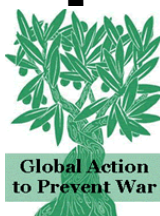


# THE ARMS TRADE TREATY MONITOR

*Civil society perspectives on the Arms Trade Treaty negotiation process*

**2 July 2012**  
**Vol. 5, No. 1**

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## Enhancing human security by regulating the arms trade

*Ray Acheson | Reaching Critical Will of WILPF*

With the negotiating conference to develop legally-binding standards for the international arms trade set to begin today, advocates, delegates, and survivors of armed conflict around the world have tuned in to participate and watch the action at the United Nations. Out in the rest of the world, the daily news clearly demonstrates the urgency of the UN's task. So-called "conventional weapons" are used all over the globe to kill or maim civilians; violate human rights; cause refugee crises; facilitate sexual violence and trafficking; obstruct economic and social development; and more. The global arms trade is valued at over US\$50 billion per year and global military spending as a whole reached US\$1.74 trillion in 2011. Above all else, weapons are tools of violence and repression by those that use them and tools of financial gain by those who make and sell them.

For decades, civil society and many governments have demanded that the international community take action against the arms trade, the negative effects of which have implications for global peace and security. Currently, trade in bananas and children's toys is more heavily regulated than weapons. This July, civil society groups and governments from around the world have come together to change that. Actors from a wide range of disciplines, backgrounds, professions, and countries will work to ensure that member states negotiate a robust and comprehensive treaty that includes all types of conventional weapons and ammunition and that contributes concretely to protecting human rights.

Many of us, including Reaching Critical Will and the Women's International League for Peace and Freedom (WILPF), will also work to ensure that the treaty does not result in the United Nations being used as a cover for future arms transfers. We believe that the arms trade treaty (ATT) must be a strong tool with the primary purpose of preventing armed conflict, preventing the violation of human rights and international humanitarian law, and seriously reducing the culture and economy of militarism. It will

be incredibly important that the final treaty text does not undermine any of the existing standards and regulations of the arms trade, but builds upon these. It will also be essential that the ATT does not facilitate the arms trade or the arms industry, but instead helps build the foundations for not just the regulation but also the reduction of militarism throughout politics and society, reduction of military spending, and redirection of economic resources and priorities.

Many groups and constituencies have different angles to push during the course of negotiations. One issue that has become a point of convergence for many advocates working for a strong ATT is that of gender-based armed violence. The arms trade has specific gender dimensions and direct links to discrimination and gender-based violence. Emboldened by weapons, power and status, both state and non-state actors often perpetrate gender-based violence, disproportionately affecting women, with impunity. This has far-reaching implications for efforts to consolidate peace, security, gender equality, and sustainable development.

For this reason, WILPF, the IANSA Women's Network, Amnesty International, and Religions for Peace have joined together to draft a policy paper on including gender-based criteria in the arms trade treaty. We are calling for the ATT to require states not to authorize an international transfer of conventional arms where there is a substantial risk that the arms under consideration are likely to be used to perpetrate or facilitate acts of gender-based violence, including rape and other forms of sexual violence. Dozens of civil society groups have endorsed this call. More information can be found on page 4 and at [www.reachingcriticalwill.org](http://www.reachingcriticalwill.org).

There is a long month ahead, but it is a labour of love for those who seek the adoption of effective measures to combat the devastation of the arms trade. Being ambitious, creative, and uncompromising in the quest for strengthened controls on the trade in arms will be crucial for strengthening human security for current generations and beyond. •

**Anticipating and evaluating all likely outcomes***Katherine Prizeman | Global Action to Prevent War*

As diplomats and civil society gather for the Arms Trade Treaty (ATT) Diplomatic Conference, much of the attention has turned to the possible configurations of a (hopefully) forthcoming consensus treaty. Some would argue that it is best to focus on making the negotiations a success rather than prematurely anticipating their failure. As such, the levels of pessimism and optimism vary according to whom one is talking, whether a member state delegate or civil society advocate.

One could continue to debate the ‘nuts and bolts’ of treaty language from scope and final provisions to the strength of the humanitarian references included. Nevertheless, it is absolutely necessary to objectively evaluate and consider the possible scenarios of the 4-week Diplomatic Conference and the corresponding consequences of each circumstance irrespective of one’s position on the desired outcome. Such an evaluation would be useful insofar as it would essentially highlight the net effects, whether positive or negative, on what is the most desirable outcome of the ATT process—a robust instrument of international standards to regulate the global business of the transfer of arms that is fully implementable. This instrument should include a comprehensive scope, primary attention on diversion, and provisions and structure to facilitate international cooperation and assistance that will ultimately stop transfers of arms and ammunition that fuel conflict, poverty, and serious violations of human rights and international humanitarian law.

Questions on the minds of many are clear. Is a weak treaty better than no treaty at all? Would a weak treaty do more harm than the harm caused by opting out of the process altogether? Where are the ‘redlines’ that would warrant such an abandonment come July? Are

there alternatives for negotiating an ATT within the UN system, or perhaps outside it? In order to address these inquiries it is important to contextualize the ATT debate. The ATT process will encompass much more than the activities of this month. It is essential to assume a long-term perspective, in which states commit to a review process that establishes regular meetings of states parties to assess and adjust the ATT to better reflect evolving security circumstances. Moreover, as with all multilateral negotiations, the ATT has not and will not be formulated in a vacuum. In 2012, member states are faced with parallel disarmament and arms control challenges—high stakes for a Conference on the establishment of a weapons of mass destruction-free zone in the Middle East, a continued stalemate in the Geneva-based Conference on Disarmament now stretching over 15 years, and a 13th straight year without consensus recommendations in the Disarmament Commission. Furthermore, failed ATT negotiations would, in turn, also cast a long shadow over the Review Conference of the UN Programme of Action on small arms (UNPoA), which is scheduled to take place in August after the ATT negotiations have concluded.

What, then, are the possible scenarios for the ATT Conference? Adoption of a weak treaty or adoption of no treaty at all will have significant negative consequences. The only outcome that would not have negative effects would be adoption of a treaty characterized by high levels of state accountability (especially on weapons diversion), oversight capacity for an Implementation Support Unit (ISU), and strong, binding humanitarian language. However, as this process is subject to a consensus rule, a provision that was introduced by the United States (US) as a precondition for

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**All views expressed in this publication are solely those of the contributing authors and do not necessarily reflect the positions of the supporting organizations.**

taking part in the negotiations, this scenario is highly unlikely. Some member states, including the US, have already made clear that a high level of oversight, or any oversight, will not be acceptable and that it is entirely a national prerogative to determine how to manage national export controls in response to any international standards adopted in the ATT. Other member states have continuously asserted that the ATT is a trade treaty seeking merely to regulate the legal business of arms transfers and will not seek to limit the right of member states to sell or purchase arms by overburdening them with treaty-specific reporting obligations.

Therefore, this article highlights two principle scenarios and what effect each would likely have on the long-term process towards adoption of a treaty that can identify and end diversion. As earlier noted, some might say it is inappropriate to think about ‘red lines’ before negotiations even begin. However, it is essential to keep in the minds of stakeholders that a strong ATT is the only thing worth fighting for and anticipating ‘red lines’ is an essential part of fighting for a strong and robust ATT.

There are arguments that an ATT deemed ‘weak’ is better than no treaty at all. Some would argue that a strong review process with the possibility for improving on the first iteration of the ATT would be a generally positive outcome. Similar to the evolutionary process of the International Criminal Court (ICC), the argument would be that the ATT will most likely require sequential refinement under the auspices of a regular cycle of review conferences in order to achieve even close to its full potential, but that such refinements are possible and preferable to abandoning the process altogether.

It could also be argued that prospects for success of an ATT next July, as opposed to this July, is not any higher (especially given the consensus provision); thus any postponement would be futile, especially given the weight of the consensus provision. In light of other related UN processes such as the UNPoA, a completely failed ATT Conference would be severely detrimental to the other, in many cases already broken, parts of the multilateral disarmament machinery, thus dealing a major legitimacy blow to the system. Even if the ATT is not characterized as a disarmament treaty per se it is certainly being treated as having implications for disarmament affairs by civil society and some member states. A failed process would indubitably be a serious blow to a system desperately in need of tangible victories.

On the other hand, there are those that argue that a weak treaty would have far greater negative effects in the aggregate. A weak treaty—a simple list of principles that member states should bear in mind when transferring weapons without any accountability or implemen-

tation mechanism—could be used as cover for future transfers of questionable character. Signatories could argue that they are acting in accordance with their international law obligations as parties to the ATT, have evaluated a given transfer according to this list of principles (‘bearing them in mind’), and have nonetheless decided to continue the dubious transfer. Moreover, a weak ATT could potentially be used as the basis for states seeking to curtail UN efforts to advocate for better controls of illicit small arms or for stronger application of international humanitarian and human rights law related to the production or use of armaments. Either of these outcomes would fuel considerable skepticism regarding the viability of the UN in regulating the global arms trade, not to mention anger at the UN for creating ‘cover’ for bad behavior rather than eliminating said behavior.

Universality of the ATT process will have a direct effect on its strength—the more member states that must be accommodated, the weaker the final text will likely become. This debate begs the question, then, when is it better to walk away from the process than to proceed with a weak treaty? What are the points that are ‘non-negotiable’? For each member state, the answer to this question will vary. Needless to say, the ‘redlines’ are not uniform and vary according to national interests, but it is absolutely essential that delegations know what those lines are as negotiations commence. Delegations must evaluate when the best course of action would be to ‘walk away’ from the process and seek alternatives elsewhere.

What, then, is the best scenario? The best scenario is, as previously mentioned, a robust and comprehensive instrument with full implementation capacity. However, this is not the only question that should be asked. The focus now should be just on what is the best scenario, but also on the best path towards the ideal scenario, even after negotiations conclude, by objectively evaluating the consequences of each of the most likely negotiating outcomes. •

## Support a strong ATT that helps prevent gender-based armed violence

**F**our international organizations and networks—**Amnesty International**, the **Women’s Network of the International Action Network on Small Arms (IANSA)**, the **Women’s International League for Peace and Freedom (WILPF)**, and **Religions for Peace**—have united to support a strong ATT and the inclusion of a specific criterion on gender-based violence in the negotiated text.

Irresponsible transfers of weaponry, munitions, armaments, and related equipment across borders have resulted in the loss of millions of lives and livelihoods and the violation of fundamental human rights. In particular, the widespread availability of small arms and light weapons increases the risk to both men and women’s security, and impedes their enjoyment of their civil, political, social, and economic rights in different ways. There is a gender dimension to the trade whereby women are disproportionately affected by armed gender-based violence.

This July 2012 presents an historic opportunity as member states of the United Nations (UN) gather to negotiate an Arms Trade Treaty (ATT) meant to establish common international standards for the import, export and transfer of conventional arms. Achieving an effective ATT is an urgent necessity. The ATT will require states to authorize international transfers of conven-

tional arms in conformity with an agreed list of clear criteria that assess a range of potential risks stemming from such transfers.

If the ATT is to be an effective legal instrument in regulating the international arms trade, recognition of the potential gendered impacts of international transfers must also be included.

Our *Joint Policy Paper on Gender and the Arms Trade Treaty (ATT)* outlines why the ATT **should require States not to allow an international transfer of conventional arms where there is a substantial risk that the arms under consideration are likely to be used to perpetrate or facilitate acts of gender-based violence, including rape and other forms of sexual violence**. Some key questions in the risk assessment process should include whether there is an effective regulatory system to control arms and prevent such violence, and whether there is evidence of acts or patterns of gender-based violence.

For more information on how to apply such a criterion and our Joint Policy Paper, see:

[www.reachingcriticalwill.org](http://www.reachingcriticalwill.org)

[www.peacewomen.org](http://www.peacewomen.org)

[www.iansa-women.org](http://www.iansa-women.org)

[www.amnesty.org](http://www.amnesty.org)

[www.religionsforpeace.org](http://www.religionsforpeace.org)

***The criteria of an Arms Trade Treaty should require states not to authorise an international transfer of conventional arms where there is a substantial risk that the arms under consideration are likely to be used to perpetrate or facilitate acts of gender-based violence, including rape and other forms of sexual violence.***



**Religions for Peace**

Endorse the call for the criterion on gender-based armed violence:  
email [info@reachingcriticalwill.org](mailto:info@reachingcriticalwill.org) or [women@iansa.org](mailto:women@iansa.org)

## Is there still room for victims' rights in the ATT?

Hector Guerra | IANSA Survivors Network

For many member states, any reference to the rights of victims or victims' assistance in the final treaty language of the Arms Trade Treaty (ATT) will be particularly difficult to adopt and it will be unlikely that states in favor of these references will be able to convince their counterparts to include such a provision in the final document. This opposition to adopting victims' rights language corresponds to both a realpolitik perspective, which would limit the Treaty to such a minimal expression that, if possible, would not even include references to International Humanitarian Law (IHL) in the instrument, as well as to the perspective of those states that are in favor of basic references to IHL and human rights but believe it is necessary to make concessions, such as foregoing victims' assistance, for the sake of consensus.

These positions are understandable, but not necessarily justifiable. More than ever, within the context of armed violence, increasing levels of arms production and its trade are killing civilians around the world, both in armed conflicts and in other situations of violence. Every minute one person dies due to armed violence, and for every fatality, ten more persons are injured (*Time to Act: ATT Basics* 2012), maimed or traumatized. The welfare of entire families is gravely affected.

The omission of victims' rights is even less justifiable in the context of the advances made in national laws for the rights of victims, as has been the case in Colombia, and more recently in Mexico. These national advances represent just a portion of what countries are willing and able to do for access to justice, restitution, compensation, and assistance when, around the world, over half a million people die each year as a consequence of armed violence (*Global Burden of Armed Violence* 2011).

On the other hand, there are existing international and regional instruments that address the rights of victims of different forms of violence, namely the *Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, as well as the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. Even more directly, with regards to disarmament, there are two pertinent examples of international law that have set the foundation for humanitarian disarmament: the Mine Ban Treaty of 1997 and the Convention on Cluster Munitions of 2008.

Accepting, producing, storing, selling, and otherwise using weapons, even when it is done legally and legitimately, bestows a certain responsibility and acknowledgment of the potential effects of such weapons on innocent unarmed victims. Therefore, states must seize every opportunity to make advancements in disarma-

ment and arms control and to include, as much as possible, the rights of victims, specifically victim assistance and survivor participation. Victim assistance should be part and parcel of multilateral disarmament agreements, while survivor participation should be included explicitly in national positions, survivors should be engaged with national focal points, and national delegations.

It is worth remembering that the big push for the ATT, for over a decade, has not been for abstract or theoretical considerations, but for explicit humanitarian reasons calling for an international legally-binding instrument with tangible effects for individuals and communities in armed-violence ridden zones.

If states are true to their international commitments as signatories of at least the most basic IHL and human rights treaties, they will take into account the fate of victims—and not just within their territories, but address victims' rights on a global scale.

In the case of the ATT, at the very least, a preambular reference to the rights of victims and the inclusion of victim assistance in the section on international cooperation and assistance should be adopted. In this sense, consistent communication with civil society organizations with expertise in this area, backed by the direct participation of victims of armed violence, will provide for excellent background on and movement forward on this issue.

This is not too much to ask when there is a growing need for an international registry of victims and a fund to produce repairs and compensations, among other steps that should include guarantees of non-repetition and memorials.

Perhaps the aforementioned elements (preambular reference to the rights of victims and the inclusion of victim assistance in the international cooperation and assistance section) do not seem so superlative, but in the big picture they represent a decisive step toward the construction of an international regime for the protection and promotion of the rights of victims of armed violence. Excuses for putting victims aside should not continue, as these victims represent some of the most vulnerable populations in the world. •

**Seeing red***Dr. Robert Zuber | Global Action to Prevent War*

As we gather for the ATT Negotiating Conference, there appears to be considerable uncertainty regarding outcomes and expectations. Will we have a treaty at all? Will the treaty that is negotiated contain anything more robust than self-regulating guidelines for state behavior on transfers? Will the treaty properly reference the threat posed by diverted transfers to criminal or terrorist elements? Will it contain language acknowledging the potential effect of illicit transfers on gender-based violence and women's participation?

Related to these questions are the 'red lines' that states and civil society organizations have recently proposed, though mostly unofficially and in private discourse. These 'red lines' will be nuanced according to diverse national and organizational interests, but mostly represent the triggers for states and other stakeholders to begin to distance themselves from a 'weak' treaty process. (In some cases, they might also represent triggers for a process that is deemed too ambitious.)

The notion of 'red lines' is not meant to be provocative but rather is intrinsic to the consensus process that some larger and middle powers insisted upon at earlier stages of the process. You don't buy a football ticket with an inherent obligation to stay through extra time no matter how bad the match is. In the same way, stakeholders are not obligated to sit through a month of negotiations that might appear to be going nowhere or might actually yield a document so weak that it could be considered harmful. What are the criteria that de-

termine when national governments and others decide that a weak treaty is worse than no treaty at all? How do we develop 'red lines' that remain both consequential and flexible through the sometimes tedious 'ups and downs' of negotiating treaty language?

'Seeing red' in this context is not just about states' misgivings but also about the lines that determine when and how we, as civil society, will respond to less-than-successful negotiations. Depending on the outcomes in July, what needs to happen going forward? What do we need to do differently in order to respond to the new challenges laid bare? Who else needs to be brought into the conversation?

These are questions that policy leadership demands be addressed forthrightly and wisely, but are not concerns generally raised by advocates. This isn't about second guessing state policies and NGO tactics per se but about careful assessment and planning for the longer term. As we line the walls of the ATT conference room and scramble for headsets, part of our job at these sessions is to keep track of how the negotiating winds are blowing and respond with principle, competence and foresight.

One thing we should certainly make clear to ourselves and other stakeholders is that whatever happens this month, efforts to regulate the global arms trade are not over. If the resulting treaty is strong, we will need to help make it stronger still, perhaps by assisting with monitoring treaty compliance or creating victims' assistance

**RESOURCES FROM CIVIL SOCIETY**

**ATT MONITOR** is a source of independent civil society journalism. It seeks to serve as a hub of information, analysis, reporting, testimonies, art, puzzles, and more during the negotiations. You can **subscribe** to receive it daily by email at [www.reachingcriticalwill.org](http://www.reachingcriticalwill.org). Archived editions of all *ATT Monitors* are also available on the Reaching Critical Will website. The *ATT Monitor* is produced by Reaching Critical Will/WILPF in partnership with Global Action to Prevent War, World Council of Churches, and the International Action Network on Small Arms (IANSA).

**REACHINGCRITICALWILL.ORG** provides statements, documents, and other primary resources from the negotiating conference and all of the ATT preparatory committees, along with background information, action toolkits, and links to civil society resources and materials.

**ARMSTREATY.ORG** is an online database for tracking government positions on all ATT issues, developed by Reaching Critical Will/WILPF and the Control Arms Campaign—check it out today to see what your country has said about the treaty.

**IANSA.ORG** has ATT campaign news from activists around the world.

**ATTMONITOR.POSTEROUS.COM** is a blog featuring news related to the ATT.

programs. If the resulting treaty is weak but actionable, we will need to build confidence in existing provisions while adding capacity and scope wherever possible. If the treaty is so weak that governments and civil society begin to walk away, we will need to contemplate new movements, in some fashion and in some forum, to end the diverted arms trade. Valerie Amos, Under Secretary General and Emergency Relief Coordinator, Ivan Šimonovic, Assistant Secretary General for Human Rights, and others made explicit references to the ATT and the need for regulation of international arms transfers in the UN Security Council on 25 June 2012 during a debate on the Protection of Civilians. Clearly, this issue is not going away, and neither should we.

Some years ago, the decision was made to attempt to bring the global arms trade within the jurisdiction of the United Nations. We'll have a good sense this month regarding the functional wisdom of this decision. Clearly, the mood has remained contentious at several points. Apparently, the permanent members of the UN Security Council are drafting their own version of a treaty, a move which seems as likely to invite suspicion regarding the negotiations as to alleviate it. Some of the smaller states with limited capacity that have devoted precious energy and resources to getting up to speed on arms trade issues are now unhappy with the current climate of 'back room' negotiating in relation to some of the core interests represented in the Chair's non-paper shared earlier this year. It shouldn't be necessary, but it seems prudent to remind all stakeholders that, under the rules of pro-

cedure, not only the 'great powers' have the capacity to threaten the success of this process, in whole or in part.

While paying as close attention as we can to what is happening on the negotiating floor, we can advocate that the positions of critics and supporters alike are transparent and fair. We can do our best to avoid 'over reach' in terms of what this treaty is likely to do and not do, at least in its initial iteration. Those of you who have watched at least part of Euro Cup 2012 understand that a good football coach gets his or her players to play hard but must be prepared to make adjustments, some simple and others dramatic, as the game progresses. The closer that delegations and NGOs come to 'seeing red,' the more creative adjustments will need to be made, if not to save the negotiations altogether then to protect the still urgent concerns that led all of us to pursue these negotiations in the first place. Such adjustments are the responsibility of all stakeholders, not only of states.

Obviously, delegations can save all of us a lot of trouble by agreeing to treaty provisions that can effectively eliminate diversion of arms transfers, thereby justifying the hard and sometimes painful work by diplomats and civil society over many long years. But sometimes the match you envision after years of anticipation fails expectations. We hope that this treaty process will keep delegations and NGOs from invoking 'red lines' of disapproval. At a minimum, we all must do what we can this month to ensure a fair, transparent, and honest process on regulating arms transfers sufficient to keep us all actively in the game. •

## ATT wordsearch

Puzzles by Lily Gardener | Reaching Critical Will of WILPF

M	M	Y	G	D	C	B	Z	K	F	S	Y	V	S	C
O	Y	Z	D	I	S	P	L	A	C	E	D	J	H	J
S	C	Y	T	W	W	U	C	Z	Y	B	U	L	N	K
Q	E	K	L	O	J	N	O	F	L	N	I	F	W	K
X	M	Q	B	K	C	B	A	N	L	T	P	I	F	A
Q	A	G	N	I	T	A	I	T	O	G	E	N	W	P
Q	N	S	O	E	A	N	U	U	V	P	S	N	X	A
E	U	K	I	B	C	G	S	N	V	C	A	T	Y	R
W	F	G	B	H	G	B	G	T	M	Z	N	E	O	A
T	A	I	A	H	T	K	P	R	E	D	C	E	W	M
P	C	N	N	Q	U	V	S	W	A	G	N	J	P	E
W	T	S	A	P	T	M	E	T	N	V	D	C	R	T
U	U	U	N	H	W	N	R	X	E	P	A	U	G	E
A	R	C	A	S	T	A	T	E	M	E	N	T	B	R
J	E	P	S	V	T	Y	A	P	N	E	N	L	E	S

AGGRAVATE  
BANANAS  
BUDGETS  
DISPLACED  
MANUFACTURE  
NEGOTIATING  
PARAMETERS  
STATEMENT  
WEAPON

## ATT MONITOR 5.1

### Calendar of events for Monday, 2 July 2012

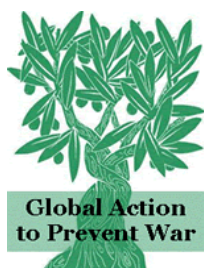
When	What	Where	Who
10:00–13:00	Plenary	General Assembly Hall <i>NGO access: 4th floor balcony</i>	
9:00–11:00	Control Arms public demonstration	Ralph Bunche Park	Control Arms Campaign Contact: Allison Pytlak allison@controlarms.org
13:15–14:45	“Making the Arms Trade Treaty a Reality–The Role of Legislators”  <i>Per invitation only</i>	Conference Room D North Lawn Building	Permanent Mission of the Kingdom of the Netherlands to the UN and Parliamentarians for Global Action Contact: Leyla Nikjou leyla.nikjou@pgaction.org
15:00–18:00	Plenary	General Assembly Hall <i>NGO access: 4th floor balcony</i>	

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**WOMEN'S INTERNATIONAL LEAGUE FOR  
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