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violent conflict

Seminar report

Towards an Arms Trade Treaty (ATT) in 2013: The Draft Text of the ATT and Remaining Core Issues

Brussels, 14 November 2012

This ATT dialogue meeting was convened by Saferworld and involved a number of civil society experts and government officials. Attending was the Africa-China-EU Expert Working Group (EWG) on Conventional Arms Control, a nine-member panel of civil society experts from Kenya, South Sudan, Uganda, Italy, the Netherlands, the United Kingdom and China. The EWG will, over a period of two years, agree on a set of policy recommendations for trilateral cooperation between the EU, China and African states on small arms control. Its work will include several dialogues, seminars, fact-finding missions and research publications. The UN ATT process will also be a key area of its focus.

There is a serious prospect of an ATT being agreed in 2013, and the seminar resulted in a productive exchange of ideas and positions regarding its possible substance and implementation. The ATT, as envisaged by its chief proponents, is a response to the human security problems caused by armed conflict and criminality. There are disputes within this framing about the best way to regulate the arms trade and organise the treaty. However, the significance of the arms trade also extends beyond armed conflict and criminal violence. It is a means of building relationships, exercising foreign policy, generating military (im)balance, and facilitating defence-industrial policy. These issues form the backdrop to states' negotiating positions. Given the make-up of the seminar participants in Brussels, other issues arose related to the contemporary wars in Libya and Syria, the on-going political differences over the US-Taiwan relationship and the EU arms embargo on China.

The seminar demonstrated many positive developments in, and remaining challenges for, the prospects of agreeing a treaty; the content of the treaty; and its implementation. On the prospects of agreeing a treaty in 2013, the seminar emphasised the substantial progress that has been made in the

six years of the formal UN process, and the strong outcome at First Committee earlier this month: the largest ever vote in favour of the ATT, with no states voting against. Increased EU-China-Africa dialogue, through the EWG, can contribute to this progress; civil society activism has been, and will remain important to, the sharing of information and analysis needed by states to help negotiate a treaty.

However, divergent views on the role of weapons and responsibility of weapons-suppliers in the recent and on-going Libya and Syria wars complicate matters, as do the positions of major suppliers not represented at the seminar. For example, while the Russian government has shown no sign of playing a destructive role in the negotiations, it abstained from the recent First Committee vote. And while it may have voted for the First Committee resolution, it was the US that ended the Diplomatic Conference by asking for more negotiating time. It remains to be seen what stance the US will take in the final round of negotiations.

In terms of *the substance of the draft text*, again much progress has been made. As set out in the draft Treaty text presented on 26 July to the UN Diplomatic Conference by its President, Ambassador Roberto Moritán, small arms and light weapons (SALW) are included in the scope; decisions must include a risk assessment in relation to international humanitarian law, international human rights law, and terrorism; states must report on implementation; and there will be an implementation secretariat and the possibility of third-party arbitration in disputes. There is a common African position on the importance of including SALW and ammunition, and there has been significant movement on this question from states such as China, although inclusion of ammunition in the scope of the Treaty so far remains a redline for the US government. Work remains to be done on the draft text,

however. For example, even setting aside the position of the US regarding ammunition, its scope remains narrow: narrower than in the norms and regulations already in force in states that transfer the vast majority of the world's weapons. The risk of diversion is not currently grounds for refusing an arms export licence. It is possible to interpret the draft text so that defence cooperation agreements, gifts, donations and possibly even loans would be excluded from the treaty. Some of these issues will involve technical fixes, while others will take more political negotiation.

In terms of the *implementation prospects* of any eventual treaty, the seminar delivered a sense of the challenges this will involve. While the scale of these challenges is significant, there are existing national and regional experiences and mechanisms that can be built upon to create convergence in decision-making. The most significant challenges around implementation are that there are issues around deliberate state practices of transfer and re-transfer that could undermine the spirit of the treaty, in addition to institutional and legislative weaknesses that would hamper its implementation.

Seminar participants

Expert Working Group members:

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Other participants:

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About Saferworld

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. We work with local people affected by conflict to improve their safety and sense of security, and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. Our priority is people – we believe that everyone should be able to lead peaceful, fulfilling lives, free from insecurity and violent conflict.

We are a not-for-profit organisation with programmes in nearly 20 countries and territories across Africa, Asia and Europe.

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