

Chairman's Draft Paper
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I. PREAMBLE

1. *Recognising* the legitimate political, security, economic and commercial interests of States in the import, export and transfer of conventional arms and related items;
2. *Recognising* the absence of commonly agreed international standards for the transfer of conventional arms and their diversion to the illicit market are contributory factors to armed conflict, serious violations of international human rights law and international humanitarian law, gender-based violence, the displacement of people, transnational organized crime, terrorism and the illicit trade in narcotics, thereby undermining peace, reconciliation, safety, security, stability and sustainable social and economic development;
3. *Mindful of* the need to prevent the destabilising effects of excessive and uncontrolled conventional arms stockpiles and to prevent the diversion of conventional arms from the legal into the illicit market;
4. *Recognizing* the need to prevent, combat and eradicate the irresponsible and illicit trade of conventional arms and related items and the responsibility of all States to effectively regulate and control the import, export and transfer of conventional arms and related items;
5. *Recognising* that existing national, regional and subregional best practices on the import, export, and transfer of conventional arms can play an important role in furthering the goals and objectives of an Arms Trade Treaty;
6. *Recognising* the sovereign right of States to determine any regulation of internal transfers of arms and national ownership exclusively within their territory, including through national constitutional protections on private ownership.
7. *Recognising* that States may adopt more restrictive measures than those provided in the Arms Trade Treaty;

II. PRINCIPLES

1. *Guided by* the purposes and principles enshrined in the Charter of the United Nations, and reaffirming State Parties respect for and commitment to international law;
2. *Reaffirming* the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the United Nations Charter;

3. *Recalling* the commitment to the principles of political independence, sovereign equality and territorial integrity of all States, and acknowledging that peace and security, development and human rights are the foundations for collective security;
4. *Reaffirming* also the right of all States to territorial integrity and political independence;
5. *Reaffirming* the right of self-determination of all peoples, taking into account the particular situation of peoples under colonial or other forms of alien domination or foreign occupation, and recognizing the rights of peoples to take legitimate action in accordance with the Charter of the United Nations to realize their inalienable right of self-determination. This shall not be construed as authorizing or encouraging any action that would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples;
6. *Acknowledging* the right of all States to manufacture, develop, acquire, import, export, transfer and retain conventional arms and related items and capabilities for self-defence and security needs and in order to participate in peace-keeping operations in accordance with the United Nations Charter. This right does not create any obligation for States to do so and such rights must be exercised in accordance with international law;
7. *Reiterating* the general prohibition against the use of force and threat of use of force and the principles of the peaceful settlement of disputes and non-interference in the internal affairs of States, as embodied by Article 2 of the United Nations Charter;
8. *Recalling* the obligations of all States to comply with United Nations Security Council decisions, in particular arms embargoes and sanctions,
9. *Recognising* that disarmament, non-proliferation and arms control are essential for the maintenance of international peace and security;
10. *Recognising* that the control and regulation of the import, export and transfer of conventional arms and related items are without prejudice to the priorities accorded to nuclear disarmament and weapons of mass destruction and conventional disarmament;
11. *Reaffirming* their rights and obligations under international law, including international human rights law and international humanitarian law;

III. GOALS AND OBJECTIVES

This Treaty will seek to:

1. Promote the goals and objectives of the United Nations Charter;
2. Establish the highest possible common international standards for the import, export and transfer of conventional arms;
3. Prevent, combat and eradicate the illicit transfer, illicit production and illicit brokering of conventional arms and their diversion into the illicit market, including for use in transnational organized crime and terrorism.
4. Contribute to international and regional peace, security and stability by preventing international transfers of conventional arms that contribute to or facilitate: human suffering, serious violations of international human rights law and international humanitarian law, violations of United Nations Security Council sanctions and arms embargoes and other international obligations, armed conflict, the displacement of people, transnational organized crime, terrorist acts and thereby undermining peace, reconciliation, safety, security, stability and sustainable social and economic development; and
5. Promote transparency and accountability in import, export, and transfers of conventional arms.
6. Be universal in its application.

IV. SCOPE

1. For the purposes of this Treaty, conventional arms shall include any items which fall within the following categories:
 - a. Tanks
 - b. Military Vehicles
 - c. Artillery Systems
 - d. Military Aircraft (manned or unmanned)
 - e. Military Helicopters (manned or unmanned)
 - f. Naval Vessels (surface and submarine vessels armed or equipped for military use)

- g. Missiles and Missile Systems (guided or unguided)
 - h. Small Arms
 - i. Light Weapons
 - j. Ammunition for use with weapons defined in subparagraphs (a) – (i).
 - k. Parts or Components specially and exclusively designed for any of the categories in subparagraphs (a)-(j).
 - l. Technology and Equipment specially and exclusively designed and used to develop, manufacture, or maintain any of the categories in subparagraphs (a) - (k).
2. The international transactions or activities covered by this Treaty include those listed below and defined in Annex A.
- a. Import
 - b. Export
 - c. Transfer
 - d. Brokering
 - e. Manufacture under foreign licence
 - f. Technology transfer

V. CRITERIA

In reaching the decision whether or not to authorize an export application, competent national authorities of States Parties shall make assessments whether to transfer arms on an objective and non-discriminatory basis, taking into account information on the nature of the arms to be transferred and risk assessment of the potential use of the weapon and the end-user.

A. *International, regional and subregional obligations of a State*

- 1. A State party shall not authorize a transfer from, to, or through territories under its jurisdiction of conventional arms if the transfer would violate any measure adopted by the Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes.
- 2. A State party shall not authorize a transfer of conventional arms from, to, or through territories under its jurisdiction if the transfer violates any of its other relevant international, regional or subregional obligations or commitments

regarding the control and regulation of international transfers of conventional arms.

B. Potential consequences of arms transfer on peace and security

A State party shall not authorize a transfer of conventional arms if there is a substantial risk that those conventional arms would:

1. Be used in a manner that would seriously undermine peace and security or, provoke, prolong or aggravate internal, regional, subregional or international instability.
2. Be used to commit or facilitate serious violations of international humanitarian law.
3. Be used to commit or facilitate serious violations of international human rights law.
4. Be used to commit or facilitate serious violations of international criminal law, including genocide, crimes against humanity and war crimes.
5. Seriously impair poverty reduction and socio-economic development or seriously hamper the sustainable development of the recipient State.
6. Be diverted to unauthorised end users for use in a manner inconsistent with the principles, goals, and objectives of the Treaty, taking into account the risk of corruption.
7. Be used in the commission of transnational organized crime as defined in the United Nations Convention Against Transnational Organised Crime.
8. Be used to support, encourage, or perpetrate terrorist acts.

VI. IMPLEMENTATION

1. The provisions of this Treaty shall be implemented in a manner that would avoid hampering the right of self-defense of any State party.
2. Each State party, during the implementation of its obligations under this Treaty, shall assign the highest priority to ensuring that the implementation in accordance with the Treaty is not discriminatory, subjective in nature, nor could represent, inter alia, political abuse.
3. Each State party shall take the necessary legislative and administrative measures, to adapt, as necessary, national laws and regulations, to implement the obligations of this Treaty.
4. Each State party shall establish a national contact point for the provision and receipt of information and requests pursuant to this Treaty, including to facilitate cooperation and

information exchange. Each State party shall notify the Implementation Support Unit (see Article XX) of its national contact point. A list of national contact points shall be maintained and distributed by the Implementation Support Unit on a quarterly basis.

5. Each State party may refuse, suspend, or revoke any transfer.
6. Each State party, during the implementation of this Treaty, is encouraged to maintain consultations and to share information regarding the implementation of this Treaty, as a confidence-building measure.

A. NATIONAL AUTHORITY AND SYSTEMS

Authorization Systems

1. Each State party shall designate competent national authorities, define their respective duties and responsibilities, and ensure adequate coordination at the national level between those authorities to have a transparent, predictable, and effective national control system for authorizing and licensing the export, re-export, manufacture under foreign license or technology transfer of items under the scope of this Treaty.
2. In deciding whether to authorize an export of items under the scope of this Treaty each State party will assess the export against the assessment criteria in Article XX.
3. Each State party will have a national control list of those items subject to this Treaty, consistent with the terms of this Treaty under Article XX.
4. Each State party shall take measures to ensure that it can verify or validate its authorizations. All authorizations for an export of conventional arms in accordance with this Treaty must be detailed and issued prior to the export. Details of the authorization shall accompany the arms shipment and be made available to transit and transshipment States upon request. The format, content and conditions of the authorizations remain a national decision of the authorizing State party.
5. States Parties shall take all necessary measures to control brokering activities taking place within its territories or by its nationals in the context of transfers of arms under this Treaty. States Parties shall ensure that all brokers are registered with the appropriate national authority before engaging in activities under the scope of this Treaty.
6. Each State party shall take all appropriate measures necessary to prevent the diversion of exported arms into the illicit market or to unintended end users.

Notification Systems

1. **Importing** States shall provide appropriate documentation and other information, inter

alia end user certification, requested by the exporting State to assist the exporting State in its criteria assessment and to verify the delivery to the approved end user.

2. State Parties should ensure that all arms transferred to their territory as the final destination are recorded and are accompanied by details of the authorization issued in accordance with this Treaty.
3. State Parties should monitor and control where necessary all arms that transit or transship through their territories and ensure that they are accompanied by details of the authorization issued in accordance with this Treaty.
4. State Parties shall take all appropriate measures necessary to prevent the diversion of imported arms into the illicit market or to unintended end users.

B. RECORD KEEPING, REPORTING AND TRANSPARENCY

1. States Parties shall maintain records of all arms authorizations, transfers and denials. Such records may contain, inter alia, quantity, model/type, arms transfers authorized and refused, arms actually transferred, details of transit State(s), recipient State(s) and end users. Records shall be kept for a minimum of 10 years.
2. States Parties shall maintain records of all arms imports and shipments of arms that transit their territory. Such records may contain, inter alia, quantity, model/type, arms actually transferred; details of transit State(s), exporting State(s) and end users. Records shall be kept for a minimum of ten years.
3. No later than 180 days after a State's ratification of this Treaty, States Parties shall submit an initial report to the Implementation Support Unit of all activities undertaken in order to accomplish the implementation of this Treaty, including inter alia, domestic laws, regulations and administrative measures.
4. Each State party shall submit annually to the Implementation Support Unit a report for the preceding year concerning the transfer of arms as detailed in article B1 and B2 above, as well as any new national legislation or other measures used to regulate or control the items and transaction under the Treaty's domain.

C. ENFORCEMENT

1. Each State party shall adopt legislation or other appropriate measures to ensure its ability to enforce domestically the obligations of this treaty and to prohibit the transfer of arms from any location under that State's jurisdiction and control unless authorized in accordance with this Treaty, including appropriate law enforcement and judicial mechanisms.
2. Each State party shall establish effective penalties or other appropriate measures for

violations of this Treaty by any entity under its jurisdiction and control. Each State party shall adopt measures as may be necessary to provide for the investigation and prosecution of individuals and other entities for offences violating the Treaty and relevant national laws.

3. States Parties shall take all necessary measures to prevent, counter, and prosecute corruption, as well as money laundering, within its territories or by its nationals in the context of transfers of arms under this Treaty.

D. INTERNATIONAL COOPERATION

1. States Parties shall encourage and facilitate international cooperation, including the exchange of information amongst themselves on matters regarding the implementation and application of this Treaty. Such exchange of information could include, inter alia, information on implementation measures as well as information on specific exporters, importers and brokers and on any prosecutions brought domestically, in line with commercial and proprietary protections.
2. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement institutions to combat violations of the provisions of this Treaty.
3. States Parties will, when appropriate, afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the violations of the provisions of this Treaty.

E. INTERNATIONAL ASSISTANCE

Provisions for strengthening capacity and building national capabilities are essential elements for the implementation of the Treaty.

1. In fulfilling its obligations under this Treaty each State party may offer or receive assistance.
2. States Parties may offer or receive assistance, inter alia, through the United Nations, international, regional, subregional or national organizations, non-governmental organizations, or on a bilateral basis.
3. States Parties in a position to do so and where appropriate may provide technical, legal, material and financial assistance to States Parties to support their implementation of the Treaty obligations. Such assistance may take the form of information exchange on best practices, legislative and legal assistance, related to this Treaty and its practical implementation. State Parties may build upon existing customs and law enforcement cooperation arrangements, including those already established by international, regional and subregional organisations.

4. Consistent with their respective legal and administrative systems, State Parties may exchange relevant information and best practices on exports, imports and transfers of conventional arms.
5. States Parties will designate one or more national points of contact to facilitate cooperation and information exchange between State Parties, and to act as a liaison on all matters relating to the implementation of this Treaty.
6. States Parties providing and receiving assistance under the provisions of this Article shall do so in a manner consistent with existing commitments and international instruments with a view to ensuring the full and prompt implementation of agreed assistance programmes.
7. The provisions of this Treaty shall be implemented in a manner that avoids hampering the economic or technological developments of States Parties.

F. VICTIM ASSISTANCE

1. Each State party in a position to do so, and where appropriate, may offer or receive assistance for the care and rehabilitation, and social and economic reintegration, of victims of armed conflict.
2. Such assistance may be technical or material in nature and can be provided, inter alia, through the United Nations system, international, regional, subregional or national organizations, non-governmental organizations, or on a bilateral basis, as appropriate.

G. IMPLEMENTATION SUPPORT UNIT

1. This Treaty establishes an Implementation Support Unit to assist States Parties in the implementation of the Treaty.
2. The Implementation Support Unit shall:
 - a. Serve as the repository for annual reports submitted by States Parties as part of their Treaty obligations.
 - b. Serve as the repository for reports on disputes on transfer denials.
 - c. Assist the Assembly of States Parties in carrying out the activities set forth in the Treaty and make arrangements and provide the necessary services for the sessions of the Assembly of States Parties and subsidiary organs, as necessary.
 - d. Assist States Parties in providing information to the Assembly of States

Parties and each other as envisaged in the Treaty, upon request.

- e. Act as a clearinghouse for offers and requests of assistance for Treaty implementation under the terms of this Treaty and promote international cooperation to that end.
- f. Ensure the necessary coordination with the Secretariats of relevant international and regional organizations and represent the Implementation Support Unit in meetings and activities of such organizations, as applicable.
- g. Conduct outreach to increase awareness of this Treaty regime and to promote the universality of this Treaty.
- h. Perform other technical and administrative duties as assigned by the Assembly of States Parties.

VII. FINAL PROVISIONS

A. Depository and Authentic Texts

1. The Secretary-General of the United Nations is the Depository of this Treaty.
2. The original of this Treaty, of which the Arabic, Chinese, English, French, Russian, and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

B. Signature, Ratification or Accession

1. This Treaty shall be open to all States for signature on [date] at the United Nations Headquarters in New York.
2. Treaty Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.
3. The Secretary-General of the United Nations shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Convention, and of the receipt of other notices.

C. Entry into Force

1. This Treaty shall enter into force on the first day of the month after the XX day following the date of the deposit of the XX instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.
2. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the 30th day following the date of deposit of their instruments of ratification or accession.

D. Withdrawal and Duration

1. This Treaty shall be of unlimited duration.
2. A State party may, by written notification addressed to the Depositary, withdraw from this Treaty. The withdrawal shall take effect 180 days after the date of receipt of the notification, unless the notification specifies a later date.
3. A State shall not be discharged, by reason of its withdrawal, from the obligations arising from this Treaty while it was a party to the Treaty, including any financial obligations.

E. Reservations

1. No reservations that are incompatible with the object and purpose of the present Treaty shall be permitted.

F. Amendments

1. At any time after the Treaty's entry into force, a State party may propose an amendment to this Treaty.
2. Any proposed amendment shall be submitted in writing to the Depositary and the Implementation Support Unit, which will then circulate the proposal to all States Parties. Amendments shall be decided upon at the next scheduled Review Conference.

G. Assembly of States Parties

1. An Assembly of States Parties to this Treaty is established to improve the capacity of States Parties to promote the implementation of this Treaty.
2. The Assembly of States Parties shall convene not later than one year following the entry into force of this Treaty. The Assembly of States Parties shall adopt rules of procedure and rules governing its activities, including frequency of meetings and rules concerning payment of expenses incurred in carrying out those activities.

3. For years when a Review Conference is scheduled, no Assembly of States Parties will be held, and instead, two preparatory committee meetings shall be convened to prepare for the Review Conference.
4. If circumstances merit, an exceptional meeting of States Parties may be convened if required and resources allow.

H. Review Conferences

1. A Review Conference shall be convened 5 years after the entry into force of this Treaty and every 5 years thereafter in order to review the implementation and operation of this Treaty.
2. The preparatory meetings for the Review Conference shall agree upon the procedures necessary to achieve the objectives of the Review Conference, including, *inter alia*, facilitating activities by States Parties under the articles of this Treaty; reviewing the implementation of the Treaty; and making recommendations to improve this Treaty and its implementation and operation.

I. Consultation

1. States Parties may consult each other and request information for any matter regarding the implementation and operation of this Treaty.
2. States Parties shall provide information requested in accordance with their domestic legal systems. Requests for consultation or information shall be made in writing to the relevant national contact points.
3. When considering a potential transfer denial, the parties involved in the potential transaction are encouraged to consult with each other in order to take into account any relevant information to allow the recipient the opportunity take any necessary measures to avoid a denial of transfer.

J. Dispute Settlement

1. States Parties shall consult and cooperate with each other to settle any dispute that may arise with regard to the application or the interpretation of this Treaty.
2. Disputes that may arise as a result of a transfer denial should be settled by negotiations between the relevant parties.
3. States Parties shall settle any dispute between them concerning the interpretation or application of this Treaty by peaceful means in accordance with Article 2, paragraph 3, of the Charter of the United Nations.

K. Relations with States not party to this Treaty

1. Each State party shall encourage States not party to this Treaty to ratify, accept, approve or accede to this Treaty with the goal of achieving universal adherence.

L. Relationship with other instruments

1. This Treaty shall not affect the right of States Parties to enter into bilateral and multilateral agreements provided that these agreements are compatible with States obligations under this Treaty.

ANNEX A

Transactions or activities to be covered by this Treaty

1. For the purposes of this Treaty, the following transactions or activities shall be covered by States in their national legislation and regulations:

- a. **Transfer (includes import, export, re-export, temporary transfer, transshipment transit, transport, leases, loans, and gifts of conventional arms):** International arms transfers involve, the transfer of title or control over the equipment as well as the physical movement of the equipment into or from a national territory.
- b. **Brokering:** The facilitation by an intermediary who brings together relevant parties and arranges or facilitates a potential transaction of conventional arms in return for some form of benefit, whether financial or otherwise.
- c. **Manufacture under foreign licence:** An agreement whereby a person or entity in the exporting State grants a person or entity in the importing State an authorization to manufacture conventional arms which involves technology transfer or the use of technology or conventional arms previously supplied by the exporting State.
- d. **Technology transfer:** The export, by tangible or intangible means, of information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of conventional arms.