

Position Paper for the Conference on the Arms Trade Treaty

The topics before the Conference on the Arms Trade Treaty (ATT) are: Principles, Goals and Objectives; Scope; Criteria and Parameters; International Cooperation and Assistance, and Implementation and Verification. The Caribbean Community (CARICOM) is committed to the establishment of an international agreement that will regulate the trade in small arms and light weapons. The absence of an international legally binding treaty to regulate the trade in small arms has enabled the growth of the illegal trade in these weapons. This illicit trade has contributed to a growing culture of violence in our region and an issue we look forward to discussing.

I. Principles, Goals and Objectives

CARICOM Member States have been amongst the earliest advocates calling for an international agreement to be negotiated under the auspices of the United Nations to regulate the trade in small arms and light weapons. Consequently, we are satisfied with the advancement of the process so far for the development of a comprehensive, legally binding Arms Trade Treaty ("ATT"). CARICOM States supported the adoption of *General Assembly resolution 64/48* which called for the convening of the United Nations Conference on the Arms Trade Treaty in 2012. For us, the attainment of a comprehensive and legally binding instrument, which establishes common international standards for the import, export and transfer of conventional arms, is of tremendous importance to the region. Many of our States are used as transshipment and refueling points for the illicit arms and narcotics trade despite our best efforts to secure our borders.

The ATT should, therefore, **enshrine the principle of state responsibility for ensuring that arms transfers are not diverted from the intended destinations, with an additional inclusion of a prohibition on the transfer of arms to non-state armed groups**. The treaty should also be firmly grounded in shared internationally agreed principles and objectives, including, inter alia, applicable principles of human security, international humanitarian law, and human rights law, as well as, fundamental principles laid down in the *Charter of the United Nations* (1946).

It is our firm belief that nothing contained in the treaty should be construed so as to derogate from the sovereignty of States and the rights of States to acquire the means to defend themselves in accordance with Article 51 of the *Charter of the United Nations* (1946). As such, no States should be discriminated against and the right of States to legally import or export transfer and manufacture arms, as well as the right to acquire arms for legitimate national security need should be upheld.

II. Scope

CARICOM continues to advocate for the **7 + 1 + 1 formula**, i.e. the seven categories of the conventional arms register; small arms and light weapons and ammunition. From CARICOM's perspective, this is the only way to meet the goal of achieving a comprehensive and effective ATT. We are open to the expansion of the categories used within the UN Conventional Register, as long as they are necessary to close any loop-holes in the future ATT.

In the view of CARICOM, one of the primary elements that is indispensable for inclusion in the scope of a strong, robust, legally binding and comprehensive Arms Trade Treaty is **ammunition**. Without bullets, small arms are virtually rendered useless. Small arms and light weapons and ammunition, as well as their parts and components, must therefore be considered in tandem and both must be included in a future ATT. For too long, ammunition has been relegated to the periphery of international discussions concerning the arms trade.

The treaty should also seek in its scope, to **regulate the activities related to re-export and diversion of weapons**; as such, the issues of **storage, end use certification, brokering and the disposal of weapons** should also be included. We would particularly encourage there to be **obligations on the import, transit or transshipment states**, in line with what is applied in terms of obligations, for exporting states.

III. Criteria and Parameters

It is the view of CARICOM that the issue of criteria and parameters remains at the heart of the proposed Treaty. In the light of the need to ensure that the ATT is indeed as strong, robust and comprehensive in nature as we would wish, CARICOM Member States are of the view that the **parameters for an ATT should be objective, transparent, predictable, consistent with existing international obligations, and, most importantly, non-discriminatory in nature**. As such, these criteria must be based on respect for the rule of law, specifically, the need to uphold the obligations under the *Charter of the United Nations* (1946) relating to the prohibition of the threat or use of force as contained in Article 2 (iv); the prohibition on the intervention in the internal affairs of another State as contained in Article 2 (vii); the right to self-defense as contained in Article 51; and the promotion of universal respect for human rights and conditions of economic and social progress as contained in Article 55. In the design of these parameters due regard should also be given to any relevant Security Council decisions on the issue of arms embargoes taken in accordance with the provisions in Chapter VII of the *Charter of the United Nations* (1946).

Additionally, due to the fact that the link between development, crime and security concerns is one which has been articulated at our highest levels of Government in diverse international fora, CARICOM supports the **consideration of violations of international humanitarian law and international human rights law** as well as the **risk to regional, sub-regional or international instability through the excessive accumulation of conventional weapons stockpiles** within the criteria and parameters section.

IV. International Cooperation and Assistance

CARICOM believes that a concerted international approach is required to complement and support national and regional efforts in addressing the challenges of regulating the arms trade. **The Treaty should contain provisions on international cooperation and assistance, particularly as it relates to capacity- building and the transfer of technology to strengthen the national capacities of developing States to effectively implement the treaty**. Cooperation and assistance should be across a broad spectrum of issues, amongst a wide range of stakeholders, and must include the strengthening of operational and institutional capacity. In more specific terms and cognizant of the region's limited resources, CARICOM views as a priority for effective implementation of the ATT, the **provision of financial, legal and technical assistance and the sharing of information and best practices**. We believe that an effective ATT should provide for cooperation and assistance among the relevant stakeholders such as law enforcement, customs and border controls at the bilateral, regional and multilateral levels. A sense of partnership must underpin the provisions relating to international cooperation and assistance within the future ATT.

A **dispute settlement regime** for the purpose of addressing differences concerning the interpretation or application of the provisions of the treaty would also be useful. This should also include mechanisms such as conciliation and mediation. The international community has a critical role to play in supporting national and regional efforts towards tackling the issues relevant to both the licit and illicit trade in small arms and light weapons. An ATT which is reflective of this role will undoubtedly provide the foundation for and enhance states' effective implementation of said Treaty.

V. Implementation and Verification

In order to ensure that the Treaty is robust in nature, it should contain provisions establishing a **dedicated secretariat to assist States parties with the implementation** of the obligations which flow from the instrument. CARICOM supports the need for the Treaty to contain provisions for the **regular, periodic exchange of information** between, States, whether importers or exporters and the United Nations through defined reporting obligations. However, these provisions should take into consideration the often times burdensome nature of such reporting requirements on developing states.

While effective implementation of any treaty's provisions is essential, there must also be effective mechanisms to address the occurrence of activities which are inconsistent with obligations under the ATT. CARICOM would therefore **support the inclusion of enforcement mechanisms** to deal with activities incompatible with the ATT. Without criminalization of offences under the ATT, those individuals who violate its provisions would be allowed to engage in activities which have either led to armed conflict in some states or the fuelling of illegal narcotics trade in others.