



Africa and an arms trade treaty

INTRODUCTION

Much of the international disarmament debate in the last decade or so has focused on curbing the illicit proliferation of small arms and light weapons (SALW), particularly since the adoption 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 (UN PoA) in 2001. More recently however, there has been increasing support for more effective regulation over the legal trade in conventional weapons.

Recognising that an important aspect of curbing the illicit proliferation of SALW is controlling the legal trade in arms, an initiative was put forward in 1995 that called for the establishment of common international standards to regulate the legal arms trade. This initiative has become known as the Arms Trade Treaty (ATT).

It is envisaged that such a treaty would establish common universal standards for the import, export and transfer of conventional weapons and in doing so ensure more responsible trade in arms by preventing weapons transfers to conflict zones where they might contribute to further instability and human rights abuses.

Much confusion surrounds the proposed ATT and the implications that it may hold for sovereign states, as well as the impact it may have on national arms industries. These uncertainties, and the lack of clarification on them, have resulted in some states taking a more conservative and cautious approach in discussions regarding the proposed ATT.

This paper discusses the preliminary perceptions and understandings of African countries on an ATT. Pursuant to the General Assembly Resolution 61/89, 'Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional weapons', adopted in December 2006, a group of 28 governmental experts were appointed by the United Nations Secretary General to assess the feasibility,

scope and parameters of a possible ATT. Experts from five African countries, namely South Africa, Egypt, Nigeria, Algeria and Kenya, took part in the study. These countries' perceptions and understandings of an ATT will be discussed and analysed with the aim of highlighting the reservations and uncertainties that have been raised. The possible reasons for these reservations will also be discussed.

BACKGROUND TO THE ARMS TRADE TREATY INITIATIVE

The current initiative to regulate the legal arms trade began in 1995, when a group of Nobel Peace Laureates and non-governmental organisations (NGOs) proposed the establishment of a set of criteria to guide conventional weapons transfers.¹ In 1997 the process was taken a step further when the 'Nobel Peace Laureates International Code of Conduct on Arms Transfers' was drafted. This draft, to a large extent, guided later discussions on an ATT.

While it is accepted that conventional arms play a legitimate role in the maintenance of national security,² it is argued that an arms trade treaty is necessary to establish 'a set of legally-binding international principles to govern the trade in conventional arms and set out a practical mechanism for their application'.³ This will, amongst other things, minimise the chances of irresponsible arms transfers, prevent diversions, increase transparency in arms procurement and avert the destabilising accumulation of arms in conflict zones.⁴

Although illicit SALW remain the most commonly used weapons in African conflicts, trade in other conventional weapons to conflict zones has been recognised as a contributory factor to the escalation of local and regional conflicts and human rights violations. It is therefore argued that an ATT arises from a need for an agreement pertaining to all conventional weapons including, but not limited to SALW, as is the case with the UN PoA. Conventional weapons that are not

considered to be SALW include battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft and missiles.⁵

While the scope and parameters of an ATT remain largely undefined by states, a group of international organisations, NGOs and lawyers have put forward some key principles that might underpin such a treaty. They are as follows:

- That all arms and ammunition transfers be authorised and carried out by states in accordance with their national laws and procedures, which reflect their obligations under international law
- States shall not authorise arms or ammunition transfers that violate their obligations under international law, including UN Security Council resolutions and international humanitarian law
- States shall not authorise arms or ammunition transfers if they will be or are likely to be used in violation of international law, including the violation of human rights
- States should also consider other factors, such as the impact of arms or ammunition transfers on regional security, corruption and sustainable development
- States shall submit comprehensive national annual reports on all of their arms and ammunition transfers to an international registry
- States shall establish common standards for specific mechanisms to control the import and export of arms and ammunition, arms and ammunition brokering activities, the transfer of licensed arms and ammunition production, and the transit and transshipment of arms and ammunition⁶

In 2003, Amnesty International, Oxfam and the International Action Network on Small Arms (IANSA) launched an international campaign, called the Control Arms Campaign. With a focus on promoting the development of an ATT,⁷ the campaign has steadily gained support from states over the years, with the United Kingdom (UK) being the first major arms exporting country and permanent member of the UN Security Council to support the initiative.⁸

At the first review conference of the UN PoA in July 2006, the governments of Argentina, Australia, Costa Rica, Finland, Japan, Kenya and the UK put forward a draft resolution to initiate negotiations on the development of an ATT.⁹ Later in the year, at the 2006 UN First Committee on Disarmament and International Security (First Committee), significant progress was made in furthering the process when 153 countries voted in favour of beginning work towards the development of such a treaty. The vote led to the adoption of resolution 61/89 'Towards an Arms Trade Treaty: establishing

common international standards for the import, export and transfer of conventional weapons'.

The resolution recognised 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'. It also acknowledged that there is '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'.¹⁰

Through the resolution, the General Assembly requested that the UN Secretary General –

- seek the views of member states on the feasibility, scope and draft parameters of a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms; and
- establish a group of governmental experts (GGE) to examine the feasibility, scope and draft parameters of a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms

The GGE was tasked with compiling a report that was presented to the General Assembly for consideration at its 63rd session in October 2008.^{11,12}

THE GGE REPORT

Five African countries participated in the GGE, namely Algeria, Egypt, Kenya, Nigeria and South Africa. The work of the group was largely informed by the report of the Secretary General,¹³ although it also made use of studies conducted by the UN Institute for Disarmament Research (UNIDIR) and a consultant. In its report presented to the 63rd Session of the General Assembly, the GGE noted that globalisation had changed the dynamics of international arms trade and that most arms-producing states were increasingly relying on technology transfers and upgrades from external sources. The GGE acknowledged that arms embargoes were violated on certain occasions, and recognised that global arms production and trade contributed significantly to the economy and employment in a number of countries.¹⁴

In assessing the feasibility of an ATT, the GGE recognised that this would be dependent on defining its goals and objectives. A broad range of factors could be considered, including regional stability and international

human rights law. It was also noted that the feasibility of an ATT would depend on its practical applicability, resistance to political abuse and potential for universality. The need for agreed and objective criteria that would reflect the responsibilities of importers and exporters was also emphasised. The group considered the types of weapons and activities and/or transactions that could be included in or excluded from the scope of a potential ATT, and noted that combating illicit trade and unauthorised transfers of SALW to non-state actors would have to be adequately addressed.¹⁵

In considering the draft parameters of an ATT, the group raised the need to address thematic aspects, such as organised crime, compliance with Security Council arms embargoes, the maintenance of regional stability and the promotion of socio-economic development. Operational mechanisms were also discussed, including information-sharing and reporting mechanisms.¹⁶

The GGE stated that there were differing views amongst participants regarding the scope, feasibility and draft parameters of an ATT. It 'also recognised that numerous unresolved issues in the global conventional arms trade required further discussion' and that there was a need for further consideration of complex issues on a step-by-step basis and on the basis of consensus.¹⁷

Despite differing views within the GGE, the text of the draft resolution, 'Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional weapons', was adopted following a vote at the First Committee in 2008. 145 Countries voted in favour of the resolution, 18 abstained and only Zimbabwe and the United States (US) voted against it.

African countries have for the most part shown considerable support for an ATT

Following the First Committee, action on the resolution was postponed pending a review of its programme budget implications by the Fifth Committee (Administrative and Budgetary). The resolution and its operative paragraphs were then adopted by the General Assembly in late December 2008. While Zimbabwe initially voted against the resolution, it voted in favour of it at the General Assembly and only the United States voted against it.

The resolution called for the establishment of an open-ended working group (OEWG) that would be tasked with further considering elements of the GGE

report in order to assess where consensus could be developed. The OEWG met in January 2009 to prepare for six substantive sessions – two sessions a year until 2011. A first substantive session was held in March 2009 and a second is planned for July 2009. While some African countries were present and gave statements at the first session, including Nigeria, Mauritania and Algeria, engagement by African countries was poor.

The UNIDIR, with the support of civil society organisations, launched a project in 2009 to promote discussion and increase participation by all stakeholders in the ATT process. The project involves the hosting of regional seminars to facilitate the exchange of views between governments, regional organisations and civil society groups for the purpose of generating national and regional views for integration into the international process. The first of these seminars was held in April 2009 in Dakar, Senegal, for central, northern and west African countries.

AFRICAN RESPONSES TO AN ATT

African countries have for the most part shown considerable support for an ATT. Many existing SALW-control agreements on the continent either encompass elements of the proposed treaty, or express the need for such an agreement. For example, the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons calls on arms supplier states to eliminate the practice of dumping excess weapons in African countries.¹⁸ The Best Practice Guidelines of the Nairobi Protocol also stipulate extensive criteria for arms transfers.¹⁹ They enumerate that transfer license applications should be considered on a case-by-case basis and refer to several obligations under the UN Charter, including those relating to arms embargoes, respect for state sovereignty and international humanitarian law. The guidelines furthermore prohibit transfers that are likely to be used for the following purposes:

- For the violation or suppression of human and peoples' rights and freedoms, or for the purpose of oppression
- For the commission of serious violations of international humanitarian law
- In acts of aggression against another state or population, threatening the national security or territorial integrity of another state, or threatening compliance with international law, governing the conduct of armed conflict
- To worsen the internal situation in the country of final destination, in terms of provoking or prolonging armed conflicts, or aggravating existing tensions

- To carry out terrorist acts, or support or encourage terrorism
- Other than for the legitimate defence and security needs of the recipient country

The UN PoA, which many African countries have undertaken to implement, also recognises that the legal trade in SALW must be sufficiently regulated in order to effectively curb the illicit arms trade, as many such arms are diverted from legal sources through theft, poor stockpile security and corruption. The UN PoA calls on states to put in place adequate measures to ensure effective control over the manufacture, transfer and safe storage of all SALW within their areas of jurisdiction to prevent diversion to unauthorised recipients. States are also required 'to assess applications for export authorizations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with the existing responsibilities of states under relevant international law, taking into account in particular the risk of diversion of these weapons into the illegal trade'.²⁰

Three conferences relating to arms transfer controls have been held on the continent, one in Tanzania (2005) and two in Nairobi (2006 and 2008). Despite some concerns, states have shown strong support for the development of an ATT and/or improved arms transfer controls at these meetings. At the conference held in Tanzania, a set of minimum principles to govern arms transfers was discussed and it was agreed that, at a minimum, states must ensure that –

- all transfers are authorised through a physical permit or licence
- existing obligations under relevant international law should be respected
- arms embargoes imposed by the UN Security Council should be respected and enforced
- when permits or licenses are issued, consideration should be given to the risk of exported arms being used in the commission of serious violations of human rights or international humanitarian law, including the risk that such arms might be diverted into the wrong hands, such as those of terrorists; and that may affect regional and/or internal security and stability²¹

A year later, states met in Nairobi and reaffirmed their commitment to strengthening national controls on SALW transfers in accordance with the UN PoA.²² Following this, a conference was held in Nairobi in September 2008 to discuss the relationship between arms transfers, development and an ATT. Participants identified the following principles that should underpin an ATT:²³

- Respect for state sovereignty and the right to self-defence
- Conflict prevention, management and resolution
- Transparency and accountability
- Governance and the fight against corruption
- The promotion and protection of human rights
- The promotion of sustainable development and the eradication of poverty

Participants discussed issues such as the responsibilities of importer and exporter states in preventing irresponsible arms transfers, as well as corruption and accountability in arms procurement processes. Participants also recognised the importance of existing regional agreements, many of which already stipulate some regulations and controls over arms transfers. Four of the states that participated in the GGE, namely Algeria, Kenya, Nigeria and South Africa, attended the conference. Several African organisations, including the African Union (AU), Regional Centre on Small Arms (RECSA), Economic Community of West African States (ECOWAS), East African Community (EAC), and the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) also attended.

In addition to these conferences, a continental conference was hosted by the AU in Namibia in 2005 that focussed on the illicit trade of SALW. Participants at the conference noted that the development of an ATT was an important initiative. They also recognised that a reduction in the availability, supply and demand for SALW was critical to the wellbeing of states, and that this could be achieved through various regional and international initiatives. The conference requested that the AU convene a technical and legal workshop to develop a legally binding instrument that would prevent, combat and eradicate the illicit trade in SALW.²⁴

Apart from the 2008 Nairobi conference, which focussed specifically on a potential ATT, conferences have tended to concentrate on SALW, particularly their illicit proliferation. While expressing support for an ATT, many African countries have reiterated their commitment to curbing the proliferation of illicit SALW and seeing the full implementation of the UN PoA. At the 63rd First Committee meeting in October 2008, both Tanzania and Morocco stressed the importance of continuing the fight against SALW.

Tanzania, while expressing support for the draft resolution of the ATT, did so on the understanding that specific reference was to be made to SALW in the ATT's operative paragraphs.²⁵ Morocco similarly expressed its support, but re-iterated its long-standing commitment to dealing with the SALW trade.²⁶ South Africa too stated that the UN PoA remained the central global instrument to prevent, combat and eradicate the illicit trade in

SALW, and that efforts should be focused on achieving its full implementation.²⁷

The UN PoA acknowledges the need for effective controls over legally owned SALW to minimise the risk of diversion to illicit sources. The proposed principles for an ATT could provide a legal structure to facilitate this, while also ensuring that controls are in place to govern the transfer of other conventional weapons. Furthermore, the principles take into consideration the commitments that states have made in the UN PoA, particularly those relating to the authorisation of SALW exports.²⁸ States have numerous obligations under various international laws and treaties, many of which relate to arms transfers, and an ATT might provide a useful framework in which to consolidate these commitments and obligations, and ensure that they are fulfilled.²⁹

BENEFITS, DRAWBACKS AND CONCERNS

The development of an ATT may have several benefits for African countries. These include a reduction in and the possible prevention of excess weapons being dumped in Africa, the evening out of the arms industry by standardising importing and exporting criteria, ensuring greater respect for international law, and increased transparency and accountability in arms procurements. Another major benefit would be the promotion of better decision-making at the national level to ensure that decisions on arms procurements reflect the interests of a country by taking into consideration developmental needs. Though an ATT may hold many benefits for African countries, the continent is plagued by numerous challenges, including the prevalence of endemic diseases, persistent internal conflicts, and natural disasters.

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Governments face a difficult task in balancing already competing priorities with limited resources. The cost implications of adopting and enforcing the principles of a legally binding agreement may be a concern for states, particularly those that are already unable to meet their obligations under existing international agreements. States may need to adopt new legislation and/or amend existing laws, which will require human and financial resources.

South Africa is an example of a country that has a relatively advanced system in place to regulate the

import, export and transfer of conventional arms. Its National Conventional Arms Control Act (NCAC Act) (2002), amended in 2008, and its oversight committee, the National Conventional Arms Control Committee (NCACC), for the most part already enforce the principles that have been put forward to guide the development of an ATT. Establishing and implementing a similar regulatory system would be a lengthy and costly process for many African countries as their minimal resources are already stretched by other priorities and the fulfilment of existing obligations.

Several states have expressed caution over the potential for the treaty to be used as a political tool that will result in states dependent on arms imports being 'at the mercy' of major exporting states. This has stemmed from concerns over the process by which the treaty might be developed. Some states have expressed a preference for an ATT to be developed through a consensus-based approach to avoid flaws and loopholes in the final agreement. Others have perceived these concerns to be a tactic aimed at weakening the eventual document by ensuring that the standards set are of the lowest common denominator.

VIEWPOINTS FROM AFRICAN GGE PARTICIPANTS

There has been some confusion surrounding the proposed ATT arising from different understandings of what it might entail and the implications that it would have for sovereign states. Several states have also expressed reservations about specific aspects of the treaty. Little attention has been given to the underlying reasons for these reservations and few have been addressed in preliminary discussions on the development of an ATT.

South Africa

South Africa has consistently supported the development of an ATT, although it has been criticised in the past for taking a more cautious approach in discussions on its scope and parameters. One of the reasons for South Africa's conservative position has been the lobbying tactics of some states and civil society organisations, which have been perceived to be somewhat aggressive.

South Africa also expressed concern in its statement to the UN Secretary General over the lack of support for an ATT by some of the major conventional weapons-producing countries, a situation it would like to be addressed.³⁰ South Africa expressed no opposition to an ATT in the statement, though it has often reiterated its commitment to see the full implementation of the UN PoA. In a statement made at the First Committee, South Africa pronounced that the UN PoA 'is not limited to illicit trade in SALW in the strictest sense, but also

extends to efforts to *inter alia* address illicit brokering, trace illicit SALW, and stockpile management, where a whole range of measures are required to prevent theft and diversion of state owned SALW.³¹

At a conference held in Argentina in 2008 to discuss the control of international arms transfers, South Africa stated that it supported an ATT because it would ensure that all states conform to standards similar to those currently being enforced in South Africa. It also stated that governments are primarily responsible for controlling arms transfers.³²

In 2008, South Africa amended its NCAC Act 'so as to alter certain definitions and to insert others; to ensure proper compliance and accountability in trade and possession in controlled items; to expand the functions of the NCACC relating to the regulation of assistance or service in a country of armed conflict; to provide for matters connected with the work and conduct of the Committee and its secretariat; and to provide for matters connected therewith'. While these alterations strengthen the existing regulations, they increase the functions and workload of the NCACC, which already lacks the capacity to fulfil its mandate.

One of the objectives of an ATT would be to promote more responsible arms transfers

South Africa, like many other countries, is in a complex position with regards to the development of an ATT because it is both an arms importer and exporter. Countries in this position need to consider not only how an ATT might affect their right to import arms, but also its potential impact on their arms industries. The South African arms industry is heavily dependent on exports due to severe cuts in the country's defence budget since the end of the apartheid period in 1994. While acknowledging that there are some possible benefits to an ATT, one being the evening out of the arms industry by ensuring that all states follow standard global criteria when conducting arms transfers, the South African arms industry has tended to oppose the development of an ATT.

One of the objectives of an ATT would be to promote more responsible arms transfers by ensuring that arms procurements reflect the interests and needs of a state. While it is accepted that states have a right to procure arms for the maintenance of national security, it has been argued that unnecessary arms procurement may divert resources away from social spending and development.³³

Opposition from national defence forces towards the development of an ATT may stem from fears that a treaty would lead to reductions in defence budgets based on this objective.

Having been excluded from discussions on an ATT within the government until more recently, South African Defence Related Industries (SADRI) submitted a non-paper to articulate some observations. SADRI stated that an ATT would not introduce any new norms in the country, as the transfer of conventional armaments was already sufficiently regulated by the NCAC Act. SADRI also expressed a need to focus efforts on finalising the implementation of the UN PoA on SALW since these arms were the key contributors to crime, political repression and terrorism. Once appropriate measures had been implemented to deal with the illicit proliferation of SALW, there would be no need for further regulation of the conventional arms trade.³⁴

A lack of clarity on how to ensure more responsible arms transfers while not affecting states' inherent rights to procure arms has raised concerns from several states. In their statements to the UN Secretary General, Algeria, Nigeria, Egypt, Kenya and South Africa all referred to one or more of the principles in the UN Charter relating to:

- The right of States to individual and collective self-defence, in accordance with Article 51 of the Charter of the United Nations
- The right of States to manufacture, export, import or transfer arms
- The right of self-determination and liberation struggles

Kenya

Kenya remains an avid supporter of an ATT and was one of the countries involved in authoring the draft resolution. Kenya also took part in the GGE panel and hosted a conference on arms transfer controls in Nairobi in 2008. In its statement to the UN Secretary General, Kenya stated that an ATT was feasible as several existing agreements already incorporated the principles relevant to an ATT. Kenya also said that while decisions on arms transfers should remain under national control, standardised criteria were needed to outline states' responsibilities and ensure that they respected existing obligations and international laws.³⁵

However, the country came under the spotlight in 2008 with the hijacking of a Kenya-bound Ukrainian ship off the Somali coastline. Allegations that the military consignment on board was destined for the southern Sudan rather than the Kenyan armed forces did little to reinforce Kenya's support for an ATT, especially as the Kenyan government had not registered the import of

the consignment with the UN Register of Conventional Arms. While registration is a voluntary procedure, it would have demonstrated a commitment to enacting one of the proposed principles of an ATT, in particular that of promoting increased transparency in arms dealings. To date Kenya has submitted seven annual reports to the UN Register, although none of these provide information relating to arms imports, exports or re-exports.³⁶

Of the five African countries that participated in the GGE, only Algeria has never submitted a report to the UN Register of Conventional Arms. Egypt and Nigeria have submitted one report, both in 1992. South Africa has been the most consistent in submitting reports, with a total of 14. However, more than half of South Africa's reports only provide information on the country's arms exports, though reports from 2003 onwards include information on imports.³⁷

South Africa also came under the spotlight in April 2008 when its NCACC authorised the transfer of a shipment of arms through its territory to Zimbabwe. The transfer ultimately did not take place as dockworkers refused to offload the shipment and human rights groups petitioned to block the arms from being transported through the country.

The decision by the NCACC contradicted views expressed by South Africa in its statement to the UN Secretary General, particularly where it affirmed that 'while states have an indisputable right to acquire conventional weapons for self-defence and law enforcement purposes, they also have a responsibility to do everything in their power to ensure that arms transferred by them are not used to violate human rights, to undermine development, or to commit acts of terrorism'.³⁸

Egypt has suggested that the conventional arms trade be regulated through a politically binding agreement

Egypt

Egypt has supported the development of an ATT and acknowledged that it would be a useful instrument for regulating arms transfers. Noting the success of the UN PoA however, Egypt has suggested that the conventional arms trade be regulated through a politically binding agreement, and not necessarily a legally binding convention.³⁹

At the First Committee meeting held in October 2008, Egypt and Libya, along with several Middle

Eastern countries, proposed that the development of an ATT be pursued through a consensus-based approach, and not a vote. The suggestion was made following several consultations between the countries and after the recognition of several shortcomings in the text of the draft resolution. The exclusion of this suggestion from the text resulted in the informal coalition abstaining from the vote on the draft resolution.⁴⁰ The coalition furthermore expressed caution over 'rushing' the development of an ATT, as it may result in weaknesses in its content, and cautioned over the potential for an ATT to be politicised in a manner that negatively impacted on the interests of developing countries.⁴¹

Egypt's reservations towards the development of an ATT may partly be attributed to the inconsistencies within the current disarmament and non-proliferation regime, particularly concerning the possession of nuclear weapons. Egypt has consistently shown an interest in issues relating to disarmament, arms control and non-proliferation, however it believes that current international approaches to dealing with these issues are inconsistent and discriminatory, and that peace and security can only be achieved through the establishment of just and parallel international and regional mechanisms.⁴²

Algeria

In its statement to the UN Secretary General, Algeria stated that it attached great importance to the ATT initiative and had hoped to see the draft resolution adopted by consensus at the 61st session of the General Assembly. It also emphasised the need for a more encompassing agreement that would relate to all weapons and not be limited to only certain categories.⁴³ At the first substantive session of the OEWG, Algeria delivered a statement reiterating its commitment to concluding a legally binding treaty that could contribute to strengthening peace and international security.⁴⁴

Nigeria

Nigeria has expressed its full support for the development of an ATT, both in its statement to the UN Secretary General and during discussions surrounding the development of an ATT. At the First Committee meeting in 2008, Nigeria made a strong statement in support of the initiative. According to arms control activists, Nigeria also made a case for stronger wording in the treaty during open informal consultations on the ATT and stated that it had hoped to see a legally binding global instrument take shape more quickly.⁴⁵ It emphasised that the SALW issue remained to be of utmost importance to the country and that the illicit diversion of these weapons continued to constitute a major impediment to the peace, stability and economic development

of many states. Nigeria was committed to the establishment of a universal legally binding instrument because it would ensure that licit SALW were not diverted to illicit markets.⁴⁶

At the first substantive meeting of the OEWG in March 2009, Nigeria appealed to countries present to look beyond their national interests and show more flexibility towards achieving an ATT. While the country acknowledged that the development of an ATT would be a time-consuming process, it stated that more understanding, consideration and flexibility between states could considerably shorten the process.⁴⁷ Nigeria also delivered a statement on behalf of the Africa group in which it stated that Africa was largely in support of a universal ATT.⁴⁸

CONCLUSION AND RECOMMENDATIONS

There has been a high level of commitment and participation in the ATT process by states, international organisations and NGOs, with only the US having actively voted against furthering the process. While support for the development of an ATT has been significant, negotiations on the details and parameters of a treaty still need to take place, and these are likely to be lengthy and complex. This was reflected in the GGE report, where it was stated that consensus was currently lacking in many areas.

Though several states abstained from voting in favour of the ATT resolution at the First Committee and General Assembly meetings in 2008, many of those countries have at some time expressed their support for the initiative. These include Egypt, Sudan and Libya. However, the concerns and issues raised by these states need to be addressed as not doing so may result in them blocking the process at a later stage, or withdrawing their support for the initiative completely.

Despite the Bamako Declaration and other African regional agreements highlighting the importance of appropriate and effective controls over arms transfers, there has been little bilateral discussion between states on the development of an ATT. There has also been little engagement by the AU. Given that Africa is one of the regions that could be substantially impacted by an ATT, African countries might consider developing a more unified approach, or even a common position, to highlight their issues and concerns on the development of an ATT.

At the first regional seminar held in Dakar in April 2009, some participants expressed a desire to see the development of an AU common position on an ATT, though it was acknowledged that this could take time and that regional organisations might be able to engage more efficiently in the ATT process by developing common

regional positions that could be fed into the UN process.⁴⁹ African countries that have shown support for the initiative should consider initiating discussions with states that have tended to be more cautious so as to ease concerns and build support for the initiative. African civil society organisations could also support this process and encourage governments to engage more proactively in ATT processes. States might also consider including national defence forces and arms industries in discussions on an ATT at the national level so as to address their concerns and to reduce opposition towards the process.

Lastly, African countries should take a more proactive stance in showing their commitment and support towards the ATT initiative by abiding by and implementing the principles that have been put forward to guide its development. Most African countries do not export arms and should therefore focus on strengthening their import controls and regulations, reducing corruption and promoting greater transparency in arms procurement. This will highlight the potential benefits of an ATT for African countries and, in turn, possibly reduce uncertainties and reservations.

NOTES

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ABOUT THE PAPER

The arms trade treaty initiative was put forward over a decade ago in an attempt to strengthen controls over the legal arms trade by establishing common universal standards for the import, export and transfer of conventional weapons. It is envisaged that such a treaty would, amongst other things, ensure more responsible trade in arms by preventing weapons transfers to conflict zones where they might contribute to further instability and human rights abuses.

While the initiative has gained much support over the years, actual negotiations on the details and parameters of a treaty still need to take place. To assist the process, a study was concluded in 2008, which assessed the feasibility, scope and draft parameters of an ATT. Experts from five African countries, namely South Africa, Egypt, Nigeria, Algeria and Kenya, took part in the study.

This paper will consider these countries' perceptions and understandings of an ATT and highlight the reservations and uncertainties that have been raised. The possible reasons for these reservations will also be discussed.

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Dominique Dye is a junior researcher in the Arms Management Programme (AMP) at the Institute for Security Studies in Pretoria. She takes a particular interest in the implementation of international and regional arms control agreements in Africa, and is currently undertaking research on arms control and disarmament in the Southern and Eastern African regions.

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