NZ is grateful for the hard work you, Mr President, and your team have done in producing this latest text, dated 22 March. We know that we have all given you the most unenviable task of needing to come up with language to resolve what appears, in a number of cases, to be virtually irreconcilable differences in position - and we certainly understand just how very difficult this task is.

Your new text seems to have worked some magic - and produced satisfactory middle ground - in a number of areas. These are indeed improvements over and above the 26 July text and we welcome all and any such improvements. But I would note that the 90 country statement delivered on the last day of the July Diplomatic Conference was not a statement signalling that all our countries agreed with, and were ready to sign up to, the 26 July text. What we were signifying in that statement then, as has already been clarified this morning by the Delegation of Mexico which delivered that statement, was that the 26 July text was to be our basis for carrying work forward to this next Diplomatic Conference.

The President's 22 March text has indeed usefully advanced some of the outstanding issues. Most notably, it has accorded greater priority to the need to combat transnational organised crime. Given the significance of transnational organised crime to the Pacific region’s security, my Delegation very much welcomes this issue's elevation in the export assessment hierarchy to its placement now in Article 7.4 (d).

Similarly, we are pleased with the treatment of diversion. Given the impact that the diversion of arms to the illicit market can have in terms of both national and regional stability, as well as its very evident humanitarian consequences, it is certainly appropriate to devote a standalone Article to this issue. That said, we would welcome the inclusion of diversion in the listing of issues dealt with under Article 7.4.

We continue to think that the draft Treaty's treatment of transit and transhipment is appropriate to the circumstances of transited states. We welcome the reintroduction – in Article 16.3, under International Assistance – of text which lays the basis for mutual legal assistance arrangements.

Less positively, however, on a number of issues of significance to New Zealand, and indeed to others in our region, the 22 March draft has come up short. The language in Article 2 on scope remains unwarrantably narrow and, seemingly, continues to exclude non-commercial transactions from its ambit. Yet, if the ATT is to bring about the improvement for human, and state, security which we all hope for, then states must be obliged to do an assessment of the risk of negative consequences for all their arms transfers – and not simply for those that they are receiving payment upfront for. Non-commercial transactions – transactions outside the span of the concept of “international trade” referenced in Article 2.2 - must also be covered in the ATT.
We are very worried by the continued lack of any international reference point for the small arms and light weapons as listed in Article 2(h). Article 5 (4) sets no international frame of reference whatsoever for the national definitions which countries can choose to adopt for SALW. Given the widespread acknowledgement that it is indeed these weapons which inflict the most harm in situations of armed violence and conflict in so many parts of the globe, it is in relation to SALW that we most need, at the very least, indicative guidance for national definitions. New Zealand would wish to repeat the proposal we made on Tuesday of last week for an inclusive listing of the weapons covered by Article 2(h).

What we suggested then was to the effect that what is now subpara (h) of Article 2 could be reworded to read: “Small arms – including revolvers and self-loading pistols; rifles and carbines; sub-machine guns; assault rifles; and light machine guns; and light weapons – including heavy machine guns; hand-held under-barrel and mounted grenade launchers; portable anti-tank guns; recoilless rifles; portable launchers of anti-tank missile and rocket systems; and mortars of calibres less than 75 mm”.

This is simply a restatement of the language drawn from the reporting template of the Register (but which is not of course currently captured by the reference in Article 5.4 to the “descriptions used in the Register”).

Further on this same point of national definitions, it is clear to us that the reference in Article 7.2 to “pursuant to its national laws” – which is simply an alternative formulation of “subject to its national laws”- is intended still to enable states to decline to make their control lists available. It permits them to keep their national definitions secret if this is what their national laws require.

We note the introduction of a new standalone provision on parts and components and we think this is very useful. Rather than adopting the linguistic contortion of a “form providing the capability” as currently stated in Article 3, however, we would endorse the language discussed during the facilitation sessions on scope. This was that: “Each State Party shall establish and maintain a national control system to regulate the export of parts, components and technology to the extent necessary to avoid the circumvention of its controls on complete products.”

As to Article 4 on “Ammunition/Munitions”. We would prefer that whenever these two words appear in the English text they should be drafted as “ammunition and munitions” to make it very clear that they are not able to be construed as alternatives (as is indeed possible with the use of the slash, or stroke, in the middle of the two words). We understand as a point of translation, however, from the comments of others here that the equivalent of the English phrase “ammunition and munitions” is covered equally in all the other UN languages simply by the one-word equivalent for “ammunition”.

Finally, on Article 4, we regret the introduction of the language “fired, launched or delivered by the conventional arms...” We can see a strong disadvantage – and no apparent advantage – to introducing text which serves to exclude items such as shape charges and mines, and which still fails to bring items such as hand grenades which we would indeed like to be included in the ATT. Accordingly, we are very interested in the Swedish proposal outlined just now and we look forward to receiving this language.

As regards Article 6.3, my Delegation is one of the many here who have stated our support for the Swiss and Norwegian proposal put forward in the name of a large number of delegations this morning and which proposed that this Article read:
"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, or war crimes as defined by its international obligations, including those under the Geneva Conventions of 1949."

We believe that this text is a good compromise between the varying levels of aspiration which have been outlined on this issue and ensures that the Treaty gives all States the appropriate platform for their international obligations.

We remain concerned by the continued reference – now in Article 7.7 – to the threshold of an “overriding risk” and retain our strong preference for the much more widely used and well understood concept of a “substantial risk”.

We note that there is work underway in relation to the text in Article 5.2 regarding the relationship between the ATT and defence cooperation agreements. Clearly this is an issue which needs urgent resolution.

Equally, my Delegation remains concerned by the unacceptably high number of parties – 65 - required for the ATT’s entry into force. This has been defended by some delegations on the basis that it will assist with the effective implementation of the Treaty. We are unable to see why deferral of the Treaty’s entry into force – potentially for some considerable time pending its ratification or accession by 65 countries – serves anything other than procrastination. We continue to support the proposal put forward last week by Peru for a threshold for entry into force of 35 countries.