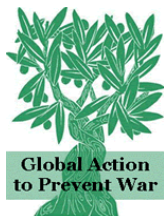


# ARMS TRADE TREATY MONITOR

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

**18 July 2012**  
**Vol. 5, No. 11**

- 1 | Editorial
- 2 | Gender-based violence
- 4 | News in Brief
- 7 | Implementation
- 8 | EU-UNIDIR seminar
- 9 | Criteria
- 10 | Running interference
- 12 | Events



## Editorial: Not just “one of those instruments”

Ray Acheson | *Reaching Critical Will of WILPF*

Throughout Monday afternoon’s meeting on implementation and Tuesday morning’s meeting on the preamble and principles of the future arms trade treaty (ATT), tensions between what are perceived as “state” interests and “humanitarian” interests remained high. This tension needs to be dismantled. The UN Charter outlines the rights and obligations of member states, but it does so in order to prevent armed conflict and protect humans from the consequences of conflict and violence. This objective must be the ultimate guiding principle during negotiation and implementation of an ATT.

What does this mean in practice?

For the preamble it means emphasizing the consequences of the poorly regulated arms trade in all its aspects—consequences for gender-based and sexual violence; human rights; international humanitarian law; socioeconomic development; peace, security, and stability; criminal activities; foreign occupation; overproduction of and excessive spending on arms; etc. It means resolving to *address* these consequences by providing assistance to victims and survivors. It means resolving to *prevent* these consequences by effectively regulating the international trade in arms and recalling that the fundamental way to do so is through the “establishment and maintenance of international peace and security with the least diversion of armaments of the world’s human and economic resources,” as spelled out in article 26 of the UN Charter.

In the principles section it means reiterating the “purposes and principles enshrined in the UN Charter,” without selectively pulling out specific ones that promote “national security” of states over human and collective security. It certainly does not mean creating new rights, such as a specific right to manufacture weapons. It also does not mean addressing issues related to civilian ownership of firearms—as Ecuador’s delegation pointed out, it is generally illegal for civilians to

own firearms in Ecuador, therefore, recognizing the rights of civilians as such would go against that country’s national laws! This is an inappropriate use of a treaty intended to regulate *international transfers* of arms.

Of course, it also important to be clear that while the preamble and principles should help with interpreting the treaty, they do not establish common international standards for the arms trade themselves. Therefore, this section must be matched by comprehensive criteria (see, e.g., the editorials from No. 10 and No. 8) and a robust scope (see, e.g., the editorials from No. 9 and No. 7).

Achieving the fundamental goals of the ATT also means the treaty will need strong, clear, and effective implementation mechanisms. Unfortunately, the draft text on implementation does not yet meet this requirement. It suggests notification of export authorizations to relevant transit and transshipment states would be voluntary when it should be mandatory. It indicates that contractual obligations to sell arms would supersede the ATT when clearly the ATT should take precedence. It suggests actions states “may” take on brokering, when such actions should be mandatory. In general, it is vague on binding language. If adopted as written, the implementation section would undermine the treaty’s objectives.

There is little time left to iron out these problems in the various drafts, but doing just that should be the goal of all participating negotiators. Ghana’s delegation noted on 17 July, the ATT “is not just one of those instruments”—it is not specifically or only a humanitarian treaty, a disarmament treaty, nor a trade treaty. “It stands on its own,” the Ghanaian representative said. The only standard “is what the ATT will do for the world.” This standard must not be to put the rights of states over the rights of human beings, but rather, to demonstrate that protecting the rights, life, and dignity of human beings will lead to strengthening of security.

## A step back? “Gender-based violence” vs “violence against women and children”

Rebecca Gerome | IANSA Women’s Network and Maria Butler | PeaceWomen of WILPF

Yesterday, in discussions on the preamble text, a few delegations (the Holy See and CARICOM) suggested that the inclusion of previously supported language on “gender-based violence” should be deleted and replaced by different language on “violence against women and children” or “vulnerability of women and children”. Other delegations (Australia and Liechtenstein) disagreed with the deletion of the wording on gender-based violence and proposed as a compromise to keep both.

*What is the difference between these various formulations? What implications do they have?*

There is a difference in the terms and the terminology matters. Narrowing the language in the preamble to “violence against women and children” and “vulnerability of women and children” represents a step backward. It is not inclusive of the forms of violence that must be covered. Furthermore, it is not the language supported by over 28 member states in their plenary statements.

Firstly, since “violence against women” includes any act of gender-based violence (GBV), for purposes of the Treaty preamble, goals and objectives, and criteria, the broader language of GBV should be used. The arms trade affects everyone—men, women, boys and girls—in different ways. There is a gender dimension to the trade whereby women and girls are disproportionately affected by armed gender-based violence. The term “gender-based violence” acknowledges the gender dimensions of armed violence, from the perspective of both perpetrators and victims.

Secondly, references to “women and children,” put together as though a homogenous group, are unhelpful as they imply that women, like children, are powerless victims, rather than adults with agency and therefore a key resource in combating gun violence. Children are minors and cannot vote, and as such, require specific and different attention and protection than women. It is vital to make the distinction between women and children to ensure both that each group gains the specific attention it requires and is enabled to make the contributions of which it is capable.

Thirdly, instead of only emphasizing the vulnerability of women in the preamble of the ATT, it would be more effective to also emphasize women’s key role in conflict prevention and resolution, arms control and peacebuilding.

Agreed language could be drawn from UN General Assembly Resolution 66/130, 65/283 and 65/69 and UN Security Council Resolutions on Women, Peace and Security (SCR 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009) and 1960 (2010)) such as: “*Reaffirming the important role of women in the prevention and resolution of conflicts and in peacebuilding*” and “*Recognizing the importance of the full and effective participation of women at all levels, at all stages and in all aspects of the peaceful settlement of disputes, conflict prevention and resolution*” (A/RES/65/283 preamble text). Furthermore, UNGA resolution 65/69 on “Women, disarmament, non-proliferation, and arms control” recognizes “*the valuable contribution of women to practical dis-*

### ATT MONITOR

18 JULY 2012 | Vol. 5, No. 11

The *Arms Trade Treaty Monitor* features civil society reporting and analysis on meetings of the UN conference on an Arms Trade Treaty (ATT). It is coordinated, edited, and published by the Reaching Critical Will project of the Women’s International League for Peace and Freedom in partnership with Global Action to Prevent War, World Council of Churches, and the International Action Network on Small Arms (IANSA). PDF versions of all *ATT Monitors*, along with statements and other documents from the conference, are available at [www.reachingcriticalwill.org](http://www.reachingcriticalwill.org).

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

*armament measures carried out at the local, national, regional and subregional levels in the prevention and reduction of armed violence and armed conflict, and in promoting disarmament, non-proliferation and arms control.”* Any or all of these texts could be referenced or drawn upon in the ATT preamble.

Finally, if the preamble of the ATT is to be consistent and comprehensive, it should include language recognizing the gender dimensions of the arms trade. For exam-

ple, “recognizing the gendered dimensions and impacts of the arms trade, particularly gender-based violence, including rape and other forms of sexual violence, and further emphasizing and reaffirming the important role of women in the prevention and resolution of conflicts and in peacebuilding”. Member states must not take steps backward given the gravity and urgency of preventing all forms of gender-based violence in the context of the international arms trade. •

### **What is gender-based violence?**

Gender-based violence is violence related to social expectations and positions based on gender and can be committed by and aimed at both men and women. Globally, most gender-based violence is committed by men and is directed against women and girls, and is linked to discrimination. Gender-based violence is defined by the UN Committee on the Elimination of Discrimination against Women (CEDAW) in General Recommendation 19 as being “directed against a woman because she is a woman or that affects women disproportionately.”

“Gender” is the socially constructed roles as ascribed to women and men, as opposed to biological and physical characteristics. Gender roles vary according to socioeconomic, political, and cultural contexts, and are affected by other factors, including age, race, class, and ethnicity. Gender roles are learned and are changeable.

The United Nations and General Assembly use the term GBV. For example, the 2008 General Assembly resolution (A/RES/62/134) operative para 1(a) urges States “to take special measures to protect women and girls from gender-based violence, in particular rape and other forms of sexual violence.”

### **What is violence against women?**

The preamble language of the UN Declaration on the Elimination of Violence Against Women, General Assembly resolution 48/104 (1993), states that “violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into subordinate position compared to men.” Article 1 states that: “The term ‘violence against women’ means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”

### **What is violence against children?**

The Convention on the Rights of the Child defines a child in article 1 as “[e]very human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier”. The World Report on Violence and Health (2002) defines “violence against children” as the intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that either results in or has a high likelihood of resulting in actual or potential harm to the child’s health, survival, development, or dignity.

## News in Brief

Ray Acheson | *Reaching Critical Will of WILPF and Katherine Prizeman* | *Global Action to Prevent War*

### Main Committee I: Preamble/principles

#### Structure

- DRC, France, Mali said the principles and preamble should be merged.
- CARICOM, Cuba, Ghana, Iran, and USA said they should be kept separate.
- Mexico and Switzerland said they would accept them merged or separated.

#### Preamble

#### Structure

- Algeria suggested the chapeau of the preamble should read: “in the pursuit of the purposes of the treaty, states parties should...” Indonesia supported.
- Mexico highlighted repetition between paras 5 and 9 on the need for international standards on the arms trade and suggested working off para 9.
- Philippines called for deletion of para 5.
- Cuba said para 5 should be used instead of para 9.
- Australia suggested merging 5 and 9 but should refer to international rather than global standards.
- Sweden and Switzerland suggested moving para 9 up to follow para 5.
- Switzerland said paras 5 and 9 should contain the words “legally-binding” and that wording from UNGA resolution 64/48 should be added to para 5.

#### UN Charter

- Venezuela said right certain rights from the UN Charter should be spelled out.
- France and USA said principles for the Charter should not be selectively highlighted except article 51.
- Mexico said the treaty should avoid selectivity when it comes to the Charter’s principles and that its principles should be set out differently than the treaty’s principles, because the Charter takes precedence.

#### Civilian ownership

- Canada and USA said the preamble should recognize the “legitimacy of civilian ownership of firearms used in responsible, lawful manner”.
- Ecuador argued this would violate its own domestic laws and thus could not be included in an international treaty.
- Mexico argued that if there is a reference to the legitimacy of civilian ownership of firearms there should also be a paragraph dealing with regulation of civilian ownership.

#### Victims’ assistance

- CARICOM, Mexico, and Norway said para 11 should refer to victims of armed violence, not just armed conflict.

- USA opposed the paragraph on victims’ assistance.
- Ghana, Holy See, and Liechtenstein issued support for victim’s assistance.

#### Gender-based violence

- Austria, DRC, and Liechtenstein welcomed reference to women and children being vulnerable in armed conflict.
- Holy See and CARICOM said gender-based violence should be replaced with “violence against women and children”.
- Australia and Liechtenstein indicated the preamble should reference both the vulnerability of women and children AND gender-based violence.

#### Sustainable development

- India argued the linkage between the unregulated arms trade and sustainable development is still evolving, along with its connection to corrupt practices, and thus has too much emphasis in para 10.
- Malaysia said linkages that are not defined or agreed upon such as in para 10 should not be included.
- Ghana said para 10 is the view of the majority of delegations, especially given the connection between the secretive nature of the arms trade and corrupt practices, and to deny this link is to “play the ostrich”.
- Sweden argued that the Geneva Declaration on Armed Violence and Development, with which over 100 states are associated, has established the link between the unregulated arms trade and sustainable development.

#### Other issues

- Austria and France called for reference to corruption.
- China called for deletion of para 13 on sharing regional best practices.
- Sweden suggested deleting the word “existing” from para 13 so that the para could be kept overall.
- China and Cuba said para 6 on collective security should be deleted.
- Malaysia suggested para 6 could use a different formulation, e.g. acknowledge that peace, security, development, and human rights are pillars of the UN system and foundations for collective security and recognized that they are interlinked and mutually reinforcing.
- Cuba called for a reference to “threat or use of force, peaceful settlement of disputes, and non-interference in internal affairs of states”.
- Denmark reiterated its call for a reference to UN guidelines on human rights and business.
- DPRK expressed confusion over reference to “economic and commercial interests” in para 1, arguing that the issue of excessive production and export of



arms to conflict zones—which does not appear in this text—is fueled by such interests.

- Egypt called for sentence on the “grave consequences of the existing and increasing imbalance between major arms producers/exporters and arms importing states caused by continuing overproduction and accumulated stockpiles of conventional arms by those major producers/exporters.” Indonesia suggested adding this to para 5.
- Holy See said para 6 should include reference to “human life and dignity” in the “foundations for collective security”.
- India said more emphasis should be placed on linkage between the unregulated arms trade and terrorism.
- Indonesia said reference to “concept” of territorial integrity is too weak and said it should be described as a “right”.
- Iraq suggested merging paras 3 and 8 on illicit trafficking.
- Iran suggested including reference to international cooperation and assistance.
- Malaysia suggested including a note that implementation of conventional arms control regulations shouldn’t hamper international cooperation in materials, equipment, and technology for peaceful purposes.
- Mexico questioned the inclusion of reference to UNDC and UNPoA.
- Switzerland said para 14 should include the words “more restrictive measures” after “regional levels” and delete “in addition”.

#### Principles

- Australia questioned the “right” of states to manufacture arms, which is referenced in para 6, arguing this is not a right under international law.
- Iraq and Iran argued it should remain listed as a right.
- China called for the principles regarding human rights and IHL to be moved to the preamble.
- China suggested adding three new principles: 1) treaty should be a universal, objective, and non-discriminatory and should not be abused for political purposes or for intervention of other country’s internal affairs; 2) balanced approach to political and security interests of states parties and the interrelation between these two; prohibition of transfer to non-state actors.
- Ecuador said principles should include peaceful settlement of disputes and non-interference in internal affairs of states.
- Egypt called for principle on “inadmissibility of acquisition of land by force and foreign occupation”.

- France called for a principle that state parties may adopt more binding measures than exist in the treaty.
- Liberia said the principles should recognize the sovereign rights of states, acting in conformity with international norms, to take measures in their territory under national agreement.
- Switzerland suggested inserting in para 5 on self-determination the words “in accordance with the UN Charter...”
- Switzerland suggested in para 7 delete “responsibility” and insert “and responsibly regulate, and control...”

#### Main Committee II: Final provisions

##### *Regional organizations accession and ratification*

- Germany, Liechtenstein, Italy, and the UK supported the provisions related to regional organizations.
- Mexico, USA, and Malaysia noted that the issue of regional organizations had not been treated before and would require more investigation than time permits.
- Ecuador and Sweden questioned why regional organizations are limited to those that are economic in nature.
- Iran opposed the right of regional organizations to ratify the treaty, arguing the ATT is an agreement only of states parties.
- Algeria suggested a separate provision that recognizes how regional organizations can function in support of states parties.

##### *Entry into force (EIF)*

- Ecuador, Singapore, the US, Sweden, and the Republic of Korea (ROK) supported an EIF formulation of approximately 60, a number representative of 1/3 of UN membership.
- Costa Rica, Mexico, Liechtenstein, and CARICOM supported a formulation of 30.
- China noted that EIF should ensure participation of major importers and exporters of conventional arms and proposed adding to paragraph 9, “including major arms trading states.”
- Iran agreed there should be a qualitative EIF provision.

##### *Reservations*

- Costa Rica, CARICOM, and Mexico reiterated that reservations should not be permitted. Mexico cited the example of Article 19 of the Ottawa Convention as a precedent.
- The USA said there is no need to include reservations in this Treaty.
- Liechtenstein noted that it was necessary to identify the core parts of the treaty that would not allow for reservations.

News in Brief, cont’d

- Malaysia called for a provision that states that reservations could be withdrawn at any time.

Amendments

- ROK requested clarification regarding what type of majority would be required for an Amendment Conference (the Chair said it referred to a simple majority).
- Liechtenstein and Sweden noted that adopting amendments by consensus was too high a threshold.
- Malaysia said that amendments should be provided for, but not in a frivolous way due to resource constraints, and called for a two-step process whereby an amendment would be circulated and only with objections by state parties would a conference be called.

Assembly of State Parties (ASP)/Review Conferences

- Costa Rica called for acknowledgement of the role of civil society in forthcoming ASPs and Review Conferences.
- Mexico noted that ASPs and Review Conferences must have clearly differentiated mandates.
- Iran and Liechtenstein called for simplification and streamlining of the meetings of states parties. Liechtenstein proposed annual ASPs that every five years would meet as a Review Conference.
- Sweden supported the 5-year review cycle, but proposed that the first Review Conference be held 3 years after EIF.

Dispute settlement

- Costa Rica reiterated support for its joint proposal with Mexico, Romania, and Turkey that notes that

all state parties shall consult and cooperate with each other to settle any dispute that may arise.

- France, USA, Italy, ROK, and Ecuador proposed to delete paragraph 27. Ecuador proposed adding to paragraph 26, “including all methods of peaceful settlement envisaged by international law voluntarily agreed to by parties of the dispute.”
- Venezuela supported paragraph 27, but proposed language that allows for referral to a dispute settlement mechanism at the request of only one state party and not necessarily by consensus.
- France, USA, China, Italy, and Sweden called for the replacement of “negotiations” with “consultations”.
- Indonesia said that dispute settlement provisions fit better under national implementation.

Other

- Mexico noted that the provision dealing with states not party to the treaty should do more than provide for outreach, but is a matter of establishing that when a transfer is carried out towards a non-state party, the state carrying out the transfer must still observe treaty obligations.
- Sweden said there should be language that communicates that the treaty is not open to discrimination and that there is uniformity in transfer controls to parties and non-parties alike.
- Iran and Liechtenstein called for the deletion of the depository language noting this is a well-established practice carried out by the legal department. •

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

CIVILSOCIETY  
GUIDELINES  
IMPLEMENTATION  
LEGALLYBINDING  
MILLENNIUM  
DEVELOPMENT  
GOALS  
RAPE  
POLITICALWILL  
TRAFFICKING

## Reinforcing the role of criteria through national implementation

Katherine Prizeman | *Global Action to Prevent War*

The text issued by the Chair of Main Committee II on implementation on Monday morning continues to be discussed as member states are grappling with issues such as national authorization systems, enforcement, and record-keeping. While the paper addresses many important components such as inspections and seizures (paragraph 16), criminal and civil penalties for breaches of national legislation regarding implementation (paragraph 17), and diversion (paragraphs 19–20), perhaps the most critical part of this section is that which deals with export and import, as these are the primary means of transfer that an ATT would cover.

It is essential that the national implementation section regarding export and import lays forth strong language that obligates states parties to conduct assessments according to the criteria provided for in previous articles of the treaty in an objective and consistent manner. The implementation section should clearly reinforce the role of the criteria in authorization assessments as both necessary and legally-binding. Implementation must not serve as a means of “softening” the strength and role of the legally-binding criteria through qualifying assessments with conditions justified only by “national discretion”.

The Chair’s text currently incorporates multiple qualifiers including “as requested,” “appropriate and relevant,” and “where necessary” in relation to export and import assessment. For instance, paragraph 6 states, “Each State Party shall conduct assessments, in accordance with the criteria/parameters as set out in Article XX, including end-user certification, as requested, and to verify the delivery to an approved end-user.” As noted by the delegations of Mexico and CARICOM during Monday afternoon’s plenary, the phrase “as requested” in paragraph 6 is unclear since it is referring to what is already noted as a requirement under the criteria section. If this phrase refers instead to the end-user certification, this too is an unfortunate qualifier that serves to dilute the strength of the exporting state assessment obligations. Although such an end-user certification concept would need to be more clearly illustrated regarding how it would be applied during assessments (as noted by the UK and Germany), it remains an important component of preventing diversion and should be required under national implementation provisions.

While the Chair’s text lacks some clarity and forcefulness, the President’s paper from 3 July 2012 provides solid language with regards to national authorization systems stating, “Each State Party shall conduct assessments whether to approve, refuse, suspend or revoke authoriza-

tions for the export of conventional arms under the scope of this Treaty, in accordance with the criteria set out in Article XX.” Although the provision in the President’s paper lacks reference to end-user certification, it does spell out the various options related to authorization “without condition” and clearly links state assessment to the criteria provided for in the Treaty.

Furthermore, paragraph 7 of the Chair’s text states that signatories “shall make available, upon request, appropriate and relevant details of the authorization ... upon request prior to authorization.” While the debate over denial notifications and information exchange remains controversial, transparency related to transfer decisions, whether authorizations or denials, is at the heart of the ATT’s effectiveness. Qualifying information exchange regarding assessments by weakening its obligatory nature tempers the authority of the criteria against which the assessments are carried out. Likewise, as expressed in paragraph 10 of the Chair’s proposed text, importing states must also have access to information concerning potential authorizations from the exporting state such that information exchange goes both ways and assessments are based on the most consistent and credible information possible. Therefore, it would be wise to include an important provision from the President’s 2012 paper that states, “Importing States Parties shall take measures to ensure that appropriate and relevant information is provided, upon request, to the exporting State Party to assist the exporting State in its criteria assessment and to assist in verifying end users.” This statement appropriately incorporates the obligation of information exchange grounded in the criteria as well as end-user certification.

National implementation will be an important contributing factor to the Treaty’s effectiveness insofar as states parties apply Treaty obligations transparently and consistently. Nevertheless, it is essential to keep national implementation measures grounded in the criteria and parameters that must guide whether or not a transfer will be authorized. •

**Side event report: EU-UNIDIR regional seminar***Gabriella Irsten | Reaching Critical Will of WILPF*

Tuesday's lunch event, sponsored by European Union (EU) and the UN Institute for Disarmament Research (UNIDIR), presented the work carried out by UNIDIR in the run up for the Arms Trade Treaty (ATT) negotiations. The panel consisted of Kerstin Vignard, Elli Kytömäki, and Paul Holtman from UNIDIR; Fabio Della Piazza from the EU delegation; and Nathalie Weizmann from the International Committee of the Red Cross (ICRC).

The objective of the joint work was to provide constructive and concrete suggestions to states negotiating the ATT and provide inputs to the process. The project consisted of seven regional seminars and 11 background papers, with a total of 126 participating countries. A wide range of actors attended the seminars, including government representatives, experts, civil society, defence ministries, armed forces, UN staff, etc.

Mr. Della Piazza from the EU delegation explained that the EU initiated the project in 2009 because they believed that it was necessary for the ATT process to be as inclusive as possible. Ms. Kytomaki, from UNIDIR, outlined the key outcome of the seminars, many of which are key issues being discussed in the current negotiations. Some of these include how the ATT can help to combat illicit trade and increase transparency of arms transfers; expanding categories of the UN Registers on Conventional Arms; inclusion of ammunition; human rights (HR) and international humanitarian law (IHL) criteria for transfers; states national decision-making mechanisms and processes; etc.

Mr. Holtom suggested some elements for reporting obligations under the ATT, including that the process should contain some mandatory and some voluntary reporting obligations. He also suggested that the technical set-up of the reporting should not be dealt with during the ongoing negotiations but should be discussed within an expert group during the first meeting of the state parties.

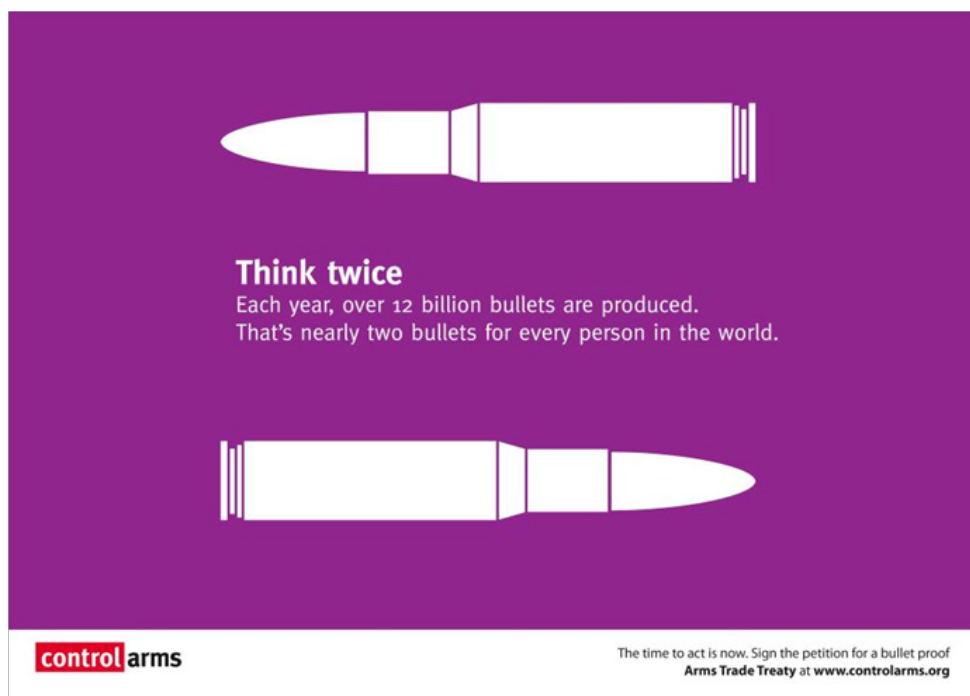
Ms. Weidemann spoke on the transfer criteria, dividing it into two main views:

- Criteria based on already existing obligations and regulations, meaning that even if the criteria would not be covered by the ATT they will still exist;

- Criteria lead by the potential consequences of the transfer of weapons, which would be based on serious violations of IHL and HR, undermining peace and security, regional stability, etc.

Ms. Weidemann, promoting the second view, pointed to regional legally-binding treaties that already incorporate these criteria. Such instruments include the EU common position on arms export, the ECOWAS Convention on small arms and light weapons (SALW), and the Central African convention for the control of SALW. She discussed how the assessments of the consequences of a potential arms transfer could be conducted and the importance of not authorizing a transfer if risks are found.

The side event made it clear that many of the same issues and problems debated within the current diplomatic conference were also highlighted throughout the UNIDIR process. As the Swedish ambassador Paul Beijer pointed out, some of these issues could be dealt with at a later stage after the conference, such as issues relating to implementation, reporting, and international cooperation and assistance. Although this is true to some extent, some key issues such as the criteria must be dealt with now, since these issues are unlikely to be added after the treaty has been concluded. •



**Think twice**  
Each year, over 12 billion bullets are produced.  
That's nearly two bullets for every person in the world.

**control arms**

The time to act is now. Sign the petition for a bullet proof Arms Trade Treaty at [www.controlarms.org](http://www.controlarms.org)



## Deciding on criteria: achieving the greatest impact on human suffering

Maj Rørdam Nielsen | *Global Action to Prevent War*

The Chair of Main Committee II on Monday morning handed out his paper on Criteria/Parameters for the arms trade treaty (ATT). This paper features some of the main ideas of the President's 3 July 2012 paper, to which states seeking an ATT with a strong humanitarian focus should be alerted. At the same time, the paper incorporates some new ideas that can potentially enhance the treaty's ability to set universal standards for the arms trade.

On the one hand, the Criteria/Parameters paper is still divided into a section of prohibitions and a section on risk assessments of parameters, the latter of which ends with a provision stating, "Where substantial risks exist, there shall be an overriding presumption against authorization." Another idea that has been preserved from the 3 July paper is that the "prohibition" provision still applies to transfers broadly, whereas risk assessments seem to be the responsibility of exporting states only.

As CARICOM, Switzerland, and Mexico noted immediately after the distribution of the paper, and as numerous delegations also noted during the debate on criteria on Thursday, the "overriding presumption" language is not strong enough. As the editorial "Negotiating an ATT with teeth" of yesterday's edition of the ATT Monitor argued, if there is a "substantial risk" that the transfer will be "used to commit or facilitate serious violations of international human rights law and international humanitarian law," it is crucial that such a transfer should simply not be authorized. The alternative, that a state could still legally allow such a transfer, would jeopardize the humanitarian rationale behind the treaty, such as is stated in UN General Assembly resolution 64/48. It seems difficult to justify having an ATT that does not explicitly require state parties to deny such "substantial risk" transfers.

On the other hand, the Criteria/Parameters paper entails a potentially beneficial effort to accommodate many countries' concerns regarding politicization of the application of criteria. The new paragraph 4 sets out that the criteria shall be applied "consistently in an objective manner, taking into account all credible relevant information." Both "objective" application, as far as the term refers to an assessment based on observable circumstances without prejudice to specific state-to-state relations, and "consistency," denoting that decisions will be made in a predictable manner, are of great importance. It is not only key to the ATT's credibility among states, but also essential in ensuring that the treaty fulfils its humanitarian purpose. The provision, however, could be more specific in defining "credible relevant information". For example,

the treaty could specify that such information should rely on multilaterally agreed mechanisms, including relevant UN agencies as suggested by the Arab Group and others. Information from consultations with stakeholders, as proposed by Mexico on Monday, could equally be taken into account, provided that any delay arising from such consultations would not be used as an excuse for allowing any transfers to pass uncontrolled in the meantime.

Another significant change in the Criteria/Parameters paper as compared to the 3 July paper is that the criteria relating to corruption and "adverse economic impacts" (or development) have been removed, while new criteria relating to regional, sub-regional, or international stability and to terrorist acts have been added. This could be seen as accommodating the request from some delegations for ensuring "state security". However, "state security" should not be prioritized over "human security" and from a civil society perspective it is a matter of great importance that arms transfers do not become "subject to corrupt practises" nor have "adverse economic impacts" in the receiving states.

Bearing in mind that the ATT's success depends not only on strong language but also on attaining a sufficiently broad range of ratifications, delegations should try to balance the concerns of some states about the treaty being "too robust" with those that want it to be as robust as possible. Where possible, ATT proponent states could try to find ways of incorporating the missing criteria in a manner that the concerned states can accept—e.g. by tying the assessments of development effects to judgments from multilaterally agreed mechanisms. However, governments should focus on ensuring that the treaty includes criteria on the issues that are most critical to achieving its humanitarian objectives, and that the treaty specifies that if risk is assessed on these criteria, transfers must be denied. The best guideline for determining how to make these choices must be to evaluate how the ATT will have the greatest impact on its main goal: to reduce and prevent human suffering. •

## Running interference

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

In response to the Chair's new paper on the preamble and principles distributed on Tuesday in Main Committee I, delegations were still largely making statements about 'what they want' and 'what they won't accept' rather than 'what they can live with' with a view towards a consensus treaty with only 8 scheduled days of negotiating sessions remaining.

We do not make the assumption that the parts of the Chair's new paper that have so far avoided direct criticism are therefore completely acceptable to all delegations. Many delegates have reserved the right to 'return to the text' to suggest future changes more often than they have affirmed existing language. We still have a ways to go to reach consensus and delegations will need to soften their positions a bit more in order to get there.

Calling for more 'softness' on positions does not imply disrespect of objections raised. Indeed, in the writings from Global Action to Prevent War and some other civil society organizations over these weeks, we have expressed our understanding that a weak treaty focused only on exporting states with little independent structure and only token review processes is likely to raise legitimate skepticism by smaller importing states, especially states that are currently experiencing internal conflict or are at political 'loggerheads' with the major producing states.

This skepticism has taken many forms in the ATT conference room, but one form is the insistence by some delegations on the UN Charter principle of 'non-interference' in states' internal affairs. Our own reflection is that one of the reasons governments seek to participate in the United Nations is to 'portion out' sovereignty and suspend some of their trust issues for the sake of norms, resolutions, and treaties that allow states to use the collective will and resources of the international community to enhance their own security and development options. In essence, governments 'use' their UN membership to obtain resources or other assistance through collaborative engagement that they could not possibly acquire left solely to their own devices. Some 'portion out' more liberally than others, some trust processes like the ATT more than others, but all benefit in one way or another from engaging the UN's many agencies and structures.

As readers may know, some governments vigorously claim principles of non-interference within the context of debates on the norm of the "Responsibility to Protect," which seeks to protect citizens when their own governments cannot or will not protect them. Of course, there are many forms of 'interference' other than those involving the most coercive response options, but often when

governments invoke this formula they have in mind responses that will have the most severe implications for national sovereignty and security. This also seems to be true in cases where 'non-interference' is invoked by delegations in the ATT context.

Thoughtless, reckless, or politically motivated interference is a grave concern for many states and we believe that this concern is generally appropriate. Successful and sustainable interference, on the other hand, requires skill, fairness, and restraint. Even relatively benign 'interferences,' such as trying to stop a family feud, require careful, even-handed listening and restrained responses. While some governments might seem guilty of an oversimplification on interference, we should keep in mind that all treaty negotiations tend to stretch boundaries of trust, and negotiations on weapons transfers are widely assumed to have particularly high consequences for states. If we get this very wrong, and we must not, we will spend the next few years cleaning up logistical and political messes rather than focusing together on eliminating poorly regulated and diverted arms transfers.

We at Global Action have our own concerns about some of the ways in which this treaty is taking shape as well as concern about the intensity of some of the objections put forth by diplomats. That said, we have noted a softening of the tone in the room, even if not yet accompanied by sufficient nuance in the formulation of objections. We urge even more softness as the days progress on issues such as non-interference. Indeed, we urge a greater willingness by states to nuance and contextualize all of their positions over these next few days—even to share more about the things they can 'live with'—so that we can spend less energy avoiding interference and more energy 'running interference' for a successful treaty process. •



## INVITATION

# Women's Human Rights The Arms Trade Treaty and CEDAW

**Friday, 20 July 2012**

**UN-Women headquarters, 19th Floor Conference Room  
(220 East 42nd Street, New York)**

**From 1:15 to 2:45 pm**

*Light Lunch will be served*

**Please RSVP** (for access reasons) to: [ameer.el.nager@unwomen.org](mailto:ameer.el.nager@unwomen.org)

The panel will discuss important ways in which two treaties-- the Arms Trade Treaty (ATT) and the Convention on the Elimination of All Forms of discrimination against Women (CEDAW) along with the UN Security Council resolution 1325 et al. can work to prevent discrimination and violence against women, particularly in conflict and post-conflict situations.

Speakers include:

- Anne Marie Goetz, Chief Advisor, Peace and Security, UN Women.
- Pramila Patten, CEDAW expert and Chair, Working Group on Women in Conflict and Post-conflict Situations.
- Vanessa Farr, International expert and consultant, Women's International League for Peace and Freedom (WILPF).
- Michèle Olga Pépé, IANSa Women's Network and the West African Action Network on Small Arms (WAANSa)-Cote d'Ivoire / Réseau d'Action sur les Armes Légères d'Afrique de l'Ouest (RASALAO)-Cote d'Ivoire.
- Nicole Ameline, Vice-Chair, CEDAW committee and expert

**Co-sponsors** International Action Network on Small Arms (IANSa), The International Alliance of Women (IAW), Women's International League for Peace and Freedom (WILPF) and UN Women.

## ATT MONITOR 5.11

### Calendar of events for Wednesday, 18 July 2012

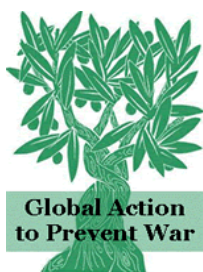
When	What	Where	Who
10:00–11:30	Main Committee 1 (open): Goals and objectives	Conference Room 1 North Lawn Building	
11:30–13:00	Main Committee 2 (closed): Scope	Conference Room 1 North Lawn Building	
13:15–14:45	Improving end-user control systems	Conference Room D North Lawn Building	UN Office for Disarmament Affairs and the Permanent Mission of Sweden to the UN Contact: Heather Sutton intern6u@un.org
15:00–18:00	Main Committee 1 (closed): Principles/ preamble	Conference Room 1 North Lawn Building	

### THE ATT MONITOR IS PRODUCED AND SPONSORED BY:



**Reaching Critical Will**

a project of the Women's International League for Peace and Freedom



**Global Action  
to Prevent War**

**WOMEN'S INTERNATIONAL LEAGUE FOR  
PEACE & FREEDOM**



international action network on small arms



**World Council  
of Churches**

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