



# 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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## Arms trade treaty negotiations get going like a rolling stone

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**Ben Murphy | Oxfam Australia, @Ben\_Murphy83**

This week started early with a breakfast meeting at the Australian Ambassador's residence with representatives from Australian Foreign Affairs, AusAID, Attorney General's Department, Customs and Defence Exports. Together we headed out into a cold, dark and rainy New York City in the direction of the United Nations HQ to begin the next round of negotiations for the first global, legally binding Arms Trade Treaty (ATT).

ATT Chair Roberto Moritan set the scene for the UN talks by circulating three documents to all states which he presumed had been received with 'mutual levels of dissatisfaction' by all. But, he continued, the Rolling Stones might have something to teach everyone about expectations when they sing, "I can't get no satisfaction".

Rock lyrics aside, the Chair's papers are quite strong, seeking to include every element that States have raised during the negotiations so far, specifically focusing on three sections of the proposed Treaty:

- 1) the scope of equipment and activities to be included in the treaty;
- 2) the criteria against which export authorizations of those arms should be assessed; and
- 3) the framework for international cooperation and assistance to ensure State are able to fulfil their obligations under the Treaty.

This attempt to 'capture everything' is aimed at provoking lively and substantive debate between the delegations, who will then be forced to elaborate on their national positions in order

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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.

to defend or challenge particular elements or language. After day 1 it looks like the Chair's strategy paid off. With ongoing tensions in the Middle East, and the significant presence of European and US-made arms in those crises, fresh on the minds of many in the room, the usually quiet Bahrain was amongst the first countries to take the floor. Speaking on behalf of the Arab Group, Bahrain acknowledged the significant changes currently underway in the Arab world. Yet the delegate expressly rejected human rights and sustainable development as criteria for approving or denying an arms transfer as they fear it would be used politically. Ironically, these are the exact criteria needed in the ATT if it is to prevent future such tragedies.

A great change from the last meetings was a shift away from just 'the usual suspects' making interventions. There were a number of detailed interventions from countries who've been fairly tight-lipped in the ATT process up to now, including Thailand, the Philippines,

Senegal, and most interestingly, China. With rumours circulating for some time that China has been working hard to develop its position on the ATT, the next week is sure to bring some interesting new developments from one of the largest arms exporters in the world.

The timeframe for the negotiation of the ATT is short—just four weeks of Preparatory Committee meetings before a final negotiation conference scheduled for the middle of 2012. Half the time for these PrepCom meetings has already passed. Given this short timeframe, NGOs and civil society advocates continue to push States to use the time effectively and push forward in a meaningful and concrete way. Judging by the pace and enthusiasm in the room so far it looks like States have seriously ramped up their national positions and their investment in the process. So perhaps, even if you can't always get exactly what you want in international negotiations, "if you try, sometimes you get what you need".

## A critical look at criteria

### Ray Acheson | Reaching Critical Will of WILPF

The second day of the [arms trade treaty \(ATT\) preparatory committee](#) focused on potential criteria that states would apply to determine whether or not an arms transfer should be authorized under the treaty. The discussion proved even more contentious than that over scope. Several states are concerned that if the criteria are too strict so as to limit trade, or too vague so as to be open to interpretation, the ATT will be used as a tool to deny arms to certain countries for political, rather than legal, reasons. The majority, however, seem more concerned that the ATT contribute substantially to reducing the human suffering caused by irresponsible, unregulated trade in conventional weapons.

Costa Rica's delegation tried to alleviate some of the tension between these two camps, emphasizing that the comprehensive criteria that appear to enjoy majority support espouse a **preventative** approach to illegal or irresponsible arms transfers—that these criteria aim to prevent transfers when there is credible and reliable information or indication that there is a clear risk

of misuse. The delegation argued that this differs fundamentally from a **punitive** approach prohibiting states from carrying out transfers when the exporters or importers have a bad record when it comes to human rights, armed violence, etc.

Regardless of the objectives of the treaty, Costa Rica's delegation argued, the international community cannot afford to produce an incomplete, weak, or ineffective treaty. And it stressed that an even more immediately is a basic moral imperative to design an effective instrument to regulate an industry that lacks comprehensive international control.

At the base of the tension between those who want strict criteria and those who are concerned about the potential misapplication or manipulation of criteria is a fundamental disagreement over the purpose of the ATT. Some states want the treaty to *restrict* arms transfers to ensure that they do not contribute to violations of international humanitarian law or

human rights, to genocide or crimes against humanity, to terrorism or crime, etc. Others, on the other hand, want the treaty to *regulate trade in a way that actually promotes and facilitates the arms trade*. The Egyptian delegation, for example, argued that the criteria should not just consist of a list of restrictive controls but should also include *incentives* for arms trade. To this end, the Egyptian delegation suggested that in order to reduce the “excessive accumulation of conventional weapons,” the ATT should promote the arms trade “as a means to reduce such stockpiles”. Further, the Egyptian

delegation argued that if an importing state meets all the criteria for a transfer, the exporting state **must** make the requested transfer. Other delegations, such as that of the Netherlands, expressly disagreed with this position, insisting that the aim of the ATT is not to facilitate increased trade.

These fundamental disagreements animated most of the discussion on Tuesday, which primarily focused on the Chair’s informal paper on criteria. [See the ATT Monitor blog for a full report!](#)

## Victim assistance brings the human into the arms trade treaty

Nerina Cerva | Action on Armed Violence

States are negotiating an agreement that aims to regulate transfers of weapons because of the human suffering caused by the irresponsible weapons trade. We’ve heard the numbers: 250,000 people killed each year, millions displaced, and countless more bear the cost of the lack of global regulations of arms transfers.

For each person killed, up to 28 are injured by armed violence each year on average. They are the living proof of the humanitarian impact that states are trying to prevent with the arms trade treaty. Recognizing the rights of victims and the need to assist them in recovery is an essential component of a treaty that aims to reduce the humanitarian impact of poorly regulated trade in weapons. Without provisions to ensure they can enjoy their rights and live their lives in dignity, without bringing the

“human” back into the discussions, the humanitarian aspect of the treaty will be meaningless.

Victim assistance provisions should NOT form the basis for monetary compensation or entitlement for special benefits. What victim assistance requires is that particular needs of victims be addressed in the policies and programs relevant to them. It is based on the same international human rights and humanitarian law and standards that form the basis for state obligations to trade weapons responsibly.

Victim assistance should not fall victim to irresponsible negotiations in conference rooms at the UN. States should step-up victim assistance if they genuinely aim for a treaty with a humanitarian impact.

## Floors and ceilings

Jessica Erdman | Global Action to Prevent War

The hopeful buzz around the Arms Trade Treaty (ATT) has provided many with optimism about the eventual ratification of the ATT. However, there exists a fundamental disagreement about the nature of the ATT—is the ATT to be a “floor” or a “ceiling”? Proponents of creating a “floor” argue that the ATT should be written with minimum standards, and simply exist as a

bare minimum by which states can expand upon in their national capacities, while their counterparts wish to create an all-encompassing, truly universal treaty. Is there any room for compromise?

Before delving yet again into a zero-sum style of deliberations about floors and ceilings, we must take a step back and analyze the ATT's

role in the international community. We need an ATT because such an instrument is absent in the international community—by filling a gap in international law, and thus protecting civilians through regulation of arms trade. The conversation is not about whether gender, education, and human security are relevant, but rather, how to effectively include these linkages without over-reaching or politicizing the issues.

However, human rights, genocide, and crimes against humanity are inherently political issues. The concern that these issues may be politicized is legitimate, but not a strong enough argument to conclude that we should simply forget about their inclusion. Many delegations have addressed the recent and relevant Security Council resolution 1970 as an example of what the ATT can and should aim to achieve—ensuring the human security of civilians is upheld in humanitarian crises, while providing a clear course of action to do so.

Member states must continue to strive to define the scope and parameters of an ATT—

one that does not, of course, impede upon state's rights as written in Article 51 of the UN Charter, but find a way to balance the necessity of an ATT with their security needs. Thus far, the zero-sum rhetoric of security vs. an arms trade treaty has not proven to be conducive to the debate. There exists a space between the floor and ceiling—essentially, a compromise. However, a compromise cannot be formed until we re-evaluate the manner in which we see an ATT.

As the debate moves forward to discussions on international cooperation and framework for implementation, the question of floors and ceilings will undoubtedly re-appear. However, we cannot afford to continue to analyze, *vis-à-vis*, whether development, economics, human rights, or gender are important enough to be considered in tandem with the ATT. Instead, we must pursue self-reflective and vigorous debate on the ATT, with the knowledge that the ATT's unique and unprecedented role as a needed instrument to prevent human suffering.

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## **Why is the US opposing small arms ammunition in the arms trade treaty?**

**Colby Goodman and Scott Stedjan | Oxfam America**

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Although the U.S. government has been pushing for a broad range of arms to be included in the Arms Trade Treaty (ATT), from parts and components to combat support equipment, the Obama Administration continues to oppose the inclusion of small arms ammunition this week at the UN Preparatory Committee meeting on the ATT (PrepCom). This stance is somewhat surprising since the U.S. government already regulates the export and import of bullets or small arms ammunition, and many countries have already agreed to such regulations in the UN Firearms Protocol.

U.S. government officials have often stated the reason they oppose such inclusion is the difficulty in tracing small arms ammunition after it has been exported. This

position is based on the U.S. government's frustration in curbing future diversions of ammunition in cases where spent shell-casings are discovered after armed attacks. Unlike diversions of firearms, for example, governments often cannot pinpoint specific individual(s) responsible for the diversion of ammunition because it doesn't keep detailed records on internal transfers, which makes it difficult to hold the responsible parties accountable. While concerns about tracing the origin of such ammunition after it has been found is certainly challenging, this is not a solid argument against controlling ammunition at the point of export.

Oxfam and the Control Arms Coalition are pushing for ammunition to be included in the treaty in order to prevent bullets ending up in the guns of human rights and humanitarian law violators.

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Another reason as to why the U.S. government is opposing any mention of small ammunition in an ATT, could be U.S. domestic politics. The National Rifle Association (NRA) has been blocking efforts to pass the U.S. Senate ratification of the OAS Firearms Convention because of its inclusion of ammunition. In particular, the NRA has opposed language in the Convention that appears to require all entities manufacturing ammunition in a country, even individuals making ammunition at home for personal use, to notify their government about such manufacturing. Although the U.S. Senate has interpreted the Convention to mean entities manufacturing ammunition will only have to notify the government if they sell such ammunition, identical to current U.S. law, the NRA is still opposing the treaty on the basis of ammunition.

Given such U.S. concerns, States might consider a flexible approach to controls on small arms ammunition within an ATT. However, any approach must ensure that as a minimum the import and export of small arms ammunition is subject to risk assessments and authorizations before transfer - US law already requires the government to regulate the export and import of small arms ammunition. Such a provision, for example, would still seek to prevent private entities from exporting thousands of rounds of

ammunition to ruthless fighting forces abroad against national interests. It would also aid law enforcement authorities in tracing the origin of bullets found in transit because critical information on the ammunition can still be found as part of its packaging. While tracing used bullets will still not be as easy as tracking firearms, with such controls states can at least obtain key information on trafficking patterns.

At the moment there also does not seem to be strong support for including manufacturing in an ATT as the focus has mostly been on international transfers. If States determine that they would like to include such a provision within the ATT, however, governments could support language that would require entities involved in manufacturing small arms ammunition to obtain a license only if the entities also intend to sell the manufactured ammunition. Such a provision would match current U.S. law, which according to U.S. officials, stipulates that manufactures of small arms ammunition for personal use do not have to have register or obtain a license from U.S. government authorities.

Ultimately, it is bullets that are responsible for the vast majority of arms-related deaths - that's why we will keep making the case that a bulletproof Arms Trade Treaty necessitates the inclusion of ammunition.

## Articles of interest

### Dr. Robert Zuber | Global Action to Prevent War

Consistent with other ATT preparatory sessions, diplomats have had to wrestle long and hard with what Tuesday's CARICOM statement identified as the balance between the right of states to acquire arms and the various legal obligations – human rights, humanitarian UN Charter-based, and more – that constitute valuable criteria by which arms transfers are determined to be legitimate or not.

As we know for our work on civilian protection and 'responsibility to protect,' sovereignty and territorial integrity are major issues of concern for states. Many smaller states have experiences with seemingly benign UN tools and resolutions being employed as a

pretext for intervention in domestic affairs. There is considerable resistance to giving the Security Council or any other UN-authorized body additional authority to intrude in the internal matters of governments, including on arms transfers.

Over the past two days, several delegations have reinforced the need to respect sovereignty, citing Article 51 of the UN Charter as the basis for states' rights to acquire arms in accordance with self-defense and other legitimate security interests. **We do not challenge this right**, but do believe that it has a context in international relations that is not always enhanced by virtue of an imprecise

application of Article 51. The Article is worded as follows:

*Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.*

The Article clearly recognizes a right to self-defense in cases of immanent attack. However the way that states often invoke this right to 'self-defense,' which has achieved almost customary usage in discussions like the ATT, is actually more arbitrary and less contextual than that granted by this Article.

Our preference, reflected in numerous UN resolutions on disarmament, is for states to

pursue their legitimate security interests – including arms transfers -- based on the principle of *undiminished security at the lowest possible level of armaments*. But we acknowledge that there is no standard definition of 'lowest possible' on which nations have agreed. Moreover, the Article appears to strengthen the hand of the Council in security matters in ways that would actually appear to compromise rather than broaden sovereignty.

Since the ATT does not seek to prohibit legitimate arms transfers between states, there is no particular need to define clearly in this context notions of 'legitimate self-defense' or 'undiminished security.' But Article 51 is probably not the most appropriate citation to underscore the right to self-defining, self-defense or to any other subjective notions of 'sufficiency' in the security area.

On Tuesday, many delegates to the ATT wisely called for more precise definitions of key terms related to criteria and parameters for legitimate arms transfers. We respectfully request the same clarity on the use of Article 51.



## Calendar of Events

When	Where	What
Wednesday, 2 March 8:45	Conference Room D	<i>NGO Coordination Meeting</i>
Wednesday, 2 March 10:00–13:00	Conference Room 1	<i>Plenary: Cooperation and assistance</i>
Wednesday, 2 March 13:15–14:30	Conference Room 1	<i>Side event: Armed violence</i>
Wednesday, 2 March 15:00–18:00	Conference Room 1	<i>Plenary: scope, criteria, cooperation and assistance</i>
Wednesday, 2 March 18:30	Paley Center for Media 2nd Floor	<i>Shooting Poverty Reception: drinks and film screening</i>
Thursday, 3 March 8:45	Conference Room D	<i>NGO Coordination Meeting</i>
Thursday, 3 March 10:00–13:00	Conference Room 1	<i>Plenary: elements</i>
Thursday, 3 March 1:15–2:30 PM	Conference Room 6	<i>Side event: Ammunition</i>
Thursday, 3 March 15:00–18:00	Conference Room 1	<i>Plenary: NGO presentations; elements</i>
Friday, 4 March 8:45	Conference Room D	<i>NGO Coordination Meeting</i>
Friday, 4 March 10:00–13:00	Conference Room 1	<i>Plenary: elements and other issues</i>
Friday, 4 March 1:15–2:30 PM	Conference Room 1 North Lawn Building	<i>Side event: Disarmament through education: women take the lead</i>
Friday, 4 March 15:00–18:00	TBA	<i>NGO wrap-up meeting</i>



## control arms

**Control Arms side events at  
the UN during the week of  
Feb 28 - March 4th**

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 Marcaillou**, 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**