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To: States Parties to the Arms Trade Treaty - ATT

Subject: Proposed Amendment to Enhance Commitment and Accountability for the Use of Weapons in International Crimes

Dear Members of the Conference,

The Arms Trade Treaty (ATT) represents a significant achievement in regulating the international trade in arms, aiming to prevent their diversion and use in violations of human rights and international humanitarian law. Article 6 of the Treaty currently prohibits authorizing any transfer of arms if the exporting State Party has "knowledge" that the arms "would be used" in the commission of genocide, crimes against humanity, or other war crimes. Article 7 also obliges States to assess the risk of arms being used in serious violations.

Despite the importance of these provisions, their current wording primarily focuses on the responsibility of the selling party (exporting State) and its assessment of risks or prior "knowledge." There remains a need to strengthen this legal framework to ensure a clearer and more binding commitment on both parties to the transaction (seller and buyer), consistent with the spirit and objectives of the Convention on the Prevention and Punishment of the Crime of Genocide and other international instruments that criminalize these acts. Crucially, the Treaty must include a clear mechanism for accountability and sanctions in the event of a breach of this vital commitment.

Objective of the Proposed Amendment

This proposal aims to amend the Treaty to impose an explicit and clear obligation on both the exporting State and the importing State not to use the weapons subject to the transaction in the commission of international crimes, including genocide, crimes against humanity, and war crimes. Furthermore, this amendment seeks to establish clear mechanisms for sanctions and procedures to be taken against any State Party that violates this condition, thereby ensuring accountability and enhancing deterrence against future violations.

Proposed Amendment

It is proposed to add a new article or amend Articles 6 and 7 to include text that obligates both parties (seller and buyer) as follows, with the addition of a specific clause for sanctions:

First: Obligation Not to Use (Proposed addition of a new article or clause to Article (6/7):

All States Parties, whether a selling party or a purchasing party in any conventional arms transaction subject to this Treaty, undertake to ensure that the arms traded shall in no way be used in the commission of:

1. Genocide, as defined in the Convention on the Prevention and Punishment of the Crime of Genocide.
2. Crimes against Humanity, as defined in relevant international law.
3. War Crimes, as defined in relevant international law, including grave breaches of international humanitarian law.
4. Any other serious violations of international human rights law.

This obligation must be clearly reflected in the documentation and terms of any arms sale or purchase agreement between States Parties.

Second: Sanctions and Accountability Mechanism (Proposed addition of a new dedicated article for sanctions):

In the event that an importing State Party (or any entity operating under its control or encouragement) is proven to have violated the obligation stipulated in paragraph [Reference to the proposed article above], by using the traded arms to commit any of the aforementioned international crimes, the following procedures and sanctions shall be applied, following a thorough investigation and proof of the violation:

1. Suspension of all future arms deals: All future conventional arms deals with the violating State shall be immediately suspended by other States Parties to the Treaty.
2. Prohibition of arms and related services supply: A complete prohibition shall be imposed on the supply of any arms, ammunition, spare parts, or related training or maintenance services to the violating State by States Parties.
3. International Condemnation: States Parties shall issue a collective and public statement condemning the violation, and call upon the international community to take similar actions.
4. Referral to Competent International Bodies: The violation file shall be referred to the United Nations Security Council and the Prosecutor of the International Criminal Court (if the crimes fall within its jurisdiction) for necessary action in accordance with international law.
5. Demand for Reparations: States Parties are encouraged to support legal claims for reparations to victims affected by the use of arms in international crimes.
6. Possibility of Membership Suspension: The membership of the violating State in the Treaty may be temporarily suspended or terminated, according to procedures defined by the Treaty.

**** Justifications**

1. Enhanced Deterrence: The existence of severe and clear consequences will serve as a strong deterrent to any State contemplating the use of traded weapons in international crimes.
2. Ensuring Accountability: This clause ensures that States violating this obligation will not escape punishment, thereby reinforcing the rule of international law.
3. Protection of Victims: Contributes to the protection of civilians and potential victims by reducing the likelihood of international crimes occurring.
4. Boosting Treaty Credibility: Increases the strength and credibility of the Treaty as an effective tool for preventing international crimes related to arms.
5. Alignment with International Principles: Aligns with the principles of international justice and the necessity of punishing perpetrators of the most serious crimes.

**** Conclusion**

The adoption of this proposed amendment, which not only defines the obligation not to use weapons in international crimes but also specifies clear sanctions for States that breach this obligation, will represent a qualitative leap in enhancing the effectiveness of the Arms Trade Treaty. This amendment will reaffirm States Parties' unwavering commitment to preventing the use of weapons in the gravest crimes threatening international peace and security and humanity as a whole, and ensure that justice is served for the victims of these crimes.