Preparatory Committee for the United Nations Conference on the Arms Trade Treaty

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(Check against delivery)

Mr Chair,

Today Australia would like to elaborate some of the initial remarks we made yesterday on your helpful and welcome paper on Implementation, noting that our thoughts were reflected by others in the many thoughtful interventions we have heard to date.

We agree, for example, that the initial paragraphs on Implementation could usefully be rationalised to include only new items and omit references to rights or principles, set out in sub-paragraphs two and three, which are covered elsewhere in other elements of the ATT.

Under Section A, National Authority and Systems, we note there are provisions common to each of the listed activities and transactions. Accordingly we think these could be effectively rolled into a single, over-arching reference to the need for all States to establish and maintain effective national systems, as required, for assessing, processing and authorising arms transfers under the scope of the ATT, consistent with relevant assessment criteria.
We note that the application of criteria to activities and transactions will depend, of course, on what role a particular State plays in the arms transfer process.

As a general comment, Australia believes that States will need to take measures to implement their Treaty obligations proportionate to the activities and transactions they undertake.

It follows, that those measures should be differentiated depending on where States fit in the arms transfer chain, but with the caveat that all States have a responsibility to cooperate whether they are exporting, importing, transit or transshipment States.

Australia believes that exporting States – the point of origin in the transfer process – must necessarily exercise a high degree of vigilance and control including by only authorising transfers which have been assessed against agreed criteria.

We agree, as reflected in your text, that exporting States should also have national lists of controlled items; national licensing regimes; and systems for issuing verifiable authorisations of exports. Note, we should not suggest that exports be physically accompanied by a paper certificate.

Australia agrees with the paper that key responsibilities of importing States should include controlling the importation of arms; taking additional measures, as appropriate, to ensure imports are not illegally diverted; and assisting exporting States by providing them with information – including, for example, end-user certification - necessary to decide whether a proposed export meets the assessment criteria. This latter obligation would complement the obligation on the exporting State to assess potential exports against the minimum criteria expounded in the Treaty.

Other States in the transfer chain, notably transit and transshipment States, should also have responsibilities to help curb or deter the risk of diversion, and to ensure transparency. Australia recognises that the large volumes and speed of modern trade makes verification more difficult but we believe that, where possible, and in line with the provisions you propose, States should keep records of arms in transit or transshipment.

Australia agrees with others on the need to include a provision requiring States to regulate on brokering under National Authority and Systems, along with other activities and transactions.

Mr Chair, I would like to briefly comment on other aspects of your paper.

Given the differing views of States regarding the reporting of denials expressed yesterday we would propose that the ATT should not require States to notify denials. Rather, States should be called upon to use their best efforts to consult with each other, through appropriate channels, for example, national points of contact; and in accordance with their international obligations and domestic law.

Such consultations could cover, for example, transfer processes and decisions, including in relation to authorisations and denials, or any other matter regarding the implementation and operation of the ATT.

Australia supports the proposal on record-keeping but suggests records be kept for no less than 20 years, in accordance with the International Tracing Instrument.
Australia recognises the importance of transparency to the effective functioning of the ATT: we support your proposal for initial reporting on the implementation of all activities taken pursuant to implementation of the Treaty, and believe such reports should be updated annually, as required.

We favour streamlined, simple and consistent reporting mechanisms which are not burdensome particularly for smaller States. Australia believes transfers should be reported annually along the lines of reporting to UN transparency registers, including the Conventional Arms Register. The ATT should provide for flexibility in such reporting, namely, States could provide more detail than required, if they are in a position to do so.

We recognise the value of States sharing their experiences on implementation, and its importance as a confidence-building measure but suggest this should be on the basis of States’ best endeavours to do so.

We agree broadly with the language proposed on activities inconsistent with Treaty obligations. We believe that the proposed brokering offence should be referred to in these general provisions rather than in a stand alone provision, as it is now.

We agree with others that the provision on corruption should be decoupled from provision on brokering, and should stand alone as a provision relating to all activities and transactions covered by the ATT.

We support the proposed provision requiring States to cooperate closely to enhance effective domestic enforcement of activities prohibited under this Treaty including through judicial cooperation.

Finally, we support establishment of an Implementation Support Unit but suggest its functions be determined by States Parties at a later stage to retain the greatest degree of flexibility and responsiveness to States’ needs.

Mr Chair, I wish to thank you for your patience. We will be commenting separately on your paper on Final Provisions in discussions on this element of the ATT.