



EXPLANATORY MEMORANDUM ON THE ARMS TRADE TREATY

Title of the Agreement

Arms Trade Treaty

Command Paper Number 8680

Subject Matter

The purpose of the treaty is to establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms and to prevent and eradicate the illicit trade in conventional arms.

The treaty prohibits a State Party from transferring arms under certain circumstances, including if it has knowledge that the arms would be used to perpetrate genocide, crimes against humanity, grave breaches of the Geneva Conventions, attacks against civilians or other war crimes. In considering whether to authorise an arms export, States Parties must assess whether the export would contribute to or undermine peace and security or could be used to commit or facilitate: a serious violation of international humanitarian or human rights law; an act of terrorism or transnational organised crime; or serious acts of gender-based violence or violence against women and children. States Parties must also seek to prevent the diversion of the transfer of arms, including by assessing the risk of diversion of an export. States Parties must establish and maintain a national control system in order to implement the treaty, and must report on their implementation measures and international transfers. The treaty provides for co-operation between States Parties, and the assistance of a Secretariat, in implementing it effectively.

Mr Alistair Burt MP, Parliamentary Under-Secretary of State for the Foreign and Commonwealth Office, signed on behalf of the United Kingdom of Great Britain and Northern Ireland on 3 June 2013 when the treaty opened for signature at the United Nations in New York. The treaty will enter into force after 50 ratifications.

As the treaty is only open to UN Member States, the EU cannot become a party. However, the treaty covers matters that fall within the exclusive competence of the EU as well as matters that fall within the competence of the Member States. The EU has authorised Member States to sign with respect to the matters that fall within the exclusive competence of the EU. The Commission has produced a draft Council Decision authorising ratification in regard to the matters falling within the exclusive competence of the EU. This will be laid before the European Parliament and submitted to Parliamentary scrutiny in the UK before adoption.

Since the treaty covers serious human rights issues, it has been copied to the Joint Committee on Human Rights.

Ministerial Responsibility

The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for the conclusion and implementation of the treaty's obligations and responsibility for its application in Overseas Territories.

The Secretary of State for Business, Innovation and Skills has responsibility for the application of the treaty's provisions to transfers of conventional arms.

The Secretary of State for International Development has responsibility to provide advice on the provisions relating to development.

The Secretary of State for Defence has responsibility to provide advice on the provisions that relate to transfers for the UK armed forces and transfers relating to UK operations overseas.

Policy Considerations

General

The United Kingdom is one of the leading forces behind the Arms Trade Treaty. The adoption of the treaty was an important result for our foreign policy. Once it enters into force, the treaty will contribute to international and regional peace, security and stability; reduce human suffering, terrorism and crime; and promote UK prosperity by requiring other countries to abide by standards closer to those that we already apply.

We are encouraging others to sign and to ratify as soon as possible to ensure the treaty swiftly enters into force. We want to sustain the momentum behind the Arms Trade Treaty to ensure it makes a real difference to the people that need it most.

Financial

Currently there are no financial implications for the UK becoming a party. A secretariat is envisaged to assist States Parties in the effective implementation of the treaty and for administrative functions. The future costs of the secretariat are not yet known, but are directed to be within a minimized structure. The treaty mandates a voluntary trust fund to assist States Parties with the implementation of the treaty once the treaty has entered into force. In the interim Australia has established a multi-lateral donor fund, to which the UK has decided to donate £100,000 from FCO programme funds. The UK provided financial support to developing States to enable them to participate in the negotiations, and will continue to fund projects to ensure the effective implementation of the treaty.

Reservations and Declarations

The UK did not make any reservations or declarations at the time of signature.

Implementation

The treaty is consistent with our national systems for control of transfers of conventional arms and will be implemented through existing procedures. The Department for Business, Innovation and Skills, as the UK export licensing authority, will be responsible for authorising the transfer of conventional arms following consultation with the Foreign and Commonwealth Office, Ministry of Defence and the Department for International Development. The Foreign and Commonwealth Office will manage any financial contributions when established, will act as the UK point of contact, and will submit national reports to the Secretariat. Enforcement of the treaty will be conducted by Her Majesty's Revenue and Customs and Border Force. The Foreign and Commonwealth Office and Department for International Development will encourage other States to implement the treaty, and will provide assistance to those States where feasible. The UK already implements a robust and effective system for control of transfers of conventional arms. No primary legislation is required for UK ratification. The Department for Business, Innovation and Skills will make any necessary amendments to secondary legislation using existing powers under the Export Control Act 2002.

In particular, amendment to the Export Control Order 2008 will be necessary to ensure consistency between the treaty's scope and the UK's existing controls on brokering of conventional arms when carried out by UK persons located overseas (i.e. "extra-territorial" brokering controls). We will extend the controls on brokering by UK persons overseas to include the following: Main Battle Tanks and Armoured Combat Vehicles; Large-calibre Artillery Systems; Combat Aircraft and Attack Helicopters; certain Warships; and those Missiles and missile launchers not already subject to extra-territorial brokering controls; all as defined in the UN Register of Conventional Arms. In order to minimise any additional burdens on legitimate trade we are considering whether it is appropriate to amend the scope of the Open General Trade Control Licences. This would permit brokering of these additional items by UK persons overseas without individual prior authorisation and in carefully defined circumstances that are assessed as being of inherently low risk.

Consultations

The UK government have consulted regularly throughout the treaty's formation with civil society, industry and Parliament. These consultations have helped to inform the UK negotiating position on the treaty and these groups have expressed their support for the treaty following its adoption on 2 April.



Rt Hon William Hague MP

Secretary of State for Foreign and Commonwealth Affairs