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### **Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms**

## **The arms trade treaty**

### **Report of the Secretary-General**

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\* A/66/150.



## **I. Introduction**

1. In paragraph 9 of its resolution 64/48, entitled “The arms trade treaty”, the General Assembly requested the Secretary-General to seek the views of Member States on proposed treaty elements and other relevant issues relating to the United Nations Conference on the Arms Trade Treaty, and to submit a report to the General Assembly at its sixty-sixth session.
2. On 15 April 2011, the Secretariat addressed a note verbale to all Member States requesting them to make use of this opportunity to present their views on the arms trade treaty negotiations.
3. In response to that request, 13 States had submitted their views by the time of the preparation of the present report. The full texts of the replies received are available on the website of the Office for Disarmament Affairs, at [www.un.org/disarmament/convarms/ATTPrepCom/index.htm](http://www.un.org/disarmament/convarms/ATTPrepCom/index.htm). Additional replies received will be issued as addenda to the present report.

## **II. Information received from Governments**

### **Australia**

[Original: English]  
[13 June 2011]

Australia is pleased to contribute to the work of the Preparatory Committee for the United Nations Conference on the Arms Trade Treaty, under the chairmanship of Ambassador Roberto García Moritán, and to the fulfilment of its mandate (see General Assembly resolution 64/48) to elaborate draft elements of the prospective treaty.

We believe the draft elements effectively capture the arms trade treaty’s important security, humanitarian and responsible trade goals, which Australia strongly supports, and lay the foundation for an international framework within which States can trade arms responsibly and transparently.

After more than five years of international consideration, United Nations Members will have an opportunity to formally negotiate the arms trade treaty in 2012. The draft elements provide a sound basis for those negotiations. Australia strongly believes they meet the expectations of a majority of Member States for a comprehensive, legally binding treaty that will establish commonly agreed standards and criteria for international transfers of conventional arms.

Australia is confident that an effectively implemented arms trade treaty will help deter and prevent illicit trafficking in conventional arms and the tragic consequences of armed violence, lawlessness and conflict. We believe the inclusion of small arms and light weapons in the draft scope of the arms trade treaty is critical to the ultimate achievement of the arms trade treaty’s humanitarian goals.

Australia believes all States have a responsibility to do everything they reasonably can to support the objectives of the Treaty; that is, to control the legitimate arms trade with a view to eliminating the illicit trade.

Although we do not believe the arms trade treaty should prescribe the way States Parties implement their treaty obligations, it will obviously require them to enact and to enforce effective laws and regulations to control the flow of arms into, out of and through their respective territories.

Some States will be better placed than others to implement their treaty commitments, particularly States with well-established national systems and controls. For others, there will be gaps in national capacity and capability that may have to be addressed through international cooperation and assistance.

Australia has strongly supported an arms trade treaty from the very beginning. We were among a small group of countries to first bring the issue of the arms trade treaty to the United Nations in the form of a resolution in 2006, and look forward to continuing to work with all States to conclude an effective and comprehensive arms trade treaty at the United Nations Conference in 2012.

## **Bulgaria**

[Original: English]  
[1 June 2011]

Bulgaria continues to share the international concerns about the negative consequences of illegal and irresponsible conventional arms transfers and thus strongly favours the establishment of a robust international legally binding instrument (arms trade treaty) that would set the highest possible standards for regulation of legal arms transfers and activities. For those reasons, Bulgaria supported General Assembly resolution 64/48.

We reiterate our understanding that, in line with the principle of non-retroactivity of law, the provisions of this treaty will be applicable to activities undertaken by States after the treaty enters into force for them; in other words it will regulate only future activities.

## **Scope**

Regarding the scope of the treaty, we believe that it should be as comprehensive as possible.

In terms of items covered by the scope, we believe that an arms trade treaty should cover all conventional arms, including ammunition, in line with the categories of the United Nations Register of Conventional Arms, further extended reflecting technological improvements of the different categories of arms, if considered necessary. Alongside large calibre weapons, an arms trade treaty should cover small arms and light weapons, parts and components, technology and equipment. The above items should be clearly defined and laid out in a detailed annex that should be updated at regular intervals.

In terms of activities, the instrument should include export, re-export, import, brokering, transit and trans-shipment.

We share the view that manufacture under foreign licence as such should not be subject to the regulation of this treaty as a separate activity and could be addressed by the category technology and equipment.

**Criteria/parameters**

Bulgaria believes that the instrument should have a strong set of common criteria without hindering the right to individual or collective self-defence and without limiting the right of States to produce defence items and to procure for their legitimate defence needs and participation in peace support operations.

While a future arms trade treaty should introduce commonly agreed standards, the final decision to authorize or deny a transfer should remain a national responsibility.

At the same time we believe that international and regional obligations and commitments of a State, including sanctions and embargoes, should be treated separately and should lead to a denial.

The other criteria should enumerate basic standards to be met when assessing applications, under the following core chapters:

- Internal, regional and international security and stability
- International humanitarian law and international human rights law, including human security and development
- Arms control and non-proliferation.

We consider necessary the stipulation of the case-by-case approach when assessing an application with specific control for specific transfers; for example, the full set of standards to be applicable for export, re-export, import and brokering and a reduced set for transit and trans-shipment.

The issue of corruption and organized crime within the arms trade treaty needs to be addressed in the section on implementation, instead of in the section on criteria/parameters through obliging or encouraging States to adopt respective national legislation. In our view, organized crime has to be considered in a broader perspective and tackled as part of armed violence as a whole.

**Implementation**

The implementation of the provisions of the arms trade treaty has to be a national responsibility. To this end, States have to elaborate and have in place the necessary export control legislation, which would include legal provisions for administrative capacity-building, the establishment of licensing, enforcement and prosecution authorities, and penal and administrative sanctions in cases of infringement of the national legislation and the provisions of the arms trade treaty, respectively.

The implementation should be consistent with the practical application, taking into account the difference in the capacity of States and the specificities of the legal systems and the existence of relevant national legislation. Any grace periods for implementation should not be envisaged. States have to be in a position to start implementing the treaty as soon as it enters into force for each State.

A mandatory transparency mechanism should be established that would be closely linked to the implementation requirements and vital for achieving the arms trade treaty's objectives. The provisions enhancing transparency have to be pragmatic and should strike a clear balance between information sharing and national security concerns.

In order to address some of these concerns while trying to achieve a robust treaty, for certain types of items and activities, it may prove useful to make a clear distinction between control over and reporting requirements. More precisely, the scope has to be as comprehensive as possible, but the reporting format in terms of data exchange could cover certain items and activities as stipulated in the scope.

We support the establishment of a small secretariat (Implementation Support Unit) as the appropriate body responsible for collating national reports and for record-keeping, as well as for serving as a letter box for required and provided assistance by States.

### **Follow-up processes**

We consider appropriate the establishment of a review mechanism of the future treaty. Conferences for review of the status, the implementation and the scope of the treaty should be conducted at commonly agreed intervals. During the intersessional periods States could assemble on an annual or biannual basis in order to enhance implementation, promote universality of the treaty and request or provide assistance.

## **China**

[Original: Chinese and English]  
[1 June 2011]

China attaches great importance to problems caused by illicit transfer and diversion of conventional weapons. We support the international community in taking necessary measures to enhance international cooperation and regulate international arms trade in order to combat illicit trafficking of conventional weapons.

China believes that the primary goal of an arms trade treaty is to prevent and combat illicit trafficking of conventional weapons; thus it is necessary to appropriately regulate arms trade activities without affecting legitimate arms trade or a State's legitimate right to self-defence. The arms trade treaty should be concise and feasible, focusing on targeted problems. The treaty negotiation is a step-by-step process, which must be carried out within the framework of the United Nations through open and transparent discussion, and decisions should be made by consensus.

On the scope of an arms trade treaty, China believes that we should not only strive to cover a wide range of conventional weapons, but also take into consideration the feasibility of implementing an arms trade treaty with such a scope. China proposes to cover the seven categories of weapons under the United Nations Register of Conventional Weapons. In terms of international transactions or activities, an arms trade treaty should cover both import and export.

On criteria for transfer, China believes that relevant criteria should be objective, impartial and internationally recognized. It should target problems arising from illicit trafficking and diversion of conventional weapons, and avoid any politicalized or discriminative elements. China proposes that criteria for transfer should include fulfilling obligations set out in international laws and United Nations Security Council resolutions, maintaining international and regional security and stability, combating transnational crimes and terrorism, being conducive to the

capability for just self-defence of the recipient country, and no interference in the internal affairs of the recipient country.

On the implementation of an arms trade treaty, China believes that States bear the primary responsibility for appropriate administration and management on arms trade. Meanwhile, China supports that countries actively carry out international cooperation and assistance on a voluntary basis. As a priority, developed countries should provide developing countries with materials, human resources, technology and funds as necessary for implementation. Mechanisms of cooperation and implementation should facilitate the efforts to implement an arms trade treaty, without interfering in national sovereign decisions or overburdening States with unnecessary implementation costs. The existing mechanisms or instruments, such as the United Nations Register of Conventional Weapons, should continue to play their due roles.

China has always adopted a prudent and responsible attitude in its arms export and exercises stringent control over arms exports in accordance with national laws and regulations, United Nations Security Council resolutions and relevant international obligations. China's arms export policy strictly observes the following three principles: arms export should be conducive to the legitimate self-defence capability of the recipient country; it should not undermine the peace, security and stability of the region concerned and the world as a whole; and it should not be used as a means of interfering in the internal affairs of the recipient country. China adopts a licensing system for arms export, prohibiting unauthorized entities and individuals from conducting business of arms export, and banning exports to non-State actors. We request recipient countries to present end-use and end-user certificates and commit to no re-transfer to a third party without consent of the Chinese authority.

China attaches importance to the international cooperation in conventional arms transfer, actively participates in relevant discussions in the arms trade treaty process and plays a constructive role in the work of the United Nations Group of Governmental Experts, the Open-ended Working Group and the Preparatory Committee for the arms trade treaty. China will, in a serious and responsible manner, continue to take part in the discussions on issues of arms trade, and make unremitting efforts for appropriately addressing problems caused by illicit trafficking in conventional weapons.

## **Egypt**

[Original: English]  
[3 June 2011]

### **General views relating to process and framework negotiations**

The views represented in this note complement, and do not replace, the views officially presented earlier by Egypt in accordance with relevant General Assembly resolutions on the arms trade treaty. While views on feasibility, scope and draft parameters have been presented earlier to the United Nations Secretariat, views represented here cover general principles and objectives, scope, parameters and implementation of an arms trade treaty.

It is clearly the case, as confirmed by the Group of Governmental Experts on the issue (see A/63/334), that the feasibility of an arms trade treaty would be dependent on establishing its collectively agreed objectives, its practical applicability, its resistance to political abuse and its potential for universality. Any consideration of the feasibility of a potential arms trade treaty was thus seen to be dependent on its scope and parameters, as interrelated factors that would require open, transparent, inclusive and universal discussions. The issue of feasibility is thus not covered here since no agreement has yet been reached on the scope or the parameters of a potential arms trade treaty.

Egypt strongly believes in the importance of basing the deliberations and any possible results of the 2012 United Nations Conference on the Arms Trade Treaty on the principle stipulated in paragraph 5 of General Assembly resolution 64/48, entitled “The Arms Trade Treaty”, which confirms that the Conference will be undertaken in an open and transparent manner, on the basis of consensus. This means that the Conference will only consider documentation agreed by the Preparatory Committee by consensus and will only adopt any possible text by consensus. In case the time allocated for the Conference, or the method through which its deliberations and negotiations are conducted, did not allow for a conclusive result by consensus, consideration should be given to ways and means to allow the continued work within the United Nations multilateral framework of all relevant elements with a view to arriving at an outcome that is acceptable to all.

Needless to say, the views presented have deliberately avoided going into any extensive details, since such details remain subject to preliminary exploration in the framework of the Preparatory Committee and are interrelated in a manner that does not allow, at this stage, their thorough presentation in a manner that does not prejudice the negotiation process and the alternative details it might consider.

## **On general objectives and principles**

The key objectives of an arms trade treaty should be to promote the principles and objectives of the Charter of the United Nations, to prevent, combat and eradicate the illicit transfer, illicit production and illicit brokering of conventional arms; and promote transparency and accountability in the production, import, export and trans-shipment of conventional arms.

From a principle standpoint, Egypt is of the view that efforts to consider an arms trade treaty should not represent in any way a shift from the unquestioned priority of nuclear disarmament, as agreed by consensus at the first special session of the General Assembly devoted to disarmament in 1978. This element has to be clearly mentioned in the text of the potential Treaty. While it should ideally cover illicit arms transfers, the potential arms trade treaty has to “regulate” rather than “restrict” arms trade, making arms trade transactions more transparent while not allowing, through sufficient safeguards, the political abuse of the scope and parameters of the treaty for other political, commercial or economic interests.

The potential arms trade treaty has to fully comply with the letter and spirit of all principles enshrined in the Charter of the United Nations, including the legitimate right of States to acquire conventional weapons for legitimate self-defence, and their right to produce, export, import and transfer conventional arms, their equal sovereign rights, the right to territorial integrity and political

independence and the right of self-determination of all peoples, as well as all other principles of the Charter, including those prohibiting the use of force and threat of use of force and those promoting the pacific settlement of disputes.

The potential treaty should recognize the sovereign right of States to regulate transfers of arms within their territories. In order to serve its objectives, the arms trade treaty should prevent exports of arms aimed at introducing or maintaining quantitative or qualitative imbalances in regional armaments. The proposed arms trade treaty should not interfere with already existing systems in the framework of the United Nations with regard to conventional weapons, and must neither infringe on these systems, add to their obligations nor adversely affect their performance, nature and basic operational and principle foundations.

While an arms trade treaty must take account of the legitimate defence, commercial, economic and military concerns of all parties, reflecting the respective responsibilities of the arms-producing, exporting, trans-shipment and importing States, it should not attempt to substitute the logical duties of major arms-producing States with discriminatory rights which undermine in any way the rights of arms importing States. Therefore a potential arms trade treaty must take into account the elements of production and stockpiles, along with the export, import and transfer. The potential arms trade treaty must have clear and feasible incentives for arms importing States including an extensive and international cooperation framework which goes beyond cooperation to implement the treaty.

### **On the scope of a potential arms trade treaty**

There remains a very strong and direct link between the elements of scope and criteria of a potential arms trade treaty, on the one hand, and, on the other hand, on the manner in which such criteria will be applied under the potential treaty. The inclusion of detailed arms categories in the scope of an arms trade treaty should naturally require the detailed articulation of elements of criteria and vice versa.

Clear consideration should be given to the relevance of particular weapons categories to particular parameters. The inclusion of particular weapons categories in the scope of the treaty should not mean that once a potential recipient State does not fit one criterion, it would automatically be denied transfers of the entire set of arms categories covered in the scope. In principle, emphasis should be made on the element of relevance and proportionality along with practical guarantees to relevance and proportionality in implementation.

For the purposes of the potential treaty, the scope of conventional arms categories covered by the treaty could include the seven items enumerated in the United Nations Register of Conventional Arms, as defined by the Register, and should not go beyond them.

The inclusion of small arms and light weapons would interfere with and seriously undermine the already well functioning United Nations Programme of Action on small arms and light weapons and would lead to complex and extensive practical and reporting responsibilities which complicate the possible effective implementation of an arms trade treaty. Due to the lack of consensus on their possible inclusion, Egypt does not support the inclusion of ammunitions in the



scope of any potential arms trade treaty, as that would result in extensive practical hurdles of reporting and implementation.

As is in the case for ammunitions, there has been no reference to parts and/or components of weapons or weapons systems, or dual-use goods and components in the mandate of negotiations or the objective of regulating arms trade. Their inclusion can result in extensive hurdles to civil industry and contradict industrial and developmental aims of many development States. They should thus be firmly avoided.

Technology transfer and manufacture under foreign licence should be encouraged under an arms trade treaty.

While brokering remains an activity controlled and regulated through national legislations and regulations, only illicit brokering can be covered under the scope of a potential arms trade treaty. brokering authorized under national law falls outside any possible scope of an arms trade treaty, taking into consideration that the issue of brokering is considered in another framework in the United Nations under the work of the Group of Governmental Experts on the issue.

### **On the parameters/criteria of a potential arms trade treaty**

The treaty has to provide for collectively agreed, unambiguous, detailed, measurable and relevant parameters that could be enforced by exporting, trans-shipment and importing States of conventional weapons covered by the scope of the treaty in a verifiable manner. Such parameters should be entirely consistent with those acknowledged within the United Nations and its relevant specialized bodies. Against that background, no linkages should be made to allow any State to make subjective assessments against another State in fields such as human rights or sustainable development since frameworks and contexts for the fair consideration of such issues within the United Nations differ significantly from the framework of the proposed arms trade treaty.

It is crucial for an arms trade treaty to avoid allowing for individually assumed, potentially subjective assessments on a national level without relying on multilaterally agreed mechanisms such as decisions of relevant United Nations bodies or a special body of the arms trade treaty member States that can be assigned with this task under the treaty.

As sources of information relating to the criteria of an arms trade treaty, a State party shall take into account the nature of the arms to be transferred, the use of the weapon by the end-user and assessments made and information provided formally by the State party's own governmental authorities and agencies, in accordance with decisions and agreed practices of relevant United Nations specialized bodies, including its diplomatic and consular missions, in a documented and well-certified manner.

The application of criteria should be by all States and not only arms-exporting States. A decision by a State to authorize or to deny a transfer should not be made based on national assumptions, but rather on internationally agreed decisions made by relevant bodies of the United Nations. Such decisions will be relevant only in cases where violations of the criteria to be agreed are large scale, consistent and identified as significant by relevant United Nations bodies.

## **On the implementation framework of a potential arms trade treaty**

The potential arms trade treaty will require the establishment of an international secretariat exclusively dedicated to serve, promote and verify the effective, fair and accountable implementation of the treaty and its objectives. Such a secretariat can be funded from assessed contributions of its member States and/or resources to be allocated and collected representing an agreed percentage of revenues of arms sales by major arms producers.

The secretariat has to have a role in verifying that the implementation of the treaty remains fair and to record all reported transfers covered by the treaty, including denied transfers. The treaty has to clearly list the rights and obligations of its members, in a balanced manner which respects the equal sovereignty of States under the Charter of the United Nations. There should be little room for interpretation of commitments under the treaty or the manner in which it is implemented by each of its possible members.

The implementation mechanism should include not only measures to implement the treaty on a national level, but also measures on the international level to ensure its fair and accountable application both in cases of approved transfers or denied ones.

A comprehensive reporting system should be established under the treaty. While a comprehensive reporting requirement will enhance transparency in the fair and objective implementation of the treaty and increase confidence in its uniform application, reporting will also allow for scrutiny of practices which contradict the treaty, allowing objective questioning related to grounds for denials. Under the proposed reporting system, States will be required to report on licence authorizations granted, denied licences and actual transfers of conventional arms.

Any implementation mechanism should promote technology transfer and manufacture under foreign licence among the incentives for universal membership and the promotion of advantages of treaty adherence by arms importing States. The treaty system should be balanced and thus aim at making sure that a potential importing State, once complying with all the agreed parameters, will be certain to obtain its required transfers and that the potential exporting State will have an obligation to do so, taking into consideration all other aspects related to the transfer.

### **El Salvador**

[Original: Spanish]  
[23 May 2011]

It is important that the treaty should be based on the purposes and principles of the Charter of the United Nations, taking into account the principle of the sovereign equality, territorial integrity and political independence of all States. The content of the treaty should guarantee that States parties will fulfil in good faith the obligations they assume upon signature or ratification.

The future treaty should strengthen mechanisms for controlling and regulating the arms trade and should include the criteria, parameters and standards applicable to all States for the manufacture, export and import of arms and other forms of arms trading.

It should establish the entity or organization responsible for overseeing, as needed, the manufacture, export and import of arms.

The instrument should define the criteria for the State's approval or denial of arms imports, exports or transfers. It should recognize that all States have a legitimate right to procure arms in accordance with their own perceived security and domestic needs, in line with the principles of the Charter of the United Nations and international law. The text should provide for the strengthening of mechanisms for arms tracing and information exchange among States.

It is important that the treaty define the responsibility of arms-producing States with respect to the award of commercial contracts and the shipment of arms to their final destination, with a requirement that they notify transit States of such shipments.

The instrument should include regulations or considerations aimed at preventing the arms trade from spurring an arms race in the region of the country or countries of destination. In order to prevent illicit arms transfers, the treaty should also establish the obligation of arms manufacturers to mark weapons so as to identify the exporting country.

Lastly, all States should agree on the treaty's parameters, given that the escalation in the acquisition of conventional arms is currently a source of concern in all regions of the world and is an issue that directly affects regions' stability and balance of power.

The future instrument should be intended to serve as a legally binding norm that will strengthen mechanisms for the control and regulation of trade in conventional arms, establishing the criteria, parameters and standards applicable to all States in the context of arms exports.

In addition, the document adopted should take into account the realities of each State and should be feasible to implement in practice, with clear parameters and precise definitions.

In order to ensure that arms exports do not have unwanted effects such as the diversion of arms to the illicit market, it is extremely important that States, in taking decisions on arms exports, should not regard them merely as profitable commercial transactions, but should carefully analyse where the arms will be used, what circumstances led to a need to acquire the arms and what purposes and objectives the arms are intended to serve.

A comprehensive approach to the oversight of arms transactions is needed. Standard and objective criteria should be established for the approval or denial by States of arms imports, exports or transfers.

It should be recognized that all States have a legitimate right to procure arms in accordance with their own perceived security and domestic needs in order to combat crime, provided that their motives for acquiring and using weapons are consistent with the principles of the Charter of the United Nations, international law, international humanitarian law and human rights.

It is also important to strengthen mechanisms for tracing arms and to ensure follow-up on the end use of the arms traded; this may be achieved by maintaining information exchanges among States.

It is important to define the responsibility of arms-producing States with respect to the award of commercial contracts and the shipment of arms to their final destination. In such cases, any transit States should be notified and, in addition, legislative measures should be adopted to establish as criminal offences the illegal manufacture, possession, stockpiling and trade of arms.

The arms trade treaty should include the definitions and components of conventional arms, small arms and light weapons. Arms-producing States should evaluate transactions to ensure that they will not spur an arms race in the region of the country or countries of destination.

Arms manufacturers should make use of arms marking tools in their production process and should provide the technical information needed to identify and locate any arms that may be involved in illicit transfers.

With regard to measures to prevent terrorists from acquiring weapons of mass destruction, El Salvador, as a State Member of the United Nations and of the Organization of American States, has signed and ratified the following international instruments:

- Inter-American Convention against Terrorism, signed by El Salvador in Bridgetown, Barbados, on 3 June 2002 and ratified on 21 January 2003
- Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that Are of International Significance
- International Convention for the Suppression of the Financing of Terrorism
- Convention on International Civil Aviation (Chicago Convention) and its amendments, which provides that the Convention applies to civil aircraft but not to State (military, customs and police) aircraft
- Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface
- The 1997 International Convention for the Suppression of Terrorist Bombings, in the framework of the United Nations

At the national level, the Special Counter-Terrorism Act is in effect, having been adopted by Legislative Decree No. 108 of 21 September 2006, amended by Legislative Decree No. 399 of 24 June 2010 and published in Official Gazette No. 118, vol. 387, of the same date. The Act provides for the following considerations:

1. The principal reason for adopting this Act was the fact that terrorism poses a grave threat to the country's security, to public peace and to harmony among States, directly and indirectly affecting the physical and psychological integrity of its nationals, their property and the enjoyment and preservation of their rights. A special law needed to be established in order to prevent, investigate, punish and eradicate terrorist activities and thus respond to the exceptional circumstances affecting the international community.
2. The purpose of the Act is to ensure, while upholding strict respect for human rights, the prevention, investigation, punishment and eradication of the crimes described therein, along with all acts, including their financing and related

activities, that, by virtue of the manner in which they are performed and the means and methods employed, demonstrate the intention to cause alarm, fear or terror in the population by posing an imminent threat to the life or the physical or psychological integrity of persons, particularly significant or important material goods, the democratic system, State security or international peace.

3. For the purposes of the Act, definitions are given of firearms, explosive devices, chemical weapons and terrorist organizations.

4. The Act establishes that, pursuant to the Framework Treaty on Democratic Security in Central America or any other international treaty ratified by El Salvador, all State institutions shall provide to the institutions responsible for implementing the Act information on actions or movements of terrorists or terrorist networks, on copied or forged documents, and on procedures used to combat the crimes set out in the Special Counter-Terrorism Act, including their financing and related activities.

## Guyana

[Original: English]

[1 June 2011]

The Government of Guyana joins the international community in recognizing that the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to the destabilization of nation States through conflict and crime, thereby undermining peace, security and stability. The Government therefore fully supports the conclusion of a legally binding instrument negotiated on a non-discriminatory, transparent and multilateral basis, to establish common international standards for the import, export and transfer of conventional arms.

With respect to the category of weapons or equipment to be regulated by the treaty, Guyana favours the seven categories of weapons on the United Nations Register as a starting point with the addition of small arms and light weapons, as well as the technology to manufacture such equipment, parts and components of the weapons, and ammunition.

The activities and transactions that ought to be covered by the treaty include import, export, re-export, temporary re-export, trans-shipment, transit, transfer, brokering activities, technology transfer, manufacture under foreign licence, technical assistance and end-user verification and monitoring.

The Government of Guyana believes that the treaty should make provisions for the following considerations in order to determine when a transfer of arms would be lucrative:

- Whether there is a potential breach of existing international obligations or commitments of the State making the transfer; these could include obligations arising under the Charter of the United Nations or Security Council embargoes, etc.;
- The likely end user, so that there may be a prohibition of transfer if there is a substantial risk that the arms to be transferred are likely to be used to commit serious violations of international human rights or humanitarian law or crimes against humanity;

- The transferring State is able to do everything in its power to combat or avoid diversion;
- Due diligence to ensure the avoidance of transfers to non-State actors in an effort to avoid transfers to terrorist groups, criminal gangs or insurgents.

Once the treaty has entered into force implementation ought to be done at both the national and international levels. A national system should contain specific legislation that allows for the enforcement of the arms trade treaty provisions and a national agency that is charged with overseeing implementation. The international implementation system should focus on cooperation and assistance that facilitates implementation for States that lack the requisite capacity; e.g., financial, technical and legal and the sharing of best practices.

Finally, Guyana supports the proposition that there should be established a regular national reporting system on implementation, designed to take into consideration the disparity between States in terms of their import and export activities and their status as manufacturers or consumers of weapons.

## **Mexico**

[Original: Spanish]  
[6 June 2011]

An arms trade treaty must be adopted in the framework of the United Nations by 2012 in order to control the irresponsible trade in conventional arms. This trade has threatened peace and security at the national, regional and international levels and has sustained terrorist activities, organized crime and other acts in violation of international law.

A strong instrument on the issue would make it possible to prevent and to combat more effectively the diversion of arms to the illicit market.

The treaty's purpose should be to establish regulations on arms trading, based on the shared responsibility of all parties involved in the life cycle of a weapon, from manufacture to destruction, and on objective, non-discriminatory and transparent criteria.

Mexico has firmly supported the negotiations on an arms trade treaty and has decided to make the control of the arms trade a major focus of its foreign policy.

### **International cooperation and assistance**

The establishment of rapid and flexible assistance mechanisms for responding to States' needs and strengthening their national capacity will be one of the key requirements for effectively implementing the treaty.

With regard to international cooperation, it will be critical to provide for information exchanges and dialogue between importers and exporters, with a view to taking the recipients of arms transfers into account in risk analyses.

## **Scope of the treaty**

### **Arms**

In order for the arms trade treaty to be an effective instrument, it will be important to go beyond an approach based on lists of arms, focusing instead on reaching agreement on a definition that covers all conventional arms, their parts and components, high- and low-calibre ammunition and technology related to the production, development or maintenance of arms or ammunition.

The definition of conventional arms to be included in the treaty should be flexible and adaptable to future technological developments in the arms industry. Mexico believes that a static treaty that establishes fixed lists of arms would be significantly limited in terms of its relevance and validity.

The treaty should not establish exceptions for sporting or hunting weapons because they can cause the same harm as conventional arms, as they can be used to: (i) facilitate organized crime activities; (ii) threaten State stability and security; and (iii) support terrorist activities.

### **Activities to be regulated**

The treaty should regulate all physical and legal transfers of arms, components, technology and ammunition, by whomever owned or to whomever transferred.

Arms and ammunition should be controlled throughout their life cycle, from production to destruction. It is important that regulations on arms trading should consider both the end user and the probable use of the arms.

### **Criteria**

Although the decision to approve the transfer of arms is a sovereign decision of each Member State, Mexico will seek to ensure that the treaty establishes high standards to prevent trade in arms when there is a substantial risk that they will be used to commit or facilitate grave violations of international humanitarian law or grave and systematic violations of international human rights law.

### **Marking and tracing**

It is important that the treaty should include a provision indicating that all arms covered by the treaty, as well as their parts and components, must be marked during the production process and that databases of marking information must be kept to facilitate the efficient tracing of arms. These measures would significantly improve the control of arms over their entire life cycle.

### **Implementation and monitoring and enforcement mechanism**

It is critical that the treaty should be backed by a support entity to follow up and verify compliance with the obligations set out in the instrument. Mexico is of the view that this entity must have sufficient budgetary and human resources to provide assistance to States in implementing the treaty at the national level and to function as a mechanism for verifying compliance. In addition, provision should be made in the treaty's implementation for transparent and efficient follow-up

mechanisms to monitor transfers and establish controls over the entire life cycle of arms and to identify the best formats for national reporting.

### **Decision-making at the 2012 Conference**

Mexico has advocated the negotiation of an arms trade treaty that will enable Member States to effectively control the trade in conventional arms, while ensuring that this important process is not overtaken by consensus-seeking on minimum standards or by the paralysis that has characterized other disarmament initiatives.

To this end, Mexico will make every effort to arrive at general and, if possible, universal agreements, but if no such agreements are reached, the alternatives established in the rules of procedure of the General Assembly could be considered.

### **Netherlands**

[Original: English]  
[20 May 2011]

The Netherlands strongly supports the establishment of an arms trade treaty. We believe that responsible arms trade is a legitimate part of international trade relations, but it is also clear that arms trade is a relevant factor in possible threats to peace, security, stability and the violation of international law, including human rights law and humanitarian law.

It is in the interest of the entire international community that international trade in conventional arms will be submitted to a comprehensive international instrument containing common, minimum standards for transfers of conventional arms. These standards should be derived from the highest standards contained in already existing agreements under international humanitarian law and customary international law.

Our aim for the negotiations leading to 2012 is to create a strong and robust treaty, but at the same time include as many States as possible. A very strong treaty with low participation is as undesirable as a weak treaty with broad participation. This will be one of the key elements for the negotiations. We will therefore have to be as ambitious as possible.

An arms trade treaty should oblige States to adopt and implement national legislation in order to prevent that transfers of conventional arms may, directly or indirectly, provoke, prolong or exacerbate conflicts or be otherwise detrimental to human rights, security, stability or development. For the Netherlands, terrorism, organized crime, the risk of diversion and corruption are also elements to be covered by this treaty.

However, this should not prevent States from participating in responsible international trade in conventional arms. States should be able to meet their legitimate defence and security needs, and assist in international peacekeeping operations when possible.

An arms trade treaty should contain the broadest possible scope. This concerns both the categories of arms and types of transfers.



Furthermore, the Netherlands deems the support by civil society organizations essential for a successful arms trade treaty. We aim for a broad participation of NGOs in this process. However, the final decisions have to be made by sovereign States. In addition to this, the Netherlands believes that involvement of the defence industry will be a key to success. A serious defence industry will benefit from serious regulations for arms trade.

## **New Zealand**

[Original: English]  
[31 May 2011]

Executive summary: The non-paper suggests that States should provide reports under an arms trade treaty on two separate issues: implementation measures; and international transfers over the preceding 12 months (with an additional option of reporting on international transfers that they may have denied during the previous 12 months). It posits a simplified reporting procedure for small States, as well as the possibility of region-based reporting.

The non-paper suggests a possible bilateral mechanism to promote implementation of an arms trade treaty (a “Request for Clarification” and a “Request for Comment” procedure) as well as a multilateral process (via a “peer engagement mechanism”). It outlines a range of functions for a possible arms trade treaty secretariat (or Implementation Support Unit), including being the recipient of all reports from States.

## **Norway**

[Original: English]  
[31 May 2011]

Norway is firmly committed to reaching a strong arms trade treaty that will make a difference on the ground. The overall goal of the arms trade treaty should be through responsible regulation of all international arms trade to prevent illicit or irresponsible arms trade that causes human suffering and armed violence, including violations of international humanitarian law and human rights law.

The scope of the treaty should be broad and cover all aspects of international transfers and apply to all conventional arms, including small arms and light weapons, components, arms technology, etc. For Norway it is important that ammunition is included in the scope.

Norway has likewise stressed that the arms trade treaty should contain provisions for international cooperation and assistance, including language on victims’ assistance. The treaty should also ensure transparency and accountability, thus enabling relevant actors, including civil society, to access information and raise public awareness on these issues. The arms trade treaty should also contain provisions on end-user documentation and marking and tracing.

## **Panama**

[Original: Spanish]

[1 June 2011]

The global increase in the trade and illicit trafficking of arms calls for the establishment of an international instrument to regulate a situation that is completely out of control and affects millions of citizens throughout the world.

International arms transfers have reached significant qualitative and quantitative proportions, leading to an increase in illicit trafficking in conventional arms.

The proposals made by United Nations Member States concerning the arms trade treaty seek to create a legally binding instrument that will provide international norms for the efficient and effective transfer of conventional arms. Specifically, the aim is to establish common criteria that must be implemented by all States when importing or exporting arms.

To that end, as has already been affirmed, States parties should draft a new instrument in accordance with their positive law, with international law and with the principles set out in the Charter of the United Nations.

The scope of the arms trade treaty should be such that the controls it establishes over conventional arms will become a real means of defending human rights.

The scope of the treaty should clearly establish what arms will be covered, what criteria will be used to permit or deny the transfer of arms and what forms of transparency are required.

While States have the right to acquire weapons for their own security, they also have a responsibility to ensure that the arms trade is conducted within the limits of the law.

In that regard, it should be noted that, at the end of April 2011, the Chamber of Deputies of the Republic of Panama passed a new law regulating firearms, ammunition and related materiel, now awaiting approval by the executive branch, as an immediate step to control the high level of armed violence in the country.

When the negotiations have been completed, the resulting instrument should enhance the security and peace of all citizens of the world.

## **Switzerland**

[Original: English]

[2 June 2011]

## **General remarks**

In light of the long-lasting humanitarian tradition of Switzerland, the international promotion of peace and human rights is a key objective of the Swiss foreign policy. The principle of neutrality, respect for human rights and the rule of law have consequently been important elements in the way Switzerland deals with

arms trade. In sharing its experience, Switzerland deals with arms trade. In sharing its experience, Switzerland hopes to make an active contribution to the further arms trade treaty negotiations.

## **Elements of an arms trade treaty**

With regard to the report of the United Nations Secretary-General to the General Assembly at its sixty-sixth session, Switzerland wishes to share its views on the following elements of an arms trade treaty.

### **Types of goods and transfers**

Switzerland supports a comprehensive legally binding arms trade treaty with clear and effective parameters, covering all conventional arms listed in the United Nations Register of Conventional Arms, small arms and light weapons, ammunition, parts and components, military explosives as well as the relevant technologies.

Against this background, Switzerland suggests the following categories to be covered by an arms trade treaty: tanks, military vehicles, artillery systems, military aircraft, military helicopters, naval vessels, missile and missile systems, small arms, light weapons, ammunition, military explosives, parts and components, technology.

The following types of transfers should be subject to licensing: export (including re-export and temporary export), transit (includes trans-shipment), import (includes temporary import), transfer of title or control over conventional arms from the jurisdiction of one State to another, transfer of information (transfer of technology) as well as brokering.

### **Parameters**

Switzerland would like to refer as follows to the idea of having two sets of criteria that should be applied on a case-by-case basis:

- Firstly, an arms trade treaty should have criteria that exclude the granting of a license; and
- Secondly, it should have criteria that need to be taken into consideration when assessing licences.

The Treaty may differentiate between parameters which compulsively exclude the granting of any license (“exclusion parameters”), while others will serve — on a non-exhaustive basis — as refined assessment parameters also applicable in the absence of an excluding criterion.

**Exclusion parameters:** States shall not authorize an international arms transfer if

- The State of destination is a party to an armed conflict and has committed serious violations of international law, including international humanitarian law;
- United Nations sanctions or sanctions adopted by regional or subregional organization to which the exporting State is a party, as well as international treaties or other obligations under international law, prohibit the arms transfer;

- The State of destination violates human rights in a systematic and serious manner;
- There is a substantial risk that exported arms are used against the civilian population in the State of destination;
- There is a substantial risk, in the State of destination that exported arms are diverted to a recipient not fulfilling the aforementioned parameters.

In assessing an application, the following parameters should be taken into account:

- The influence of arms transfers on peace and security as well as regional and subregional stability;
- The situation in the State of destination with regard to the respect for human rights;
- The impact on the sustainable economic and social development of the State of destination;
- The efforts made in the area of development cooperation;
- A possible contribution of arms transfers to a pattern of corruption in the State of destination.

### **Reporting and information sharing**

An effective implementation of a future arms trade treaty requires a high level of transparency. A mechanism for reporting and sharing information is of great significance for the credibility of such a treaty.

Reporting and information sharing should include:

- Specific information on a regular basis with regard to licences granted (annual or semi-annual) under the Treaty and transfers having taken place. It could also include individual notification of denials within a certain period of time after decision.

Minimum requirements therein could include:

- Exporting State: information pertaining to the country of destination, type and quantity of approved arms exports as well as date(s) of export (and/or of licences granted);
- Importing State: information pertaining to the exporting State, type and quantity of imported arms as well as date(s) of import;

Other elements could be:

End user (e.g. armed forces/police forces, private), broker/intermediary involved, value, denied exports and date of denial (within a certain period of time) as well as reasons therefore.

- Additionally, the future arms trade treaty should include provisions regarding the reporting on national implementation of the treaty such as on national legislation or on administrative and institutional decisions.
- Information sharing could also cover exchange of information on any risks associated with transfers of conventional arms.

**Monitoring**

Monitoring of the commitments should be established by a consultation process allowing for such consultations on a bilateral as well as on a multilateral level.

**National implementation**

Member States should establish national legal and administrative systems in order to give effect to the arms trade treaty under national legislation. These include the introduction or amendment of relevant laws, regulations and administrative procedure and the relevant enforcement.

**Final and institutional arrangements**

Final provisions should envisage procedural possibilities to review the treaty (review conferences), Meetings of States Parties and institutional support. A minimal structure should be set up within the United Nations to collate and analyse the information provided and, if needed, to bring the information into a comparable form. This unit could also act as an “information broker” on request of Member States.

**Turkmenistan**

[Original: Russian]  
[6 June 2011]

**Information pertaining to the Arms Trade Treaty provided pursuant to General Assembly resolution 64/48**

Neutrality is the foundation of Turkmenistan’s domestic and foreign policy. A fundamental condition for Turkmenistan, arising from its neutral status and international obligations, is the peace-loving nature of its foreign policy. Accordingly, all matters are addressed exclusively through political and diplomatic channels, primarily international organizations and the United Nations. Turkmenistan fully supports international efforts to combat the proliferation of weapons of mass destruction, their means of delivery and related technologies. In its legislation, Turkmenistan proclaims its refusal to possess, manufacture, store or transport nuclear, chemical, bacteriological and other types of weapons of mass destruction, new types of such weapons or technologies for their production.

In line with its international obligations, Turkmenistan is not a member of and does not participate in any military blocs or unions nor does it host foreign military bases on its territory. Reflecting the great importance it attaches to strengthening international peace and security, Turkmenistan has adhered to all fundamental international conventions, agreements and treaties and has implemented them to the letter.

In view of its neutral status, no weapons are manufactured or sold on the territory of Turkmenistan. Accordingly, Turkmenistan does not export weapons. However, to ensure national security, Turkmenistan does import arms from States

that manufacture them. Turkmenistan takes the management of its defence assets seriously and consistently applies the principles of rigorous monitoring, responsible management and strict oversight.

The Law on Weapons adopted on 21 November 2009 governs the circulation of civilian, service and military firearms, bladed weapons and ammunition on the territory of Turkmenistan. The Law is also designed to strengthen international cooperation in combating crime and illicit arms trafficking.

In the interests of world peace, security and stability, Turkmenistan believes that all countries, in particular developed countries, should exercise strict monitoring over the transfer of potentially hazardous materials, technologies and armaments and, acting with restraint, put an end to the irresponsible transfer of weapons that threaten global security and regional stability.

Turkmenistan supports the efforts of the global community directed at developing concrete measures to combat illicit arms trafficking through the international Arms Trade Treaty and favours its continued discussion under the aegis of the United Nations. This position is guided, above all, by the fact that illicit arms trafficking is the cause of untold human suffering.

Turkmenistan welcomes the constructive proposals of the international community and individual States aimed at facilitating global disarmament processes and, guided by national and regional priorities, stands ready to participate in these efforts. In that context, Turkmenistan is playing an active role in disarmament efforts in the cause of peace, harmony and shared progress.

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