CHAPTER 1 – THE ARMS TRADE TREATY AND EXPLOSIVE WEAPONS IN POPULATED AREAS: CONSIDERATIONS FOR RISK ASSESSMENT

INTRODUCTION

The supply of arms has a direct bearing on the means and methods of warfare available to States and other actors when violence escalates. Decisions about which arms are transferred, and to whom, shape the tools available for use in situations of crisis or armed conflict. Patterns of weapon use, and the harm inflicted on civilian populations, are therefore highly relevant indicators for decisions concerning the supply and transfer of weapons. Where particular weapons or practices have been associated with civilian harm, this knowledge should be included in risk assessments that shape decision-making on arms exports.

The use of explosive weapons in populated areas presents distinct and foreseeable humanitarian risks. When explosive weapons are used in these areas, civilians are killed and injured, and civilian infrastructures damaged or destroyed. The reverberating effects stemming from the resulting disruption or collapse of essential services extend well beyond the point of impact and can persist for weeks, months, or even years after a conflict ends. These patterns of harm have been documented across multiple conflicts and are widely recognized as predictable consequences of the use of such weapons in urban environments.[1]

At the international level, however, the regulation of conventional arms transfers and efforts to address the humanitarian consequences arising from the use of explosive weapons in populated areas have largely developed through separate legal and political processes. Arms transfers, export risk assessments and export controls are governed principally through the 2013 Arms Trade Treaty (ATT), while efforts to strengthen the protection of civilians arising from the use and humanitarian impact of explosive weapons in populated areas are pursued through the 2022 Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (EWIPA).

Despite this separation at the global policy level, there is significant overlap in terms of the conventional weapons addressed by both instruments and the shared humanitarian objective of reducing civilian harm.

This chapter examines how coherent implementation of the ATT and the EWIPA Political Declaration can strengthen the protection of civilians in armed conflict. It first identifies the shared humanitarian objectives and complementary nature of the two instruments before examining the documented patterns of civilian harm from the use of explosive weapons in populated areas. It then considers how these patterns, alongside commitments and evidence emerging from implementation of the EWIPA Political Declaration, can inform the prospective risk assessments required under article 7 of the ATT. Finally, it identifies practical opportunities for States to strengthen implementation of both instruments in a mutually reinforcing manner, supporting more responsible transfer decisions and reducing civilian harm.

SETTING THE STAGE – EXAMINING THE SYNERGIES BETWEEN THE ATT AND THE EWIPA DECLARATION

The ATT was adopted by the United Nations (UN) General Assembly in April 2013 with the aim of establishing the highest standards for regulating the international trade in conventional arms and preventing their illicit trade and diversion. This object is set out with the purpose to contribute to international and regional peace, security and stability; reduce human suffering; and promote cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among them.[2]

In November 2022, the EWIPA Political Declaration was developed and endorsed by 83 States as a response to the unprecedented levels of civilian harm arising from the use of explosive weapons in populated areas in contemporary armed conflicts.[3] The Declaration was negotiated in recognition that, despite existing international humanitarian law (IHL), recurring patterns of civilian harm from the use of explosive weapons in populated areas persisted. It therefore establishes shared political commitments aimed at strengthening civilian protection through national policy, military doctrine and operational practice, with a particular focus on preventing foreseeable civilian harm before it occurs. As this use continues to be a major cause of civilian death, injury,

1 See, for instance: Explosive Weapons Monitor (2025). 'Explosive Weapons Monitor 2024'. May 2025. tinyurl.com/mtww68vr; ICRC (2022). 'Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas'. January 2022. tinyurl.com/22eykpmn; and Wille, C. and Malaret Baldo, A. (2021). 'Menu of Indicators to Measure the Reverberating Effects on Civilians from the Use of Explosive Weapons in Populated Areas'. UNIDIR. 23 February 2021. tinyurl.com/3yhfjff2.

2 Arms Trade Treaty, Article 1 (adopted 2 April 2013, entered into force 24 December 2014). tinyurl.com/23vvaafu.

3 Explosive Weapons Monitor (2025). 'Explosive Weapons Monitor 2024'. May 2025. tinyurl.com/mtww68vr, p. 6.

displacement and the destruction of homes, infrastructure and livelihoods, the EWIPA Political Declaration seeks to comprehensively address these humanitarian consequences by committing endorsing States to develop national policies and practices to strengthen the protection of civilians.[4]

The EWIPA Political Declaration establishes specific political commitments that endorsing States are expected to implement. Among these, the central normative contribution of the Declaration is the commitment to 'restrict or refrain', as appropriate, from the use of explosive weapons in populated areas, when such use 'may be expected to cause harm to civilians or civilian objects'.[5] Particular concern has been expressed regarding explosive weapons with wide area effects[6] (sometimes referred to as 'heavy explosive weapons'), as extensive evidence demonstrates that these weapons pose the greatest risk of civilian harm when used in populated areas. More broadly, the EWIPA Political Declaration seeks to strengthen the protection of civilians by promoting policies and practices that support more effective implementation of existing obligations under IHL.

The EWIPA Political Declaration also reflects a shared recognition by States of two well-established realities. First, the risk of civilian harm associated with the use of explosive weapons in populated areas is influenced by characteristics such as explosive power, the accuracy of delivery and the number of munitions used. Weapons possessing these characteristics—particularly those capable of producing wide area effects—pose especially severe risks. Second, both the direct and indirect (reverberating) effects of these weapons on civilians and civilian objects have been extensively documented across a wide range of armed conflicts. Together, this recognition means that States can no longer credibly argue that the humanitarian consequences associated with the use of explosive weapons in populated areas are uncertain or unforeseeable. The documentation of these patterns of harm, together with the shared understanding reflected in the EWIPA Political Declaration, provides an important body of evidence concerning foreseeable civilian harm.

The significance of the EWIPA Political Declaration extends beyond the conduct of military operations by endorsing States themselves. Commitment 4.8 requires endorsing States to 'seek adherence' to the EWIPA Political Declaration and to practices consistent with it by all parties to armed conflict, reflecting the Declaration's broader ambition to influence State practice globally.[7] Together with commitment 3.1,[8] which requires endorsing States to implement, review, develop or improve national policies and practices to strengthen the protection of civilians during armed conflict, commitment 4.8 provides a basis for considering responsible arms transfer policy as one means of giving practical effect to the EWIPA Political Declaration. Although the Declaration does not explicitly regulate arms transfers, endorsing States should therefore consider, before authorizing the export of explosive weapons, whether a proposed recipient may reasonably be expected to use those weapons—particularly explosive weapons with wide area effects—in populated areas, taking into account its past conduct, military doctrine and operational practice. Where there is a foreseeable risk that transferred weapons may be used in ways that are inconsistent with the commitments reflected in the EWIPA Political Declaration, restraint in arms transfers provides one practical means through which States can seek broader adherence to those commitments.

Although the ATT and the EWIPA Political Declaration are distinct—one a legally-binding treaty and the other a politically-binding declaration—both are preventative in orientation, seeking to assess risks of, and prevent harm to civilians from the use of weapons before it occurs. Overlap in these shared goals—as well as purpose and principles, membership, and scope—presents an opportunity for States to adopt policy approaches that strengthen civilian protection and better support implementation of both instruments.

SHARED PURPOSE AND PRINCIPLES

Despite taking very different regulatory approaches, both instruments are preventative in orientation. The ATT regulates the international transfer of conventional arms by requiring States Parties to assess the risk that exported arms

4 Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (adopted 18 November 2022). tinyurl.com/bdhdjbbd.

5 Ibid., para 3.3.

6 See ICRC (2022). 'Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas'. January 2022. tinyurl.com/22eykpmn; and Boillot, L. (2025), 'Avoiding Civilian Harm by Restricting or Refraining from the Use of Explosive Weapons in Populated Areas'. Policy Briefing. May 2025. tinyurl.com/mr976hsh.

7 Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (adopted 18 November 2022). tinyurl.com/bdhdjbbd, para 4.8.

8 Center for Civilians in Conflict (CIVIC) (2026), 'Civilian Harm and Arms Transfers: A Primer on International Law and Policy'. June 2026. tinyurl.com/6u7dfdte.

could be used to commit or facilitate serious violations of IHL or international human rights law (IHRL) (Article 7).[9] The EWIPA Political Declaration addresses the use of explosive weapons in populated areas by committing endorsing States to 'restrict or refrain' as appropriate, from such use where it may be expected to cause harm to civilians or civilian objects.[10] Both instruments are grounded in the protection of civilians during armed conflict and seek to influence State behaviour in ways that strengthen respect for IHL and reduce human suffering.

Other obligations and commitments of both instruments reflect additional shared principles. Both instruments explicitly recognize the duty of States to respect IHL and IHRL—and, under IHL, the broader duty to ensure respect for it by others. International cooperation, transparency and information sharing are fundamental to both instruments. In this regard, the role of data collection, research and analysis is central to strengthening ATT implementation efforts and improving the transparency of the conventional arms trade. Data collection is likewise essential to progress on implementation of the EWIPA Political Declaration, which facilitates learning and changes to military policy and practice that strengthen the protection of civilians.

OVERLAP IN MEMBERSHIP OR ENDORSEMENT

There is considerable overlap between States Parties to the ATT and States that have endorsed the EWIPA Political Declaration, creating opportunities for greater policy coherence without imposing additional obligations or administrative burdens. Seventy-four States are both Parties to the ATT and have also endorsed the EWIPA Political Declaration,[11] and seven Signatories of the ATT have also endorsed the EWIPA Political Declaration.[12]

Even where States are Parties to the ATT but have not endorsed the EWIPA Political Declaration or have endorsed the Declaration without being Parties to the ATT, aligning practice with the shared humanitarian objectives of both can contribute meaningfully to enhanced civilian protection outcomes.

SYNERGIES IN SCOPE

Explosive weapons are 'a broad category of weapons that use high explosives to create a zone of blast and fragmentation in the area around the point of a detonation'.[13] Explosive weapons, or explosive weapon systems, include munitions with an explosive payload and their delivery systems.[14]

Heavy explosive weapons, also referred to as explosive weapons with 'wide area effects', are especially problematic when used in populated areas.[15] Explosive weapons with wide area effects will affect an area significantly greater than that of the intended target. There are three characteristics of weapons that create wide area effects, either individually or in combination:

- A substantial blast and fragmentation radius resulting from a large explosive content;
- Inaccuracy of delivery, meaning that explosive munitions may land anywhere in a wider area; and
- The use of multiple warheads or multiple firings, sometimes designed to spread, affecting a wide area.[16]

The range of conventional arms in the scope of the ATT includes many explosive weapons. Those that are prone to wide area effects can be found in the ATT's major conventional arms categories (a)—(g) (see Table 1). Other explosive weapons can be found in the sub-categories of light weapons, including smaller munitions and hand-held or portable delivery systems.

9 International Committee of the Red Cross (ICRC). 'Arms Trade Treaty, 2 April 2013'. International Humanitarian Law (IHL) Databases. tinyurl.com/vjpmenzn. See also: Arms Trade Treaty, Articles 6 and 7 (adopted 2 April 2013, entered into force 24 December 2014). tinyurl.com/23vvaafu.

10 Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (adopted 18 November 2022). tinyurl.com/bdhdjbbd.

11 ATT States Parties that have also endorsed the EWIPA Political Declaration, as of 31 May 2026, are Albania, Andorra, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Cabo Verde, Canada, Central African Republic, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Guatemala, Guyana, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Maldives, Malta, Mexico, Monaco, Montenegro, Netherlands, New Zealand, Nigeria, Norway, Palau, Peru, Philippines, Portugal, Republic of Korea, Republic of Moldova, Republic of North Macedonia, Romania, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Senegal, Serbia, Sierra Leone, Slovakia, Slovenia, Spain, State of Palestine, Sweden, Switzerland, Togo, United Kingdom of Great Britain and Northern Ireland and Uruguay.

12 ATT Signatory States that have also endorsed the EWIPA Political Declaration are Cambodia, Comoros, Kiribati, Malaysia, Thailand, Türkiye and the United States of America. The United States has signed the ATT but no longer intends to become a State Party.

13 Explosive Weapons Monitor (2023). '2021-2022: Two Years of Global Harm to Civilians from the Use of Explosive Weapons'. April 2023. tinyurl.com/yece52zp, p. 4.

14 International Committee of the Red Cross (ICRC) (2022). 'Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas'. Geneva. January 2022. tinyurl.com/22eykpmn, p. 64.

15 See, for example, the International Committee of the Red Cross (ICRC) (2022). 'Explosive Weapons: Civilians in Populated Areas Must Be Protected'. 26 January 2022. tinyurl.com/mvk4a69s.

16 Article 36 and PAX (2020). 'Explosive Weapons with Wide Area Effects and Risk to Civilians'. Background Note. February 2020. tinyurl.com/45n5xhnp.

Table 1 – ATT conventional arms and explosive weapons

ATT conventional arms categories[17]	Description including the munitions and delivery systems of explosive weapons[18]
(a) Battle tanks	Armoured fighting vehicles equipped with a direct fire gun of at least 75 millimetres calibre. Tank gun projectiles, including high explosive munitions that fragment on impact and are used to target armoured and unarmoured vehicles, structures or personnel.[19]
(b) Armoured combat vehicles	Vehicles with armoured protection and cross-country capability, either equipped to transport a squad of infantrymen, or armed with a missile launcher or a weapon of at least 12.5 millimetres calibre.
(c) Large-calibre artillery systems	Guns, howitzers, artillery pieces, mortars or multiple launch rocket systems, capable of engaging targets on the ground by indirect fire, with a calibre of 75 millimetres and above. Artillery gun projectiles and mortars are gun-launched, indirect-fire projectiles that are typically unguided,[20] while ground-launched rocket artillery may be fired from a wide range of platforms and can be found in a variety of sizes and capabilities.[21]
(d) Combat aircraft	Manned or unmanned fixed-wing aircraft equipped to employ guided missiles, unguided rockets, bombs, guns, cannons or other weapons. This includes both guided and unguided air-dropped bombs, which compared with other categories of munitions are typically large (up to more than 2,000 kilograms).[22]
(e) Attack helicopters	Manned or unmanned rotary-wing aircraft equipped to engage targets by employing guided or unguided anti-armour, air-to-surface, air-to-subsurface or air-to-air weapons and equipped with an integrated fire control and aiming system for these weapons.
(f) Warships	Vessels or submarines armed for military use and equipped for launching missiles with a range of at least 25 kilometres or torpedoes with similar range. Naval artillery mounted on warships may be used to engage missiles and aircraft, attack other vessels or land-based targets. Most munitions fired by these artillery systems are unguided.[23]
(g) Missiles and missile launchers	Guided or unguided rockets, ballistic or cruise missiles capable of delivering a warhead or weapon of destruction to a range of at least 25 kilometres and means designed or modified specifically for launching such missiles or rockets.
(h) Light weapons	Hand-held under-barrel and mounted grenade launchers; portable anti-tank guns; recoilless rifles; portable launchers of anti-tank missile and rocket systems; and mortars of calibres less than 75mm.

17 Arms Trade Treaty, Article 2.1 (adopted 2 April 2013, entered into force 24 December 2014). tinyurl.com/23vvaafu.

18 Definitions of categories of major conventional arms are from the United Nations Register of Conventional Arms (UNROCA). 'Categories of Major Conventional Arms'. tinyurl.com/4xpxynkd. Examples of arms included in the ATT's light weapons sub-categories are from the Working Group on Transparency and Reporting (WGTR) (2022). 'Reporting Authorized or Actual Exports and Imports of Conventional Arms under the ATT. Questions & Answers'. ATT/CSP8.WGTR/2022/CHAIR/734/Conf.Rep. 22 July 2022. tinyurl.com/8zwhyj3e, p. 29.

19 Open Source Munitions Portal (n.d.). 'Tank Gun Projectiles'. tinyurl.com/y9mf696h.

20 Open Source Munitions Portal (n.d.). 'Artillery Gun Projectiles'. tinyurl.com/ynyt5fdu; and Open Source Munitions Portal (n.d.). 'Mortar Projectiles'. tinyurl.com/bu4me8kf.

21 Open Source Munitions Portal (n.d.). 'Rockets and Missiles'. tinyurl.com/4aspstw8.

22 Open Source Munitions Portal (n.d.). 'Air-delivered Bombs'. tinyurl.com/fyy8ktmf.

23 Dullum, O. S., et al. (2017). 'Indirect Fire: A Technical Analysis of the Employment, Accuracy, and Effects of Indirect-fire Artillery Weapons'. Armament Research Services (ARES). January 2017. tinyurl.com/5n6hevsk, pp. 35-36.

Article 5.3 of the ATT encourages States Parties to go beyond the minimum categories listed in Article 2(1).[24] States Parties can include additional arms not explicitly listed in the ATT's scope in their national control lists and systems. These can include explosive weapons that are directly-emplaced (e.g., anti-vehicle and anti-personnel landmines) rather than fired, launched or delivered.

Though not explicitly mentioned in the scope of the ATT, Article 3 makes clear that States Parties must maintain a national control system to regulate the export of ammunition and munitions fired, launched or delivered by the conventional arms in Article 2(1) and shall apply the provisions of Article 6 ('Prohibitions') and Article 7 ('Export and Export Assessment') prior to authorizing their export.[25] Article 4 establishes similar obligations in relation to parts and components.[26]

EWIPA CONSIDERATIONS AND ATT RISK ASSESSMENT

In relation to the ATT, the EWIPA Declaration compliments the law on arms transfers by strengthening the normative framework for reducing civilian harm. All States are required, at a minimum, to respect and ensure respect for IHL, including when making decisions relating to the transfer of arms. Many States have also accepted more specific obligations through regional export control arrangements and the ATT. Under Article 7 of the ATT, States Parties must assess the potential that exported conventional arms could be used to commit or facilitate serious violations of IHL or IHRL and must not authorize an export where, after considering available mitigation measures, there remains an overriding risk of such consequences.[27] As such it is designed as a forward-looking instrument intended to prevent foreseeable harm by requiring prospective assessments of foreseeable risk before an export is authorized. The shared understanding reflected in the EWIPA Political Declaration, together with the substantial body of evidence concerning the foreseeable humanitarian consequences arising from the use of explosive weapons in populated areas, is directly relevant to the evidence base upon which such prospective risk assessments should be conducted.

EVIDENCE OF PATTERNS OF HARM

For more than a decade, the UN, the International Committee of the Red Cross (ICRC) and civil society have collected and analysed evidence on the civilian impact of explosive weapons in conflict. As a result, the use of explosive weapons in populated areas has been identified as a leading cause of civilian harm in contemporary armed conflicts, and the resulting patterns of harm to civilians are well-documented and recognized in the EWIPA Political Declaration.

Documented civilian impacts of explosive weapons include direct deaths and injuries, and the damage and destruction of civilian infrastructure. They also include reverberating effects, which cause harm to civilians beyond the time of an explosion and location of the immediate blast zone. These effects take numerous forms and can also stem from damaged infrastructure. They include disrupted access to essential services, such as healthcare, sanitation, water and electricity supply, and education. Such impacts also affect the environment, cause widespread displacement, and inflict disability and psycho-social trauma on individuals and communities.[28] The impacts of explosive weapons may also vary among women, men, girls and boys.[29]

The frequency and consistency of these outcomes across different contexts indicate they should not be treated as incidental or context-specific, but as evidence of inherent and foreseeable risk in a number of active armed conflicts throughout the world. Whether through aerial bombardment in Gaza and Ukraine, shelling in Sudan and Myanmar, or the use of rockets and missiles in densely populated areas across the Middle East, the use of explosive weapons has humanitarian consequences and continues to disproportionately impact civilians.

24 Arms Trade Treaty, Article 5(3) (adopted 2 April 2013, entered into force 24 December 2014). tinyurl.com/23vvaafu.

25 Arms Trade Treaty, Article 3 (adopted 2 April 2013, entered into force 24 December 2014). tinyurl.com/23vvaafu.

26 Arms Trade Treaty, Article 4 (adopted 2 April 2013, entered into force 24 December 2014). tinyurl.com/23vvaafu.

27 Arms Trade Treaty, Article 7.3 (adopted 2 April 2013, entered into force 24 December 2014). tinyurl.com/23vvaafu.

28 Morais Figueiredo, B. and Young, K. (2024). 'Understanding Civilian Harm from the Indirect or Reverberating Effects of the Use of Explosive Weapons in Populated Areas: Strengthening Data Collection to Implement the Political Declaration'. Workshop Report. UNIDIR and Explosive Weapons Monitor. March 2024. tinyurl.com/tfyhpff7.

29 For more information on the gendered impacts of explosive weapons, see United Nations Institute for Disarmament Research (UNIDIR) (2024). 'Gendered Impacts of the Use of Explosive Weapons in Populated Areas'. tinyurl.com/mu2432bd.

CASE STUDIES – FORESEEABLE RISK TO CIVILIANS FROM EXPLOSIVE WEAPONS

These case studies illustrate situations of armed conflict in which harm to civilians from the use of explosive weapons has been well-documented. They underscore the need for ATT States Parties, when assessing export applications, to proactively examine available information from multiple sources on a recipient's past and current use of explosive weapons. Additionally, States Parties should assess the broader context in relation to any ongoing or risk of armed conflict to determine whether there is a significant risk that exports of explosive weapons could be used in ways that cause serious civilian harm.

These case studies are illustrative rather than exhaustive. They are intended to demonstrate how documented patterns of harm can inform prospective risk assessments under Article 7.

Gaza

Israel's repeated use of explosive weapons in populated areas across successive military operations has generated extensive evidence regarding patterns of use and the resulting humanitarian consequences for civilians.[30] These patterns became particularly acute following the attacks of 7 October 2023, when Hamas and other armed Palestinian groups launched rockets and deployed fighters into southern Israel, killing around 1,200 people. Israeli armed forces responded with a military campaign marked by extensive aerial bombardment together with the use of artillery and other ground- and sea-launched explosive weapons during subsequent ground operations in Gaza.[31]

The impacts of the Israeli armed forces' aerial campaign have been particularly catastrophic for civilians. According to US intelligence, Israeli armed forces dropped at least 29,000 explosive munitions in Gaza during the first two months of the conflict alone, of which nearly half were unguided bombs.[32] Munitions also included 1,000-pound and 2,000-pound satellite-guided bombs, the latter of which has an estimated crater size of 14 meters.[33] A 2,000-pound bomb was used in an airstrike on the Jabalia refugee camp on 31 October 2023, killing at least 126 civilians, including 69 children.[34] Prior to the October 2025 ceasefire, government officials in Gaza estimated that Israeli armed forces dropped approximately 100,000 tonnes of explosives on the Gaza strip over the course of two years.[35] Fighter jets, such as F-35s, were utilized by Israeli armed forces to drop heavy explosive munitions.[36]

As of October 2025, the UN Office for the Coordination of Humanitarian Affairs reported nearly 81 per cent of all structures in Gaza have been damaged or destroyed, including 89 per cent of water, sanitation and hygiene (WASH) assets, and 145 cultural and historical sites. It also reported food insecurity and malnutrition remain long-term issues for civilians on a large scale.[37]

The use of explosive weapons by Israeli armed forces—and the resulting patterns of harm—was not limited to Gaza. In Lebanon, aerial and ground attacks by Israeli armed forces in densely populated areas, in response to rocket fire from Hezbollah after 7 October 2023, caused civilian casualties, damage and destruction of critical civilian infrastructure, displacement and disruption of essential services. Israeli airstrikes during conflict escalation on 23 September 2024 were especially devastating for Lebanese civilians, on a scale akin to the first weeks of Israeli military action in Gaza in 2023.[38] During the 2026 war with Iran, similar attacks in South Lebanon have killed hundreds and displaced hundreds of thousands of people, caused a humanitarian crisis and damaged critical civilian infrastructure such as housing, farmland, transportation links and schools.[39]

30 Young, K. (2023). 'Unprecedented Harm to Civilians in Gaza: Death and Injury from the Use of Air-Dropped Explosive Weapons in Densely-Populated Gaza'. Fragments: Explosive Weapons Monitor Quarterly Series, Vol. 1, Issue 2. December 2023. tinyurl.com/yef39khx.

31 For examples of incidents in which ground- or sea-launched explosive weapons were allegedly used by Israeli armed forces in Gaza, see: Airwars. 'Civilian Casualty Archive'. Accessed on 26 May 2026. Archive. tinyurl.com/2tb638ys.

32 Betrand, N. and Bo Lillis, K. (2023). 'Exclusive: Nearly Half of the Israeli Munitions Dropped on Gaza Are Imprecise 'Dumb Bombs,' US Intelligence Assessment Finds'. CNN Politics. 14 December 2023. tinyurl.com/yc74znxa.

33 Pax and Article 36 (2016). 'Areas of Harm: Understanding Explosive Weapons with Wide Area Effects'. October 2016. tinyurl.com/495tefhp, p. 11.

34 Young, K. (2023). 'Unprecedented Harm to Civilians in Gaza: Death and Injury from the Use of Air-Dropped Explosive Weapons in Densely-Populated Gaza'. Fragments: Explosive Weapons Monitor Quarterly Series, Vol. 1, Issue 2. December 2023. tinyurl.com/yef39khx.

35 Aladam, M. (2025). 'Death Toll in Gaza Rises as Ceasefire Allows Rescuers to Search Rubble'. Middle East Eye. 22 January 2025. tinyurl.com/5n95ua55.

36 Amnesty International (2025). 'Over 230 Global Organizations Demand Governments Producing F-35 Jets to Stop Arming Israel'. 21 February 2025. tinyurl.com/mr35c45e.

37 United Nations Office for the Coordination of Humanitarian Affairs (OCHA) (2026). 'Reported Impact Snapshot | Gaza Strip (8 April 2026)'. 10 April 2026. tinyurl.com/uf5wyuer.

38 Young, K. (2025). 'Escalation of Explosive Weapons Use in Lebanon: Humanitarian Consequences on Civilians and Civilian Infrastructure'. Fragments: Explosive Weapons Monitor Quarterly Series, Vol. 3, Issue 1. March 2025. tinyurl.com/5cdckuk8.

39 Christou, W. (2026). 'Vision of Destruction: Israel's Assault on Southern Lebanon in Video, Maps and Charts'. The Guardian. 11 May 2026. tinyurl.com/4bn7stw6; Saifi, Z. et al. (2026). 'The Gaza Playbook: Satellite Images Reveal Scale of Israeli Destruction in Lebanon'. CNN. 24 April 2026. tinyurl.com/mwet6hsk; and Ward, E. (2026). 'Nearly 700,000 Displaced by War in Lebanon, U.N. Says'. The New York Times. 10 March 2026. tinyurl.com/2y89teyj.

Among the different transfers of arms to Israel, in March 2024, the United States authorized the transfer of 1,800 MK84 2,000-pound bombs, 500 MK82 500-pound bombs, and 25 F-35A fighter jets and engines fulfilling previously notified sales.[40] In addition, several ATT States Parties have indirectly provided parts and components of explosive weapons to the Israeli armed forces. For example, a consortium of countries (Australia, Canada, Denmark, Italy, Netherlands, Norway, the United Kingdom and the United States) participate in the production of parts and components for F-35 aircraft as part of the Lockheed Martin F-35 Joint Strike Fighter program. The components are ultimately exported to the United States for integration into the aircraft, of which dozens have been supplied to Israel.[41] Transfers of parts and components are largely managed through general licences and final decisions on exports of complete F-35 aircraft, including to Israel, are taken by the United States.[42]

Democratic Republic of the Congo

Ongoing conflict in the Democratic Republic of the Congo (DRC) can be traced back decades to the 1994 genocide against the Tutsi in Rwanda.[43] The Rwandan-backed March 23 Movement (M23), which formed in 2012, has since clashed periodically with the armed forces of DRC in eastern DRC's towns and cities, most notably Goma. Extensive evidence of human rights violations emerged from these clashes.[44]

At the beginning of 2024, increased use of explosive weapons in populated areas in North and South Kivu, in eastern DRC, exacerbated the humanitarian crisis that developed over decades of conflict. Frequent use of heavy explosive weapons by both the Congolese armed forces and the Rwandan-backed M23 in eastern DRC's towns and cities, and the resulting surge in civilian casualties, marked a new phase of armed conflict in the country. The use of ground-launched unguided rockets, including 122mm Grad rockets, as well as mortars and artillery by both parties to the conflict, has had devastating consequences for civilians and generated evidence of serious human rights violations.[45]

Amnesty International reported that between January and July 2024, explosive weapons were launched more than 150 times into densely populated areas, killing over 100 civilians and wounding hundreds more.[46] In one incident on 3 May 2024, a rocket killed at least 18 civilians, including 15 children, when it hit the 8ème CEPAC internally displaced persons (IDP) camp north-west of the city of Goma. The rocket was likely fired by M23 in response to additional rocket fire by Congolese armed forces that were positioned near the camp. Thirty civilians were also wounded, 28 of whom were women and children.[47]

The ICRC also documented significant civilian harm caused by the use of explosive weapons in eastern DRC since mid-2024. In North Kivu, healthcare facilities reported that 40 per cent of injured civilians seeking care were victims of the use of explosive weapons in populated areas, including shelling and use of other heavy weapons.[48] Hospitals, such as Ndosho hospital in Goma, became overwhelmed and were forced to operate beyond capacity.[49]

40 Hudson, J. (2024). 'U.S. Signs Off on More Bombs, Warplanes for Israel'. Washington Post. 29 March 2024. tinyurl.com/2hh5caac. For a list of arms transfers to Israel, see Stockholm International Peace Research Institute (SIPRI). 'SIPRI Arms Transfers Database'. Accessed on 26 March 2026. tinyurl.com/yc3bdttt.

41 Hudson, J. (2024). 'U.S. Signs Off on More Bombs, Warplanes for Israel'. Washington Post. 29 March 2024. tinyurl.com/2hh5caac.

42 See for instance: Control Arms Secretariat (2025). 'ATT Monitor Report 2025'. Geneva. 25 August 2025. tinyurl.com/yyhtbn2p, pp. 28-30; Gallagher, K. (2025). 'Global Production of the Israeli F-35I Joint Strike Fighter'. Project Ploughshares. January 2025. tinyurl.com/3sahay2e; and Hussain, Z. (2025). 'How Top Arms Exporters Have Responded to the War in Gaza: 2025 Update'. Stockholm International Peace Research Institute (SIPRI). 3 October 2025. tinyurl.com/mrx2828v.

43 United Nations (2026). 'Use of Explosive Weapons 'Must Stop' in Eastern DR Congo: Türk'. 9 July 2026. tinyurl.com/ckjnumc2.

44 Human Rights Watch (2022). 'DR Congo: Resurgent M23 Rebels Target Civilians'. 25 July 2022. tinyurl.com/zhcjwf3n.

45 Global Centre for the Responsibility to Protect (2026). 'Democratic Republic of Congo'. Populations at Risk. 16 March 2026. tinyurl.com/mry44s5a; and Amnesty International (2025). 'DR Congo: Rwandan-backed Armed Group and Congolese Army Must Stop Using Explosive Weapons in Densely Populated Areas'. 19 January 2025. tinyurl.com/mtv9dwad.

46 Amnesty International (2025). 'DR Congo: Rwandan-backed Armed Group and Congolese Army Must Stop Using Explosive Weapons in Densely Populated Areas'. 19 January 2025. tinyurl.com/mtv9dwad.

47 Ibid.

48 International Committee of the Red Cross (ICRC). 'DR Congo: Civilians in the Firing Line as Use of Heavy Weapons Signals Alarming New Phase of Armed Conflict in the East'. 6 March 2024. tinyurl.com/2yx5apx9.

49 Ibid.

In January 2025, M23 attacks intensified in both North and South Kivu, once again compounding the humanitarian crisis and displacing hundreds of thousands of civilians.[50] Physicians for Human Rights reported that M23's takeover of the city of Goma, the provincial capital of North Kivu, resulted in the shelling of the Charité and Virunga hospitals.[51] IDP camps were bombed and civilians were re-displaced, access to humanitarian aid was restricted by closed roads, and shelling forced temporary cessation of healthcare activities in parts of North Kivu.[52]

Reported arms transfers to Rwanda in the last decade include, among others, large-calibre artillery systems, such as the export of RM-70 122mm multiple rocket launchers authorized by Slovakia in 2018 and delivered in 2019, as well as CS/SH-1 122mm truck-mounted self-propelled howitzers authorized by China in 2017 and delivered in 2018.[53] Reported past arms transfers to DRC also include large-calibre artillery systems, such as the export of D-20 152mm towed guns authorized by Bulgaria in 2013 and delivered in 2015, as well as 120mm mortars authorized and delivered by Serbia in 2012.[54] More recently, China authorized the export of nine CH-4B armed drones to the DRC, which were delivered in 2024.[55] These drones can be armed with AR-1 and AR-2 air-to-surface missiles, AKD-10 anti-tank missile, and FT- and GB-series guided bombs.[56]

INCORPORATING EWIPA CONSIDERATIONS INTO ATT RISK ASSESSMENT

Incorporating analysis on an end user's past and current practices of explosive weapon use into ATT risk assessments can help identify foreseeable risks of civilian harm and strengthen the humanitarian goal of both instruments. Past practice is relevant not simply because it demonstrates previous harmful incidents, but because repeated patterns of use provide evidence of foreseeable future risk. The commitments reflected in the EWIPA Political Declaration, together with the documentation of the humanitarian consequences arising from the use of explosive weapons in populated areas, provide an important body of evidence that can inform the prospective assessments required under Article 7 of the ATT. This, in turn, assists exporting States Parties in determining whether there is an overriding risk that exported arms could be used to commit or facilitate serious violations of IHL.

Incorporating these EWIPA-related considerations into ATT risk assessments offers a number of practical benefits. First, such analysis enhances the quality of risk analysis by grounding them in empirical evidence of humanitarian consequences concerning how particular weapons are used in populated areas, while ensuring that export decisions reflect up-to-date information about patterns of harm, operational practice and documented incidents, such as the examples above. Second, identifying these considerations as specific indicators within article 7 risk assessment can promote greater consistency in the application of the ATT by supporting more structured assessments of whether there is an 'overriding risk' that exported arms could be used to commit or facilitate serious violations of IHL. Third, it encourages greater coherence between implementation of the ATT and the EWIPA Political Declaration, enabling States that are Parties to the ATT and have endorsed the EWIPA Political Declaration to give practical effect to the shared humanitarian objectives of the two instruments through existing export control processes.

Explosive weapons are typically held by military or paramilitary forces for use in armed conflict, though they are also used in some contexts of conflict by non-state armed groups. Where a State uses such weapons within its own territory—particularly in populated areas—this should be understood as a warning signal of an escalating crisis. It may indicate a transition from policing to military force, limited State capacity to manage instances of insecurity through law-enforcement means or a breakdown in protection obligations toward civilians. While each situation requires an assessment of its own facts and circumstances, such patterns may provide an early indication of foreseeable risks of further escalation and increasing civilian harm and are therefore relevant considerations in prospective ATT risk assessments.

50 International Organization on Migration (IOM) (2025). 'Democratic Republic of the Congo'. Displacement Tracking Matrix. April 2025. tinyurl.com/4ydwazza.

51 Geneva Academy of International Humanitarian Law and Human Rights (2026). 'War Watch: IHL in Focus Report – 1 July 2024 to 31 December 2025'. February 2026. tinyurl.com/47yw7hcz, p. 126.

52 United Nations Office of the High Commissioner for Refugees (UNHCR) (2025). 'UNHCR Gravely Concerned by Worsening Violence and Humanitarian Crisis in Eastern DR Congo'. Briefing notes. 24 January 2025. tinyurl.com/3snrxyp8.

53 Stockholm International Peace Research Institute (SIPRI). 'SIPRI Arms Transfers Database'. Accessed on 26 March 2026. tinyurl.com/yc3bdttt.

54 Ibid.

55 Ibid.

56 Army Recognition (2023). 'Congo Armed Forces Receive 9 Chinese CASC CH-4 Rainbow Combat Drones'. 4 July 2023. tinyurl.com/3mfvkyu3.

INDICATORS OF PATTERNS OF HARM ASSOCIATED WITH EXPLOSIVE WEAPONS IN POPULATED AREAS

Indicators that reflect the real-world patterns of harm associated with explosive weapons in populated areas may include:[57]

- The conduct of military operations involving explosive weapons in populated areas, particularly the use of explosive weapons with wide area effects including those with large blast and fragmentation radii, and/or those prone to inaccuracy or that fire multiple munitions across an area
- Credible reporting of civilian casualties or damage to essential civilian infrastructure such as hospitals, schools, water systems or energy facilities
- Patterns of weapons use against civilians
- Spikes in displacement
- The absence of credible investigations into alleged violations
- Broader dynamics of escalating armed conflict and rising civilian harm, as indicators of possible future risks for civilians in populated areas.

LINKING EWIPA CONSIDERATIONS WITH ATT RISK ASSESSMENT: CURRENT PRACTICES AND POSSIBLE FUTURE DEVELOPMENTS

Some States and different stakeholders have already begun to incorporate considerations relevant to the EWIPA Political Declaration into arms transfer policy and practice. This section highlights examples of current practice and identifies opportunities for further strengthening coherence between implementation of the ATT and the EWIPA Political Declaration.

AREAS OF CURRENT STATE POLICY AND PRACTICE

State practice in linking civilian harm considerations to arms export decisions can be observed across several areas.

Formal export control policies

Several States have explicit references to IHL compliance and ongoing armed conflict as risk indicators in their export control frameworks.[58] These frameworks provide a logical entry point for developing more explicit policies. Specifically, they allow States to examine an end-user's past and present conduct, assess patterns of civilian harm, and incorporate EWIPA Political Declaration considerations, such as the use of explosive weapons in populated areas, strengthening export assessment criteria ensuring they reflect patterns of harm in current armed conflicts.

SWEDISH MARINES SECURE AN ISLAND DURING AN AMPHIBIOUS EXERCISE NEAR GOTHENBURG.

CREDIT: © NATO

57 See Moyes, R. (2012). 'State Use of Explosive Weapons: An Indicator of Crisis'. Article 36. January 2012. tinyurl.com/25cadrw5.

58 Explosive Weapons Monitor (2025). 'An Assessment of Implementation of the Political Declaration on Explosive Weapons in Populated Areas'. Briefing Paper. November 2025. tinyurl.com/yy7mda9c.

NEW ZEALAND'S EXPORT CONTROL POLICY

New Zealand completed the review of its criteria for assessing proposed exports of 'military, dual use and catch-all goods' under its export controls regime in 2023. Under these criteria, the proposed export, its end-user and potential end use, will be assessed against both the legal obligations and non-legally binding commitments New Zealand has undertaken in respect of disarmament, arms control and non-proliferation. In guidance on its assessment criteria, the EWIPA Political Declaration is explicitly listed as an example of the non-legally binding commitments that will be taken into account in the assessment of a proposed export.[59]

Decisions to suspend and deny arms exports

In a number of contexts, States have suspended, denied or revoked exports to parties in armed conflict, including Saudi Arabia in relation to the conflict in Yemen and Israel in relation to the conflict in Gaza.[60]

In several instances, governments have referred to concerns regarding international humanitarian law, the humanitarian situation or the potential use of transferred weapons in military operations in populated areas. For example, in 2024 Canada suspended new arms export permits to Israel following parliamentary debate concerning the humanitarian situation in Gaza,[61] while the United States temporarily paused the export of approximately 3,500 2,000 lb and 500 lb bombs in May 2024 over concerns they could be used during military operations in Rafah.[62] The 500 lb bomb hold was reversed later in the Biden administration; the 2,000 lb hold remained in place until the administration's end and was then reversed. No further official suspensions have followed, though several legislative efforts to block specific transfers have failed to gain sufficient support, and the United States has continued transferring substantial arms to Israel since.[63]

These decisions have not occurred in isolation: they have followed sustained public pressure, findings and recommendations from UN Commissions of Inquiry and Special Rapporteurs, litigation before domestic courts, and provisional measures proceedings before the International Court of Justice concerning Gaza—all of which have kept the question of continued arms transfers under active scrutiny. However, States rarely explain in detail how evidence of civilian harm, legal and political obligations are weighed in individual export decisions. Greater transparency about the reasoning behind a denial would allow States Parties to demonstrate compliance with their ATT obligations and commitment to the EWIPA Political Declaration. In practice, however, States often have limited incentive to do so, since detailed public reasoning can constrain their political flexibility to resume exports to the same recipient once circumstances change. This makes it difficult to assess precisely how documented patterns of civilian harm are incorporated into Article 7 risk assessments or whether the commitments reflected in the EWIPA Political Declaration influence decision-making in practice. One example of good practice is the Netherlands, which reports annually on its strategic export control policy and provides information on export licence denials and the reasons underpinning those decisions.[64] Greater transparency along these lines could support more consistent, preventative application of Article 7, while reinforcing the preventive objectives of the EWIPA Political Declaration.

Risk assessments under Article 7 should be evidence-based, and an export recipient's past conduct legitimately forms part of that basis. However, current practices face critical issues regarding thresholds and timing. In practice, export denials are too often enacted only after sustained or large-scale civilian harm has accumulated in a specific conflict, rather than on the basis of foreseeable risk identifiable at an earlier stage. Documented patterns of harm associated with the use of explosive weapons in populated areas provide precisely the type of evidence that should inform prospective risk assessments, not only retrospective ones. Systematically integrating EWIPA-relevant evidence into export risk assessments could help shift these decisions toward a more consistent and preventative application of the ATT.

59 New Zealand Ministry of Foreign Affairs and Trade (n.d.). 'Assessment Criterion 1' tinyurl.com/4uy3j548.

60 See, for example, Knolle, K. and Alkousaa, R. (2025). 'Germany Halts Arms Exports that Israel Can Use in Gaza'. Reuters. 8 August 2025. tinyurl.com/5ecc5rs3; and Muresan, R. (2021). 'Renewed Hope for Yemen as More Countries Halt Arms Transfers to Saudi-led Coalition'. Control Arms. 3 February 2021. tinyurl.com/2mh3vv8t.

61 Cecco, L. (2024). 'Canada to Halt Arms Sales to Israel after Non-Binding Vote in House of Commons'. The Guardian. 19 March 2024. tinyurl.com/2ukbp965.

62 Flaherty, A. and Boccia, C. (2024). 'US Withheld Bomb Shipment to Israel Out of Fears It Could Be Used in Rafah'. ABC News. 8 May 2024. tinyurl.com/y3u7y3tz.

63 Forum on the Arms Trade (n.d.). 'Biden Administration Arms Sales and Transfers to Israel'. Last updated February 2025. tinyurl.com/jf64bkmh; and Forum on the Arms Trade (n.d.). 'Trump Administration Arms Transfers and Sales to Israel'. tinyurl.com/3rft4ksn.

64 Government of the Netherlands (n.d.). 'Reporting Practices with Regard to Military and Dual-use Goods'. tinyurl.com/y5h3yy5y; and Minister for Foreign Trade and the Minister of Foreign Affairs. (2025). 'Dutch Export Policy on Strategic Goods in 2024'. tinyurl.com/4uecfp3f.

Oversight and review bodies

Parliamentary scrutiny, judicial review and litigation have become increasingly important mechanisms through which States' arms export decisions are examined. These processes have highlighted the importance of the humanitarian and civilian harm evidence underpinning export risk assessments, including documented patterns of civilian harm associated with the use of explosive weapons in populated areas. However, this trend is not uniform: in some jurisdictions, oversight of these processes has narrowed rather than expanded.[65] While transparency surrounding export denials and risk assessments remains limited in many jurisdictions, in some cases these oversight mechanisms have helped clarify expectations regarding Article 7 risk assessments and the evidence on which they are based. They may also influence policy and legal developments beyond the jurisdictions in which they operate, contributing to the emergence of more consistent approaches to export risk assessment across States.

MILITARY PERSONNEL INSPECTING A FIGHTER JET ON THE RUNWAY IN RIONEGRO, COLOMBIA.

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65 In the United Kingdom, the Committees on Arms Export Controls—the dedicated cross-committee body scrutinising strategic export licensing, drawing on the Defence, Foreign Affairs, Business and Trade, and International Development Committees—ceased to operate from January 2024, when responsibility was folded into the Business and Trade Committee's wider remit. Brooke-Holland, L. (2024). 'An Introduction to UK Arms Exports'. House of Commons Library (CBP-8312, 24 January 2024). tinyurl.com/mt3f5k9r; and Brooke-Holland, L. (2025). 'UK Arms Exports to Israel'. House of Commons Library (CBP-9964, 8 January 2025). tinyurl.com/3ujjhmxa. In the United States, annual public reporting on Direct Commercial Sales and Foreign Military Sales has shifted to more aggregated figures in recent years, reducing visibility into those sales; a similar trend is documented in the Department of Defense's budget justifications for military aid programmes. Yousif, E. (2024). 'Diminishing Transparency in the US Arms Trade'. Stimson Center. 9 July 2024. tinyurl.com/ye8jrxta.

LITIGATION AND EXECUTIVE ACTION: THE UNITED KINGDOM, ITALY AND THE NETHERLANDS

Litigation under the ATT and related national export control frameworks has become an important mechanism for scrutinising government export decisions. Unlike other arms control and disarmament instruments, the ATT has generated sustained judicial review, placing governments on notice that export decisions may face legal challenges.

In the United Kingdom, litigation by the Campaign Against Arms Trade led to a 2019 Court of Appeal judgment on UK arms exports to Saudi Arabia during the Yemen conflict.[66] The court found the government had acted unlawfully in granting licences without properly considering potential IHL breaches, giving particular weight to evidence from UN bodies and non-governmental organizations. The ruling required suspension of new licences, but in July 2020 the UK resumed licensing, concluding the incidents were 'isolated' rather than a pattern.[67] More recently, a separate challenge over the UK's continued export of F-35 components to Israel via the global supply pool—despite a September 2024 partial suspension of other licences—was dismissed by the High Court in June 2025, which held the F-35 'carve-out' was non-justiciable; the Court of Appeal refused permission to appeal in November 2025.[68] These cases show courts can find harm-evidence legally relevant, while still treating the ultimate decision as one for the executive, not the judiciary.

The Italian Parliament adopted a motion in June 2019—explicitly referencing the UK Court of Appeal judgment—calling for restrictions on arms transfers to members of the Saudi-led coalition. The government then suspended the export of aircraft bombs, missiles and their components to Saudi Arabia and the United Arab Emirates for 18 months.[69] In January 2021, those licences were permanently revoked, cancelling an export of more than 12,700 bombs—the first such decision in three decades under Italian Law 185 on Arms Exports.[70]

In the Netherlands, the Court of Appeal of The Hague ordered the government in February 2024 to halt export of F-35 components to Israel, citing a clear risk they could be used in serious IHL violations in Gaza.[71] The government appealed, and in October 2025 the Supreme Court overturned that order, ruling courts must exercise restraint in foreign and security policy and that the Minister has the authority, but is not obliged, to reassess a granted licence.[72] It held, however, that once a government does reassess—as here, following 7 October 2023 and Israel's subsequent operations—it must apply the ATT's and the EU Common Position's mandatory criteria, including refusal where a clear IHL risk exists. The Minister was ordered to reassess within six weeks. In November 2025, the Dutch government wrote to the parliament that the suspension would continue, stating it would be unreasonable to resume the export of F-35 components at this time—meaning the practical effect of the 2024 Court of Appeal order has persisted, achieved through the government's own reassessment rather than a binding judicial prohibition.[73] In June 2026, the Minister of Foreign Affairs reassessed and confirmed this decision.[74]

66 Courts and Tribunal Judiciary (2019). 'Campaign Against Arms Trade v Secretary of State for International Trade'. [2019] EWCA Civ 1020. 20 June 2019. tinyurl.com/sez4pcsp. See also Campaign Against Arms Trade (2025). 'CAAT's Legal Challenge'. 8 September 2025. tinyurl.com/3kwyey49.

67 UK Secretary of State for International Trade (2020). 'Trade Update'. Statement UIN HCWS339, 7 July 2020. tinyurl.com/32vvj56x.

68 Courts and Tribunal Judiciary (2025). '(Al-Haq) v Secretary of State for Business and Trade'. [2025] EWHC 1615 (Admin). 30 June 2025. tinyurl.com/2kbt8sdt; and Courts and Tribunal Judiciary (2025). 'Al-Haq -v- Secretary of State for Business and Trade'. [2025] EWCA Civ 1433. 12 November 2025. tinyurl.com/466dae52.

69 Camera dei Deputati [Chamber of Deputies - Italy] (2019). Mozione 1/00204 [Motion 1/00204]. 24 June 2019. tinyurl.com/dpkzfuhk.

70 See: European Center for Constitutional and Human Rights (ECCHR) (2021). 'The Italian Government Revokes Bomb Export Licenses to Saudi Arabia and the United Arab Emirates: Civil Society Organizations Welcome the Decision'. 29 January 2021. tinyurl.com/ydp6u9vu.

71 Court of Appeal of The Hague, State of the Netherlands v. Oxfam Novib et al., judgment of 12 February 2024, ordering the Netherlands to cease the export and transit of F-35 parts destined for Israel because of a clear risk of serious violations of international humanitarian law in Gaza. See: Court of Appeal in The Hague (2024). 'ECLI:NL:GHDHA:2024:191' (Unofficial translation). 12 February 2024. tinyurl.com/27s2hdy9.

72 Hoge Raad (Dutch Supreme Court), case no. 24/01340, judgment of 3 October 2025, ECLI:NL:HR:2025:1435 tinyurl.com/4mhvwt7h, overturning the Court of Appeal's order and ruling that the Minister must perform the reassessment of the F-35 export licence again, applying the criterion of whether granting the licence poses a clear risk of serious violations of international humanitarian law. See: Hoge Raad Der Nederlanden (2025). 'Supreme Court: Minister Must Perform Reassessment of Licence to Export F-35 Parts to Israel Again'. 3 October 2025. tinyurl.com/2k2ys9z2.

73 PAX (2025). 'Crucial Victory: Export of F-35 Parts to Israel Remains Prohibited'. 14 November 2025. tinyurl.com/5a9bh57h.

74 PAX (n.d.). 'Rechtszaak Tegen Nederlandse Staat: Stop Levering Voor F-35's' [Lawsuit Against Dutch State: Halt Delivery of F-35s]. tinyurl.com/452wtcc.

RECOMMENDATIONS FOR FUTURE DEVELOPMENTS

Building on current practice, several practical opportunities exist for States to strengthen coherence between implementation of the ATT and the EWIPA Political Declaration. None of these measures would create new legal obligations or additional export criteria. Rather, they would strengthen the evidence base upon which existing Article 7 risk assessments are conducted by drawing more systematically on documented patterns of civilian harm associated with the use of explosive weapons in populated areas.

Opportunities for strengthening risk analysis

Eighty-one States that are States Parties or Signatories of the ATT have also endorsed the EWIPA Political Declaration. This overlap creates an opportunity for more coherent implementation. Exporting States could strengthen prospective risk assessments by drawing more systematically on a recipient's past and current use of explosive weapons in populated areas, patterns of damage to civilian infrastructure, foreseeable reverberating effects, military doctrine and operational practice including those reflected in the EWIPA Political Declaration. Such information provides a stronger evidential basis for assessing foreseeable risk under Article 7.

Strengthening the evidence available to support these assessments is equally important. Integrating specific EWIPA-related considerations into ATT decision-making supports the Treaty's purpose of reducing human suffering, improves legal risk management and reinforces the EWIPA Political Declaration's objective of protecting civilians from the harmful effects of explosive weapons in populated areas. Continued development of civilian harm tracking, investigation mechanisms, lessons-learned processes and public reporting can improve understanding of the humanitarian consequences associated with the use of explosive weapons in populated areas. These mechanisms not only support implementation of the EWIPA Political Declaration by informing military policy and practice but can also improve the quality of ATT risk assessments by generating more systematic evidence concerning patterns of weapons use, civilian harm and the effectiveness of mitigation measures.

Other opportunities for synergies in States' implementation and engagement

Additional opportunities exist to strengthen coherence in implementation at both the national and multilateral levels. At the national level, States that are Parties to the ATT and have endorsed the EWIPA Political Declaration could review export control policies, military doctrine and civilian protection policies together, ensuring that implementation of one instrument informs implementation of the other.

At the multilateral level, States could draw more explicitly on the relationship between these instruments during Conferences of States Parties and Working Group meetings under the ATT, as well as during international conferences and intersessional meetings held under the EWIPA Political Declaration. ATT discussions could examine how documented patterns of civilian harm associated with the use of explosive weapons in populated areas are incorporated into Article 7 risk assessments. Conversely, discussions under the EWIPA Political Declaration could consider responsible arms transfer policy as one practical means through which endorsing States may seek adherence to the Declaration's commitments by all parties to armed conflict, consistent with commitment 4.8. While the EWIPA Political Declaration does not explicitly refer to the transfer of explosive weapons, this commitment and commitment 3.1 to implement, review, develop or improve, national policy and practice on the protection of civilians during armed conflict, can support States in adopting arms transfer policies aimed at avoiding the civilian harm associated with use of explosive weapons in populated areas. In practice, States considering the export of explosive weapons—particularly those with wide-area effects—should assess whether a proposed recipient may reasonably be expected to use them in densely populated areas, including on the basis of the recipient's past conduct. Greater exchange of good practice across these forums would support more coherent implementation of both instruments.

Better coordination between these processes would reinforce the complementary objectives of the ATT and the EWIPA Political Declaration. By ensuring that documented patterns of civilian harm and the evidence generated through EWIPA implementation are more systematically reflected in export risk assessments, States Parties can strengthen both the preventative application of Article 7 and broader efforts to protect civilians from the humanitarian consequences arising from the use of explosive weapons in populated areas.

CONCLUSION

The ATT and the EWIPA Political Declaration have largely developed through separate legal and political processes. Yet they are complementary instruments that seek, through different means, to reduce human suffering and strengthen the protection of civilians. The ATT regulates the transfer of conventional arms, while the EWIPA Political Declaration establishes political commitments regarding their use. Read together, they provide mutually reinforcing frameworks through which States can strengthen the protection of civilians before harm occurs.

The EWIPA Political Declaration does not create new legal obligations governing arms transfers, nor does it alter the legal standard established by Article 7 of the ATT. Rather, it strengthens the evidence base available for prospective risk assessments by reflecting States' shared recognition of the foreseeable humanitarian consequences arising from the use of explosive weapons in populated areas and by promoting policies and practices that improve understanding of civilian harm. That evidence is directly relevant to the prospective assessment of foreseeable risk required under Article 7.

The relationship between the two instruments is also reciprocal. The ATT provides one practical means through which endorsing States can give effect to their commitments under the EWIPA Political Declaration. Where States have recognised, through the Declaration, the foreseeable humanitarian consequences associated with the use of explosive weapons in populated areas and have committed to restrict or refrain from such use, to strengthen national civilian protection policies and to seek adherence to those commitments by all parties to armed conflict, those commitments should inform how they assess the export of explosive weapons under Article 7 of the ATT.

Accordingly, where States that have endorsed the EWIPA Political Declaration fail to take account of the evidence and commitments reflected in the Declaration when conducting ATT risk assessments, questions arise not only as to whether Article 7 assessments have fully reflected foreseeable risk, but also as to whether those States are giving practical effect to the commitments they have undertaken under the EWIPA Political Declaration. Conversely, by systematically incorporating this evidence into export risk assessments, strengthening transparency surrounding export decisions and continuing to improve civilian harm tracking and analysis, States can reinforce implementation of both instruments in a mutually reinforcing manner and strengthen the protection of civilians in armed conflict.

CH-53 HELICOPTER AIRLIFTING A HOWITZER.

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STUDENTS IN THE RECONNAISSANCE AND SURVEILLANCE LEADERS COURSE CONDUCT A PARADROP FROM AN UH-60 BLACKHAWK HELICOPTER.

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