STATEMENT BY H. E. AMBASSADOR ANTONIO GUERREIRO,
PERMANENT REPRESENTATIVE OF BRAZIL TO THE CONFERENCE ON DISARMAMENT,
AT THE HIGH LEVEL SEGMENT OF THE UNITED NATIONS CONFERENCE ON THE ARMS TRADE TREATY

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(check against delivery)
Señor Presidente,

Quisiera, antes de todo, manifestar la profunda satisfacción de la delegación de Brasil de ver a usted, un querido amigo representante de la hermana República Argentina, presidiendo los trabajos de esta Conferencia. Su experiencia en el tema, su reconocida capacidad y calidades profesionales y personales nos hacen más cercanos del objetivo de adoptarnos un Tratado al final de esta reunión.

Reconocemos todos la dimensión y complejidad de esta tarea. Sepa usted que cuenta con todo el apoyo y la disposición de la delegación de Brasil para alcanzar ese objetivo.

Mr. President,

Brazil firmly supports the adoption of an international legally binding instrument that regulates the licit trade of conventional arms and that contributes, by means of effective measures, to combat the illicit trade in conventional arms - in particular, small arms and light weapons and their ammunition.

Brazil was one of the first countries to announce its support for the idea of a treaty on the arms trade, back in 2003, even before the subject was introduced in the United Nations agenda. Since 2008, Brazil has taken active part in discussions related to an Arms Trade Treaty in the UN, be it in the Group of Governmental Experts (GGE), the Open-Ended Working Group (OEWG) or the Preparatory Committee.

Our views on the feasibility, scope and draft parameters of a future Arms Trade Treaty were reflected in a reply to the Secretary-General’s request pursuant to General Assembly resolution 61/89, as contained in document A/62/278 Part II.

Brazil believes that a balanced, objective, non-discriminatory and universal Arms Trade Treaty can contribute to promote the objectives of international peace and security, in line with the United Nations Charter, as well as to attenuate the negative human and material consequences of the uncontrolled circulation and illicit trade of such weapons.

A balanced ATT would recognize that all States involved - exporters, importers and transit and transshipment States - should have obligations under the Treaty.

An objective instrument would leave little room for different interpretations with regard to its provisions, which could allow for potentially discriminatory practices.

Furthermore, an ATT must be universal, so as to prevent that important trade flows of conventional arms continue to exist without proper regulation.

At the same time, it must be stressed that an ATT shall not curb the licit trade of conventional arms, which have an important and legitimate role. Both the UN General Assembly and the Security Council have acknowledged States’ right to manufacture, import, export, transfer and retain conventional arms for self-defense purposes and security needs consistent with International Law and the UN Charter, in particular with its Article 51. In the same vein, an ATT should not impose obstacles that may harass States’ legitimate aspirations to make use of technologies and goods to promote their own development, which includes technologies and goods of a dual nature.

Mr. President,

Brazil has in place a comprehensive national system to control its arms exports and
imports. Different governmental authorities are involved in this process, having clear duties and responsibilities and working in strict coordination.

In parallel, mechanisms and procedures have been developed in recent years by the Brazilian Government to help to halt and to eliminate the illicit trafficking of conventional arms, especially small arms and light weapons and their ammunition into our territory.

Brazil is aware, however, that national efforts are not enough to address some problems that are essentially of a transnational nature. We recognize the importance of cooperation, be it bilateral, regional or international. This is why my country is a Party to most international legal instruments related to conventional arms, such as the "Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime" and the "Interamerican Convention on Transparency in Conventional Arms Acquisitions". Brazil also complies with a number of relevant non-legally binding instruments, such as the "Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects", the "International Tracing Instrument" and the "UN Register of Conventional Arms".

An Arms Trade Treaty may pose, in our view, an additional opportunity to expand cooperation in this regard.

Mr. President,

For Brazil, an Arms Trade Treaty shall provide a comprehensive international legal framework for the regulation of the trade in conventional arms, for the prevention, combat and eradication of their illicit trafficking, and for enhancing international cooperation with a view to achieving these goals.

It is clear, however, that the application and enforcement of controls over transfers of such weapons are a responsibility of States. A first requirement, therefore, should be that States have appropriate systems of national laws, regulations and administrative procedures to exercise effective control over armaments and the export, import and transfer of conventional arms.

For Brazil, the purposes of an Arms Trade Treaty could be addressed if some basic obligations were reflected in the instrument’s text, such as:

(a) the establishment or the maintenance of effective systems of export, import and international transit licenses or authorizations for transfers, in accordance with national political and legal systems and traditions;

(b) the requirement that licenses or authorizations be issued by competent national authorities of the exporting and the receiving State prior to the authorization of transfers. Preferably, end-user certification should apply to all arms transfers and not only when requested by the exporting State;

(c) the prohibition, by the same token, of transfers of conventional weapons that have not been expressly authorized by competent governmental authorities of all States involved in the transaction. There should be a clear prohibition of transfers to non-State actors not authorized by the receiving State;

(d) the maintenance of detailed records containing all relevant information related to transfers of conventional weapons that may be necessary to enable States to
comply with obligations related to cooperation in tracing such weapons. From the time of the adoption of the instrument, records pertaining to transfers of conventional weapons should be kept indefinitely; and

(e) the adoption of penal and administrative sanctions for natural or legal persons acting in violation of national laws and regulations.

Another possible obligation would be to ensure that all newly-manufactured small arms and light weapons, as well as all small arms and light weapons to be subject to an international transfer, are marked in accordance with the provisions of the International Tracing Instrument, and/or the Firearms Protocol of the Palermo Convention against Transnational Organized Crime.

On its turn, obligations related to reporting and transparency shall be dealt with the necessary caution and good sense. Many States rely on conventional weapons for their national defense. Absolute transparency would expose States’ capabilities and means to sustain a durable conflict. At the same time, it would not be fair to put importing States under permanent scrutiny, while arms producing States may not have to inform or report on weapons acquired domestically via national procurement.

For my delegation, a reporting mechanism in line with that of the UN Register on Conventional Arms would be an optimal result of our negotiations.

Mr. President,

Brazil believes that an ATT could include objective criteria to be taken into account by States in authorizing international transfers of conventional weapons. In our view, an arms transfer should not be authorized if the transfer would violate the provisions of the Charter of the United Nations or any embargoes adopted by the United Nations Security Council. Arms transfers must not take place, as well, if they may represent a breach of legally-binding international or regional commitments to which the States involved in the transaction are bound.

The risk that conventional arms be used to violate human rights law and international humanitarian law, as defined by relevant instruments adopted under the framework of the United Nations, must also be assessed by the exporting State, and if it considers this risk to be substantial, such transfer should not be authorized. The same would apply to the possibility of arms being used to commit terrorist acts and/or violent crime or be diverted to unauthorized end-users.

At the same time, caution is necessary with regard to the inclusion of some subjective criteria that may lack agreed definitions or may disregard sovereign attributes of the recipient State. In this context, the Brazilian delegation does not favor the inclusion of criteria such as those related to “excessive accumulation of arms” by a State or that may associate a transfer with the impairment of efforts of poverty reduction or socio-economic development.

Mr. President,

Discussions on categories of arms and types of transactions to be included in the scope of an ATT will be premature if the obligations and requirements that an ATT can impose on States Parties are not defined. In our view, the implementation provisions, both national and international, of an ATT should be the first issue to be tackled by this Conference.
At this juncture, with regard to the scope of the treaty, my delegation is ready to work on the basis provided by the United Nations Register of Conventional Arms, added by small arms and light weapons, as well as their ammunition.

Any broader scope for an Arms Trade Treaty would have to be dealt in the light of its impact in terms of State Parties’ security, in particular in relation to reporting obligations that may arise from the instrument. Nowadays, the UN Register of Conventional Arms focuses primarily on transfers of major arms systems that can be used in offensive military operations. To report on these arms transfers is consistent with UN Member States’ commitment to renounce the use of force. On its turn, to report on the acquisition of weapons designed for defense purposes poses a clear difficulty for countries which depend on conventional arms for their self-defense.

Similar concerns may be raised with regard to any obligation to report on transfers of parts and components of major conventional arms systems or related technology and equipment.

With regard to types of transactions to be covered by an ATT, we believe that exports, imports and transfers, as well as brokering, are activities that we are ready to work with at this stage.

Mr. President,

As we have mentioned, an effective Arms Trade Treaty would require all States to have appropriate export and import control systems in place. In this context, promoting capacity building is a major task to be addressed in the framework of the instrument.

Brazil believes that, whenever requested, States shall have the opportunity of benefiting from international assistance in building operational and administrative capacities, including the development of appropriate legislation and regulations. As such, an ATT should require the identification of national bodies or points of contact to act as liaison among State Parties.

Modalities of technical assistance, including the exchange of experience and training among competent officials, including customs, police, intelligence and arms control officials, at the national, regional and global levels, would enhance the adequate implementation of an ATT. This technical assistance could also include the exchange of equipment, and of scientific and technological information.

Let me also stress that Brazil would very much welcome procedures to ensure cooperation among competent national authorities, in particular with a view to preventing, combating and eradicating the illicit trade in conventional arms. These would include, inter alia, cooperation in the tracing of illicit transfers and in the identification of individuals or groups responsible for such illicit transfers, for the purpose of enforcing relevant penal or administrative sanctions. This is a very crucial point for Brazil and I believe for an expressive number of delegations in this room.

An Arms Trade Treaty Implementation Support Unit should be established within the framework of the UN. Its dimension should be that of a body designed primarily to support international efforts of cooperation and assistance with a view to helping States Parties to establish or strengthen their national control systems over arms transfers.

Mr. President,

Brazil is looking for a legally-binding Arms Trade Treaty that has universal application.
Universality would be a crucial aspect for an ATT’s effectiveness. The accession of the major arms exporting countries would be necessary so as not to generate effects that could discriminate State Parties vis-à-vis non State Parties to an ATT.

To conclude, Brazil reiterates its support for an ATT that regulates the legitimate trade in arms, without restricting it, and that introduces meaningful provisions with a view to prevent and combat the illicit trade of those weapons.

We hope that this Conference will be up to the challenge of providing an effective, balanced, objective and non-discriminatory treaty that may contribute to address those purposes. My delegation is ready and willing to engage in this exercise under your leadership, and you may count on our full support.

I thank you.