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CONTROL ARMS COALITION NGO SPEECHES FOR THE FINAL DIPLOMATIC CONFERENCE ON THE ARMS TRADE TREATY MARCH 2013

**Presentation by Salil Shetty
Secretary General of Amnesty International**

Thank you Mr. President.

Amnesty International, in partnership with the Control Arms Coalition, has been working for years to urge the international community to adopt a strong, effective and comprehensive Arms Trade Treaty.

We are driven by the desire to stop the irresponsible trade in arms that fuels conflicts and civil unrest in which civilians suffer.

For more than two decades we have documented how civilians are targeted or subjected to indiscriminate attacks.

Men and sometimes boys are killed simply on the assumption that they will become combatants — often solely on the basis of their ethnicity. Women and girls are subjected to violence, often sexual violence, because those who are committing these crimes think they can destroy morale by attacking women. Children are forced into active participation in armed conflict.

It is crucial that you seize this opportunity to adopt a strong, effective and comprehensive Arms Trade Treaty that will stop the flow of arms to those who would commit these abuses.

We understand the economic and political interests in arms transfers and the right of all states to self defence as articulated in the UN Charter. But neither economic interest nor the right of self defence can justify authorizing transfers of arms and ammunitions where there is a substantial likelihood that they will be used to commit atrocities.

I want to focus on Articles 4 and 5, which define when an arms transfer is prohibited.

The difference between, and hence the complementarity, of Articles 4 and 5 of the draft text is the level of knowledge that exists at the time the transfer is being considered.

Article 4 establishes a form of “strict liability” whereby if a State **knows** that a proposed transfer will violate the law it is prohibited from authorising that transfer. I am specifically using the language of “knows” ~ not the language currently in the draft of “for the purpose of” as the latter requires specific intent. Knowledge should be sufficient to prohibit a transfer.

Article 4.1 is when there is an existing UN arms embargo.

Article 4.2 is when there is an existing prohibition such as a convention on illicit trafficking.

But it is Article 4.3 that is crucial to achieving the aims of the Arms Trade Treaty. It must clearly articulate an absolute prohibition on arms transfers where the transferring state has knowledge that the arms would be used to aid or assist or facilitate genocide, crimes against humanity or war crimes as well as serious violations of human rights.

In short, this is the key element of ensuring that no state may directly transfer arms or allow brokers working within the state’s jurisdiction to transfer arms when the state knows that those arms will be used to commit atrocities.

Some delegates have questioned the inclusion of human rights language and references to war crimes in Article 4.3. Let’s be clear — if states are not required to act unless the number of deaths rises to the level of a crime against humanity, then this treaty is no stronger than an arms embargo. (For example, in Syria the UN did not recognize crimes against humanity in that conflict until the civilian death toll topped 3,500).

If you - the states negotiating this treaty - do not commit to drafting and adopting a treaty that prevents atrocities - then you will have failed to seize this historic opportunity to save lives and prevent suffering.

Turning now to Article 5:

There will be situations in which states simply do not know how the arms being transferred will be used.

Article 5 is intended to establish criteria against which states must assess the risk of arms transfers being used irresponsibly.

Thus it makes sense for there to be a parallel construction between Article 4.3. (when states know) and Article 5.2 (what a state should act with due diligence to find out). Under 5.2, states must assess whether there is a substantial risk that the transfer will be used to commit atrocities. We strongly prefer that the threshold of substantial risk be incorporated rather than the language of “overriding”.

Therefore Article 5.2 must incorporate criteria to assess whether a covered transfer would be substantially likely to be used to commit or facilitate a serious violation of international humanitarian law or a serious violation of international human rights law.

Amnesty International and the Control Arms Coalition urge you to adopt language in both Article 4 and Article 5 that is fully complementary and that address the driving force behind this treaty — namely to ensure that there are no arms for atrocities.

Thank you.