



HOUSE OF LORDS

# Library Note

## **Debate 15th May: Development of the International Arms Trade Treaty**

This Library Note aims to provide background reading for the debate to be held on Thursday 15th May:

**“To call attention to the international arms trade treaty, and the actions required to ensure that it is robust, effective and properly enforced”**

This Note focuses on the background to the United Nations Arms Trade Treaty Resolution, the contents of the resolution, the report of the Secretary-General on states' views, and the first meeting of the Group of Governmental Experts.

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## 1. Introduction

This House of Lords Library Note looks at the proposed international arms trade treaty in preparation for the forthcoming debate on the subject. In particular, the Note focuses on the background to the United Nations resolution on an arms trade treaty, the contents of the resolution, the resulting report of the Secretary-General on states' views, and the first meeting of the Group of Governmental Experts. A select bibliography is contained at the end of this note, as well as two Annexes containing a copy of the resolution and a list of member states of the Group of Governmental Experts.

This Note does not look at the United Kingdom's arms export mechanisms, nor does it look at the European Union code of conduct. The House of Commons Library have published a couple of notes on these subjects: *UK Arms Export Control Policy* (SN/IA/2729: 20th August 2007); and *Secondary Legislation of the Export Control Act 2002* (SN/IA/2595: 4th November 2003). The former includes a useful section on the proposed arms trade treaty. Figures on UK defence exports can be found in the House of Commons Library note *Defence Exports* (SN/SG/2622: 11th January 2008).

## 2. The Arms Trade Treaty Resolution

### 2.1 Background to the Resolution

There have been a number of attempts to regulate the arms trade globally<sup>1</sup>. The first attempt occurred in the aftermath of the First World War, when in September 1919 Belgium, Bolivia, the British Empire, China, Cuba, Czechoslovakia, Ecuador, France, Greece, Guatemala, Haiti, the Hedjaz, Italy, Japan, Nicaragua, Panama, Peru, Portugal, Roumania, the Serb-Croat-Slovene State, Siam, and the United States of America agreed to the Convention for the Control of the Trade in Arms and Ammunition. The League of Nations was charged with the ratification of the convention, which appeared on the League's first agenda in 1920. The key principles of the convention were that arms exports should be licensed, that states party should publish an annual report of arms exports and imports, and that restrictions should apply to certain areas such as Africa and the Asian parts of the Ottoman Empire. However, despite signing the convention, few countries ratified it, as it restricted their ability to buy and sell arms, and many states were reluctant to ratify the convention until others had. The League of Nations therefore proposed a new convention a few years later, that allowed exports to non-signatory states, and relaxed the export/import provisions of the 1919 convention. The new convention did not succeed either, mainly due to objections by smaller countries to the licensing regime and the requirement to publish reports, which they felt impinged upon their sovereignty and security.

The next attempt to regulate the arms trade internationally occurred following Iraq's invasion of Kuwait in 1990, when inspection teams in Iraq found equipment used in illegal weapons programmes. This led to attempts to obtain the agreement of the permanent members of the United Nations Security Council to a set of guidelines on the transfer of arms. The initiative did not succeed, but "marked the first of a series of attempts to regulate conventional arms transfers at the regional and international level" (Sarah Parker, *Implications of States Views on an Arms Trade Treaty* (January 2008), United Nations Institute for Disarmament Research, p. 4). Since 1990, the United Nations has also made more frequent use of arms embargoes, which reflect "an acknowledgement by states that preventing arms supplies to troubled states or regions can influence state behaviour and void the exacerbation of conflict. Second, it demonstrates that states can reach agreement on situations where the supply of weapons should be restricted or prohibited" (*ibid*, p. 5).

The current proposed arms trade treaty<sup>2</sup> originated in 1995, when a group of Nobel laureates, led by Oscar Arias, the President of Costa Rica, launched an international campaign to establish an agreement to regulate the trade in arms: "they felt that the international community could no longer ignore the repercussions of irresponsible arms transfers, which foster political instability and human rights violations, prolong violent conflict, weaken diplomatic efforts to resolve differences peacefully, and perpetuate poverty" (*ibid*, p. 5). In 2003, the campaign was taken up by a number of other groups: Oxfam, Amnesty International, and the International Action Network on Small Arms (IANSA) founded the Control Arms campaign, which calls for an international and legally

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<sup>1</sup> On the historical background to the proposed arms trade treaty see Sarah Parker, *Implications of States Views on an Arms Trade Treaty* (January 2008), United Nations Institute for Disarmament Research, pp. 2–5.

<sup>2</sup> On the background to the current proposals see also the website of the UK Permanent Representation to the Conference on Disarmament, which can be accessed through <http://www.britishembassy.gov.uk>; and the House of Commons Library note *UK Arms Export Control Policy* (SN/IA/2729: 20th August 2007).

binding arms trade treaty<sup>3</sup>. In September 2004, the United Kingdom became the first permanent member of the UN Security Council to express support for the proposal, when the Foreign Secretary, Jack Straw, announced to the Labour Party Conference “that we will start work soon with international partners, drawing on experience from the EU, to build support for an international Arms Trade Treaty”<sup>4</sup>.

Support for a treaty was reiterated by Jack Straw on 15th March 2005 in the course of a speech he gave to the Institute of Civil Engineers in London. He thought that a new arms trade treaty should: be legally binding; negotiated and backed by the UN; cover all conventional arms; be separate and self-standing; be based upon core principles that would make it clear when exports would be unacceptable; contain mechanisms for enforcement and monitoring; and be signed by a wide range of countries, including the world’s major arms exporters. In relation to the final point, Mr Straw said that he did not underestimate the difficulties of achieving support: “Many nations are concerned that a new arms trade treaty may restrict their defence industries; constrain their foreign policy; and lead to constant legal challenge of export licence decisions. Their approach may initially be one of scepticism at best. But in order for it to work properly, a new arms control treaty will need to include as many of the world’s nations as possible—especially those with defence industries of their own”<sup>5</sup>. The UK’s commitment was confirmed in a speech given by Dr. Kim Howells, Minister of State, Foreign and Commonwealth Office, in Geneva, Switzerland, on 23rd March 2006, in which he also outlined some of the steps taken by the Government to promote the initiative, such as raising the issue during the UK’s presidency of the G8 and the European Union in 2005.

## 2.2 The Resolution

In July 2006, the UK, Argentina, Australia, Costa Rica, Finland, Japan, and Kenya circulated a draft resolution in preparation for the meeting of the UN First Committee in October. The draft resolution was amended and adopted by 139 states in favour, one against (United States of America), and 24 abstentions<sup>6</sup>. At the General Assembly meeting in December 2006, the resolution was adopted by an even larger majority of 153 in favour, one against (United States of America), and 24 abstaining<sup>7</sup>.

The resolution requests the Secretary-General to seek the views of member states on the feasibility, scope, and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export, and transfer of conventional arms at its sixty-second sessions (operative paragraph 1). Section 3 of this Note looks at the UK’s submission, as well as analyses of states’ submissions. The resolution also requests the Secretary-General to establish a group of governmental experts, on the basis of equitable geographical distribution, informed by this report to examine, commencing in 2008, the feasibility, scope, and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export, and transfers of conventional arms, and to transmit the report of the group of experts to the Assembly for consideration at its sixty-third session (operative paragraph 2). Section 4 of this Note looks at the first meeting of the Group of Governmental Experts held in February 2008.

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<sup>3</sup> The campaign maintain a website at <http://www.controlarms.org>.

<sup>4</sup> House of Commons Library, UK Arms Export Control Policy, (SN/IA/2729: 20th August 2007), p. 28.

<sup>5</sup> Jack Straw, 'Securing A Global Arms Trade Treaty', speech at the Institute of Civil Engineers, London, 15th March 2005.

<sup>6</sup> United Nations General Assembly, GA/DIS/3335: 26th October 2006.

<sup>7</sup> United Nations General Assembly, A/RES/61/89: 18th December 2006, reproduced in full in Annex 1 of this Note.

## 2.3 Reactions to the Resolution

Following the vote of the First Committee in October 2006 the civil society group Control Arms, issued a press release containing the reactions of the three founding organisations:

“This massive vote to develop a global Arms Trade Treaty is an historic opportunity for governments to tackle the scourge of irresponsible and immoral arms transfers. Any credible Treaty must outlaw those transfers, which fuel the systematic murder, rape, torture and expulsion of thousands of people,” said Kate Gilmore, Amnesty International’s Executive Deputy Secretary General.

“Today, the world’s governments have voted to end the scandal of the unregulated arms trade. Since the Control Arms campaign began three years ago, an estimated one million people have been killed by conventional weapons. In response, over a million campaigners from over 170 countries have called for an Arms Trade Treaty. Today governments answered that call,” said Jeremy Hobbs, Director of Oxfam International.

“We have come a long, long way since three years ago when we launched the Control Arms campaign: in those days the prospect of an Arms Trade Treaty being negotiated in the UN was viewed as idealistic at best. But today we are in the majority. Now this victory must be converted into a strong and effective Arms Trade Treaty based on States’ commitments under international law,” said Rebecca Peters, Director of IANSA.

(Control Arms, ‘Overwhelming Majority of World’s Governments Vote to Start Work on an International Arms Trade Treaty’, press release: 27th October 2006)

As part of their inquiry on the Foreign and Commonwealth Office’s 2006 report on human rights<sup>8</sup>, the House of Commons Foreign Affairs Committee commented on the proposed arms trade treaty: “we recommend that the Government continue to give leadership on moves to create an arms trade treaty and that it do its utmost to persuade the United States to support this” (HC 269 of 2006–07, paragraph 28). The House of Commons Quadripartite Committee<sup>9</sup> also commented on the proposed arms trade treaty in their 2007 review of strategic export controls. They supported the UK’s submission to the Secretary General under operative paragraph 1 of the UN resolution, and commended “the Government, and the FCO in particular, for its energy and skills in encouraging other countries to support the treaty” (HC 117 of 2006–07, paragraph 354).

In relation to the position of the United States of America, an article published in the *Guardian* just before the UN First Committee meeting in October 2006 reported that:

Campaigners said the US, the world’s largest weapons manufacturer, had told them it would vote against [the Arms Trade Treaty Resolution]. The British Government describes Washington as “agnostic” on the issue. The Foreign Office says the US argument is not that it does not want scrutiny of its trade but

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<sup>8</sup> Foreign and Commonwealth Office, Human Rights Annual Report 2006, Cm 6919: October 2006.

<sup>9</sup> The joint Committee of the House of Commons Defence, Foreign Affairs, International Development and Trade and Industry Committees.

that it has good export controls in place and does not see the added value of the treaty.

(*Guardian*, 'Britain to Defy the US Over UN Resolution on Arms Trade', 20th October 2006)

### 3. Report of the Secretary-General

#### 3.1 The United Kingdom's Submission

The United Nations Arms Trade Treaty Resolution requested the Secretary-General to seek the views of member states on the feasibility, scope, and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export, and transfer of conventional arms<sup>10</sup>. The resulting report was published between August and November 2007. The submission of the United Kingdom is dated 12th March 2007<sup>11</sup>. The introduction to the UK's submission states:

Currently standards for national controls of the international trade in conventional arms vary greatly. Some States have highly developed transfer controls and systems in place to enforce them stringently. Others have good controls on paper, but have weak enforcement practices; while some have, in practical terms, no real controls at all. This means that, given the international nature of the arms trade, and the ease which arms can be transported, today there is no universally effective way to prevent irresponsible or illegal arms transfers, such as those in breach of international or regional embargoes. This situation will persist as long as the existing commitments of States are not clearly set out in one comprehensive instrument and as long as the standards they agree, and are expected to abide by, are not clearly elaborated in a transparent universal framework for all States to follow.

In this context the United Kingdom suggests that the key goals in taking forward this initiative should be to ensure that:

- States are clearly aware of, understand and adhere to their existing international commitments, which are currently set out in a range of different instruments and under customary international law, to control international transfers of conventional arms;
- States adopt and implement standards to prohibit arms transfers which will:
  - Provoke or prolong armed conflicts, or exacerbate existing conflicts;
  - Aid the commission of human rights abuses;
  - Aid the commission of serious violations of international humanitarian law;
  - Destabilize countries or regions;

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<sup>10</sup> Control Arms conducted a 'people's consultation 2007' on the proposed arms trade treaty, which they published as *Voices from Around the World*.

<sup>11</sup> Submission by the United States of America has been published by the Secretary General.

Undermine sustainable development, including ensuring the least diversion for armaments of the world's human and economic resources;

Allow arms to flow from the legitimate to the illicit market;

Undermine the establishment and maintenance of international peace and security;

- In the conduct of the arms trade States subscribe to the highest standards of good governance, including the need to tackle bribery and corruption;
- States maintain control of the flow of arms into and out of their territory by establishing and implementing national legislation, with penalties for breaches of this legislation;
- States, if they wish, are able to participate in the legitimate international defence trade:

To maintain and develop their industries to meet their own defence and security needs;

To execute international collaborative defence projects;

To import arms for their legitimate needs;

To export arms to help other nations to meet their own defence and security needs.

A failure to address the existing gaps in the control of this international trade would be a failure to take responsibility for the arms we allow to be traded into and out of our States or by our citizens. The United Kingdom firmly believes that States that wish to do so should be able to develop their own defence manufacturing capabilities, to meet their own legitimate defence needs and for export, and that this trade can pay dividends in ensuring, promoting and maintaining peace and security. However, it is also clear that the right of States to self-defence is accompanied by the responsibilities of States to prevent threats to peace and to ensure respect for international law, including human rights and humanitarian law.

We also believe that the vast majority of those involved in the arms trade act responsibly and ensure their goods are only supplied to legitimate end-users. But there are traders who will sell to any buyer for any use, regardless of whether this would be in breach of any existing national and international commitment. These unscrupulous traders are more easily able to do this because of significant differences between national controls and implementation mechanisms, which exist in part because of the lack of internationally accepted standards of control backed by an overarching legally binding international instrument.

(United Nations General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export, and Transfer of Conventional Arms: Report of the Secretary General, A/62/278 (Part II)*, 17th August 2007, pp. 223–225)

The UK sees the main limits on the feasibility of a comprehensive, legally binding instrument as:

- The will of a wide range of States to enter genuinely into and conclude a negotiation on an instrument which meets their needs and the needs of States approaching the issue from a different perspective, i.e. the needs of customers and suppliers;
- States being able to agree a rigorous but not overly burdensome mechanism for monitoring and enforcement;
- Ensuring States have the capacity, and the commitment, to implement effectively the provisions of an instrument.

*(ibid, p. 225)*

In addition, the existence of many of the fundamental principles that might be included in an arms trade treaty in customary international law, existing international agreements, and other agreements, indicated that an instrument should be feasible, and that there was a need to conclude and implement a global instrument.

In terms of scope, the UK's submission states that the two main issues that need to be defined are the items and transfers to be covered:

...an instrument must cover all conventional arms, ranging from handguns and other small arms and light weapons (SALW), to main battle tanks and other armoured fighting vehicles, combat aircraft (including helicopters), warships and conventionally armed missiles. To ensure that such arms are not used in breach of international commitments, an instrument should also cover munitions for the equipment listed above, including ammunition for SALW and larger weapons, the technology to produce and maintain such equipment, and their parts and components.

Noting that views have been sought on a comprehensive instrument, and while recognizing that coverage of dual-use items is a complex issue, the United Kingdom believes it would also be desirable for the group of governmental experts to consider, in some detail, coverage of dual-use items directly relevant to the above arms, munitions and production technology.

*(ibid, p. 226)*

Turning to the range of transfer, the submission says:

The resolution refers to import, export and transfers. An instrument will have to make clear what is meant by these terms (making reference to existing norms). An instrument should also cover other activities, including brokering, transit and trans-shipment, loans, gifts and temporary imports/exports for demonstration or exhibition. It will be important in this context to take note of the current work of the group of governmental experts on brokering, which is due to report this summer.

The United Kingdom suggests that an instrument should be confined to transfers which will involve arms or related technology moving from the territory of one State to that of another State, including Government-to-Government or State-to-State transfers. An instrument should not cover transfers within a State. An

instrument should not impose restrictions on how arms may be acquired, held or used within a State's territory. An instrument should also not place overly burdensome controls on the movement of privately owned antique or sporting firearms for sporting or cultural purposes. However, an instrument should set out the issues which States must consider before deciding whether to permit a transfer, including the eventual use of the item in question.

(*ibid*, p. 227)

In relation to parameters, the UK's submission argues that one of the key elements of an arms trade treaty will be agreeing on the international standards that states must follow. Although some standards have already been set out in various agreements, others will require further elaboration:

The United Kingdom would suggest that the key considerations for importing and exporting States and for other States involved in the transfer of an item, while bearing in mind the right of all States to arm themselves for self-defence, must be whether the proposed transfer will:

- Breach any international or regional commitments;
- Be diverted to a use which would breach any international or regional commitments;
- Be used in the commission of serious violations of international humanitarian or human rights law;
- Be used in the furtherance of terrorist acts;
- Be used in the commission of violent crimes;
- Be used to provoke or exacerbate internal or regional conflict;
- Be used to destabilize countries or regions;
- Seriously undermine the economy or hamper the overall development of the importing State;
- Be diverted to one of the above uses.

In each of these cases, unless a State is satisfied that a potential transfer would not breach international commitments or any of the conditions set out above, the State should be required to refuse permission for the transfer. It should also be made clear that such standards are the minimum that States agree to apply, and that if they decide to do so they may apply higher standards.

(*ibid*, p. 228)

In order to decide whether an item is not being used in a negative way, states will need clear and easy to understand guidance. Furthermore, "to ensure states can be confident that agreed standards are adhered to, they must be applied in a transparent and accountable manner" (*ibid*, p. 228). States will therefore need to share information on transfers approved, and possibly on transfers not allowed. To have impact, the UK thinks that a treaty will have to include an effective mechanism for enforcement and

monitoring. Consideration will also have to be given to the resources required to support the implementation of the treaty—perhaps through a permanent or semi-permanent implementation body or secretariat.

### **3.2 Analysis and Implications of States' Views**

In October 2007, the United Nations Institute for Disarmament Research published the report *Analysis of States' Views on an Arms Trade Treaty* by Sarah Parker. The report looks at the states' submissions in response to the Secretary-General's request for views pursuant to the Arms Trade Treaty Resolution. The 96 submissions received at the time of writing the report were reviewed under the headings of feasibility, scope, and others. The report concludes that:

There are nearly 40 Member States that are not parties or signatories to one or more existing regional arrangements regulating the transfer of conventional weapons or small arms and light weapons. While the various regional instruments and arrangements contain different obligations and transfer criteria, the high rate of accession to and the abundance of such instruments illustrate the importance of arms transfer controls and demonstrate states' willingness to establish common standards in this area.

The fact that 153 Member States voted in favour of the ATT Resolution demonstrates that the majority of states agree that common international standards for the import, export and transfer of conventional weapons are desirable. Eighty-nine of the ninety-five states whose submissions were reviewed believe that an ATT is feasible, thus that a legally binding instrument establishing such common international standards is possible. Clearly, there is broad support for such standards. What is less clear is the form such standards could take.

One of the aims of this report is to provide an overview of states' positions with respect to the development of an ATT. The statistical analysis provided clearly shows that states are more likely to agree on the inclusion of certain items, activities and operational mechanisms than others. In this sense, the report will provide a good snapshot or starting point for judging which issues are likely to be easily agreed and which issues will be more contentious if and when negotiations on an ATT commence.

...however, absolute predictions of states' attitudes and responses to ATT discussions based on states' submissions are not possible since not all states submitted their views during the consultation process and states may not have exhaustively listed all the elements they would like to see in an ATT. One way of overcoming this, and increasing the extent of the data and its accuracy, would be to develop a questionnaire that includes the criteria and categories explored in this report and issue it to all states asking them to expressly confirm whether they would support the inclusion (or discussion) of such criteria and categories in an ATT. This would help to narrow down the areas of consensus and divergence and give a more accurate picture of the outcomes of an ATT process.

(Sarah Parker, *Analysis of States' Views on an Arms Trade Treaty* (October 2007), United Nations Institute for Disarmament Research, pp. 14–15)

A second report was published by the UNIDR in January 2008, *Implications of States' Views on an Arms Trade Treaty*, also by Sarah Parker. This report supplements the first one, and provides an historical overview before proceeding to examine the objective of,

need for, feasibility of, scope of, and parameters for an arms trade treaty, as well as looking at implementation measures and options for structure. The study concludes:

A strong and effectively implemented ATT could lead to recognized standards for assessing and encouraging responsible behaviour in arms transfers. For such reasons, the ATT initiative has gained a great deal of momentum and attracted much state support. A large majority of states support the idea of establishing a set of common international standards that would govern how and whether states authorize conventional arms transfers. Although some states are sceptical about the feasibility of or need for an ATT, no state has expressed the view that there should *not* be standards and principles governing the transfer of arms. What the support shown for an ATT signifies is that most states agree that decisions to allow arms transfers should be made according to common legal and ethical principles. What remains to be seen is what those principles may be and whether critical mass in terms of participation can be achieved.

In terms of the content of an ATT, the views expressed by states in their submissions to the Secretary-General, and the level of agreement on the categories of weapons, activities and transactions, transfer criteria and operational mechanisms, form a solid foundation on which to begin substantive deliberations. It will be up to those states committed to an ATT to decide whether to push for the inclusion of categories or transactions that may cause discomfort and may lead to a deadlock of the process, or accept an instrument that may be weaker than they wish, but which nevertheless makes for a dynamic process that could evolve over time.

There are a few states that are sceptical about or opposed to the adoption of an ATT. However, these states carry a great deal of weight due to their standing as major players in the conventional arms trade and global politics generally. While preoccupation with the participation of these states is understandable, efforts to bring them on board at the expense of moving forward on a treaty could present more risks than opportunities.

(Sarah Parker, *Implications of States' Views on an Arms Trade Treaty* (January 2008), United Nations Institute for Disarmament Research, pp. 55–56)

### **3.3 Analysis of Responses by Amnesty International**

An analysis of the states' responses was also produced by Amnesty International—*A Global Arms Trade Treaty: What States Want* (October 2007). The study looks at states' views on the need for an arms trade treaty, the need to close existing gaps and loopholes, consistency with article 51 of the UN Charter, existing international law, and the feasibility, scope, and parameters of such a treaty. The report concludes:

The submissions by states provide a comprehensive and detailed overview of state's views as to the feasibility, scope and parameters of an ATT. It is clear that the majority of states believe that an ATT is a feasible goal for the international community, presenting an opportunity for real and significant progress to be made towards regulating the transfer of arms at the global level.

The following is a brief overview of the main areas of focus for the Group of Governmental Exports as recommended by states in their submissions:

- Compile all the existing international instruments that directly or indirectly have application to international transfers of conventional arms, whether

legally binding or not, or adopted at the sub-regional, regional, multilateral or global level. From there, a determination of the commonalities can be made to gain an overview of widely accepted existing key principles for such transfers for inclusion in an ATT;

- Consider how to develop the most comprehensive list of conventional arms for inclusion within an ATT: the use of existing lists such as the UN Register of Conventional Arms, the Wassenaar and European Union military control lists provide a basis for creating a comprehensive control list for an ATT, noting the need to include components, ammunition, and small arms and light weapons;
- Include transfers of licensed production in an ATT and consider how to ensure emerging technologies are covered without needing to amend the treaty;
- Review the possible inclusion of dual use items and manufacturing equipment and technology, taking into account that the majority of states support their inclusion within the scope of an ATT;
- Determine the definition of “transfer” to ensure that all transactions are covered to avoid creating possible loopholes;
- Include brokered transactions in an ATT and to this end the work of the recent GGE on Brokering of small arms and light weapons should be taken into account;
- Consider the development of a clear and objectively applied procedure in an ATT for establishing whether it is likely that a particular proposed transfer of conventional arms would be used to contribute to or facilitate gross violations of international human rights or serious violations of international humanitarian law;
- The work of the GGE in developing criteria to prohibit transfers that are used or are likely to be used for terrorist attacks can be informed by reference to the numerous conventions relating to specific acts associated with terrorism or terrorist attacks;
- The GGE should explore methodologies to enable states to identify conventional arms transfers of concern for their potential negative impacts on sustainable development efforts;
- The development of a transparency mechanism to promote confidence in the implementation of an ATT requires the GGE to consider the full range of possible reporting and compliance mechanisms. The GGE should also consider what type of information should be reported by states under a transparency mechanism such as the inclusion of denied transfers;
- Institutional capacity building is an area that is vital to the successful implementation of the various provisions of the ATT. Procedures to promote international assistance should be explored in some depth by the GGE.

(Amnesty International, *A Global Arms Trade Treaty: What States Want*, (October 2007), pp. 49–50)

#### 4. Group of Governmental Experts

As a second step, the Arms Trade Treaty Resolution requested that a group of governmental experts be established to examine, commencing in 2008, the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export, and transfer of conventional arms. The first meeting of the group took place from 11th to 15th February 2008 in New York. The United Kingdom Ambassador for Multilateral Arms Control and Disarmament, John S. Duncan, attended the meeting, and made the following entry on his blog:

A successful first week of discussions on the Arms Trade Treaty in New York amongst the 28 countries selected by the UN Secretary General Ban Ki-Moon to report on the Feasibility, Scope and Parameters of a possible treaty; or in other words if a treaty is going to be possible, What would it need to cover and How would it work in practice.

The countries represented covered the broad range of supporters, agnostics and opponents to the ATT so discussion was certainly interesting, but in the main I was very impressed by the willingness of all present to actually engage in the debate. Much work to do over the coming months and our own discussions with UK NGOs and the Arms Industry will be crucial to our ability to inform our colleagues about the real issues at stake. While the idea of an ATT can be traced back to the 1920s the UK vision of an ATT is intrinsically linked to our ability to achieve the UN Millennium Development Goals and to respond to the changes in a globalised market place. This is unfamiliar territory to many in the world of Arms Control.

(Ambassador's Blog, UK Permanent Representation to the Conference on Disarmament, entry for 15th February 2008, <http://www.britishembassy.gov.uk>)

Further information on the meeting is contained in the following summary provided by the UK Permanent Representation to the Conference on Disarmament:

##### Overall summary

A constructive first session. Willingness by all 28 States to engage positively with a few States raising their specific concerns. Progress was made beyond a simple discussion of feasibility to useful engagement on parameters and scope. The outline of the draft report was agreed. The second session in May will begin to fill out this report.

##### Detail

The first of three sessions of the Group of Governmental Experts (GGE) "to examine, commencing in 2008, the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms", took place from 11–15 February in New York. This group had been established pursuant to resolution 61/89 of 18 December 2006 and passed with an overwhelming majority of support (153 states) with one vote against (United States). Notably the Arab Group and Israel abstained from the voting.

The UN Secretary General convened the GGE with 28 members, the maximum for a GGE, and had over 60 requests for membership of it...

At the outset, the Argentinean expert, Ambassador Roberto García Moritán, was nominated Chair of the Group and is tasked with producing the final report. Rachel Stohl, an independent expert, helps him.

Before detailed discussion got underway, UNIDR made a presentation on the analysis of the responses (102) to the Secretary General's question on the feasibility, scope and parameters of an ATT.

#### Feasibility of an ATT

There was much discussion devoted to this topic as many agnostics argued that a comprehensive legally binding instrument was not feasible. There were already many regional, sub regional and other agreements in existence and therefore the universalisation of full implementation of these instruments should be the way forward. It was not feasible to have a global standard.

But it was cited that these existing instruments were very much a patchwork of different standards. An ATT would bring common criteria to all conventional arms exports / imports and transfers thus bringing in to effect a global standard. Given the right scope and parameters such an instrument was feasible. The debate will continue.

#### Scope

There were existing lists already associated with other instruments (the Conventional Arms Register, the Wassenaar List, etc) so we shouldn't duplicate efforts in other fora. The UN register was seen as having potential; its seven groups (Battle Tanks, Armoured Combat Vehicles, Large-calibre artillery systems, Combat Aircraft, Attack helicopters, Warships, Missiles and Missile launchers) plus small arms and light weapons (SALW). To this other categories could be added; dual use items, ammunition, components, manufacturing technology, etc. This will be discussed at later sessions.

#### Parameters

Discussion on parameters revolved around two main issues; international rights and obligations already in force. The latter covered Security Council agreed arms embargoes and other regionally agreed embargoes. The former proved a more difficult discussion, which brought into question the illicit arms trade, right of self-determination and non-state actors. Many of the criteria covering these types of transfer were based on moral issues and therefore harder to regulate. Discussion on this continues.

#### Next steps

The Chair has requested the independent expert to produce a list of all conventional arms agreements in existence to try and ascertain the feasibility of a global instrument. This will be discussed in the second session of the GGE, set to take place from 12–16 May 2008. Other issues likely to be raised at this meeting are sustainable development and verification and monitoring of an ATT.

(UK Permanent Representation to the Conference on Disarmament, Summary Record of the first ATT GGE Meeting 11th to 15th February 2008, 6th May 2008)

A list of the countries attending the group of governmental experts is attached to this Note in Annex 2. The third session of the group is due to take place from 28th July to 8th August 2008.

## 5. Select Bibliography

Amnesty International, *A Global Arms Trade Treaty: What States Want*, (October 2007).

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Parker, Sarah, *Analysis of States' Views on an Arms Trade Treaty* (October 2007), United Nations Institute for Disarmament Research.

Parker, Sarah, *Implications of States' Views on an Arms Trade Treaty* (January 2008), United Nations Institute for Disarmament Research.

United Nations General Assembly, *Towards An Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms* (August to November 2007).

## **Annex 1: United Nations Arms Trade Treaty Resolution**

United Nations General Assembly  
A/RES/61/89  
18 December 2006  
Sixty-first session

### **Resolution adopted by the General Assembly**

*[on the report of the First Committee (A/61/394)]*

#### **61/89. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms**

*The General Assembly,*

*Guided* by the purposes and principles enshrined in the Charter of the United Nations, and reaffirming its respect for and commitment to international law,

*Recalling* its resolutions 46/36 L of 9 December 1991, 51/45 N of 10 December 1996, 51/47 B of 10 December 1996, 56/24 V of 24 December 2001 and 60/69 and 60/82 of 8 December 2005,

*Recognizing* that arms control, disarmament and non-proliferation are essential for the maintenance of international peace and security,

*Reaffirming* the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter,

*Acknowledging* the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs, and in order to participate in peace support operations,

*Recalling* the obligations of all States to fully comply with arms embargoes decided by the Security Council in accordance with the Charter,

*Reaffirming* its respect for international law, including international human rights law and international humanitarian law, and the Charter,

*Taking note* of and encouraging relevant initiatives, undertaken at the international, regional and subregional levels between States, including those of the United Nations, and of the role played by non-governmental organizations and civil society, to enhance cooperation, improve information exchange and transparency and implement confidence-building measures in the field of responsible arms trade,

*Recognizing* that the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development,

*Acknowledging* the growing support across all regions for concluding a legally binding instrument negotiated on a non-discriminatory, transparent and multilateral basis, to

establish common international standards for the import, export and transfer of conventional arms,

1. *Requests* the Secretary-General to seek the views of Member States on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, and to submit a report on the subject to the General Assembly at its sixty-second session;
2. *Also requests* the Secretary-General to establish a group of governmental experts, on the basis of equitable geographical distribution, informed by the report of the Secretary-General submitted to the General Assembly at its sixty-second session, to examine, commencing in 2008, the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, and to transmit the report of the group of experts to the Assembly for consideration at its sixty-third session;
3. *Further requests* the Secretary-General to provide the group of governmental experts with any assistance and services that may be required for the discharge of its tasks;
4. *Decides* to include in the provisional agenda of its sixty-second session an item entitled "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms".

*67th plenary meeting  
6 December 2006*

## **Annex 2: Group of Governmental Experts Countries**

Algeria  
Argentina  
Australia  
Brazil  
China  
Colombia  
Costa Rica  
Cuba  
Egypt  
Finland  
France  
Germany  
India  
Indonesia  
Italy  
Japan  
Kenya  
Mexico  
Nigeria  
Pakistan  
Romania  
Russian Federation  
South Africa (Republic of)  
Spain  
Switzerland  
Ukraine  
United Kingdom  
United States of America

