



Key Principles for the Arms Trade Treaty

The ATT must:

1. Have clear humanitarian and human rights goals

The purpose of the ATT is to prevent international transfers of conventional arms that contribute to or facilitate human suffering by establishing the highest possible common international standards for the import, export and transfer of conventional arms. Such standards should assist the prevention of illicit trafficking and enhance peace and security, socio-economic development and respect for international law, especially international human rights and humanitarian law.

2. Clearly articulate the responsibilities of States

States must maintain effective control of all aspects of international trade and transfers of conventional arms under their jurisdiction. These should be subject to prior authorization or approved in accordance with national laws and procedures that reflect, at a minimum, States' obligations under the ATT and other relevant international law. States through whose territory or jurisdiction the transit and trans-shipment of arms is arranged should receive prior notification of such transfers from the sending State, and have the right to refuse such transfers on grounds consistent with international law.

3. Include a comprehensive scope, covering all types of arms and all types of transfers

The ATT must ensure that States regulate the full range of conventional arms including all weapons, munitions, armaments and related articles used in military and internal security operations, as well as parts, components and accessories designed for such articles, and machines, technologies and technical expertise for making, developing, maintaining and deploying them. Each State party should be required to maintain a publically available national control list that reflects the comprehensive scope of the Treaty.

In addition, the Treaty must ensure States strictly regulate all forms of international trade, transfers and transactions in conventional arms: this includes exports, imports, re-exports, transits, transshipments, temporary imports, state-to-state transfers, gifts, sales, loans, leases and the essential services to complete transactions (e.g. brokering, transport, financing).

4. Have rigorous criteria and risk assessment procedures

The ATT must recognize existing international law obligations of States including the obligation to not authorize transfers that would violate Security Council arms embargoes or other relevant

international, regional or sub-regional obligations regarding the control and regulation of international trade and transfers of conventional arms.

The ATT must explicitly recognize the principle of due diligence. Thus States have an obligation to assess the risks associated with a proposed trade or transfer, including the risk that the transfer is likely to:

- Violate the existing positive obligation to ensure that their international trade and transfers of arms do not contribute to or facilitate serious violations of international humanitarian or international human rights laws or crimes under international law;
- Be used in a manner that would seriously undermine peace and security, or provoke, prolong or aggravate internal, regional, sub-regional or international instability;
- Seriously impair poverty reduction or divert significant resources from the socio-economic development of the recipient country;
- Be used to perpetuate a high level of firearms-related homicides and injuries;
- Be diverted to unauthorized end-users;
- Be used to perpetrate acts of gender-based violence, including rape and other forms of sexual violence;
- Involve corrupt practices;
- Be used in the commission of transnational organized crime;
- Be used to support, encourage, or perpetrate terrorist acts.

In cases where there is a substantial risk of any of these harms, States must ensure that the transfer does not take place until there is clear evidence that the risk has been sufficiently mitigated so that the substantial risk no longer exists.

5. Increase transparency in the international arms trade

The ATT should contribute to enhanced transparency in arms transfers, to promote confidence in shared security based on international law among States, and ensure greater accountability and respect for the rule of law. Transparency measures should include annual public national reports by each State covering (a) all types of conventional arms and forms of international transfer, transactions and services covered by the scope of the ATT; and (b) progressive national implementation of all obligations under the ATT specifying that State's relevant laws, regulations and administrative systems.

6. Ensure effective national control systems

The ATT should require States to establish or maintain an effective national control system in order to implement their obligations under the Treaty. Such a system should include:

- Establishment of end-use controls through verifiable written undertakings consistent with the purpose of the Treaty;
- Establishment of a legal framework to strictly regulate arms brokering, transport and other services that includes registration of operators and licensing of their activities;

- Disclosure by applicants of necessary information and full supporting documentation prior to authorization of a transfer;
- Adoption of legislative and other measures to establish as criminal or other offences the import, export, transit, trans-shipment, transfer or brokering of conventional arms and ammunition not licensed or authorized in accordance with the terms of the Treaty;
- System of detailed record-keeping of all international arms trade and transactions processed through the national control system. Records should be kept for at least 20 years.

7. Enhance cooperation, assistance and national capacity

The ATT should include provisions to enhance cooperation among States, including information exchange, mutual legal assistance and other forms of assistance. Provisions for strengthening national capabilities in implementing their national control systems should also be included. States must respect their existing obligations regarding victim assistance and co-operate where appropriate to that end.

8. Include mechanisms for annual Meetings of States Parties, dispute resolution and review of the Treaty

To increase its effective implementation, the ATT should establish an independent Treaty institution, such as an Implementation Support Unit, to fulfil Treaty-related functions, including serving as a repository for national reports. A minimum international institutional requirement would be for an annual Meeting of States Parties as the main Treaty oversight and decision-making body. Provision should also be made for periodic review conferences, which *inter alia* would review the operation and status of the Treaty. The ATT should also provide means for clarifying and addressing problems of compliance, such as resolution through diplomatic channels, other peaceful means of settlement or referral to the International Court of Justice in accordance with the statute of the Court.

AI Index : ACT 30/065/2012