

## AMNESTY INTERNATIONAL SUBMISSION

# Amnesty International Submission to the Consultation on the EU Anti-Torture Regulation – Amendment to Annexes II and III

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Amnesty International welcomes the proposed additions and alterations to the list of goods set out in Annexes II and III to *Regulation (EU) 2019/125 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment* (the Anti-Torture Regulation).

These proposals broadly reflect the changes in the range, technological sophistication, and patterns of use of law enforcement equipment around the world. They also reflect the fact that the commission of torture and other ill-treatment happens both in situations of detention and extra-custodially.<sup>1</sup> In particular, the proposed changes, if adopted and implemented, would help meet the challenges of increasing repression of protesters using a variety of less lethal weapons and devices.<sup>2</sup>

Amnesty International notes the addition of single and multiple kinetic impact projectiles and launchers to Annex III (controlled list). Amnesty International has long expressed concerns about the potentially devastating impacts of this type of law enforcement equipment which has led to thousands of injuries, including permanent disabilities, such as the loss of one or both eyes.<sup>3</sup> For example, the 2019 protests in Chile resulted in 445 eye injuries, with over 34 cases of eye loss, or ocular rupture;<sup>4</sup> in Colombia in 2021 human rights organisations documented at least 90 cases of eye injuries during the National Strike protests due to various types of projectiles, including kinetic impact projectiles.<sup>5</sup>

While inclusion into the controlled list of single kinetic impact projectiles (KIPs) and associated launchers is welcome, Amnesty International, along with the UN Special Rapporteur on Torture and other cruel, inhuman and degrading treatment or punishment and a range of civil society organisations have long argued that multiple projectile kinetic impact projectiles and multiple barrel launchers are inherently inaccurate, inhumane and unsafe and should therefore be prohibited.<sup>6</sup> Amnesty International sees the addition of multiple KIPs/multiple launchers to Annex III as a positive first step, but hopes that these goods can be moved to Annex II in future revisions.

Other welcome new items in Annex III include malodorants and leg cuffs, both of which Amnesty International have documented being used for torture and other ill-treatment. For example, malodorants have been used by Israeli security

<sup>1</sup> UNGA, Report of the UN Special Rapporteur on Torture, Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, 20 July 2017, UN Doc. A/72/178, <https://docs.un.org/en/A/72/178>

<sup>2</sup> Amnesty International, Protect The Protest! Why we must save our right to protest, (Index: ACT 30/5856/2022), 19 July 2022, [www.amnesty.org/en/documents/ACT30/5856/2022/en/](http://www.amnesty.org/en/documents/ACT30/5856/2022/en/)

<sup>3</sup> Amnesty International, "My Eye Exploded": the Global Abuse of Kinetic Impact Projectiles, (Index: ACT 30/6384/2023), 14 March 2023, [www.amnesty.org/en/documents/act30/6384/2023/en/](http://www.amnesty.org/en/documents/act30/6384/2023/en/)

<sup>4</sup> Amnesty International, Eyes on Chile: Police Violence and Command Responsibility during the period of social unrest, October 2020, (Index: AMR 22/3133/2020), <https://www.amnesty.org/en/latest/research/2020/10/eyes-on-chile-police-violence-at-protests/>; National Institute for Human Rights, "INDH entrega nuevo reporte de cifras a cuatro meses de iniciada la crisis social", 19 February 2020, <https://www.indh.cl/indh-entrega-nuevo-reporte-de-cifras-a-cuatro-meses-de-iniciada-la-tesis-social/>

<sup>5</sup> Amnesty International, Programa de Acción por la Igualdad y la Inclusión Social (PAIIS) and Temblores, Colombia: Shoots on Sight: Eye Trauma in the Context of the National Strike, (Colombia: Shoots on Sight), 26 November 2021, (Index: AMR 23/5005/2021), <https://www.amnesty.org/en/documents/amr23/5005/2021/en/>

<sup>6</sup> UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (UN Special Rapporteur on torture), Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 24 August 2023, UN Doc. A/78/324; Amnesty International, the Omega Research Foundation and the International Human Rights Clinic of Harvard Law School, Essential Elements of a Torture-Free Trade Treaty, (Index: IOR 40/5977/2022), 23 September 2022, <https://www.amnesty.org/es/wp-content/uploads/2022/09/IO4059772022ENGLISH.pdf>

forces against Palestinians protesting against forced displacement in occupied East Jerusalem.<sup>7</sup> Leg cuffs have been used on migrants and refugees, who continue to be subject to subject to cruel, human and degrading treatment using various types of restraints. According to the testimonies gathered by Amnesty International, Haitians being deported from the USA were shackled, often in front of their children, causing humiliation and mental suffering - including for the children:

*“When they were deporting us, they cuffed us, all of us, men and women alike. The cuffs were linked by a chain. They chained me even though I had a 4-month-old baby and had to try and manage to try to give the infant my breast while being shackled. My hands and feet were handcuffed and connected by a chain that went around my waist until we arrived in Haiti.”<sup>8</sup>*

Amnesty International strongly supports the inclusion of blindfolds and sjamboks in Annex II (prohibited list). Our organization has documented the use of hoods and blindfolds on detainees who were tortured or otherwise ill-treated in many countries, including in Mali, Nigeria, Somalia and Yemen.<sup>9</sup> Sjamboks have been used to threaten informal cross-border traders in Southern Africa and at the point of arrest in South Africa.<sup>10</sup>

Collectively, these changes bring the EU Regulation lists closer to the prohibited and controlled lists presented by the UN Special Rapporteur on Torture at the Third Committee of the seventy-eighth session of UN General Assembly in 2023.<sup>11</sup> This can help to build a strong foundation for the negotiation of a robust, global Torture-Free Trade Treaty, covering a wide scope of prohibited and controlled law enforcement goods.<sup>12</sup>

Most importantly, the adoption of the proposed extended and modified lists can strengthen the EU’s work on the prevention of torture and other ill-treatment, thereby helping to protect protesters, human rights defenders and detainees among others from abuses across the world.

Our organization hopes that the EU can continue to be a pioneering actor in this area of work as a co-chair of the Alliance for Torture-Free Trade,<sup>13</sup> and particularly at the UN where there is the potential to create strong, global, legally-binding regulations reflecting the recent work of the UN Special Rapporteur on Torture.

In January 2023, a network of over 30 NGOs working on torture prevention and police violence issued the Shoreditch Declaration, calling for “the strongest possible global treaty to put an end to the torture trade.”<sup>14</sup> Since then, this network has grown to over 90 NGOs from all regions of the world. Our Network hopes that the positive changes to the EU’s Anti-Torture Regulation will act as a stepping-stone to further regional and global regulations in this important area of work.

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<sup>7</sup>Amnesty International, “Israel/ OPT: End brutal repression of Palestinians protesting forced displacement in occupied East Jerusalem”, 10 May 2021, [www.amnesty.org/en/latest/press-release/2021/05/israel-opt-end-brutal-repression-of-palestinians-protesting-forced-displacement-in-occupied-east-jerusalem/](http://www.amnesty.org/en/latest/press-release/2021/05/israel-opt-end-brutal-repression-of-palestinians-protesting-forced-displacement-in-occupied-east-jerusalem/)

<sup>8</sup> Amnesty International, USA: “They did not treat us like people”, (Index: AMR 36/5973/2022), 22 September 2022, [www.amnesty.org/en/documents/amr36/5973/2022/en/](http://www.amnesty.org/en/documents/amr36/5973/2022/en/), p. 52.

<sup>9</sup> Amnesty International, The State of the World’s Human Rights: April 2024, (Index: POL 10/7200/2024), 23 April 2024, pp. 254, 284, [www.amnesty.org/en/documents/pol10/7200/2024/en/](http://www.amnesty.org/en/documents/pol10/7200/2024/en/); The State of the World’s Human Rights: April 2022/3, (Index: POL 10/5670/2023), March 2023, [www.amnesty.org/en/documents/pol10/5670/2023/en/](http://www.amnesty.org/en/documents/pol10/5670/2023/en/), p. 27; The State of the World’s Human Rights: 2021/22, 29 March 2022, [www.amnesty.org/en/latest/research/2022/03/annual-report-202122/](http://www.amnesty.org/en/latest/research/2022/03/annual-report-202122/), p. 408

<sup>10</sup> Amnesty International, “Cross-Border is our Livelihood. It is our Job.” Decent Work as a Human Right for Women Informal Cross-Border Traders in Southern Africa, p. 67, [www.amnesty.org/en/wp-content/uploads/2024/03/AFR0377922024ENGLISH.pdf](http://www.amnesty.org/en/wp-content/uploads/2024/03/AFR0377922024ENGLISH.pdf); Amnesty International, Blunt Force: Investigating the misuse of police batons and related equipment, 9 September 2021, [www.amnesty.org/en/latest/research/2021/09/blunt-force/](http://www.amnesty.org/en/latest/research/2021/09/blunt-force/)

<sup>11</sup> UN Special Rapporteur on torture), Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 24 August 2023, UN Doc. A/78/324, Annex 1 ([prohibited goods](#)) and Annex 2 ([controlled goods](#)).

<sup>12</sup> For an outline of what this treaty could incorporate, see Essential Elements of a Torture-Free Trade Treaty, (previously cited), 23 September 2022.

<sup>13</sup> Alliance for Torture-Free Trade, [www.torturefreetrade.org/](http://www.torturefreetrade.org/)

<sup>14</sup> Shoreditch Declaration, January 2023, <https://humanrightsclinic.law.harvard.edu/the-shoreditch-declaration/>