



Towards an Arms Trade Treaty (ATT) – Antennae Meeting April 2010

Background

The lack of international legislation to control the trade in arms is fuelling violence in many countries. Suppliers of weapons are not held accountable for aiding war crimes and serious violations of human rights, or for perpetuating poverty, corruption, armed conflict and organized crime. The work of Under pressure from civil society governments have come to acknowledge the need for an international Arms Trade Treaty, based on fundamental principles of international law. The ATT will reduce the human cost of arms proliferation, prevent unscrupulous weapons suppliers finding the weakest point in the supply chain, and ensure that all arms exporters are working to the same standards.

The arms trade treaty has been in the works for a long time. It started in 2003 by a group of Nobel Peace Laureates and the CONTROL Arms campaign seeking to build support among governments for an Arms Trade Treaty. In the UN the 2006 General Assembly adopted the resolution “Towards an Arms Trade Treaty”. In the 2007 General Assembly 94 States submitted their views on the feasibility, scope and parameters for a legally binding ATT. In 2007 a Group of Governmental Experts from 28 countries was appointed. They met three times in 2008 and its final report was submitted to the General Assembly in 2008.

UN General Assembly decides on discussions towards an Arms Trade Treaty

Finally on October 30, 2009, UN members voted in favour of deciding on an Arms Trade Treaty. 153 countries voted in favour, 19 abstained and one country (Zimbabwe) voted against. The 19 countries that abstained include several key states – including China, Russia and India. The abstainers may still make difficulties and try to slow down the whole process.

The negotiating phase on the terms of the Treaty will begin in July 2010, and it is hoped it will be approved in 2012. It will provide a framework for all UN States to adhere to the same high standards criteria for arms control. This exercise can reach its fulfilment only if the treaty gains universal acceptance with a really strong and robust text, and not a weak text with many loopholes. A poor ATT could have the effect of legitimizing inadequate standards.

Negotiating an effective Arms Trade Treaty: what role for the EU?

The goal of an ATT is a firm and unambiguous international mechanism to prohibit the transfer of all conventional weapons, from small arms and light weapons to aircraft carriers and ammunition to places where they are likely to be used for serious abuses of human rights, or to violate international humanitarian law. Such a treaty cannot be a ban on conventional weapons, as arms transfers are necessary to support global stability.

An Arms Trade Treaty would be a legally binding agreement between States, so that they will all use the same high standard criteria in assessing whether to export conventional arms. This will help regulate the global arms market to prevent weapons reaching those who use them to: undermine stability and democracy; harm development; abuse human rights.

Each state would remain in control of its arms export arrangements, but would be legally obliged to assess arms exports, case-by-case, and authorise such transfers in writing and in advance, against the criteria agreed under the Treaty.

The US decision to support the process and strive for a strong and robust treaty is crucially important and it is to be hoped that the EU can cooperate closely with the US.

The role of the EU in the ATT

The EU has been one of the promoters of the ATT at the UN. The EU has funded a series of regional seminars, held in Dakar (April 2009), Mexico (June 2009), Amman (July 2009) and Kuala Lumpur (October 2009). organized to promote among third countries the process leading towards an ATT. There will be further seminars in Addis Ababa and Vienna.

The role of the EU in the ATT process has to be carefully considered – it cannot be seen to be primarily an EU project even though the Common Position contains a lot of the principles that should be included in a strong and robust treaty. The EU should discuss and coordinate positions towards the meeting of the Preparatory Committee in July 2010.

As many countries do not have export control systems, this could prevent them from ratifying the treaty. The EU could provide assistance in building up good export control systems in all countries, so that these could live up to the provisions of a strong and robust treaty. Such assistance must start now. While until now, the outreach activities of the EU have been directed towards awareness-raising, now this need to change to concrete assistance for building up satisfactory export control systems.

During the negotiating process, each EU member state could undertake to handle and reach out regarding one particular question or problem. Member states also have the crucial task of reaching out to industry within their jurisdictions.

Some current risks facing the ATT

The switch by the US from ATT opponent to supporter was a major advance which came at the cost of the UN deciding that the 2012 negotiating conference “will be undertaken... on the basis of consensus.” This reference was designed to ensure that negotiations will not allow American interests to be ignored. However a narrow interpretation of this consensus reference would hand a veto to any state. For example, if the vote on this year’s resolution was repeated, Zimbabwe alone could prevent agreement.

US engagement will be an advantage as the US system contains many elements of best practice. However, there are indications that the US may not want ammunition included in the scope of the ATT, while US commitment to the primacy of restrictive universally-applied principles such as human rights and international humanitarian law is far from guaranteed.

Although there is broad support for an ATT, once a concrete and specific text is on the table, some states might become uncertain about specific elements of the developing Treaty.

The UK and the EU have generally been viewed as respectively the most active country and region in the ATT process. This can lead others to assume that this is an EU project, designed to promote EU interests at the expense of others;

The time set aside for ATT discussions (four weeks of PrepCom and four weeks of negotiating conference) seems inadequate to produce a meaningful outcome. (The Protocol to the Biological Weapons Convention was negotiated for nine years; the Protocol to the Convention on Certain Conventional Weapons on Anti-Vehicle Land Mine five years and the Protocol on cluster munitions three years)

In many cases the ATT is not high enough on the political agenda of the nominally or rhetorically supportive states, which raises a question about their willingness to go to bat for issues such as human rights, international humanitarian law and sustainable development when the pressure goes on.

Some possible responses to these risks

The EU needs to consider how to accommodate the concerns of sceptic states without compromising fundamental principles, firstly through meaningful dialogue aimed at developing a proper understanding of their anxieties.

Regarding text development, EU member states should be prepared to take a firm and united

stand on important issues such as including ammunition, maintaining strong reference to human rights, international humanitarian law and sustainable development. EU states should team up with other progressive states such as Australia, Mexico, New Zealand, Nigeria and Norway in terms of text development.

Establishing a “friendly” system, whereby each active state identifies a potential partner state with whom they could work closely; this will counter the perception of the ATT as an EU project.

Increased engagement with ‘supportive but uncommitted’ states by active supporters of the ATT to talk through the various aspects of a Treaty and work through any questions the other states may have.

The EU could build on the regional meetings and continue them beyond 2010.

Agreement among EU Member States on goals and objectives, and assignment of responsibilities and tasks among Member States for achieving those goals and objectives.

Cooperating with civil society, using their knowledge and enthusiasm. Civil society may use their sister organizations in different countries to influence their governments.

Engaging with China and Russia in a detailed and respectful way, by EU member states. Russia has interests with regards to sharing of technology and concerns about unlicensed production. Both are valid subjects for discussion. An ATT should seek to address these issues by outlawing and tackling unlicensed production.

Agreeing that “consensus” does not mean that every state has the power of veto. Efforts should be made to reach agreement on substantive matters by way of consensus.

Increasing the amount of time and meetings available for detailed, extensive ATT discussions among states and other stakeholders beyond those set out in the latest ATT resolution.

Ensuring that states’ arms transfer control experts, and not just their disarmament diplomats, are properly engaged in the process, as the ATT is about regulating a trade with both legitimate and illegitimate components.

Legitimizing the importance of the ATT to the many non-producing states, which may not see the need to focus on this when they might otherwise occupy their resources and time?

Possible Actions

Urge your government to advocate in the UN process that all types of arms, munitions and transfers should be included in a comprehensive definition of the scope of the ATT.

Press your government to support the UN process including the adoption of ethical principles and robust rules based on high international standards in the ATT. These must be consistent with and developed from the legal obligations of states such as international human rights law and international humanitarian law, which are already reflected to some degree in the different agreements: EU (Common Position on Arms exports), ECOWAS, Nairobi Protocol, OAS, OSCE and other agreements.

Outcomes expected

At the UN Preparatory Committee meeting 12-23 July 2010 a significant number of governments from all world regions make statements calling for comprehensive scope and high ethical principles and robust rules for making arms transfer decisions the New coalition for the Control Arms campaign (of which AEFJN is a member) increases awareness worldwide of the main elements necessary in an ATT for it to become an effective tool to save lives and help protect people by preventing the irresponsible arms trade.

Begoña Iñarra