

FACILITATOR'S SUMMARY ON PARAMETERS

22 July 2010

Excellencies and distinguished delegates

The informal discussions on parameters have been substantive and productive. I have been grateful for the constructive approach taken by delegations. The following observations are not intended, in any way, to interpret the precise meaning of the various proposals made or prejudge the level of support that they have attracted but rather to provide a general overview of discussions. It will be open, of course, to delegations to add to and develop these proposals in the future.

General Points

The linkage between the different elements of the treaty, including the three broad themes we have discussed this week, namely scope, parameters and implementation, was evident through our discussions. As was the need to carefully consider the broader principles, goals and objectives of an Arms Trade Treaty.

A number of key points were highlighted during our discussions including:

- . the need for objective and non-discriminatory criteria;
- . implementation of the parameters as a state responsibility and the potential for higher national standards; and
- . transparency, consistency and predictability in the application of the parameters.

States also took the opportunity of the informal sessions to express their views on the methodology that could be utilised by States in applying the criteria. As a first step, an assessment of the proposed transfer would be necessary. In this regard, a number of issues were discussed.

- . Whether criteria must be taken into account when deciding whether to authorise an arms transfer and/or whether transfers should be denied where certain criteria are applicable.
- . Some criteria will require an assessment of the risk of an adverse impact as a result of the potential transfer including the degree of that risk and the extent of its impact. In this regard, proposals on the applicable level of risk included references to a "substantial risk" or a "clear risk". States noted that the level of risk would closely relate to the parameter in question.
- . Varying suggestions were made as to the standard of consideration that could be given to criteria, including a "thorough and meaningful assessment", "serious consideration" and "take into account".

- On information which could inform decisions, proposals included “relevant information”, use of objective sources or “discernable patterns of violations” by the relevant actors in a transaction.
- Whether reasons for denial should be provided.
- Whether guidelines could assist States in interpreting and applying the agreed criteria consistently with each other, with a possibility that such guidelines could be included as an annex to the Treaty, or developed after the Treaty’s entry into force.

Specific Parameters

Several specific criteria for inclusion in the Arms Trade Treaty were suggested by States. These warrant further consideration and development and can be considered under the following broad categories. This is not intended to interpret the precise meaning of proposals or prejudge the level of support that these criteria have attracted or will attract in future.

- Consideration of whether the arms transfer is consistent with a State’s international legal obligations, including obligations such as those under the United Nations Charter, Security Council resolutions, including sanctions and arms embargoes, other legally binding international and regional instruments to which the State is a party, and customary international law.
- Consideration of the potential consequences of an arms transfer, such as a potential adverse impact on internal, regional and international stability, peace and security, the potential to provoke or exacerbate existing tensions or conflict and the potential contribution of the arms transfer to a destabilising accumulation of arms.
- Consideration of the potential risk of diversion of the arms, including diversion to illicit markets, unintended uses or unauthorised end-users or non-State actors as well as re-export.
- Consideration of the potential use of the transferred arms to commit breaches of international humanitarian law and human rights, noting that these principles are being considered in other fora. Discussion also focussed on whether and how such breaches could be assessed, for example, where they are ‘serious and systematic’.
- Consideration of the consistency of the proposed arms transfer with existing, non-legally binding arms transfer instruments, including both regional instruments and instruments under the auspices of the United Nations.
- Consideration of the potential illegal use of the transferred arms, including in the commission of crimes against humanity, war crimes, genocide, ethnic cleansing, aggression, terrorist acts, organised crime, violent crime, gender-based crime, and drug trafficking.
- Consideration of criteria relating to the receiving State, including the potential adverse impact on that State’s disarmament, non-proliferation and other international obligations, sustainable economic and social development, the potential contribution to

the displacement of people, the defence and security needs of the receiving State (keeping in mind the principle of the least diversion for armaments of human and economic resources, and considering levels of stockpiles and stockpile management), the ability for the receiving State to employ the transferred arms in accordance with their intended end use, and whether the receiving State has authorised the import.

- . Consideration of criteria related to transparency, such as the ability to control the movement of arms from manufacture to use to destruction.
- . Consideration of other issues such as the proliferation record and other patterns of behaviour of the actors involved, the risk of corruption associated with the transfer, and the potential for transit of the arms through or to zones of conflict.

I would like to thank States for their considered approach to these discussions which should provide a strong foundation for our continued work.