INTRODUCTORY NOTE TO THE ARMS TRADE TREATY

BY SCOTT STEDJAN*

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Introduction

The Arms Trade Treaty (ATT), open for signature on June 3, 2013, is the first ever multilateral treaty on the global trade in conventional arms. It establishes common standards for the $40 billion[1] legal international trade of weapons and seeks to reduce the illicit arms trade.

Background to the Treaty

States adopted the ATT because they were convinced by experience and civil society pressure that the global arms trade was out of control and needed further regulation. A variety of regional and voluntary agreements on the arms trade existed prior to the ATT, but these were seen as insufficient due to their limited scope and lack of binding requirements.[2] Further, civil society and some members of the United Nations grew frustrated with the systematic violation of UN arms embargoes emplaced by the Security Council.[3] Also, due to ineffective governmental control of arms flow at the national level, at least $2.2 billion worth of arms and ammunition were imported by countries under arms embargoes between 2000 and 2010.[4] Governments that championed the development of the ATT argued that a clear, strong set of rules to govern the arms trade was needed to prevent governments and other actors from transferring arms to end users that threaten peace, commit abuses, and undermine global efforts to reduce poverty.[5]

The development of the ATT was challenging. Efforts to achieve a global treaty on the arms trade began almost 100 years ago, when ratification of the 1919 Convention for the Control of the Trade of Arms and Ammunition was at the top of the agenda for the League of Nations at its first General Assembly in November of 1920.[6] However, this and subsequent efforts failed to achieve sufficient support of both arms exporting and importing States. Because many powerful States viewed international trade in arms as a pre-requisite for building alliances, maintaining a vibrant domestic manufacturing base, and achieving profits, major arms exporters long resisted international regulation. At the same time, importing States dependent on the global market for meeting their self-defense needs feared that global regulation could infringe on their ability to acquire arms. Thus, the world had to wait until the 21st century for the development of discussion on a global instrument on the arms trade.

The current effort to achieve an agreement on the arms trade formally began in 2006 when the United Kingdom, joined by Argentina, Australia, Costa Rica, Finland, Japan, and Kenya, introduced a resolution at the United Nations General Assembly that requested the Secretary General to begin the process of creating an arms trade treaty.[7] After almost three years of general discussions, the General Assembly approved a resolution in 2009 that established a negotiating mandate to begin talks in July 2012.[8] While a draft treaty was produced during the 2012 negotiations, the draft failed to achieve consensus when a group of Member States, led by the United States, objected to the adoption of the draft agreement and requested more negotiating time.[9] While some analysts pointed to the U.S. elections in November 2012 as the stumbling block for the negotiations,[10] the objectors claimed that the draft treaty was inadequate from a legal perspective and that there was not enough time remaining in the negotiations to solve some these problems.[11]

Members of the United Nations tried to reach consensus once again in a second round of negotiations in March 2013, but this time, the States established a process whereby the failure to reach consensus could be circumvented by an act of the General Assembly.[12] The March negotiations produced a treaty that once again failed to gain consensus when three countries currently under regional or United Nations arms-embargoes, Syria, Iran, and North Korea, blocked consensus on the agreement. Making use of the language in the 2012 General Assembly resolution which required the General Assembly to "remain seized on the matter,"[13] a group of countries led by Kenya, the United Kingdom, and the United States bypassed the consensus requirement and passed a General Assembly resolution on April 2, 2013,[14] adopting the Arms Trade Treaty by an overwhelming majority vote of 156 to 3.[15] While the resolution passed by a large margin, some countries objected to the procedural move and voted as an abstention.[16]

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Provisions of the Treaty

The Arms Trade Treaty applies to the export, import, transit, trans-shipment, and brokering of conventional weapons. While the Treaty lists specific weapons covered,[17] it encourages States Parties to "apply the provisions of this Treaty to the broadest range of conventional arms."[18] The Treaty does not apply to weapons of mass destruction (such as chemical, biological, or nuclear weapons), nor does it apply to the internal trade, manufacture, or use of firearms. In fact, the Treaty explicitly states that it is "the sovereign right of any State to regulate and control conventional arms exclusively within its territory, pursuant to its own legal or constitutional system."[19]

The centerpiece of the Arms Trade Treaty is the requirement in Articles 6 and 7 that countries refrain from exporting arms when the weapons will be used to undermine the Treaty's humanitarian goals. These articles are intended to place a strong stigma on arms transfers that contribute to or fuel atrocities, human rights abuses, violations of the laws of armed conflict, terrorism, or transnational organized crime. The Treaty stigmatizes such transfers by prohibiting arms exports in certain circumstances, most notably when the exporter knows that the importer will use the weapons for genocide, crimes against humanity, and war crimes. Under no circumstance can a State Party transfer arms when it has the knowledge that the weapons will be used for these crimes.

Where the prohibitions do not apply, States must conduct a comprehensive risk assessment and consider possible risk mitigation measures prior to authorizing an export. Article 7 requires States Parties to examine whether there is a risk of serious violations of international human rights or humanitarian law, or of contravening conventions relating to terrorism and organized crime. States are required to refuse authorization where this assessment concludes that, even with mitigation measures, there remains an "overriding risk" that the arms will be used for one or more of the negative acts listed.[20] States are also required to take into account, prior to the transfer of arms, the risk of the weapons being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children, and the risk of diversion from the legal to the illicit arms market.[21]

Another key feature of the ATT is its requirement that all States Parties build and enforce a national system controlling arms flowing into and out of their territory. While many countries had sophisticated import and export control systems prior to the ATT, a majority of the world had either grossly inadequate systems, or no system in place at all.[22] If all countries adopt at least a basic import and export control system, rogue arms dealers will have a difficult time finding a safe haven to base their operations, struggle to find transit countries that will allow the movement of illegal arms shipments, and eventually find their profits drying up.

While the Treaty requires all States Parties to adopt a basic control system, States are free and encouraged to regulate the arms trade beyond minimum requirements of the Treaty. Many treaty negotiators argued that it does not make sense for countries that do not export weapons and only import a small number of weapons to control arms transfers at the same level as major arms exporters. Likewise, States that, because of their location, do not serve as transit points for arms will not need to enact extensive controls on the transit and trans-shipment of arms. Thus, the Treaty enables countries to establish a system that serves the goals of the Treaty but does not put in place an expensive one-size-fits-all regime.

The Treaty will be enforced at the national level by States Parties who are required to "take appropriate measures to enforce national laws and regulations that implement the provisions of this Treaty."[23] Because there is no supernational body charged with enforcing the treaty, the requirement that States Parties share information is a prerequisite for accountability. The Treaty requires States Parties to maintain records on transfers and make data on transfers available in annual reports so that the appropriateness of transfers can be assessed by other governments and citizens.

Conclusion

While no treaty, by itself, can stop all illegal arms dealing or countries from selling or giving weapons to irresponsible end users, the Arms Trade Treaty is an important step toward controlling the international arms trade. It bans the transfer of arms where the exporter has knowledge that the weapons will be used in the world's worst crimes. It will help prevent the irresponsible and illegal transfer of conventional arms to commit violations of human rights and international humanitarian law, terrorism, and transnational organized crime. It will, over time, obstruct

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unscrupulous arms dealers and provide some much-needed transparency to the arms trade. The goals of the Treaty are ambitious, and meeting these goals will depend upon how universal the Treaty becomes and whether States Parties will rigorously implement its provisions. The Treaty will enter into force ninety days after the fiftieth instrument of ratification, acceptance, or approval is deposited with the United Nations.[24]

ENDNOTES

1 RICHARD F. GRIMMITT & PAUL K. KERR, CONG. RESEARCH SERV., R42678, CONVENTIONAL ARMS TRANSFERS TO DEVELOPING NATIONS, 2004–2011 3–4 (2012) ("The value of all arms transfer agreements worldwide . . . in 2011 was $85.3 billion. This was an extraordinary increase in arms agreements values (91.7%) over the 2010 total of $44.5 billion . . . . The value of all international arms deliveries in 2011 was nearly $44.3 billion.").

2 *See, e.g.*, Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, Nov. 14, 1997, 37 I.L.M. 143, http://www.oas.org/juridico/english/treaties/a-63.html; European Union Code of Conduct on Arms Exports, DG E – PESC IV, June 5, 1998, E.U. Doc. 8675/2/98, http://www.consilium.europa.eu/uedocs/cmsUpload/08675r2en8.pdf; Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, May 31, 2001, U.N. Doc. A/55/383/Add.2, 2326 U.N.T.S. 208; Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, July 9–20, 2001, ch. IV, U.N. Doc. A/CONF.192/15, http://cns.miis.edu/inventory/pdfs/aptsarms.pdf; Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, July 2004, http://www.wassenaar.org/2003Plenary/initial_elements2003.htm.

3 Louis Charbonneau, *UN Arms Embargoes Don't Work, Arms Treaty Needed: Rights Groups*, REUTERS, Mar. 19, 2013, http://www.reuters.com/article/2013/03/19/us-arms-treaty-un-idUSBRE92I1A120130319.

4 DEEPAYAN BASU RAY, OXFAM, THE DEVIL IS IN THE DETAIL: THE IMPORTANCE OF COMPREHENSIVE AND LEGALLY BINDING CRITERIA FOR ARMS TRANSFERS 6 n. 3 (2012), http://www.oxfam.org/sites/www.oxfam.org/files/tb-devil-detail-arms-trade-treaty-030512-en.pdf.

5 *See* U.N. Secretary General, The Arms Trade Treaty: Rep. of the Secretary-General, July 20, 2011, U.N. Doc. A/66/166 (citing views of member States on the need for an Arms Trade Treaty).

6 *See* SARAH PARKER, UNITED NATIONS INSTITUTE FOR DISARMAMENT RESEARCH, IMPLICATIONS OF STATES' VIEWS ON AN ARMS TRADE TREATY (2008), http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=55665 (a detailed history of efforts toward an Arms Trade Treaty).

7 G.A. Res. 61/89, U.N. GAOR 61st Sess., U.N. Doc. A/RES/61/89 (Dec. 18, 2006), http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/61/89&Lang=E.

8 G.A. Res. 64/48, U.N. GAOR 64th Sess., U.N. Doc. A/RES/64/48 (Jan. 12, 2010), http://www.un.org/ga/search/view_doc.asp?symbol=A/res/64/48&Lang=E.

9 Rick Gladstone, *U.N. Misses Its Deadline for Arms Pact*, N.Y. TIMES, July 27, 2012, http://www.nytimes.com/2012/07/28/world/proponents-of-arms-trade-treaty-urge-final-approval.html?_r=0.

10 *Id.*

11 Press Statement, United States State Department Office of the Spokesperson, Arms Trade Treaty Conference (July 27, 2012), http://www.state.gov/r/pa/prs/ps/2012/07/195622.htm.

12 G.A. Res. 67/234 A, U.N. GAOR 67th Sess., U.N. Doc. A/RES/67/234 (Jan. 4, 2013), http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/67/234.

13 *Id.* ¶ 7.

14 G.A. Res. 67/234 B, U.N. GAOR 67th Sess., U.N. Doc. A/RES/67/234 B (Jan. 4, 2013), http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/67/234(B)&Lang=E.

15 Press Release, United Nations, Overwhelming Majority of States in General Assembly Say "Yes" to Arms Trade Treaty (Apr. 2, 2013), http://www.un.org/News/Press/docs/2013/ga11354.doc.htm.

16 *See e.g.*, *UN Arms Trade Treaty Should Be Reached Through Consensus: China*, XINHUA, Apr. 2, 2013, http://news.xinhuanet.com/english/world/2013-04/03/c_132280376.htm.

17 The categories of arms listed include: battle tanks; armored combat vehicles; large-caliber artillery systems; combat aircraft; attack helicopters; warships; missiles and missile launchers; small arms and light weapons; ammunition fired, launched or delivered by the arms listed above; and associated parts and components. Arms Trade Treaty, art. 2, Apr. 2, 2013, http://treaties.un.org/doc/Treaties/2013/04/20130410%2012-01%20PM/Ch_XXVI_08.pdf.

18 *Id.* at art. 5.3.

19 *Id.* at Preamble.

20 *Id.* at art. 7.

21 *Id.* at art. 7.4.

22 Press Release, United Nations, New Round of Negotiations Gets Under Way to Reach Consensus on Binding Treaty to Control Cross-Border Trade (Mar. 8, 2013), http://www.un.org/News/Press/docs/2013/dc3420.doc.htm ("While the international arms trade affected every country, more than 100 States today did not have a system for control of international conventional arms transfers.").

23 Arms Trade Treaty, *supra* note 17, at art. 14.

24 *Id.* at art. 22.

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ARMS TRADE TREATY
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UNITED NATIONS
2013

THE ARMS TRADE TREATY*

Preamble

The States Parties to this Treaty,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling Article 26 of the Charter of the United Nations which seeks to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources,

Underlining the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized end use and end users, including in the commission of terrorist acts,

Recognizing the legitimate political, security, economic and commercial interests of States in the international trade in conventional arms,

Reaffirming the sovereign right of any State to regulate and control conventional arms exclusively within its territory, pursuant to its own legal or constitutional system,

Acknowledging that peace and security, development and human rights are pillars of the United Nations system and foundations for collective security and recognizing that development, peace and security and human rights are interlinked and mutually reinforcing,

Recalling the United Nations Disarmament Commission Guidelines for international arms transfers in the context of General Assembly resolution 46/36H of 6 December 1991,

Noting the contribution made by the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, as well as the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons,

Recognizing the security, social, economic and humanitarian consequences of the illicit and unregulated trade in conventional arms,

Bearing in mind that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict and armed violence,

Recognizing also the challenges faced by victims of armed conflict and their need for adequate care, rehabilitation and social and economic inclusion,

Emphasizing that nothing in this Treaty prevents States from maintaining and adopting additional effective measures to further the object and purpose of this Treaty,

Mindful of the legitimate trade and lawful ownership, and use of certain conventional arms for recreational, cultural, historical, and sporting activities, where such trade, ownership and use are permitted or protected by law,

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Mindful also of the role regional organizations can play in assisting States Parties, upon request, in implementing this Treaty,

Recognizing the voluntary and active role that civil society, including non-governmental organizations, and industry can play in raising awareness of the object and purpose of this Treaty, and in supporting its implementation,

Acknowledging that regulation of the international trade in conventional arms and preventing their diversion should not hamper international cooperation and legitimate trade in materiel, equipment and technology for peaceful purposes,

Emphasizing the desirability of achieving universal adherence to this Treaty,

Determined to act in accordance with the following principles;

Principles

- The inherent right of all States to individual or collective self-defence as recognized in Article 51 of the Charter of the United Nations;
- The settlement of international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered in accordance with Article 2 (3) of the Charter of the United Nations;
- Refraining in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations in accordance with Article 2 (4) of the Charter of the United Nations;
- Non-intervention in matters which are essentially within the domestic jurisdiction of any State in accordance with Article 2 (7) of the Charter of the United Nations;
- Respecting and ensuring respect for international humanitarian law in accordance with, inter alia, the Geneva Conventions of 1949, and respecting and ensuring respect for human rights in accordance with, inter alia, the Charter of the United Nations and the Universal Declaration of Human Rights;
- The responsibility of all States, in accordance with their respective international obligations, to effectively regulate the international trade in conventional arms, and to prevent their diversion, as well as the primary responsibility of all States in establishing and implementing their respective national control systems;
- The respect for the legitimate interests of States to acquire conventional arms to exercise their right to self-defence and for peacekeeping operations; and to produce, export, import and transfer conventional arms;
- Implementing this Treaty in a consistent, objective and non-discriminatory manner,

Have agreed as follows:

Article 1

Object and Purpose

The object of this Treaty is to:

- Establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms;
- Prevent and eradicate the illicit trade in conventional arms and prevent their diversion;

for the purpose of:

- Contributing to international and regional peace, security and stability;
- Reducing human suffering;
- Promoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties.

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Article 2

Scope

1. This Treaty shall apply to all conventional arms within the following categories:

(a) Battle tanks;

(b) Armoured combat vehicles;

(c) Large-calibre artillery systems;

(d) Combat aircraft;

(e) Attack helicopters;

(f) Warships;

(g) Missiles and missile launchers; and

(h) Small arms and light weapons.

2. For the purposes of this Treaty, the activities of the international trade comprise export, import, transit, transshipment and brokering, hereafter referred to as "transfer".

3. This Treaty shall not apply to the international movement of conventional arms by, or on behalf of, a State Party for its use provided that the conventional arms remain under that State Party's ownership.

Article 3

Ammunition/Munitions

Each State Party shall establish and maintain a national control system to regulate the export of ammunition/munitions fired, launched or delivered by the conventional arms covered under Article 2 (1), and shall apply the provisions of Article 6 and Article 7 prior to authorizing the export of such ammunition/munitions.

Article 4

Parts and Components

Each State Party shall establish and maintain a national control system to regulate the export of parts and components where the export is in a form that provides the capability to assemble the conventional arms covered under Article 2 (1) and shall apply the provisions of Article 6 and Article 7 prior to authorizing the export of such parts and components.

Article 5

General Implementation

1. Each State Party shall implement this Treaty in a consistent, objective and non discriminatory manner, bearing in mind the principles referred to in this Treaty.

2. Each State Party shall establish and maintain a national control system, including a national control list, in order to implement the provisions of this Treaty.

3. Each State Party is encouraged to apply the provisions of this Treaty to the broadest range of conventional arms. National definitions of any of the categories covered under Article 2 (1) (a)-(g) shall not cover less than the descriptions used in the United Nations Register of Conventional Arms at the time of entry into force of this Treaty. For the category covered under Article 2 (1) (h), national definitions shall not cover less than the descriptions used in relevant United Nations instruments at the time of entry into force of this Treaty.

4. Each State Party, pursuant to its national laws, shall provide its national control list to the Secretariat, which shall make it available to other States Parties. States Parties are encouraged to make their control lists publicly available.

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5. Each State Party shall take measures necessary to implement the provisions of this Treaty and shall designate competent national authorities in order to have an effective and transparent national control system regulating the transfer of conventional arms covered under Article 2 (1) and of items covered under Article 3 and Article 4.

6. Each State Party shall designate one or more national points of contact to exchange information on matters related to the implementation of this Treaty. Each State Party shall notify the Secretariat, established under Article 18, of its national point(s) of contact and keep the information updated.

Article 6

Prohibitions

1. A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if the transfer would violate its obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes.

2. A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if the transfer would violate its relevant international obligations under international agreements to which it is a Party, in particular those relating to the transfer of, or illicit trafficking in, conventional arms.

3. A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party.

Article 7

Export and Export Assessment

1. If the export is not prohibited under Article 6, each exporting State Party, prior to authorization of the export of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, under its jurisdiction and pursuant to its national control system, shall, in an objective and non-discriminatory manner, taking into account relevant factors, including information provided by the importing State in accordance with Article 8 (1), assess the potential that the conventional arms or items:

(a) would contribute to or undermine peace and security;

(b) could be used to:

(i) commit or facilitate a serious violation of international humanitarian law;

(ii) commit or facilitate a serious violation of international human rights law;

(iii) commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party; or

(iv) commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.

2. The exporting State Party shall also consider whether there are measures that could be undertaken to mitigate risks identified in (a) or (b) in paragraph 1, such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States.

3. If, after conducting this assessment and considering available mitigating measures, the exporting State Party determines that there is an overriding risk of any of the negative consequences in paragraph 1, the exporting State Party shall not authorize the export.

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4. The exporting State Party, in making this assessment, shall take into account the risk of the conventional arms covered under Article 2 (1) or of the items covered under Article 3 or Article 4 being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children.

5. Each exporting State Party shall take measures to ensure that all authorizations for the export of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4 are detailed and issued prior to the export.

6. Each exporting State Party shall make available appropriate information about the authorization in question, upon request, to the importing State Party and to the transit or trans-shipment States Parties, subject to its national laws, practices or policies.

7. If, after an authorization has been granted, an exporting State Party becomes aware of new relevant information, it is encouraged to reassess the authorization after consultations, if appropriate, with the importing State.

Article 8

Import

1. Each importing State Party shall take measures to ensure that appropriate and relevant information is provided, upon request, pursuant to its national laws, to the exporting State Party, to assist the exporting State Party in conducting its national export assessment under Article 7. Such measures may include end use or end user documentation.

2. Each importing State Party shall take measures that will allow it to regulate, where necessary, imports under its jurisdiction of conventional arms covered under Article 2 (1). Such measures may include import systems.

3. Each importing State Party may request information from the exporting State Party concerning any pending or actual export authorizations where the importing State Party is the country of final destination.

Article 9

Transit or trans-shipment

Each State Party shall take appropriate measures to regulate, where necessary and feasible, the transit or trans-shipment under its jurisdiction of conventional arms covered under Article 2 (1) through its territory in accordance with relevant international law.

Article 10

Brokering

Each State Party shall take measures, pursuant to its national laws, to regulate brokering taking place under its jurisdiction for conventional arms covered under Article 2 (1). Such measures may include requiring brokers to register or obtain written authorization before engaging in brokering.

Article 11

Diversion

1. Each State Party involved in the transfer of conventional arms covered under Article 2 (1) shall take measures to prevent their diversion.

2. The exporting State Party shall seek to prevent the diversion of the transfer of conventional arms covered under Article 2 (1) through its national control system, established in accordance with Article 5 (2), by assessing the risk of diversion of the export and considering the establishment of mitigation measures such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States. Other prevention measures may include, where appropriate: examining parties involved in the export, requiring additional documentation, certificates, assurances, not authorizing the export or other appropriate measures.

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3. Importing, transit, trans-shipment and exporting States Parties shall cooperate and exchange information, pursuant to their national laws, where appropriate and feasible, in order to mitigate the risk of diversion of the transfer of conventional arms covered under Article 2 (1).

4. If a State Party detects a diversion of transferred conventional arms covered under Article 2 (1), the State Party shall take appropriate measures, pursuant to its national laws and in accordance with international law, to address such diversion. Such measures may include alerting potentially affected States Parties, examining diverted shipments of such conventional arms covered under Article 2 (1), and taking follow-up measures through investigation and law enforcement.

5. In order to better comprehend and prevent the diversion of transferred conventional arms covered under Article 2 (1), States Parties are encouraged to share relevant information with one another on effective measures to address diversion. Such information may include information on illicit activities including corruption, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organized groups engaged in diversion.

6. States Parties are encouraged to report to other States Parties, through the Secretariat, on measures taken in addressing the diversion of transferred conventional arms covered under Article 2 (1).

Article 12

Record keeping

1. Each State Party shall maintain national records, pursuant to its national laws and regulations, of its issuance of export authorizations or its actual exports of the conventional arms covered under Article 2 (1).

2. Each State Party is encouraged to maintain records of conventional arms covered under Article 2 (1) that are transferred to its territory as the final destination or that are authorized to transit or trans-ship territory under its jurisdiction.

3. Each State Party is encouraged to include in those records: the quantity, value, model/type, authorized international transfers of conventional arms covered under Article 2 (1), conventional arms actually transferred, details of exporting State(s), importing State(s), transit and trans-shipment State(s), and end users, as appropriate.

4. Records shall be kept for a minimum of ten years.

Article 13

Reporting

1. Each State Party shall, within the first year after entry into force of this Treaty for that State Party, in accordance with Article 22, provide an initial report to the Secretariat of measures undertaken in order to implement this Treaty, including national laws, national control lists and other regulations and administrative measures. Each State Party shall report to the Secretariat on any new measures undertaken in order to implement this Treaty, when appropriate. Reports shall be made available, and distributed to States Parties by the Secretariat.

2. States Parties are encouraged to report to other States Parties, through the Secretariat, information on measures taken that have been proven effective in addressing the diversion of transferred conventional arms covered under Article 2 (1).

3. Each State Party shall submit annually to the Secretariat by 31 May a report for the preceding calendar year concerning authorized or actual exports and imports of conventional arms covered under Article 2 (1). Reports shall be made available, and distributed to States Parties by the Secretariat. The report submitted to the Secretariat may contain the same information submitted by the State Party to relevant United Nations frameworks, including the United Nations Register of Conventional Arms. Reports may exclude commercially sensitive or national security information.

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Article 14

Enforcement

Each State Party shall take appropriate measures to enforce national laws and regulations that implement the provisions of this Treaty.

Article 15

International Cooperation

1. States Parties shall cooperate with each other, consistent with their respective security interests and national laws, to effectively implement this Treaty.

2. States Parties are encouraged to facilitate international cooperation, including exchanging information on matters of mutual interest regarding the implementation and application of this Treaty pursuant to their respective security interests and national laws.

3. States Parties are encouraged to consult on matters of mutual interest and to share information, as appropriate, to support the implementation of this Treaty.

4. States Parties are encouraged to cooperate, pursuant to their national laws, in order to assist national implementation of the provisions of this Treaty, including through sharing information regarding illicit activities and actors and in order to prevent and eradicate diversion of conventional arms covered under Article 2 (1).

5. States Parties shall, where jointly agreed and consistent with their national laws, afford one another the widest measure of assistance in investigations, prosecutions and judicial proceedings in relation to violations of national measures established pursuant to this Treaty.

6. States Parties are encouraged to take national measures and to cooperate with each other to prevent the transfer of conventional arms covered under Article 2 (1) becoming subject to corrupt practices.

7. States Parties are encouraged to exchange experience and information on lessons learned in relation to any aspect of this Treaty.

Article 16

International Assistance

1. In implementing this Treaty, each State Party may seek assistance including legal or legislative assistance, institutional capacity-building, and technical, material or financial assistance. Such assistance may include stockpile management, disarmament, demobilization and reintegration programmes, model legislation, and effective practices for implementation. Each State Party in a position to do so shall provide such assistance, upon request.

2. Each State Party may request, offer or receive assistance through, inter alia, the United Nations, international, regional, subregional or national organizations, non-governmental organizations, or on a bilateral basis.

3. A voluntary trust fund shall be established by States Parties to assist requesting States Parties requiring international assistance to implement this Treaty. Each State Party is encouraged to contribute resources to the fund.

Article 17

Conference of States Parties

1. A Conference of States Parties shall be convened by the provisional Secretariat, established under Article 18, no later than one year following the entry into force of this Treaty and thereafter at such other times as may be decided by the Conference of States Parties.

2. The Conference of States Parties shall adopt by consensus its rules of procedure at its first session.

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3. The Conference of States Parties shall adopt financial rules for itself as well as governing the funding of any subsidiary bodies it may establish as well as financial provisions governing the functioning of the Secretariat. At each ordinary session, it shall adopt a budget for the financial period until the next ordinary session.

4. The Conference of States Parties shall:

(a) Review the implementation of this Treaty, including developments in the field of conventional arms;

(b) Consider and adopt recommendations regarding the implementation and operation of this Treaty, in particular the promotion of its universality;

(c) Consider amendments to this Treaty in accordance with Article 20;

(d) Consider issues arising from the interpretation of this Treaty;

(e) Consider and decide the tasks and budget of the Secretariat;

(f) Consider the establishment of any subsidiary bodies as may be necessary to improve the functioning of this Treaty; and

(g) Perform any other function consistent with this Treaty.

5. Extraordinary meetings of the Conference of States Parties shall be held at such other times as may be deemed necessary by the Conference of States Parties, or at the written request of any State Party provided that this request is supported by at least two-thirds of the States Parties.

Article 18

Secretariat

1. This Treaty hereby establishes a Secretariat to assist States Parties in the effective implementation of this Treaty. Pending the first meeting of the Conference of States Parties, a provisional Secretariat will be responsible for the administrative functions covered under this Treaty.

2. The Secretariat shall be adequately staffed. Staff shall have the necessary expertise to ensure that the Secretariat can effectively undertake the responsibilities described in paragraph 3.

3. The Secretariat shall be responsible to States Parties. Within a minimized structure, the Secretariat shall undertake the following responsibilities:

(a) Receive, make available and distribute the reports as mandated by this Treaty;

(b) Maintain and make available to States Parties the list of national points of contact;

(c) Facilitate the matching of offers of and requests for assistance for Treaty implementation and promote international cooperation as requested;

(d) Facilitate the work of the Conference of States Parties, including making arrangements and providing the necessary services for meetings under this Treaty; and

(e) Perform other duties as decided by the Conferences of States Parties.

Article 19

Dispute Settlement

1. States Parties shall consult and, by mutual consent, cooperate to pursue settlement of any dispute that may arise between them with regard to the interpretation or application of this Treaty including through negotiations, mediation, conciliation, judicial settlement or other peaceful means.

2. States Parties may pursue, by mutual consent, arbitration to settle any dispute between them, regarding issues concerning the interpretation or application of this Treaty.

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Article 20

Amendments

1. Six years after the entry into force of this Treaty, any State Party may propose an amendment to this Treaty. Thereafter, proposed amendments may only be considered by the Conference of States Parties every three years.

2. Any proposal to amend this Treaty shall be submitted in writing to the Secretariat, which shall circulate the proposal to all States Parties, not less than 180 days before the next meeting of the Conference of States Parties at which amendments may be considered pursuant to paragraph 1. The amendment shall be considered at the next Conference of States Parties at which amendments may be considered pursuant to paragraph 1 if, no later than 120 days after its circulation by the Secretariat, a majority of States Parties notify the Secretariat that they support consideration of the proposal.

3. The States Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall, as a last resort, be adopted by a three-quarters majority vote of the States Parties present and voting at the meeting of the Conference of States Parties. For the purposes of this Article, States Parties present and voting means States Parties present and casting an affirmative or negative vote. The Depositary shall communicate any adopted amendment to all States Parties.

4. An amendment adopted in accordance with paragraph 3 shall enter into force for each State Party that has deposited its instrument of acceptance for that amendment, ninety days following the date of deposit with the Depositary of the instruments of acceptance by a majority of the number of States Parties at the time of the adoption of the amendment. Thereafter, it shall enter into force for any remaining State Party ninety days following the date of deposit of its instrument of acceptance for that amendment.

Article 21

Signature, Ratification, Acceptance, Approval or Accession

1. This Treaty shall be open for signature at the United Nations Headquarters in New York by all States from 3 June 2013 until its entry into force.

2. This Treaty is subject to ratification, acceptance or approval by each signatory State.

3. Following its entry into force, this Treaty shall be open for accession by any State that has not signed the Treaty.

4. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 22

Entry into Force

1. This Treaty shall enter into force ninety days following the date of the deposit of the fiftieth instrument of ratification, acceptance or approval with the Depositary.

2. For any State that deposits its instrument of ratification, acceptance, approval or accession subsequent to the entry into force of this Treaty, this Treaty shall enter into force for that State ninety days following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 23

Provisional Application

Any State may at the time of signature or the deposit of its instrument of ratification, acceptance, approval or accession, declare that it will apply provisionally Article 6 and Article 7 pending the entry into force of this Treaty for that State.

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Article 24

Duration and Withdrawal

1. This Treaty shall be of unlimited duration.

2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty. It shall give notification of such withdrawal to the Depositary, which shall notify all other States Parties. The notification of withdrawal may include an explanation of the reasons for its withdrawal. The notice of withdrawal shall take effect ninety days after the receipt of the notification of withdrawal by the Depositary, unless the notification of withdrawal 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 this Treaty, including any financial obligations that it may have accrued.

Article 25

Reservations

1. At the time of signature, ratification, acceptance, approval or accession, each State may formulate reservations, unless the reservations are incompatible with the object and purpose of this Treaty.

2. A State Party may withdraw its reservation at any time by notification to this effect addressed to the Depositary.

Article 26

Relationship with other international agreements

1. The implementation of this Treaty shall not prejudice obligations undertaken by States Parties with regard to existing or future international agreements, to which they are parties, where those obligations are consistent with this Treaty.

2. This Treaty shall not be cited as grounds for voiding defence cooperation agreements concluded between States Parties to this Treaty.

Article 27

Depositary

The Secretary-General of the United Nations shall be the Depositary of this Treaty.

Article 28

Authentic Texts

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.

DONE AT NEW YORK, this second day of April, two thousand and thirteen.

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