

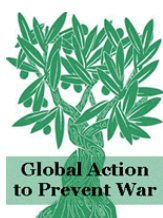
ARMS TRADE TREATY MONITOR

Civil society perspectives
on the Arms Trade Treaty
negotiation process

NO. 6.5
22 March 2013

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Legal scrubbing with some substantial washing

Katherine Prizeman | *Global Action to Prevent War*

While some delegations continued to note significant and substantial “loopholes” in the draft arms trade treaty (ATT) text, the delegation of China on Thursday said that states needed to be realistic in terms of the probability of closing these loopholes. But as has been previously noted by many civil society colleagues in this *ATT Monitor*, as well as 116 states in a joint statement on the opening day of these negotiations, an ATT with numerous and substantial loopholes is not only not worth adopting, but potentially dangerous should it legitimize illicit and irresponsible transfer practices. Closing the loopholes is precisely what delegations need to be focused on at this point in the negotiations.

On Wednesday, the President circulated his first Non-Paper, which is essentially a “legal scrub” of the 26 July draft text. On Thursday, many delegations took the floor to address some of the specific substantive changes made in this new version. While most delegations praised the changes in terms of improving the text’s legal character, positions remain diverse on the substantive issues related to preamble and principles, object and purpose, scope, criteria, implementation, and final provisions.

Scope

Regarding scope, the European Union, along with many other delegations, rightly noted that the replacement of “conventional arms covered under the scope of the Treaty” with “conventional arms covered under Article 2(1)” is of concern. The delegations of the EU and Switzerland explained that this would ostensibly exclude several types of control foreseen by the Treaty, particularly types of items that are mentioned elsewhere in the text, but not

explicitly covered in article 2. This includes the items included in Article 6(5) and 6(6), which obligate states to establish national control systems to regulate the export of ammunition/munitions and parts and components, respectively.

Indeed, such an explicit reference throughout the text to article 2(1) would seriously limit the applicability of these articles to such items not directly referenced in the so-called “primary” scope in article 2. Dissatisfaction with the coverage of ammunition was reiterated by at least 30 delegations; with Mali, Nigeria, and St. Vincent and Grenadines emphasizing the vast majority of delegations support the inclusion of ammunition in the scope. The US delegation, however, reiterated that it is “unalterably” opposed to the inclusion of ammunition in the scope of the Treaty.

Prohibitions and Criteria

Although no major substantive changes were made in these sections, the articles on prohibitions and national assessment also garnered much attention. They will inarguably need to be seriously amended for the Treaty to be improved enough to make a difference in practice. The debate between “overriding” and “substantial” continued throughout the day. This debate will be a crucial one for evaluating the ultimate level of strength the Treaty will embody. As noted by Ray Acheson in the *ATT Monitor* 6.4, “Insisting on ‘overriding’ is to insist one’s other priorities—political, economic, or strategic—take precedence over human lives.”

Implementation

States addressed some of the important improvements in the text pertaining to

continued on next page

Legal scrubbing, cont'd

implementation, though some also raised points of continued dissatisfaction. The Swiss delegation welcomed the addition of paragraph 1 under article 6 obligating states to establish and maintain a national control list to regulate export, but proposed that it be moved to the article on 'General Implementation' so that it would cover all types of transfers. Furthermore, the delegation of Mexico, on behalf of a group of Latin American and Caribbean states, as well as Iceland and Norway, stated that the word "may" should be replaced throughout the text with a more binding term such as "shall" rather than "is encouraged to".

Final provisions

Regarding final provisions, the EU underscored several positive changes in this new text, specifically the addition of the reference in 16(3)(e) that provides the Conference of States Parties (CoP) with the ability to decide upon and perform "other duties." The concept of incrementalism built into article 16(3)(e), which was addressed and supported by several delegations during the July negotiations, is an important element in ensuring that implementation of the Treaty is robust and effective in the long-term.

Also significant is the continued debate on the functioning of the CoP. The Russian delegation noted that any functions listed for the CoP must be adopted by consensus and such a provision should be spelled out in a chapeau, a position also supported by Egypt. This significantly limits the ability of states parties to respond to and review future implementation challenges. The suggestion by the

Russian delegation would make any chance for addressing future operational and implementation challenges extremely difficult (if not impossible). Moreover, the current article 21 specifies a number of responsibilities for the CoP including the ability to "consider and adopt recommendations regarding the implementation and operation of this Treaty." However, it is not specified how the CoP is to arrive at these recommendations if it is not realistically in a position to review implementation of the Treaty.

Another important revision highlighted during the day's discussions was the deletion of article 23 from the 26 July text. The delegations of Costa Rica, the EU, Ghana, and Switzerland welcomed the deletion of this article entitled "Relationship with States not party to this Treaty". This is a positive change in the text given that the previous article essentially provided for weaker control on certain transfers with non-state parties.

It is clear that many stark divisions remain between delegations on specifics of the text, including many more than those mentioned in this report. Nevertheless, the most important division that must be addressed is that between delegations that wish to adopt a consensus treaty at any cost and those that seek a robust treaty and will not compromise so much so that what is left does not accomplish the true object and purpose of the ATT—to prevent the human suffering and loss of human life associated with the unregulated and illicit trade in conventional arms. •

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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.

Futureproofing the draft Arms Trade Treaty: a policy brief

Dr. Matthew Bolton | Department of Political Science, Pace University and Wim Zwijnenburg | IKV Pax Christi

The preamble of the United Nations Charter states that the purpose of the Organization is to “save succeeding generations from the scourge of war.” If the delegates currently negotiating the Arms Trade Treaty (ATT) at the UN building in New York want to make the treaty relevant for future generations, they must make some critical changes to the Chair’s draft distributed 20 March 2013 in order to cover the emerging class of robotic, “unmanned” and autonomous weapons. This includes drones, but also military land and sea robots, as well as related parts, components and technologies.

The Problem: ATT Draft Relies on Outdated Categorization of Weapons

The latest (20 March 2013) draft of the ATT states (in Article 2) that it “apply to all conventional arms within the following categories, at a minimum:

- (a) Battle tanks;
- (b) Armoured combat vehicles;
- (c) Large-calibre artillery systems;
- (d) Combat aircraft;
- (e) Attack helicopters;
- (f) Warships;
- (g) Missiles and missile launchers; and
- (h) Small arms and light weapons

Later, in a less stringent part of the draft there are provisions for States to “establish and maintain a national control system” in order to regulate the export of ammunition/munitions” (Article 6.5) and “parts and components” (Article 6.6). However, there are no provisions for regulating transfers of technologies.

We are in the midst of a far-reaching and potentially deeply destabilizing transformation of the arms industry driven by the growing capabilities of information and communications technology. The most talked-about expression of this is the increasing use of armed Unmanned Aerial Vehicles (UAVs) or drones. However, weapons manufacturers are developing a wide range of robotics weapons on land and at sea, as well as in the air. Examples include:

- The iRobot 710 Warrior: This remote-control ground robotic system has the capacity to be fitted with a variety of modular attachments, ranging from a camera, robotic ‘hand’, a shotgun or a grenade launcher. The weapons

attachments can be sold separately from the main system and reassembled later.

- The UAS Advanced Development Switchblade: A miniature aerial drone and explosive “loitering munition” (the manufacturers’ phrase), launched from a mortar tube, that can be remotely piloted to seek a target and then be flown ‘kamikaze-style’ into a target.
- There are robotic sea mines under development by several Navies that would navigate either autonomously or through remote control and detect the presence of a ship or aircraft and autonomously fire on it.

Furthermore, there is an increase use of UAVs, and in the near future other types of unmanned systems, for military use such as target acquisition for artillery or aerial attacks, or observing and scouting of military targets. These type of unmanned systems can be bought as a civilian systems, but can be adapted for clear military purposes and used as such. Considering the rapid developments in unmanned systems, new types of military systems are also likely to be introduced on the battlefield, while it remains unclear if these systems will be part of the current scope, nor other existing regulating bodies such as the Missile Technology Control Regime or the Wassenaar Arrangement.

This raises numerous potential problems in interpreting how the emerging class of weapons will fit into the Draft ATT Scope categories listed above. Is the iRobot Warrior a tank? Is it a small arm or light weapon if it does not have a gun attachment? Is the Switchblade a “combat aircraft”, a “missile” or a “munition”? Is an underwater military robot a “warship”?

The Solution: Futureproof the ATT

1. The Scope (Article 2) of the treaty needs to be amended to cover “all conventional weapons”, with any following categories an “indicative list” rather than “at a minimum.” The EU proposal of “all conventional weapons including and not limited to the UN register,” is a good formulation.
2. There should be a phrase in the Scope akin to “The categories listed in Article 2 (1) shall also be understood as inclusive of such conventional arms when considered as systems or platforms and comprise both manned and unmanned systems.” The 13 July 2012 committee draft of the Scope included similar language.
3. As called for by the Ghana statement at the negotiating conference this week (signed by 69 states), ammunition and munitions should be moved to the Scope (Article 2,

continued on next page

Side event report: What challenges for a robust and strong ATT?

Rebecca Gerome | NYU Law Students for Human Rights and Reaching Critical Will of WILPF

On Thursday, the French Mission, Caritas, and Action Sécurité Ethique Républicaine (ASER) hosted a side event on the challenges for the adoption, and implementation of a strong Arms Trade Treaty. “When we started more than 20 years ago, we imagined a treaty focused on prevention, one that would have human rights at its heart,” opened Benoît Muracciole, president of ASER.

Brian Wood, Amnesty International’s Arms Control, Security Trade and Human Rights Manager, emphasized the importance of including both international human rights law (IHRL) and international humanitarian law (IHL) in express prohibitions. He also discussed the overlap between the two bodies of law. “If we see a reference to IHL and not to IHRL, we have to ask: is something missing here?” The risk assessment criteria need to be coherent so they are not used to violate international law. In the current draft, a state could justify violating international law by arguing that a transfer contributes to peace and security.

Wood added that the criterion on gender-based violence must be mandatory and explicitly included, even though it is also an IHL and IHRL violation. He explained that the concept is broader than violence against women and girls: when soldiers enter a village and isolate and kill all the boys, that is also gender-based violence. Wood also asked why states can’t just “take feasible measures” rather than “consider taking feasible measures” on diversion and organized crime, noting that “most states are already parties to the Convention Against Transnational Organized Crime”. In addition to outlining missing elements in scope, such as technology and equipment, Wood stressed that the word “transfer” has been used in all General Assembly resolutions since 2006. Yet the new legal scrub only focuses on exports and imports, excluding transit, transshipment, brokering, gifts, loans, and leases.

After the treaty has been adopted, where will scrutiny come from? Wood believes it is the general public and democratic bodies of states that will hold governments accountable. For the ATT to be effective, transparency and public reporting are necessary, as well as the possibility of future protocols, user guides, and international support for implementation through cooperation and assistance.

Bafetigue Ouattara, the Deputy Ambassador of the Côte d’Ivoire Mission to UN, emphasized the importance of a strong treaty for West Africa, where development efforts have been thwarted by the devastating consequences of arms transfers. He warned that the current draft will only have a weak impact on the transparency of the international arms trade, because it lacks strong report-

ing requirements. Presenting the example of the ECOWAS Convention on Small Arms, he argued that public reporting increases confidence between states and prevents excessive and destabilizing accumulation of conventional weapons and diversion to the illicit market. ECOWAS members must already report annually on all transfer approvals and denials. Members must also maintain a centralized and digitized comprehensive register of weapons at the national level. Data is conserved indefinitely, as opposed to the provision in the current draft ATT, according to which records would only be preserved for 10 years.

Jean Hugues Simon Michel, French Ambassador to the Conference on Disarmament, stressed that it is important to plan for the life of the treaty after it is adopted. Noting the many loopholes in the scope, including technology, he said that it is necessary to draft provisions that will be able to adapt to technological changes. The wording “at a minimum” is key in this respect. Furthermore, most treaties have review and follow-up mechanisms that are essential to ensure correct implementation and confidence among parties. Review conferences must not only be about making the treaty universal, but must focus on whether implementation is corresponding to the objectives of the treaty. They should be able to expand the scope of the treaty to adapt to new military technology and allow states to exchange best practices. •

Futureproofing the ATT, cont’d

the more restrictive section of the treaty) to cover weapons like the Switchblade.

4. There need to be stronger provisions for the regulation of transfers of parts, components and technologies, as called for by the Peru statement at the negotiating conference this week (signed by 11 states) as well as numerous other states. This should appear in the Scope (Article 2) and must make explicit reference to technologies. This will likely cover a range of dual use part and components that are related to unmanned systems, thereby strengthening control on their export.

5. As suggested informally by several delegations, Article 15 on Conferences of States Parties should include specific provision for review of new weapons systems and technologies that are currently not included in the draft.

This draws on technical advice from members of the International Committee for Robot Arms Control, but any opinions (and/or errors) are the authors’ alone. •

Side event report: Aiming for control: including ammunition in the scope of the ATT

Thaddeus Eagles | NYU Law Students for Human Rights and Reaching Critical Will of WILPF

On Thursday, the Permanent Mission of Mexico to the UN and the Peace Research Institute of Oslo (PRIO) hosted a panel discussion about the necessity and practicality of including ammunition in the scope of the Arms Trade Treaty (ATT). The panel, which was moderated by Pablo A. Arrocha Olabuenaga, the Assistant Director of International Law with the Mexican delegation, included presentations by Hilde Wallacher of Norwegian Church Aid; Baffour D. Amoa, president of the West African Action Network on Small Arms (WAANSA); and Nicholas Marsh, a research fellow at PRIO.

Ms. Wallacher discussed the precedent for subjecting the transfer of ammunition to the kinds of controls found in the ATT. For example, numerous countries categorize ammunition as a “dangerous good,” which has many attendant regulations and record keeping requirements. There are many other international transportation and trade organizations that have risk-assessment and record-keeping policies for ammunition transfers. There is clearly a willingness and institutional capacity to control the international trade of ammunition.

Mr. Amoa discussed how ammunition is a critical component of weapon systems, just like guns or tanks, and it is nonsensical to set different standards for different, equally important parts of weapon systems. Failing to include ammunition in the scope of the treaty would mean that the treaty would not be faithful to its stated purpose to “prevent, combat, and eradicate the illicit trade in conventional arms and their diversion to the illicit market for unauthorized end use.”

Mr. Marsh presented last, summarizing a very detailed paper that outlined several reasons why including ammunition within the scope is practical and realistic.

First and foremost, warfare requires a constant resupply of ammunition. If that supply is cut off, the weapons become useless and the atrocities will end. Mr. Marsh pointed to the example of the Charles Taylor regime in Liberia, which fell after an arms embargo, including ammunition, came into place. Also, because warfare generally requires large amounts of ammunition, ship-

ments are easy to track, as his organization already does for many states.

Furthermore, only 15 states accounted for 90% of identified ammunition exports in 2011. Similarly, the study identified only 36 companies that are responsible for 1% or more of the global ammunition exports. Many types of technologically advanced ammunition are only made by a single producer, or a small handful of producers. Because so few countries and companies are responsible for the vast majority of ammunition exports, meaningful regulation under this treaty would not be overwhelming. This is further supported by the fact that state ownership of ammunition production is very common among the large exporting countries. In fact, just under half of all the major ammunition exporting companies are wholly or partially state-owned, meaning states can easily make the terms of the treaty binding on those companies. More information on this study is available at www.nisat.org.

The seeming consensus of the panel and those in attendance was that, though it would be admittedly difficult to regulate every single bullet in accordance with the terms of this treaty, the regulation of the vast majority of ammunition would be easily feasible, and this regulation would have many immediate and profound benefits in terms of worldwide peace and security, development, and human rights. •



Graphic by Control Arms

Side event report: Priorities for African states negotiating an Arms Trade Treaty

Haley E Adams | NYU Law Students for Human Rights and Reaching Critical Will of WILPF

This brief side event was organized by the Permanent Mission of Malawi to the UN and the Institute for Security Studies (ISS), and served primarily as a vehicle for the distribution for the ISS policy brief of the same title.

The policy brief underscores the general importance of a strong ATT for Africa, and makes recommendations for African states in line with shared security interests.

Recommendations include:

- Expanding the scope of the ATT to include munitions, ammunition, parts, and components under article 2(1);
- Clearly defining obligations, including clarification of “transfer:” the definition should be expanded to mention different modalities of transfer, and the obligations incurred by each type;
- Strengthening article 4 language requiring refusal of transfers likely to violate international humanitarian law or international human rights law;
- Closing the loopholes allowing states parties to contract out of the ATT;
- Strengthening wording on prohibited transfers: the draft wording of article 3(3) [now 4(3)] implies specific intent with regard to facilitating the commission of genocide, which is too high a threshold;
- Ensuring that exporting states undertake rigorous and objective assessments of all transfer risks;
- Crafting more specific language lending objectivity beyond draft text’s requirement of peace and security assessment;
- Strengthening language proscribing transfers likely to be diverted; used to commit gender-based violence, transnational crime or corrupt practices; or impacting the development of the importing state;
- Making transparency measures mandatory, including annual reports of authorizations and actual transfers, including authorizations for arms brokers;
- Advocating for 30 ratifications, rather than 65, in order to enter Treaty into force; and
- Ensuring that the consensus rule not be used to allow a single state party to unduly constrain or prevent most states parties from developing the treaty in the future.

Source: issafrica.org •

ATT wordsearch

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

BAN
PROHIBIT
AMMUNITION
ASSAULTRIFLE
BULLET
FIREARMS
GRENADES
HANDGUN
SHELL
TORPEDOES
RIFLES
PISTOLS
MACHINEGUN

News in Brief

Ray Acheson | *Reaching Critical Will* and Katherine Prizeman & Maj Rørdam Nielsen | *Global Action to Prevent War*

The following is not a comprehensive account of all positions or interventions but an overview of key debates or new suggestions made on day four.

Overall

- CARICOM, EU, Bahamas, Belize, Chile, Colombia, Costa Rica, El Salvador, Denmark, France, Germany, Guatemala, Jamaica, Mexico, New Zealand, Peru, Switzerland, Trinidad and Tobago, and Uruguay said references to conventional arms throughout the text should not be replaced by direct reference to article 2(1), because this excludes certain items that are currently included in other aspects of the treaty.
- Bahamas, Belize, Chile, Colombia, El Salvador, Guatemala, Jamaica, Mexico, Peru, Trinidad and Tobago, and Uruguay welcomed the removal of unnecessary qualifies such as “adequate” and “as appropriate” throughout the text and called for the removal of references national laws.
- Bahamas, Belize, Chile, Colombia, El Salvador, Guatemala, Iceland, Jamaica, Mexico, Norway, Peru, Trinidad and Tobago, and Uruguay said the phrase “may” should be replaced with “shall” throughout the text.
- Belize, Eritrea, and Zimbabwe suggested that all references to unauthorized end-use should be changed to unauthorized non-state actors.
- Canada said that end-user and end-use should both be used throughout the text to ensure integrity of the transfer process.

Preamble

- Iceland, Norway, and Tanzania expressed concern that the para on the right of states to adopt stricter measures has been deleted.
- Algeria called for a reference to a “right” of states to acquire conventional arms.
- Holy See supported the deletion of state “rights” to the international arms trade.

Principles

- Costa Rica and Germany expressed concern that the wording in principle 5 limits the range of IHL and human rights obligations; Germany and Liberia requested a reference to international human rights treaties and conventions.
- Arab Group, Algeria, Armenia, Egypt, Palestine, and

Syria called for principle on the right of self-determination for peoples under foreign occupation.

Scope

- Mali, Nigeria, and St. Vincent and the Grenadines emphasized that vast majority of delegations (Mali cited 147) want ammunition and munitions to be included in the treaty’s scope.
- CARICOM, Bahamas, Belize, Burundi, Chile, Colombia, Costa Rica, Denmark, El Salvador, Ethiopia, Germany, Ghana, Guatemala, Holy See, Iceland, Jamaica, Japan, Liberia, Madagascar, Mali, Mexico, Nigeria, Norway, Peru, St. Vincent and the Grenadines, Tanzania, Trinidad and Tobago, Uruguay, and Zambia reiterated their demand for inclusion of ammunition and/or munitions.
- In a joint statement, FAO, OCHA, OHCHR, UNICEF, UNDP, and UNHCR said the ATT must include ammunition in its scope, along with parts and components, and all activities including gifts, loans, leases, brokering, etc.
- USA said it is “unalterably opposed” to inclusion of ammunition in the scope.
- Egypt called for items to be defined on the basis of UN instruments rather than on a national basis.
- Canada, Egypt, Israel, and USA called for deletion of “at a minimum”.
- Philippines said technology should not be included in the scope.
- Holy See suggested specifying technology designed or adapted for the weapons in question.

General Implementation

- The UK proposed a new paragraph in article 3 that reads, “States Parties are encouraged to take measures and cooperate with each other to prevent the transfer of conventional arms covered in the scope of this Treaty from becoming subject to corrupt practices.”

Prohibitions

- The ICRC recommended applying a standard of knowledge to article 4(3), which would be compatible with article 16 of the International Law Commission’s Draft Articles on State Responsibility, which governs a state’s responsibility for aiding or assisting in the commission of an internationally wrongful act.
- The ICRC also said that the current drafting of 4(3) is significantly narrower than the range of war crimes set

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News in Brief, cont'd

out in both treaty and customary international law by limiting its applications to crimes under the 1949 Geneva Conventions.

- For 4(3), Japan proposed the language, “A State Party shall not authorize a transfer of conventional arms covered under Article 2(1) if it has knowledge at the time of authorization that the transfer would facilitate the commission of genocide, crimes against humanity, or war crimes as defined by international agreements to which it is a party, including those under the Geneva Conventions of 1949.”
- The US supported the proposal by Japan.
- Norway, on behalf of Australia, CARICOM, Costa Rica, Iceland, Liechtenstein, Mexico, New Zealand, Nigeria, Norway, and Switzerland, proposed language for 4(3) that reads, “A State Party shall not authorize a transfer of conventional arms within the scope of this Treaty if it has knowledge at the time of transfer that they would facilitate the commission of genocide, crimes against humanity, or war crimes that would violate the international obligations by which it is bound, including the Geneva Conventions of 1949.”
- The facilitator of the group on prohibitions said that the discussions on article 4(3) generated the most extensive debate with respect to a “knowledge-based test” as opposed to a “knowledge and purpose test” as well as the scope of IHL. She also reported no consensus had been reached.
- Cuba, DPRK, India, Nicaragua, Sudan, Syria, and Zimbabwe called for a clear prohibition against arms transfers to unauthorized non-state actors.
- Colombia and Nicaragua called for a prohibition where there is clear risk of diversion.
- Cuba called for a clear prohibition against arms transfers to states involved in “aggressive activities” and states engaged in foreign occupation.
- Egypt called for language referring to documented evidence throughout article 3.
- Liberia reiterated its proposal to include a prohibition on armed violence and armed conflict.
- Nigeria called for a reference to terrorism.

Criteria/National Assessment

- Spain said the idea of arms “contributing to” peace and security is problematic because arming one side in a

conflict often presupposes illegal trade in arms, interference in states’ internal affairs, and prolongation of armed conflict.

- The ICRC said that the current formulation under article 5(5) suggests a weighing exercise between serious violations and considerations relating to peace and security in article 5(1) and risk mitigations measures in article 5(4). As a result, this provision would allow states to permit exports despite the existence of a high risk of serious violations of IHL or IHRL.
- Liberia suggested adding “peace and security” before development in criterion 5(6)(e).
- Denmark and Liberia supported lifting reference to gender-based violence from 5(6) up to 5(2).
- The facilitator of the group on diversion, Dr. Roberto Dondisch of Mexico, reported that the group was working on identifying where and how diversion should be treated in article 5.

“Overriding risk”

- Six UN agencies (FAO, OCHA, OHCHR, UNICEF, UNDP, and UNHCR) and CARICOM, ICRC, Japan, and Nigeria said “overriding” risk must be replaced by “substantial” risk.

Contracting out

- Canada, Liberia, Nigeria, and Zambia called for article 3(2)’s deletion.
- FAO, OCHA, OHCHR, UNICEF, UNDP, and UNHCR said the treaty must not exclude arms transfers on the grounds of obligations undertaken because of other instruments or “defence cooperation agreements”.
- Egypt suggested adding “only when such agreements are consistent with the treaty obligations” in reference to defence cooperation agreements.

Exports and imports

- New Zealand questioned the addition of “under its jurisdiction” to articles 6 and 7, which potentially opens a “jurisdiction gap”.
- Japan welcomed the new language on jurisdiction.
- India called for the deletion of 6(4) on cancelling transfers; 6(5) on export controls and risk assessments for ammunition/munitions; and 6(6) on export controls and risk assessments for parts and components.
- Philippines agreed with deleting 6(5) and 6(6).

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News in Brief, cont'd

- Canada questioned the implication that states could ask for information about pending decisions in 7(3).

Transit, transshipment, and brokering

- France said there should be a reference to risk assessment in articles 8 and 9.
- The facilitator on brokering reported that several delegations preferred the “old” language referring to “controls” in article 9. He also stated that a few delegations had proposed an additional paragraph on combating and preventing illicit brokering, but was not in a position to offer a specific proposal at this point.

International cooperation and assistance

- Australia stated it is working with Germany on a multilateral trust fund to assist states in implementing the Treaty’s provisions and called for clearer language in article 14(3) related to a voluntary trust fund
- The facilitator of the group on international assistance and cooperation reported that a consensus solution could be reached on article 14.

Conference of States Parties

- Russia said decisions of the CSP must be by consensus.
- France called for an article specifying that the CSP

should consider developments in conventional arms and their impact in order to keep the treaty’s scope up to date.

Secretariat

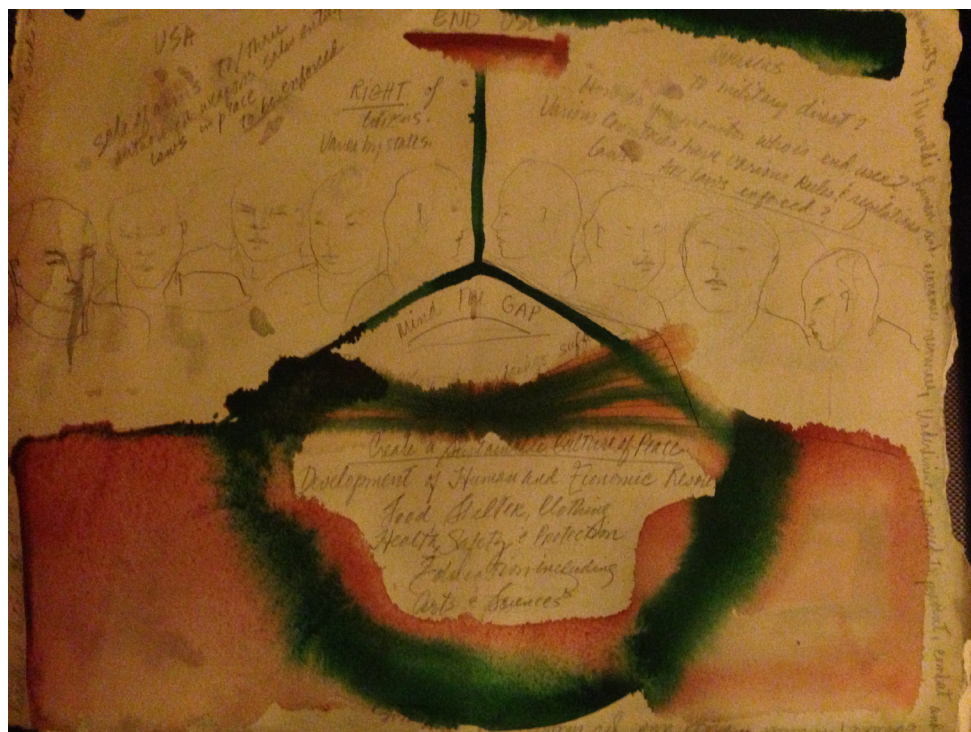
- CARICOM said the secretariat should be funded by states parties.
- Arab Group said the secretariat should take into account equitable geographic distribution.
- Russia suggested the secretariat functions could be assigned to the UN secretariat for now and states parties could consider creating an independent structure later.
- Burundi and Germany welcomed the addition of 16(3)(e) noting that the CSP could assign tasks to the Secretariat.

Regional organizations

- EU, Burundi, Ghana, Liberia, and Portugal called for a provision allowing any regional organization to become party to the ATT.
- China said its position has not changed.
- The facilitator of the group on final provisions reported that this issue has been one of the most widely debated and that there is still no consensus.

Reservations

- The facilitator of the group on final provisions reported that there have been three types of proposals—to not allow any type of reservations to preserve the integrity of text; to allow reservations as long as they are not incompatible with text, as drafted in the 26 July text; and to allow reservations except on specific articles. •



Art by Lin Evola

ATT MONITOR 6.5



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Permanent Mission of Switzerland to the United Nations



Permanent Mission of the
Argentine Republic
United Nations
Ministry of Foreign Affairs and Worship



**The Permanent Mission of Switzerland, the Permanent Mission of Argentina
and the Control Arms coalition
are pleased to invite you to a side event:**

“Preventing Diversion through the Arms Trade Treaty”

Speakers include:

Tobias Vestner, Policy Advisor, Government of Switzerland
Paul Holtom, Stockholm International Peace Institute (SIPRI)
Cynthia Ebbs, ATT Legal Response Network

Friday, March 22 from 1:15 to 2:45 pm
Conference Room B, UN North Lawn Building

CALENDAR OF EVENTS

Time	What	Where	Who
10:00-13:00	Plenary	Conference Room 1 North Lawn Building	
13:15-14:30	Preventing diversion through the Arms Trade Treaty	Conference Room B North Lawn Building	Permanent Mission of Switzerland to the UN and the Control Arms Coalition, sponsored by the Perma- nent Mission of Argentina
15:00-18:00	Plenary	Conference Room 1 North Lawn Building	



Reaching Critical Will

