



PARLIAMENTARY FORUM
ON SMALL ARMS AND LIGHT WEAPONS

Policy Statement on the Negotiation of the Arms Trade Treaty¹

Board of the Parliamentary Forum on Small Arms and Light Weapons,
meeting in Stockholm, January 30th, 2012

The global transfers of arms and ammunition, when poorly regulated, represents a threat to international peace and security.² The UN General Assembly has acknowledged that the absence of common international standards on the import, export and transfers of conventional arms contributes to the persistence of armed conflicts, displacements of populations, violations of human rights, crime, and terrorism, among others.³ The consequences of the diversion of arms to the illicit market and irresponsible arms transfers can be measured in terms of loss in human life and low development levels in many parts of the world. Therefore, developing an instrument establishing international rules for all states to guide their decisions on conventional arms transfers is of utmost importance.

The existing domestic legislations and regional agreements have proved to be insufficient. They allow for the existence of legal vacuums enabling governments violating international human rights and humanitarian law and/or diverting arms to non-state

¹ This Policy Statement complements and does not cancel the Policy Statement on the Arms Trade Treaty adopted by the Board of the Parliamentary Forum at its meeting in Kenya on May 3-4, 2007.

² While the name of the proposed treaty refers to arms trade, trade only includes arms transfers of an economic or commercial nature. In this Policy Statement, transfer shall be understood as including state-sanctioned and commercial trade, import, export, re-export, temporary transfer, transshipment, transit, transport, leases, loans, and gifts.

³ See UN General Assembly, Resolution 61/89 'Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms', adopted at the 67th plenary meeting on 6 December 2006, and subsequent Resolution 64/48 'The Arms Trade Treaty', adopted at the 55th plenary meeting on 2 December 2009.

armed actors. Only an international treaty will be effective in regulating the global arms trade.

The Parliamentary Forum has consistently supported the idea of an instrument regulating the international arms transfers under the authority of the United Nations. In 2007, the Board of the Parliamentary Forum adopted a Policy Statement supporting the development of the Arms Trade Treaty (hereinafter ATT or the Treaty). Subsequently, the Forum has raised awareness on the importance of the ATT and has encouraged the active engagement of parliamentarians in its development.

Almost six years have passed since the discussions on the ATT started at the United Nations. The consultation phase is now ending and the process is reaching its final stage – the negotiations. This final stage comes with high hopes but also high risks.

The scope of the future ATT remains a matter for concern. There has been debate around the inclusion of small arms and light weapons (SALW) and their ammunition within the type of weapons included in the scope of the Treaty. This debate has primarily evolved around the question of using the United Nations Register of Conventional Arms (UNROCA) as a basis for the scope of the future ATT. As the UNROCA does not formally require states to register their transfers of SALW or ammunition,⁴ using it as a basis to determine the categories of arms covered by the ATT would result in their exclusion from the Treaty. Considering that out of the 740,000 people that die every year as a consequence of armed violence, 490,000 deaths are related to the misuse of SALW, an ATT that does not include SALW and their ammunition within its scope will fall short of preventing and seriously reducing the number of deaths caused by armed violence.

The scope of the ATT should also refer to all activities included in international arms transfers. Transfer is movement of arms from one place to another and includes state-sanctioned and commercial trade, import, export, re-export, temporary transfer, transshipment, transit, transport, leases, loans and gifts. Arms transfer implies a transaction, by dealers/brokers and those providing technical assistance, training, transport, storage, finance and security. Each activity has its significance. Consequently, a comprehensive ATT will have to include them all.

⁴ The UNROCA currently include 7 categories of conventional weapons: battle tanks, armored combat vehicles, large-caliber artillery systems, combat aircraft, attack helicopters, warships, and missiles and missile launchers; and therefore excludes many more types of conventional weapons in addition to SALW and their ammunition.

Determining the criteria for arms transfer control is another central issue. Existing national and regional criteria establish situations under which transfers shall not be authorized. These usually include violations of UN Security Council sanctions and/or international, regional or sub-regional obligations, as well as situations where there is a substantial risk that arms will be used to violate humanitarian law and human rights, including the right to development.

A decade of field based research indicates that small arms and ammunition facilitate widespread domestic violence, rape, and other forms of sexual violence, both during and outside of conflict, and both the UN Security Council and Secretary General have recognized this.⁵ Subsequently, a number of resolutions specific to gender based violence in armed conflict have been passed, recognizing the necessity to focus on it as a distinct aspect of the rights contained within international humanitarian law and international human rights law. It is therefore important to protect women's rights, ensuring the consideration of gender-based violence (including rape and sexual violence) in legally binding international agreements such as the Arms Trade Treaty.

Further, in the aftermath of the Arab Spring, some countries have recognized that their arms export to repressive regimes have postponed a democratic development. Hence, they have started to consider the possibility of further reinforcing the criteria to prevent the transfers of arms to states which do not possess a democratic form of government. A comprehensive set of well-defined criteria would surely be essential to the ATT.

The wording of the Treaty's articles will also certainly be subject to negotiations. There is a risk that the Treaty will only provide a number of recommendations, instead of requiring states to reach an optimum standard. A Treaty aiming at setting commonly agreed standards on arms trade must require the definition of clear responsibilities and obligations.

The drafting, adoption, and ratification are all important steps. However it is the implementation which will ultimately bring change for the victims of armed violence. Recordkeeping and transparency, information exchange, law enforcement, the role and work of an implementation support body, as well as international assistance scheme, are all elements that will make a difference at the implementation stage.

⁵ See UN Security Council Resolution 1325 on Women, Peace and Security, adopted by the Security Council's 4213th meeting, on 31 October 2000, UN Security Council Resolution 1820 adopted by the Security Council at its 5916th meeting, on 19 June 2008, UN Security Council Resolution 1888 adopted by the Security Council at its 6195th meeting, on 30 September 2009 and UN Security Council Resolution 1989 adopted by the Security Council at its 6196th meeting, on 5 October 2009

It should be further noted that even with a strong ATT, the UN Programme of Action on Small Arms (PoA) remains essential in relation to illicit small arms. The entry into force of the ATT will complement and reinforce the PoA.

Parliamentarians have a significant role to play to ensure that the Arms Trade Treaty effectively prevents and reduces armed violence, and in particular SALW-related violence. While the Treaty will be negotiated by states representatives who most often are governmental representatives, diplomats or civil servants, parliamentarians can ask the reflection of their views within their state's position at the negotiations. At the benefit of their authority to ratify international treaties, parliamentarians' concerns will be heard by their governments. Parliamentarians can also raise the issue with their constituents and contribute to the development of a public opinion on the Arms Trade Treaty. At a later stage, they will also be able to ensure that the necessary national implementation mechanisms are in place. In this crucial drafting phase, as well as in the following ones, parliamentarians not only have the opportunity, but also the responsibility to act.

Objectives:

The Board of the Parliamentary Forum on Small Arms and Light Weapons, meeting in Stockholm on January 30, 2012:

Reaffirms its commitment to the prevention and reduction of SALW-related violence;

Recalls its previous Policy Statement on the Arms Trade Treaty adopted by the Board of the Parliamentary Forum at its meeting in Kenya on May 3-4, 2007;

Welcomes the upcoming UN Conference on the Arms Trade Treaty;

Highlights the potential represented by the Arms Trade Treaty for the prevention and reduction of SALW-related violence;

Strongly demands UN member states and their negotiators at the UN Arms Trade Treaty Conference to include within the scope of the Arms Trade Treaty SALW and their ammunition, including sporting and hunting rifles, alongside military equipment and components;

Urges UN member states to incorporate all types of transfers and transactions to the scope of the Treaty;

Requests the establishment of a comprehensive set of well-defined criteria for arms transfers' decisions, which would prohibit arms transfers if there is a substantial risk that those arms will be used in a manner that undermines international peace and security, to

commit serious violations of human rights and international humanitarian law, among others;

Demands the prohibition of arms transfers if there is a substantial risk that those arms will be used to facilitate gender-based violence including sexual violence and rape;

Proposes to the UN member states to consider the possibility to include a criterion which would expressively prohibit arms transfers to states which are not ruled by a democratic government;

Insists on the need to mainstream gender issues throughout the Treaty, including as a principle in the preamble, but also in the goals and objectives, scope, parameters, and within the implementation mechanisms;

Ask UN member states to promote the use of a terminology that would oblige states parties to the Treaty and not to limit themselves to provisions that would reflect the lowest common denominator;

Stresses the need to include within the Treaty the establishment of mandatory mechanisms to monitor compliance, exchange information, guarantee transparency and accountability, settle disputes, and institute international cooperation and assistance.

Urges parliamentarians worldwide to take action and engage themselves for the Arms Trade Treaty, by inter alia advocating for the demands set forth in this Policy Statement and interpolating their state representatives at the UN Arms Trade Treaty Conference;

Decides to develop a plan of action to advocate for the Forum's position and its inclusion within states' positions in the Arms Trade Treaty negotiations;

Mandates the Secretariat of the Forum to closely monitor the developments on the Arms Trade Treaty, regularly inform the Forum's members on the status of the debates, as well as to facilitate the drafting and implementation of the above-mentioned plan of action.