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Options for an ATT Secretariat: A Preliminary Exchange of Views

An informal discussion hosted by the ATT Network

27 August 2014

Palais des Nations; Geneva

SUMMARY REPORT

On 27 August 2014, the ATT Network hosted an informal discussion on “Options for an ATT Secretariat: A Preliminary Exchange of Views”. The meeting, chaired by Dr. Silvia Cattaneo (Coordinator, Geneva Forum), aimed to offer a platform for interested stakeholders to consider options for the preparatory process for the first Conference of the States Parties (CSP) of the ATT, which will have to take important decisions on the structure, size, composition, roles, and financing of the Treaty Secretariat. After opening remarks by Ambassador Jorge Lomónaco (Permanent Representative, Permanent Mission of Mexico to the United Nations Office and other International Organizations in Geneva), the meeting featured the presentation of a background paper on “Towards an Arms Trade Treaty Secretariat” by Dr David Atwood (Independent Consultant). This was followed by comments and reflections by Dr Piers Millet (Global Fellow, Woodrow Wilson Center for International Studies) and Peter Herby (Arms Control and Disarmament Consultant with Peersburg Partnerships and former Head of the ICRC Arms Unit), and by an informal discussion opened to all participants.

1. Opening Remarks

In his opening remarks Ambassador Lomónaco emphasized the importance of applying lessons learned from existing multilateral processes to the ATT one. In particular, he stressed the need to lay well in advance the groundwork for the decisions that the CSP will have to take.

The current number and pace of ratifications makes entry-into-force of the Treaty by the end of 2014 likely. This, in turn, means that the first CSP will be convened by the end of 2015, with differing preferences towards an earlier versus a later date. During the first preparatory meeting towards the CSP, taking place in Mexico City on 8-9 September 2014, two orders of issues will have to be established.

1. Ideally, agreement would be reached on the roadmap leading to the Conference, in terms of how many more preparatory meetings would be necessary, where they would be held, and when. Germany had presented a firm offer to host a second meeting in late November 2014; Switzerland has offered to host the last preparatory meeting in 2015; other offers of this kind have been put forward by Austria and Trinidad and Tobago. States will have to decide how many preparatory sessions will be necessary, and when they could be held, keeping in mind an already busy

disarmament calendar. According to Amb. Lomónaco, the timing of the first csp should depend on the very pragmatic issue relating to how much time will be necessary to prepare adequately for its decisions.

2. After the ATT enters into force, a provisional secretariat will have to be established, and the available options should be examined at the Mexico City meeting. Currently, there are three:

- a) Mexico could continue leading the process;
- b) A provisional secretariat could be established within UNODA;
- c) It could be established within UNDP.

For the secretariat itself, three countries have presented their candidature (Austria; Trinidad and Tobago; Switzerland) and two have put forward names for the position of Secretariat Head (Finland and Sweden).

Other substantive issues on which the preparatory process will have to focus, in addition to those relating to the secretariat, include: rules of procedure; institutional architecture; nature and frequency of meetings; presence of an intersessional process and of review conferences; rules on amendments and credentials; appointment of subsidiary bodies; rules for decision-making. On the last point, Amb. Lomónaco recalled the general preference for consensus but with the possibility of vote as a last resort, with a quorum to be determined.

Finally, Amb. Lomonaco emphasized the importance of a strong involvement of the NGO community, and of liaising with UNDP and other structures for possible sponsorship programmes enabling participation of all states parties to ATT preparatory meetings and first CSPs.

2. Towards a Secretariat for the Arms Trade Treaty

Dr David Atwood presented his paper “Towards a Secretariat for the Arms Trade Treaty”, which examined options for the secretariat’s role and configuration, based on lessons learned from Geneva-based Implementation Support Units or similar bodies created in the framework of international treaties, in the disarmament and other domains. The paper focused in particular on six elements: functions; structure; institutional framework; financing; governance; and location. A full copy of the document is attached to this report.

3. Comments and Reflections

Dr Piers Millet and Peter Herby each gave their comments and reflections on Dr Atwood’s overview of his paper. Their highlights included the following:

- The debate on the features of any secretariat should be factual and based on an assessment of needs rather than on initial political considerations. The definition of its roles, size, and composition should be clear and based on this same factual assessment.
- A good ISU or similar structure should provide for adequate continuity (i.e. length of staff contracts) while avoiding over-institutionalization. “Sunset clauses” might be useful in this regard. In addition, the size of staff should be decided keeping into account that small

secretariats are heavily affected by prolonged leaves of absence of their personnel, for example for maternity/paternity.

- Decisions of funding mechanisms for a secretariat are fundamental and must be clear and timely. While voluntary funding has been central to enable activities in other treaty regimes – e.g. the Biological and Toxin Weapons Convention (BWC) – it cannot be relied on as the sole source of financing, especially as far as core/fixed costs are concerned.
- The same way that treaties are living entities that evolve over time, their supporting structures must also embody an element of flexibility that allows “experimenting”, changing, and possibly taking on more or different roles.
- A secretariat’s legal status should be clearly defined at the outset, in view of possible formal cooperation with third entities.
- The ATT is not a “typical” disarmament treaty, as it cuts across several domains. such as international humanitarian and human rights law, export control regimes, and UNSC arms embargoes, inter alia. This broad context should be kept in mind when designing the role of the secretariat, and to establish links with relevant other institutions and legal regimes.
- Healthy regimes need constant interaction with all relevant parts of the international community, from states (parties and non-parties) to civil society and the media. In short, they must be *accessible* and their organs must operate *transparently*. A secretariat’s accessibility will depend partly on its location but also on its institutional culture and strength of the networks in which it is embedded. A negative example in this respect is the Organization for the Prohibition of Chemical Weapons (OPCW), whose work has been isolated from civil society, the media, and even states, whose ability to influence the chemical weapons regime has been consequently curtailed.
- It is important to clarify whether the Secretariat will play a role in universalization – something that is unclear in art. 18 of the ATT. Such a role would entail activities and resources that should be taken into account when determining all its features, from location to funding, from size to composition.
- The question of whether the Secretariat could take on monitoring roles should not be a taboo and one should not start from the assumption that it will simply work as a “letter-box” used to circulate information among states parties. As its taking on analytical roles is likely, an early discussion and definition of guidelines on what these could be would be a more productive approach.

4. Informal Discussion

During the informal discussion, the following remarks were made:

- The paper presented by Dr. Atwood was considered particularly useful in that it outlined pros and cons of different options. The choice among these will ultimately depend on the types of responsibilities that the ATT Secretariat will be entrusted with;
- The Secretariat should be at the service of all states parties, and consequently should not be made to rely only on voluntary funding mechanisms;
- The selection of the location for the Secretariat should take into account different factors, including costs of particular venues compared to others, the need for inclusiveness and representativeness;

- Finally, one participant noted that segments of the small arms industry and other civil society groups engaged in the promotion of lawful civilian sporting, collecting, and self-defense activities with small arms have efficiency, competitiveness, and privacy concerns with the future Secretariat. The central concern is that aspects of the its functions could be left insufficiently accountable, and that this could result in a de facto supranational / transnational regulatory / lawmaking institution with powers that could potentially facilitate the establishment of binding rules on non-state actors in contrast with existing national provisions.

5. Closing Remarks

As a closing remark, it was noted that the features of the future ATT Secretariat will largely depend on how inward- and outward-looking its role will be. An outward-looking Secretariat will be expected to engage in a broader range of functions than an inward-looking one, relating to promotion of universalization, interaction with all stakeholder communities, and dialogue with states not party to the Treaty. The nature and role of the Secretariat, in turn, could ultimately define the future inclusiveness and legitimacy of the Arms Trade Treaty itself.