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THE ARMS TRADE TREATY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE ARMS TRADE TREATY, DONE AT NEW YORK ON APRIL 2, 2013, AND SIGNED BY THE UNITED STATES ON SEPTEMBER 25, 2013



DECEMBER 9, 2016.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *December 9, 2016.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, subject to certain declarations and understandings set forth in the enclosed report, I transmit herewith the Arms Trade Treaty, done at New York on April 2, 2013, and signed by the United States on September 25, 2013. I also transmit, for the information of the Senate, the report of the Secretary of State with respect to the Treaty, which contains a detailed article-by-article analysis of the Treaty.

The Treaty is designed to regulate the international trade in conventional arms—including small arms, tanks, combat aircraft, and warships—and to reduce the risk that international arms transfers will be used to commit atrocities, without impeding the legitimate arms trade. It will contribute to international peace and security, will strengthen the legitimate international trade in conventional arms, and is fully consistent with rights of U.S. citizens (including those secured by the Second Amendment to the U.S. Constitution). United States national control systems and practices to regulate the international transfer of conventional arms already meet or exceed the requirements of the Treaty, and no further legislation is necessary to comply with the Treaty. A key goal of the Treaty is to persuade other States to adopt national control systems for the international transfer of conventional arms that are closer to our own high standards.

By providing a basis for insisting that other countries improve national control systems for the international transfer of conventional arms, the Treaty will help reduce the risk that international transfers of specific conventional arms and items will be abused to carry out the world's worst crimes, including genocide, crimes against humanity, and war crimes. It will be an important foundational tool in ongoing efforts to prevent the illicit proliferation of conventional weapons around the world, which creates instability and supports some of the world's most violent regimes, terrorists, and criminals. The Treaty commits States Parties to establish and maintain a national system for the international transfer of conventional arms and to implement provisions of the Treaty that establish common international standards for conducting the international trade in conventional arms in a responsible manner. The Treaty is an important first step in bringing other countries up towards our own high national standards that already meet or exceed those of the Treaty.

The Treaty will strengthen our security without undermining legitimate international trade in conventional arms. The Treaty re-

flects the realities of the global nature of the defense supply chain in today's world. It will benefit U.S. companies by requiring States Parties to apply a common set of standards in regulating the defense trade, which establishes a more level playing field for U.S. industry. Industry also will benefit from the international transparency required by the Treaty, allowing U.S. industry to be better informed in advance of the national regulations of countries with which it is engaged in trade. This will provide U.S. industry with a clearer view of the international trading arena, fostering its ability to make more competitive and responsible business decisions based on more refined strategic analyses of the risks, including risks of possible diversion or potential gaps in accountability for international arms transfers, and the associated mitigation measures to reduce such risks in a given market.

The Treaty explicitly reaffirms the sovereign right of each country to decide for itself, pursuant to its own constitutional and legal system, how to deal with conventional arms that are traded exclusively within its borders. It also recognizes that legitimate purposes and interests exist for both individuals and governments to own, transfer, and use conventional arms. The Treaty is fully consistent with the domestic rights of U.S. citizens, including those guaranteed under the U.S. Constitution.

I recommend that the Senate give early and favorable consideration to the Treaty, and that it give its advice and consent to ratification of the Treaty, subject to the understandings and declarations set forth in the accompanying report.

BARACK OBAMA.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, DC, December 5, 2016.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmittal to the Senate for advice and consent to ratification, subject to the understandings and declarations set forth in the enclosed Overview, the Arms Trade Treaty (the "ATT" or the "Treaty"), which I signed at the United Nations in New York on September 25, 2013. The Treaty entered into force on December 24, 2014. Also enclosed is an Overview of the Treaty, which includes a detailed article-by-article analysis of the Treaty.

This Treaty will enhance the national security of the United States. The United States has long sought to promote greater standards for the international transfer of conventional arms, and the ATT is a multilateral treaty that requires each State Party to establish a national control system to regulate the international transfer of conventional arms covered by the Treaty, as well as the export of parts and components and ammunition/munitions covered by the Treaty. It will provide leverage for insisting that other countries improve their national control systems for the international transfer of conventional arms and thereby help reduce the risk that international transfers of specific conventional arms and items will be abused to carry out the world's worst crimes, including genocide, crimes against humanity, and war crimes. It will also be an important foundational tool in ongoing efforts to prevent the illicit proliferation of conventional weapons around the world, which creates instability and supports some of the world's most violent regimes, terrorists, and criminals.

The U.S. national control systems and practices to regulate the international transfer of conventional arms already meet or exceed the requirements of the Treaty. No additional legislation or regulation is required to comply with the Treaty. The Treaty will be an important tool in getting other States to adopt control systems that are closer to our high standards. The Treaty is not self-executing.

The Departments of Commerce, Defense, Justice, and Homeland Security join me in recommending that the Treaty be transmitted to the Senate at the earliest possible date for its advice and consent to ratification, subject to the understandings and declarations set forth in the enclosed Overview.

Respectfully submitted.

JOHN F. KERRY.

Enclosures: As stated.

OVERVIEW

Introduction

The Arms Trade Treaty ("the ATT" or "the Treaty") was open for signature by any State until its entry into force on December 24, 2014. It is now open for accession to any State that did not sign the Treaty. The ATT requires each State Party to regulate, on a national basis, the international transfer of conventional arms covered by the Treaty, as well as the export of parts and components and ammunition/munitions covered by the Treaty ("covered arms or items"). A State Party is required to establish and maintain a national control system, including a national control list, in order to regulate such international transfers. A State Party is prohibited from authorizing the international transfer of covered arms or items 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 (UN) or relevant international obligations under international agreements to which it is a party. The ATT also prohibits a State Party from authorizing any international transfer of covered arms or items if it has actual knowledge, at the time of the authorization, that the covered arms or items would be used in the commission of certain serious violations of international law, such as genocide. A State Party is also required to conduct a national assessment of proposed exports to assess the potential that covered arms or items could be used to commit or facilitate a serious violation of international human rights law or international humanitarian law, or an act constituting a terrorism offense or transnational organized crime offense under treaties to which the exporting State is a party, as well as take into account certain other specified factors. The U.S. national control system already meets the requirements of the ATT, and no changes in U.S. laws, regulations, policies, or practices would be required to meet obligations under the ATT if the United States were to become a State Party.

Article-by-Article Analysis

Preamble

The Preamble serves as an introduction to the Treaty and provides the general context of the Treaty. None of the preambular provisions impose an international legal obligation.

These preambular paragraphs underscore that the Treaty does not apply to wholly domestic trade in conventional arms, nor does it prohibit or place any obligations on the ownership or use of conventional arms. The fifth and thirteenth preambular paragraphs are of particular note in this regard. The fifth preambular paragraph reaffirms "the sovereign right of any State to regulate and control conventional arms exclusively within its territory, pursuant to its own legal or constitutional system," which makes clear that wholly domestic trade in or ownership of conventional arms remain exclusively the prerogative of each State Party to regulate and control within its territory, pursuant to its own legal or constitutional system. The thirteenth preambular paragraph recognizes "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."

To emphasize these important preambular paragraphs and to make clear that nothing in the Treaty requires or authorizes any actions inconsistent with the United States Constitution, including the Second Amendment thereto, I recommend that the United States include the following declaration in its instrument of ratification:

> The United States of America declares that nothing in the Treaty requires or authorizes any actions inconsistent with the United States Constitution, including the Second Amendment thereto. The Treaty explicitly recognizes, and does not require or authorize controls on, the domestic trade in, ownership of, and use of conventional arms.

The preamble also recognizes a number of principles that, like the rest of the preamble, do not impose international legal obligations. However, States Parties have an obligation under Article 5(1) to bear these principles in mind as they implement the Treaty.

Article 1

Article 1 describes the object of the Treaty as establishing the highest possible common international standards for regulating the international trade in conventional arms; preventing and eradicating the illicit trade in conventional arms; and preventing their diversion. The Article also describes the purpose of the Treaty as contributing to international and regional peace, security, and stability; reducing human suffering; and promoting cooperation, transparency, and responsible action by States Parties in the international trade in conventional arms.

Article 2

Article 2 addresses the scope of the Treaty's application. Paragraph 1 provides that the Treaty applies to a limited range of conventional arms covered by the listed categories. These categories correspond to the identically named seven categories of conventional arms covered by the UN Register of Conventional Arms (the "UN Register"), plus small arms and light weapons.

The negotiating States intentionally did not define these categories of arms for purposes of the Treaty to ensure that States Parties need not be limited by the descriptions used in the UN Register for each category. It was also well understood by negotiating States that national definitions of these categories would vary. However, as discussed below, Article 5(3) of the Treaty requires that national definitions of these categories not cover less than the descriptions used in the UN Register at the time of entry into force of the Treaty, for battle tanks, armored combat vehicles, large-caliber artillery systems, combat aircraft, attack helicopters, warships, and missiles and missile launchers; and in "relevant United Nations instruments" at the time of entry into force of the Treaty for small arms and light weapons under Article 2(1)(h).

Paragraph 2 defines the key Treaty term "transfer" as export, import, transit, trans-shipment, and brokering. The essential aspect of this definition is that the term "transfer" is defined for purposes of the Treaty only to include the specified activities of the *international* trade in the conventional arms and items covered by the Treaty. The Treaty does not apply to the wholly domestic trade in such conventional arms or items. To re-iterate this important point, I recommend that the United States include the following understanding in its instrument of ratification:

> The United States of America understands that the term "transfer" in Article 2(2) of the Treaty applies exclusively to the international trade in the conventional arms and items covered by the Treaty.

Consistent with the scope of the Treaty, the use of the term "transfer" in this document relates exclusively to international trade.

Paragraph 3 makes clear that the Treaty does not apply to the international movement of conventional arms by, or on behalf of, a State Party for its own use, provided the conventional arms remain under that State Party's ownership. Such movement does not amount to a "transfer" for purposes of the Treaty. This provision recognizes that States move conventional arms in and out of their territory for various purposes, including when deploying their armed forces, law enforcement personnel, diplomatic security personnel, or other official personnel overseas, and that such movements are not covered by the Treaty. The phrase "or on behalf of" recognizes that such movements may be carried out by entities other than the State Party that owns the arms, including commercial or common carriers or another State, so long as the arms remain under that State Party's ownership.

The United States already regulates the export, import, transit, trans-shipment, and brokering of all of the conventional arms covered under Article 2(1) of the Treaty. Accordingly, no change in existing U.S. laws, regulations, policies, or practices would be required for the United States to meet the Treaty's obligations with respect to the scope of transfers addressed by the Treaty.

The vast majority of exports, imports, transit, trans-shipment, and brokering of conventional arms covered under Article 2(1) of the Treaty constitute transfers of defense articles that are controlled under the Arms Export Control Act (AECA), 22 U.S.C.§§ 2751 to 2799aa-2. Under Executive Order 13637, dated March 8, 2013, the authority to control the import and export of defense articles has been delegated to the Secretary of State except with respect to the permanent import of defense articles. The International Traffic in Arms Regulations (ITAR), 22 C.F.R. Part 120 *et seq.*, implements this authority under the AECA. Those items designated as defense articles for purposes of export constitute the United States Munitions List (USML). The U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP) are charged with the statutory authority to investigate, detain, or seize any export or attempted export of defense articles or technical data regulated by ITAR. The Federal Bureau of Investigation (FBI) of the Department of Justice investigates such cases when there is a nexus to any foreign counterintelligence matter.

The AECA authority to regulate the permanent import of defense articles has been delegated to the Attorney General and is implemented by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Those items designated as defense articles for purposes of imports constitute the United States Munitions Import List (USMIL) found at 27 C.F.R. Part 447. ICE and CBP are charged with the statutory authority to investigate, detain, or seize any temporary import or attempted temporary import of defense articles or technical data regulated by the ITAR; ATF is charged with investigating, detaining, or seizing permanent imports of such defense articles or technical data.

For those conventional arms not controlled under the AECA, such arms are controlled for purposes of export through the Commerce Control List (CCL), which is administered by the Department of Commerce as part of its Export Administration Regulations (EAR). ICE and CBP are charged with the statutory authority to investigate, detain, or seize any export or attempted export of any items contained on the CCL and regulated by EAR. The Department of Commerce's Bureau of Industry and Security Export Enforcement (BIS EE) is authorized to investigate these cases within the United States, and may assist ICE in such investigations outside of the United States. The FBI is authorized to investigate these cases when there is a nexus to any foreign counterintelligence matter.

Article 3

Article 3 obligates States Parties to 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). The term "ammunition/munitions" is meant to indicate that the obligation applies to small caliber "ammunition" that are to be fired, launched, or delivered from small arms and light weapons, as well as larger caliber "munitions" that are to be fired, launched, or delivered from larger conventional arms covered under Article 2(1), such as battle tanks, large caliber artillery systems, and attack helicopters. The obligation in Article 3 applies exclusively to ammunition/munitions that are fired, launched, or delivered by the conventional arms covered under Article 2(1). In this regard, for example, a grenade launched from a hand-held under-barrel or mounted grenade launcher (e.g., an M203 grenade launcher) would be considered to be ammunition/munitions covered under Article 3, but a hand-thrown grenade would not be covered under Article 3. To clarify the meaning of the term "ammunition/munitions" and the scope of Article 3, I recommend that the United States include the following understanding in its instrument of ratification:

> The United States of America understands that the reference to "ammunition/munitions" in Article 3 of the Treaty means "ammunition and munitions" and that the scope of the Treaty accordingly includes both ammunition and munitions fired, launched, or delivered by the conventional arms covered under Article 2(1) of the Treaty.

For covered ammunition/munitions, Article 3 requires each State Party to establish and maintain a national control system to regulate the export of such ammunition/munitions, and to apply the provisions of Articles 6 and 7, discussed below, prior to authorizing the export of such

ammunition/munitions. (Although the prohibitions of Article 6 apply to "any transfer," Article 3 is limited to the "export" of ammunition/munitions.)

The United States already has in place the legal, regulatory, and policy framework required to comply with Article 3 without any changes to U.S. laws, regulations, policies, or practices. As discussed above, the AECA, as implemented by the ITAR, regulates the export of ammunition/munitions and already requires a license or other authorization to export. ICE and CBP are charged with the statutory authority to investigate, detain, or seize any export or attempted export of defense articles or technical data regulated by the ITAR. The FBI also investigates such cases when there is a nexus to any foreign counterintelligence matter.

Article 4

Article 4 requires each State Party to 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). This means that each State Party must control the export of "kits" that provide all of the parts and components necessary to assemble fully a conventional arm covered under Article 2(1), just as the State Party is required – under Article 5 – to control the export of the assembled conventional arm. Each State Party is also required to apply the provisions of Articles 6 and 7 to such kits, prior to authorizing their export. Article 4 therefore prevents a State Party from circumventing obligations on the export of conventional arms covered under Article 2(1) by exporting, at particular intervals, individual pieces of a "kit" to assemble fully such conventional arms.

The United States already has in place the legal, regulatory, and policy framework required to comply with Article 4 without any changes to U.S. laws, regulations, policies, or practices. The United States already has a system to control the export of "kits," governed by both the USML as part of the ITAR (administered by the Department of State) and the CCL as part of the EAR. The Department of Commerce administers the EAR and the CCL pursuant to authority granted by the President in Executive Order 13222 of August 17, 2001, issued pursuant to, *inter alia*, § 203 of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. § 1702. Executive Order 13222 provides that the provisions of the expired Export Administration Act of 1979 (EAA), 50 U.S.C. §§ 4601 *et seq.* (formerly codified at 50 U.S.C. App. § 2401), the initial statutory authority for the EAR and CCL, continue in full force and effect, to the extent permitted by law. ICE and CBP are charged with full statutory authority to investigate, detain, or seize any export or attempted export of any items contained on the CCL and regulated by EAR. BIS EE is authorized to investigate these cases within the United States, and may assist ICE in such investigations outside of the United States. The FBI is authorized to investigate these cases when there is a nexus to any foreign counterintelligence matter.

Article 5

Article 5 provides general obligations with respect to the implementation of the Treaty. Paragraph 1 provides that each State Party shall implement the Treaty in a consistent, objective, and non-discriminatory manner, bearing in mind the eight principles identified in the preamble.

Paragraph 2 provides that each State Party must establish and maintain a national control system, including a national control list, in order to implement the provisions of the Treaty. This core obligation requires each State Party to establish a national control system to regulate the transfer of the conventional arms and items covered by the Treaty, to the extent required by the Treaty. As discussed throughout this analysis, the existing U.S. legal, regulatory, and policy framework for regulating the transfer of covered conventional arms and items, which includes the various U.S. national control lists, already satisfies the obligation imposed by paragraph 2 without any changes to U.S. laws, regulations, policies, or practices.

Paragraph 3 encourages, but does not require, States Parties to apply the provisions of the Treaty, which pertain exclusively to international transfers, to the broadest range of conventional arms. This sentence is intended to convey the idea that, although the obligations of the Treaty are limited to the conventional arms covered under Article 2(1), States Parties are encouraged to control the international transfer of a wider range of conventional arms on a voluntary basis. Paragraph 3 then requires that, in the national control systems established and maintained by States Parties, the national definitions of the categories covered under paragraphs (a) through (g) of Article 2(1) shall not cover less conventional arms than the descriptions used in the UN Register for those same categories at the time of entry into force of the Treaty. As a result, even though national definitions of the conventional arms in these categories may differ in some respects from the definitions in the UN Register, each State Party's national control list must at the very least include those conventional arms covered by the UN Register for each corresponding category at the time of entry into force of the Treaty.

The final sentence of paragraph 3 provides that national definitions of "small arms and light weapons" shall not cover less than the descriptions used in "relevant United Nations instruments at the time of entry into force of this Treaty." At the time of entry into force of the Treaty, the only two relevant UN instruments were the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (the "ITI"), as established by UN General Assembly Document A/60/88 (2005), and the UN Register, as established by UN General Assembly Resolution 46/36 L (1991). To make clear that these instruments are the only two "relevant United Nations instruments" as of the Treaty's entry into force on December 24, 2014, I recommend that the United States include the following understanding in its instrument of ratification:

> The United States of America understands that the reference to "relevant United Nations instruments at the time of entry into force of" the Treaty in Article 5(3) of the Treaty refers exclusively to the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, as established by UN General Assembly Document A/60/88 (2005), and the UN Register of Conventional Arms, as established by UN General Assembly Resolution 46/36 L (1991).

The ITI defines "small arms and light weapons" as "any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet[,] or projectile by the action of an explosive, excluding antique small arms and light

weapons or their replicas." The UN Register groups "small arms and light weapons" in the following categories:

- Small arms: (1) Revolvers and self-loading pistols; (2) Rifles and carbines; (3) Sub-machine guns; (4) Assault rifles; and (5) Light machine guns.

- Light weapons: (1) Heavy machine guns; (2) Hand-held underbarrel and mounted grenade launchers; (3) Portable anti-tank guns; (4) Recoilless rifles; (5) Portable anti-tank missile launchers and rocket systems; and (6) Mortars of calibers less than 75 mm.

The UN Register's categories were derived from the definitions in the Munitions List of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies — the United States helped create both — and were intended to be consistent with the ITI's definition. Accordingly, the ITI definition and the UN Register categories provide the minimum scope of small arms and light weapons that must be covered by a State Party's national definition of small arms and light weapons.

Paragraph 4 provides that each State Party, pursuant to its national laws, is required to provide its national control list to the Secretariat, which shall make it available to other States Parties. States Parties are encouraged, but not required, to make their national control lists publicly available. U.S. national control lists are already publicly available; the obligation to provide the Secretariat with the U.S. national control list could be satisfied by simply providing the Secretariat with the publicly available control lists that support the U.S. national control system—the CCL and the USML.

Paragraph 5 states that each State Party must take measures necessary to implement the provisions of the Treaty and provides that each State Party must designate competent national authorities in order to have an effective and transparent national control system that regulates the transfer of conventional arms covered under Article 2(1) and, as specifically provided for in Articles 3 and 4, the export of items under Articles 3 and 4. As noted above, the United States already has such competent national authorities in place. Under Executive Order 13637, dated March 8, 2013, the authority to control the import and export of defense articles has been delegated to the Secretary of State except with respect to the permanent import of defense articles. The authority to regulate the permanent import of defense articles has been delegated to the Attorney General and is implemented by ATF. For those covered arms or items not controlled under the AECA, such covered arms or items are controlled for purposes of export through the Department of Commerce's CCL as part of its EAR.

Paragraph 6 provides that each State Party shall designate one or more national points of contact to exchange information on matters related to the implementation of the Treaty and notify the Secretariat, established under Article 18, of its national contacts and keep the information updated.

Article 6

Article 6 sets forth limited circumstances in which the Treaty prohibits a State Party from authorizing the transfer of conventional arms covered under Article 2(1) and items covered under Articles 3 and 4. Paragraph 1 prohibits States Parties from authorizing a transfer of covered arms and items if the transfer would violate its obligations under measures adopted by the UN Security Council acting pursuant to Chapter VII of the UN Charter.

Paragraph 2 prohibits a State Party from authorizing a transfer of conventional arms covered under Article 2(1) and items covered under Article 3 or Article 4 if that 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. For the United States, the only such obligation as of this date is Article 8 (Transfers) of the Protocol on Prohibitions or Restrictions in the Use of Mines, Booby-Traps and Other Devices, as amended on May 3, 1996 (a Protocol to the 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).

Finally, paragraph 3 provides that a State Party shall not authorize any transfer of conventional arms covered under Article 2(1) and items covered under Article 3 or Article 4 if the State Party 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. The "knowledge" standard in this provision requires actual knowledge, rather than constructive knowledge, and makes clear that the State Party must have direct or clear knowledge, at the time of the proposed authorization, that the arms or items would be used in the commission of one or more of the specified violations, in order for the prohibition to apply. Actual knowledge is a high standard, and does not include a belief that a high risk or probability exists that the covered arms or items might be used to commit the specified violations. (By contrast, such a risk or probability would be evaluated in the assessment of proposed exports required by Article 7, as discussed below). To clarify the meaning of Article 6(3), I recommend that the United States include the following understanding in its instrument of ratification:

> The United States of America understands that Article 6(3) of the Treaty prohibits a State Party from authorizing any transfer of the conventional arms or items covered by the Treaty only when the State Party has actual knowledge, at the time of the authorization, that such conventional 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.

In order for the prohibition to be triggered, the transferring State Party must determine that the covered arms or items would be used in the commission of one or more of the enumerated violations. At the United States' insistence, the violations included in this list are well recognized as violations of international law. The list does not create new violations.

As noted above, paragraph 3 prohibits a State Party from authorizing a transfer if the State Party knows, at the time of authorization, that such arms or items would be used in the commission of "other war crimes as defined by international agreements to which it is a Party." This was intended to capture any additional war crimes defined by international agreements to which a State Party is a party. The United States is not a party to any international agreement that defines additional war crimes that would be incorporated by this clause in paragraph 3.

The U.S. Government already has in place procedures and practices to disseminate relevant information to the agencies responsible for authorizing transfers of the conventional arms and items covered by the Treaty and to obtain assurances regarding the use of conventional arms and items covered by the Treaty. These assurances may be considered in determining whether a transfer would be prohibited by Article 6.

Article 7

Paragraphs 1 through 4 of Article 7 outline a national assessment process that each State Party is required to undertake when considering whether to authorize the export of conventional arms covered by Article 2(1) and items covered under Article 3 or Article 4 in cases where the export is not prohibited under Article 6. As set forth in paragraph 1, such assessments are undertaken pursuant to the State Party's national control system and must be carried out in an objective and non-discriminatory manner, taking into account relevant factors, including any information provided by the importing State in accordance with Article 8(1). Under sub-paragraph (a), the State Party is required to assess the potential that such arms or items would contribute to or undermine peace and security. Under sub-paragraph (b), the State Party is also required to assess the potential that such arms or items could be used to commit or facilitate a serious violation of international humanitarian law; a serious violation of international human rights law; an act constituting an offense under international conventions or protocols relating to terrorism to which the exporting State Party is a party; or an act constituting an offense under international conventions or protocols relating to transnational organized crime to which the exporting State Party is a party.

For the United States, the AECA requires consideration of many of these criteria prior to authorizing an export of conventional arms. In addition, the United States Conventional Arms Transfer Policy (Presidential Policy Directive 27 of January 15, 2014) (the "CAT Policy") provides further criteria, including the human rights, counter-terrorism, and non-proliferation record of the recipient, which must be taken into consideration when evaluating a potential export. Under this framework, the United States already conducts an assessment before authorizing the export of conventional arms covered under Article 2(1) or items covered under Article 3 or Article 4, and considers the required criteria as part of this assessment. As a result, ratification of the Treaty would not require the United States to make any changes to its current laws, regulations, policies, or practices for assessing a proposed export from the United States of conventional arms.

Paragraph 2 requires the exporting State Party to consider whether there are measures that it could take to mitigate any risks identified under sub-paragraphs 1(a) or 1(b), such as confidence-building measures or jointly developed and agreed programs by the exporting and

importing States. Under the CAT Policy, the United States already considers risk mitigation measures when evaluating whether to authorize an export of conventional arms.

Paragraph 3 provides that if, after conducting the assessment under paragraph 1 and considering available risk mitigation measures under paragraph 2, 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. In assessing whether there is an "overriding risk," the State Party would balance the risk of any of the negative consequences in sub-paragraphs 1(a) or 1(b) against the potential that the conventional arms or items would contribute to peace and security. If the State Party determines that the risks outweigh this potential benefit, then the State Party shall not authorize the export. Conversely, if the State Party determines that the potential benefit outweighs the risks, then the State Party is not prohibited by the Treaty from authorizing the export. This concept of "overriding risk" describes the type of risk assessments that the United States currently undertakes in evaluating whether to authorize a proposed export. To clarify the meaning of Article 7(3), I recommend that the United States include the following understanding in its instrument of ratification:

> The United States of America understands that Article 7(3) of the Treaty prohibits a State Party from authorizing a proposed export of conventional arms or items covered by the Treaty only if, after conducting the assessment described in Article 7(1) of the Treaty and considering available risk mitigation measures under Article 7(2) of the Treaty, the State Party determines, in its discretion, that potential negative consequences identified in Article 7(1) of the Treaty outweigh the potential that the conventional arms or items would contribute to peace and security.

Paragraph 4 provides that the exporting State Party shall also take into account as part of its assessment the risk of the conventional arms covered under Article 2(1) or 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. The United States already considers these matters in a manner consistent with the CAT Policy and existing export control laws and regulations.

Paragraphs 5 through 7 provide additional obligations related to exports. Paragraph 5 requires each exporting State Party to take measures to ensure that all authorizations for exports of conventional arms covered under Article 2(1) and items covered under Article 3 or Article 4 of the Treaty are detailed and issued prior to the export. The United States already "authorizes" all such exports, either by a license or other authorization, which may include standing authorizations under which several transfers may occur, or the use of exemptions or exceptions from the requirement for an individual license. Such exemptions and exceptions are published in the Federal Register, the ITAR, and the EAR, and are consistent with the obligation specified in paragraph 5.

Paragraph 6 requires each exporting State Party to make appropriate information about the authorization in question available, upon request, to the importing State Party and transit and trans-shipment States Parties, subject to the exporting State Party's national laws, practices, or

policies. The phrase "subject to" means that the exporting State Party is not obligated to provide such information upon request if it would be contrary to its national laws, regulations, policies, or practices. For the United States, this would include, for example, a recurring provision in ATF's annual appropriations law that prohibits expenditure of funds to share trace data or Federal Licensee required information with anyone except in the context of criminal investigations. If an exporting State Party becomes aware of new information relevant to a previously authorized export, paragraph 7 encourages, but does not require, the exporting State Party to reassess the authorization after consultations, if appropriate, with the importing State. This provision would not limit the right of the State Party to revoke an export authorization at any time without consulting the importing State.

Article 8

Article 8 sets forth the obligations of States Parties related to imports of conventional arms covered under Article 2(1) or items covered under Article 3 or Article 4 of the Treaty. Paragraph 1 of Article 8 requires an importing State Party to take measures to ensure that "appropriate and relevant information" is provided, upon request, pursuant to its national laws, to an exporting State Party to assist the exporting State Party in conducting its export assessment required under Article 7. "Pursuant to its national laws" means that the United States is not required to provide information beyond what is permitted by U.S. law. U.S. law, including the Firearms Owners Protection Act, 18 U.S.C. § 926, uncodified public laws, and the Department of Justice's 2016 appropriation, restricts the collection, maintenance, and sharing of certain information about firearms and firearms owners. As a result, the ability of the United States to provide information in response to a request from an exporting State Party under paragraph 1 of Article 8 is limited by existing U.S. law.

Most of the major conventional arms covered by the ATT — i.e., tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, naval warships, and missiles/missile launchers — are not eligible for import into the United States by private citizens except as demilitarized items. For small arms and light weapons (SALW), upon receiving a request from an exporting State Party under paragraph 1, the United States would be able to provide, using data we already collect, certain limited, general information. The United States could advise the exporting State Party that—with limited exceptions—the import of SALW into the United States requires an import license issued by ATF, and that any re-export of covered conventional arms or items would require a U.S. authorization. To the extent the inquiry about the proposed import to the United States raised legitimate law enforcement concerns, different U.S. law enforcement authorities may be able to provide more detailed information through law enforcement channels, consistent with existing U.S. law.

Paragraph 2 of Article 8 requires each importing State Party to take measures that will allow it to regulate, where necessary, imports of conventional arms covered under Article 2(1) that are under its jurisdiction. The United States, through its current import control laws, regulations, policies, and practices, already complies with the obligation established by paragraph 2. Section 38 of the AECA, 22 U.S.C. § 2778, as amended, authorizes the President to control the import and the export of defense articles and defense services. This authority has been delegated to the Secretary of State with respect to the export and temporary import of

defense articles and defense services and to the Attorney General with respect to the permanent import of defense articles and defense services. This authority is carried out pursuant to the ITAR, 22 CFR Part 120 *et seq.*, and other Federal regulations including 28 CFR Part 0.130(a) and 27 CFR Part 447.

Paragraph 3 acknowledges that an importing State Party may request information from an exporting State Party concerning a pending or actual export authorization of covered arms or items where the importing State Party is the final country of destination. Paragraph 3 does not require the exporting State Party to provide any information in response to the request from the importing State Party. As noted above, U.S. law, including the Firearms Owners Protection Act and annual appropriations laws, restricts the collection, maintenance, and sharing of certain information about firearms and firearms owners. As a result, the ability of the United States to provide information in response to a request from an importing State Party under paragraph 3 of Article 8 is limited by existing U.S. law. Nothing in Article 8 would require the United States to provide information beyond that which is permitted under U.S. law, and no additional legislation is required for the United States to implement the requirements of Article 8.

Article 9

Article 9 sets forth the obligation of States Parties to take appropriate measures to regulate, where necessary and feasible, the international transit or trans-shipment under its jurisdiction of conventional arms covered under Article 2(1) through its territory, in accordance with relevant international law. As with Article 8(3), this provision gives a State Party a great deal of latitude to determine the extent to which it is necessary to regulate the transit or trans-shipment of conventional arms covered under Article 2(1) within or through that State Party's territory, as long as such measures are consistent with international law. The phrase "in accordance with relevant international law" recognizes that principles of international law, such as the right of innocent passage, impose limits in relevant circumstances on the extent to which a transit State can regulate the passage of conventional arms through its territory.

Article 10

Article 10 sets forth the obligation of States Parties to take measures, pursuant to their national laws, to regulate brokering taking place under their jurisdiction for conventional arms covered under Article 2(1). Such measures may include requiring such brokers to register or obtain written authorization before engaging in brokering within the State Party's jurisdiction. The President, pursuant to Executive Order 13637, delegated to the Secretary of State the authority for registration and licensing of those persons who engage in the business of brokering activities with respect to those items designated as defense articles controlled either for purposes of export or for purposes of permanent import. Such controls are set forth in the ITAR, which defines "brokering activities" to mean "any action on behalf of another to facilitate the manufacture, export, permanent import, transfer, reexport, or retransfer of a U.S. or foreign defense article or defense service, regardless of its origin." Current U.S. regulations on brokering meet the obligation under Article 10.

Article 11

Article 11 sets forth the obligations of States Parties related to the diversion of conventional arms covered under Article 2(1). The term "diversion" in the Treaty is undefined, but is understood to mean the illicit or unlawful rerouting or redirection of a transfer of conventional arms, contrary to a State Party's own national control laws.

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

Paragraph 2 provides that an exporting State Party shall, through its national control system, seek to prevent diversion of the transfer of conventional arms covered under Article 2(1) by assessing the risk of diversion of exports and considering the establishment of mitigation measures to guard against that risk, such as confidence-building measures or jointly developed and agreed programs by the exporting and importing States. Paragraph 2 thus requires an exporting State Party to take into account the risk of diversion in conducting its national risk assessment prior to authorizing an export of conventional arms covered under Article 2(1). The United States already considers the risk of diversion and any necessary or appropriate mitigation measures pursuant to the existing CAT Policy and existing export control laws, regulations, and practices. Paragraph 2 also provides examples of additional prevention measures that the exporting State Party might take: examining the parties involved in the export; requiring additional documentation, certificates, or assurances; or not authorizing the export. However, the exporting State Party is not obliged to take any of these additional measures.

Paragraph 3 requires importing, transit, trans-shipment, and exporting States Parties to 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). It may not always be appropriate or feasible for one State Party to share information with another State Party about a known risk of diversion, and this obligation provides sufficient flexibility in this regard.

Article 11(1) was understood as a chapeau to Articles 11(2) and 11(3). An exporting State Party would fulfill its obligation under Article 11(1) by undertaking the measures described in the first sentence of Article 11(2) and the measures described in Article 11(3). An importing, transit, or trans-shipment State Party would fulfill its obligation under Article 11(1) by undertaking the measures described in Article 11(3).

Paragraph 4 requires that if a State Party detects a diversion of transferred conventional arms covered under Article 2(1), that State Party shall take appropriate measures, pursuant to its national laws and in accordance with international law, to address such diversion. Paragraph 4 provides that examples of such measures may include alerting potentially affected States Parties, examining diverted shipments of conventional arms covered under Article 2(1), and taking follow-up measures through investigation and law enforcement. However, it is left up to the detecting State Party to determine whether any such measures would be appropriate.

Paragraph 5 encourages, but does not require, States Parties – in order to comprehend more fully and prevent the diversion of transferred conventional arms covered under Article 2(1) – to share relevant information with one another on measures to address diversion effectively, and provides examples of information that may be exchanged. Paragraph 6 further encourages, but does not require, States Parties to report to other States Parties on measures taken to address the diversion of transferred conventional arms covered under Article 2(1).

Article 12

Article 12 sets forth the obligations of States Parties with respect to record keeping. Paragraph 1 requires each State Party to maintain national records, pursuant to its national laws and regulations, of its issuance of export authorizations or its actual exports of conventional arms covered under Article 2(1). Paragraph 4 requires that those records be kept for a minimum of ten years. Paragraph 2 encourages, but does not require, each State Party to also maintain records of conventional arms covered under Article 2(1) transferred to its territory as the final destination (i.e., imports) or of authorizations for conventional arms covered under Article 2(1) to transit or trans-ship territory under its jurisdiction. Paragraph 3 encourages, but does not require, States Parties to include in such records: the quantity, value, and model/type of conventional arms covered under Article 2(1) authorized for transfer, or actually transferred; and details of the exporting State(s), importing State(s), transit and trans-shipment State(s), and end users, as appropriate. U.S. record keeping practices already meet the requirements of Article 12.

Article 13

Article 13 sets forth the obligations of States Parties with respect to reporting. Paragraph 1 requires each State Party, within the first year after entry into force of the Treaty for that State Party, to provide an initial report to the Secretariat of measures undertaken to implement the Treaty, including national laws, national control lists, or other regulations and administrative measures that implement the provisions of the Treaty. Each State Party is further required to report to the Secretariat thereafter, when appropriate, on any new measures undertaken to implement the Treaty. These implementation reports shall be made available to other States Parties by the Secretariat.

Paragraph 2 encourages, but does not require, States Parties to report to other States Parties, through the Secretariat, on effective measures the State Party has taken to address the diversion of transferred conventional arms covered under Article 2(1). This report is the same report that States Parties are encouraged to submit under Article 11(6).

Paragraph 3 provides that each State Party shall submit to the Secretariat by May 31 of each year a report concerning the authorized or actual exports and imports of conventional arms covered under Article 2(1) for the preceding calendar year. A State Party may elect which it prefers to report—actual or authorized—but it does not need to report on both, and it may elect to report on actual exports and imports for some categories of conventional arms, but report authorizations for other categories. These reports may include the same information submitted by the State Party to the UN Register, or other relevant UN frameworks. This was intended to

allow a State Party to use the same form and provide the same information used for its annual UN Register report, thereby reducing the workload of potentially duplicative reporting practices. Paragraph 3 specifies that these annual reports may exclude commercially sensitive or national security information, and shall be made available to other States Parties by the Secretariat. The United States intends to adapt its existing reporting to the UN Register for the purpose of reporting under the Treaty. The United States intends to report on actual transfers of all conventional arms covered under Article 2(1), except for small arms and light weapons, which it intends to report in terms of authorizations. The United States intends to prepare the U.S. report from data provided by relevant U.S. agencies. Such data is already gathered and reported to the UN Register, the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, and the Organization for Security and Cooperation in Europe (OSCE). In addition, information on export licenses and Foreign Military Sales is also made available to Congress and the public via U.S. Government web sites. This requirement will not require the United States to provide any information of a type or nature that would not already normally be made public.

Article 14

Article 14 provides that each State Party shall take appropriate measures to enforce its national laws and regulations that implement the provisions of the Treaty. This provision was intended to ensure that a State Party does not establish a national control system in name only without the necessary enforcement measures. However, each State Party retains the discretion to determine when such enforcement measures are appropriate. To combat the illegal export of U.S.-origin defense articles and other commodities, the United States relies upon the enforcement authorities of ICE and CBP. These law enforcement agencies are charged with statutory authority to investigate and enforce criminal violations of all U.S. export laws related to military items, controlled dual-use goods, and sanctioned or embargoed countries. BIS EE, ATF, and the FBI also investigate such cases.

Article 15

Article 15 relates to international cooperation between States Parties. Paragraph 1 provides that States Parties shall, to the extent consistent with their respective security interests and national laws, cooperate with each other to implement the Treaty effectively.

Paragraphs 2 through 4, and paragraph 7, encourage, but do not require, States Parties to exchange information and lessons learned regarding their national experience implementing the Treaty, including, as highlighted in paragraph 4, sharing information pursuant to their respective national laws regarding illicit activities and actors in an effort to prevent the diversion of conventional arms covered under Article 2(1).

Paragraph 5 requires that States Parties, 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 or maintained pursuant to this Treaty. This paragraph provides a basis for national authorities

investigating the potential violation of their own national control measures to request assistance from another State Party in the investigation or prosecution of that offense. Such mutual legal assistance provisions are often useful in cross-border law enforcement investigations. However, under paragraph 5, the requested State Party must still "agree" to provide the requested mutual legal assistance to the requesting State Party, and this request must be consistent with both the requested and requesting States Parties' national laws.

Paragraph 6 encourages, but does not require, States Parties to take national measures and to cooperate to prevent transfers of conventional arms covered under Article 2(1) from becoming subject to corrupt practices.

Article 16

Article 16 provides certain measures for States Parties in need of assistance to implement their obligations under the Treaty. Paragraph 1 recognizes that each State Party may seek legislative or institutional capacity-building assistance, technical assistance, or material or financial assistance in implementing the Treaty. Examples of such assistance include stockpile management, disarmament, demobilization, and reintegration programs; model legislation; and effective implementation practices. If a State Party requests such assistance, other States Parties in a position to provide such assistance are obligated to do so. The phrase "in a position to do so" limits this obligation to assistance that the State determines it is both willing and able to provide (which would include the availability of appropriated funds). To clarify this interpretation, I recommend that the United States include the following understanding in its instrument of ratification:

> The United States of America understands that no provision of the Treaty may be construed as affecting the discretion of the United States of America to refuse to provide assistance to another State Party for any reason.

This understanding is modeled after a similar understanding that the United States stated in connection with the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996, and emphasizes that the Treaty does not affect the discretion of the United States to refuse to provide assistance to another State Party for any reason.

Paragraph 2 recognizes that each State Party may request, offer, or receive assistance in the implementation of the Treaty through a number of different channels, including the United Nations; international, regional, sub-regional, or national organizations; non-governmental organizations; or bilaterally. Paragraph 2 does not require a State Party to provide such assistance, or, if the State Party elects to provide assistance, to provide it through any particular channel.

Paragraph 3 provides that the States Parties shall establish a voluntary trust fund to assist requesting States Parties who require assistance to implement the Treaty. Each State Party is encouraged, but not required, to contribute to the voluntary fund once it is established. Since the

trust fund is voluntary, paragraph 3 does not create any financial obligations on States Parties to the Treaty.

Article 17

Article 17 provides for a Conference of States Parties to act as the primary forum for States Parties to meet and exchange information on the implementation of the Treaty. Paragraph 1 provides for the provisional Secretariat established under Article 18 (see below) to convene the first Conference of States Parties no later than one year following entry into force of the Treaty. Beyond this first meeting, the Treaty does not specify how often the Conference of States Parties shall meet, but provides that the Secretariat shall convene the Conference at such other times as may be decided by the Conference of States Parties. The First Conference of States Parties (CSP1) was held August 24-27, 2015, in Cancun, Mexico, and it decided to convene future Conferences of States Parties on an annual basis.

Paragraph 2 requires that the rules of procedure governing the operation of the Conference of States Parties be adopted at the first meeting of the Conference by consensus. The First Conference of States Parties adopted by consensus its rules of procedure on August 24, 2015 (ATT/CSP1/CONF/ 1).

Paragraph 3 provides that the financial rules for funding the Conference of States Parties, any subsidiary bodies it may establish, and the Secretariat shall be adopted by the Conference of States Parties. Paragraph 3 provides that, at each ordinary meeting of the Conference of States Parties, the Conference shall adopt a budget for the financial period until the next ordinary session. The First Conference of States Parties adopted financial rules for funding the Conference of States Parties and its subsidiary bodies on August 25, 2015 (ATT/CSP1/CONF/2) and a provisional budget for fiscal year 2016 on August 27, 2015 (ATT/CSP1/2015/WP.6/Rev.1/Corr).

Paragraph 4 sets forth the limited functions of the Conference of States Parties. Under sub-paragraph (a), the Conference is tasked with reviewing the implementation of the Treaty, including developments in the field of conventional arms. The Conference has a mandate, under sub-paragraph (b), to consider and adopt recommendations regarding the implementation and operation of the Treaty, in particular the promotion of its universality, and, under sub-paragraph (d), to consider issues arising from its interpretation. The authority to consider issues arising from the Treaty's interpretation does not, however, empower the Conference to resolve disputes among States Parties about the Treaty's interpretation. Sub-paragraph (c) authorizes the Conference to consider proposed amendments to the Treaty in accordance with Article 20 (see below). Sub-paragraph (e) corresponds to paragraph 3 of this Article, and specifies that the Conference shall consider and decide the tasks and budget of the Secretariat. The Conference may consider the establishment of any subsidiary bodies under sub-paragraph (f), if such bodies are necessary to improve the functioning of the Treaty, and, under sub-paragraph (g), the Conference may perform any other function that is consistent with the Treaty.

Paragraph 5 provides that extraordinary meetings of the Conference shall be held as 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. Consistent with the provisions of this paragraph, the First Conference of States Parties decided to convene an Extraordinary Meeting of the Conference of States Parties on February 29, 2016.

Article 18

Article 18 establishes a Secretariat to perform the administrative functions necessary to assist States Parties in the effective implementation of the Treaty. This Article provides for a streamlined Secretariat with very limited functions. Under paragraph 1, pending the first meeting of the Conference of States Parties, a provisional Secretariat was to be responsible for the administrative functions covered under the Treaty. As decided by the States Parties, Mexico served as the provisional Secretariat in preparing for the First Conference of States Parties. States Parties also approved a decision to designate Geneva, Switzerland, as the location of the Secretariat.

Paragraph 2 provides that the Secretariat shall be adequately staffed with personnel with the necessary expertise to ensure that the Secretariat can effectively undertake the responsibilities enumerated in paragraph 3. These responsibilities, to be carried out by the Secretariat within a "minimized structure," are: receiving and distributing reports from States Parties required by the Treaty; maintaining and making available the list of national points of contact and promoting international cooperation, as requested; facilitating the matching of offers of and requests for assistance with implementation of the Treaty; facilitating the work of the Conference of States Parties, including making arrangements and providing the necessary services for meetings; and performing other specific duties as decided by the Conference of States Parties.

Article 19

Article 19 addresses dispute settlement. Paragraph 1 of Article 19 provides that 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 the Treaty, including through negotiations, mediation, conciliation, judicial settlement, or other peaceful means. To pursue any such potential means of settling disputes, the disputing States Parties must mutually consent to the mechanism for resolving the dispute.

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

Article 20

Article 20 provides the manner in which the Treaty may be amended. No amendment may enter into force for any State if it has not deposited an instrument of acceptance of that amendment.

Under paragraph 1, any State Party may propose an amendment to the Treaty six years after the entry into force of the Treaty. In order to avoid the meetings of the Conference of States Parties being unduly consumed by amendment business, paragraph 1 further provides that amendment proposals may only be considered by the Conference of States Parties every three years.

Paragraph 2 provides that amendment proposals 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 under 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 proposed amendment, it shall be considered at that next meeting of the Conference of States Parties.

Paragraph 3 provides that States Parties shall make every effort to achieve consensus on each proposed amendment. However, if all efforts at consensus have been exhausted and no agreement reached, paragraph 3 allows, as a last resort, for an amendment to be adopted by three-quarters majority vote of the States Parties present and voting at the meeting of the Conference of States Parties. For purposes of Article 20, States Parties present and voting means States Parties present and casting an affirmative or negative vote. Any adopted amendment shall be communicated by the Depositary to all States Parties.

Paragraph 4 provides that an amendment that has been 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 after 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

Article 21 states that the Treaty will be open for signature by all States at the UN Headquarters in New York from June 3, 2013, until its entry into force, which was on December 24, 2014. The Treaty is subject to ratification, acceptance, or approval by each signatory State. Following its entry into force, the Treaty shall be open for accession by any State that has not signed the Treaty before its entry into force. Instruments of ratification, acceptance, approval, or accession are to be deposited with the Depositary – the Secretary-General of the United Nations – as provided in Article 27. The United States signed the Treaty on September 25, 2013.

Article 22

Article 22 provides that the 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. For any State that deposits its instrument of ratification, acceptance, approval, or accession after entry into force of the Treaty, the Treaty shall enter into force for that State ninety days

following the date of deposit of that State's instrument of ratification, acceptance, approval, or accession.

The fiftieth instrument of ratification was deposited with the Depositary on September 24, 2014. As a result, the Treaty entered into force on December 24, 2014. As of November 30, 2016, 91 States had deposited their instruments of ratification, acceptance, or accession to the Treaty, and an additional 42 States had signed the Treaty but not deposited an instrument of ratification, acceptance, approval or accession.

Article 23

Article 23 provides that any State may, at the time of signature or deposit of its instrument of ratification, acceptance, approval, or accession, declare that it will apply provisionally Articles 6 and 7 pending the entry into force of the Treaty for that State. This Article does not obligate signatory States to apply any of the Treaty's obligations provisionally, but merely provides that any State may voluntarily declare that it will regulate transfers of conventional arms and items covered by the Treaty consistent with Articles 6 and 7 of the Treaty. At the time of signature, the United States did not declare that it would provisionally apply Articles 6 and 7.

Article 24

Article 24 provides that the Treaty is of unlimited duration, and that a State Party, in exercising its national sovereignty, has the right to withdraw from the Treaty. A State Party must provide notification of such withdrawal to the Depositary. Paragraph 2 provides that such notification may, but is not required to, provide an explanation of the reasons for withdrawal. The notice of withdrawal shall take effect ninety days following receipt by the Depositary, unless the notification specifies a later date. Paragraph 3 states that withdrawal shall not discharge a State from fulfilling obligations arising from the Treaty while it was a State Party to the Treaty, including any financial obligations.

Article 25

Paragraph 1 provides that any State Party may, at the time of signature, ratification, acceptance, approval, or accession, formulate reservations unless such reservations are incompatible with the object and purpose of the Treaty.

Paragraph 2 provides that a State Party may withdraw its reservation at any time by notification to this effect addressed to the Depositary.

Article 26

Article 26 describes the relationship between the Treaty and other international agreements. Paragraph 1 provides that the Treaty shall not prejudice obligations undertaken by States Parties with regard to existing or future international agreements to which they are parties, so long as those obligations are consistent with the Treaty.

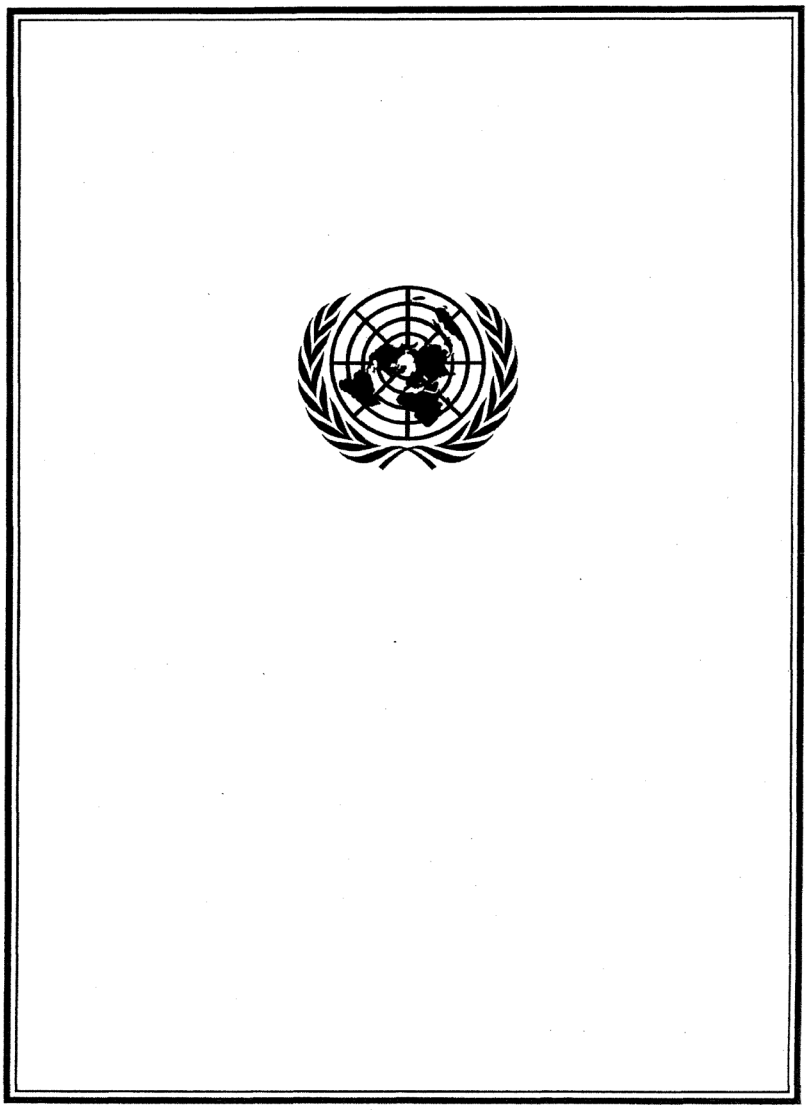
Paragraph 2 specifies the relationship between the Treaty and one particular type of international agreement – defense cooperation agreements. Such agreements provide a framework for cooperation between States on defense-related matters, which often include subsequent implementing agreements or contracts for transferring certain defense articles, including conventional arms. Paragraph 2 provides that a State Party's obligations under the ATT shall not be cited as grounds for that State Party voiding a defense cooperation agreement with another State Party to the ATT.

Article 27

Article 27 establishes the Secretary-General of the United Nations as the Depositary of the Treaty.

Article 28

Article 28 provides that the original text of the 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.



24

معاهـــدة تجارة الأسلحـــة

武器贸易条约

ARMS TRADE TREATY

TRAITÉ SUR LE COMMERCE DES ARMES

Договор о торговле оружием

TRATADO SOBRE EL COMERCIO DE ARMAS



25

ARMS TRADE TREATY



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,

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.

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, trans-shipment 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.

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.

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.

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.

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.

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.

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.

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.

I hereby certify that the foregoing text is a true copy of the Arms Trade Treaty, adopted by the General Assembly of the United Nations on 2 April 2013, the original of which is deposited with the Secretary-General of the United Nations.

Je certifie que le texte qui précède est une copie conforme du Traité sur le commerce des armes, adoptée par l'Assemblée générale des Nations Unies le 2 avril 2013, dont l'original se trouve déposé auprès du Secrétaire général des Nations Unies.

For the Secretary-General,
The Legal Counsel
(Under-Secretary-General
for Legal Affairs)

Pour le Secrétaire général,
Le Conseiller juridique
(Secrétaire général adjoint
aux affaires juridiques)

Patricia O'Brien

United Nations
New York, 13 May 2013

Organisation des Nations Unies
New York, le 13 mai 2013

Certified true copy (XXVI-8)
Copie certifiée conforme (XXVI-8)
May 2013/mai 2013