

SCOPE: types of equipment to be covered by an Arm Trade Treaty

A comprehensive ATT

If an ATT is to be effective, it must regulate the international transfer of the items actually being used to fuel violent conflict, to commit serious violations of international human rights law and humanitarian law, to undermine poverty reduction and socio-economic development, in violations of UN Charter obligations, in terrorist attacks, and in connection with violent and organised crime. Such items include:

- *Conventional military, security and police armaments, weapons and related materiel of all types*—an ATT must regulate the international transfer of all major weapon systems and armaments as well as small arms and light weapons (SALW); including not only those specifically designed for offensive combat operations but all types of military weaponry, military data-processing and communication systems, and military equipment for transport and other purposes, such as manned and unmanned aircraft, helicopters, ground and amphibious vehicles and sea vessels.
- *Conventional ammunition and explosives used for the above*—the central role of ammunition, including bombs, torpedoes, grenades, rockets, mines, missiles, depth charges, pyrotechnic devices, and sub-munitions such as bomblets, in perpetrating serious violations of international law is uncontested. Explosives, as well as being critical to the manufacture of ammunition, are widely used in terrorist attacks.
- *Internal security weapons, ammunition and equipment deployed in the use of force*—these include items such as tear gases, baton rounds and electric-shock guns, which are deployed in the use of force by armed forces and police.
- *Components, expertise and equipment essential for the production, maintenance and use of the above*—the international transfer of specially designed components, expertise and equipment, essential for the production, maintenance and use of conventional arms and ammunition, is a growing part of the globalisation of the arms trade that can lead to significant uncontrolled proliferation.
- *Dual-use items that can have a military, security and police application*—non-military items play an increasingly significant role in the use of force in military, security and police operations, and are incorporated into conventional arms. Where such uses can be anticipated, states should control international transfers of these items.

Why the UN Register of Conventional Arms (UNRCA) plus SALW model is not enough

There has been some discussion among states of an ATT covering only the seven categories of the UNRCA¹ plus SALW (described as '7+1'). While an ATT should definitely include all SALW and the major systems covered by the UNRCA, it needs to go much further.

The UNRCA is a product of its time and a specific strategic context. It sprung from the end of the Cold War and the interests of the main parties to that confrontation in agreeing certain confidence-building measures as part of establishing a new relationship. It is thus a transparency mechanism, not a transfer controls instrument. In addition, the UNRCA categories, established for this specific strategic purpose, fail to encompass much of the weaponry and equipment now

used in violent conflict, to commit serious violations of international human rights law and humanitarian law, in terrorist attacks, and in connection with violent and organised crime. For example, the UNRCA includes:

- 'battle tanks' and 'armoured combat vehicles', but not any of the many other types of military vehicle (such as light armoured tactical vehicles);
- 'combat aircraft', but not other military aircraft such as military utility planes which may be used both for troop carrying and for bombing raids;
- 'attack helicopters', but not other military helicopters that are used for military operations, and in many cases can be adapted to carry munitions;
- artillery systems, but not large guns with a calibre of less than 75 mm, such as cannon and anti-aircraft guns;
- no ammunition, munitions, bombs or short-range missiles, unless supplied as an integral part of a listed weapons platform.

Furthermore the UNRCA applies only to complete weapons platforms; '7+1' would not regulate these items if transferred as separate components, or in disassembled 'kit' form.

Four of the five types of equipment described under 'a comprehensive ATT' (above) thus fall completely outside the scope of '7+1'. Even the first type would be only partially covered.

An alternative approach

Rather than using the UNRCA, states should examine the coverage of existing national arms transfer control regimes and of regional or multilateral transfer control agreements. For the most part these cover much more than '7+1'. For example, the overwhelming majority of publicly reported exports of major conventional weapons (at least 98 percent) between 2003 and 2007 originated from national jurisdictions that explicitly control the international transfer of a much larger range of military equipment than '7+1', and there is much similarity regarding control lists.² These could be a productive starting-point to determine the potential scope of an ATT.

In addition, UN Security Council arms embargoes are worth examining in this context, as the terms of these embargoes frequently give a general indication of the range of equipment to which Member States are willing to apply arms transfer controls. Several UN arms embargoes incorporate standard language, encompassing "arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned" as well as the provision "of technical training or assistance".³ In the case of the UN arms embargo on Al Qaida and the Taliban, the Security Council committee responsible for the embargo has clarified that the term "related material" includes "dual-use materials that could be used to make weapons".⁴

Conclusion

An ATT must be comprehensive if it is to be effective. To be comprehensive it must cover not just weapons platforms and systems, but also their ammunition and components, arms and ammunition production equipment, and related materials. An ATT that applied only to the narrow '7+1' rubric that some states have been suggesting would be far from comprehensive, and would have a marginal and probably declining impact. The OEWG should reject such a formulation and instead focus on a range of equipment to which national controls and relevant regional or multilateral agreements already apply.

¹ The seven categories of the UNRCA are battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships (including submarines), and missiles and missile-launchers.

² See 'The Arms Trade Treaty and military equipment: The case for a comprehensive scope', Saferworld, July 2009.

³ E.g. UN Security Council Resolution 1333 (2000), paragraph 5(a), imposing an arms embargo on Al-Qaida and the Taliban; UN Security Council Resolution 1521, paragraph 2(a), imposing an arms embargo on Liberia; UN Security Council Resolution 1556 (2004), paragraph 7, imposing an arms embargo on parties to the conflict in Darfur.

⁴ Security Council Committee established pursuant to Resolution 1267 (1999) concerning Al Qaida and the Taliban and associated individuals and entities, *Explanation of Terms: Arms Embargo* (http://www.un.org/sc/committees/1267/pdf/EOT%20Arms%20embargo_ENGLISH.pdf)