABLE CANADIAN LAW

- [1] Canada's permit regime in respect of the exporting and brokering of military goods and technology is governed by the [Export and Import Permits Act](#) (EIPA). Sections 3(1) and 4.11(1) of the EIPA authorizes the creation of an [Export Control List](#) and a [Brokering Control List](#). As of 28 January 2024, a variety of categories of goods and technology are included in these Lists and section 13 of the EIPA establishes a general prohibition against exporting or transferring such goods or technology without a permit to do so.
- [2] Section 7(1) of the EIPA gives you the power to issue such permits to applicants resident in Canada. Under section 7(1.1) of the EIPA, you may also issue permits generally to all residents of Canada to

export or transfer to any country specified in the permit any goods or technology included in the Export Control List that are specified in the permit. Under section 10(1), you also have the authority to amend, suspend, cancel or reinstate any permit.

- [3] Section 4.1 of the EIPA authorizes the Governor in Council to create an [Automatic Firearms Country Control List](#), enumerating countries to which the Governor in Council considers it appropriate to permit the export of certain classes of firearms, weapons and devices included in the Export Control List. Under section 7(2) of the EIPA, no permit to export such an item may be issued other than for export to the government of a country that is included in the Automatic Firearms Country Control List. As of 28 January 2024, Israel is included in that List.

- [4] On 17 September 2019, Canada became a State Party to the United Nations (UN) Arms Trade Treaty (ATT). The ATT aims, in part, to regulate the international arms trade and minimize the risk of weapons being used to commit atrocities or fuel violence.¹ Article 6(3) of the ATT prohibits the export of weapons in cases where a State “has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party.”

- [5] To ensure it is “fully compliant with all its obligations upon accession to the ATT”, Canada amended the EIPA in 2019 to strengthen protections and controls on the transfer of military items and “to incorporate directly into Canadian law the assessment criteria laid out in the ATT”.² Consequently, under section 7.3(1)(a) of the EIPA, in deciding whether to issue a permit in respect of arms, ammunition, implements or munitions of war, you are required to consider whether the goods or technology would contribute to peace and security or undermine it. Under section 7.3(1)(b) of the EIPA, you are further required to consider whether the goods or technology could be used to commit or facilitate a serious violation of international humanitarian law (IHL) or international human rights law (IHRL), or serious acts of gender-based violence or serious acts of violence against women and children. Further, under section 7.4 of the EIPA, you may not issue a permit for arms exports or brokering if there is a “substantial risk” of “any of the negative consequences referred to in subsection 7.3(1).”³

- [6] The question of permits to broker or export military goods and technology where there is a substantial risk that they may be used to commit or facilitate serious violations of IHL or IHRL also engages the

¹ [United Nations Arms Trade Treaty](#), 24 December 2014, 3013 UNTS 269 (“ATT”).

² Government of Canada, “[Overview of the Arms Trade Treaty regulatory implementation package](#)” 26 August 2019; see also [Bill C-47: an Act to amend the Export and Import Permits Act and the Criminal Code \(amendments permitting the accession to the Arms Trade Treaty and other amendments\)](#), 5 July 2017, no. 42-1-C47-E

³ EIPA, Section 7.

life, liberty and security of the person interests protected by section 7 of the *Canadian Charter of Rights and Freedoms* (Charter).⁴

II. APPLICABLE INTERNATIONAL LAW

- [7] Aligning with Canada's international legal obligations under the ATT, as well as other treaties and customary international law, the EIPA prohibits the export and brokering of military goods or technology if there is a substantial risk that they would be used to commit or facilitate a serious violation of IHL or IHRL, *inter alia*. Any assessment of compliance with the EIPA must therefore be informed by these obligations and by the international legal regimes applicable to the ongoing violence in the Occupied Palestinian Territory (OPT).
- [8] The EIPA is an integral component of Canada's obligation under Article 1 of all four Geneva Conventions "to respect and ensure respect" for IHL.⁵ The applicable IHL is principally laid out in the Geneva Conventions, their Additional Protocols,⁶ the Hague Conventions⁷ and customary international law.⁸ The principles of distinction, proportionality and precaution are core principles of IHL.⁹
- a. The principle of distinction requires parties to an armed conflict to differentiate, at all times, between civilians and combatants, and between civilian objects and military objectives.¹⁰ Operations should be strictly limited to military objectives and may not be directed at civilians or civilian objects.
 - b. The principle of proportionality requires that attacks on military objectives should not cause excessive incidental harm to civilians (death, injury, damage to civilian objects) in relation to the concrete and direct military advantage anticipated.¹¹ Accordingly, before carrying out an attack, belligerents are obliged to conduct sufficient due diligence in order to ensure that the

⁴ [Canadian Charter of Rights and Freedoms](#), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 91(24), Section 7 ("Charter").

⁵ [Geneva Convention \(I\) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field \(1949\)](#), 12 August 1949, 75 UNTS 31 ("First Geneva Convention"); [Geneva Convention \(II\) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea \(1949\)](#), 12 August 1949, 75 UNTS 85 ("Second Geneva Convention"); [Geneva Convention relative to the Treatment of Prisoners of War](#), 12 August 1949, 75 UNTS 135 ("Third Geneva Convention"); [Geneva Convention Relative to the Protection of Civilian Persons in Time of War](#), 12 August 1949, 75 UNTS 287 ("Fourth Geneva Convention").

⁶ [Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts](#), 8 June 1977, 1125 UNTS 3 ("Additional Protocol I"); [Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts](#), 8 June 1977, 1125 UNTS 609 ("Additional Protocol II").

⁷ [Hague Convention \(II\) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land](#), 29 July 1899; [Hague Convention \(IV\) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land](#), 18 October 1907.

⁸ International Committee of the Red Cross Database, [Customary International Humanitarian Law, Rules](#) ("ICRC, Customary International Humanitarian Law").

⁹ [Additional Protocol I](#), Arts 48, 51, 57; [ICRC, Customary International Humanitarian Law](#), Rules 1, 7, 14 and 15.

¹⁰ [Additional Protocol I](#), Arts 48 and 51; [ICRC, Customary International Humanitarian Law](#), Rules 1 and 7.

¹¹ [Additional Protocol I](#), Arts 51 and 57; [ICRC, Customary International Humanitarian Law](#), Rule 14.

expected harm to civilians and civilian infrastructure does not outweigh the expected military gain.

- c. The principle of precaution requires that parties take all feasible precautions to avoid and minimize incidental harm to civilians (death, injury, damage to civilian objects).¹²

Stemming from these three principles, deliberate indiscriminate attacks are forbidden under IHL. Attacks are indiscriminate when they fail to adequately distinguish between military objectives and civilians or civilian objects.¹³

- [9] IHRL is concurrently applicable during armed conflicts and is rooted in various customs, principles and treaties such as the *International Covenant on Civil and Political Rights* (ICCPR).¹⁴ Both Canada and Israel are State Parties to the ICCPR, which includes, *inter alia*, protections against arbitrary detention and inhuman treatment. Canada has also incorporated protections relating to serious acts of gender-based violence and serious acts of violence against women and children into section 7.3(b)(v) of the EIPA, further aligning with the principles of IHRL found in the *Convention on the Elimination of All Forms of Discrimination against Women*¹⁵ and the *Convention on the Rights of the Child*.¹⁶
- [10] Serious violations of IHL and IHRL may constitute war crimes, crimes against humanity and genocide, which are universally prohibited and fall under the purview of international criminal law (ICL). These international crimes were codified in Canadian law in 2002 through the *Crimes Against Humanity and War Crimes Act* (CAHWCA), days before Canada ratified the *Rome Statute of the International Criminal Court* (ICC) (Rome Statute).¹⁷ In 2021, the ICC Pre-Trial Chamber decided that Palestine is a State Party to the Rome Statute and the ICC has jurisdiction over crimes committed in Palestine or by Palestinian nationals in Israel.¹⁸ As stipulated in the CAHWCA and the Rome Statute, international crimes can be committed through several modes of liability, including through complicity and by aiding and abetting the commission of a crime.¹⁹

¹² [Additional Protocol I](#), Art 57; [ICRC, Customary International Humanitarian Law](#), Rule 15.

¹³ [Additional Protocol I](#), Art 51(4); [ICRC, Customary International Humanitarian Law](#), Rules 11, 12 and 13.

¹⁴ [International Covenant on Civil and Political Rights](#), 16 December 1966, 999 UNTS 171 (“ICCPR”).

¹⁵ [EIPA](#), Section 7.3(b)(v); [United Nations Convention on the Elimination of All Forms of Discrimination Against Women](#), 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981) (“CEDAW”).

¹⁶ [United Nations Convention on the Rights of the Child](#), 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

¹⁷ [Crimes Against Humanity and War Crimes Act](#) [Canada], SC 2000, c. 24, 23 October 2000 (“CAHWCA”); [Rome Statute of the International Criminal Court](#), 17 July 1998, 2187 UNTS 3 (entered into force 1 July 2002) (“Rome Statute”).

¹⁸ [Decision on the ‘Prosecution request pursuant to article 19\(3\) for a ruling on the Court’s territorial jurisdiction in Palestine’](#), Decision, ICC-01/18-143, 2021. The Chamber also found that the Court’s territorial jurisdiction in the *Situation in Palestine* extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem (at para 118).

¹⁹ See [CAHWCA](#), Section 4(1.1) and 5; See [Rome Statute](#), Arts 25(3) and 28.

- [11] Both Canada and Israel are Parties to the *1948 Convention on the Prevention and Punishment of the Crime of Genocide* (Genocide Convention).²⁰ Parties to the Genocide Convention have a binding international obligation to prevent and punish the crime of genocide. Parties must also use all means reasonably available within their power to prevent the commission of genocide by others.²¹ As stated by the International Court of Justice (ICJ) in the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, a “State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.”²²
- [12] On 29 December 2023, South Africa filed an application instituting proceedings against Israel before the ICJ concerning alleged violations by Israel of its obligations under the Genocide Convention in relation to Palestinians living in Gaza.²³ On 26 January 2024, the ICJ ruled on the application in favour of South Africa, finding that the legal conditions for the indication for provisional measures were met, including that it was plausible that genocide was being committed in Gaza.²⁴ The Court concluded that “the catastrophic humanitarian situation in the Gaza Strip is at serious risk of deteriorating further,” and that “there is urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused to the rights” of Palestinians in Gaza under the Genocide Convention.²⁵ In light of this Order, and due to mass IHL and IHRL violations in Gaza, accompanied by a long list of statements from the highest officials in Israel calling for the destruction of the Palestinians of Gaza in whole or in part, Canada should be on notice that there is a serious risk of genocide in Gaza.²⁶

III. RELEVANT FACTS

- [13] The available information in respect of Canada’s exports and brokering of military goods and technology to Israel,²⁷ when viewed with the overwhelming evidence of Israel’s violations of IHL and IHRL, and serious acts of violence against women and children, demonstrates a substantial risk that Canadian military goods and technology could be used to commit or facilitate these serious violations.

²⁰ [Convention on the Prevention and Punishment of the Crime of Genocide](#), 9 December 1948, 78 UNTS 277 (entered into force 12 January 1951) (“Genocide Convention”).

²¹ [Application of the Convention on the Prevention and Punishment of the Crime of Genocide \(Bosnia and Herzegovina v. Serbia and Montenegro\)](#), Judgment, ICJ Reports 2007, at para 430 (“Bosnian Genocide Case”).

²² [Bosnian Genocide Case](#) at para 431.

²³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, [Application Instituting Proceedings](#), ICJ, 29 December 2023. (“South African Application”)

²⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, [Order on the Request for the Indication of Provisional Measures](#), ICJ, 26 January 2024 at para 54. (“Provisional Measures Order”)

²⁵ [Provisional Measures Order](#) at paras 72, 74.

²⁶ See Section III(B)(viii) below.

²⁷ Canadians for Justice and Peace in the Middle East, “[Arming Apartheid: Canada’s Arms Exports to Israel](#)”, April 2022; World Beyond War, “[Canada: Stop Arming Israel](#)”.

(A) Overview of Israel's Ongoing Violations of International Law

- [14] The general consensus among international legal scholars is that Israel's pre-7 October 2023 actions and policies in the OPT, including the occupation itself, settlements and the siege of Gaza, constitute violations of IHL and IHRL. Countless reports and investigations from UN bodies and non-governmental organizations have confirmed this and, in March 2021, the Prosecutor of the ICC initiated an investigation into alleged Rome Statute crimes committed in Gaza and the West Bank, including East Jerusalem.²⁸
- [15] The prolonged occupation is itself a violation of IHL.²⁹ In 2022, the UN Independent International Commission of Inquiry found that "there are reasonable grounds to conclude that the Israeli occupation of Palestinian territory is now unlawful under international law owing to its permanence and to actions undertaken by Israel to annex parts of the land *de facto* and *de jure*. Actions by Israel that are intended to create irreversible facts on the ground and expand its control over territory are reflections as well as drivers of its permanent occupation".³⁰ Israeli Prime Minister Benjamin Netanyahu's recent confirmation that he does not support the creation of a Palestinian state only reaffirms this intention to make the occupation permanent.³¹
- [16] Since 2007, Israel has imposed an air, land and sea blockade on the Gaza Strip, collectively punishing its entire population. The blockade has devastated Gaza's economy, caused widespread destruction and cut off the vast majority of Gazans from the outside world. Even before the current attacks, over one million Gazans did not have enough food for their families, despite receiving humanitarian aid.³² Moreover, reports as recent as 2019 from the UN Independent International Commission of Inquiry into the mass killings of Palestinian protesters during the 2018 Great March of Return found "reasonable grounds to believe that [Palestinian] demonstrators were shot in violation of their right to life or of the principle of distinction under international humanitarian law. [...] To date, the Government of Israel has consistently failed to meaningfully investigate and prosecute commanders and soldiers for crimes and violations committed against Palestinians or to provide reparation to victims in accordance with international norms."³³
- [17] Finally, several human rights organizations, including Al-Haq, Amnesty International and Human Rights Watch, have released reports demonstrating that Israel's treatment and policies in relation to

²⁸ International Criminal Court, "[Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine](#)", 3 March 2021.

²⁹ UN General Assembly, 77th Session, "[Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel](#)", 14 September 2022. ("COI Report, 2022")

³⁰ COI Report, 2022 at para 75. See also [Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory](#), ICJ, General List No. 131, Advisory Opinion, 9 July 2004.

³¹ The Guardian, "[Netanyahu defies Biden, insisting there's 'no space' for Palestinian state](#)", 20 January 2024.

³² Oxfam International, "[Timeline: the humanitarian impact of the Gaza blockade](#)", 2018; see also Human Rights Watch, "[Israel: Starvation Used as Weapon of War in Gaza](#)", 18 December 2023.

³³ UN Human Rights Council, 40th Session, "[Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory](#)", 28 February 2019, at paras 97 and 111. ("COI Report, 2019")

Palestinians in the OPT and Israel amount to the crimes against humanity of apartheid and persecution.³⁴ This discriminatory system also extends to Palestinian refugees and their descendants residing outside the region. Successive Israeli political leaders have openly declared their intention to sustain this system, underscoring the primary goal of upholding Jewish Israeli dominance through the exclusion, segregation and expulsion of Palestinians.³⁵ In 2019, the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination drew Israel's attention to the law on "prevention, prohibition and eradication of all policies and practices of racial segregation and apartheid" and accordingly urged Israel "to eradicate all forms of segregation between Jewish and non-Jewish communities and any such policies or practices which severely and disproportionately affect the Palestinian population in Israel proper and in the Occupied Palestinian Territory".³⁶

[18] In a 300-page report, the South African Human Sciences Research Council (HSRC) concluded that:

the three pillars of apartheid in South Africa are all practised by Israel in the occupied Palestinian territory, the pillars being: first, the demarcation of the population of South Africa into racial groups, with superior rights, privileges and services being accorded to one group; second, the segregation of the population into different geographic areas, which were allocated by law to different racial groups, and the restriction of passage by members of any group into the area allocated to other groups; and third, the imposition of a matrix of draconian 'security' laws and policies, employed to suppress any opposition to the regime and to reinforce the system of racial domination, by providing for administrative detention, torture, censorship, banning, and assassination.³⁷

[19] In 2022, the UN Special Rapporteur on the situation of human rights in the OPT found that:

There is today in the Palestinian territory occupied by Israel since 1967 a deeply discriminatory dual legal and political system that privileges the 700,000 Israeli Jewish settlers living in the 300 illegal Israeli settlements in East Jerusalem and the West Bank. Living in the same geographic space, but separated by walls, checkpoints, roads and an entrenched military presence, are more than three million Palestinians, who are without rights, living under an oppressive rule of

³⁴ Al Haq, "[Israeli Apartheid: Tool of Zionist Settler Colonialism](#)", 21 December 2022; Amnesty International, "[Israel's Apartheid System Against Palestinians: Cruel System of Domination and Crime Against Humanity](#)", 1 February 2022; Human Rights Watch, "[A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution](#)", 27 April 2021; Al Mezan, "[The Gaza Bantustan — Israeli Apartheid in the Gaza Strip](#)", 4 December 2021; B'Tselem, "[A Regime of Jewish Supremacy from the Jordan River to the Mediterranean Sea: This is Apartheid](#)", 12 January 2021.

³⁵ Amnesty International, "[Israel's Apartheid System Against Palestinians: Cruel System of Domination and Crime Against Humanity](#)", 1 February 2022 at p. 267.

³⁶ CERD Committee, [Concluding Observations on the Combined Seventeenth to Nineteenth Reports of Israel](#), 27 January 2020, CERD/C/ISR/CO/17-19 at para 23.

³⁷ [South African Application](#) at fn 141, citing HSRC, Democracy and Governance Programme, Middle East Project, Occupation, Colonialism, [Apartheid?: A re-assessment of Israel's practices in the occupied Palestinian territories under international law](#), June 2009.

institutional discrimination and without a path to a genuine Palestinian state that the world has long promised is their right.³⁸

- [20] Echoing this finding, Yesh Din, an Israeli human rights organization working primarily in the West Bank, conducted a study on the two types of communities in the West Bank, one being Palestinians governed by Jordanian, Palestinian Authority and military law, and the other being Israeli citizens governed by a civilian legal system. It concluded that Palestinians lack the right to equality in every sense, including equality before the law.³⁹ Other observers have concluded that Israel is committing apartheid in Israel as well as in the OPT.⁴⁰ Human Rights Watch and B'Tselem, among others, have concluded that Israeli authorities have deprived millions of their basic rights by virtue of being Palestinian in both the OPT and in Israel.⁴¹
- [21] Apartheid manifests in different ways in the OPT and Israel proper. In the OPT, inhumane acts in the form of restriction of movement, land expropriation, forcible transfer of populations, denials of residency and nationality, and mass deprivation of civil and due process rights are committed by Israeli authorities.⁴² These acts deprive Palestinians of fundamental human rights on a widespread and systematic basis. When committed with the intent to maintain racial domination over Palestinians and systematically oppress them, as the previously quoted reports affirm, they constitute apartheid within the legal definitions of the Rome Statute and the Apartheid Convention.⁴³
- [22] Within Israel, the rights of Palestinians who are Israeli citizens are violated in different ways based on their identity. For instance, there is a mass denial of Palestinians' access to or use of land historically confiscated from them, significant barriers to immigration and residency or citizenship, and deprivation of Palestinians' ability to live together with spouses from the OPT.⁴⁴ Israel has enacted numerous discriminatory laws, such as the Absentee Property Law, which allow the state to expropriate large amounts of Palestinian-owned land. For instance, most of the land that Bedouins

³⁸ UN OHCHR, "[Israel's 55-year occupation of Palestinian Territory is apartheid - UN human rights expert](#)", 25 March 2022.

³⁹ Michael Sfard, Yesh Din, "[The Israeli Occupation of the West Bank and the Crime of Apartheid: Legal Opinion](#)", June 2020 at 41.

⁴⁰ Al Mezan, FIDH and Mwatana, "[Israeli Apartheid - The Legacy of the Ongoing Nakba at 75](#)", 16 May 2023; UN OHCHR, "[Israel's 55-year occupation of Palestinian Territory is apartheid - UN human rights expert](#)", 25 March 2022.

⁴¹ Human Rights Watch, "[A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution](#)", 27 April, 2021 at 203; B'Tselem, "[A Regime of Jewish Supremacy from the Jordan River to the Mediterranean Sea: This is Apartheid](#)", 12 January 2021 at 1.

⁴² Human Rights Watch, "[A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution](#)", 27 April, 2021; B'Tselem, "[A Regime of Jewish Supremacy from the Jordan River to the Mediterranean Sea: This is Apartheid](#)", 12 January 2021.

⁴³ Human Rights Watch, "[A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution](#)", 27 April, 2021 at 203; [Rome Statute](#), Art 7(1)(j); [International Convention on the Suppression and Punishment of the Crime of Apartheid](#), 30 November 1973, A/RES/3068 (XXVIII) (entered into force 18 July 1976).

⁴⁴ Human Rights Watch, "[A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution](#)", 27 April, 2021 at 203–204.

used has been expropriated, rendering their communities “unrecognized” and defining their residents as “invaders.”⁴⁵

- [23] As a crime against humanity under the Rome Statute, the ICC has jurisdiction to investigate and prosecute Israeli officials involved in the commission of the crime of apartheid in the OPT.⁴⁶ The reports noted above indicate, at the very least, a substantial risk that the crime is being committed by Israeli officials in the OPT and the use of Canadian-exported military goods and technology in facilitation of this crime could violate Canada’s domestic and international obligations under the EIPA and ATT, respectively.

(B) Israel’s Violations of International Law in Gaza since 7 October 2023

- [24] On 7 October 2023, Hamas-led forces launched an attack that killed over 1,100 people, including 695 Israeli civilians, 71 foreigners, and 373 combatants.⁴⁷ There is evidence suggesting that during this attack, militants committed serious violations of IHL, which may amount to war crimes and crimes against humanity, including firing thousands of missiles at Israeli population centres.⁴⁸ There have also been allegations of sexual and gender-based crimes.⁴⁹ About 240 civilians and Israeli soldiers were taken as hostages into Gaza. As of 12 January 2024, Israel believed 136 hostages remained in Gaza.⁵⁰
- [25] Since 7 October 2023, Israel has carried out and continues to carry out massive aerial bombardments and ground attacks on Gaza. As of 26 January 2024, over 26,083 people have been killed in Gaza, and over 64,487 have been wounded.⁵¹ Approximately 1.7 million people are internally displaced.⁵² The 2.3 million Palestinians residing in Gaza, over a million of whom are children, are extremely vulnerable. Their very existence is at risk. In its Application to the ICJ, South Africa summarizes several reports on the humanitarian situation as follows:

United Nations chiefs and the International Committee of the Red Cross (‘ICRC’) — no strangers to conflict situations — have called what is unfolding in Gaza a “crisis of humanity”. “Humanitarian veterans who have served in war zones and disasters around the world — people who have seen everything — [say] they have seen nothing like what they see today in Gaza” (United Nations Secretary-General). This is “a moral failure” causing “intolerable suffering”

⁴⁵ B’Tselem, “[A Regime of Jewish Supremacy from the Jordan River to the Mediterranean Sea: This is Apartheid](#)”, 12 January 2021 at 4.

⁴⁶ [Rome Statute](#), Art 7(1)(j).

⁴⁷ France 24, “[Israel social security data reveals true picture of Oct 7 deaths](#)”, 15 December 2023: “The final death toll from the attack is now thought to be 695 Israeli civilians, including 36 children, as well as 373 security forces and 71 foreigners, giving a total of 1,139.”

⁴⁸ The Critic, “[Israel at war: but where will it end?](#)”, November 2023.

⁴⁹ New York Times, “[‘Screams Without Words’: How Hamas Weaponized Sexual Violence on Oct. 7](#)”, 28 December 2023.

⁵⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, [Transcript, Hearing of 12 January 2024](#) at para 55.

⁵¹ UN OCHA, “[Hostilities in the Gaza Strip - Reported Impact](#)”, 26 January 2024.

⁵² UN OCHA, “[Hostilities in the Gaza Strip - Reported Impact](#)”, 26 January 2024.

(ICRC President). “This is an apocalyptic situation now, because these are the remnants of a nation being driven into a pocket in the south” (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator at the United Nations). They describe Palestinians in Gaza as “living in utter, deepening horror” as they “continue to be relentlessly bombarded by Israel... suffering death, siege, destruction and deprivation of the most essential human needs such as food, water, lifesaving medical supplies and other essentials on a massive scale”; it is “apocalyptic” (United Nations High Commissioner for Human Rights). “An entire population is besieged and under attack, denied access to the essentials for survival, bombed in their homes, shelters, hospitals and places of worship” (Principals of the United Nations Inter-Agency Standing Committee). Gaza is “the most dangerous place in the world to be a child” (United Nations International Children’s Emergency Fund (UNICEF) Executive Director). “It is a “living hell”, it is “a war of all the superlative, everything is unprecedented” and “[w]e are out of words to describe what is going on” (UNRWA Commissioner-General).⁵³

- [26] Amidst this humanitarian catastrophe, extensive evidence supports the finding that Israel has committed serious violations of IHL and IHRL amounting to war crimes, crimes against humanity and genocide. Israel’s bombing of Gaza has been assessed as “the most indiscriminate in terms of civilian casualties in recent years.”⁵⁴ An analysis conducted by a sociology professor at the Open University of Israel found that, three weeks into the current war, the civilian proportion of total deaths was 61% and represented “unprecedented killing” for Israeli forces in Gaza.⁵⁵ This proportion of civilian deaths is also higher than the average in all world conflicts in the second half of the 20th century.⁵⁶ Seven weeks into the war, the percentage of civilian casualties appeared to have risen to over 80%: the Israeli military estimated that it had killed between 1,000 and 2,000 Hamas fighters, meanwhile the Palestinian death toll was over 13,000 people.⁵⁷ On 21 November 2023, UN Secretary-General

⁵³ [South African Application](#) at para 44, *citing* UN, “[Press Conference by Secretary-General António Guterres at United Nations Headquarters](#)”, 6 November 2023; The Times of Israel, “[UN chief says Gaza ‘crisis of humanity’ demands immediate ceasefire](#)”, 6 November 2023; UN, “[Press Conference by Secretary-General António Guterres at United Nations Headquarters](#)”, 22 December 2023; ICRC, “[Gaza: ICRC president calls for the protection of civilians in the face of ‘moral failure’](#)”, 4 December 2023; ICRC, “[Israel and the occupied territories: President of the ICRC arrives in Gaza, calls for the protection of civilians](#)”, 4 December 2023; The Guardian, “[‘Apocalyptic’ conditions in southern Gaza blocking aid, top UN official says](#)”, 5 December 2023; Christiane Amanpour on X, [Interview with UN Relief Chief Martin Griffiths on CNN](#), 22 November 2023; UN OHCHR, [Opening statement by UN High Commissioner for Human Rights Volker Türk at press conference ahead of Human Rights Day](#), 6 December 2023; UN IASC, [Statement by Principals of the Inter-Agency Standing Committee on the situation in Israel and the Occupied Palestinian Territory](#), 5 November 2023; UNICEF, [Statement by UNICEF Executive Director Catherine Russell on the Resumption of Fighting in Gaza](#), 1 December 2023; UNRWA, [Remarks of UNRWA Commissioner-General Philippe Lazzarini at the Global Refugee Forum](#), 13 December 2023; UNRWA, on X, “[We are out of words to describe what is going on. This is a war of all the superlative, everything is unprecedented](#)”, 12 December 2023.

⁵⁴ The Guardian, “[Civilians make up 61% of Gaza deaths from airstrikes, Israeli study finds](#)”, 9 December 2023.

⁵⁵ Haaretz, “[The Israeli Army Has Dropped the Restraint in Gaza, and the Data Shows Unprecedented Killing](#)”, 9 December 2023; See also The Guardian, “[Civilians make up 61% of Gaza deaths from airstrikes, Israeli study finds](#)”, 9 December 2023.

⁵⁶ The Guardian, “[Civilians make up 61% of Gaza deaths from airstrikes, Israeli study finds](#)”. 9 December 2023.

⁵⁷ The Guardian, “[IDF messaging suggests Gaza truce unlikely to last much beyond Tuesday](#)”, 26 November 2023.

Antonio Guterres said: “We are witnessing a killing of civilians that is unparalleled and unprecedented in any conflict since I have been Secretary-General.”⁵⁸

- [27] These figures are consistent with two investigations conducted by +972 Magazine and Local Call. The first found that Israel was deliberately targeting residential towers in the heart of cities and public buildings such as universities, banks and government offices in order to exert “civil pressure” on Hamas.⁵⁹ The second investigation found that bringing the hostages home was not the main priority of the Israeli leadership, who attached greater priority to carrying out a massive bombing campaign.⁶⁰ As stated by the Israeli Defence Forces (IDF) Spokesperson when describing the “thousands of tons of munitions” dropped on Gaza, “we’re focused on what causes maximum damage”, not accuracy.⁶¹
- [28] Assessing the scale of this catastrophe also requires considering the absence of safe havens, aid, and relief.⁶² Humanitarian organizations have said that the unprecedented conditions in Gaza have rendered their jobs impossible. Save the Children stated that children in Gaza have nowhere safe to go: if they are not killed by the bombardments, they are at serious risk of dying from hunger or disease.⁶³ Shelter and refugee camps are overwhelmed beyond their capacities and lack basic supplies and resources like food and water, fueling the risk of infection and disease. In November, a UN refugee shelter in central Gaza designed to hold 2,000 people was holding 37,900 displaced people.⁶⁴ UNICEF spokesperson James Elder stated that Israel is forcibly evacuating hundreds of thousands of Palestinians to tiny patches of barren land with no water, no toilets, no facilities, no shelter from the cold and no sanitation. He warned that so-called “safe zones” will inevitably become “zones of disease”⁶⁵ and there is now evidence of widespread illness that may kill more people than Israel’s bombs.⁶⁶ Numerous world

⁵⁸ UN Türkiye, “[Gaza: 'Unprecedented and unparalleled' civilian death toll: Guterres](#)”, 21 November 2023.

⁵⁹ +972 Magazine, “[A mass assassination factory: inside Israel’s calculated bombing of Gaza](#)”, 30 November 2023. The investigation by +972 and Local Call is based on conversations with seven current and former members of Israel’s intelligence community — including military intelligence and air force personnel who were involved in Israeli operations in Gaza — in addition to Palestinian testimonies, data and documentation from Gaza, and official statements by the Israeli Defence Forces Spokesperson and other Israeli state institutions.

⁶⁰ +972 Magazine, “[‘The hostages weren’t our top priority’: How Israel’s bombing frenzy endangered captives in Gaza](#)”, 17 December 2023.

⁶¹ The Guardian, “[‘We’re focused on maximum damage’: ground offensive into Gaza seems imminent](#)”, 10 October 2023.

⁶² Doctors Without Borders, “[No safe place for Gaza’s displaced](#)”, 18 December 2022; Save the Children, “[Deaths by starvation and disease may top deaths by bombs as families squeezed into deadly ‘safe zones’ two months into Gaza crisis](#)”, 9 December 2023; UN News, “[Gaza: Nowhere to go, as humanitarian crisis reaches ‘dangerous new low’](#)”, 13 October 2023; The Guardian, “[WHO says ‘almost impossible’ to bring humanitarian aid to people in Gaza](#)”, 2 November 2023.

⁶³ Save the Children, “[We are failing the Children of Gaza](#)”, 8 December 2023.

⁶⁴ UNRWA, “[Situation Report #37 on the situation in the Gaza Strip and the West Bank, including East Jerusalem](#)”, 23 November 2023; See also Al Jazeera, “[How Israel is squeezing 1.8 million Palestinians into an airport-sized area](#)”, 6 December 2023; Vox, “[The “apocalyptic” humanitarian situation in Gaza, captured by one quote](#)”, 6 December 2023.

⁶⁵ UNICEF, “[Gaza: The world’s most dangerous place to be a child](#)”, 19 December 2023.

⁶⁶ NPR, “[Health workers struggle to prevent an infectious disease ‘disaster in waiting’ in Gaza](#)”, 26 December 2023.

leaders and human rights organizations have emphasized the unprecedented nature of the humanitarian catastrophe in Gaza.⁶⁷

i) *Collective punishment & starvation*

- [29] By imposing a siege on Gaza – withholding virtually all sources of food, water, fuel and electricity – Israel is punishing an entire population for the actions of Hamas. While Israel’s inflicting of collective punishment on Palestinians has long been an ongoing catastrophe,⁶⁸ the current hostilities have brought the scale of punishment to a new level.⁶⁹ Collective punishment against civilian populations under occupation is expressly forbidden under Article 33 of the Fourth Geneva Convention,⁷⁰ which Israel has ratified. Moreover, the prohibition against collective punishment has become an accepted norm of customary IHL.⁷¹
- [30] The Israeli President stated in relation to Palestinians and the 7 October 2023 attacks that it’s “an entire nation out there that is responsible”⁷² and the Israeli Heritage Minister echoed that “there is no such thing as uninvolved civilians in Gaza”.⁷³ Likewise, a former Israeli military officer stated that “there is no population in Gaza, there are 2.5 million terrorists”.⁷⁴ These statements are not only evidence of an intent to inflict punishment or sanction on all civilians in Gaza; they also demonstrate a wanton disregard for the fundamental IHL principles of distinction, proportionality and precaution.⁷⁵ As noted by the ICC Prosecutor, “[t]here should not be any impediment to humanitarian relief supplies going to children, to women and men, civilians. They are innocent, they have rights under international

⁶⁷ See for example The Guardian, “[Number of Palestinians killed is ‘truly unbearable’, says Spanish PM](#)”, 23 November 2023; Al Jazeera, “[‘Inhumane’: Top Belgium officials criticise Israeli bombing of Gaza](#)”, 10 November 2023; The Guardian, “[US increasingly alone in Israel support as 153 countries vote for ceasefire at UN](#)”, 12 December 2023; NPR, “[Number of journalists killed in Gaza since Oct. 7 attacks called unprecedented loss](#)”, 19 December 2023; Save the Children, “[We are failing the Children of Gaza](#)”, 8 December 2023: “We are running out of words to describe the horror unfolding for Gaza’s children. [...] We have sounded the alarm for weeks and the world has failed to act.”; The Huffington Post, “[Doctor Reveals New Medical Acronym ‘Unique To Gaza’ To Describe Particular War Victim](#)”, 6 November 2023: “Dr Tanya Haj-Hassan said the acronym “which is unique to the Gaza Strip” is WCNSF – wounded child, no surviving family. [...] it is used not infrequently in these last three weeks.[...] the medic said: “Wounded child, no surviving family should not exist as an acronym.”

⁶⁸ UN OHCHR, “[Israel’s collective punishment of Palestinians illegal and an affront to justice: UN expert](#)”, 17 July 2020.

⁶⁹ Amnesty International, “[Israel/OPT: Israel must lift illegal and inhumane blockade on Gaza as power plant runs out of fuel](#)”, 12 October 2023.

⁷⁰ [Fourth Geneva Convention](#); see also [Additional Protocol I](#), Art 75(2)(d).

⁷¹ J-M Henckaerts et al, *Customary International Humanitarian Law, Vol. 1* (Cambridge: Cambridge University Press, 2005) at pp. 372-375, 586-7 and 602-3.

⁷² The Guardian, “[The language being used to describe Palestinians is genocidal](#)”, 16 October 2023.

⁷³ Al Jazeera, “[Genocide in Gaza: A call to urgent global action](#)”, 12 November 2023.

⁷⁴ Common dreams, “[Israeli MP Says It Clearly for World to Hear: ‘Erase All of Gaza From the Face of the Earth’](#)”, 1 November 2023.

⁷⁵ [Additional Protocol I](#); also recognised as binding customary international law, see [ICRC, Customary International Humanitarian Law](#), Rules 7, 14 and 15.

humanitarian law.”⁷⁶ He added that curtailing these rights may give rise to individual criminal responsibility under the Rome Statute.⁷⁷

[31] Following Israel’s halt of its electricity and fuel supply to Gaza on 8 October 2023, Gaza’s sole power plant ran out of fuel on 11 October 2023 and was forced to stop functioning, triggering an immediate black-out.⁷⁸ Gaza has been without electricity since, rendering humanitarian operations nearly impossible. Moreover, the food security situation is catastrophic. Although IHL prohibits destroying objects indispensable to the survival of the civilian population,⁷⁹ the last functioning flour mill in Gaza was destroyed on 15 November 2023.⁸⁰ As of 26 January 2024, 2.2 million people in Gaza were at imminent risk of famine.⁸¹ Approximately 378,000 people had reached “catastrophic levels” of lack of food, starvation, and exhaustion of coping capacities, while some 939,000 people at “emergency levels” of said food insecurity and coping capacities.⁸² Bringing humanitarian aid into Gaza has been hindered by Israel on several levels, including: denying missions; impeding approved missions through the provision of unpassable routes, or the imposition of excessive delays at checkpoints or prior to departure; postponing missions due to increasing military activity; and refusal to open checkpoints early.⁸³ Considering that half of Gaza’s population are children, preventing the free passage of consignments of essential foodstuffs could be a direct violation of the Fourth Geneva Convention.⁸⁴

[32] Using starvation as a method of warfare is also prohibited under IHL.⁸⁵ On 20 December 2023, the WFP reported that half of Gaza’s population was in a situation of extreme or severe hunger and 90% of the population regularly went without food for a whole day.⁸⁶ On 21 December 2023, the Integrated Food Security Phase Classification (IPC) warned of the very high risk of famine in the Gaza Strip, increasing each day that the current situation of intense hostility and restricted humanitarian access persists or worsens, with more than half a million people facing catastrophic levels of acute food insecurity, the highest level of warning.⁸⁷ On 18 December 2023, Human Rights Watch condemned

⁷⁶ Al Jazeera, “[Impeding aid to Gaza could be crime under ICC jurisdiction, says prosecutor](#)”, 29 October 2023.

⁷⁷ Al Jazeera, “[Impeding aid to Gaza could be crime under ICC jurisdiction, says prosecutor](#)”, 29 October 2023; see for example [Rome Statute](#), Arts 7(1)(k), 8(2)(a)(ii) and 8(2)(b)(xxv).

⁷⁸ UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #5](#)”, 11 October 2023.

⁷⁹ [Additional Protocol I](#), Art 54.

⁸⁰ UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #40](#)”, 15 November 2023.

⁸¹ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

⁸² UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

⁸³ UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #103](#)”, 26 January 2024.

⁸⁴ [Fourth Geneva Convention](#), Art 23: “Each High Contracting Party [...] shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.”

⁸⁵ [Additional Protocol I](#), Art 54; ICRC, Customary International Humanitarian Law, Rule 53; [Rome Statute](#), Art 8(2)(b)(xxv).

⁸⁶ UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #74](#)”, 20 December 2023.

⁸⁷ IPC, “[GAZA STRIP: IPC Acute Food Insecurity November 2023 - February 2024](#)”, 21 December 2023.

Israel for using starvation as a weapon of war and called on world leaders to denounce “this abhorrent war crime”.⁸⁸

ii) *Indiscriminate attacks against civilians*

[33] On 10 November 2023, the UN High Commissioner for Human Rights called for an investigation into Israel’s “indiscriminate bombardment and shelling” in densely populated areas in the Gaza Strip, stating that there were “very serious concerns that these amount to disproportionate attacks in breach of international humanitarian law.”⁸⁹ While it is impossible to account for the vast number of indiscriminate attacks against civilians in Gaza, the following serve as illustrative examples of both the lack of military precision and the disproportionate scale of harm to civilians:

- At around 20h20 on 7 October 2023, Israeli forces struck a three-storey residential building in the al-Zeitoun neighborhood of Gaza City, where three generations of the al-Dos family were staying. Fifteen family members were killed in the attack, seven of them children. According to Amnesty International, there was no evidence of military targets in the area at the time of the attack and Israel offered no explanation of the incident.⁹⁰
- On 10 October 2023, an Israeli air strike on a family home killed 12 members of the Hijazi family and four of their neighbors, in Gaza City’s al-Sahaba Street. Three children were among those killed. Amnesty International’s research found no evidence of military targets in the area at the time of the attack.⁹¹
- Also on 10 October 2023, an Israeli air strike hit a six-storey building in Sheikh Radwan, a district of Gaza City, at 16h30. The strike destroyed the building and killed at least 40 civilians. Amnesty International’s research found that a Hamas member had been residing on one of the floors of the building but was not there at the time of the air strike.⁹²
- Two attacks, on 19 and 20 October 2023, killed 46 civilians, including 20 children. Those killed by the Israeli strikes included an 80-year-old woman and a three-month-old baby. The targets were a church building where hundreds of displaced civilians were sheltering in Gaza City and a home in al-Nuseirat refugee camp in central Gaza. Amnesty International investigated these attacks and determined that they were either indiscriminate attacks or direct attacks on civilians or civilian objects.⁹³

⁸⁸ Human Rights Watch, “[Israel: Starvation Used as Weapon of War in Gaza](#)”, 18 December 2023; see also Tom Dannenbaum, Just Security, “[The Siege of Gaza and the Starvation War Crime](#)”, 11 October 2023.

⁸⁹ UN OCHA, “[Opening remarks by UN High Commissioner for Human Rights Volker Türk on Israel and the OPT at a press conference in Amman, Jordan](#)”, 10 November 2023.

⁹⁰ Amnesty International, “[Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza](#)”, 20 October 2023.

⁹¹ Amnesty International, “[Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza](#)”, 20 October 2023.

⁹² Amnesty International, “[Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza](#)”, 20 October 2023.

⁹³ Amnesty International, “[Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza](#)”, 20 October 2023.

- Jabalia refugee camp in northern Gaza was attacked several times, including on 9, 12, 19, 22 and 31 October 2023,⁹⁴ 1 November 2023,⁹⁵ and 17 December 2023.⁹⁶ Jabalia is the largest of the Gaza Strip's eight refugee camps.⁹⁷ During the first attack, on 9 October 2023 at 10h30 Israeli air strikes hit a market, killing at least 69 people.⁹⁸ While the market street is always one of the busiest commercial areas in northern Gaza, it was especially crowded that day because thousands of people had fled their homes in nearby areas after receiving text messages from the Israeli army.⁹⁹ The Israeli military claimed it was targeting a mosque where Hamas members would go. However, Amnesty International found no mosque in the immediate vicinity of the market street after analysing satellite imagery.¹⁰⁰ During the attacks of 31 October-2 November 2023, at least 195 people were killed with more than 100 thought to be missing beneath the rubble and about 777 people injured.¹⁰¹ Israel claims the attack killed “many Hamas terrorists” including Ibrahim Biari, a commander involved in the 7 October attack.¹⁰² However, it was also “one of the deadliest attacks of the Gaza war.”¹⁰³ Given the high number of civilian casualties and large scale of destruction, notably to civilian buildings, the United Nations Office of the Commissioner for Human Rights (OHCHR) voiced “serious concerns that these are disproportionate attacks that could amount to war crimes.”¹⁰⁴ A Wall Street Journal investigation found that, by dropping “multiple large bombs in a tight pattern”, Israel leveled an entire neighborhood block, “leaving deep craters where more than a dozen buildings had stood”.¹⁰⁵ The investigation also found that Israel failed in its responsibility to take all feasible precautions to minimize harm to civilians. Notably: a) Israel did not warn civilians in the area of an imminent airstrike; b) the selection of weapons for the attack (at least two 2,000 pound bombs, the second largest in its arsenal) were not the appropriate choice to avoid unnecessary damage; and c) bringing down entire buildings in aiming to target and destroy tunnels.¹⁰⁶ In terms of proportionality, an international law professor at Rutgers University found

⁹⁴ Al Jazeera, “[Israel’s deadly attack on the Jabalia refugee camp: What we know so far](#)” 1 November 2023.

⁹⁵ Al Jazeera, “[UN rights office says Israeli attacks on Jabalia could be ‘war crime’](#)”, 2 November 2023.

⁹⁶ The Guardian, “[Gaza health ministry: Israeli strikes kill 90 Palestinians in Jabalia refugee camp](#)”, 17 December 2023.

⁹⁷ UNRWA, “[Jabalia Camp](#)”, July 2023.

⁹⁸ Amnesty International, “[Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza](#)”, 20 October 2023.

⁹⁹ Amnesty International, “[Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza](#)”, 20 October 2023.

¹⁰⁰ Amnesty International, “[Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza](#)”, 20 October 2023.

¹⁰¹ Al Jazeera, “[UN rights office says Israeli attacks on Jabalia could be ‘war crime’](#)”, 2 November 2023.

¹⁰² Al Jazeera, “[UN rights office says Israeli attacks on Jabalia could be ‘war crime’](#)”, 2 November 2023.

¹⁰³ Wall Street Journal, “[How an Israeli Airstrike on a Hamas Commander Also Killed Scores of Civilians](#)”, 28 December 2023.

¹⁰⁴ Al Jazeera, “[UN rights office says Israeli attacks on Jabalia could be ‘war crime’](#)”, 2 November 2023.

¹⁰⁵ Wall Street Journal, “[How an Israeli Airstrike on a Hamas Commander Also Killed Scores of Civilians](#)”, 28 December 2023.

¹⁰⁶ Wall Street Journal, “[How an Israeli Airstrike on a Hamas Commander Also Killed Scores of Civilians](#)”, 28 December 2023.

that killing Biari provided at best a moderate military advantage and could not justify the attack on Jabalia. He said: “To justify this much [foreseeable] civilian harm, you would expect some kind of game-changer that would make a decisive impact on the course of the war.”¹⁰⁷

- On 24-25 December 2023, an Israeli airstrike was launched on Maghazi refugee camp, one of the most densely populated areas in the middle of the Gaza Strip.¹⁰⁸ At least 70 people were killed, including a two-week old baby. The strikes began hours before midnight and continued into Christmas Day.¹⁰⁹ The bombs fell on homes and buildings, destroying neighbourhoods and infrastructure, such as roads leading in and out of the refugee camps.¹¹⁰ The Bureij refugee camp, located closeby, was also attacked on the same day, bringing the total deaths to over 130, with mostly women and children being killed.¹¹¹ Israel later claimed the attack on Maghazi refugee camp was a mistake due to using “incorrect munition”.¹¹² However, the camp had suffered previous strikes, including on 5 November 2023, when more than 50 people were killed.¹¹³
- On 4 January 2024, Israeli airstrikes targeted a designated “humanitarian zone” near Al-Mawasi, killing 14 people, mostly children under 10 years old.¹¹⁴ Israeli authorities had ordered civilians to evacuate to this zone for their safety. This was not the first time Israeli forces attacked an area designated as a safe zone.¹¹⁵ Save the Children warned that after issuing “evacuation orders” directing civilians to Khan Younis, Rafah and Al-Mawasi, Israel attacked all three areas with airstrikes, killing and injuring numerous civilians, including children.¹¹⁶ A New York Times investigation found that Israel used 2,000 pound-bombs, one of the most destructive munitions in western military arsenals, in areas it had designated safe for civilians at least 200 times.¹¹⁷ As expressed by Save the Children’s Country Director for the occupied Palestinian territory: “there is nowhere safe in Gaza. But under International Humanitarian Law, there should be. [...] These relocation orders offer nothing more than a smokescreen of safety. If people stay, they are killed. If they move, they are killed. People are facing the ‘choice’ of one death sentence or another.”¹¹⁸

¹⁰⁷ Wall Street Journal, “[How an Israeli Airstrike on a Hamas Commander Also Killed Scores of Civilians](#)”, 28 December 2023.

¹⁰⁸ Al Jazeera, “[‘Massacre’ as Israel steps up Gaza bombardment for Christmas](#)”, 25 December 2023.

¹⁰⁹ Al Jazeera, “[‘Massacre’ as Israel steps up Gaza bombardment for Christmas](#)”, 25 December 2023.

¹¹⁰ Al Jazeera, “[‘Massacre’ as Israel steps up Gaza bombardment for Christmas](#)”, 25 December 2023.

¹¹¹ Evening Standard, “[Israeli military ‘regrets harm’ after more than 100 killed in refugee camp strikes](#)”, 29 December 2023.

¹¹² SkyNews, “[Israel admits airstrike that killed 86 people at Gaza refugee camp was ‘regrettable mistake’](#)”, 29 December 2023.

¹¹³ Al Jazeera, “[Palestinians flee massacre as Israel bombs al-Maghazi refugee camp](#)”, 6 November 2023.

¹¹⁴ Save the Children, “[No Safe Place in Gaza: 14 Killed, Mostly Children, by Israeli Airstrikes](#)”, 4 January 2024.

¹¹⁵ SkyNews, “[Israel said Gazans could flee to this neighbourhood - then it was hit](#)”, 22 December 2023.

¹¹⁶ Save the Children, “[No Safe Place in Gaza: 14 Killed, Mostly Children, by Israeli Airstrikes](#)”, 4 January 2024.

¹¹⁷ New York Times, “[Visual Evidence Shows Israel Dropped 2,000-Pound Bombs Where It Ordered Gaza’s Civilians to Move for Safety](#)”, 22 December 2023.

¹¹⁸ Save the Children, “[No Safe Place in Gaza: 14 Killed, Mostly Children, by Israeli Airstrikes](#)”, 4 January 2024.

iii) *Direct attacks on hospitals and humanitarian relief personnel*

- [34] Under IHL, heightened protection is granted to hospitals and medical units, as well as to humanitarian relief personnel and objects. While certain incidents of hospital misuse, e.g., using a hospital to gain a military advantage or to shield military objectives from attack, can remove the hospital's protection under IHL, there is a presumption of civilian status for hospitals until proven otherwise.¹¹⁹ The attacker bears the burden of proving that the hospital being attacked was being misused to commit "acts harmful to the enemy".¹²⁰ Attacking a hospital that is being properly used to care for the wounded, sick, infirm and maternity cases is a war crime.¹²¹ All parties to a conflict must respect and protect civilian hospitals.¹²²
- [35] In Gaza, Israel has targeted hospitals and medical units with such frequency that, on 12 December 2023, the World Health Organization (WHO) issued a plea for the hospitals in the south to be spared.¹²³ At the time, there was one partially functional hospital in the north of Gaza, which ceased to be functional as of 21 December 2023 due to a lack of fuel, staff and supplies.¹²⁴ Of the 36 hospitals that operated in Gaza prior to 7 October, only 14 partially functional ones are left, with seven in the north and seven in the south.¹²⁵ Al-Awda hospital, one of the last functioning hospitals in the north of Gaza, was turned into a barracks by Israeli forces on 19 December 2023.¹²⁶ In doing so, the Israeli forces detained more than 240 people, including 80 hospital staff, 40 patients, and 120 displaced people.¹²⁷ They also arrested the director of the facility, Dr. Ahmed Muhanna.¹²⁸ Also on 19 December 2023, Israeli forces raided Ahli Arab Hospital in Gaza City, destroying a wall at its front entrance and detaining most of its staff.¹²⁹
- [36] As noted above, in order for these attacks to be legal, Israel has to prove that the hospitals were actively being used to commit acts harmful to it. Accordingly, during a briefing on 27 October 2023, Israel claimed that five hospital buildings in Gaza were directly involved in Hamas activities. It claimed that the hospitals had access to underground tunnels that were used by Hamas in attacking Israel.¹³⁰ The briefing was held before Israel sent troops into Al-Shifa hospital,¹³¹ the largest medical facility in the

¹¹⁹ [Fourth Geneva Convention](#), Arts 18-19.

¹²⁰ [Fourth Geneva Convention](#), Arts 18-19 and 23; [Additional Protocol I](#), Arts 12-13.

¹²¹ [Rome Statute](#), Art 8(2)(b)(ix); see also [Fourth Geneva Convention](#), Art 18.

¹²² [Fourth Geneva Convention](#), Art 18; [Additional Protocol I](#), Art 12.

¹²³ Reuters, "[WHO official pleas for Gaza's southern hospitals to be spared](#)", 12 December 2023.

¹²⁴ Reuters, "[Northern Gaza no longer has a functional hospital, WHO says](#)", 21 December 2023.

¹²⁵ UN OCHA, "[Hostilities in the Gaza Strip and Israel Flash Update #103](#)", 26 January 2024.

¹²⁶ Aljazeera, "[Israeli attack on residential area in south Gaza kills at least 29 people](#)", 19 December 2023.

¹²⁷ Aljazeera, "[Israeli attack on residential area in south Gaza kills at least 29 people](#)", 19 December 2023; ActionAid, "[ActionAid calls for the immediate release of doctors in Gaza, after the manager of a hospital run by its partner Al-Awda is arrested](#)", 19 December 2023.

¹²⁸ ActionAid, "[ActionAid calls for the immediate release of doctors in Gaza, after the manager of a hospital run by its partner Al-Awda is arrested](#)", 19 December 2023.

¹²⁹ Aljazeera, "[Israeli attack on residential area in south Gaza kills at least 29 people](#)", 19 December 2023.

¹³⁰ Wall Street Journal, "[The case of al-Shifa: Investigating the assault on Gaza's largest hospital](#)", 21 December 2023.

¹³¹ Wall Street Journal, "[The case of al-Shifa: Investigating the assault on Gaza's largest hospital](#)", 21 December 2023.

Gaza Strip, and after there had been a large-scale public outcry over the bombing of Al Ahli Arab Hospital on 17 October 2023.¹³² While Israel denied attacking Al Ahli Arab Hospital, it has since raided and rendered non-functional more than two dozen Gazan hospitals.¹³³ Even if Israel were capable of proving its claims that five hospitals in Gaza were being misused by Hamas to commit harmful acts against it, this would not justify any of the attacks on the other hospitals. According to an investigation by Forensic Architecture, Israel has been subjecting hospitals in Gaza to “a pattern of intimidation, direct targeting, siege, and occupation” since 7 October 2023.¹³⁴ Similarly, Human Rights Watch has stated that “[t]he Israeli military’s repeated, apparently unlawful attacks on medical facilities, personnel, and transport are further destroying the Gaza Strip’s healthcare system and should be investigated as war crimes”.¹³⁵

- [37] Moreover, an investigation by the Wall Street Journal found that Israel falls short of meeting its burden to prove that Hamas had been using the hospitals for military purposes. Notably: a) there was no immediate evidence of military use by Hamas; b) none of the five hospitals appeared to be connected to the tunnel network; and c) the tunnels may not even be accessible from the hospital wards.¹³⁶ Israel’s targeted attack on Al-Shifa hospital was unprecedented in modern times. Al-Shifa was Gaza’s most advanced and best-equipped hospital, and it was housing hundreds of sick and dying patients, and thousands of displaced people.¹³⁷ The attack caused the hospital’s operations to collapse: fuel and supplies ran out and ambulances could no longer operate. Doctors were forced to dig a mass grave for 180 people and four premature babies died as a result of the raid.¹³⁸
- [38] Beyond direct attacks on hospitals, there are also reports that Israel has bombed ambulances,¹³⁹ with approximately 122 ambulances having been damaged by 26 January 2024.¹⁴⁰ There are reports that Israel has also fired at humanitarian aid convoys,¹⁴¹ desecrated the bodies of dead patients with bulldozers, let a military dog maul a man in a wheelchair, and shot multiple doctors even after vetting

¹³² CNBC, “[Global outcry over Gaza hospital blast—500 lives lost in deadliest single incident](#)”, 18 October 2023.

¹³³ Al Jazeera, “[‘Hospitals are not battlegrounds’: World reacts to Israel’s al-Shifa raid](#)”, 25 November 2023; Al Jazeera, “[Israeli forces raid Gaza’s Kamal Adwan Hospital after days of strikes](#)” 12 December 2023; Jacobin, “[As Israel Besieges al-Awda Hospital, War Crimes in Gaza Have Become Unremarkable](#)”, 13 December 2023.

¹³⁴ Forensic Architecture, [Destruction of Medical Infrastructure in Gaza investigation](#), 20 December 2023.

¹³⁵ Human Rights Watch, “[Gaza: Unlawful Israeli Hospital Strikes Worsen Health Crisis](#)”, 14 November 2023.

¹³⁶ Wall Street Journal, “[The case of al-Shifa: Investigating the assault on Gaza’s largest hospital](#)”, 21 December 2023.

¹³⁷ Wall Street Journal, “[The case of al-Shifa: Investigating the assault on Gaza’s largest hospital](#)”, 21 December 2023.

¹³⁸ Wall Street Journal, “[The case of al-Shifa: Investigating the assault on Gaza’s largest hospital](#)”, 21 December 2023.

¹³⁹ Politico, “[Israel bombs ambulance convoy near Gaza’s largest hospital](#)”, 4 November 2023; CBC, “[Health-care and relief workers killed in Gaza as humanitarian groups navigate full blockade](#)” 11 October 2023; The Guardian, “[Palestinian Red Crescent workers killed after blast hits Deir al-Balah in Gaza – video report](#)”, 11 January 2024.

¹⁴⁰ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

¹⁴¹ NBC News, “[Israel accused of firing on Gaza aid convoy as military pushes south](#)”, 30 December 2023; WHO, “[WHO calls for protection of humanitarian space in Gaza following serious incidents in high-risk mission to transfer patients, deliver health supplies](#)”, 12 December 2023; Al Jazeera “[Red Cross ‘deeply troubled’ as aid convoy attacked in Gaza City](#)”, 8 November 2023.

them for terror links.¹⁴² By killing health professionals, Israel is significantly worsening the humanitarian crisis in Gaza. Every time doctors get killed, the medical programs they lead likely also come to an end and the patients they might have helped or saved are directly affected.¹⁴³ These killings exacerbate the dysfunction of a medical system that has already been brought to its knees by the blockade imposed by Israel on the movement of goods and people in and out of the Gaza Strip following Hamas' takeover in 2007, and the escalating hostilities.

[39] On 12 December 2023, the WHO adopted a resolution calling for “immediate, sustained and unimpeded passage of humanitarian relief, including the access of medical personnel.”¹⁴⁴ The previous day, WHO's aid truck had been shot at by the Israeli military and some of the medical staff taking part in its mission had been detained, harassed, strip searched, beaten and/or otherwise degraded.¹⁴⁵ On 25 December 2023, WHO called for a ceasefire, expressing extreme concern over the “ever-increasing scale of needs caused by the carnage”, with injured patients having to choose between risking death or accepting the amputation of their limbs due to the shortage of medical supplies.¹⁴⁶ Human Rights Watch called on Israel to end its attacks on hospitals, noting that it had provided no evidence that would justify depriving hospitals and ambulances of their protected status under IHL.¹⁴⁷ It also called for the repeated Israeli attacks on medical facilities, personnel and transport to be investigated as war crimes.¹⁴⁸

[40] As of 26 January 2024, the following humanitarian relief casualties were reported: 154 UN staff killed, including 152 UNRWA staff and one person working for WHO.¹⁴⁹ Overall, 337 health workers have been killed.¹⁵⁰ UNRWA spokeswoman Juliette Touma said that UN staff can be killed at any time: “They are killed in the north, the middle and the south, men and women, some at home, some at displacement shelters, some bringing refugees to the shelters,” adding that one staff member was killed while waiting in line for bread, and another was killed at home with his wife and eight children.¹⁵¹ Intentionally targeting UN staff is a war crime under the Rome Statute.¹⁵²

¹⁴² CNN, [“Doctors accuse Israeli troops of desecrating bodies and shooting civilians at hospital Israel says was Hamas ‘command center’”](#), 27 December 2023.

¹⁴³ NPR, [“Doctors are among the many dead in Gaza. These are their stories”](#), 16 November 2023.

¹⁴⁴ UN News, [“WHO’s Executive Board adopts resolution on access for life-saving aid into Gaza and respect for laws of war”](#), 10 December 2023.

¹⁴⁵ WHO, [“WHO calls for protection of humanitarian space in Gaza following serious incidents in high-risk mission to transfer patients, deliver health supplies”](#), 12 December 2023.

¹⁴⁶ The Independent, [“Israel’s onslaught on Gaza leading to ‘carnage’ as health system disintegrates, WHO warns”](#), 26 December 2023.

¹⁴⁷ Human Rights Watch, [“Gaza: Unlawful Israeli Hospital Strikes Worsen Health Crisis”](#), 14 November 2023.

¹⁴⁸ Human Rights Watch, [“Gaza: Unlawful Israeli Hospital Strikes Worsen Health Crisis”](#), 14 November 2023.

¹⁴⁹ UN Office for the Coordination of Humanitarian Affairs (UN OCHA), [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

¹⁵⁰ UN Office for the Coordination of Humanitarian Affairs (UN OCHA), [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

¹⁵¹ New York Times, [“U.N. Says Israel-Gaza War Is Deadliest Ever for Its Personnel”](#), 6 November 2023.

¹⁵² [Rome Statute](#), Art 8(2)(b)(iii).

iv) *Executions and other wilful killings*

- [41] Wilful killing and summary executions of protected persons constitute serious violations of IHL and IHRL, and may amount to war crimes and crimes against humanity.¹⁵³ Since the Israeli ground invasion of Gaza began on 27 October 2023, there have been numerous documented reports of IDF soldiers shooting or executing civilians and other protected persons. For example, on 17 December 2023, two Christian Palestinian women were shot dead by IDF snipers inside the Holy Family Parish church compound in Gaza. The killings were condemned by the Pope. It was reported by the Latin Patriarchate of Jerusalem that “[t]hey were shot in cold blood inside the premises of the parish, where there are no belligerents.”¹⁵⁴
- [42] On 20 December 2023, the UN Office of the High Commissioner on Human Rights reported that it received allegations that IDF soldiers summarily killed at least 11 unarmed Palestinian men in front of their family members in the Al Remal neighbourhood in Gaza on 19 December 2023.¹⁵⁵ Human rights groups and Al Jazeera later received footage and witness accounts of the executions, alleging that 19 men were killed by Israeli forces.¹⁵⁶
- [43] This report followed earlier allegations of deliberate killings of civilians by the IDF.¹⁵⁷ Muhammad Shehada, of the Euro-Mediterranean Human Rights Monitor in Copenhagen, reported that his organisation believes there is a pattern of “systematic” killing taking place in Gaza.¹⁵⁸ This pattern was further exemplified on 15 December 2023 when an IDF soldier killed three Israeli hostages after they revealed themselves shirtless and waving a white flag to show that they posed no threat. Roy Yellen of Israeli human rights organization B’Tselem commented that “[i]t’s heartbreaking but it’s not surprising ... We have documented over the years countless incidents of people who clearly surrendered and who were still shot.”¹⁵⁹
- [44] One example of a Palestinian being shot by an Israeli sniper despite waving a white flag was caught on camera by the British broadcaster ITV news.¹⁶⁰ On 23 January 2024, a group of five men were walking slowly in Khan Younis - a designated safe zone - with their hands up and with one of them waving a white flag. The ITV journalist went to interview them and Ramzi Abu Sahloul explained that they were trying to reach his mother and brother to escort them out of harm’s way. He said: “Nowhere is safe in Gaza. Everywhere you find the Israeli Army. They shoot at us at home, in any building and

¹⁵³ [Fourth Geneva Convention](#), Art 147; See also [ICC, Elements of Crimes \(2002\)](#), Arts 8(2)(a)(i) and 8(2)(c)(i).

¹⁵⁴ CNN, “[Pope speaks out after IDF sniper kills two women inside Gaza church, per Catholic authorities](#)”, 18 December 2023.

¹⁵⁵ UN OHCHR OPT, News Release, “[Unlawful killings in Gaza City](#)”, 20 December 2023.

¹⁵⁶ Al Jazeera, “[Palestinians accuse Israeli forces of executing 19 civilians in Gaza](#)”, 20 January 2024.

¹⁵⁷ UN OHCHR OPT, News Release, “[Unlawful killings in Gaza City](#)”, 20 December 2023.

¹⁵⁸ Al Jazeera, “[Palestinians accuse Israeli forces of executing 19 civilians in Gaza](#)”, 20 January 2024.

¹⁵⁹ Associated Press, “[In Israel’s killing of 3 hostages, some see the same excessive force directed at Palestinians](#)”, 18 December 2023.

¹⁶⁰ ITV News, “[ITV News witnesses man in group waving white flag shot dead in Gaza](#)”, 23 January 2024.

in the street.”¹⁶¹ Moments after the interview, a sniper shot him in the chest and he died. While the video footage captured by ITV news sparked outrage,¹⁶² it was nothing new in Gaza.

[45] On 12 November 2023, an Israeli sniper shot dead a Palestinian woman who was holding hands with her grandson and he was waving a white flag.¹⁶³ They were with a group of people trying to flee from al-Rimal neighbourhood to a so-called “safe zone” in the south.¹⁶⁴ She instantly fell to the ground, leaving her four-year-old grandson running for cover and ending up separated from his parents.¹⁶⁵ Due to the lack of safety in the region, he still has not been able to reunite with his parents.¹⁶⁶

[46] On 24 January 2024, two brothers were killed in Khan Younis by an Israeli sniper in front of their parents and other family members.¹⁶⁷ The youngest was 14 years old and he was holding a white flag.¹⁶⁸ He was reportedly shot three times.¹⁶⁹ His 20-year-old brother rushed to rescue him and he was also fatally shot by Israeli forces. The boy was leading members of his family who were trying to evacuate after receiving orders from the Israeli army to head towards Al-Mawasi.¹⁷⁰ Euro-Mediterranean Human Rights Monitor documented the incident and issued the following statement: “The Israeli army forces continue to intentionally target civilians and carry out premeditated murders and arbitrary extrajudicial executions, along with their massive attack in the west of Khan Yunis, south of the Gaza Strip, and as part of their ongoing genocide.”¹⁷¹

[47] Direct attacks on civilians, including journalists, who are not taking direct part in hostilities constitute a grave breach of the Geneva Conventions and Additional Protocol I, and also amount to war crimes under the ICC Rome Statute.¹⁷² According to the Committee to Protect Journalists (CPJ), the “Israel-Gaza war is the most dangerous situation for journalists we have ever seen”. The CPJ expressed particular concern about a pattern of targeting journalists and their families by the Israeli military, giving as examples a case where a journalist was killed while clearly wearing press insignia in a

¹⁶¹ ITV News, “[Moment innocent civilian brandishing white flag in Gaza 'safe zone' is shot dead in the street](#)”, 25 January 2024.

¹⁶² ITV News, “[‘It’s a war crime’: ITV News' Gaza clip sparks outrage from charities, US officials and Westminster](#)”, 25 January 2024.

¹⁶³ CNN, “[She was fleeing with her grandson, who was holding a white flag. Then she was shot](#)”, 26 January 2024.

¹⁶⁴ Middle East Eye, “[Exclusive: Gaza grandmother gunned down by Israeli sniper as child waved white flag](#)”, 10 January 2024.

¹⁶⁵ CNN, “[She was fleeing with her grandson, who was holding a white flag. Then she was shot](#)”, 26 January 2024; Middle East Eye, “[Exclusive: Gaza grandmother gunned down by Israeli sniper as child waved white flag](#)”, 10 January 2024.

¹⁶⁶ CNN, “[She was fleeing with her grandson, who was holding a white flag. Then she was shot](#)”, 26 January 2024.

¹⁶⁷ Middle East Eye, “[Rights monitor denounces Israeli execution of two brothers in Khan Younis](#)”, 26 January 2024.

¹⁶⁸ Middle East Eye, “[Rights monitor denounces Israeli execution of two brothers in Khan Younis](#)”, 26 January 2024.

¹⁶⁹ UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #103](#)”, 26 January 2024.

¹⁷⁰ Middle East Eye, “[Rights monitor denounces Israeli execution of two brothers in Khan Younis](#)”, 26 January 2024.

¹⁷¹ Middle East Eye, “[Rights monitor denounces Israeli execution of two brothers in Khan Younis](#)”, 26 January 2024.

¹⁷² [Additional Protocol I](#), Article 48, 51(2) and 52(1); [Rome Statute](#), Art 8(2)(b).

location where no fighting was taking place and at least two other cases where journalists reported receiving threats from Israeli officials and IDF officers before their family members were killed.¹⁷³ As of 26 January 2024, a total of 119 journalists have been killed in Gaza.¹⁷⁴

v) *Intentionally directing attacks against civilian objects and prohibited destruction of property*

[48] Under IHL, any destruction of real or personal property belonging individually or collectively to private persons, the State, other public authorities, or social or cooperative organizations is prohibited where not justified by military necessity and carried out unlawfully and wantonly.¹⁷⁵ Similarly, it is prohibited to commit any acts of hostility directed against historic monuments, works of art or places of worship that constitute the cultural or spiritual heritage of peoples.¹⁷⁶ When intentionally directed, these acts of destruction constitute war crimes under the Rome Statute.¹⁷⁷

[49] According to a journalistic investigation, Israel is bombing so-called “power targets,” defined as “private residences as well as public buildings, infrastructure, and high-rise blocks,” actions “mainly intended to harm Palestinian civil society” and to “create a shock.”¹⁷⁸ By 12 December 2023, the war had damaged or destroyed 77% of health facilities, 72% of municipal services such as parks, courts and libraries, 68% of telecommunications infrastructure and 76% of commercial sites, including the almost complete destruction of the industrial zone in the north. More than half of all roads had been damaged or destroyed.¹⁷⁹ Israel’s extensive targeting of civilian objects, including educational, historic, cultural and religious facilities, read together with the documentation of the goal of this targeting being to impact civilian morale, is clear evidence of war crimes. This targeting, clearly evidenced below, goes directly against article 53 of the Fourth Geneva Convention and article 8 of the Rome Statute.

Civilian property

[50] On 4 December 2023, Human Rights Watch found, through satellite imagery, that Israel has razed orchards, farmland and greenhouses in northern Gaza, compounding concerns of dire food insecurity and loss of livelihood.¹⁸⁰

[51] As of 26 January 2024, over 60% of the housing in Gaza has been damaged or destroyed.¹⁸¹ This amounts to over 70,000 housing units being destroyed, and over 290,000 housing units being

¹⁷³ Committee to Protect Journalists, “[Israel-Gaza war takes record toll on journalists](#)”, 21 December 2023.

¹⁷⁴ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

¹⁷⁵ [Fourth Geneva Convention](#), Art 53; [Rome Statute](#), Art 8(2)(a)(iv).

¹⁷⁶ [Additional Protocol I](#), Art 53.

¹⁷⁷ [Rome Statute](#), Arts 8(2)(a)(iv) and 8(2)(b)(ii).

¹⁷⁸ +972 Magazine, “[A mass assassination factory: inside Israel’s calculated bombing of Gaza](#)”, 30 November 2023.

¹⁷⁹ Wall Street Journal, “[The Ruined Landscape of Gaza After Nearly Three Months of Bombing](#)”, 30 December 2023.

¹⁸⁰ Human Rights Watch on X, “[NEW: Satellite imagery reviewed by HRW shows that orchards, greenhouses and farmland in northern Gaza have been razed since the beginning of Israel’s ground invasion, compounding concerns of dire food insecurity and loss of livelihood](#)”, 4 December 2023.

¹⁸¹ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

damaged.¹⁸² Findings through the use of satellite imagery showed 47% to 59% damage between 7 October and 22 November 2023 in northern Gaza, 47-58% damage in Gaza City, 11-16% in Deir al-Balah, 10-15% in Khan Younis and 7-11% in Rafah, the area closest to the border with Egypt.¹⁸³ By mid-December, Israel had dropped 29,000 bombs, munitions and shells on the strip. Israeli forces have also blown up at least 56 residential buildings in a single neighbourhood, which a senior Israeli officer recorded as “Shujaiya neighbourhood gone”.¹⁸⁴

Places of education

- [52] As of 26 January 2024, at least 378 education facilities had been destroyed or partially destroyed by Israeli forces.¹⁸⁵ Israel has targeted every one of Gaza’s four universities, including the Islamic University of Gaza, the first higher education institution in the Gaza Strip.¹⁸⁶ On 17 January 2024, Al-Israa University campus was destroyed in a controlled explosion, giving rise to the inference that there was no concrete and direct military advantage anticipated.¹⁸⁷

Places of Worship

- [53] As of 26 January 2024, Israel has damaged at least 161 mosques and 3 churches.¹⁸⁸ Some sources estimate that the destruction has affected about 318 religious sites.¹⁸⁹ On 8 December 2023, the Israeli army bombed the Grand Omari Mosque, Gaza’s largest and oldest mosque¹⁹⁰, originally a fifth-century Byzantine church, a landmark of Gaza’s history, architecture and cultural heritage, and a place of worship. Israeli shelling has also damaged the Church of Saint Porphyrius, founded in 425 AD and

¹⁸² UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

¹⁸³ The Guardian, “[Widespread destruction in Gaza puts concept of ‘domicide’ in focus](#)”, 7 December 2023.

¹⁸⁴ The New Arab, “[Israeli forces blow up dozens of residential buildings in Gaza’s Shujaiya neighborhood](#)”, 21 December 2023.

¹⁸⁵ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024. *See also* The Guardian, “[Widespread destruction in Gaza puts concept of ‘domicide’ in focus](#)”, 7 December 2023; The New Arab, “[‘Destroying justice and law’: Israel demolishes main Gaza courthouse and dozens of government buildings](#)”, 5 December 2023.

¹⁸⁶ Los Angeles Times, “[Opinion: When libraries like Gaza’s are destroyed, what’s lost is far more than books](#)”, 12 December 2023; The New Arab, “[‘Destroying justice and law’: Israel demolishes main Gaza courthouse and dozens of government buildings](#)”, 5 December 2023.

¹⁸⁷ Middle East Monitor, “[Israel blows up another university in Gaza](#)”, 18 January 2024; Al Jazeera, “[Journalist questions bombing of Gaza university](#)”, 19 January 2024; Birzeit University on X, “[Birzeit University condemns the brutal assault and bombing of @Al-Israa University campus by the Israeli occupation south of #Gaza city, this occurred after seventy days of the occupation occupying the campus; turning it into their base , and military barracks for their forces](#)”, 18 January 2024.

¹⁸⁸ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024..

¹⁸⁹ Made up of 115 mosques completely destroyed, 200 mosques partially destroyed and 3 churches targeted. [South African Application](#) at para 92; Palestine Red Crescent Society, “[Palestine Red Crescent Society Response Report As of Saturday, October 7th 2023, 6:00 PM Until Sunday, December 24th 2023, 24:00 AM](#)”, 24 December 2023.

¹⁹⁰ Al Jazeera, “[A ‘cultural genocide’: Which of Gaza’s heritage sites have been destroyed?](#)”, 14 January 2024; Louis Fishman on X, “[In addition to the severe humanitarian crisis, the mass death of civilians now comes the destruction of historical sites. This was a Mamluk mosque built on the site of other previous mosques and a Church, an architectural historic gem. Now in ruins.](#)” 8 December 2023.

believed to be the third oldest church in the world — alongside two other churches that have sustained direct Israeli fire.¹⁹¹

Historic monuments, cultural and public buildings and works of art

- [54] Sites of historical, cultural and public importance have also been destroyed or damaged by Israeli forces,¹⁹² including the Gaza Justice Palace and the Palestinian Legislative Council complex.¹⁹³
- [55] Israel has targeted Gaza City’s Central Archive building, containing thousands of historical documents and national records dating back over 100 years, and forming an essential archive of Palestinian history and contemporary life.¹⁹⁴ Israel has left Gaza City’s main public library in ruins¹⁹⁵ and has damaged or destroyed countless bookshops, publishing houses and libraries.¹⁹⁶ Israeli forces have also targeted and destroyed cultural symbols and works of art, including at least two prominent statues in the West Bank, in Tulkarem and Jenin respectively.¹⁹⁷

vi) *Mass displacement of the civilian population*

- [56] The unlawful deportation or transfer of civilians constitutes a grave breach of IHL, as well as a war crime and crime against humanity under the Rome Statute.¹⁹⁸ An exception to this prohibition of displacement is the transfer of civilians for their own security or when there are imperative military reasons.¹⁹⁹ Importantly, in order for the evacuations to be lawful, all possible measures must be taken to ensure that the civilians being transferred have proper accommodation, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that family members are not separated.²⁰⁰

¹⁹¹ Business Insider, “[Photos show Gaza's Church of Saint Porphyrius, one of the oldest churches in the world, after the complex was damaged by Israeli airstrikes](#)”, 24 October 2023.

¹⁹² Al Jazeera, “[A ‘cultural genocide’: Which of Gaza’s heritage sites have been destroyed?’](#)”, 14 January 2024.

¹⁹³ The Guardian, “[Widespread destruction in Gaza puts concept of ‘domicide’ in focus](#)”, 7 December 2023; The New Arab, “[‘Destroying justice and law’: Israel demolishes main Gaza courthouse and dozens of government buildings](#)”, 5 December 2023.

¹⁹⁴ International Council on Archives, “[Statement of the International Council on Archives on the Destruction of the Central Archives of the Municipality of Gaza](#)”, 13 December 2023.

¹⁹⁵ The Washington Post, “[Gazans mourn loss of their libraries: Cultural beacons and communal spaces](#)”, 1 December 2023.

¹⁹⁶ Los Angeles Times, “[Opinion: When libraries like Gaza’s are destroyed, what’s lost is far more than books](#)”, 12 December 2023.

¹⁹⁷ The Times of Israel, “[IDF bulldozes monuments for Yasser Arafat in West Bank’s Tulkarem refugee camp](#)”, 14 November 2023; The Independent, “[The Palestinian women battling to preserve their culture amid deadly attacks in West Bank](#)”, 9 December 2023; Hyperallergic, “[Israeli Forces Remove West Bank Sculpture Commemorating 2002 Massacre](#)”, 1 November 2023.

¹⁹⁸ [Fourth Geneva Convention](#), Art 147. See also [Additional Protocol I](#), Art 85(4)(a); ICRC, Customary International Humanitarian Law, Rule 129; [Rome Statute](#), Art 8(2)(b)(viii).

¹⁹⁹ [Fourth Geneva Convention](#), Art 49, second paragraph; [Additional Protocol II](#), Art 17(1).

²⁰⁰ [Fourth Geneva Convention](#), Art 49, third paragraph.

[57] Israel's evacuation orders are not conducted in accordance with IHL and the corresponding displacements are therefore unlawful. First, as has been seen, there is nowhere in Gaza that is safe.²⁰¹ Israel cannot claim that the transfer of civilians is for their own security when it continuously attacks the very places it designates as safe zones.²⁰² Israel has also launched airstrikes killing civilians travelling along the roads it had designated as "safe routes".²⁰³ For the civilians who make it to the designated areas alive and survive the bombings, there is a shortage of food, water, health and conditions of hygiene.²⁰⁴ Sending civilians to a zone that is not equipped with the basic necessities for their survival and subsistence cannot be considered as protecting civilians, especially when the state ordering the evacuations is also preventing the aid from being provided.²⁰⁵ As noted by Human Rights Watch, "alerting civilians to flee, when there's no safe place to go and no way to get there safely, neither suffices nor actually protects them."²⁰⁶

[58] By way of example, Maghazi is Gaza's smallest refugee camp and ordinarily houses 30,000 people. This number had increased to approximately 100,000 people by the end of December 2023, due to the forced internal displacement of Palestinians fleeing relentless bombardment in other parts of Gaza.²⁰⁷ As noted earlier, Maghazi refugee camp was bombed several times, with the biggest attack occurring on 25 December 2023.²⁰⁸ The only bakery in the camp was destroyed by Israeli air raids on 26 October 2023. The camp has no water and the water wells are inoperational due to Israel's blockade on fuel. There is mounting waste, spread of diseases such as smallpox and scabies, and the prospect of starvation.²⁰⁹

[59] Israel's evacuation orders are also often impossible to comply with, and the manner in which these orders are carried out may give rise to the inference of an intent to cause terror among the civilian

²⁰¹ Al Jazeera, "[Israel asks Palestinians to evacuate, but is any place safe in Gaza?](#)", 4 December 2023.

²⁰² New York Times, "[Visual Evidence Shows Israel Dropped 2,000-Pound Bombs Where It Ordered Gaza's Civilians to Move for Safety](#)", 22 December 2023; Save the Children, "[No Safe Place in Gaza: 14 Killed, Mostly Children, by Israeli Airstrikes](#)", 4 January 2024; CNN, "[Israel struck some areas it directed civilians to in Gaza, CNN analysis shows](#)", 21 December 2023; Reuters, "[Israel orders Gazans to flee, bombs where it sends them](#)", 4 December 2023.

²⁰³ NYT, "[Thousands flee Northern Gaza as Israeli evacuation order stirs panic](#)", 13 October 2023; The Guardian, "[Gaza civilians afraid to leave home after bombing of 'safe routes'](#)", 15 October 2023.

²⁰⁴ Doctors Without Borders, "[No safe place for Gaza's displaced](#)", 18 December 2022; Save the Children, "[Deaths by starvation and disease may top deaths by bombs as families squeezed into deadly 'safe zones' two months into Gaza crisis](#)", 9 December 2023; UN News, "[Gaza: Nowhere to go, as humanitarian crisis reaches 'dangerous new low'](#)", 13 October 2023. The Guardian, "[WHO says 'almost impossible' to bring humanitarian aid to people in Gaza](#)", 2 November 2023.

²⁰⁵ US News, "[Aid Groups Scramble to Help as Israel-Hamas War Intensifies and Gaza Blockade Complicates Efforts](#)", 10 October 2023; The Guardian, "[WHO says 'almost impossible' to bring aid into Gaza](#)", 2 November 2023; Voice of America, "[WHO: Lifesaving Aid Not Reaching Millions of People Caught in Health Emergencies](#)", 11 January 2024;

²⁰⁶ Human Rights Watch, "[Why Israel's Gaza Evacuation Order is So Alarming](#)", 16 October 2023.

²⁰⁷ Al Jazeera, "[Piles of body parts': Gaza's Maghazi residents find families 'in pieces'](#)", 28 December 2023; Al Jazeera, "[We are facing a disaster', Mayor of Gaza's Maghazi camp warns](#)", 9 November 2023.

²⁰⁸ Al Jazeera, "[Massacre' as Israel steps up Gaza bombardment for Christmas](#)", 25 December 2023.

²⁰⁹ Al Jazeera, "[We are facing a disaster', Mayor of Gaza's Maghazi camp warns](#)", 9 November 2023.

population.²¹⁰ On 13 October 2023, Israel ordered the evacuation of more than one million Palestinians from the northern Gaza Strip, giving them a mere 24 hours notice.²¹¹ The UN and Amnesty International called on Israel to rescind this “impossible” ultimatum.²¹² Even an Israeli army spokesperson admitted that the order could not be implemented in one day.²¹³

- [60] A similar impossible choice was offered by Israel’s repeated evacuation orders directed at 22 hospitals treating more than 2,000 patients in northern Gaza, including critically ill patients, newborns in incubators and women with pregnancy complications. The WHO had warned in October 2023 that the forced displacement of patients and health workers would only further worsen the humanitarian and public health catastrophe in Gaza.²¹⁴ The International Committee of the Red Cross (ICRC), which only issues public statements in cases where violations are major and repeated, stated that the evacuation orders issued by Israel are not compatible with international law.²¹⁵ By 26 January 2024, more than 75% of Gaza’s 2.3 million people were internally displaced,²¹⁶ with many having had to flee three or four times.²¹⁷
- [61] Finally, under IHL evacuations must be temporary. Article 49 of the Fourth Geneva Convention states that persons evacuated “shall be transferred back to their homes as soon as hostilities in the area in question have ceased.”²¹⁸ Israel is rendering the right of return practically impossible in Gaza.²¹⁹ At least 500,000 displaced Palestinians have no home to return to.²²⁰ Israel’s attacks have rendered over 70,000 residential units uninhabitable and damaged another 290,000 residences.²²¹ The degree of destruction in Gaza surpasses that of the razing of Syria’s Aleppo between 2012 and 2016, Ukraine’s

²¹⁰ [Additional Protocol I](#), Art 52(1). See The Guardian, “[Israeli grid maps make life in Gaza ‘macabre game of Battleships’, say aid workers](#)”, 2 December 2023.

²¹¹ Washington Post, “[Israel orders 1 million Gazans to evacuate; U.N. says that’s impossible](#)”, 13 October 2023; Amnesty International, “[Israel/OPT: Israel must immediately rescind its ‘impossible’ ultimatum over northern Gaza](#)”, 13 October 2023. See also OCHA “[Hostilities in the Gaza Strip and Israel Flash Update #100](#)”, 24 January 2024: *On 23 January, the Israeli military issued new evacuation orders via social media...to an estimated 425,000 internally displaced people seeking shelter in 24 schools and other institutions. The affected area includes Nasser Hospital (475 bed capacity), Al Amal Hospital (100 beds) and the Jordanian Hospital (50 beds), representing almost 20 per cent of the remaining partially functioning hospitals across the Gaza Strip.*

²¹² Washington Post, “[Israel orders 1 million Gazans to evacuate; U.N. says that’s impossible](#)”, 13 October 2023; Amnesty International, “[Israel/OPT: Israel must immediately rescind its ‘impossible’ ultimatum over northern Gaza](#)”, 13 October 2023.

²¹³ Amnesty International, “[Israel/OPT: Israel must immediately rescind its ‘impossible’ ultimatum over northern Gaza](#)”, 13 October 2023.

²¹⁴ WHO, “[Evacuation orders by Israel to hospitals in northern Gaza are a death sentence for the sick and injured](#)”, 14 October 2023.

²¹⁵ ICRC, “[Israel and the occupied territories: Evacuation order of Gaza triggers catastrophic humanitarian consequences](#)”, 13 October 2023.

²¹⁶ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

²¹⁷ Al Jazeera, “[Tens of thousands forced to flee again as Israel expands Gaza offensive](#)”, 29 December 2023.

²¹⁸ [Fourth Geneva Convention](#), Art 49.

²¹⁹ Al Jazeera, “[‘The war is not over’: Israel blocks Palestinians’ return to northern Gaza](#)”, 24 November 2023.

²²⁰ The Guardian, “[The numbers that reveal the extent of the destruction in Gaza](#)”, 8 January 2024; UN OCHA, “[Hostilities in the Gaza Strip and Israel | Flash Update #84](#)”, 5 January 2024.

²²¹ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.

Mariupol or, proportionally, the Allied bombing of Germany in World War II.²²² Even in cases where a Palestinian family's home has not been destroyed or severely damaged, the lack of surrounding infrastructure likely renders the area uninhabitable. As noted earlier, the majority of hospitals in Gaza have been rendered inoperable.²²³ Gaza's education system has also been severely compromised, with 90% of all school buildings having sustained significant damage and 100% of Gaza's 625,000 students having no access to education.²²⁴

vii) *Ethnic cleansing*

- [62] As noted above, despite Israel's claims of displacing Palestinians for their own safety, it has offered them no security, as required by IHL. The question then arises whether the civilian population is being displaced for another reason. Ethnic cleansing has been defined as an attempt to change the demographic composition of a territory. This can be achieved through a combination of prohibited acts, including the deportation of the civilian population, attacks against civilians, murder, extermination and imprisonment.²²⁵
- [63] As early as 14 October 2023, the UN Special Rapporteur on the situation of human rights in the OPT warned that Palestinians are in grave danger of mass ethnic cleansing.²²⁶ A leaked Israeli government document, dated 13 October 2023, recommends that Gaza's 2.3 million people should be evacuated to Egypt's Sinai Peninsula. The document was prepared by an Israeli government research agency and, once revealed, Israel stated that it was a "concept paper" and not policy. Nonetheless, it has fueled fears that the government's overall objective is the ethnic cleansing of Palestinians.²²⁷ Any forcible deportation, transfer or evacuation of Palestinians, to Egypt or elsewhere, would be a war crime.²²⁸
- [64] Israeli human rights activist Ofer Neiman has warned that the forced displacement of Palestinians from the north to the south of the Gaza Strip is the "first step of ethnic cleansing", with the second step consisting of deporting Palestinians to the Sinai Peninsula in Egypt.²²⁹ While calls for the ethnic cleansing of Palestinians in Gaza are getting louder within Israel,²³⁰ the UN and human rights groups

²²² Associated Press, "[Israel's military campaign in Gaza seen as among the most destructive in recent history, experts say](#)", 11 January 2024.

²²³ The Guardian, "[The numbers that reveal the extent of the destruction in Gaza](#)", 8 January 2024; Human Rights Watch, "[Most of Gaza's Population Remains Displaced and in Harm's Way](#)", 20 December 2023.

²²⁴ UN OCHA, [Hostilities in the Gaza Strip - Reported Impact](#), 26 January 2024.; Associated Press, "[Israel's military campaign in Gaza seen as among the most destructive in recent history, experts say](#)", 11 January 2024; Human Rights Watch, "[Most of Gaza's Population Remains Displaced and in Harm's Way](#)", 20 December 2023.

²²⁵ [ICRC, Customary International Humanitarian Law](#), Rule 129; UN Office on Genocide Prevention and the Responsibility to Protect, "[Ethnic Cleansing](#)".

²²⁶ UN OHCHR, "[UN expert warns of new instance of mass ethnic cleansing of Palestinians, calls for immediate ceasefire](#)", 14 October 2023.

²²⁷ CBC, "[Leaked document fuels concern Israel plans to push Palestinians from Gaza into Egypt](#)", 1 November 2023; +972 Magazine, "[Expel all Palestinians from Gaza, recommends Israeli gov't ministry](#)", 30 October 2023.

²²⁸ [Fourth Geneva Convention](#), Art 49; [Rome Statute](#), Art 8(2)(b)(viii).

²²⁹ Anadolu (AA), "[Displacement of Gazans 1st step in 'ethnic cleansing': Israeli activist](#)", 11 December 2023.

²³⁰ Washington Post, "[Israeli calls for Gaza's ethnic cleansing are only getting louder](#)", 5 January 2024; Al Jazeera, "[Biden under pressure to act amid new fears of 'ethnic cleansing' in Gaza](#)", 2 January 2024.

have warned that the war crime of forced displacement could lead to ethnic cleansing.²³¹ Even the United States has rejected any Israeli plans for the forced displacement of Palestinians.²³²

- [65] Dr. Ghassan Abu-Sittah is an award-winning surgeon who worked in Gaza during the current hostilities, at both the al-Shifa and al-Ahli Baptist hospitals.²³³ He is also a member of Scholars Against the War on Palestine.²³⁴ He believes that the repeated forced displacement of Gazans is part of a larger ethnic cleansing plan:

In order to create a self-sustaining catastrophe, you dismantle those parts of life that make life manageable in a place like Gaza. And so you go after the water desalination plants, you dismantle the sewage system, you destroy over 200 schools, you carpet bomb the universities, and you go after the bakeries. And you then destroy the health system while wounding 40,000. And so once the war is over, there are epidemics, there is infectious disease, and people sit and watch their wounded loved ones die in front of their eyes so that they voluntarily leave Gaza. And the war continues, after the bullets and bombs stop, in fulfilling its objective: which is to empty Gaza of its inhabitants.²³⁵

- [66] Dr. Abu-Sittah's analysis of what is happening in Gaza is supported by the statement from Israeli Heritage Minister Amichai Eliyahu that Israel "must find ways for Gazans that are more painful than death".²³⁶ Eliyahu argued for breaking the morale of Palestinians and causing them pain, through destroying homes, breaking their national dream and displacement, so they would "be left with no option but to immigrate to other countries".²³⁷
- [67] The conditions Israel has imposed on Gaza have had haunting effects even on those who were in the region for a short time. Canadian surgeon Yasser Khan worked in Gaza for seven days, tending to children whose eyes were shattered in bomb blasts. He saw "unprecedented" suffering and had to remove ten eyeballs during his time there, including from children as young as two.²³⁸ Dr. Seema Jilani, an American doctor who has been to numerous conflict zones, worked in Gaza for two weeks with the International Rescue Committee. She said: "I've seen a lot, and I never compare conflicts, but that's got to be the most nightmarish thing I've ever seen. And the most, one of the most, inhumane and cruel things I'll ever see."²³⁹ Deborah Harrington, an obstetrician who worked with the British charity Medical Aid for Palestinians said: "I can't get out of my mind – a child came in alive, literally

²³¹ Reuters, "[UN aid chief calls anew for Gaza ceasefire, urges UN action to end war](#)", 12 January 2024; Al Haq *et al*, "[Urgent action is needed to stop the forced displacement and transfer of Palestinians within Gaza and prevent mass deportation to Egypt](#)", 27 November 2023.

²³² Sarajevo Times, "[Jordan and the US reject the forced Displacement of Gaza Residents](#)", 7 January 2024.

²³³ Al Jazeera, "[A genocidal war': Surgeon says Israel strategically destroying Gaza health](#)", 20 November 2023.

²³⁴ [Scholars Against the War on Palestine](#).

²³⁵ Al Jazeera, Center Stage interview with Dr. Ghassan Abu Sitta, "[It's a war on children](#)" 16 December 2023 at 9:37.

²³⁶ PressTV, "[Israeli minister calls for 'more painful ways than death' for Palestinians](#)", 6 January 2024.

²³⁷ PressTV, "[Israeli minister calls for 'more painful ways than death' for Palestinians](#)", 6 January 2024.

²³⁸ CBC, "[In a Gaza hospital, a Canadian surgeon tended to children whose eyes were shattered in bomb blasts](#)", 16 January 2024.

²³⁹ NPR, "[This American is one of the few allowed into Gaza. This is the horror she saw](#)", 11 January 2024.

burnt to the bone [...]. Their face was just charcoal, and they were alive and talking. And we had no morphine. I won't be able to wipe that memory.”²⁴⁰

- [68] Acts of ethnic cleansing are often carried out in line with an intention to eradicate a particular ethnic group and create an ethnically homogenous state.²⁴¹ In that respect, ethnic cleansing can be a stepping stone to committing genocide.

viii) *Genocide*

- [69] There is a substantial risk that genocide is currently taking place against the Palestinian population in Gaza that triggers Canada's obligations to prevent genocide under the Genocide Convention. On 15 October 2023, experts and more than 800 international law and genocide scholars characterized Israel's military assault as giving rise to “a serious risk of genocide being committed in the Gaza Strip”.²⁴² Joining the growing consensus on this issue is Canadian academic William Schabas, widely recognized as one of the world's leading legal authorities on genocide, who has since provided a legal opinion on this question in the context of litigation in the United States alleging that US officials have breached their duty to act to prevent genocide.²⁴³ Hundreds of civil society organizations and several states have characterized Israel's assault on Gaza as giving rise to a serious risk of, or amounting to an unfolding, genocide.²⁴⁴ South Africa has filed an application instituting proceedings against Israel before the ICJ alleging that Israel is engaging in genocidal acts in Gaza.

- [70] In a near-unanimous decision on 26 January 2024, the ICJ found that the facts and circumstances laid out by South Africa are sufficient to conclude that genocidal acts being carried out against the Palestinian population of Gaza are plausible.²⁴⁵ In its Order, the Court relied on statements of Israeli officials that could plausibly be read as implying the specific requisite intent to commit genocide.²⁴⁶

- [71] Acts that may qualify as genocide, when performed with the requisite special intent, include killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or

²⁴⁰ BBC, “[‘Deep concern’ for patients and staff at Gaza's al-Aqsa hospital](#)”, 11 January 2024.

²⁴¹ See Global Studies Quarterly, “[In the Shadow of Genocide: Ethnocide, Ethnic Cleansing, and International Order](#)”, Volume 1, Issue 4, December 2021; The Wiener Holocaust Library, “[The Stages of Genocide](#)”.

²⁴² Third World Approaches to International Law (TWAIL) Review, “[Public Statement: Scholars Warn of Potential Genocide in Gaza](#)”, 15 October 2023.

²⁴³ *Defense for Children International – Palestine et al v. Biden et al.*, US District Court for N.D. Cal., Case No. 23-cv-05829, [Declaration of William A. Schabas](#), 9 November 2023.

²⁴⁴ *Opinio Juris*, “[Public Statement: Scholars Warn of Potential Genocide in Gaza](#)”, 15 October 2023; International Commission of Jurists, “[Gaza/Palestine: States have a Duty to Prevent Genocide](#)”, 17 November 2023; International Centre of Justice for Palestinians, “[Foreign Office notified of ‘serious risk of genocide’ in Gaza by International Centre of Justice for Palestinians](#)”, 22 November, 2023; Euro-Med Monitor, “[Euro-Med Monitor to UN: Recognise Israel's actions in Gaza as genocide](#)”, 22 November 2023; “[Statement of Scholars in Holocaust and Genocide Studies on Mass Violence in Israel and Palestine since 7 October](#)”, 9 December 2023.

²⁴⁵ [Provisional Measures Order](#) at paras 54-55.

²⁴⁶ [Provisional Measures Order](#) at paras 51-53.

in part, and imposing measures intended to prevent births within the group.²⁴⁷ In its ICJ application,²⁴⁸ South Africa relies on several of the reports cited throughout this Schedule to claim that Israel is:

(1) **killing Palestinians in Gaza**, including a large proportion of women and children — estimated to account for around 70 per cent of the more than 21,110 fatalities — some of whom appear to have been summarily executed;²⁴⁹

(2) **causing serious mental and bodily harm to Palestinians in Gaza**, including through maiming, psychological trauma, and inhuman and degrading treatment;²⁵⁰

(3) **causing the forced evacuation and displacement of around 85 per cent of Palestinians in Gaza** — including children, the elderly and infirm, and the sick and wounded — as well as causing the large scale destruction of Palestinian homes, villages, refugee camps, towns and entire areas in Gaza, precluding the return of a significant proportion of the Palestinian people to their homes;²⁵¹

(4) **causing widespread hunger, dehydration and starvation to besieged Palestinians in Gaza**, through the impeding of sufficient humanitarian assistance, the cutting off of sufficient water, food, fuel and electricity, and the destruction of bakeries, mills, agricultural lands and other methods of production and sustenance;²⁵²

(5) **failing to provide and restricting the provision of adequate shelter, clothes, hygiene or sanitation to Palestinians in Gaza**, including the 1.9 million internally displaced people, compelled by Israel's actions to live in dangerous situations of squalor, alongside the routine targeting and destruction of places of shelter and the killing and wounding of those sheltering, including women, children, the disabled and the elderly;²⁵³

(6) **failing to provide for or to ensure the provision for the medical needs of Palestinians in Gaza**, including those medical needs created by other genocidal acts causing serious bodily harm, including through directly attacking Palestinian hospitals, ambulances and other healthcare facilities in Gaza, killing Palestinian doctors, medics and nurses, including the most qualified medics in Gaza, and destroying and disabling Gaza's medical system;²⁵⁴

(7) **destroying Palestinian life in Gaza**, through the destruction of Gaza's universities, schools, courts, public buildings, public records, stores, libraries, churches, mosques, roads, infrastructure, utilities and other facilities necessary to the sustained life of Palestinians in Gaza as a group, alongside the killing of entire family groups — erasing entire oral histories in Gaza — and the killing of prominent and distinguished members of society;²⁵⁵

²⁴⁷ [Genocide Convention](#), Art 2.

²⁴⁸ [South African Application](#) at para 114.

²⁴⁹ [South African Application](#) at paras 45-50.

²⁵⁰ [South African Application](#) at paras 51-54.

²⁵¹ [South African Application](#) at paras 55-60.

²⁵² [South African Application](#) at paras 61-70.

²⁵³ [South African Application](#) at paras 71-75.

²⁵⁴ [South African Application](#) at paras 76-87.

²⁵⁵ [South African Application](#) at paras 88-94.

(8) **Imposing measures intended to prevent Palestinian births in Gaza**, through reproductive violence inflicted on Palestinian women, newborn babies, infants, and children.²⁵⁶

[72] There is also a growing plethora of statements by Israeli state officials, some of which were relied on by the ICJ in its Provisional Measures Order, demonstrating a specific intent to destroy Palestinians in Gaza as a part of the broader Palestinian national, racial and ethnical group.²⁵⁷ As South Africa has indicated, “those statements of intent -- when combined with the level of killing, maiming, displacement and destruction on the ground, together with the siege -- evidence an unfolding and continuing genocide.”²⁵⁸ Various members of the Knesset, including Prime Minister Netanyahu, and Israeli military leaders have made statements framing the hostilities as between humans and animals or good and evil.²⁵⁹ Political and military leaders, and members of the IDF have also violated the distinction between combatants and civilians in both words and deeds.²⁶⁰ Finally, some Israeli leaders

²⁵⁶ [South African Application](#) at paras 95-100.

²⁵⁷ [Provisional Measures Order](#) at paras 51-53.

²⁵⁸ [South African Application](#) at para 101.

²⁵⁹ “Now we all have one common goal - erasing the Gaza Strip from the face of the earth” [Nissim Vaturi](#), 7 October 2023; “We will change the face of reality in the Gaza Strip decades from now” [Israeli Defence Minister](#), 7 October 2023; “Right now, one goal: Nakba! A Nakba that will overshadow the Nakba of ‘48. Nakba in Gaza and Nakba to anyone who dares to join!” [Ariel Kallner](#), 8 October 2023; “Shooting powerful missiles without limit. Not flattening a neighbourhood. Crushing and flattening Gaza ... with penetrating bombs. Without mercy! Without mercy!” [Revital Gotliv](#), 9 October 2023; “*Hamas has become ISIS and the residents of Gaza are celebrating. Human animals are treated accordingly, you wanted hell - and you will get hell*” [Major General Ghassan Alian, Coordinator of Government Activities in the Territories](#), 10 October 2023; [Prime Minister Benjamin Netanyahu](#) said: “*This is a struggle between the children of light and the children of darkness, between humanity and the law of the jungle*” 16 October 2023; On another occasion, he referenced scripture, stating “*You must remember what Amalek has done to you, says our Holy Bible*” See NPR, “[Netanyahu's references to violent biblical passages raise alarm among critics](#)”, 7 November 2023; [Tali Gottlieb](#) said: “*Without hunger and thirst among the Gazan population, we will not be able to recruit collaborators, we will not be able to recruit intelligence, we will not be able to bribe people, with food, drink, medicine, in order to obtain intelligence, and we know that finding the abductees is a supreme and super important goal alongside the goals of fighting*”, 23 October 2023; [Moshe Saada](#) said: “*As it is clear to everyone today, that the right wing is right in the matter of politics, in the matter of Palestinians [...] you go everywhere and they tell you to destroy them [...] it is clear that you have to destroy all the Gazans*”, 3 January 2024; Muhammad Shehada, the [Israeli Communications Minister](#) said: “*We certainly need to encourage immigration, so that there is as little pressure as possible inside the Gaza Strip from people who yes, at the moment they're uninvolved but they're not exactly lovers of Israel and they educate their children to [embrace] terror. And we'd like to see - and we've talked about this in government meetings. [...] We should encourage voluntary migration, and we should compel them until they say they want it.*” When asked how such encouragement happens, the Minister answered “[t]he war does what it does”, 10 January 2024.

²⁶⁰ The [Israeli President](#) has stated that: “*It's an entire nation out there that is responsible. It's not true. This rhetoric about civilians not aware, not involved, it's absolutely not true. [...] and we will fight until we break their backbone.*”, 13 October 2023. On October 15, 2023, the [President of Israel](#) also stated “*we will uproot evil so that there will be good for the entire region and the world.*” The Israeli President is one of many Israelis to have [handwritten 'messages' on bombs to be dropped on Gaza](#). The [Israeli Heritage Minister](#) commented that “*there is no such thing as uninvolved civilians in Gaza*” and that the “*northern Strip has no right to exist*”, adding that anyone waving a Palestinian or

are explicitly advocating for denying Palestinian civilians access to essential resources²⁶¹ and calling for the ethnic cleansing of all Palestinians from Gaza.²⁶² Such statements, considered with the evidence

Hamas flag “*shouldn’t continue living on the face of the earth.*”, 5 November 2023. The [Heritage Minister](#) also posted online that “*North Gaza is more beautiful than ever. Blowing up everything is amazing. When finished, we will hand over the lands of Gaza to soldiers & settlers who lived in Gush Katif*”; “*I don’t care about Gaza. I literally don’t care. For all I care they can go out and swim in the sea. I want to see dead bodies of terrorists around Gaza*”, [Israeli Women’s Advancement Minister](#), 19 December 2023. Similarly, former Israeli military officer at Israel’s elite intelligence Unit 8200 [Eliyahu Yossian stated that](#) “*there is no population in Gaza, there are 2.5 million terrorists - there is no meaning to give them warning missiles.*”, 30 October 2023; Maj. Gen. (ret.) Giora Eiland, former head of the Israeli National Security Council, Strategic Planning Branch of the IDF, and adviser to the Defence Minister, describing the Israeli order to cut off water and electricity to Gaza, [wrote](#): “*This is what Israel has begun to do — we cut the supply of energy, water and diesel to the Strip [...] But it’s not enough. In order to make the siege effective, we have to prevent others from giving assistance to Gaza [...] The people should be told that they have two choices; to stay and to starve, or to leave.*” Eiland has repeatedly asserted the benefits for Israel of the creation of a humanitarian crisis in Gaza, [stating that](#) “*Israel has no interest in the Gaza Strip being rehabilitated and this is an important point that needs to be made clear to the Americans*”. He has [indicated that water should be targeted](#). “[Water] comes from wells with salt water unfit for consumption. They have water treatment plants, Israel should hit those plants. When the entire world says we have gone insane and this is a humanitarian disaster — we will say, it’s not an end, it’s a means.”, October-November 2023; an Israeli military spokesperson commented: “*the emphasis is on damage and not on accuracy.*”, 10 October 2023. Israeli army reservist Ezra Yachin, 95, reportedly called up for reserve duty [to “boost morale”](#) amongst Israeli troops, was [broadcast on social media stating](#): “*Be triumphant and finish them off and don’t leave anyone behind. Erase the memory of them. Erase them, their families, mothers and children. These animals can no longer live[...] Every Jew with a weapon should go out and kill them. If you have an Arab neighbour, don’t wait, go to his home and shoot him [...] We want to invade, not like before, we want to enter and destroy what’s in front of us, and destroy houses, then destroy the one after it. With all of our forces, complete destruction, enter and destroy. As you can see, we will witness things we’ve never dreamed of. Let them drop bombs on them and erase them.*” 8 October 2023; “*We are not taking any chances,*” said Amir Avivi, former Deputy commander of the Gaza Division of Israel’s military. “*When our soldiers are manoeuvring we are doing this with massive artillery, with 50 aeroplanes overhead destroying anything that moves.*”, 29 October 2023; See FT, “[The tactics behind Israel’s ground offensive](#)”. Israeli military officer tells troops “*The happiest month of my life as long as I live over 40 years... the land is ours. The whole country! All of it! Including Gaza! Including Lebanon! The whole promised land!*”. See [video](#); Israeli soldiers in uniform [filmed dancing and singing](#): “*May their village burn, May Gaza be erased*”, 5 December 2023; and, two days later, on a separate occasion inside Gaza, [dancing, singing and chanting](#), “*we know our motto: there are no uninvolved civilians*” and “*to wipe off the seed of Amalek*”, 7 December 2023; [Lieutenant colonel in the Israeli reserves](#) calls for the killing of 2 million people in Gaza, calling them “cockroaches”, 10 December 2023; [Oren Schindler, IDF Lieutenant Colonel stated](#) “...when they look at Shujaiya, they’ll see there’s nothing... only sand... In my opinion they will not be able to return here for at least 100 years” 16-17 January 2024.

²⁶¹ “*We are imposing a complete siege on [Gaza]. No electricity, no food, no water, no fuel – everything is closed. We are fighting human animals, and we act accordingly*”, [Israeli Defence Minister](#), 9 October 2023. He also informed troops on the Gaza border that he had “[released all the restraints](#)”, stating that: “Gaza won’t return to what it was before. We will eliminate everything. If it doesn’t take one day, it will take a week. It will take weeks or even months, we will reach all places.” He further announced that Israel was moving to “a full-scale response” and that he had “removed every restriction” on Israeli forces. “*Humanitarian aid to Gaza? No electrical switch will be turned on, no water hydrant will be opened and no fuel truck will enter until the Israeli abductees are returned home*”, [Israeli Energy Minister](#), 12 October 2023; “*the only thing that needs to enter Gaza are hundreds of tons of explosives from the Air Force, not an ounce of humanitarian aid*”, [Israeli Minister of National Security](#), 17 October 2023. “[w]e need to deal a blow that hasn’t been seen in 50 years and take down Gaza”, [Israel Minister of Finance](#), 8 October 2023.

²⁶² “*Right now, one goal: Nakba! A Nakba that will overshadow the Nakba of 48*”, [Ariel Kallner](#), 7 October 2023. On 11 November 2023, the Agriculture Minister and member of the Israeli security cabinet stated that: “*We are now rolling out the Gaza Nakba*”, Haaretz, “[‘We’re rolling out Nakba 2023,’ Israeli Minister says on northern Gaza Strip evacuation](#)”, 12 November 2023. When a leaked document from the Israeli Intelligence Ministry recommended the

of mass violations of IHL and IHRL, give rise, at the very least, to a substantial risk that genocidal intent is present.

- [73] As Canada has recognized in its joint declaration of intervention in the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, genocidal intent can also be inferred using circumstantial evidence; in other words, it is the facts on the ground, including the nature and extent of the attacks, in addition to these genocidal statements, that give rise to the inference of the specific requisite intent.²⁶³ The intent is therefore also properly inferred from the nature and conduct of Israel's military operation in Gaza, including targeting civilians, failing to distinguish military targets and failing to provide or ensure essential food, water, medicine, fuel, shelter and other humanitarian assistance for the besieged and blockaded Palestinian people.²⁶⁴
- [74] After finding that South Africa's claim that Israel is failing to prevent genocide in Gaza is plausible, the ICJ made several provisional measures orders. Among them, the ICJ ordered Israel to ensure that its military does not commit any genocidal acts and to implement immediate and effective measures to enable the provision of basic services and humanitarian assistance.²⁶⁵ The ICJ also recalled that under the Convention, all States Parties, which includes Canada, must "ensure the prevention, suppression and punishment of genocide, by committing themselves to fulfilling the obligations contained in the Convention."²⁶⁶
- [75] The ICJ's findings have profound implications for the export of military goods from Canada having Israel as their ultimate destination. With this unequivocal indication of a risk of genocide, Canada's potential complicity by supplying military goods and technology to Israel could give rise to violations of the Genocide Convention.
- ix) *Serious Violence Against Women and Children*
- [76] Under EIPA section 7.3(1)(b)(v), you are further required to consider whether the military goods or technology specified in the application for the permit could be used to commit or facilitate serious acts of gender-based violence or violence against women and children.

forcible and permanent transfer of the Gaza Strip's 2.2 million Palestinian residents to Egypt's Sinai Peninsula, the Former Head of the Israeli National Security Council [wrote](#) in an opinion piece: "*Israel needs to create a humanitarian crisis in Gaza, compelling tens of thousands or even hundreds of thousands to seek refuge in Egypt or the Gulf... Israel needs to demand [that, first] The entire population of Gaza will either move to Egypt or move to the Gulf*"; 12 October 2023; The [Heritage Minister has said](#) that Palestinians "*can go to Ireland or deserts, the monsters in Gaza should find a solution by themselves*", 5 November 2023.

²⁶³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, ICJ, [Joint declaration of intervention of Canada, Denmark, France, Germany, the Netherlands and the United Kingdom](#), 15 November 2023 at para 49.

²⁶⁴ [South African Application](#) at para 4.

²⁶⁵ [Provisional Measures Order](#) at para 86.

²⁶⁶ [Provisional Measures Order](#) at para 33.

- [77] Israel's indiscriminate bombardment of Gaza has caused and continues to cause disproportionate harm to women and children.²⁶⁷ UN Secretary-General Guterres has called Gaza a "graveyard for children"²⁶⁸ and UNICEF Spokesperson James Elder has stated that Gaza "is the most dangerous place in the world to be a child."²⁶⁹ Women and children make up the majority of the casualties in Gaza, accounting for two-thirds of the dead and injured.²⁷⁰ As indicated by South Africa in its application to the ICJ, two mothers are estimated to be killed every hour in Gaza.²⁷¹ Over 10,000 Palestinian children have been killed in Gaza to date²⁷² and over 115 Palestinian children in Gaza are killed every day.²⁷³
- [78] Massive levels of displacement, collapsing water and electricity supplies as well as critically restricted access to food and medicines also render women and children at heightened vulnerability to disease and death.²⁷⁴ Cases of diarrhea in children under five years of age have increased 2,000% since hostilities began, a strong indication that child health in the Gaza Strip is fast deteriorating, with 90% of children under two years suffering from "severe food poverty".²⁷⁵ According to the WHO, "[m]alnutrition increases the risk of children dying from illnesses like diarrhoea, pneumonia and measles, especially in a setting where they lack access to life-saving health services. Even if the child survives, wasting can have life-long impacts as it stunts growth and impairs cognitive development..."²⁷⁶
- [79] As of 21 January 2024, there were an estimated 52,000 pregnant women in Gaza, with more than 180 giving birth every day.²⁷⁷ Many of them were likely to experience pregnancy-related complications and do not have access to adequate medical care.²⁷⁸ Israel is blocking the delivery of life-saving aid,

²⁶⁷ UN OHCHR, "[Women bearing the brunt of Israel-Gaza conflict: UN expert](#)", 20 November 2023

²⁶⁸ UN Türkiye, "[Guterres: 'Gaza is becoming a graveyard for children'](#)", 7 November 2023.

²⁶⁹ UNICEF, [UNICEF Geneva Palais briefing note - Gaza: The world's most dangerous place to be a child](#), 19 December 2023.

²⁷⁰ UN, "[Two Thirds of Gaza War Dead Are Women and Children, Briefers Say, as Security Council Debates Their Plight](#)", 22 November 2023; UN Women, "[Two mothers killed each hour in Gaza conflict: UN Women](#)", 19 January 2024.

²⁷¹ [South African Application](#) at para 95; UN Women, "[Two mothers killed each hour in Gaza conflict: UN Women](#)", 19 January 2024.

²⁷² Save the Children, "[Gaza: 10,000 Children killed in nearly 100 days of war](#)", 11 January 2024.

²⁷³ UN OCHA, Hostilities in the Gaza Strip and Israel - reported impact | Day 73 (19 December 2023)

²⁷⁴ World Health Organization, "[Women and newborns bearing the brunt of the conflict in Gaza, UN agencies warn](#)" 3 November 2023; The Conversation, "[Gaza's next tragedy: Disease risk spreads amid overcrowded shelters, dirty water and breakdown of basic sanitation](#)", 21 November 2023.

²⁷⁵ UNICEF, "[Intensifying conflict, malnutrition and disease in the Gaza Strip creates a deadly cycle that threatens over 1.1 million children](#)", 5 January 2024; see also [South African Application](#) at paras 68-75.

²⁷⁶ WHO, "[Lethal combination of hunger and disease to lead to more deaths in Gaza](#)", 21 December 2023; For an explanation on the spread of disease in Gaza, see Krystal Moussally, [Antimicrobial resistance in the ongoing Gaza war: a silent threat](#), 402 (2023) The Lancet 10416.

²⁷⁷ New York Times, "[Gaza's women are bearing brunt of war's toll, aid groups say](#)", 21 January 2024; WHO, "[Women and newborns bearing the brunt of the conflict in Gaza, UN agencies warn](#)", 3 November 2023.

²⁷⁸ WHO, "[Women and newborns bearing the brunt of the conflict in Gaza, UN agencies warn](#)", 3 November 2023; see also [South African Application](#) at para 67.

including essential medical kits for delivering babies.²⁷⁹ Pregnant women are also being subjected to caesareans without anaesthetics²⁸⁰ and an estimated 130 premature babies are dependent on incubators for survival at any given time.²⁸¹ Miscarriages in Gaza have increased by 300% and women are also facing alarming rates of severe infections due to Israel's blockade of supplies and water.²⁸²

[80] Palestinian mothers and children have also been killed in maternity and children's hospitals by Israeli bombardments.²⁸³ As stated by South Africa, "[s]ome have been victims of Israeli attacks multiple times over, like 12-year old Dina Abu Mohsen — interviewed by UNICEF after losing her parents, two siblings and her leg in an Israeli strike on her home — she was then killed herself when the Israeli army shelled the hospital where she was being treated."²⁸⁴ An increasing number of Palestinian babies in Gaza are reportedly dying from preventable causes brought on by the blockade and humanitarian situation,²⁸⁵ including as a direct result of Israel cutting off electricity and fuel to hospitals,²⁸⁶ and from forced evacuations.²⁸⁷

[81] The UN Special Rapporteur on violence against women and girls, its causes and consequences, warned that the reproductive violence inflicted by Israel on Palestinian women, newborn babies, infants and children could constitute violations of several international human rights treaties, including the right to life under Article 6 of the ICCPR.²⁸⁸ The Special Rapporteur "expressed alarm at the genocidal and dehumanising rhetoric about the Palestinian people, including women and children, by top Israeli Government officials and public figures calling them 'children of darkness'".²⁸⁹ South Africa's oral arguments before the ICJ on 11 January 2024 echoed these claims, stating that the acts committed by

²⁷⁹ Associated Press News, "[Cumbersome process and 'arbitrary' Israeli inspections slow aid delivery into Gaza, US senators say](#)", 6 January 2024. Of these 180 women, the WHO warns that 15 per cent are likely to experience pregnancy or birth-related complications and need additional medical care. WHO, "[Women and newborns bearing the brunt of the conflict in Gaza, UN agencies warn](#)", 3 November 2023.

²⁸⁰ UN, "[Interview: 5,500 women in Gaza set to give birth 'in race against death'](#)", 7 November 2023.

²⁸¹ WHO, "[oPt Emergency Situation Update Issue 16](#)", 7 December 2023.

²⁸² Jezebel, "[Miscarriages in Gaza Have Increased 300% Under Israeli Bombing](#)", 17 January 2024.

²⁸³ UN OCHA, "[Hostilities in the Gaza Strip and Israel | Flash Update #55](#)", 30 November 2023 and [#66](#)", 11 December 2023.

²⁸⁴ [South African Application](#) at para 80, citing UNICEF on X, "[Yesterday, we shared Dina's story. We're devastated to learn that she was killed at Nasser Hospital on Sunday, 17 December 2023. The killing of children must stop. Now](#)", 18 December, 2023.

²⁸⁵ Oxfam, "[Babies dying from preventable causes in besieged Gaza](#)", 23 November 2023.

²⁸⁶ Including five premature babies and 40 Intensive Care Unit and kidney patients at Al Shifa hospital. UN OCHA, "[Hostilities in the Gaza Strip and Israel | Flash Update #42](#)", 17 November 2023, and [#44](#)", 19 November 2023.

²⁸⁷ Including at least four babies in Al Nasr hospital, who were found decomposing weeks later in their hospital beds. UN OCHA, "[Hostilities in the Gaza Strip and Israel | Flash Update #55](#)", 30 November 2023; Human Rights Watch, "[Birth and Death Intertwined in Gaza Strip: Maternity Care Facilities Gravely Affected by Strikes, Blockade](#)", 1 December 2023.

²⁸⁸ UN OHCHR, "[Women bearing the brunt of Israel-Gaza conflict: UN expert](#)", 20 November 2023.

²⁸⁹ [South African Application](#) at para 108, citing UN OHCHR, "[Women bearing the brunt of Israel-Gaza conflict: UN expert](#)", 20 November 2023.

Israel fall under the fourth category of genocidal acts in Article II(d) of the Genocide Convention: “imposing measures intended to prevent births within a group”.²⁹⁰

- [82] Israel’s actions since 7 October 2023 have caused an unprecedented level of violence against women and children. There is clearly a substantial risk that any Canadian military goods or technology transferred to Israel could be used to commit or facilitate this violence.

(C) Israel’s Other Violations of International Law in the OPT since 7 October 2023

- [83] The flagrant violations of IHRL, IHL and ICL committed by Israel since 7 October 2023 are not restricted to Gaza. While global attention has been focused on the unprecedented humanitarian disaster unfolding there, Israeli authorities have escalated the use of violence and repression in the occupied West Bank, including East Jerusalem, which had already reached peak levels in 2023 prior to the 7 October Hamas attack.²⁹¹ On 18 September 2023, Save the Children declared 2023 the deadliest year for Palestinian children in the West Bank since 2005, with an average of more than one Palestinian child killed per week.²⁹²
- [84] Since 7 October 2023, military violence against Palestinians in the West Bank has accelerated, including the use of disproportionate and unnecessary force by Israeli security forces, and the exponential increase in attacks by armed settlers. In addition, Israel has imposed “severe and systematic restrictions on the movement of Palestinians”.²⁹³ It has added further roadblocks, closed off main roads to Palestinians and erected flying checkpoints. These measures are arbitrary and discriminatory in nature, have resulted in Palestinians’ inability to access basic services, and have contributed to food shortages and increased prices.²⁹⁴ B’Tselem has documented the fact that, since the war in Gaza began, Israel has ramped up its efforts to drive Palestinian communities and single-family farms out of their homes and land, cynically exploiting the war to promote its political agenda of taking over more land in the occupied West Bank.²⁹⁵

²⁹⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, [Transcript, Hearing of 11 January 2024](#), p. 29 at paras 33-35.

²⁹¹ Between January 1 and October 6, 2023, Israeli security forces killed more Palestinians in the West Bank – 192, including 40 children – than in any other year since 2005, when the United Nations began systematically recording fatalities. Human Rights Watch, “[While a Fire Rages in Gaza, the West Bank Smolders](#)”, 22 November, 2023.

²⁹² Save the Children, “[2023 marks deadliest year on record for children in the occupied West Bank | Save the Children International](#)”, 18 September 2023.

²⁹³ OHCHR “[UN report: Türk warns of rapidly deteriorating human rights situation in the West Bank, calls for end to violence](#)”, 28 December 2023.

²⁹⁴ UN OHCHR, “[Flash report on the human rights situation in the occupied West Bank including East Jerusalem, 7 October - 20 November 2023](#)”, 27 December, 2023.

²⁹⁵ B’Tselem, “[Under cover of Gaza war, settlers working to fulfill state goal of Judaizing Area C](#)”, 19 October 2023.

i) *Extrajudicial Killings and Attacks by Settlers*

- [85] Between 7 October and 26 January 2024, a total of 361 Palestinians including 92 children, have been killed in the occupied West Bank including East Jerusalem.²⁹⁶ Of these, 351 were killed by Israeli forces, 8 by Israeli settlers, including 1 child, and two by either soldiers or settlers.²⁹⁷ In the same time period, 4,358 Palestinians including at least 657 children were injured: 4,223 by the security forces, 114 by settlers, and 21 by either soldiers or settlers. Approximately 33% of these injuries were caused by live ammunition, as compared with only 9% in the first nine months of 2023.²⁹⁸
- [86] B'Tselem has warned that the frequency and intensity of state-backed settler violence against Palestinians has risen since the war in Gaza began, with soldiers and police officers fully supporting assailants and often participating in the attacks. Under the cover of war, it notes, settlers are carrying out such assaults virtually unchecked, with no one trying to stop them before, during or after the fact.²⁹⁹ The head of the Shin Bet, Israel's internal security service, has warned that settler violence could contribute to the West Bank "erupting" and hurting Israel's war in Gaza. The United States has repeatedly urged Israel to rein in settler violence in the West Bank, lest it become another front in this war.³⁰⁰
- [87] Between 7 October and 26 January 2024, the UN has recorded 460 Israeli settler attacks against Palestinians resulting in 45 Palestinian casualties, 359 incidents of damage to Palestinian property and 56 incidents of both casualties and damage to property. Firearms were used in one third of these attacks, including shootings and threats of shootings, and in nearly half, Israeli forces were either accompanying or were reported to have been seen supporting the attackers.³⁰¹ With Israel's National Security Minister recently announcing the purchase of as many as 24,000 US-made M-16 assault rifles to arm settlers, we can expect settler violence in the West Bank will only intensify under cover of the war on Gaza.³⁰²
- [88] In addition to attacks against Palestinians, the WHO has documented 319 "health attacks" in the West Bank and Jerusalem between 7 October 2023 and 11 January 2024, which include attacks on health

²⁹⁶ UN OCHA, "[Hostilities in the Gaza Strip and Israel Flash Update #103](#)", 26 January 2024.

²⁹⁷ UN OHCHR, "[Flash report on the human rights situation in the occupied West Bank including East Jerusalem, 7 October - 20 November 2023](#)", 27 December, 2023; UN OCHA, "[Hostilities in the Gaza Strip and Israel Flash Update #103](#)", 26 January 2024.

²⁹⁸ UN OCHA, "[Hostilities in the Gaza Strip and Israel Flash Update #103](#)", 26 January 2024.

²⁹⁹ B'Tselem, "[Under cover of Gaza war, settlers working to fulfill state goal of Judaizing Area C](#)", 19 October 2023; as of 27 December 2023, only 2 settlers were under arrest (administrative detention) for involvement in attacks. UN OHCHR, "[Flash report on the human rights situation in the occupied West Bank including East Jerusalem, 7 October - 20 November 2023](#)", 27 December, 2023.

³⁰⁰ The Intercept, "[Different tactics, same war: the perils of treating Israel's West Bank offensive as separate from Gaza](#)", 17 November 2023.

³⁰¹ UN OCHA, "[Hostilities in the Gaza Strip and Israel Flash Update #103](#)", 26 January 2024.

³⁰² The Jerusalem Post, "[As Israel fights in Gaza, settlers wage war on West Bank Palestinians](#)", 9 November 2023; CNN, "[Israelis are arming up in the aftermath of Hamas' attack. Some are worried it is playing to the far right's vision for the country](#)", 14 November 2023.

facilities (35), mobile clinics (10) and ambulances (216).³⁰³ These attacks have included detaining health staff and ambulances and preventing ambulances from accessing the wounded.³⁰⁴

[89] Israeli forces have also carried out military raids and airstrikes on refugee camps in the West Bank. On 9 November 2023, Jenin refugee camp was bombed for the second time with heavy artillery and airstrikes, killing at least 14 Palestinians.³⁰⁵ The frequency of incursions into the camp has also increased dramatically since 7 October 2023, from every two to three weeks to every two or three days, and they are often accompanied by bulldozers that destroy roads and infrastructure.³⁰⁶ On 26 December 2023, multiple raids and bombings on the Nur Shams refugee camp in Tulkarem killed six Palestinians who bled to death because ambulances could not reach them promptly.³⁰⁷

ii) *Arbitrary Detention*

[90] Furthermore, as of January 2024, the total number of Palestinian administrative detainees held without trial has soared to 3,291, not including 661 “unlawful combatants” who are detained according to the Israeli military.³⁰⁸ These figures do not include “security” prisoners and “security” detainees, which make up an additional 2,114 and 2,534 Palestinians, respectively. Palestinians are routinely detained for hurling stones at Israeli forces or for participating in demonstrations and marches. The president of the Palestinian Prisoners Society notes that “[o]n a daily basis, Palestinian cities, villages and camps are raided, during which dozens are arrested. The raids include sabotage operations, house searches, and detainees being assaulted during the arrest operations and [Israeli security forces] transporting them to investigation and detention centers”.³⁰⁹ There are widespread reports of abuse of detainees by Israeli forces, and several Palestinian detainees have died in Israeli custody since 7 October 2023.³¹⁰

³⁰³ WHO, “[oPt Emergency Situation Update Issue 20](#)”, 11 January 2024.

³⁰⁴ [South African Application](#) at para 38; WHO, [oPt Emergency Situation Update Issue 16](#), 7 December 2023.

³⁰⁵ [South African Application](#) at para 38; UN OHCHR, “[Gaza: UN experts call on international community to prevent genocide against the Palestinian people](#)”, 16 November 2023.

³⁰⁶ CBC, “[Israel’s military has turned its sights on Jenin refugee camp following deadly Hamas attacks](#)”, 16 December 2023.

³⁰⁷ Al Jazeera, “[Bombed, then stabbed: West Bank doctors recall horrors of refugee camp raid](#)”, 29 December 2023.

³⁰⁸ As of November 2023, the data also includes Palestinians who are residents of the Gaza Strip and are held pursuant to Israel’s Incarceration of Unlawful Combatants Law, 5762-2002. Unlawful combatant – a category which does not exist in international law – is defined in Israeli law as “a person who has participated either directly or indirectly in hostile acts against the State of Israel or is a member of a force perpetrating hostile acts against the State of Israel, where the conditions prescribed in Article 4 of the Third Geneva Convention of 12th August 1949 with respect to prisoners-of-war and granting prisoner-of-war status in international humanitarian law, do not apply to them”. HaMoked (Centre for the Defence of the Individual), “[8,600 “Security” Inmates Are Held in Prisons inside Israel](#)”, 30 November 2023.

³⁰⁹ Al Jazeera, “[Occupied West Bank faces growing Israeli aggression amid Gaza war](#)”, 8 December 2023.

³¹⁰ Al Jazeera, “[“He threw up blood”: Palestinian detainees face abuse in Israeli custody](#)”, 1 November 2023; UN OCHA, “[OPT: Dramatic rise in detention of Palestinians across occupied West Bank](#)”, 1 December 2023.

iii) *Forced Displacement in the West Bank*

[91] Since 7 October 2023 and as of 26 January 2024, at least 198 Palestinian households from at least 15 herding/Bedouin communities, comprising 1,208 people including 586 children, have been displaced amid settler violence and access restrictions.³¹¹ In addition, a total of 1,343 Palestinians including 602 children have been displaced due to:

- Demolition of their homes in East Jerusalem and Area C of the West Bank due to lack of Israeli-issued building permits, which are almost impossible to obtain. There has been a 27% increase in the monthly average number of displacements per month since 7 October, compared with the first nine months of 2023;³¹²
- Demolition on punitive grounds. The number of homes punitively demolished since October 7, 2023 is the same as the total number of homes demolished in the first nine months of 2023.³¹³ Punitive home demolitions are a form of collective punishment and, as such, illegal under international law.³¹⁴ The practice has even led some to call for a newly defined crime against humanity of “domicide”, signifying the deliberate and systematic destruction of homes and basic infrastructure;³¹⁵
- Destruction of residential structures during other operations carried out by Israeli forces across the West Bank. About 95% of those displaced in this category lived in Jenin, Nur Shams and Tulkarm Refugee Camps, which represents 82% of all displacement due to the destruction of homes during Israeli military operations since January 2023.³¹⁶

[92] In many cases, Palestinians are ordered under threat by both settlers and soldiers to leave their homes and lands by a specified time. B’Tselem observes these actions are part of Israel’s well-known, longstanding policy to make life so miserable for Palestinian communities in the West Bank that the residents leave, seemingly of their own accord, with Israel proceeding to take over the land and use it to expand settlements.³¹⁷ Evictions of Palestinians from their homes in Israel and the OPT in favour of Jewish Israeli families are also commonplace, and these measures of forced displacement accompany the widespread establishment of Jewish Israeli settlements in the OPT.³¹⁸

³¹¹ UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #103](#)”, 26 January 2024.

³¹² UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #67](#)”, 12 December 2023; UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #103](#)”, 26 January 2024.

³¹³ UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #103](#)”, 26 January 2024.

³¹⁴ UN OCHA, “[Hostilities in the Gaza Strip and Israel | Flash Update #65](#)”, 11 December 2023.

³¹⁵ Netta Ahituv, Haaretz, “[Amid Israeli Destruction in Gaza, a New Crime Against Humanity Emerges: Domicide](#)”, 4 January 2024.

³¹⁶ UN OCHA, “[Hostilities in the Gaza Strip and Israel Flash Update #103](#)”, 26 January 2024.

³¹⁷ B’Tselem, “[Under cover of Gaza war, settlers working to fulfill state goal of Judaizing Area C](#)”, 19 October 2023.

³¹⁸ Amnesty International Report 2022/23, “[The State of the World’s Human Rights](#)”, 27 March 2023.

(D) Transfer of Canadian Military Goods and Technology

i) Canada's Export and Brokering of Military Goods and Technology to Israel

- [93] Following the strengthening of the EIPA in December 2018 in preparation for Canada's accession to the ATT, the annual value of Canada's arms exports to Israel has only grown, with 2021 and 2022 being the second-highest (\$27,861,256) and third-highest (\$21,329,783) years on record, respectively.³¹⁹ This is despite findings in 2019 and 2022 by United Nations Commissions of Inquiries that Israel has committed and is continuing to commit serious violations of IHRL and IHL.³²⁰
- [94] Notwithstanding these clear warning signs, Canada has continued to approve export and brokering permit applications for military goods and technology transfers to Israel.
- [95] The Canadian government releases little information on the specific military goods and technology transferred to Israel, including a concerning lack of transparency in the precise timing of those transfers, the quantity of non-full systems exports and any assessments under the EIPA of their end-use.
- [96] However, we do know that Canada authorized exports of over \$21 million in military goods and technology to Israel in 2022, including over \$3 million categorized as bombs, torpedoes, rockets, missiles, other explosives and associated components (Category 2-4).³²¹ In 2022, Canada also issued brokering permits for over \$2 million in military goods, including under the categories of smooth-bore weapons, weapons or armament, accessories and associated components (Category 2-2); aircraft, lighter-than-air vehicles, unmanned airborne vehicles, aero-engines and aircraft equipment, and associated components (Category 2-10); and armoured or protective equipment and constructions and associated components (Category 2-13).³²² In 2020 and 2021, Canada exported over \$19 million and \$27 million in military goods to Israel respectively.³²³
- [97] These three years reflect Canada's highest annual values for arms exports to Israel since 1987.³²⁴ A significant percentage of Canada's recent military exports to Israel are categorized as explosives and related components (Category 2-4). Other major categories of exports are apparently related to Israel's space program and aerospace goods for military end-use, with more than half (over \$14 million) the

³¹⁹ Global Affairs Canada, [2021 Exports of Military Goods](#); Global Affairs Canada, [2022 Exports of Military Goods](#). These values are constant CAD.

³²⁰ [COI Report, 2019](#); [COI Report, 2022](#).

³²¹ Global Affairs Canada, [2022 Exports of Military Goods](#). The full listing of categories can be found at Government of Canada, "[A Guide to Canada's Export Control List](#)", January 2023.

³²² Global Affairs Canada, [2020 Exports of Military Goods](#).

³²³ Global Affairs Canada, [2020 Exports of Military Goods](#); Global Affairs Canada, [2021 Exports of Military Goods](#). These values are constant CAD.

³²⁴ Michael Bueckert, Canadians for Justice and Peace in the Middle East, [Arming Apartheid: Canada's Arms Exports to Israel](#), April 2022.

2022 value of exports falling under the categories of aircraft, lighter-than-air vehicles, unmanned airborne vehicles, aero-engines and aircraft equipment, related equipment and components, specially designed or modified for military use (Category 2-10); and electronic equipment, military spacecraft and components (Category 2-11).³²⁵

[98] In 2022, Israel was the top non-U.S. destination for utilized (315) and issued (199) export permits for military goods and technology by number of permits. Since 2016, when Canada started reporting permit denials by proposed recipients, it has not denied any export permits to Israel.³²⁶

ii) *Specific Items Transferred*

[99] Although the Canadian government does not provide detailed information regarding the content of transferred military goods and technology, it does identify specific categories of exported items. The descriptions of certain categories strongly suggest that the goods transferred to Israel are intended for potentially destructive or lethal purposes. Notably, in 2021 and 2022, Canada exported military goods and technology to Israel that encompassed items falling under the following classifications.³²⁷

- Smooth-bore weapons with a calibre of less than 20 mm, other arms and automatic weapons with a calibre of 12.7 mm (0.50 inches) or less and accessories, and specially designed components therefore;
- Bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories, and specially designed components therefore;
- Fire control, and related alerting and warning equipment, and related systems, test and alignment and countermeasure equipment, specially designed for military use, and specially designed components and accessories therefore;
- Ground vehicles and components;
- Vessels of war (surface or underwater), special naval equipment, accessories, components and other surface vessels;
- “Aircraft”, “lighter-than-air vehicles”, “unmanned aerial vehicles” (“UAVs”), aero-engines and “aircraft” equipment, related equipment, and components, specially designed or modified for military use;
- Electronic equipment, “spacecraft” and components, not specified elsewhere on the Munitions List;
- Armoured or protective equipment, constructions and components;

³²⁵ Global Affairs Canada, [2022 Exports of Military Goods](#); Michael Bueckert, Canadians for Justice and Peace in the Middle East, [Arming Apartheid: Canada’s Arms Exports to Israel](#), April 2022.

³²⁶ Global Affairs Canada, [2015 Exports of Military Goods](#); Global Affairs Canada, [2016 Exports of Military Goods](#); Global Affairs Canada, [2017 Exports of Military Goods](#); Global Affairs Canada, [2018 Exports of Military Goods](#); Global Affairs Canada, [2019 Exports of Military Goods](#); Global Affairs Canada, [2020 Exports of Military Goods](#); Global Affairs Canada, [2021 Exports of Military Goods](#).

³²⁷ Global Affairs Canada, [2022 Exports of Military Goods](#); Global Affairs Canada, [2021 Exports of Military Goods](#).

- “Specialised equipment for military training” or for simulating military scenarios, simulators specially designed for training in the use of any firearm or weapon specified by 2-1. or 2-2., and specially designed components and accessories therefore;
- Imaging or countermeasure equipment, specially designed for military use, and specially designed components and accessories therefore;
- Forgings, castings and other unfinished products, specially designed for items specified by other military-related goods;
- “Production” equipment and components;
- “Software”; and
- “Technology”

[100] Moreover, a 2018 inquiry resulted in the release of 19 applications for export permits in respect of military goods and technology destined for Israel.³²⁸ Accordingly, with no reported denials of export permits, the hundreds of utilized export permits for military goods and technology destined to Israel since 2018 very likely included the following.³²⁹

Applicant Company: Viasystems Toronto

Consignees: Elbit Systems (Israel’s largest military and arms company) and ARTEM Technologies, which facilitates shipping and delivery to Israel

Military goods and/or technology: Bare printed circuit boards that will be installed by the consignee into military electrical components, thermal imaging observation systems, display systems for F-15 aircrafts, display systems for V-22 aircrafts, Elbit’s radio communication systems, and several redacted items

Applicant Company: Viasystems Toronto Inc

Consignee: ARTEM Technologies Ltd.

Military goods and/or technology: Bare printed circuit boards for thermal cameras, bare printed circuit boards for display in F-15 aircraft, bare printed circuit boards for display in V-22 aircraft, bare printed circuit boards for use in software-defined radios (SDR) for ground forces, bare printed circuit boards for use in SDR for ground forces

Applicant Company: CMC Electronics

Consignee: Elbit Systems

Military goods and/or technology: CMA-9000 flight management system

³²⁸ Extracted from [records released by the Senate Standing Committee on Foreign Affairs and International Development in 2018](#); See also Figure 2 extracted in Project Ploughshares, “[Fanning the Flames: The grave risk of Canada’s arms exports to Israel](#)”, January 2024.

³²⁹ Extracted from [records released by the Senate Standing Committee on Foreign Affairs and International Development in 2018](#); See also Figure 2 extracted in Project Ploughshares, “[Fanning the Flames: The grave risk of Canada’s arms exports to Israel](#)”, January 2024.

Applicant Company: Inkas

Military goods and/or technology: Military trucks to be used within the vicinity of Israel (International 7400 Truck 4x4).

[101] Viasystems Toronto sought export authorization to transfer military-use circuit boards for the display systems in Israel's F-15 aircraft, which, among other functions, provide information to track and destroy targets.³³⁰ Israel's F-15 aircraft have reportedly been used to bomb numerous targets in Gaza since 7 October 2023.³³¹ There are a reported 84 F-15 aircraft in service in Israel.³³²

[102] Moreover, Lockheed Martin, one of the world's largest arms producer,³³³ manufactures multiple weapon systems, including the F-35 Joint Strike Fighter. Since the late 1990s, at least 110 Canadian-based suppliers have been awarded contracts for the F-35 program valued in excess of C\$3.8-billion.³³⁴ An April 2018 study commissioned by Lockheed Martin stated that "there is \$2.3 million USD [approximately C\$3.1-million] worth of Canadian components on every F-35 jet manufactured"³³⁵ The F-35 is currently being used in Israel's assault in Gaza and has been described by US Lt. Gen. Michael Schmidt, Program executive officer for the F-35, as having an "absolutely outstanding" performance in its war to eliminate Hamas, with high rates of aircraft able to carry out their missions."³³⁶ US Undersecretary of Defense for Acquisition and Sustainment Bill LaPlante stated that "Israel has 35 of its 39 F-35s operating and carrying out missions".³³⁷ Canadian suppliers have manufactured segments of the F-35's airframe and a host of internal components. Mississauga-based Cyclone Manufacturing builds precision parts for Lockheed Martin F-35s³³⁸ and Magellan, in Winnipeg, manufactures "flight critical assemblies" for them.³³⁹ Magellan's Kitchener facility was awarded a multi-year contract in 2022 from Lockheed Martin for complex machined titanium components for all three variants of the F-35.³⁴⁰

[103] Despite Canada's assertion that it has fully integrated its obligations under the ATT into Canadian law *via* the EIPA,³⁴¹ existing trade agreements between the United States and Canada result in certain

³³⁰ U.S. Air Force, [F-15 Eagle](#); Breaking Defense, "[Israel formally requests 25 F-15 EX from the US: Sources](#)", 19 January 2023.

³³¹ Business Insider, "[The 3 US-made fighter jets Israel is using in its air war over Gaza](#)", 6 January 2024.

³³² Aeroflap, "[Meet the Israeli fighter jets that are bombing Gaza](#)", 10 October 2023.

³³³ Statista, [Largest arms-producing and military services companies worldwide in 2022, by arms sale](#).

³³⁴ Project Ploughshares, "[Fanning the Flames: The grave risk of Canada's arms exports to Israel](#)", January 2024, p. 7.

³³⁵ Lockheed Martin, "[Study of Economic Impact in Canada](#)", April 2018.

³³⁶ Defense News, "[US quickly updated Israeli F-35s after Hamas attack, officials say](#)", 13 December 2023.

³³⁷ Defense News, "[US quickly updated Israeli F-35s after Hamas attack, officials say](#)", 13 December 2023.

³³⁸ Canadian Manufacturing, "[Mississauga's Cyclone Manufacturing Launches \\$65M expansion project](#)", 9 August 2017.

³³⁹ Magellan Aerospace, "[Magellan Aerospace Signs Agreement with BAE Systems for F-35 Aircraft Assemblies](#)", 9 December 2022.

³⁴⁰ Magellan Aerospace, "[Magellan Aerospace Signs Multi-Year F-35 Lightning II Contract](#)", 22 November 2022.

³⁴¹ Global Affairs Canada, [Overview of the Arms Trade Treaty regulatory implementation package](#).

exemptions.³⁴² These exemptions mean that the safeguards provided by the EIPA do not extend to all military goods and technology that are initially transferred to the United States before being sent to Israel. The extent to which Canadian components are being filtered through the United States to Israel is unknown and unreported.³⁴³

- [104] Nonetheless, over the past three years, Canada has transferred the highest annual values of arms to Israel since 1987 and there is no evidence of Canada denying any permits for brokering or exporting military goods and technology destined for Israel. A reasonable inference can therefore be drawn that Canada has not denied or suspended any such permit in light of Israel's ongoing military operations in Gaza since 7 October 2023. The above examples, which constitute only a portion of Canadian military goods and technology exported to Israel, indicate a clear connection to Israel's military operations in Gaza. Considering Israel's persistent and systemic violations of IHRL and IHL, and the perpetration of serious acts of violence against women and children, there exists a substantial risk that Canadian military goods and technology exports are contributing to or facilitating these violations, especially since 7 October 2023.

IV. CONCLUSION

- [105] For the reasons above, it is clear that there is a substantial risk that arms exports from Canada to Israel could be used to commit or facilitate serious violations of IHRL and/or IHL, and/or serious acts of violence against women and children in Gaza.
- [106] Thus, the further issuance or leaving in effect of export and brokering permits to transfer military goods and technology to Israel would engage Section 7 of the Charter and put Canada in violation of the EIPA and its international obligations under article 7 of the ATT. Such actions would also constitute violations of Canada's other obligations under international law including, in particular, article 1 of the Genocide Convention, requiring Parties to make efforts to prevent genocide where there is a serious risk of its occurrence.

³⁴² Project Ploughshares, "[Fanning the Flames: The grave risk of Canada's arms exports to Israel](#)", January 2024.

³⁴³ Project Ploughshares, "[Fanning the Flames: The grave risk of Canada's arms exports to Israel](#)", January 2024.

EXHIBIT B

This is **Exhibit “B”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits
(or as may be)
James Yap, LSO #61126H

Trudeau Government Will Not Revoke Existing Permits For Israel Military Exports

“This is very unfortunate to hear that the government has not committed to suspending existing permits.”

[News](#)[International](#)

by Alex Cosh

March 20, 2024 · 4 min read



Photo: [Mélanie Joly](#) [via](#) [Twitter](#).

Foreign Affairs Minister Mélanie Joly won't revoke existing permits for exports of military goods to Israel despite this week's motion in Parliament calling on the government to "cease the further authorization and transfer of arms exports to Israel."

Joly will only take the non-binding motion's language to apply to future applications for permits to export military goods to Israel, which was effectively the government's position before the motion passed.

The language in the motion, which passed on Monday evening, was heavily amended from the original. Other major concessions included removing a call to recognize the State of Palestine.

The NDP's original motion also called on the government to "suspend all trade in military goods and technology with Israel." This would have effectively imposed a complete two-way embargo.

Despite the watered-down language of the amended motion, Joly told the Toronto Star this week that she planned to impose a ban on arms exports to Israel that would amount to "a real thing."

This news spread quickly around the world, with Israeli politicians reacting angrily to Joly's comments, and some Democratic Party lawmakers in the United States celebrating the announcement.

But according to NDP foreign affairs critic Heather McPherson, existing permits — which authorize potentially tens of millions of dollars worth of military exports to Israel — will not be subject to any changes.

"We did not secure the suspension of permits already approved and will continue to push for that," McPherson told The Maple in an email.

In a statement sent to Reuters on Wednesday, Global Affairs Canada (GAC) confirmed that existing military export permits would remain in effect.

As revealed by The Maple, the Liberal government authorized at least \$28.5 million in export permits for military goods to Israel during the first two months of Israel's war on Gaza, which to date has killed at least 31,900 Palestinians and inflicted a humanitarian catastrophe on the besieged enclave.

Trudeau Government Authorized \$28.5 Million Of New Military Exports To Israel Since October

“It’s almost as if Canada is accelerating its arms export authorization process amid a genocidal campaign.”

M The Maple • Alex Cosh



The International Court of Justice ruled in January that South Africa’s case accusing Israel of committing a genocide in Gaza is “plausible.”

There were at least 315 active permits for military sales to Israel listed in GAC’s most recent report on non-U.S. exports.

It is the NDP’s understanding, McPherson added, that the ban on future export permits will apply to all military goods, not just those defined as “full weapon systems” by the ministry.

GAC has repeatedly claimed that all newly authorized military export permits to Israel since the state began its war on Gaza have been for “non-lethal” goods, a term with no legal definition and that could apply to components of weapons.

Trudeau Government Admits It Authorized New Military Exports To Israel After October 7

Global Affairs Canada says the exports are ‘non-lethal,’ but human rights activists say that term offers little reassurance.

M The Maple • Alex Cosh



GAC did not respond to The Maple’s request for comment on the matter. However, McPherson’s statement about existing permits being exempt from the ban confirms how Defence Minister Bill Blair appears to have interpreted the motion.

“There are a number of existing contracts that are already in place, but this was a going-forward basis, I think that’s how the minister’s looking at it,” Blair told The Star.

Blair’s comment was highlighted by arms-monitoring expert Kelsey Gallagher, who tweeted Tuesday: “It appears Canada’s newly announced ban on military exports to

Israel will only apply to hypothetical, not-yet-approved arms exports, and not those already authorized for transfer.”

Michael Bueckert, vice president of Canadians for Justice and Peace in the Middle East (CJPME), told The Maple that the response to the non-binding motion indicates that the move has “some teeth” in terms of Joly acting upon some of the motion’s demands.

“However, this is very unfortunate to hear that the government has not committed to suspending existing permits,” said Bueckert.

“In the three months following October 7, we had an acceleration of arms export approvals. Presumably not all of those have been sent, which means we could be seeing a lot more arms exports transferring to Israel in the next month.”

Bueckert stressed that the language of the motion called on the government to end the “transfer” of arms to Israel, not just the authorization of new permits.

“From our position, any further transfer of arms to Israel is in violation of the democratic will of Parliament, and what Parliament voted for,” he explained.

This month, anonymous sources told the Star that Joly stopped approving new permits for exports of non-lethal military goods to Israel on January 8 because of the “extremely fluid” nature of the situation in Gaza.

Radio-Canada, meanwhile, reported last week that GAC was “slow-walking” an application to permit Canadian company Roshel to sell armoured patrol vehicles to Israel.

Roshel told CBC: “It is our understanding that these vehicles are not to be used for military purposes, but solely for domestic police operations.”

In response to a message from The Maple, Roshel CEO Roman Shimonov said the buyer of the vehicles was not Israel’s ministry of defence, but did not say which branch of the Israeli government planned to buy the goods.

Alex Cosh is the news editor of The Maple.

Share On 'X' (Twitter)

EXHIBIT C

This is **Exhibit “C”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
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this 5th day of August 2024.



Commissioner for Taking Affidavits
(or as may be)
James Yap, LSO #61126H

Biden administration set to greenlight \$18 billion sale of F-15 fighter jets to Israel

By [Natasha Bertrand](#), [Jennifer Hansler](#), [Katie Bo Lillis](#) and [Kylie Atwood](#), CNN

🕒 8 minute read · Updated 4:09 PM EDT, Mon April 1, 2024



An Israeli air force F-15 war plane flies near the southern Israeli city of Beersheba, Israel, in June 2023. Tsafir Abayov/AP

(CNN) — The Biden administration is close to approving the sale of as many as 50 American-made F-15 fighter jets to Israel, in a deal expected to be worth more than \$18 billion, according to three people familiar with the matter.

The transaction, which would amount to the largest US foreign military sale to Israel since the country went to war with Hamas on October 7, comes as the administration is also expected to notify Congress soon of a large new sale of precision-guided munitions kits to Israel, the people said.

The new sales of some of the US' most sophisticated weaponry underscore the extent to which the US continues to support Israel militarily, even as Biden administration officials criticize Israel's operations in Gaza, which have killed more than 32,000 Palestinians since October, according to the Gaza ministry of health.

The sale is likely to be hotly debated in Congress, particularly by members of the president's own party. US weapons sales to Israel have come under intense scrutiny in recent months and Democratic lawmakers have called for restricting military aid to Israeli until it allows more humanitarian aid into Gaza and does more to protect civilians there.

Since Hamas' attack on Israel in October, which killed over 1,200 Israelis, the US has made more than 100 foreign military sales to Israel. Most of those have fallen under the specific dollar amount that requires a notification to Congress, an official familiar with the matter previously told CNN.

But an \$18 billion F-15 sale is large enough that it requires congressional notification, and the administration informally notified the House Foreign Affairs and Senate Foreign Relations committees of the F-15 sale in late January, according to two of the people familiar with the matter.

The informal notification gives lawmakers and congressional staff time to review the details and ask questions before the State Department sends a formal notification to all lawmakers.

The top Republican on the Senate Foreign Relations Committee, Sen. James Risch, has already given his approval on the sale, according to one of the people familiar with the matter. A congressional aide told CNN that House Foreign Affairs Committee Chairman Michael McCaul has also approved the transaction to proceed to formal congressional notification.

But Sen. Ben Cardin, the Democratic chairman of the committee, as well as the Democratic ranking member of the House Foreign Affairs committee, Rep. Greg Meeks, can still hold up the sale if they raise objections.

If there are no objections, the State Department will send a formal notification to all lawmakers, who will then have 30 days to block the sale via a joint resolution of disapproval. Congress has never successfully blocked a proposed arms sale through such a resolution, which has to be passed by both chambers, according to the Congressional Research Service.

There are also growing concerns among Democrats over the Biden administration's continued practice of sharing intelligence with Israel, which was expanded on President Joe Biden's orders in the wake of the October 7 attack by Hamas.

Some of that intelligence support has been in the form of so-called raw intelligence that Israel is meant to use to locate hostages, but could also be used to identify Hamas targets, some sources told CNN. Hamas fighters are often embedded in civilian areas, officials have said.

Meanwhile, a growing number of US diplomats are becoming frustrated over the administration's reluctance to use its leverage over Israel to change their approach to the ongoing war.

"What you hear about the frustrations within the administration over the Israel policy, it is real," one US diplomat told CNN on condition of anonymity. "We are being asked to act in a way that ignores what we are seeing on the ground."

The diplomats also told CNN they were frustrated with the administration's attempts to downplay the US abstention from a UN vote last week on a resolution calling for an immediate ceasefire in Gaza. What could have been a bold message to Israel was diluted by the US insisting the resolution was non-binding and consistent with existing US policy, these diplomats said.

These disaffected diplomats said they would like to see the US threaten future arms sales to Israel to help curtail the bloody fighting, but the proposed F-15 and precision-guided munitions sales indicate that the administration is not planning to restrict military assistance any time soon.

F-15s won't be delivered immediately

Unlike the precision guided munitions, the new F-15s would need to be built from scratch. A US official said there are no plans to expedite delivery of the jets to Israel so, if approved, they would not be delivered to Israel for at least five years.

Israeli officials have been urging the US to expedite the timeline if possible, CNN previously reported.

Along with up to 50 individual jets, the package also includes engines, gun systems, radars and navigation systems for the jets, three of the sources said. The package provides construction and contractor support and logistical infrastructure for training, sustainment, and maintenance of the fleet, as well as a mid-life update for Israel's current fleet of F-15s.

A State Department spokesperson said, "We are unable to confirm potential or pending US arms transfers before they are formally notified to Congress."

The Biden administration also quietly authorized a sale of F-35 fighter jets to Israel last week, the sources said. That sale did not require congressional notification because the intended sale was already notified to Congress in 2008.

The State Department spokesperson said that "as a matter of practicality, major procurements, like Israel's F-35 program for example, are often broken out into several cases over many years."

Sources told CNN that it was unclear why the Biden administration would approve such a large sale now, during an election year when the president's policy towards Israel is under a microscope. The sale is not particularly urgent, given that Israel won't be getting the jets for another few years, anyway.

Josh Paul, who worked in the State Department's Bureau of Political-Military Affairs for over a decade before resigning in October over the US' ongoing arms transfers to Israel, said the US clearly thinks Israel needs the equipment "for its long-term defense."

"But there is a sense on Israel's side that right now the doors are wide open for anything they want, so this is the time to ask for it," he said. "Who knows how long the barn doors will be open for?"

The Israeli Embassy in Washington, DC, did not immediately respond to a request for comment from CNN about the proposed sales.

"The United States has a decades-long commitment to Israel's security," State Department

spokesperson Matthew Miller said on Monday. Israel is surrounded by entities that are sworn to its destruction, not just Hamas, but Iran and proxy groups that Iran sponsors, Hezbollah among them, who have repeatedly talked about their desire for the destruction of Israel. We believe Israel has every right to defend itself against those opponents.”

Growing concerns about US intelligence sharing

When it comes to intelligence sharing with Israel, the US has offered the Israeli government a significant amount of processing capacity, according to two sources familiar with the matter — essentially, computing power that allows Israel to sift through mass amounts of intercepts, imagery and other raw intelligence to extract meaningful trends or insights.

In theory, the intelligence community is not allowed to share information with partners that would be used to violate the international laws of armed conflict, and US officials insist that they are not giving Israel what’s known as “targeting intelligence”; in this case, intelligence used to target precise Hamas fighters or positions.

Pentagon spokesperson Maj. Gen. Pat Ryder said in November that the US military is “not participating in IDF target development,” and that their involvement is solely intended to help find the hostages.

But several sources familiar with US sharing efforts who spoke to CNN on the condition of anonymity said that is a distinction without a difference. Once the US provides a piece of intelligence to Israel, it has no control over how Israel combines it with other information, and there’s nothing to stop Israel from using that information to target Hamas operatives, the sources said.

“Israel provides assurances that operations making use of U.S. intelligence are conducted in a manner consistent with international law, including the Law of Armed Conflict, which calls for the protection of civilians,” a senior intelligence official told CNN in response to questions about the intelligence sharing.

The intelligence has continued to flow, sources said, even as the Biden administration has been pressing Israel to do more to prevent civilian casualties.

“Absent stronger oversight, it is impossible to discern how allies and partners are using U.S. intelligence in military operations,” Steven Katz, a former Army officer currently working as a civilian in the Office of the Secretary of Defense, wrote in a piece on the national security blog Just Security, advocating for greater congressional oversight of intelligence sharing.

"In certain cases, the IC may be providing indirect support through intelligence sharing for partner operations conducted in a manner inconsistent with U.S. law and policy," he said.

The State Department has a process in place to investigate reports that civilians have been killed by US weapons wielded by other nations, according to Katz, but no law exists requiring the intelligence community to track how US intelligence-sharing may contribute to civilian deaths.

A provision in an annual intelligence bill now before Congress would require the Office of the Director of National Intelligence to submit an annual report to Congress detailing civilian casualties caused by foreign government operations in which US-shared intelligence played a "significant role." But that bill has yet to be passed.

This story has been updated with additional reporting.

Up next

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4 minute read



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EXHIBIT D

This is **Exhibit “D”** referred to in the affidavit of
Henry Off affirmed remotely before
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Commissioner for Taking Affidavits

(or as may be)

James Yap, LSO #61126H

Biden Administration Presses Congress on \$18 Billion Sale of F-15 Jets to Israel

The deal, which would be one of the largest U.S. arms sales to Israel in years, awaits congressional approval as criticism of the war in Gaza rises.



By Michael Crowley and Edward Wong

Reporting from Washington

April 2, 2024

Want to stay updated on what's happening in Israel and the West Bank and Gaza Strip? [Sign up for Your Places: Global Update](#), and we'll send our latest coverage to your inbox.

The Biden administration is pressing Congress to approve a plan to sell \$18 billion worth of F-15 fighter jets to Israel, as President Biden resists calls to limit U.S. arms sales to Israel over its military offensive in Gaza.

The State Department recently sent an informal notice to two congressional committees to start a legislative review process for the order, a first step toward the department's giving formal authorization for the transfer of up to 50 of the planes.

The F-15 order was reported earlier by Politico and CNN and confirmed by two U.S. officials. The deal, which would be one of the largest U.S. arms sales to Israel in years, would also include munitions, training and other support.

Although the United States has expedited some arms for Israel's current campaign against Hamas, the F-15s would not be delivered for at least five years, the U.S. officials said.

With a top speed of nearly 2,000 miles per hour, the F-15 is capable of both air-to-air combat and bombing targets on the ground. While Israel has used the F-15s it already owns to strike Gaza, its request for the planes appears to reflect longer-term concern



about regional threats, including from Lebanon-based Hezbollah, Iran-backed militias in Syria, and Iran itself. The Israel Defense Forces would probably employ F-15s in any potential attack on Iran's nuclear program.

Israeli officials have also told their U.S. counterparts that Israel is about to place a new order for F-35 jets, a U.S. official said.

The United States steadily delivers weapons to Israel as part of a 10-year agreement to provide \$3.8 billion in annual military aid that the Obama administration finalized in 2016. Many arms orders placed since then and that are being filled now have already been approved by Congress.

But the Biden administration has also rushed two new emergency shipments of weapons to Israel totaling more than \$250 million since the Oct. 7 terrorist attacks in Israel by Hamas, bypassing congressional approval on the grounds that the arms, mainly artillery and tank ammunition, were needed immediately.

And if Israel's orders do not meet a certain dollar threshold, then the administration does not need to notify Congress or get its approval. So some orders placed since Oct. 7, perhaps dozens or more, have not been publicly disclosed, U.S. officials said.

Critics of Israel's campaign in Gaza — in which more than 32,000 Palestinians have been killed, according to health ministry officials there — say that the Biden administration should use any available leverage to make Israel change its approach.

Speaking at a news conference in Paris on Tuesday, Secretary of State Antony J. Blinken did not specifically address the potential F-15 sale. But he defended the Biden administration's continued transfer of weapons to Israel generally and stressed that most recent ones have not been directly related to the current conflict in Gaza.

Such transfers are part of agreements that "go back a decade or more" and involve weapons systems that can require years to manufacture, Mr. Blinken told reporters. Those cases, he said, "underwent congressional review years ago and were notified years ago, well before the conflict in Gaza started."

Mr. Blinken indicated that the United States was determined to protect Israel's wider security concerns, beyond the Gaza conflict.

"It's also about the threats posed to Israel by Hezbollah, by Iran, by various other actors in the region, each one of which has vowed one way or another to try to destroy Israel," he said.

After Oct. 7, Israel requested expedited transfers of orders that had been approved years ago, including bombs ranging from 250 pounds to 2,000 pounds, which Israel drops regularly in Gaza but which the U.S. military and many allies prefer not to use in urban warfare.

A State Department official said that the department as a rule does not confirm or deny U.S. arms transfers before they are formally notified to Congress. The official added that after Congress approves an arms sale to Israel, it can be completed in dozens of individual deliveries over many years. These deliveries do not require a separate notification to Congress.

Some U.S. officials privately say that slowing, reducing or conditioning arms sales to Israel might embolden Iran and its regional allies, and weaken Israel's deterrent power against them.

But critics of Israel's military campaign in Gaza are unmoved by such arguments, saying that the Biden administration's repeated calls for Israel to better protect Gazan civilians have had little effect and must be enforced with tangible consequences.

"The Biden administration needs to make better use of the tools we have, including the transfer of offensive weapons, to enforce President Biden's reasonable requests," said Senator Chris Van Hollen, Democrat of Maryland.

Mr. Van Hollen, referring to Prime Minister Benjamin Netanyahu of Israel, complained that the "extreme Netanyahu government continues to rebuff the Biden administration at every turn — from disregarding calls to allow more aid to reach starving people in Gaza to insisting that it will launch an invasion of Rafah despite President Biden having drawn a 'red line.'"

The F-15s were on a list of requests raised last week by Israel's defense minister, Yoav Gallant, in his meetings with administration officials in Washington, according to a U.S. official briefed on the conversations. Mr. Gallant also said Israel wants to acquire more F-35 fighter jets from the U.S.

That would be separate from Israel's recently exercising an option in an existing order of F-35s to buy \$2 billion more of the jets and equipment.

Israel already owns dozens of F-35s, which are among the most advanced weapons in America's military arsenal.

It likewise operates a fleet of F-15s, which it has used for strikes in Gaza but also relies on for longer-range missions to places like Lebanon and Syria. In 2016, a senior official in Israel's air force said that the plane was valuable "when we want to reach far distances with few aircraft."

An April 1 policy briefing document from the Jewish Institute for National Security for America said that Israel needed F-15 and F-35 fighters to "eliminate Hezbollah personnel and weapons arsenals in Lebanon."

"Fighter aircraft also provide support to IDF ground forces in Gaza and enable Israel to conduct operations against hostile actors in Syria and elsewhere across the region," wrote Yoni Tobin, an analyst for the hawkish think tank, which has ties to Israel's government and military. Mr. Tobin added that the planes were necessary for Israel to maintain decisive military superiority over its regional rivals, known in policy circles as qualitative military edge, or QME.

Speaking to reporters at the White House, John F. Kirby, a White House national security spokesman, said on Tuesday that he believed the administration's approach was working.

But some in Congress disagree.

"The United States wants Israel to let in more humanitarian aid, stop bombing civilians and not invade Rafah," Senator Bernie Sanders, independent of Vermont, said on Tuesday. "Netanyahu has ignored all of it. Why are we still sending him taxpayer dollars and weapons and expecting a different outcome?"

Robert Jimison contributed reporting.

Michael Crowley covers the State Department and U.S. foreign policy for The Times. He has reported from nearly three dozen countries and often travels with the secretary of state. More about Michael Crowley

Edward Wong is a diplomatic correspondent who has reported for The Times for more than 24 years from New York, Baghdad, Beijing and Washington. He was on a team of Pulitzer Prize finalists for Iraq War coverage. More about Edward Wong

A version of this article appears in print on , Section A, Page 6 of the New York edition with the headline: Biden Presses Congress Over \$18 Billion Sale Of F-15 Jets to Israel

EXHIBIT E

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(or as may be)

James Yap, LSO #61126H



Investors



Heroux-Devtek firms up landing gear supply agreement for Boeing's F/A-18 program and expands scope to Boeing's Advanced F-15 program, spare parts and services



LONGUEUIL, QC, May 21, 2019 /CNW Telbec/ - Héroux-Devtek Inc. (TSX: HRX) ("Héroux-Devtek" or the "Corporation"), a leading international manufacturer of aerospace products, today announced that it has concluded its previously announced agreement to supply the main landing gears for Boeing's F/A-18E/F Super Hornet and EA-18G Growler and has extended the scope of the agreement to include the manufacturing of the nose and main landing gears for Boeing's Advanced F-15 program. The extended scope will also include the supply of spare parts and aftermarket services for both defense aircraft programs and covers a period of performance of five years.

The original supply agreement, announced during the Farnborough Airshow on July 17, 2018, provided for the manufacture and assembly of main landing gears and side braces for Boeing's F/A-18E/F Super Hornet and EA-18G Growler, with first deliveries in the third quarter of 2020. This extended "Indefinite Delivery / Indefinite Quantity" scope now also includes the delivery of spare parts and aftermarket services for these landing gears. Additionally, the agreement has been extended to include the manufacture and assembly of the nose and main landing gears for Boeing's F-15 fighter jets, including spare parts and aftermarket services. First deliveries are expected to occur towards the beginning of 2023.

"This contract award represents a significant win for Héroux-Devtek. Becoming a key system manufacturer for two additional main defense aircraft programs for Boeing is a testament to the strength of our long-standing relationship with the world's largest aerospace company," said Gilles Labbé, President & CEO of Héroux-Devtek. "We are also excited to expand the scope of our original contract to include spare-parts and aftermarket services, which allows us to add further value to our business."

"As we celebrate our one-hundred-year partnership with Canada, it is through contracts like this that we can continue that legacy for the foreseeable future," said Roger Schallom, Boeing senior manager, Canada, International Strategic Partnerships. "Over the past year, Héroux-Devtek Inc. has demonstrated that they have

the experience and capability to deliver quality parts and services that our F/A-18E/F and E/A-18G customers depend on, which has led to this extended scope to include our F-15 program."



This agreement, including the expanded scope, can satisfy current and future Industrial and Technological Benefits obligations to include the Canada's Future Fighter Capability Project, for which Boeing's F/A-18 Super Hornet Block III is a competitor.

About the Advanced F-15 program

Investors



Equipped with the latest technological upgrades, the Advanced F-15 is the most capable, survivable and maintainable multi role aircraft in its class available today. It derives from the combat proven F-15 fighter family, which is the backbone of air forces around the world. The Advanced F-15 is the low-risk and affordable multi-role fighter solution that delivers unmatched payload, performance and persistence.

PROFILE

Héroux-Devtek Inc. (TSX: HRX) is an international company specializing in the design, development, manufacture, repair and overhaul of aircraft landing gear, hydraulic and electromechanical flight control actuators, custom ball screws and fracture-critical components for the Aerospace market. The Corporation is the third largest landing gear company worldwide, supplying both the commercial and defence sectors. Approximately 90% of the Corporation's sales are outside of Canada, including about 50% in the United States. The Corporation's head office is located in Longueuil, Québec with facilities in the Greater Montreal area (Longueuil, Laval and St-Hubert); Kitchener, Cambridge and Toronto, Ontario; Springfield and Strongsville, Ohio; Wichita, Kansas; Everett, Washington; Livonia, Michigan; Runcorn, Nottingham and Bolton, United Kingdom; and Madrid and Seville, Spain.

SOURCE Héroux-Devtek Inc.

For further information: Héroux-Devtek Inc., Stéphane Arsenault, Chief Financial Officer, Tel.: (450) 679-3330; Investor Relations, Danielle Ste-Marie, Ste-Marie Strategy & Communications Inc., Mobile : (514) 465-6701, IR@herouxdevtek.com

EXHIBIT F

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James Yap, LSO #61126H

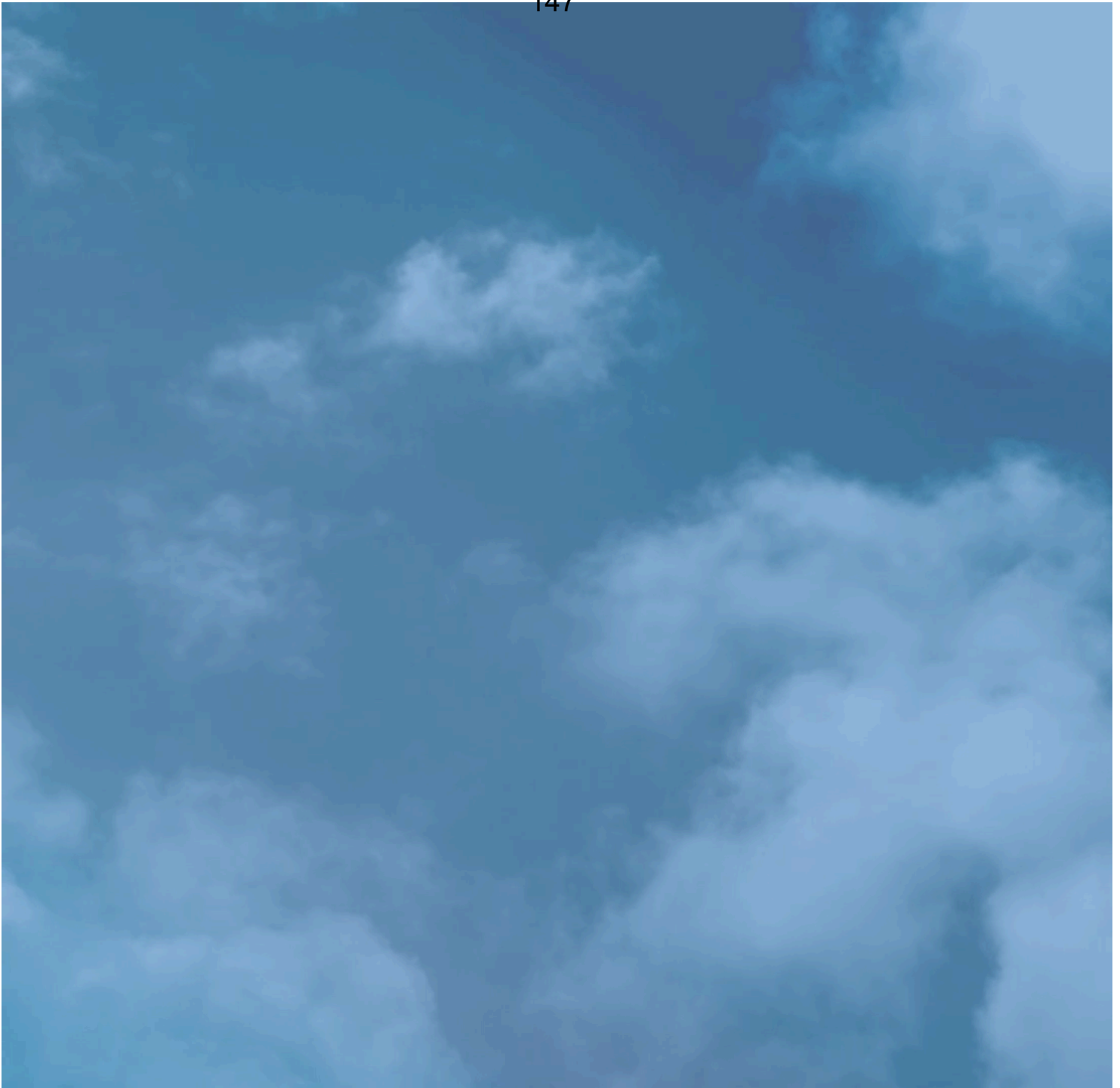


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Global Solutions for the Aerospace Market



MAGELLAN AEROSPACE SIGNS AGREEMENT WITH COLLINS AEROSPACE FOR COMPLEX CASTINGS

March 6, 2023

Toronto, Ontario – 6 March 2023 – Magellan Aerospace Corporation (“Magellan”) announced today the signing of a significant long-term agreement (“LTA”) extension with Collins Aerospace (“Collins”), a Raytheon Technologies business, to manufacture complex magnesium and aluminum castings for various military and commercial aerospace platforms. The castings will be produced by Magellan’s facilities in Renfrew, Ontario and Glendale, Arizona.

The extension of this LTA with Collins renews the framework for strategic alignment with Magellan; in addition to F-15, F-16, and F-18 castings for Collins legacy programs, the agreement also encompasses the supply of castings to support F-35 Lightning II, KC-46, A320neo, 787 and 777X programs.

“The signing of this LTA extension is built on a strong foundation of collaboration between our two companies over many decades”, said Haydn Martin, Vice President, Business Development, Marketing and Contracts for Magellan Aerospace. “Magellan’s casting centres of excellence are tailored for meeting the needs of these important Collins programs.” Magellan is a world leader in the development and production of aerospace components and is a centre of excellence in sand casting processes.

Magellan was the first in the industry to optimize 3D sand printing technology for production and has invested in innovative and transformative casting technologies such as robotics, 3D sand printing, automated pouring and finishing, and digital radiography to achieve the highest standard of product and performance while remaining cost competitive.

About Magellan Aerospace Corporation

Magellan Aerospace Corporation is a global aerospace company that provides complex assemblies and systems solutions to aircraft and engine manufacturers, and defence and space agencies worldwide. Magellan designs and manufactures aeroengine and aerostructure assemblies and components for aerospace markets, advanced proprietary products for military and space markets, and provides engine and component repair and overhaul services worldwide. Magellan is a public company whose shares trade on the Toronto Stock Exchange (TSX: MAL), with operating units throughout North America, Europe, and India.

Forward Looking Statements

Some of the statements in this press release may be forward-looking statements or statements of future expectations based on currently available information. When used herein, words such as “expect”, “anticipate”, “estimate”, “may”, “will”, “should”, “intend”, “believe”, and similar expressions, are intended to identify forward-looking statements. Forward-looking statements are based on estimates and assumptions made by the Corporation in light of its experience and its perception of historical trends, current conditions and expected future developments, as well as other factors that the Corporation believes are appropriate in the circumstances. Many factors could cause the Corporation’s actual results, performance or achievements to differ materially from those expressed or implied by the forward-looking statements, including those described in the “Risk Factors” section of the Corporation’s Annual Information Form (copies of which filings may be obtained at www.sedar.com). These factors should be considered carefully, and readers should not place undue reliance on the Corporation’s forward-looking statements. The Corporation has no intention and undertakes no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law.

For information:

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Magellan Aerospace Limited
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(or as may be)

James Yap, LSO #61126H

Israel inks deal to buy 25 more F-35 fighter jets for \$3 billion

Stealth aircraft to be delivered in batches of 3 to 5 starting in 2028, eventually bringing IAF's F-35I fleet to 75

By **EMANUEL FABIAN**  [FOLLOW](#)

4 June 2024, 8:14 pm

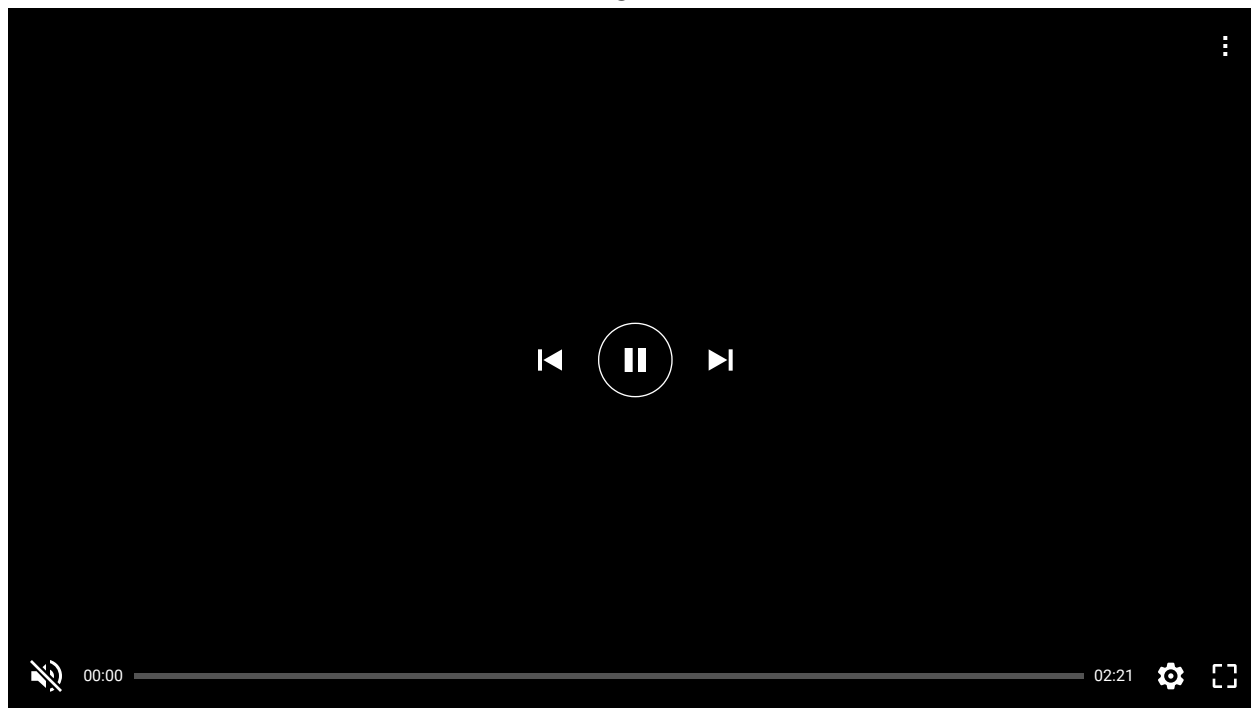


Israeli F-35 fighter jets fly in formation during the military's Blue Flag exercise in October 2021. (Israel Defense Forces)

Israel's Defense Ministry on Tuesday officially signed a deal with the United States to procure a third F-35 fighter jet squadron.

The ministry said a delegation to the US signed a letter of agreement for the \$3 billion deal that included 25 advanced stealth fighters built by Lockheed Martin.

The planes would begin to be delivered starting in 2028, in batches of three to five per year, the ministry said. The aircraft would bring the Israeli Air Force's F-35I fleet to 75 in the coming years. Only 39 of Israel's original order of 50 F-35s have so far been delivered.



The deal totals some \$3 billion, financed by US military aid to Israel, the ministry said.

The signing came following a mostly resolved [row](#) between Defense Minister Yoav Gallant and Finance Minister Betzalel Smotrich over the procurement. Smotrich had vetoed the signing until a Knesset committee tasked with looking at the defense budget was convened.

Gallant, in a statement following the signing, said the additional 25 fighter jets were “another illustration of the strength of the strategic alliance between the US and Israel and its extensive effects in arenas near and far.”



Defense Minister Yoav Gallant speaks to pilots at the Nevatim airbase in southern Israel, October 17, 2023. (Ariel Hermoni/Defense Ministry)

The aircraft manufacturer, Lockheed Martin, in a brief statement, said it was “pleased by the Israeli government’s decision to procure 25 additional F-35s.”

Israel is the second country after the US to have received the F-35 from Lockheed Martin and one of the few to be allowed to modify the state-of-the-art aircraft.

The Defense Ministry said that as part of an agreement between Israel and the US, Lockheed Martin and the engine manufacturer, Pratt & Whitney, “have committed to involving Israeli defense industries in the production of aircraft

components sold.”

The IAF’s first two F-35I jets arrived in December 2016. Approximately a year later, the stealth fighter — known in Israel as the Adir — was declared operational, and several months after that, the head of the air force revealed that the aircraft had conducted bombing raids, making Israel the first country to acknowledge using the planes operationally.

The fifth-generation F-35 has been lauded as a “game-changer” by the military, not only for its offensive and stealth capabilities, but for its ability to connect its systems with other aircraft and form an information-sharing network.

EXHIBIT H

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James Yap, LSO #61126H

● **LIVE UPDATE** / FROM THE LIVEBLOG OF MONDAY, NOVEMBER 6, 2023

IDF chief says Israel 'knows how to reach anywhere in the Middle East'

By **EMANUEL FABIAN** [FOLLOW](#)

6 November 2023, 8:20 pm



IDF Chief of Staff Lt. Gen. Herzi Halevi speaks to soldiers at the Nevatim airbase, November 6, 2023. (Israel Defense Forces)

Visiting the Israeli Air Force's fleet of F-35I fighter jets, IDF Chief of Staff Lt. Gen. Herzi Halevi warns that Israel "knows how to reach anywhere in the Middle East."

"We are already a month into the war, hitting Hamas very, very hard, hitting the leadership of Hamas, hitting the commanders, hitting the terrorists, destroying Hamas's infrastructure in Gaza, and we are also constantly ready for other areas," says Halevi to soldiers at the Nevatim airbase. "This [air] base knows how to reach anywhere in the Middle East."

Halevi tells the soldiers that he recently saw an F-35I jet providing air support to troops some 200 meters (some 656 feet) away in the Gaza Strip.

"We never did anything like this. With very heavy munitions, a very good connection between what the [ground] force needs and what the plane knows to give," he says. "This connection of air and land together, we always knew it was strong, we see now that it is much stronger than we knew."

EXHIBIT I

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James Yap, LSO #61126H

Lockheed Martin Study of Economic Impact in Canada



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1. Executive summary

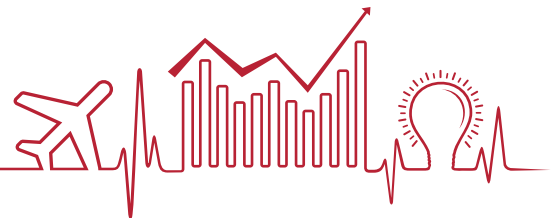
Lockheed Martin Canada has a corporate vision that aligns with the Government of Canada's focus on achieving sustainable growth for the Canadian economy through innovation and exports, and is committed to deploying its resources in a manner that will increase new skills development. A basic step in achieving these goals is to establish a baseline against which current initiatives and future activities will be benchmarked. To this end, Lockheed Martin Canada retained PwC to estimate its economic footprint in Canada over the last 10 years (2008-2017) and to explore the extent to which this economic footprint supports the Canadian government's economic priorities ("Assessment").



Lockheed Martin Corporation began operating in Canada in 1937. This led to the establishment of Lockheed Martin Canada, with its head office based in Ottawa. Lockheed Martin Canada represents all of Lockheed Martin Corporation's lines of business, which are: Rotary and Mission Systems, Aeronautics, Missiles and Fire Control, and Space. Currently, its primary focus is on naval Combat Systems Integration and training. A major program for Lockheed Martin Canada is the CMS 330 Combat Management System. This system was developed in Canada and was used in the modernization of Canada's 12 Halifax-Class Frigates. Lockheed Martin Canada subsequently won Combat System Integrator roles in Chile and New Zealand, through open competitions, against the world's best known Combat System Integrators. CMS 330 is now being exported to those countries. Several Lockheed Martin aircraft are used by the Canadian Forces including the CC-130 Hercules, CC-130J Super Hercules, and the CH-148 Cyclone helicopter made by Sikorsky, a Lockheed Martin company. In-service support for these programs also generates substantial economic activity in Canada. Lockheed Martin Canada also provides aircraft sustainment, training simulators, targetry systems, and electronic warfare systems.

In addition to Lockheed Martin Canada's activities, Lockheed Martin Corporation purchases intermediate goods from Canadian suppliers for aircraft, satellites and other systems assembled in the United States (also referred to in this report as "US").

Lockheed Martin Canada and Lockheed Martin Corporation have relationships with over 1,400 Canadian suppliers who provide inputs for systems assembled in Canada and the US. Canadian suppliers have provided maintenance and parts for Canada's CC-130 Hercules aircraft, Canada's CC-130J Super Hercules, other nations' Hercules, and F-35 Lightning II fighter jets flown by air forces around the world.



Over the last 10 years, Lockheed Martin Canada's operating activities, as well as purchases made by Lockheed Martin Corporation, have generated and facilitated substantial economic activity in Canada, as demonstrated through the following metrics:

Total economic impact generated between 2008 and 2017

\$3.8 billion
in GDP

36,521 jobs
in full time equivalent (FTE)
person years

\$2.5 billion
in labour income

\$1.9 billion
in exports to the US

\$1.5 billion
in total tax revenues

\$1 million in
philanthropic contribution

Lockheed Martin has 1,000 employees at five main facilities in the National Capital Region, Montreal, Halifax, Victoria, and Calgary, and 10 Canadian Forces bases across the country.

Lockheed Martin Canada and its suppliers operate in every province in Canada, thus distributing the economic benefits it generates across the country:

Lockheed Martin Canada Locations and Lockheed Martin Suppliers



- Lockheed Martin Canada Locations
- Lockheed Martin Suppliers

In addition to the contributions made throughout its supply chain, Lockheed Martin Canada provides benefits to the Canadian economy through the following:



a. Downstream impacts – Once aircraft and systems are in use in Canada, they continue to generate economic activity through sustainment activities carried out in Canada, such as maintenance, training, and upgrades. Because Lockheed Martin Canada's systems are used worldwide, several Canadian sustainment providers have taken advantage of export opportunities, providing similar services to armed forces around the world.



e. Skill development – Lockheed Martin Canada developed an elaborate training and education program that aids its employees in acquiring skills critical to the development of a knowledge-based economy in Canada.



b. Research and Development ("R&D") – Between 2008 and 2017, Lockheed Martin Canada spent \$175.4 million on R&D activities, which equates to approximately 11% of the direct GDP it generated during the same period. By comparison, the total R&D spent in Canada is less than 2% of GDP.



f. Corporate social responsibility activities – Lockheed Martin Canada is involved in a number of social responsibility activities. Chief among them are its efforts to assist veterans of the Canadian Armed Forces, and to support Science, Technology, Engineering and Math (STEM) education for young people.



c. Participation in industry clusters – Lockheed Martin Canada's presence in regional defence and aerospace clusters in Quebec, Ontario, Atlantic Canada and the Western provinces encourages competition and provides avenues for partnerships and collaboration that spurs innovation and increased productivity.



g. Becoming the first customer for emerging Canadian tech companies – Lockheed Martin Canada has benefitted some of Canada's most promising emerging technology companies by providing them with their first major contracts, including some that are now global leaders in Artificial Intelligence and Quantum Computing. Such contracts with Lockheed Martin Canada have provided those companies with a platform for future business expansion globally.



d. Acquisitions of Canadian companies – Lockheed Martin Canada's acquisitions of Canadian companies provides an opportunity for those companies to expand their operations.



Photo: Actua

Through these additional elements, our review concludes that Lockheed Martin Canada provides significant economic benefits to the Canadian economy.

Lockheed Martin Canada has a workforce of 1,000 employees. In 2017, the average salary of these employees was \$90,527, which is 28% higher than the average Canadian aerospace product and parts manufacturing salary, and 45% higher than the average computer and electronic product manufacturing salary.

Lockheed Martin Canada is committed to gender and minority inclusion in its workforce. We found that Lockheed Martin Canada has fallen behind in recent years in its efforts for gender equality and is lagging industry average. To address this issue, Lockheed Martin Canada is committed to breaking down barriers to gender equality and has developed strategies to address the need for broader inclusion and diversity in its workforce. Their vision for 2020 would see the number of women in their workforce align with Canada's national goals.

Our Assessment suggests that Lockheed Martin Canada's actions are largely consistent with the Canadian government's major priorities. Moreover, Lockheed Martin Canada is actively identifying key areas that require further improvement in its quest to fully adhere with those priorities.



2. Introduction

2.1. Study objectives

Lockheed Martin Canada's corporate vision is in accord with the economic priorities of the Canadian government, as described below. Consequently, Lockheed Martin Canada is committed to direct its future activities and deploying its resources in a manner that fully aligns with these priorities. A basic step in achieving this goal is to establish a baseline against which Lockheed Martin Canada's current initiatives and future activities would be benchmarked. To this end, Lockheed Martin Canada has retained PwC to estimate Lockheed Martin's economic footprint in Canada over the last 10 years (2008-2017) and to explore the extent to which this economic footprint actually supported the Canadian government's economic priorities, as described below.

2.2. Introduction

Despite rapid advances in technology, many developed countries have experienced slowing productivity and economic growth over the last decade. Canada in particular has lower R&D investment than most of its peers, which is an important driver of productivity and thereby economic growth.

In response, the Canadian government has focussed its efforts on generating sustainable and inclusive growth that benefits all Canadians. As such, the government has identified innovation as a key lever of growth.

"To strengthen and grow the middle class, and remain competitive in the global economy, Canada must do more to encourage innovation. The future success of all Canadians relies on it."

Government of Canada, Budget 2017

This government priority is based on the well-founded notion that innovative companies and industries increase productivity and growth, and generate well-paying jobs, thereby supporting the goal of inclusive growth.

Given the relatively small Canadian market, its relatively high labour costs, and the environmental challenges faced by its resource sector, sustainable and inclusive growth, inevitably, requires a significant increase in high value added exports, an effort that is linked with increasing innovation. Due to the well-documented linkages between innovation, exports, and a strong and growing middle class, Canada's Innovation and Skills Plan focuses on innovation. Part of this plan is a target to increase Canada's exports by 30 per cent by 2024, and naming advanced manufacturing as an area of focus.

Industry "clusters" are one driver of innovation that can encourage investment, spur innovation, and create jobs. Clustered industries in Canada have a history of creating sustainable growth, particularly in high-tech industries. Recognizing the importance of such clusters, the Canadian government recently announced five clusters that would collectively receive up to \$950 million in investment, to be matched by industry contributions.

"When small, medium-sized and large companies, academic institutions and not-for-profit organizations come together to generate bold ideas, Canadians benefit from more well-paying jobs, ground-breaking research and a world-leading innovation economy that creates global market leaders."

Innovation, Science and Economic Development
Canada, 2018

An important aspect of clusters is their linkages with educational institutions, which ensure that the demand for skills is being met, and encourage research partnerships between academia and industry. Education is a key component of inclusive growth, and given the state of fast technological change, it is now well accepted that education must be an ongoing process beyond formal education.

¹ In this report, the term "Lockheed Martin" is used as a general term referring to all or part of its global operations.

The defence industry is an area in which the Government of Canada has encouraged growth. Due to its highly innovative and export-focused nature, the defence sector is well-positioned to advance the priorities discussed above. Moreover, as a major buyer of defence products and services, the Canadian government can influence the industry.

“Governments around the world recognize the importance of a strong defence sector, not only for national security, but to fuel economic growth. The defence sector is highly innovative and produces advanced technologies with defence and civilian applications.”

Current ITB Policy Guide

One way the government of Canada supports the Canadian defence industry is through Industrial and Technological Benefit (ITB) credits that defence contractors must fulfil. Generally, a contractor must generate business activity in Canada equal to the value of the defence contract awarded to them. Fulfilment of these obligations has the potential to support a strong and stable defence industry in Canada, as well as encouraging innovation and research in other areas of the economy.

As indicated previously, an important component of Canada’s priorities identified above, is the inclusiveness of growth. Many innovative and high-tech industries, including defence and advanced manufacturing, have traditionally lagged behind the overall economy in diversity of their workforce.

“For Canadian research to reach its true and full potential, it must be equitable, diverse and inclusive. A diversity of perspectives, voices and experiences is key in supporting innovation and excellence.”

—Danika Goosney, Executive Director, Tri-agency Institutional Programs Secretariat

The Government of Canada has made efforts to minimize this disparity, such as developing the Equity, Diversity, and Inclusion Action Plan for universities, and by launching a campaign that encourages young women to enter science, technology, engineering, and math (STEM) fields.

2.3. Scope of review

To prepare this Assessment, we have reviewed and, where appropriate, relied upon various documents and sources of information. By general classification, these sources include:

- › Interviews with Lockheed Martin employees
- › Data provided by Lockheed Martin
- › Statistics Canada
- › Ministry of Innovation, Science, and Economic Development
- › Department of National Defence
- › Organization for Economic Cooperation and Development (OECD)
- › Academic research articles

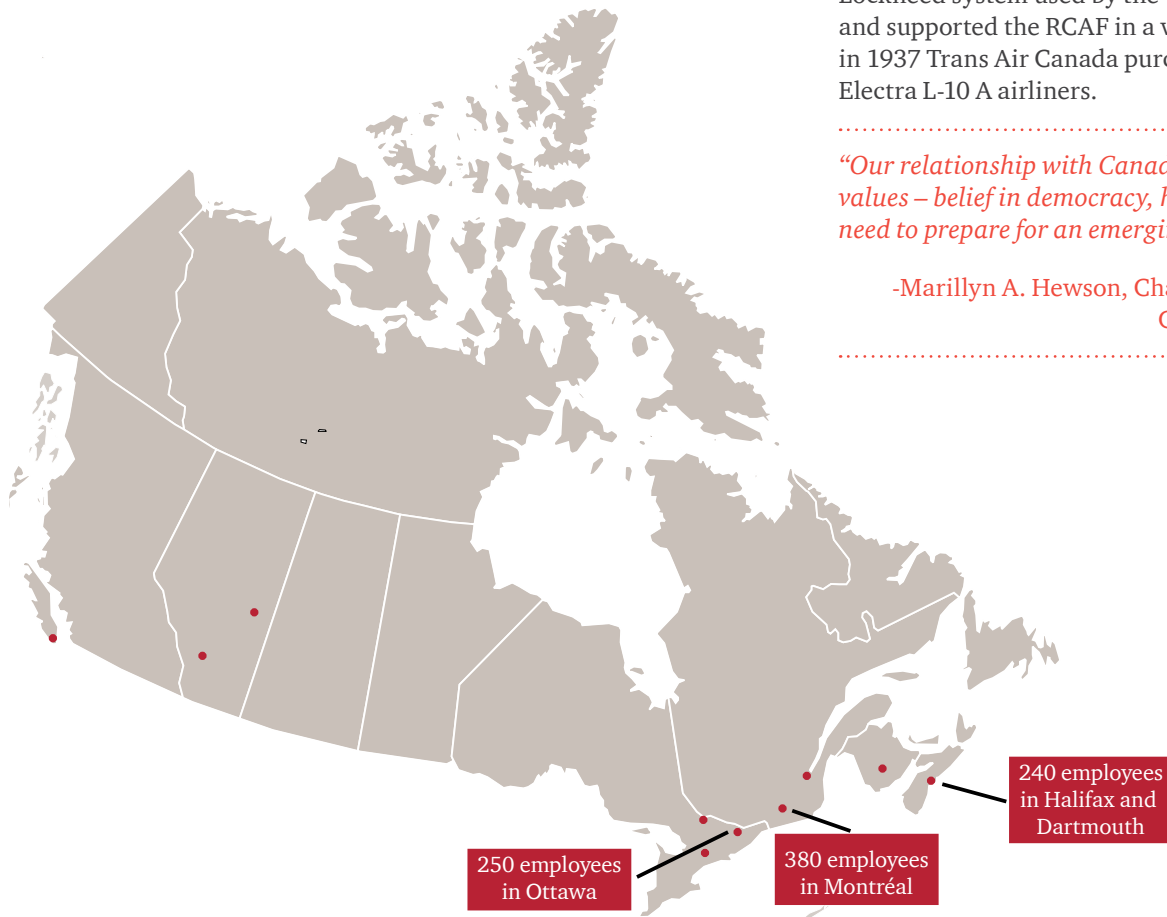
A full list of sources and articles used for the purpose of this Assessment is available in Appendix A.

3. Company overview

This chapter provides an overview of Lockheed Martin's presence in Canada going back to the 1930s and describes the scope of its operations over the last ten years. Lockheed Martin has a longstanding relationship with Canada's armed forces, industry, and history that lay the groundwork for the economic impact it currently generates.

Lockheed Martin Canada has 1,000 employees, and its primary activities are naval systems work including system integration, command and control units, combat management systems, and commercial engine maintenance, repair, and overhaul (MRO).

The map below shows Lockheed Martin Canada's locations.



History

Lockheed Martin has a long history in Canada and has consistently been a valuable partner to Canadian industry and military. Lockheed's¹ operations in Canada began in 1937 with the development of the Hudson Bomber for the British Air Commission. The planes were manufactured in Burbank, California, but could not be transported directly to the United Kingdom (also referred to in this report as "UK") because the United States (also referred to in this report as "US") was not at war with Germany at the time. This led to Lockheed setting up its first operations in Canada, where the final assembly and engine integration was done for the Hudson Bombers before transportation to the UK. In 1939, the Hudson Bomber was the first Lockheed system used by the Canadian military and supported the RCAF in a variety of roles. Also, in 1937 Trans Air Canada purchased two Lockheed Electra L-10 A airliners.

"Our relationship with Canada began with shared values – belief in democracy, human rights and the need to prepare for an emerging global threat."

-Marillyn A. Hewson, Chairman, President and CEO, Lockheed Martin

¹ Lockheed is the predecessor of Lockheed Martin.

In 1955, the Lockheed F-104 Starfighter, designed by Clarence “Kelly” Johnson, entered use in West Germany as a NATO warplane.² Lockheed sold the licensing rights to several other countries and from 1961 to 1981, the Canadian firm Canadair manufactured the F-104 in Quebec.³ Canadair also produced the Lockheed Martin T-33A Silver Star jet trainer, which was used by the RCAF from 1952 to 1974 to train pilots and for solo aerobatic displays. Canadair produced a total of 656 T-33As between 1952 and 1958.⁴ Canadair also produced components for Lockheed’s CP-140 Aurora and the P-3C Orion, which were used for maritime patrol and anti-submarine warfare.

The versatile CC-130⁵ cargo aircraft has been used by the RCAF since 1960 for troop transport, tactical airlift, search and rescue, air-to-air refuelling, and aircrew training.⁶ It is considered a “workhorse” by the RCAF’s air transportation fleet. SPAR Aviation maintained the CC-130 for several decades for the RCAF and other air forces and was the only Canadian company licensed to do so other than Lockheed Martin.⁷ In 2010, the RCAF began flying the CC-130J “Super Hercules.”⁸

In the 1980s and 1990s, Lockheed Martin underwent several mergers and acquisitions. Where companies like Martin Marietta and Sanders had Canadian branches, these merged with Lockheed Canada. During this time, Lockheed Martin also acquired Loral Defence Systems, on which the Lockheed Martin Canada naval systems integration business is based. Over the past ten years, more Canadian businesses have been acquired by Lockheed Martin Canada, as it has grown and diversified.

² (Lockheed Martin, 2018)

³ (The Canadian Encyclopedia, 2018)

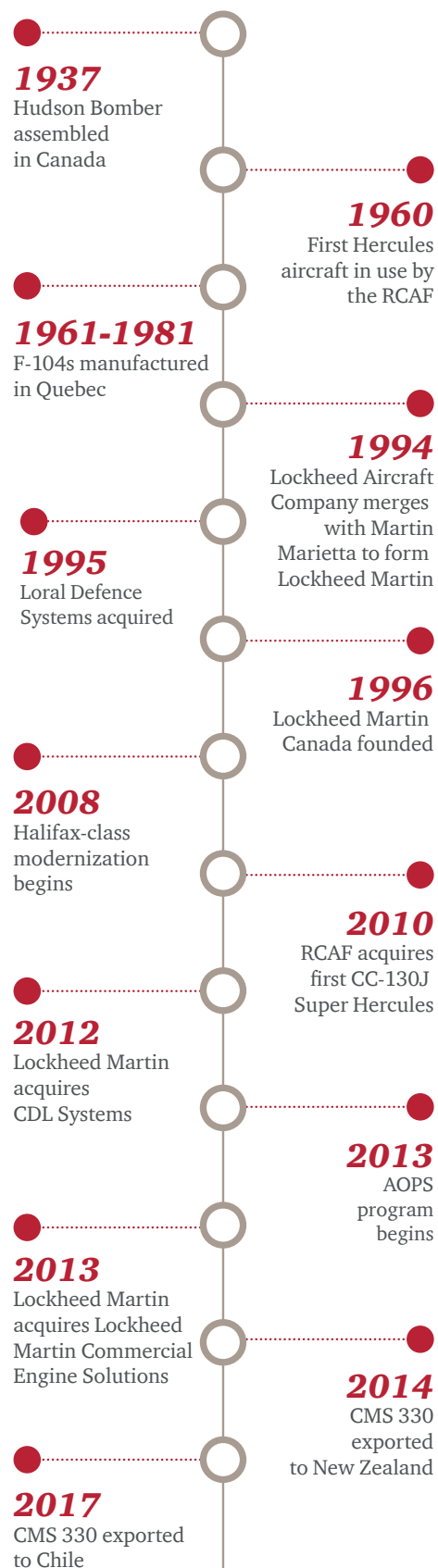
⁴ (Canadian Warplane Heritage Museum, 2018)

⁵ The “C” before the aircraft number signifies that it is flown by the RCAF.

⁶ (Royal Canadian Air Force, 2018)

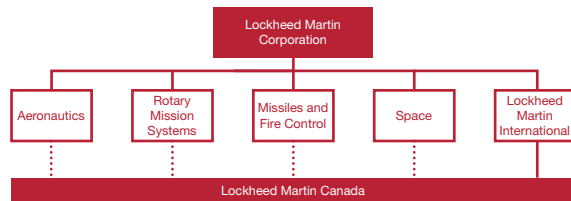
⁷ (SPAR, 2002)

⁸ (Royal Canadian Air Force, 2018)



Organization Structure in Canada

Lockheed Martin has four business areas: Aeronautics, Missiles and Fire Control (MFC), Rotary and Mission Systems (RMS), and Space. Lockheed Martin Global is a subsidiary of Lockheed Martin Corporation (US) and owns overseas operations including Lockheed Martin Canada. This report focuses on all Lockheed Martin operations that have economic impact in Canada, which include the activities of Lockheed Martin Canada and purchases from Canadian suppliers by Lockheed Martin Corporation.



The primary focuses of Lockheed Martin Canada are Aeronautics and RMS. Within RMS, the main activities are naval systems, system integration, command and control units, and combat management systems. Within aeronautics activities include commercial engine maintenance, repair, and overhaul (MRO) and in-service support. For more than thirty years, Lockheed Martin Canada has been the combat systems integrator for the Royal Canadian Navy (RCN)'s Halifax-class frigates.

Current activities

The following section outlines the technology offered by Lockheed Martin over the past ten years, focusing on systems produced primarily in Canada and systems that have a substantial economic footprint in Canada.

Halifax class modernization and CMS 330 Combat Management System

Lockheed Martin Canada has been the Combat System Integrator for the RCN for over 30 years and was the original provider of the Navy's Halifax-class frigates. Lockheed Martin Canada also developed the CMS 330, a world-class combat management system used on Canada's Halifax-class ships. Combat management systems process information from sensors and make recommendations on the best way to counter threats. Starting in 2008, Lockheed Martin Canada led a modernization program for the Halifax-class frigates that included replacing sensors and command and control systems, modernizing the operations room, and providing associated simulations and training systems. The Halifax-class upgrade also enables communication with the new CH-148 Cyclone maritime helicopters. To date, the project is on budget, and on time, with all ships to be fully operational in 2018.

Following the success of the Halifax-class modernization for Canada's Navy, Lockheed Martin Canada has embarked on similar modernizations for other navies. In 2014, Lockheed Martin Canada was selected by the New Zealand Ministry of Defence as the Prime Systems Integrator and implemented the Canadian-developed Combat Management System.⁹ Furthermore, the arrival of the first New Zealand frigate in March 2018 at Seaspan's Victoria Shipyards marked the first time in Canadian history that a foreign navy sent its ships to Canada for full modernization. In 2017, Lockheed Martin Canada was selected by the Chilean Navy to replace its Combat Management System and select subsystems for three frigates.¹⁰ In addition to being developed and made in Canada, these systems use inputs from Canadian suppliers, and together will generate \$540 million in export revenue. We note that export activity is one of the pillars of the ITB program.

⁹ (Lockheed Martin, 2018)

¹⁰ (Lockheed Martin, 2017)

Figure 2: A HALIFAX- class frigate**Halifax-class Frigates: Quick Facts**

- › The RCN currently operates 12 Halifax-class frigates, all of which were modernized by Lockheed Martin Canada
- › Originally procured by DND in the 1990s
- › Lockheed Martin Canada was the original Combat System Integrator through its heritage company Paramax Electronics
- › \$2.0 billion in associated ITB commitments fulfilled
- › 105% of ITB commitments met
- › On budget and on time
- › \$540 million in export value through contracts with Chilean and New Zealand navies
- › Modernized ships delivered from 2014-2018

Arctic Offshore Patrol Ships

Lockheed Martin Canada is providing internal systems for Arctic Offshore Patrol Ships currently being built by Irving Shipbuilding Incorporated for the RCN. Lockheed Martin Canada is providing key integration of data and information sources through its Combat Management System. Irving Shipbuilding Incorporated, Lockheed Martin Canada, and their suppliers are supporting a strong ocean technology industry in Atlantic Canada through the National Shipbuilding Program. To deliver this program, Lockheed Martin is working with suppliers across Canada, including Toolcomm, an Indigenous-owned business in British Columbia.

AOPS: Quick Facts

- › Five ships ordered by DND
- › The first delivery is scheduled, in 2018
- › Capabilities include sea-borne surveillance and situational awareness suitable for the Arctic region

Sustainment

In-service support (ISS) for Lockheed Martin technology used in Canada is also performed in-country by Lockheed Martin Canada and other domestic suppliers. ISS includes training maintenance technicians, maintenance and repair, determining maintenance requirements, and monitoring of aircraft to confirm their airworthiness.

For example, Lockheed Martin has performed ISS for the Halifax-class ships as a combat systems integrator for a decade. Additionally, ISS on the CC-130 Hercules and CC-130J Super Hercules aircraft involves extensive activity in Canada. Lockheed Martin Canada performs a substantial portion of ISS in Canada, and the personnel complement has grown along with the size of the CC-130J fleet used by the RCAF. ISS for the CH-148 Cyclone maritime helicopter used by the Canadian Armed Forces is also done in Canada.

Training

Lockheed Martin Canada operates a training centre in Dartmouth, NS for RCN teams, operators, and maintenance staff. This facility delivers training on the CMS 330 combat management system, and provides options to train in the classroom or at sea in a live environment.

The VISTA Simulation Training Application is a virtual environment developed by Lockheed Martin Canada that is used to train workers who maintain and operate complex equipment. Since this advanced training is provided virtually, it saves the RCN substantial time and money. As the CMS 330 system is increasingly used around the world, VISTA products have now been exported to over 10 countries worldwide.

Figure 3: Vista software

Lockheed Martin Canada has provided Direct Fire Targetry (DFT) services for the Canadian Armed Forces since 1997, and maintains four permanent DFT sites in Gagetown, NB, Edmonton, AB, Valcartier, QC and Petawawa, ON. DFT services provide weapons training so that soldiers can practice responding to threats with live ammunition in a controlled environment.

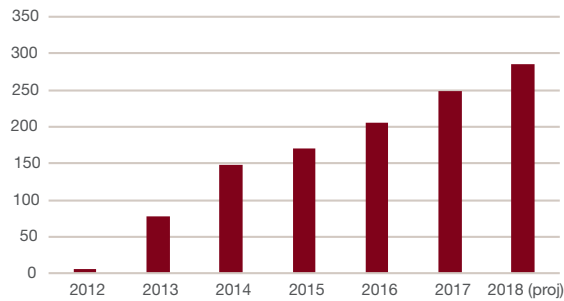
Electronic warfare systems

Lockheed Martin Canada has developed electronic warfare (EW) systems for the RCN and the United Kingdom's Royal Navy, and recently developed Coronis, a Windows-based EW software. Electronic warfare systems support situational awareness, and help ships identify and intercept threats. For example, EW systems can both disrupt signals and prevent their own receivers from being disrupted.

Lockheed Martin Commercial Engine Solutions

Lockheed Martin Commercial Engine Solutions (LMCES) provides Maintenance, Repair, and Overhaul (MRO) services out of its location in Montreal—one of the world's top aerospace clusters. This facility was acquired by Lockheed Martin in 2013 after Aveos Fleet Performance was liquidated. Lockheed Martin has rebuilt the shop, leveraging more than 40 years of experience in commercial and military aircraft engines. In addition to engine MRO, LMCES provides component repair, in-field services, logistics, testing services, lab services, specialty services and technology investment. Through service excellence, LMCES has maintained client relationships and serves many of the same clients as the Aveos facility including the RCAF, Air Canada, and Air Transat, as well as international commercial and military clients. To support the increased demand for its services, the LMCES workforce has grown substantially, from seven employees at the time of acquisition in 2013, to 250 employees today, as shown on the chart below.

LMCES Employment



For LMCES, there are a number of benefits to being a part of Lockheed Martin Canada. Lockheed Martin's strong brand and name recognition is helpful in winning business. Though following its acquisition by Lockheed Martin the facility was originally called Kelly Aviation, it changed its name to Lockheed Martin Commercial Engine Solutions to emphasize the connection with Lockheed Martin. For customers, the brand is associated with quality, reliability, and financial stability.



This acquisition has benefitted the Canadian and Quebec economies by providing the ability to maintain knowhow and building a sustainable operation that is expanding in domestic and export markets and creating higher value-added jobs.

CC-130 and CC-130J

The CC-130 Hercules tactical transport aircraft has been in service with the RCAF since 1960, and the H-model currently in use was purchased in 1996. Between 2010 and 2012, the RCAF acquired 17 J-model “Super Hercules” aircraft, which are more fuel-efficient and require a smaller crew compared to older models. Hercules aircraft have been instrumental to the operations of the RCAF, in use to deliver personnel, supplies, fuel, and equipment to remote parts of Canada’s North, delivering aid and assistance following disasters in remote areas around the globe, and transporting supplies and equipment in support of the Global Coalition against terrorism.¹¹

Technology such as the Hercules aircraft has economic impacts on Canada through Canadian suppliers and through ITB commitments that are associated with procurement for the Canadian military. Lockheed Martin recently completed \$1.4 billion in benefits to the Canadian economy through ITB commitments associated with CC-130J procurement. Read more about these commitments in Section 6: R&D Activities.

Figure 4: C-130J Hercules Transport Aircraft



CC-130: Quick Facts

- › The RCAF currently operates 12 CC-130H Hercules transport aircraft
- › In use by the Canadian Armed Forces since 1960 (H/E models)
- › Used for troop transport, tactical airlift, search and rescue, air-to-air refuelling, and aircrew training
- › Used to deliver supplies in Canada and in the Global Coalition against terrorism
- › Canadian sustainment providers work on C-130s around the world

CC-130J: Quick Facts

- › The RCAF currently operates 17 CC-130J Super Hercules transport aircraft
- › In use by the Canadian Armed forces since 2010
- › Upgraded by Lockheed Martin and Cascade Aerospace between 2013 and 2017 on budget
- › Used for troop transport, tactical airlift, search and rescue, air-to-air refuelling, and aircrew training, peace support operations, and for humanitarian assistance
- › Used to deliver supplies in Canada and in the Global Coalition against terrorism
- › Canadian sustainment providers work on C-130Js around the world
- › 100% IRB (ITB) commitments were fulfilled ahead of schedule

¹¹ (Royal Canadian Air Force, 2018)

F-35 Lightning II

The F-35 Lightning II fighter jet is a fifth-generation stealth weapon system developed by Lockheed Martin. It is flown around the world, and sources a considerable share of its components from Canadian companies: there is \$2.3 million USD worth of Canadian components on every F-35 jet manufactured. The F-35 program has strengthened Lockheed Martin's relationships with Canadian aerospace suppliers who were chosen through a global competitive process.

In 2002, Canada became one of the original nine program partners. Since then, more than 110 Canadian suppliers have been involved, and the total value of contracts to these suppliers has exceeded \$1 billion, which has supported the creation of \$889 million in GDP and 9,500 jobs.¹² Read more about suppliers involved in the F-35 in Section 7.

Lockheed Martin procures parts from Canadian companies for F-35s around the world, generating significant economic impacts in Canada. Canadian suppliers for the F-35 include Gastops which, due to a substantial investment received from Lockheed Martin, was able to develop an innovative technology which provides engine health monitoring sensors. Another key supplier for the F-35 is Magellan, an anchor of the Winnipeg aerospace cluster, which provides the horizontal tail, machined parts, and centre fuselage and wing composite parts. Magellan has entered into contracts with Pratt and Whitney and Rolls-Royce for initial engine work. The parts provided by Magellan are critical hardware that require advanced machining capabilities and strict quality standards.

Figure 5: F-35 Lightning II



F-35 Lightning II: Quick Facts

- › Over 280 delivered worldwide
- › 110 Canadian suppliers involved over the course of the program
- › \$2.3 million USD in Canadian components on every jet
- › \$889 million in Canadian GDP supported to date

Future Fighter Capability Project

“On December 12, 2017, the Government of Canada launched an open and transparent competition to permanently replace Canada’s fighter fleet with 88 advanced jets. This is the most significant investment in the Royal Canadian Air Force in more than 30 years and is essential for protecting the safety and security of Canadians and meeting international obligations.”

-Public Services and Procurement Canada



¹² (OMX Data Analytics, 2017)

CH-148 Cyclone

The CH-148 Cyclone helicopter is built by Sikorsky, which was acquired by Lockheed Martin in 2015. The CH-148 Cyclone is set to replace the CH-124 Sea King as Canada's main ship-borne maritime helicopter in 2018. The RCAF uses maritime helicopters for intelligence, surveillance, and reconnaissance, including anti-submarine and anti-surface warfare, search and rescue, utility missions, and tactical transport.¹³ Compared to the Sea King, the Cyclone is faster, has more cabin space, and higher endurance, as well as other innovative improvements.

“The Cyclone is an information rich aircraft and managing the flow of information to determine how best to meet the task is a key challenge and opportunity generated by the new technologies on-board Cyclone.”

- Colonel Sid Connor, the 12th Wing Commander¹⁴

The Government of Canada has ordered 28 CH-148 Cyclones. To support the introduction of these new helicopters, Sikorsky has built a Maritime Helicopter Training Centre at 12 Wing Shearwater in Nova Scotia. To date, the centre has trained more than 300 students on flying and maintaining the aircraft. Sikorsky is the prime in-service support (ISS) integrator for the CH-148 Cyclone and has partnered with Canadian companies including General Dynamics Mission Systems Canada and L3 MAS to deliver the ISS.¹⁵ Sikorsky commercial helicopters are also in use in Canada for oil and gas customers, search and rescue, and emergency medical services.

Figure 6: An RCAF CH-148 Cyclone Maritime Helicopter



CH 148 Cyclone: Quick Facts

- › The RCAF is in the process of replacing their CH 124 Sea King fleet with 28 CH-148 maritime helicopters
- › Initial operational capability in 2018 and full operational capability in 2025
- › Program value of \$6.1 B for acquisition and ISS
- › To date, 300 students trained at the dedicated Maritime Helicopter Training Centre

Sikorsky has completed its ITB obligations of over \$4.8 billion for the acquisition and maintenance of the helicopters, including the donation of a Sikorsky S-76 helicopter to the Saskatchewan Indian Institute of Technologies to help students learn about helicopter maintenance.

Figure 7: Students at the Saskatchewan Indian Institute of Technologies with a Sikorsky S-76 helicopter



¹³ (Royal Canadian Air Force, 2018)

¹⁴ (Second Line of Defense, 2017)

¹⁵ (Canadian Defence Review, 2017)

CP-140 Aurora Structural Life Extension

The CP-140 Aurora aircraft is a long-range patrol aircraft used by the RCAF for Intelligence, Surveillance, and Reconnaissance in domestic, continental, and international roles. Lockheed Martin Aeronautics was contracted in 2008, to carry out the Aurora Structural Life Extension Project (ASLEP) for 14 Auroras.¹⁶ This included replacing wings, horizontal stabilizers, and other parts on the aircraft to ensure ongoing safety. To complete this project, Lockheed Martin worked with a range of Canadian suppliers and fulfilled over \$250 million in ITB obligations, including an investment in a new 3-D metal printing centre of excellence at the University of New Brunswick.¹⁷ Read more about the economic impacts of the ASLEP in Section 6 (ITB credits) and Section 7 (supplier relationships).

Figure 8: A CP-140 Aurora surveillance aircraft



CP 140: Quick Facts

- › Manufactured by Lockheed Martin Aircraft Company, in use in Canada since the early 1980s
- › 18 in use by the RCAF
- › Used for surveillance, anti-submarine warfare, intelligence, surveillance, and reconnaissance, strike coordination, search and rescue, and disaster relief
- › Used to combat illegal immigration, illegal fishing, pollution, and drug trafficking
- › Used by the RCAF to support operations in Canada, the Caribbean Sea and the Pacific

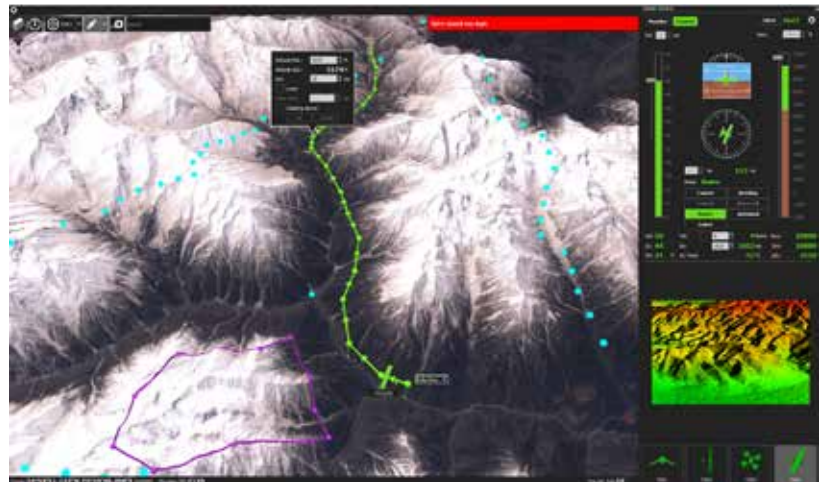
Software for unmanned Aerial Vehicles

CDL Systems, located in Calgary, produces software for Unmanned Aerial Vehicles (UAVs). It was acquired by Lockheed Martin in 2012 in order to expand its capabilities in this industry.

CDL Systems was founded in 1993 to commercialize ground control software for UAVs. The ground control software functions like a cockpit on the ground, providing visuals and control mechanisms. CDL licenses the software system to users and provides additional services such as customizing the software for different types of UAVs or specific uses. Currently, almost all sales are to defence contractors, the vast majority of which are exported. Military applications of UAVs include surveillance, strikes, and target tests.

CDL Systems has a staff of 50 employees hired mostly from the University of Calgary's engineering program and offers an internship for recent graduates. It is also piloting a partnership with the Southern Alberta Institute of Technology to test and evaluate their software.

One advantage to CDL of the acquisition by Lockheed Martin is its name recognition, which expands CDL Systems' range of potential clients. Additionally, CDL Systems now has access to Lockheed Martin's sales support in a number of countries, increasing their potential to grow international sales, which will benefit the economies of Calgary, Alberta, and Canada.



¹⁶ (Royal Canadian Air Force, 2014)

¹⁷ (Industry Canada, 2017)

Canadian Forces Health Information System

Between 2002 and 2016, Lockheed Martin Canada was the prime contractor for the development and ISS of the Canadian Forces Health Information System (CFHIS), a software system that provides health information in a secure electronic form to 2,500 health care providers. The CFHIS is an important tool to ensure that the 85,000 Canadian Forces personnel that use it receive consistent healthcare. Lockheed Martin Canada's role in developing the CHFIS was to integrate different off the shelf software to create an Electronic Health Record that can be securely and efficiently accessed around the world. The CHFIS continues to be used successfully by the Canadian Armed Forces.

Solar Tilt Roller Tracker

Lockheed Martin is expanding investment and operations in the area of sustainable energy. In 2011, Lockheed Martin Canada began development of the Tilt Roller Tracker (TRT), an off-grid energy solution which is substantially more efficient than traditional fixed solar panels. In 2013 Lockheed Martin Canada designed a full micro-grid solution bringing the solar tilt technology together with batteries and diesel generator to make a complete power system ideally suited for off-grid applications.

In the same year, Manitoba Hydro ran a competition for the supply of a renewable power solution to four remote communities in Northern Manitoba. Lockheed Martin Canada's TRT microgrid solution was selected by a stakeholder community consisting of Manitoba Hydro, Natural Resources Canada (NRCAN), and Indigenous and Northern Affairs Canada (INAC). A prototype TRT was installed in Swift Current, Saskatchewan prior to 2016 Energy Forum in Saskatoon.

Since then, TRT technology has continued to develop: a prototype TRT was installed in Swift Current, Saskatchewan prior to 2016 Energy Forum in Saskatoon, and Lockheed Martin has applied for technology patents in both the US and Canada.



4. *Economic footprint, 2008–2017*

Introduction

This section estimates the economic footprint of Lockheed Martin's operations in Canada for each year from 2008 to 2017. This includes capital expenditures such as investment in new property and equipment, operating expenses of Lockheed Martin Canada, and intermediate goods purchased from Canadian suppliers by Lockheed Martin Corporation for aircraft, satellites and other systems assembled in the United States.

We note that the economic footprint of Lockheed Martin, as estimated in this section does not fully reflect the economic contribution of Lockheed Martin to the Canadian economy. As discussed later in this report in addition to the contributions made throughout its supply chain, Lockheed Martin provides benefits to the Canadian economy through:

- › Downstream impacts (see Section 5)
- › Research and Development (see Section 6)
- › Participation in industry clusters (see Section 7)
- › Skill development (see Section 8)
- › Corporate social responsibility (Section 9)

Those additional elements have been identified and described by us in the above noted sections. Our review suggests that Lockheed Martin provides significant economic benefits to the Canadian economy, through those elements. However, the scope of this report does not include a quantification of those benefits into common economic footprint measures.

Lockheed Martin's Economic Footprint

The data used to conduct the economic impact Assessment was expenditure data collected from Lockheed Martin Canada and Lockheed Martin Corporation.

Based on these expenditure figures, we estimated the economic footprint of Lockheed Martin's operations in Canada. The economic footprint estimates for 2008-2017 are summarized in the table below.

Total economic impact generated between 2008 and 2017:

\$3.8 billion
in GDP

36,521 jobs
in full time equivalent (FTE) person years

\$2.5 billion
in labour income

\$1.9 billion
in exports to the US

\$1.5 billion
in total tax impact

In a typical year¹, the economic impact of Lockheed Martin on the Canadian economy is:

\$379 million
in GDP

1,000 direct FTE jobs²

2,652 additional FTE jobs supported

\$254 million
in labour income

\$147 million
in total tax impact

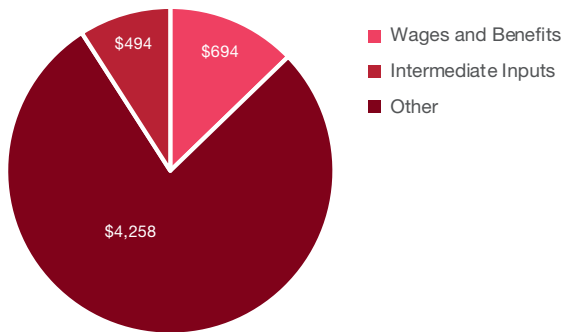
\$193 million
in exports to the US

¹ Average of the years 2008 to 2017

² Full time equivalent jobs. 2017 figure.

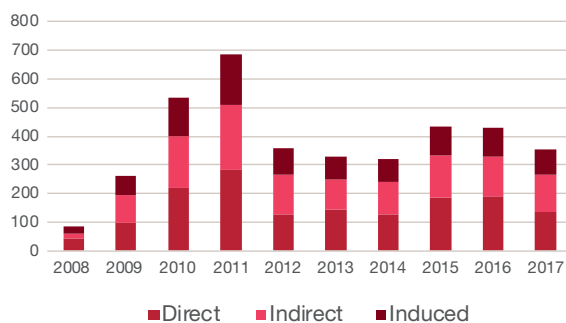
Economic impact estimates were based on spending data collected from Lockheed Martin. This includes capital expenditures and operating expenses by Lockheed Martin Canada, as well as purchases by Lockheed Martin Corporation from Canadian suppliers. This spending amounted to \$5.4 billion between 2008 and 2017, an average of \$545 million per year. The following chart shows the breakdown of this spending between 2008 and 2017. By far the largest category of spending was intermediate inputs (components) from Canadian suppliers, which accounted for 78% of expenditure. The second largest category was wages and benefits, accounting for 13%, and other, such as utilities and equipment, accounting for 9%.

Expenditure by Type, \$ Millions 2008-2017



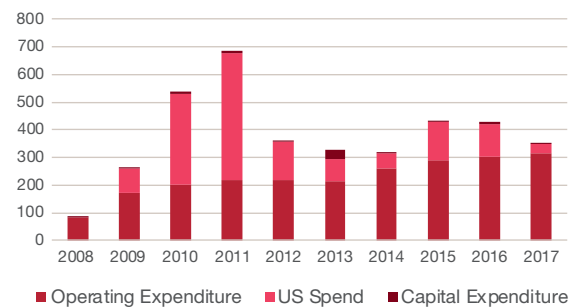
The chart below shows the total GDP or value-added impact of Lockheed Martin. Total contribution to GDP over ten years was \$3.8 billion.

Total GDP



The following breaks down the same GDP figures by source, i.e. operating expenses, capital expenditures, and spending by Lockheed Martin Corporation (US spend).

GDP by Source



The largest contributor to GDP in most years is operating expenses, which refers to the ongoing operations of the business. This has generally increased over the past ten years, increasing from \$84 million in 2008 to \$314 million in 2017.

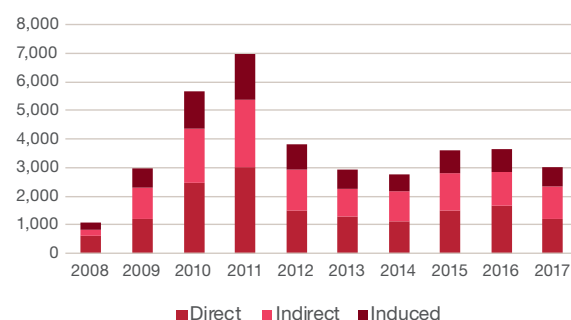
The second-largest contributor to overall GDP is US spending, that is spending by Lockheed Martin Corporation on Canadian suppliers. US spending was at its highest during 2010 and 2011. During this time, three major programs—F-35 Lightning II, Halifax class Modernization, and COMDEV satellite — were all purchasing parts from Canadian suppliers.

Economic impacts attributed to US spending are related to exports by Canadian suppliers.

Capital expenditures during the reviewed period had a relatively low economic footprint.

Employment is measured in full time equivalent (FTE) positions, and naturally follows a similar pattern as GDP. Total employment supported by Lockheed Martin was over 36,500 job years from 2007 to 2017, including 3,023 positions in 2017.

Employment



The cities in which Lockheed Martin has had the largest impact are Montreal, Ottawa, and Halifax. In 2017, the economic impact of Lockheed Martin was:

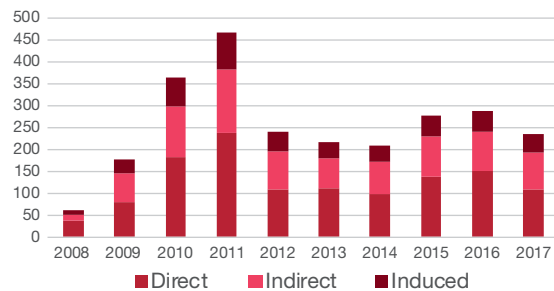
\$47 million
in GDP and
463 jobs in
Montreal

\$43 million
in GDP and
459 jobs in
Ottawa

\$28 million
in GDP and
393 jobs in
Halifax

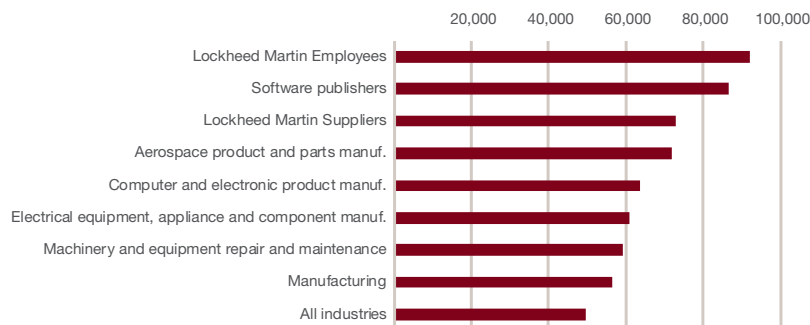
The following chart shows labour income earned by employees supported by Lockheed Martin. In 2017, average labour income per direct employee was \$90,527 and average labour income for all employees supported by Lockheed Martin (i.e. direct, indirect and induced) was \$77,500.

Labour Income



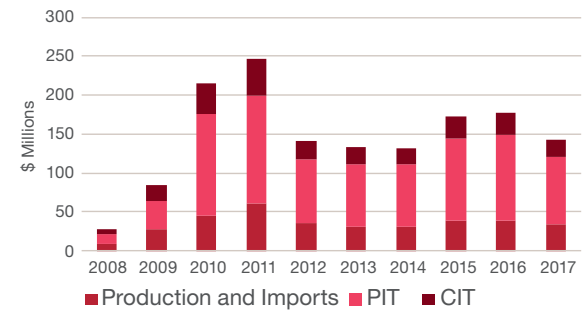
The annual salary earned by Lockheed Martin Canada employees and their suppliers is above that of employees in similar industries. As Lockheed Martin Canada's activities span a number of industry categories, several comparison industries have been included. In 2016, the most recent year for which comparable data was available, Lockheed Martin Canada's direct employees earned the highest income at \$92,090, followed by software publishers at \$86,618, and Lockheed Martin suppliers at \$73,033. The incomes of these groups exceed the average income in industries such as aerospace product and parts manufacturing, computer and electronic product manufacturing, and machinery and equipment repair and maintenance. Generally speaking, higher wages correspond to companies involved in higher value added activities.

Annual Income, 2016



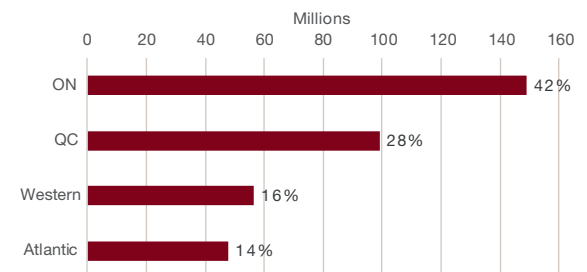
As noted above, tax contribution here includes taxes on production and imports at the municipal, provincial, and federal levels, as well as taxes on personal and corporate income at the provincial and federal levels. In 2017, total tax contribution was \$143 million.

Total Tax Impact



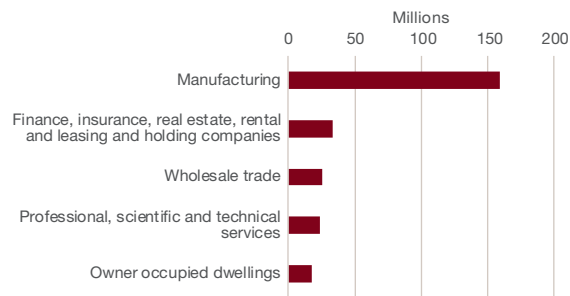
The province impacted the most by Lockheed Martin's operations is Ontario: in 2017, 42% of the overall GDP impact took place in Ontario. Quebec had the second-highest impact at 28%, followed by the Western provinces (Alberta, British Columbia, Manitoba, and Saskatchewan) at 16% and the Atlantic Provinces (Nova Scotia, New Brunswick, Newfoundland, and PEI) at 14%. The provincial breakdown of other metrics (employment, labour income, and tax) is very similar to the GDP breakdown shown below.

Total GDP Impact, 2017



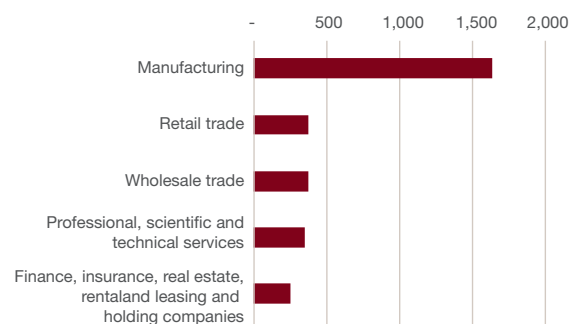
Almost half (46%) of Lockheed Martin's 2017 GDP footprint in Canada is in the manufacturing industry. Lockheed Martin's activities are mainly in aerospace and defence manufacturing, which is included in the broader manufacturing category. The remaining significant industry footprints include finance, insurance, real estate, rental and leasing and holding companies (10%), wholesale trade (10%) and professional, scientific, and technical services (10%).

GDP



In terms of employment, the industry impacted the most by Lockheed Martin is manufacturing, accounting for 41% of total employment impact, followed by retail trade with 9% of total employment and wholesale trade with 9%.

Employment Impact 2017



Exports

Because Lockheed Martin's systems are used globally, Canadian suppliers build on their experience maintaining, supporting, and upgrading Lockheed Martin systems in Canada to export these services to other defence departments worldwide. In particular, US purchases by Lockheed Martin Corporation represented \$1.9 billion in Canadian exports over the period 2008 to 2017.

Canadian exports facilitated by Lockheed Martin are not limited to the US as described below:

Following the success of the Halifax-class frigate modernization, Lockheed Martin Canada has won two contracts for similar modernizations in New Zealand and Chile. The work for the Chilean Navy started in 2017, and is projected to include \$69 million dollars in Canadian content value, including both Lockheed Martin and external suppliers. The contract with the New Zealand Navy began in 2014 and will provide \$46 million in Canadian content value over the life of the project.

In addition to these figures, Canadian suppliers and sustainment providers build on their experience working with Lockheed Martin aircraft and systems to further increase global exports. For example, Cascade Aerospace provides maintenance and upgrades on C-130 systems for the RCAF and was recently awarded a contract to modernize a C-130 Hercules for the Mexican Air Force. For more examples of Canadian companies exporting services for Lockheed Martin aircraft used abroad, see Section 5.

5. *Downstream impacts*

The economic footprint estimates shown in Section 4 include what is referred to as “upstream” impacts in the form of economic impact created by suppliers of Lockheed Martin and suppliers of these suppliers. In this section, we discuss the downstream impacts of Lockheed Martin, i.e. where Lockheed Martin systems drive demand for additional products and services. The downstream activities impacted by Lockheed Martin are significant and include maintenance, systems support, training for pilots and mechanics, and updates such as the CP-140 Aurora Structural Life Extension Project. Because Lockheed Martin’s systems are used globally, Canadian suppliers build on their experience maintaining, supporting, and upgrading Lockheed Martin systems in Canada to export these services to other defence departments worldwide.

In addition to generating demand for goods and services, Lockheed Martin’s aircraft and naval systems provide benefits to the Department of National Defence by increasing the efficiency of communication between Canada’s armed forces and their allies. Additionally, when different armed forces use Lockheed Martin technology, they effectively share the costs of developing upgrades, as has been the case with the CC-130. Finally, some Lockheed Martin systems are unique and thereby provide benefits to Canada’s economy not otherwise available.

This section describes the most significant additional economic impacts generated by Lockheed Martin after its systems are delivered for use in Canada.

Training and maintenance

CAE

Between 2010 and 2012, Lockheed Martin Aeronautics delivered 17 new CC-130J Super Hercules tactical aircraft to the RCAF. Once an aircraft is delivered, the RCAF requires many associated services including training for pilots and maintenance crew. CAE is the prime contractor to the DND for providing Operational Systems Training for Canada’s CC-130J aircraft, meaning

that it provides flight simulators and training for CC-130J pilots. Flight simulators are an important money-saving technology for the RCAF because training in simulators is substantially less expensive than using actual aircraft. CAE also provides comprehensive maintenance training for the CC-130J at their Air Mobility Training Centre in Trenton, Ontario.¹ ITB obligations for these two programs total \$593 million.

CAE was selected because of their previous experience, knowledge and skill in dealing with CC-130 aircraft maintenance training and simulation. CAE is a global company headquartered in Montreal and is a global leader in flight simulation and training systems integration. The relationship between CAE and Lockheed Martin goes back around 30 years and is one of the strongest among Canadian suppliers.

IMP Aerospace

IMP Aerospace and Defence (IMP), located in Halifax, NS, has provided several upgrades and modifications to Canada’s CP-140 Aurora fleet. IMP has provided support for the Aurora aircraft since it entered service for the RCAF in the early 1980s and has worked on both the Aurora Incremental Modernization Project (AIMP), which replaced mission systems and sensors, and the Aurora Structural Life Extension Program (ASLEP), which will extend the life of the fleet to 2030. On both projects, IMP performed installation work. As part of the ASLEP, IMP replaced wings, horizontal stabilizers, and centre wing box structures. It also updated the navigation and flight instruments, communications, and mission systems using kits provided by Lockheed Martin.² IMP has built on this expertise to perform a similar wing replacement on Norwegian P-3 Orions, a related Lockheed aircraft.³ IMP has a strong relationship with Lockheed Martin and also provides warehouse and supply chain management services for the CC-130J in Trenton, ON.

¹ (CAE, 2018)

² (Government of Canada, 2014)

³ (IMP Group, 2017)

Cascade Aerospace

Cascade Aerospace (“Cascade”), based in Abbotsford, BC, provides aircraft maintenance services on the CC-130 and CC-130J, and is the only Canadian provider of these services. As of 2012, Cascade Aerospace is a division of IMP. Services provided by Cascade for Canada’s 32 Hercules aircraft include component repair and overhaul, as well as maintenance and fleet management. For an upgrade performed by Cascade in 2016, Lockheed Martin introduced a new method of “block upgrading” where many changes are made at once and coordinated across Hercules fleets, as directed by Lockheed Martin. This replaces an incremental style of upgrading that was done by individual air forces on an ad-hoc basis. The new system is both more efficient and provides better quality. Additionally, different air forces can share the cost of developing enhancements for the aircraft.

Cascade Aerospace was selected by Lockheed Martin based on a competitive process that found them to be the most qualified and cost-competitive provider. In 2004, Cascade developed a partnership with several subcontractors including Marshall Aerospace, Derco Aerospace, and Standard Aero to provide services for the Hercules aircraft. These companies also have experience servicing Hercules fleets worldwide.⁴ Building on their experience with CC-130s in Canada, Cascade was recently awarded a contract by the Mexican Air Force to modernize a C-130 aircraft.⁵

Standard Aero

Standard Aero is one of the world’s largest providers of maintenance, repair, and overhaul (MRO) services, with Canadian operations in Winnipeg, MB. In Canada, it operates as a subcontractor to Rolls Royce, which manufactures the engine and outer casing of the CC-130J. Standard Aero is the only MRO provider for these engines other than Rolls Royce. In 2015, Lockheed Martin Aeronautics designated Standard Aero as an authorized Quick Engine Change Service Centre to provide maintenance for the CC-130J, meaning that it is officially licensed to perform maintenance on the aircraft, as well as all other CC-130 models. Currently, Standard Aero has contracts from the Department of Defence to perform interim and

long-term maintenance on both the CC-130 and CP-140 aircraft.

Standard Aero performs maintenance for several C-130 fleets worldwide, and in January 2018 it was awarded a \$600 million USD contract from the United States Air Force (USAF) for MRO work on the engines of their C-130H fleet, with work to be done at both the Winnipeg and San Antonio facilities.⁶

Other examples

Other examples of work done on Lockheed Martin systems by Canadian companies include:

- › General Dynamics Mission Systems Canada: Block IV, the final upgrade of the CP 140 AIMP, involving the development, installation and integration of new capabilities including computers, satellite communication systems and missile defence capabilities;⁷
- › L-3 Electronics: Optimized Weapon System Support for the CP-140 fleet; and
- › MacDonald Dettwiler: imaging and surveillance radar system and associated software upgrades for the CP-140 fleet.

Additional benefits

Canada benefits from the use of Lockheed Martin systems by armed forces around the world. As discussed above, the block upgrade method means that various fleets can share the costs of developing new capabilities for their systems, thereby saving money.

Additionally, some technology offered by Lockheed Martin offers unique capabilities and benefits to Canada. For example, the Hybrid Airship can deliver heavy cargo to areas of the world with limited transportation infrastructure such as roads. This technology has potentially significant implications for delivering humanitarian aid, which is a traditional priority for Canada’s foreign policy. This technology is also important in developing industries in remote areas of Canada, such as mining in Canada’s Arctic.

⁴ (Industry Canada, 2017)

⁵ (Cascade Aerospace, 2018)

⁶ (Standard Aero, 2018)

⁷ (General Dynamics, 2016)

6. Research and Development activities

There are three main channels through which Lockheed Martin generates research and development (R&D) spending in Canada: developing new capabilities within Lockheed Martin Canada, R&D investment through Canada's Industrial and Technological Benefits (ITB) program, and acquisition of innovative companies in Canada. The first two channels are described below, and examples of the third are discussed in Section 3, which highlights some of Lockheed Martin's successful acquisitions.

The Organization for Economic Cooperation and Development (OECD) defines R&D as "the money spent on creative work undertaken on a systematic basis to increase the stock of knowledge and the use of this knowledge to devise new applications."¹ This covers a range of activities including developing and commercializing new technology. Spending on R&D is an important driver of innovation and productivity, which has been slowing in many developed countries since the early 2000s or earlier. This is of concern because productivity is an important driver of growth and improvements in living standards.² Because of the links between R&D spending, productivity, and economic growth, many governments have made it a priority to increase R&D spending.

Additionally, R&D spending generates a "social return on investment," which refers to the full range of benefits created by a new technology including economic, environmental, and well-being benefits. Based on this potential range of benefits, commonly accepted economic multipliers for R&D spending are up to nine times the initial investment, meaning that every dollar invested in R&D is expected, on average, to yield up to \$9 in long-term economic benefits.

Overall, Canada lags behind most other developed countries in R&D investment. For example, in 2015 R&D intensity³ was 1.7% in Canada, compared to 2.8% in the US.⁴ The Canadian aerospace and defence industries have substantially higher R&D intensity than other industries in Canada:

- › In 2016, R&D intensity in Aerospace manufacturing was 18%, compared to 3% in all manufacturing.⁵
- › Between 2012 and 2014, 29% of aerospace manufacturing firms were involved in the development of new advanced technologies compared to 15% of all manufacturing firms.
- › Aerospace manufacturing firms are substantially more likely to collaborate with other companies, educational institutions, or government research institutions compared to all manufacturing firms.

In the defence industry, figures on R&D intensity are not available, but the fact that over 30% of jobs in this industry are related to innovation, suggest a relatively high level of intensity.⁶

Between 2008 and 2017, Lockheed Martin generated:

\$18 million
internal R&D

\$156.6 million
ITB investment in R&D

Acquisitions of innovative companies in Canada



¹ (OECD, 2005)

² (OECD, 2017)

³ R&D intensity is R&D spending divided by GDP.

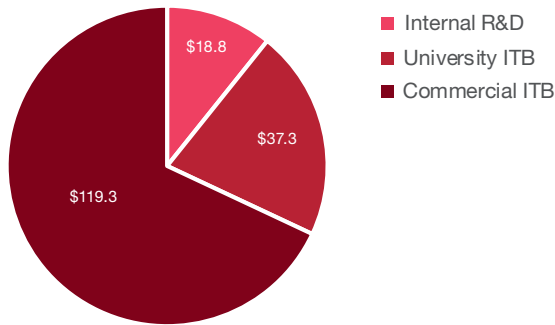
⁴ (OECD, 2017)

⁵ (ISED and AIAC, 2017)

⁶ (ISED and CADSI, 2016)

The chart below shows total R&D investment made by Lockheed Martin in Canada between 2008 and 2017. The largest portion comes from ITB investment, of which the majority is in commercial enterprises rather than university-based R&D. Between 2008 and 2017, R&D investment by Lockheed Martin represented 11.0% of direct GDP, compared to 1.7% for the Canadian economy overall.⁷

R&D Investment, \$ Millions 2008–2017



Development of new technologies by Lockheed Martin Canada

Lockheed Martin engages in R&D both directly through its own development of new technologies, and indirectly by supporting Canadian companies through the ITB program, as described in the following section. For example, Lockheed Martin Canada acquired its naval systems capabilities in Canada through the purchase of MEL Defence Systems and Loral Defence Systems. At the time of acquisition, MEL Defence Systems was an integrator, and since then Lockheed Martin Canada has substantially expanded this line of business. This part of Lockheed Martin Canada now performs management, design, and integration of naval systems, which is the largest portion of business in Canada. Expansion of this line of business involved development of new capabilities through R&D investment in developing technologies that are now exported around the world. Important recent projects have included the development of the CMS-330 naval combat management system (CMS) and the modernization of Canada's Halifax-class frigates. Between 2008 and 2017, Lockheed Martin Canada spent \$2.1 million on internal R&D to develop the CMS. Another technology developed through internal R&D at Lockheed Martin Canada is the Solar Tilt Axis Roll Tracker, which moves

to follow the sun and is therefore more efficient than traditional fixed solar panels. Overall spending on internal R&D at Lockheed Martin Canada associated with the development of new technologies amounted to \$18.8 million from 2008 to 2017.

The Industrial and Technological Benefits program

When companies bid on Canadian defence contracts, they are evaluated on three criteria: technical specifications, cost, and a value proposition for contributing to Canada's economy through ITB obligations. The impact of potential ITB contributions is evaluated by the Ministry of Innovation, Science, and Economic Development Canada (ISED). In 2014, this program underwent policy changes and changed its name from Industrial and Regional Benefits (IRB) to ITB. Lockheed Martin has both pre-2014 commitments through the IRB program and more recent commitments through the ITB program. Through the ITB program, contractors are required to invest in Canada an amount equal to the value of their contract.⁸

In a value proposition, defence contractors must demonstrate support for Canada's Key Industrial Capabilities (KICs), as identified by the Canadian government and increase the global competitiveness of Canadian firms.⁹ The KICs provide areas of a focus for developing Canada's defence industry. The defence industry is known to have high levels of technology and innovation, deliver high-value exports, and provide well-paying, high-skills jobs, and is therefore a promising way to promote long term economic growth. The KICs were chosen with three criteria in mind: operational requirements, potential for participation in global markets, and potential for innovation. The Key Industrial Capabilities, as identified in a 2013 report on the topic are:¹⁰

- › Arctic and Maritime Security;
- › Protecting the Soldier;
- › Command and Support;
- › Cyber-Security;
- › Training Systems; and
- › In-Service Support

⁷ (OECD, 2017)

⁸ (ISED, 2017)

⁹ (Industry Canada, 2014)

¹⁰ (Jenkins, 2013)

When Lockheed Martin puts together a value proposition for a DND contract, it considers the ways that its proposed ITB activities will contribute to the KICs identified by the DND, as well as other government priorities such as regional aspects, support for SMEs, and key technologies identified in the Request for Proposals (RFP). Since 1983, Lockheed Martin has completed activities valued at over \$6 billion through the ITB program. For example, over \$1.4 billion were recently completed as part of the CC-130J program one year ahead of schedule. Options to fulfil ITB commitments include procurement from Canadian companies, and R&D investments in Canadian companies. This section highlights the impacts of R&D spending, while Sections 4 and 7 look at the impacts of purchases from Canadian suppliers. Between 2008 and 2017, Lockheed Martin's total R&D investment in companies and through universities was \$91.8 million.

R&D investments by Lockheed Martin through ITB obligations include investment related to commercialization of technology, and R&D performed at universities. When deciding what types of R&D investments to make, Lockheed Martin identifies when companies or universities have developed or are developing a technology of interest, such as one that can be used across multiple business areas. In recent years, Lockheed Martin has invested in several emerging technologies some of which are described in detail in the next sub-section.

Examples of recent R&D investment

The following highlights some recent examples of R&D investments made by Lockheed Martin as part of its ITB commitments. As noted earlier, the amount spent on R&D does not necessarily provide the full economic impact of this spending, especially when the investment is made in the early stages of a particular technology that may take years to commercialize or provide returns.

Lockheed Martin has been an early investor in many technologies such as quantum computing, where applications are still being envisioned.

In addition to financial investments in R&D, Lockheed Martin also invests by lending its own staff to work on projects and making introductions between Canadian companies or labs and potential American buyers. In many of the following cases, Lockheed Martin's spending supports technology that has promising potential for advances in innovation and increases in productivity across companies and industries.



The Lockheed Martin IMPACT Centre located in Kanata, Ontario was created with a vision to promote growth of small Canadian businesses, advance research, support sustainability and enhance Canada's capability for exports in the defence and technology sector. The acronym "IMPACT" represents the centre's core purpose of fostering Innovation, Mentorship, Partnership, Collaboration and Technology and it also serves as an interactive venue for students and community partners to explore and advance STEM education.

University of Waterloo Second Heart Project

- ✓ *\$1.2 million invested by Lockheed Martin*
- ✓ *Innovative technology*
- ✓ *Cross-industry applications*
- ✓ *R&D commercialization*

The Second Heart project at the University of Waterloo is another example of technology motivated by Lockheed Martin that has a range of applications. In 2012, Lockheed Martin approached the University of Waterloo with the idea of working on technology that would improve cardiovascular circulation and endurance in high intensity scenarios. The technology developed is intelligent compression socks with air pumps that respond to information from sensors on the body. This technology can help people under sustained physical stress such as soldiers, athletes, and delivery people as it reduces the strain on the heart by helping to pump blood through the body. It can also provide benefits to individuals who are more sedentary such as truck drivers, as well as people with cardiovascular disease.

In 2016, Lockheed Martin invested \$1.2 million into this technology as part of its ITB commitments associated with the C-130J procurement. While Lockheed Martin wasn't intending to use this technology directly, it has potential to be highly beneficial to defence departments in Canada and elsewhere. The Second Heart research led to a spinoff company called Pression, which was formed in 2016 and is moving forward with commercializing the technology. Lockheed Martin's investment has led to the formation of a new company and the development of a technology that will improve the health and productivity of many.

Dalhousie University Project Descartes

- ✓ *\$4.7 million USD invested by Lockheed Martin*
- ✓ *13 R&D jobs in Halifax*
- ✓ *Innovative technology*
- ✓ *Cross-industry applications*
- ✓ *R&D commercialization*
- ✓ *Export activity*

In 2012, Lockheed Martin invested \$300,000 into "Project Descartes" as part of a quantum computing research consortium led by Dalhousie University. The project developed quantum algorithms for the verification and validation of complex software systems. The software integrates with existing programs to reduce errors and inconsistencies in system development, and has applications in developing new aerospace and defence technologies.

This project has led to a spinoff company called QRA, which is based in Halifax, and in which Lockheed Martin holds an equity position and has invested \$4.4 million USD. In addition to creating 13 jobs in research and development, QRA technology will enhance productivity through aerospace and defence applications. QRA plans to develop and market software for the D-Wave computers, which will increase the potential applications of quantum computing, lower the cost, and will make it easier for programmers with less technical expertise to use D-Wave systems. In 2016, the Government of Canada invested \$2.9 million in the company as part of the Atlantic Innovation Fund.¹¹

¹¹ (ACOA, 2016)

Gastops

- ✓ *\$3.48 million USD invested by Lockheed Martin, in addition to procurement*
- ✓ *Export activity*
- ✓ *Innovative technology*
- ✓ *Cross-industry applications*

Gastops Inc., headquartered in Ottawa, is a leader in designing, manufacturing, and supporting machinery for sensing and analysing machinery fluid. By way of illustration, sensors can determine whether there are small amounts of metal in engine oil so the problem can be addressed before it affects the engine. The development of certain engine health monitoring sensors was sponsored by Lockheed Martin, and Gastops sensors are used on the F-35, as well as Lockheed Martin's F-22 Raptor, and many other aircraft produced by leading companies. This technology is versatile and can be used for any type of gas engine. In addition to aviation, Gastops technology is already used in energy, marine, rail, and mining applications. Gastops has partnered with GE Oil and Gas and PW Power Systems as suppliers.

Lockheed Martin made investments in Gastops through its ITB obligations for the CC-130J procurement, for design and development of new products and capabilities related to current Gastops technology. Overall, Lockheed Martin has invested \$3.48 million USD in Gastops. The investment framework between Lockheed Martin and Gastops provides future opportunities for innovation and developing new markets.

D-Wave

- ✓ *\$23.6 million USD invested by Lockheed Martin, in addition to procurement*
- ✓ *Innovative technology*
- ✓ *Cross-industry applications*
- ✓ *Export activity*

D-Wave, based in Burnaby, British Columbia, is the world's only commercial supplier of quantum computers and a world leader in the development of quantum hardware and software. Quantum computing is still a developing technology, but has the potential to drastically decrease the time it takes to solve computing problems, and may eventually be able to solve problems that traditional algorithms cannot. Potential applications of this technology include defence and mission planning, financial modeling, machine learning, and health care.¹²

Lockheed Martin holds an equity position in D-Wave, and purchased the world's first- and third- ever commercial quantum computers from them, as well as investing \$23.6 million USD in the company.¹³ Lockheed Martin has also invested in research on software and potential applications of quantum computing in order to facilitate its use in real-world problems (for example, see the next section on QRA). D-Wave is at the forefront of quantum computing and has sold systems to NASA and Google, among other customers.

¹² (D-Wave)

¹³ (Lockheed Martin, 2018)

Contextere

- ✓ 1.1 million USD invested by Lockheed Martin
- ✓ Innovative technology
- ✓ Cross-industry applications
- ✓ Export activity

Contextere is developing Artificial Intelligence (AI) software solutions that will help blue-collar workers, such as workers who perform aircraft maintenance, do their jobs more efficiently. It aims to use machine learning algorithms to present workers with the information they need at the right time in order to decrease downtime and errors and increase efficiency. This technology presents potential major gains in productivity in many blue-collar industries, and can also be used by Lockheed Martin as well as other suppliers such as Cascade Aerospace, which does maintenance for the CC-130J.

In 2017, Lockheed Martin invested \$1.1 million USD in Contextere as part of its ITB commitments associated with the CC-130J. The CEO of Contextere has described the relationship with Lockheed Martin as being transformational because of both the early financial investment and the credibility afforded to companies associated with Lockheed Martin.

Mannarino

- ✓ 13.4 million USD invested by Lockheed Martin
- ✓ 20 R&D jobs in Montreal
- ✓ Export activity

Mannarino designs and manufactures safety-critical systems, software, and hardware for aerospace, defence, space, simulation, and power generation applications. It was founded in 1999 and is located in the Montreal aerospace cluster. Lockheed Martin has invested in Mannarino systems as part of its ITB obligations, and has contributed \$13.4 million USD overall. This investment has resulted in more than 20 engineering R&D jobs in Montreal, and has allowed the company to continue to develop and commercialize its software products. While Mannarino is not a supplier of Lockheed Martin, they were selected because of their good prospects as an investment. Since Lockheed Martin's first investment, Mannarino has exceeded projections.¹⁵

Case Study: Solace Power

- ✓ 2.3 million USD invested by Lockheed Martin
- ✓ Innovative technology
- ✓ Cross-industry applications
- ✓ R&D commercialization

Solace Power is a small company located in Newfoundland that has developed a wireless power technology called Resonant Capacitive Coupling or RC2. This technology allows Unmanned Aerial Vehicles such as drones to recharge autonomously by using wireless power transfer. The technology has applications for Unmanned Aerial Vehicles such as those produced by Lockheed Martin, as well as a range of other potential uses in defence, transportation, and manufacturing. In 2017, Lockheed Martin invested \$2.3 million USD in the company, which will be used to accelerate commercialization of the RC2 technology.¹⁴ Both in Canada and internationally, Lockheed Martin has an interest in renewable energy technology, and intends to invest more in this field in the future.



Photo: Solace Power

¹⁴ (Solace Power, 2017)

¹⁵ (Mannarino, 2015)

7. *Industry perspective and clusters*

As discussed in the Introduction section of this report, industry clusters are known to spur innovation and create sustainable growth and well-paying jobs. As part of its plans to support innovation and growth, the Canadian government identified the creation of clusters as a priority. A good cluster requires active relationships between different companies, suppliers, and institutions. This section reviews the importance of clusters for innovation and productivity, Lockheed Martin's role in various industry clusters, and productivity-enhancing linkages outside of its core competencies. Lockheed Martin supports clusters by encouraging competition, generating business for its 1,400 Canadian suppliers, providing export opportunities, and creating spaces for collaboration.

Cluster theory

In his seminal work on the topic of industry clusters, Harvard economist Michael Porter defines clusters as “geographic concentrations of interconnected companies and institutions in a particular field.” They include producers of goods and services, as well as upstream suppliers, downstream industries, and institutions such as government agencies, universities, and think tanks.

Crucially, clusters can be said to be more than the sum of their parts: the interaction between cluster members encourages competition, spurs innovation, and increases productivity.

For this reason, many governments have taken measures to encourage clusters, seeing them as providers of sustainable growth and good jobs.

There are many reasons why clustering within an industry encourages productivity. Close proximity fosters coordination and trust between different companies, making it more effective to work together. Further, competition in a cluster is intense, and it is easy to compare companies operating within a similar environment. Clusters are often accompanied by a deep talent pool, making it easy for employers to recruit and train workers. Additionally, access to a deep and specialized supplier base reduces the cost of transactions, inventory, and imports and means that there are less likely to be delays and disruptions to the supply chain. Companies can also experiment with new technologies at a lower cost, and new companies find it less risky and costly to start, because suppliers, talent, and industry expertise are readily available. Finally, clusters can benefit from public goods such as infrastructure and information about technology, components, and processes. In order for clusters to succeed, members need to be part of a community and pursue their common interests, interacting through groups such as trade associations and research consortia.

Clusters located in Canada tend to consist of broader metropolitan areas, rather than a whole province. The sections below are organized by province, and describe which clusters are located there and how Lockheed Martin interacts with them. We note that Lockheed Martin also has connections with several of Canada's Superclusters.

Figure 10: Aerospace and defence clusters and Lockheed Martin's locations



The aerospace and defence industry in Canada

Canada is home to several major producers of aircraft for civil and defence markets. Bombardier Aerospace, an anchor of the Montreal aerospace cluster, is a leading manufacturer of commercial aircraft. Boeing also has a major presence in Canada, where facilities produce parts, components, and software for its commercial jets.

Bell Helicopter Textron invented the tiltrotor aircraft and produces commercial and defence helicopters including several for the RCAF. Pratt and Whitney is one of the world's largest suppliers of helicopter engines and is a prime contractor to Lockheed Martin on the F-35.

Suppliers, or “upstream” companies form another important part of Canada's aerospace and defence industry. General Dynamics produces hardware, software, and systems integration for land, air, and maritime forces. Raytheon's Canadian operations manufacture precision optics and radars, as well as providing systems integration, upgrades, and maintenance. L3 MAS specializes in communication, electronic, and sensor systems for military and commercial purposes.

“Downstream” activities include in-service support (ISS), maintenance, upgrades, and training for pilots and technicians. A number of large Canadian firms provide downstream services. IMP Aerospace and Defence provides engineering and maintenance for the DND including for Canada's search and rescue helicopters, as well as for international customers. CAE is one of the world's largest suppliers of civil flight simulation and provides modelling and training to clients including Lockheed Martin.

Naval companies are primarily located on Canada's east and west coasts. Irving Shipbuilding operates the Halifax Shipyard, and is contracted with the Government of Canada to build Canadian Surface Combatant (CSC) and Arctic Offshore Patrol Ships (AOPS) for the RCN under the National Shipbuilding Strategy. BAE Systems is an international aerospace and defence company that completed an upgrade Canada's Victoria-class submarines and provide ongoing technical support for them. Thales operates in naval systems, as well as aerospace, provides ISS for the AOPS, and provided surveillance radars for the Halifax-class modernization project. Thales is also present on the west coast and is the systems integrator for the RCN at the Vancouver Shipyards.

Overview of clusters supported by Lockheed Martin

The majority of Lockheed Martin Canada's activities fall under two overlapping major industries in Canada: aerospace and defence. Lockheed Martin is an active contributor to these clusters, with a network of over 1400 suppliers in Canada. Additionally, Lockheed Martin often competes with its own suppliers, contributing to a competitive and innovative environment.

In the aerospace sector, Canada has a strong reputation in civil, defence and space fields. There are over 400 aerospace firms in Canada, most of which are located in Quebec and Ontario. The Canadian aerospace sector is well-integrated with the United States, and Lockheed Martin has longstanding relationships with many of the major Canadian companies.

In the defence field, which includes air, land, and ocean technologies, there are over 800 companies in Canada that provide a range of technologies and services across the country. The defence field is export-focused, with exports accounting for 60% of sales in 2014.¹ Generally speaking, Western Canada is focused on ISS, Ontario and Quebec are focused on manufacturing and Atlantic Canada is focused on shipbuilding. The majority of sales and exports come from firms with a parent company outside of Canada such as Lockheed Martin.

The following section will review each region of Canada- what clusters are important in their economy and how Lockheed Martin participates in them, both through Lockheed Martin Canada's operations and through its suppliers and industry partners.

Quebec

In 2016, the Quebec aerospace industry accounted for more than half of Canada's Aerospace sector sales at \$14.4 billion, with 80% of production being exported.² It is home to 205 aerospace companies, as well as several research institutions such as the Canadian Space Agency, the Aerospace Manufacturing Technology Centre, and the Consortium for Research and Innovation in Aerospace in Quebec. A number of industry associations complement the cluster.

Within the province, Montreal is the hub of Canada's aerospace sector, with specialization in aircraft assembly, engine manufacturing, MRO, and avionics.

Lockheed Martin in Quebec

Lockheed Martin Commercial Engine Solutions (LMCES) is an MRO facility located in Montreal that has been operated by Lockheed Martin since 2013. MRO experience was one of the main drivers behind the acquisition of LMCES by Lockheed Martin. This experience was complementary to its San Antonio MRO facility and has created business synergy that benefited the Montreal facility. Since the acquisition, the LMCES has grown to 250 employees, and serves customers including commercial airlines such as Frontier Airlines, Air Wisconsin, European Aviation, Avion Express and International defence customers.

Lockheed Martin contributes to the success of the Quebec Aerospace cluster through LMCES, its large network of suppliers, as well as its participation in industry associations and linkages with educational institutions. Many of these relationships have a long history and contribute to sustainable growth.

Lockheed Martin Canada also has about 100 highly skilled employees working as part of the Rotary and Mission Systems organization in Montreal. This office was responsible for integrating a complex computer system for the upgrade of Canada's Halifax-class frigates.

¹ (Industry Canada, 2016)

² (Aero Montreal, 2017)

As discussed above, a successful cluster is predicated on companies seeking out interactions with other companies and institutions that can spur innovation and collaboration. As a matter of practice, LMCES considers Canadian companies first when looking for suppliers. Additionally, it has strong linkages with technical colleges in Montreal, employs 10-12 coop students at any given time, and sponsors research at Concordia University. Lockheed Martin has also sponsored an aerospace technician program curriculum for the Montreal school board.

Benefits of being in Montreal

Montreal is conveniently located as an aerospace hub, because it can serve customers from both North America and Europe. According to members of the industry, the quality of work completed in Montreal is world-class, and unique technologies and knowledge such as precision casting are available. Also, the high quality of postsecondary education in Montreal means that new employees of LMCES do not require as much training as they would otherwise.

Industry linkages in Quebec

Lockheed Martin has contact with many suppliers and partners throughout Quebec.

Infield Scientific

- › Located in Pointe-Claire, QC
- › Specializes in analysis and control of the electro-magnetic effects on board ships
- › They are working on four different programs for Lockheed Martin Canada and have worked with them for 15 years
- › Gets a substantial amount of their business from LM

Héroux-Devtek

- › Headquartered in Longueuil, QC with operations in QC, ON, and the US
- › Makes landing gear for the CC-130J, one of relatively few Canadian parts on this aircraft
- › Makes landing gear door uplocks for the F-35

Howmet Laval Casting (Laval) Vestshell (Montreal) Shellcast (Montreal)

- › These companies perform precision casting, which is a specialized function that is not commonly done in the US
- › The precision minimizes the amount of machine milling that needs to be done, so they preserve valuable aerospace metals
- › Lockheed Martin Aeronautics and Missiles and Fire Control have used these services for 15-20 years



CMC

- › Canadian operations in Montreal
- › Produces electronic components and some finished systems
- › Products are high-quality, unusual, and unique to military specifications

Aéro Montréal

- › An association that promotes and supports Quebec's aerospace cluster
- › A Lockheed Martin representative is on the board of directors

Ontario

Ontario is home to Canada's second largest aerospace cluster, with firms located in the Greater Toronto Area (GTA) and Southwestern Ontario. With \$6 billion in annual sales, Ontario represents roughly a quarter of Canada's aerospace industry.³ Like aerospace industries elsewhere, Ontario's aerospace sector is export-focused and R&D intensive. Ontario has strengths in aircraft parts manufacturing, systems development, and MRO. Ottawa, which is the location of Lockheed Martin Canada's headquarters, has strategic importance for the Canadian aerospace industry as Canada's Department of National Defence is headquartered there. Ontario is also home to 18 universities and colleges that offer aerospace-specific programs, with the University of Toronto, Ryerson University, and Carleton University offering graduate programs in aerospace engineering.

Lockheed Martin in Ontario

Lockheed Martin Canada officially opened its new head office in downtown Ottawa in 2013. The Rotary and Mission Systems facility (previously Mission Systems and Training) moved to its new 109,000 sq. foot facility in Katana over three years ago. The Ottawa based employees focus on Program management, engineering, business development, and government relations.

More than 20 Ottawa- and Trenton- based employees manage In Service Support for the RCAF's C-130J fleet. Notably this contract created 11 new high skilled engineering management positions.

Lockheed Martin's Impact Centre, opened in Ottawa in 2016, provides a space where partnerships and innovation can take place. It creates a platform for suppliers and researchers to meet and collaborate with Lockheed Martin, particularly focusing on naval technologies.

Lockheed Martin's Ontario investments include partnerships with institutions such as Ontario Centers of Excellence (OCE), the University of Waterloo, and associations such as the Aerospace Industries Association of Canada (AIAC) and the Canadian Association of Defence and Security Industries (CADSI). Lockheed Martin participates annually in CANSEC, the largest trade show in Canada, and the Canadian Aerospace Summit.

Lockheed Martin provides funding to the Canadian Global Affairs Institute, the Conference of Defence Institute, the MacDonald Laurier Institute, the Conference of Defence Associations Institute, the American Chamber Commerce in Canada and the American Business Council.

Benefits of being in Ottawa

A key benefit of its Ottawa location is proximity to the government of Canada's elected officials and public servants in the Department of National Defence, Innovation Science and Economic Development Canada and Public Services and Procurement Canada. Lockheed Martin is well positioned to understand the government's priorities, allowing it to better align its technology and solutions to meet Canada's needs.

³ (Ontario Aerospace Council, 2017)

Industry linkages in Ontario

MC Countermeasures

- › Headquartered in Kanata
- › Have developed an electronic jamming system to jam radio frequencies
- › Have worked with Lockheed Martin 4-5 years

Sonovision

- › Headquartered in Ottawa with locations in Montreal and Edmonton
- › Translates maintenance, operational, and technical manuals for Lockheed Martin

L3 Wescam

- › Located in Burlington
- › Provides a turret for the US Navy Cobra helicopter
- › Lockheed Martin worked with Wescam to modify the turret for a military purpose, resulting in a long-term contract with the US Navy
- › Lockheed Martin forms a substantial part of Wescam's business

COM DEV

- › International company headquartered in Cambridge
- › Acquired by Honeywell in 2016
- › Designs and produces unique space craft components primarily for use on satellites
- › Provides parts on sixteen Lockheed Martin satellites produced in the United States
- › Other customers include the DND, Canadian Space Agency, and European Space Agency

Centra

- › Located in Cambridge
- › Manufacturer of complex metallic aerostructures (airframe components)
- › Customers include several other leading aircraft manufacturers
- › Provides Keel Beam and Bulkhead Suppliers for the F-35



Magellan Aerospace

- › Located in Mississauga and Winnipeg
- › Provides Horizontal Tail, Machined Parts, and Centre Fuselage/ Wing composite parts for the F-35A
- › Also provides components for Boeing's Apache helicopter and Lockheed Martin's F 16 fighter

Ben Machine

- › Located in Woodbridge
- › Produces primary fabricated metal products
- › Electro-Hydraulic Actuation System components for the F-35

Gastops

- › Located in Ottawa
- › Worked with Lockheed Martin to develop engine sensors now used on the F-35
- › Customers include defence departments around the world as well as commercial airlines

Honeywell

- › Canadian Headquarters in Mississauga with locations in Ottawa and Cambridge
- › Provides avionics, engines, systems and service for military and commercial
- › Provides the power and thermal management system controller for the F-35
- › Ontario Centres of Excellence Member
- › Works with industry to assist in commercializing new technologies and encourage partnerships

Atlantic Canada

The aerospace and defence sector has a substantial presence in Atlantic Canada, with 167 firms participating in the Atlantic Canada Aerospace and Defence Association (ACADA). Atlantic Canada accounted for 12% of Canada's defence employment in 2016. This region specializes in MRO for military aircraft, ships, and combat vehicles, as well as naval mission systems, composite fabrication, and aircraft simulators.⁴ Annual revenues in aerospace and defence are over \$2 billion in Atlantic Canada, and over the past five years this region has had the fastest-growing MRO sector in Canada.⁵ Within Atlantic Canada's aerospace industry, Lockheed Martin is one of the major companies along with Pratt & Whitney, IMP Group, and Composites Atlantic. Atlantic Canada is also home to Irving Shipbuilding, builders of Canada's Arctic Offshore Patrol Ships. The Government of Canada has identified Atlantic Canada's aerospace and defence sector as an area for growth and recently invested in ACADA through the Atlantic Canada Opportunities Agency (ACOA).

Lockheed Martin in Atlantic Canada

Lockheed Martin has been in Atlantic Canada for decades and has built partnerships and long-term relationships with organizations, thus contributing to robust communities within regional clusters. In addition to working with local suppliers, Lockheed Martin has sponsored research at Cape Breton University, Dalhousie University, the Marine Institute at Memorial University in Newfoundland, and the University of New Brunswick. Recently, Lockheed Martin made a major investment in a 3-D metal printing centre in New Brunswick that will bring together industry, universities and colleges, to develop, commercialize, and train workers on new 3-D printing technology that can be used in marine and defence contexts.

Lockheed Martin Canada has offices in Halifax, NS and Dartmouth, NS, which focus on the development and delivery of combat systems for naval platforms. The main activities are the upgrade to Canada's Halifax-class frigates and the command and control system for the RCN's new fleet of Arctic Offshore Patrol Ships. Staff also support Direct Fire Targetry (i.e. target practice simulations) at the Gagetown, NB Canadian Army base. Lockheed Martin's main customer in Atlantic Canada is the Department of National Defence.

Benefits of being in Atlantic Canada

As so much work is done with the RCN, having a location in Atlantic Canada is important for both access to ships, and maintaining a strong relationship with this customer. In addition, the availability of a workforce with skills specializing in ocean technologies and many educational institutions supporting relevant research, provide a competitive advantage to industry players.

Industry linkages in Atlantic Canada

Stelia North America (formerly Composites Atlantic Limited)

- › Located in Lunenburg, NS
- › Provides composite weapons bay door inserts and Centre Fuselage/ Wing composite parts for the F-35
- › New composite part supplier to the C-130J fuselage
- › Other customers include Boeing, Honeywell, Northrop Grumman and other major aerospace companies

IMP

- › Located in Halifax, NS
- › Provides remanufacture, repair and overhaul
- › Has participated in multiple upgrades to Canada's CP-140 Auroras and other nations' P-3s
- › Other customers include US and Norwegian armed forces

Moog Components Group

- › Located in Dartmouth, NS
- › Produces rotary couplings for naval systems and unmanned vehicles

Halifax Partnership, Member

- › Promotes economic growth through business linkages



⁴ (Industry Canada, 2016)

⁵ (Government of Canada, 2017)

Western Canada

The aerospace and defence industry in Western Canada is diverse, and different regions have different specialties. In 2016, Western Canada accounted for 20% of Canada's defence employment and 15% of aerospace employment. Winnipeg is the largest aerospace cluster in Western Canada and is home to Magellan Aerospace, Standard Aero, and Boeing Canada. Standard Aero is one of the world's largest independent MRO providers for small turbine engines. Saskatchewan has a strength in satellite-based communications, and Alberta specializes in Unmanned Aerial Vehicles (UAVs), electronics, and MRO. British Columbia provides component manufacturing and assembly for commercial, defence, and space customers.

Industry linkages in Western Canada

Offshore Maritime Systems

- › Located in Vancouver, BC
- › Offshore Maritime Systems provides navigation systems for naval platforms

Standard Aero

- › Located in Winnipeg
- › One of the largest MRO providers in the world
- › Produces the outer casing of the CC-130J aircraft
- › Licensed to perform maintenance on all Hercules models

SED Systems

- › Located in Saskatoon
- › Provides satellite communication systems
- › Other customers include Boeing, the Canadian Space Agency and the European Space Agency

Qinetiq

- › Located in Medicine Hat, aAB
- › Produces target drones using technology from CDL systems in Calgary
- › Customers include Canada's DND and armed forces around the world

Cascade Aerospace

- › Located in Abbotsford BC
- › Provides fleet services including maintenance, modifications, and engineering
- › The only Canadian company licensed to provide second and third tier maintenance on the CC-130 and CC-130Js
- › Through an IP transfer from Lockheed Martin has won a contract to update a CC-130 Hercules for the Mexican Air Force
- › Works for commercial and military customers

Lockheed Martin in Western Canada

Lockheed Martin has a presence in Western Canada through its ownership of CDL Systems in Calgary, Alberta and its field offices in Victoria and Esquimalt, which provide in-field testing and maintenance for RCN submarines.

CDL Systems was founded in 1993 and acquired by Lockheed Martin in 2012. CDL's primary product is ground control software for UAVs, which functions like a cockpit that is on the ground and includes visual interfaces on computer screens. The company also provides hardware for these systems and designs software to help them interact with different types of UAVs. The main customers for these systems are defence-related, and the large majority is exported.

University of Calgary

- › CDL systems hires the majority of engineers from U of C and offers an internship program

Asco Aerospace

- › Located in Delta, BC
- › Produces the Wing Major Bulkhead for the F-35
- › Other customers include Boeing and Bombardier

Avcorp

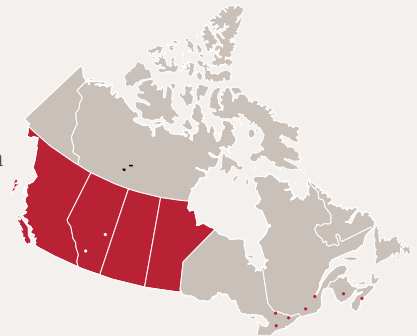
- › Located in Delta, BC with a second location in Burlington, ON
- › Designs and builds airframe structures for Canadian and global companies
- › Provides CV Outboard Wing and Machining for the F-35

Toolcomm Technology

- › Located in North Vancouver, BC with staff on the Capilano First Nations Reserve
- › 100% Aboriginal owned
- › Designs and produces Voice over Internet Protocol and High Frequency Radios for the Artic Offshore Patrol Ships
- › Toolcom's contract with Lockheed Martin Canada has provided an opportunity to grow and develop an export business

Seaspan

- › Located in Vancouver and Victoria, BC
- › Partnered with Lockheed Martin Canada on the RCN's Halifax-class modernization project
- › Awarded a Supplier Excellence award by Lockheed Martin
- › Partnered with Lockheed Martin Canada on the CMS upgrade of New Zealand's ANZAC-class frigates



Canada's Superclusters

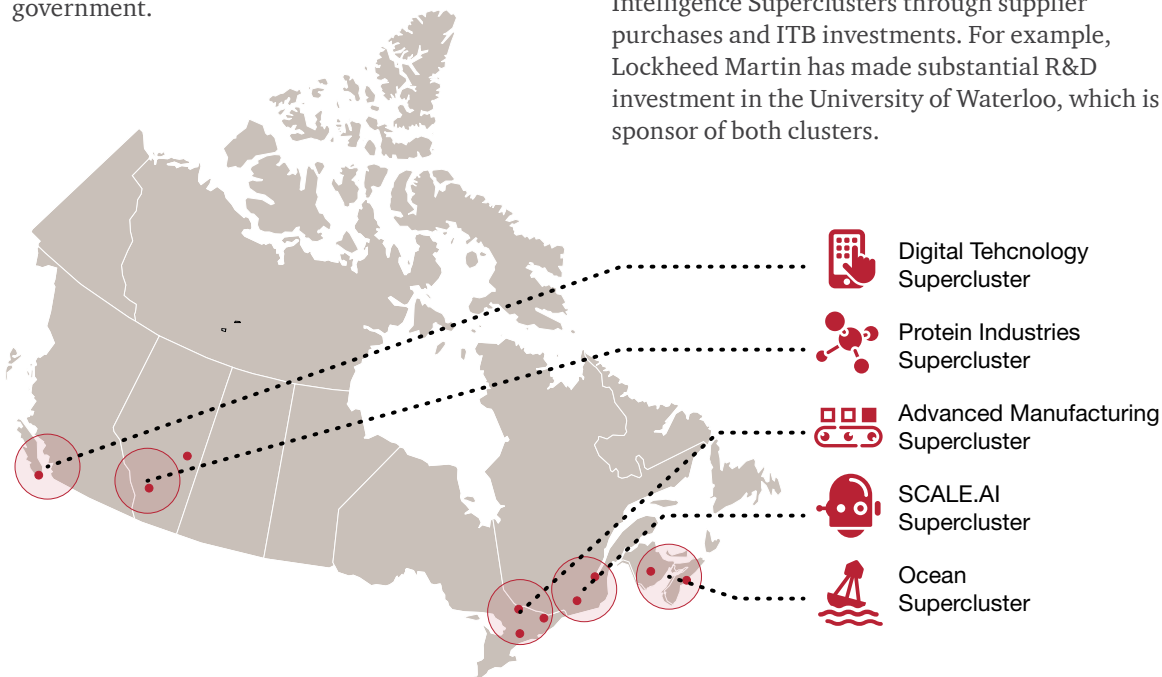
In addition to its linkages with Canada's regional clusters, Lockheed Martin is linked with several of Canada's "superclusters" for which the Government of Canada recently announced an investment of up to \$950 million, to be matched by industry.⁶

According to the Government of Canada, "A supercluster is an innovation hotbed that is home to a strong industrial cluster, or clusters, linked through their shared reliance on specialized inputs, including technologies, talent and infrastructure. Compared to clusters, superclusters have: stronger and more numerous linkages across sectors, and between firms, public and academic research assets; a strong brand and competitive advantage that translates into global recognition and impact, and the ability to attract talent and investment across highly innovative industries; and exceptional performance, including an outsize impact on job creation and GDP." The goals of supporting the superclusters are advancing Canada's technological abilities, helping industries build exports, and building Canada's global brand recognition. The map below shows the five superclusters that were selected to receive funding from the Canadian government.

In Atlantic Canada, Lockheed Martin's activities are part of the Ocean Supercluster, which includes companies involved in technology supporting oil and gas, defence, shipbuilding, ocean science and observation, ocean renewable energy, fisheries and aquaculture, coastal and ocean management, and seabed mining. Atlantic Canada specializes in high-tech engineering and manufacturing of ocean technologies for both civil and defence purposes.⁷ The Ocean Supercluster initiative plans to invest in developing digital technologies that support the associated industries.

D-Wave, which has received substantial investment from Lockheed Martin, is a founding member of British Columbia's Digital Technology Supercluster and is an important member within this cluster. With the funding from the Canadian government, the supercluster plans to use innovative solutions from data analytics, quantum computing, and virtual reality to accelerate projects in the areas of health, natural resources, and industry. Read more about Lockheed Martin's relationship with D-Wave in Section 6.

Additionally, Lockheed Martin supports members of the Advanced Manufacturing and Artificial Intelligence Superclusters through supplier purchases and ITB investments. For example, Lockheed Martin has made substantial R&D investment in the University of Waterloo, which is a sponsor of both clusters.



⁶ (Industry Canada, 2017)

⁷ (Industry Canada, 2017)

8. *Lockheed Martin Canada's workforce*

As the Canadian labour market faces changes such as an aging population and the entering of a new generation of employees with different expectations and needs, meeting these demands while remaining competitive is a key challenge for a company operating in Canada. Moreover, growing attention to diversity and equality issues in the workplace has encouraged Canadian companies to invest in addressing those issues. Lockheed Martin Canada handles these challenges by providing advanced training to its staff as well as instituting hiring processes that encourage the creation of a diverse and equalitarian workplace.

Lockheed Martin Canada's Investment in Training and Skills Development

A company's people and their core skills, in other words its human capital, is a key driver of economic and business growth. In a context where competitiveness is driven by productivity levels, Lockheed Martin Canada knows that investing in its people is critical to their success. In fact, Lockheed Martin Canada has developed training and skills development programs to build and grow the capability of its workforce. The programs aim to:

- › Develop the skills, capabilities and instil a positive mind-set to the management team;
- › Build and manage talent in accordance with the needs of the business;
- › Increase the effectiveness of the operations and the organization; and
- › Focus on culture and employee engagement.

More specifically, the different parts of the training program are detailed below.

Developing the skills, capabilities and instilling a positive mindset to the management team	Building and managing talent in accordance with the needs of the business	Increasing the effectiveness of the operations and the organization	Focusing on culture and employee engagement
› Teambuilding through leadership and teambuilding workshops › 360 Feedback development › Leadership training › Nomination process for the Center for Leadership Excellence (CLE) program	› Talent Management › Identifying talent pipeline and career pathways › Executive coaching support for key roles › Identification of critical skills needed › Assist in building capacities in key areas	› Integration support for M&A activity › Change Management support › New Leader engagement activities › Consulting on organizational design	› Early career new graduate training programs; › Mentoring programs › Leadership engagement (roundtable discussions) › Facilitation of local inclusion councils › Corporate sponsored inclusion programs

Training need is driven from both the business needs and the employees' interests. Training content is typically delivered through classroom workshops, instructor-led, online or virtual courses, and on the job training. Lockheed Martin Canada has three different levels of training:

- › **Corporate Development Leadership Programming (Core):** Training offered to the leadership teams and to emerging leaders. The content is tailored to the level of the employee. There are functional training classes like finance, business development, program management, and capture management. All newly-appointed leaders take the first-line leadership program;
- › **Business needs:** Training offered following a business needs analysis. It aims at improving general skills development or technical skills;
- › **Employee needs:** Training based on needs identified by employees and soft skills development (through online training or on the job training).

Lockheed Martin Canada also implemented the Lockheed Martin Mentoring Program, which is supported by the Human Resources department. This program is available to all employees and is voluntary for both the mentor and mentee. In addition, online courses and electronic books are available in the Learning Management System. The content touches on business and leadership skills, digital skills, digital transformation, IT skills certification and compliance.

Lockheed Martin Canada assesses each of its training course based on feedback provided by employees and sometimes by their leaders. They also estimate, on an annual basis, the required metrics to the Quebec Government in compliance with the Declaration des activités de formation (Training activities declaration).

The investment Lockheed Martin Canada makes in its people also benefits society as a whole: further increases in skill levels of Canadian workers contribute to productivity growth and to increased standards of living for all Canadians.

Lockheed Martin Canada's Investment in Higher Education

It is of paramount importance to Lockheed Martin Canada to hire highly technical and / or highly educated employees to pursue its activities. Therefore, it aims at maintaining strong relationships with universities. It regularly participates in job fairs to connect with multi-disciplinary students and identify future talent. They hire 50-60 co-op interns annually for a four-month period. Following this, many newly graduates, especially from engineering programs, find quality jobs at the end of their study.

As shown in the table below, Lockheed Martin Canada hires people with a high level of education and, given the nature of its operations, employs many engineers.

Table 1: Overview of Education level of Lockheed Martin Canada employees (in percentage)

42%	Have more than one higher-education degree
34%	Have an engineering-related higher-education diploma

Case study – Education

Fostering innovation and enabling 3-D metal printing

In 2017, Lockheed Martin Canada's Aeronautics division contributed \$2.7 million to the Marine Additive Manufacturing Centre of Excellence at the University of New Brunswick, in Fredericton. This new centre of excellence combines research, manufacturing, training and workforce development in a unique project. The centre will work on developing a leading-edge and innovative technology to enable 3-D printing of metal parts. The centre and the technology it develops will foster innovation in the Fredericton area and will spur the formation of a cluster of expertise around that technology and its processes.



In 2018, The Career Directory recognized Lockheed Martin Canada as one of Canada's Best Employers for Recent Graduates.



Lockheed Martin Canada employs 1,000 employees in Canada in Ottawa, Montreal, Halifax, Calgary and Victoria. It aims at employing a highly qualified, innovative and diverse Canadian-based workforce. Lockheed Martin Canada has consistently been recognized as one of the National Capital Region's Top Employers over the past ten years.

Lockheed Martin Canada's investment in Diversity

When building relationships with universities and seeking future employees, Lockheed Martin Canada aims at integrating diversity as one of its selection lenses. It intentionally selects people from various backgrounds to represent the company at talent acquisitions events and recruitment fairs.

Canadian law by the Employment Equity Act, requires employers to engage in proactive employment practices to increase the representation of four designated groups.

Canada's four designated groups:

- › Women
- › People with disabilities
- › Aboriginal people
- › Visible minorities

Lockheed Martin Canada wants to ensure it will be an attractive employer to the entire workforce, including Canada's four designated groups. Lockheed Martin Canada considers that by having a diverse workforce, it is better able to attract and retain talent.

Gender diversity in defence is a challenge that Lockheed Martin Canada is willing to tackle. "Addressing gender inequality is first and foremost a question of fairness. (...) It is also a question of economic performance. There can be no robust growth economy without gender equality, a critical ingredient of any strategy for durable, resilient and more inclusive growth"

- Mari Kiviniemi, OECD Deputy Secretary-General

To pursue that objective, they have instituted the Diversity and Inclusion Council, comprised of representatives from all business units. The role of this council is to raise awareness on the importance of diversity, by delivering internal communications and supporting various events such as the international women's day. One of the initiative which was deployed in 2016 is a training program called "The illusion of inclusion" to give leaders insight about unconscious biases and how these biases limit innovation. This training should be delivered to all leaders in 2018.

Lockheed Martin Canada has developed its 2018-2020 Employment Equity Plan to achieve its employment equity goals and to support its Employer Brand and Workforce Strategy. The Employment Equity Plan was developed by systematically assessing all aspects of the human resources processes to ensure they are discrimination free. They developed relationships with partners and organizations that enable diversity of skilled job seekers.

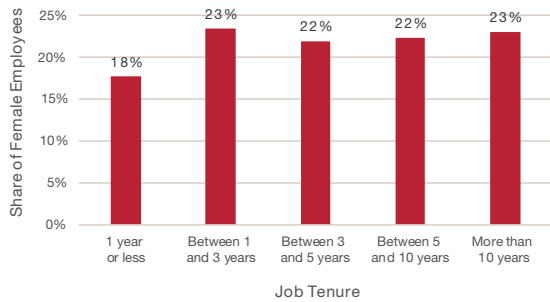
They also ensure that the training and talent development programs effectively supports the needs of employees from the four designated groups. The plan is shared with leaders from the business units who are responsible, together with the Human Resources department, for identifying and recruiting employees coming from a diverse background. All leaders are expected to demonstrate and promote workplace respect and inclusiveness.

Based on Lockheed Martin Canada's data, as of December 2017, the overall representation of the four designated groups in its workforce in Canada was the following:

Designated groups	%
Gender	
Men	78.4%
Women	21.6%
People with disabilities	1.2%
Aboriginal peoples	0.3%
Visible minorities	10.4%

The figure below shows the share of female employees at Lockheed Martin Canada by job tenure, displaying the overarching challenge in increasing the share of female employees, particularly true in the last year.

Share of Female Employees by Job Tenure

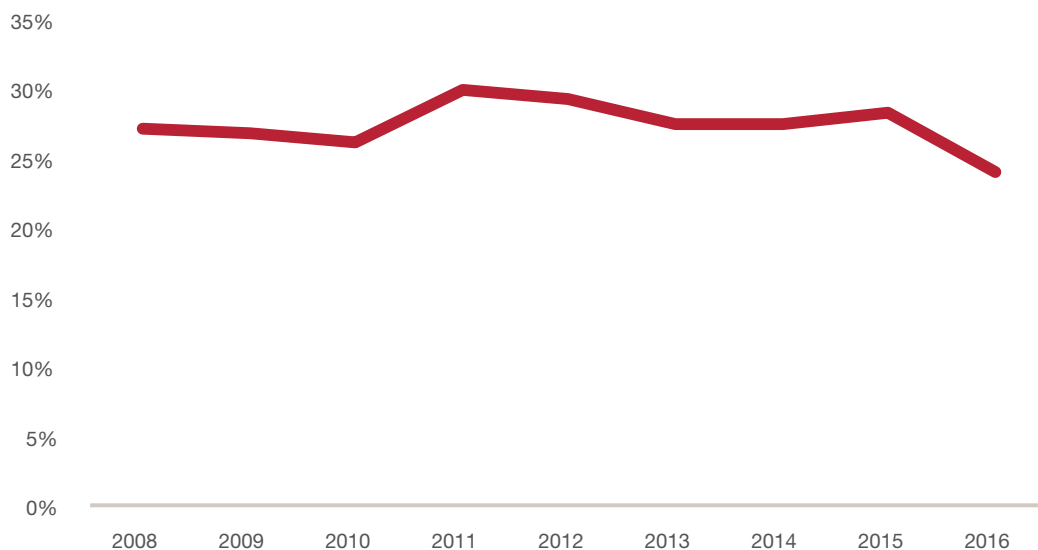


Challenges faced by Lockheed Martin are mirrored in the broader industries in which they operate: the chart below shows the share of female employees in three comparable industries.¹ For the past ten years, this ratio has been stagnant or decreasing. Lockheed Martin Canada's female share is just beneath industry average.

Lockheed Martin Canada has been working to address gender representation through a range of activities including as female-oriented STEM initiatives, which are described in detail in Chapter 10. Moreover, Lockheed Martin Canada has set goals to bridge the gap between the actual representations of the designated groups in its workforce and with their representation in broader Canadian society. It believes that full representation may be possible for most of the designated groups in specific occupational groups by 2020. To this end, they have developed an action plan entailing several initiatives that will be regularly monitored and reviewed bi-annually. Progress will also be shared with the appropriate Federal ministry.

As a company that honours the Military personnel and veterans, Lockheed Martin Canada strives to help them transition to civilian life. Military veterans have work experience that is easily transferrable to Lockheed Martin Canada's core business areas and accounted for one in nine employees in 2017. Lockheed Martin Canada is a certified Military Employment Transition (MET) partner. The commitment of Lockheed Martin Canada to veterans is further discussed in section 9.

Ratio of Female Employees in related industries



¹ The three industries taken for their proximity with Lockheed Martin activities are Computer and Electronic Product Manufacturing, Electrical Equipment, Appliance and Component Manufacturing and Transportation Equipment Manufacturing.

9. Lockheed Martin Canada's Corporate Social Responsibility

Due to growing pressure and expectations from the public as well as from governments on businesses to function in a way that is socially acceptable, businesses have begun to create and endorse corporate social responsibilities standards. These include community involvement, protection of the environment, and employee satisfaction and wellbeing. Moreover, companies recognize that operating in an economically, socially and environmentally responsible manner, helps them succeed. Doing so in a transparent way encourages shared value¹ and may provide them with a social license to operate. Corporate Social Responsibility (CSR) at Lockheed Martin Canada is a program spearheaded at the corporate level and adopted by all business units. The corporate website details Lockheed Martin Canada's CSR strategy and vision as well as the key programs and initiatives it has put in place to ensure it acts as a good corporate citizen. Since 2016, the CSR program has focused on five core sustainability issues and objectives, as shown in the diagram below:

Diagram 1: CSR Program's Core Sustainability Issues and Objectives



Source: Lockheed Martin's 2016 Sustainability Report, p. 12

Lockheed Martin Canada's sustainability mission is to foster innovation, integrity and security to protect the environment, strengthen communities and propel responsible growth. Its CSR program is built on two main aspects: the management of Energy, Environment Safety and Health (EESH) and having a positive impact in the communities.

Energy, Environment, Safety and Health (EESH)

Lockheed Martin Canada is committed to providing safe and healthy working conditions, protecting the environment and conserving energy and natural resources. To achieve this goal, they commit to:

- › Meet and/or exceed all energy, environmental, safety and health legislative, regulatory, corporate and other requirements to which they subscribe;
- › Prevent pollution and workplace injuries/illnesses;
- › Continually improve their EESH management and performance;
- › Establish and achieve EESH objectives and targets; and
- › Communicate EESH issues with their employees, customers, suppliers, local communities and other interested parties.

Community involvement

Lockheed Martin Canada plays an active role in helping to strengthen the quality of life of the communities in which they live and work. Since 2008, it has provided approximately \$1 million to a variety of Canadian community organizations. Lockheed Martin Canada's commitment to the community concentrates on two key areas:

- › Science, Technology, Engineering and Mathematics (STEM) education;
- › Supporting military members, veterans, and their families.

Lockheed Martin Canada's involvement takes the form of financial support to not-for-profit organizations through donations and sponsorships, partnership with various associations and the engagement of its employees. Lockheed Martin Canada staff are encouraged to volunteer both time and expertise to support local community groups; for example, in the form of employee fundraising events and activities.

¹ As defined by Michael Porter, shared value is a management strategy in which companies find business opportunities in social problems.

Science, Technology, engineering and Mathematics (STEM) education

“For Canadian research to reach its true and full potential, it must be equitable, diverse and inclusive. A diversity of perspectives, voices and experiences is key in supporting innovation and excellence.”

– Danika Goosney, Executive Director,
Tri-agency Institutional Programs Secretariat

Lockheed Martin Canada plays an important role in advancing science, technology, engineering, and mathematics (STEM) education. It believes that it is critical to give young Canadians the skills they will need for the future, and recognizes the importance of educating young people in these areas. Lockheed Martin Canada is actively encouraging youth to pursue STEM education in their choice of studies, as these skills are essential to their industry and economic strength.

Lockheed Martin Canada has been supporting STEM programs in Canada for many years through funding, sponsorship, and education outreach activities for students from elementary school through university. Many of their employees are also passionate about STEM and dedicate a significant amount of time volunteering in classrooms and in support of local programs.

The Lockheed Martin STEM Council was initiated in 2015 to gather ideas and identify opportunities from all of their sites in Canada. Lockheed Martin Canada is supporting, amongst others, the following organizations:

- › **Actua:** national charity preparing youth to be innovators and leaders by engaging them in STEM experiences ;
- › **FIRST Robotics Competitions:** student teams are challenged in building and programming industrial-size robots in a six-week time limit;
- › **VEX Robotics Competitions:** student teams are tasked with designing and building a robot to compete in a game-based engineering challenge;
- › **Techsploration:** not-for-profit organization in Nova Scotia which focuses on reaching girls and young women and encouraging them to work in STEM fields;
- › **Science and Tech STEAM Horizon Awards Scholarships:** award led by the Science and Technology Museum to recognize young Canadians who promote positive changes throughout their community using science, technology, engineering, arts, and math (STEAM); and
- › **Cubes in Space:** this organization helps students embrace their curiosity, develop logical and methodological thought, engage in creative problem solving and experience the joy of learning something new.

Case Study – STEM

Partnering with Actua to build critical STEM skills



Lockheed Martin Canada has committed to give \$300,000 over a 3-year period to Actua and wants to keep fostering this relationship. Actua is a Canadian charitable organization that prepares young Canadians to be innovators and leaders by engaging them in exciting and accessible STEM experiences that build critical skills and confidence. Over the years, Actua has inspired over 225,000 youth, reaching every province and territory in Canada through the delivery of summer camps, classroom workshops, clubs and community outreach activities.

Actua has a National Girls Program specifically designed at inspiring young women to fulfill their role as leaders in STEM and encourage them in STEM fields like engineering and computer science, where they continue to be under-represented. The program includes science clubs, day and overnight camps, conferences, career fairs and special events with female mentors. Annually, 10,000 girls engage in this impactful all-girls program.²

² (Actua, 2018)

Military and Veterans Support

Lockheed Martin Canada recognizes and honours veterans and military members' selfless duty to Canada. In fact, one in nine Lockheed Martin Canada employees is a military veteran. They directly support the transition to civil life of military personnel and veterans through various ways. They also participate in the National Defence transition briefings at both the executive and employee level offering mentorship and guidance from a leadership perspective.

Lockheed Martin Canada partnering with Canada Company.

Lockheed Martin Canada has provided financial contribution to Canada Company³ is a charitable, non-partisan organization that helps veterans who are seeking jobs in the civilian workforce transition to a suitable job.

The following Canadian organizations are supported by Lockheed Martin Canada:

- › **Prince's Operation Entrepreneur:** a national program for transitioning Canadian Armed Forces members interested in starting their own business
- › **Soldier On:** Canadian Armed Forces program committed to supporting veterans and serving members to adapt and overcome permanent physical or mental health injuries through physical activity and sport;
- › **Canadian Army Run:** about Canadians and the Canadian Armed Forces – Air Force, Army, and Navy – joining together in the spirit of camaraderie and community;
- › **Habitat for Humanity Military Build:** The military build initiative began in 2017 and aims at helping make home ownership a reality for Canadian veterans in the Ottawa region. Habitat Greater Ottawa held its first-ever Veterans Build Day during Veterans Week 2017, which attracted more than 25 active duty military personnel and veterans, several from Lockheed Martin Canada, who helped build four homes; and
- › **Wounded Warriors:** a Canadian charity that supports veterans, first responders, and their families dealing with trauma and mental health issues.

Case study – Supporting Veterans and their Families

Invictus Games Toronto 2017



Lockheed Martin Canada sponsors Soldier On and Wounded Warriors Canada. Together, these two organizations played a critical role during 2017 Invictus Games held in Toronto. Lockheed Martin was also a key sponsor of the games, founded by Prince Harry, which saw more than 500 wounded, ill and injured servicemen and servicewomen from 17 allied nations compete in 12 adaptive sports. The unofficial motto of the Toronto games was “Transforming Empathy into Empowerment” and by bringing competitors and their families together on this international stage, during Canada’s 150th anniversary of Confederation is something that Lockheed Martin is very proud to support. Additionally, through internal feedback, Lockheed Martin Canada provided advice to enable its corporate sponsorship to continue on to the Invictus Down Under Games being held in Sydney, Australia in 2018.

³ (Canada Company, 2018)

10. Summary of major findings and conclusion

Lockheed Martin Canada's corporate vision aligns with the Government of Canada's focus on achieving sustainable growth for the Canadian economy through innovation and exports and is committed to deploying its resources in a manner that will increase new skills development. A basic step in achieving these goals is to establish a baseline against which current initiatives and future activities will be benchmarked. To this end, Lockheed Martin Canada has retained PwC to estimate its economic footprint in Canada over the last ten years (2008-2017) and to explore the extent to which this economic footprint supports the Canadian government's economic priorities.

Our Assessment has found that Lockheed Martin's operations and investments in Canada have generated a significant economic footprint across Canada over the past 10 years. Through both its Naval Franchise Line of Business and sustainment of military and commercial aircraft, Lockheed Martin Canada has grown its business and employee base in Canada and has demonstrated its ability to export its innovative made-in-Canada solutions to international markets. By employing 1,000 employees, facilitating a supply chain of 1,400 small-and- medium- sized companies, investing in key research projects and companies and meeting industrial and technological benefits, Lockheed Martin's strategic corporate vision for operations and investments in Canada is closely aligned with the government of Canada's objectives for the aerospace and defence sector.

Innovation

Innovation is a key lever of productivity and growth, particularly in high-tech industries such as aerospace and defence. Lockheed Martin contributes to innovative activities through three main channels in Canada: spending on developing new capabilities within Lockheed Martin Canada, R&D investment through Canada's Industrial and Technological Benefits (ITB) program, and acquisition of innovative companies in Canada. Between 2008 and 2017, the first two channels accounted for \$157 million in spending. In addition to these channels, Lockheed Martin's active participation in regional aerospace and defence clusters supports an environment that generates innovation and growth.

Exports

Exports are a priority for the Government of Canada because they are associated with stability, growth, and well-paying jobs. Within the export-focused aerospace and defence sectors, Lockheed Martin Canada supports a robust export sector in a number of ways. Firstly, Lockheed Martin Canada exports its own Canadian-developed systems such as the CMS-330 and VISTA electronic warfare software. Secondly, Lockheed Martin Corporation purchases parts and components from Canadian suppliers for aircraft assembled in the United States such as the F-35 Lightning II. Finally, because Lockheed Martin's systems are used globally, Canadian suppliers build on their experience maintaining, supporting, and upgrading Lockheed Martin systems in Canada to export these services to other defence departments worldwide.

Skills

Lockheed Martin Canada generates and supports employment in industries that have high value-added and therefore require skilled workers and pay well. On top of this, Lockheed Martin Canada invests in continuing education for its workforce, supports STEM programs for youth, and provides mentoring and coaching to future entrepreneurs from both military and indigenous communities.

Diversity

Lockheed Martin Canada recognizes the need for greater workplace diversity to encourage inclusive growth, particularly in aerospace and defence industries. When building relationships with universities and seeking future employees, Lockheed Martin Canada aims at integrating diversity as one of its selection lenses. It intentionally selects people from various backgrounds to represent the company at talent acquisitions events and recruitment fairs.

Environment

Environmental issues are a growing global concern, and one that the Government of Canada takes seriously as part of its plans for economic growth. Green technologies such as renewable energy sources will be an important part of reducing greenhouse gases. Lockheed Martin is expanding investment and operations in the area of sustainable energy. Currently, Lockheed Martin Canada manufactures the Solar Tilt Axis Roll Tracker, which is substantially more efficient than traditional fixed solar panels. This system also interacts with other energy sources to provide continuous service and has been implemented in remote and indigenous communities to provide renewable energy.



Participants in the Joint Economic Development Initiative (JEDI) business accelerator program competed for a \$5,000 grand prize at a competition hosted at the Lockheed Martin IMPACT Centre in Kanata, Ontario in March 2018. PLATO Testing won the competition with A1 3D Printing and Sacred Resorts Eco Tourism both receiving \$1,000 cash prizes as finalists.

Appendices

Appendix A

Glossary

AOPS: Arctic Offshore Patrol Ships

ASLEP: Aurora Structural Life Extension Project, undertaken by the RCAF

AIMP: Aurora Incremental Modernization Project, undertaken by the RCAF

CIT: Corporate income tax

CFHIS: Canadian Forces Health Information System

CMS: Combat management system

CSR: Corporate Social Responsibility

DND: Department of National Defence (Canada)

EESH: Energy, environment, safety and health

FTE: Full-time equivalent

EW: Electronic warfare

IRB: Industrial and regional benefits, a predecessor to ITB

ISED: Innovation, Science, and Economic Development, a federal ministry

ISS: In-service support

ITB: Industrial and technological benefits

KIC: Key industrial capability

Lockheed Martin: In this report, the term “Lockheed Martin” is used as a general term referring to all or part of its global operations.

Lockheed Martin Canada: The Canadian operations of Lockheed Martin.

LMCES: Lockheed Martin Commercial Engine Solutions, a Lockheed Martin Canada facility in Montreal

Lockheed Martin Corporation: The parent company of Lockheed Martin Canada. In this report, the term “Lockheed Martin” is used as a general term referring to all or part of its global operations.

MFC: Missiles and fire control, one of four core business areas of Lockheed Martin

MRO: Maintenance, repair, and overhaul.

OECD: The Organization for Economic Cooperation and Development, an international research group.

PIT: Personal income tax

R&D: Research and development

RCN: Royal Canadian Navy

RMS: Rotary and mission systems, one of four core business areas of Lockheed Martin

STEAM: Science, Technology, Engineering, Arts, and Math

STEM: Science, Technology, Engineering and Math

TRT: Tilt roller tracker, a solar panel technology developed by Lockheed Martin Canada

UAV: Unmanned aerial vehicle

USAF: United States Air Force

Appendix B

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Appendix C

Input output methodology

The economic footprint of a particular company is a series of measures that in combination provide a picture of the contribution that the subject company provides to an economy. A company's economic footprint extends well beyond its own operations; it also includes activities arising from its suppliers (i.e., indirect impact) and purchases made out of compensation received by its own and suppliers' employees (i.e., induced impact). Economic footprint measures commonly include: GDP, employment, labour income and government tax revenues.

The fundamental philosophy behind economic impact analysis is that spending on goods and services has attendant impacts throughout the economy. For instance, production of a naval system will generate demand for the inputs to this process (such as machinery and labour) that in turn generates additional demand that extends beyond the initial spending (such as spending by employees of Lockheed Martin and its suppliers). Our analysis permits the estimation of this cascading effect by using the multipliers calculated by Statistics Canada based on its input-output models of the provincial economies.

The input-output model¹ used for the purpose of this report estimates the relationship between a particular economic activity for a given good or service and the resulting impacts throughout the economy (including demand for other goods and services).

For the purpose of this report, economic impacts were estimated for the following measures of economic activity:

- › **Value added or GDP** – the value added to the economy, or the output valued at basic prices less intermediate consumption² valued at purchasers' prices. GDP includes only final goods to avoid double counting of products sold during a certain accounting period.
- › **Employment** – the number of jobs created or supported. It is expressed as the number of full-time equivalent ("FTE") jobs indicated in person years.
- › **Labour Income** – the amount earned by the employment generated.
- › **Tax Impacts**—the amount contributed to municipal, provincial and federal governments. Taxes measured in this analysis are taxes on production and imports, personal income tax, and corporate income tax.

As noted previously, economic impacts are typically estimated at the direct, indirect and induced levels:

- › **Direct impacts** result from Lockheed Martin's spending on suppliers and employees. This reflects direct operations.
- › **Indirect impacts** arise from the activities of the firms providing inputs to Lockheed Martin's suppliers (in other words, the suppliers of its suppliers). This would include, for example, producers of machinery and any inputs used by these producers.
- › **Induced impacts** are the result of consumer spending (such as food, clothing, and housing) by employees of the businesses stimulated by direct and indirect expenditures.

The **total economic impact** equals the sum of the direct, indirect, and induced economic impacts.

¹ The Statistics Canada Input-Output model was used for this analysis.

² Defined as the value of goods and services used or transformed as inputs by a process of production.

Appendix D

Limitations

Data limitations: PwC has relied on the information provided by Lockheed Martin regarding the provincial allocations of operating expenses and capital expenditures of Lockheed Martin's business operations in Canada. PwC has relied upon the completeness, accuracy, and fair presentation of all information and data obtained from Lockheed Martin and the various sources set out in our report, which were not audited or otherwise verified. The findings in this report are conditional upon such completeness, accuracy, and fair presentation, which have not been verified independently by PwC. Accordingly, we provide no opinion, attestation or other form of assurance with respect to the results of this study.

Where the information or data provided is not sufficient to conduct the analysis that has been requested, we have made assumptions, as noted throughout the report.

Receipt of new data or facts: PwC reserves the right at its discretion to withdraw or make revisions to this report should we receive additional data or be made aware of facts existing at the date of the report that were not known to us when we prepared this report. The findings are as of March, 2018 and PwC is under no obligation to advise any person of any change or matter brought to its attention after such date, which would affect our findings.

Input-output analysis: Input-output analysis (a model used to estimate Gross Domestic Product ("GDP") and employment impact) does not address whether the inputs have been used in the most productive manner or whether the use of these inputs in this industry promotes economic growth by more than their use in another industry or economic activity. Nor does input-output analysis evaluate whether these inputs might be employed elsewhere in the economy if they were not employed in this industry at the time of the analysis. Input-output analysis calculates the direct, indirect and induced economic impacts that can reasonably be expected to affect the economy based on historical relationships within the economy. This analysis does not take into account fundamental shifts in the relationships within the

economy that may have taken place since the last estimation of multipliers by Statistics Canada, nor shifts that may take place in the future.

Use limitations: This report has been prepared solely for the use and benefit of, and pursuant to a client relationship exclusively with Lockheed Martin. We understand that Lockheed Martin may share our report with third parties. Lockheed Martin can release this report to third parties only in its entirety and any commentary or interpretation in relation to this report that Lockheed Martin intends to release to the public either requires PwC's written consent or has to be clearly identified as Lockheed Martin's own interpretation of the report. PwC accepts no duty of care, obligation or liability, if any, suffered by Lockheed Martin or any third party as a result of an interpretation made by Lockheed Martin of this report.

Further, no other person or entity shall place any reliance upon the accuracy or completeness of the statements made herein. In no event shall PwC have any liability for damages, costs or losses suffered by reason of any reliance upon the contents of this report by any person other than Lockheed Martin.

This report and related analysis must be considered as a whole: Selecting only portions of the analysis or the factors considered by us, without considering all factors and analysis together, could create a misleading view of our findings. The preparation of our analysis is a complex process and is not necessarily susceptible to partial analysis or summary description. Any attempt to do so could lead to undue emphasis on any particular factor or analysis.





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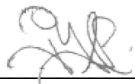
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EXHIBIT J

This is **Exhibit “J”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits

(or as may be)

James Yap, LSO #61126H



Government
of Canada

Gouvernement
du Canada

[Canada.ca](#) › [National Defence](#)

Announcement regarding the F-35 acquisition

From: **National Defence**

Speech

Good morning everyone. Bonjour.

I am joining you from the traditional territory of the Mississaugas of the Credit First Nation, the Huron-Wendat and the Haudenosaunee.

In 2017, we launched an open, fair and transparent competition for the permanent replacement of Canada's fighter fleet.

We did so because we are determined to provide our aviators with the best and most advanced equipment available, and thus acquire the right aircraft at the right price for Canadians.

As our world grows darker, with Russia's illegal and unjustifiable attack on Ukraine, and China's increasingly assertive behavior in the Indo-Pacific, this project has taken on heightened significance – especially given the importance of interoperability with our allies.

Public Services and Procurement Canada has arrived at the culmination of its robust, seven-step process to procure a new fleet of fighter jets for Canada.

Today I am announcing that Canada is acquiring a new fleet of eighty-eight, state-of-the-art F-35 fighter jets, through an agreement that we have finalized with the United States government and Lockheed Martin with Pratt and Whitney.

This investment is estimated at nineteen billion dollars – making it the largest investment in our Royal Canadian Air Force in thirty years.

I am here to announce that Canada will procure a new fleet of eighty-eight F-35 fighter jets, through an agreement that we have finalized with the United States government and Lockheed Martin with Pratt and Whitney.

This investment is estimated at nineteen billion dollars – making it the largest investment in our Royal Canadian Air Force in thirty years.

This acquisition will occur with funding set out in our 2017 defence policy, Strong, Secure, Engaged, and delivers on our commitment to ensure that our Air Force has the equipment needed to protect Canadians.

The F-35 is a modern, reliable, and agile fighter aircraft used by our closest allies in missions across the globe. It is the most advanced fighter on the market, and it is the right aircraft for Canada.

The F-35 provides pilots with enhanced intelligence; surveillance; and reconnaissance capabilities, greatly improving their situational awareness and survivability in today's high-threat operational environment.

Canada's new fleet of 88 jets is being acquired in tranches – starting with an initial tranche of 16.

We expect:

- the first four aircraft to be delivered in 2026,
- the next six in 2027,
- and the next six in 2028,
- with the full fleet to arrive in time to enable the phase out of the CF-18s by the end of 2032.

As we move towards a new fleet, we are ensuring that our Air Force has the aircraft needed to protect Canada in the interim. We have procured Australian F-18s to supplement our existing fleet of CF-18 aircraft, which are also being upgraded under the Hornet Extension Project.

These two initiatives will help extend the life of our CF-18 fleet to 2032, and will allow for a gradual transition from the CF-18 to the F-35 – while ensuring that the RCAF is equipped to sustain key defence missions in North America and internationally.

By acquiring this fleet, we are enhancing Canada's capacities in our airspace, and ensuring a closer and more seamless coordination with our allies.

The new fighter fleet will ensure Canada can meet its military obligations at home and deliver on its commitments under NORAD and NATO.

This \$19 billion investment includes not just aircraft, but also sustainment set-up and services for the aircraft, associated aircraft equipment, and the construction of modern fighter squadron facilities in Bagotville, Quebec, and Cold Lake, Alberta.

This \$19 billion investment includes not just aircraft, but also sustainment set-up and services for the aircraft, associated aircraft equipment, and the construction of modern fighter squadron facilities in Bagotville, Quebec and Cold Lake, Alberta.

These facilities will be home to both operational and training Squadrons, and will include space for daily operations, maintenance, administration, mission planning, and simulator training in support of the entire fleet.

At the same time, and under separate, previously-announced funding, we're moving forward with investments through our NORAD Modernization Plan, including a range of infrastructure upgrades across Canada to support NORAD and F-35 operations.

Together, these projects will sharpen our military edge to keep Canadians safe – and they will create economic opportunities for our country.

The acquisition and initial maintenance of the F-35 has the potential to contribute over 425 million dollars annually to the Canadian economy and close to 3,300 jobs annually for Canadian industry over a 25-year period.

In fact, Canada's participation in the Joint Strike Fighter program over the past number of years has already allowed companies in Canada to secure almost three billion USD in contracts, and this will grow.

Standing back, approximately three thousand F-35s are forecast to be produced for partners and allies across the world – and every one of these jets will also include Canadian components – from landing gear parts, to engine parts, to software – making the F-35 a testament to Canada's world-class aerospace and defence industry. Our industry will also be well positioned to participate in the substantial maintenance opportunities of both the Canadian and global fleets.

In the future, we will continue to work closely with our industry partners to provide the most up-to-date information on the opportunities available to our workers and our businesses. This includes Indigenous and Northern businesses.

As global tensions rise, we will never waver in our commitment to keep Canadians safe. We're committed to making the necessary investments to protect Canada – and today's announcement is evidence of this resolve.

The F-35 advanced fighter aircraft fleet will ensure that our aviators have the long-term ability to defend the second largest airspace in the world. It will help us to meet our NORAD and NATO commitments. And it will also deliver concrete economic benefits to Canada.

To the aviators of the Royal Canadian Air Force and the entire Canadian Armed Forces: thank you for your service and devotion to Canada. You risk your lives for this country, and we will ensure that you have the top-of-the-line equipment that you need to keep Canada safe.

I confirm today that Canada is acquiring the best fighter aircraft on the market at the best price for Canadians. I would like to thank everyone who played a role in carrying out this purchase.

Thank you, merci, miigwetch.

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Date modified:

2023-01-09

EXHIBIT K

This is **Exhibit “K”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits

(or as may be)

James Yap, LSO #61126H

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Gaza war: Where does Israel get its weapons?

15 April 2024

[Share](#)**David Gritten**
BBC News

AFP

The US has supplied Israel's air force with F-35s, the most advanced fighter jets ever made

Western governments are coming under growing pressure to halt arms sales to Israel over how it is waging the war against Hamas in the Gaza Strip.

Israel is a major weapons exporter, but its military has been heavily reliant on imported aircraft, guided bombs and missiles to conduct what experts have described as one of the most intense and destructive aerial campaigns in recent history. Campaign groups and some politicians among Israel's Western allies say arms exports should be suspended because, they say, Israel is failing to do enough to protect the lives of civilians and ensure enough humanitarian aid reaches them.

On Friday, the UN Human Rights Council backed a weapons ban, with 28 countries voting in favour, six against and 13 abstentions. The US and Germany - which account for the vast majority of Israel's arms imports - both voted against. Germany said it did so because the resolution did not explicitly condemn Hamas.

The war was triggered by Hamas's attack on Israel on 7 October, which killed about 1,200 people, mainly civilians, according to Israeli tallies. More than 33,000 people have been killed in Gaza, 70% of them children and women, the Hamas-run health ministry says.

Israel insists that its forces are working to avoid civilian casualties, accuses Hamas of deliberately putting civilians in the line of fire and has said there are no limits on aid deliveries.

United States

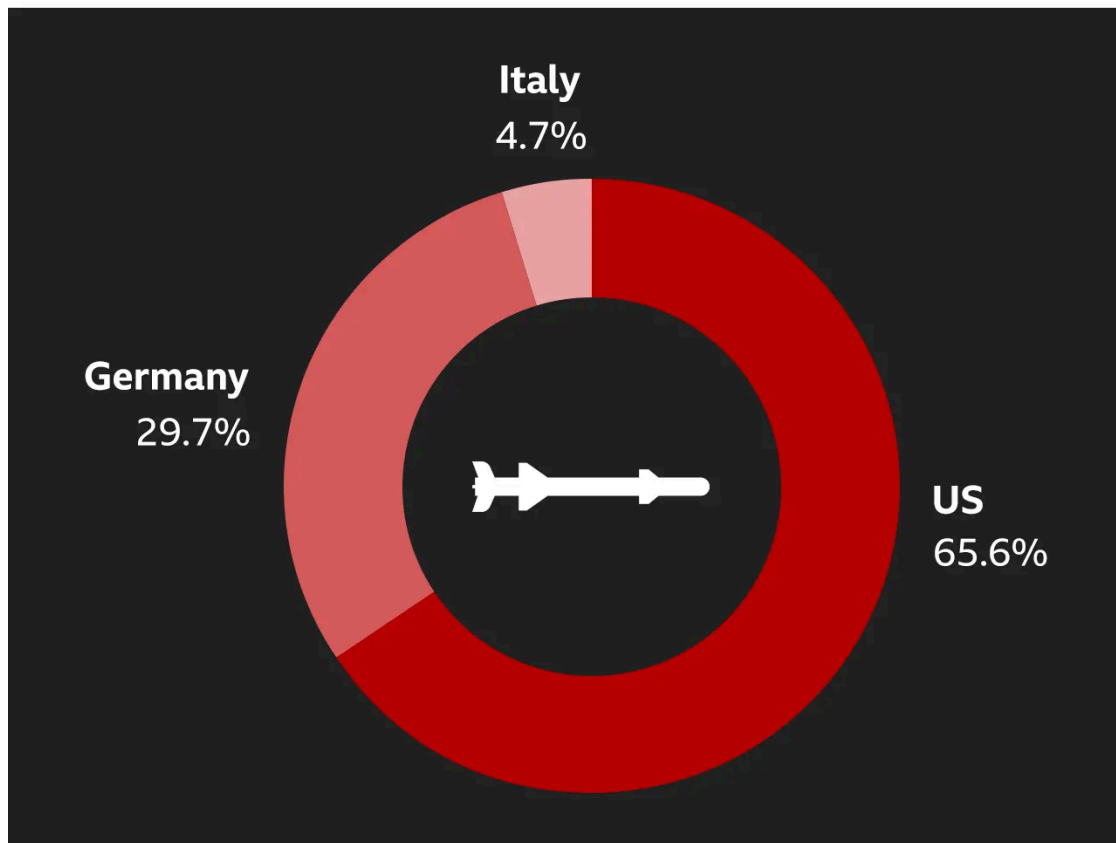
The US is by far the biggest supplier of arms to Israel, having helped it build one of the most technologically sophisticated militaries in the world.

According to the Stockholm International Peace Research Institute (SIPRI), the US accounted for 69% of Israel's imports of major conventional arms between 2019 and 2023.

The US provides Israel with \$3.8bn (£3bn) in annual military aid under a 10-year agreement that is intended to allow its ally to maintain what it calls a "qualitative military edge" over neighbouring countries.

Who supplies the most arms to Israel?

% of total weapons sold to Israel by its major suppliers



Source: SIPRI, estimated volume of major arms transfers, 2013-2023

B B C

Israel has used the grants to finance orders of F-35 Joint Strike Fighters, a stealth aircraft considered the most advanced ever made. It has so far ordered 75 and taken delivery of more than 30 of the aircraft. It was the first country other than the US to receive an F-35 and the first to use one in combat.

Part of the aid - \$500m annually - is set aside to fund missile defence programmes, including the jointly developed Iron Dome, Arrow and David's Sling systems. Israel has relied on them during the war to defend itself against rocket, missile and drone

attacks by Palestinian armed groups in Gaza, as well as other Iran-backed armed groups based in Lebanon, Syria, Iraq and Yemen.

In the days after Hamas's 7 October attack, President Joe Biden said the US was "surging additional military assistance" to Israel.

Since the start of the war, only two US military sales to Israel have been made public after receiving emergency approval - one for 14,000 rounds of tank ammunition worth \$106m and the other for \$147m of components to make 155mm artillery shells.

But US media report that President Joe Biden's administration has also quietly made more than 100 military sales to Israel, most falling below the dollar amount that would require Congress to be formally notified. **They are said to include thousands of precision-guided munitions, small-diameter bombs, bunker busters and small arms.**



Israel's Iron Dome batteries help protect cities and towns from rocket and missile fire

However, SIPRI's report says that despite the deliveries, the total volume of Israeli arms imports from the US in 2023 was almost the same as in 2022.

One deal that is large enough to require Congressional notification is the \$18bn sale of up to 50 F-15 fighter jets, **news about which emerged this week.** Congress has not yet approved the deal.

Even though the aircraft would need to be built from scratch and would not be delivered immediately, the sale is expected to be hotly debated by Mr Biden's Democratic Party, many of whose representatives in Congress and supporters are increasingly concerned by Israel's actions in Gaza.

Senator Elizabeth Warren has said she is prepared to block the deal and has accused Israel of "indiscriminate bombing" in Gaza.

Germany

Germany is the next biggest arms exporter to Israel, accounting for 30% of imports between 2019 and 2023, according to SIPRI.

In 2023, **the European nation's weapons sales to Israel were worth €326.5m (\$351m; £280m)** - a 10-fold increase compared with 2022 - with the majority of those export licences granted after the 7 October attacks.

The German government said in January that the sales comprised €306.4m worth of military equipment and €20.1m of "war weapons".

According to the DPA news agency, the latter included 3,000 portable anti-tank weapons and 500,000 rounds of ammunition for automatic or semi-automatic firearms. It also said that most of the export licences were granted for land vehicles and technology for the development, assembly, maintenance and repair of weapons. Chancellor Olaf Scholz has been a staunch supporter of Israel's right to self-defence throughout the war and, although his tone on Israeli actions in Gaza has shifted in recent weeks and there has been some debate in Germany, the arms sales do not appear to be at risk of suspension.



Israel rejects accusations that it is failing to do enough to protect civilians in Gaza and instead blames Hamas

Italy

Italy is the third-biggest arms exporter to Israel, but it accounted for only 0.9% of Israeli imports between 2019 and 2023. They have reportedly included helicopters and naval artillery.

Sales of "arms and munitions" amounted to €13.7m (\$14.8m; £11.7m) last year, the magazine *Altreconomia* cited national statistics bureau ISTAT as saying.

Some €2.1m of exports were approved between October and December, despite the government's assurances that it was blocking them under a law which bans weapons sales to countries that are waging war or are deemed to be violating human rights.

Defence Minister Guido Crosetto told parliament last month that Italy had honoured existing contracts after checking them on a case-by-case basis and ensuring "they did not concern materials that could be used against civilians".

Other countries

The UK's exports of military goods to Israel are "relatively small", according to the UK government, amounting to only £42m (\$53m) in 2022.

The Campaign Against Arms Trade (CAAT) says that since 2008, the UK has granted arms export licences to Israel worth £574m (\$727m) in total.

Much of those are for components used in US-made warplanes that end up in Israel. But the British government is coming under growing pressure to suspend even those exports.

Prime Minister Rishi Sunak has said the UK has a "very careful export licensing regime" and said Israel must "act in accordance with international humanitarian law". The UK government is also preparing an assessment that will advise on the risk of Israel breaching international law in its actions from early 2024.

But a senior government source told the BBC that an arms embargo on Israel was "not going to happen".

The government of Canada, whose arms sales to Israel were worth 21.3m Canadian dollars (\$15.7m; £12.4m) in 2022, said in January that it had suspended approving new exit permits for weapons until it could ensure they were being used in accordance with Canadian law. However, pre-existing permits remained valid.

Israeli defence industry



Israel's Elbit Systems developed the Hermes 450 unmanned aerial vehicle (UAV) being used in Gaza

Israel has also built up its own defence industry with US help and now ranks as the ninth-largest arms exporter in the world, with a focus on advanced technological products rather than large-scale hardware.

It held a 2.3% share of global sales between 2019 and 2023, according to SIPRI, with India (37%), the Philippines (12%) and the US (8.7%) the three main recipients. **The sales were worth \$12.5bn (£9.9bn) in 2022**, according to the Israeli defence ministry. Unmanned aerial vehicles (UAVs) made up 25% of those exports, followed by missiles, rockets and air defence systems (19%) and radar and electronic warfare systems (13%), the ministry said.

In September, just before the war began, Germany agreed a \$3.5bn deal with Israel to buy the sophisticated Arrow 3 missile defence system, which intercepts long-range ballistic missiles. The deal - Israel's largest-ever - had to be approved by the US because it jointly developed the system.

US military stockpile in Israel



EPA

The US has reportedly allowed Israel to draw artillery shells from its reserve stockpile there

Israel is also home to a vast US arms depot set up in 1984 to pre-position supplies for its troops in case of a regional conflict, as well as to give Israel quick access to weapons in emergencies.

The Pentagon shipped about 300,000 155mm artillery shells from the War Reserve Stockpile Ammunition-Israel to Ukraine following the Russian invasion.

Stockpiled munitions at the depot have also reportedly been supplied to Israel since the start of the Gaza war.

Biden tells Israel it must prevent civilian harm to keep US support Aid worker's family criticises selling Israel arms

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EXHIBIT L

This is **Exhibit “L”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits

(or as may be)

James Yap, LSO #61126H



June 26, 2024

Hunter Fox

Direct +1 613 786 0045

hunter.fox@gowlingwlg.com

Via Email

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mail@jamesyap.ca

Veromi Arsiradam Law
1 Hunter St. E, Ground Floor
Hamilton, ON L8N 3W1
mail@veromiarsiradamlaw.com

Dear: Ms. Jackman, Mr. Yap, and Ms. Arsiradam

Re: *Farah et al. v the Attorney General of Canada*, Court File No. T-473-24

We write as counsel representing Excelitas Canada Inc. ("Excelitas") regarding the matter of *Farah et al. v. the Attorney General of Canada*, Court File No. T-473-24. Counsel for the Attorney General provided Excelitas with a copy of the application and has further advised Excelitas that the Attorney General intends to transmit to the parties and Federal Court certain materials that Excelitas submitted to Global Affairs Canada in support of permit(s) obtained by Excelitas for exports to consignees in Israel.

As a holder of permit(s) that are relevant to the order sought in the application, Excelitas is directly affected by the order sought in the application and is required to be named as a Respondent in the application. We request that the Applicants immediately take steps to amend the Notice of Application to add Excelitas as a Respondent accordingly.

We understand that a case conference in this matter is to be held on July 11, 2024, in which Excelitas would intend to participate. Further, Excelitas intends to make submissions in support of required confidentiality orders prior to the Attorney General's transmittal of the Rule 317 record in the proceedings.

We look forward to being properly served with a copy of the amended Notice of Application and will promptly serve a Notice of Appearance thereafter.

Please do not hesitate to contact us should you wish to discuss.

Yours truly,



Hunter Fox
HF/da

Cc: Wendy Wagner (wendy.wagner@gowlingwlg.com)
Sean Gaudet (sean.gaudet@justice.gc.ca)
Andrea Bourke (andrea.bourke@justice.gc.ca)
Jennifer L Caruso (Jennifer.l.caruso@justice.gc.ca)
Margaret Cormack (margaret.cormack@justice.gc.ca)

EXHIBIT M

This is **Exhibit “M”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits

(or as may be)

James Yap, LSO #61126H

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 Box 50, 1 First Canadian Place
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Toronto

July 2, 2024

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Montréal

By E-Mail

Calgary

Ottawa

Barbara Jackman
 Jackman & Associates
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Vancouver

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Veromi Arsiradam
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 Hamilton, ON L8N 3W1
 Phone: (289) 212-7979
 Email: mail@veromiarsiradamlaw.com

Sean Gaudet
 Department of Justice Canada
 Ontario Regional office
 National Litigation Sector
 120 Adelaide Street West, Suite 400
 Toronto ON M5H 1T1
 Email: Sean.Gaudet@justice.gc.ca

Dear Counsel:

Re: Hammam Farah, Hiba Farah, Ayman Oweida, X.Y., Canadian Lawyers for International Human Rights, and Al-Haq - Law in the service of man v. Minister of Foreign Affairs and Attorney General of Canada
Court File No. T-473-24

We act for L3 / Wescam Inc. (**L3**). It has recently come to our client's attention that the above-noted application for judicial review in the Federal Court may seek an order quashing the issuance of export permits issued to L3 under the *Export and Import Permits Act*, specifically, Permit Reference IDs 966932-5 and 968956-2 (the **Permits**).

Other than the broadly worded remedies sought in the Notice of Application, there is nothing in the Notice of Application which supports quashing the Permits. The Permits relate to the export of equipment from Canada to the original equipment manufacturer (OEM) in Israel for repair or replacement purposes. Following repair in Israel, the equipment will be returned to Canada or if repair of the equipment is not feasible, a replacement is returned to Canada. No equipment exported under the Permits will be used by the Israel Defence Forces in any capacity at any time.

Please confirm that the Notice of Application will be amended to exclude from its scope any export permits related to the export of equipment to Israel for repair or replacement purposes—in particular, excluding the Permits.

In the event that the parties will not agree to satisfactory amendments to the Notice of Application to exclude the Permits:

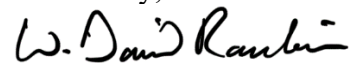
1. L3 will need to be added as a party respondent to the application. If the application is intended to quash the Permits, L3 should have been added as a respondent under Rule 303(1)(a) in the first place. Please advise whether your respective clients would consent to adding L3 as a party respondent. Otherwise, L3 will propose a timetable for a motion adding it as a party respondent.
2. L3 will require a protective order and a confidentiality order, in the form of the Federal Court model orders, to address national security and commercially and competitively sensitive information in the Permits and related documents, which are also controlled for export from Canada under the *Defence Production Act*. Please advise whether any other party is seeking a protective order and confidentiality order. L3 will otherwise propose a timetable for such motions.

Please advise by end of the day on **July 4, 2024** your clients' respective positions on: (1) whether the Notice of Application will be amended according to the comments above to exclude the Permits; (2) if not, whether the parties will consent to adding L3 as a party respondent; and (3) whether any other parties are seeking a protective order and confidentiality order in this proceeding.

We are aware that the Court requires a letter by July 8, 2024 outlining, among other things, proposed next steps in the proceeding. L3's interests should be reflected in that correspondence. Please consult with us on the contents of that correspondence so that we can ensure that the Court is aware of L3's interests and any motions that may be required.

In the meantime, please confirm that the Minister of Foreign Affairs will not transmit a copy of the certified tribunal record containing the Permits or any related documents until L3 has had an opportunity to obtain a suitable protective order and confidentiality order.

Yours truly,



W. David Rankin

EXHIBIT N

This is **Exhibit “N”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits

(or as may be)

James Yap, LSO #61126H



Blake, Cassels & Graydon LLP
 Barristers & Solicitors
 Patent & Trademark Agents
 199 Bay Street
 Suite 4000, Commerce Court West
 Toronto ON M5L 1A9 Canada
 Tel: 416-863-2400 Fax: 416-863-2653

Iris Fischer

Partner

Dir: 416-863-2408

iris.fischer@blakes.com

July 9, 2024

VIA E-FILING

Reference: 75337/23

Federal Court of Canada
 Registry Office
 180 Queen Street West, Suite 200
 Toronto, Ontario M5V 3L6

RE: *Farah et al. v. the Attorney General of Canada*, Court File No. T-473-24

Dear Registrar:

We write as counsel to General Dynamics Land Systems-Canada ("General Dynamics") in relation to *Farah et al. v. the Attorney General of Canada*, Court File No. T-473-24. We ask that you please bring this correspondence to the attention of Associate Judge Cotter, who is case managing this proceeding.

Counsel for the Attorney General of Canada ("AGC") has provided General Dynamics with a copy of the application in this matter. The AGC has also advised that it intends to transmit to the parties and the Federal Court materials relating to General Dynamics, including documents related to the issuance of export permits to General Dynamics since October 9, 2023.

As a holder of permits at issue in the application, General Dynamics wishes to attend the case management conference scheduled for July 11, 2024. General Dynamics is considering whether it intends to make submissions in support of confidentiality orders prior to the AGC's transmittal of the record pursuant to Rule 317. General Dynamics may also have contributions in relation to procedural matters. To that end, General Dynamics requests the opportunity to appear at the case management conference, and the meeting details to access the same.

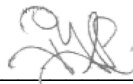
Yours very truly,

Iris Fischer

Cc: Jenna Green (Blakes)
 Sean Gaudet/Andrea Bourke/Jennifer Caruso/Margaret Cormack (AGC)
 Barbara Jackman
 James Yap
 Veromi Asiradam

EXHIBIT O

This is **Exhibit “O”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits

(or as may be)

James Yap, LSO #61126H



Marc McLaren-Caux

mmclarencaux@cassidylevy.com

Direct 613 368 4130

Fax 613 368 4171

July 9, 2024

**FILED ELECTRONICALLY
SERVED BY EMAIL**

Registrar
Federal Court of Canada
180 Queen Street West, Suite 200
Toronto, ON M5V 3L6

Dear Registrar:

RE: T-473-24, *Hammam Farah et al v. Minister of Foreign Affairs et al*

We are counsel to TTM Technologies Toronto, Inc. (“TTM Toronto”). We ask that you please bring this correspondence to the attention of Associate Judge Cotter, who is case managing the above-captioned proceeding.

TTM Toronto is not a party to this application but has received notice of this proceeding from the Attorney General of Canada (“AGC”). We have also been provided with a copy of the parties’ joint letter to the Court dated July 8, 2024.

TTM Toronto is a manufacturer of circuit boards and has received export permits from Global Affairs Canada (“GAC”) that may fall within the class of permits which this application describes and seeks to quash (see Notice of Application at para. 1.h). The AGC has also shared its preliminary view that documents containing confidential information filed by TTM Toronto may be or become relevant to this application and therefore risk being disclosed in a Certified Tribunal Record (“CTR”) transmitted pursuant to Rule 318.

As an initial matter, and without prejudice to other arguments which we may raise in the context of this application, TTM Toronto objects in the strongest possible terms to any public disclosure of the export permits granted to the company, or of any materials filed in support of obtaining them. TTM Toronto’s applications were filed in an expressly confidential process, and both the permits and the supporting application materials filed to obtain them contain highly sensitive information including customer names and end uses, technical drawings, and pricing information. Much of this information also appears to be irrelevant to the grounds argued in the Notice of

Registrar
 July 9, 2024
 Page 2

Application and also therefore ought not be disclosed. We moreover note from the parties' joint letter that an amended Notice of Application is anticipated, in any event.

As a first step, therefore, TTM Toronto wishes to ensure that all appropriate protections and procedures are put in place respecting the confidentiality of information that it has provided to GAC—including but not limited to potential *Canada Evidence Act* protections and a confidentiality order—and that any material proposed to be delivered in any CTR is relevant to the grounds raised in the application. Such procedures should include the opportunity for TTM Toronto to review, in advance, information which it provided to GAC that the AGC believes may be disclosable pursuant to Rule 318 or otherwise.

Given its interest in this proceeding, TTM Toronto respectfully requests the opportunity to appear and, if necessary, make submissions in the upcoming case management conference which we understand is being held at 1:30 PM on July 11, 2024. To that end, we also request from the Court the meeting details necessary to access same.

We finally request from both the parties and the Court to be provided with notice of any further steps in this proceeding until the matter of proper respondents is addressed by way of an amended Notice of Application or otherwise.

Sincerely yours,



Marc McLaren-Caux
 Cassidy Levy Kent (Canada) LLP

cc. Barbara Jackman, James Yap, Veromi Arsiradam
 Counsel for the Applicants

Sean Gaudet, Andrea Bourke, Margaret Cormack, Jennifer Caruso
 Counsel for the Respondents

EXHIBIT P

This is **Exhibit “P”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits

(or as may be)

James Yap, LSO #61126H

240
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July 10, 2024
File No.: 265451.00002/18141

Christopher J. Rae
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crae@fasken.com

By Electronic Filing

Federal Court of Canada
Registry Office
180 Queen Street West, Suite 200
Toronto, ON M5V 3L6

Dear Registrar:

Re: *Farah et al. v. the Attorney General of Canada*, Court File No. T-473-24

We are legal counsel to GeoSpectrum Technologies Inc. (“GTI”). We ask that you please bring this correspondence to the attention of Associate Judge Cotter, who is case managing the above-referenced proceeding.

GTI is not a party to this proceeding but was provided with a courtesy copy of the Notice of Application by the Attorney General of Canada (“AGC”). The AGC has also advised GTI that certain documents and information provided by GTI to Global Affairs Canada pursuant to Permits Reference Number 967877-0 and Reference Number 947906-7 (the “Permits”) may be engaged by this proceeding.

GTI’s position is that the technology and products at issue in the Permits are not, and cannot be modified to be, “arms, ammunition, implements or munitions of war” as described in the Notice of Application. Rather, they are a non-lethal water-based sonar system. For that reason, they cannot be related to the matters at issue in the Notice of Application.

In any event, the documents and information provided by GTI to Global Affairs Canada is sensitive both from a commercial and security standpoint, and was provided to and received by Global Affairs Canada on the clear understanding that such information would be kept under the strictest confidence. GTI strongly objects to the disclosure of the documents and information provided to Global Affairs Canada in this proceeding. Unless the Permits are excluded from the scope of this proceeding, GTI will need to participate in order to ensure the protection and security of its information, including by obtaining appropriate sealing, protective and confidentiality orders, as well as any protections that may apply pursuant to the *Canada Evidence Act* or *Export and Import Permits Act*.

GTI seeks to attend the Case Management Conference we understand has been scheduled for Thursday, July 11, 2024 at 1:30 p.m. for the purpose of addressing these issues.



Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



Christopher J. Rae

CJR/kp

cc *Sean Gaudet, Andrea Bourke, Jennifer Caruso, and Margaret Cormack*
Counsel to the Respondent

Barbara Jackman, James Yap, Veromi Asiradam
Counsel to the Applicants

Christopher Pigott, Marcia Mills, and Clifford Sosnow
Counsel to GTI

EXHIBIT Q

This is **Exhibit “Q”** referred to in the affidavit of
Henry Off affirmed remotely before
me in accordance with O Reg 413/20,
Administering Oath or Declaration Remotely
this 5th day of August 2024.



Commissioner for Taking Affidavits

(or as may be)

James Yap, LSO #61126H

Court File No. T-473-24

FEDERAL COURT

BETWEEN:

**HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X. Y.,
CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS, and
AL-HAQ - LAW IN THE SERVICE OF MAN**

Applicants

- and -

**MINISTER OF FOREIGN AFFAIRS
and ATTORNEY GENERAL OF CANADA**

Respondents

- and -

**PRATT & WHITNEY CANADA CORP, TTM TECHNOLOGIES TORONTO INC.,
GEOSPECTRUM TECHNOLOGIES INC, EXCELITAS CANADA INC,
APOLLO MICROWAVES LTD**

Respondents

**AMENDED NOTICE OF APPLICATION TO FEDERAL COURT
FOR JUDICIAL REVIEW**

Pursuant to Section 18.1 of the *Federal Courts Act*

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the Applicants. The relief claimed by the Applicants appears on the following pages.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicants. The Applicants request that this application be heard at Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicants' solicitor or, if the Applicants are self-represented, on the Applicants, **WITHIN 10 DAYS** after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

March 5, 2024

Issued by: _____

Address of local office:

180 Queen Street West, Suite 200

Toronto, ON M5V 3L6

TO: MINISTER OF FOREIGN AFFAIRS OF CANADA

Global Affairs Canada

125 Sussex Drive

Ottawa, ON K1A 0G2

AND TO: MINISTER OF JUSTICE AND ATTORNEY GENERAL OF CANADA

c/o Deputy Attorney General of Canada

Office of the Deputy Attorney General of Canada

284 Wellington Street

Ottawa ON K1A 0H8

Per: Sean Gaudet (LSO #35204R)

Andrea Bourke (LSO #45892K)

Jennifer Caruso (LSO #79421K)

Margaret Cormack (LSO #84706G)

Tel: (647) 293-4462
Fax: (416) 973-4328
Email: Sean.Gaudet@justice.gc.ca
Andrea.Bourke@justice.gc.ca
Jennifer.Caruso@justice.gc.ca
Margaret.Cormack@justice.gc.ca

Lawyers for the Respondents

AND TO: Excelitas Canada Inc.

c/o Hunter Fox (LSO #74288Q)
Gowling WLG (Canada) LLP
Suite 2600, 160 Elgin Street
Ottawa, ON K1P 1C3
Tel: (613) 786-0045
Email: hunter.fox@gowling.com

Lawyer for the Respondent

AND TO: TTM Technologies Toronto, Inc.

c/o Marc McLaren-Caux
Cassidy Levy Kent (Canada) LLP
55 Metcalfe Street, Suite 1210
Ottawa, ON K1P 6L5
Tel: (613) 368-4130
Email: mmclarencaux@cassidylevy.com

Lawyer for the Respondent

AND TO: GeoSpectrum Technologies Inc.

c/o Christopher Rae
Fasken Martineau DuMoulin LLP
333 Bay Street, Suite 2400
Toronto, ON M5H 2T6
Tel: (416) 865-4551
Email: crae@fasken.com

Lawyer for the Respondent

AND TO: Apollo Microwaves Ltd.c/o Robert PancerPhillips Friedman Kotler SENCRL/LLP1010 de la Gauchetiere WestPlace du Canada, Suite 600Montreal, QC H3B 2N2Tel: 514-878-3371 ext :226Email: rpancer@pfklaw.comLawyer for the Respondent**AND TO: Pratt & Whitney Canada Corp.**c/o Pratt & Whitney Canada Head Office1000 Marie-Victorin Blvd.Longueuil, QC J4G 1A1

Court File No. T-473-24**FEDERAL COURT****BETWEEN:**

**HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X.Y.,
CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS, and
AL-HAQ - LAW IN THE SERVICE OF MAN**

Applicants**- and -**

**MINISTER OF FOREIGN AFFAIRS
and ATTORNEY GENERAL OF CANADA**

Respondents**- and -**

**PRATT & WHITNEY CANADA CORP, TTM TECHNOLOGIES TORONTO INC.,
GEOSPECTRUM TECHNOLOGIES INC, EXCELITAS CANADA INC.,
APOLLO MICROWAVES LTD**

Respondents

**AMENDED APPLICATION FOR JUDICIAL REVIEW
UNDER SECTION 18.1 OF THE
FEDERAL COURTS ACT (R.S.C., 1985, c. F-7)**

This is an application for judicial review in respect of the issuance of export and brokering permits (together, “export approvals”) for arms, ammunition, implements or munitions of war (collectively, “military goods or technology”) to Israel, as authorized by the Minister of Foreign Affairs (the “Minister”) at any time on or after October 9, 2023.

1. THE APPLICATION IS FOR:

- a) A Declaration that the issuance of permits to broker or export military goods or technology to Israel, or ultimately destined for Israel, except with the express intention that they be subsequently transferred to a country other than Israel and never put to military or other active use in or by Israel, at any time on or after October 9, 2023, places the Respondents in breach of the *Export and Import Permits Act* (the “*EIPA*”);
- b) A Declaration that the issuance of such permits is unlawful due to the “substantial risk” (s. 7.4 of the *EIPA*) that military goods or technology will be used by Israel to commit or facilitate violations of international humanitarian law (“IHL”), international human rights law (“IHRL”), and/or serious acts of violence against women and children, and/or undermine peace and security;
- c) To the extent that the issuance of such permits is permitted under the *EIPA*, a Declaration pursuant to section 52(1) of the *Constitution Act, 1982* ~~1982~~ ¹⁹⁸² that the relevant provisions of the *EIPA* are of no force or effect;
- d) A Declaration that the issuance of such permits places the Respondents in breach of Canada’s obligations under section 7 of the *Canadian Charter of Rights and Freedoms* (the “*Charter*”); and under section 15 of the *Charter* with respect to discrimination on the basis of sex, age, race, national or ethnic origin, and physical or mental disability;
- e) A Declaration that the issuance of such permits places the Respondents in breach of Canada’s obligations under the *Geneva Conventions Act*;

- f) A Declaration that the issuance of such permits places the Respondents in breach of Canada's international treaty obligations;
- g) A Declaration that the issuance of such permits places the Respondents in breach of Canada's legal obligations under customary international law;
- h) An Order that the issuance of such permits, including, for greater clarity, General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States, SOR/2019-230, be quashed and that the Respondents immediately cease issuing all permits for the brokering and export of military goods or technology, including such items capable of being adapted for military use, to or ultimately destined for Israel, except with the express intention that they be subsequently transferred to a country other than Israel and never put to military or other active use in or by Israel, and cancel all such permits issued since October 9, 2023, or prior to that date but continuing in effect on or after October 9, 2023;
- i) An Order that all applications for such permits currently under consideration be denied;
- j) An Order that the Respondents immediately remove Israel from the Automatic Firearms Country Control List, pursuant to section 6 of the *EIPA*;
- k) A Declaration that section 2(a) of the Export Control List, SOR/89-202 is invalid and unlawful;
- l) An Order for the Applicants' costs in this matter;
- m) An Order that the Applicants not be required to pay costs, should this Application be rejected, in accordance with Rule 400 of the *Federal Court Rules*; and

- n) Any such further and other relief as counsel may request, including relief under section 24 of the *Charter*, and this Honourable Court may deem just.

2. THE GROUNDS FOR THE APPLICATION ARE:

A. Background

1. Hammam Farah is a Canadian citizen of Palestinian origin and psychotherapist resident in Ontario. He has many family and friends who are members of the Holy Family Church, the last remaining Roman Catholic Church in Gaza. Since October 9, 2023, some of his family and friends in the Occupied Palestinian Territory (“OPT”) have been killed by Israeli military personnel.
2. Hiba Farah is a retired Canadian citizen of Palestinian origin resident in Ontario. She has many family and friends who are members of the Holy Family Church, the last remaining Roman Catholic Church in Gaza. Since October 9, 2023, some of her family and friends in the OPT have been killed by Israeli military personnel. She is the mother of the Applicant Hammam Farah.
3. Ayman Oweida is a Palestinian-Canadian and resident in Quebec. He is Assistant Professor in Radiobiology, Nuclear Medicine, and Immunology at the Université de Sherbrooke. Since October 9, 2023, some of his family in Gaza have been killed by Israeli military personnel.
4. X.Y. is a 26-year old Palestinian woman from Gaza who is resident in Ontario. She is currently seeking asylum in Canada. Her immediate family still resides in Gaza.

5. Canadian Lawyers for International Human Rights (“CLAIHR”), founded in 1992, is a nongovernmental organization of lawyers, law students, and legal academics working to promote international human rights within and in connection to Canada.
6. Al-Haq - Law in the Service of Man (“Al-Haq”) is an independent Palestinian non-governmental human rights organisation established in 1979 in Ramallah, West Bank, to protect and promote human rights and the rule of the law in the OPT.
7. The Applicants plead that, since on or around October 9, 2023, Canada has unlawfully approved exports or brokering permits for military goods or technology to Israel.

B. Israel-Hamas Conflict (October 7, 2023 to present)

8. On October 7, 2023, the Al Qassam Brigades and Islamic Jihad launched an armed incursion in Israel that killed over 1,100 people, including 695 Israeli civilians, 71 foreigners, and 373 Israeli military personnel. About 240 civilians and Israeli soldiers were taken as hostages into Gaza, of which an estimated 134 hostages are still being held or are unaccounted for, in acts which may amount to international crimes.
9. On October 9, 2023, Israel commenced a retaliatory air attack on Gaza, accompanied by ground forces.
10. On October 27, 2023, Israel commenced a full-scale ground invasion in Gaza.
11. Israel’s conduct in its military campaign in Gaza since October 9, 2023 violates fundamental principles of international law, including international human rights law (“IHL”), international humanitarian law (“IHL”), and constitutes serious violence against women and children.

12. On or around the time of filing this Notice, Israel's conduct, which includes acts of omission and commission by Israel's political leadership, military leadership, and soldiers of the Israel Defense Forces ("IDF") reportedly includes, *inter alia*, in approximate figures:

- a. The killing of at least 30,228 Palestinians and injuries to 71,377 Palestinians in Gaza, the majority of which (an estimated 70 percent of dead and wounded) are said to be women and children. This proportion of civilian deaths is reportedly higher than the average in all world conflicts in the second half of the 20th century;
- b. The forced displacement of approximately 1.7 million people as a result of Israel's military operations, representing 85% of the total population in the territory;
- c. Indiscriminate attacks on civilian infrastructure in Gaza, including destruction or damage to approximately 77% of health facilities; 70% of homes; 72% of municipal services such as parks, courts and libraries; 68% of telecommunications infrastructure; and 76% of commercial sites;
- d. Targeted attacks on hospitals, medical centres, ambulances, and medical convoys;
- e. Targeted attacks on "safe zones" and "safe routes" after being designated as such by Israel;
- f. The employment of starvation as a method of warfare, including the escalation of Israel's pre-existing siege on Gaza, withholding virtually all sources of food, water, fuel, and electricity;

- g. Attacks on humanitarian aid convoys;
- h. Attacks on Palestinians seeking essential aid supplies;
- i. Instances of IDF soldiers desecrating the bodies of dead Palestinians;
- j. Targeting of Palestinian children (including reports of the deliberate killing of children by IDF snipers);
- k. Killing (targeted and/or indiscriminate) of doctors and medical workers, journalists, and civil defence and aid workers, including United Nations (“UN”) staff;
- l. Killing of unarmed civilians waving white flags (including, in one instance, a group of unarmed Israeli hostages who were shot and killed by IDF soldiers);
- m. Arbitrary detentions and inhumane treatment, some of which possibly amount to torture, of thousands of Palestinians from Gaza;
- n. Sexual assault of Palestinian women in detention centres, including rape;
- o. Increased forced displacement, extrajudicial killings, and arbitrary detentions of Palestinians living in the West Bank;
- p. Acts of genocide accompanied by various statements of Israeli officials, including the President of Israel, demonstrating an intent to destroy the Palestinian population of Gaza in whole or in part; and
- q. Inciting violence against the Palestinian civilian population, calling for collective punishment of civilians in retaliation for the Hamas attack of October 7, 2023, and inciting the commission of genocide against the Palestinian people in Gaza.

C. ICJ Ruling

13. On December 29, 2023, South Africa filed an application instituting proceedings against Israel before the International Court of Justice (“ICJ”), the principal judicial organ of the United Nations, in which it asserted violations by Israel of its obligations under the *Convention on the Prevention and Punishment of the Crime of Genocide* (the “*Genocide Convention*”).
14. As members of the UN, Canada and Israel have both accepted the jurisdiction of the ICJ, which adjudicates legal disputes between States and provides advisory opinions on legal questions referred to it by authorized UN organs and specialized agencies.
15. On January 26, 2024, the ICJ issued a Provisional Measures Order (the “ICJ Order”), finding that it was plausible that genocide was being committed in Gaza.
16. On February 23, 2024 the UN Office of the High Commissioner for Human Rights issued a press release with a message from UN experts reminding states that assisting Israel by providing arms or approving arms exports is likely to violate international humanitarian law and that state officials involved in arms exports may be individually criminally liable for aiding and abetting any war crimes, crimes against humanity or acts of genocide.

D. Canada’s Provision of Export Approvals Since October 9, 2023

17. On January 28, 2024, a coalition of individuals and civil society organizations, including the Applicants Ayman Oweida, X.Y., CLAIHR, and Al-Haq, sent a letter (the “Letter”) to the Respondent Minister of Foreign Affairs, urgently requesting information on Canada’s approval of permits for exporting and brokering military

goods or technology destined for Israel, and demanding that the Respondents cease issuing such permits pursuant to sections 7.3-7.4 of the *EIPA*, and to cancel all permits issued after October 7, 2023.

18. The Letter requested that the Minister respond within 14 days. As of the time of filing this Notice, the Minister has not responded to the Letter.
19. Publicly, the Respondents have consistently maintained they have not issued any export approvals for “full weapon systems” since October 9, 2023.
20. Recent Access to Information requests have revealed that, between October 9, 2023, and early December 2023, Canada has approved an additional \$28.5 million in exports of military goods and technology, representing a higher total value of military exports to Israel than the 30-year annual record high of \$26 million in 2021.
21. In approximate figures, the categories of Canada’s export approvals to Israel include, *inter alia*:
 - a. \$1.7 million in export approvals relating to “bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories, and specially designed components”;
 - b. \$18.4 million in approvals of military items categorized as “electronic equipment”;
 - c. \$9.2 million in approvals in a category which includes aircraft, lighter-than-air vehicles, unmanned aerial vehicles, aero-engines, aircraft equipment, related equipment, and components;
 - d. \$859,000 in approvals for “ground vehicles and components”; and

- e. \$7.3 million in export approvals for the category “fire control, and related alerting and warning equipment.”
22. In addition to direct transfers of military goods or technology to Israel, such transfers can and do occur indirectly through third countries, notably the United States.
23. Section 2(a) of the Export Control List, SOR/89-202, exempts certain classes of military goods or technology from export controls if intended for export to the United States.
24. General Permit No. 47 — Export of Arms Trade Treaty Items to the United States, SOR/2019-230, exempts further classes of military goods or technology from requiring an individual export permit to be exported from Canada to the United States.
25. Neither of these exemptions is subject to any fixed terms, mandatory periodic reviews, individual complaint mechanisms, or similar safeguards to ensure that they remain appropriate in changing circumstances.
26. The United States is by far the world’s largest supplier of arms to Israel, accounting for roughly 70% of Israel’s total arms imports.
27. Items of military goods or technology have in the past been exported from Canada to the United States and then onwards to Israel.
28. Since October 9, 2023, the United States has continued to supply military goods or technology to Israel without adequate controls in place to ensure that such items are not used to commit serious violations of international humanitarian law or international human rights law, or serious acts of gender-based violence or serious acts of violence against women and children.

E. Canada's Legal Obligations to Control Arms Exports

29. Canada has legal obligations, under both domestic and international law, to control its export of military goods or technology to countries engaged in violations of human rights.
30. The *EIPA* covers a variety of matters relating to exports, imports, and the regulation of international trade. In 2018, Canada amended the *EIPA* to bring it into compliance with the 2014 *Arms Trade Treaty* (“*ATT*”) (discussed below).
31. Under section 7.3(1) of the *EIPA*, the Minister of Foreign Affairs is required to review all export and brokering permits to determine whether the goods or technology specified in the application for the permit:
 - a. would contribute to peace and security or undermine it; and
 - b. could be used to commit or facilitate:
 - i. a serious violation of international humanitarian law,
 - ii. a serious violation of international human rights law,
 - iii. an act constituting an offence under international conventions or protocols relating to terrorism to which Canada is a party,
 - iv. an act constituting an offence under international conventions or protocols relating to transnational organized crime to which Canada is a party, or
 - v. serious acts of gender-based violence or serious acts of violence against women and children.
32. Section 7.4 of the *EIPA* further prescribes that the Minister “shall not” issue a permit in respect of arms, ammunition, implements or munitions of war if the Minister determines there is a “substantial risk” that the brokering or export of the goods or technology would result in any of the negative consequences described above.
33. Section 7 of the Canadian *Charter of Rights and Freedoms* protects the interests of “life, liberty and security of the person”. Section 15 of the *Charter* guarantees the right to equality without discrimination, including with respect to sex, age, race,

- national or ethnic origin, and mental or physical disability. The *Charter* is engaged when the federal government makes decisions to allow the transfer of military goods or technology to other states. Further, the *Charter* applies to actions of government authorities with extraterritorial reach.
34. Other key federal statutes that implement Canada's international legal obligations include the *Geneva Conventions Act* and the *Crimes Against Humanity and War Crimes Act*.
 35. Canada's legal obligations to control arms exports apply to both indirect and direct exports.
 36. Permits and other acts or regulations issued authorizing the brokering and export of Canadian military goods or technology destined for Israel on or after October 9, 2023 therefore puts Canada in breach of its domestic law obligations.

F. Canada's International Legal Obligations to Prevent Violations of International Law

37. Under both treaty and customary international law, Canada is obligated to uphold IHL and IHRL.
38. Canada is also under a legal obligation to uphold peremptory norms of international law, which include the prohibition on genocide.
39. Canada and Israel are parties to the *Geneva Conventions*, which define the rules of war and international conflict, including protections for the wounded, sick, civilians, and prisoners.
40. The *Geneva Conventions* require that parties (1) differentiate between legitimate military targets versus civilian populations and objects; (2) prohibit attacks that would

cause excessive incidental harm to civilians (including infrastructure) compared to the direct military advantage anticipated; and (3) take all feasible precautions to avoid and minimize incidental harm to civilians.

41. Canada and Israel are also parties to the *Genocide Convention*, which provides that States must punish and prevent genocide. The obligation to prevent genocide requires that States which are aware, or should be aware, of the serious danger that genocide could be committed, employ all means reasonably available to them to prevent it.
42. Canada is also a party to the *Rome Statute* (2002) establishing the International Criminal Court (“ICC”), whose jurisdiction is limited to the “most serious crimes of concern to the international community as a whole”, including (a) the crime of genocide; (b) crimes against humanity; (c) war crimes; and in certain circumstances, (d) the crime of aggression. In March 2021, the ICC opened an investigation into alleged crimes committed in the OPT.
43. Further, Canada and Israel are parties to the *Arms Trade Treaty*, which aims to establish international standards to regulate the international arms trade and to prevent and eradicate illicit arms trade for the purpose of, among other things, reducing human suffering.
44. Canada has other treaty obligations, including those reflected in the core UN human rights treaties, including the *International Covenant on Civil and Political Rights*, which will be relied upon in the course of these proceedings.
45. Export approvals of Canadian military goods or technology destined for Israel on or after October 9, 2023 therefore breach Canada’s international law obligations.

46. Canada's international law obligations in turn inform its obligations under domestic law.

3. THE APPLICANTS RELY ON THE FOLLOWING AUTHORITIES AND RULES:

- a) *Federal Courts Act*, R.S.C. 1985 c. F-7;
- b) *Federal Courts Rules*, SOR/98-106;
- c) *Export and Import Permits Act*, R.S.C. 1985, c. E-19;
- d) *Automatic Firearms Country Control List*, SOR/91-575;
- e) *Export Control List*, SOR/89-202;
- f) *United Nations Arms Trade Treaty*, 3013 UNTS 269 (Dec. 24, 2014), CTS 2019 No. 24;
- g) General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States: SOR/2019-230 Global Affairs Canada, Export Control List, SOR/89-202;
- h) Government of Canada ~~Global Affairs Canada~~, *A Guide to Canada's Export Control List* (Jan. 2024; Jan. 2023 ~~Dec. 2018~~);
- i) Global Affairs Canada, *Export and Brokering Controls Handbook* (Aug. 2019);
- j) *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies* (1996);
- k) *Geneva Conventions Act*, R.S.C. 1985, c. G-3;
- l) *Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* (1949) (Aug 12, 1949) 75 UNTS 31; *Geneva Convention (III) relative to the Treatment of Prisoners of War*, 12 August 1949, 75 UNTS 135; *Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949, 75 UNTS 287, CTS 1965 No. 20;
- m) *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts* (June 8, 1977) 1125 UNTS 3; *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts* (June 8, 1977) 1125 UNTS 609, CTS 1991 No. 2;
- n) *Crimes Against Humanity and War Crimes Act*, S.C. 2000, c. 24;
- o) *Criminal Code*, R.S.C., 1985, c. C-46;

- p) *Rome Statute of the International Criminal Court*, (July 1, 2002) 2187 UNTS 38544, CTS 2002 No. 13;
- q) *United Nations Convention on the Prevention and Punishment of the Crime of Genocide* (Dec 8, 1948) 78 UNTS 277, CTS 1949 No. 27;
- r) *Canadian Charter of Rights and Freedoms*, 1982; and
- s) Such further and other materials as counsel may advise and this Honourable Court may permit.

4. THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- a) Affidavits and documentary evidence to be produced;
- b) Public reports about the human rights situation in the OPT;
- c) Public statements made by representatives of the Government of Canada regarding the export of military goods or technology to Israel;
- d) Expert reports;
- e) Letter from Canadian/Palestinian Coalition to Minister Joly, “Re: Canadian military goods and technology transfers to Israel since 7 October 2023” (dated January 28, 2024);
- f) Materials that will be transmitted under Rule 317 of the *Federal Court Rules* and will be considered relevant; and
- g) Such further and other evidence as counsel may advise and this Honourable Court may permit.

5. REQUEST FOR DISCLOSURE UNDER RULE 317

The Applicants request that the Minister send a certified copy of the following material that is not in the possession of the Applicants but is in the possession of the Minister to the Applicants and to the Registry:

- a) The record of materials before the Minister from October 9, 2023 to the date of this application concerning the Minister's decisions in respect of the issuance of export and brokering permits to Israel;
- b) All communications - including but not limited to all complaints, directives, letters, emails, documentation, and any other records - between and among Global Affairs Canada personnel (including the Minister of Foreign Affairs), and between the same and the Prime Minister's Office and Privy Council Office, regarding the situation of human rights in the OPT and/or and the risk that the exports of military goods or technology to or ultimately destined for Israel would be used against civilian populations;
- c) All permits (including general permits) to export or broker military goods or technology destined for Israel issued on or after October 9, 2023 by the Minister of Foreign Affairs or any federal government official and any and all reports, briefing notes and/or opinions issued in respect of such permits, singly or jointly;
- d) All analyses undertaken by the Respondents, pursuant to the *EIPA*, to evaluate whether the export of military goods or technology to or ultimately destined for Israel posed or poses a "substantial risk" of violations of IHRL or IHL, or serious acts of violence against women and children, or would undermine peace and security;
- e) Regulations and guidelines pursuant to the *EIPA*;

- f) All potential or actual sales or contracts that may be relevant to these proceedings between the Government of Canada and other parties;
- g) All communications - including but not limited to all complaints, directives, letters, emails, documentation, and any other records - between and among Global Affairs Canada personnel (including the Minister of Foreign Affairs), and between the same and the Prime Minister's Office and Privy Council Office, pertaining to the Letter dated January 28, 2024;
- h) All communications - including but not limited to all complaints, directives, letters, emails, documentation, and any other records - between and among Global Affairs Canada personnel (including the Minister of Foreign Affairs), and between the same and the Prime Minister's Office and Privy Council Office, regarding the assessment and/or determination of applications for export permits of military goods or technology to or ultimately destined for Israel;
- i) Such further and other material that may be in the possession, power, or control of the Minister and that may be relevant to these proceedings.

DATE: March 5, 2024

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 Applicants (Moving Party)

- and -

MINISTER OF FOREIGN AFFAIRS
 and ATTORNEY GENERAL OF CANADA
 Respondents (Responding Party)

FEDERAL COURT
 Proceeding commenced at Toronto

AFFIDAVIT OF HENRY OFF
Affirmed August 5, 2024

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Counsel for the Applicants

TAB 3

FEDERAL COURT

BETWEEN:

**HAMMAM FARAH, HIBA FARAH, AYMAN OWEIDA, X. Y.,
CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS, and
AL-HAQ - LAW IN THE SERVICE OF MAN**

**Applicants
(Moving Party)**

- and -

**MINISTER OF FOREIGN AFFAIRS
and ATTORNEY GENERAL OF CANADA**

**Respondents
(Responding Party)**

**WRITTEN REPRESENTATIONS
OF THE APPLICANTS (MOVING PARTY)**

OVERVIEW

1. The Applicants bring a motion under Rule 385 of the *Federal Court Rules* (the “Rules”) for leave to amend the Notice of Application. The motion is in writing and to be determined by the Honourable Associate Justice Cotter as Case Management Judge pursuant to Rules 75 and 104(1)(b).

Motion Record of the Applicants (the “MR”), Tab 1: Notice of Motion.

FACTS***Background***

2. On January 28, 2024, CLAIHR, Ayman Oweida, X.Y., and Al-Haq - Law in the Service of Man, sent a letter (the “Letter”) to the Minister of Foreign Affairs (the “Minister”) advising that the issuance of permits to export military goods and technology destined for Israel after October 7, 2023, was unlawful under both domestic and international law and asking the Minister to confirm that she had taken steps to stop the exports of military goods and technology from Canada to Israel. Given the urgency of the matter, the Applicants asked the Minister to respond to the Letter within fourteen (14) days.

MR, Tab 2: Affidavit of Henry Off, para 2.

3. The Minister did not respond.

MR, Tab 2: Affidavit of Henry Off, para 3.

4. On March 5, 2024, CLAIHR, Ayman Oweida, X.Y., Al-Haq - Law in the Service of Man, Hiba Farah, and Hamman Farah (together, the “Applicants”) filed a Notice of Application commencing this proceeding against the Minister and the Attorney General of Canada (together, the “Respondents”).

Notice of Application; MR, Tab 2: Affidavit of Henry Off, para 4.

5. As in the Letter, the Notice of Application specifically sought remedies with respect to both direct and indirect exports of arms to Israel. Specifically, it challenges the legality of permits to export arms “to Israel, or ultimately destined for Israel” and “to or ultimately destined for Israel.”

Notice of Application, paras 1.a., 1.h., 5.b., 5.d., 5.h.

Events Since Filing of Application

6. On April 1, 2024, news media reported that the Biden administration was poised to approve a weapons transfer to Israel that included 50 F-15 fighter jets. The F-15 is a tactical fighter aircraft used in air-to-air combat and to carry out strikes on ground targets. The Israeli Air Force has used it to carry out ground strikes in Gaza. Canadian companies provide various components for its manufacture.

MR, Tab 2: Affidavit of Henry Off, paras 5.b.-e. and Exhibit “C”: Biden administration set to greenlight \$18 billion sale of F-15 fighter jets to Israel, Exhibit “D”: Biden Administration Presses Congress on \$18 Billion Sale of F-15 Jets to Israel, Exhibit “E”: Heroux-Devtek firms up landing gear supply agreement for Boeing’s F/A-18 program and expands scope to Boeing’s Advanced F-15 program, spare parts and services, and Exhibit “F”: MAGELLAN AEROSPACE SIGNS AGREEMENT WITH COLLINS AEROSPACE FOR COMPLEX CASTINGS.

7. On June 4, 2024, the Israeli Defence Ministry announced that it had officially signed an agreement with the United States (the “US”) to purchase 25 F-35 fighters built by US arms manufacturer Lockheed Martin, in a US\$3-billion deal financed by US military aid to Israel. The F-35 Joint Strike Fighter is a multirole strike fighter aircraft that Israeli forces have used in the ongoing bombardment of Gaza. An April 2018 study commissioned by Lockheed Martin stated that “there is \$2.3 million USD [approximately C\$3.1-million] worth of Canadian components on every F-35 jet manufactured.” In January 2023, the Canadian Minister of National Defence stated that “approximately three thousand F-35s are forecast to be produced for partners and allies across

the world – and every one of these jets will also include Canadian components.”

MR, Tab 2: Affidavit of Henry Off, paras 5.f.-i. and Exhibit “G”: Israel inks deal to buy 25 more F-35 fighter jets for \$3 billion, Exhibit “H”: IDF chief says Israel ‘knows how to reach anywhere in the Middle East’, Exhibit “I”: Lockheed Martin: Study of Economic Impact in Canada, and Exhibit “J”: Announcement regarding the F-35 acquisition.

8. The US is by far the biggest global supplier of arms to Israel, accounting for approximately 69% of Israel’s total arms imports.

MR, Tab 2: Affidavit of Henry Off, para 5.j. and Exhibit “K”: Gaza war: Where does Israel get its weapons?

9. However, Canadian exporters do not need to apply for an individual permit to export most arms to the US, as they would for arms exports to other countries. This is due to the operation of two regulatory instruments.
10. First, pursuant to its power under section 3(1) of the *Export and Import Permits Act* (the “EIPA”), the Governor in Council has established an Export Control List of items whose export is subject to control. Section 2(a) of the Export Control List exempts certain categories of arms exports from export control if intended for export to the US.

***Export and Import Permits Act* (R.S.C., 1985, c. E-19); *Export Control List*, SOR/89-202.**

11. Second, pursuant to its power under section 7(1.1) of the *EIPA*, the Minister of Foreign Affairs has established General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States (“GEP47”). Section 2 of GEP47 exempts further categories of arms exports from requiring an individual export permit if intended for export to the US.

Export and Import Permits Act (R.S.C., 1985, c. E-19); General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States, SOR/2019-230.

Applicants Notified of Affected Companies

12. Since the filing of the Application, the Applicants have received letters from companies that hold permit(s) relevant to the order(s) sought in the Application.
13. Counsel for Excelitas Canada Inc. (“Excelitas”) wrote to counsel for the Applicants advising that Excelitas holds permit(s) relevant to the orders sought in the Application and requesting that Excelitas be added as a named Respondent in the Application.

MR, Tab 2: Affidavit of Henry Off, para 10.a. and Exhibit “L”: Letter from Excelitas’ Counsel, dated June 26, 2024.

14. Counsel for L3 / Wescam Inc. (“L3”) wrote to counsel for the Applicants advising that L3 holds permits relevant to the orders sought in the Application and that L3’s export permits relate to the export of equipment from Canada to the original equipment manufacturer in Israel for repair or replacement purposes. Repaired or replaced equipment are then returned to Canada. L3 thus requested that the Applicants amend the Notice of Application to exclude from its scope any export permits related to the export of equipment to Israel for repair or replacement purposes.

MR, Tab 2: Affidavit of Henry Off, para 10.b. and Exhibit “M”: Letter from L3’s Counsel, dated July 2, 2024.

15. Counsel for General Dynamics Land Systems-Canada (“General Dynamics”) wrote to the Federal Court Registrar, copying counsel for the Applicants,

notifying the Court that the company holds permits relevant to the Application.

**MR, Tab 2: Affidavit of Henry Off, para 10.c. and Exhibit “N”:
Letter from General Dynamics' Counsel, dated July 9, 2024.**

16. Counsel for TTM Technologies Toronto, Inc. (“TTM Technologies”) wrote to the Federal Court Registrar, copying counsel for the Applicants, notifying the Court that the company holds permits relevant to the Application.

**MR, Tab 2: Affidavit of Henry Off, para 10.d. and Exhibit “O”:
Letter from TTM Technologies' Counsel, dated July 9, 2024.**

17. Counsel for GeoSpectrum Technologies Inc. (“GeoSpectrum”) wrote to the Federal Court Registrar, copying counsel for the Applicants, notifying the Court that the company holds permits that may be relevant to the Application.

**MR, Tab 2: Affidavit of Henry Off, para 10.e. and Exhibit “P”:
Letter from GeoSpectrum's Counsel, dated July 10, 2024.**

18. On July 29, 2024 the Respondents notified the Applicants that, given the Applicants’ proposed amendments, it takes the view that L3 and General Dynamics are not directly affected and thus need not be added as Respondents.

MR, Tab 2: Affidavit of Henry Off, para 13.

19. Further, on July 29, 2024 the Respondents notified the Applicants that there are two other companies they believe should be added as Respondents to this proceeding: Apollo Microwaves Ltd. (“Apollo”) and Pratt & Whitney Canada Corp. (“Pratt & Whitney”).

MR, Tab 2: Affidavit of Henry Off, para 14.

20. In light of the foregoing information and recent developments, the Applicants now seek leave to amend the Notice of Application issued on March 5, 2024 to more precisely reflect and address the legal issues in dispute in this proceeding and to ensure that holders of permits that are relevant to the orders sought in the Application are included as Respondents.

MR, Tab 2: Affidavit of Henry Off, para 18.

ISSUE

21. The issue in this motion is: Should the Applicants be granted leave to amend the Notice of Application pursuant to Rule 75?

SUBMISSIONS

Proposed Amendments

22. The Applicants' proposed amendments to the Notice of Application can be broadly classified into three categories.
- a. The first set of amendments (the "Arms Companies Amendments") addresses recent exchanges with the Respondents and some of the arms companies that were implicated in or directly affected by the original Notice of Application. It seeks to exclude from the scope of the proceeding permits for the export of military goods or technology that are expressly not intended for military or other active use in or by Israel, and to add arms companies that hold the remaining permits as named Respondents.

- b. A second set of amendments (the “*Charter* Amendments”) seeks to add a declaration for violations of Canada’s obligations under section 15 of the *Charter* and to explicitly reference relief under 24(1) of the *Charter*.
- c. The last set of amendments (the “Indirect Arms Exports Amendments”) seeks to add further precision to the relief requested, particularly with respect to indirect arms exports to Israel through third countries, notably, the US.

Necessary Parties

- 23. The Applicants seek to name the five (5) companies as Respondents to this proceeding.
- 24. The five (5) proposed company Respondents are parties who ought to be joined as a party or are necessary parties pursuant to Rule 104(1)(b) of the *Rules*.
- 25. Rule 303(1)(a) of the *Rules* states that those “directly affected by the order sought in the application” must be added as Respondents. The Federal Court of Appeal has interpreted Rule 303(1)(a) to mean that a party should be added as a respondent where the relief sought in the application for judicial review will affect the party’s legal rights, impose legal obligations upon it, or prejudicially affect it in some direct way.

***Forest Ethics Advocacy Association v Canada (National Energy Board)*, [2013 FCA 236](#) at para 21.**

- 26. The proposed company Respondents hold export permits that the Applicants argue have been issued unlawfully and in violation of the *Charter* and

international law, and which the Applicants seek to have quashed and canceled.

27. Therefore, the Applicants agree that the proposed company Respondents are directly affected by the order(s) sought in the Application and should be added as Respondents.

General Test

28. Rule 75 of the Federal Courts Rules provides that the “Court may, on motion, at any time, allow a party to amend a document, on such terms as will protect the rights of all parties.”
29. The controlling principle is that “an amendment should be allowed at any stage of an action for the purpose of determining the real questions in controversy between the parties provided, notably, that the allowance would not result in an injustice to the other party not capable of being compensated by an award of costs and that it would serve the interests of justice.”

Canderel Ltd. v. Canada (C.A.), [1993 CanLII 2990 \(FCA\)](#), [1994] 1 FC 3 at 3; aff’d in *Australian Mud Company Pty Ltd. v. Boart Longyear Group Ltd.*, [2024 FC 1217](#) at para 12.

30. Factors the Court may consider include: (1) the timeliness of the motion to amend, (2) the extent to which the proposed amendments would delay the expeditious resolution of the matter, (3) the extent to which a position taken originally by one party has led another party to follow a course of action in the litigation which would be difficult or impossible to alter, and (4) whether the amendments sought will facilitate the Court’s consideration of the true substance of the dispute on its merits. No single factor predominates.

Tait v. Canada (Attorney General), [2024 FC 217](#) at para 50, citing *Janssen Inc. v. Abbvie Corporation*, [2014 FCA 242](#) at para 3.

31. The Applicants respectfully submit that their proposed amendments to the Notice of Application would serve the interests of justice, as the amendments a) are timely, b) will not cause delay, c) will not prejudice the Respondents, and d) will facilitate the Court’s consideration of the true substance of the dispute on its merits.

a. The Proposed Amendments are Timely

32. The Applicants bring this motion to amend the Notice of Application early in the proceeding.
33. This proceeding remains in the pleadings stage as the Respondents have not produced the Certified Tribunal Record (“CTR”), which was requested by the Applicants, pursuant to Rule 317, in the Notice of Application.

MR, Tab 2: Affidavit of Henry Off, para 6.

34. The Respondents did not transmit the CTR to the Registry or to the Applicants within 20 days after the Applicants served a request under Rule 317, pursuant to Rule 318(1).

MR, Tab 2: Affidavit of Henry Off, para 7.

35. Nor have the Respondents informed all parties and the Administrator, in writing, of the reasons for their objection to the Applicants’ Rule 317 request, pursuant to Rule 318(2).

MR, Tab 2: Affidavit of Henry Off, para 8.

36. The Respondents only advised the Applicants on July 29, 2024 of the identities of the arms companies that the Respondents believe are directly affected by this proceeding and ought to be added as Respondents.

MR, Tab 2: Affidavit of Henry Off, paras 13-14.

37. In the absence of the CTR, the Applicants could not have known the identities of these companies without the Respondents informing them. Without access to the CTR, it would have been impossible for the Applicants to seek the Arms Companies Amendments earlier.
38. The Applicants proceeded without delay in seeking these amendments.
39. The Applicants propose all three sets of amendments together in an effort to practically and efficiently address all matters in a single motion, which they submit is a more judicious use of court resources rather than first seeking the *Charter* Amendments and the Indirect Arms Exports Amendments, and then subsequently filing a separate motion to deal with the Arms Companies Amendments.
40. With respect to the Indirect Arms Exports Amendments, as noted above, the Notice of Application already captures both direct and indirect arms exports to Israel. The Indirect Arms Exports Amendments only seek to add greater precision by identifying specific pathways for indirect arms exports to Israel that the Applicants have uncovered since filing the Notice of Application.
41. The news of the F-15 and F-35 sales did not become public until after the original Notice of Application was filed. Before this, the Applicants did not

have firm and specific evidence to suggest that there could be any Canadian arms exports to the US that could ultimately be destined for Israel.

42. The Canadian government does not systematically and transparently disclose to the general public what arms exports are going to Israel, or to any other country. This is why the Applicants only learned the identities of the arms companies implicated in this proceeding on July 29, 2024, almost five (5) months after filing the Notice of Application.
43. The US government is also highly secretive about arms exports. According to the BBC, before the news of the F-15 sales in April 2024, “only two US military sales to Israel [had] been made public after receiving emergency approval - one for 14,000 rounds of tank ammunition worth \$106m and the other for \$147m of components to make 155mm artillery shells.” At the same time, the Biden administration had “also quietly made more than 100 military sales to Israel, most falling below the dollar amount that would require Congress to be formally notified.”

**MR, Tab 2: Affidavit of Henry Off, para 5.j.; and Exhibit “K”:
Gaza war: Where does Israel get its weapons?**

44. Engaged members of the Canadian public who are concerned about Canadian-made goods being used to further the genocide in Gaza and the West Bank have no way of definitively identifying which specific permits or regulations are being used as a gateway for arms exports ultimately destined for Israel. Instead, they must piece together clues from public information as it becomes available.

45. The Indirect Arms Exports Amendments arise simply because the Applicants have identified two such gateways - GEP47 and section 2(a) of the Export Control List - using public information that was not available at time of filing.
46. With respect to the *Charter* Amendments, there are new developments regarding the conflict in Gaza and the impact on women, children, and other identifiable groups in Gaza everyday, which continue to raise issues that engage s. 15 of the *Charter*.

b. The Amendments Would Not Cause Undue Delay

47. The proposed amendments would cause negligible, if any, delay to the expeditious resolution of this matter.
48. None of the proposed amendments would complicate the proceeding moving forward.
49. For instance, the Indirect Arms Export Amendments only identifies by name instruments that would have been affected anyway by any legal conclusion drawn from the same facts and legal arguments already raised in the Notice of Application.
50. Adding explicit references to The Export Control List and GEP47 will also not significantly expand the CTR.
51. The Export Control List is a regulation and should not have an extensive CTR record associated with it.
52. Similarly, GEP47, though technically a permit by name, is more of a regulation by nature. It is published in Part II of the Canada Gazette like other Statutory Orders and Regulations (SORs), and has its own SOR citation

number. Unlike individual permits, which authorize specific exporters to export specific items, GEP47 issues a general authorization as a typical regulation would. It should also not have an extensive CTR associated with it that contains private and/or sensitive information specific to certain exporters or items as an individual permit would.

53. Similarly, the *Charter* Amendments do not add complexity to the proceeding. The Notice of Application already seeks relief with respect to Canada's international human rights law obligations under both customary international law and treaty law. International human rights law contains the same protections against discrimination that are guaranteed by section 15 of the *Charter*. Since the *Charter* is "presumed to provide protection at least as great as that afforded by similar provisions in international human rights documents which Canada has ratified," many of the facts and arguments that arise with respect to section 15 of the *Charter* in this case would have arisen anyway with respect to international human rights law arguments.

Notice of Application; ICCPR Articles 2, 26; *Quebec (Attorney General) v. 9147-0732 Québec inc.*, [2020 SCC 32](#) at para 31.

54. The Arms Companies Amendments may add some complexity to the proceeding, insofar as they seek to add Respondents.
55. However, it is the position of both parties that those amendments are necessary.
56. The Applicants submit that any additional complexity could be abated or minimized through case management.

c. The Proposed Amendments Would Not Cause Prejudice

57. The amendments would not prejudice the Respondents.

58. The Respondents have not yet submitted any materials or evidence in this proceeding.

***Musqueam Indian Band v. Canada (Governor in Council)*, [2004 FC 1564 at para 17](#).**

59. The only material steps that have occurred in this proceeding is that the Applicants filed a Notice of Application and a Rule 317 request on March 5, 2024.

60. This motion is not being brought after the Respondents have already followed a course of action in the litigation which would be difficult or impossible to alter.

61. At such an early stage in the proceeding, there is nothing that has already been done that the Applicants' proposed amendments would negatively affect.

62. The *Charter* Amendments and the Indirect Arms Exports Amendments only add clarity and precision to, and do not modify, what was already in the Notice of Application.

63. The Arms Companies Amendments do modify some of what was already in the Notice of Application, insofar as they narrow the scope of the permits that were originally implicated.

64. The Respondents provided notice of this proceeding to companies potentially affected by the order(s) sought by the Applicants' Notice of Application, and the Respondents requested that the Applicants make amendments to their pleading before the delivery of the CTR is arranged. Furthermore, some of the

proposed arms company Respondents sought clarification about the scope of the proceeding, which the Applicants considered in drafting the proposed Amended Notice of Application.

MR, Tab 2, Affidavit of Henry Off, paras 10.b. and Exhibit “M”: Letter from L3's Counsel, dated July 2, 2024; and paras 13-14, 16.

65. At this early stage of the proceedings, when the CTR has not yet been produced and potential company Respondents have only recently been identified by the Respondents, the Respondents will not be prejudiced by the Applicants' proposed amendments to the Notice of Application.

d. The Proposed Amendments Would Facilitate the Court's Consideration of the True Substance of the Dispute on its Merits

66. The Applicants seek to include the full extent of the claim to allow the Court to consider the true substance of the dispute between the parties.

67. It is in the interests of justice that all the potential claims be disclosed early and fully.

***Musqueam Indian Band v. Canada (Governor in Council)*, [2004 FC 1564 at paras 18-19](#).**

68. This case is fundamentally about whether Canada should be authorizing the export of arms that could be used in furthering the genocide in Gaza and the West Bank.

69. It can only add value to the Court's consideration of the true substance of the dispute to have a fuller picture of the myriad different ways in which Canada authorizes the export of arms to or ultimately destined for Israel.

70. A particularly important part of this picture is the fact that Canada exercises absolutely no oversight or control over most arms exports to Israel's primary arms supplier - and through which there is now some affirmative fact evidence to suggest that Canadian arms exports may indeed be going to Israel.
71. Similarly, arguments under section 15 of the *Charter* enhance the rigour of scrutiny the Court will bring to bear on this important matter. It will also complement the arguments already raised under international human rights law, adding depth, focus, and a Canadian perspective.

e. The Proposed Amendments Align with Common Sense and Judicial Efficiency

72. The list of relevant factors to be considered is not closed. Ultimately, it boils down to a consideration of simple fairness, common sense and the interest that the courts have that justice be done.

Canderel, [supra](#) at 10.

73. Allowing the proposed amendments is simply common sense. The alternative is that the Applicants commence a separate proceeding to challenge GEP47 and section 2(a) of the Export Control List. The second proceeding would raise substantially identical facts and legal arguments as this one. Forcing them to be resolved in two separate court proceedings would be a wastefully inefficient use of judicial resources, not to mention the risk of conflicting decisions. It is far more sensible to simply deal with them all in a single proceeding.

CONCLUSION

74. There is no precedent for amendments to pleadings to be refused at such an early stage in a proceeding, particularly where, as here, they do no more than refine the issues to be tried with greater precision and clarity. There is thus no reason here to depart from the general rule that amendments to pleadings should be allowed.

ORDER REQUESTED

75. For the foregoing reasons, the Applicants respectfully request:

- i. An Order granting the Applicants leave to amend the Notice of Application dated March 5, 2024 by:
 - a. adding Excelitas Canada Inc. (“Excelitas”), TTM Technologies Toronto, Inc. (“TTM Technologies”), GeoSpectrum Technologies Inc. (“GeoSpectrum”), Apollo Microwaves Ltd. (“Apollo”), and Pratt & Whitney Canada Corp. (“Pratt & Whitney”) as Respondents to this judicial review application;
 - b. adding or clarifying that the decision in question in the application for judicial review, namely the Minister of Foreign Affairs’ (the “Minister”) issuance of permits to broker or export military goods or technology to Israel, or ultimately destined for Israel (the “Decision”),
 1. includes the decision to issue permits for the transfer of military goods and technology to Israel that can and do occur indirectly through third countries, notably the US; and

- 2. excludes the decision to issue permits for the transfer of military goods or technology that have the express intention to be subsequently transferred to a country other than Israel and never put to military or other active use in or by Israel;
- c. seeking an order for declaratory relief that the Minister's Decision violates section 15 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*");
- d. seeking an order for declaratory relief that section 2(a) of the Export Control List, SOR/89/202 is invalid and unlawful;
- e. requesting relief under section 24 of the *Charter*; and
- f. making other related and consequential amendments to the proposed Amended Notice of Application in the form attached as Exhibit "Q" in the affidavit of Henry Off sworn August 5, 2024;
- ii. An Order that no costs shall be awarded for or against the Applicants for this motion; and
- iii. Such further and other relief as counsel may advise and this Honourable Court may deem just.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Date: August 6, 2024

Barbara Jackman

per:

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SCHEDULE “A”

LIST OF AUTHORITIES

	Case Law	Paragraphs
1	<i>Forest Ethics Advocacy Association v Canada (National Energy Board)</i> , 2013 FCA 236	21
2	<i>Canderel Ltd. v. Canada (C.A.)</i> , 1993 CanLII 2990 (FCA) , [1994] 1 FC 3	pp 3, 10
3	<i>Australian Mud Company Pty Ltd. v. Boart Longyear Group Ltd.</i> , 2024 FC 1217	12
4	<i>Tait v. Canada (Attorney General)</i> , 2024 FC 217	50
5	<i>Janssen Inc. v. Abbvie Corporation</i> , 2014 FCA 242	3
6	<i>Quebec (Attorney General) v. 9147-0732 Québec inc.</i> , 2020 SCC 32	31
7	<i>Musqueam Indian Band v. Canada (Governor in Council)</i> , 2004 FC 1564	17, 18-19

SCHEDULE “B”**TEXT OF STATUTES, REGULATIONS & BY-LAWS****Federal Courts Rules (SOR/98-106)****Rule 3****General principle**

3. These Rules shall be interpreted and applied

(a) so as to secure the just, most expeditious and least expensive outcome of every proceeding; and

(b) with consideration being given to the principle of proportionality, including consideration of the proceeding’s complexity, the importance of the issues involved and the amount in dispute.

Rule 75**Amendments with leave**

75. (1) Subject to subsection (2) and [rule 76](#), the Court may, on motion, at any time, allow a party to amend a document, on such terms as will protect the rights of all parties.

Limitation

(2) No amendment shall be allowed under subsection (1) during or after a hearing unless

(a) the purpose is to make the document accord with the issues at the hearing;

(b) a new hearing is ordered; or

(c) the other parties are given an opportunity for any preparation necessary to meet any new or amended allegations.

Rule 104**Order for joinder or relief against joinder**

104. (1) At any time, the Court may

(a) order that a person who is not a proper or necessary party shall cease to be a party; or

(b) order that a person who ought to have been joined as a party or whose presence before the Court is necessary to ensure that all matters in dispute in the proceeding may be effectually and completely determined be added as a party, but no person shall be added as a plaintiff or applicant without his or her consent, signified in writing or in such other manner as the Court may order.

Directions

(2) An order made under subsection (1) shall contain directions as to amendment of the originating document and any other pleadings.

Rule 303**Respondents**

303. (1) Subject to subsection (2), an applicant shall name as a respondent every person

(a) directly affected by the order sought in the application, other than a tribunal in respect of which the application is brought; or

(b) required to be named as a party under an Act of Parliament pursuant to which the application is brought.

Application for judicial review

(2) Where in an application for judicial review there are no persons that can be named under subsection (1), the applicant shall name the Attorney General of Canada as a respondent.

Substitution for Attorney General

(3) On a motion by the Attorney General of Canada, where the Court is satisfied that the Attorney General is unable or unwilling to act as a respondent after having been named under subsection (2), the Court may substitute another person or body, including the tribunal in respect of which the application is made, as a respondent in the place of the Attorney General of Canada.

Rule 317**Material from tribunal**

317 (1) A party may request material relevant to an application that is in the possession of a tribunal whose order is the subject of the application and not in the possession of the party by serving on the tribunal and filing a written request, identifying the material requested.

(2) An applicant may include a request under subsection (1) in its notice of application.

(3) If an applicant does not include a request under subsection (1) in its notice of application, the applicant shall serve the request on the other parties.

Rule 318**Material to be transmitted**

318 (1) Within 20 days after service of a request under rule 317, the tribunal shall transmit

- (a) a certified copy of the requested material to the Registry and to the party making the request; or
- (b) where the material cannot be reproduced, the original material to the Registry.

(2) Where a tribunal or party objects to a request under rule 317, the tribunal or the party shall inform all parties and the Administrator, in writing, of the reasons for the objection.

(3) The Court may give directions to the parties and to a tribunal as to the procedure for making submissions with respect to an objection under subsection (2).

(4) The Court may, after hearing submissions with respect to an objection under subsection (2), order that a certified copy, or the original, of all or part of the material requested be forwarded to the Registry.

Rule 364**Motion record**

364 (1) Unless the Court orders otherwise, a person bringing a motion shall serve a motion record and file an electronic copy of or, subject to rule 72.4, three paper copies of that record.

(2) A moving party's motion record shall contain, on consecutively numbered pages arranged in the following order,

- (a) a table of contents;
- (b) the notice of motion;
- (c) all affidavits and other material served by the moving party for use on the motion;
- (d) subject to rule 368, the portions of any transcripts on which the moving party intends to rely;
- (e) subject to rule 366, written representations; and
- (f) any other filed material that is necessary for the purposes of the motion.

(3) Subject to subsections 51(2), 163(2) and 213(3), on a motion other than a motion under rule 369, the motion record shall be served and filed at least three days before the day set out in the notice of motion for the hearing of the motion.

Rule 369(1)**Motions in writing**

369 (1) A party may, in a notice of motion, request that the motion be decided on the basis of written representations.

Rule 385(1)**Powers of case management judge or prothonotary**

385 (1) Unless the Court directs otherwise, a case management judge or a prothonotary assigned under paragraph 383(c) shall deal with all matters that arise prior to the trial or hearing of a specially managed proceeding and may

- (a) give any directions or make any orders that are necessary for the just, most expeditious and least expensive outcome of the proceeding;
- (b) notwithstanding any period provided for in these Rules, fix the period for completion of subsequent steps in the proceeding;
- (c) fix and conduct any dispute resolution or pre-trial conferences that he or she considers necessary; and
- (d) subject to subsection 50(1), hear and determine all motions arising prior to the assignment of a hearing date.

Export and Import Permits Act (R.S.C., 1985, c. E-19)

Section 3(1)

Export control list of goods and technology

3 (1) The Governor in Council may establish a list of goods and technology, to be called an Export Control List, including therein any article the export or transfer of which the Governor in Council deems it necessary to control for any of the following purposes:

(a) to ensure that arms, ammunition, implements or munitions of war, naval, army or air stores or any articles deemed capable of being converted thereinto or made useful in the production thereof or otherwise having a strategic nature or value will not be made available to any destination where their use might be detrimental to the security of Canada;

(b) to ensure that any action taken to promote the further processing in Canada of a natural resource that is produced in Canada is not rendered ineffective by reason of the unrestricted exportation of that natural resource;

(c) to limit or keep under surveillance the export of any raw or processed material that is produced in Canada in circumstances of surplus supply and depressed prices and that is not a produce of agriculture;

(c.1) [Repealed, 1999, c. 31, s. 88]

(d) to implement an intergovernmental arrangement or commitment;

(e) to ensure that there is an adequate supply and distribution of the article in Canada for defence or other needs;

(f) to ensure the orderly export marketing of any goods that are subject to a limitation imposed by any country or customs territory on the quantity of the goods that, on importation into that country or customs territory in any given period, is eligible for the benefit provided for goods imported within that limitation; or

(g) to facilitate the collection of information in respect of the exportation of goods that were, are, or are likely to be, the subject of trade investigations or trade disputes.

Section 7(1.1)**General permits**

(1.1) Notwithstanding subsection (1), the Minister may, by order, issue generally to all residents of Canada a general permit to export or transfer to any country specified in the permit any goods or technology included in an Export Control List that are specified in the permit, subject to such terms and conditions as are described in the permit.

Export Control List, SOR/89-202**Section 2(a)****General**

2 The following goods and technology, when intended for export to the destinations specified, are subject to export control for the purposes set out in section 3 of the Export and Import Permits Act:

- (a) goods and technology referred to in Groups 1, 2, 6, and 7 of the schedule, except for goods and technology set out in items 2-1, 2-2.a. and 2-2.b., 2-3, 2-4.a., 6-1, 6-2, 7-2, 7-3, 7-12 and 7-13 of the Guide, that are intended for export to any destination other than the United States;

General Export Permit No. 47 — Export of Arms Trade Treaty Items to the United States, SOR/2019-230**Section 2****General
Authorization**

2 Subject to sections 3 to 6, any resident of Canada may export any of the following goods from Canada to the United States:

- (a) any good referred to in item 2-1 of the Guide;
- (b) any good referred to in item 2-3 of the Guide;
- (c) any good referred to in Group 9 of the schedule to the Export Control List.

**International Covenant on Civil and Political Rights, 16 December 1966, 999
UNTS 171, Can TS 1976 No 47 (entered into force 23 March 1976) [ICCPR]**

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Court File No.: T-473-24

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 AYMAN OWEIDA, X. Y., CLAIHR, AL-HAQ
 Applicants (Moving Party)

- and -

MINISTER OF FOREIGN AFFAIRS
 and ATTORNEY GENERAL OF CANADA
 Respondents (Responding Party)

FEDERAL COURT
 Proceeding commenced at Toronto

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- and -

MINISTER OF FOREIGN AFFAIRS
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 Respondents (Responding Party)

FEDERAL COURT
 Proceeding commenced at Toronto

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- and -

MINISTER OF FOREIGN AFFAIRS and AGC, and
 PRATT & WHITNEY, TTM, GEOSPECTRUM,
 EXCELITAS, and APOLLO MICROWAVES

Applicants (Appellants)

Respondents (Respondents on Appeal)

FEDERAL COURT
 Proceeding commenced at Toronto

**APPEAL MOTION RECORD
 OF THE APPLICANTS (APPELLANTS)
 VOLUME 1 OF 2**

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