

Discussion Paper
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Preamble

The States Parties to this Treaty

1. *Recognising* the legitimate political, security, economic and commercial interests of States in the international trade of conventional arms and related items;
2. *Underlining* the need to prevent, combat and eradicate the illicit trade of conventional arms;
3. *Recognising* the sovereign right of States to regulate transfers that take place exclusively within their territory pursuant to their own legal or constitutional systems.
4. *Noting* the absence of commonly agreed global standards for the international transfer of conventional arms;
5. *Recognizing* the need to prevent the diversion of conventional arms from the licit to the illicit market;
6. *Mindful* that the absence of commonly agreed international standards for the transfer of conventional arms that address, inter alia, the problems relating to the unregulated trade of conventional arms and their diversion to the illicit market is a contributory factor to armed conflict, serious violations of international humanitarian and human rights law, the displacement of people, armed violence, gender based violence, organized crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable social and economic development;
7. *Resolved* to do their utmost to provide assistance to the victims of armed conflict, including through appropriate medical care, rehabilitation, and social and economic reintegration;
8. *Bearing in mind* that existing national, regional and subregional best practices and instruments on the international transfer of conventional arms can play an important role in furthering the goals and objectives of an Arms Trade Treaty;
9. *Emphasising* that State Parties may adopt more restrictive measures than those provided in the Arms Trade Treaty;

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Principles

1. *Guided* by the purposes and principles enshrined in the Charter of the United Nations, and reaffirming the inherent right of all States to individual or collective self-defence as recognised in Article 51;
2. *Reaffirming* the right of all States to territorial integrity and political independence;
3. *Believing* it necessary for States to acquire conventional arms and related items to meet their legitimate national security concerns and in order to participate in peacekeeping operations in accordance with the Charter of the United Nations;
4. *Acknowledging* the responsibility of all States to effectively regulate and control the international transfer of conventional arms;
5. *Reaffirming* the rights and obligations of States under international law, including international humanitarian law and international human rights law;

Have agreed as follows:

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Goals and Objectives

This Treaty shall seek to improve regulation of the international trade in conventional arms through the application of the highest possible international standards in order to:

1. Reduce unnecessary human suffering;
2. Inhibit the diversion into the illicit market; and
3. Promote transparency, accountability and the responsibility of States.

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Scope

A. Covered Items

1. This Treaty shall apply to all conventional arms, including, inter alia, those arms and related material that fall within the following categories, either manned or unmanned, whether exported in complete, partially assembled or unassembled form:

- a. Tanks
 - b. Military vehicles
 - c. Artillery systems
 - d. Military Aircraft
 - e. Military Helicopters
 - f. Naval Vessels (surface and submarine vessels)
 - g. Missile and Missile Systems (guided or unguided) including launching apparatus
 - h. Small Arms
 - i. Light Weapons
 - j. Ammunition/Military Munitions
 - k. Parts or components specially designed for any of the categories listed in subparagraphs (a)-(i) of this paragraph
2. State Parties shall establish, maintain, and publish a control list of the conventional arms they consider falls within the scope of this Treaty.

B. Covered Activities

1. This Treaty shall apply to all international transfers of conventional arms, hereafter referred to as “transfer,” defined as:
 - a. The physical movement of conventional arms into or from national territory, and which includes the transfer of title or control over the conventional arms; or
 - b. The transfer of title or control over the conventional arms.
2. A transfer does not include the supply of conventional arms and related items by a State Party to its armed forces or law enforcement agencies stationed abroad or to support United Nations mandated peacekeeping operations.
3. State Parties shall establish national legislation, regulations and administrative procedures, as appropriate, for transfers under the scope of this Treaty, including at a minimum for:
 - a. Import (*receiving conventional arms into a State Party’s territory*)
 - b. Export (*change of title, control or ownership of conventional arms*)
 - c. The control of brokers (*people or entities acting as an intermediary that 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*)
 - d. Transit and Transshipment (*physical passage across the territory of a State with or without warehousing or change in mode of transportation, as part of a complete journey*)

C. Anti-Circumvention

1. States parties shall take all necessary measures to ensure that the goals and objectives of this treaty shall not be circumvented or undermined by items or activities, including the transfer of unassembled items, parts and components that would allow for the manufacture and assembly of conventional arms covered by the scope of the Treaty.

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Prohibition on Transfers

1. A State Party shall prohibit any transfer 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 prohibit any transfer of conventional arms if the transfer violates its relevant international obligations.
3. A State Party shall prohibit any transfer of conventional arms if the transfer will be used to support, encourage, or perpetrate terrorist acts.
4. A State Party shall prohibit any transfer of conventional arms from if the transfer will be used to commit grave breaches of international humanitarian law.

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Criteria

In assessing whether or not to authorize, suspend or revoke an application for an export of conventional arms and related items within the scope of this treaty, competent national authorities of States Parties shall make assessments on the basis of the criteria set out in A and B. In making such assessments, States Parties shall apply the criteria consistently, taking into account all relevant information, including the nature and potential use of the items to be transferred, the end-user and the country of final destination.

A. Potential violations of International Law

1. A State Party shall assess whether there is a substantial risk that the export of conventional arms under consideration will:
 - a. Be used to commit or facilitate serious violations of international human rights law.
 - b. Be used to commit or facilitate serious violations of international humanitarian law.

- c. Be used to commit or facilitate serious violations of international criminal law, including genocide, crimes against humanity and war crimes.
- d. Be diverted to be used to commit any of the above

2. Where substantial risks exist, there shall be an overriding presumption against authorization.

3. In circumstances where authorisation is granted despite the existence of a substantial risk, a State Party shall take appropriate precautionary and preventive measures to mitigate such risk, including such things as working with the recipient country, suspending or delaying authorisation, seeking further information or clarification regarding the transfer or attaching conditions to the transfer.

B. *Potential consequences of export*

1. A State Party shall assess whether there is a substantial risk that the export of conventional arms under consideration will:

- a. Be used in a manner that would seriously undermine peace and security or, provoke, prolong or aggravate acts of aggression or other breaches of the peace.
- b. Be used to commit or facilitate acts of transnational organised crime as defined in the United Nations Convention Against Transnational Organised Crime.
- c. Be diverted to unauthorised end users, including into the illicit market, for use in a manner inconsistent with the goals and objectives of the Treaty.
- d. Be subject to corrupt practices.
- e. Have severely adverse economic impacts within the recipient State that would significantly outweigh the security benefit of the export.

2. Where a substantial risk exists, there shall be a strong presumption against authorisation.

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Implementation

1. Implementation of all Treaty obligations, including authorizations and assessments enumerated in Article XX, shall be undertaken at the national level.
2. Each State Party shall take all appropriate legislative and administrative measures necessary to implement the obligations of this Treaty.
3. Each State Party shall establish one or more national contact points for issues related to this Treaty. A State Party shall notify the Implementation Support Unit (see Article XX) of its national contact point(s). A list of national contact points shall be maintained and

distributed to States Parties by the Implementation Support Unit on a quarterly basis.

4. Each State Party is encouraged to maintain consultations and to share information regarding the implementation of this Treaty.
5. Communication between national points of contact is encouraged to support the application and implementation of this Treaty.

A. NATIONAL AUTHORITY AND SYSTEMS

Authorization Systems

1. Each State Party shall designate competent national authorities with defined duties that are responsible for maintaining a transparent, predictable and effective national control system for authorizing the transfer of conventional arms under the scope of this Treaty.
2. Each State Party shall conduct assessments whether to approve, refuse, suspend or revoke authorizations for the export of conventional arms under the scope of this Treaty, in accordance with the criteria set out in Article XX.
3. Each State Party shall take measures to ensure all authorizations for the export of conventional arms under the scope of this Treaty are detailed and issued prior to the export. Appropriate and relevant details of the authorization shall be made available to the import, transit and transshipment State Parties upon request.
4. Each State Party shall take all necessary measures to control the activities of brokers taking place under its jurisdiction or control in the context of transfers under this Treaty.

Notification Systems

1. Importing States Parties shall take measures to ensure that appropriate and relevant information is provided, upon request, to the exporting State Party to assist the exporting State in its criteria assessment and to assist in verifying end users.
2. Each State Party shall ensure that all conventional arms transferred to their territory as the final destination are recorded.
3. States Parties shall, where necessary, monitor and control items covered under the scope of this Treaty that transit or transship through their territories.

B. RECORD KEEPING, REPORTING AND TRANSPARENCY

1. Each State Party shall maintain records of all conventional arms authorisations or exports of conventional arms issued under the scope of this Treaty. Such records may contain,

inter alia, quantity, model/type, arms transfers authorized, arms actually transferred, details of transit State(s), recipient State(s) and end users. Records shall be kept for a minimum of twenty years.

2. Each State Party shall ensure that all conventional arms transferred to their territory as the final destination or that are authorised to transit their territory, are recorded. 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 twenty years.
3. Each State Party shall, no later than 180 days after entry into force of this Treaty for that State Party, submit an initial report to the Implementation Support Unit of all activities undertaken in order to implement this Treaty, including inter alia, domestic laws, regulations and administrative measures.
4. Each State party shall submit annually to the Implementation Support Unit an annual report for the preceding year concerning the authorization or transfer of conventional arms covered in Part III A (a-i) by 31 May for the preceding calendar year.
5. Each State Party shall submit the same report as defined in paragraph 4 of this Article to the United Nations Register of Conventional Arms by 31 May for the preceding calendar year.

C. ENFORCEMENT

1. Each State Party shall adopt national legislation or other appropriate measures, including law enforcement and judicial mechanisms, as may be necessary to prohibit the export of conventional arms under the scope of this Treaty from their territory unless authorized in accordance with this Treaty by that State Party.
2. Each State Party shall adopt necessary legislation or other appropriate measures to inspect and seize shipments, consistent with international law. Where such inspection and/or seizure takes place the Parties to the transaction may consult and use, where necessary, the dispute settlement arrangements provided for under this Treaty.
3. Each State Party shall establish criminal and /or civil penalties and other appropriate measures for violations of national legislation that implement the obligations set forth in this Treaty.

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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 reports submitted by States Parties.
- b. 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 any subsidiary organs, as necessary.
- c. Assist States Parties in providing information to the Assembly of States Parties and each other as envisaged in the Treaty, upon request.
- d. Facilitate offers and requests of assistance for Treaty implementation under the terms of this Treaty and promote international cooperation to that end, as needed.
- e. 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.
- f. Conduct outreach to increase awareness of this Treaty regime and to promote the universality of this Treaty.
- g. Perform other technical and administrative duties as assigned by the Assembly of States Parties or the Review Conference.

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International Cooperation and Assistance

1. States Parties shall encourage and facilitate international cooperation, including the exchange of information on matters regarding the implementation and application of this Treaty. Such voluntary exchange of information may 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 this Treaty and the abilities of States Parties to enforce and combat violations of the provisions of this Treaty.
3. States Parties shall, when appropriate and in accordance with applicable agreements or

arrangements and their domestic laws and regulations, afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the violations of the national measures implemented to comply with obligations under of the provisions of this Treaty.

4. In fulfilling its obligations under this Treaty, each State Party 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.
5. States Parties may also undertake information exchange on best practices in relation to any aspect of this Treaty.
6. States Parties shall designate one or more national points of contact to facilitate cooperation and information exchange between States Parties, and to act as a liaison on all matters relating to the implementation of this Treaty.

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Final Provisions

A. Depository and Authentic Texts

1. The Secretary-General of the United Nations is the Depository of this Treaty.
2. The original text 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. The Treaty shall be subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.
3. The Treaty shall be open for accession by any State that has not signed the Treaty. Instruments of accession shall be deposited with the Secretary-General of the United Nations.
4. 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, acceptance, approval or accession and the date of the entry into force of this Treaty, and of the receipt of other notices.

C. Entry into Force

1. This Treaty shall enter into force thirty days following the date of the deposit of the sixty-fifth instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations or three years from the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession, whichever is earlier.
2. For any State that deposits its instruments of ratification, acceptance, approval, or accession subsequent to the entry into force of this Treaty, the Treaty shall enter into force thirty days following the date of deposit of their instrument of ratification, acceptance, approval or accession.

D. Withdrawal and Duration

1. This Treaty shall be of unlimited duration.
2. A State party, in exercising its national sovereignty, shall have the right to withdraw from this Treaty. States wishing to withdraw from the Treaty must provide written notification addressed to all States Parties and the Depository, which includes a full explanation of the reasons for withdrawal. 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 this 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 Depository and the Implementation Support Unit, which will then circulate the proposal to all States Parties, in order to seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of States Parties notify the Implementation Support Unit that they support further consideration of the proposal no later than 90 days after its circulation, the Implementation Support Unit shall convene an Amendment Conference to which all States Parties shall be invited.
3. The Amendment Conference shall be held immediately following the next scheduled

meeting of States Parties or a Review Conference, unless a majority of States Parties request that it be held earlier.

4. Any amendment to this Treaty shall be adopted by consensus of the States Parties present at the Amendment Conference. The Implementation Support Unit shall communicate any amendment to all States Parties.
5. Any amendment to this Treaty shall enter into force for all States Parties to this Treaty that have accepted it, upon the deposit with the Depository of instruments of acceptance by a majority of States Parties. Thereafter, it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

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 or to consider any matter with regard to the application or implementation of this Treaty.
2. The Assembly of States Parties shall be convened 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 by the Secretary-General of the United Nations five years after the entry into force of this Treaty and every five years thereafter, unless otherwise agreed by a Review Conference. The purpose of the Review Conferences shall be to review the implementation and operation of this Treaty and, when appropriate, consider amendment proposals.
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 paragraph 1 of this Article, subject to their domestic legislation. Requests for consultation or information shall be made in writing to the relevant national contact points.

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. States Parties shall settle any dispute between them concerning the interpretation or application of this Treaty through negotiations between the relevant parties.

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.
2. States Parties shall apply Articles XX and XX to all transfers from its territory, including to those States not party to this Treaty.

L. Relationship with other instruments

1. This Treaty shall not affect existing bilateral and multilateral agreements or the right of States Parties to enter such agreements, provided that these agreements are compatible with their obligations under this Treaty and do not undermine the goals and objectives of this Treaty.