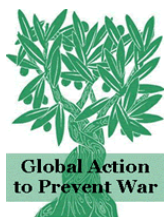


# ARMS TRADE TREATY MONITOR

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

**9 July 2012**  
**Vol.5, No. 4**

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## **Editorial: Leaving hope for further action on the arms trade**

*Ray Acheson | Reaching Critical Will of WILPF*

On Friday, most delegations made a concerted effort to begin substantive work on the arms trade treaty (ATT) in discussions on goals and objectives and on scope. One cross-cutting theme was the perceived tension between the rights and responsibilities of producers and exporters on the one hand and of importers on the other. Some delegates also highlighted the relationship between the production of weapons and the transfer of weapons, arguing that both should be addressed by a future ATT. However, a separate process is necessary for the regulation of weapons production and the reduction of conventional arms.

As the ATT would likely be limited to regulating the international trade in weapons, some developing countries have been concerned that it will be used to prevent them from acquiring weapons while the major producing countries will not face any impediments to their own ability to acquire weapons. Thus during the general debate of this conference, the Egyptian delegation called for monitoring over and significant reductions in the production, possession, and trade of conventional weapons by industrialized states, arguing that over-production and increasing stockpiles of conventional weapons within major arms exporters and producers “can easily contradict the spirit and purpose” of an ATT.

To many, such a suggestion appears to be an attempt to distract from the core objective of the treaty, which is ostensibly to prevent the transfer of arms in situations where they will likely be used to violate international law and human rights. Yet as Venezuela’s delegation pointed out on Friday, the largest weapon producers have been known to use their conventional weapons to violate these same standards, but “little is said about measures for enabling the control or restriction” of their weapons.

While production by definition arguably falls outside the scope of an arms trade treaty, production is an integral part of the arms

trade, as the Pakistani delegation noted on Friday. How then should a treaty on the arms trade address this question of the unregulated vertical proliferation of conventional arms?

The reduction of arms and of their production has been on the UN’s agenda since its inception. Article 26 of the UN Charter gives a mandate to the Security Council and the (now defunct) Military Staff Committee to formulate a plan for regulating arms to promote “the establishment and maintenance of international peace and security with the least diversion for armaments of the world’s human and economic resources.” However, as the five permanent members of the UN Security Council are among the largest arms exporters in the world, it should come as no surprise that the Council has failed to fulfill this mandate.

A viable course of action could be for the UN General Assembly to take up this responsibility. The task has already de facto fallen to the General Assembly: its first special session on disarmament in 1978 aimed to end the nuclear and conventional arms race, curb military spending, and develop a global, comprehensive strategy for disarmament. It resulted in a final document that outlined priorities and measures to be undertaken “as a matter of urgency with a view to halting and reversing the arms race and to giving the necessary impetus to efforts designed to achieve genuine disarmament leading to general and complete disarmament under effective international control.” It also emphasized, “The General Assembly has been and should remain the main deliberative organ of the United Nations in the field of disarmament and should make every effort to facilitate the implementation of disarmament measures.” Thus it would be fully within the General Assembly’s purview to establish a dedicated process, as it did for the ATT, to address the issues of the reduction of arms and their production. Indeed, 34 years after this final document was adopted, it is well past time for the UN to address this issue head-on. •

## Adding sufficient ambition to the goals and objectives

Katherine Prizeman | *Global Action to Prevent War*

In the US delegation's statement to the plenary meeting on Friday morning, Assistant Secretary of State Thomas Countryman stated that the US seeks "a treaty that establishes high international standards for controlling the transfer of arms on par with current best practices." It is important to underscore that with this opportunity to negotiate an ATT, an entirely *new* instrument of international law, there must be a higher degree of ambition in this process than only endorsing standards reflective of current best practices. While there are examples of 'good practices' in arms export controls currently in existence, the forthcoming ATT must do more than improve on national control systems. Improving the quality and functioning of national control systems and encouraging sound national legislation will be essential to successful implementation of an ATT, but attempting to maintain complete sovereign control over the Treaty process in the form of weak language around criteria for transfers and singular focus on "national export control" is not ambitious enough. Furthermore, this strategy has the potential to undermine the meaningfulness of the Treaty itself by providing potential political cover for future dubious transfers. The goals and objectives of the ATT require more of member states.

The provision included in the Chair's most recent 'Discussion Paper' from 3 July notes in its Preamble that "States Parties may adopt more restrictive measures than those provided in the Arms Trade Treaty." This is a welcome addition insofar as the ATT should be viewed as a floor, not a ceiling, for the regulation of the arms trade. States should be encouraged to adopt stricter standards

of verification to the greatest degree possible and progressive states, along with NGOs, should continue to push governments to go beyond the consensus-driven standards in the Treaty that (hopefully) will be adopted at the end of the month. Moreover, any ATT must not be used as an excuse for the UN to limit or curtail its advocacy for better controls of illicit small arms, or for stronger application of international humanitarian and human rights law related to the production or use of armaments. Nonetheless, sufficient emphasis should also be placed on making the Treaty obligations themselves robust, effective, and meaningful for addressing a comprehensive set of goals and objectives of an ATT—to contribute to international and regional peace, security, and stability by preventing transfers that contribute to or facilitate human suffering, serious violations of international human rights law and international humanitarian law, the displacement of people, transnational organized crime, gender-based violence, and terrorist acts.

As referenced by several delegations during the formal debate on 'Goals and objectives' in Main Committee I on Friday, UN General Assembly Resolution 64/48, which provides the mandate for this process, clearly lays forth the principle goals and objectives of negotiating an ATT as expressed in Paragraph 3: "Recognizing that the absence of commonly agreed international standards for the transfer of conventional arms that address, inter alia, the problems relating to the unregulated trade of conventional arms and their diversion to the illicit market is a contributory factor to armed conflict, the displacement of people, organized crime and terrorism, thereby un-

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

dermining peace, reconciliation, safety, security, stability and sustainable social and economic development.” Although some delegations continued to assert that the goals and objectives of an ATT are still ‘unclear’ and lack consensus, the delegations of Norway, France, Trinidad and Tobago, and Switzerland rightly stated that these goals and objective are plainly provided for in Resolution 64/48, at the very least as a starting point for the discussion. Therefore, the argument would follow that the ATT’s intent is clearly more than facilitating the legal trade of conventional arms through a process of improving national export controls.

As delegations continue to tackle the substantive work of treaty text proposals in the committee bodies, it is imperative to bear in mind that striving for harmonization with “current best practices” of export controls is not ambitious enough, as evidenced by the original UNGA resolution that calls for an ATT that addresses a myriad of issues related to human security. Focusing only on current standards for national export controls—even the best of them—will not entirely address the problem of transfers that contribute to the human security problems underscored in the goals and objectives provided in the original UNGA resolution. It is essential to aim higher. •



## SECURING WOMEN’S RIGHTS AND GENDER EQUALITY IN THE ATT

Thursday, 12 July 2012  
1:15–2:30

Co-sponsored by the Permanent Mission of Finland to the UN,  
Women’s International League for Peace and Freedom,  
Amnesty International, and IANSA Women’s Network

Permanent Mission of Finland to the UN  
866 UN Plaza, Suite 222

*Light lunch will be served*  
Contact: [gabriella@reachingcriticalwill.org](mailto:gabriella@reachingcriticalwill.org)

## ATT wordsearch

Puzzles by Lily Gardener | *Reaching Critical Will of WILPF*

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

AGGRESSION  
DESTABILIZING  
BROKERS  
FREEDOM  
HOMICIDE  
PROLONG  
REFUGEE  
GENDER

## News in Brief

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

The News in Brief is not meant to serve as a comprehensive summary, but is rather a brief overview of new, noteworthy, or elaborated positions or ideas on key aspects of the ATT. For a comprehensive map of government positions, see [armstreaty.org](http://armstreaty.org). These points only come from open meetings of the conference.

### Plenary

#### Objectives

- The Collective Security Treaty Organization (CSTO) said the main purpose of the ATT is to prevent diversion of arms for legal to illegal markets.
- Dominican Republic hoped the treaty would prevent forging of end-user certificates.
- Nepal said a robust ATT could reverse the process of economic loss and loss of life due to wars and armed conflict.
- Sweden and the USA said the treaty should address both the “legal” and “illegal” arms trade.

#### Implementation

- The CSTO said the ATT should establish general rules and principles but the modality of implementation should be determined by governments.
- Austria called for an implementation regime that ensures transparency and fights corruption.

#### Victims’ assistance

- Serbia welcomed proposals to strengthen various components of the Chair’s text, including on victims’ assistance.

#### Other

- Dominican Republic supports 30 ratifications for entry into force.
- In contrast, Sweden argued that the ATT would actually provide protection against arbitrary decision-making.
- Venezuela argued that the countries saying that developing countries should import fewer arms in order to focus on development are the same countries that condition financial aid on economic structures and policies that undermine development.
- Venezuela also pointed out that the largest weapon producers and exporters also use their conventional weapons to violate human rights and IHL, but “little is said about measures for enabling the control or restriction” of their weapons.

### Main Committee I: Goals and objectives (open)

#### Procedure

- Some delegations, including Algeria, Arab Group, Cuba, DPRK, Egypt, India, Nicaragua, Pakistan, South Sudan, and Venezuela continued to complain about confusion over the conference’s methods of work.

- Others including Australia, France, Japan, Mexico, Nigeria, Norway, Sweden, and the UK argued that the conference should begin its substantive work now.
- Iran proposed preliminary discussions on the vision of the treaty, after which discussions on goals and objectives could begin.
- Sweden argued that the conference cannot have full certainty about the end-product without actually negotiating the treaty, so calling for agreement on the treaty and then negotiating is putting the cart before the horse.

#### Goals and objectives

- China suggested treaty should focus on illicit market and abuse of weapons.
- France said the “legal” and “illegal” trade are inseparable and must be regulated together.
- Japan said it attaches most importance to transparency and accountability; therefore reporting must be mandatory.
- Japan called for more clarity on paragraphs 2 and 3 of Chair’s 2012 paper: 2 should say “inhibit diversion of conventional arms into the illicit market” and 3 should say “promote transparency, accountability, and responsibilities of states in the transfer of conventional arms”.
- Norway noted that the UN General Assembly resolution on the ATT gives the rationale for the process and the goals and objectives should be drawn from it.
- Mexico said the treaty must emphasize reduction of human suffering.
- Pakistan argued that two integral elements have been missing from common definitions of trade—development and production of arms—and suggested these elements need to be included to avoid another discriminatory treaty.
- Switzerland said the treaty must emphasize that its goals go beyond preventing diversion but would effectively contribute to international and regional peace and security and respect for IHL and human rights law.
- The UK said point 1 of Chair’s 2012 paper is weak and called for it to mention contributions to international and regional peace, security, and stability and reducing human suffering, and argued that saying “unnecessary” human suffering “really devalues that phrase”.

### Main Committee II: Scope (open)

#### Small arms and light weapons (SALW)

- The majority of delegations called for the inclusion of SALW as essential.
- India stated that an optional category of SALW could be acceptable.



- Venezuela called for the exclusion of SALW in the scope stating that the ATT is not the appropriate forum for addressing such weapons, but rather the trade in such weapons is better addressed under the auspices of the UN Programme of Action on small arms, which will “ultimately take the form of a binding treaty.”

#### *Ammunition*

- The USA called for exclusion of ammunition stating that it is a distinctive commodity that is fungible, consumable, reloadable, and cannot be marked in practical way. The USA also stated that ammunition would require significant burdens of licensing, authorization, and recordkeeping as it is transferred in quantities of billions of rounds and would “do little or nothing to achieve of the goals of the Treaty.” The USA has asked for “substantive responses” to the question of how to include ammunition in the scope and realistic explanations of how its inclusion would contribute to the goals of an ATT.
- Other delegations, including Austria, Germany, New Zealand, Niger, Nigeria, and Palau, disagreed and called ammunition an important part of the scope.
- Philippines noted that although ammunition is important to the scope, it is essential that obligations are fully implementable by all states parties, including developing countries that may need capacity assistance.

#### *Parts and components and other categories*

- Germany stated that in order to avoid a “caliber gap,” it is necessary to include parts and components and relevant technology.
- South Africa suggested that perhaps parts and components could be included in sections of the Treaty other than the scope, such as the anti-circumvention section included in the President’s most recent paper.
- Iran stated that in order to be implementable in practice, the Treaty should not include missiles, parts and components, related technology, and “know-how.”

#### *UN Register*

- CARICOM, France, Mexico, and New Zealand argued that the UN Register for Conventional Arms is not an appropriate starting point for scope.
- In contrast, Egypt called for the exact terminology of the UN Register to be used for the scope, while Algeria noted that the Register is an instrument that already has broad consensus.

#### *State control list of conventional weapons*

- New Zealand opposed states publishing a control list of conventional arms they consider to fall within scope, arguing, “The scope of this treaty cannot be an a la carte menu that countries can choose from.”

- Austria, Germany, Nigeria, and Switzerland agreed.

#### *Hunting and sporting weapons*

- Denmark stated that firearms for hunting and sports shooting should be covered by scope, but it must distinguish between transfers for personal and short-term purposes and large quantities to arms dealers.
- Sweden asserted that, in principle, sporting and hunting arms should be left out of the scope, but it would be wise to explore the possibility of a clause that states parties should exercise caution for transfers of large quantities of such weapons.

#### *Miscellaneous*

- New Zealand said it prefers a broad definition of weapons in the scope to include all those that are not considered “weapons of mass destruction,” but stated it is agreeable to a listing-style as proposed in the President’s most recent non-paper.
- Mexico stated that the scope cannot be limited to military systems, but must include police-use arms as well.
- Norway stated that any arms that contribute to human suffering and armed violence should be included, which should represent the guiding principle of deliberating on the scope.
- Peru and Uruguay encouraged flexibility in the scope’s list in order to include new categories of weapons in the future.

## Physicians' prescription for the ATT

Lily Gardener | *Reaching Critical Will of WILPF*

The International Physicians for the Prevention of Nuclear War (IPPNW) and the Permanent Mission of Nigeria to the UN hosted Friday's side event on a framework on global health for the Arms Trade Treaty (ATT). Panelists included: Cathey Falvo MD, MPH, International Society of Doctors for the Environment; Adebayo Owoeye MD, IPPNW Nigeria; Diego Zavala PhD, MSc, Ponce School of Medicine and Health Sciences; and Andrew Kanter MD, MPH, President US Physicians for Social Responsibility. Ogebe Onazi MD, Society of Nigerian Doctors for the Welfare of Mankind, moderated the session and Minister Richards Adejola, Permanent Mission of Nigeria to the UN, welcomed the panel.

Dr. Onazi argued that if an ATT is to make a meaningful impact on the ground it has to address the health and humanitarian impact of illicit and irresponsible arms transfers. Minister Adejola said African states are faced daily with small arms and light weapons, therefore for Nigeria and civil society they must be included in scope.

Dr. Falvo described the connection between insecurity caused by conflicts and poor health outcomes. Armed violence affects food supply and sanitation, which negatively affects health. The link between poverty and armed violence is directly associated with the second worldwide leading cause of death in children, diarrheal disease. It also impedes women, through gender-based violence and lack of empowerment. Dr. Falvo concluded that "armed violence interferes with efforts to improve the health of communities which are very much dependent upon strong government infrastructure, strong public health institution, and a general perception of social well being and security."

Dr. Owoeye discussed health lessons from terrorist attacks in Nigeria, which has become a major destination for arms and has also seen a rise in the number of weapon-related deaths and injuries. However, owing to under-reporting, Dr. Owoeye questioned the accuracy of homicide statistics. He spoke about the IPPNW project One Bullet Stories, which tell the individual stories of suffering caused by guns, and a research project that looked at the cost of terrorism in terms of health. The study found that patients stayed in hospital between four and eight weeks, and their direct medical costs were between 745 and 3275 USD. The health expenditure per capita in Nigeria is 63 USD. The physical, social, and psychological costs to victims of armed violence are shocking, and the economic cost on the health system means that vital funds are redirected from essential public health services.

Dr. Zavala provided a Latin America and the Caribbean (LAC) perspective on health costs of armed violence.

Worldwide, 42% of all homicides are committed with a firearm, while in LAC it is estimated that 74% of homicides occur with firearm as compared to 21% in Europe. He commented that the information available to obtain estimates of health costs of armed violence is not readily available and calculation methods vary. Cost estimates are usually defined as direct costs (mainly referring to medical services) and indirect costs (production losses); emotional and psychological impacts are included in some instances as "intangible costs". He argued that social and developmental costs are vastly underestimated. Dr. Zavala contended that the "worrisome" figures are useless unless they are applied to develop policies that can diminish the incidence of violence. He argued, "Crime and violence must be seen as a socio-economic, development and human rights issue. The possession of illegal firearms is a risk factor for homicides in LAC and therefore it is both a health and security issue that must be addressed effectively by government authorities." Dr. Zavala recommended that the ATT should include reference to international human rights law and international humanitarian law and that it be robust and enforceable with clear implementation, which would help millions of people to potentially reduce their risk of avoidable mortality due to violence and affirm their right to health.

Dr. Kanter considered the social and ecological costs of armed violence, describing the role of physicians, who are frequently called on to repair, if possible, the devastating damage inflicted on the fragile human body by guns, bullets, and other munitions. Dr. Kanter argued that it is not just the direct effects of guns and ammunition that are a problem, but also the indirect effect the arms trade has on health and wellbeing. He used the example of Sahel, arguing that investment in poverty alleviation and environmental sustainability might have reduced the likelihood of what is now a violent military operation. Dr. Kanter's prescription for the delegates of the ATT was "arms do not create security; peace and development do". •



## Permanent makeup

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

There was great anticipation in the negotiating room on Thursday when the United States delivered a statement on behalf of the P5. As most participants are aware, relations have been strained on several fronts between the permanent members of the UN Security Council and other member states. The recent rebuke given to efforts by the Small Five to suggest areas for Council reform reinforced for many states what they see as an increasing ‘take it or leave it’ mentality of the P5 on a range of issues within and beyond the traditional scope of peace and security.

It was with some relief then that the P5 statement was delivered in a mostly conciliatory and flexible tone. Some modest suggestions were made on the roles that could be played by an Implementation Support Unit (ISU), as well as on the need for ‘national contact points’ on arms trade. Moreover, the number of ratifying states suggested in the P5 statement (65) is apparently expected “to include the major arms trading states.” (This could indicate that the P5 are anxious to see a treaty culminated or perhaps that they are determined to shape a treaty ‘worth’ signing from their standpoint.) The hope was that the somewhat accommodating language of the statement might actually reflect the operational ‘mood’ of P5 countries regarding treaty language and treaty implementation.

Of course, the fulfillment of this expectation has to do in large measure with the shape of the final treaty text. Given this consensus-driven process, the P5 will certainly have more than sufficient opportunity to massage the text that they will then be ‘expected’ to ratify. Nevertheless, some of the P5 preferences will be subject to vigorous debate; moreover, political considerations within capitals might block ratification no matter what the outcomes from the debates on scope, objectives, etc. might be.

That said, there were points in the statement that would benefit from further scrutiny, primarily the text’s focus on “national systems of control based on the highest international standards”. Of course, the need for national legislation that mirrors final treaty provisions is paramount. All successful UN initiatives promote such national legislation, both as an obligation and as an opportunity for capacity assistance. In the case of the ATT, such legislation is presumed to affirm both the values underlying the treaty and specific implementation responsibilities. The P5 statement was right to underscore national responsibilities that cannot be expected to be discharged through existing or prospective international mechanisms.

Nevertheless, there are suggestions within the statement that sovereign control over treaty processes—including over the scope of a state’s own weapons exports

that the treaty will cover as well as over the threats to human rights that would trigger a review of a particular transfer, let alone a review of human rights policy—has the potential to undermine the value of the treaty itself. While we at Global Action to Prevent War admire some of the national legal mechanisms put online by some of the permanent members to control weapons exports, we have human rights concerns with many of their ‘authorized’ transfers. National interest is demonstrably not always in sync with human rights interests nor with the need to enhance general international performance on standards.

In our view, in the absence of an ISU that is considerably more robust than what is suggested in the P5 statement, it is unlikely that capacity assistance towards transparent and verifiable legal mechanisms to control the global arms trade will be sufficiently addressed. Fulfillment of treaty obligations by importing and exporting states is most likely to come about based on a ‘cocktail’ of national good will, dependable capacity support and consistent pressure from the international community—all of which we believe would be significantly enhanced by a strong and dependable ISU.

The desire for national control over treaty implementation is both a prerequisite and part of a larger aspiration. We need carefully considered universal standards on transfers. We need strong national legislation that mirrors and reinforces treaty obligations. We need national focal points that have real access to the individuals within states that approve weapons transfers and monitor their diversion potential. We need strong capacity assistance that focuses on both producing and recipient states. But we won’t get there by relying on a formula that gives mostly token affirmation to the international community’s role in monitoring and inspiring treaty implementation.

It is about states in the end. But it is not about states only, not even the most powerful ones. A formally adopted ATT, regardless of its robustness, represents the first stage in a long process of bringing producer and recipient states up to code on transfers. Legitimate sovereign interests can and must accommodate an array of legal and production gaps within states that will likely impact implementation long past the point that final treaty language is approved. •

## ATT MONITOR 5.4

### Calendar of events for Monday, 9 July 2012

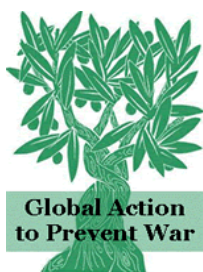
When	What	Where	Who
10:00–11:00	Plenary	Conference Room 1 North Lawn Building	
11:00–13:00	Main Committee 1 (formal): Preamble/principles	Conference Room 1 North Lawn Building	
11:00–13:00	Main Committee 2 (consultations): Final provisions	Conference Room 4 North Lawn Building	
13:15–14:45	TCA: Quelles Opportunités Pour L'Afrique	Conference Room 4 North Lawn Building	Permanent Mission of France to the UN Contact: Celine Laceres celine.laceres@diplomatie.gouv.fr
15:00–18:00	Main Committee 2 (formal): Final provisions	Conference Room 1 North Lawn Building	
15:00–18:00	Main Committee 1 (consultations): Preamble/principles	Conference Room 4 North Lawn Building	

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