

## Canada and the Arms Trade Treaty

### June 2012

#### Canada's participation in the Arms Trade Treaty process

In 2006, along with a majority of states, Canada voted in favor of a UN resolution to start work on developing a global Arms Trade Treaty (ATT). Since then, it has been a consistent supporter of the ATT, while deferring to other states on leadership of the ATT process.

As such, over the past few years, Canada has been an active participant in all UN-led initiatives regarding the ATT, including a global consultation on the treaty's parameters, scope and implementation, as well as three preparatory meetings for negotiations.

More recently, while remaining favorable to the treaty, Canada has hardened its stance on certain aspects of the agreement (see next section). As well, to date, neither Canada's Foreign Affairs Minister nor the Prime Minister have made a public statement in favour of the ATT. At this crucial time, Canada must step forward as a strong and public advocate of a treaty that is comprehensive and robust and will lead to a significant reduction in the human cost of irresponsible arms transfers.

#### Canada's position on key elements of the Arms Trade Treaty

**Goals of the treaty:** Canada believes that the primary goals of an ATT should be to prevent:

- Transfers of conventional arms that breach UN Security Council sanctions regimes;
- Arms transfers that contribute to serious violations of human rights and/or international humanitarian law;
- Transfers of conventional arms that provoke, prolong or aggravate armed conflict;
- Transfers of conventional arms that support or facilitate terrorist acts;
- Transfers of conventional arms that would be used in the commission of transnational organized crime;
- The diversion of conventional weapons to unauthorized end users.

Another goal of the treaty should be to promote transparency and due diligence in arms transfers.

This is mostly consistent with the treaty's original intention. However, Canada has reversed its previous stance, by not promoting the inclusion of a socio-economic development criterion in the treaty's parameters. Since armed violence is a major driver of poverty, many civil society organizations and states (including the UK) believe that socio-economic development should be among the treaty's key goals.

**Scope:** Canada supports the inclusion of most conventional weapons in the treaty, including small arms, light weapons and ammunition, as long as this does not prevent the movement or transfer of firearms by legitimate and responsible civilian gun owners.

To that end, in July 2011, Canada suggested wording calling for recognition in the treaty "that small arms have certain legitimate civilian uses" and for the exclusion of "sporting and hunting firearms for recreational use" from the scope of the treaty. In total, 14 states opposed Canada's submission, on the grounds that there is no agreed distinction between civilian and military small arms at the international level. Moreover, for many states, all firearms are a threat in the wrong hands.

It now seems that Canada will be looking for preamble language recognizing the legitimacy of firearms use for recreational purposes. While potentially redundant, such language may help clarify that the treaty is not about civilian ownership or domestic transfers of firearms, but rather, that it aims to regulate the international transfer of firearms and other conventional weapons across national borders.

**c) Implementation:** Canada believes that states should retain the right to exercise national discretion with regard to how states implement the treaty. Canada's position overlooks the key point that a strong treaty will require a rise in standards across most states. Indeed, there is a need for coherent and consistent measures to be implemented among states, if global transparency and accountability criteria are to be met.

### **Canada and implementation of the Arms Trade Treaty**

Next to current global standards, Canadian export controls are comparatively strong. However, there are also some important areas where existing Canadian standards are found wanting.

Canada is one of 35 countries that are party to arms control instruments that seek common high operational standards for arms transfers, including the Wassenaar Arrangement and the OSCE Document on Small Arms and Light Weapons. Canadian standards with regard to treaty **parameters or criteria** also are generally high. Canada uses "case-by-case" assessments of the risks of arms transfers along parallel lines to what many propose for inclusion in treaty provisions.

Canadian control guidelines refer to some international obligations, notably adherence to UN arms embargoes, as well as to concerns about human rights violations. Other important international commitments are missing however, particularly any reference to genocide or crimes against humanity, violent or organized crime, corrupt practices, socio-economic development and other important standards.

With regard to treaty **scope**, Canada currently has a "licence-free" arms trade arrangement with the US, meaning that military goods shipped from Canada to the US do not require export permits. Since the Pentagon is by far Canada's largest customer for military goods, this means that most Canadian arms exports are neither authorized nor monitored. As Canadian practice now stands, Canada would not meet expected ATT standards with regard to the treaty scope because Canada-US transfer transactions are currently exempted.

Finally, Canada is very weak with regard to **transparency** standards. Although Canada was one of the first states to provide annual reports on military exports, in recent years its reporting has been very lax with the most current figures for 2009 now over two years out of date. More importantly, the arms trade relationship with the US creates a glaring omission such that Canadian reports do not include most Canadian arms exports.

Clearly, if it is to be consistent in its support for an effective ATT, Canada will need to give attention to improvements to national standards.

Nonetheless, the ATT represents a historic opportunity to bring the rest of the world up to Canada's generally higher standards for arms transfers. That is why Canada must ensure that the ATT is a meaningful treaty. To that end, Canada must bear a core message in mind: There can be no compromise on the key treaty elements that will reduce the impact of irresponsible arms transfers on the lives of millions of innocent and vulnerable people around the world.

### **For further information, please contact:**

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June 14, 2012

The Right Honourable Stephen Harper  
Prime Minister of Canada  
Office of the Prime Minister  
Ottawa, ON K1A 0A2

**RE: Arms Trade Treaty**

Dear Mr. Prime Minister,

We, the organizations listed below, are writing to thank you for Canada's support to date for the Arms Trade Treaty, and to call on the Canadian government to do its utmost to ensure negotiations at the UN Diplomatic Conference in July result in a meaningful and effective convention that will save lives and safeguard communities worldwide.

The human cost of the current patchwork of inadequate transfer controls, and the corresponding widespread availability and misuse of weapons, is unacceptably high. This manifests itself in several ways: in the killing, wounding, and rape of civilians; the devastating impact on children, and in particular girls; in the perpetration of other serious violations of international humanitarian law and human rights law; and in the displacement of people, sometimes on a massive scale, within and across borders.

The UN General Assembly has agreed to prepare a binding treaty containing the highest possible common international standards for the transfer of conventional arms. The treaty is an unprecedented global opportunity to reduce the human cost associated with inadequate controls on arms transfers and to contribute to improved safety and security for communities affected by conflict and armed violence. It is an opportunity that Canada and other UN member states must seize to the fullest extent.

A strong treaty must be rooted in the responsibilities of states under international law. States have a duty to interdict any transfer if there is significant risk that the weapons in question will be used in contravention of international laws and norms. To succeed, the treaty must be comprehensive in scope and include all arms, related equipment and ammunition, as well as all types and manner of transfer. The treaty also must establish clear guidelines for transparency and full implementation.

The Canadian government has emphasized that the treaty should not impede legitimate trade in conventional weapons nor lawful and responsible ownership and use of firearms. This emphasis is a welcome clarification that the purpose of the treaty is to prevent illicit and irresponsible arms transfers between states. The treaty will not affect national domestic regulations on firearms or other conventional weapons.

Treaty negotiations face major challenges, not the least being that a minority of skeptical states will seek to weaken or prevent a strong treaty sought by the majority. For negotiations to reach a meaningful result, Canada must step forward as a strong and public advocate of a treaty that is comprehensive and robust and will lead to significant reductions in the human costs of irresponsible arms transfers. We call on you to:

- Issue a prime-ministerial statement emphasizing Canadian support for a strong Arms Trade Treaty and indicating that Canada will not accept treaty text that inadequately responds to the humanitarian costs of irresponsible arms transfers;
- Instruct Minister Baird to take up the invitation to attend the high level segment during the first days of the Diplomatic Conference;
- Instruct the Canadian delegation to the Diplomatic Conference to actively engage and support other states seeking a comprehensive and effective Arms Trade Treaty.

Thank you for your attention to this matter. We look forward to your response.

Sincerely,

Amnesty International Canada

**Association québécoise des organismes de coopération internationale**

Canadian Council for International Cooperation

Canadian Nurses Association

Canadian Society for International Health

Commission on Justice and Peace of the Canadian Council of Churches

Group of 78

Mines Action Canada

Oxfam-Canada

Oxfam-Quebec

Pax Christi - Montréal

Plan Canada

Physicians for Global Survival

Project Ploughshares

Religions for Peace – Canada

Religions pour la Paix – Québec.

Vision GRAM- International

War Child

World Federalist Movement

## Global Parliamentarian Declaration on the Arms Trade Treaty

**Note:** *This declaration has been signed by 119 Canadian MPs and Senators from all parties; they are part of 1 679 legislators from 75 countries worldwide who support the declaration. The names of the Canadian signatories are listed at the end of this document.*

The international community stands at a crossroads in the negotiation of an Arms Trade Treaty. As democratically elected Members of Parliament worldwide, we strongly endorse and support this negotiation process, which must deliver a robust, legally binding instrument that effectively tackles the devastating consequences of armed violence and conflict around the globe.

We are concerned that the international trade in arms, when undertaken irresponsibly or diverted to illicit markets, contributes to armed conflict and armed violence. This often results in serious violations of international human rights law and international humanitarian law, internal and cross-border displacement, terrorism, organized and common crime, and the facilitation of the illicit trade in narcotics.

Moreover, it facilitates gender-based violence against women – who also disproportionately endure the indirect, longer-term consequences of armed violence. In turn, all these factors undermine peace and peace-building processes, human security, poverty reduction initiatives, and prospects for sustainable socio-economic development.

We fervently believe that a strong Arms Trade Treaty (ATT) can make a significant contribution in addressing the terrible human toll which is a direct consequence of this poorly regulated trade. At a minimum, the ATT should establish that no international transfer of arms and ammunition will be authorized if there is a substantial risk that the weapons will be used to commit or facilitate serious violations of international human rights law or international humanitarian law, or will seriously impair poverty reduction or socio-economic development.

We also recognize that for an Arms Trade Treaty to have proper impact, its scope must be comprehensive and include all international transfers of conventional weapons, and in particular small arms and light weapons, but also all related ammunition and equipment used to deploy potentially lethal force in military and internal security operations.

As legislators from around the world, we are not only supporters of an effective Arms Trade Treaty, we also have a major role and responsibility in making this Treaty a meaningful reality.

As Advocates – we can and will continue to actively engage with our colleagues in the executive branches of government to ensure they give the ATT the priority it deserves and remain informed of the concerns that must be properly addressed therein. We will also actively advocate for ratification of the ATT in our respective countries when the ATT is in place.

As Lawmakers – we will draft the legislation which will give effect to the ATT in our respective countries, and will seek to ensure that any such domestic laws faithfully reflects and integrates the provisions of the Arms Trade Treaty.

As Guardians of the peoples' trust – we will ensure, through our oversight and accountability responsibilities, that our respective governments properly implement and enforce domestic law giving effect to the ATT. Legislation is only as good as its implementation.

*As Moral Individuals*, above all else, who see the lives of those near to us - and many of those who have elected us – lost, destroyed or irreparably damaged by the current inadequate regulation of the global arms trade.

We welcome the growing global support for an Arms Trade Treaty among many diverse groups – including the private sector and global investment community, survivors of armed violence, and religious leaders – who increasingly recognize that a solid ATT is in the interests of all, not just a few.

***We hereby call upon all of our fellow stakeholders worldwide in the negotiation of this Arms Trade Treaty to join us as we redouble our efforts, in the months ahead, to create a strong international agreement that will prevent irresponsible and illicit arms trading between countries. A robust ATT will greatly reduce the needless and massive loss of human life and livelihoods while at the same time not impeding the operation of the legitimate global arms trade as carried out with full respect for the rule of law and international standards.***

**Canadian signatories:**

**Conservatives:**

Michel Rivard, Senator

Nancy Ruth, Senator

**Liberals:**

Gerry Byrne, MP

James Cowan, Senator

John McKay, MP

Jane Cordy, Senator

Kevin Lamoureux, MP

Jim Karygiannis, MP

Lise St-Denis, MP

Joan Fraser, Senator

Ralph Goodale, MP

John McCallum, MP

Rodger Cuzner, MP

Joseph Day, Senator

Art Eggleton, Senator

Joyce Murray, MP

Bob Rae, MP

Judy Foote, MP

Carolyn Bennett, MP

Judy Sgro, MP

Céline Hervieux-Payette, Senator

Justin Trudeau, MP

Charlie Watt, Senator

Mac Harb, Senator

Claudette Tardif, Senator

Mauril Bélanger, MP

David Smith, Senator

Mobina Jaffe, Senator

Denis Coderre, MP

Pierrette Ringuette, Senator

Dominic LeBlanc, MP

Roméo Dallaire, Senator

Elizabeth Hubley, Senator

Scott Andrews, Senator

Fernand Robichaud, Senator

Scott Simms, MP

Francis Scarpaleggia, MP

Sean Casey, MP

Frank Mahovlich, Senator

Serge Joyal, Senator

Geoff Regan, MP

Ted Hsu, MP

George Furey, Senator

Wayne Easter, MP

**New Democrats:**

Alain Giguère, MP

Laurin Liu, MP

Alex Atamanenko, MP

Libby Davies, MP

Alexandre Boulerice, MP  
Alexandrine Latendresse, MP  
Anne Minh Thu Quach, MP  
Anne-Marie Day, MP  
Brian Masse, MP  
Carol Hughes, MP  
Charlie Angus, MP  
Charmaine Borg, MP  
Chris Charlton, MP  
Christine Moore, MP  
Claude Gravelle, MP  
Claude Patry, MP  
Denise Savoie, MP  
Dennis Bevington, MP  
Djaouida Sellah, MP  
Don Davies, MP  
Fin Donnelly, MP  
Francine Raynault, MP  
François Choquette, MP  
François Pilon, MP  
Françoise Boivin, MP  
Glenn Thibeault, MP  
Guy Caron, MP  
Hélène Laverdière, MP  
Hoang Mai, MP  
Irene Mathyssen, MP  
Jack Harris, MP  
Jasbir Sandhu, MP  
Jean Crowder, MP  
Jean Rousseau, MP  
Jinny Sims, MP  
Joe Comartin, MP  
John Rafferty, MP  
Jose Nunez-Melo, MP  
Kennedy Stewart, MP

Linda Duncan, MP  
Malcolm Allen, MP  
Marc-André Morin, MP  
Marie-Claude Morin, MP  
Marjolaine Boutin-Sweet, MP  
Mathieu Ravnat, MP  
Matthew Dubé, MP  
Matthew Kellway, MP  
Mike Sullivan, MP  
Mylène Freeman, MP  
Nathan Cullen, MP  
Nycole Turmel, MP  
Olivia Chow, MP  
Paul Dewar, MP  
Paulina Ayala, MP  
Peggy Nash, MP  
Peter Julian, MP  
Philip Toone, MP  
Pierre Dionne Labelle, MP  
Pierre Jacob, MP  
Pierre Nantel, MP  
Pierre-Luc Dusseault, MP  
Randall Garrison, MP  
Rathika Sitsabaiesan, MP  
Raymond Côté, MP  
Robert Aubin, MP  
Robert Chisholm, MP  
Rosane Doré Lefebvre, MP  
Ruth Ellen Brosseau, MP  
Sadia Groguhé, MP  
Sana Hassainia, MP  
Sylvain Chicoine, MP  
Tyrone Benskin, MP  
Wayne Marston, MP  
Yvon Godin, MP

**Green Party:**

Élizabeth May, MP





# Global Investor Statement on the Arms Trade

## **This statement calls for a strong, legally binding, and comprehensive Arms Trade Treaty.**

This statement is supported by 11 investors – both asset owners and asset managers – that collectively represent assets of over US\$ 728 billion. All the undersigned investors are signatories to the United Nations-backed Principles for Responsible Investment ([www.unpri.org](http://www.unpri.org)). Consequently, this group of global investors recognises that environmental, social, and governance issues can affect the performance of investment portfolios.

### Context

In 2006, through the United Nations General Assembly, 153 countries voted in favour of resolution 61/89 calling on the Secretary-General to seek the views of Member States on a legally binding Arms Trade Treaty (ATT) aiming to establish “common international standards for the import, export and transfer of conventional arms”. Currently there is no international framework, no global conventions or treaty comprehensively regulating the trade and transfer of conventional weapons, but instead a patchwork of national and regional regulations.<sup>1</sup>

The call therefore recognises existing arms export control systems are inadequate to prevent the trade with and transfers to irresponsible recipients. Although existing regional and national regulations are not harmonised and leave gaps, they provide a good basis of what an international treaty ought to include.

While key principles of international human rights and international humanitarian law are of direct relevance to the concerns linked to the irresponsible trade and transfer of conventional weapons, such principles need to be applied through explicit standards.<sup>2</sup>

We therefore agree with the text of the resolution that recognises the absence of common international standards on conventional arms as “a contributory factor to conflict, the displacement of people, and crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development.”

### **Risks for investors**

As large institutional investors we are, in effect, “Universal Owners”. We often have highly-diversified and long-term portfolios that are representative of global capital markets. Our portfolios are inevitably exposed to growing and widespread costs from unsustainable corporate behaviour. Long-term economic wellbeing and the interests of beneficiaries are at stake. As institutional investors, we have an interest to reduce financial risk from negative social impacts as well as protect our reputation linked to investment decisions and practices.

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<sup>1</sup> Key multilateral instruments that – when taken together – enable policy makers to comprehensively address types of weapons and ammunition include: The UN Register of Conventional Arms; the Common Military List of the European Union; Article 1 of the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials; Article 1 of the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials; and the NADI Framework. Moreover, the majority of national control lists contain comprehensive categories of arms and ammunition which can also be used as a basis for developing a comprehensive scope for the ATT.

<sup>2</sup> There are several regional and international standards and agreements aimed at promoting transparency and responsibility in the transfer of conventional arms. See International Committee of the Red Cross, *Arms transfer decisions, Applying international humanitarian law criteria, practical guide*, 2007; Amnesty International, *How to Apply Human Rights Standards to Arms Transfer Decisions*, 2008.

The absence of a global conventional arms control system preventing irresponsible supplies affects our investments by impacting both the global economy and companies in our portfolio. Irresponsible supplies of conventional weapons can:

- fuel and perpetuate international aggression, internal oppression, and the violation of international humanitarian law
- e.g. Africa is estimated to lose approximately USD\$18bn per year due to wars, civil wars, and insurgencies; armed conflict shrinks an African nation's economy by 15%<sup>3</sup>; and
- support unaccountable purchasing practices, corruption, and the diversion of public resources
- e.g. the US Department of Commerce has estimated that corruption in the arms trade accounts for approximately 50% of all corrupt transactions globally, despite the fact that the value of arms traded annually does not exceed 1% of global trade; corruption and bribery translate into higher costs, transactional and hidden, often representing a high percentage of the total value of contracts for companies.<sup>4</sup>

Without a more robust global conventional arms control system, there are clear regulatory and reputational risks that companies involved in the defense industry and/or benefitting from offset programmes in arms importing countries might be or be perceived to be complicit in the violations committed by irresponsible end users or contribute to corruption, and the diversion of public resources will continue representing an increase of costs.

### Recommendations

The ATT is an historic opportunity to better manage these risks. To be useful and effective, we believe the ATT should include a comprehensive and broad list of conventional arms and ammunitions in the agreement and the following commitments by State parties:

- Prevent exports, imports, and transfers<sup>5</sup> of conventional weapons where there is a clear risk that these will be used to commit violations of human rights and international humanitarian laws, prolong violent conflicts or contribute to regional instability, facilitate organised crime or terrorism or be diverted or resold for these purposes, or seriously impair socio-economic development and poverty reduction strategies.<sup>6</sup>
- Prevent transfers of conventional arms and ammunitions, which are likely to encourage corruption and the unaccountable and nontransparent diversion of public spending.
- Adopt dissuasive criminal, civil, and administrative sanctions that are broadly similar across states.
- Report annually and adequately on all international transfers of conventional arms.

In addition to states, we believe the corporate sector has a role to play in the ATT. We commit to engage with companies and trade associations to support a strong and comprehensive ATT as stated in this declaration.

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<sup>3</sup> Oxfam (2007) *Africa's missing billions: international arms flows and the cost of conflict*.

<sup>4</sup> Transparency International (UK) 'Preventing Corruption in the Official Arms Trade', 30 April 2006, Update Note 3. For further information on the impact of bribery and corruption, see documentation from workshop with institutional investors available at <http://www.oxfam.org.uk/resources/issues/privatesector/investment-workshops.html#>

<sup>5</sup> During the 2007 UN Secretary General's consultation most states identified the following types of transfer should be included in the treaty scope: imports, exports, re-exports, temporary transfers, transshipments (from one carrier to another), in transit between an exporting and importing state and re-transfers. In addition, on-going negotiations include the following transactions: state-to-state transfers, state-to-private end-user transfers, commercial sales, leases, transfers of licensed foreign arms production and technology for this purpose, loans or gifts or aid or any other form of transfer of material goods or credit or expertise. As well as transactions that facilitate the arms trade to be covered including: brokering; acting as an agent; providing technical assistance, training, maintenance and upgrades; transport, freight forwarding and storage; finance and insurance; and security services. There is a general government agreement that the following should be though excluded: internal transfers, national ownership provisions and national constitutional protections on private ownership within that State's territory.

<sup>6</sup> Recognised guidelines to determine whether violations of international humanitarian law are likely are the ICRC's Practical Guide to Arms Transfers Decisions.