3rd ATT Prep Com, Intervention by Amandeep Singh Gill of India, July 12, forenoon

Mr. Chairman, allow me to elaborate our position on Sections I, A and B of your paper on implementation in the light of our general statement yesterday. I would also wish to recall the three principles you distilled at the end of our debate yesterday: national implementation; simplicity in implementation and coherence amongst all the elements of the proposed instrument.

With respect to Section I which refers to the obligation of states parties to take the necessary legislative and administrative measures, I would like to note that there may be a range of situations around the world. Some countries may already have in place such measures, others may need to update existing measures and still others may have to take these measures ab initio. It would therefore be better to refer in general terms for a state party to take the necessary legislative and administrative measures as appropriate to implement its obligations under the treaty. With regard to the idea of a national point of contact in para 4 of this Section, the function of such points of contact should be limited to matters related to the implementation of this treaty. We do not require an ISU for sharing the details of the point of contact and those details can be shared directly by a state party with other state parties.

On Section A, as general principles, we would like to see 1) a better balance between the rights and obligations of different states – importers, exporters and transit countries; 2) a better focus on illicit transfers and 3) details of control systems – the documentation required for example - should be left to national determination. Our objective is not to establish one kind or another of export control systems. Our objective is to ensure that transfers of arms under the scope of the treaty are authorised only after the assessment of the criteria specified in the treaty using a national system of control over transfers. Further, verification or validation of authorizations could be intrusive as would be the requirement for importing states to provide documentation and other information. With regard to transit, we have to be mindful of the potential burden on transit states from record keeping etc. and consider how exporting countries can share that burden and reduce the chances of illicit transfers by measures such as marking and record keeping that they could take. Provisions for additional measures to be taken by transit countries should be qualified by a reference to international law.

Finally, with respect to Section B, as mentioned yesterday, we are not convinced of the need to refer to sharing and distribution of transfer denial notices. If a state party so wishes it can share information on such denials in a voluntary manner as part of its annual report.

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Mr. Chairman, I would like to make some brief remarks on sections E to H of your paper. On record keeping, reporting and transparency, we believe that these measures should be strictly limited to the objective of implementation of the proposed treaty. We can consider an initial report on implementation, possibly with annual updates. We have heard different ideas on whether reporting should be compulsory or voluntary and whether we should have a hierarchy of reporting with different levels of voluntariness and detail. In our view, it would be better to have a reference to the requirement of annual reports while leaving the contents to states parties. This is our understanding of the voluntary element with regard to the reports. The provisions for reporting of all types of transfers, quantities and types, transit, denials of transfers etc. are burdensome and conflict with the imperatives of national security and commercial confidentiality. While information exchange can play an important role in combating illicit or unauthorised transfers, it too would need to be looked at in the light of these sensitivities and be tailored to its aforementioned purpose.

With regard to Section F, we find that the provisions on Criminalization refer not only to violations of national laws but also violations of the treaty. This creates complications and should be reworded to reflect the notion that states are expected to have the legal authority to enforce their national system of control over arms transfers. References to adoption of legislation and establishment of penalties for violations of the treaty should be deleted to allow space for states parties to pursue implementation in the light of their national legal and administrative frameworks. With regard to brokering and corruption, while India has national measures addressing agents in defence procurement as well as countering corruption and money laundering, their coverage in terms of para 29 needs to be relooked at. Similarly, mutual legal assistance as worded in paras 30 and 31 presupposes criminalisation of individual acts and has to be reconsidered from the perspective of practical implementation by states.

Finally, with regard to Section H on the ISU, as I have mentioned before, we are not convinced of the need for a dedicated secretariat. Implementation support structures are normally associated with conventions that prohibit certain activities. An arms transfer regulating instrument negotiated in the UN framework should avoid such a structure since among other things conflicting commercial interests may come up to the fore and focus only on annual reporting through the depository and annual meetings funded by states parties as is the practice with some other instruments. The comparison with the UN Conventional Arms Register is not apt here as what we are embarked on is a process hopefully towards a negotiated legally-binding instrument. Thank you.