



European Union



United Nations Institute
for Disarmament Research

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

FINAL REPORT

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FOREWORD

The trade in conventional arms is increasingly complex and global. Thus the problems related to the illicit and unregulated arms trade touch upon all regions and countries. Existing regional and national arms export control systems do not provide uniform coverage and leave some areas of the arms trade poorly regulated. In recent years, states have recognized the need to address the problems related to the unregulated trade in conventional weapons and their diversion to the illicit market, and agree that international action should be taken to address the problem.

A process is currently underway at the United Nations to negotiate an international, legally binding Arms Trade Treaty (ATT). I had the pleasure of chairing both the 2008 Group of Governmental Experts (GGE) on an ATT and the two sessions of the Open-ended Working Group (OEWG) on a treaty in 2009, both of which examined the elements regarding the objectives, goals, scope, parameters and other aspects where consensus could be developed for their inclusion in a possible treaty, without prejudice to the eventual outcome. This year, we have entered a new stage in the development of an ATT, and will begin five weeks of Preparatory Committee meetings as part of the lead-up to a UN Conference on an ATT in 2012.

The goal of the 2012 Conference is to elaborate a global, legally binding treaty on the conventional arms trade. The principle objective of such a treaty would be to prevent irresponsible transfers of arms by adopting the highest possible international standards for their transfer. Ever since the ATT process was launched, a step-by-step process has developed among UN Member States, but also among civil society, regional and international organizations and industry.

One such effort has been the project initiated by the European Union and implemented by the United Nations Institute for Disarmament Research, which consisted of a series of regional seminars in different parts of the world to advance discussions on an ATT, raise awareness and facilitate the exchange of views among UN Member States and other relevant actors on an ATT. This project has been extremely important, as it allows us to better understand the issues surrounding an ATT and assists in the development of new and innovative solutions.

The EU–UNIDIR project is a much welcomed initiative in that it helps us to understand the views about an ATT in different regions. As we move forward in the Preparatory Committee meetings, we will have to address the concerns and priorities brought up by states in these discussions, and find ways to manage them in a constructive and inclusive manner. Regional perspectives are incredibly important when addressing matters of peace and security, particularly when they are taken into context and feed into a global perspective and approach to these issues.

The upcoming UN negotiation schedule has given us a clear task and a challenge to further develop our positions and understanding on the issues at hand, as the Preparatory Committee has to make recommendations to the Conference on the elements that would be needed to attain an effective and balanced legally binding instrument of the highest possible common international standards for the transfer of conventional arms.

The ATT process is truly a multilateral effort, and indeed universality will be required to have a strong and meaningful treaty. Thus, there is a need for continued, inclusive dialogue, through which Member States and other actors in the process can better understand the positions of others and work together toward a better and safer environment for us all.

The EU–UNIDIR initiative has broadened discussions on an ATT and has strengthened the valuable regional perspectives on an ATT. I am confident that these discussions as well as the findings of the project as presented in this report will prove very useful and support the ongoing, challenging work at the United Nations. Addressing these various and multifaceted issues and challenges related to controlling conventional arms transfers will require not only concerted international action, but also the political will from all of us to rise above individual interests and strive toward improving our collective security—the idea that guided our predecessors when they established the United Nations.

It is my fervent wish that states will make the best use of the outcomes of the EU–UNIDIR project to reinforce their commitments to continued discussion and engagement in the multilateral process toward a strong and robust Arms Trade Treaty.

Amb. Roberto García Moritán
Ministry of Foreign Affairs of Argentina
Chairperson of the Preparatory Committee for the UN Conference on the ATT

The European Union has been among the strongest supporters of the Arms Trade Treaty initiative since its outset. We see in the elaboration of this instrument an outstanding opportunity to address the challenges posed by the unregulated and uncontrolled spread of conventional arms to our international security and stability.

While we have witnessed in recent years the development of several national and regional instruments to regulate the legal trade in arms, the international community still lacks a comprehensive and international instrument to regulate this global and borderless issue. In this situation, gaps and loopholes remain, allowing significant amounts of conventional arms to be traded on the illicit market and to be supplied to states and non-state actors in areas where they will certainly contribute to instability and conflicts.

In front of these challenges the need to start negotiating a legally binding ATT is increasingly compelling. A global and comprehensive ATT will establish common international standards for the transfer of conventional arms, consistent with existing responsibilities of states under relevant international law.

We are pleased to notice that the ATT initiative has gained incremental momentum among UN Member States, as testified to by the consultations held in the UN Group of Governmental Experts in 2008 and in the Open-ended Working Group in 2009. Following the adoption in 2009 of the UN General Assembly resolution on the Arms Trade Treaty, the ATT process is entering a new negotiating stage that will lead us to the 2012 UN Conference. The Conference has been

tasked to elaborate this legally binding instrument, on the basis of the recommendations of the Preparatory Committee that will meet between 2010 and 2012.

Against this background, and with the clear aim of enhancing the inclusiveness of the ATT discussions, the European Union decided to adopt in January 2009 a Council Decision in support of the ATT process, the implementation of which was entrusted to UNIDIR. This project specifically aimed at increasing awareness among national and regional actors, UN Member States, civil society and industry representatives of the current international discussions concerning an ATT. This EU initiative is fully consistent with our general approach to security as outlined in our Security Strategy, as well as in the weapons of mass destruction and small arms and light weapons strategies, all adopted by the European Council. These strategies are all based on the principles of effective multilateralism, prevention and international cooperation.

The EU–UNIDIR seminars allowed us to confront and understand national concerns and opinions, and to learn from each other. Ambitious proposals were made for a robust treaty that would still bring all major stakeholders on board. Nevertheless, we have still ahead of us the daunting challenge of striking an appropriate and commensurate balance between an effective treaty and a universal treaty.

In the view of the European Union, only a global treaty, agreed by all states and establishing the highest possible international standards for the import, export and transfer of conventional arms, will allow us to minimize the risks of diverted and destabilizing transfers. At the same time, such a treaty should make the licit trade in weapons as reliable and straightforward as possible.

The negotiating stage of the ATT initiative we are about to enter is more than ever a work in process. We should all take advantage of the opportunity of participating in this work.

I am confident that the EU–UNIDIR project has been a valuable contribution in this regard, stimulating worldwide participation in the ATT consultations, and preparing the ground for the negotiation of this ambitious international instrument. By enhancing states' understanding of the main issues at stake in the ATT process, the EU–UNIDIR project has provided an outstanding opportunity to enhance the level of participation in the UN process on the ATT.

We look forward to reaping the fruits of our efforts during the work of the Preparatory Committee in the months to come. The European Union is determined to continue its outreach efforts, and we call on all UN Member States to continue to substantially and constructively contribute to this challenging but valuable process. Our objective remains agreement at the United Nations Conference in 2012 on a strong and robust legally binding treaty by which states will commit to respect and implement agreed international standards for the transfer of conventional weapons. We are confident that this is a goal shared by all UN Member States.

Annalisa Giannella
EU Representative on Non-proliferation and Disarmament

Truly multilateral processes require active participation and inclusive discussions by a wide variety of stakeholders in order to achieve mutual understanding and build consensus. This is certainly true of the process toward an Arms Trade Treaty, where in addition to the planned Preparatory Committee meetings, continued interaction at the national and regional level among a wide variety of stakeholders—be they UN Member States, regional and international organizations, civil society or industry—will be required.

This report presents the results of a project that UNIDIR implemented for the European Union to increase the awareness of relevant actors about a potential arms trade treaty, and to facilitate the exchange of views. Such an activity falls under the Institute's mandate to assist ongoing efforts to ensure greater international security, and to promote informed participation by all states in such efforts. UNIDIR is active in promotion of the ATT process, and I wish to thank our EU colleagues for having entrusted us with this challenging and rewarding project.

For the project, UNIDIR organized six regional seminars in Africa, the Americas, Asia, the Middle East and Europe. The project supported and stimulated national and regional discourse on a legally binding ATT establishing common international standards for the import, export and transfer of conventional arms. By engaging with national and regional challenges, priorities and concerns, the seminars brought to light many crucial issues surrounding the ATT process, resulting in innovative proposals and solutions. Throughout the project, we enjoyed the active support and participation of hundreds of stakeholders from different countries, continents and communities, and it is these invaluable contributions that we seek to share through this report.

It is my hope that the regional seminars held as part of the EU–UNIDIR project will contribute to the multilateral process now underway at the United Nations, and be one of many steps toward a safer and more secure world for generations to come.

Theresa Hitchens
Director, UNIDIR

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The ATT project team and UNIDIR would like to thank all the governments, organizations and individuals that participated in our events and contributed to the substance of this project. It could not have succeeded without your active input, assistance and collaboration.

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SUMMARY OF MAIN MESSAGES FROM THE REGIONAL SEMINARS

A process is underway at the United Nations to negotiate a legally binding Arms Trade Treaty (ATT) in 2012. The European Union is one of the strong advocates of the treaty and works both internally and with others to promote and strengthen the UN process. In 2009, it decided to support an ATT through a project that was implemented by UNIDIR. The project consisted of a series of regional seminars and other activities to promote discussions on an ATT. These events greatly contributed to the identification of an ATT's possible parameters, scope and implications.

Discussions in the regional seminars organized as part of the EU–UNIDIR project greatly contributed to the identification of an ATT's elements, including its possible parameters, scope and its implications. The following presents the main messages from the regional events. While not necessarily commanding consensus, these issues and suggestions came across in all the seminars and had wide support among participants. With regard to the priorities highlighted across regions, views became more diverse as details were introduced.

A global treaty based on globally accepted parameters

States see the unregulated trade in conventional arms as a problem that needs to be addressed. Because issues related to the uncontrolled or poorly regulated trade in these weapons are wide-spread and international, it was noted that they have to be dealt with at the international level. Several participants¹ in the regional seminars underlined that an ATT should have true global coverage and applicability, since global problems require global solutions and cannot be addressed with participation of only a limited number of UN Member States.

Most participants called for a legally binding, universal, objective and practical treaty that should be balanced in its approach and be implementable. It was noted in several instances that treaty negotiations and the proposed treaty itself should be balanced and non-discriminatory in regard to all regions, countries and groups of countries to avoid politicization and the creation of double-standards in implementing arms transfer criteria.

It was stressed in the regional seminars that the parameters of the treaty should not be drafted in a manner to allow too much interpretation or flexibility, but rather should be clear and firm. This would help avoid misinterpretation, which could lead to biased decision-making in the arms trade once the treaty would be in force. Several participants underlined that any possible treaty should preserve the ability of states to produce, export, import and transfer conventional arms according to their specific needs. Also the right to self-defence (individual and collective) and the right of self-determination were stressed on many occasions.

¹ "Participants" or "seminar participants" are used interchangeably to refer to representatives of states, regional and international organizations, civil society, industry and other experts who were present at the project events. The regional seminars were organized under the Chatham House Rule, hence no reference can be made to individual participants. In some instances, to highlight that something was said by certain category of participant, reference is made to *state* participants, *civil society* participants, and so forth.

The most common suggestion in the regional seminars related to an ATT's parameters was that they should be based on existing commitments under international law, such as the UN Charter and the Geneva Conventions. Some also noted that useful elements for a treaty could be taken from relevant UN Security Council resolutions, including on arms embargoes. Many also called for the inclusion of principles of international humanitarian law, international human rights law and human security.

Considerations based on likely users of weapons, for example in terms of a treaty's potential to limit arms transfer to terrorists or non-state actors, were discussed at length in some of the seminars. States expressed diverse views regarding the definitions and the desirability of this kind of transfer control. In terms of parameters based on likely impacts that weapons might have in the recipient country or region, sustainable development and regional stability were the issues most frequently mentioned as deserving specific consideration.

In several discussions it was highlighted that a treaty should not establish uniform checklists or categorize potential recipient states, but rather establish objective criteria that could be universally applied, through careful consideration of each particular situation and request.

A practical, implementable and comprehensive treaty

Discussions on the scope of the proposed treaty echoed the exchange of views and opinions expressed at the international level, where the majority of states advocate an ATT that would be based on the seven categories of the UN Register of Conventional Arms plus small arms and light weapons (SALW), often referred to as the "7+1" formula. Calls for a comprehensive scope going well beyond that formula were strong especially in some regions, where it is seen as a good starting point for discussions but insufficient and far from ideal. Several participants underlined the need to include ammunition in the scope of an ATT. Participants also referred to the inclusion of a range of specific additional items, such as explosives, parts and components, dual-use items and manufacturing technology, and some noted that an ATT should cover "all conventional weapons and ammunition". However, most of these categories were met with scepticism by other participants, who cautioned against too broad a scope for a treaty.

In the international ATT process it has been noted that no single existing instrument contains a list of weapons that could provide the scope for the proposed treaty. However, many participants referred to the possibility of using existing lists as a basis for an ATT. At the same time it was noted that a "light" treaty without long detailed lists of weapons categories would be both easier to negotiate and remain more flexible in future developments. Such a treaty would have to be implemented by each state in good faith, through national legislation and regulations.

SALW was discussed in most regional seminars as a weapons category of particular importance for inclusion in an ATT. Participants called for better regulation of not only major conventional weapons systems but particularly SALW and stressed the need to include them as a specific category in the proposed treaty. SALW represent the bulk of arms transfers in many regions. The importance of the UN Programme of Action on Small Arms and Light Weapons (PoA) was highlighted in many instances, but it was noted that as a politically binding action plan the

PoA leaves much room for improvement in SALW control, and that its focus on the illicit trade addresses only one side of the problem. According to some participants, problems related to the arms trade should be recognized as being specifically linked to illegal transfers, not to legal state-to-state trade. The issue of diversion was linked to corruption, and participants discussed how an ATT could address wider issues of good governance and accountability.

With regard to activities that should or could be covered in an ATT, participants expressed many different views. Wide support was noted for an ATT to address at minimum export, import, transit and transshipment. Re-export was also often cited as a critical component of a comprehensive control system, and special emphasis was placed on ensuring effective national export licensing procedures with end-user controls. Furthermore, some participants mentioned production, local manufacturing, licensed production overseas and technology transfer as possible categories of activities and transactions to be covered in a treaty. Many also noted that an ATT could address problems related to the illicit brokering of weapons. Again, others expressed caution about expansion of the categories, noting that an ATT cannot solve all possible problems related to the arms trade.

The impression from the seminars was that domestic regulation of arms and civilian possession should not fall under an ATT, echoing the recommendations of the GGE. Most participants seemed to agree that an ATT should concentrate on international, not domestic, transfers, since the latter fall under national jurisdictions.

Increased transparency in conventional arms transfers

Transparency was mentioned as a central principle that should guide arms transfer decisions under an ATT. Lack of transparency in arms transfers and arms procurement was said to obstruct informed debate on an ATT, and some participants noted that this lack would be a serious obstacle for the verification and measurement of effectiveness of an ATT once in force. Transparency was the foremost issue discussed in terms of a treaty's implementation phase, where reference was made specifically to the possibility of introducing national reporting requirements. However, some participants referred to the sensitivity of information related to the arms trade, which could possibly hamper any monitoring mechanism built into a treaty.

At the seminars, some discussion was devoted to questions related to the monitoring of the proposed treaty, and transparency and monitoring mechanisms were called for. Participants recommended for example regular national reporting on implementation to demonstrate compliance, as well as regular review meetings or conferences to discuss implementation.

While many participants agreed that a transparency mechanism would be an essential component of any ATT, steps would need to be taken to ensure that such a mechanism complements rather than undermines or duplicates existing efforts, is fit for the purpose for which it is designed, and includes detailed mechanisms to ensure implementation.

Cooperation and assistance

International cooperation, capacity-building and assistance were noted by seminar participants to be important factors to take into account in designing an ATT and in ensuring implementation. Many participants stressed the need to include a mechanism of technical capacity-building and assistance in a treaty, to allow all signatories to comply with the treaty's requirements and fully implement their commitments.

Participants from developing countries reminded others of their states' limited financial resources and expertise in some areas related to an ATT, and pointed out that capacity-building and assistance will be necessary once a treaty is adopted, and that these issues should be taken into account when negotiating the treaty.

It was noted that, in order to be effective, an ATT needs to become better known across regions and among all relevant officials and practitioners. Therefore, the need for more advocacy work and awareness-raising was identified, and it was noted that civil society should remain an active partner for states in this process.

Responsibility to negotiate and implement an ATT lies with both importers and exporters

Given the nature of the process and the expected rights and obligations of states under an ATT, many seminar participants called for careful consideration and clear specification of the expected roles of states under a treaty. Also, many participants stressed the responsibility of states to introduce effective national controls on arms transfers as crucial to the success of an ATT. In discussions, many noted the need to keep in mind the primary importance of state responsibility, as well as the principle of sovereignty and the inherent right of self-defence.

In the view of many seminar participants, equal rights should be guaranteed under an ATT to both importers and exporters, and several participants stressed the need to involve major manufacturers and exporters of conventional arms in the ATT process and the eventual treaty.

The process should build on regional action and instruments

There was a general call from seminar participants for lessons to be drawn from existing regional arrangements regarding implementation. Many stressed that regional instruments controlling the arms trade should be properly implemented, and that international processes should be enhanced. The discussions highlighted the potential that existing regional agreements have to feed into and help inform the ATT process. High importance was placed on the continued active involvement of regional organizations, and regional consultations in the ATT process.

Participants noted that regional approaches can be very useful in harmonizing legislation on arms exports, imports and registration. Furthermore, it was noted that examples of assistance

and cooperation arrangements for an ATT could be drawn from regional experience. Some participants emphasized the need to engage regional organizations in regional position-building prior to negotiations.

It was repeatedly noted that an ATT should be consistent with related regional instruments. Some participants suggested that a treaty could be tailored to regions and regional specificities, which must in any case be taken into account. Similarly, many participants called for more research into why certain regional agreements have not been fully or adequately implemented. Based on that research, the international community should try to understand current deficiencies at the regional level so as to avoid them globally.

Challenges

The process toward a global, legally binding treaty to control the trade in conventional arms will not be short of challenges. The main challenges most frequently brought up by participants were how to address and encompass the diverse priorities and interests of states in an ATT, especially given the limited amount of time left until the UN Conference on an Arms Trade Treaty in 2012; and how to best address the different implementation modalities foreseen for a treaty, given the diversity of its potential states parties.

Negotiations

The differing interests and priorities of states that produce weapons and those that receive them were noted as a crucial challenge for the formulation of an ATT. Many participants stressed that the treaty should take into account both the economic interests of major weapon manufacturers and exporters as well as those of states that currently suffer from the consequences of the proliferation of conventional weapons. Related to this, keeping discussions and later negotiations as inclusive as possible was identified as a challenge. All views should be incorporated in the debate early enough to make sure that, once agreed, a treaty is signed and ratified by the maximum number of states. It was noted that it might be difficult to agree to common language before 2012, given the magnitude of the task and the limited time available for negotiations.

Implementation

Participants of the regional seminars brought up various possible difficulties related to monitoring the implementation of the treaty. For example, a possible challenge, even assuming that common definitions could be agreed, was mentioned to be related to differing interpretation of treaty commitments. Implementation challenges were also identified relating to guaranteeing all states parties the right to maintain national authority over their export and import control practices.

Next steps

Continued comprehensive dialogue

Continued comprehensive dialogue among UN Member States was noted at the seminars as the most important next step in the ATT process. The OEWG and its successor Preparatory Committee were welcomed as fora for an inclusive exchange of views, and many participants stressed the importance of keeping intergovernmental consultations within the UN framework. The sense from the regional seminars is that more discussion of a treaty's different aspects and possible concrete building blocks, as well as its future implementation, is needed. It was noted that the views of all states should be included in negotiations from the very beginning to make sure that the maximum number of states join the treaty.

Widening the participation base

One of the strongest messages from the regional seminars was that the ATT negotiations should include a broad group of stakeholders—national licensing authorities, parliamentarians and the private sector, including the defence industry, and civil society. Also, broadening the discussion base through organizing regional discussions and providing further fora in which states can learn about the proposed ATT and express their views and concerns was strongly suggested.

Learning and staying creative

It was noted that further research on different aspects of the arms trade, regional instruments and other ATT-related issues will be needed. Many participants noted that the international community should make efforts to learn from existing instruments and agreements. In order to be meaningful and relevant, discussions will need to be informed and supported by in-depth research. It was also noted that further links should be established among actors involved in the ATT process and institutions and people working on related processes.

Concrete and practical action

Many participants of the seminars stressed the need to move toward concrete trainings and capacity-building projects, in parallel with diplomatic negotiations. National actors should look into what changes will be needed to improve national arms transfer controls, and how lessons learned from existing arrangements and national practices could be shared. Many participants pointed out that matters of implementation should be considered as soon as possible, even if there are specific issues that remain under consideration and are still being defined.

The following are examples of suggestions heard on concrete next steps that could be taken at the national, regional and international level in the ATT process.

NATIONAL LEVEL

- National coordination meetings for relevant stakeholders (ministries, industry, parliamentarians, NGOs, etc.).
- Sensitization of National Commissions or coordinating bodies devoted to SALW or conventional arms.

- A review of national export control mechanisms and regulations.
- Assignment of national contact points or coordinators.
- Evaluation of current national system in place for transfer controls of conventional arms.
- Elaboration of national plan on transfer controls, including the identification of assistance needs or resources, and prioritization.

REGIONAL LEVEL

- Policy-level meetings and high-level summits resulting in declarations, common positions and relevant instruments on an ATT.
- Strengthened regional support to the Preparatory Committee Chair through regional-level consultations.
- Regional or subregional roadmaps on arms transfer controls, including model laws and good practices.
- Practical trainings on export controls.
- Research on existing regional systems and their implementation.

INTERNATIONAL LEVEL

- Research on existing national, regional and international instruments.
- Research on related processes and arrangements of relevance to the proposed treaty.
- Participation of representatives of regional organizations in ATT Preparatory Committees.
- Collection of good practices, model laws, etc. into a database or publicly available website.
- Substantive preparatory work in between the Preparatory Committee meetings.

INTRODUCTION

The absence of commonly agreed international standards for the transfer of conventional arms ... is a contributory factor to armed conflict, the displacement of people, organized crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable social and economic development ...²

The trade in conventional arms is a global phenomenon that touches all countries and regions. The problems related to unregulated and illegal trade in these weapons are also global and pose challenges to all countries. Illicit transfers of arms have negative impacts on peace, security and stability.³ These arms can be used to abuse human rights and international humanitarian law, and can undermine sustainable development thus being especially damaging to developing countries. While the impacts and problems of the trade are globally felt, they take different forms and have different implications for different countries and regions.

During the past decades, states have developed many instruments to improve controls over the conventional arms trade. Despite the large number of regional, national and international export control agreements and regimes, international arms trade controls remain incomplete. Because the problems related to uncontrolled and poorly regulated trade in conventional arms are widespread and international, states have in recent years increasingly called for international action and solutions to address them.

In 1995, a group of Nobel Peace Laureates led by Óscar Arias⁴ began a campaign for a more responsible arms trade. In the next couple of years, the idea developed into a movement calling for a global, legally binding Arms Trade Treaty (ATT).⁵ The issue of an ATT was taken up in the United Nations in 2006 through the General Assembly resolution entitled “Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms”.⁶ Since then, an overwhelming number of states have given their support to the idea of establishing common standards for the conventional arms trade, and a process is underway at the United Nations to negotiate a legally binding ATT in 2012.

2 General Assembly, *The Arms Trade Treaty*, UN document A/RES/64/48, 12 January 2010.

3 For the purposes of this report, different types transfers are defined as follows. **Authorized** transfers are transfers that are authorized by at least one government. **Irresponsible** transfers are transfers that are authorized by a government, but are nevertheless of doubtful legality, at least with reference to international law (significant risk of misuse), or irresponsible in some other sense (significant risk of diversion to unauthorized recipients). **Illegal** transfers are transfers that are not authorized by any government, and **illicit** transfers comprise both irresponsible and illegal transfers. Small Arms Survey, *Small Arms Survey 2007: Guns and the City*, 2007, p. 74. Also quoted in S. Parker, *Implications of States' Views on an Arms Trade Treaty*, UNIDIR, 2008, p. 6.

4 Óscar Rafael de Jesús Arias Sánchez is a Costa Rican politician who has been President of Costa Rica since 2006. He also served as President in 1986–1990, and received the Nobel Peace Prize in 1987 for his efforts to end civil wars in several Central American countries.

5 The group drafted the Nobel Peace Laureates International Code of Conduct on Arms Transfers, a declaratory instrument that laid down a set of principles that ought to condition all arms export decisions: respect for human rights, humanitarian law, sustainable development and peaceful coexistence. The initiative was publicly launched at a ceremony in New York in May 1997.

6 General Assembly, *Towards an arms trade treaty: establishing common international standards for the import, export and transfers of conventional arms*, UN document A/RES/61/89, 6 December 2006.

By adopting an global, legally binding ATT, states would agree to use the same criteria in assessing conventional arms transfers. These criteria would be based on states' existing obligations and commitments under relevant international law, and be aimed at preventing human rights abuses, upholding international humanitarian law and promoting stability, prosperity and security.

The European Union is one of the strong supporters of the ATT process. In the view of the European Union, the negotiation and adoption of such an instrument would be a major contribution to tackling the undesirable and irresponsible proliferation of conventional arms that undermines peace and security. In addition to playing an active role in the UN discussions, the European Union is also promoting the proposed ATT through a number of outreach activities and projects. In 2009, the Council of the European Union took a decision "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".⁷ This decision established a project that consisted of a series of regional seminars and other activities to promote discussions on an ATT, the implementation of which was entrusted to the United Nations Institute for Disarmament Research (UNIDIR). Such an activity falls under the Institute's mandate to assist ongoing efforts to ensure greater international security, and to promote informed participation by all states in such efforts.

This report presents the outcomes of the EU–UNIDIR project (also referred to in this report as "the project") and the thematic messages that emerged in its activities, and also discusses its different elements, such as the regional seminars organized as part of the project. To put in context the recommendations and ideas that arose during the project's regional seminars, this report takes a holistic look at the issue of the conventional arms trade and at regional and international efforts made to control it. The key messages that came out of the regional events are compiled in the section SUMMARY OF MAIN MESSAGES FROM THE REGIONAL SEMINARS.

The report first provides a brief overview of recent international and regional trends in the conventional arms trade and discusses the endeavours of states to establish controls over this trade. From an overview of historical developments in conventional arms control, it moves to discussing the process toward an ATT in the United Nations. Given the importance of regional action and instruments, and civil society campaigning for an ATT, these are discussed in separate sections.

A closer look is then taken at the EU–UNIDIR project's background, aims, activities and general results. This chapter also briefly introduces UNIDIR's project partners the Stockholm International Peace Research Institute (SIPRI) and the Fondation pour la recherche stratégique (FRS), as well as other expert participants and the background paper provided by the Arms Trade Treaty Steering Committee (ATTSC).

The report then presents the main thematic messages from the regional seminars organized within the project. It also discusses the main challenges of the ATT process as brought up in the

⁷ Council of the European Union, *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*, EU document 2009/42/CFSP, 19 January 2009.

regional discussions and proposes some concrete next steps at the national, regional and global level in the lead-up to the ATT Conference in 2012.⁸

Conclusions about the project and the report are made in the final chapter. Annexed to the report is a bibliography of ATT-related documents.

⁸ In the context of this report, the ATT Conference refers to the conference decided to be organized by General Assembly resolution 64/48 of 2 December 2009, in which Member States decided to “convene the United Nations Conference on the Arms Trade Treaty to sit for four consecutive weeks in 2012 to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms”.

THE CONVENTIONAL ARMS TRADE AND ITS CONTROLS

The conventional arms trade is a phenomenon that in the past decades has become increasingly intricate due to globalization and the growing complexity of trade relations. There are now more arms producers in many more countries than there were 30 years ago. Technologies as well as production and supply chains are becoming more complex, and global trade has become more competitive. While the arms trade remains dominated by a handful of major exporters and a limited number of defence industry companies, it touches upon most countries as an increasing number now have the potential to act as suppliers of weapons, either through their own production or by facilitating transfers of arms produced elsewhere. Irresponsible imports and exports of conventional arms continue to pose a serious threat to peace and security in many parts of the world. The prevention of such activities is a global concern that requires the active engagement of all UN Member States.

The origins of the ATT process and the accumulation of state support for a global, legally binding instrument to control transfers of conventional weapons are very much related to, if not consequences of, past developments in the arms trade. Hence, the following provides an overview of major trends in the conventional arms trade from the 1990s until 2008, internationally as well as regionally. It also gives a short description of the history of international and regional efforts to control transfers of conventional arms, and describes the process toward an ATT in the United Nations, including the supporting civil society campaigns.

An overview of the arms trade⁹

The volume¹⁰ of international arms transfers peaked during the last decade of the Cold War, when transfer decisions and export policies were largely determined by ideological and geopolitical considerations between the two competing blocs, and individual states used conventional

9 This section is based on a series of background papers produced by SIPRI as part of the EU–UNIDIR project. These background papers, together with other SIPRI publications and its databases on arms transfers, military expenditures and the defence industry, should be consulted for further reference and to gain a more comprehensive account of the trade in conventional weapons. See M. Bromley et al., *Recent Trends in the Arms Trade*, SIPRI, background paper, April 2009. This background paper as well as other, region-specific papers on conventional arms transfers are available at <www.unidir.org/bdd/fiche-activite.php?ref_activite=431> (for the region-specific papers, follow the links under “Project conferences”).

The SIPRI Arms Transfers Database contains information on all transfers of 7 categories of major conventional weapons from 1950 to the present day. It can be consulted at <www.sipri.org/research/armaments/transfers/databases/armstransfers>; the SIPRI Military Expenditure Database is at <<http://milexdata.sipri.org>>; and the SIPRI Arms Industry Database is at <www.sipri.org/databases/top100>. SIPRI data for arms transfers are revised annually and hence data presented in the background papers provided by SIPRI has partially been superseded by new data in 2010. This does not change the general analysis presented here.

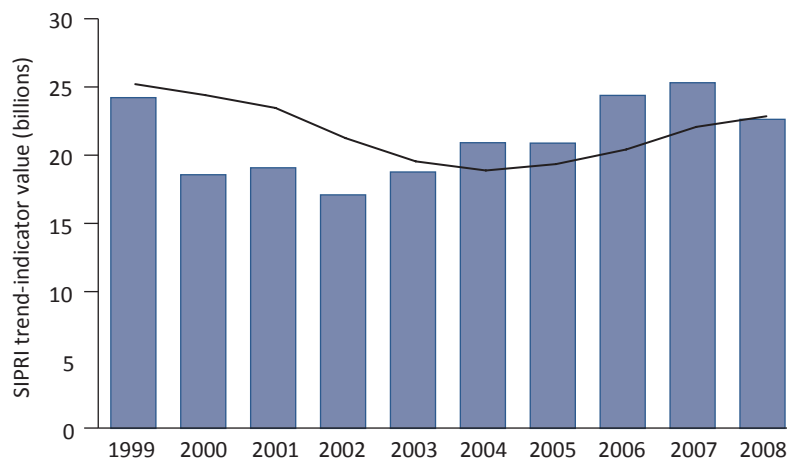
10 SIPRI data on arms transfers refer to actual deliveries of major conventional weapons. Data on arms transfers are presented in the form of SIPRI Trend Indicator Values (TIVs). TIVs are expressed in US dollars at constant (1990) prices. However, although figures are expressed in dollars, TIVs do not represent the financial value of goods transferred. Instead, TIVs are an indication of the volume of arms transferred. Hence, TIVs can be used to measure trends in international arms transfers, such as changes in the total flow of weapons and the geographic pattern of arms exports or imports. The data can also be used to measure a particular state’s share of the overall import or export market or the rate of increase or decline in its imports or exports. However, since TIVs do not represent the financial value of the goods transferred, they are not comparable to official economic data such as gross domestic product or export/import figures.

weapons transfers in order to establish and maintain spheres of influence. Following the end of the Cold War, the volume of arms transfers first declined throughout the 1990s, falling in 2002 to a level equalling only 38% of the Cold War high. Subsequently, with the exception of 2008, which is also the last year for which information was available for this report, the volume of major conventional arms (meaning conventional weapons other than small arms and light weapons) transfers has risen steadily (see figure 1).

The same can also be said about military spending: during the first 10 years after the end of the Cold War global military spending fell by more than 30%, due to downsizing and restructuring of armies and deep cuts in procurement in both former competing military blocks. Since 1998 the downward trend in military spending has reversed. According to SIPRI data, global military spending increased by 45% in real terms between 1998 and 2007, reaching a high of US\$ 1,339 billion in 2007, to a large extent driven by an increase in US military spending.

Although it is impossible to put a precise figure on the financial value of the international arms trade, in 2007 it was estimated to be US\$ 51.5 billion, comprising 0.3% of world trade.¹¹ This figure is likely to be an underestimation, since a number of significant exporters of conventional arms do not publish data on the value of their activities.

Figure 1. The trend in transfers of major conventional weapons, 1999–2008¹²



The bar graph shows annual totals and the line graph shows the five-year average. Five-year averages are plotted at the last year of each five-year period.

Source: M. Bromley et al., *Recent Trends in the Arms Trade*, SIPRI, background paper, 2009, p. 2.

In spite of how interlinked they may seem, the direct correlation between the volume of arms transfers as presented above and world military expenditure is not a necessary one: domestic production capacity strongly affects demand for imported weapons, and military personnel costs rather than arms procurement account for the largest share of military expenditure. Therefore, one could theoretically have years of large military expenditure with fewer arms transfers. However, the two variables are usually directly correlated.

While there have been some changes over time with regard to the biggest importers, the picture in exports has remained largely unchanged since the 1980s. The United States and Russia,¹³

11 M. Bromley et al., *Recent Trends in the Arms Trade*, SIPRI, background paper, 2009, p. 9.

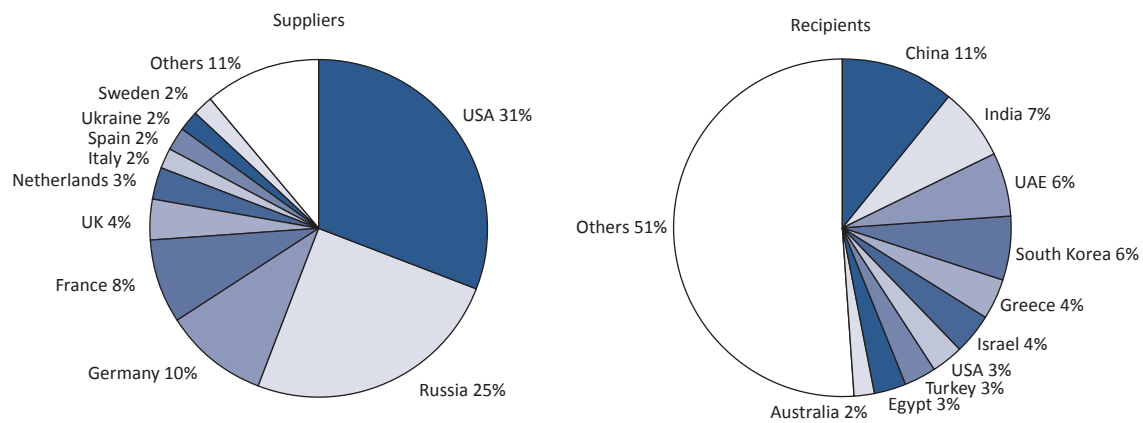
12 See note 10 for an explanation of the SIPRI trend-indicator value.

13 Following from its predecessor the Soviet Union.

followed by Germany, France and the United Kingdom, remain by far the biggest exporters of conventional arms. In the period from 2004 through 2008, these five accounted for 78% of global arms exports. The geographical regions to which the biggest exporters deliver weapons vary, with for instance the United States exporting most of its weapons to the Middle East and Russia to the Asia-Pacific region, whereas the United Kingdom's biggest customers in recent years have been the United States and India.

Since the late 1990s, China and India have remained the two biggest importers of conventional arms. Changes among the other major importers are the result, among other things, of a relative increase of demand in the Asia-Pacific region. Compared to the biggest exporters of conventional arms, the major importers account for a smaller share of the total market due to the large number of minor importers. For example, in 2004–2008 China, India, the United Arab Emirates, South Korea and Greece imported 35% of all internationally traded arms. Divided by region, in 2004–2008, Asia imported 37% of traded arms, Europe 24%, the Middle East 18%, the Americas 11% and Africa 7%. See figure 2 for the suppliers and recipients of major conventional weapons during 2004–2008.

Figure 2. The suppliers and recipients of major conventional weapons, 2004–2008



Source: M. Bromley et al., *Recent Trends in the Arms Trade, SIPRI, background paper, 2009, p. 5.*

Discussing small arms and light weapons (SALW), the total value of authorized trade is estimated to be worth at least US\$ 4 billion a year, based on available customs data and estimations. Given the lack of transparency in the authorized SALW trade, this figure is likely to be a significant underestimation.¹⁴ It appears that the volume of SALW trade has been in the increase in the past years, following the trend in other conventional weapons. The biggest exporters of SALW in 2006 (the last year for which aggregate data was available at the time of writing) were the United States, Italy, Germany, Brazil, Austria and Belgium; the biggest importers were the United States, France, Japan, Canada, South Korea, Germany and Australia. However, there are a number of additional states that are likely to be major exporters and importers of SALW, even though due to incomplete information and a lack of transparency they do not appear on the customs data lists.¹⁵

14 Small Arms Survey, *Small Arms Survey Yearbook 2006, Unfinished Business*, 2006, pp. 66–7. The Small Arms Survey is currently analysing the trade and reassessing the value of global trade. See Small Arms Survey, *Small Arms Survey Yearbook 2009, Shadows of War*, 2009, p. 7.

15 Small Arms Survey, *Small Arms Survey Yearbook 2009, Shadows of War*, 2009, p. 8.

The legal and the illicit markets for SALW—both domestic and international—are linked by virtue of the fact that such weapons can be diverted relatively easily to the illicit market. Diversion includes government supply to armed non-state groups, violation of arms embargoes, violation of end-user agreements, diversion from government or authorized private stockpiles, and battlefield seizures and war booty. Information on illicit cross-border transfers is generally hard to come by.

As can be seen in figure 2, there are significant regional differences in the patterns of trade. The following sections present a geographical overview of the main trends in international conventional arms transfers, based mostly on SIPRI background papers and data.

Central, North and West Africa¹⁶

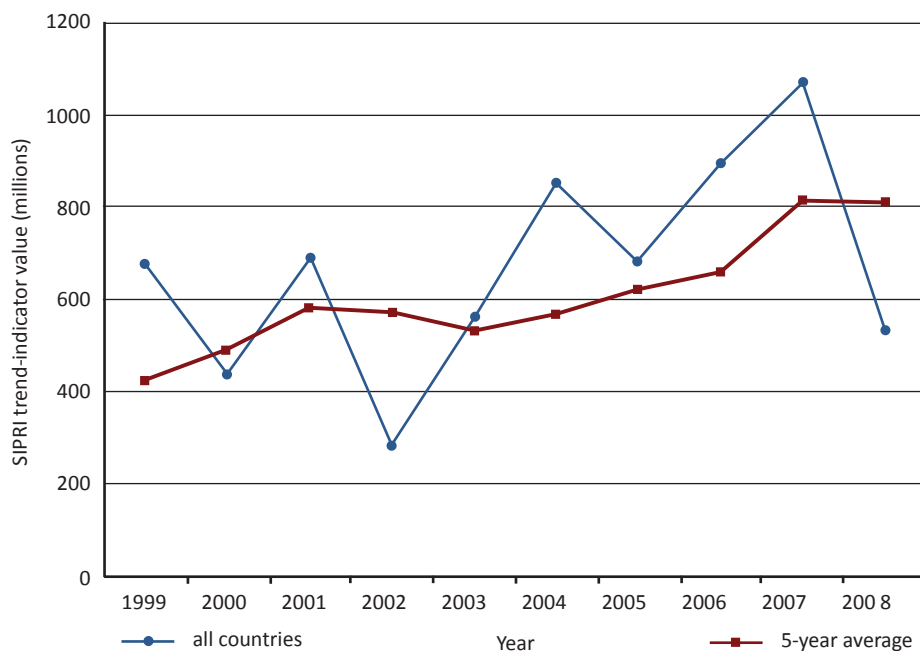
States in Central, North and West Africa are mainly importers of weapons, and the volume of arms transfers to these regions is relatively small, accounting for an estimated 3% of global transfers of arms. Military budgets in the regions are limited, estimated to have been in 2007 about 0.7% of the world total. While the volume of arms transfers and military spending is negligible, supplies of low-tech and low-cost weapons, especially SALW, have played a major role in the armed conflicts in the regions in recent years. The total volume of SALW imports to the states in the regions is difficult to estimate due to the limited information available, but they seem to comprise a significant portion of the overall import figures of conventional arms. Further, there is evidence of considerable flows of illegal SALW to and within the regions, which continue to destabilize countries and fuel insecurity and crime. Transparency in arms procurement processes remains inadequate, which further complicates estimations about the volume of transfers. No state in these regions produces national export reports, and there is little participation in the UN Register of Conventional Arms.

Arms production in Central, North and West Africa is limited and is likely to be based on imported technology, machinery and basic components. Small-scale craft production of crude firearms does take place—other weaponry is likely to be imported. During 2004–2008, Russia was the biggest supplier of weapons to these regions, accounting for around 74% of imports.¹⁷ (For an overview of arms transfers to Central, North and West Africa during 1999–2008, see figure 3.)

16 This section is based on P. Wezeman, *Arms Transfers to Central, North and West Africa*, SIPRI, background paper, April 2009. For the purposes of this section, Central, North and West Africa include Algeria, Benin, Burkina Faso, Cameroon, Cape Verde, the Central African Republic, Chad, Côte d'Ivoire, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, the Republic of the Congo, Senegal, Sierra Leone, Togo and Tunisia.

17 According to SIPRI data, this was mainly due to deliveries of combat aircraft to Algeria.

Figure 3. Arms transfers to Central, North and West Africa, 1999–2008



Source: SIPRI Arms Transfers Database.

The Americas and the Caribbean¹⁸

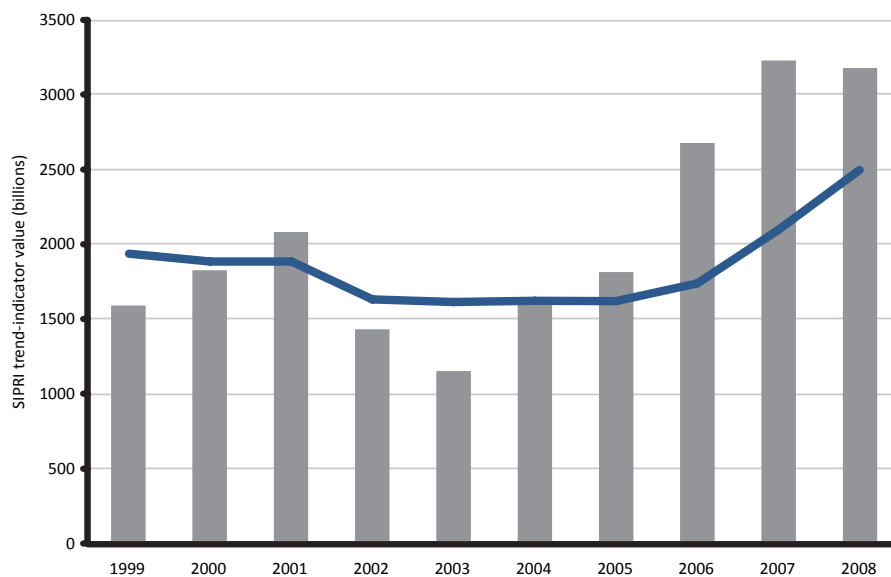
The conventional arms trade in the Americas in terms of military spending, arms production and arms transfers is dominated by the United States. It was the biggest importer of conventional arms in the region during 2004–2008, despite acquiring the majority of its equipment domestically. The largest portion of US imports came from the European Union. Looking at the whole of the Americas reveals that the region is a relatively minor destination for conventional arms transfers, accounting for 11% of global imports over the last five years (see figure 4).

In South America, after a period of low military spending in the 1990s and early 2000s, there has been a significant rise in military spending, with a 50% increase from 1999 to 2008. The recent high prices of commodities have boosted the revenues of some states in the region, and this—together with states’ aims to replace or upgrade military inventories in order to maintain existing capabilities, respond to domestic security threats, strengthen ties with supplier governments, boost domestic defence industries, participate in peacekeeping missions, or bolster their regional or international profile—has led to the increase. Many states in the Americas are also undergoing force modernization programmes. Although the largest share of imports to South America are purchased from the United States, it does not dominate the arms market in South America. Problems related to the illicit trade in weapons, especially SALW, in

¹⁸ This section is based on M. Bromley, *Arms Transfers to the Americas*, SIPRI, background paper, June 2009. For the purposes of this section, the Americas include Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, the United States, Uruguay, and Venezuela.

the Americas and the Caribbean are especially related to armed violence and crime, non-state actors and insufficient border controls.¹⁹

Figure 4. Arms transfers to the Americas and the Caribbean, 1999–2008



Source: presentation by M. Bromley, SIPRI, at the regional seminar in Mexico City, 18–19 June 2009.

Even though several South American states continue efforts to increase their domestic arms production, none play a significant role globally as arms exporters. All states in the region have submitted information to the UN Register at least once since 1998, but the participation of some has been inconsistent and overall participation is falling. So far, the United States and Canada are the only states of this region to have produced a public national report on conventional arms exports.

The Middle East²⁰

The Middle East is a region of high military expenditure relative to gross domestic product, and it has correspondingly high levels of arms imports. Furthermore, after several years' decline, there was an increase during 1999–2008 in military spending in almost all states for which information is available (see figure 5) and an increase in the volume of arms transfers to the region. The increase in spending is said to be driven by a combination of strong economic growth, high oil prices and increasing insecurity due to various armed conflicts and regional tensions. During 2004–2008, the Middle East accounted for 21% of global imports of major conventional weapons.

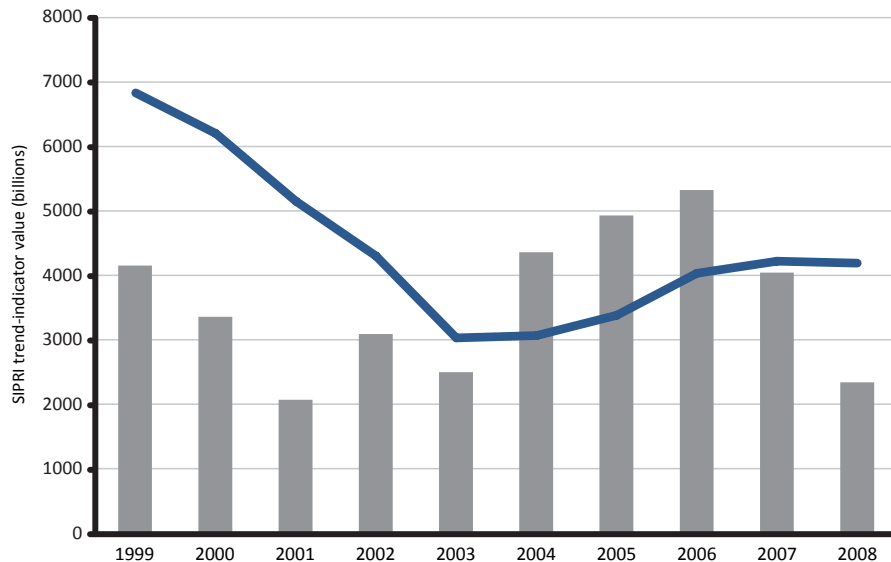
The biggest recipients in the region during 2004–2008 were the United Arab Emirates, Israel and Egypt. The biggest supplier of arms to the region was the United States, accounting for 53% of the volume of deliveries, followed by France (16%), Germany (8%) and Russia (7%). Few

19 See for example Small Arms Survey, *Small Arms Survey Yearbook 2007, Guns and the City*, 2007, pp. 227–47; Small Arms Survey, *Small Arms Survey Yearbook 2006, Unfinished Business*, 2006, pp. 215–34; and the Arias Foundation, *The Face of Urban Violence in Central America*, Series: Arms, Violence and Youth, 2005.

20 This section is based on S. Perlo-Freeman, *Arms Transfers to the Middle East*, SIPRI, background paper, July 2009. For the purposes of this section, the states of the Middle East include Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syria, Turkey, the United Arab Emirates and Yemen.

states in the Middle East have significant domestic defence industries, resulting in the extensive use of foreign-supplied armaments in conflicts in the region, supplied by a handful of arms-producing states. As in many other regions, there are extensive stocks of SALW in some parts of the Middle East, carrying a risk of diversion internally and externally. Transparency in arms transfers in the Middle East is very limited. No state in the region publishes annual reports on its exports of conventional weapons, and only a handful participate in the UN Register.

Figure 5. Arms transfers to the Middle East, 1999–2008



Source: presentation by S. Perlo-Freeman, SIPRI, at the regional seminar in Amman, 28–29 July 2009.

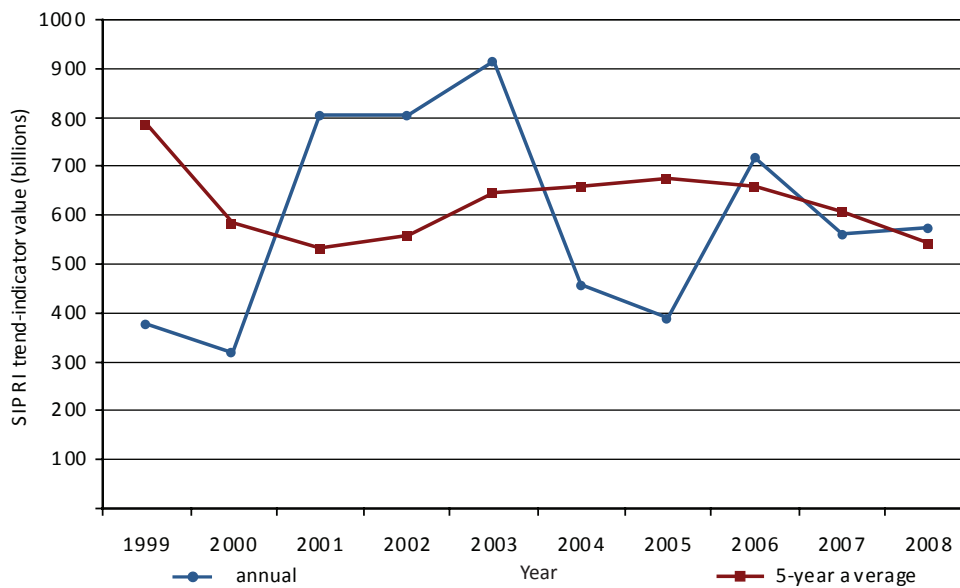
Asia and the Pacific²¹

Arms imports in Asia and the Pacific have increased in the past years, however with a recent downward turn (see figure 6). During 2004–2008, Asia was the region with the most arms imports compared to the other geographical groupings presented in this report, accounting for almost 40% of global imports of conventional weapons. The biggest importers in the region are China and India, which import mainly from Russia, and South Korea, which imports mainly from the United States. Military expenditure in the region has increased in the past decade. Reasons for this are the strong economic growth in many countries of the region as well as existing and in some cases rising tensions. Several states in the region are small exporters of weapons, but have significant domestic defence industries and therefore the potential to grow as exporters. Data on SALW in the region is somewhat limited, as in most other regions, but reports indicate that there are large stocks of SALW for military, police and other security forces.²² Problems of diversion to the illicit market are most acute with regard to SALW. Levels of openness vary by state. With a handful of exceptions, all states in the region have reported to the UN Register at least once in the last 10 years, which is about the same as the global average.

21 This section is based on S. Wezeman, *Arms Transfers to Asia and Oceania*, SIPRI, background paper, October 2009. For the purposes of this section, Asia and the Pacific includes East Asia—Brunei, Cambodia, China, Indonesia, Japan, Laos, Malaysia, Mongolia, Myanmar, North Korea, the Philippines, Singapore, South Korea, Taiwan, Thailand, Timor-Leste and Viet Nam; South Asia—Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka; and Oceania—Australia, Fiji, Kiribati, the Marshall Islands, Micronesia, Nauru, New Zealand, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu.

22 Small Arms Survey, *Small Arms Survey 2005: Weapons at War*, 2005, pp. 85–91.

Figure 6. Arms transfers by Asian states, 1999–2008²³



Source: presentation by S.T. Wezeman, SIPRI, at the regional seminar in Kuala Lumpur, 13–14 October 2009.

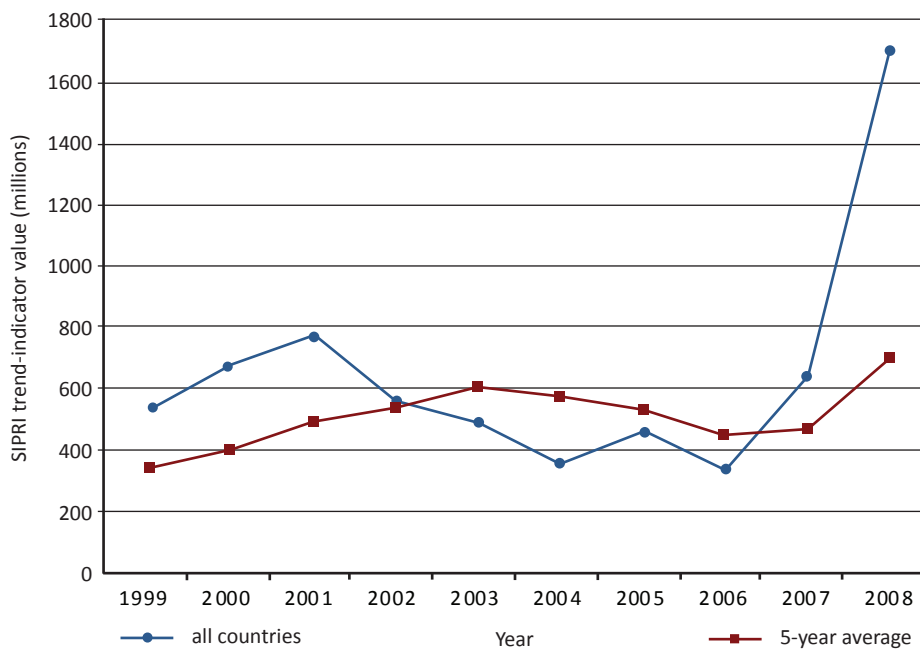
Eastern and Southern Africa²⁴

Arms production in Eastern and Southern Africa is limited, and hence the region is heavily dependent on imported weapons. The biggest importer in the region is South Africa, which accounts for over half of all imports to Eastern and Southern Africa. On the whole, the region accounts for only 3.5% of the volume of global arms imports. For an overview of imports of conventional arms to the region during 1999–2008 see figure 7. SALW are a category of special importance to the region, as there are large numbers of SALW transfers to the region that risk having negative consequences as key weapons in armed conflicts. Several states, including China, Germany, Russia, Sweden and the United Kingdom, supply arms to Eastern and Southern Africa (mostly to South Africa), and no single state dominates the market. Lack of transparency in arms transfers remains common in the region, and participation in the UN Register remains relatively low.

²³ The data presented here is taken from a presentation by Siemon T. Wezeman from SIPRI at the regional seminar for Asia and the Pacific, held in Kuala Lumpur, Malaysia, 13–14 October 2009. The presentation covered general trade statistics, and showed specific trends in arms transfers by Asian states during 1999–2008. It did not provide detailed figures on arms transfers to the region.

²⁴ This section is based on P. Wezeman, *Arms Transfers to Eastern and Southern Africa*, SIPRI, background paper, December 2009. For the purposes of this section, Eastern and Southern Africa includes Angola, Botswana, Burundi, the Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, the Seychelles, Somalia, South Africa, the Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

Figure 7: Imports of conventional arms to Eastern and Southern Africa in 1999–2008



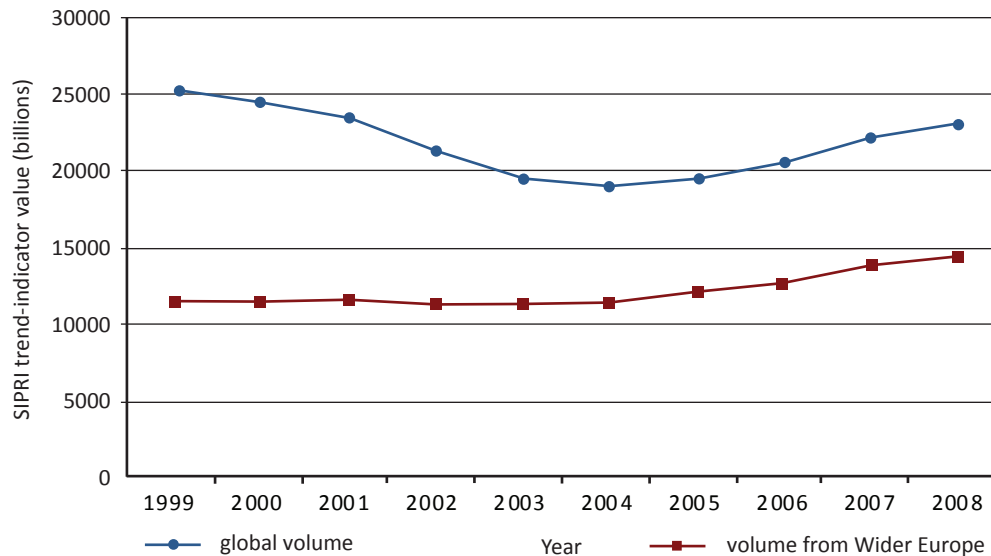
Source: SIPRI Arms Transfers Database.

Wider Europe²⁵

During the past decade there has been a rise in arms imports, exports and military expenditure in Wider Europe. Of the top ten states worldwide in terms of military expenditures in 2008, five were European: France, the United Kingdom, Russia, Germany and Italy. Increases in arms imports and military spending were particularly pronounced in the South Caucasus (Armenia, Azerbaijan and Georgia) during 2004–2008. Explanations for the increases include military reform and modernization, but concerns over unresolved disputes and tensions may also be an influencing factor. Several European states are among the biggest exporters of conventional arms (see figure 2 above). While the volume of exports from the region has increased (see figure 8), the volume of exports from Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) fell in 2004–2008. Many states in the region have developed legislation and systems for controlling arms transfers to prevent illicit and destabilizing transfers, and regional action (through the European Union and the Organization for Security and Co-operation in Europe among others) is prominent in addressing these issues. The Wider Europe region and its regional organizations have also played an important role in improving global controls on SALW. At the same time, Wider Europe continues to struggle with problems related to the diversion of weapons to the illicit market. In contrast to most other regions, transparency in transfers of conventional arms is well developed in Wider Europe, where all states have submitted information to the UN Register at least once, and 26 states in Wider Europe have published at least one national report providing information on arms exports.

²⁵ This section is based on P. Holtom, *Arms Transfers to Europe and Central Asia*, SIPRI, background paper, February 2010. Wider Europe for the purposes of this section is understood to include Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, the former Yugoslav Republic of Macedonia, Ukraine, the United Kingdom and Uzbekistan.

Figure 8: Arms Transfers from Wider Europe, 1999–2008²⁶



Source: presentation by P. Holtom, SIPRI, at the regional seminar in Vienna, 11 February 2010.

The United Nations and conventional arms control

The United Nations enjoys a unique position in the international system in terms of membership and authority and has been at the centre of arms control diplomacy since its inception. Its near universal membership makes it the appropriate forum in which to negotiate a global, legally binding treaty on conventional arms transfers. The following section presents the development within the United Nations of guidelines for the control of conventional arms transfers and provides some specific examples of existing instruments and agreements, developed both at the international and regional level. To contextualize the ATT process, the discussion highlights a number of the many resolutions, guidelines and efforts of the United Nations to better regulate the trade in conventional weapons. A brief description will be offered of the UN Security Council arms embargoes, the UN Register and the UN Programme of Action on Small Arms and Light Weapons (PoA). Even though developed for different reasons and objectives, these instruments represent core elements in the global regulatory structure over the trade in conventional arms, and might provide ideas and lessons learned with regard to the proposed ATT.

From the League of Nations to the United Nations and the Cold War

The development of global guidelines for conventional arms transfers has been on the agenda of the international community for a long time. In fact, it has been argued that the practice of arms control is many thousands of years old, and that arms control agreements can be identified not only in the inter-war period of the twentieth century or the preceding centuries, but already in the Middle Ages and even in the ancient world.²⁷ The first multilateral agreement to control

²⁶ The data presented here is taken from a presentation by Paul Holtom from SIPRI at the regional seminar for Wider Europe, held in Vienna, Austria, 11 February 2010. The presentation covered general trade statistics, but did not provide detailed figures on arms transfers to the region. Instead, given the relatively large amount of arms transfers from the region, this was taken up as a specific figure.

²⁷ For an overview of ancient arms control treaties as well as historical developments, see S. Croft, *Strategies of Arms Control: a History and Typology*, 1996, pp. 20–33; and K. Krause and M. MacDonald, “Regulating Arms Sales

the arms trade was the General Act of the Brussels Conference of 1890, which attempted to regulate foremost the transfer of arms to colonial territories.²⁸

The First World War changed general perceptions toward the trade and proliferation of war materials, and public pressure started to mount to regulate the trade in arms.²⁹ In 1919, the Covenant of the League of Nations included an article on arms transfers: “the Members of the League ... will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest”.³⁰ Furthermore, in 1919 the League of Nations Assembly proposed a separate convention to control the trade in arms and ammunition. The St. Germain Convention for the Control of the Trade in Arms and Ammunition was agreed in response to the concern that the First World War had “led to the accumulation in various parts of the world of considerable quantities of arms and munitions of war, the dispersal of which would constitute a danger to peace and public order”.³¹ The main principles behind the Convention were licensing requirements, publicity and additional restrictions on transfers to certain prohibited areas. Even though many states signed the Convention, it failed to amass the number of ratifications required to enter into force, particularly because of the convention’s provision whereby the contracting parties would have been prohibited from selling arms and munitions to states not party to it.³²

Realizing that the Convention was not going to be passed, the League of Nations abandoned it in 1924 and started seeking an agreement on a Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War.³³ This Convention, signed in 1925 by 23 states, allowed exports of weapons to non-signatories. Nevertheless, this initiative also failed, in this case because small- and non-producing states felt that the principles of licensing and publicity imposed infringements on their sovereignty and security, and would hinder their ability to arm and defend themselves.

In the same year, the League started to collect official statistics on the value of the trade in arms and ammunition, and in 1925 the first *Statistical Yearbook of the Trade in Arms, Ammunition and Implements of War* was published. The Yearbook, which showed the values of exports and

Through World War II”, in R.D. Burns (ed.), *Encyclopedia of Arms Control and Disarmament*, vol. II, 1993, pp. 707–8. For further reading on arms control accords between 1868 and 1914, see D.G. Anderson, “The International Arms Trade: Regulating Conventional Arms Transfers in the Aftermath of the Gulf War”, *American University Journal on International Law and Policy*, vol. 749, no. 7, 1992, pp. 758–9.

28 *General Act of the Brussels Conference relating to the African Slave Trade*, 2 July 1890. The text of the treaty can be consulted in C. Parry (ed.), *The Consolidated Treaty Series*, vol. 173, 1978.

29 See S. Croft, *Strategies of Arms Control: a History and Typology*, 1996.

30 The Covenant of the League of Nations, art. 23, para. d. For an overview of arms control attempts of the League of Nations as well as a look at the prior history of the issue, see D.R. Stone, “The League of Nations’ Drive to Control the Global Arms Trade”, *Journal of Contemporary History*, vol. 35, no. 2, 2000, pp. 213–30.

31 Convention for the Control of the Trade in Arms and Ammunition, and Protocol, 10 September 1919. See also League of Nations, Conference for the Control of the International Trade in Arms, Munitions and Implements of War, document C.758.M.258.1924.IX, 1925, p. 29.

32 Current notes, commentary on the Convention for the Supervision of Trade in Arms and War Munitions, *The American Journal of International Law*, vol. 20, no. 1, January 1926, pp. 151–54.

33 League of Nations, *Supervision of the international trade in arms and ammunition and in implements of war*, document D.58 IX. 7, Disarmament, 1932. The convention was preceded by an earlier version, entitled “Convention for the Control of Trade in Arms and Ammunition”. S. Croft, *Strategies of Arms Control: a History and Typology*, 1996, p. 30.

imports of conventional weapons based on official national data, was the first international attempt to bring transparency to the trade in conventional arms; the information was available to the general public. The Yearbook was published annually between 1925 and 1938, but the start of the Second World War ended its publication.³⁴

The Second World War and the start of the Cold War changed the face of conventional arms control. It became impossible to follow up or even consider many of the developments that had started in the years between the two World Wars. From the late 1940s until 1990, arms transfer decisions and export control policies were primarily governed by political considerations and power rivalry between the two blocs. Some bilateral and regional agreements on the arms trade were developed, but in the 1950s and 1960s the emphasis was very much on controlling the proliferation of weapons of mass destruction (WMD), especially nuclear weapons, and no further attempts were made to agree international instruments governing the trade in conventional arms. In practice there was little restraint on arms transfers to allies or to non-aligned states as competing alliances tried to maintain and enhance spheres of influence.³⁵ During the Cold War, the United States and the Soviet Union exported 80–90% of the total value of the global conventional arms trade.³⁶ The Cold War also considerably contributed to the spread of SALW.

The 1960s and 1970s saw some proposals at the United Nations for transparency in the arms trade, but they failed to attract the support to be taken forward.³⁷ These attempts toward further controls of conventional arms were resisted especially by developing countries, as they felt that accounting for the arms trade without taking into account domestic production of arms was discriminatory against them.³⁸ During the 1970s, the United States and the Soviet Union took steps toward mutual control of the conventional arms trade. The Conventional Arms Transfer talks between the two superpowers resulted in the first stage only in an

34 SIPRI established its database on the global arms trade and started to publish its results in 1969. Other bodies working to promote conventional arms transparency, notably in the United States, have included the Massachusetts Institute of Technology, the US Arms Control and Disarmament Agency, the US Defense Security Assistance Agency and the US Library of Congress Congressional Research Service.

35 P. Holtom and S.T. Wezeman, "Towards an arms trade treaty?", in *SIPRI Yearbook 2007: Armament, Disarmament and International Security*, SIPRI, 2007, p. 431.

36 E.J. Laurance, S.T. Wezeman and H. Wulf, *Arms Watch: SIPRI Report on the First Year of the UN Register of Conventional Arms*, SIPRI, Research Report no. 6, 1993, p. 4.

37 In 1965, at the twentieth session of the UN General Assembly, Malta submitted a draft resolution to invite the Eighteen-Nation Disarmament Committee to consider the transfers of arms between states. In 1968, Denmark put forward a draft resolution co-sponsored by Iceland, Malta and Norway that requested the Secretary-General to ascertain the positions of governments on contributing arms transfer data to a global register maintained under the auspices of the United Nations. This draft resolution was finally withdrawn before voting due to opposition from a large number of states. In 1976, a draft resolution was put together with 13 co-sponsoring states requesting a factual study to be conducted on the international transfer of conventional arms (a majority voted to adjourn the debate). In 1974, the United Kingdom initiated The Campaign against the Arms Trade as a consequence of the Arab–Israeli war and the resulting growth in the arms trade. In 1978, a resolution was finally passed on such a study (resolution S-10/2), followed by a series of further resolutions requesting the Secretary-General, with the assistance of groups of governmental experts, to carry out further studies on transparency in arms transfers and related issues. See A. Corradini, *Considerations of the Question of International Arms Transfers by the United Nations*, United Nations Department for Disarmament Affairs, Disarmament Topical Paper 3, 1990, pp. 44–59.

38 These states may have objected less to the idea of having control over weapons imports, had it been combined with a comprehensive registration of the production of weapons; A. Myrdal, *The Game of Disarmament: How the US and Russia Run the Arms Race*, 1977.

“agreement on the parameters of any possible regime”.³⁹ Furthermore, hopes for subsequent progress were destroyed by the war in Afghanistan.⁴⁰ One of the only concrete steps forward was the negotiation in 1980 of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, which entered into force in 1983.

In 1986, Soviet General Secretary Mikhail Gorbachev proposed “substantial reductions in all components of the land forces and tactical air forces of the European states and the relevant forces of the United States and Canada deployed in Europe ... from the Atlantic to the Urals”, and two months later the Warsaw Treaty Organization formalized his proposal by announcing a plan to reduce conventional forces in Europe. Following extensive negotiations, in 1990 the North Atlantic Treaty Organization (NATO) and Warsaw Treaty members signed the Treaty on Conventional Armed Forces in Europe, one of the objectives of which was to strengthen stability and security in Europe through the establishment of a balance of conventional forces at lower levels. The treaty reduced the holdings of conventional weapons among each group to equal levels.

Post-Cold War

The end of the Cold War presented new opportunities and challenges for the regulation of international conventional arms transfers and the promotion of transparency. The Iraqi invasion of Kuwait in 1990 was probably the most significant event that raised awareness about the lack for regulation of the international trade in conventional weapons and gave impetus to these discussions;⁴¹ it “created a historic consensus that the transfer of conventional arms can lead to excessive and destabilizing accumulations”.⁴² Following the events of 1990, the United Nations General Assembly passed a resolution on transparency in armaments in December 1991.⁴³ The resolution established the UN Register of Conventional Arms, which aims at increasing transparency in the area of conventional arms. The UN Register is discussed in more detail below.

Furthermore, the United States appealed to the other four permanent members of the UN Security Council in 1991 to avoid destabilizing arms transfers to the Middle East. The United States also called for and laid the foundation for the “P5 Guidelines” agreed upon later that year. Rules were established to guide arms transfers and to refrain from transfers that could aggravate existing armed conflict, increase tensions or further destabilize a region, violate embargoes or other international sanctions, be used for purposes other than lawful self-defence, support international terrorism, or seriously undermine the economies of importers. However, these Guidelines, also referred to as the “London Principles” (having been agreed in London on 17–18 October 1991), contained only general provisions, and practice showed

39 See J. Spear, “Governmental Politics and the Conventional Arms Transfer Talks”, *Review of International Studies*, vol. 19, no. 4, 1993, pp. 369–84.

40 G. Mendelsohn, *Arms Control Chronology*, Center for Defense Information, 2002, p. 119.

41 See for example R. Stohl and S. Grillot, *The International Arms Trade, War and Conflict in the Modern World*, 2009, p. 32; and D.G. Anderson, “The International Arms Trade: Regulating Conventional Arms Transfers in the Aftermath of the Gulf War”, *American University Journal on International Law and Policy*, vol. 749, no. 7, 1992, pp. 752–3.

42 E.J. Laurance, S.T. Wezeman and H. Wulf, *Arms Watch: SIPRI Report on the First Year of the UN Register of Conventional Arms*, SIPRI, Research Report no. 6, 1993, p. 4.

43 General Assembly, *Transparency in Armaments*, UN document A/RES/46/36 L, 6 December 1991. The resolution was adopted with 150 in favour, none against and two abstaining.

quickly that the arrangement did not work. The permanent members had agreed to consider the general political situation in the importing state, but as the political situation was seen differently by each member of the Security Council, there were disagreements.⁴⁴

In 1996, the United Nations Disarmament Commission released the Guidelines for International Arms Transfers. The Commission noted that the effects of illicit arms transfers “can often be disproportionately large, particularly for the internal security and socio-economic development of affected States”.⁴⁵ The Guidelines contain recommendations on the implementation of national measures to combat the illicit trafficking of arms, such as ensuring an adequate system of national laws and regulations, an effective import and export licensing procedure, adequate numbers of customs officials and defining which weapons are legal for civilians and which can only be held by military and police forces. They also contain a range of recommendations on action to be taken at the international level.⁴⁶ The Guidelines are not legally binding; rather, they were designed to give guidance to states on how to combat arms trafficking.

A further development in the area of conventional arms control was the establishment of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies in 1995. As the successor to the Coordinating Committee for Multilateral Export Controls, the Wassenaar Arrangement is a multilateral export control regime that comprises 40 states that exchange data on transfers and denials of transfer on dual-use technology and conventional arms. The Wassenaar Arrangement also provides a forum where issues of concern, for instance potentially destabilizing arms accumulations, can be discussed among the participating states.

During and following the Cold War, the international community adopted treaties controlling chemical, biological and nuclear weapons.⁴⁷ They are global and legally binding, and there are existing mechanisms to implement them. Yet today, there is no equivalent with regard to transfers of conventional arms despite several attempts and the fact that the negative effects of uncontrolled and poorly regulated trade in these weapons have been widely recognized.

UN SECURITY COUNCIL ARMS EMBARGOES

Through the Security Council, the United Nations can adopt mandatory and voluntary arms embargoes to limit or to prohibit transfers of weapons to a particular state, region within a state or to particular end-users. Voluntary arms embargoes are politically binding, whereas mandatory arms embargoes remain the only global, legally binding instrument controlling conventional arms transfers. In accordance with article 41 of the UN Charter, the Security

44 V. Kozyulin, “Conventional Arms Transfers. Illicit Arms Trade: An Overview and Implications for the Region”, Russian Centre for Policy Studies, p. 3, <www.pircenter.org/data/news/kozyulin091104lect.pdf>.

45 General Assembly, *Report of the Disarmament Commission*, UN document A/51/42, 22 May 1996, annex 1, para. 7.

46 S. Meek, “International Initiatives on the Control of Weapons”, in V. Gamba-Stonehouse and S. Meek (eds), *Society Under Siege: Licit Responses to Illicit Arms*, Institute for Security Studies, 1998, pp. 15–6.

47 The transfer of nuclear weapons is prohibited by the Treaty on the Non-proliferation of Nuclear Weapons (NPT), which was opened for signature on 1 July 1968 and entered into force on 5 March 1970; the transfer of biological weapons is prohibited by the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BTWC), which was opened for signature on 10 April 1972 and entered into force on 26 March 1975; and the transfer of chemical weapons is prohibited by the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC), which was opened for signature on 13 January 1993 and entered into force on 29 April 1997.

Council may impose mandatory embargoes to maintain or restore international peace and security. Arms embargoes are sanctions, which along with financial and diplomatic restrictions are “intended to apply pressure on a State or entity to comply with the objectives set by the Security Council without resorting to the use of force”.⁴⁸ Mandatory arms embargoes require Member States to refrain from supplying weapons and military equipment to a specified target. The precise form of the embargo, including its scope, are determined case-by-case. Similarly to all Security Council resolutions, embargoes require the vote of at least 9 of the 15 Security Council members, and that none of the permanent members veto. Arms embargoes have been issued with greater frequency since the end of the Cold War as a result of thawing relations among Security Council members.⁴⁹ At the time of writing, 12 mandatory UN arms embargoes are in force, restricting the transfer of arms to states, organizations and individuals (see table 1).

Table 1: Mandatory United Nations arms embargoes in force, as of February 2010

Target	Establishing instrument	Date established
Eritrea	resolution 1907	23 December 2009
Iran (technology related to nuclear weapon delivery systems)	resolution 1737	23 December 2006
North Korea	resolution 1718	14 October 2006
Lebanon (NGF)	resolution 1701	11 August 2006
Sudan (Darfur)	resolution 1591	29 March 2005
Côte d'Ivoire	resolution 1572	15 November 2004
Liberia	resolution 1521	22 December 2003
Democratic Republic of the Congo (NGF)	resolution 1493	28 July 2003
Iraq (NGF)	resolution 1483	22 May 2003
Al-Qaida, Taliban and associated individuals and entities	resolution 1390	16 January 2002
Sierra Leone (NGF)	resolution 1171	5 June 1998
Somalia	resolution 733	23 January 1992

Note: NGF stands for non-governmental forces.

Embargoes are most commonly administered by the Security Council sanctions committees and less commonly with the help of sanctions monitors and expert groups. Sanctions committees are tasked with overseeing the enforcement of embargoes and rely on information provided by states, regional organizations, UN peacekeepers and sanctions monitors. Despite oversight, studies and UN investigations show that arms embargoes have been violated, and they have been criticized for having had limited success in halting the flow of arms and in achieving the objectives of the Security Council resolutions.⁵⁰ These failures may have arisen from a combination of the timing of Security Council action, the wording in the resolution language,

48 UN Security Council Sanctions Committees website, <www.un.org/sc/committees>.

49 Two mandatory UN embargoes were issued during 1949–1989, compared to 27 embargoes during 1990–2006.

50 M. Bromley et al., *Recent Trends in the Arms Trade*, SIPRI, background paper, 2009, p. 19; D. Fruchart et al., *United Nations Arms Embargoes: Their Impact on Arms Flows and Target Behaviour*, SIPRI/Uppsala University, 2007, p. 2; *Verifying European Union Arms Embargoes*, Verification Research, Training and Information Centre, background paper, 2006, p. 1.

gaps in monitoring and enforcement mechanisms, and the lack of political will of Member States for implementation.⁵¹ As a consequence, a number of processes have been undertaken with the aim of improving the effectiveness of mandatory arms embargoes.⁵²

UN REGISTER OF CONVENTIONAL ARMS

The UN Register of Conventional Arms was established by General Assembly resolution 46/36 in December 1991. It calls upon Member States to provide data on imports and exports of major conventional arms according to seven categories: battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships (including submarines), and missiles and missile-launchers. By making data on arms imports, exports and production publicly available, the UN Register aims to build confidence among states and to increase transparency, which “can help to determine whether excessive or destabilizing accumulations of arms take place, may encourage restraint in the transfer or production of arms, and can contribute to preventive diplomacy”.⁵³ The Iraqi invasion of Kuwait not only brought conventional arms transfers to international discussions, it also spurred the concrete development of the UN Register. The register started operating in the beginning of 1992, and in April 1993 Member States began to submit information to the United Nations on their transfers of conventional weapons.

It seems that, at least to some Member States, the UN Register was not designed to be an end in itself but as “the first, minimal step” toward better regulation and restraint of conventional arms trade.⁵⁴ As stated in the resolution on transparency in armaments, UN Member States wanted to continue to work on expanding the Register’s scope. The UN Register is reviewed every three years by a group of governmental experts.⁵⁵ The reviews have resulted in some expansions of the UN Register’s scope. One significant milestone in its development has been that states have been encouraged to also submit data on the transfer of SALW. Currently, such information is provided voluntarily. The 2009 GGE came close to agreeing on the addition of SALW as an eighth category, and recommended the Secretary-General to seek the views of Member States on this possible expansion. So far, reporting to the UN Register has not been universal; European states have been the most consistent in providing the requested data. The number of states submitting reports varies considerably year to year: 2001 had the highest level of participation, with 126 states submitting reports, and 2009 had the lowest level, with only 80 states submitting reports. Since 2001, a total of 173 states have submitted reports on at least one occasion.

UN PROGRAMME OF ACTION ON SMALL ARMS

In the immediate aftermath of the Cold War, a number of factors combined to raise international awareness and concern about the proliferation and illicit trade of SALW. Attention turned from interstate wars with major conventional armies more to civil wars and complex emergencies,

51 M. Bromley et al., *Recent Trends in the Arms Trade*, SIPRI, background paper, 2009, p. 5.

52 The Interlaken process (1999–2001), the Bonn–Berlin process (2000–2001) and the Stockholm process (2001–2003).

53 UN Register of Conventional Arms website, <www.un.org/disarmament/convarms/Register/HTML/RegisterIndex.shtml>.

54 E.J. Laurance, S.T. Wezeman and H. Wulf, *Arms Watch: SIPRI Report on the First Year of the UN Register of Conventional Arms*, SIPRI, Research Report no.6, 1993, p. 7.

55 See for example General Assembly, *Continuing operation of the United Nations Register of Conventional Arms and its further development*, A/64/269, 14 August 2009.

in which SALW were recognized as the weapons of main concern. As NATO and former Warsaw Pact armies downsized, large quantities of SALW became surplus. Although a large part of them were destroyed, the rest, in particular from the Eastern bloc arsenals, have remained in storage sites or were sold on the global arms market. Unfortunately, quite often these weapons have ended up in zones of armed conflict or in the hands of terrorists and criminals, have destabilized regions, have sparked, fuelled and prolonged conflicts, have undermined peace initiatives, have hampered development, and have fostered a culture of violence. It was realized that the destabilizing effects of these weapons required an urgent reaction and practical measures to address the problem.

After some early steps toward controlling conventional weapons at the regional and to some extent the international level, including regional efforts to control SALW, the United Nations in a 1995 General Assembly resolution⁵⁶ addressed the problem of the illicit trade in SALW for the first time. Following that, two expert groups established by the Secretary-General issued reports on the subject.⁵⁷ Roughly four years after it had first been taken up in the UN context, the General Assembly, in resolution 54/54 V of 15 December 1999, decided to convene an international conference to address the problem of the illicit trade in SALW.

The United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects took place in New York from 7 to 11 July 2001. There participating states adopted the Programme of Action to Prevent, Combat, and Eradicate the Illicit trade in Small Arms and Light Weapons, in All Its Aspects.⁵⁸ The PoA, acknowledged by the UN Security Council and the General Assembly, is the main international framework agreement for combating SALW trafficking and proliferation.⁵⁹ In the PoA, states agreed to fight against the proliferation of illegal SALW, and to reinforce and further coordinate efforts against the illicit trade in SALW at the national, regional, and global level.⁶⁰

The PoA reiterates the primary responsibility of states to combat the illicit trade in SALW and commits them to a wide array of measures. These include keeping accurate records of the

56 General Assembly, *General and Complete Disarmament*, UN Document A/RES50/70B, 12 December 1995.

57 See General Assembly, *General and Complete Disarmament: Small Arms*, UN document A/52/298, 27 August 1997, annex; and General Assembly, *General and Complete Disarmament: Small Arms*, UN document A/54/258, 19 August 1999, annex. SALW were also acknowledged in the Millennium Summit and Millennium Declaration in September 2000.

58 See *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, UN document A/CONF.192/15, 13 August 2001, §IV.

59 Following the PoA conference in September 2001, the UN Security Council welcomed the adoption of the PoA, and called on all Member States to take measures to promptly implement its recommendations; see Security Council, *Statement by the President of the Security Council*, UN document S/PRST/21/21*, 4 September 2001. In resolution 56/24 V of 24 December 2001, the General Assembly welcomed the adoption of the PoA and called upon all Member States to implement it. Subsequent resolutions 64/50, 63/27, 62/47, 61/66, 60/81, 59/86, 58/241, 57/72 and 56/24 V have further emphasized the importance of early and full implementation of the PoA. Furthermore, in the 2005 World Summit Outcome Document, the General Assembly reiterated its support for the implementation of the PoA; see General Assembly, *2005 World Summit Outcome*, UN document A/RES/60/1, 24 October 2005.

60 In 2001, the UN General Assembly also adopted the UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition. This Protocol is part of the UN Convention on Transnational Organized Crime. Under the Protocol, state parties are obligated to implement laws to eradicate the illegal manufacturing of firearms, track down existing illicit weapons and prosecute offenders; cooperate to prevent, combat and eradicate the illegal manufacturing and trafficking of firearms; tighten control on the export and import of firearms; and exchange information about illicit firearms. See General Assembly, *The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition*, UN document A/RES/55/255, 31 May 2001.

manufacture and transfer of SALW, establishing national coordination agencies to target the illicit trade, destroying surplus SALW and making the illicit production and trade of SALW a criminal offence. At the regional level, the PoA supports negotiations with the aim of establishing legally binding instruments and commits regional organizations to support national implementation efforts of the programme. At the global level, states agree to cooperate with the UN system in the enforcement of arms embargoes and with INTERPOL, and to promote a culture of peace through education and public awareness programmes.

The PoA was not designed to be a one-off document—states also committed themselves to a follow-up process. The document included references to three international follow-up events for 2001–2006: per the original plan, Biennial Meetings of States (BMS) to address progress made in implementing the PoA were held in 2003 and 2005, and the PoA in its entirety was addressed in a Review Conference, held in New York in the summer of 2006. This Review Conference failed to agree on an outcome document, thereby leaving the future of the PoA in question for a few months. However, the issue was taken up by General Assembly in October 2006, where a resolution referred to as the omnibus resolution on SALW revived the follow-up process by deciding upon the continuation of the biennial meetings. The first was held in New York on 14–18 July 2008, and the second is scheduled for 14–18 June 2010. The next review Conference will be held in 2012.

Toward an Arms Trade Treaty

Today, we speak as one to voice our common concern regarding the destructive effects of the unregulated arms trade. ...

The international community can no longer ignore the repercussions of irresponsible arms transfers.⁶¹

Early years and resolution 61/89

The idea of a global, legally binding ATT was initiated by a group of Nobel Peace Laureates led by Óscar Arias.⁶² Calling for the establishment of an international campaign to promote an agreement to regulate the conventional arms trade, the group developed an International Code of Conduct on Arms Transfers, which it wanted to submit to the United Nations for adoption. The Code was signed in May 1997 by various Nobel Prize recipients, but it was not submitted to the United Nations as initially planned because of resistance expressed by some Member States. However, Arias requested the permanent members of the Security Council to adopt the Code.

The Code begins by describing the humanitarian impact of an unregulated arms trade before delineating its scope, transfer criteria and operational mechanisms. The scope of arms and activities to be subject to regulation is broad, incorporating munitions, dual-use technologies,

61 *The Nobel Peace Laureates' International Code of Conduct on Arms Transfers*, Nobel Peace Laureate group's website, <www.hartford-hwp.com/archives/27a/028.html>.

62 In addition to Óscar Arias, the group consisted of the Dalai Lama, José Ramos-Horta, Eliezer Wiesel, Betty Williams, Norman Borlaug, Adolfo Pérez Esquivel, Máiread Corrigan-Maguire, Rigoberta Menchú, Joseph Rotblat, Desmond Tutu, and Lech Wałęsa. Other prominent sponsors included former Jimmy Carter, Robin Cook and Brian Urquhart.

transfers of expertise, and leasing and licensing arrangements. The proposed criteria to be applied to arms transfers consist of assessments based upon end-users' compliance with international human rights standards and international humanitarian law; respect for democratic rights; respect for international arms embargoes and military sanctions; participation in the UN Register; commitment to promoting regional peace, security and stability; and promotion of human development. Proposed operational mechanisms centre on national legislative requirements, international monitoring, and consultation and certification procedures.⁶³ Despite not being immediately taken up at the United Nations, the Code propelled a process toward a global treaty by encouraging discussion and debate within diplomatic circles and adding momentum to concurrent civil society efforts. For an overview of these, including the Control Arms Campaign launched in 2003, see the section CIVIL SOCIETY ACTION on p. 51.

The first permanent member of the Security Council to support the initiative was the United Kingdom. Following a statement by Foreign Secretary Jack Straw in September 2004 calling for an international treaty to control the conventional arms trade, momentum started to accumulate behind the idea of an ATT. After a series of informal consultations, a resolution was drafted and taken forward in the First Committee of the General Assembly by a group of seven co-sponsors: Argentina, Australia, Costa Rica, Finland, Japan, Kenya and the United Kingdom. The first ATT resolution, A/RES/61/89, was adopted by a large majority during the meeting of the First Committee in October 2006 and by an even larger majority—153 votes in favour, 1 against, 24 abstentions—in the General Assembly in December 2006. However, some major actors in the arms trade abstained, including Russia, China, India and Saudi Arabia. The United States was the only state to vote against the resolution.

The resolution adopted on 6 December 2006 recognizes 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”. In the first operative paragraph, the General Assembly 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 and to submit a report to the General Assembly at its sixty-second session”.

In response to the Secretary-General, 101 Member States and the European Union formally submitted their views on a future ATT. This was the highest number ever submitted on a disarmament-related issue. The vast majority of submitting states believed an ATT, as defined by resolution 61/89, to be both feasible and desirable. Many reasons were offered to support this conclusion. These include the level of support for resolution 61/89, the existence of many regional and global instruments pertaining to arms transfers and growing support within civil society for an ATT. However, a range of obstacles to the negotiation of an ATT were also identified, including the limited capacity of some states to implement such a treaty and the diversity of states' interests and concerns. Regarding the possible scope and parameters of an ATT, broad support was expressed for the inclusion of all major conventional weapons listed in the UN Register, as well as SALW. States also nominated a range of other items for possible inclusion, subject to further discussion, including dual-use goods, technologies and explosives.

63 Text of the International Code of Conduct with background explanations can be found in *The Ploughshares Monitor*, vol. 18, no. 2, 1997, <www.ploughshares.ca/libraries/monitor/monj97b.html>.

The core activities to be regulated under an ATT were noted to be the import and export of conventional weapons. Support was also expressed for a range of other activities, with support being generally expressed for brokering, transit and transshipment. States were, however, eager to ensure that the right to self-defence and their control over domestic arms policy were safeguarded.

States also submitted their views on the criteria that would form the common standards used to assess arms export requests. A large number of transfer criteria were suggested and commented upon. Generally, these criteria address considerations based on existing obligations and commitments, considerations based on the likely user, considerations based on likely impact and considerations based on the recipient state.⁶⁴ The degree of support expressed varied considerably among criteria, although those falling under considerations based on the recipient state were noticeably less popular. Support was also uneven among suggested operational mechanisms. For example, 13 states proposed the establishment of a secretariat to oversee the implementation process, while others expressed reservations about such an independent body. Summaries of states' views are contained in the Report of the Secretary-General, A/62/278.⁶⁵ In addition, UNIDIR prepared two studies analysing these views.⁶⁶

Resolution 61/89, in its second operative paragraph, requested the Secretary-General to establish a Group of Governmental Experts (GGE) to examine 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 GGE, appointed by the Secretary-General, comprised 28 experts drawn from Member States and was chaired by Ambassador Roberto García Moritán of Argentina.⁶⁷

The GGE met in three sessions during 2008 and presented its conclusions during the sixty-third General Assembly. In its report, the GGE recognizes the complexity of conventional arms transfer issues, which it attributes, in part, to the multiplicity of motivations for arms production and acquisition. The GGE report also highlights the problem of illicit arms transfers and their link to terrorism and organized crime. As a result, preventing the diversion of conventional arms to the illicit market is considered to be an imperative. The report goes on to emphasize the respective responsibilities of arms exporters and importers to prevent irresponsible transfers, and the responsibility of states to develop effective controls at the national level.

Resolution 63/240 and the open-ended working group

Following from the exchange of views and the work of the GGE, in 2008 the General Assembly adopted a second resolution on an ATT. Resolution A/RES/63/240 endorses the reports

64 S. Parker, *Analysis of States' Views on an Arms Trade Treaty*, UNIDIR, 2007, pp. 9–10.

65 General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/62/278, 17 August 2007.

66 S. Parker, *Analysis of States' Views on an Arms Trade Treaty*, UNIDIR, 2007; and S. Parker, *Implications of States' Views on an Arms Trade Treaty*, UNIDIR, 2008.

67 Members of the Group of Governmental Experts were drawn from the following 28 states: Argentina, Algeria, Australia, Brazil, China, Colombia, Costa Rica, Cuba, Egypt, Finland, France, Germany, India, Indonesia, Italy, Japan, Kenya, Mexico, Nigeria, Pakistan, Romania, Russia, South Africa, Spain, Switzerland, Ukraine, the United Kingdom and the United States of America. More than 60 Member States requested to participate in the group, which is a record number of requests for a disarmament-related group of experts. Also, the final composition of the group, with 28 states being represented, is a record high in disarmament processes.

of the Secretary-General and the GGE and emphasizes the need to prevent the diversion of conventional arms to the illicit market. The resolution was supported by 133 affirmative votes. On the recommendation of the GGE, the General Assembly established an open-ended working group (OEWG) to “further consider those elements ... where consensus could be developed for their inclusion on an eventual legally binding treaty on the import, export and transfer of conventional arms”.⁶⁸ Compared to the GGE, the OEWG broadened participation in the ATT process by making its proceedings public and opening them to all UN Member States. Observer states, inter-governmental organizations and non-governmental organizations with consultative status with the Economic and Social Council were also invited to participate. The OEWG met in March and July 2009, and both sessions entailed the delivery of statements by Member States and other participants regarding the goals, objectives, scope, principles, draft parameters and other aspects of a potential ATT. A consensus was forged that a lack of international regulation over the transfer of conventional arms represents a serious problem that is best addressed through the negotiation of an ATT. A consensus report from the group was submitted to the UN General Assembly.⁶⁹

In the report, the OEWG reiterated the respective responsibilities of importers and exporters, as well as the dangers of arms diversion to the illicit market, where arms can fuel instability, terrorism and crime. Despite the expression of these general points of agreement, states remained divided over the key issues they were gathered to discuss, particularly regarding the scope and draft parameters of an ATT. More sceptical states emphasized their inherent rights under international law, contending that existing regulatory instruments sufficed and requested more time for discussion before commitments were made. However, the process continued.

Resolution 64/48—paving the way for the ATT Conference

At the sixty-fourth session of the General Assembly in New York on 2 December 2009, 151 states voted in support of resolution 64/48 deciding to “convene the United Nations Conference on the Arms Trade Treaty to sit for four consecutive weeks in 2012 to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms”.⁷⁰ Twenty states abstained and one voted against. Importantly, the United States departed from its earlier position of voting against the ATT in 2006 and 2008 and supported the process. This support was conditional on future negotiations being conducted on the basis of consensus to reach an instrument of the “highest possible, legally binding standards for the international transfer of conventional weapons”.⁷¹ Whereas supporters of a consensus process contend it is necessary to promote universal standards and ensure the widest possible support for an ATT, critics argue that it may give states the ability to stall negotiations and dilute the final treaty.⁷²

68 General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/RES/63/240, 8 January 2009, p. 16.

69 General Assembly, *Report of the Open-Ended Working Group towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/AC.277/2009/1, 20 July 2009.

70 General Assembly, *The Arms Trade Treaty*, UN document A/RES/64/48, 12 January 2010.

71 US Department of State, *U.S. Support for the Arms Trade Treaty*, 14 October 2009, <www.state.gov/secretary/rm/2009a/10/130573.htm>.

72 See J. Abramson, “U.S. Supports Arms Trade Treaty Process”, *Arms Control Today*, vol. 39, no. 3, 2009.

In order to prepare for the 2012 ATT Conference, the General Assembly decided in resolution 64/48 to transform the remaining sessions of the OEWG in 2010 and 2011 into meetings of a Preparatory Committee. According to the resolution, the Preparatory Committee is tasked “to make recommendations to the United Nations Conference on the Arms Trade Treaty on the elements that would be needed to attain an effective and balanced legally binding instrument”.⁷³ The committee is required to take into consideration the conclusions of the GGE and OEWG reports as well as the views formally expressed by Member States. In addition to its scheduled meetings in 2010 and 2011, the Preparatory Committee is to meet for three days in 2012, “to decide on all relevant procedural matters, including the composition of the Bureau, the draft agenda and the submission of documents”.⁷⁴ Furthermore, the resolution requests the Secretary-General to seek the views of Member States on elements to be included in a possible ATT as well as other related issues. The Secretary-General will report in 2011 on the views submitted by Member States.

Regional action—special focus on the European Union

Since the end of the Cold War, a large number of instruments have been established at the regional level that regulate transfers of conventional weapons and seek to harmonize arms export policies.⁷⁵

Regional organizations and instruments have proven key in supporting international action against the illicit trade and proliferation of SALW. They have helped build consensus and momentum around the PoA process and in advancing related norms. Also, it can be argued that having an international programme of action to combat illicit trade in SALW has opened the door to further regional and subregional measures, forming a two-way relationship between regional and international action.⁷⁶ However, it has also been pointed out that the implementation and scope of the current regional instruments is insufficient, and that this is a strong argument in favour of a global instrument.⁷⁷

Regional instruments are also relevant to both the negotiation and implementation of an ATT. First, regional arrangements present an array of material and institutional expertise that can be drawn upon when forming an ATT. They have provided examples both of functional solutions as well as of approaches that have not been implementable and are likely not to work at the international level either. In states’ submissions of their views on an ATT in 2007, the existing body of regional instruments was considered by many as a demonstration of the feasibility of an ATT.⁷⁸ Secondly, as regional instruments have taken different approaches to the

73 General Assembly, *The Arms Trade Treaty*, UN document A/RES/64/48, 12 January 2010, para. 7.

74 *Ibid.*, para. 8.

75 The list of regional agreements relating to the transfer of conventional weapons is extensive. For further information, see United Nations Office of Disarmament Affairs treaties database at <www.un.org/disarmament/HomePage/treaty/treaties1.shtml>; and S. Tulliu, and T. Schmalberger, *Coming to Terms with Security: A Lexicon for Arms Control, Disarmament and Confidence-Building*, UNIDIR, 2004, pp. 22–7.

76 E. Kytömäki, “Regional approaches to small arms control: vital to implementing the UN Programme of Action”, *Disarmament Forum*, no. 1, 2006, p. 56.

77 For more information about regional instruments and the PoA, see “*Towards Global Standards: Regional Experience in Small Arms Transfer Controls*”, Project Ploughshares, 2007.

78 S. Parker, *Implications of States’ Views on an Arms Trade Treaty*, UNIDIR, 2008, p. 11.

control of conventional arms transfers and have concentrated on different aspects, they have demonstrated that different regions face different challenges and problems. This means that a future ATT will need to be implemented with the realities on the ground in mind, and with the help of regional instruments. However, regional arrangements do not detract from the need for a global, legally binding ATT. As expressed in Nigeria's submission of its views to the Secretary-General, "in the face of an arms industry that operates globally, national or regional export control systems have become ineffective in controlling illicit transfers in conventional arms".⁷⁹

The following sections provide an overview of regional instruments that are of relevance to the proposed ATT. Many of them were presented in the regional seminars and evoked wide interest. Instruments of the European Union will be discussed separately at the end of this section of the report.

The Americas

Many notable steps in controlling the conventional arms trade have been taken in the Americas and its subregions, including by member states of the Andean Community, the Caribbean Community, the Central American Integration System (SICA) and the Southern Common Market (MERCOSUR).

The Organization of American States (OAS) has been active in the field of conventional arms control since the early 1990s, especially with regard to controlling the international transfer of firearms. In 1997, the OAS adopted the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA), which entered into force in 1998. This legally binding instrument includes provisions on marking, record-keeping, confiscation or forfeiture of firearms and the strengthening of controls at export points. It requires its states parties to establish an effective system of import, export and transfer licensing. It also promotes and encourages cooperation and the exchange of information and experience among states. The CIFTA established a Consultative Committee comprised of all its state parties in order to guarantee its implementation, to promote the exchange of information, to facilitate cooperation and to foster training and capacity-building among states. At the time of writing, 33 of the 34 members of the OAS had signed the CIFTA and 30 had ratified it.

Another ATT-relevant instrument of the OAS is the Inter-American Convention on Transparency in Conventional Weapons Acquisitions, which was adopted in 1999 and entered into force in 2002. As a regional transparency regime that requires its states parties to report annually on their weapons exports and imports, as well as to make timely notifications of their weapons acquisitions, it aims at achieving more openness and transparency among OAS member states by annual exchanges of information. At the time of writing, 20 OAS member states had signed the Convention and 13 had ratified it. States parties to the Convention have agreed to submit to the OAS General Secretariat annual reports on their exports and imports of battle tanks, armoured combat vehicles, large-calibre artillery, combat aircraft, attack helicopters, warships, and missiles and missile systems, following the categories of UN Register reporting. In their

⁷⁹ General Assembly, *Towards an Arms Trade Treaty: Establishing Common Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/62/278 (Part I), 17 August 2007, p. 20; this sentiment was echoed by Canada, Djibouti, Ecuador, France, Mauritius and Spain. See also S. Parker, *Implications of States' Views on an Arms Trade Treaty*, UNIDIR, 2008, p. 9.

annual reports, states parties must identify the type and quantity of weapons transferred, as well as the name of the exporting or importing state. Additional information, such as the designation or model of the weapon, may be given voluntarily. In addition, the Convention includes a clause about the notification of acquisitions, whereby states have to notify others about new weapons systems no later than 90 days after the incorporation into the state's arsenal. The notification requirement applies to both imported and domestically manufactured weapons. The submitted information is not publicly available, but states parties can consult with each other on the submitted information.

In addition to these two legally binding conventions, the OAS is working toward improved controls of conventional weapons, including SALW, by developing model regulations and legislation in articles set forth in the CIFTA.⁸⁰

Furthermore, subregions in the Americas have developed their own instruments of relevance to an ATT. These are mostly relevant to SALW, and politically binding, apart from the Andean Plan to Prevent, Fight and Eradicate Illicit Trafficking in Small Arms and Light Weapons in all its Aspects (Decision 552 of 2003).⁸¹ For example, the Caribbean Community agreed in 2002 the Regional Action Agenda on Crime and Security, following work within its regional task force on these subjects. The aim of the Agenda is to strengthen enforcement of legal measures on SALW control, such as customs and marine patrols, and to enhance the control of brokers and producers of arms. To enforce the Agenda, the Implementation Agency for Crime and Security was established in 2006 and the Regional Integrated Ballistic Information Network in 2008.

SICA has a Code of Conduct of the Central American States on the Transfer of Arms, Ammunition, Explosives and Other Related Materials, adopted in 2005, whereby SICA member states agree not to trade in arms with states that are committing or sponsoring crimes against humanity or human rights violations, are preventing their citizens from choosing their representatives through free, fair and periodic elections, or that are failing to report the totality of their arms transfers to the UN Register. In the Code states also agreed to harmonize their legislation on arms and arms transfers and promote transparency in the trade and possession of arms. The states report to the Central American Security Commission on measures taken to implement the Code, and every three years the Commission convenes a meeting of states to evaluate the measures taken.

In addition, SICA has since 2003 implemented a programme to prevent and combat the illicit trade in SALW. Since 2007 it is supported by the Central American Programme on Small Arms Control, which is a joint programme of SICA and the United Nations Development Programme.

Within MERCOSUR, the Presidents' Declaration on Combating the Manufacturing of and Illicit Trafficking in Arms, Ammunition and Related Materials in the Southern Cone of 1998 set

⁸⁰ The Model Regulations for the Control of the International Movement of Firearms, and the Model Regulations for the Control of Brokers of Firearms, their Parts and Components and Ammunition. To date, model legislation has been approved in relation to marking and tracing, strengthening controls at export points and the establishment of criminal offenses.

⁸¹ Decision 552 aims at strengthening the capacity of the Andean Plan member states to control the manufacture, trade, transportation, possession, concealment, usurpation, carrying and use of SALW, as well as to identify, confiscate and if necessary destroy them. It provides for specific mechanisms and lines of action at the national, subregional and international level. Member states have designated national points of contact as well as national coordination committees.

forth the Plan for Cooperation and Reciprocal Assistance for Regional Security, which targets organized crime, including illegal trafficking in arms. Also, the Declaration led to a decision to develop a joint registry mechanism for firearms, ammunition, explosives and similar material with the intent to control arms and arms brokers. Further, a Working Group on Small Arms was established in 2001 to harmonize national legislation.

Africa

Africa has a range of regional and subregional instruments and agreements that are of relevance to an ATT, mostly in the area of SALW controls. The following is a short compilation of activities by the African Union, the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC).

Within the African Union, member states have agreed on the African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, often referred to as the Bamako Declaration.⁸² The Declaration identifies harmful consequences of SALW proliferation and welcomes efforts at the national and regional level to develop action programmes to address it. At the national level, it recommends the establishment of coordination agencies to oversee all aspects of SALW; enhancements to national law enforcement capabilities; the criminalization of illicit SALW manufacturing, trafficking and possession; and the development of a range of national programmes. At the regional level, states are encouraged to harmonize their SALW policies and to strengthen cooperation among police, customs and border control services. The Declaration also appeals to the wider international community, and to arms-supplying states in particular, to support and cooperate with the African Union in its arms control efforts. The Bamako Declaration has since been followed up by the African Common Position to the Review Conference on Progress Made in the Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all its Aspects (the Windhoek Common Position).⁸³

Within ECOWAS, the Moratorium on the Importation, Exportation and Manufacture of Light Weapons in West Africa was adopted on 31 October 1998 with the principal aim of facilitating conflict-sensitive development through preventive disarmament. Through this instrument, made legally binding in 2006 and renamed the ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and other Related Materials, states in the region seek to combat the destabilizing accumulation of SALW and consolidate the gains previously made by the Moratorium. The Convention prohibits the international transfer of SALW within the subregion unless a member state obtains an exemption from the ECOWAS Secretariat, sets limits and guidelines on the manufacture of SALW, contains a provision for a register of arms and calls for a dialogue with manufacturers and international suppliers. The ECOWAS Executive Secretary and Conference of All Parties to the Convention assume responsibility for implementation and compliance. The Executive Secretary may request member states to provide relevant information to be reviewed by a Group of Independent Experts, and the ECOWAS Court of Justice may impose sanctions in response to violations.

82 The politically-binding African Common Position on SALW was adopted on 1 December 2000 in Bamako, Mali, by the member states of the then Organization of African Unity.

83 The Windhoek Common Position was adopted by the Continental Conference of African Government Experts on the Illicit Trade in SALW on 16 December 2005, in preparation for the 2006 Review Conference of the PoA.

In Southern Africa, the SADC Protocol on Control of Firearms, Ammunition and Other Related Materials, adopted on 14 August 2001, is a legally-binding instrument that aims to prevent, combat and eradicate the illicit production of firearms, and to promote cooperation and information exchange at both the regional and international level. Under the Protocol, states undertake to prohibit the unrestricted possession of small arms by civilians, and to totally ban the possession and use of light weapons by civilians. States are required to enact national legislation to criminalize the illicit production of firearms; to sanction criminally, civilly or administratively violations of arms embargoes mandated by the UN Security Council; to coordinate national training programmes for relevant officials; and to manage firearm storage. In relation to arms transfers, SADC states are required to coordinate procedures for the import, export and transit of firearm shipments, to regulate firearm brokering in their territories, to establish national databases and to acquire equipment to control the movement of firearms across borders.

In Central and Eastern Africa, the Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa was signed in 2000 to provide a comprehensive framework to combat illicit SALW, which can prolong conflicts and undermine political stability and human security. Arising from the Nairobi Declaration, the Regional Center on Small Arms and Light Weapons coordinates the joint efforts of national focal points in member states. In Central Africa, the Economic Community of Central African States has also taken steps in fighting the illicit trade and proliferation of SALW in the region. A legally binding treaty on this issue for Central Africa is under discussion and is planned to enter into force by the end of 2010, aimed at helping to harmonize laws and other relevant procedures in the region.

Asia and the Pacific

Currently, there is no overarching regional instrument in the Asia-Pacific region to control transfers of conventional arms. As a regional organization, the Association of Southeast Asian Nations (ASEAN) has addressed issues of arms control, with a focus on combating the illicit trade in SALW, principally in the context of transnational crime. The ASEAN Plan of Action to Combat Transnational Crime was adopted by the second ASEAN Ministerial Meeting on Transnational Crime in June 1999. This politically binding instrument builds on earlier ASEAN declarations, which emphasized the role of arms smuggling in transnational criminal activities and the need for comprehensive action and regional cooperation against it. The Plan aims to extend the scope of ASEAN member state efforts at the national, bilateral and regional level against transnational crime, including arms smuggling, by criminalizing arms smuggling and other specific transnational activities, and by enhancing cooperation and coordination in law enforcement and intelligence. The Plan also provides the basis for capacity-building through the development of regional training programmes and regular conferences. On 17 May 2002, ASEAN agreed a Work Programme to implement the Plan. The Programme includes a specific section on combating arms smuggling, which stipulates actions to be taken pertaining to information exchange, the harmonization of marking systems, intelligence exchange and cooperation, the development of regular training programmes and the creation of a database on illicit arms trafficking.

In the Pacific, the control of weapons has been on the agenda of the Pacific Islands Forum Secretariat for some time. In 1996, Forum leaders recognized the seriousness of increased movement of weapons throughout the region and called on Forum members to work together to control such movements. As a result, regional police and customs bodies developed the Nadi Framework, promulgated by the South Pacific Chiefs of Police Conference in 2000. The Framework proposed strict, uniform controls on the possession and use of firearms, ammunition, other related materials and prohibited weapons, as well as export, import and transit controls. It also provided the basis for development of model legislation on weapons control for Forum member states. The Pacific Islands Forum Secretariat is committed to implementing the PoA and to assisting Forum states in curbing the illicit traffic in SALW. It has supported regional programmes such as the Strengthening of Armouries Project, implemented by Australia and New Zealand, the Bougainville Peace Agreement Weapons Disposal Programme, and the development of Pacific small arms legislation.

The Middle East

As the primary regional organization in the Middle East, the League of Arab States has taken ATT-relevant action mostly in the context of the PoA. In 2001 it agreed on a Common Position on the PoA and has since been working with its member states on implementation. In addition, in 2002 the Council of Arab Interior Ministers adopted the Arab Model Law on Weapons, Ammunitions, Explosives and Hazardous Material. It encourages states to regulate the import, export, trade, transport and repair of weapons and ammunition in their territories, and to criminalize violations of its provisions. It forbids the above activities in the absence of a license, and non-governmental authorities are prohibited from manufacturing, importing, selling or possessing military weapons and their ammunition.⁸⁴ To enforce domestic compliance, the Model Law suggests endowing enforcement bodies with powers to enter places of arms manufacture and trade, to conduct searches and to certify implementation. Criminal penalties for violation are also proposed in the form of suggested ranges of periods of imprisonment for specific violations.

Wider Europe

OSCE AND SUBREGIONAL INSTRUMENTS

Wider Europe is of particular relevance to the proposed ATT due to the existing regional arms control instruments, which offer guidance for those involved in the ATT process, and the presence in the region of three of the five biggest arms exporters. As a regional organization spanning from Vancouver to Vladivostok, the Organization for Security and Co-operation in Europe (OSCE) has taken several steps to improve regional controls of conventional arms transfers. One of the key OSCE documents addressing the issue of responsible arms transfers is the Principles Governing Conventional Arms Transfers, adopted on 25 November 1993.⁸⁵ By adopting the document the participating states agreed to exercise restraint in the transfer of conventional arms and related technology, and reaffirmed their undertaking “to promote the establishment of international peace and security with the least diversion for armaments of human and economic resources and their view that the reduction of world military

84 The Model Law defines military weapons as “firearms specially designed for the use in military operations, such as machine guns, cannons, missiles and their spare parts”.

85 *Principles Governing Conventional Arms Transfers*, OSCE document DOC.FSC/3/96, 25 November 1993.

expenditures could have a significant positive impact for the social and economic development of all peoples”;⁸⁶ in 1997, an annual information exchange on transfers of weapons equipment systems was added.⁸⁷ Factors to be taken into account by OSCE states while considering proposed transfers include the recipient’s respect for human rights and fundamental freedoms, the internal situation of the recipient and regional situation in light of existing tensions or armed conflict, the recipient’s record of compliance with international commitments, the ability of the recipient to exercise its right to self-defence and the legitimate domestic security needs of the recipient, whether transfers contribute to an appropriate and proportionate response by the recipient to military and security threats, and as well materiel requirements for participating in peacekeeping operations.

In addition to the Principles, the OSCE adopted in 2000 the Document on Small Arms and Light Weapons, a politically binding agreement in which OSCE states agreed to norms, principles and measures to control each stage in the life of a weapon: production, transfer, storage, collection or seizure, and destruction. Transparency measures established by the Document commit states to a comprehensive regime of information exchange on legislation and national practices in all aspects of SALW control identified above. In addition, participating states committed themselves to exchanging data annually on their SALW exports to and imports from other OSCE states, as well as on small arms deemed as surplus or seized and destroyed in their territory in the previous calendar year. For reasons of financial or technical capacity, some participating states have difficulty complying with the requirements of the Document. In order to assist them, the handbooks of best practices on SALW and on ammunition were developed.

The Principles and the Document on SALW are examples of the interlocking regime of obligatory and verifiable information exchanges and notifications on military holdings and activities, and armed force levels, developed by the organization as part of its regime of confidence- and security-building measures (CSBMs). Other ATT-relevant instruments within the regime are the Vienna Document 1999⁸⁸ and the Global Exchange of Military Information,⁸⁹ all of which are discussed weekly by the OSCE’s Forum for Security Co-operation (FSC).

To support the OSCE’s main CSBMs, the FSC has developed an export-control package covering different areas of SALW export: the Standard Elements for End-User Certificates and Verification Procedures for SALW Exports, the Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS), and the OSCE Principles on the Control of Brokering in Small Arms and Light Weapons. In 2009, the OSCE states exchanged sample end-user certificates in order to assist in the national processes of authenticating them before approving an export license.

In South-Eastern Europe, the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), established in 2002 as a component of the Regional Implementation Plan on Combating the Proliferations of Small Arms and Light Weapons, works to stop the flow and availability of SALW in the region, to support the socio-economic conditions for peace and development.

86 Ibid., para. 3.

87 In decision 13/97 of 16 July 1997.

88 *Vienna Document 1999 of the Negotiations on Confidence- and Security-Building Measures*, OSCE document FSC.DOC/1/99, 16 November 1999.

89 *Global Exchange of Military Information*, OSCE document DOC.FSC/5/96, 28 November 1994.

THE EUROPEAN UNION

In accordance with the 2003 European Security Strategy, the European Union has sought to improve the regulation of the conventional arms trade.⁹⁰ First, in relation to combating the illicit trade, the European Union has concentrated on regulating the trade and proliferation of SALW. In December 2005, the European Council built upon the 2002 EU Joint Action⁹¹ by adopting a Strategy to Combat Illicit Accumulation and Trafficking of SALW and Their Ammunition.⁹² The Strategy identifies the illicit trade in SALW as a growing threat to international peace, security and development in many parts of the world and outlines an overarching policy framework. Furthermore, it specifies regions and countries that are particularly afflicted by the illicit trade and might need specific assistance. It advocates the employment of the full spectrum of EU civilian and military capabilities to combat the illicit trade and describes the need to cooperate with partners around the world through a process of “effective multilateralism”. The Strategy also incorporates an Action Plan, which commits EU member states to implement the PoA, and offers EU financial and technical assistance to build the capacities of third parties.

Secondly, the European Union has sought to construct a more effective regulatory framework to oversee the legal trade. The most important instrument is the Common Position, adopted on 8 December 2008 by the Council of the European Union.⁹³ The Common Position is the latest result of a process dating back to 1998 starting with the adoption of the European Union Code of Conduct on Arms Exports. The Code of Conduct was a politically binding agreement for all member states that aimed to set high common standards for the regulation of conventional weapons transfers. It specified eight criteria for the assessment of applications for conventional arms exports, established a notification and consultation mechanism for denials and included a transparency procedure that entailed the publication of annual reports on EU arms exports.

Compared to the Code of Conduct, the Common Position includes several new elements that widen and deepen the scope of application. These include its legally binding status, extension of controls to brokering, transit, transshipment and foreign licensed production, and strengthening of implementation procedures. The Common Position commits EU member states to assess arms export requests according to eight criteria:⁹⁴

- **Existing international commitments.** “Respect for the international obligations and commitments of Member States, in particular the sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.”

90 Council of the European Union, *A Secure Europe in a Better World: European Security Strategy*, 12 December 2003.

91 Council of the European Union, *On the European Union’s Contribution to Combating the Destabilising Accumulation and Spread of Small Arms and Light Weapons and Repealing Joint Action 1999/34/CFSP*, EU document 2002/589/CFSP, 12 July 2002. The Joint Action commits the European Union to a range of measures, including efforts to ensure exports of SALW are approved in accordance with existing arms export criteria, and that SALW are imported only for legitimate security needs and at levels commensurate with them. It also provides the legal basis for member states to provide assistance to SALW programmes, including those conducted by the United Nations, the International Committee of the Red Cross, and other international and regional organizations.

92 Council of the European Union, *EU Strategy to Combat Illicit Accumulation and Trafficking of SALW and their Ammunition*, EU document 5319/06, 13 January 2006.

93 Council of the European Union, *Defining Common Rules Governing Control of Exports of Military Technology and Equipment*, EU document 2008/944/CFSP, 8 December 2008.

94 *Ibid.*, art. 2.

- **Human rights and international humanitarian law.** “Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law.”
- **Internal situation of state of final destination.** “Internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.”
- **Regional stability.** “Preservation of regional peace, security and stability.”
- **National security.** “National security of the Member States and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries.”
- **Behaviour of the buyer state.** “Behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law.”
- **Risk of diversion.** “Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions.”
- **Development.** “Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient state, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments.”

The scope of the weapons and items included in the Common Position is very broad, and drawn from the EU Common Military List.⁹⁵ The strengthened consultation procedure established by the Common Position commits states to circulate information about the export licenses they have denied and to explain the reasoning behind the decision. Following the denial of an export license by a member state, any other state seeking to grant a license for an essentially identical transaction must consult the state that issued the denial.

Due to the constant changes in military technology and the arms trade, the Council of the European Union assesses the implementation of the Common Position annually. The European Union has also produced a User’s Guide aimed at assisting member states in implementing the Common Position, intended primarily for the use of export licensing officials.⁹⁶ Through implementing the Code of Conduct and the Common Position, EU member states have harmonized their national arms export policies and succeeded in constructing a comprehensive regulatory structure over the transfer of conventional weapons.⁹⁷

In addition to regulating the arms export control policies of its members effectively, the European Union is interested in the conventional arms export controls policies of non-EU states. EU institutions and member state governments have been particularly active in pressing for the swift negotiation of a legally binding ATT, and to this end sponsored the UNIDIR project “Promoting Discussion on an Arms Trade Treaty”. The European Union has also organized

95 Council of the European Union, *Common Military List of the European Union*, EU document 2008/C 98/01, 10 March 2008.

96 Council of the European Union, *User’s Guide to Council Common Position 2008/944/CFSP Defining Common Rules Governing the Control of Exports of Military Technology and Equipment*, EU document 9241/09, 29 April 2009.

97 The Code of Conduct and Common Position are widely recognized as two of the most comprehensive and sophisticated instruments regulating the trade in conventional weapons. However, their overall effectiveness remains subject to debate. See M. Bromley, *The Impact on Domestic Policy of the European Union Code of Conduct on Arms Exports: the Czech Republic, the Netherlands and Spain*, SIPRI, Policy Paper 21, 2008.

outreach activities to promote the principles and criteria of the Common Position, and made accession to the organization conditional upon the candidate state implementing Common Position provisions.⁹⁸

The European Union has supported the ATT initiative since its outset. On 17 November 2005, the European Parliament passed a resolution expressing its full support for the ATT process and urging member states to do the same.⁹⁹ All EU member states cosponsored the ATT resolutions of 2006, 2008 and 2009, and the resolution's co-authors include two EU member states (the United Kingdom and Finland). In its conclusions of 3 October 2005, 11 December 2006 and 10 December 2007, the Council of the European Union welcomed the commencement of the process toward the elaboration of a legally binding ATT.¹⁰⁰ The Council reaffirmed that the European Union and its member states would play an active role in this process and underlined the importance of cooperation with other states and regional organizations, and recognizes that "establishing common international standards for the import, export and transfer of conventional arms would be a major contribution to tackling the undesirable and irresponsible proliferation of conventional arms which undermines peace, security, development and full respect for human rights".¹⁰¹

Civil society action

Non-governmental organizations (NGOs) and other civil society groups have been at the centre of the ATT process since its earliest phases. Civil society involvement in the ATT process follows a long-standing tradition of campaigning on disarmament and arms control issues.¹⁰² Academia has engaged with arms control debates through the field of peace research, the scholarship of which is directed by normative considerations intended to help bring about a more peaceful world.

In the ATT process, the crucial role of civil society organizations has been widely recognized. In the context of arms transfer controls, civil society became active during the 1980s following revelations regarding weapons transfers to Uganda by the United Kingdom, Germany, the United States and other states. Amnesty International, together with a group of other NGOs,

98 Through the adoption of Council Joint Action 2008/230/CFSP, the European Union launched a series of regional outreach seminars which bring together arms control and policy experts from EU member states with from interested third parties, especially neighbouring states. Beneficiaries include the states of South-Eastern Europe; North African, Mediterranean and Caucasian partners of the European Neighbourhood Policy; as well as Turkey and Ukraine. The outreach seminars offer assistance in drafting and implementing legislation to ensure effective control of arms exports, and provide an opportunity for third countries to familiarize themselves with the criteria and principles of the EU Code of Conduct.

99 European Parliament, *European Parliament resolution on the Council's Sixth Annual Report According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports*, 17 November 2005.

100 Council of the European Union, *Council Conclusions on an International Treaty on the Arms Trade*, 2678th General Affairs and External Relations Council Meeting, 3 October 2005; Council of the European Union, *EU Council Conclusions on Arms Trade Treaty*, 2770th General Affairs and External Relations Council meeting, 11 December 2006; and Council of the European Union, *Council Conclusions on a Legally Binding International Arms Trade Treaty*, 2839th General Affairs and External Relations Council Meeting, 10 December 2007.

101 Council of the European Union, *EU Council Conclusions on Arms Trade Treaty*, 2770th General Affairs and External Relations Council meeting, 11 December 2006.

102 Two key developments within this tradition include the establishment of campaigns against the production and proliferation of nuclear weapons in the 1950s and heightened civil society activism over the trade of SALW since the 1990s.

started discussing an idea for a legally binding instrument drawing on existing principles of international law and standards to prevent irresponsible arms transfers. In 1993, with help from international lawyers, these NGOs began work to draw up a draft Code of Conduct on Arms Transfers for the European Union. At the same time, the Arias Foundation in Costa Rica was working toward an international code of conduct. In 1995 together with the American Friends Service Committee, Amnesty International, the British American Security Information Council, Saferworld and others, they drafted a proposal for an International Code of Conduct on Arms Transfers. Encouraged by the success of the international campaign to ban landmines, Arias called upon a group of fellow Nobel Peace Laureates to promote this Code, which would require states to adopt national mechanisms for the explicit authorization of all international arms transfers. By 2000, the draft International Code was transformed into a more refined proposal, the Framework Convention on International Arms Transfers, and began to be promoted as the “Arms Trade Treaty”.

NGOs and civil society groups have supported the ATT process through the umbrella structures of the Arms Trade Treaty Steering Committee (ATTSC) and the Control Arms Campaign. The ATTSC, established in 2002, comprises a large number of NGOs specializing in work on arms control, human rights and development.¹⁰³ The ATTSC coordinates the strategic direction of the civil society organizations in their advocacy work toward an ATT. The Control Arms Campaign, launched in October 2003, is aimed at building awareness and political commitment to the idea of an ATT. It was developed by the three largest NGO members of the ATTSC, Amnesty International, Oxfam International and the International Action Network on Small Arms (IANSA).

In 2005 the ATTSC agreed on a strategy that details the advocacy initiatives it undertakes in support of the ATT process, including sponsoring research, lobbying governments and training civil society activists. The strategy directs the ATTSC in presenting the material and security benefits of an ATT to stakeholders and in developing new approaches toward those states sceptical of an ATT. Also in 2005, the ATTSC also published *Global Principles for International Arms Transfers*, which it also promoted worldwide as a blueprint for drafting an effective ATT. These principles have subsequently been elaborated through a series of position papers by the Control Arms Campaign, which offer suggestions for the parameters and scope of an ATT.¹⁰⁴ The Control Arms Campaign has as part of its advocacy work condensed civil society’s main demands for an ATT and the *Global Principles* into five “Golden Rules”:¹⁰⁵

States shall not authorize international transfers of conventional arms or ammunition where they will:

(i) be used or are likely to be used for gross violations of international human rights law or serious violations of international humanitarian law.

103 The current members of the ATTSC are the African Peace Forum (Kenya), Amnesty International, the Arias Foundation (Costa Rica), the Asociación para Políticas Públicas (Argentina), Caritas International, the Friends Committee on National Legislation (United States), the Instituto Sou da Paz (Brazil), the International Action Network on Small Arms, Nonviolence International (Thailand), Oxfam International, Project Ploughshares (Canada), Saferworld (United Kingdom), the Schweitzer Institute (United States), the Swedish Fellowship of Reconciliation, Viva Rio (Brazil) and the Women’s Institute for Alternative Development (Trinidad and Tobago).

104 ATTSC, *Compilation of Global Principles for Arms Transfers*, Amnesty International, 2007.

105 From the Control Arms website, <<http://www.controlarms.org/en/arms-trade-treaty/golden-rules-for-an-arms-trade-treaty>>.

(ii) have an impact that would clearly undermine sustainable development or involve corrupt practices.

(iii) provoke or exacerbate armed conflict in violation of their obligations under the UN Charter and existing treaties.

(iv) contribute to an existing pattern of violent crime.

(v) risk being diverted for one of the above outcomes or for acts of terrorism.

The ATTSC and the Control Arms Campaign began campaigning publicly with the Million Faces Petition, which brought together more than a million people worldwide between 2003 and 2006 to call for an international treaty on arms trade. It involved individuals submitting portraits of themselves as an expression of their support for a future ATT, which were formally submitted to the UN Secretary-General Kofi Annan in June 2006. In 2007, NGO members of the Control Arms Campaign conducted a “People’s Consultation” on the ATT as alternative to the UN Secretary-General’s call for the views of Member States on an ATT.¹⁰⁶ The Campaign has also worked to give voice to victims of armed violence through IANSA’s annual Global Week of Action Against Gun Violence. They have also published a series of reports pertaining to the arms trade, addressing issues ranging from the impact of the arms trade on development to armed violence against women, child soldiers and the trade in munitions. Civil society actors are widely utilizing new media, such as campaigning websites, YouTube, Facebook and Twitter mini-blogging to advance their cause.

The Control Arms Campaign has been particularly visible and has organized events and campaigns in the margins of UN General Assembly’s First Committee meetings, especially in the lead-up to voting on ATT resolutions in 2006, 2008 and 2009. For example, in 2008, under the slogan “the world is watching”, civil society campaigners brought a pair of giant sunglasses to the First Committee’s meeting area, and cycled with rickshaws to the 192 delegations of UN Member States in 192 minutes. While people undoubtedly have different opinions about the methods and effectiveness of such campaigning, the role of civil society actors as motivators for states’ voting in the resolutions has been widely recognized.¹⁰⁷

Civil society organizations have become important partners of states in the process toward an ATT and improved arms transfer controls. General Assembly resolution 64/48 for example takes note of the role played by civil society “to enhance cooperation, improve information exchange and transparency and assist States in implementing confidence-building measures in the field of responsible arms trade”.¹⁰⁸

NGOs were involved also in the EU–UNIDIR project, and in addition to participating in the regional seminars, they organized their own workshops in the lead-up to most EU–UNIDIR events.¹⁰⁹

106 *Voices From Around the World. The People’s Consultation 2007—Global Report*, Control Arms Campaign, 2007.

107 K. Epps, “Regional Dimensions of Small Arms Transfers Standards”, *Ploughshares Monitor*, vol. 28, no. 2, 2007.

108 General Assembly, *The Arms Trade Treaty*, UN document A/RES/64/48, 12 January 2010.

109 Events organized by civil society actors in conjunction with the EU–UNIDIR project included a seminar for Central, Northern and Western African civil society representatives in Lomé, Togo, 15–16 April 2009; for the Middle East in Cairo, Egypt, 31 March–1 April 2009, and in Beirut, Lebanon, 7–8 July 2009; for Asia and the Pacific in Bangkok, Thailand, 26–27 September 2009; for Eastern and Southern Africa in Addis Ababa, Ethiopia, 5–7 December 2009; and a global event in Vienna, Austria, 10–11 February 2010.

EU-UNIDIR PROJECT ON AN ATT— IMPLEMENTATION AND OUTCOMES

This chapter presents the project that UNIDIR implemented for the European Union to promote discussion on an ATT. It starts by describing the project, its main activities and target groups, as well as by introducing the partner organizations and expert participants. Furthermore, brief overviews of seminars organized as part of the project are provided, together with materials produced as part of its implementation. Finally, the chapter will discuss the planned and achieved outcomes of the project, based on received feedback and perceived results.

The description of the project is included in the report to provide background and explanations to the main thematic results and recommendations of the project, which are presented in the following chapter.

Introduction to the EU-UNIDIR project

In January 2009, the Council of the European Union took a decision “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”.¹¹⁰ Adopted under title V of the Treaty on European Union, the decision belongs under the provisions of the European Union’s Common Foreign and Security Policy. Furthermore, as indicated in the title, it falls under the 2003 European Security Strategy, which calls for an international order based on effective multilateralism and acknowledges the United Nations Charter as the fundamental framework for international relations.

The decision was a logical continuation of the Council of the European Unions’ involvement in and support of the ATT process: after the adoption of the first ATT resolution by the UN General Assembly in 2006, the Council welcomed the formal start of the process toward the elaboration of a legally binding ATT and noted with appreciation that a clear majority of UN Member States had supported the resolution, including all EU member states. The Council reaffirmed that the European Union and its member states would play an active role in the process, and underlined the importance of cooperation with other states and regional organizations. Later, the Council expressed its support of the work and the report of the GGE, and all EU member states cosponsored the 2008 ATT resolution in the UN General Assembly.

Given the importance that the Council places on the ATT process and on the European Union’s continued support of it, the 2009 decision can be seen as a measure to reinforce the work that had already been accomplished by opening the debate to include states that had not been members of the GGE, as well as other actors in civil society and industry, to promote the participation of all stakeholders in the discussion on an ATT, to integrate national and regional

110 Council of the European Union, *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*, EU document 2009/42/CFSP, 19 January 2009.

contributions to the international process under way, and to identify the scope and implication of the proposed ATT.

Supporting the United Nations and helping it to fulfil its responsibilities and act effectively are priorities of the European Union. Consequently, UNIDIR was selected to implement the project stemming from the decision.

The project objectives were:

- increase awareness among national and regional actors, UN Member States, civil society and industry of the current international discussions around an ATT;
- reinforce the purpose of the GGE and strengthen the United Nations as the only forum that can deliver a truly universal instrument;
- contribute to the better involvement of all UN Member States and regional organizations in the ATT process;
- encourage the exchange of views among states represented in the GGE and those not represented;
- foster debate among UN Member States, particularly among those not represented in the GGE;
- promote an exchange of views among UN Member States, regional organizations, civil society and industry;
- identify possible elements, the scope and the implications of an ATT; and
- share these debates and views with the international community.

In order to achieve these goals, UNIDIR was entrusted with the organization of a series of regional seminars, together with other support activities.

General structure

The core activity of the project was the organization of six regional seminars, aimed at predetermined geographical groupings of states and other actors relevant to the ATT process, plus a project launch event, a side event in the margins of the UN General Assembly, and a closing event. The regional seminars and other project activities took place between February 2009 and February 2010:

- West, Central and North Africa in Dakar, Senegal, 28–29 April 2009;
- the Americas and the Caribbean in Mexico City, Mexico, 18–19 June 2009;
- the Middle East in Amman, Jordan, 28–29 July 2009;
- Asia and the Pacific in Kuala Lumpur, Malaysia, 13–14 October 2009;
- Eastern and Southern Africa in Addis Ababa, Ethiopia, 10–11 December 2009; and
- Wider Europe in Vienna, Austria, 11 February 2010.

In addition, the following activities were organized:

- the launch event in Geneva, Switzerland, 24 February 2009;

- a side event in the margins of the 64th Session of the First Committee, 20 October 2009; and
- the project's concluding seminar in Vienna, Austria, 12 February 2010.

The following groups of participants were invited to the regional seminars:

- representatives from states in the region;
- representatives from regional organizations;
- representatives from NGOs;
- representatives from local/regional industry;
- representatives from UNIDIR and the United Nations Office for Disarmament Affairs (Conventional Arms Branch and Regional Branch, including regional centres as appropriate);
- technical experts from EU member states, including representatives from industry; and
- representatives from partner organizations SIPRI and FRS.

To maintain balance in discussions and to follow the budget set for the project's implementation, UNIDIR invited states to nominate one or two expert participants with practical experience on issues related to the conventional arms trade and its controls to attend the seminars. In addition, the number of representatives from other actors was limited to one or two each, while allowing for regional specificities and other considerations. In addition, the opening and closing sessions of all regional seminars were open to all interested parties.

The agendas of all the regional seminars followed the same general format, but were tailored to regional specificities. Generally, the agendas of the two-day seminars were developed to give participants a general overview of an ATT, its background, scope and implications, together with specific regional views and priorities, and related processes.¹¹¹ Efforts were also made to ensure that enough room was left for interactive discussions to gather ideas for further action, recommendations and suggestions.

The first day of the seminars was conducted in a plenary format, with presentations from expert participants followed by question and answer sessions. The second day was largely built around working group sessions, followed by discussions in the plenary, aimed at allowing participants to further express their views and ideas and to discuss different issues relevant to the proposed ATT. Seminar participants were divided into working groups that were asked to think about answers and suggestions to four questions related to the situation their region, the trade in conventional arms, its impacts and the proposed ATT. This gave participants the opportunity to express their ideas and priorities and to make recommendations related to their specific interests and concerns. The purpose of the working group sessions was not to reach a consensus on the questions but to come up with different opinions, ideas and suggestions. Issues discussed included participants' views about problems related to the uncontrolled trade of conventional arms in their countries and in the region and possible ways to address them, common parameters for the proposed ATT, as well as potential elements that could or should be included in an ATT to make it effective, objective and practically implementable. Participants

¹¹¹ The Wider Europe seminar was a one-day activity, and therefore its agenda was a condensed version of the agendas of the other regional seminars.

were also asked to think about the next steps in the ATT process nationally, regionally as well as internationally, and to identify priorities and coming challenges. In advance of the seminar, food-for-thought questions were sent to participants, so that they could start thinking about the issues that were taken up in the working group sessions.

Summary reports from all the regional seminars outlining discussions, ideas and recommendations put forward for an ATT have been made available online on UNIDIR's website and distributed at related events such as the meetings of the OEWG.

At UNIDIR, the organizational set-up for the project consisted of a full-time Project Manager and a part-time Associate Project Officer. In addition, UNIDIR core staff participated in the project by providing supervision, administrative assistance and support. In implementing the project, UNIDIR kept in regular contact with a number of key stakeholders, including the EU Council Secretariat, Presidencies of the European Union (the Czech Republic, Sweden and Spain), and the European Commission, as well as different UN offices and departments, and civil society actors.

Partner organizations

In addition to working with numerous organizations and institutions, UNIDIR was asked by the European Union to seek the input of two organizations working on issues related to the production and trade of conventional weapons in order to strengthen the research component of the project, to ensure the broadest possible substantive input, and to improve its overall utility and policy relevance. The two organizations selected by the European Union were the Stockholm International Peace Research Institute (SIPRI) based in Sweden, and the Fondation pour la recherche stratégique (FRS) based in France. In addition, UNIDIR commissioned background research from the ATTSC.

Stockholm International Peace Research Institute

SIPRI is an independent international institute that conducts research on problems of peace and conflict. Established in 1966, SIPRI possesses a unique collection of information and conducts research on arms control and disarmament, arms transfers and armed conflicts and conflict management among other things. SIPRI also publishes an annual report on arms transfers and maintains a range of extensive databases on arms transfers, national export control systems, arms production and military expenditures. The Institute maintains contacts with a range of other research centres and individual researchers, and cooperates closely with several intergovernmental organizations.

For the EU–UNIDIR project, SIPRI provided a series of background papers, both on recent trends in the global trade in conventional arms and on regional developments, tailored to the regions of the project seminars. In addition, SIPRI representatives made presentations during the seminars and were actively involved in their discussions. The background papers are available on the UNIDIR and SIPRI websites. Audio files of the SIPRI presentations from the regional seminars are available on the project webpage.¹¹²

112 <www.unidir.org/bdd/fiche-activite.php?ref_activite=431>.

Fondation pour la recherche stratégique

FRS is an independent institute that conducts research on questions of security and defence, most notably in Europe, with the aim of fostering dialogue among different actors and contributing to a better analytical understanding of these issues. FRS conducts programmes on a wide variety of security-related issues and its studies are widely published and read. As a partner institute, UNIDIR asked FRS to provide two background papers. The first one analysed possible parameters and scope of an ATT, building on FRS's previous and ongoing research on the proposed treaty. The second paper focused on the possible implementation and monitoring mechanisms of an ATT both at the national and international level.

In addition, FRS supported UNIDIR by actively participating in the project activities. FRS made presentations at most of the seminars and was actively involved in the discussions. The FRS background papers are available on the UNIDIR and FRS websites. Audio files of the FRS presentations from the regional seminars are available on the project webpage.¹¹³

Other contributors—expert participants and civil society partners

In addition to the project partners named in the Council Decision, UNIDIR was tasked to “work with institutions such as regional organisations, NGOs and industry” as appropriate. A range of expert participants were invited to the regional seminars, both to give presentations and to participate in the discussions. Following the general structure of the seminars, one expert from the European Union was invited to give a presentation about the EU Common Position and its implementation. As an important partner for UNIDIR in the project, the UN Office for Disarmament Affairs also sent participants to the project events, representing both the Conventional Arms Branch and the Regional Disarmament Branch, including the UN regional centres as appropriate. Furthermore, experts from the International Committee of the Red Cross (ICRC) participated in the project events and provided presentations about international humanitarian law criteria and an ATT.

In addition to working with SIPRI, FRS, Office for Disarmament Affairs, ICRC and EU experts, UNIDIR placed special importance on working with civil society in project implementation. Civil society representatives were invited to the regional seminars to speak alongside UN delegates about their involvement in the ATT process, and NGO representatives actively participated in discussions in the plenary sessions and the working groups. In addition, through the ATTSC, civil society contributors selected two organizations, the Instituto Sou da Paz of Brazil and Amnesty International UK, to produce a background paper on civil society's role and activities in the ATT initiative. The background paper builds on the ATTSC's previous and ongoing advocacy work and research on the proposed ATT, and provides an assessment of civil society's involvement in, input to and aims regarding a legally binding global treaty to control the trade in conventional arms.

113 Idem.

Seminars

The following section presents a summary of each of the activities organized as part of the project. Emphasis will be on the organizational aspects of the seminars, with mention of selected regional priority issues. The overall substantial findings and recommendations from the seminars are discussed in the following chapter.

Launch event

Geneva, Switzerland, 24 February 2009¹¹⁴

The project launch event took place in the afternoon of 24 February 2009 at the Palais des Nations, Geneva, Switzerland, one week prior to the first meeting of the OEWG. It brought together around 140 participants from UN Member States, international organizations and civil society. The launch event presented the aims of the project as identified by the Council of the European Union. In addition, inputs were sought from states, civil society, researchers and NGOs to secure support for the project's implementation.

The event comprised an opening session and a thematic session with presentations on an overview of the global arms trade, developments and processes within the United Nations, civil society's contribution, global principles for arms transfers, an ATT and international humanitarian law, and scope and implications of an ATT. Many UN Member States were represented by their Ambassadors and Permanent Representatives. From the side of the European Union, the EU High Representative's Personal Representative on Non-proliferation and a representative of the Czech presidency of the European Union were present, and the United Nations was represented by the Director-General of the United Nations Office at Geneva and the United Nations Office for Disarmament Affairs. In addition, the leading organizations of the Control Arms Campaign took part. Presentations made at the event gave a good overview of the issues relevant to the project, and discussions after the presentations brought up additional aspects, comments and questions. The presentations were very well received, and the seminar attracted wide interest among the target groups regarding the activities of the project.

Regional seminar for Central, Northern and Western Africa

Dakar, Senegal, 28–29 April 2009¹¹⁵

The first regional seminar was held in Dakar, Senegal, 28–29 April 2009. It was directed to the states of Central, Northern and West Africa.¹¹⁶ Nineteen out of 27 states invited (70%) sent representatives to the seminar, mostly from Ministries of Foreign Affairs and Defence. In total, the seminar had 58 participants (37 state representatives and 21 other participants).

114 More information about the launching event together with its summary report and audio files of presentations can be found at <www.unidir.org/bdd/fiche-activite.php?ref_activite=429>.

115 More information about the Dakar seminar together with its summary report can be found at <www.unidir.org/bdd/fiche-activite.php?ref_activite=447>.

116 The invited states were Algeria, Benin, Burkina Faso, Cameroon, Cape Verde, the Central African Republic, Chad, Côte d'Ivoire, the Democratic Republic of the Congo, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, the Republic of the Congo, São Tomé and Príncipe, Senegal, Sierra Leone, Togo and Tunisia.

The level of participation was high. The seminar was opened by the Minister of Defence of Senegal, and was attended by several senior representatives from the host state as well as from the other states in the region. Furthermore, the UN Special Representative and Head of the UN Office for West Africa, the Director of the UN Regional Centre for Peace and Disarmament in Africa, the UN Resident Representative in Senegal, as well as representatives of the Czech presidency of the European Union and the Council of the European Union General Secretariat took part in the seminar. In addition to regional and expert participants, the opening and closing sessions of the seminar were attended by several diplomatic representations, as well as numerous journalists. The seminar attracted wide media attention in Senegal and in the region. In addition to newspaper coverage, the seminar was also covered in a news report on national television and in several radio programmes.

Presentations made at the seminar gave a comprehensive overview of the issues relevant to the project and an ATT in the Central, Northern and West Africa, and discussions after the presentations as well as during the working group session brought up additional aspects. Problems caused by illicit transfers of SALW were mentioned as a priority issue in terms of a possible ATT. SALW are the most commonly used weapons in violent conflicts in Africa and its subregions and it is widely acknowledged that the uncontrolled spread of these weapons poses a threat to national and regional stability. Also, SALW represent the bulk of arms transfers in the region. Discussions on SALW transfers and problems related to their proliferation were also linked to human security. It was noted that an ATT could significantly contribute to reducing human suffering, instability and conflicts in Africa by reducing the proliferation of SALW. Reducing suffering and the number of war crimes and crimes against humanity including genocide were noted as important possible contributions of an ATT.

Transparency was highlighted as an important principle guiding arms transfer decisions in a possible ATT. In the African context it was noted that the lack of governmental transparency in arms procurement obstructs an informed debate. Lack of transparency would also be a serious obstacle for the verification and measurement of effectiveness of an eventual ATT.

Further awareness-raising and information exchange in the region was noted to be needed. Involvement of regional organizations in this was highlighted as a priority, together with the need to involve a wider set of actors, including civil society organizations and the media. Finally, inclusiveness was mentioned as a key factor in successful discussions and later negotiations.

Presentations made at the seminar together with other materials were noted as useful and supportive in deepening knowledge and understanding of issues related to an ATT. Based on anonymous feedback, the seminar helped participants to establish new contacts with colleagues in other countries working on ATT-related issues, and a great majority indicated that their participation in the seminar will improve the contribution of their state to the ATT process at the national, regional and international level.

Regional seminar for the Americas and the Caribbean

Mexico City, Mexico, 18–19 June 2009¹¹⁷

117 The summary report of the seminar including its agenda and list of participants can be found at <www.unidir.org/bdd/fiche-activite.php?ref_activite=459>.

The second regional seminar took place in Mexico City, 18–19 June 2009. It brought together representatives from 25 states in the Americas and the Caribbean¹¹⁸ (71% of the invited states), to allow for the exchange of views, ideas and suggestions regarding an ATT from a regional perspective. The working sessions were attended by 59 participants (41 state representatives and 18 other participants), mostly from Ministries of Foreign Affairs and Defence.

The seminar was opened and closed by the Deputy Minister of Foreign Affairs of Mexico, and was attended by several senior representatives. Furthermore, representatives of the United Nations, the OAS, the Czech presidency of the European Union and the Council of the European Union General Secretariat took part in the seminar. In addition to regional and expert participants, the opening and closing sessions of the seminar were attended by several diplomatic representations, as well as by numerous journalists. Civil society from the region was well represented, together with relevant regional organizations and the defence industry.

The seminar attracted wide media attention in Mexico and in the region. The seminar's opening and closing sessions were open to all interested parties including the media, and a press conference was held immediately following the seminar's closing. In addition to newspaper coverage, the seminar was also covered in news reports on national television on 18–19 June, as well as on the radio.

In addition to getting an overview and examples of issues related to the arms trade, presentations made on the security implications of the illicit trade in conventional weapons in the Americas and the Caribbean, interventions on human security, and international humanitarian law significantly contributed to the discussions. Human security was discussed at length. However, specific regional concerns were related not so much to conflicts but to armed violence. Many speakers noted the problems caused by increasing urban armed violence and organized crime, often linked with problems related to trafficking in drugs and SALW. SALW and associated ammunition were noted in this regard to be of primary importance, and many participants referred to the need to include comprehensive categories of SALW and ammunition in an ATT.

Stemming from the strong regional action in the Americas on issues related to arms control and disarmament, there was a specific call from participants for lessons to be drawn from existing regional arrangements, how they have been implemented or why they may not have been. Many stressed that existing regional instruments can feed into and help inform the development of an ATT. It was also noted that a treaty should take into account and reflect regional specificities and priorities. There is wide-spread support for an ATT in the region, and most participants called for a universal, legally binding ATT.

In discussing challenges to an ATT, participants highlighted similar points to those mentioned in Dakar: ATT discussions and later negotiations should strive for truly global participation. A treaty should be comprehensive, but also practical and effective. Among participants, there was a call for more coordination and cooperation among organizations in different regions working on issues related to the arms trade.

118 The invited states were Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, the United States, Uruguay and Venezuela.

Based on the comments received from participants, most representatives were well aware of the ATT process before attending the seminar. Still, a large majority of participants noted that their knowledge on an ATT significantly improved as a result of the seminar. Feedback regarding the agenda, the presentations and regional specificities discussed was overwhelmingly positive, and most participants also found the food-for-thought questionnaire sent before the seminar to be very useful for preparation.

Regional seminar for the Middle East

Amman, Jordan, 28–29 July 2009¹¹⁹

At the end of July 2009, UNIDIR held the third regional seminar of the project in Amman, Jordan, for states in the Middle East.¹²⁰ Nine of the 13 countries invited to the seminar sent representatives (69%). The seminar was attended by 38 participants (22 state representatives and 16 other participants), as well as others attending the opening and closing sessions.

Most governmental participants came from Ministries of Foreign Affairs, Interior and Armed Forces. The seminar was opened by His Royal Highness Prince Mired bin Raa'd Al-Husseini, and it was attended by several experts from the host state as well as from the other states in the region. Furthermore, representatives of the United Nations, the League of Arab States, as well as representatives of the Swedish presidency of the European Union and the Council of the European Union General Secretariat took part in the seminar. In addition to regional and expert participants, the opening and closing sessions of the seminar were open to the participation of diplomatic representations, as well as of international and regional organizations, additional civil society representatives and the media.

The seminar attracted wide media attention in Jordan's Arabic- and English-language press. A press conference was held immediately following the seminar's closing session, during which the media had the chance to ask further questions about the proposed ATT and its possible implications for the states in the region.

Active participation and lively discussions during the seminar showed that states in the Middle East are interested in the ATT initiative and wish to express their views and concerns regarding the proposed treaty. Priorities in the region relevant to the proposed ATT are very much linked to the political, economic and humanitarian effects of conventional weapons, and to the specific security situation and its long-standing impact on the states in the region. Much discussion was devoted to the general principles of international law, and existing agreements and their implementation and interpretation. In terms of global parameters, many participants emphasized the central role of the UN Charter and other relevant documents. The rights to self-defence and of self-determination were frequently mentioned. In terms of the implementation of the proposed treaty, many participants emphasized the importance of objectivity, and noted that there should be a verification and accountability mechanism.

When discussing the challenges to an ATT, the main message was that a comprehensive and balanced approach must be ensured to avoid politicization of the treaty and the creation of

119 The summary report of the seminar including its agenda and list of participants can be found at <www.unidir.org/bdd/fiche-activite.php?ref_activite=465>.

120 The invited states were Bahrain, Egypt, Iran, Iraq, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates and Yemen.

double standards. Any possible treaty should take into account regional and national specificities from early on in the discussions and negotiation process, since it was noted that it is the only way in which a treaty can become truly global and inclusive. Continued dialogue was noted as the most important next step in the ATT process. Many participants also called for more concrete proposals to be made.

The seminar's agenda and presentations received overwhelmingly positive comments. It was noted that the seminar helped participants to establish new contacts. Also, the seminar helped to enlarge participation in discussions on a critical subject by enabling states to be more involved and to express their views, and to improve their knowledge of the potential elements and content of the proposed treaty.

Regional seminar for Asia and the Pacific

Kuala Lumpur, Malaysia, 13–14 October 2009¹²¹

The regional seminar for states in Asia and the Pacific was organized in Kuala Lumpur, Malaysia, 13–14 October 2009. Eighteen of the 28 states invited to the seminar (64%) sent representatives, mostly from Ministries of Foreign Affairs, Defence and Interior.¹²² The seminar's working sessions had 37 participants (23 state representatives and 14 other participants). The seminar was well received by state representatives and international and regional partner organizations alike. The seminar's opening and closing sessions were open to the participation of diplomatic representations, as well as of international and regional organizations, civil society representatives and the media, and was attended by several interested parties outside the seminar's target region.

The opening session heard statements from the Office of the UN Resident Coordinator in Malaysia, the Swedish presidency of the European Union, the Council of the European Union General Secretariat and UNIDIR. Representatives of regional and international organizations and civil society participated in the seminar discussions alongside state officials, expressing their views, recommendations and ideas. The seminar attracted media attention in the English-language press of Malaysia. During the press conference held immediately following the seminar's closing session, the media had the chance to ask further questions about the proposed ATT, its possible implications for the states in the region and the role that the media could play in this process.

Presentations and discussions held during the two-day seminar gave a comprehensive overview of the issues relevant to arms transfers in Asia and the Pacific, the ATT initiative and other related processes. Discussions following the presentations, as well as during the working group sessions, brought up additional aspects, comments and concerns of high importance to the debate ongoing at the international level.

121 The summary report of the seminar including its agenda and list of participants can be found at <www.unidir.org/bdd/fiche-activite.php?ref_activite=485>.

122 The invited states were Afghanistan, Australia, Bangladesh, Bhutan, Cambodia, China, Fiji, India, Indonesia, Japan, Laos, the Maldives, Malaysia, Mongolia, Nepal, New Zealand, Pakistan, Papua New Guinea, the Philippines, the Republic of Korea, Samoa, Singapore, the Solomon Islands, Sri Lanka, Thailand, Timor-Leste, Vanuatu and Viet Nam.

Problems around the illicit and poorly regulated arms trade in Asia and the Pacific were in many instances mentioned to be related to social and domestic violence, organized crime and terrorism. Porous borders and insufficient capacities to control the flow of weapons within the region were mentioned as an additional challenge. It was noted that an ATT could contribute to diminishing the illicit arms trade specifically by preventing the diversion of weapons to illicit markets. Many participants were of the view that for a treaty to be truly universal and objective, it would have to benefit from the constructive and committed participation of the major exporter and importer states. The importance of including major arms exporters and importers was linked to discussions about a consensual approach to an ATT, and some participants called for a consensus-based, step-by-step approach in the ATT discussions.

Several participants stressed the importance of regional mechanisms in controlling the trade in conventional arms. It was noted that an ATT should not contradict states' existing regional commitments, and it should not lead to the lowering of standards in any given region because of lower standards in another. An ATT should take into account the different thematic priorities and challenges of different regions and recognize their specific situations and common problems. A major challenge for an ATT was noted to be guaranteeing flexibility toward these regional specificities.

Based on the received feedback, most participants were either completely or partially aware of the ATT process before attending the seminar. Nevertheless, all participants who returned feedback forms noted that their knowledge of an ATT improved as a result of the seminar. They all also noted that the presentations made during the seminar were useful in reinforcing their knowledge on mechanisms and processes to control transfers of conventional arms, and stimulated their thinking.

First Committee lunchtime seminar

New York, United States, 20 October 2009¹²³

Following the first four regional seminars, UNIDIR organized a lunchtime seminar in the margins of the UN General Assembly's First Committee meeting in New York on 20 October 2009.

The main purpose of the seminar was to provide an update on the EU–UNIDIR project and to address and deepen substantive elements relating to the current ATT debates in different regional contexts. The seminar was aimed at all stakeholders and was open to all interested parties. Over 120 representatives of governments, international organizations, industry and civil society came to listen to the presentations and to participate in the subsequent discussion.

Presentations highlighted key messages from the regional seminars held in Dakar, Mexico City, Amman and Kuala Lumpur. The outcomes of the seminars were analysed in light of the work ongoing at the United Nations by elaborating the issues discussed, proposals from different regions and the way forward. In addition, a possible transparency mechanism for an ATT was discussed. At the seminar, presentations were made by UNIDIR, SIPRI and FRS, and these were followed by discussion and an exchange of ideas.

123 The summary report of the seminar including a more detailed description of the presentations as well as the agenda can be found at <www.unidir.org/bdd/fiche-activite.php?ref_activite=481>.

Regional seminar for Eastern and Southern Africa

Addis Ababa, Ethiopia, 10–11 December 2009¹²⁴

The fifth regional seminar, aimed at 25 states in Eastern and Southern Africa, was held in Addis Ababa, Ethiopia, 10–11 December 2009.¹²⁵ It brought together representatives from 18 of these states (72%).¹²⁶ Most participants were from Ministries of Foreign Affairs, Defence and Interior, as well as from the armed forces.

Altogether 41 participants (26 state representatives and 15 other participants) attended the seminar's working sessions. The seminar was well received by state representatives and international and regional partner organizations alike. The opening and closing sessions were open to the participation of diplomatic representations, as well as of international and regional organizations, civil society and the media. The opening session heard statements from the Ethiopian Ministry of Foreign Affairs, the Swedish presidency of the European Union and UNIDIR. Representatives of regional and international organizations and civil society participated in the seminar discussions alongside state officials, expressing their views, recommendations and ideas. Despite a large number of simultaneous events in Addis Ababa at the time of the seminar, it attracted media attention in the English-language press of Ethiopia.

In the discussions, illegal and uncontrolled transfers of conventional arms in Eastern and Southern Africa were mentioned to be linked to conflicts, crime, instability and piracy. In some remarks, hopes were expressed that an ATT would contribute to the improvement of wider security issues in Africa, including good governance, development and principles of democracy. While many called for an ATT to be comprehensive and cover a wide range of weapons and activities, others expressed caution, especially with regard to the possibilities of reaching consensus and the challenges that a treaty might have in terms of implementation and practicality.

The primary responsibility of states in negotiating and later implementing the treaty was underlined by many, who made reference to states' rights and obligations as express limitations. It was stated that an ATT should respect the right of states to develop their defence and security capacities according to national needs. Transparency in the procurement of arms was noted to be quite low in the region, and many participants expressed the wish that an ATT could improve openness and transparency in the arms trade by shedding light on arms transfers to and within the continent.

Many participants called for more active African participation and a stronger common voice in the ATT negotiations. The importance of bringing on board all states, including large manufacturers and exporters of conventional weapons, was highlighted, together with calls for a global commitment to achieving the proposed ATT's objectives. During the discussions, many participants highlighted the need for further national and regional capacity-building

124 The summary report of the seminar including its agenda and list of participants can be found at <www.unidir.org/bdd/fiche-activite.php?ref_activite=491>.

125 The invited states were Angola, Botswana, Burundi, the Comoros, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, the Seychelles, Somalia, South Africa, the Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

126 Originally, 20 states nominated participants. However, at the last minute the representatives of two states were unable to attend the seminar.

and assistance in improving arms transfer controls and combating the proliferation of these weapons.

Based on the comments received, the majority of participants were either completely or partially aware of the ATT process before attending the seminar. However, the presentations made during the seminar were noted to be interesting and to have strengthened participants' knowledge on mechanisms and processes to control transfers of conventional arms.

Regional seminar for Wider Europe

Vienna, Austria, 11 February 2010¹²⁷

The last regional seminar was held in Vienna, Austria, 11 February 2010. It brought together representatives from 21 states in Wider Europe, mostly from Ministries of Foreign Affairs, coming both from capitals and from the Permanent Missions in Vienna. The working sessions were attended by 56 participants (36 representatives of states¹²⁸ and 20 other participants).

The opening and closing sessions of the seminar heard statements from the Austrian Federal Ministry for European and International Affairs, UNIDIR and Spain, on behalf of the European Union. Representatives of regional and international organizations and civil society participated in the seminar discussions alongside state officials, expressing their views, recommendations and ideas.

The Wider Europe seminar programme aimed to give participants a general overview of an ATT, its background and actors, as well as its scope and implications, together with specific regional views and priorities. Also, much time was devoted to interactive discussions that allowed for the gathering of ideas for further action, recommendations and suggestions. The morning sessions heard presentations from expert participants, while the afternoon was largely built around working group discussions and a wrap-up in the plenary.

Despite the different situations in the participating countries, there was nevertheless widespread support for the ATT process. Many participants called for further discussions and constructive debates at the regional and international level. Various problems related to uncontrolled and poorly regulated trade in conventional arms were discussed, and the potential that an ATT would have in solving these was widely recognized. The primary responsibility of states was underlined in many instances, and participants called for the ATT process to take into account and build on existing regional instruments and arrangements. On one hand many participants stressed the need to stay ambitious and aim at a strong and effective ATT that would establish the highest possible common standards on the arms trade, while on the other hand some pointed out the need to stay realistic and keep in mind what is possible, desirable and feasible. Implementation measures, including transparency and monitoring mechanisms, were discussed at length. Improving national export control systems, involving parliamentarians and industry, developing common positions and continuing assistance and capacity-building efforts were mentioned as preferable next steps in the process.

127 The summary report of the seminar including its agenda and list of participants can be found at <www.unidir.org/pdf/activites/pdf10-act431.pdf>.

128 Six Austrian representatives are included in this number, even though Austria was not a target state of the seminar, and hence is not reflected in the country statistics.

Based on the anonymous comments received, the majority of participants were either completely or partially aware of the ATT process before the seminar. However, most participants noted that their knowledge of an ATT improved significantly as a result of the seminar. Many also indicated that the seminar helped participants to make new contacts with colleagues and contributors from other countries and organizations.

Concluding seminar

Vienna, Austria, 12 February 2010¹²⁹

The concluding seminar of the project was held immediately after the last regional seminar in the Hofburg Congress Centre in Vienna, Austria, 12 February 2010. The seminar brought together over 260 participants representing UN Member States, international organizations, civil society and the defence industry. The level of participation was high. The seminar was opened by the Austrian Minister for European and International Affairs, and many states were represented by their Ambassadors or Permanent Representatives in Vienna. The European Union High Representative's Personal Representative on Non-proliferation was present, along with an ambassador from Spain on behalf of the European Union. The United Nations was represented by the High Representative for Disarmament. The presence of the Chairperson of the ATT Preparatory Committee further highlighted the importance of the EU–UNIDIR project as well as how it hopes to feed in to the UN process.

The main purpose of the seminar was to present the general outcomes of the project to a wide set of stakeholders and to seek their guidance on and confirmation of the findings. The concluding seminar also provided a possibility to discuss the way forward—how the main findings and recommendations from the project's regional events can be taken to the global level and be used to support the ongoing UN process on an ATT in the best possible manner.

The seminar comprised an opening session and two thematic sessions with follow-up discussions. The presentation of general project outcomes and recommendations confirmed that the project's regional events had been successful in highlighting and bringing together regional priorities and challenges for an ATT and also in eliciting important messages that came across in all of the seminars. Discussions during the afternoon about next steps took up the project's main recommendations and moved them forward.

The seminar attracted wide media attention in Austria and in the international press. It was extremely well received, attracted wide interest among the target groups, and hence proved a successful closing for the EU–UNIDIR project.

Materials and other activities

In addition to the regional seminars and other activities, the project produced a series of supporting materials that were distributed at the events and made available electronically. As discussed above, background papers were commissioned from SIPRI, FRS and the ATTSC.

129 The summary report of the seminar including its agenda can be found at <www.unidir.org/pdf/activites/pdf11-act431.pdf>.

In addition, UNIDIR compiled a substantial amount of ATT-related resources to distribute to participants, and encouraged participants to distribute their own materials at the seminars.

Background information on the ATT initiative was distributed on USB keys to interested stakeholders to reinforce the awareness-raising component of the project.

During the project, the UNIDIR website maintained the latest information about the project activities and seminar outcomes. In addition to the project's final report, which is available electronically on the website, UNIDIR will produce a document detailing the main thematic messages from the seminars (discussed in more detail in the following chapter), and distribute it to the project's target audience.

Project results—ideas and recommendations

The overall objective of the project was to promote the participation of all stakeholders in discussions on an ATT, to integrate national and regional contributions in the international process, and to contribute to the identification of the scope and implications of the proposed treaty.

In line with its objectives and based on the outcomes of the activities discussed above, the project produced a number of tangible results. It resulted in increased awareness of an ATT among UN Member States and also among other stakeholders such as civil society and industry. The project activities enabled a deepened exchange of views between actors and enlarged the debate on an ATT. The project supported the ongoing process at the United Nations toward an ATT. One of the most concrete ways in which the project supported the ATT process was by contributing to the identification of a treaty's possible elements, parameters, scope and implications. The outcomes and recommendations from the regional seminars will be presented in detail in the following chapter.

Increased awareness of an ATT

The six regional seminars organized as part of the EU–UNIDIR project brought together almost 300 representatives from governments, regional and international organizations and civil society. A total of 110 states (out of 152 invited) were represented by 185 participants in the regional events.¹³⁰ In addition, 260 people participated in the concluding seminar, with over 80 states represented.

The project activities were received positively and with enthusiasm by all target groups. Based on the number of states, organizations and people involved in the project and judging from the feedback received (36% of participants returned anonymous feedback forms to the organizers), it can be concluded that the project resulted in increased awareness of the ATT process among national and regional actors and other relevant stakeholders.

130 The regional seminars were attended by a total of 289 participants. Of these, 185 were state representatives and 104 were representatives of civil society and regional and international organizations.

A portion of each regional seminar was devoted to presenting general statistics and trends in the conventional arms trade, an overview of the ATT process within the UN, and a treaty's possible scope, parameters and implications. Of those participants who provided feedback, the majority (86%) were either completely (37%) or partially (49%) familiar with the ATT process before attending the seminar. Only 14% noted having only heard of an ATT or having no prior knowledge about it. However, almost all (95%) noted that their knowledge of an ATT improved as a result of the seminar—only five participants said that they had not learned much or said the question was not applicable to them. Hence the project demonstrated that regional activities such as these seminars are a much needed and necessary addition to the international ATT process.

The majority of participants (71%) in the seminars were male. The percentage of women among state representatives was lower than the percentage among representatives of civil society and regional and international organizations. In implementing the project, UNIDIR paid special attention to gender balance and encouraged the participation of women in the regional seminars. However, states were free to nominate their participants regardless of gender considerations.

Deepened exchange of views, enlarged debate

Through its regional seminars, the project enabled the sharing of ideas about an ATT in several fora in different parts of the world, within various political contexts and among states that have diverse priorities and face a variety of challenges. Representatives of civil society, industry and regional and international organizations were invited to take part in the project activities alongside state representatives, and had the same participation rights. This helped enlarge the debate on an ATT to a wider audience and deepen the exchange of views among different types of stakeholders.¹³¹

Special emphasis was placed in inviting to the seminars representatives of regional actors: the project targeted regional NGOs over international NGOs, and invitations were extended to all relevant regional organizations. By inviting regional organizations and industry representatives to the seminars, UNIDIR wanted to engage these important stakeholders in the process and seek their views and ideas about the proposed treaty. The participation of regional organizations will be central in the process toward an ATT, especially because of their political leverage and practical experience in their respective regions. Hearing the views and expertise of defence industry actors will be crucial in ensuring a treaty's practical applicability and effectiveness. Also, wider participation of UN agencies that work in areas related to an ATT should be encouraged in the next stages of the process. Within the project, invitations were sent to all UN agencies present in the host states of the regional seminars, some of which sent their participants to the opening and closing sessions.

The project aimed at enlarging debate among the various organs of state. The majority of state representatives (62%) came from Ministries of Foreign Affairs.¹³² This seems natural, given

131 Attending the regional seminars were 185 state representatives, 22 from the European Union, 18 from UNIDIR, 17 from civil society, 12 from regional organizations, 8 from the United Nations Office for Disarmament Affairs, 6 from SIPRI, 6 from the ICRC, 4 from FRS and 4 from industry.

132 There were 115 representatives from Ministries of Foreign Affairs, 21 from the armed forces, 20 from Ministries of Defence, seven from Ministries of the Interior, two from Ministries of Justice, one from a Ministry of Economy, and

that the negotiations on an ATT will be conducted mostly by such officials, and also because invitations to the seminars were sent via the diplomatic representations in Geneva and New York. However, given the nature of the proposed treaty, it will be important to involve a broader group of governmental stakeholders, ranging from representatives of Ministries of Defence, Interior and Justice to the armed forces and other government agencies dealing with transfers of conventional arms. Some states sent such representatives to the meetings, but even broader involvement should be encouraged.

The project also resulted in broader networks and links within and between all of the actors involved, including the media. By providing additional fora for states, civil society, industry and regional and international organizations to discuss issues related to the ATT process, the project fostered debate. This was demonstrated in the anonymous feedback provided by seminar participants, the great majority of whom (90%) noted that the seminars were beneficial for their networking and helped them to establish new contacts.

Support to the ATT process ongoing at the United Nations

The project activities supported the ATT process ongoing at the United Nations. First, as stated above the project raised awareness of an ATT among its various stakeholders and enlarged the debate. It also provided additional fora for states and other actors to express their views, priorities and concerns. By highlighting common outcomes of the discussions, seminar reports contributed to the UN process by identifying possible common elements for an ATT. While a definitive link between the project and state participation in the UN process cannot be drawn, it is noteworthy that the number of statements made at the OEWG in July increased, especially from those states that had been involved in the EU–UNIDIR regional seminars.

The regional seminars met their objective of contributing to better involvement of states in the ATT process. This is demonstrated by the wide interest expressed about the seminars as well as the large number of participants. Also, the majority of participants providing feedback (75%) noted that the seminar had helped reinforce the participation of their country or organization in the international process toward an ATT.

As noted earlier, all seminars contained working group sessions, where specific questions were asked about participants' view about the way forward in the ATT process at the national, regional and international level. The main challenges and next steps identified in the seminar discussions are presented in the following chapter. In general, the main challenges identified by the participants were how to address the diverse priorities and interests of states in the international process, and how to deal with an ATT's implementation. As next steps, participants listed a number of general and concrete suggestions, including continued comprehensive dialogue, widening the participation base, learning and staying creative, and moving toward concrete proposals for a treaty and practical action.

Contribution to the identification of an ATT's elements

Discussions in the seminars greatly contributed to the identification of an ATT's possible elements, as can be seen in the summary reports of each regional seminar and in the following

19 from other government agencies.

discussion of messages emerging from these seminars. Generally, the main thematic messages of the project are as follows:

- the majority of states want a global treaty that is based on globally accepted parameters;
- the ATT process should aim for a treaty of practical, implementable and comprehensive scope in terms of:
 - the categories of weapons or equipment covered (specifying SALW as a category unto itself); and
 - the activities and transactions covered.
- greater transparency in conventional arms transfers is needed;
- an ATT will have to contain measures for cooperation and assistance;
- the main responsibility in negotiating and implementing an ATT should lie with both importers and exporters; and
- the process should build on and respect regional action and instruments.

THEMATIC MESSAGES FROM THE SEMINARS, CHALLENGES AND NEXT STEPS

This section presents the thematic messages coming from the regional seminars. While not necessarily commanding consensus, these issues and suggestions came across in all the seminars, and seemed to gain wide support among participants. As will be discussed, with regard to many of the issues highlighted as being of priority across regions, views became more diverse as more detail was introduced.

The process toward a global, legally binding treaty to control the trade in conventional arms will not be short of challenges. In the regional seminars organized as part of the EU–UNIDIR project, the main challenges most frequently brought up by participants were how to address and encompass the diverse priorities and interests of states in an ATT, especially given the limited amount of time left until the UN Conference on an Arms Trade Treaty in 2012; and how to best address the different implementation modalities foreseen for a treaty, given the diversity of its potential states parties.

Seminar participants were also encouraged to come up with proposals for next steps in the ATT process. Often linked with the thematic messages and challenges, the proposed next steps will be discussed at the end of the chapter.

Ideas and recommendations

A global ATT based on globally accepted parameters

Discussions during the seminars confirmed that states see unregulated trade in conventional arms as a problem that needs to be addressed. Because the issues related to uncontrolled and poorly regulated trade are wide-spread and international, it was noted that they have to be dealt with internationally.¹³³ The UN Secretary-General has also identified the absence of a normative framework to guide decisions regarding arms transfers as a “recurring problem”.¹³⁴ Most participants at the regional seminars called for an ATT to be truly international and legally binding, in order to better guarantee its effective implementation. However, some were

133 The same conclusion was drawn in *the Report of the Open-ended Working Group towards an Arms Trade Treaty* which notes: “The Open-ended Working Group also recognized the need to address the problems relating to unregulated trade in conventional weapons and their diversion to the illicit market. Considering that such risks can fuel instability, international terrorism, and transnational organized crime, the Group supports that international action should be taken to address the problem.”; General Assembly, *Report of the Open-Ended Working Group Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/AC.277/2009/1, 20 July 2009, para. 23. This conclusion followed from the General Assembly’s resolution 61/89 of 2006, which acknowledged “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”; General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/RES/61/89, 18 December 2006.

134 Security Council, *Small Arms*, UN document S/2008/258, 17 April 2008, para. 16.

cautious about the legally binding nature of a treaty, and suspected that states would in the end be willing to commit only to a politically binding instrument.

Several participants¹³⁵ in the regional seminars underlined that an ATT should have true global coverage and applicability, since global problems require global solutions and cannot be addressed with the participation of only a limited number of UN Member States.

Of course, states have not waited for discussions to start at the international level to address the issue of the conventional arms trade. Significant work has been done at the regional level to develop instruments to regulate SALW and other conventional weapons, although the scope, nature and application of existing regional arrangements vary widely. While regional approaches are of vital importance in preventing the negative consequences of illicit, unregulated and poorly regulated trade, they cannot provide a comprehensive and effective solution to the issues at hand. Furthermore, around 40 states are not party to any regional instrument governing arms transfers.

Unlike similar treaties and agreements negotiated in previous years, an ATT would not be a traditional disarmament or arms control treaty,¹³⁶ nor would it be a traditional trade treaty, which the negotiators will need to keep in mind. Although the details of an ATT are still being developed, participants in all of the regional seminars called for a universal, objective and practical treaty that should be balanced in its approach and implementable. It was noted in several instances that treaty negotiations and the eventual treaty itself should be balanced and non-discriminatory in regard to all regions, countries and groups of countries to avoid politicization and the creation of double standards in implementing arms transfer criteria. Many participants seemed optimistic about the possibilities of an ATT, even though some cautioned about the danger of settling for the “lowest common denominator” instead of the high standards for regulating the arms trade already in place in some states; it was said that the utmost efforts should be made to establish the highest possible common international standards for an ATT. The challenges faced by various regions and subregions were noted, as were particular national challenges. Participants noted that a treaty’s parameters should take into account both the economic interests of major weapon manufacturers and exporters as well as countries that currently suffer from the consequences of the proliferation of conventional weapons. Some called for more discussion about how to find a realistic balance between seeking universal membership of a the future treaty, and the need for an effective and robust treaty.

It was stressed in the regional seminars that the parameters of the treaty should not be drafted in a manner to allow too much interpretation or flexibility, but rather should be clear and firm.

135 “Participants” or “seminar participants” are used interchangeably to refer to representatives of states, regional and international organizations, civil society, industry and other experts who were present at the project events. The regional seminars were organized under the Chatham House Rule, hence no reference can be made to individual participants. In some instances, to highlight that something was said by certain category of participant, reference is made to *state* participants, *civil society* participants, and so forth.

136 “Disarmament” has been defined as measures that seek to “reduce the level of national military capabilities or to ban altogether certain categories of weapons already deployed”, and “arms control” as measures that “place political or legal constraints on the deployment and/or disposition of national military means”; S. Tulliu, and T. Schmalberger, *Coming to Terms with Security: A Lexicon for Arms Control, Disarmament and Confidence-Building*, UNIDIR, 2004, pp. 7–9. As the proposed ATT is not designed to ban categories of weapons, reduce states’ military capabilities or place constraints on the deployment of weapons, it cannot be referred to as a “disarmament treaty” or an “arms control treaty”.

This would help avoid misinterpretation, which could lead to biased decision-making in the arms trade once the treaty would be in force. Several participants underlined that any possible treaty should preserve the ability of states to produce, export, import and transfer conventional arms according to their specific needs. Also the right to self-defence (individual and collective) and the right of self-determination were stressed on many occasions. It was noted that the complexity or sophistication of the proposed treaty's parameters should not be exaggerated, but rather that they should be kept straightforward.

It was also noted that before deciding on a treaty's actual parameters, their added value and actual implementability should be carefully considered. Some state participants pointed out that the drafters of a treaty should recognize that disclosing some military information in sensitive situations might have unforeseen negative consequences.

In an analysis of UN Member States' submissions of views on an ATT in 2007, parameters referred to by the majority of states were divided into four general categories:

- considerations of existing international obligations or commitments (for example whether a transfer is in breach of a Security Council embargo or a regional obligation);
- considerations based on the likely end user (for example whether arms might be retransferred to criminal groups, terrorist organizations and unauthorized non-state actors);
- considerations based on likely impact (for example whether the proposed transfer is likely to fuel internal or regional instability); and
- considerations based on the recipient country (for example whether the proposed transfer is likely to have an adverse impact on the socio-economic conditions of that country).¹³⁷

Most states that have participated in international discussions on an ATT and its possible and desirable parameters seem to agree that these should be based on states' existing obligations and commitments under international law. This category of possible parameters was the most commonly discussed item in the regional seminars, where in addition to the UN Charter and the Geneva Conventions, some noted that possible useful elements for a treaty could be taken from relevant UN Security Council resolutions, including on mandatory arms embargoes. However, some raised concerns over this suggestion, considering the limited membership of the Security Council at any given time.¹³⁸

Many seminar participants called for the inclusion of principles of international humanitarian law in an ATT, together with links to international human rights law and human security. Respect of human rights and refugee law, state security and sovereignty, conflict prevention and non-discrimination as well as conventions and instruments for the protection of civilians in times of

137 S. Parker, *Implications of States' Views on an Arms Trade Treaty*, UNIDIR, 2008, pp. 21–34. A similar division was used in the background paper produced by FRS for the EU–UNIDIR project. That paper divided the parameters of the proposed ATT into: respect of existing obligations; considerations concerning the end-user of the transferred weapons; the potential use of the weapons; and the possible impact of the transfer. P. Le Meur, *Un traité sur le commerce des armes—champ d'application et paramètres*, FRS, 2009.

138 At the moment, UN Security Council arms embargoes are the only global, legally binding prohibitions on conventional arms transfers. They are imposed by resolutions adopted under the Security Council's authority as defined in Chapter VII, Article 41, of the UN Charter.

war or armed conflict were mentioned during some seminar discussions as central parameters for a possible ATT.

It was stressed by some participants that an important parameter of an ATT should be the respect of states' existing regional commitments, as well as respect of regional arms embargoes and sanctions. Finally, with regard to eliminating transfers of prohibited weapons, it was noted that references in parameters could be made to other existing agreements, such as the Anti-Personnel Mine Ban Convention or Protocol IV of the Convention on Certain Conventional Weapons prohibiting the use and transfer of blinding laser weapons. Existing parameters guiding European arms transfer decisions were seen by many as an encouraging example for other regions. Direct application of one region's parameters to another should however be approached with caution, keeping in mind that a global treaty should be based on global parameters.

Further, considerations based on likely users of weapons, such as a treaty's potential to limit arms transfer to terrorists or criminal groups, were discussed at length in some of the seminars. State participants expressed diverse views regarding the definitions and other considerations related to this kind of transfer control.

In the seminar discussions, considerations based on likely users were linked with transnational crime, armed violence and insufficient border control capacities. It was noted that an ATT could contribute to diminishing the illicit arms trade specifically by preventing the diversion of weapons to illicit markets. According to some participants, problems related to the arms trade should be recognized as specifically related to illegal transfers, not to legal state-to-state trade. The issue of diversion was also linked to corruption, and participants discussed how an ATT could address wider issues of good governance and accountability. Furthermore, some participants referred to non-state actors and their relevance for an ATT and posed questions as to whether an ATT should address non-state actors or whether the responsibility should remain solely with individual states. How to address the issue of weapons transfers for the purpose of participating in collective security actions was mentioned as a challenge for the proposed treaty and an issue that will require further elaboration.

In terms of parameters based on likely impacts that weapons might have in the recipient country or region, sustainable development and regional stability were issues most frequently mentioned as deserving specific consideration. In several discussions it was highlighted that parameters should not establish uniform checklists or categorize potential recipient states, but rather establish objective criteria that could be universally applied, through careful consideration of each particular situation and request.

In summary, the possible considerations under an ATT discussed in the regional seminars were:

- compliance with the UN Charter and the Geneva Conventions;
- respect for international humanitarian law and human rights law;
- the rights to self-defence and of self-determination;
- respect of regional commitments;
- transfers to criminal groups or terrorists;
- transfers to non-state actors;

- regional and international stability;
- impact on sustainable development;
- conflict prevention and non-discrimination;
- the risk of diversion; and
- links with existing instruments and commitments.

A practical, implementable and comprehensive treaty

Discussing the scope of an ATT, participants of the regional seminars were asked to share their views on both the categories of weapons that could or should be included in a treaty and the activities and transactions that could or should be covered. In many cases, participants called for more specific discussion on scope, and noted that for an ATT to be objective and effectively implementable it would have to contain specific definitions of the equipment and activities covered.

DIFFERENT VIEWS ON WEAPONS AND EQUIPMENT

Discussions at the international level suggest that the majority of states advocate for a comprehensive ATT that would cover several categories of conventional weapons.¹³⁹ However, there are noteworthy differences about the types of weapons that should or could be covered. As noted in the report of the 2008 GGE, “Experts considered, without prejudice to the outcome *and with differing views*, the types of weapons and activities and/or transactions that could potentially be included or not within the scope of a potential arms trade treaty”.¹⁴⁰ In the OEWG, states continued to express a range of divergent views on which weapons and activities should or could be covered by an ATT. According to the dominant view, an ATT’s scope should comprise the seven categories of weapons contained in the UN Register¹⁴¹ plus SALW, often referred to as the “7+1” formula. A large number of state support the so-called 7+1+1 formula, which in addition to the UN Register categories and SALW includes related ammunition.¹⁴² Furthermore, some are of the view that the categories of the UN Register should not be taken as a basis for the formulation of scope, since the UN Register was designed for a different purpose than an ATT and—because it is primarily a transparency and confidence-building measure designed to prevent the accumulation of major conventional weapon systems—it omits “an extensive range of conventional weapons ... that are widely used in conflict and human rights crisis zones”.¹⁴³

139 See for example M. Spies, “Towards a Negotiating Mandate for an Arms Trade Treaty”, *Disarmament Diplomacy*, no. 91, 2009.

140 General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/63/334, 26 August 2008, para. 20, emphasis added.

141 The seven categories of weapons covered by the UN Register are 1) battle tanks (weighing at least 16.5 tonnes with a main gun of a calibre of at least 75mm), 2) armoured combat vehicles (designed to carry four or more infantrymen or armed with at least a 12.5mm gun or a missile launcher), 3) large calibre artillery systems (with a calibre greater than 75mm), 4) combat aircraft (excluding unarmed trainers), 5) attack helicopters (defined as possessing integrated fire controls), 6) warships (with a displacement of more than 500 tonnes or those that can launch missiles or torpedoes with a range greater than 25km), and 7) missiles and missile launchers (with a range greater than 25km and including cruise missiles and all man-portable air defence systems).

142 Reference is sometimes also made to 7+1+1+1, which is understood to include components and production equipment as the tenth category.

143 J. Farha and R. Isbister, *The Arms Trade Treaty and Military Equipment: The Case for a Comprehensive Approach*, Saferworld, 2009, p. 3; weapons suggested to be included “were military helicopters and aircraft other than those designated for ‘combat’, naval vessels displacing less than 500 tonnes, unarmoured military vehicles, artillery of 75mm or less, and some types of unmanned aerial vehicles”.

Discussions on the scope of the proposed treaty in the regional seminars echoed the exchange of views and opinions expressed in the GGE and OEWG, even though calls for a scope going well beyond 7+1 and 7+1+1 were strong, especially in some regions. Generally, 7+1 was seen as a good starting point for negotiations, but nevertheless insufficient and far from ideal. Several participants underlined the need to include ammunition in the scope of an ATT, and noted that unregulated transfers of ammunition are of crucial importance in many regions as they often greatly contribute to instability and tensions.

Participants also discussed the inclusion of a range of specific items not covered by 7+1+1, including explosives, parts and components, dual-use items and manufacturing technology. Most of these suggested categories were met with scepticism by other participants, who cautioned against too wide a scope. However, some participants noted that an ATT should cover “all conventional weapons and ammunition”. There was concern that including dual-use items would present particular challenges for an ATT, making it very difficult to agree, to implement, or to keep up to date. Furthermore, some participants mentioned that a treaty should not include references to prohibited weapons, weapons of mass destruction or anti-personnel mines. Some raised the question of whether an ATT should concentrate on combating illegal arms transfers and the diversion of transfers to illicit markets.

It has been noted that no single existing instrument contains a list of weapons that could provide the scope for the proposed treaty.¹⁴⁴ However, many participants referred to the possibility of using existing lists as a basis for an ATT, such as those of ECOWAS, the European Union or the Wassenaar Arrangement. It was also noted that weapon categories covered by a treaty should be open for periodic review. At the same time it was noted that a “light” treaty without, for example, long detailed lists of weapons categories would be both easier to negotiate and remain more flexible in future developments than a treaty that contained such lists, be they based on existing instruments or not. Such a treaty would have to be implemented by each state in good faith, through national legislation and regulations.

The possible weapons and equipment categories to be covered by an ATT as discussed in the regional seminars were:

- the seven categories of the UN Register:
 - battle tanks;
 - armoured combat vehicles;
 - large calibre artillery systems of 75mm and above;
 - combat aircraft;
 - attack helicopters;
 - warships displacing 500 tonnes or above; and
 - missiles and missile systems;
- SALW;
- related ammunition;
- explosives;

144 General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/63/334, 26 August 2008, para. 21.

- parts and components;
- related manufacturing technologies; and
- dual-use items.

POSSIBLE ACTIVITIES AND TRANSACTIONS TO BE COVERED

In resolution 64/48, the UN General Assembly decided “to convene a United Nations Conference on the Arms Trade Treaty ... to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms”.¹⁴⁵ This mention of conventional arms “transfers” replaced the usual reference that stated an ATT to cover “the import, export and transfer of conventional arms”. While import and export are also referred to in the resolution, it seems to be a move toward the recognition that imports and exports are included in “transfers”. Indeed, transfers can be considered as a higher category encompassing a range of activities, including imports, exports and transit.¹⁴⁶

Seminars participants expressed many different views with regard to the scope of activities that could or should be covered in an ATT. Wide support was noted for an ATT to cover—at minimum—export, import, transit and transshipment. Re-export was also often cited as a critical component of a comprehensive control system, and special emphasis was placed on ensuring effective national export licensing procedures with end-user controls.

Furthermore, some participants mentioned production, local manufacturing, licensed production overseas and technology transfer as possible categories of activities and transactions to be covered in a treaty. Many also noted that an ATT could solve problems related to the illicit brokering of weapons. Furthermore, some participants mentioned weapon donations and loans as activities to be covered. In light of the range of activities proposed to be covered, in the lead-up to the treaty negotiations it would be useful to compile a comprehensive list of proposed activities that could be considered for inclusion, including their generally used definitions.

The impression from the seminars was that domestic regulation of arms and civilian possession should not fall under an ATT, echoing the recommendations of the GGE. Most participants seemed to agree that an ATT should concentrate on international, not domestic, transfers, since the latter fall under national jurisdictions. However, some participants did note that in their countries it is precisely the internal transfers of weapons that pose the biggest problems, and that precisely for this reason these transfers should somehow also be addressed.

Some participants referred to an ATT as a “common language on arms transfers” that could be open and general enough to remain flexible toward national systems and regional considerations. It was also suggested that an ATT could make use of additional protocols, following the example of the Treaty on Certain Conventional Weapons. This could facilitate state participation in a treaty, as they would not have to adopt and implement a treaty immediately in its entirety, but could take a step-by-step approach to accession.

145 General Assembly, *The Arms Trade Treaty*, UN document A/RES/64/48, 12 January 2010, para. 4.

146 In the context of the UN Register, for example, “international transfers involve, in addition to the physical movement of equipment into or from national territory, the transfer of title to and control over the equipment”; General Assembly, *Continuing Operation of the United Nations Register of Conventional Arms and its Further Development*, UN document A/58/274, 13 August 2003, p. 47, note b.

The possible transactions or activities to be covered by an ATT as discussed in the regional seminars were:

- import;
- export;
- transit;
- transshipment;
- re-export;
- loans;
- gifts and donations;
- manufacturing;
- licensed production overseas;
- brokering; and
- technology transfers.

SALW—A SPECIFIC ISSUE AND A HUMAN SECURITY PRIORITY

The first ATT resolution in 2006 noted 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” and undermines peace, security and sustainable development.¹⁴⁷ These negative consequences of illegal and poorly regulated arms trade are often quoted as the rationale of the ATT initiative, together with the nature of the contemporary arms trade as a whole. The uncontrolled proliferation and spread of SALW are often remarked upon. SALW are the most commonly used weapons in crime and violent conflict around the world, used by states and non-state actors alike. It is widely acknowledged that the uncontrolled spread of these weapons poses a threat to national and regional stability. In such circumstances, besides the traditional concept of state security, the importance of human security has increased, as has the importance of specifically addressing the spread of SALW.

The 2008 GGE examined the destabilizing effects of the “excessive and uncontrolled accumulation of and spread of small arms and light weapons”. It concluded that “due to the fact that small arms and light weapons, among conventional arms, have caused immense human suffering and political instability in different parts of the world”, “combating illicit trade and unlawful transfers to non-State actors must be adequately addressed”.¹⁴⁸

SALW were discussed in most regional seminars as a weapons category of particular importance for inclusion in an ATT. Participants called for better regulation of not only major conventional weapons systems but particularly SALW and stressed the need to include them as a specific category in the proposed treaty.

The importance of the PoA was highlighted in many instances, but it was also noted that as a politically binding action plan the PoA has left much room for improvement in SALW control,

147 General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/RES/61/89, 18 December 2006.

148 General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/63/334, 26 August 2008, paras. 9 and 23.

and that its focus on the illicit trade addresses only one side of the problem. Most SALW on the illicit market originate from legal trade, from which they are diverted through various channels ranging from corrupt sales and loopholes in transfer controls to poor stockpile controls. The impact of that trade is magnified by the small size of these weapons, lack of transparency in exports and imports, the lack of fully developed marking and tracing systems and related legislation that is not up to date.

SALW represent the bulk of arms transfers in many regions. In the seminars in Africa, it was specifically noted that an ATT could significantly contribute to reduced human suffering, instability and conflict by reducing the proliferation of SALW. Many participants in the regional seminars also hoped that by addressing the SALW trade an ATT could assist in limiting violations of human rights and be effective in the fight against crime and terrorism. Reducing suffering, war crimes and crimes against humanity including genocide was noted as an important possible contribution of an ATT.

Human security and armed violence were highlighted by several participants, especially from the Americas and the Caribbean, where it was noted as one of the priority concerns. Many speakers noted the problems caused by increasing urban armed violence and organized crime, often linked with problems related to trafficking in drugs and SALW.¹⁴⁹ The huge costs of armed violence, mostly committed with SALW and fuelled by irresponsible arms transfers, came out of the seminar discussions as a specific priority that an ATT should address. Armed violence was noted to lead to the loss of lives and livelihoods, which has wider impacts on societies in terms of undermining economies, over-burdening healthcare systems and disrupting educational systems. While the effects of armed violence manifest differently from context to context, they were noted to be primarily associated with uncontrolled SALW and associated ammunition. Participants referred to the need to include a comprehensive category or categories of SALW in an ATT to help improve human security across the globe. At the same time, some participants expressed concern that issues related to armed violence, its full causes and consequences, have not yet been adequately studied, and that an overly broad draft treaty would be more difficult for states to agree.

Further caution was expressed in the seminars with regard to treating SALW as a specific category in an ATT. While SALW undoubtedly are weapons of great concern across regions in terms of proliferation and illicit trade, it was noted that focusing on SALW should not be done at the expense of losing view of the full scope of the conventional arms trade. Partially because of the human security aspects associated with SALW, as well as the fact that many experts working on the ATT initiative come from a SALW-policy background and have worked on the PoA, the ATT process has at times risked becoming too focused on SALW. During the General Assembly First Committee debates in October 2009, one civil society group noted that with regard to the scope of the proposed treaty, the discussions have turned upside down and are more about “1+1+7”, that is primarily about SALW and ammunition, rather than major conventional weapons.¹⁵⁰ It has also been noted that while the majority of deaths in current conflicts are due to SALW, this would not be the case without the presence and support of major conventional

149 These points mirror the findings and concerns reported in *Global Burden of Armed Violence*, Geneva Declaration Secretariat, 2008.

150 General Assembly, *Verbatim Records of the Proceedings of the Committee's Meetings*, UN document A/C.1/64/PV.9-18, 13 November 2009.

weapons—the different types of weapons are inextricably linked. Therefore, integrating SALW into existing and future conventional weapons control regimes could have a synergistic effect, since just controlling one or the other is not sufficient to end or prevent violent conflict.¹⁵¹

Increased transparency in conventional arms transfers

Increasing transparency has long been a central objective of international institutions and arms control agreements. The principal objective and consequence of promoting international transparency is confidence-building—helping states to overcome the mistrust of and fear of non-compliance by others that threaten to undermine cooperation. Also, general confidence in compliance with and implementation of an international agreement is critical to its effectiveness and the maintenance of cooperation. Increased openness and transparency in arms control is often seen as a means to build such confidence and to prevent misperceptions about the weapon transfers and holdings of others, which could lead to higher than necessary levels of armaments. Also, transparency in arms has been said to allow states to demonstrate openness and the defensive nature of their arms transfers, and act as a catalyst for cooperation in other areas.¹⁵² Public transparency also makes for informed domestic actors, allowing parliaments and publics to hold their governments to account and ensure a higher level of responsibility in arms transfers.¹⁵³

Transparency has been a recurring theme in discussions on an ATT, on its rationale and goals, as well as on its implementation and implications—why transparency in arms transfers is needed, and how transparency mechanisms could or should be included in an ATT and how they would function. Considerable progress has already been made in this field in recent years, for instance in the creation and further development of national, regional and international reporting mechanisms. However, levels of governmental transparency through national reporting remain uneven and are high only in certain regions, such as in Europe, where parliamentary and public pressure for greater oversight of national arms export policies have led to an increased number of states producing regular reports on their conventional arms exports.¹⁵⁴ It should be noted that governmental transparency in international transfers of SALW remains lower than transparency for other conventional weapons.¹⁵⁵

According to arguments in favour of increased transparency through an ATT, a mechanism of information exchange and openness would enable governments, parliaments and civil society to track how states are interpreting and applying an ATT's transfer criteria. In the specific case of an ATT, this would probably mean a concentration on information regarding licenses granted and denied with detailed descriptions of the goods involved, their destination and stated end-

151 N.J. Goldring, "Two Sides of the Same Coin: Establishing Controls for SALW and Major Conventional Weapons", *Contemporary Security Policy*, vol. 27, no. 1, 2006.

152 General Assembly, *Study on Ways and Means of Promoting Transparency in International Transfers of Conventional Arms*, UN document A/46/301, 9 September 1991, para. 100.

153 United Nations Office for Disarmament Affairs, *Study on Ways and Means of Promoting Transparency in International Transfers of Conventional Arms*, 1992, p. 38.

154 Generally, transparency is divided into international transparency, demonstrated through the exchange of information between and among states, and into national transparency, often referred to as public transparency, where states make information available to the public, parliaments and other groups. In the regional seminars, transparency in an ATT was overwhelmingly discussed in its international context.

155 M. Bromley et al., *Recent Trends in the Arms Trade*, SIPRI, background paper, 2009, pp. 5, 10, 21–3.

use. In addition, such transparency would help to build public support for an ATT and strengthen the norms and standards that it would seek to promote.

The ATT resolutions all take note of and encourage relevant initiatives that “improve information exchange and transparency and implement confidence-building measures in the field of responsible arms trade”.¹⁵⁶ Furthermore, consensus on the need for an ATT transparency mechanism seems to have grown in the past years.¹⁵⁷ The issue was discussed by the 2008 GGE, but the most explicit reference to transparency can be found in the 2009 OEWG report, which notes that “a number of delegations cited the need for transparency and reporting provisions” and that “no one spoke against such measures”.¹⁵⁸

In the regional seminars, transparency was mentioned as a central principle that should guide arms transfer decisions under an ATT. Lack of transparency in arms transfers and arms procurement was said to obstruct informed debate on an ATT, and some participants noted that this lack would be a serious obstacle for the verification and measurement of effectiveness of an ATT once in force.

Transparency was the foremost issue discussed in terms of a treaty’s implementation phase, where reference was made specifically to the possibility of introducing national reporting requirements. However, some participants referred to the sensitivity of information related to the arms trade, which could possibly hamper any monitoring mechanism built into a treaty.

National reporting has been noted as the primary transparency measure that could be introduced in an ATT, where it could cover details of all licenses granted or denied; the identity of the recipient or end-user, broker or intermediaries and source or supplier; the quantity, type, value and age of the arms; their intended use; and details of the transport and delivery. Furthermore, such reporting could be extended to include information on a state’s legislative measures, administrative improvements and development of capacity with regard to customs and border controls or information technology.¹⁵⁹

At the seminars, some discussion was devoted to questions related to monitoring, and transparency and monitoring mechanisms were called for. Participants recommended for example regular national reporting on implementation to demonstrate compliance, as well as regular review meetings or conferences to discuss implementation. Specific proposals were made on national annual reporting requirements, a consultation mechanism and the possibility of establishing verification teams to make on-site inspections on transfers under an ATT. It was noted that examples should be drawn from other processes.

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

156 See for example General Assembly, *The Arms Trade Treaty*, UN document A/RES/64/48, 12 January 2010, preambular para. 2.

157 S. Parker, *Analysis of States’ Views*, UNIDIR, 2007, p. 12.

158 M. Spies, “Towards a Negotiating Mandate for an Arms Trade Treaty”, *Disarmament Diplomacy*, no. 91, 2009.

159 E. Kirkham, *Making it Work: Monitoring and Verifying Implementation on an Arms Trade Treaty*, Saferworld, 2008, p. 6.

of intergovernmental information exchange mechanisms.¹⁶⁰ It was noted that this situation could pose a dilemma for any ATT transparency mechanism, as the creation of another reporting tool in international arms transfers will increase the burden on states and might contribute to reporting fatigue and serve to limit overall engagement with these mechanisms.¹⁶¹

With regard to building on existing transparency instruments, some participants of the regional seminars suggested that possible synergies with the UN Register should be studied from the perspective of an ATT framework. Indeed, discussions on a transparency mechanism for an ATT often mention the UN Register as a long-standing and hugely important instrument, and some states have recommended that an expanded or modified version of the UN Register become the de facto ATT transparency mechanism. However, there is 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.¹⁶² In 2007, in communicating their views on an ATT, some states expressed their hope that an ATT would extend beyond existing transparency measures by complementing reporting mechanisms with a verification system that effectively monitors and enforces compliance.¹⁶³

At the same time, many participants expressed concern about putting too much emphasis on monitoring and verification of an ATT. While some seemed nevertheless to be calling for a verification mechanism, others cautioned against such an approach and proposed a softer system of working through dialogue, and making states obey common rules through persuasion and diplomatic means rather than verification and sanctions. It was noted that the primary responsibility on approving or denying arms transfers lies with national authorities, which will also be the main actors to reveal and use information about the export, import and transfer of conventional arms. Furthermore, while many participants agreed that a transparency mechanism would be an essential component of any ATT, steps would need to be taken to ensure that such a mechanism complements rather than undermines or duplicates existing efforts, is fit for the purpose for which it is designed, and includes detailed mechanisms to ensure implementation. Should such efforts be successful, and mechanisms could be developed to monitor and also verify compliance, these measures could remedy one of the major shortcomings of existing transfer control arrangements by increasing international transparency.¹⁶⁴

As indicated in several UN documents and the views submitted by Member States, increased transparency would be a central objective of an ATT. However, discussions on and negotiations of a treaty will have to address a number of practical issues related to transparency, some of which might prove contentious. The broadness of views regarding transparency and whether it should

160 For example the UN Register of Conventional Arms, the EU Annual Report, the OSCE Document on SALW, the OAS Transparency Convention, and the different reporting instruments of the Wassenaar Arrangement and the ECOWAS Convention.

161 Presentation by Mark Bromley SIPRI entitled "ATT and Transparency", delivered at the seminar organized in New York on 20 October 2009. Details about the presentation can be found in the summary report of the seminar, available at <www.unidir.org/pdf/activites/pdf8-act431.pdf>.

162 Presentation by Mark Bromley SIPRI entitled "ATT and Transparency", delivered at the seminar organized in New York on 20 October 2009. Details about the presentation can be found in the summary report of the seminar, available at <www.unidir.org/pdf/activites/pdf8-act431.pdf>.

163 According to the views formally submitted to the Secretary-General, 46 states supported monitoring of ATT implementation and 40 states supported enforcement measures; see S. Parker, *Analysis of States' Views on an Arms Trade Treaty*, UNIDIR, 2007, p. 12.

164 M. Bromley et al., *Recent Trends in the Arms Trade*, SIPRI, Background Paper, 2009, pp. 5, 10, 23.

be understood in its international as well as domestic meaning, together with considerations of the practical means in which transparency could or should be increased through an ATT, will be of particular importance in coming discussions.

Cooperation and assistance

In the views of states on an ATT submitted in 2007, it was frequently mentioned that an operational mechanism for international cooperation and assistance would be necessary for a treaty to function.¹⁶⁵ The need to render support to states in improving their arms transfer control mechanisms was also recognized by the 2008 GGE, which in its recommendations noted “in order to begin improving the current situation, the Group recognized the need for all States to ensure that their national systems and internal controls are at the highest possible standards, and that States in a position to do so could render assistance in this regard, upon request”.¹⁶⁶ This recommendation was stressed in the 2008 ATT resolution,¹⁶⁷ as well as in the 2009 resolution, which called upon all states “to implement, on a national basis, the relevant recommendations contained in section VII of the report of the Group of Governmental Experts, and commends all States to carefully consider how to achieve such implementation in order to ensure that their national import and export control systems are of the highest possible standard, and further urges those States in a position to do so to render assistance in this regard upon request”.¹⁶⁸ The resolution also took note of the role played by NGOs and civil society to enhance cooperation and assist states in implementing confidence-building measures in the arms trade.¹⁶⁹ The OEWG report does not make reference to cooperation and assistance, even though this was addressed in some statements during its first two sessions. Furthermore, no reference in the GGE or OEWG reports or the 2009 ATT resolution is made to the issue of capacity-building or cooperation. However, these issues were prominently present during the regional seminar discussions.

International cooperation, capacity-building and assistance were noted by seminar participants to be important factors to take into account in designing an ATT and in ensuring implementation. In this regard, many participants stressed the need to include a mechanism of technical capacity-building and assistance in a treaty, to allow all signatories to comply with the treaty’s requirements and fully implement their commitments.

Participants from developing countries reminded others of their states’ limited financial resources and expertise in some areas related to an ATT, and pointed out that capacity-building and assistance will be necessary once a treaty is adopted, and that these issues should be taken into account when negotiating the treaty. For instance, in the two African seminars some participants highlighted the need for further national and regional capacity-building and assistance in improving arms transfer controls and combating the illicit proliferation of conventional weapons in Africa. In the Middle East, problems of the uncontrolled arms trade were noted to be related to smuggling, diversion, uncontrolled civilian weapons and loopholes

165 S. Parker, *Implications of States’ Views on an Arms Trade Treaty*, UNIDIR, 2008, p. 37.

166 General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/63/334, 26 August 2008, para. 29.

167 General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/RES/63/240, 8 January 2009.

168 General Assembly, *The Arms Trade Treaty*, UN document A/RES/64/48, 12 January 2010, para. 1.

169 *Ibid.*, preambular para. 2.

in border controls. The need for technical assistance and capacity-building in several areas, including border controls, improving national legislation, stockpile management, marking and tracing of weapons, information technology and databases, were stressed.

Hopefully, the possibility of including capacity-building and assistance in an ATT will be an encouragement to sceptics that have argued against further sophistication and complications of their systems, claiming that existing arms control mechanisms are already too complicated, and that an ATT would never work because of the differences in states' capacities. Indeed, differences in current systems leave little room for doubt that modifications and development of control systems will be needed in the lead-up to an ATT, as well as in its implementation.

However, experience with regional and subregional transfer control systems has provided encouraging examples of how mutual assistance and cooperation can be used to develop international arms transfer controls. States' needs in capacity-building differ, as was expressed during the discussions in the regional seminars. Some states for instance may be in need of legal assistance for the development of appropriate arms transfer legislation, while some may require technical assistance or training to build the capacity of relevant government departments or agencies in licensing procedures and risk assessment, for example. It has been argued that the development of a comprehensive ATT would provide a framework that makes the provision of appropriate assistance more, not less, likely than in absence of such a treaty.¹⁷⁰ For this, it will be important that states identify and articulate their specific needs at an early stage in the process and communicate these to states and relevant international organizations and NGOs. Those states in a position to provide technical or financial assistance should also make this clear.

Related to this point, during the seminars it was noted that, in order to be effective, an ATT needs to become better known across regions and among all relevant officials and practitioners. Therefore, the need for more advocacy work and awareness-raising was identified, and it was noted that civil society should remain an active partner for states in this process. As a practical example of challenges related to awareness-raising it was mentioned that, despite best efforts, information about international processes and their latest developments do not always flow from the national delegations in New York or Geneva to the relevant officials in capital, and vice versa.

Responsibility to negotiate and implement an ATT lies with both importers and exporters

Even though the ATT process has enjoyed wide support and active advocacy campaigning from civil society actors, it will be negotiated by states, and they will be its signatories—the burden to fulfil the obligations of the proposed ATT falls on states.

Given the nature of the process and the expected rights and obligations of states under an ATT, many seminar participants called for careful consideration and clear specification of the expected roles of states under a treaty. Also, many participants stressed the responsibility of states to introduce effective national controls on arms transfers as crucial to the success of an ATT. In discussions, many noted the need to keep in mind the primary importance of state responsibility, as well as the principle of sovereignty and the inherent right to self-defence.

170 E. Kirkham, *The Arms Trade Treaty—Countering Myths and Misperceptions*, Saferworld, 2009.

In the view of some seminar participants, most responsibilities and requirements in arms transfer controls are currently placed on states seeking to import arms. It was noted that exporters as well should be held responsible for their decisions regarding transfers of conventional arms, and some participants called for further accountability for exporters under the proposed ATT, and that equal rights should be guaranteed for both importers and exporters. In discussing whether the ATT could include certain end-use criteria, some scepticism was expressed regarding the ability of states to verify the end-use of acquired arms, as specified or required by a treaty.

Several participants noted that for a treaty to be truly universal and objective, it would have to have the constructive and committed participation of the major exporter and importer states. Many participants expressed an interest in learning more about the positions of these states and hoped for their constructive involvement in the forthcoming discussions on an ATT. Furthermore, the importance of including major arms exporters and importers was linked to discussions about a consensual approach to an ATT.

The process should build on regional action and instruments

The past three decades have seen a great increase in the number of regional arrangements and instruments designed to control transfers of conventional arms. Regional action has been noted in all of the ATT resolutions, with the General Assembly “taking note of and encouraging relevant initiatives, undertaken at the international, regional and subregional levels between States”.¹⁷¹ While there are several regional instruments that seek to prevent excessive and destabilizing transfers of conventional arms, the ways in which they operate, as well as their scope and implementation, vary widely.

There was a general call from seminar participants for lessons to be drawn from existing regional arrangements regarding implementation. Many stressed that regional instruments controlling the arms trade should be properly implemented, and that international processes should be enhanced. The discussions highlighted the potential that existing regional agreements have to feed into and help inform the ATT process. In particular, there was discussion about the lessons that can be drawn from work done on the CIFTA, in the ECOWAS and OSCE regions, and within the European Union. High importance was placed on the continued active involvement of regional organizations, and on regional consultations in the ATT process.

Regional organizations could play an important role in the ATT process in that they often have unique practical experience and capacities to engage with their member states in providing practical assistance and building organizational structures and practices. Participants noted that regional approaches can be very useful in harmonizing legislation on arms exports, imports and registration. Furthermore, it was noted that examples of assistance and cooperation arrangements for an ATT could be drawn from regional experience. The possibility of learning from existing good practices and instruments such as the EU Common Position and the EU Common Military List was mentioned, together with the possibility of learning from the transparency regime of the UN Register.

171 General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/RES/61/89, 18 December 2006; General Assembly, *Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms*, UN document A/RES/63/240, 8 January 2009; and General Assembly, *The Arms Trade Treaty*, UN document A/RES/64/48, 12 January 2010.

Many participants underlined the political potential of regional organizations in ATT negotiations, and emphasized the need to engage regional organizations in position-building prior to negotiations. For instance, while the model of “like-minded states” as a motor for discussion and the negotiation process was noted to be a potentially effective way forward, it was also pointed out that a challenge will be to include all views in the debate early enough and to make sure that the maximum number of states sign and ratify the treaty at an early stage. It was remarked that regional support to the OEWG Chair should be strengthened, as enhancing regional involvement would help ensure that the specific realities and concerns of different regions feed into the ATT process.

Most participants agreed that further involvement of regional organizations should be encouraged, since they tend to have political leverage and practical impact in the regions. Some participants mentioned that regional organizations might engage in developing possible common regional positions that could then feed into the UN process. In the African and American contexts, the desirability of forming regional common positions was noted, but it was also said that this might be too time consuming and therefore establishing subregional positions might be more efficient. In the African context, many participants called for a more active African participation and a stronger common voice for the ATT negotiations. Practical suggestions about how to achieve this included the convening of an African Summit of Ministers on an ATT, possibly followed by a High-Level Summit of Heads of States at the regional level. It was further suggested that work begin on a “road map” for Africa on an ATT, possibly within the framework of the African Union, to support practical action toward a treaty and to bring on board all states of the continent.

It was repeatedly noted that an ATT should complement related regional instruments. For instance in the seminar for Central, Western and Northern Africa, the benefits of an agreed ATT reinforcing the ECOWAS Convention was stressed by many who saw the Convention as having great potential in contributing to peace and the reduction of conflict and suffering in the region. In addition, it was mentioned that further harmonization of different regional instruments might also be needed as a parallel process to an ATT.

However, in some regions remarks were made about inadequacy of existing regional instruments. For example, in the Asia and the Pacific seminar it was noted that apart from the ASEAN Plan of Action to Combat Transnational Crime, the region does not have mechanisms related to arms transfer controls, and that even the ASEAN Plan concentrates mostly on aspects related to crime and the illicit trade, covering only part of the Asia-Pacific region.

In terms of links between regional arrangements and an ATT, some participants noted that a treaty could be tailored to regions and regional specificities. For instance, the priorities in the Middle East relevant to the proposed ATT were noted to be very much linked to the destabilizing political, economic and humanitarian effects of conventional weapons, and to the specific security situation of the region.

Discussions in the seminars confirmed that no one regional agreement could be taken as a single source for an ATT, and that current regional arrangements are insufficient to deal with the problems at hand as their area of application is limited and many of them have not been fully or effectively implemented. Reasons mentioned for inadequate implementation included insufficient state capacity, in some cases a lack of political will, as well the relative weakness

of politically binding agreements. Another problem facing regional agreements was noted to be the lack of common standards applied to arms transfer decisions. Many participants in the seminars indicated that a truly universal ATT could help address this problem. Similarly, many participants called for more research into why certain regional agreements have not been fully or adequately implemented. Based on that research, the international community should try to understand current deficiencies at the regional level so as to avoid them globally.

In underlining the importance of regional action, some participants referred to the challenge of incorporating regional instruments into a global agreement. It was noted that an ATT should in no case contradict states' existing regional commitments, and it should not lead to the lowering of standards in any given region because of lower standards in another.

Challenges

Negotiations

With the 2009 ATT resolution, UN Member States have set a clear goal to agree an ATT in 2012. The tight schedule of negotiations was noted in the regional seminars as a major challenge, but many had already pointed to the potential difficulties of agreeing an international, legally binding treaty before the 2009 resolution established a deadline for negotiations. In particular, participants of the regional seminars saw challenges in how to ensure global participation in the discussions and negotiations, and in how to remain practical, comprehensive and effective in the lead-up to 2012.

It was noted that it might be difficult to agree to a common language before 2012, given the magnitude of the task and the limited time available for negotiations. Differences in deciding *how* to control transfers in an ATT and *what* should be covered were also noted as a challenge, and some pointed out that the technicalities of a treaty might prove more challenging than the normative political aspects. Hence it was said that more thought should be given to technical details of the proposed treaty's language and formulation in the early stages of negotiations.

The differing interests and priorities of states that produce weapons and those that receive them was noted as a crucial challenge for the negotiation of an ATT. Many participants stressed that the treaty should take into account both the economic interests of major weapon manufacturers and exporters as well as those of states that currently suffer from the consequences of the proliferation of conventional weapons. All views should be incorporated in the debate early enough to make sure that, once agreed, a treaty is signed and ratified by the maximum number of states. Some also pointed out that reaching a general global commitment to achieving the treaty's objectives might prove challenging.

Some concerns were expressed about how agreement on detailed technicalities can be achieved in the limited time available for discussions and negotiations. It was noted that while an ATT could have broad implications, in order for it to remain implementable it might have to be limited to being a treaty built around controlling core activities of international export and import of conventional arms.

Implementation

In addition to discussing the challenges related to negotiating a treaty, participants of the regional seminars brought up various possible difficulties related to monitoring the implementation of the treaty once in place. On a general level, challenges related to implementation were mentioned to be related to questions about how to reach a global commitment to a treaty, how to ensure adequate awareness and capacity-building, how to measure implementation and how to update or modify the treaty if deemed necessary or desirable in the future.

Implementation challenges were also identified relating to guaranteeing all states parties the right to maintain national authority over their export and import control practices. Reaching a balance between a monitoring system to assist in implementation, and respecting the right of states to develop their defence capacities and security according to national needs was mentioned as a crucial challenge for an ATT. Finally, a possible challenge was mentioned to be related to differing interpretations of a treaty's commitments, as experience with existing instruments has shown that, even if carefully drafted, an instrument's wording can leave room for alternative interpretations and thereby hamper implementation.

Next steps

Building on and summarizing the ideas that came out in the regional seminars, the following presents examples of the kind of activities that could be considered to support the ATT process toward 2012 and beyond. They are divided into four groups: continued comprehensive dialogue, widening the participation base, learning and staying creative, and moving toward concrete and practical action.

Continued comprehensive dialogue

Continued comprehensive dialogue among UN Member States was noted at the seminars as the most important next step in the ATT process. The OEWG and its successor Preparatory Committee were welcomed as fora for an inclusive exchange of views, and many participants stressed the importance of keeping intergovernmental consultations within the UN framework. The sense from the regional seminars was that more discussion of a treaty's different aspects and possible concrete building blocks (specifically definitions), as well as its future implementation, is needed. However, it was often said that such discussions should not postpone the actual negotiations of a treaty. Finally, it was noted that the views of all states should be included in negotiations from the very beginning to make sure that the maximum number of states join the treaty.

Widening the participation base

One of the strongest messages from the regional seminars was that the ATT negotiations should include a broad group of stakeholders—national licensing authorities, parliamentarians and the private sector, including the defence industry, and civil society.

Civil society actors were noted as invaluable partners to governments, and several state participants called for continued cooperation and interaction between NGOs and states in the

lead up to the ATT Conference. Similarly, the active involvement of the defence industry in the discussions and negotiation of an ATT was stressed as being of crucial importance in order to ensure the proposed treaty's practicality, effectiveness and implementability.

Broadening the discussion base through organizing regional discussions and providing further fora in which states can learn about the proposed ATT and express their views and concerns was strongly suggested. The need to further improve and strengthen coordination and cooperation among organizations in different regions working on similar issues related to the arms trade was frequently mentioned.

Many participants called for wider national participation. The involvement of practitioners, whose work an ATT will ultimately affect, was highlighted on several occasions as especially crucial. Many stressed the potential role that national coordinating bodies on an ATT¹⁷² could have in the process, and recommended that this type of coordination should be strengthened as the participation base of the ATT is widened from technical experts and arms control/disarmament diplomats to other communities. It was also noted that more thought should be given to finding the most effective means to do this. For example, "outreach seminars" aimed at practitioners and parliamentarians were suggested.

Learning and staying creative

It was noted that further research on different aspects of the arms trade, regional instruments and other ATT-related issues will be needed. Many participants noted that the international community should make efforts to learn from existing instruments and agreements. In order to be meaningful and relevant, discussions will need to be informed and supported by in-depth research. It was also noted that further links should be established among actors involved in the ATT process and institutions and people working on related processes. Also, the need for continued awareness-raising and sharing of information about the proposed treaty and its possibilities and implications was noted as being of utmost importance.

Concrete and practical action

Many participants of the seminars stressed the need to move toward concrete trainings and capacity-building projects, in parallel with diplomatic negotiations. As 2012 approaches, national actors should look into what changes will be needed to improve national arms transfer controls, and how lessons learned from existing arrangements and national practices could be shared.

Thus far, discussions have concentrated on the feasibility of a treaty, as well as its possible scope and parameters. UN Member States have yet to produce drafts of a treaty, its structure or elements. While it is beneficial if not necessary for a treaty process to start from the general idea and main objectives, sooner or later developments require steps toward the concrete—

172 Such bodies could be based on the model used for the PoA, where states are encouraged to "establish, or designate as appropriate, national coordination agencies or bodies and institutional infrastructure responsible for policy guidance, research and monitoring of efforts to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects". *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, UN document A/CONF.192/15, 20 July 2001, §II, para. 4. For further information, see Bureau for Crisis Prevention and Recovery, *How to Guide: The Establishment and Functioning of National Small Arms and Light Weapons Commissions*, United Nations Development Programme, 2008.

what a treaty could or should look like, how it could be structured, and what formulations would better be left out. It was noted that at a certain point like-minded groups of states should provide proposals and substantive draft language to contribute to the elaboration of a treaty. As well, sponsors of the ATT initiative were advised to take on board proposals from those states that expressed reservations, including those states that did not support the General Assembly resolutions on an ATT.

Many seminar participants pointed out that matters of implementation should be considered as soon as possible, even if there are specific issues that remain under consideration and are still being defined. It was also suggested that some kind of practical implementation guide or guidelines be developed for an ATT to facilitate its entry into force and compliance among states parties. Likewise, the possibility of establishing an independent international organization or body to oversee the treaty's monitoring was mentioned, and some participants stressed the important role of civil society in ensuring the proposed treaty's implementation.

Some caution was expressed toward the possibilities of ensuring effective implementation, as the main responsibility will lie with national authorities' decision makers. In this regard, some ideas for putting in place a monitoring mechanism were expressed, even though some participants stressed that an ATT must not establish a verification system or any other form of centralized export controls.

To summarize, the following are examples of suggestions heard on concrete next steps that could be taken at the national, regional and international level in the ATT process.

NATIONAL LEVEL

- National coordination meetings for relevant stakeholders (ministries, industry, parliamentarians, NGOs, etc.).
- Sensitization of National Commissions or coordinating bodies devoted to SALW or conventional arms.
- A review of national export control mechanisms and regulations.
- Assignment of national contact points or coordinators.
- Evaluation of current national system in place for transfer controls of conventional arms.
- Elaboration of national plan on transfer controls, including the identification of assistance needs or resources, and prioritization.

REGIONAL LEVEL

- Policy-level meetings and high-level summits resulting in declarations, common positions and relevant instruments on an ATT.
- Strengthened regional support to the Preparatory Committee Chair through regional-level consultations.
- Regional or subregional roadmaps on arms transfer controls, including model laws and good practices.
- Practical trainings on export controls.
- Research on existing regional systems and their implementation.

INTERNATIONAL LEVEL

- Research on existing national, regional and international instruments.
- Research on related processes and arrangements of relevance to the proposed treaty.
- Participation of representatives of regional organizations in ATT Preparatory Committee meetings.
- Collection of good practices, model laws, etc. into a database or publicly available website.
- Substantive preparatory work in between the Preparatory Committee meetings.

CONCLUSIONS

Within the framework of the EU Council Decision promoting the ATT process, UNIDIR collected ideas and recommendations between February 2009 and February 2010 from close to 300 representatives of states, international and regional organizations and civil society, regarding the scope, parameters and implications of an Arms Trade Treaty. Bringing people together in different parts of the world through a series of regional seminars organized for the European Union enabled wide-ranging exchanges of views and learning.

This report presented the outcomes of those exchanges. Discussions in the regional seminars confirmed that states around the world see the unregulated trade in conventional arms as a problem that needs to be addressed. Because issues related to uncontrolled or poorly regulated trade in these weapons are wide-spread and international, they have to be dealt with internationally.

Numerous participants stressed the inadequacy of regional instruments in a globalized world, and called for a universal and practical ATT that would be balanced in its approach and based on globally accepted parameters.

In addition, the seminars revealed a number of common views and recommendations for the ATT process. Discussions reflected that the majority of governments advocate for a comprehensive treaty that would cover several categories of conventional weapons. Diverse views were expressed about the scope of activities that could or should be covered in an ATT. Wide support was given to including at minimum export, import and transit, but many went much further in describing their ideal scope for a treaty, referring to activities such as brokering, transshipment and re-export. Some referred to an ATT as a “common language on arms transfers” that could be open and general enough to remain flexible to national systems and regional considerations. While in the seminars many argued that an ATT should cover all conventional weapons and their ammunition, it is also evident that SALW as a specific category presents difficult challenges in many regions and demands special attention.

Transparency was mentioned as a fundamental principle for implementing an ATT. Many participants stressed the need to include a mechanism for technical capacity-building and assistance in a future treaty. There was a general call to draw lessons from existing regional arrangements to see how they have been implemented, and high importance was placed on the continued involvement of regional organizations, and on regional-level consultations. It was noted that responsibilities should be placed equally on both exporters and importers of weapons, and that the ATT process must continue to be inclusive and seek consensus.

2009 was an especially important year in the ATT process for two reasons. First, the United States departed from its earlier position on the ATT, and now supports the process along with many other major powers. Second, the General Assembly decided to convene a UN Conference on the Arms Trade Treaty in 2012.

In the lead-up to the 2012 ATT Conference, more discussion about a treaty’s aspects and building blocks, as well as its future implementation, will be needed. These discussions will have

to involve a broad group of stakeholders—not only governmental, but from civil society and the private sector as well.

States have diverse priorities and interests for an ATT. The time available for discussions and negotiation is limited, and this will pose several challenges to all involved. However, there are convincing signals that an ATT can be agreed. The speed with which the initiative has gained momentum, as well as the firm commitment of the states authoring the ATT resolutions, civil society and the vast majority of the broader international community to a legally binding treaty on conventional arms trade testify to this.

States have tried to formulate common rules to guide the trade in conventional arms for almost a hundred years. During that time, the world has changed. The problems related to illicit arms are of a greater magnitude than they were in the past. The number of actors has multiplied, as has the complexity of world affairs. Thus states have agreed that the need to control the trade in conventional arms is acute, and there is now a clear timeline and a common goal. We have seen the changes and trials of the past century, and we can only imagine the problems of the future. It can only be hoped that any future ATT will not only confront present problems and challenges, but will contribute to a safer and more secure environment, and to better lives for future generations.

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ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
ATT	Arms Trade Treaty
ATTSC	Arms Trade Treaty Steering Committee
BMS	Biennial Meeting of States
CSBMs	confidence- and security-building measures
ECOWAS	Economic Community of West African States
FRS	Fondation pour la recherche stratégique
GGE	Group of Governmental Experts
ICRC	International Committee of the Red Cross
MERCOSUR	Southern Common Market
NATO	North Atlantic Treaty Organization
NGO	non-governmental organization
OAS	Organization of American States
OEWG	open-ended working group
OSCE	Organization for Security and Co-operation in Europe
PoA	UN Programme of Action on Small Arms and Light Weapons
SEESAC	South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons
SICA	Central American Integration System
SIPRI	Stockholm International Peace Research Institute
TIV	SIPRI trend indicator value
WMD	weapons of mass destruction

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