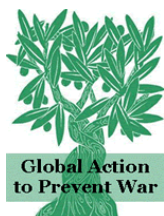


# ARMS TRADE TREATY MONITOR

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

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

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## Editorial: Defining the scope, achieving the goals

Ray Acheson | *Reaching Critical Will of WILPF*

Friday's meetings marked the first concrete negotiations of the arms trade treaty (ATT) process. In the open meetings on scope, delegates had before them a draft text put together by Ambassador IJssel of the Netherlands, the Chair of Main Committee II. While the draft text was intended to be a step beyond the President's 3 July 2012 paper in synthesizing states' views, and while the negotiations were supposed to advance the process even further, by the end of the day the waters were as muddy as ever. Many delegations felt the scope was too broad and comprehensive while others felt it was too limited. Two issues proved particularly contentious: limiting the inclusion of small arms to those intended "for military use", and deciding whether states should be able to come up with their own unique control lists. The resolution of both issues will have serious implications for the ability of the treaty to achieve its goals and must thus be resolved in a manner that gives highest priority to reducing human suffering.

Thus far, the insistence of a few delegations that the ATT not "interfere" with domestic possession or sale of firearms—most vocally Canada and the United States—has not seriously affected the development of this treaty. From the first UN General Assembly resolution in 2006 that kicked-off the process, no government has tried to argue that the treaty will address anything other than international transfers of arms. But during Friday's meetings on scope, the unwarranted concerns that the treaty might do otherwise made it difficult to move forward constructively.

This misguided emphasis on "inference" with domestic issues meant that in the Chair's draft text, the item on small arms and light weapons specifies "small arms for military use". As many delegations pointed out, this is not an actual category of weapon. Small arms and light weapons are clearly defined in the International Tracing Instrument as any "man-portable lethal weapon that expels or launches ... a shot, bullet or other projectile by the action of an explosive." The only type

of weapon the definition specifically excludes is antique weapons.

All small arms, regardless of their intended use, can be used to commit violations of human rights an IHL, acts of gender-based or sexual violence, or actions that undermine peace and security. Excluding any type of small arm because it was not specifically "designated" for "military" use is to undermine the objective of the treaty: to reduce human suffering. Thus the vast majority of negotiators insisted this qualifying language be removed from the text and that no other such attempts be made to artificially limit the types of small arms included in the treaty.

The second, related, issue is that of national control lists. The Chair's draft text says that state parties "shall establish, maintain, and publish a control list that shall include as a minimum the items that fall within the scope of this Treaty. The definitions of the items on the control list shall be the prerogative of states parties."

There seemed to be a great deal of confusion about the nature of such a control list. Some delegations interpreted this as meaning that governments would be able to establish lists that had at least the weapons covered in the treaty but that it could include additional weapons if they wished. Others thought it was to allow flexibility so that importing countries could leave off weapons if they don't regularly import them. Others still objected to the phrase "as a minimum," arguing that the treaty will cover what it covers and that should be the extent of any control list.

There was an even wider gulf over the issue of definitions, with a clear division between those who want the treaty to define weapons and those who think there is not enough time in these negotiations to do so. The question of definitions is an important one. Until recently, most delegations seem to assume that the categories of the UN Register on Conventional Weapons would constitute a base for this treaty. Yet on Friday many delegations pointed out the problems of relying on the

*continued on page 3*

## Lawn care

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

As the ATT process gets down to sometimes contentious deliberations over specific treaty language, delegates should be commended for their concentration through a process that is clearly important but sometimes unpredictable and at times even tedious.

During this month, many diplomats have had to push to the side other security-related issues for which they are also responsible. The North Lawn Building and Security Council Chamber have hosted many important policy discussions over these past two weeks that provide reminders of why all the work on this treaty is worth the trouble. While some governments are able to assign diplomats to focus specifically on the ATT process, other delegates have scuttled back and forth across the hallways of the North Lawn, based in part on a recognition that the result of these ATT negotiations impacts—and is impacted by—a host of other UN security concerns, from gender discrimination to child soldiers. We admire their ability to keep both the specifics of the ATT process and these broader security interests in focus.

In recent days, the following have taken place (or will take place) within shouting distance of the ATT negotiating rooms:

- Last Thursday, the Security Council held an interactive debate on Post-Conflict Peacebuilding, for which the presence of illicit weapons and weapons transfers poses significant challenges. The sixth session of the Peacebuilding Commission will take place this week.
- The Committee on the Elimination of Discrimination against Women has been meeting to review and interrogate state reports on their efforts to identify and eliminate discrimination in health care, employment, political access, marriage rights and much more—all of which are impacted by the health and stability of the security sector.
- There is a new round of discussions this week focused on “strengthening and enhancing the effective functioning of the human rights treaty body system,”

which will include an important side event on how the UN and civil society can assist states in implementation, a key concern of this ATT process as well.

- ECOSOC is in the midst of its 2012 Substantive Session, focused largely on development cooperation and including segments on gender linkages. Development is one of the key issues around which missions practice the positive cooperation (‘delivering as one’) that a complex and sometimes contentious process like the ATT puts to the test.

There is much more, but the point has hopefully been made. The negotiating and advocacy work that seeks to broaden the objectives and scope of the ATT has a deeper implication and broader context, of which many advocates and even some diplomats are not always conscious. Once language is approved, the ATT becomes not only part of the security obligations of member states but also helps to define the security profile and parameters of the United Nations. The ATT creates a new set of expectations for the UN alongside others already existing in the areas of human rights, international justice, and much more. An ATT raises the bar for the UN system as a whole, not only for specific member states and their practices on transfers. An ATT also touches on a series of important obligations that are already in force in the UN system, obligations that the treaty can enforce but that it surely did not invent.

The ATT, in whatever form this first iteration takes in two weeks time, is not a disconnected responsibility. From our perspective, it is essential that all of us—including and especially NGOs—understand as much as we can about the diverse security and human rights-related activities and obligations undertaken within the United Nations system, so that we can determine in which ways an ATT can best contribute to collaborative human security and also determine where else in the system we can look to help define and implement the important humanitarian and human rights standards that we hope an ATT will advance. •

## ATT MONITOR

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## Strengthening *international* parameters for the arms trade

Katherine Prizeman | *Global Action to Prevent War*

On Thursday afternoon, the delegate of the United Kingdom presented a statement on behalf of the five permanent UN Security Council members (P5) calling for reorganization of the treaty text, in particular regarding the implementation section. This statement represents an unfortunate movement backwards in the path towards a robust and strong ATT that provides for clear *international* parameters for arms transfers.

During Thursday morning's committee meeting on criteria and parameters, the Russian Federation first introduced the proposal that the criteria section be moved to the implementation section as part of national risk assessment and that such criteria "should not function in a legal, prohibitive nature." Subsequently, the P5 statement reinforced this position in the afternoon asserting, a "practical proposal would be to move the Criteria or Parameters section and the Enforcement section to within National Implementation." Movement of the criteria to the implementation or "national enforcement" section undeniably has both a legal and political effect on the robustness of the future ATT. The legal status of national implementation measures is surely different than standalone parameters and such a shift will have both an unfortunate and far-reaching effect on the treaty's implementation.

This is a dangerous shift in the interpretation and approach to formulating strong, legally-binding criteria based on violations of human rights, international humanitarian law, gender-based violence, socio-economic development, and organized crime among others. By placing under 'national implementation' the list of criteria required for states to use when assessing a transfer authorization moves us further away from the main purpose of the treaty—to develop *international* standards to regulate the arms trade to prevent, combat, and eradicate the illicit and irresponsible trade in conventional arms. Interpretation of the "criteria" would be left entirely to states parties under their own national mechanisms. This is insufficient. Such decisions to authorize must strive for the highest levels of accountability and transparency. States parties must be held accountable to an agreed upon, concrete list of parameters to prevent application of purely subjective criteria based on national interest for authorizing transfers. Without a clear distinction between parameters and implementation, there would be little difference between the manner in which the arms trade functions now without an ATT and how it would function with such a weak formulation of "commonly agreed international standards" hidden away in the national implementation section.

Codifying circumstances that would require the denial of arms transfers, in addition to those already required under international law such as arms embargoes, is essential in order for the legal framework provided for in the ATT to have a meaningful, significant impact on international peace and security. The criteria must function in a legal manner. As noted by several delegations during the committee discussion on criteria and parameters, this section is the cornerstone of the text and lies at the heart of what the ATT is trying to accomplish. Weakening its status as an independent, stand-alone set of parameters against which authorizations must be judged, and assuming it instead into national implementation would lead to a serious decline in ATT effectiveness. If the ATT is to have an impact on the lives of many suffering from the unregulated, irresponsible, and diverted arms trade, authorizations must be carried out with the highest levels of accountability and transparency assessed against a clear, consistent, and strong set of *legally-binding* criteria.

Regulating the arms trade through a list of items to 'bear in mind' in national implementation measures when conducting arms transfers is not enough. While states will maintain the right to exercise authority over decisions regarding whether a transfer may or may not be denied, there must be a clear, legal definition of criteria that must be used to judge that decision such that the rationale for such decisions is not left exclusively to national interpretation. The goal of an ATT is not to endorse any particular national parameters for the arms trade, but to establish universally-accepted international parameters. •

### ***Editorial, cont'd***

Register's categories and definitions. For example, the Swedish delegation explained that the Register is limited to major combat systems, which, if used, would unproductively limit the scope of the ATT. Others argued the Register definitions should not be used because it is a voluntary, not legally-binding, mechanism.

Again, this issue must be resolved with a view to minimizing human suffering. Constituting the treaty's scope as the minimum requirement, and having clear definitions for these weapons within the treaty text, would ensure that everyone is working off the same page. However, if delegations choose to stick with the current formula, they will need to develop much clearer language to avoid misinterpretation and to ensure that, as the treaty's draft anti-circumvention clause states, all measures are taken to ensure that the goals and objectives of the treaty are not undermined. •

## News in Brief

Katherine Prizeman | *Global Action to Prevent War*

### Main Committee II: Scope

#### *Anti-circumvention clause*

- China, Cuba, DPRK, India, Iran, Pakistan opposed the clause.
- Côte d'Ivoire, Denmark, France, Germany, Ireland, Japan, Mali, Mexico, Norway, Poland, Sweden, Turkey, and UK said they wanted to keep the clause.
- Australia and New Zealand said it should be kept but possibly re-titled.
- Singapore, Switzerland and the US noted that this clause is important, but that there could be discussion on its placement in other sections of the treaty, such as goals and objectives or implementation.
- Brazil said there should be no overlap in the items mentioned in the listed scope (A) and the anti-circumvention clause (C), since in its understanding, the items in A would have been reported upon while those in C would not.
- Indonesia, Malaysia, Philippines, and ROK noted that every element is interrelated so there can be no clarity on this clause until the other elements are agreed upon.

#### *Lead sentence on application only to international transfers of arms*

- Canada strongly supported the inclusion of this introductory sentence and suggested that this point be reiterated throughout the text.
- Mexico disagreed and stated that the treaty should not repeat its principles throughout the chapters.
- India and Nigeria suggested the addition of 'conventional' to the sentence.
- China said it was not necessary as the two 'chapeau' sentences to sections A and B are sufficient.

#### *Ammunition and munitions*

- Mexico, Germany, the Holy See, and Norway noted the absence of 'ammunition' in section A and called for its inclusion to sub-section i.
- Ecuador called for a separate sub-section on "mines not covered by international humanitarian law."
- Sweden proposed the addition of specific examples of munitions—including bombs, mines, torpedoes, rockets, hand grenades, and demolition charges—and suggested placing munitions before ammunition in the listing under sub-section i.
- Brazil called for the replacement of "munitions" with "ammunitions."

#### *Military use/law enforcement language*

- CARICOM, ECOWAS, EU, Australia, Germany, Holy See, Malaysia, Mexico, Nigeria, and Norway called for

the deletion of "for military use" in sub-section h referring to SALW.

- Italy proposed an addition to A1 that refers to weapons "specifically designed or modified for military use" so then it wouldn't be necessary to have this reference in sub-section h.
- Mexico and Ecuador said this would be unacceptable.
- Germany proposed the addition of the language "especially designed or modified for military, paramilitary, or law enforcement purposes" to sub-sections b and d.
- Norway asked for the language "designed or modified for military or paramilitary or law enforcement purposes" to be added to sub-sections e and f.
- Mexico called for inclusion of "and law enforcement" in sub-sections b, j, and m.

#### *Chapeau A1*

- India proposed to delete "...whether partially assembled or unassembled in form" and Algeria requested "and related material" to be deleted.
- Mexico, Sweden, Kenya, Italy, South Africa, Chile, Germany, Ghana, and the Holy See expressed preference for "all conventional arms" in the chapeau.
- India, Indonesia, Algeria, Cuba, Singapore, and China preferred "the following categories of conventional arms."
- The ROK proposed the phrasing, "This Treaty shall apply to international transfer of the following categories as defined in the UN Register, ITI, and the PoA on small arms."
- Malaysia stated there were too many additions to the chapeau and noted that references to weapons as defined in the UN Register and the ITI would cover the scope sufficiently such that no listing would then be necessary.
- Mexico, South Africa, Chile, France, Germany, the Holy See, and Switzerland called for the replacement of "export" with "transfer" throughout the text.

#### *A2 on national control list*

- Cuba stated that paragraph A2 should be deleted as control lists belong under national implementation not scope.
- France and Norway stated this paragraph is essential to the Treaty.
- Egypt proposed an alternative that reads, "Each state party will have a control list of those items subject to this Treaty, to be developed consistent with the terms of this Treaty under Article XX. Control lists should be endorsed periodically by the Assembly of States Parties."



## Alex Gálvez, sobreviviente de la violencia armada en Guatemala a la edad de 14 años

*Fecha de violación de derechos humanos, Nov 9, 1992*

- South Africa said states parties should develop a control list consistent with the terms of the Treaty, but cannot be subject to the Assembly of States Parties.
- India also proposed an alternative that states, “States Parties shall establish and maintain a control list of conventional arms that pertain to the categories in paragraph 1 and the definition of items shall be of national prerogative as per national law and regulations.”
- China supported India’s proposal with the addition of “management and application of the list remains to be a prerogative of States Parties.”
- Canada expressed support for the paragraph stating it is central to the Treaty and each state’s right to apply the Treaty according to its unique “political and legal culture.”
- Australia suggested the addition of “in accordance with best international practice” after “control list.”

### *Other comments related to items*

- Cuba called for an additional section on definitions.
- Russia said it was unacceptable to base definitions on other instruments that are not legally-binding (the UN Register and the ITI).
- The US and Canada expressed frustration and discontent over the widening of the scope in the Chair’s paper and the burgeoning discussion on elements other than the 7 weapons of the UN Register and SALWs.
- Syria called for a separate category on electromagnetic weapons and Mexico for one entitled “any other non-explosive weapons.”
- Sweden, the EU, and South Africa called for the deletion of sub-section m on dual-use items.
- Cuba, China, India and Algeria called for the inclusion of the 7 categories of the UN Register with its exact wording.
- Iran objected to the inclusion of sub-section g regarding missiles. •

Después de una semana escuchando a los gobiernos hablar sobre el Tratado de Comercio de Armas ATT, aquí en Naciones Unidas, veo que es de vital importancia que los estados de nuestra región mantengan su posición progresista en las negociaciones de este mismo. Sin embargo siento que muchos de los estados de nuestra región no han expresado la gran importancia de un tratado robusto, dejando que otros decidan por nosotros. Debemos de adoptar la posición de los estados quienes no aceptan un tratado débil y que no vele por las normas de derecho internacional incluyendo todas las transferencias. Los criterios deben ser claros y objetivos.

Siendo yo una persona sobreviviente de la violencia armada, sin poder tener el uso de mis piernas por una bala sin control, no entiendo como es que muchos de nuestros estados mantienen la posición de observadores como si no fueran fieles representantes de nuestra región y vivieran cada día la gran necesidad de tener un tratado que nos ayude a prevenir de tener mas afectados por las armas ligeras y municiones sin control.

Espero que al final de esta jornada tengamos una resolución donde la asistencia a víctimas y sobrevivientes sea incluida. Después de participar en este proceso por muchos años creo que seria muy importante que adaptáramos en este nuevo papel la criteria del papel escrito el año pasado 2011, ya que pareciera que vamos hacia atrás o muy despacio dejando en riesgo que muchos tiranos continúen cometiendo violaciones a los derechos humanos en nuestra sociedad.

Se habla mucho de la falta de recursos internos de los estados para dar esta asistencia, esto no es algo nuevo, esto algo que se puede manejar por medio de los programas humanitarios ya implementados en los estados y que deben ser dados por derecho.

Recomiendo por este medio a los países de nuestra región a que expresen su preocupación por lograr la meta de un Tratado de Comercio de Armas robusto incluyendo asistencia a los sobrevivientes y víctimas. No dejemos que sigan violando nuestros derechos humanos omitiendo los objetivos humanitarios en este tratado, es un riesgo que no se aplique la regulación en licencias y municiones en los estados.

Esperamos que esta semana de trabajo nos lleve a todos a mantener la paz en el mundo y a velar por los derechos humanos de nuestra sociedad en todos los países del mundo. **Una bala sin control puede cambiar negativamente la vida de una persona su familia y la sociedad en general.** - Alex Gálvez •

## ATT MONITOR 5.8

### Calendar of events for Monday, 16 July 2012

When	What	Where	Who
10:00–11:30	MC1 (open): Criteria	CR 1 North Lawn Building	
11:30–1:00	MC2 (closed): Final prov.	CR 4 North Lawn Building	
15:00–18:00	MC 1 (closed): Objectives	CR 4 North Lawn Building	
15:00–18:00	MC 2 (open): Scope	CR 1 North Lawn Building	

### ATT cryptoquote

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

The following jumbled sentence is a quote by a Nobel Peace Prize recipient:

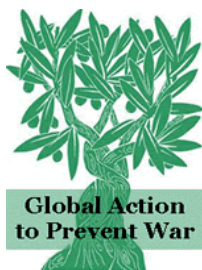
Dw xyvhdhwhd wv uwcyqyhbdl mkd hdmfnxy izy vqyxwe iw ydktfy izy chwfkwhd wv znekd qhbziw, izy enqxyq wv izy hddwmydi, izy wssqyuuhw wv izy jwqfx?u dyxhyui kdx ewui zyfsfyuu. Dw xyvhdhwhd wv dkihwdfk uymnqhil wq uyfv-xyvyduy kffwju qwwe vwq unmz kmui. Izyuy mwdmysiu kqy izwqwnbzfl hdbqkhdxy hd izy vqkeyjwqa wv hdiyqdkihwdfk fkj izki wnq jwqfx zku xycyfwyhd hd izy skui zkfv-mydingl. Kff izy Kqeu Iqkxy Iqykil xwyu hu xqkj izy fhda tyjyyd ydktfhd izyuy chwfkwhdu, kdx mweehihdb izye. Hi uhesfl vhfhu hd izy tfkdau wv izy sqwehuyu wv izy skui, hd wqxyq iw kxxqyuu izy xyeckdxu kdx xkdbxy wv izhu dyj ehffyddhne. Dwtyf Sykmy Sqhoy qymhshydi.

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PEACE & FREEDOM**



**World Council  
of Churches**

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