

Chairman's Draft Paper
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Principles

1. *Guided by* the purposes and principles enshrined in the Charter of the United Nations, and reaffirming its respect for and commitment to international law;
2. *Recognising* that disarmament, non-proliferation and arms control are essential for the maintenance of international peace and security;
3. *Reaffirming* the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the United Nations Charter;
4. *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;
5. *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;
6. *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;
7. *Reaffirming* also the right of all States to territorial integrity and political independence;
8. *Recognising* that the control and regulation of the import, export and transfer of conventional arms and related items is done without prejudice to the priorities accorded to nuclear disarmament and weapons of mass destruction and conventional disarmament;
9. *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, 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;
10. *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;

11. *Recognising* the legitimate political, security, economic and commercial interests of States in the import, export and transfer of conventional arms and related items;
12. *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.
13. *Recalling* the obligations of all States to comply with United Nations Security Council decisions, in particular arms embargoes and sanctions,
14. *Reaffirming* their rights and obligations under international law, including international human rights law and international humanitarian law;
15. *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;
16. *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;
17. *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;
18. *Recognising* the importance of the universal application of the Arms Trade Treaty and promoting its universal adherence;
19. *Recognising* that States may adopt more restrictive measures than those provided in the Arms Trade Treaty;

Goals and Objectives

An Arms Trade Treaty will:

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, production, and brokering of conventional arms;
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, 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.

Scope

- I. 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)-(k).
 - l. Technology and Equipment specially and exclusively designed and used to develop, manufacture, or maintain any of the categories in subparagraphs (a) - (k).

- II. 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 license
 - f. Technology transfer

Criteria

- I. State Parties shall evaluate all transfers and decide whether or not to authorize a transfer of arms. In reaching the decision whether or not to authorize a transfer of arms, competent national authorities of States shall apply the following criteria:

A. *International, Regional and Subregional Obligations of a State*

1. A State Party shall not authorize a transfer from, to, or through its territories 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 its territories 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 the 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 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.

II. States Parties shall make assessments whether to transfer arms on an objective and non-discriminatory basis, taking into account the nature of the arms to be transferred, the potential use of the weapon by the end-user and assessments made and information provided, inter alia, by:

1. Competent bodies of the United Nations, including the Security Council;
2. A State Party's own competent authorities and agencies, including its diplomatic and consular missions;
3. Relevant international, regional and subregional organisations;
4. Other States; and
5. Non-governmental organisations.

International Cooperation and Assistance

I. International Cooperation and Assistance

1. In fulfilling its obligations under this Treaty each State Party may offer or receive assistance.
2. State Parties may offer or receive assistance, inter alia, through the United Nations, international, regional, subregional or national organisations, non-governmental organisations, or on a bilateral basis.
3. State 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, and industrial cooperation related to the 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 organizations.
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. State 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. State 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.

II. 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 organisations, non-governmental organisations, or on a bilateral basis, as appropriate.

Annex A**Transactions or activities to be covered by the 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, in addition to the physical movement of equipment into or from national territory, the transfer of title to and control over the equipment.
 - 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 license:** An agreement whereby a person or entity in the exporting State grants a person or entity in the importing State an authorisation 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.