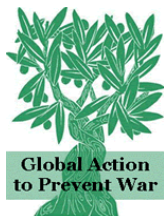


ARMS TRADE TREATY MONITOR

Civil society perspectives on the Arms Trade Treaty negotiation process

12 July 2012
Vol. 5, No. 7

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Editorial: 12 billion reasons to include ammunition in the ATT

Ray Acheson | Reaching Critical Will of WILPF

“It takes two to tango,” noted Peru’s delegation during Tuesday morning’s plenary meeting. The Peruvian delegate was arguing that the arms trade treaty (ATT) needs balance between the rights and obligations of importing and exporting states. But these are not the only two elements tangoing in these treaty negotiations. The relationship between weapons and ammunition must also be taken into account in order to ensure that for any weapon included in the treaty, its ammunition is included as well.

The vast majority of delegations seem to support the inclusion of ammunition in the ATT. Only a few have argued that ammunition should be excluded. The US delegation, the most vocal member of this small group, has argued that it is too complicated. Speaking in an open committee meeting on scope, the US delegate argued that ammunition is a “fundamentally different commodity” than anything else being considered; that because it is “fungible, consumable, reloadable” and “cannot be marked in any practical way,” including it in the ATT would create too great a burden for licencing, authorization, and record-keeping.

However, ammunition is covered in many existing arms trade policies. The EU Common Position on exports of military technology and equipment and the Wassenaar Arrangement Munitions List both include ammunition. Peace Research Institute Oslo (PRIO) noted in its 2011 report, *Small, but lethal: small arms ammunition and the arms trade treaty*, that the United States and other major arms exporters, including France, Germany, Russia, and the United Kingdom, adhere to one or both of these instruments, which “represents a pre-existing willingness and ability to control the export of ammunition.”

In terms of the “burden” of including ammunition, PRIO also points out that the current deficiencies in marking and tracing ammunition are irrelevant for an export control

instrument such as the ATT. “In fact,” PRIO argues, “the lack of adequate tracing procedures for ammunitions makes it even more pertinent that the transfer of ammunition is controlled under a global instrument that harmonises export and transfer controls.”

The US delegation also argued that including ammunition in the ATT will do little or nothing to achieve the goals of the treaty. However, as has been expressed by countless other governments and civil society groups, the exclusion of ammunition would undermine the very goals and objectives of the ATT. As Benin’s delegation said on Tuesday, a gun without bullets is like an anchor without water. Many others have used a variety of such metaphors to emphasize the importance of including ammunition in the ATT. They argue that precisely *because* ammunition is consumable and reloadable, it must be covered by the ATT in order for the treaty to have any real effect on armed conflict, armed violence, gender-based or sexual violence, poverty, insecurity, or violations of human rights or IHL. If ammunition is not regulated, it will continue to flow to the countries and regions that are already awash with weapons, weapons which would otherwise be rendered useless without the constant resupply of ammunition.

More than 12 billion bullets are produced every year—nearly two bullets per person in the world. The Peruvian delegation demanded that “arms cannot continue being commercialized without regulations”. Neither can ammunition. The very fact of their mass production and mass export is what requires strict, effective regulation, especially if the ATT is truly to be an instrument for peace and security as the majority of negotiators and civilians desire. And the very fact of their mass production and mass export is what also requires the international community to address the excessive production, not just trade, of weapons worldwide. The economy of violence is one of the biggest

continued on page 3

News in Brief

Katherine Prizeman and Maj Rørdam Nielsen | Global Action to Prevent War

The News in Brief is not a comprehensive summary, but a brief overview of new or noteworthy positions or ideas on key aspects of the ATT from open meetings.

Main Committee: Objectives and goals

General comments

- China, Cuba, Iran, Malaysia, Samoa, and Syria said the main goal should be to prevent diversion of arms into the illicit market.
- Samoa said that the main goal should also include preventing conflict undermining peace, security, and stability and promoting accountability among states.
- Hungary said the main goal should be to regulate legal trade and contribute to preventing human suffering and conflict undermining peace, security, and stability.
- The Netherlands said that most states saw two main goals of the treaty—a humanitarian purpose and prevention of illicit trade—and that these are complementary.
- Egypt said the goals and objectives in the Chair's 2012 paper was a good improvement of the 2011 paper.
- Iceland said that the goals and objectives in the Chair's 2012 paper was a step backwards from the 2011 paper.

Chapeau

- Mexico and Colombia said that the text should not “seek to improve regulation” but should “regulate” the international trade in arms.
- Colombia and New Zealand backed the text proposals on chapeau from CARICOM and Mexico that were modifications of the Chair's 2012 paper.
- South Africa said that it preferred the text arms “transfer” instead of “trade”.

Human suffering

- The Netherlands, Colombia, and Mexico stated that the word “unnecessary” in front of human suffering in the Chair's 2012 paper should be deleted.
- New Zealand and Holy See said a key part of the objective is to prevent violations of IHL and human rights.
- Holy See emphasized that arms cannot be compared with other goods because they are uniquely deadly and thus the treaty cannot merely protect commercial interests but must prioritize human life and dignity.

Gender

- Iceland said that the goal to prevent gender-based violence should be reflected in goals and objectives section as well as the preamble and criteria. Iceland supported Norway's text proposal on this issue.

Diversion

- Colombia and South Africa stated on the second objective in the Chair's 2012 paper that the objective should not be to “inhibit” but rather to “prevent, combat, and eradicate” the diversion into the illicit market.

Transparency, accountability, and responsibility

- South Africa stated that this was the most important objective and proposed it be swapped to be the first point, not the last, unlike in the Chair's 2012 paper.

Other objectives

- Colombia said that there should be a fourth objective to the three in the Chair's 2012 paper, of “promoting international peace and security”.
- Mexico said it was open to such a fourth objective, or alternatively, “preventing conflict”.

ATT MONITOR

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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 Control Arms Campaign. 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.

Main Committee: Preamble and principles*Nature of the preamble*

- Egypt noted two explanations of the preamble's legal status—binding or a non-binding list of intentions.
- Liberia and Turkey described the preamble as the context of the treaty.
- Liechtenstein, Spain, and Sweden called for the merging of the preamble and the principles.
- Egypt argued the principles must not be conflated with the preamble, noting that the principles ensure proper implementation of the treaty.

Nature of principles

- Cuba said there should be a clear connection of the principles to the criteria.
- Spain proposed a hierarchy of principles beginning with the more general and pertinent.

Gender

- Austria, Botswana, Denmark, Holy See, New Zealand, Sweden, Switzerland, and Turkey supported the reference to gender-based violence made in the Chair's most recent paper.
- Botswana stated that reference to gender-based violence in the preamble should be matched by the same reference in 'goals and objectives'.
- Norway stated that the preamble should also reference UN Security Council resolution 1325.

Children

- Austria and Belgium called for a reference to the problem of child soldiers.

Irresponsible trade

- Austria, Holy See, Norway, and Switzerland said the treaty objectives must include the "irresponsible" trade in conventional arms, in addition to the illicit trade.

Humanitarianism

- New Zealand noted that the preamble must highlight the humanitarian intent of the treaty with reference to human security.
- DPRK stated that the preamble cannot highlight only humanitarian consequences of conventional weapons as nuclear weapons pose the greatest humanitarian concern.
- Canada called for the withdrawal of development from the list of problems related to the unregulated trade in arms as well as the reference to victims' assistance.
- South Sudan said that the reference to victims' assistance should be amended to read, "Resolved to provide *appropriate* assistance to victims of armed conflict" through bilateral assistance, assistance from international organizations, and NGOs.

- Holy See stated that the preamble must address the overriding goal of the ATT—to defend human life through the management of the global arms trade—and called for the deletion of "economic and commercial interests" from paragraph 1 of the Chair's most recent paper or, at the very least, to move this further down in the preamble as it is more logical to begin with the statement on the "absence of commonly agreed international standards..."

UN Charter

- DPRK and Indonesia called for a reference to article 51 and the right to self-defence.
- Pakistan stated that there must not be 'cherry-picking' or selective choice of principles referenced from the UN Charter.
- Egypt called for a "chapeau" to the principles section based on article 2 of the Charter.
- Cuba disagreed with Mexico's proposal to have a general reference to principles in the UN Charter, stating that they must be treated separately and explicitly.
- Iran agreed with the proposal to have reference to the four "most relevant principles of the UN Charter" from the Chair of the Committee (self-defence, right to manufacture and transfer arms, right to regulate arms internally, and the right to territorial integrity), but stated that there must be precise language that notes that such principles will not be affected by the implementation of the treaty.

Other

- China stated that there should be a reference in the preamble that says the regulation of trade in conventional arms has an important bearing on security interests of countries.
- Sweden and Syria stated that dual-use items should not be covered in the treaty and a reference to this should be made in the preamble.
- Egypt stated that the preamble should reference the need for a reduction of possession and manufacture of arms by the major exporters to enhance international peace and security. •

Editorial, cont'd

obstacles to achieving the objectives of a robust ATT—and ammunition is one of its most deadly products. As the Holy See said during Wednesday's meeting on goals and objectives, arms cannot be compared with any other goods. The world needs a treaty that does not merely protect commercial interests but that prioritizes human life and dignity. •

Safeguards and incentives—getting everybody on board

Maj Rørdam Nielsen | *Global Action to Prevent War*

During the first week of negotiations, many delegations have touched upon the need for the arms trade treaty (ATT) to be unambiguous in its provisions and non-discriminatory in its implementation. These delegations come from a diverse range of countries, with the common denominator of being developing or emerging economies. Some delegations have directly voiced concerns about the potential “misuse” or politicization of an ATT. The key argument has been that a treaty – at least in the form given in the Chair’s revised paper of 3 July, based heavily on national implementation and oversight – will cede too much power to the exporting states in deciding whether or not to authorize transfers to importing states. Delegations have expressed fear that a treaty will be used by powerful states to control and put political pressure on smaller, importing states – thus, Venezuela has called explicitly for “safeguards” against discrimination, and the Arab Group and Egypt have called for “incentives” for importers to be part of the treaty.

The concerns of these states have history and context. As the big exporters are mainly situated in the Western hemisphere, states such as Pakistan and Venezuela have warned against allowing the ATT to constitute another layer in the power-imbalance between developed and developing countries. Venezuela, for example, rejected the inclusion of a “development” criterion in the treaty as such a criterion could be used arbitrarily by developed nations arguing that unfavoured developing nations should focus their investments in areas other than the arms trade. Brazil and Ecuador have voiced similar concerns.

All states—those that are concerned about discrimination and those that want strong criteria—need to take these concerns into account. A treaty that can be used to deprive states of access to arms on a prejudicial rather than a factual basis is not in the interest of those of us who think that a treaty should have as its prime goal to prevent human suffering. Consistent implementation of the treaty’s provisions is necessary in order to ensure that the treaty serves its humanitarian purpose and that it can achieve universality. As Mexico’s delegation noted last Thursday, the guidelines of the treaty will have to be universally applied, as otherwise, states that gravely violate their obligations under international humanitarian and human rights law would be able to “shop around for friendly risk as-

sessments”. Taking concerns of discrimination seriously implies that proposals to prevent inconsistent use of the criteria should be given high priority in the discussions. But it also implies a responsibility for states, including the sceptical ones, to come up with proposals for such “safeguards”. For example, the treaty could require that assessments be based on information from UN sources rather than national intelligence agencies and that an ISU or another multilateral body will have some sort of oversight over national implementation.

In the end, there are many good reasons that a robust treaty with a wide participation is in the interest of all states, including the more sceptical ones. Human security is in itself an “incentive”. As UN General Assembly resolution 64/48 states, unregulated arms transfers contribute to armed conflict, displacement of people, organized crime, and terrorism, and undermine the peace, safety, and development that we all wish would exist in our societies. As Venezuela put forward in its general statement on Friday morning, every government should work in order to protect its citizens and ensure their welfare. With the ATT, governments have the possibility of cooperating toward that noble purpose on a global level by letting human security be its highest priority. By including “safeguards” against political abuse, negotiators can perhaps begin to bridge the perceived divide between human and state security. Indeed, the least we can do to protect populations is to prevent the transfer of arms that are likely to be used against them. •

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Effective ATT? It's all in the scope

Oliver Sprague | Amnesty International UK

It is self evident that to control the arms trade you have to control the things that kill, maim and brutalize people. You also have to control the ways that different types of weapons are irresponsibly supplied to governments that commit serious human rights abuses.

In other words, if you want a treaty that really is going to save lives, protect and uphold human rights, you need to have a pretty comprehensive definition of what it is you are going to control. Self evident as it maybe, several states present for the Arms Trade Treaty (ATT) negotiations in New York want to narrow the scope of the treaty.

Iran for example, in its statement, said the ATT should not cover small arms, ammunition, missiles, weapons technology, and weapons parts and components.

The US continues to argue against ammunition being included in the ATT and Egypt told delegates that if the Treaty was to help save lives, small arms—the category of weapons that kills most people—should be left out.

Obviously if such views prevail, we'll have an ATT that's very light on the actual weapons part.

On Wednesday, I was addressing conference delegates at an Amnesty International lunch time meeting sponsored by the French government, to remind them of why a comprehensive scope is important to achieve an effective treaty.

I was speaking alongside Sergio Finardi, from Transarms, an expert in arms transportation, and Georges Guillerrou from Action Sécurité Ethique Républicaines (ASER), a retired superintendent in the French National Police and Security Human Rights Expert for the Council of Europe.

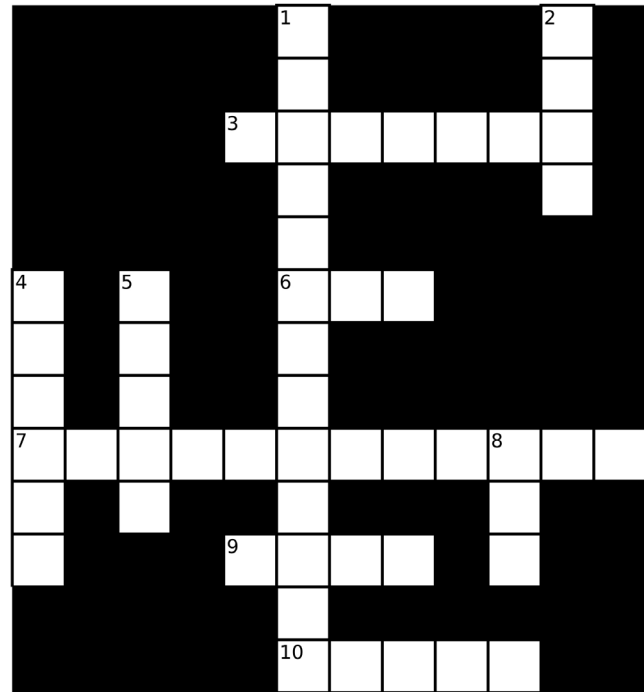
A main focus of my intervention was to ensure that governments did not exclude weapons used for internal security including things like tear gas, rubber bullets, and specialist crowd control vehicles.

Recent experience in the Middle East and North Africa has shown how devastating the misuse of this equipment has been in brutal crackdowns by several of the region's governments against their own populations.

It's important to remember that this equipment, as well other disputed categories like ammunition, small arms, parts, components, weapons related technologies, and production equipment is already controlled under the arms exporting systems of nearly all arms producing states. So it makes no real sense that governments continue to argue against their own existing national practice, especially given the appalling human suffering that results from irresponsible trading in these items. •

ATT crossword

Puzzles by Lily Gardener | Reaching Critical Will



Across

3. It has been estimated that there are more than 600 ... small arms and light weapons in circulation.
6. How many countries export 74% of the world's weapons?
7. Largest arms-trading country in the world (2 words)
9. Irresponsible arms transfers and abuse of arms contribute to the deaths of at least 500,000 people on average every ... and facilitate the majority of the world's human rights violations, including unlawful killings, sexual violence, recruitment of child soldiers, and forcing of millions of people to flee their homes.
10. What percentage of human rights violations involve small arms or light weapons?

Down

1. There are some 250,000 ... in the world today (2 words).
2. There are 875 million ... in the world.
5. Small arms and light weapons can remain operational for ... years or more with minimum maintenance.
8. 12,000,000,000 bullets are produced every year, almost ... per person on the planet.

Side event report: Including parts and components in the ATT*Sameer Kanal | Reaching Critical Will of WILPF*

On Wednesday, the Permanent Mission of Norway held a side event entitled “Why and how to include parts and components in the Arms Trade Treaty.” Moderated by Oliver Sprague, Programme Director for Military Security and Police for Amnesty International UK, the event was jointly sponsored by the Norwegian Forum for Environment and Development and Norwegian Church Aid.

Mr. Sprague expressed support for the inclusion of parts and components in the ATT’s scope, asking if it made sense to legally allow the transfer a dismantled assault rifle when its transfer would have been illegal if it was already assembled. Noting that very few complete weapons systems are manufactured within a single country, Sprague argued that ignoring parts and components would “exclude one of the major components of the arms trade.” Finally, Sprague highlighted the difference in longevity of weapons systems based on the availability of replacement parts and components, and stated that “to maintain these systems indefinitely, you need parts and components.”

Anne Charlotte Wetterwik of the University of Georgia’s Center for International Trade and Security introduced the report, Controlling parts and components of conventional weapons in the Arms Trade Treaty—a necessity and a challenge. She said it provides “practical examples for the need of controlling parts and components,” as well as how to establish the “technically sophisticated” systems needed for that control. Ms. Wetterwik noted that the report uses Norway and South Africa as case studies because they have comprehensive systems of control for parts and components already. Stating that “to control the end product, you must control parts and components,” Wetterwik emphasized the risk of states buying parts from various countries for later assembly, noting that numerous weapons systems have kits available for such end-user assembly. She also highlighted the lack of a universal definition of parts and components, offering as a definition of a part “an item that you use to construct a larger one; it doesn’t have an independent standing,” and of a component as “something that can stand alone, but that contributes to the larger item’s abilities.” Wetterwik closed her remarks by summarizing the core challenges from the report: first, to find a working definition for parts and components; and second, to include them in the control list of the ATT.

Lars Loken of the Norwegian Ministry of Foreign Affairs noted Norway’s support for the inclusion of parts and components in the ATT. Mr. Loken stressed the importance of parliamentary oversight and adaptation in regulation. Loken explained that the Norwegian export

control system addresses both military and dual-use equipment, using a control list based on the Wassenaar Arrangement. Different requirements and reporting are used for different categories of items, such as ammunition and small arms and light weapons. On parts and components, Loken asserted that Norway’s success is aided by strong relationships between the government and the defense industry. Noting that he believes these approaches could be scaled globally, Loken closed by stating, “In a globalized arms trade market, there is no reason why parts and components shouldn’t be part of an ATT.”

Guy Lamb, Senior Fellow at the Institute for Security Studies in South Africa, noted that South Africa, though a small exporter in general, is the largest manufacturer and exporter of arms in Africa. Mr. Lamb noted that South Africa’s control system is the most advanced legal framework in Africa, and is overseen by a Cabinet Committee, a Directorate for implementation, and an Inspectorate to investigate potential breaches. Lamb credited South Africa’s strong end-user verification systems as well as its membership in Wassenaar and collaboration with Parliament as reasons for its success. Lamb noted that if parts and components are not included in the ATT, states could: utilize existing weapons indefinitely through acquiring replacement parts and components; acquire kits and build their own new weapons; or re-operationalize malfunctioning equipment or increase systems’ lethality with component upgrades. Lamb concluded his remarks by citing studies that show that when increased restrictions on complete system transfers had taken effect in countries, their parts and components trades had increased, demonstrating the risk of only regulating complete conventional arms systems.

Deepayan Basu Ray, policy adviser at Oxfam International, began where Lamb concluded, stressing the need to include parts and components to respond to the redirection of trade from complete systems to parts and components when new regulations went into effect on complete systems. Ray noted that the reported trade parts and components constituted over 10% of the global arms trade as a whole. Ray closed his remarks, and the panel as a whole, with a call to action: that the ATT must include “in its scope all specialised parts and components designed and produced for the arms industry, or able to be used in defense equipment. Just like all completed weapons and systems, the transfer of parts and components [must be] subject to comprehensive risk assessments undertaken by licensing authorities. The transfer of such parts and components [needs to be] fully included in the ATT’s public reporting requirements.” •

Sticks and carrots

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

One of the important issues impacting these negotiations is the degree to which punitive sanctions should (or will) have a place in the final treaty. Among the many relevant interventions made by delegates on Monday, the Indonesian delegation reminded colleagues of its own preference that the ATT be “a confidence-building mechanism and not a sanction mechanism.”

I’m not sure how this distinction plays out in languages other than English, or how determined the Indonesian delegation is to maintain the distinction in pure form. But (at least in English) the statement has interesting ramifications for how we move forward in this ATT process.

In some parts of the UN’s security architecture, ‘confidence-building’ is among its most successful components. The UN Programme of Action on small arms (UNPoA), for instance, is one of the UN instruments where trust and confidence-building are paramount, basing capacity support on the reliability and ‘good faith’ of funding and recipient states as well as key inter- or non-government resources (the UN Regional Disarmament Offices, Small Arms Survey, and others). Obligations are not binding nor are failures to fulfill obligations sanction-eligible. In their absence, the UNPoA has managed to do good and important work by blending increasing levels of confidence, recognition of common welfare, and timely pledges of needed resources.

In other security areas, sanctioning plays a more prominent role, such as when the UN Security Council seeks to address the threat of mass atrocities or to a lesser degree when the Human Rights Council or other treaty bodies (e.g. the Committee on the Elimination of Discrimination against Women) review the human rights performance of member states. Indeed, in situations where violence and

abuse rise to unacceptable levels, the sanctioning function of the UN generally has a higher degree of understanding and support. The International Criminal Court is perhaps the ultimate UN sanction at present, but there are certainly other coercive measures—controversial and not—that states have used (and sometimes misused in our view) in an attempt to modify or divert the behavior of abusive governments.

So the interaction between confidence-building and sanctioning falls on a continuum. And since we are now negotiating a treaty rather than merely creating a norm for behavior change, it does not seem sensible that the sanctioning function can be completely ignored. The Indonesian delegation is right of course. Confidence-building must be the ultimate objective—necessary both to arrive at a treaty and to continue to modify and strengthen the treaty over time. But a treaty that bears absolutely no consequence for behavior inconsistent with stated obligations is itself inconsistent with common UN understanding of how treaties function and what behaviors they compel.

India and other delegations have urged the working committees to quickly move past statements to direct negotiation of suggested text. Given the number of days that have already passed from the schedule, this is probably wise counsel. It will be interesting to see whether or not sufficient ‘confidence’ has been built up in the negotiating room to achieve consensus on concrete text, ‘rolling’ or otherwise. It will also be interesting to see whether or not delegations can navigate a treaty process that is constitutionally more than norm setting and thus must supplement confidence-building with some preliminary measures and capacities to highlight and even sanction transfers with high diversion potential. •



SECURING WOMEN’S RIGHTS AND GENDER EQUALITY IN THE ATT

Thursday, 12 July 2012 | 1:15–2:30

Moderator: Ambassador Riitta Resch, Head of ATT Delegation, Finland

- Marren Akatsa-Bukachi, Eastern African Sub-regional Support Initiative for the Advancement of Women (EASSI)
- Madeleine Rees, Women’s International League for Peace and Freedom
- Clare da Silva, Amnesty International
- Dr. Dan Kuwali, Government of Malawi

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

ATT MONITOR 5.7

Calendar of events for Thursday, 12 July 2012

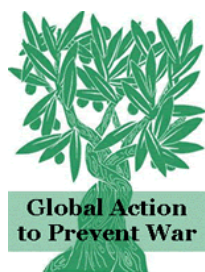
When	What	Where	Who
10:00–13:00	Main Committee 1 (open): Criteria/parameters	Conference Room 1 North Lawn Building	
10:00–13:00	Main Committee 2 (closed): Final provisions	Conference Room 4 North Lawn Building	
13:15–14:45	Securing women's rights and gender equality in the ATT	Permanent Mission of Finland to the UN 866 United Nations Plaza Suite 222	Permanent Mission of Finland, WILPF, Amnesty International, IANSA Women's Network Contact: Gabriella Irsten gabriella@reachingcriti- calwill.org
13:15–14:45	Implementation Assis- tance for an ATT: Learn- ing from Existing Efforts	Conference Room 4 North Lawn Building	Swedish Ministry for For- eign Affairs and SIPRI Contact: Anna Pettersson anna.pettersson@foreign. ministry.se
13:15–14:45	Workshop on the UN Register	Conference Room D North Lawn Building	Contact: Tsutomu Kono konot@un.org
15:00–18:00	Plenary (open): Update on work of MC1 and MC2 Main Committee 2 (closed): Implementation	Conference Room 1 North Lawn Building	

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Reaching Critical Will

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Global Action
to Prevent War

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



international action network on small arms



**World Council
of Churches**

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