SPECIAL PROCEDURES
UNITED NATIONS
HUMAN RIGHTS COUNCIL

Q&A

UN Special Rapporteur on Torture's

Recommendations for a Torture-Free Trade Treaty

1. Why is a Torture-Free Trade Treaty needed?

A Torture-Free Trade Treaty is a tangible step that states can collectively take to prohibit and prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "torture and other ill-treatment"), pursuant to their existing legal obligations, by shutting down a regulatory gap that enables such abuses. A treaty regulating international trade in law enforcement equipment and "less lethal" weapons would not be an anti-trade measure, but rather an anti-torture mechanism with the goal to protect both individuals at risk (such as detainees, protesters, patients, and migrants) as well as law enforcement officials, by ensuring the latter are issued only lawful and appropriate tools and that they receive proper training.

Around the world, weapons, restraints and equipment used by law enforcement (hereinafter "law enforcement equipment") is causing deaths and serious physical and psychological harm in such situations as arrest and custody, during protests, in prisons, at borders, and in psychiatric or immigration facilities. Many types of equipment are manufactured in one country and transferred to another with minimal scrutiny, even where there is clear evidence that they are being used to perpetrate torture and other ill-treatment. At the same time, the global market for law enforcement equipment is expanding, with changing patterns of equipment use and new technologies being developed and promoted without international safeguards.

These trends make it increasingly easy for abusive authorities to acquire tools of torture and repression, while responsible states lack a common framework to prevent their own exports and other transfers from being used for torture abroad. This regulatory gap at the international level allows companies worldwide to develop, market, and transfer inherently abusive devices (such as spiked batons and cage beds) as well as export other law enforcement equipment and "less-lethal" weapons (such as tear gas, rubber bullets, and restraints) with little or no oversight, despite States' existing international obligations to prevent torture and other ill-treatment.

A dedicated treaty would translate States' existing obligations under the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the 1966 International Covenant on Civil and Political Rights (articles 7 and 10), and regional human rights treaties, to

prohibit and prevent torture and other ill-treatment into concrete controls on the trade in law enforcement equipment, as well as additional obligations to ban the development, production, financing, promotion, and use of inherently abusive items; create transparency and accountability in this industry and trade; and harmonize and strengthen scattered regional and national measures so as to prevent abuse in both custodial and public settings.

There is a pressing need to advance a treaty at the global level, as only an *internationally* binding treaty would have the capacity to regulate a *global trade* and not leave gaps, which presently exist owing to the autonomous development of regional and national regulations which may differ in the scope of goods and activities covered.

2. What is meant by "law enforcement equipment"?

In the context of a Torture-Free Trade Treaty, "law enforcement equipment" refers to goods that are employed in the use of force or restraint by law enforcement officials, including weapons, restraints, and other equipment. Law enforcement officials include the uniformed services including police officers, prison guards, people working in secure medical facilities, and others carrying out public functions related to arrest and detention. These would include military and security forces who exercise powers ordinarily reserved for the police, as well as private actors carrying out law enforcement functions, such as employees of private security or prison companies.[1] A treaty would not need to cover firearms and other conventional weapons, as their trade is regulated under existing international treaties and standards.

3. What types of law enforcement equipment should be covered?

The proposed treaty should cover two types of law enforcement equipment – the Special Rapporteur on torture refers to these as "Category A" and "Category B" equipment in her 2023 thematic study, which contains annexes that offer lists of existing equipment that fall into each category.[2] These lists should be updated periodically given the fast evolving industry.

Category A Goods

Category A[3] goods – inherently abusive equipment – are types of equipment by either design or impact that inflict inhuman, cruel or degrading treatment or punishment and/or serve no legitimate purpose.
The treaty would establish an absolute ban on inherently abusive equipment. Examples of Category A goods include:

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[1] UN Code of Conduct for Law Enforcement Officials, UN General Assembly resolution 34/169, 17 December 1979.
[2] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Thematic study on the global trade in weapons, equipment and devices used by law enforcement and other public authorities that are capable of inflicting torture and other cruel, inhuman or degrading treatment or punishment*, 23 August 2023, A/78/324, delivered to the General Assembly at its 78th Session, available at: https://www.ohchr.org/en/documents/thematic-reports/a78324-thematic-study-global-trade-weapons-equipment-and-devices-used.
[3] Ibid, Annex I, available at https://www.ohchr.org/sites/default/files/documents/issues/torture/sr/annex-i-document-august-2023-ae-18-09-23.pdf.

- spiked or heavily weighted striking weapons;
- electroshock shields, batons, and gloves worn by law enforcement, and electroshock belts and straps worn by detainees that can be activated remotely;
- cage-like beds and chaining systems that mimic slavery-style restraints;
- hoods that disorient detainees and risk suffocation; and
- a range of "crowd-control" weapons, such as multi-projectile ammunition and multi-barrel launchers that inflict severe pain and can blind, injure and kill people indiscriminately.

Category B Goods

By contrast, Category B[4] goods are types of law enforcement equipment that can have a legitimate policing function but which are frequently misused for torture or other ill-treatment. This category includes ordinary batons and shields, rubber bullets, Taser-style electric-shock projectile devices, and certain kinds of tear gas and pepper spray dispersal mechanisms.[5] Rather than an outright ban, this equipment would be regulated through strict trade controls requiring inspections, early warning systems, and suspensions of trade, so as to prevent their transfer to countries or authorities where there is a real risk that they will be used to torture or other ill-treatment, or there is evidence of actual or presently ongoing torture or other ill-treatment.

The Treaty envisaged would include lists of Category A (prohibited) goods and Category B (controlled) goods which could be incorporated directly into a Torture-Free Trade Treaty as annexes or appendices. This approach would reduce inconsistencies that might arise if lists were left to domestic practice. The treaty should require States to apply the treaty's rules to new or proposed equipment that is similar in type to items already covered – and potentially refer to a body to which advice could be sought; it should also establish procedures to keep the lists of Category A and B goods updated to be able to respond to new developments and technologies, new evidence of misuse or health impacts, and evolving human rights jurisprudence and standards.

4. What benefits would a treaty, as opposed to non-binding guidance, provide?

Existing international law clearly prohibits torture and other ill treatment, but it does not yet translate that prohibition into shared, detailed rules on trade in law enforcement equipment. A treaty would create distinct legal obligations and provide clear and predictable rules and information-sharing mechanisms that would be implemented by all States party to the treaty, helping establish a level playing field for companies.

A Torture-Free Trade Treaty would be more likely to drive real changes in national laws and bureaucratic practice than soft law guidance. In addition, through reporting and monitoring

[4] Ibid, Annex II, available at https://www.ohchr.org/sites/default/files/documents/issues/torture/sr/annex-ii-document-august-2023-18-09-23.pdf

[5] Given recent examples of experimentation with chemical weapons in peacetime, further controls may be required.

measures, a treaty would produce necessary transparency in the trade in law enforcement equipment.

The best way for States to establish common trade controls is through a legally binding instrument.

5. Would a Torture-Free Trade Treaty be only about trade? What else would be covered?

A Torture-Free Trade Treaty's goal is to change behavior and to prevent torture and other ill-treatment. As such, it would regulate a range of activities related to the trade in law enforcement equipment.

Specifically, for Category A goods (inherently abusive equipment), as well as prohibiting all trade (export, import, transit, and any other transfer), the treaty would ban this equipment's development, manufacturing, possession, acquisition, stockpiling, and use. It would also ban related services, such as technical assistance and training, brokering, logistics, advertising/marketing (including at arms and security trade fairs and online), and financial or insurance services. States would additionally be required to decommission and destroy existing stocks of prohibited equipment.

In contrast, for Category B goods (equipment that can have a legitimate policing function but where there are risks of misuse), the treaty obligations would only cover trade activities, requiring States to put in place controls on export and transit to help prevent the equipment's transfer and subsequent use in torture and other ill-treatment.

6. Is a Torture-Free Trade Treaty compatible with WTO rules? Would it create barriers to legitimate trade?

As a Torture-Free Trade Treaty is intended to promote respect for human life and fundamental human rights, trade restrictions on law enforcement equipment would be compatible with the exceptions to international trade rules arising from either security considerations or public morals.[6]

More broadly, such a treaty would not create barriers to legitimate trade as it would restrict only a clearly defined slice of commerce that is directly linked to torture and other ill-treatment. The treaty's scope would be narrow and targeted, banning only inherently abusive equipment and controlling a defined set of specialist law enforcement equipment and weapons; the treaty would not apply to ordinary consumer goods, general industrial products, or other similar items. At the same time, the treaty would allow law enforcement actors continued access to equipment they need to carry out for their legitimate law enforcement activities effectively and safely.

[6] World Trade Organization, General Agreement on Tariffs and Trade (1994), arts. XX (a), XXI (b)(i), (ii) and (iii), and (c).

Clear lists of covered equipment, authorization procedures, and end-user documentation would give exporters and importers common, predictable, and transparent rules that would facilitate legitimate trade, rather than serve protectionist aims. Notably, similar sector-specific treaties that place restraints on trade for the purposes of enhancing human and/or environmental welfare – such as treaties regulating trade in conventional arms, hazardous waste, organic pollutants, and pesticides[7] – coexist with robust trade systems.

7. What obligations would States assume under a Torture-Free Trade Treaty?

A comprehensive ban on inherently abusive equipment (Category A goods)

Equipment falls in Category A if by design or normal use it inflicts pain, suffering, humiliation, or debasement that exceeds what is compatible with human rights standards.

A treaty would make clear that this equipment is absolutely banned. As such, the treaty would prohibit, in relation to Category A goods:

- Development and manufacture.
- Export, import, transit, and any other transfer (including gifting and aid packages).
- Possession, acquisition, stockpiling, and use.
- Related services: technical assistance and training, brokering, logistics, advertising/marketing (including at arms and security trade fairs and online), and financial or insurance services.

In addition, existing stocks of Category A equipment would have to be decommissioned or destroyed, on a clear timetable. This timetable, to be negotiated, but as an example, the treaty could require decommission and destruction of Category A equipment in stocks within twelve months of ratification/accession.

Trade controls on law enforcement equipment and weapons that can be misused for torture and other ill-treatment (Category B goods)

Equipment is in Category B if it has a legitimate role in law enforcement or custody when used in line with international standards, but where it is frequently misused for torture or other ill-treatment, or poses a heightened risk of such misuse. It includes equipment used in the policing of assemblies – such as batons, single kinetic impact projectiles, and tear gas – as well as equipment used to control individuals in detention, such as restraints.

In relation to Category B goods, the treaty would require States to:

- Subject these goods to export and transit licensing and end-use controls.
- Undertake human rights-based risk assessments of all proposed exports and transits.

[7] 2013 Arms Trade Treaty; 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; 2001 Stockholm Convention on Persistent Organic Pollutants; 1998 Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

- Deny, suspend, or revoke export and transit authorizations when risk thresholds are met.
- Subject related services and technical assistance (such as brokering and training) to the same controls as goods themselves.
- Ensure companies and brokers dealing in these goods undertake human-rights due diligence.

Transparency, monitoring, and reporting measures and mechanisms

To make the regime work effectively to prevent torture and other ill-treatment, the treaty would need to include transparency and reporting provisions – and an oversight body (which could also include responsibility for updating the lists). States negotiating a treaty would need to work together to assess the feasibility of different reporting and monitoring mechanisms with a view to ensuring the treaty's effective implementation.

National implementation and international cooperation measures

The treaty would require each State party to translate its obligations into domestic law, including by prohibiting Category A goods, regulating export and transit of Category B goods, and defining consequences for violations. The treaty would also require States to designate national competent authorities for licensing of covered goods (in many cases these would be the same authorities presently involved in licensing under other arrangements).

As some States could struggle to implement their obligations due to resourcing challenges, in line with international assistance and cooperation obligations in similar treaties, the treaty would set out the right of States to request legal, technical, institutional and financial assistance. Only those States in a position to do so would have an obligation to provide assistance.

8. How would trade controls work?

For Category A goods (inherently abusive equipment), all trade would be banned.

For Category B goods (regular policing equipment) the treaty would set out that States must not grant export or transit authorizations where there is a real risk of torture or other ill-treatment. To assess this risk, States should employ a comprehensive, preventive, forward-looking test and not wait until misuse is proven. Court judgments, UN and regional body findings, UN Special Procedures (especially the Special Rapporteur on torture) and treaty body reports (especially the Committee against Torture, the Human Right Committee and the Sub-Committee on the Prevention of Torture), and civil society documentation could be referenced as useful for assessing the real risk or presently ongoing situation of torture or other ill-treatment.

In addition, the treaty would require States to operate a continuous early warning monitoring system that would trigger suspensions in trade in Category B goods when new information suggests heightened risk of equipment being used for torture or other ill-treatment. Factors suggesting heightened risk could include the outbreak of conflict, emergency laws targeting protesters, or crackdowns on human rights defenders.

The treaty would also require the issuance of end-user certificates for all Category B goods, committing the goods to exclusive use by a named end-user for stated purposes and prohibiting re-export or resale without the original exporter's consent. Information-sharing mechanisms established under the treaty would enable States to consult each other on best practices and provide notifications of denials.

9. Why are death penalty goods not covered?

We need to disentangle discussions on trade in law enforcement equipment from those on trade in goods used for the death penalty (such as pharmaceutical drugs used for lethal injections).

Bringing death penalty goods into the negotiations for a Torture-Free Trade Treaty would trigger divisive debates and jeopardize the treaty even getting out of the starting blocks. According to the European Union External Action Service, 71 countries retain the death penalty for ordinary crimes worldwide.[8]

States that support the abolition of the death penalty can still champion separate international regulation of death penalty goods, while at the same time supporting a focused and widely ratifiable Torture-Free Trade Treaty by keeping the focus on law enforcement equipment.

Keeping death penalty goods out of a Torture-Free Trade Treaty would align with the 2022 recommendation of the UN Group of Governmental Experts on torture-free trade, which concluded that death-penalty goods should be treated "differently and separately".[9]

Regulating the two sets of goods separately also makes sense at a practical level as the law-enforcement equipment industry is distinct from the industry supplying death-penalty goods.

States negotiating a Torture-Free Trade Treaty would retain the option to negotiate an additional protocol or other instrument that covered trade in death penalty equipment at a later stage.

10. What can States do NOW at the national level to advance torture-free trade?

States can immediately begin implementing the recommendations contained in the Special Rapporteur's 2023 thematic report. If they have not done so already, they should immediately take stock of existing equipment, introduce national measures to prohibit and destroy inherently abusive equipment, and set up trade control measures to regulate standard policing equipment.

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[8] European External Action Service, "European and World Day against the Death Penalty: Joint statement by the High Representative of the European Union and the Secretary General of the Council of Europe" (9 October 2025), available at: https://www.eeas.europa.eu/eeas/european-and-world-day-against-death-penalty-joint-statement-high-representative-european-union-and-0_en#:~:text=Despite%20the%20growing%20worldwide%20trend,out%20in%20the%20United%20States.

[9] Report of the Group of Governmental Experts on torture-free trade, Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards A/76/850 (22 May 2022), para 90.

Building on existing regional initiatives,[10] States should work together with the aim of harmonizing national approaches in anticipation of a global treaty.

National trade control measures should include establishing forward-looking risk assessment for all exports and transits of Category B equipment, as well as an early warning mechanism that triggers suspensions of trade in equipment when new information shows heightened risks of its use for torture or other ill-treatment. To inform their risk assessments States should utilize a range of sources including court judgments, UN and regional body findings, UN Special Procedures (especially the Special Rapporteur on torture) and treaty body reports, and civil society documentation. Exporting States should also undertake end-use monitoring to ensure that exported goods are not being misused for torture and other ill-treatment in the recipient State.

11. What are the NEXT STEPS towards a Torture-Free Trade Treaty?

Recent developments underscore that moving toward negotiations on a Torture-Free Trade Treaty is not a distant, aspirational goal but a necessity. It is deeply troubling that in the twenty-first century torture equipment can still be made, traded and used, while lax or non-existent trade controls allow shipments of law enforcement equipment that aid and embolden those engaged in torture.

There is now a compelling case for States to come together at the UN General Assembly to table and adopt a resolution commencing negotiations for a Torture-Free Trade Treaty.

All States should consider becoming champions supporting the development of a Torture-Free Trade Treaty and join and become active members of the Alliance for Torture-Free Trade.

12. What role for the Alliance for Torture-Free Trade?

The Alliance for Torture-Free Trade should be a key force pushing for a Torture-Free Trade Treaty, in line with its commitment to ending the trade in goods used for torture. With membership of 64 States, plus the European Union, the Alliance is well-placed to lead the process needed internationally to bring States to the negotiating table for a treaty. As the Alliance's mandate also covers the issue of the trade in death penalty goods, it would be necessary for the Alliance to make an internal decision to deal with this commitment separately, and to focus at this stage on working towards a legally-binding instrument on the trade in law enforcement equipment.

[10] See EU Anti-Torture Regulation (Regulation (EU) 2019/125); Recommendation of the Committee of Ministers to member States on measures against the trade in goods used for the death penalty, torture and other cruel, inhuman or degrading treatment or punishment (Adopted by the Committee of Ministers on 31 March 2021 at the 1400th meeting of the Ministers' Deputies); African Union, Guidelines and Measures for the Prohibition and the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines), October 2002; African Commission on Human and Peoples' Rights (ACHPR), Resolution 472 on the prohibition of the use, production, export and trade of tools used for torture, December 2020, ACHPR/ Res.472 (LXVII) 2020.

The Special Rapporteur also encourages broadening the membership of the Alliance so all regions are reflected, including within the core group – and that an outreach campaign is launched.

13. How would a Torture-Free Trade Treaty relate to the EU Anti-Torture Regulation?

Just as the 2013 Arms Trade Treaty complements the EU's Common Position on Arms Exports, a Torture-Free Trade Treaty would complement the EU Anti-Torture Regulation. Implementation of the EU Anti-Torture Regulation would likely become the primary means by which EU Member States would comply with many of their obligations under the Torture-Free Trade Treaty.

As a Torture-Free Trade Treaty would be negotiated at the international level, it would likely contain less detail than the EU Anti-Torture Regulation; subject to provisions, the EU would retain the ability to maintain or expand its existing rules for Member States, as well as continue to regulate trade in additional goods – such as death penalty goods – that may not be covered by the Torture-Free Trade Treaty.

Special Rapporteur on Torture
Dr Alice Edwards
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