

## **Global Principles for the Parameters of an ATT**

UN General Assembly Resolution 63/240 states that during 2009 the open-ended working group on an Arms Trade Treaty (ATT) will further consider elements for the Treaty where consensus could be developed “with the principles of the Charter of the United Nations and other existing international obligations at the centre of such considerations.”

The principles set out in this document reflect UN Charter principles, States’ existing international obligations and global norms in respect of international transfers of arms and ammunition. These principles also recognise States’ right to legitimate self-defence and law enforcement in accordance with international standards.

### **Global Principles for International Arms Transfers**

#### **I. Responsibilities of States**

States with jurisdiction over any part of an international transfer of conventional arms or ammunition should ensure, on a case-by-case basis, prior to the authorisation of any transfer, that it is in accordance with national laws and procedures that conform with States’ obligations under international law. These obligations are summarised below. Authorisation should not be granted where there is a substantial risk that the arms or ammunition will be diverted from the specifically authorised legal end-use or legal end-user, or will be retransferred contrary to the criteria set out in Principles 2 and 3 below. These key principles should be incorporated into the text of an ATT as the standards for determining the legality of an international transfer of arms and ammunition:

#### **2. Express prohibitions**

States should not authorise an international transfer of arms or ammunition that violate their expressed obligations under international law. These include:

##### **A. Obligations under the UN Charter**, including:

- i. Binding resolutions of the Security Council, such as those imposing arms embargoes;
- ii. The prohibition on the threat or use of force;
- iii. The prohibition on intervention in the internal affairs of another State.

##### **B. Any other treaty or decision by which that State is bound**, including:

- i. Binding decisions, including embargoes, adopted by relevant international, multilateral, regional, and sub-regional organisations to which a State is party.
- ii. Prohibitions on arms transfers that arise in particular treaties which a State is party to, such as the 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its Protocols.

##### **C. Universally binding principles of international humanitarian law**, including:

- i. The prohibition on the use of arms that are of a nature to cause superfluous injury or unnecessary suffering;
- ii. The prohibition on weapons or munitions incapable of distinguishing between combatants and civilians

### 3. International legal obligations and global norms

States should not authorise an international transfer of arms or ammunition where there is a substantial risk that they will:

- A. Breach the UN Charter and customary law rules relating to the use of force;
- B. Be used in serious violations of international human rights law;
- C. Be used in serious violations of international humanitarian law;
- D. Be used to commit acts of genocide or crimes against humanity.
- E. Facilitate terrorist attacks;
- F. Facilitate a pattern of gender-based violence, violent crime or be used for the commission of organised crime;
- G. Adversely affect regional security or stability, or contribute to the excessive and destabilising accumulation of arms;
- H. Seriously impair poverty reduction or socio-economic development;
- I. Involve corrupt practices.
- J. Contravene other international, regional, or sub-regional commitments or decisions made, or agreements on non-proliferation, small arms, arms control, and disarmament to which States involved in the transfer are a party.

### 4. Comprehensive scope

An Arms Trade Treaty should establish control mechanisms to cover all of the following:

- A. All conventional military, security and police armaments, weapons and related materiel of all types, including small arms and light weapons; conventional ammunition and explosives used for the aforementioned; internal security weapons, ammunition and equipment deployed in the use of force; components, expertise and equipment essential for the production, maintenance and use of the aforementioned; and dual-use items that can have a military, security and police application;
- B. All conventional arms and ammunition imports, exports, re-exports, temporary transfers, transit, transshipments, retransfers, state-to-state transfers; state-to-private end-user transfers, commercial sales; leases; transfers of licensed foreign arms production and technology; loans, gifts or aid; or any other form of international transfer of arms and related materiel of all types;
- C. All transactions for the international transfer of conventional arms and ammunition by: dealers or sales agents; arms brokers; those providing for technical assistance, training, transport, freight forwarding, storage, finance, insurance, maintenance, security and other services integral to such transfers.

### 5. Transparency and implementation mechanisms

**A. Transparency** - States should submit comprehensive national annual reports on all international transfers of all arms and ammunition covered by the Treaty to an international registry, which should:

- (i) Analyse the data and publish a comprehensive annual report, and
- (ii) Provide support and guidance to state parties in the production of their national reports.

**B. Implementation** - to monitor compliance and ensure effective functioning, an Arms Trade Treaty should include:

- (i) Provisions for meetings of states parties and a formal review mechanism;
- (ii) Mechanisms for monitoring and verifying compliance;
- (iii) Provisions for adjudication, dispute settlement and sanctions.

### 6. International cooperation and assistance

The Arms Trade Treaty should include a comprehensive framework for international cooperation and support, within which States can request and receive assistance from other interested States and relevant international, regional, and sub-regional organisations in order to facilitate full implementation of their Treaty obligations.