



## Establishing an Arms Trade Treaty

Briefing paper, January 2012

### Background

In October 2009, the international community agreed to launch negotiations for a treaty to effectively regulate the international arms trade. After an international campaign led by Nobel Peace Laureates and non-governmental organisations from all regions of the world, including the Amnesty International movement, 153 States voted in favour of UN General Assembly Resolution 64/48 calling on UN Member States to establish a “strong and robust” treaty and achieve an “*effective*” instrument with the **highest possible common international standards** for the import, export and international transfer of conventional arms. United Nations Preparatory Committees (PrepComs) for the Arms Trade Treaty (ATT) met for two weeks in 2010 and again in 2011, involving most Member States.

Following the most recent Arms Trade Treaty UN PrepCom (July 2011) there is a consolidated **Draft Chair’s Paper** covering all key areas of a future Treaty (the preamble, principles, goals and objectives, criteria, scope, implementation and final provisions).

A final UN PrepCom open to all Member States will meet from 13 to 17 February 2012 to discuss the Draft Chair’s Paper on the ATT and decide the procedural arrangements for the final scheduled Treaty negotiating conference to be held at the UN Headquarters in New York from 2 to 27 July 2012.

States will have to agree if and how the Chair’s Draft Paper will be used for the July negotiating conference. This Paper could provide the basis for discussions on a draft Treaty text leading to the adoption of an effective Treaty with:

- **robust criteria** whereby under the ATT national authorisation of an export, import or international transfer of conventional arms shall be denied when there is a **substantial risk** that the arms under consideration will be **used to commit or facilitate serious violations** of International Human Rights Law (IHRL) or International Humanitarian Law (IHL). This principle should also be applied where there is a substantial risk that the proposed transfer would seriously impair poverty reduction, socio economic development or be diverted to unauthorised end-users.
- **comprehensive scope of arms** and related equipment covered by the ATT to include the control of all weapons, munitions, armaments and related articles used for potentially lethal force in military and law enforcement operations, as well as any parts, components and accessories thereof, and machines, technologies and technical expertise for making, developing and maintaining those articles.
- **cover all types of international trade, transfers and transactions** in conventional arms (exports, imports, re-exports, transits, transshipments, temporary imports, government to government transfers, gifts, sales, loans, leases) and the essential services to complete the transaction (brokering, transport, finance).
- **strong implementation mechanisms** to provide for robust regulation of licensing systems, transparency and reporting, and criminalisation provisions.<sup>1</sup> Include in the Treaty implementation mechanisms to guarantee that (a) all transfers must be subjected to prior risk

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<sup>1</sup> See Amnesty International’s briefing, “Arms Trade Treaty: National Licensing or Authorization Systems”, for more information. <http://www.amnesty.org/en/library/info/ACT30/126/2011/en>

assessment and authorization from the relevant State/s involved, (b) all actors involved in such transfers and the transactions necessary to carry out those transfers, should be registered as operators only after careful scrutiny of the risks of their involvement (c) record keeping on such transfers and transactions should be comprehensive involving both the State authorities and the private actors carrying out the transfers, and records should be kept for 20 years (d) official reports on all transfers and authorizations should be published annually (e) States Parties should meet annually to discuss reports (f) Treaty review conferences should be held every five years.

In the coming months, officials from some influential States have indicated that they will push strongly to water down the Draft Chair's paper. For instance, some UN Member States are proposing that the ATT should only require states "to take into account" whether there is a substantial risk of human rights violations arising from a transfer, and not include an obligation on States Parties to refuse to authorize the transfer if they find such a risk exists. Such an approach would make the ATT extremely weak because, even if the scale or severity of violations being carried out using imported arms is "serious" and there is a substantial risk of the proposed transfer of arms being used to commit such violations, the State supplying them would not have to stop the transfer.

In addition, officials from some States want to cut down the types of articles included in the definition of conventional arms in the ATT, for example by excluding ammunition or small arms.

Such language in the ATT text will not aid better regulation of the international arms trade or curb irresponsible arms transfers that contribute to serious violations of human rights, war crimes and undermine the rule of law.

There are no global standards controlling the international trade in conventional arms except the UN Firearms Protocol to the Convention on Transnational Crime which is a very limited instrument with no reference to human rights or IHL. The last attempt to establish a treaty on the conventional arms trade failed under the League of Nations in the 1920s and 30s, ending with the arms race and outbreak of the Second World War.

Governments are permitting the irresponsible trade in weapons, munitions and other MSP equipment, fuelling illicit trafficking and the abuse of arms, thus inflicting misery and carnage on people in many countries.

To prevent this from happening, States need to take decisive action now.

### **How can the Members of Parliament help achieve a strong and robust ATT?**

Members of Parliament can:

- Monitor and make accountable their home government's participation and conduct in the ATT process through regular questioning and debate in plenary and in appropriate committees.
- Call on their home government to strongly support proposals, including those outlined above, for an effective ATT that will prevent the international arms trade from undermining global, regional and human security – this can be done in meetings, statements and resolutions in Parliament.
- Engage with officials and parliamentarians in other countries to jointly promote an effective ATT that contains the "Golden Rule" on IHRL and IHL, comprehensive scope and robust regulations on licensing systems and public reporting, as outlined in the proposals above.
- Write to the embassies and Ministers of Foreign Affairs of the key players in the ATT process, including the five permanent members of the UN Security Council (USA, UK, France, Russia and China) and other influential actors in the ATT process such as Brazil, India, South Africa, Indonesia, Norway, Sweden, the Netherlands and Germany, as well as key international officials such as the High Representative of the European Union for Foreign Affairs and Security Policy.