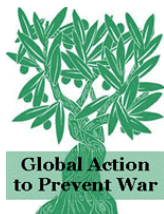


ARMS TRADE TREATY MONITOR

Civil society perspectives on the Arms Trade Treaty negotiation process

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Editorial: Avoiding extremes: the overly-simplified and overly-qualified

Katherine Prizeman | Global Action to Prevent War

Informal consultations over the weekend yielded a new set of draft texts related to the various sections of the arms trade treaty (ATT)—scope, criteria, international assistance, implementation, an Implementation Support Unit (ISU), and final provisions. While the President of the conference, the Main Committee chairs, and delegates have been actively seeking “compromise language,” it is important to not lose sight of what an ATT was intended to do—to set legally-binding, comprehensive standards for the trade in conventional arms in order to address the many security risks related to the illicit and irresponsible trade in these weapons. Compromise to any extreme—whittling down the text so much that it would fail to set common standards to which all states parties would be accountable; or including qualifiers on every element of the treaty so that few existing standards could be considered applicable—will inevitably undermine the treaty’s ability to have an impact on the consequences of the poorly regulated arms trade.

A balance between the overly-simplified and the overly-qualified must be struck such that the ATT will have a real impact on both the ground and in the national practices of transfer authorizations. A simple set of “recommendations” or “guidelines” for the arms trade is obviously insufficient (the overly-simplified), as is a document that includes endless qualifiers based solely on “national discretion” (the overly-qualified). As the final week of negotiations is now under way, delegations must bear in the mind that the ATT must set forth clear, uniform, and legally-binding parameters to which states parties are to be held accountable when transferring conventional arms. Anything less will have little chance of changing conditions on the ground in the parts of the world that are most affected by the unregulated and illicit trade in arms and, even worse, could have a negative impact on existing international norms and processes.

The fluctuating trajectory of text on criteria has shown that both of these ‘extreme’ scenarios must be avoided. The call for a “simple, short, and easy to implement” ATT has been made by the permanent five members of the UN Security Council (P5) from the very start of the preparatory process. It is clear that something “simple and easy to implement” without the appropriate structure and independence of legally-binding criteria will not sufficiently contribute to the UN’s multilateral security framework and, in turn, combat the dire consequences of the illicit and irresponsible trade in arms. In contrast, in its most recent form, the draft text on criteria has been elongated to include numerous qualifiers (and, therefore, ‘loopholes’) driving the criteria away from fulfilling their core mandate and diluting the commitment of refusing transfers where substantial risk exists when applying *any* of the parameters laid forth in the treaty.

New qualifiers in the most recent text include the insertion of the phrase “a State Party shall assess whether, *in its view*, there is substantial risk” (emphasis added). This drives a further wedge between universal and state-specific criteria and adds another layer of ‘subjectivity’ to their implementation. The current text also includes a provision that state parties “may balance the risk against the security imperatives associated with authorizing the transfer.” This represents the most radical ‘qualifier’ yet to the ATT’s mandate to provide international, legal standards for the arms trade. As yesterday’s *ATT Monitor* editorial noted, the text does not spell out what this ‘balance’ would entail or which particular circumstances would be taken into account, thus leaving a gaping hole in the accountability structure of the parameters. Furthermore, clear and specific provisions free of continuous qualifying phrases justified only by “national discretion” are especially important if the ATT does not establish any substantive role for

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Editorial, cont'd

an ISU to analyze implementation and give recommendations as to how treaty provisions should be interpreted, as still seems to be the case in the latest ISU draft text.

As delegations seek to finalize treaty language this week, it is necessary to avoid a dangerous weakening

of the text through either overly simplified language or endless modifiers. Instead, the ATT should create a legal mechanism that provides for a clear list of criteria to be applied such that irresponsible transfers are prohibited and diversion into the illicit market is prevented. •



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Vulnerable victims or survivors and agents for change?

Ray Acheson | *Reaching Critical Will of WILPF*

After a round of negotiations over the weekend, the Chair of Main Committee I introduced a new draft preamble and principles section on Monday morning, which delegates were to continue debating throughout the day. While the text is largely positive, some troubling concepts remain. The language around women, gender, and victims is especially disconcerting, as it fails to adequately address the realities of the impact of the arms trade on these groups and instead perpetuates the myth that women are vulnerable and victims are powerless.

In paragraph 10, the term “gender-based violence” is in brackets along with the alternative option “violence against women”. This mirrors the debate in last week’s meetings on the criteria section, during which the Holy See, Egypt, Iran, and South Sudan objected to use of the term “gender-based violence,” with the Holy See arguing that gender is a “vague” and “undefined” term. However, these terms are actually very well established within the United Nations. (Information on existing definitions of gender-based violence will be published in the next edition of the *ATT Monitor*.) The term “gender-based violence” recognizes the broader context and some of the fundamental root causes of armed violence, which is why the Irish delegation and others indicated on Friday that they would only accept the term gender-based violence in the criteria section.

The preamble also contains a separate paragraph describing “women and children” as “particularly vulnerable in situations of conflict and armed violence.” As Rebecca Gerome (IANSA Women’s Network) and Maria Butler (PeaceWomen/WILPF) argued in *ATT Monitor Vol.5, No. 11* that “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.” Gerome and Butler note, “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.”

A better alternative for the preamble would be drawn from UN General Assembly resolution 65/69 on “Women, disarmament, non-proliferation, and arms control,” which recognizes “the valuable contribution of women to practical disarmament measures carried out at the local, national, regional and sub-regional levels in the prevention and reduction of armed violence and armed conflict, and in promoting disarmament, non-proliferation and arms control.”

Member states must not take steps backward from existing UN resolutions and treaty bodies, given the gravity and urgency of preventing all forms of gender-based violence in the context of the international arms trade.

The second issue is the treatment of “victims” of armed violence and conflict. First, those who are killed, wounded, displaced, raped, or otherwise impacted by armed violence—as well as their families and communities—should not be referred to as victims but as survivors, in order to recognize that they have agency. Survivors are not any less entitled to assistance than “victims,” but using the term survivor can often serve to empower and heal, whereas treating people as victims can allow the source of the violence to remain in control.

In terms of providing assistance to survivors of armed violence in the ATT, the Main Committee I Chair has provided two options in the draft preamble. The first indicates that state parties are “resolved to do their utmost to provide further assistance to the victims of armed conflict” while the second “recognizes the challenges faced by victims of armed violence and armed conflict, and their rights to adequate care, rehabilitation and social and economic inclusion.” Neither of these paragraphs is strong enough. The second paragraph’s reference to the rights of victims is important, but is insufficient on its own.

In a publication called *States’ obligations to provide victim assistance*, Amnesty International suggests that if governments agree that victims’ rights should be addressed in the ATT context, the best language would be a reaffirmation of existing rights. The treaty should have each state party undertake “to meet its existing obligations to ensure the provision of effective remedies and reparations to victims of violations of international law,” which include the survivors’ rights to “equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms.”

The preamble is not the most important element of the ATT. But it will provide the context for its application and sets the stage for the treaty’s provisions on criteria, scope, and implementation. It is therefore important that women and survivors are accurately represented and their rights and challenges adequately addressed in the preamble. Thus the preamble should refer to gender-based violence in paragraph 10, reflect the agency rather than vulnerability of women in paragraph 13, and emphasize existing international obligations to survivors in paragraph 12. •

The ATT: the missing piece of the puzzle

Gabriella Irsten | *Reaching Critical Will of WILPF*

As Ghana pointed out on 10 July, the arms trade treaty (ATT) is not a treaty like any other. It is not specifically or only a humanitarian treaty, a disarmament treaty, nor a trade treaty. While the views on what this treaty should cover differ between UN member states, we can surely say that many countries agree with Ghana's statement. The argument has been reiterated in different ways by several delegations, such as by the Italian Ambassador on 11 July, who stated that ending human suffering is the fundamental ethical goal of the ATT. In addition, referring back to the launch of this treaty, the UN General Assembly resolution A/RES/61/89, "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms" stated that the ATT should recognize "that arms control, disarmament and non-proliferation are essential for the maintenance of international peace and security" and reaffirm "respect for international law, including international human rights law and international humanitarian law, and the Charter."

Multilateral disarmament and arms control processes within the United Nations have long been operating in isolation from other UN organs. This has led to some governments being sceptical about the relationship between these issues and human rights or international humanitarian law. Separating issues in this manner may make it logistically easier to work within the UN, but unfortunately this practice does not reflect the reality of human experience or the nature of international security.

In real life, problems of arms proliferation and human suffering are not isolated from one another. Therefore, the UN system needs to reflect this and build bridges between institutions in order to have appropriate tools to deal with modern human threats. As the South African delegation expressed during the first week of negotiations, "The ATT should be an international instrument that fills a glaring gap that currently exists in the global arms control system." This objective should be extended:

an ATT could fill a gap not only in the arms control system but in the whole UN system. The ATT has great potential to link arms control to human rights and establish an international instrument with an holistic approach to effectively deal with problems facing today's world. The ATT is a great opportunity to build a new modern treaty that respond to challenges to human security. The isolation of issues, as we have seen it in international fora, is no longer enough in today's complex, globalized world.

A robust ATT could operate as a preventative tool against conflict and human suffering. Most existing instruments deal with conflict and suffering after it occurs, but real protection can only be realized through prevention.

The question is whether governments want to take their responsibilities of preventing conflict and protecting their citizens seriously and if they are willing to make changes to their international behaviour that will improve people's lives. Today we are struggling to end poverty, armed violence, and other injustices. All these issues are intertwined and we therefore need a solution that will take all of them into consideration. They all have a strong direct and indirect links to the spread of arms. Scarce resources are being used to buy weapons instead of being spent on poverty reduction and on fulfilling social and economic rights. Today warfare is no longer being fought on the frontline by armies; it is taking place within countries and communities, meaning that the spread of weapons has a direct link to the increase of civilian deaths. The excessive number of weapons in circulation around the world makes it easier for actors to use them to violate other human's rights, lives, and dignity, both within conflicts and private homes. If the ATT does not include aspects of international human rights law, international humanitarian law, and gender-based violence as criteria for regulating arms transfers, the international community will lose the chance to build a treaty that is truly relevant for today's threats. •

ATT cryptoquote

The following jumbled sentence is a quote by a key spokesperson on women's rights from Amnesty International:

Isq qdv ydpwv jpuoq ue: opipnz edpswn iv lkfuoc k jmpguq iz dktuoc kmle qmkoegvme qp cptvmolvoqe pm kmlvn cmpsje qdkq kmv cpook sev qdvl qp kqqkbf butuwukoe kon qdkq'e ydkq yv'mv evvuoc. Uo qdue bkev uq'e jkmqubswk-mwz mvwkqvn ivbksev qdv gutv jvmlkovoq lvlivme pg qdv Evbsmuqz Bpsobuw jwse Cvmlkoz kbbpsq gpm evtvoqz gpsm jvm bvoq pg kww kmle nvkw, isq qdv gutv jvmlkovoq lvlivme kmv kwep bdkmecn yuqd lkuoqkuouoc jvkbv kon evbsmuqz. Ep, jvkbv, jmpguq - qdvmv'e k bpogwubq.

Keeping focus: a personal perspective

Natalie Goldring

Early in my career, I had the good fortune to work with Frank Blackaby, a former director of the Stockholm International Peace Research Institute. He rarely spoke much at the British American Security Information Council (BASIC) board meetings at which we interacted, but his interventions were always insightful. At one meeting, we had become mired in administrative details and disputes. Frank sat quietly in the back of the room as we argued our positions; it seemed as though he might even be sleeping. After allowing the conversation to continue for a while, Frank raised his head and asked, “But what will this do to reduce the killing?”

The current debates over the minutia of the prospective Arms Trade Treaty (ATT) risk losing sight of the fact that our core objective is to reduce the killing.

Before the negotiations began, non-governmental organizations and most governments advocating an ATT seemingly had consensus on many characteristics of a successful treaty. A robust treaty would:

- bar countries from transferring weapons when there was a substantial risk that the weapons would be used to violate international humanitarian and human rights law;
- be broad in scope, including all types of conventional weapons, their parts and components, and their ammunition;
- cover all types of international transfers of weapons and associated activities, including sales, gifts, leases, brokering, etc.;
- have clear criteria for denial of sales;
- require public reporting of transfers; and
- have accessible thresholds for entry into force.

The treaty text we see next may not accomplish any of these objectives.

Here’s the bottom line from my perspective: If the proposed treaty allows governments to claim compliance with the treaty while violating international humanitarian and human rights standards, we’re better off without it. And unless the proposed treaty helps create conditions that can reduce the killing, we’re also better off without it. •

Natalie Goldring is a senior fellow with the Security Studies Program at Georgetown University. She also represents the Acronym Institute for Disarmament Diplomacy at the United Nations on conventional weapons and arms trade issues.

Customer satisfaction

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

As delegates to the ATT work out remaining barriers to treaty language informally, we are left to wonder what will emerge as final text as well as how that text will likely be interpreted by a large number of people worldwide who are anticipating more robustness on weapons transfers than this process might in the end be able to achieve.

As the assistant Secretary-General for Human Rights, Ivan Simonovic, rightly reminds diplomats with regards to reporting under existing human rights treaty obligations, the point of producing reports is not to generate paper, but to change conditions on the ground.

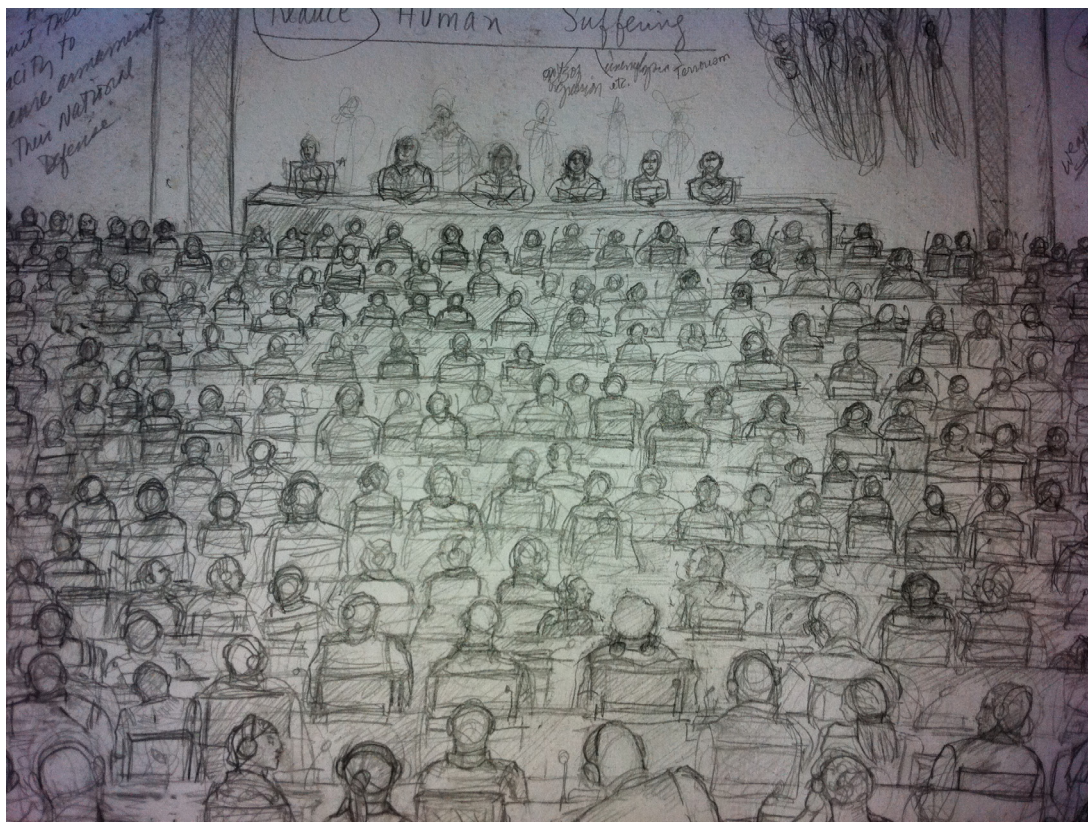
Likewise, the point of an ATT is not to generate lofty phrases, but to change conditions on the ground.

This I suspect would adequately describe the sense of many people worldwide who have watched this process unfold from a distance, who have high expectations for the final result, but who have been disappointed many times by the promise that the UN still makes and promotes, a promise grounded in a security framework which seeks to become less and less dependent upon weapons and weapons systems.

It probably is the case that this treaty was oversold in diverse global regions from the start – the UN is generally more skilled at ‘norm setting,’ but urgency on policy is rarely rewarded at least in the initial iterations of treaty processes. An ATT will hardly set the standard for a new security framework, nor will it on its own eliminate a single weapon system and possibly not even capture a single illicit weapon now in circulation. But given certain levels of robustness on both structure and independence of criteria, it can certainly contribute to bringing that framework about. As such a complementary capacity, the ATT would be worth all the trouble that it has caused, all the labor it has consumed, all the patience it has exhausted.

Hopefully, it will also seem worth it to the millions of people seeking relief from the threats and aftermath of armed violence. My best guess though is that, regardless of the final disposition of this month of negotiations, people worldwide will likely still call out expectations for healing the wounds of their families and communities, and doing more at both policy and practical levels to prevent the spread of arms. •

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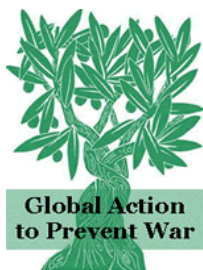
Art by Lin Evola

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