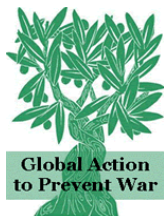


ARMS TRADE TREATY MONITOR

Civil society perspectives on the Arms Trade Treaty negotiation process

23 July 2012
Vol. 5, No. 14

- 1 | Editorial
- 2 | Mitigating circumstances
- 4 | Norway, Colorado, Hummarabi
- 5 | Wordsearch
- 6 | News in Brief
- 7 | From the front
- 8 | Rule of law in criteria
- 9 | ATT and CEDAW



Editorial: The risks of balancing acts

Ray Acheson | Reaching Critical Will of WILPF

After closed negotiations Thursday night on the arms trade treaty (ATT)'s goals and objectives, Friday's open meetings returned to the issue of criteria and parameters for arms transfers. The criteria and the related decision-making process through which arms transfers will be authorized or denied are arguably the most important aspects of the treaty. They, along with the scope, will determine whether the treaty makes a difference in reducing the consequences of the unregulated trade in weapons or whether it permits the status quo to continue, but with an international treaty providing cover for irresponsible transfers. This is why delegations participating in the debate either sought to ensure the strongest or weakest possible standards in this section.

In the morning the committee worked off the version released Thursday evening, and in the afternoon the Chair released a slightly modified text based on the morning's discussions. While the majority of delegations participating in the debate demanded strongly worded and comprehensive criteria for making risk assessments, some delegations suggested watering down language or deleting specific criteria, expressing concerns with the "subjectivity". A few governments are skeptical of having a list the criteria at all. The Egyptian and Pakistani delegations have routinely questioned what information will be used as the basis for risk assessment and who will make the decisions. However, as the Spanish delegation emphasized, the treaty's mandatory risk assessment process, based on a specific set of criteria, is not about subjectivity but about ensuring arms transfers are not authorized in circumstances of well-known violations of the criteria outlined in the draft text.

This is why the majority of delegations demanded strict language in the treaty that if a significant risk is detected through the mandatory risk assessment, ATT state parties "shall not authorize" the arms trans-

fer. The wording in the revised draft text released Friday afternoon still merely said, "Where substantial risk exists, there shall be a presumption against authorization." Most governments in favour of a strong treaty have consistently argued that this is not strong enough. The United States, however, has argued that either of these formulations is too strong. It will only accept a provision requiring state parties to "exercise particular restraint" if substantial risk is found, arguing that "national security concerns" (i.e. political or economic interests) must be able to take precedence over risks of violations of human rights, IHL, genocide, war crimes, crimes against humanity, acts of aggression, gender-based violence, violence against children, regional or international stability, organized crime, terrorism, diversion to illicit markets or end-users, or any other possible criteria.

In the latest draft text produced after the weekend negotiations, the language of the criteria section seems to have been modified to accommodate the US delegations' concerns. According to a copy obtained by the author, the risk assessment section text says that state parties "may balance the risk against the security imperatives associated with authorizing the transfer." It is not at all clear what such a balancing act would entail—the text does not spell out any standards for such an assessment nor circumstances in which one or other could or would take precedence, leaving a rather large loophole for subjective interpretation and application of the treaty.

Such an "escape clause," if written into the treaty, will undermine the rule of law. It will undermine existing international humanitarian law, as pointed out by the International Committee of the Red Cross on Thursday. It will make the ATT little more than a piece of paper with a list of suggestions for governments to consider when making decisions about arms transfers. It

continued on page 3

Mitigating circumstances

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

The term ‘mitigation’ has been raised often in the past few days of the ATT negotiations, specifically referring to the means by which exporting states might help bring questionable recipient states ‘up to code’ in order to legitimate a decision to transfer weapons. Can an exporting state actually be encouraged within a treaty framework to work with a potential state customer to ensure that weapons sold by a company under its jurisdiction will not be diverted to uses inconsistent with treaty criteria, including international human rights law? This week, it will be up to diplomats to decide the form by which and the extent to which mitigation can and should constitute a treaty obligation.

In conventional usage, mitigation has another meaning relevant to our work here, related to the circumstances that lead to the ‘softening’ of an opinion or judgment, whether legal or common. Within a criminal legal framework, mitigating circumstances can affect trial verdicts, but most often affect sentencing. In the personal domain, such circumstances affect (or should affect) the harshness of our judgments as well as our willingness to compromise when options, perspectives, or values differ.

In this last sense, mitigation is an important negotiating principle, one which will need to be liberally deployed this week in order to bring this treaty process to a successful conclusion.

There are times when ‘mitigation’ gets confused with kinship or affinity. We often employ special ‘rules’ that apply to members of our own family but not to others, that cause us to accept rude or annoying behavior in friends that we would never accept in acquaintances, or that allow us to overlook policy or financial transgressions in allies that would make us furious if undertaken by adversaries. We routinely indulge mitigating circumstances based on the strength of our personal biases and professional allegiances more than on the complex and compelling nature of the circumstances themselves.

As final negotiations ensue, it is critical that sensitiv-

ity to circumstances take precedence. Diplomats understand the background for why delegations hold the positions they do during formal debate. But they also know how to see behind the seemingly impenetrable policy veil to ‘softer’ and more pliable positions. It is this combination of understanding and skill that can and should form the basis for the intense ‘give and take’ that we anticipate will lead to final treaty language.

From what we have seen and heard, the culmination of these treaty negotiations is unlikely to satisfy any state or NGO fully. However, on the assumption that delegations are willing to soften policy judgments and remain sensitive to circumstances that can needlessly exacerbate policy conflict, a workable treaty can come to pass. In this context, we wish to remind delegates of two things: First, permitting consensus on treaty language does not presume that states will thereby accede to the treaty, let alone ratify it in national legislatures. States can (and should) show veto restraint regarding language to which they have objections knowing that they retain options to distance themselves from the final outcome if national interest requires it. Second, a successful ATT will become part of the UN’s security architecture and as such does not need to break new ground in order to be legally (and politically) actionable. Indeed, the more that treaty language can reference existing UN-sanctioned obligations, texts, and institutions, the more likely that a final treaty can both achieve broad support and have a sustainable impact on diverted transfers.

Note: We remain grateful to the many diplomats from missions and capitals who are committed to persevering through this difficult negotiating process until we reach consensus on final treaty language. Many of the NGOs who have gathered around the negotiating room will remain on site for the next week in case delegations want additional consultation. Global Action will be ‘on call’ as well and can be reached at: katherine@globalactionpw.org or 212-818-1815. •

ATT MONITOR

23 JULY 2012 | Vol. 5, No. 14

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 WILPF with Global Action to Prevent War, World Council of Churches, and IANSA. PDF versions of all *ATT Monitors*, along with statements and other documents from the conference, are available at 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.**

Editorial, cont'd

will make a joke of the overwhelming need and desire to have strong international regulations for the arms trade.

While it is necessary to address governments' concerns so that a wide range of states can accept the ATT, care should also be taken that the treaty text is not so watered down to be completely ineffective or worse, detrimental to existing international norms and standards. In considering such concerns, delegations should acknowledge that some countries are unlikely to ratify the treaty no matter how weak its provisions. The United States is one such country—as a case in point, it recently failed to finally ratify the Law of the Sea Treaty, despite support for ratification of the Treaty from the US Chamber of Commerce and the US Navy.

In opposition to the continuous attempts to weaken the foundations of the future ATT, 74 governments delivered a joint statement to the conference on Friday afternoon. Arguing that the ATT “will be judged by the strength” of its criteria and scope, the 74 countries said that the treaty needs to prevent authorization of arms transfers “where there is substantial risk that those weapons would be, *inter alia*: used for, or facilitate, serious violations of international law, including international humanitarian law and human rights law; having a destabilizing effect or exacerbating existing conflicts; or diverted to unauthorized end users.” They also emphasized the need for an ATT that includes small arms and light weapons and ammunition in its scope.

By delivering this statement before intensive closed negotiations were to begin over the weekend, these 74 governments clearly demonstrated their commitment to ensuring that the treaty does not result in a list of suggestions that will provide cover for future irresponsible arms transfers but that it achieves the original goal as set out in the UN General Assembly resolutions: “a legally-binding instrument on the highest possible common international standards for the transfer of conventional arms.”

Interestingly, the 7 original co-sponsors of the UNGA resolution that began the ATT process—Argentina, Australia, Costa Rica, Finland, Japan, Kenya, and the United Kingdom—were conspicuously missing from the list of 74 countries supporting this strong statement calling for a robust ATT. Sources indicated that at least some of these governments argued that it was “not the right time” for such a statement. However, the 74 countries that did join the call clearly recognized that the time was exactly ripe for such a clear and unambiguous stand against the treaty’s dilution. Intensive

closed negotiations were scheduled to take place over the weekend, and negotiations this week are reportedly likely behind closed doors without the possibility for civil society to monitor the proceedings. Friday was the exact right time for countries that want a strong ATT to reveal where they stand in relation to these negotiations. The world now knows what countries are truly committed to achieving a meaningful and effective treaty, and which are not.

In the end, the ATT must be an effective mechanism for a) determining if an arms transfer is irresponsible based on a specific set of criteria; b) prohibiting transfers that would be irresponsible regardless of other political or economic interests; and c) providing for recourse to action if the transfer is made anyway. If instead the ATT is a treaty that allows transfers to go forward regardless of violations of its criteria, it will undermine the current space other governments and civil society have for challenging such transfers. Instead of ensuring responsible transfers it will allow for irresponsible transfers *in accordance with an international treaty*. This would be worse than having no treaty at all.

Many UN member states are well aware of the consequences of failing to negotiate a robust ATT. As they head into the final week of negotiations, civil society will remain tuned in, ready to support, analyze, advise, and criticize as necessary. NGOs and many governments have called for transparency in the ATT process, as the issues get to the heart of human security and civil society has much experience and expertise to offer negotiating delegations. And whether negotiations take place in front rooms or back rooms, the world continues to watch. •



Art by Lin Evola

Remembering Norway, Colorado, and Hammurabi's Code

Jonathan Frerichs | World Council of Churches

A nightmare in Norway last July, a 'live' horror show in Colorado last week—these domestic tragedies are not the business of the ATT. Yet, no camera pointed at the crime scenes could tell the difference between such tragedies and the abuses that an ATT is mandated to address. Neither can the human heart.

Respecting jurisdictional differences, however, what similarities come to mind as we remember the events of Utoya Island, the Aurora cinema, and other places, over against incidents that an ATT would address?

First, it is striking how simply such scenes are set: An individual gunman takes advantage of national regulations. The details are more elaborate: Shortly before his crime in Aurora, the suspect, James Holmes, went shopping at local stores for a military-style assault rifle and three other guns. He also went shopping on-line for 6,000 rounds of ammunition and some large magazines.

Armed groups, brokers, arms suppliers, and unaccountable authorities simply take advantage of international arms trade regulations. The details—and the consequences—of their behaviour are also striking. After 16 years of mounting protest, their deeds have helped bring 190 states to this UN conference.

Second, in both categories, the factors in play include lax laws, absent enforcement, unscrupulous purveyors, and various human motives conducive to the use of force. These factors contribute to the commission of acts of armed violence. Citizens everywhere also look to governments to provide protection and the redress of grievances. Thankfully, societies also have remedies for the downward spiral of revenge and violence since at least the era of Hammurabi's Code.

Third, phenomena like internet arms shopping are not all that confront the ancient legal precedent of providing equal protection and equal justice for all. Incentives to skirt the law, or to take it into one's own hands, are many. Chief among them is the lure of profits. Beside it at the international level stands the temptation to hide the private logic of excessive nationalism under shared principles of sovereignty among nations. Whatever the reasoning, the result is lawlessness that makes arms available for abuses, for atrocities, and for other, slower forms of destruction.

Finally, what stands between potential victims and the perpetrators of armed violence? In the socio-political arena, protections include a web of mores, laws, and institutions that enable individuals, communities, and nations to live together in some semblance of safety and harmony. In the spiritual realm many believe that there is something in each human being that is good, and of

God. Treating others as we would have them treat us is an inspired invention, like Hammurabi's Code, from the cradle of civilization in the Middle East. It is as valid as ever, there, and everywhere.

Like national laws, the ATT needs to make generous use of such timeless precepts if it is to deal with challenges whether they are as old as greed or as new as a high-tech drone.

In international affairs, where the fabric of society is thin, protection from unlawful armed violence requires improvements in the cooperative forms of security that law enables. Many of the right words for this are on delegates' desks at the ATT Diplomatic Conference. States will need to graft them into the ATT if it is to help stop violence that continues to put people at risk.

The text emerging here has to be assessed in terms of whether or not it builds the rule of law, curbs every-man-for-himself practices, and provides humanitarian benefits that transcend national boundaries. In that sense, we may ask:

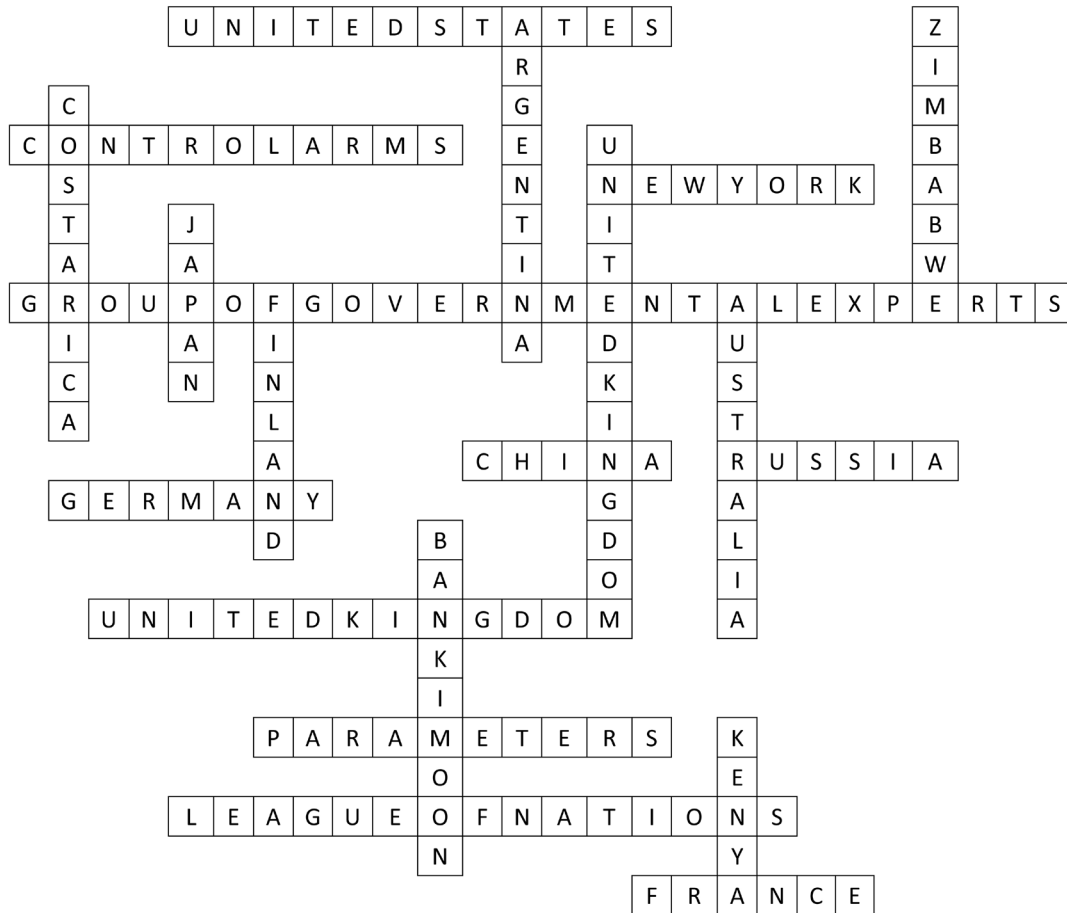
- Do the criteria require states to protect people who are now at risk by regulating the arms trade according to a high, common standard?
- Is the scope a transparent catalogue of the tools and transactions that are open to misuse?
- Do the goals and objectives apply widely shared principles to the finite positive tasks of an ATT?
- Do implementation provisions incorporate solid cooperation and clear acceptance of obligations?

The quality of any Arms Trade Treaty will serve as a collective diagnosis of international priorities. It will show whose prerogatives have been given what kinds of precedence. It will strengthen the fabric of the international community, or allow it to fray and tear.

After the massacre on Utoya Island, and in Colorado last week, citizens came together around the values that matter most in protecting life. The ATT's challenge, in one sense, is to affirm and translate the same basic values—reverence for life, protection of human rights, inviolability of persons—into an instrument that curbs the illicit arms trade and makes legitimate transfers more accountable. That can only be done together. It will surely be done, some day. As events in many places continue to remind us, the time is already ripe right now. •

ATT crossword: answers from Vol. 5, No. 13

Puzzles by Lily Gardener | Reaching Critical Will of WILPF



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

COLLATERAL
 HUMAN
 RIGHTS
 INDEPENDENT
 MURDEROUS
 LOOPHOLES
 ROBUST
 TECHNICAL
 MEASURES
 TRANSPARENCY

News in Brief*Ray Acheson | Reaching Critical Will of WILPF and Katherine Prizeman | Global Action to Prevent War***Criteria and parameters, rev 2 and rev3***Para 1 on prohibitions*

- Costa Rica, El Salvador, Finland, Mexico, Peru, South Africa, Tanzania said this section should apply to transfers not just exports.
- Iran disagreed and said the correct term is ‘export’ noting that there is not enough time and resources to conduct risk assessments for every type of transfer.
- UK said it understands exports to include gifts, loans, etc. not just sales.
- ECOWAS, EU, Nigeria, ROK, Sweden, and USA called for prohibition of export in reference to UN arms embargoes.
- Iran said text should not refer to arms embargoes.
- Iran said para 1 should only reference “relevant international obligations under applicable international law”.
- Costa Rica said para 1 should refer specifically to IHL and IHRL.
- Cuba, Iran, Nigeria, and Russia said para 1 should include prohibition of transfer to end-users that do not have the competence of a state importer.
- India called for an explicit prohibition reference to transfers used to support, encourage, or perpetrate acts of terrorism.

List of criteria

- Iceland, Finland, New Zealand, South Africa called for “applicable” to be deleted from in front of IHL and IHRL in 2a.
- Iran said reference should be made to “serious and systematic” violations in 2a.
- Viet Nam, Pakistan, and Namibia called for 2a to say “used to commit or facilitate serious violations of applicable international law” with no reference to IHL or IHRL.
- Cuba proposed “violations of international law, including the UN Charter” for 2a.
- China and DPRK called for deletion of 2a.
- India, Iran called for deletion of international criminal law in 2b.
- Iran and Cuba proposed adding “crimes of aggression” in 2b.
- DPRK called for deletion of 2b.
- Algeria, Egypt, Holy See, Iran, Solomon Islands, South Sudan, and UAE said gender-based violence should be replaced with violence against women in 2c.
- South Africa said GBV should be replaced with “violence in all its manifestations”.
- DRC, France, Iceland, Ireland, Liechtenstein, Mexico,

Norway, Turkey, and UK said reference to GBV should be retained.

- DRC said “elderly” should be added to 2c.
- USA said 2c on GBV and violence against children should be “folded into” 2a on IHL and IHRL because it doesn’t “make sense” to have as a separate criterion.
- Mexico, Norway, Peru, Solomon Islands, Turkey, and Uruguay called for inclusion of “armed violence” in 2c.
- Pakistan said 2c should be deleted.
- Iran and Syria said foreign occupation should be included in 2d.
- China, India, Indonesia, and Namibia called for the deletion of “internal stability” in 2e.
- Iran called for deletion of 2e.
- Iceland, Sweden called for deletion of “transnational” in front of organized crime in 2f.
- Liberia called for clarified language on 2f that reads, “used to commit or facilitate acts of organized crime, including those of a transnational nature.”
- Algeria, Iran called for deletion of “violent crime” in 2g.
- Canada, New Zealand, Nigeria, Sweden, USA... said “non-state actor should be specified as “unauthorized” in 2h.
- EU, Finland, France, Netherlands, Papua New Guinea, Switzerland, and UK called for reintroduction of development criterion.
- Brazil, Ecuador, Zambia said they are happy with removal of development criterion.
- EU, Finland, France, Netherlands, Papua New Guinea, Sweden, Switzerland, UK, and Zambia called for reintroduction of corruption criterion.
- China said interference with internal affairs of other states should be added to criteria.

Process of decision-making (paras 3–6)

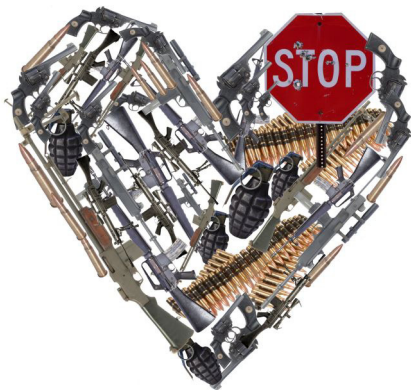
- Costa Rica, Ireland, Netherlands, Norway, Portugal, Switzerland said there should be automatic denial if risk assessment is negative.
- Sweden said there should at least be an “overriding presumption of denial”.
- New Zealand questioned only having denial pursuant to optional mitigation measures in para 6.
- Costa Rica, Ireland, Sweden said mitigation measures should be deleted or removed from section.
- Ireland said mitigation measures must at least specify they must take place before the transfer.
- Tanzania said “credible” should be deleted from para 3 in reference to information for risk assessments.
- Egypt, Nicaragua said for risk assessments to be “objective, consistent, and non-discriminatory,” the basis

for information must only be that from international multilateral bodies.

- UK said it can't only rely on these sources of information because it's sometimes not available.
- Indonesia proposed adding the language, "taking into account information and consultations from importing states and other relevant information" to para 3.
- USA said it cannot accept an absolute requirement to deny transfers.
- UK says it accepts this process as written.
- Pakistan called for the inclusion of a new paragraph: "If the importing state considers that an exporting state or states have denied authorization of arms on grounds that are inconsistent with the parameters, the importing state may file a complaint to the committee on dispute resolution as set out in Article XX."

Other

- A group of 74 delegations called for an ATT that would "prevent authorization of a transfer where there is substantial risk that those weapons would be used for or facilitate, serious violations of international law, including international humanitarian law and human rights law, having a destabilizing effect or exacerbating existing conflicts, diverted to unauthorized end users."
- The group also said the strength of the ATT would be judged according to the strength of its scope and criteria.
- Iran called for the deletion of "facilitate" throughout the text saying it cannot be defined. •



MAKE LOVE
NOT LOOPHOLES

Show some #love for the #armstreaty speakout.controlarms.org/mylovephoto

Side event: "From the Front Line"

Maj Rørdam Nielsen | Global Action to Prevent War

Oxfam and the Permanent Mission of Belgium to the UN hosted a side event on Friday that featured a screening and discussion of Minos Papas' 8 minutes movie: "A Short Film About Guns". The movie presented a call for a strong Arms Trade Treaty by four persons who in various ways have first hand experiences with illegal and irresponsible arms trade. As the Belgian Chargé d'Affaires Thomas Lambert noted in his introduction, the event was intended to remind delegates about "the very real impact" of the negotiations. The movie starred former UN arms trafficking investigator Kathi Lynn Austin and ex-child soldier Ismael Beah, who both took part in the panel discussions, as well as US Navy Rear Admiral Stuart Platt and war photographer Paul Conroy. The discussion panel also featured Executive Director of Oxfam France, Luc Lampriere, and the director of the movie, Minos Papas.

Austin has traced illicit arms flows around the world, meeting "gunrunners" who had found their niche in bringing weapons to conflict zones. With few strong domestic laws regulating this business, it is easy for transporters to set up companies over multiple jurisdictions to evade government prosecution. "Arms brokers understand that their activities will not be penalized," she said. She called for a strong licensing schemes and provisions on brokering that would include regulation of intermediaries and financial agents, and she urged: "Delegates have a tremendous responsibility to close loopholes for these illicit traffickers."

Beah has first-hand experience of the impact of illicit arms flows. He started fighting when he was 13 years old in Sierra Leone's bloody civil war. "When countries loose their societal norms, it has deep impact," he said. As Beah noted, the arms comes from manufacturers outside Sierra Leone. "There is a lot of complicity, and we are all responsible," he noted. He reminded the audience that such complicity extends to the carelessness whereby weapons from military interventions are left behind or re-sold by Western states e.g. in Libya and Iraq.

Lampriere spoke about how creating strong domestic campaigns with broad public support can prompt national decision makers to take action for better arms control. The essence of such control of shady arms trade was underscored by Admiral Platt in the movie: "Putting a spot light on the problem across the globe will reduce the amount of arms flows, will make it more difficult. As a result we won't eliminate the problem, but we will sure reduce it." He concluded with a note on the victims: "If we can help half, that's an immense step." •

The rule of law in criteria

Katherine Prizeman | *Global Action to Prevent War*

Thursday saw lively debate over the status and nature of the parameters section of the arms trade treaty (ATT) with two draft texts from the Chair of Main Committee I, one of which moved the specific risk assessment criteria to the national implementation section. While the positions of delegations varied from those that supported the move to a large number of countries that did not, the question still remains how robust and comprehensive the list of criterion will be whether or not they are placed under implementation (while noting that such a move would be very detrimental to the effectiveness of the treaty). In order to compile the most vigorous list of criteria that will be consistently and effectively implemented in national risk assessments, it is essential that each criterion be based, as closely and frequently as possible, on existing international law obligations as well as well-established international norms. Ensuring that the criteria are both legally-binding and legally-based will strengthen the validity of the criteria as well as combat the skepticism and alarm from many delegations around the possibility of political manipulation or subjective interpretation of the individual criterion.

The rule of law must permeate the ATT in all its sections in order to reinforce that the treaty must be a legally-binding instrument that will hold states accountable to international legal obligations and, thus, prohibit transfers of conventional arms when there is serious risk of violations of international human rights law (IHRL), international humanitarian law (IHL), and other international obligations set forth under UN auspices. As the International Committee of the Red Cross (ICRC) noted on Thursday, a treaty based on parameters that have no firm linkages to existing international law and, rather, represent a list of suggested items to consider when deciding whether or not to export weapons, is potentially harmful. If under the treaty states are permitted to continue with a transfer despite knowledge that violations of IHL exist, the ATT would actually undermine international law obligations under the Geneva Conventions.

Many delegations, including Venezuela and Egypt, have expressed concern that an ATT based on subjective criteria will lend itself to political manipulation and contribute to furthering inequity between exporter and importer states. Other delegations, including Indonesia and Pakistan, have made clear that there must be an inherent balance between the rights and responsibilities of importer and exporter states. Bearing in mind this sensitivity around the issue of fair treatment of all states and to practically address the widespread aversion to using

Treaty criteria to reinforce an exclusive “exporters club,” it is important to tether the criteria for transfers to existing international norms and international law so that there is little room for prejudice and discrimination. The focus of the ATT must not deteriorate into political machinations over subjective criteria, but must remain steadfast on creating and implementing clear, consistent legally-binding parameters consistent with existing UN instruments.

Where appropriate, references to “UN relevant instruments” should be included to ensure consistent and objective interpretation of the criteria by all states parties. Moreover, criteria directly referencing serious violations of IHL and IHRL as well as violations of international criminal law such as genocide, war crimes, and crimes against humanity must be a priority and have no qualifiers such as “applicable”. References to corruption should be based on language in the UN Convention against Corruption as well as the Convention on Transnational Organized Crime. The criterion of gender-based violence should make reference to relevant tools such as UN Security Council Resolutions 1325, 1820, 1888, and 1889; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and other UN-related organs and documents. Due to a lack of universal definition for terrorism, a reference to terrorism could be linked to a clear criterion on diversion citing language from the UN Guidelines on International Arms Transfers that uses the phrase “diversion of arms to unauthorized destinations and persons”. As noted by the delegate of New Zealand on Friday morning, “non-state actor” is used in diverse contexts of the UN and it would be unclear what the precise meaning for this term would be in the ATT. Such ambiguity should be avoided. Furthermore, criteria related to the undermining of international peace and security and aggravating, prolonging, and provoking aggressions or breaches of peace could be framed in the context of the norms and obligations enshrined in Article 1 of UN Charter. Likewise, a criterion related to UN Security Council arms embargoes, as has been supported by many delegations, would be completely appropriate.

Formulating clear, legally-based criteria will enable states parties to apply them consistently with little room for political haggling on potential politicization. International law provides an important basis for this treaty and should remain at the heart of its provisions so that all states parties can be held sufficiently accountable. •

Side event: Women's Human Rights—the ATT and CEDAW

Lily Gardener | *Reaching Critical Will of WILPF*

Friday's side event co-hosted by 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 looked at the connection between two treaties currently being discussed at the United Nations. The panel, chaired by Anne Marie Goetz, Chief Advisor, Peace and Security, UN Women, discussed how 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 against women and gender-based violence (GBV), particularly in conflict and post-conflict situations.

Michèle Olga Pépé, IANSA Women's Network and the West African Action Network on Small Arms (WAANSA)-Côte d'Ivoire, described how small arms affect women in Côte d'Ivoire, what civil society is doing about this, and the link between peace and security. Pépé argued that where there are weapons, there is poverty, which interferes with women obtaining human rights. She explained that in Côte d'Ivoire, perpetrators of violence continue to hold guns. Achieving justice is almost impossible, and impunity continues to be a big problem for the region. While Côte d'Ivoire has a 1325 action plan, Pépé explained that it is not being implemented. Women hold only a handful of seats in parliament and CEDAW is predominately being implemented at the grass routes level. Pépé asked that the ATT reflect the voices of Côte d'Ivoire women and end the irresponsible arms trade.

Pramila Patten, CEDAW expert and Chair, Working Group on Women in Conflict and Post-conflict Situations, argued that there is a clear gender dimension to the arms trade, as women are increasingly and disproportionately affected by armed GBV. She raised concern that despite the ratification of CEDAW by 187 states parties, women and gender are being largely ignored in the process towards an ATT. Patten contended that some member states still have difficulty seeing the relationship between women, security, and arms control and the incidence of GBV perpetrated or facilitated by conventional weapons. She argued that the impact of armed violence on women's minds, bodies, and freedom remains quite invisible. There are no statistics when guns are not used to kill but to exert power behind closed doors. Patten arguing that CEDAW is a valid and important tool to be used in the demands that GBV be included in the criteria section of the ATT.

Nicole Ameline, Vice-Chair, CEDAW committee and expert, called for the need for a global approach to the

arms trade under an ATT. She argued that in conflict and post-conflict situations women have their fundamental human rights disproportionately violated; therefore a responsible, transparent, and balanced treaty that reflects contemporary law of human security is required. Ameline noted the importance of NGOs in the ATT process, particularly with future implementation.

Vanessa Farr, International expert and consultant, WILPF, spoke about the necessity for women's leadership in issues of disarmament. She argued that in 2000, when the Millennium Development Goals were formulized, no mention of GBV and arms were included. There was not one single mention of ways in which organized and unorganized violence and/or conflict affects development. Farr argued that when small arms are prevalent in communities they destroy everything. Thus development issues cannot be divorced from arms and disarmament issues. She contended that CEDAW should be used, along with other treaties and legal dimensions that already exist, to call for disarmament and arms regulation. Farr contended that gender awareness in the ATT would take forward the dream that hundreds of women fought for in Geneva almost 100 years ago.

Ray Acheson, Project Director of Reaching Critical Will, WILPF, provided an update of the ATT negotiations where the topic of gender had come to the forefront of discussions that morning. 48 states have now supported GBV to be included in the criteria. While a handful of delegations oppose the inclusion of GBV in criteria, Acheson argued it would be a step back to use "violence against women and children" instead of GBV as it weakens the language and does not acknowledge that the arms trade affects everyone—men, women, boys, and girls—in different ways. Amnesty International, IANSA, WILPF, and Religions for Peace have suggested language that arms transfers be denied when likely to be used to perpetrate or facilitate acts of gender-based violence, including rape and other forms of sexual violence.

If the ATT is to be an effective legal instrument in regulating the international arms trade, recognition of the specific potential impacts of international transfers on women and their rights should be included. As illustrated by the panel discussion, such an approach would be consistent with broader UN practice of the inclusion of a gender perspective. It would also ensure that the international standards within the ATT to regulate conventional arms comprehensively addresses the full range of potential risks associated with trading and transfers. •

ATT MONITOR 5.14

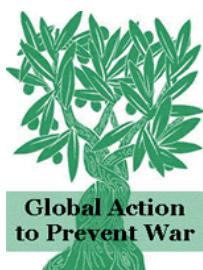


THE ATT MONITOR IS PRODUCED AND SPONSORED BY:



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.