



Remarks on the Arms Trade Treaty

By

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I wish to thank the New York Bar Association and the Permanent Mission of Mexico to the United Nations for this invitation to speak on the Arms Trade Treaty (ATT) and to share a United Nations perspective on its significance and promise.

Ladies and Gentlemen,

A paramount purpose of the UN is “to maintain international peace and security”.

Earlier this year, the General Assembly made history with its landmark adoption of the ATT. This was the culmination of a long journey that began with a simple idea put forth in 1995 by a group of Nobel Peace laureates. That blossomed into a complex consensus-based process, including two diplomatic conferences held within the framework of the United Nations.

This ATT process formally started in December 2006, when the General Assembly adopted a resolution on the subject with overwhelming support. Of course, the “regulation of armaments” is also a goal found in the UN Charter, echoed in countless General Assembly resolutions over many decades.

The treaty was adopted by an overwhelming majority of UN Member States, with only three States—Iran, North Korea and Syria, all of which are presently under UN Security Council sanctions—casting negative votes.

So, what’s the fuss about the ATT?

Nearly all areas of world trade are covered by regulations that bind countries into agreed conduct. Yet prior to the ATT, there were no global rules governing trade in conventional weapons. The absence of such rules left numerous loopholes that made it easier for weapons and ammunition to flow to conflict areas, to be acquired by pirates, terrorists and other criminal groups, or to reach governments engaging in systematic human rights violations.

We continue to witness widespread human suffering caused by the uncontrolled spread of sophisticated weaponry in conflict regions. Countless news reports cite the plight of civil populations that are being victimized by the misuse of arms by State-armed and security forces, non-State armed groups, and organized criminal groups. These are clear reminders that weapons and ammunition must not continue to be traded without being subject to the highest standards to reduce the risks of their diversion into the illicit market or of their use as tools of repression.

The ATT does not prescribe specific, harmonized procedures that all States would have to follow in processing arms export requests or in making their political decisions regarding the transfer of arms. It does not tell States whether or not they should engage in weapons manufacturing or trading or build up their militaries. Nor does it attempt to dictate how countries should regulate arms transfers within their borders. Each State has the sovereign right to decide upon such matters in accordance to its national interests and domestic laws. Also, the ATT does not aim to ban any category of weapon, unlike the convention on cluster munitions and the anti-personnel mine ban convention.

The aims of the ATT are instead to bring more accountability, transparency and responsibility to the global arms trade, by setting common standards to guide States when making their arms transfer decisions. The legitimate arms trade is big business. Its total annual value is estimated at about 85 billion dollars. Of course, when we consider that a great deal of transactions is not captured in published reports, it is very likely that the actual value is considerably higher. There is also a lot of trade taking place illegally, which by its very illicit nature cannot be reliably estimated.

The ATT covers a broad range of conventional weapons—from battleships, to combat aircrafts, to missiles and small arms and light weapons— as well their ammunition and key parts and components.

The agreed common international standards are reflected in the Treaty essentially as prohibitions and as assessment criteria that States must apply when considering whether or not to approve export requests. Now let's turn to some examples—what specifically is in the ATT?

Under its Article 6, the ATT prohibits any State Party from authorizing transfers of weapons or ammunition, and other items covered by the Treaty, if they would contravene mandatory Security Council arms embargoes. Other prohibited transfers include those that would violate the State Party's relevant international obligations, or transfers in cases where the exporting State has knowledge that the items would be used in certain grave offenses, such as the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, or attacks against civilians.

Article 7 provides a list of assessment criteria to guide States Parties' decisions regarding the authorization of exports. These include the risk that exported items would be used to commit or facilitate a serious violation of international humanitarian law or international human rights law. These criteria also include the risk that items would be used to commit or facilitate acts constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a party.

In addition, Article 7 contains weaker provisions requiring States Parties to take into account the risk that exported items could be used to commit or facilitate serious acts of gender-based violence or of violence against women and children.

Under its Article 13, the ATT requires States Parties to report on measures taken to implement the Treaty as well as on their annual imports and exports of arms.

Importantly, the ATT obligates its States Parties to regulate arms brokering taking place in its jurisdiction and to take measures to prevent diversion of the covered items.

Of course, I am sure that many of you are already pondering many questions about how to ensure the effective implementation such provisions: how do you define “serious violations”? How can do you define “taking into account”?

To be sure, the ATT is not—and could not be—a perfect instrument. Yet it still is the best

that could be achieved through a challenging consensus-based multilateral process. We must not forget that the arms trade touches on many central interests of States, over 190 of them.

National reporting and future conferences of States Parties, however, will serve as fora for applying peer pressure and fostering improvements in treaty implementation.

The ATT will impact countries differently. Many arms exporting countries, such as the United States, already have in place sophisticated systems of arms export controls, while others have more lax or less transparent controls.

Each State Party is expected to implement the ATT in a consistent, objective and non-discriminatory manner. Again, there are many challenges in ensuring the application of this provision. There will be no international body entrusted, for instance, to verify or oversee implementation or to evaluate the consistency, objectivity and non-discriminatory nature of arms transfer decisions made by the States Parties. Of course, aside from the dispute settlement provisions contained in Article 19, there is an underlying assumption that governments take their international commitments seriously. As I said earlier, the reporting and the conference of States Parties can be used as tools to foster good-faith implementation.

Many importing countries will face significant challenges in implementing the treaty. They will need to set up effective import control systems, including reliable processes and tools for certifying end users and end uses. Many will need considerable international assistance. The dividends of this investment will be increased peace, security and stability, resulting in safer communities and a better environment for sustainable social and economic development.

Other States facing complex implementation challenges include those with large territories and those with sizeable trans-shipment activities. The ATT requires transit and trans-shipment of items covered to be regulated.

I am pleased to report that the UN Office for Disarmament Affairs (UNODA), with the support of a number of donor governments, has already established a facility, called the UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR), that can be tapped by international, regional, subregional and civil society organizations to help States implement the ATT. Information about this facility is available on the UNODA website.

A mere four months since its opening for signature, the ATT already has 114 signatories and 8 States Parties. Last September Secretary of State John Kerry signed the ATT on behalf of the United States. The Obama Administration has been constructively engaged in the ATT process—and this carries a lot of weight. On the other hand China, India and Russia have been relatively skeptical of the ATT. We hope, however, that they will reconsider their positions and sign soon, as it is important that all major exporters and importers join the Treaty.

The Treaty will enter into force 90 days after the deposit of the fiftieth instrument of ratification with the Secretary-General. It is possible the treaty will enter into force by 2015.

The UN has been working with States and other partners to promote signatures and

ratifications and to set up mechanisms for supporting its implementation once it goes into force.

We should not lose sight of the link between poorly regulated arms transfers and arms trafficking. There is ample evidence that diversion from legitimate stockpiles is one of the major sources of supply to the illicit market. The ATT is thus expected to supplement and complement existing global instruments aimed at preventing arms trafficking, such as the UN Firearms Protocol, the UN Programme of Action on small arms, and the International Tracing Instrument.

The ATT has generated so much energy and enthusiasm all over the world. This is because it brings hope to millions of people affected by conflicts and armed violence. For us at the UN, the ATT plugs a moral gap in international relations and advances international law.

More importantly, the ATT will create a safer environment for the UN to deliver humanitarian assistance, to help in peacekeeping and peacebuilding, to promote the rights of women and children, to assist refugees and internally displaced people, to promote the rule of law, and to foster social and economic development. The better we can fulfil these mandates, the safer and happier the world will be. Thank you for your kind attention.