



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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Size Matters

Dr. Robert Zuber | Global Action to Prevent War

One of the pressing matters throughout this Prep Com is the matter of how states who sincerely seek to be in compliance with future ATT obligations can find the resources to do so. How does a small or potentially fragile state divert sufficient resources to create viable national action plans to assure legal transfers and eliminate diversion and corruption opportunities relative to their arms purchases?

In a similar vein, this Prep Com has reminded many participants of the wide capacity gaps that separate missions. On more than a couple of occasions this week, I playfully chided diplomats who had not been able to occupy their assigned ATT seats for a particular session. And on most of those same occasions, I was reminded by diplomats – especially from smaller missions – of the many responsibilities that they must discharge in a week as hectic as this one. Between CSW, CSD and ATT, the North Lawn

Building has felt a bit like the central Mumbai train station, diplomats and others trying to find food and other resources before they run out and make snap judgments about whether gender, development or arms trade problems are most deserving of their immediate attention.

Mission size, indeed, constitutes one of the fundamental inequities of our UN system. Each fall, we find diplomats assigned to two and even three GA committees struggling not only to make appearances and cast votes, but also to master the often complex issues on which their votes depend. There is obviously not ever going to be a 'cap' imposed on mission size, but small size constitutes an extra burden that makes it more difficult for missions to weigh in on important issues facing the global community, not to mention those that directly impact their own societies.

This ATT has certainly been attentive to reporting demands and other capacity challenges that face smaller countries. And as we noted yesterday, there has also been broad recognition of the need for states to provide capacity as well as receive it. In today's discussion, there was a new wrinkle, first implied by Ambassador Moritan in his quite sensible call for more practical, less abstract comments from delegates, and later applied to the issue of ammunition by the US and later by the UK and others. The wrinkle is that states endorsing a 'controversial' point on scope or parameters should help provide a practical blueprint for how to move forward with their proposal.

While we don't see the inclusion of ammunition in the scope of an ATT as particularly 'controversial,' there is some wisdom in insisting that if a state (or group of states) wants to arrive at a particular destination, then some energy should be put into providing directions. It is the presence of 'directions' that turns an aspirational destination into an achievable one. But this reasonable request has several key caveats. First, given the current lack of robustness around discussions of structure, one could easily make the case that presentations from almost all missions have been much 'heavier' on aspirations than on directions. Second, what constitutes 'controversial' for purposes of blueprints varies dramatically from state to state, as other contributors to this Monitor have made clear. And third, given that some of the ATT country 'teams' are larger than some mission staffs, it is probably too much to insist that all proposals emanating from states

come attached to such blueprints, at least at this particular time.

There are ways for smaller states to be heard in practical ways on arms trade issues. They can participate more robustly in forums such as the Group of Interested States process. They can (as many do) blend their voices more effectively into regional statements that clarify and magnify intent. And they can work more closely with civil society, government or UN experts to ensure that key issues and opportunities are clarified prior to sessions such as the ATT Prep Com. But all of this takes time and some of it mostly draws unwanted attention to the burdens of limited staff resources that many missions labor under.

The UN and its disarmament machinery are on the cusp of substantial and welcome gains on multiple fronts, from arms trade to weapons of mass destruction free zones. The common thread is that these are all matters of great technical sophistication requiring considerable building of trust and political will within and among states. If the larger states are as keen on successful implementation as they have stated, more practical attention must be given to capacity imbalances that impede fluency on technical, trust-building and political affairs. States that are unable to participate as full partners in these deliberations are less likely candidates for a robust and enthusiastic implementation of ATT obligations.

Small, but Lethal: Including Ammunition in the Arms Treaty

Borghild Tønnessen-Krokan, | Norwegian Forum for Environment and Development

Each year, 12 billion bullets are produced, two bullets per person in the world. Unrestricted access to ammunition fuels conflict and crime across the globe. Often referred to as "the real weapon of mass destruction", hundreds of thousands of people are killed by small arms every year – especially in poorer countries. Many more are injured, traumatized and forced to flee.

Today, the United Nations in New York Peace Research Institute Oslo (PRIO) is launching the report [*"Small But Lethal"*](#) making the case for *how and why ammunition* must be included in the Arms Trade Treaty. The report was commissioned by [Control Arms partner Norwegian Forum for Environment and Development](#) and [Norwegian Church Aid](#).

At the United Nations in 2009, after years of discussions, the vast majority of governments agreed a timetable to establish a “strong and robust” Arms Trade Treaty (ATT) with the “highest common standards” to control international transfers of conventional arms, to be negotiated in 2012.

This week, a vast number of countries, many affected by the poorly regulated trade in ammunitions, have asked for the inclusion of ammunitions in the ATT. A few countries, mainly large exporters, have claimed it is not possible to include ammunitions for practical and technical reasons. However, the PRIO report shows that the trade in ammunition is already

regulated on regional and national levels. In short, the report demonstrates that inclusion of ammunition in an ATT is both necessary and doable.

To close the dangerous loopholes that allow ammunitions to reach unintended users, common international standards are necessary. If the purpose of the treaty is to reduce human suffering and save lives, then all conventional arms whose misuse may cause human suffering should be included, obviously also small arms and ammunition. The reason is simple: People don't die of gun wounds; they die of bullet wounds.

Philosophical Differences

Katherine Prizeman | Global Action to Prevent War

As the 2nd PrepCom comes to a close this afternoon, it is time to recognize the indispensability of coming to a consensus on the central purpose of a future arms trade treaty. As evidenced by discussions Thursday morning, there is a fundamental difference in philosophy in this regard among many of the delegations. This is a contention that will remain at the heart of future ATT negotiations both during the July PrepCom and the 2012 conference. In order to successfully move forward, however, delegations must find a way to come to a minimal consensus on the purpose and ultimate objective of an ATT. Otherwise, negotiating the details of the treaty—such as how to define a “transfer,” whether ammunition will be included in the scope, or how strong the reference to corruption will be—will be rendered meaningless. No consensus can be reached on the details if consensus on the central objective remains elusive.

The divergent opinions were illustrated by the interventions of a myriad of delegations. The United States made clear that the objective of an ATT is not to prevent loss of human life, but strictly for the regulation of legitimate transfer of arms. The prevention of death and human suffering could very well be a welcomed by-

product of a successful conventional arms regulation treaty, but it surely is not its objective. The US delegate stated that it is impossible to legislate human behavior, but, rather, an ATT would create an environment of greater transparency to better reveal illicit behaviors.

Contrastingly, Pakistan chose to expand the view of an ATT's purpose to include the regulation and control of arms as well as the prevention of war, promotion of peace and security, encouragement of disarmament and non-proliferation through supply-side restraints, and the preservation of regional peace and security. The Australian delegation spoke of maintaining a humanitarian perspective in a future ATT with explicit reference to the impact of armed conflict on human suffering, safety, security, and sustainable development. Also discussed was the significance of development and its relationship to the ATT. An arms trade treaty would facilitate more peaceful and secure conditions conducive to national development goals.

How a Member State characterizes the core objective of a future ATT will likely impact all relevant positions adopted regarding the treaty

and thus will influence the success of drafting and adopting the treaty as well as its entrance-into-force. Therefore, it is necessary that the discussions and consultations that will follow this PrepCom genuinely hone in on these differences and seek a realistic and pragmatic solution to this philosophical difference of opinion. Without such a harmonization of purpose, the ATT negotiations will forever be divided between schools of thought that seem

less reconciled than they might actually be. Such differences, merely rhetorical or not, will surely impact the pace and success of negotiations.

As the Nigerian delegate put it, “At the end you start thinking about the beginning.” As the end of the PrepCom draws upon us, it is necessary to think about the beginning and determine a clear consensus on what the central objective of a future ATT should be.

Include Ammunition in the ATT

Joseph Dube | International Action Network on Small Arms

The objective of the Arms Trade Treaty (ATT) is to establish the highest common international standard for the import, export and transfer of conventional arms, in order to prevent international transfers facilitating human suffering, serious violations of International Human Rights Law and International Humanitarian Law, or contributing to armed conflict, displacement of people, organized crime, terrorist attacks thereby undermining peace, safety, stability and security for communities. To this end, IANSA urges UN Members States to support an ATT that will include ammunition. In order to comply with the principles and objectives of the ATT, it is obvious that ammunition should be included in the scope.

Ammunition is a prerequisite for engaging in combat operations. Experience gathered in conflict zones and when looking at organized crime suggests that regular flows of ammunition is a logistical priority for all parties involved. Conflict, armed violence and criminal activities rely on the balance of power created by the use of small arms and all are fueled by ammunition.

Having said that, ammunition is, *de facto*, already included in the list of items covered by some national export control systems. A number of States – all major arms exporting governments - already regulate the activities related to ammunition: from manufacture to transfer, from transit to re-export, from

brokering to commercial trade. In fact, in working on this issue for the last ten years, IANSA has not encountered a government that doesn't include ammunition in the lists of equipment subject to export licensing. The US system, one of the most comprehensive in the world, places export controls over transfers of ammunition, ordnance, components, explosives and propellants for SALW, controls that include direct transfers, re-exports, licensed production and brokering activities.

Ammunition is, in practice, less complicated to control properly than is sometimes suggested. Practices and standards to control ammunition transfers and report on these already exist, therefore, the inclusion of ammunition within the scope of the ATT is not going to generate any un-solvable challenges.

It's about time for a group of like minded progressive states to use every available opportunity to robustly defend inclusion of ammunition and not let a minority opinion fatally weaken the effectiveness of the ATT and its ability to defend and protect human rights, international law and ultimately, to deliver on its humanitarian imperative to protect the victims of armed violence around the globe. The exclusion of ammunition would severely limit realization of the Treaty's main objectives. An ATT not covering ammunition would establish an international standard below national and regional practice.

Why Women?

Rebecca Gerome | IANSA Women's Network

In discussions on the ATT, many States have questioned the necessity to explicitly mention gender-based violence, if the ATT already mentions international human rights law and international humanitarian law. Violence against women is indeed a violation of international human rights law and international humanitarian law, in times of armed conflict.

So why specifically mention gender-based violence?

Women are often the target of both sex-specific and other forms of violence, not only in times of conflict but also in ordinary times. The ways in which conventional arms and ammunition facilitate violence against women is a crosscutting issue that demands more attention. To put it simply, it would not be possible to rape women in front of their communities and families, on such a large scale in much of the world's conflicts if there weren't such a wide availability of small arms and light weapons. In non-conflict or post-conflict situations such as Haiti and the Balkans, small arms facilitate widespread sexual and domestic violence. To protect women's rights, the relevant binding international instruments covering gender-based violence, including rape and sexual violence, must be applied in arms transfer decisions.

States and UN bodies have realized the importance of specifically addressing violence against women, in both armed conflict and in other situations. During the passed decade, the UN Security Council and General Assembly have passed a number of resolutions specific to gender-based violence, recognizing the necessity to emphasize it separately, even though women's rights form part of international humanitarian law and international human rights law.

The Security Council decided to take up women, peace and security as a **separate thematic topic**. In 2000, after a bloody decade of peacekeeping failures, such as in Somalia, Rwanda and the former Yugoslavia. As part of the examination

of the broader atrocities committed, it became clear that, in Rwanda and Bosnia in particular, significant attacks had occurred specifically targeting women, including reports of systematic sexual violence. **This approach should also be reflected in the ATT.**

Discussions on the ATT present an important opportunity to examine the tools used to facilitate and commit acts of gender-based violence, most often small arms and light weapons (SALW) in the context of decisions concerning international transfers of conventional arms.

How can the ATT help prevent gender-based violence?

IANSA Women propose three possibilities to include gender-based violence in the "Criteria" section of the ATT, as follows:

"A State party shall not authorize a transfer of arms if there is, in the view of the potential transferring State, a substantial risk that those arms would..."

1. ***Be used to perpetuate or facilitate high levels of gender-based violence, in particular rape and other forms of sexual violence.***
2. ***OR Be used to perpetuate a pattern of or facilitate high levels of firearms-related homicide, serious injury or gender-based violence***
3. ***OR to be included in existing Criterion (): Be used to commit or facilitate violations of international humanitarian law, in particular/including gender-based violence, including rape and other forms of sexual violence***

It is the legal obligation of states "to refrain from engaging in gender-based violence" and to incorporate this issue in all policies at all levels in all areas (Declaration on the Elimination of Violence Against Women, 1993). This is

particularly important with respect to preventing rape and other forms of sexual violence, that are, under international law, recognized as a specific

form of “war crimes, crimes against humanity and a constitutive element of genocide (UNSCR 1325, 1820, 1888).

Ammunition in the ATT: Is It Possible?

Ben Murphy | Oxfam Australia

Since I’ve been working on the Control Arms campaign with [Oxfam Australia](#), I’ve been particularly interested in the issue of ammunition, and how it should be addressed within an Arms Trade Treaty (ATT). The ATT will be an instrument that will seek to regulate the trade in ‘conventional arms’. Exactly what this definition includes will be set out in the scope of the treaty, which will list the equipment that is subject to the regulations of the treaty. So far, states have been trying to build this list starting with the seven categories of arms in [the UN Register of Conventional Arms](#), plus small arms and light weapons, and the ammunition for these weapons (often referred to 7+1+1).

Ammunition has posed a particularly interesting question. As a smaller, single use commodity, produced in far higher quantities than other types of weapons (there are billions of rounds produced every year), it presents particular challenges around record keeping, marking and tracing. At the same time, it’s arguably the most lethal part of a weapons system – arms cannot kill without bullets, and with a steady supply of ammo, illicit arms can be used for decades. Particularly given the problems caused by guns left over from prior conflicts, or the relative ease with which homemade guns can be produced, ammunition flows become a critical factor in determining whether conflict, crime and armed violence can be prolonged.

Whilst the humanitarian basis for including ammo in the ATT is clear, there’s still some resistance from certain states about including it in the Treaty. Most prominent of these opponents is the United States. My colleagues from Oxfam America, Scott Stedjan and Colby

Goodman, have written a [really interesting blog](#) on the reasons behind this opposition. The US argues that including ammunition will be too difficult in terms of reporting and that it will be impossible to trace ammo to its final users after it has been exported. In other words, they see it as impossible to measure the risk of diversion, or the risk of human rights violations when assessing whether to authorise a transfer of ammo, because they have no way to track where that ammo will end up. That said, the US, like most countries already applies export and import controls on ammunition, so the real question is, is it a matter of capacity, or more political pressure?

Today I got to attend a really interesting workshop on the feasibility of including ammo in the ATT. Holger Anders of [Small Arms Survey](#) talked about some of the successes he has had in marking and tracing ammunition after it has ended up in conflict zones or with criminal end-users. He emphasized that whilst marking and tracing presents greater challenges with ammo than with arms, that there were still a number of success stories he could point to. Additionally, Eden Charles from Trinidad and Tobago pointed to a number of new technologies like micro-stamping (a marking on the firing pin on a gun that stamps an ammo round when it is fired) that are already being implemented in parts of the US and elsewhere. Positively, it reminded all of us that the debate on ammo is far from finished, and that there are many opportunities for advocates and states to put pressure on the skeptics and look to practical ways to ensure that ammunition movements are effectively monitored and regulated to ensure accountability and save lives.

Moving Towards Substantive Debate

Jessica Erdman | Global Action to Prevent War

Thursday's debate commenced with the introduction of a Draft Paper by the Chairman, which provided delegations with the opportunity to move away from abstract discussions, and towards a practical future. All delegations expressed their gratitude for the document, which served as a culmination of the debate thus far. Discussion ranged from the abstract to specific, and included previous questions addressed by the Preparatory Committee: ammunition, transfers, the responsibility of receiving states, and the impact on developing countries. The most apparent changes in the new Draft Paper, as compared to the July paper, include the combining of the terms "ammunition" and "munitions," and the usage of the word "assessments," as an action to be taken by states considering whether to transfer arms.

The Pakistani delegation re-affirmed their support for the inclusion of states' inherent right to self-defense and sovereignty, as addressed under "Principles." However, New Zealand reminded states of "other responsibilities in such situations" that extend beyond Article 51. The French delegation welcomed the Chairman's decision to include language in the "Criteria" such as genocide, international humanitarian law, international law, genocide, crimes against humanity, and war crimes, and suggested such definitions be based on already-established universal documents outside of the treaty. However, the Indonesian delegation critiqued this decision, arguing that such references were too broad.

With regard to the "Scope" section of the document, the Colombian, Mexican, Norwegian and Swedish delegations questioned the removal of military explosives, reiterating their importance as a weapon with dire consequences. The Swiss delegation called for more clarity in the "Scope," wondering whether hand grenades fell under the items listed. While some states called for *more* to be included in the "Scope," the U.S delegation expressed their position against any inclusion of ammunition in the treaty. Debate over the terms "ammunitions" and

"munitions" was also reignited, with delegations such as Malawi and Peru that felt ammunition was not only important, but also *imperative* to an effective ATT.

Other delegations were worried over the possible non-objectivity written into the "Criteria" section of the document. The Ecuadorian delegation wondered who would assess the criteria when determining if a transfer of arms would be detrimental to socioeconomic development. Both Cuba and Brazil indicated that an arms treaty should not discriminate against developing countries that wished to acquire new technologies. The illicit use of arms by non-state actors by way of diversion was also deemed to be necessary for inclusion in the treaty as Argentina, Colombia, Mexico, and Peru pointed out. Similarly, Zimbabwe pushed for a treaty that would not allow arms to fall into the hands of those who violate International Humanitarian Law.

The topic for Thursday's debate, implementation, was also addressed by several delegations. The Japanese delegation worried that the language in the treaty with regards to evaluation and assessment of transactions might prove to be a barrier, while Tanzania questioned the consequences of non-compliance with the treaty. The Nigerian and the Trinidad and Tobago delegations suggested the creation of a dedicated Secretariat to be put in place, which could serve as a solution to such problems.

Civil society presented their views on oft-debated topics, such as the inclusion of "Criteria" that references socio-economic development, as well as the topic of ammunition. NGO representatives from Amnesty International, Morocco and Safer World called for a comprehensive and broad scope in the treaty. Safer World argued that to not include ammunition in the ATT was taking a step backwards. Amnesty International pointed out the contemporary relevance of an ATT, such as the situation in the some countries in the

Middle East. Oxfam linked the notion of security to development, arguing that conventional arms can have a serious impact on development. IANSA reminded state of the individuals and communities who have suffered as a result of unregulated arms.

If, as the United Kingdom delegation stated, "nothing is agreed until everything is agreed," we have a long journey ahead. Delegations' vast points of views on topics varying from

definitions to technology exposed a continuing, fundamentally unanswered question: what should an Arms Trade Treaty *be*? The Chairman's Draft Proposal attempted to close the gap between the abstract and reality, but with a wide array of viewpoints on nearly every topic, much substantive negotiation remains for July 2011.