



EUROPEAN UNION



UNITED NATIONS INSTITUTE
FOR DISARMAMENT RESEARCH

**Promoting Discussion on an Arms Trade Treaty
European Union–UNIDIR Project**

**Lunchtime seminar
on the EU–UNIDIR Project on Regional Seminars**

**20 October 2009
New York, USA**

SUMMARY REPORT

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Introduction

As part of the project that the United Nations Institute for Disarmament Research (UNIDIR)¹ is implementing for the European Union on promoting discussion on an Arms Trade Treaty (ATT),² UNIDIR organized a lunchtime seminar on the margins of the UN General Assembly's First Committee meeting.

The seminar, held on 20 October 2009 at UN Headquarters, provided an update on the project "Support for EU activities in order to promote among third countries the process leading towards an Arms Trade Treaty". The project consists of a series of regional seminars that UNIDIR is organizing in Spring 2009–Spring 2010 and aims at integrating national and regional contributions to the international process underway on an ATT and contributing to identifying the scope and implications of a treaty on the trade in conventional arms. The seminar was aimed at the project's stakeholders and was open to all interested parties. Over 120 representatives of government, international organizations, industry and civil society attended the meeting. In addition to presenting the results to date of the EU–UNIDIR project, it provided an opportunity to discuss substantive elements relating to the current ATT debates and process.

Presentations made at the seminar highlighted key messages from other regional seminars, held in Dakar, Mexico City, Amman and Kuala Lumpur. They were analysed in light of the work currently ongoing at the UN, by elaborating synergies of discussed issues, proposals from different regions and the way forward. In addition, aspects related to a possible transparency mechanism for an ATT were discussed and elaborated. This report provides a summary of the presentations and discussions from the seminar. It reflects the impressions and views of the organizers at UNIDIR, based on our account of the proceedings and exchanges of views.

Summary of seminar proceedings³

The seminar was chaired by Ambassador Magnus Hellgren from the Swedish Delegation to the International Organizations in Geneva, representing the Swedish Presidency of the European Union.

Ms. Annalisa Giannella, the EU High Representative's Personal Representative on Non-Proliferation, from the Secretariat of the Council of the European Union, delivered the seminar's opening remarks. In addition to giving an overview of the EU–UNIDIR project and how it came about, she touched upon some issues often quoted in the ATT discussions, providing some clarifications from the point-of-view of the EU. For example, Ms. Giannella noted that in the view of the EU, only a global treaty, agreed by all states and establishing the highest possible international standards for the import,

¹ UNIDIR is an autonomous research institute of the United Nations that specializes in matters of disarmament and security, and promotes creative thinking and dialogue on the disarmament and security challenges of today and of tomorrow through research projects, publications, and other various activities. For more information, visit <www.unidir.org>.

² The full title of the project is "on support for EU activities in order to promote among third countries the process leading towards an Arms Trade Treaty, in the framework of the European Security Strategy", (2009/42/CFSP).

³ See annex A for the seminar agenda.

export and transfer of conventional arms, would allow us to minimize the risks of diverted and destabilizing transfers, while at the same time making the licit trade in weapons as reliable and straightforward as possible. It would not be a treaty banning the use or production of weapons, or a disarmament treaty. In the view of the EU, an ATT should prevent conventional weapons from being used to threaten security, destabilize regions and states, violate international human rights law or international humanitarian law, undermine economic and social development, or exacerbate conflict. The EU is clear that an ATT should not prevent states from acquiring conventional arms for use in the exercise of their inherent right to self-defence in accordance with Article 51 of the Charter of the United Nations. Nor should it cover transfers within a state, regulations on domestic gun ownership, or affect the right of states parties to have more restrictive national policies. Ms. Giannella also referred to the claim sometimes made that an ATT would be used by arms exporters to discriminate among importers through a politicized use and interpretation of parameters, and countered by arguing that an ATT would enhance transparency and predictability in the international arms trade, offering a legal tool both to importers and exporters that to date does not exist.

Ms. Giannella's presentation was followed by introductory remarks about the EU–UNIDIR project, delivered by Dr. Christiane Agboton-Johnson, Deputy Director, UNIDIR. In her statement, she highlighted the importance of having this seminar on the margins of the First Committee, and noted that Project Manager Elli Kytömäki would talk in more detail about the outcomes of the first four regional seminars as well as the project's launch seminar organized in Geneva and the Open-ended Working Group lunchtime seminar held in July. She noted that UNIDIR has been involved in the ATT process for a few years now. In 2007 and 2008, it produced an analysis of national views submitted to the UN Secretary-General and assisted the Group of Governmental Experts on an ATT in its work. According to Dr. Agboton-Johnson, implementing this EU project is a very good opportunity for UNIDIR to fulfil its mandate as the Institute is able to provide UN Member States with more information about the ATT process, offer them an open space to discuss aspects related to it and deepen their understanding of different questions; this project is also a good opportunity for UNIDIR to pursue its work on human security. She concluded by expressing her hope that this will not be another phase of the myth of Sisyphus, but rather a step toward more peace and security in the world.

The seminar also heard three presentations about different aspects of the proposed ATT. Ms. Elli Kytömäki, Project Manager of the project “Promoting Discussion on an Arms Trade Treaty” at UNIDIR, talked about the key messages from the first four regional seminars of the EU–UNIDIR project, held in Dakar, Mexico City, Amman and Kuala Lumpur. Mr. Mark Bromley, researcher at UNIDIR's partner organization the Stockholm International Peace Research Institute (SIPRI) talked about “ATT, arms transfers and transparency”, while the Director of UNIDIR's other partner organization, the Fondation pour la recherche stratégique (FRS), Mr. Camille Grand, discussed the EU–UNIDIR project and the ATT process at the UN especially as concerns the proposed ATT's scope, parameters and implications. The three presentations and the subsequent discussion are summarized in the following section.

Key themes and discussions

Messages from the first four regional seminars

Based on the presentation by Ms Elli Kytömäki, Project Manager, UNIDIR

The first four regional seminars of the EU–UNIDIR project, organized prior to the lunchtime seminar in New York, were held in Dakar, Senegal, for countries in Central, Northern and Western Africa (28–29 April 2009); in Mexico City for countries in the Americas and the Caribbean (18–19 June 2009); in Amman, Jordan, for countries in the Middle East (28–29 July 2009); and in Kuala Lumpur, Malaysia, for countries in Asia and the Pacific.

Talking mainly about these seminars, Ms. Elli Kytömäki from UNIDIR noted that they, as well as the project's two final events in Addis Ababa and Vienna, are all two-day events and follow the same agenda structure, aimed at allowing expert participants from the countries in the target regions, together with representatives of regional and international organizations, civil society and industry to share their views and make recommendations about the ATT process. She pointed out that even though all the seminars follow the same structure and certain common messages have come across in all of them, they all have also had a strong regional flavour and highlighted different priorities.

Talking about the key messages from the seminars, Ms. Kytömäki noted that in the first seminar in Dakar, participants discussed at length the problems caused by illicit transfers of small arms and their impact on human security in the regions, and it was mentioned that an ATT could significantly contribute to reducing human suffering, instability and conflicts in Africa by reducing the proliferation of small arms. In Mexico City, the same issues of illicit transfers were discussed more from the point-of-view of armed violence and organized crime, and emphasis was put on already existing regional arrangements and instruments.

Priorities that came out in the Middle East seminar relevant to the proposed ATT were, according to Ms. Kytömäki, very much linked to the heavy impacts of the destabilizing political, economic and humanitarian effects of conventional weapons, due to the specific security situation and its longstanding destabilizing consequences on the countries in the region. Quite a lot of discussion was also devoted to the general principles of international law, already existing agreements and their implementation and interpretation. Finally, in Kuala Lumpur participants discussed the priority areas related to arms control, in many cases specifically related to the illicit proliferation of weapons and its links with social and domestic violence, transnational crime, terrorism and trafficking in drugs and human beings.

In addition to mentioning the specific priorities from each of the seminars, Ms. Kytömäki also noted that the challenges identified in them vary: Dakar participants stressed the differing interests and priorities of producer states and recipient states as a crucial challenge for the formulation of an ATT. They also discussed difficulties related to the technicalities of negotiating an ATT: how to ensure that everyone's voices are heard, how to keep all countries involved and interested, and how at the same time to allow for the most active states to promote the Treaty in their own way. She noted that

Mexico City participants also highlighted similar points to those mentioned in Dakar: ATT discussions and later negotiations should strive for truly global participation.

According to Ms. Kytömäki, the main message from the Amman seminar was that a comprehensive and balanced approach should be ensured to avoid politicization of the Treaty and the creation of double-standards in implementing arms transfer criteria. At the same time, it was noted that regional specificities should be taken into account and reflected in any future treaty. The Kuala Lumpur seminar encompassed a wide region with countries big and small, including countries with long land borders but also those surrounded by ocean. Ms. Kytömäki pointed out that taking into account all of these different circumstances was identified as one of the main challenges for an ATT there. Participants also stressed the importance of major producer and exporter countries participating in the formulation of the treaty, an area in which there has been significant progress since the seminar.

In general, and echoing also the Open-ended Working Group, the message from all of the first regional seminars is that illegal and poorly regulated trade in conventional arms is a problem that needs to be addressed. Because these problems are wide-spread and international, they have to be dealt with internationally, through a global treaty that is relevant to and engages all countries. While the details about the “whats” and “hows” of such a treaty are still very much in the making (a *raison d’être* of the project), participants in all four seminars called for a universal and practical treaty that should be balanced in its approach, and implementable.

Small arms pose particular challenges to most regions, and the illicit trade in these is a major concern across regions, even if in different ways. Ms. Kytömäki pointed out that small arms were discussed in all of the seminars as a priority area that should be addressed in an ATT. Furthermore, she noted that all seminars stressed that, from the early phases of discussions, a Treaty should remain objective and inclusive. The discussions and the eventual Treaty should not discriminate against any particular region, country or groups of countries.

Indeed, regional-level action was highlighted in all seminars as an issue requiring further thought and emphasis. According to Ms. Kytömäki, all regions so far have indicated that an ATT should take into account their regional specificities and concerns, and that the Treaty’s drafters should learn from already existing regional instruments. But it has been made very clear that regional arrangements alone are not sufficient and that something internationally agreed is needed to create common rules and level the playing field.

Paving the way for the next presentation, Ms. Kytömäki noted that transparency was highlighted as a priority issue in all of the regional seminars. This will be an issue mostly relevant to the future implementation of a Treaty, but is something that will shape the discussions already now and something that should be carefully considered when thinking about the modalities of a Treaty’s practical functioning. Finally, Ms. Kytömäki conveyed the message from the regional seminars that the discussions and negotiation process toward an ATT should include not only all states but all relevant stakeholders, such as industry and civil society. She concluded that further discussion and dialogue to deepen the understanding of some issues is very much needed. In all of

the seminars, the initiative of the EU–UNIDIR project on broadening the discussion base has been very much welcomed.

ATT and transparency

Based on the presentation by Mr. Mark Bromley, Researcher, SIPRI

One recurring theme in the discussions around an ATT, its implementation and implications, is transparency:⁴ how transparency mechanisms could or should be included in an ATT, what they should consist of, and how they would function. Mr. Mark Bromley from SIPRI gave a presentation on transparency and examined especially the possibility of creating a reporting instrument within an ATT, under which states would submit information on their international arms transfers for publication through publicly available reports. As Mr. Bromley noted, such a mechanism would enable governments, parliaments and civil society at large to see how states are interpreting and applying an ATT's transfer criteria. In addition, it could in his view help build public support for an ATT and strengthen the norms and standards that it would seek to promote.

It was noted that consensus on the need for an ATT transparency mechanism seems to have grown in the past years: In 2007, when the UN Secretary-General sought states' views on the feasibility, scope and parameters of an ATT, 40 states highlighted the need to create some kind of monitoring mechanism, 36 suggested the inclusion of regular or annual reporting requirements, but only 13 specifically called for a register of international arms transfers based on reports submitted by states. The issue was also discussed by the 2008 Group of Governmental Experts, but the most explicit reference to it can only be found at the 2009 Open-Ended Working Group report, which notes that “a number of delegations cited the need for transparency and reporting provisions” and that “no one spoke against such measures”.

What a possible transparency mechanism of an ATT would look like will, according to Mr. Bromley, largely depend on what is decided overall regarding the elements and scope of the future treaty. However, he pointed to a number of important questions that a transparency mechanism will likely be forced to address, regardless of what scope and coverage an ATT will have.

Mr. Bromley noted that an ATT transparency mechanism should complement, rather than undermine, existing transparency mechanisms. Since the early 1990s an increasing number of national, regional and international transparency mechanisms have been developed in the field of arms transfers, coupled with a growing number of inter-governmental information exchange mechanisms.⁵ This situation can, according to Mr. Bromley, create something of a dilemma for any ATT transparency mechanism, as the

⁴ Understood in this context as “public transparency”, that is, the placing of previously restricted information into the public domain.

⁵ Inter alia the UN Register of Conventional Arms, the EU Annual Report, the Organization for Security and Co-operation in Europe Document on small arms and light weapons, the Organization of American States Transparency Convention, and the different reporting instruments attached to the Wassenaar Arrangement and the Convention of the Economic Community of West African States. Also, at the national level, an increasing number of states—particularly in Europe—have begun publishing national reports on their arms exports.

creation of another reporting tool in the field of international arms transfers might contribute to a sense of reporting fatigue and may serve to limit states' overall engagement with these mechanisms. At the same time, in order to be effective, a transparency mechanism should, in Mr. Bromley's view, ensure high level of participation by states.

In the discussions around a transparency mechanism for an ATT, the UN Register is often cited as a long-standing and hugely important instrument. Indeed, Mr. Bromley argued that any ATT transparency mechanism should seek to neither undermine nor replace the UN Register, but rather complement and build upon it. He also pointed out that some states have recommended that an expanded or modified version of the UN Register to become the de facto ATT transparency mechanism. However, he said that there is also a strong argument in favour of creating an entirely new ATT transparency mechanism, one that would be specifically designed to fit the purpose for which it is intended. According to Mr. Bromley, the desirability and functionality of either option depends largely on the eventual scope and coverage of a treaty. For example, if an ATT goes beyond the range of activities and weapon systems covered by the UN Register then, unless it expanded, the UN Register will not be able to serve as the ATT transparency mechanism.

Mr. Bromley also touched upon a deeper question relating to the actual purpose of the mechanism itself that should be examined when thinking about the applicability of the UN Register to an ATT transparency mechanism. The original purpose of the UN Register was "to prevent excessive and destabilizing accumulations of arms". This led to a focus on data on actual transfers of weapons systems, since it leads to a more informed picture of where arms are transferred. The purpose of an ATT transparency mechanism, as Mr. Bromley said he understands it, would be to allow governments, parliaments and civil society to see how states are interpreting and applying the criteria of an ATT. If this is the case, he continued, then it points to the need to focus on licences granted and to request a detailed description of the goods involved, their destination and end-use.

Mr. Bromley also talked about the burden of creating and abiding by new transparency requirements. As he noted, aside from being a sensitive issue for many states, the collection and submission of data on international arms transfers in line with internationally agreed formats can, in and of itself, be a taxing process. In many cases it may require the creation of new laws and procedures at the national level. For this reason, it will accordingly be important to place a strong emphasis on providing details of how states should go about collecting and submitting information to an ATT transparency mechanism and to provide assistance where needed. In this regard, the idea of creating some form of permanent secretariat that could vet the data submitted and investigate and resolve discrepancies between exporter and importer reports, has to be raised. Mr. Bromley noted that to further explore this and other issues related to the ATT transparency mechanism, experiences at the UN and regional level could prove particularly useful.

In conclusion, Mr. Bromley stressed that in his view, the creation of a transparency mechanism would be an essential component of any future ATT. However, steps would need to be taken to ensure that such a mechanism complements rather than undermines

existing efforts, is fit for the purpose for which it is designed, and includes detailed mechanisms to ensure a high rate of state participation.

Scope, parameters and implications of an ATT—regional and international aspects

Based on the presentation by Mr. Camille Grand, Director, FRS

The last presentation of the lunchtime seminar discussed further the findings of the EU–UNIDIR project with regard to the possible scope, parameters and implications of an ATT, also in light of the ongoing discussions at the UN. Mr. Camille Grand from FRS started by underlying some main findings from the EU–UNIDIR regional seminars. He noted that the regional seminars have proved that there is marked interest in a large number of states in all regions in the ATT process. At the same time, and echoing the presentation by Ms. Kytömäki, Mr. Grand noted that states' priorities in different regions vary, and there is still a wide variety of views regarding different aspects of an ATT and overall expectations about what the treaty would or could do.

Going back to the starting point for an ATT, Mr. Grand noted that the underlying reason for the process were recognized problems related to the international trade in conventional weapons. Following the mandate from the UN General Assembly and the subsequent discussions, he noted that there now is emerging consensus regarding the feasibility of an ambitious, legally binding ATT that could be adopted in 2012 despite a demanding schedule, through a transparent and inclusive process.

Further, Mr. Grand elaborated the future scope of application of an ATT. He referred to the often-cited basis for the types of weapons to be included, namely the categories covered in the UN Register for Conventional Arms, plus small arms and light weapons, and also referred to other categories that in his view could benefit from further discussions, such as ammunition, materials for police and security forces, and dual-use items and technologies. Regarding possible transactions covered in an ATT, Mr. Grand discussed exports, imports, transfers and transshipments, and noted that especially questions related to the possible inclusion of brokering would merit further elaboration.

Discussing the parameters of the proposed ATT, Mr. Grand started from the founding principle of states' responsibility over authorizing, monitoring and preventing transfers of conventional arms, and noted the primary objective of an ATT to be the establishment of global norms applicable to all states, enabling case-by-case evaluations on arms transfers. He cited the respect of existing obligations such as those under the UN Charter and through embargoes established by the Security Council, and considerations regarding the end-user of the transferred weapons in case where there is a risk that the weapons could be used, for example, for terrorist purposes. Further, Mr. Grand referred to considerations that states should give regarding risks related to the potential use of the transferred weapons in violation of international humanitarian law or human rights, and their possible impact on regional security and a country's economic situation.

Mr. Grand also presented some points that in his view are of crucial importance when considering the proposed ATT. First, its universality: an ATT should bring together both exporter and importer states, as well as large producing countries. Also, an ATT should be realistic and implementable by all its signatories. Third, he underlined the importance of national and regional level implementation, and referred to the need for cooperation and assistance in supporting the Treaty. Finally, Mr. Grand pointed to the questions of

control and verification, displaying different options ranging from sole states' responsibilities to roles allocated to the UN or even civil society.

According to Mr. Grand, an ATT could lead to a more responsible arms trade among the community of states. It would also function as an important confidence and security measure through the increased transparency it would create, and help fight the illicit trade in small arms and light weapons that now fuels conflicts in many parts of the world. As Mr. Grand noted, an ATT could also complement post-conflict programming such as disarmament, demobilization and reintegration programmes, and assist inter-regional experience- and information-sharing.

Finally, Mr. Grand noted that thanks to the successful work of the Group of Governmental Experts and the Open-ended Working Group, conditions for starting the ATT negotiations have been achieved, with potential for universal support for the process. According to him, it is now the time to enter into the core of technical discussions about the scope and parameters of an ATT, in order to meet the ambitious deadlines set for the process.

Questions and answers

Presentations by UNIDIR, SIPRI and FRS were followed by a brief question-and-answer session, during which some countries also took the opportunity to share their views and ideas about the ATT process with other seminar participants. It was noted that an important issue linked to transparency in the possible ATT is also the objectivity and implementability of the Treaty, as well as its references to and implications for states' right to self-defence and self-determination.

Some specific discussion was devoted to the possible inclusion of dual-use items and technologies in an ATT, an issue that some might see as problematic. Comments were also made with regard to the inclusion/exclusion of small arms and light weapons from the scope of an ATT, and an opinion was expressed that an ATT might turn out to be just a de facto enlarged UN Programme of Action on SALW (PoA). The panellists discussed this further and noted that while there certainly are links between the PoA and an ATT, their scopes also differ in many important aspects. The PoA, being a politically binding plan of action, covers the area of illicit SALW quite comprehensively, while an ATT, if designed to be a legally binding treaty on the trade in conventional arms, would regulate specifically the aspect of arms transfers, and also cover legal trade.

With regard to the possible transparency mechanism of an ATT, participants discussed whether this provision would also be legally binding and, if so, how it would be enforced. Ideas regarding different types of verification mechanisms and implementation support systems were explored. Also the ultimate goal of an ATT to make a difference on the ground was underlined, together with a reminder to avoid the lowest common denominator in the negotiations but instead strive for the highest possible common standards. Finally, it was noted that, as the regional seminars have proven, a lot of progress has been made in the past year with regard to the understanding of an ATT, its goals and objectives. Echoing the results of the Group of Governmental Experts and the draft resolution on the proposed Treaty, panellists confirmed that the time is ripe to start negotiations, with the aim of adopting a Treaty in 2012.

At the seminar, UNIDIR distributed USB memory sticks with additional background information about the ATT initiative, as well as reports from the first regional seminars.

General results

The lunchtime seminar organized as part of the EU–UNIDIR project “Promoting Discussion on an Arms Trade Treaty” was a success. It was attended by over 120 representatives from government, international and regional organizations, civil society and industry, and received very good feedback. By presenting the outcomes of the first regional seminars of the project together with the elaboration of some specific thematic aspects on an ATT, it fully met the goals set for it within the project. Presentations by UNIDIR, SIPRI and FRS were very well received and resulted in a lively discussion and exchange of ideas. Overall, the lunchtime seminar was a well-timed and successfully executed activity that supported the overall goals of the project as well as the already conducted and forthcoming regional seminars.

Next steps

The EU–UNIDIR project’s implementation plan has two more regional events: a seminar in Addis Ababa in December 2009 for countries in Eastern and Southern Africa, and the final regional seminar coupled with the project’s concluding seminar, to be held in Vienna on 11–12 February 2010.

Summary reports from all of the regional seminars outlining discussions, ideas and recommendations put forward for an ATT will be made available online. A final report of the project will be produced and presented for comments at the concluding seminar, and will be made available online.

Annex A. Agenda

Tuesday, 20 October, 1.15–2.30 pm

Chair

Magnus Hellgren, Swedish Presidency of the European Union

Opening remarks

Annalisa Giannella, EU High Representative's Personal Representative on Non-Proliferation, Secretariat of the Council of the European Union

Introduction to the EU–UNIDIR project

Christiane Agboton-Johnson, Deputy Director, UNIDIR

Key messages from the first four regional seminars—Dakar, Mexico City, Amman and Kuala Lumpur

Elli Kytömäki, Project Manager, UNIDIR

ATT, arms transfers and transparency

Mark Bromley, Researcher, Stockholm International Peace Research Institute (SIPRI)

EU–UNIDIR project and the ATT process at the United Nations

Camille Grand, Director, Fondation pour la recherche stratégique (FRS)

Discussion

Closing remarks by the Chair

The seminar was held with simultaneous interpretation in English, French, Spanish and Arabic.