

## Global principles for arms transfers

### Principle 1: Responsibilities of states

All international transfers of arms shall be authorised by a recognized state and carried out in accordance with national laws and procedures that reflect, as a minimum, states' obligations under international law.

### Principle 2: Express limitations

States shall not authorize international transfers of arms that violate their expressed obligations regarding arms under international law.

This includes:

- A Obligations under the Charter of the United Nations – including:
- decisions of the Security Council, such as those imposing arms embargoes;
  - the prohibition on the use or threat of force;
  - the prohibition on intervention in the internal affairs of another state.
- B Any other treaty or decision by which that state is bound, including:
- Binding decisions, including embargoes, adopted by relevant international, multilateral, regional, and sub-regional bodies to which a state is party;
  - Prohibitions on arms transfers that arise in particular treaties which a state is party to, such as the 1980 UN Convention Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, and its three protocols, and the 1997 Anti-personnel Mines Convention.
- C Universally accepted principles of international humanitarian law:
- Prohibition on the use of arms that are of a nature to cause superfluous injury or unnecessary suffering;
  - Prohibition on weapons that are incapable of distinguishing between combatants and civilians.
- D Transfers which are likely to be diverted for any of the above or be subject to unauthorized transfer.

Principle 2 encapsulates existing express limitations under international law on states' freedom to transfer and to authorize transfers of arms. It focuses on circumstances in which a state is already bound not to transfer arms, as set out in expressed limitations in international law. The language is clear: "states shall not ..."

When new binding international instruments are agreed, new criteria should be added to the above principles. For example, if there is a new binding instrument on marking and tracing or illicit brokering.

### Principle 3: Limitations based on use or likely use

States shall not authorize international transfers of arms where they will be used or are likely to be used for violations of international law, including:

- A breaches of the UN Charter and customary law rules relating to the use of force;

- B the commission of serious violations of human rights;
- C the commission of serious violations of international humanitarian law, genocide, and crimes against humanity;

Nor should they be diverted and used for the commission of any of the above.

In Principle 3, the limitations are based on the use or likely use of the weapons to be transferred. All states should abide by the principles of state responsibility, as set out in international law, which include supplier-state responsibility and accountability for the use of arms transferred between states.

## **Principle 4: Factors to be taken into account**

**States shall take into account other factors, including the likely use of the arms, before authorizing an arms transfer, including:**

- A the recipient's record of compliance with commitments and transparency in the field of non-proliferation, arms control, and disarmament.

States should not authorize the transfer if it is likely to:

- B be used for or to facilitate the commission of violent crimes;
- C adversely affect regional security or stability;
- D adversely affect sustainable development;
- E involve corrupt practices;
- F contravene other international, regional, or sub-regional commitments or decisions made, or agreements on non-proliferation, arms control, and disarmament to which the exporting, importing, or transit states are party;
- G or be diverted for any of the above.

Principle 4 does not contain clearly stated prohibitions on the authorization of arms transfers. Instead, it identifies possible consequences that states are required to take into account before authorizing an arms transfer, imposes a positive duty on states to address these issues, and establishes a presumption against authorization where these consequences are deemed very likely.

## **Principle 5: Transparency**

**States shall submit comprehensive national annual reports on international arms transfers to an international registry, which shall publish a compiled, comprehensive, international annual report.**

Principle 5 is a minimum requirement to increase transparency so as to help ensure compliance with Principles 1-4 above. States should report each international arms transfer from or through their territory or subject to their authorization. Reporting should be standardized and tied to the implementation of the normative standards set out in the Treaty. These reports should be sent to an independent and impartial Registry of International Arms Transfers, which should issue a comprehensive annual report.

## **Principle 6: Comprehensive Controls<sup>i</sup>**

**States shall establish common standards for specific mechanisms to control: (a) all import and export of arms; (b) arms brokering activities; (c) transfers of licensed arms production; and (d) the transit and trans-shipment of arms. States shall establish operative provisions to monitor enforcement and review procedures to strengthen the full implementation of the Principles.**

Principle 6 will help ensure that states enact national laws and regulations according to common standards, and ensure that the principles are implemented consistently.

<sup>i</sup> This Principle recognises the need to include critical elements to comprehensively control international arms transfers, as recognised by the UK Government in its statement on 15 March 2005 on an Arms Trade Treaty which is being supported by a growing number of governments.