STATEMENT

BY

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OF KENYA TO THE UNITED NATIONS IN GENEVA

ON

THEMATIC DEBATE: "CONVENTIONAL WEAPONS"

DURING

THE

63RD SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY

Tuesday, October 21, 2008
United Nations, New York

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Mr. Chairman,

The Kenya delegation associates itself with the statement made by Indonesia on behalf of the Non-Aligned Movement. We however, wish to underscore a few points pertinent to our national interest.

1. Kenya has been in the forefront in the global efforts to address the problem of excessive accumulation and uncontrolled circulation of conventional weapons. We are particularly concerned over the continued production, manufacture and circulation of Small Arms and Light Weapons (SALW) and their excessive accumulation and proliferation in many parts of the world, including in my own region.

2. In this regard, we underscore the importance of the UN Programme of Action to prevent, combat and eradicate illicit small arms and light weapons in all its aspects. We welcome the innovations and progress made at the last BMS Meeting in July, 2008. The Regional Centre for Small Arms and Light Weapons (RECSA) with its headquarters in Nairobi, has done commendable work in harmonizing and co-ordinating the activities of Member States in the reduction of small arms and light weapons. We urge our partner States to continue with their invaluable support in this noble endeavour.

Mr. Chairman,

3. Kenya was an original co-author of the General Assembly Resolution 61/89 at the 61st Session entitled, "Towards an Arms Trade Treaty". We were privileged to serve in the Group of Governmental Experts to examine the feasibility, Scope and Draft Parameters of an Arms Trade Treaty whose report contained in Document A/63/334, was ably presented by Ambassador Roberto Moritan. Kenya remains committed to the global efforts to govern international arms transfers through a legally-binding treaty.

4. We convey our appreciation to more than 80 States that have so far sponsored the resolution tabled by the United Kingdom on behalf of the co-authors which seeks to establish an Open-Ended Working Group to begin consideration of the elements in the GGE Report for an eventual legally-binding Treaty on the Import, Export and Transfer of Conventional Weapons.

5. In this connection, Kenya hosted an African Regional Meeting in Nairobi from September 3-4, 2008, on The Arms Trade Treaty, International Transfers and Development, which I had the privilege to Chair. The meeting which was attended by representatives of 20 African Governments, members of the civil society, African and other Regional Organizations, discussed the impact of armed conflict and armed violence in Africa and adopted the Nairobi Outcome Document, which have the pleasure to present to the Committee. The Declaration calls for negotiations on an ATT to commence as a matter of priority. It further recommended:-

- That these negotiations should lead to an effective ATT that would promote peace and development of Africa.

- That an ATT should include universally applicable criteria based on States’ existing
obligations under international law.

- That it should be broad in scope and encompass all conventional weapons, including small arms and light weapons and their ammunition, components and dual-use equipment etc.

- That an ATT should include provisions for international co-operation and assistance in order to ensure that developing countries acquire the capacity to implement its provisions at the national level.

*Mr. Chairman,*

6. Kenya was among the first 42 countries that adopted the Geneva Declaration on Armed Violence and Development in June, 2007. As a Member of the Core Group in Geneva charged with the responsibility of implementing the Declaration, we welcome progress that has been made through the regional meetings in Guatemala, Nairobi and Bangkok, leading to wider acceptance of the Declaration by more than 86 countries. We welcome the Review Conference Declaration adopted last month and hope that the Resolution to be tabled at the Plenary will be adopted by consensus.

7. In particular, we hope that the partnership between States, the civil society and international organizations, which was duly underscored in the Declaration, will enhance and promote comprehensive responses to effectively address the scourge of armed violence. We hope that under this initiative, we shall be able to achieve measurable indicators and targets on armed violence and development, as a component of the Millennium Development Goals (MDGs).

8. Kenya welcomes the adoption of the Convention on Cluster Munitions at the Dublin Diplomatic Conference in May, 2008 to end decades of civilian suffering. We urge as many States as possible to sign the Convention in Oslo, later this year. This will bolster and complement progress already made under the Mine-Ban Convention.

*Mr. Chairman,*

9. Before concluding, Kenya appeals to the international community to address, as a matter of urgency, the problem of piracy especially in the shores of Somalia which threatens to exacerbate the problem of illicit proliferation of weapons in the hands of criminals and terrorists. If not checked, this phenomenon will lead to greater insecurity and destabilization in the region. These recent experiences have demonstrated the need for the international community to intensify efforts to find a lasting solution to the conflict in that war-torn neighbouring country. Kenya stands ready to lend its support.

Thank you.
The Arms Trade Treaty, International Transfers and Development

Conference at the Kenya School of Monetary Studies, Nairobi, Kenya

Conference Outcome Document:

Representatives from 20 African Governments,\(^1\) members of civil society, African and other regional organisations\(^2\) met in Nairobi, Kenya on the 3\(^{rd}\) and 4\(^{th}\) of September 2008 to discuss the relationship between international arms transfers, development and an Arms Trade Treaty. The aims of the conference were as follows:

1. To discuss the impact that conflict and armed violence has on Africa’s development and to focus on the role that irresponsible arms transfers play in fueling these conflicts and violence.
2. To examine the ways in which an Arms Trade Treaty would help to address the problem of irresponsible transfers and contribute to peace and socio-economic development in Africa.
3. To examine the role of both exporting and importing States in preventing irresponsible transfers.

The conference identified the following principles which should underpin an ATT:

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\(^1\) Algeria, Burundi, Djibouti, DRC, Eritrea, Ethiopia, Kenya, Malawi, Mali, Mozambique, Namibia, Nigeria, Rwanda, Senegal, Somalia, South Africa, Tanzania, Togo, Uganda, Zambia.

- 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

A global Arms Trade Treaty that serves Africa

During two days of discussions and workshops, participants and experts shared examples and case studies on the impact of weapons transfers on peace and development in Africa. Participants highlighted that the costs of armed violence fuelled by irresponsible arms transfers can be seen not just in the many innocent people killed or injured by arms, but also in the impact on society more broadly, including by undermining economies, over-burdening healthcare systems, displacing entire communities and disrupting education for millions of children.

Participants discussed the responsibilities of exporter and importer states in preventing irresponsible arms transfers which have a negative impact in Africa, and the ways in which an ATT could provide a real opportunity to prevent international arms transfers that fuel conflict, poverty and human rights abuses.

Participants also discussed the issue of corruption and accountability in arms procurement, as well as the 'opportunity costs' of spending limited resources on weapons rather than on more socially productive expenditure, such as education, healthcare, hospitals and other social services. This was regarded as a possible threat to the fulfilment of the Millennium Development Goals and the longer-term development of Africa.

Participants recognised the importance of the participation of civil society in all negotiations of an ATT.

Participants recognised the importance of existing regional agreements and initiatives on arms control including, inter alia; the Nairobi Protocol for the Prevention, Control and
Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa; the ECOWAS Convention on Small Arms and Light Weapons. Their Ammunition and Other Related Materials; the SADC Protocol on the Control of Firearms, Ammunition and other Related Materials; and the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking in Small Arms and Light Weapons. These agreements already contain many of the key elements that could inform a global ATT.

Conclusions

In underlining the importance that an ATT would have for Africa's peace and development, participants agreed that:

1. Greater efforts should be made to prevent the irresponsible transfer of weapons.
2. All governments should agree on a set of common standards for arms transfers.
3. An effective ATT should ensure that whenever governments consider authorising a transfer of weapons, they consider the likelihood that those weapons could be used to commit serious violations of international human rights law or international humanitarian law or that they could undermine regional peace and development. If a clear risk is identified, authorisation of the weapons transfer should be denied.
4. An ATT would offer States the opportunity to ensure that arms transfers reinforce rather than weaken human security.

Conference Recommendations

The conference agreed on a set of recommendations that would be transmitted to the First Committee of the General Assembly at its 63rd session in October 2008. The recommendations were as follows:

1. That negotiations on an Arms Trade Treaty should commence within the United Nations as a matter of urgency.
2. That these negotiations should lead to the agreement of an effective Arms Trade Treaty that would promote peace and development in Africa.
3. That an ATT should include universally applicable criteria based on States' existing responsibilities under international law including international human rights law and international humanitarian law and should require governments to prevent arms transfers where there is a clear likelihood that they may be used to
commit serious violations of international human rights law or international humanitarian law, or to undermine peace, security and socio-economic development.

4 That an ATT should take fully into account the recipient's record of compliance with its commitments in the areas of non-proliferation, arms and munitions control and disarmament.

5 That an ATT should also take into account the recipient's capacity to ensure the integrity and security of the arms received.

6 That an ATT should draw from existing instruments, including those in Africa that aim to regulate arms transfers.

7 That an ATT should include as a criterion for arms transfers the risk of diversion to unauthorised persons including non-state actors or possible use for harmful purposes. In this regard, end-users and/or end-use assurances should play an important role. An ATT should include sanctions for continued end-user violations.

8 That an ATT should have a broad scope, encompassing all conventional weapons, including small arms and light weapons and their ammunition, components of weapons, dual-use equipment and equipment with a military end-use, and arms production equipment and technology. The scope should further include landmines and other conventional weapons already covered by international weapon-specific agreements, and technical support and operational training for the use of the above items.

9 That an ATT should encompass all transfers of weapons including imports, exports, re-exports, transit and transhipment, brokering and related activities, licenses or agreements for foreign arms production, gifts, loans and leasing, government-to-government transfers, and those between their agents and the 'transfer of title' of any items.

10 That, in order to ensure effective monitoring and verification of arms transfers, the following should be in the provisions of an ATT:
   - Regular annual reporting on transfers by states to a UN registry
   - Transparency through, *inter alia*, regular reporting of states to the UN register
   - The importance of transparency at the national level
   - Greater focus on the exchange of information by law-enforcement
agencies

- Dedicated institutional capacity at national level to ensure the fulfilment of substantive reporting and information exchange provisions under an ATT

That an ATT should include provisions for international co-operation and assistance in order to ensure that developing states acquire the capacity to implement the provisions of an ATT at the national level. This could include both financial and technical assistance for such states in the establishment, implementation and enforcement of national control systems.

Participants expressed their appreciation to the Government of Kenya and civil society partners for hosting the conference and for their efforts that ensured a positive outcome.

Nairobi, 4th September, 2008