

## **Written Questions to the Ministry of Foreign Affairs**

### *Issue 1: Arms Trade Treaty*

The International Community has adopted number of instruments and treaties to address the issue of illicit trade in small arms and light weapons. The most recent includes the Arms Trade Treaty, which was adopted in April 2013 and signed by 130 countries before it entered into force on 24 December, 2014. Thus far ATT has been ratified by 82 countries and the number of signatories is expected to exceed 100 within the next 18 months.

Inadequate regulation and control of small arms and light weapons in our region has resulted in a wide range of negative human, humanitarian and socio-economic consequences including massive loss of human life, serious injuries and also contributed to the commission of conflicted related crimes, such as war crimes, crimes against humanity and rape. Unchecked and inadequate regulation of small arms and light weapons continues to pose a serious threat to peace, security, stability and sustainable development in many parts of the world including Asia.

Bhutan shares porous borders with a number of countries, some of which are the victims of the illicit trade of small arms and weapons.

Bhutan however, did not sign the Arms Trade Treaty within the period prescribed to do so in the ATT. We have strong domestic legislation regulating firearms. However, strong domestic legislation is often not enough when it comes to dealing with problems that can arise beyond the borders of one's own country. International problems require participation in international solutions with the same objectives.

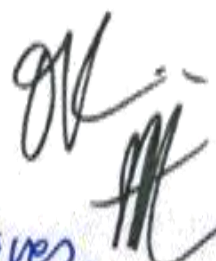

In this context, the National Council would like to ask whether the Royal Government is considering accession to the Arms Trade Treaty.

**RESPONSE TO THE QUESTIONS FROM THE NATIONAL COUNCIL ON THE ARMS TRADE TREATY**

1. The Ministry of Foreign Affairs submits the response pursuant to the written question received from the National Council vide letter no.NC/CP-2/2016/1997 dt. 8 June 2016, as part of the 17<sup>th</sup> Session of the National Council.

**BACKGROUND**

2. The ATT is a multilateral, legally-binding agreement that establishes common standards for the international trade of conventional weapons and seeks to reduce the illicit arms trade. The treaty aims to reduce human suffering caused by illegal and unregulated arms transfers, improve regional security and stability, as well as to promote accountability and transparency by state parties concerning transfers of conventional arms. As of today, the ATT has 82 State Parties and 130 Signatories . From SAARC, only Bangladesh is a signatory to the ATT and none of SAARC members are State Party to the Treaty.
3. The obligations of the ATT are as follows:
  - Establish and maintain an effective **national control system** for the export, import, transit, and transshipment of and brokering activities related to the eight categories of conventional arms covered by the ATT, as well as exports of related ammunition and of parts and components that are used for assembling conventional arms covered by the treaty (Articles 3, 4, and 5.2);
  - Establish and maintain a **national control list** (Article 5.3) and making it available to other states-parties (Article 5.4);
  - **Prohibit transfers** of conventional arms, ammunition, or parts and components for the eight categories of conventional arms covered by the ATT that would violate obligations under Chapter VII of the UN Charter or international agreements relating to the transfer or illicit trafficking of conventional arms or where there is knowledge that the items will be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, or other war crimes (Article 6);
  - **Review applications for exports** of the eight categories of conventional arms covered by the treaty and conducting a **national export assessment** on the risk that the exported arms could have "negative consequences" for peace, security, and human rights, denying an arms export if the assessment determines that there is an overriding risk that the exported arms will be used to commit or facilitate a serious violation of international humanitarian or human rights law or offenses under international conventions or protocols relating to terrorism or international organized crime and taking into account the risk of the exported

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arms being used to commit or facilitate serious acts of gender-based violence or violence against women and children (Article 7);

- Take measures, where necessary and feasible, to **regulate the transit and transshipment** of conventional arms (Article 9);
- Take measures to regulate **brokering** taking place under its jurisdiction (Article 10);
- Take measures, including risk assessments, mitigation measures, cooperation, and information sharing, to prevent the diversion of conventional arms to the illicit market or for unauthorized end use and end users (Article 11);
- Maintain **national records** for each export authorization or delivery of conventional arms for at least 10 years (Article 12);
- Provide **annual reports** to the secretariat on export and import authorizations or deliveries of conventional arms to be distributed to states-parties (Article 13);
- Take appropriate measures to **enforce national laws and regulations** to implement the treaty (Article 14); and
- Cooperate with other states-parties in order to implement the ATT effectively (Article 15).

4. As indicated above, the ATT require adoption of basic regulations and approval processes for the flow of weapons across international borders. It establishes common international standards that must be met before arms exports are authorized, and requires annual reporting of imports and exports to a treaty secretariat. In particular, the treaty requires establishment and maintenance of national control system, including a national control list and designate competent national authorities in order to have an effective and transparent national control system regulating the transfer of conventional arms.

#### POSITION ON ACCESSION <sup>TO</sup> OF THE ATT

5. Clear linkages have been established between unregulated and illicit arms transfers and threat to international peace and security, as well as impact on socio-economic development. Bhutan as a concerned member of the international community supported the international move towards an arms trade treaty and had voted in favor of the Resolutions on the Arms Trade Treaty at the UN General Assembly Sessions.
6. The ATT is primarily an international instrument to regulate the international trade in conventional arms. As Bhutan is neither a producer/importer of conventional arms, nor a country that serves as transit point, signature/accession to the treaty was not considered till date.
7. Amongst the arms control and disarmament international instruments, the ATT is a new treaty adopted by the UN General Assembly on 2<sup>nd</sup> April 2013 and entered into force on 24 December 2014. While RGoB remain open to consideration of ~~of~~ accession to the

treaty, RGoB must consider accession of the treaty in the context of national priorities as well as limited resources and capacity constraints.

8. It has always been the view of MFA that in order to give meaningful effect to any international obligations, we must first build the necessary legal, political, and social institutions, as well as develop the human resources of the country before assuming new obligations. Therefore, accession to the ATT should only be considered upon thorough study and consultation among national stakeholders, based on the relevance of the treaty, national needs and priorities and most importantly the national level of preparedness to fulfill the obligations. These should be pursued in accordance with the Rules of Procedure for Treaty Making 2016.

  
Multilateral Department

