

“The Role of the Arms Trade Treaty for the Prevention of Terrorism”

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Thank you for giving me an opportunity to learn about issues related to export control and to speak about the Arms Trade Treaty (ATT) at the 25th Asian Export Control Seminar. This seminar brings together experts and influential organizations from around the world to speak about this important topic.

Introduction

The ATT, put into effect in December 2014, is a legally-binding global instrument that aims to ensure responsibility in the international trade in conventional arms. It also aims to prevent and eradicate their diversion. Before I speak about what role the ATT could play for the prevention of terrorism, I would like to give you a brief overview of how relevant instruments are interrelated. This is important as the ATT does not exist in isolation or just in language.

Instruments Related to the Control of Small Arms and Light Weapons

The ATT covers eight categories of conventional arms from battle tanks to small arms and light weapons, including ammunition and parts and components. At least half a million people die every year from the use of small arms and light weapons. Some even say they are, in effect, weapons of mass destruction. This is one of the reasons why the UN Secretary General calls for more international attention to tackle this serious and urgent issue. Small arms and light weapons are covered not just by the ATT, but are also included in the scope of global instruments, such as the Firearms Protocol, the UN Programme of Action (UNPoA) and the International Tracing Instrument (ITI).

These instruments were created with their own context and background with differences in legal status and scope. As you can see, the ATT and the Firearms Protocol are legally binding and apply to States Parties, but the other two instruments are politically binding and universal. Although each instrument has slight differences in scope, they all include measures to regulate small arms and light weapons.

I don't intend to enumerate all such measures, but to just explain a few, the Firearms Protocol obligates its States Parties to criminalize illicit manufacturing and trafficking. States Parties are also required to put in place domestic measures to enable

the confiscation and record-keeping of illicit firearms. They also have to ensure the marking of firearms at the time of manufacture, and establish a system to regulate export, import, transit and brokering.

Under the UNPoA and the ITI, States are committed to taking similar measures, such as control of the production of small arms and light weapons, marking, record-keeping, tracing, export and import control, brokering control, criminalization of illegal manufacture, and so on.

With regard to the ATT, it requires States Parties to regulate export, import, transit, trans-shipment and brokering, prevent diversion, and keep a record of exports. The core provisions are on export assessment, whereby the national control authority decides whether or not to authorize exports of arms in accordance with the criteria established by the Treaty. This will ensure responsibility in the international arms trade.

“Synergies” and “Tools”

When all the obligations of these instruments are seen through the eyes of the national practitioners engaged in the control of arms, they serve the same purpose: to regulate the flow of arms and eradicate their illicit flow. It is consistent with target 16.4 of the 2030 UN Sustainable Development Goals. The measures considered in the instruments I mentioned can create “synergies” when effectively implemented because they are complementary. I would like to stress that these are valuable “tools” made available and can be tailored to individual needs for all states to utilize in addressing issues they may be facing with respect to the illicit flow or diversion of small arms and light weapons.

To Prevent Diversion through the ATT

So, how does the ATT contribute to the prevention of terrorism? Terrorists may illicitly manufacture or trade arms for the purpose of inflicting terror among innocent citizens. The supply of arms to them must be cut off. The ATT does not cover manufacture, but does cover trade, as its name suggests. It could play a role in preventing arms falling into the hands of terrorists.

The ATT has a specific Article on diversion. Article 11 provides, as a general obligation, that each State Party involved in the transfer of conventional arms shall take measures to prevent their diversion. The Treaty further stipulates that the exporting State Party shall seek to prevent diversion through its national control system by assessing the risk of diversion and considering the establishment of mitigation measures. Whereas export and import of conventional arms for self-defense purposes are recognized as the legitimate right of a sovereign state, it is natural and critical that the exporting State Party is obligated to take preventive measures as the origin of the

international transfer. Nevertheless, when it comes to assessing the risk of diversion and what risk mitigation measures to put in practice, the ATT does not provide the details. This means that the actual concrete measures to take are at the discretion of each exporting State Party. This can be considered an advantage because the Treaty implementation can be easily tailored to national contexts.

It is also worth pointing out that the ATT imposes an obligation on States Parties involved in export, import, transit and trans-shipment to cooperate and exchange information among them, where appropriate and feasible, in order to mitigate the risk of diversion. This provision recognizes that the risk of diversion exists not only at the time of export, but also import, transit and trans-shipment. Information exchange, in particular, is an important measure States Parties can take in order to address potential diversion points. States Parties are expected to cooperate and exchange information with each other based on this provision.

In addition, States Parties are encouraged to report to other States Parties relevant information on effective measures to address diversion, such as international trafficking routes and illicit brokers. Information exchange can take the form of a “report” to be submitted through the Secretariat.

Diversion could occur despite best efforts taken by relevant States to prevent it. If a State Party detects a diversion, that State Party is obliged under the Treaty to take appropriate measures to address such diversion. They may take measures such as alerting States Parties potentially affected by such diversion and examining diverted shipments.

Action, Transparency and Trust

As I have illustrated so far, the ATT offers a number of steps for States Parties to take in order to prevent diversion of arms to terrorists and other wrong hands. The Treaty is expected to be utilized as a “tool.” In my opinion, “ATT” signifies “Action,” “Transparency” and “Trust.” I believe it will be instrumental for the prevention of diversion if we take “Action” such as information exchange, and by doing so, promote “Transparency” and “Trust.”

I would like to stress that there are many global “tools” that are available to address the issue of diversion, such as the Firearms Protocol, UNPoA, ITI, and ATT. In addition, regional and sub-regional frameworks could be utilized, too. I believe it is necessary to tackle the diversion of arms, in particular small arms and light weapons, in a comprehensive manner by making the most of what all these instruments and frameworks have to offer.

Universalization of the ATT

Before moving to the Fourth Conference of States Parties (CSP4), allow me to

touch upon the importance of universalization of the ATT. It is the President of the CSP who should play a leading role in promoting the Treaty as a long-term effort, and I have been making such efforts as President. As you can see, Asia-Pacific or Indo-Pacific and Africa have many UN Member States but not many State Parties to the ATT. With staff from the ATT Secretariat based in Geneva, I have visited Southern Africa and Southeast Asia recently and will be visiting more countries in different regions for the next several months. In addition, I very much welcome active engagement with as many countries as possible in Geneva, New York, Tokyo, your capital or on the occasion of relevant international conferences.

CSP4

The CSP4 will be held in August this year in Japan, most likely in the greater Tokyo area. Diversion will be an issue we will focus on during the Conference. Leading up to the Conference, there will be working group meetings in Geneva; the first series will be held next week and the second series at the end of May. Again, diversion will be one of the thematic focuses and papers, including specific questions to be tackled, are available online at the ATT Secretariat website. Signatories and non-States Parties are all welcome to participate in the meetings. As a new treaty, the ATT has been in an administrative or institutional phase; now, we can and should focus on substantive issues, such as the ones you routinely deal with. If your country is not sure about what exact obligations are set forth in the Treaty or if you would like to learn from other countries what national measures are appropriate to fulfil treaty obligations, please come and participate in the working group meetings to listen to others or ask questions. I am certain your active participation would be useful not only to better understand the Treaty and move your country closer to the Treaty, but also that your national system could already meet basic treaty requirements.

In closing, I hope this seminar, participated by diversified stakeholders, will provide a good networking opportunity and enable proactive and sustainable initiatives, such as capacity-building, awareness-raising and integrated/interagency coordination/planning. My hope as President of the CSP4 is to welcome representatives from all countries here to the upcoming Conference⁴ in Japan as Signatories, soon-to-be States Parties or States Parties to the ATT.

Thank you for your attention.