

ARMS TRADE TREATY MONITOR

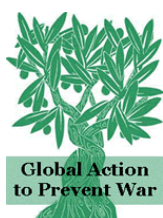
Civil society perspectives
on the Arms Trade Treaty
negotiation process

NO. 6.2

19 March 2013

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108 states say: don't adopt a weak ATT!

Ray Acheson | *Reaching Critical Will of WILPF*

On the opening morning of arms trade treaty (ATT) negotiations, 108 countries warned that a weak treaty could serve to legitimize the irresponsible and illegal arms trade. Of course, this would be the exact opposite of the original objective of the ATT. Yet this is a real possibility, especially given the position of many of the major arms producing and exporting states.

In a joint statement, the five permanent members of the UN Security Council (P5)—all of which are among the top arms exporters in the world—reiterated their call for the ATT to be “short, simple, and easy to implement.” They demanded that under the ATT, each state party should establish a “national control list of items as defined on a national basis.” In individual statements, each of the P5 members echoed this sentiment, with the US government also indicating that the ATT should recognize that each state “must tailor and enforce its own national export and import control mechanisms.”

These comments suggest that the P5 are looking for a piece of paper that simply says each country should regulate its arms exports and imports. After six years of work in the United Nations and more than a decade of campaigning aimed at ending the immense human suffering caused by the irresponsible arms trade, this is unacceptable. As Dr. Robert Zuber writes in his article in this edition of the *ATT Monitor*, “a treaty that does little more than provide legal sanction for arms manufacturing states to determine their own transfers-related standards is insufficient at best and dangerous at worst.”

The UK signed on to both the P5 and the 108-country statement. The fact that the

one articulates a vision of a treaty quite different—perhaps even opposite—from the other seems curious, until one realizes that the P5 do not envisage an instrument that will affect their current practices. Indeed, most of the major exporters do not see the ATT as an instrument that will affect their own exports. Instead, they see it as a way to even the playing field so that all countries sell weapons on an equal footing. This is alarming when considered in the context of the status quo, in which arms transferred by some of these exporters are used to commit human rights violations.

The P5, and other major exporters, consistently demand respect for the so-called “legitimate” arms trade. There is danger in trying to distinguish in this way between the “legitimate” and the “illegitimate”—or “legal” and “illegal”—arms trade. Many human rights abuses or violations of international humanitarian law (IHL), including acts of gender-based violence, are committed with weapons sold through “legal” trade, not just with weapons that have been diverted to illicit markets or with those sold by countries without any export regulations.

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Dear World,

Don't settle for a weak treaty!

Sincerely,
108 countries

#ArmsTreaty

controlarms

It's time to finish the job. Join Control Arms in supporting a strong Arms Trade Treaty at www.controlarms.org/join-the-movement

Mexican menu

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

As the “final” negotiating conference gets underway, there remain deep divisions among stakeholders regarding the baseline adequacy of any treaty text that might find consensus over the next nine days. For many such stakeholders, a treaty that does little more than provide legal sanction for arms manufacturing states to determine their own transfers-related standards is insufficient at best and dangerous at worst.

Appeals on the first day for delegations to come down on the side of ‘strength’ and ‘robustness’ have been encouraging, though many of these are statements that seem more appropriate to building a working majority than an actionable consensus.

One such statement was drafted and circulated by Mexico, which has been a major force for building high levels of delegate interest in avoiding a ‘weak’ ATT. The widely endorsed (though clearly non-consensual) Mexican statement made clear that the text that diplomats inherited for this conference ‘needs considerable improvement’ in order to merit final adoption.

GAPW, other NGOs, and many governments agree with this assessment and have invested considerable energy in outlining the loopholes that must be closed if this treaty is to do anything more than reinforce the often-unassailable imbalances among arms producers and consumers that led us to pursue a treaty in the first place.

Several speakers have optimistically noted how ‘close’ we were to an ATT in July and how ‘close’ to the finish line we are now. Given the levels of dissonance regarding where that ‘line’ is located and what it looks like, it may well be that we are further from a consensus goal than these national statements are currently willing to acknowledge.

GAPW fully supports the desire of Mexico for a treaty that ‘would bring about a safer world.’ That said, the sad fact seems to be that some treaty iterations could have a much less welcome effect, a particular problem given that, as we have noted previously, there has been no culture of engagement on transfers that a successful Treaty can enforce and enhance.

Given this ‘reading’ of our current position, delegations are thereby urged to honorably perform two seemingly disparate tasks. First, to do everything possible over the next nine days to fortify Treaty provisions, especially regarding prospects for monitoring and amendment. At the same time, delegations must be willing to make the hard judgment, if circumstances eventually warrant it, that a weak treaty may cause more damage to the security of diverse human communities than no treaty at all.

Delegations are also reminded that, while this is the final negotiating conference, it is not the final resting place for the aspirations of an ATT. Through other GA-mandated processes, including the Group of Interested States in Practical Disarmament Matters, delegations can fashion a document and initiate a process that can engage and sustain a new way of authorizing and securing transfers rather than merely reinforcing existing arrangements.

Getting an ATT done during this conference is preferable. Getting to a conclusion that can actually fulfill some of the more lofty promises that we have made to victims of diverted weapons is more important still. We applaud Mexico and other states for helping to hold both options open. •

ATT MONITOR

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The *Arms Trade Treaty Monitor* features civil society reporting and analysis on the process to develop an Arms Trade Treaty (ATT). It is coordinated, edited, and published by the Reaching Critical Will programme of the Women’s International League for Peace and Freedom (WILPF) in partnership with Global Action to Prevent War. PDF versions of all *ATT Monitors*, along with statements and other documents from the ATT process, 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.

An example of language on gender: the landmine ban treaty process

Rebecca Gerome | NYU Law Students for Human Rights and the Women's International League for Peace and Freedom

The 26 July draft's language on women and gender is so weak that it risks representing a significant step backwards in global efforts towards gender equality. As WILPF has noted before, the only mention of gender is in 4(6)(b), which only provides for optional consideration of "feasible measures," generating a legal contradiction with 4(2) on human rights and international humanitarian law. States' existing obligations to respect, protect, and fulfill women's rights are not subject to optional considerations.

Furthermore, the preamble only recognizes the "vulnerability of women and children". We have noted before that this wording is not only unhelpful, but it is regressive. It represents women as helpless victims, rather than active agents and leaders in arms control initiatives. In the face of the threat of conventional weapons, everyone is vulnerable. Women, men, girls, and boys are all affected in different ways, and the gender dimensions of the arms trade must be recognized. Gun possession and use is often associated with violent masculine gun culture, exacerbated in times of war and conflict. While men are the overwhelming majority of gun users as well as direct victims of gun injury and death, women suffer more invisible effects of gun violence—the long-term psychological, sociological, and economic impact as well as direct violence at gun-point, including rape and domestic violence.

As states consider how to best incorporate language on gender in the Arms Trade Treaty, they should look to the Cartagena Action Plan, adopted in 2009 at the Second Review Conference of the Mine Ban Treaty, ratified by 161 countries, as a useful example.

The Action Plan makes no mention of "vulnerability of women and children". Instead, the document emphasizes the involvement of women and men in implementation (Action #15) and the need to promote and enhance the capacity of the women, men and associations of victims (Action #30). The document also contains multiple mentions of gender in various sections:

- Preamble: "Pursuing a gender-sensitive, age-appropriate, inclusive, coherent and coordinated approach to the development and implementation of relevant national policies, plans, legal frameworks and instruments of international law."
- The section on "Clearing Mined Areas" calls on States Parties to provide "gender-sensitive" mine risk reduction and education programs (Action #19).
- The section on "Assistance to Victims" calls on States Parties to provide "adequate age- and gender-sensitive

assistance to mine victims" (§ 12) and "ensure the continued involvement and effective contribution in all relevant convention related activities by (...) gender experts (...) inter alia by supporting the inclusion of such expertise in their delegations."

- The section on "International Cooperation and Assistance" calls on States Parties to "ensure that international cooperation and assistance, including development cooperation is age-appropriate and gender-sensitive" (Action #41) and ensure that assistance in mine action is based on appropriate surveys, needs analysis, age-appropriate and gender-sensitive strategies and cost-effective approaches (Action #52).
- An "Additional Actions" section calls on States Parties to ensure gender sensitization in all aspects of mine action (Action #55)

As it stands, the Arms Trade Treaty would be a step backwards for women. The wording on gender-based violence in 4(6) should be moved into article 4(2) and the preamble language should be changed. It could for example, recognize "the gendered dimensions and impacts of the arms trade, particularly gender-based violence, including rape and other forms of sexual violence," and further emphasize and reaffirm "the important role of women in the prevention and resolution of conflicts and in peace-building." •

108 states say..., cont'd

An ATT that is truly effective must be useful in assessing all arms transfers from all parties, *in particular* the major producers and exporters. It must not simply bring all countries up to the status quo—the status that quo is already failing humanity.

During the next few days, the most fundamental task of all delegations and organizations at this conference is to ensure that the ATT does not legitimize the status quo, or create loopholes for even more egregious violations of human rights and IHL. The delegations assembled at this final conference must choose a path that leads to a world where human security always trumps profiteering and antiquated conceptions of national interest. •

Consensus, compromise, and strength

Katherine Prizeman | *Global Action to Prevent War*

The opening of the “Final Conference on the Arms Trade Treaty” and the general exchange of views saw a myriad of statements from Foreign Ministers and other delegates from diverse global regions. There was a general commitment by most delegates that the time for serious discussion on the concrete details of the text has come and that overly general statements or continued reiteration of well-known state positions has passed. Despite this positive sense of commitment and urgency, there remains a yawning gap between the necessity of reaching consensus through unfettered compromise and the commitment to retain a strong treaty and fight for certain indispensable components and provisions without which an ATT would be meaningless in practice.

Consensus through compromise must have limits such that the strength and, therefore, effectiveness of the ATT will not be sacrificed *ad infinitum* for the sake of reaching consensus. Delegations must identify the elements of the ATT that are absolutely necessary to its success—success as defined by how effectively it contributes to international peace and security through defining arms transfer standards in order to codify the denial of transfers that will contribute to, inter alia, violations of human rights and international humanitarian law. Adopting a consensus treaty merely for the sake of obtaining a treaty is woefully insufficient. The task at hand requires more. As noted by Ambassador Enrique Roman-Morey of Peru on behalf of 11 states from Latin America and the Caribbean as well as the representative of the Caribbean Community (CARICOM), the ATT must constitute a legally-binding instrument and not the loose language reflective of a political declaration or a General Assembly resolution.

The Foreign Minister of Denmark noted in his general remarks that “during this conference, national positions will have to be aligned, opponents’ arguments accepted and concessions made ... to seek common ground and to make the necessary compromises to get us all, and particular the major arms exporters of this world, on board.” Likewise, the Foreign Minister of Finland stated that the 26 July text would have been “an acceptable compromise treaty, although there is room for improvement.” This position that compromise is an inevitability without restraint that will dictate the entirety of the process is worrisome. While the ‘universality versus strength’ debate does not have a simple resolution, it does beg the question—at what point does compromise not only become harmful to the process, but also dangerous? If the text becomes so compromised that it does little to change arms transfer policy in practice, but instead provides ‘legal’ cover for

arms exporters to continue operating in the same manner, then shouldn’t states stand firm against such a compromise?

It is essential that delegations distinguish the elements of indispensability for the ATT regardless of the rule of consensus. Consensus must not serve to restrict the ATT to a document that merely reinforces the existing culture of unevenly regulated arms transfers. What could be worse, as noted in the statement from 108 countries delivered by the delegate of Mexico, “A weak Arms Trade Treaty could serve to legitimize the irresponsible and illegal arms trade. This is an outcome we must avoid.” Therefore, such “non-negotiables” that are required for a robust ATT include inclusion of small arms and light weapons, ammunition and munitions, parts and components in the scope; strong, unambiguous, and legally-binding national risk assessment criteria that take into account human rights, international humanitarian law, diversion risks, and gender-based violence and do not allow for ‘cover’ through externally agreed bilateral agreements such as ‘defense cooperation agreements’ or through gifting or loans; a strong implementation mechanism with appropriate levels of verifiability and accountability; and the ability to strengthen the Treaty and make amendments over time in light of continuously changing security circumstances.

A statement delivered by Ambassador Simon-Michel of France on behalf of the five permanent members of the UN Security Council—China, France, Russia, United Kingdom, and United States—also referenced compromise in the context of the July negotiations. Ambassador Simon-Michel noted, “The July 26th text is a reflection of international efforts to find common ground and contains some compromises that it is essential to preserve.... Our common goal remains to reach consensus.”

But the common goal is not just to reach consensus. The common goal is to negotiate and adopt an ATT that is strong and effective in practice that will improve international peace and security and combat the deadly humanitarian consequences associated with the unregulated trade in conventional arms trade. Anything less would be not only a disappointment, but as previously noted, potentially a dangerous legitimization of illicit and irresponsible transfers. •

Side event report: Transparency in international arms trade and other means to strengthen the Arms Trade Treaty

Haley E. Adams | NYU Law Students for Human Rights and the Women's International League for Peace and Freedom

This side event was organized by the Permanent Mission of Sweden to the UN, Stockholm International Peace Research Institute (SIPRI), and Friedrich-Ebert Stiftung.

Dr. Paul Holtom, Director of the SIPRI Arms Transfers Programme, opened the panel with a presentation on statistics compiled through the UN Register of Conventional Arms. The Register is a database maintained jointly by SIPRI and the UN Office for Disarmament Affairs, and contains voluntarily-submitted information on international conventional weapons transfers between 1950 and 2012. The database also features subsystems and components in addition to finished weapons.

The presentation focused on a central compelling question: are today's major recipients tomorrow's major suppliers? Data mining of the Register revealed a 17% increase in international arms transfers in the 2008-12 period compared to the preceding five-year average. Arms flows to Africa doubled, while flows to the Americas, Asia, and Oceania revealed modest increases; arms flows to the Middle East and Europe declined. For the first time since the Cold War, China is among the five largest major arms suppliers. Indeed, China's increase in arms exports ultimately eclipsed the United Kingdom's, ousting the UK from the top five arms suppliers list. China is not simply aggressively exporting; China is importing, too: India,

China, Pakistan, South Korea, and Singapore together account for 32% of all arms imports across the globe.

Uta Zapf, a member of the German Parliament, presented a Parliamentarian's perspective on arms control. She posited that the Arms Trade Treaty would do well to mirror German weapons regulations: respect for human rights should preclude sales to dubious recipient countries, and above all, transparency in arms transfers should be rigorously overseen. Reporting is the cornerstone of Zapf's transparency recommendations. This reporting-based transparency, she claimed, would be best implemented by an expert-staffed Secretariat. The German government pledged €500,000 in order to buoy international support for an implementing body to the Treaty.

Next in the panel, Jürgen Bühl provided the perspective of the German Industrial Union of Metalworkers. European metalworkers, he explained, have called on national governments to promote diversification projects to open up additional prospects beyond weapons manufacturing. In support of this, he cited the irresponsibility of placing a premium export opportunities over both human rights and a social order in which human freedoms could fully be realized. •

See: sipri.org/databases/armstransfers/armstransfers.

INVITATION

You are cordially invited to a reception marking the opening of the United Nations Final Conference on the Arms Trade Treaty.

DATE

Tuesday, 19 March, 2013

PLACE

Church Centre for the United Nations,
2nd floor, 777 UN Plaza
(corner of E 44th and First Ave.)

TIME

6:00 -8:30 pm

RSVP

dybeck@parlforum.org



News in Brief

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

General

- Ambassador Peter Woolcott of Australia was confirmed as President of the Conference.
- The Holy See and Palestine noted that the political compromise reached prior to the start of the conference on participation of non-member states does not represent a precedent for future conferences.
- UN Secretary-General Ban Ki-moon said that the lack of rule of law in conventional arms regulation “defies explanation” and noted that the ATT should complement and supplement other existing instruments such as the UN Programme of Action on small arms and light weapons and the UN Register on Conventional Arms.
- UNSG Ban said that the unregulated trade in arms affects every dimension of the UN’s work—it undermines development, contributes to armed conflict, undercuts peacebuilding and humanitarian efforts, and threatens gender empowerment.
- Foreign Minister of Costa Rica said that human rights must take priority over interests of the arms industry.
- Foreign Minister of Denmark said victims of armed violence must be at the centre of the treaty.
- Arab Group reiterated its position that it will not accept any ambiguous or subjective provisions.
- Peru, on behalf of 11 Latin American and Caribbean (LAAC) states, and CARICOM noted that the ATT must incorporate legally-binding language, not loose provisions reflective of a political declaration.
- Kazakhstan said that the ATT should regulate and reduce the arms trade as well as militarism and military spending.
- Mexico, on behalf of 108 countries, said that a weak ATT could serve to legitimize the irresponsible and illegal arms trade and that must be avoided.
- P5 and India called for a clear, practical, consensual, and implementable treaty.

Scope

- Bangladesh, Brazil, CARICOM, Costa Rica, Denmark, Dominican Republic, Ethiopia, Finland, Gabon, Germany, Ghana, Japan, Kazakhstan, Mozambique, Mexico (on behalf of 108 countries), New Zealand, Paraguay, Peru (on behalf of 11 LAAC countries), Rwanda, Tanzania, Turkey, and Zambia called for the inclusion of ammunition and munitions.

- Bangladesh, Costa Rica, Denmark, Dominican Republic, Gabon, Japan, Mozambique, New Zealand, Paraguay, and Peru (on behalf of 11 LAAC countries) called for inclusion of parts and components.
- Costa Rica, Dominican Republic, Gabon, Peru (on behalf of 11 LAAC countries), and Turkey called for inclusion of munitions.
- Indonesia, Republic of Korea, and Viet Nam called for the 7+1 formulation (7 categories of the UN Register and SALWs).
- P5 said national control lists should be defined by national standards and definitions.
- Algeria, Brazil, Japan, and Peru (on behalf of 11 LAAC states) said that gifts and loans must be covered under types of transfers.
- Gabon, Mozambique, New Zealand, and Paraguay said that the ATT must cover all types of transfer activities.

Prohibitions/Criteria

- African Group, Brazil, CARICOM, Costa Rica, Denmark, Ethiopia, Finland, Japan, Peru (on behalf of 11 LAAC states), and Russia called for stronger provisions related to diversion.
- Denmark, Finland, and UK called for strengthened language on gender-based violence.
- Denmark called for a stronger provision on corruption.
- Algeria, Brazil, and India called for a specific prohibition on transfers to non-state actors.
- Costa Rica and Germany said the “defense cooperation clause” must be addressed.
- Peru (on behalf of 11 LAAC states) said “overriding” should be replaced with “substantial risk”.

Implementation/Final Provisions

- Brazil, Costa Rica, Denmark, Finland, Gabon, Germany, Japan, Kazakhstan, Peru (on behalf of 11 LAAC states), and UK said reporting must be mandatory and/or public to increase transparency.
- Denmark pledged 1.6 million dollars to assist developing countries implement their ATT obligations.
- Arab Group said entry into force must be linked to a “sufficient” number of ratifications, including those of the biggest exporters and importers.
- Arab Group called for a guaranteed right to reserva-

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News in Brief, cont'd

tions, while Peru (on behalf of 11 LAAC states) said reservations should not be allowed.

- CARICOM called for an independent secretariat, verification provisions, and dispute resolution mechanisms.

Preamble and principles

- Algeria, Cuba, Indonesia, and Kenya called for the principles to become the first operational article of the treaty.
- In contrast, CARICOM, Germany, Peru, Sweden, and USA said it would be better to merge the preamble and principles sections.
- USA called for the deletion of the principles altogether.
- Japan called for simpler chapeau for the principles section such as “guided by the following principles”.
- Peru called for all references to arms “trade” to be replaced with arms “transfer”.
- Japan said reference to IHL and human rights needs to remain in this section.

Preamble

- India said pp3 should say “diversion to the illicit market, in particular to terrorists and unauthorized and unlawful non-state actors”.
- Algeria, Cuba, Egypt, Kenya, and Mexico called for end-use to be changed to end-users in pp3.
- Holy See called for pp3bis that says arms cannot be compared with other goods exchanged purely for profit.
- Japan called for “rights and” to be deleted from pp4 so it only says “interests”.
- Holy See called for pp8bis on reducing demand for arms through public education for a culture of peace.
- Nigeria, Norway, Sweden, and Switzerland called for the addition of armed violence in pp10.
- CARICOM and UK called for consistency in use of armed conflict and armed violence in pp10 and 11.
- UK said reference to women and girls must be retained.
- Nigeria suggested pp11 read: “bearing in mind the human suffering caused by armed conflict and armed violence and that women and children are particularly affected thereof.”
- Cuba and Pakistan called for deletion of pp12, which allows states to adopt more stringent measures than provided for in the ATT.

- Sweden said it is against deleting this paragraph because some countries will need more elaborate provisions than those provided for in the ATT.

- US highlighted the importance of pp13 on domestic gun ownership.

- Egypt called for a new pp15bis: “Alarmed by grave consequences of existing and increasing imbalance of major exporters and importers caused by overproduction and overaccumulation of arms by those major producers/exporters.”


Principles

- Algeria, Cuba, and Egypt called for principles to include language on the right of peoples under colonial and foreign domination to the right to self-determination.
- Cuba and Pakistan called for inclusion of principle of equality of rights and obligations of all states.
- Holy See called for principle aimed at protecting human life and dignity, peace and security, and development and human rights.
- India called for principle on right to self-defence in preamble and said “legitimate” should be deleted from principle 7’s reference to self-defence.
- Mexico called for similar references to IHL and HR in principle 5.
- Algeria suggested deleting peacekeeping operations.
- India suggested adding “UN” before peacekeeping operations.
- Kenya called for “peace support” instead of “peace-keeping”.

Goals and objectives

- Japan, Mexico said section should be re-titled “object and purpose” to be consistent with other treaties.
- Algeria suggested adding the goal of preventing diversion.
- Cuba said this section is too extensive and should reflect just two objectives: 1. Contribute to prevent, combat, and eradicate the illicit trade in conventional arms and their diversion to unauthorized end-users including unauthorized non-state actors; and 2. To regulate or improve the regulation of international trade in conventional arms of its states parties. •

ATT MONITOR 6.2



Arms Trade Treaty Side Event at the United Nations

ATT Implementation: Arms Transfers and the Global Supply and Transport Chain

co-hosted by

The Ministry of Foreign Affairs of Denmark
Stimson

March 19, 2013
13:15-14:30
United Nations, New York
North Lawn Building
Conference Room B

Keynote Address
Hon. Mr. Villy Søvndal, Foreign Minister, Denmark and

Panelists
Ms. Trine Christensen, Deputy Director, Amnesty International, Denmark
Mr. Thierry Jacobs, Strategic Analysis and Relations Executive, FN Herstal

Moderator
Ms. Ellen Laipson, President and CEO, the Stimson Center

*Formal comments by Minister Søvndal will be followed by a moderated discussion among all participants.
**Lunch will be provided

CALENDAR OF EVENTS

Time	What	Where	Who
10:00-13:00	Plenary	Conference Room 1 North Lawn Building	
13:15-14:30	ATT Implementation: Arms transfers and the global supply and transport chain	Conference Room B North Lawn Building	Permanent Mission of Denmark to the UN and Stimson Center
15:00-18:00	Plenary	Conference Room 1 North Lawn Building	
18:00-21:00	Reception <i>RSVP to dybeck@parlforum.org</i>	Church Center 777 UN Plaza, 44th Street and First Ave, 2nd Floor	Amnesty International, Arias Foundation, World Council of Churches, Parliamentary Forum on Small Arms and Light Weapons, and Reaching Critical Will of WILPF



Reaching Critical Will

