



# *Arms Trade Treaty Monitor*

*NGO reporting and analysis on the second session of the preparatory committee for the United Nations Conference on the Arms Trade Treaty, 28 February–4 March 2011*

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## **Questions of Scope**

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Ray Acheson | Reaching Critical Will of WILPF

As laid out in the Chair's provisional programme of work, Monday morning's opening plenary meeting of the second arms trade treaty preparatory committee focused on the scope of the treaty: what types of weapons and types of activities should the treaty cover?

**Types of weapons:** The number of delegations supporting an extremely comprehensive scope in terms of both types of weapons and activities seems to be increasing. Interest in expanding the categories of weapons included to those beyond the [UN Register of Conventional Arms](#) and/or expanding the definitions of

those categories in order to incorporate additional weapon systems or calibers of weapons is growing. However, several key states are still concerned about expanding the scope too much and there continues to be some resistance to even including small arms and light weapons and their ammunitions in any future treaty.

The [Norwegian delegation](#) argued that everything should be included unless specifically excluded, and that any exclusions "should be linked to the goal of the ATT and be based on humanitarian arguments." In Norway's perspective, the goal of the ATT should be preventing of arms trading that causes human suffering or

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The ATT Monitor is produced by Global Action to Prevent War, Reaching Critical Will of the Women's International League for Peace and Freedom, Oxfam International, and the International Action Network on Small Arms and Light Weapons. More reporting and analysis can be found on their joint blog at <http://attmonitor.posterous.com> and on Twitter at [#armstreaty](#).

violations of human rights and international humanitarian law.

Several delegations, including those of [Costa Rica](#) and the [European Union](#) called for the treaty to include the seven categories of the UN Register, small arms and light weapons, ammunition (7+1+1), as well as munitions and components, knowledge, and equipment essential to the manufacture and use of these weapons. [Tanzania's delegation](#) emphasized that the treaty must include SALW, while the [Caribbean Community \(CARICOM\)](#) argued that an ATT must include ammunition and SALW components, noting that without bullets, SALW are useless. Likewise, the Norwegian delegation stressed that “ammunition is at the core of global armed violence”. While some delegations, such as Egypt's, argued that it would be difficult to implement provisions on marking and tracing ammunition, [Trinidad and Tobago](#) pointed out that the technology for this already exists.

The [European Union](#) and [Norway](#) also called for the inclusion of military explosives and noted that weapon parts and components should be an included category as well. The EU elaborated that this category could include electronics, computers, telecommunications, info security, sensors and lasers, and transportation and training devices designed for military use.

Norway, the EU, and the UK also argued for all calibers of weapons to be included, though others, including Japan and Egypt, argued that only the calibers specifically mentioned in the UN Register categories should be included.

The UK delegation called for inclusion of sporting and hunting rifles, which are currently listed as “exemptions” in the

Chair's paper, to be included in the treaty in some form, arguing that while exports of 10 hunting rifles is one thing, exports of 1000 of the same rifles is a different matter. The delegations of Cuba and [Brazil](#) agreed that antique, sporting, and hunting weapons should be included in the treaty as these weapons can and have been misused in armed conflict.

Making the strongest statement of the morning against a comprehensive scope, the Egyptian delegation argued that the treaty should be strictly limited to the seven categories of weapons in the UN Register and that the definitions of these categories should not be amended at this time. Egypt also argued that SALW should not be included in the treaty as the UN Programme of Action on SALW takes care of this issue. Egypt's delegate also argued against inclusion of ammunition, munitions, parts, and components; he stressed that since some parts and components used in weapons are dual-use, their inclusion in an ATT could result in extensive hurdles to civil industry and contradict with industrial and developmental aims of many developing states. Cuba and Brazil's delegations agreed that dual-use items should not be restricted by the treaty.

Brazil's delegation expressed support for the 7+1+1 formulation, but cautioned against expanding the definitions of the UN Register's categories. It argued that the definitions of the seven categories in the Chair's paper include weapons designed for “defence” purposes, whereas the UN Register only includes “offensive” weapons. The delegations of India, Indonesia, and Japan agreed the treaty should include the weapons in the Register and SALW (7+1), but India's delegation argued that since the GGE on the UN Register could not agree on expanding the definitions or categories of

weapons, the ATT process should not attempt to do so.

**Types of activities:** Many delegations welcomed the comprehensive list of activities supplied in the Chair's informal paper on scope. [Costa Rica's delegation](#) argued that an ATT that is limited merely to imports and exports cannot effectively regulate an arms trade where materials, technology, and knowledge passes through many hands, each of which constitutes a potential for diversion or misuse. It, along with several other delegations, urged the treaty to cover all international transfers between states and other entities, including transit, transshipment, brokering, transfer of technology, manufacturing under foreign license, gifts, loans, leases, research and development, and financing. [Norway's delegation](#) agreed these activities "should be subject to national licensing and subject to the same criteria as export." Japan's delegation said these activities would need to be "carefully considered".

[CARICOM's representative](#) noted that there is no agreed definition of brokering but the one supplied by the GGE that the Chair uses in his informal paper "represents a solid foundation on which to commence discussion." CARICOM also suggested that in order to remain a "living document," the scope of the ATT should be considered at subsequent review conferences once the treaty is adopted.

The [European Union](#) welcomed the comprehensive list of activities proposed by the Chair and agreed that transfers within states and domestic gun ownership should not be covered by the treaty. The EU also argued that activities such as research and development (R&D) and financing would "hardly be controllable by the state parties of the treaty" and argued against its

inclusion in the treaty. In a separate statement, the UK delegation also argued that R&D and financing should be removed.

The Egyptian delegation called for only "illicit" brokering to be covered by the treaty; argued that technology transfers should not be included at all and rather should be encouraged, not restricted, by the ATT; and urged that any implications for contracts of foreign licenses should only refer to future, not current, arrangements. The Indonesian delegation argued that the possible inclusion of manufacturing licenses and technological transfer signals that the treaty could be "misused" and argued that the scope should be limited only to arms and activities "that directly result in human suffering". Cuba's delegation also expressed concern over proposals to include R&D, financing, and technical assistance in the treaty, arguing that these activities "do not fall in any way within a reasonable and practical scope".

India's delegation stated that the UN General Assembly on the ATT only referred to import and export of conventional arms and therefore the definitions of other activities, such as transit, transshipment, retransfer, and brokering should be considered very carefully. It argued that technical assistance, R&D, and technology transfers should not be included in the scope of the treaty because implementation would be difficult and subject to interpretation. [Brazil's delegation](#) argued that including such activities would serve to discriminate against countries seeking technological development.

**Other issues:** Some delegations continued to express concern about the ATT's potential to be misused and politicized. The [Arab Group](#) stressed that the ATT has to be based on and not conflict with principles in

the UN Charter, including the right of states to attain conventional weapons for self-defence, their right to self-determination, the prohibition of use of arms against unarmed civilians, etc. For an ATT to be universal, the Arab Group stated, it should be nondiscriminatory and implemented in manner that does not allow its exploitation for political or commercial objectives. The Arab Group also emphasized that the ATT must take into account the different responsibilities of producers and importers

of arms and must not substitute the logical duties of major arms producing states with discriminatory rights. [Costa Rica's delegation](#) tried to quell some of these concerns by emphasizing that the arms trade treaty is a reaffirmation of state responsibility, not a weakening of state sovereignty.

## A Thematic Overview

Katherine Prizeman | Global Action to Prevent War

The opening session of the second Arms Trade Treaty Preparatory Committee, chaired by Ambassador Moritan of Argentina, addressed the first of three major issue areas to be covered throughout this week of deliberations. Ambassador Moritan, prior to the February 28<sup>th</sup> opening, circulated three non-papers to Member States addressing scope, parameters, and international cooperation, respectively. Monday's session focused primarily on the first of these issues: scope. Member States engaged in a discussion of which weapons should be included under a future arms trade treaty. The United Kingdom's statement affirmed the intent to create a floor rather than a ceiling, such that the ATT may organically evolve as deemed appropriate by Member States.

The goal of treaty was debated throughout the day with states expressing both their aspirations and concerns. The French delegation identified dual goals for an ATT: to prevent illicit trade by keeping conventional arms out of the hands of terrorist and non-state actors, as well as regulate legal arms transfers. Mexico made clear that an ATT is not an arms prohibition

treaty. Other delegations, including the Arab Group represented by the delegate from Bahrain, chose to identify the single goal of an ATT of regulating legal arms transfers. Bahrain made clear that 'politicizing' human rights as an excuse to intervene in internal affairs of another country is unacceptable. The delegations of Indonesia, Egypt, Iran, and China were particularly concerned with potential threats to territorial sovereignty in this context, and affirmed 'the inalienable right of self-defense' as enshrined in Article 51 of the UN Charter. In contrast, Norway stated that it takes a humanitarian perspective on the ATT seeking to limit international humanitarian law and international human rights law violations.

Definitions of basic terms, including 'imports,' 'exports' and 'transfers,' were also examined. Several Member States called for more precision in the Chair's definitions as found in the first non-paper. The definition of exports was explored whereby several states, such as Norway and New Zealand, explained that 'export' referred to both physical movement as well as the transfer of title and control. Transportation also emerged as an issue of

concern whereby some delegations, including Denmark, sought to identify ways for the treaty to include this item.

The scope discussion placed emphasis on the 7 + 1 + 1 approach of weapons to be covered under an ATT. Antigua and Barbuda, representing CARICOM, expressed support for this approach. This includes the seven categories of the existing UN Conventional Arms Register as well as small arms and light weapons (SALW) and ammunition. The majority of states made deemed it appropriate that all conventional weapons, as well as SALW, should be included under the treaty. Egypt, however, stated that small arms should not be included under an ATT as there is already a Program of Action on Small Arms, and other states expressed concern about the complicating factors of including ammunition. Many other Member States, including Senegal, Belize and Kenya, made the argument that inclusion of ammunition is vital as ammunition is what essentially gives guns their lethality. The Swiss delegate stated that all ammunition of the weapons covered under the treaty must also be duly covered “full stop.”

More controversial discussions centered on the inclusion of parts and components, technology, and research and development (R & D). There was concern over excluding parts and components in that the transfer of such creates opportunities for the importing party to assemble weapons in their territory. Trinidad and Tobago explained that the inclusion of parts and components is necessary to avoid loopholes. Hungary, representing the European Union, was also in favor of including parts and component in the scope. The United States expressed concern over discussion of technology transfers and R & D noting that their

inclusion would be difficult to define precisely in a final treaty. The US referred to parts and components and technology as “tricky propositions.” Hunting rifles and antique weapons also received attention at various points during the discussion. The Mexican delegate expressed apprehension over their proposed exception explaining that such weapons could easily be refitted for more lethal purposes.

Other themes to emerge throughout the first plenary were ‘exceptions’ and the role of existing arms embargoes. The Chair's non-paper presented a list of exceptions of weapons that would lie outside of the treaty's scope. Some states sought the complete elimination of such exceptions including Costa Rica, which called for the widest scope possible referring to a ‘positive responsibility’ required of Member States, while others (including the French) reserved support for including at least some of the weapons on the list of exceptions. In addition, the issue of Security Council embargoes was cited by the Indonesian delegate explaining that an ATT must prohibit breaches of UN Security Council, regional and sub-regional arms embargoes.

There was also a relative consensus among a sub-group of Member States, including Cuba and the African Group, that illicit arms trade transfers remain as severe hindrances to socio-economic development and poverty reduction. The Nigerian delegate, speaking on behalf of the African Group, stated that development is an absolute priority for Africa so that an ATT, which contributes to development, is welcomed. South Africa also spoke of a “view to the development impact.” The ‘development dividend’ of an ATT provides further motivation for many states to complete successful negotiations in a timely fashion.

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**Bullet Points**

Dr. Robert Zuber | Global Action to Prevent War

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Monday's discussion at the ATT Prep Com, motivated in large measure by three 'non-papers' presented by Ambassador Moritan, reiterated some familiar positions and provided new evidence that, with few exceptions, diplomats are committed to pushing towards the finish line on a formal ATT.

Of course, what that 'finish line' looks like is still somewhat up for grabs. Delegates took seriously Costa Rica's call for 'positive responsibility' and the tone in the room was largely supportive. Nevertheless, discussions on scope – both weapons and activities – made it clear that consensus is still a bit beyond the horizon. Perhaps the most contentious issue of the day was not about the inclusion of small arms and light weapons in the treaty -- as had been the case in earlier sessions -- but the inclusion of ammunition.

A compelling case was made by several delegations that the exclusion of ammunition from the list of items to be included in an ATT makes little sense, given that any modern weaponry – including that diverted to non-state actors or through diversion or corruption – is rendered useless in the absence of serviceable ammunition. As the CARICOM statement put it, "without bullets, guns are irrelevant." Moreover, given that the ATT will not prohibit legitimate transfers between sovereign state parties, there seems to be no immediate purpose for excluding ammunition from regulation altogether, unless the delegates believe that states themselves are fully able to guarantee the end of weapons diversion and the ammunition that, as Belize put it, "imbues weapons with their destructive force."

But there are legitimate concerns about ammunition in an ATT, one of which relates to reporting obligations under a treaty, especially for smaller states, obligations which are likely to increase with the inclusion of ammunition. Both Australia and New Zealand acknowledged the problem directly and suggested that ammunition could carry with it different criteria of 'risk assessment' that would serve to reduce reporting burdens while preserving regulation.

Also, the more weapons-related categories included in an ATT, the greater the perceived need for some non-state structure that can referee transfers and raise red flags in instances where such transfers are ripe for diversion or abuse. The inclusion of ammunition (and any related structural requirements) might jeopardize an otherwise achievable treaty consensus, a point that Egypt and others seemed to make.

But some sort of structure beyond states seems appropriate, especially in efforts to regulate ammunition, given that it has broad application to existing weapons, not only to the most modern, up-to-date ones. As the German delegation noted, ammunition and weapons are "twins," though not entirely identical ones. Newly minted weapons may well displace existing stocks and even provide incentives for resale to non-state actors. But older weapons can also be upgraded and ammunition reinvests these weapons with fully lethal potential. If such weapons become also prime candidates for diversion or resale, unregulated ammunition can easily turn limited destructive instruments into a major security problem for states.



The US stated that an ATT should merely provide guidance to states on transfers without any independent oversight authority. The irony for some delegates in this instance is that the country with the strongest voice on ‘terrorism’ is also resolute in rejecting any non-state structure that could flag transfers that have the potential to lead to abuse by or diversion to non-state actors.

Examples already come to mind of transfers-related situations overseen only by states that can easily threaten security and compromise existing human rights and international law obligations. Such examples will be shared in the days and months to come. In the best of worlds, doors to a structure adequate to the ambition of this ATT will stay open.

## The Arms Trade Treaty: What about Women?

IANSA | The IANSA Women’s Network

Despite the obvious and recognized connections between women, peace and security, not to mention groundbreaking UN Security Council Resolutions, including 1325 declaring the importance of women’s participation in peace processes and [women’s activism](#) in the field of arms control, we again see how women and gender are being ignored in the process towards an Arms Trade Treaty (ATT).

The paper of the Chair of the ATT Prepcom, Ambassador Moritan, issued on 16 February 2011 is completely lacking any mention or acknowledgement of the relationship between women, security and arms control, nor the incidence of gender-based violence perpetrated or facilitated by conventional weapons, particularly small arms. Despite this, during the Prepcom and beyond, the IANSA Women’s Network will continue to draw attention to states on the particular impacts that the irresponsible trade in arms has on women, including gender-based and sexual violence both in armed conflicts and in [non-war contexts](#).

However, the paper does acknowledge the potential consequences of the arms trade on internal, regional and international peace and security and emphasizes existing obligations in international law including

UN Security Council Resolutions; international humanitarian law; and international human rights law. It also mentions transnational organized crime, crimes against humanity and acts of genocide.

International law includes women’s rights but these are not explicit within the UN Charter or the Geneva Conventions and other instruments of international law traditionally used by diplomats in the disarmament community. However, they have been recognized by [UN Security Council resolutions](#) and other binding instruments of international law and form part of international law that is relevant for the ATT. Under international law, all States have an obligation to prohibit the provision of conventional arms to any person or entity which would knowingly assist in the commission or the attempted commission of international crimes. This includes sexual violence. Under international law, conflict related sexual violence is a war crime, a crime against humanity or a constitutive element of genocide; it is an element of organized crime, as human trafficking and enforced prostitution. Sexual violence is a tactic of war that threatens international peace and security.

In practical terms, it is the international human rights standard that states will be able to implement especially as gender based violence and states' responsibilities to address it are framed in international human rights law. In this way, the [prevention of sexual and gender based violence](#) are inherently linked to the inclusion of a strong 'international law' standard. This would lead to the prevention and prohibition of transfers of arms if they are likely to be used to perpetrate acts of firearms-related sexual and gender-based violence. For example human rights law precedents now confirm that state failures to prevent and redress domestic violence violate human rights. In addition, states' human rights obligations are found in a range of international treaties including [CEDAW](#) which is specifically linked to women's rights and gender equality.

**Relevant international human rights instruments include:**

Convention on the Elimination of All Forms of Discrimination against Women [CEDAW];

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;  
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;  
Convention on the Prevention and Punishment of Crime of Genocide, 1948  
Beijing Declaration and Platform of Action, Fourth World Conference on Women, 1995;  
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;  
Declaration on the Elimination of Violence against Women;  
Rome Statute of the International Criminal Court (ICC) 1998  
Outcome document of the twenty-third special session of the UN General Assembly, Women 2000: Gender Equality, Development and Peace for the 21st Century, 2000;  
Four Geneva Conventions of 1949, and; UN SC Resolutions 1325, 1820, 1888, 1889 and 1960.

## How Can the ATT Support Development?

Ben Murphy | Oxfam Australia

In 2007-8 the infant mortality rate dropped in Brazil saving 1,700 babies from early death compared to the year before. The same year, 14,000 young Brazilians between 14 and 19 years old were killed as a result of armed violence. This brutal trend is essentially shooting down Brazil's hard won development achievements, and begs the question – development for what?

Last Friday in New York, Oxfam, UN Women and UNICEF brought together

governments, UN officials and NGOs activists to discuss the enormous strain that conflict and armed violence puts on socio-economic development, and asked – how can the Arms Trade Treaty (ATT) make a difference?

While States' legal responsibility to development is enshrined in the UN Charter, as well as in numerous other international commitments – such as the Millennium Development Goals – there's still a degree



of ambivalence around the question of definitions. A ‘violation of socio-economic development’ is less clear-cut from a legal perspective than say a violation of human rights or international humanitarian law. There seems to be broad agreement amongst states that an ATT should include parameters that prohibit a transfer of weapons if there is a risk those weapons will be used to commit serious violations of the laws of war and violations of human rights. With the development parameter, it’s still a little more difficult. Whilst states have committed to advancing development time and time again, we’re not quite at the stage where we can easily define a particular action as a ‘*crime against development*’.

Yet, the destructive impact of irresponsible arms use on development is undeniable. In surveys conducted in eastern Democratic Republic of the Congo last year by UNDP, 80% of people stated that they didn’t have access to markets, medical services or schools as a result of insecurity and armed violence. In Zambia, limited state resources mean that the average funding for medical treatment is just \$6 per person per annum. Meanwhile, treating one Zambian patient’s gunshot wound can cost as much as \$3000 – that’s the equivalent of the annual medical budget for 500 Zambians! What’s more, the estimated \$284 billion lost in Africa as a result of armed conflict between 1990 and

2006 accounts for almost all Official Development Assistance to the continent during the same period.

Clearly there’s a need for better regulation of arms transfers to prevent further steps backwards, and the Arms Trade Treaty presents a unique opportunity to address this issue. Oxfam has identified at least four ways to assess whether arms transfers likely to undermine development should be authorized or not. Namely, a transfer should not be authorized if there is a substantial risk that the transfer will:

- Fuel high levels of armed violence, in a country or region
- Lead to diversion of funds from essential services, such as health and education
- Involve corrupt practices, or contribute to a pattern of corruption in the country, or
- Undermine efforts to build sustainable peace in a state emerging from conflict.

The next challenge is translating these standards into the kind of robust legal language required for the governments drafting the Arms Trade Treaty. One conclusion from Friday’s workshop was to look to already agreed and emerging legal arrangements spearheaded at the regional level, as well as the support of concerned and affected States, to make headway on this issue. Let’s get to work.

## Calendar of Events

Date	When	Where	What	Who
<b>Tuesday, March 1</b>	1:15–2:30 PM	Conference Room 6 North Lawn Building	<i>Comprehensive Scope for a robust ATT</i>	Amnesty International, Caritas
<b>Wednesday, March 2</b>	1:15–2:30 PM	Conference Room 1 North Lawn Building	<i>Saving Lives: Preventing Gun Violence Through the ATT</i>	IANSA, ForUM, Amnesty International, Mission of Norway to the UN
<b>Thursday, March 3</b>	1:15–2:30 PM	Conference Room 6 North Lawn Building	<i>An ATT and Ammunition</i>	Mission of Trinidad and Tobago to the UN, Germany Ministry of Foreign Affairs,

				Norwegian Forum for Environment and Development, Norwegian Church Aid, PRIO, Control Arms
	6:30 PM	Paley Center for Media, 2 <sup>nd</sup> Floor	<i>Shooting Reception and Film Screening</i>	Oxfam
<b>Friday, March 4</b>	1:15–2:30 PM	Conference Room 1 North Lawn Building	<i>Disarmament through education: women take the lead</i>	UN Office for Disarmament Affairs, Mission of Norway to the UN, Religions for Peace, IANSA Women's Network



WEDNESDAY MARCH 2, 2011

› **Saving Lives: Preventing Gun Violence Through The Arms Trade Treaty**

Location: **Conference Room 1 North Lawn Building UNHQ**

Time: **1:15-2:30pm**

Speakers:

**Ms. Rashida Manjoo**, UN Special Rapporteur on Violence Against Women

**Mr. Francis Forbes**, CARICOM Implementation Agency for Crime and Security (IMPACS)

**Dr. Ogebe Onazi**, International Physicians for the Prevention of Nuclear War, Nigeria

**Ms. Clare da Silva**, Author of "How an Arms Trade Treaty Can Help Prevent Armed Violence"

Chair: **Ms. Agnes Marcellou**, Chief, Regional Disarmament Branch, UNODA

Co-Hosts: **IANSA, ForUM, Amnesty International, The Mission of Norway**

THURSDAY, MARCH 3, 2011

› **Ammunition in the Arms Trade Treaty**

Location: **Conference Room 6 North Lawn Building UNHQ**

Time: **1:15-2:30pm**

Panel:

**Marren Akatsa Bukachi**, Ugandan Women's Organization EASSI

**Holger Anders**, arms control expert

**Eden Charles**, Councillor, Mission of Trinidad and Tobago

**Martin Langer**, German Ministry of Foreign Affairs

**Hilde Wallacher**, Peace Research Institute Oslo (PRIO)

Chair: **Oliver Sprague**, Amnesty International

Co-hosts: **Mission of Trinidad and Tobago to the United Nations, German Ministry of Foreign Affairs, Norwegian Forum for Environment and Development, Norwegian Church Aid, PRIO**