



PARLIAMENTARY FORUM
ON SMALL ARMS AND LIGHT WEAPONS

Policy Statement on Arms Trade Treaty

Board of the Parliamentary Forum on Small Arms and Light Weapons,
meeting in Kenya, May 3-4, 2007

Control of international transfers of small arms and light weapons (SALW), are at the centre of the global agenda for combating the proliferation of such arms. The nature of SALW, their characteristics, as well as the sheer number or global stock, and the range of actors that undertake commercial activities with them, makes it particularly difficult to control the movement of SALW not only within States, but also between them. Weak institutions and border-controls usually add to the difficulty.

The Forum has always paid special attention to the problematique surrounding international arms transfers. It has done so principally by advocating for compliance with the 2001 UN Program of Action on Small Arms, the 2001 UN Firearms Protocol and several regional instruments with a relevance to international transfers, such as the 2006 ECOWAS Convention on Small Arms, the 2004 Nairobi Protocol on Firearms, the 2001 SADC Protocol on Firearms, the 1997 CIFTA or Inter-American Convention on Small Arms, the 2006 Central American Code of Conduct on Arms Transfers, the 1998 European Union Code of Conduct on Arms Transfers, and the Wassenaar Agreement.

However, as of its Second Assembly, held in Stockholm and Helsinki, the Forum decided to heed also the Arms Trade Treaty (ATT) initiative; indeed, the full day plenary session in the Finnish Parliament was exclusively dedicated to the initiative. During its Third and Fourth Assemblies, held in Mexico City and Montevideo respectively, the Forum expressed its resounding commitment to the Arms Trade Treaty initiative. Thus, both Final Declarations from those Assemblies underscore that the proposed ATT would be a fundamental instrument in the strive for peace, as well as a timely codification and development of public international law in regards of non-proliferation and arms control.

The championed Arms Trade Treaty could be described as a comprehensive instrument: combining all conventional weapons – including SALW –, targeting all types of international arms transfers, and containing requisites of both a procedural and material nature. As such, the ATT proposal stipulates that States have a responsibility to control international arms transfers, and that it has to be in compliance with certain legal obligations, principally the ones arising from the UN Charter, such as the prohibition on aggression and abidance to arms embargoes declared by the Security Council, and the respect for international humanitarian law and fundamental rules of

the global human rights regime. The ATT initiative likewise introduces considerations regarding inter alia the impact of international arms transfers on conflict situations.

For the Forum, the Arms Trade Treaty initiative stands out as a particularly valuable instrument, since it is fully in line with the global parliamentary agenda on SALW that the Forum is dedicated to further. The Forum has on several occasions manifested that one of the major recurrent flaws in regulations of SALW, both domestic and/or international, is that no reasonable or objective justification surrounds issuance of permissions or licenses that authorize the manufacture, transfer, selling or use of SALW. This contrasts with the fact that one of the most effective measures to prevent deviation and misuse of arms, is to demand a justification whilst applying for a license or undertaking a certain activity.

Though the ATT proposal does not explicitly require a positive justification, i.e. concerning what the international arms transfer is intended to support, it clearly states that such transfers, notwithstanding the ultimate reason for undertaking them, cannot imply a breach of certain fundamental rules for the peaceful co-existence of States and the international community; it envisages a “negative” justification. We can know that at least, an ATT shall see that arms transferred will not be used to commit atrocities or risk being deviated to such ends.

A future ATT is thus, in view of the Forum, an instrument that can effectively curb the flow of arms to actors, countries and regions where they run the risk of deviation and/or misuse. The Forum is further convinced that the ATT proposal, qua comprehensive instrument that includes both procedural and material requisites, could be not only innovative in the field of disarmament, non-proliferation and arms control, but indeed a cornerstone in the construction of peace, the advancement of human security and the achievement of development goals; through the ATT, armed violence will be reduced and turned less lethal.

Now, the Arms Trade Treaty initiative has gained formal support. The Resolution 61/89 – one of whose sponsors was Kenya, country of venue for the Board’s present meeting – to form a Group of Governmental Experts (GGE) on an ATT instrument, was adopted in the UN General Assembly by a vote of 153 in favour. Through the UN Secretariat and the Department for Disarmament Affairs, Governments have been asked to submit their views on the ‘feasibility, scope and parameters for a comprehensive legally binding instrument establishing common international standards for the import, export and transfer of conventional arms’.

Thereby, the work on the Arms Trade Treaty enters into a new phase, of trying to influence the terms of reference for the GGE, i.e. the scope and nature of the would-be instrument that they should investigate upon. In all this, the Forum and its members have a key role to play, just as they have had in several countries and regions when advocating for the Arms Trade Treaty proposal and showing how its requirements actually can be materialized.

Objectives

The Board of the Parliamentary Forum of Small Arms and Light Weapons, meeting in Kenya, on May 3-4 2007;

Welcomes the most recent developments within the United Nations in support of the Arms Trade Treaty;

Recognizes and encourages the work of all stakeholders – inter-governmental, governmental, parliamentary and non-governmental – that favour the Arms Trade Treaty initiative, while hoping that the Group of Governmental Experts is furnished with a broad mandate, adequate resources and representative composition.

Underscores that a principled approach to the Arms Trade Treaty proposal should be adopted by the Forum, safeguarding, upholding and promoting the benefits of an ATT for international peace, security and development, making it inter alia desirable and necessary to orient the ATT debate closely to the Geneva Declaration on Armed Violence and Development;

Reaffirms that the legal nature of an Arms Trade Treaty needs to be maintained, particularly since the proposed ATT is, all in all, a codification of already existing obligations under international law in regards of international arms transfers and the Forum is dedicated to promote the timely advancement of international legal regulation of arms issues;

Stresses that the comprehensive definition of transfers, comprising all transfer types, is a particularly important feature of the proposed Arms Trade Treaty, since in terms of human lives and suffering, all transfers can contribute to the deviation and misuse of arms;

Demands the unconditional observance of the “Child Soldiers Protocol” while designing criteria for international arms transfers, meaning as a minimum that no such transfers may be allowed to, from or via countries which violate that protocol;

Also demands that due regard be taken to the Security Council Resolution 1325, meaning among other that no international arms transfers should be allowed to, from or via countries where sexual violence is used as a means to conduct warfare;

Proposes that, for countries in conflict recovery situations, a moratorium presumption be spelled out, in the proposed ATT or its additional protocols, regarding transfers to, from or via such countries, as well as a categorical prohibition on transfers from or to non-state actors in the same countries;

Urges governments to embrace the idea that when arms are procured to exercise legitimate self-defence, the procurements made through international transfers cannot imply that fundamental rules for peaceful co-existence be breached;

Draws attention to the need of establishing greater transparency on international arms transfers, both on a global, regional and national level, while recalling that Parliaments are particularly well suited to assure democratic accountability – and transparency – of the practices relating to such transfers; and,

Mandates the Forum, its Members and the Secretariat to undertake all the necessary activities – principally capacity-building, awareness-raising and advocacy – to ensure that the Forum in a knowledgeable and decided fashion voices its support for the Arms Trade Treaty proposal, parting from the paragraphs above and the Final Declarations from its Second, Third and Fourth Assemblies.

For the Board

Daisy Tourné, President, Uruguay
Joseph Nkaiserry, Vice-President, Kenya
Manuel de Araujo, Member, Mozambique
Karin Enström, Member, Sweden
Ana Yancy Espinoza, Member, Costa Rica
Celestino Suárez, Member, Spain

The ATT process – an update

Since the Arms Trade Treaty process started there have been positive developments. An Open-Ended Working Group was established in 2008 and begun work in early 2009.

After years of discussions and debates the breakthrough came in October 2009 when the UN First Committee considered a draft resolution that would convert the four remaining sessions of the open-ended working group into preparatory committee meetings, thus adopting a clear timeline for work on a treaty. This will lead up to a UN Conference on the Arms Trade Treaty in 2012 that will hopefully finalise a treaty. The vast majority of governments – 153 in total - agreed a timetable to establish a “strong and robust” Arms Trade Treaty with the “highest common standards” to control international transfers of conventional arms. The approved resolution states that the conference will be undertaken “on the basis of consensus”. Very positive news is that the United States, the world’s top arms exporter, for the first time voted in favour.

The Parliamentary Forum congratulates the Group of Governmental Experts for their work, and reaffirms its commitment to support the elaboration of an ATT that will lead into an effective international legally binding treaty.