

# Arms Trade Treaty Monitor

Independent views and reports from the Arms Trade Treaty negotiation process

## Women's participation at PrepCom IV

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UN Security Council Resolution 1325 adopted in October 2010 calls for the greater participation of women in decision-making processes, especially in the areas of conflict prevention, conflict resolution, peacekeeping, and peacebuilding. Meetings of the Arms Trade Treaty (ATT) process provide opportunities for women to participate in decisions on such issues.

Based on the list of participants provided at the Fourth Preparatory Committee (PrepCom) of the ATT in New York on 13–17 February 2012, 116 of 580 delegates listed were women. That was 20% of the total, a slight decrease of the percentage of women who participated in the Third PrepCom (116 out of 523, or 22%). A total of 134 States, non-member States, entities, intergovernmental organizations, and others participated in the Fourth PrepCom. Sixty-four of these had women in their delegations. That means 52.2% of States and others sent women delegates.

Mongolia and New Zealand had an all-women delegation in this fourth PrepCom. Delegations that had more women than men delegates were Argentina, Australia, Bahamas, Bulgaria, Honduras, Jamaica, Romania, Slovenia, Trinidad and Tobago, and Uruguay. Half of the representatives of Brazil, Cape Verde, Denmark, Fiji, Grenada, Latvia, Madagascar, Saint Lucia, Samoa, Serbia, Slovakia, Sri Lanka, and Tunisia were women.

States that did not include women in their delegations were Afghanistan, Albania, Algeria, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Botswana, Burkina Faso, Burundi, Cambodia, Congo, Croatia, Democratic People's Republic of Korea, Ecuador, Egypt, Eritrea, Georgia, Germany, Ghana, Hungary, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Laos, Liechtenstein, Malawi, Malaysia, Mali, Malta, Mauritania, Morocco, Myanmar, Namibia, Nepal, Oman, Pakistan, Panama, Papua New Guinea, Peru, Poland, Portugal, Qatar, Moldova, Saudi Arabia, Sweden, Syria, Tajikistan, Ukraine, United Arab Emirates, Venezuela, Yemen, Zambia, and Zimbabwe.

By comparison, there were a hundred members of civil society organizations (CSOs) who observed the meeting. A directory circulated by CSOs indicated participation of 53 women. This was 53% of the total.

Women's participation in meetings such as this is one of the ways by which governments can show commitment to the women, peace, and security agenda. The greater hope, though, is that States would recognize that the Arms Trade Treaty is an important opportunity to prevent gender-based violence and promote women's participation in conflict prevention and peacebuilding processes.

May States seize this opportunity! *Carpe diem.* •

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The Arms Trade Treaty Monitor features civil society reporting and analysis on meetings of the UN conference on an Arms Trade Treaty (ATT).

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## Day 4: The how and the what

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Discussion on Thursday morning was less focused than previous meetings of this PrepCom. While some delegations continued to comment on the Chair's draft report from the PrepCom or on the provisional rules of procedure, others reiterated their positions from previous PrepComs on matters of the arms trade treaty (ATT)'s substance. The morning meeting ended early so that the Chair could continue informal consultations with member states.

### **Consensus**

A few delegations continued discussing the issue of consensus. The Costa Rican delegation agreed that consensus should be pursued but expressed concern that it could also be vulnerable to manipulation. It and several other delegations asked the Arab League to issue its specific proposal on consensus for the PrepCom to consider.

The European Union, Indonesia, and Norway said that procedural matters should not have to be decided upon by consensus. The decision on the final text, however, should be taken by consensus, the EU argued. Norway indicated that consensus as written in operative paragraph 5 of UN General Assembly resolution 64/48 means that every effort to reach consensus must be exhausted.

The EU also called for the deletion of rule 52b, which states, "Decisions of committees, subcommittees and working groups shall be taken by a majority of the representatives present and voting, except that the reconsideration of a proposal or an amendment shall require the majority established by rule 32."

Malaysia called for "simple" language on the question of decision-making. Brazil called for a compromise on the varying proposals and argued that it would be "painful and disruptive" if the PrepCom had to vote on the rules of procedure.

### **NGO access and participation**

The European Union and Norway indicated their support for active civil society participation and agreed that NGOs should be able to address the conference in more than one meeting. Both also agreed with the suggestion that NGOs have full access to plenary and main committee meetings, though without prejudging the possibility of having closed meetings "when appropriate".

### **Draft report: Chair's text and compilation of views**

The European Union, Switzerland, and Tanzania supported the proposal made on Wednesday by the Russian Federation that the second part of the

second sentence of paragraph 20 be deleted, so that the sentence would simply read, "Nothing within the Chair's non-paper has been agreed." The Swiss delegation also suggested the merger of paragraphs 20 and 21, the latter of which says that the Chair's non-paper "was submitted without prejudice to the views and positions of Member States and their right to put forward additional proposals in the Conference." Norway said it was pleased the Chair's text would be annexed to the report from the PrepCom.

The Swiss delegation expressed doubts about the utility of a compilation of states' views, which was originally suggested by Algeria. The Algerian delegation again argued that such a compilation is necessary because not all views have been incorporated into the Chair's draft text. Cuba and Viet Nam expressed support for the compilation of views. Cuba's delegation noted that the documents from the PrepCom process will be reviewed by military, trade, legal experts back in capitals in preparation for the negotiations and argued that they should have access to the different positions that delegations have held. Cuba also noted that if this document is prepared by the Secretariat, it would have advantage of being translated into all UN languages, which would also help experts in capitals.

Morocco suggested that since the Secretariat is concerned about the effort creating such a compilation would entail, the draft report could add a paragraph stating that any views to be included in such a document would have to be submitted to the Secretariat by 30 March following a template created by the Secretariat. This way, the Secretariat would just have to copy and paste the submissions into a document.

Belize said that if the compilation of views is going to be attached to the draft report, all states should have a chance to review it before it is submitted to the negotiating conference.

### **Treaty substance**

The divergence between those states that fear the ATT will infringe upon their "trade and security" rights and those who demand that the treaty address the horrific humanitarian consequences of the illegal or misuse of conventional weapons remains stark.

The delegations of Malaysia and Viet Nam firmly expressed their opposition to including any reference to human rights, international humanitarian law

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*Day 3 (cont.)*

(IHL), corruption, poverty, development, etc. in the treaty text. The Malaysian delegation suggested that such references could be contained in a separate declaration annexed to the treaty.

However, several other delegations defended the inclusion of such issues in the core of the treaty text. The Chilean delegation said that an ATT “cannot avoid” the humanitarian dimension, that they “must inform the principles and parameters” of the treaty. Similarly, the Norwegian delegation insisted that the treaty confront and reduce armed violence and violations of human rights and IHL, while the UK delegation said the ATT is an important vehicle for human rights law and IHL.

Sierra Leone’s parliamentary representative argued that the ATT “must be heavy” on human rights and IHL. She asked, if the treaty is only a matter

of trade law, then why do member states extensively justify their positions on the enormous suffering and destabilization of countries due to illicit trade or irresponsible use of weapons? She emphasized that the ATT should contribute to human development and dignified living.

On scope, Malaysia and Viet Nam argued that the treaty should be limited and in particular not include technology transfers, which could “inhibit development” of importing countries.

However, other delegations such as Chile, Sweden, and Switzerland insisted that technology be included in the treaty. Sweden and Switzerland argued that if technology is not included in the scope of an ATT, then the denial of export of the finished product could be circumvented by a transfer of corresponding technology. •



## **“Non-state actors,” the arms industry, and an arms trade treaty**

Nathan Sears | Reaching Critical Will of the Women’s International League for Peace and Freedom

One of the more interesting points to come out of Thursday’s substantive debate on an arms trade treaty (ATT) was the engagement of the issue of “non-state actors.” In Thursday’s morning meeting, in response to previous calls by delegations of the African Group for an absolute ban of arms transfers to non-state actors, the delegation of Sweden argued that industry too is a non-state actor, and therefore an ATT needs to be clear in its definition of non-state actors so that inter-industry cooperation is not unduly restricted.

Sweden’s point has merit. The European Union (EU) arms industry is made up of transnational firms that cooperate in the development of military platforms. EU industry has thus far been supportive of ATT, explaining in a side event of the PrepCom’s third session that they have commercial interests in a treaty that would promote predictability and consistency in arms transfer laws, common standards of competition between firms (whereby the lowest moral standard does not possess a comparative advantage), and demonstrating corporate social responsibility to potential investors. It would be inadvisable to lose the support of these important EU stakeholders over a definitional problem.

On the other hand, those who call for a humanitarian ATT may rightly be wary of the EU industry rationale to support a treaty. Much of their commercial interest in an ATT is in fact geared towards facilitating the arms trade and making business less costly for EU industry. It is even possible that EU industry may be looking for a vehicle to lower the EU’s already high arms transfer standards. Conversely, the control agenda would be generally content to make business more difficult and more costly for industry. The question is how to allow legitimate inter-industry cooperation to continue while preventing these non-state actors from violating ATT transfer criteria.

Thursday’s afternoon session produced a response from the delegation of Nigeria. It wished to define “non-state actors” as insurgents, terrorists, and rebels, whether acting as individuals or as groups, which sought to undermine legally constituted government authority. With respect to industry, the delegation of Nigeria responded that if industries decide to be associated with such groups, then they should be considered as non-state actors to which ATT transfer criteria should be applied.

Member states should be able to arrive at a consensus decision on this point. The African Group’s call for an absolute ban of arms transfers to non-state actors should be understood from the prism of a bloody history of intra-state war. For most African states, the goal of eradicating the illicit trade in small arms and light weapons is synonymous with non-state actors, perceived as insurgents, terrorists, and rebels, rather than concerns for industry as a non-state actor as voiced by the delegation of Sweden. It is unlikely that Sweden, which has indicated its support for a humanitarian character of an ATT, would have a problem with reaching a definition of non-state actors that prevents arms transfers to the sorts of actors that are of concern to the Africa Group. It is similarly improbable that the African Group would wish to prevent the inter-industry cooperation that is important to EU industry. And everyone should agree with the final concern voiced by the delegation of Nigeria: industry must also comply with an ATT’s transfer criteria when authorizing international transfers of conventional arms to other non-state actors. •

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## **Worry on many fronts**

Katherine Prizeman | Global Action to Prevent War

With each passing day, there seems to be more urgency and anxiety around completing the preparatory process of the ATT—making state positions clearly known, gathering and approving the necessary background documents, and adopting some semblance of rules of procedure. Also prevalent in the undertones of many statements and interventions on Thursday was an air of worry over tackling too much or too little in the months remaining until the negotiating conference.

Some delegations are focusing this angst on completion of a comprehensive compendium of views from all four of the previous preparatory committee sessions. Cuba's delegate made the case that national experts—military, trade, and legal—would benefit from this sort of document in their deliberations back in capital prior to the negotiations in July. The European Union and Swiss delegations expressed doubt over the usefulness of this burdensome task for the Secretariat, claiming that statements and positions are already available on the UN Office for Disarmament Affairs (UNODA) website. Algeria's representative, whose delegation first brought up the idea of a compendium during the last PrepCom, disagreed, stating that such statements on the UNODA website were incomplete and member states should have access to alternatives not reflected in the Chair's Paper from 14 July 2011. Likewise, the Nicaraguan representative reiterated support for a compendium document reflecting updated states' views. Belize's delegation stated that any document, including such a compilation, would have to be reviewed and approved by member states before its inclusion in background documentation for the negotiating conference. The Iranian delegation reiterated the need to have all documents related to the conference—the UN Secretary General's report on states' views, the report from the Group of Governmental Experts, and the Draft Report of the PrepCom among others—to be available to all member states in the interim.

Other delegations focused intently on completing and adopting rules of procedure before close of discussions tomorrow for fear that negotiations will seriously be hindered without clear and agreed upon provisions. The Costa Rican delegation noted that the rules of procedure must facilitate negotiations rather than hinder them. The Indonesia delegate referred to a certain level of awkwardness that may come about if during the July negotiations the rules

of procedure would need to be amended. As such, the delegate called for including a stipulation in the rules of procedure that they could be changed by consensus. More generally, Morocco implored all member states to stay focused on the rules of procedure and the Chairman's report.

Some delegations focused their worry on particular substantive aspects of the treaty. Sweden's delegation cautioned against an outright ban against arms transfers to non-state actors as industry would fall under this category and such cross-border industry cooperation is important and likely to increase among states. The delegation of Malaysia focused on the overall goal of the ATT and stated that reference to corruption, as well as legal and victims' assistance, would serve to detract from the main objective of an ATT—completion of a trade and security agreement. Contrastingly, the Chilean and Sierra Leonean delegation claimed that there is an undeniable humanitarian element to the ATT in addition to the legal regulations negotiated. Nigeria's delegate took the opportunity to reiterate the necessity of including ammunition in the treaty's scope.

It comes as no surprise that there is much anxiety still remaining on many fronts. As this final PrepCom concludes, delegations continue to make those anxieties known in the waning days of official preparations. The task at hand is complex and wrought with substantive and procedural challenges. However, the important thing to bear in mind is that the lack of international standards for the transfer of conventional arms is a severe blight on the world community and needs remedying. Furthermore, the distinct air of anxiety among diplomats illustrates just how important filling this crack in international law truly is. •



