

ARMS TRADE TREATY MONITOR

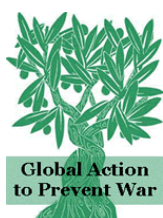
Civil society perspectives
on the Arms Trade Treaty
negotiation process

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A tale of two treaties

Ray Acheson | *Reaching Critical Will of WILPF*

Since Friday, when the President released his second draft of the arms trade treaty (ATT), people have asked, “Whose treaty is this?” Is this a treaty that will protect human beings from armed conflict and armed violence, or is this a treaty that will protect the profits of arms manufacturers and exporters? Will it promote the interests of cooperative human security or militaristic state security? The release of the third draft text on Wednesday does not settle these questions.

It is not the text that those states demanding a strong treaty would have negotiated among themselves. That treaty text would have had a much more comprehensive scope for items and activities; binding prohibitions against the transfer of arms for a wider array of human rights and international law violations; mandatory public reporting and transparency mechanism; and more. This would have been the robust and comprehensive treaty that one can envision based on the interventions and positions of the majority of countries participating in the ATT process over the last six years.

Of course, in any UN-based process, particularly one based on consensus, due attention must be given to the concerns of all member states. This includes the most powerful of states that have expressed concern that the ATT will be used to prevent them from either acquiring or selling weapons.

Concerns, both of good-faith and not, should and could have been addressed while still ensuring that the final treaty text remained committed to putting human lives and well-being above the commercial and political interests of states.

A treaty that puts human lives first and foremost is what has been demanded from the majority of states, international and regional organizations, civil society groups, and survivors of armed conflict and armed violence from around the world. Such a treaty would look very different from the draft we currently have before us.

Unfortunately, the inability to adjust the procedural rule of adoption by consensus prevented from the achievement of a treaty that matched the original vision. Instead, the draft under consideration now arguably protects the interests of powerful above all. If the treaty is not implemented in the best faith possible (and perhaps supplemented with strong interpretative statements and further improved over time through robust engagement in the Conference of States Parties), it could risk providing legal or political cover for the small number of major exporters to exploit profits by continuing to transfer arms as they see fit, rather than as the broader international community—and human security—demands.

Last week, 116 countries warned that a weak ATT could serve to legitimize the irresponsible and illegal arms trade, and called for this outcome to be avoided. Do these states believe that this treaty text is strong enough to avoid this? They collectively said it had to have clear legal language. Is this language clear enough? Does it reflect international legal norms, standards, and principles? Are its provisions on ammunition, diversion, assessment criteria, and implementation robust enough to meet their expectations? Facing us all now at the last moments of negotiations are these questions of significant weight that should be considered as if we were the first day.

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A tale of two treaties, cont'd

The ATT process has unquestionably demonstrated that the majority of countries do in fact support a strong treaty that would potentially make a difference in the lives of those suffering from armed violence and armed conflict. The process itself has been significant in setting new and evolving norms against transferring arms when there is a risk of violation of human rights and international humanitarian law, including acts of gender-based violence. It's clear that most states support their export decisions to include the widest possible array of conventional weapons, ammunition, munitions, parts, components, as well as gifts, loans, and leases. A large number of states have indicated they want to make reports public to enhance transparency of the international arms trade. These norms must guide interpretation and implementation of any Arms Trade Treaty.

The final question for states today is, does this current draft text help, or hinder, the further development of these norms? Is this a useful tool for those seeking to legitimize the status quo or for those seeking substantial reductions of the horrors of armed violence and conflict?

A few remarks on the third draft text

The current draft leaves **ammunition, munitions, parts, and components** uncovered by many of the treaty's provisions, such as those on brokering, transit, transshipment, and reporting. The definitions of these items are still much too limiting—for example, hand grenades would not be covered.

The **definitions** of the conventional arms in the treaty's scope are also too narrow. The floor is the definitions provided in the UN Register of Conventional Arms, at the time that the ATT enters into force. This means definitions can be frozen to weapon systems that made sense more than two decades ago. The article dedicated to the Conference

on States Parties provides for states parties to review “developments in the field of conventional arms” but does not explicitly allow for updates to the scope or definitions.

The scope of **activities** remains narrowly limited only to commercial transactions. This misses out on weapons transferred as gifts, loans, or leases.

The prohibition against transferring weapons when there is knowledge that the weapons would be used in the commission of **genocide, crimes against humanity, and war crimes** is still much too weak. The text only refers to “grave breaches of the Geneva Conventions of 1949” and to war crimes “as defined by international agreements to which it is a Party.” This excludes the Protocols of the Geneva Conventions and customary international law.

A reference to “attacks directed against civilian objects or civilians protected as such” is likely a compromise between those not wanting to reference Protocol I of the Geneva Conventions or customary international law and those demanding that the prohibition must include attacks against civilians. The new reference is welcome, though it would have been better to have customary international law apply.

There is no prohibition against transferring weapons to states that are clearly violating **human rights**, although international human rights law (IHRL), along with **international humanitarian law (IHL)**, is still contained within the export assessment process. If a state determines there is an “overriding risk” that the weapons will be used to commit violations of IHL, IHRL, terrorism agreements, or transnational organized crime agreements, it *shall not authorize* the export.

However, the text still pits the assessment of IHL and human rights violations against assessment of the weap-

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

A tale of two treaties, cont'd

ons' possible "contribution" to peace and security, with no recognition that respect for IHL and human rights themselves *contribute to* peace and security.

And after a state has authorized an export, if it receives new information, it is only "encouraged to" reassess the authorization. The previous draft made the reassessment mandatory in such a situation.

Furthermore, it is now mandatory for exporting states to "consider whether there are measures that could be undertaken to mitigate risks" of IHL and IHRL violations. Considering such measures was previously optional. Obliging states to consider such measures is likely an effort to ease the concerns of China, Russia, and Syria, among others. Earlier this week they expressed concern that the export assessment criteria related to IHL and IHRL could be subject to "political manipulation" and demanded their removal or amendment. Making it mandatory to consider something is not the same as making it mandatory to do something, so applying any such measures still remains optional. However, violations of IHL and IHRL should automatically warrant denial of the transfer request, full stop, and the treaty text should reflect that.

Fortunately, the criterion on preventing **gender-based violence** is now binding. It is part of the mandatory export assessment process outlined in article 7 and is subject to possible transfer denials. While the provision is not per-

fect, it is much stronger than in previous drafts. (See the article "Preventing armed gender-based violence" on page 9 for details.)

However, the retention of the phrase "**overriding risk**" in article 7 ultimately gives exporting states a blank cheque to authorize any export they wish, despite the provisions of this treaty. It arguably implies that even if the exporting state is 90% certain the weapons will be used to slaughter civilians, it could decide the weapons contribute to promoting some other, undefined interest, and thus approve the transfer. This is perhaps the most egregious loophole remaining in the treaty. It will require strong, good-faith implementation to ensure this term is not used to "override" human rights, IHL, and other elements of the export assessment criteria.

Meanwhile, the lack of **transparency** provided for in the text could undermine the treaty's content. States are not required to release their reports publicly, meaning civil society and international and regional organizations will not have access to the information that is crucial for determining trends, challenges, or achievements in treaty implementation or in the arms trade in general. Furthermore, states are not required to report on activities other than import and export; on items other than those covered in article 2(1); or on "commercially sensitive or national security information".

The refusal of some states to allow mandatory public reporting in the treaty text seems rather silly. Civil society and others will continue to glean data and information from public resources, and technology is moving the world towards a situation where it will be more difficult for states to keep transfers secret. Including public reporting in the ATT would have gone a long way to helping develop a culture and permanent architecture for transparency and it is deeply unfortunate that this opportunity has been lost.

For more analysis of the changes in the third draft, see Katherine Prizeman's "Substantive Review" on page 4. •



Art by Lance Page / truthout.org

Substantive review of the President's third draft text

Katherine Prizeman | *Global Action to Prevent War*

Issues improved

- The reference to the importance of regional organizations in assisting states parties in implementing the Treaty in the preamble is a welcome addition that underscores that many regional groups, such as ECOWAS and the EU, are crucial to practical implementation measures and capacity-building.
- Clarity has been improved in article 5(3) insofar as the definitional standard for national control lists refers not only to the UN Register of Conventional Arms, but also “relevant United Nations instruments” as they relate to small arms and light weapons.
- The removal of specific references to “terrorist acts” in the preamble and diversion article is an improvement as this gave an unwarranted prioritization to terrorism.
- The expanded definition of war crimes in 6(3) is an improvement from the previous text as it now refers also to attacks against “civilian objects or civilians protected as such.”
- The criterion on gender-based violence is now binding. The new Article 7(4) mandates exporting states parties explicitly, as part of the risk assessment process, to take into account the risk of the weapons, ammunition, parts, or components being used to commit or facilitate serious acts of gender-based violence or violence against women and children. States shall not be permitted to authorize the transfer where there is an overriding risk of GBV when it constitutes a violation of IHL or IHRL, peace and security, or forms part of transnational organised crime.
- The provisions related to national control lists previously under “Export and Export Assessment” have been moved to article 5 “General Implementation,” better underscoring that all states parties, and not just exporters, must be held accountable to national control system standards. National control lists also now cover ammunition/munitions.
- The reference to “end use or end user documentation” under article 8 “Import” is a welcome addition that expressly names this measure as a possible means of better informing exporters of relevant information prior to authorizations.
- Now article 11, the provisions on diversion are much improved, as they now include specific references to anti-diversion measures that states parties are encouraged to pursue and on which to cooperate. In terms of assessing measures, states are encouraged to examine parties in-

involved in the export, require documentation, certificates, and assurances. Moreover, measures to address detected instances of diversion are also enumerated, including examining diverted shipments and taking follow-up measures through investigation and law enforcement.

- A new article in 13(2) under reporting encourages states to report to other states parties on information regarding effective measures taken in addressing diversion.
- Article 15 on international cooperation has also been strengthened with additional references to cooperation with regards to investigations, prosecutions, and judicial proceedings.
- The additional references in article 16(1) to specific areas of assistance such as stockpile management, disarmament, demobilization and reintegration programmes, model legislation, and effective practices for implementation is an improvement.
- The additional reference to future “developments in the field of conventional arms” under article 17(4)(a) is a positive addition given the importance of “future-proofing” the Treaty and taking into account new technological developments.
- The dispute settlement provision now allows for any states parties to consult and cooperate in order to pursue settlement of a dispute rather than limiting this option to “only those states involved in the transfer.”
- The process of amendments has been approved as a “last resort” option of third-fourths majority vote can be taken should consensus fail.
- Entry-into force now requires fewer ratification instruments (50) than the previous draft (65).
- Reservations can now only be made at the time of signature, ratification, acceptance, approval or accession, rather than at any time.
- With the move and reformulation of the second half of former article 5(2) (now article 26(2)), the “loophole” regarding defence cooperation agreements has arguably been closed. Article 26(1) now specifies that obligations under other international agreements must be “consistent” with the Treaty. As 26(2) no longer refers to specific “contractual obligations,” but only the entire “defence cooperation agreements,” the paragraph can no longer be interpreted to allow for transfers that are contrary to the Treaty’s provisions.

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Substantive review, cont'd**New ambiguities introduced**

- The reference in 7(2) that requires states “to consider taking” mitigation measures against risks identified in (a) or (b) in paragraph 1” is unclear as (a) refers to whether or not a transfer would “contribute to or undermine peace and security” and is, therefore, not a negative criterion as the others in (b). It is, instead, a criterion that requires “balancing”.
- With the replacement of “may” with “shall” in 7(2), exporting states parties are required to “consider” taking mitigation measures against violations of international humanitarian law (IHL), international human rights law (IHRL), and acts constituting offences relating to terrorism or transnational organized crime. Therefore, the consideration of these mitigation measures become a mandatory step in coordination with the export assessment prior to a decision to deny the authorization and thus provide less clarity in terms of standards for denial based strictly on IHL and IHRL obligations.
- The new language in 7(7) not only does not require that an exporting state party, after becoming aware of new relevant information, revoke or suspend an authorization, but now the state is merely “encouraged to reassess the authorization after consultations, if appropriate, with the importing State.”

Remaining problematic issues

- Ammunition/munitions and parts and components remain outside the full scope of the Treaty and are not subject to the obligations of import, transit or trans-shipment, brokering or reporting.
- Hand grenades and other munitions not “fired, launched or delivered” remain outside the scope.
- Non-commercial activities such as gifts, loans, and leases are not covered under the definition of “transfer.”
- No binding criteria for corruption or development.
- The prohibition provision in 6(3) still does not take into account customary international law or the protocols related to the Geneva Conventions.
- In export assessment, the term “overriding risk” is still used in determining whether or not an exporting state shall authorize the transfer.
- Public reporting is still not mandatory and states can withhold information they deem sensitive due to a commercial or security nature in reports to the Secretariat.

Overview of changes in the draft text*Katherine Prizeman | Global Action to Prevent War***Preamble**

- The reference in pp 2 to diversion now refers to “unauthorized end use and end users, including in the commission of terrorist acts.”
- A reference to the International Tracing Instrument (ITI) has been added to pp 8.
- The phrase gender-based violence (GBV), and its link to international humanitarian and human rights law, has been removed from pp 10.
- The term “trade” has been added to pp 13 with regards to the principle recognizing the “legitimate and lawful ownership” of certain conventional arms.
- A new pp 14 has been added recognizing the role of regional organizations in assisting states parties in Treaty implementation.
- A reference to “industry” has been added to pp 15 with regards to recognizing the role of civil society in raising awareness and supporting implementation.
- A new pp 17 has been added referring to the “desirability of achieving universal adherence to this Treaty.”

Principles

- The term “peace support” has been removed from principle 7.

Article 1: Object and Purpose

- The reference to diversion to groups committing terrorist acts has been removed from the second paragraph.

Article 3: Ammunition/Munitions

- This was formerly article 4.

Article 4: Parts and components

- This was formerly article 3.

Article 5: General Implementation

- 5(1) now refers to “bearing in mind the principles referred to in this Treaty” rather than “in light of the object and purpose of this Treaty.”
- Former article 5(2) has been removed and the second half of it has been modified and placed in article 26.
- The new 5(2) now specifically obligates a national control list.
- 5(3) now divides definitional standards between the UN Conventional Arms Register (UNROCA) for items 2(1)

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Overview of changes, cont'd

(a-g) and “relevant United Nations instruments” for items covered under 2(1)(h).

- 5(4) related to national control lists now requires states parties to provide a control list to the Secretariat to be made available to other states parties and “encourages” that these lists be made publicly available.
- The reference to national control lists in 5(5) now also references ammunition/munitions and parts and components in articles 3 and 4.

Article 6: Prohibitions

- 6(3) now includes a reference to “attacks directed against civilian objects or civilians protected as such”.

Article 7: Export and Export Assessment

- Former article 7(1) has been deleted and reflected in the new 5(2) and 5(5).
- Former article 7(2) is now reflected in 5(4).
- The chapeau of 7(1) has been expanded to incorporate former article 7(5).
- The criteria in former articles 7(4)(a-d) are now reflected in 7(1)(b)(i-iv).
- Article 7(2) now obligates exporting state parties to consider taking mitigations measures against risks identified in 7(1)(a) or (b) by replacing “may” with “shall”.
- 7(3) now incorporates the aforementioned possible mitigation measures prior to denying authorization of the export.
- The criteria in former 7(8) related to diversion, corrupt practices, and development have been deleted.
- The criterion related to GBV has become 7(4) and requires that exporting states, as part of the risk assessment process, “take into account the risk” of arms covered in 2(1) or items in articles 3 and 4 from being used to “commit or facilitate” serious acts of GBV or violence against women and children.
- Former article 7(10) now only “encourages” exporting states to reassess the authorization after “consultations, if appropriate, with the importing State” rather than mandating this reassessment.

Article 8: Import

- 8(1) now includes a reference to “end use or end user documentation” as a suggestion of measures taken by importing states.

- The reference to “national control lists” in 8(2) has been deleted.

Article 11: Diversion

- This was formerly article 14.
- The references to the illicit market, authorized terms of export and import, and terrorism have been deleted from 11(1).
- 11(2) has been expanded to include a list of mitigation measures such as confidence-building measures, examining parties involved in the export, documentation, and certificate assurances.
- 11(3) now has a direct reference to the obligation of transit and trans-shipment states to cooperate and exchange information to mitigate the risk of diversion.
- 11(4) has been expanded to include references to measures that can be taken by states when an instance of diversion has been detected—alerting affected states, examining diverted shipments, and taking follow-up investigations and law enforcement.
- 11(5) has also been expanded to reference types of information exchange that are encouraged between states such as information on illicit activities, trafficking routes, sources of supply, methods of concealment, common paths of dispatch, or destination used by organized groups engaged in diversion.
- The references to the illicit market, authorized terms of export and import, and terrorism have been deleted from 11(6).

Article 12: Record keeping

- This was formerly article 11.
- A specific reference to arms covered under 2(1) has been added to 12(2).

Article 13: Reporting

- The term “activities” has been replaced with “measures” in 13(1).
- A new article 13(2) encourages states to report to other states parties, through the Secretariat, information on successful measures taken to address diversion of items covered under 2(1).

Article 15: International Cooperation

- The references to the illicit market, unauthorized end use, and terrorism have been deleted from 15(4).

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Overview of changes, cont'd

- New paragraphs in 15(5) and 15(6) have been added. 15(5) obligates states to cooperate and assist one another in investigations, prosecutions, and judicial proceedings. 15(6) encourages states parties to take national measures to prevent transfers from “becoming subject to corrupt practices.”

- The reference to “stockpile management” has been deleted from the new 15(7) (formerly 15(5)).

Article 16: International Assistance

- In 16(1), there are now references to specific assistance measures that could be provided such as stockpile management, disarmament, demobilization and reintegration programmes, model legislation, and effective practices.
- Former article 16(3) has been deleted and now reflected in 15(5).

Article 17: Conference of States Parties

- 17(1) now stipulates that the Conference of States Parties (CoP) shall determine how often it will meet following its first convening.
- 17(2) now requires that the rules of procedures be adopted by consensus.
- Former 17(4)(c) has been separated into separate subsections under 17(4). The reference to review of implementation of the Treaty now includes “developments in the field of conventional arms.”

Article 18: Secretariat

- 18(1) now stipulates that prior to the first meetings of the CoP, a provisional Secretariat will be responsible for administrative functions.

Article 19: Dispute Settlement

- 19(1) now refers generally to “States Parties,” rather than “those involved in the transfer of conventional arms.”

Article 20: Amendments

- 20(1) now stipulates that amendments can be made after six years after entry-into-force (EIF) after which amendments will be considered by the CoP every three years.
- 20(3) now states that if all efforts to reach consensus on adoption of an amendment has been exhausted, as a last resort, the amendment can be adopted by a three-quarters majority vote by those states parties present and voting at the meeting of the CoP.

Article 22: Entry into Force

- Entry-into-force requires 50 ratifications rather than 65.

Article 25: Reservations

- “At the time of signature, ratification, acceptance, approval or accession” has been placed before the beginning of article 25(1).

Article 26: Relationship with other international agreements

- 26(1) now refers to “implementation of this Treaty” as not prejudicing “obligations undertaken by States Parties with regard to existing or future international agreements, to which are parties, where those obligations are consistent with this Treaty.”
- 26(2) now incorporates the second half of former article 5(2) and states that this Treaty cannot be cited as grounds for voiding defense cooperation agreements. •

We sold [REDACTED] worth of [REDACTED] and [REDACTED], but our commercial interest make this sensitive...so we don't have to report [REDACTED].

New baby on the way: is it to be an orphan or everyone's child?

Jonathan Frerichs | World Council of Churches

After decades of gestation and years in labor, a new treaty seems well on its way to being born. What lies ahead for this new member of the global village? Will it be an orphan with few prospects in life? Or will there be many to take it in their charge and to give it a future? The almost impossible parentage involved looks certain to keep such questions alive.

It is a treaty to put first-ever controls on global arms transfers. Yet it is not nearly as muscular as the global majority says is needed for the task. It is a treaty that could help set a much-needed global norm. But it is being born with a mixture of congenital weaknesses and imposed restrictions.

When it came to having this child, the global village has long been divided into competing camps. From the beginning a large number of potential parents voted and took action for a future arms trade treaty. A much smaller group was equally clear about wanting little or nothing to do with it.

During a long bout in the delivery room last July, community dynamics shifted. Some 30 to 40 stand-offish villagers appeared to choose sides. About half of them—including some large and lavishly-armed permanent citizens—joined the group that was more or less in favour of the arms trade treaty. They did not come over without making an impact. Although the new child was intended to live up to the highest possible common international standards, it was clear that the new supporters were to have the last word on what was “possible”. As a result, the new child would be weaker than many felt it should be.

Meanwhile, those villagers still opposed formed a ‘no’ camp. Outspoken members of this camp generated a month-long litany of complaints about the proposed child and its prospects.

Now two unforeseen weeks in the delivery room are coming to an end. After long days of labor pains, are the treaty child and its prospects any brighter?

The new delivery, the intended future ATT, is still weakened by the latitude states will have in selling arms to places where their products put people's lives and basic rights at risk. The future treaty still does not embrace all the weapons it was intended to cover. Nor does it put adequate controls on ammunition, parts and components.

Public reporting is not required. The familiar air of sovereignty and secrecy is thickened in other ways too. In

what is often judged to be the global village's most corrupt industry, the treaty sheds little light on corruption.

Many villagers, however, seem prepared to add strength to what is on paper. A majority chorus of 100-plus voices has come out repeatedly for what it still needs. Such mentoring is critical for success. There will be much to sing about, and plenty to lament. The new and untried treaty will require arms exporters who have never had to answer to anyone to assess for the first time whether what they supply could be used to commit or facilitate serious violations of international human rights law or international humanitarian law.

At first glance, the intended treaty looks somewhat self-conscious about its failings. As if asking to have a chance in life, it encourages state parties to go beyond what is required of them and to adopt practices that may finally make some of the arms trade more responsible.

The intended treaty does not achieve the highest possible common standard for the people who need such a standard the most. But it does open doors for responsible governments to raise the standard over time.

In a significant sign of hope, Article 20 allows for amendment by vote, as a last resort. This serves notice that amending the treaty will not be held hostage to the habitual abuse of consensus in UN circles.

The intended ATT presents a healthy challenge to the global village. It asks to be adopted by both arms producers and by the countries most affected by the armed violence that unregulated arms transfers fuel. In many ways the search for this balance reflects dynamics between the Global North and Global South. Progress toward an agreement has included familiar but disturbing demonstrations of how the common good is marginalized by the prerogatives of the wealthiest and most powerful countries. Affected states have once again had to decide whether or not to accept a weaker instrument than the one needed in their context. They were again subjected to someone else's redlines despite the much more human redlines related to their own circumstances.

However, with support from Europe and transcontinental solidarity of sub-Saharan Africa, Caribbean, Latin American and Pacific states, the new treaty is making a promising start at becoming the long-awaited child of many. •

Preventing armed gender-based violence: a binding requirement in the new draft ATT text

Ray Acheson, Maria Butler, and Sofia Tuvestad | Women's International League for Peace and Freedom (WILPF)

To the question posed in the *ATT Monitor* earlier this week—*is the prevention of armed gender-based violence (GBV) important enough to screen for in export assessments?*—the answer is yes! The final draft Arms Trade Treaty (ATT) text released on Wednesday indicated that preventing armed gender-based violence is indeed important enough to be part of mandatory export assessments.

The criterion on gender-based violence (GBV) is now binding. The new article 7(4) mandates exporting states parties explicitly, as part of the risk assessment process, to take into account the risk of the weapons, ammunition, parts, or components being used to commit or facilitate serious acts of gender-based violence or violence against women and children. States shall not be permitted to authorize the transfer where there is an overriding risk of GBV when it constitutes one of the negative consequences of article 7(1)—i.e. when it is a violation of international humanitarian law (IHL) or international human rights law (IHRL), when it undermines peace and security, or when it forms part of transnational organised crime.

Having the explicit, binding criterion on preventing GBV in article 7(4) also requires states to act with due diligence to ensure the arms transfer would not be diverted to non-state actors such as death squads, militias, or gangs that commit acts of gender-based violence.

The criterion is not as strong as demanded by the 100+ delegations supporting a strengthened provision for preventing GBV. They wanted the criterion to be included in article 7(1). However, the current formulation does improve the extremely weak language in previous drafts.

The biggest problem remains that the criteria threshold is “overriding risk” rather than “substantial risk”. This weakness affects all of article 7—there is a risk that the exporting state could determine that some unidentified interest is more important than preventing violations of IHL

and IHRL. Furthermore, risk assessments relating to this article will to a large extent depend on how “peace and security” is interpreted. Clear interpretative statements from governments and political pressure from civil society and others will remain crucial to ensure that the correct interpretation of the article is implemented.

A strong preamble could have helped with interpretation. Regrettably, the preambular reference to gender-based violence, and its relationship with IHL and IHRL, was removed from the draft treaty text. The paragraph also does not reference women’s agency and participation, despite agreed language on this in consensus-based General Assembly resolutions and other UN documents. The preamble now only refers to “women and children” as particularly affected by armed conflict and armed violence. We have written many times about the incorrect and patronizing effect of grouping together women and children and insinuating that women are inherently vulnerable. Legally we are not one group. In reality we are not one group. It’s unfortunate that this trope is perpetuated in the ATT. It highlights to us all once again that our work on gender equality must continue!

WILPF, the committed ATT gender team and our partners have mobilized in New York and far beyond on the GBV aspects of the arms trade. We have called for action to make GBV prevention legally-binding. The improved criterion on preventing GBV is due to the tireless efforts of many delegations, particularly Iceland, and the 100+ states and civil society organizations that supported a stronger provision to prevent armed GBV. Our collective call has been respected, as this text makes prevention of GBV explicit and its exclusion less possible. If adopted or not, we must now build upon this historic momentum to respond to the rights of those affected by armed gender-based violence and to prevent sales of arms that would affect the countless more. •

MAKE IT BINDING

INCLUDE GENDER-BASED VIOLENCE IN THE ATT



ATT MONITOR 6.9

Secretarial pool

Dr. Robert Zuber | Global Action to Prevent War

The Arms Trade Treaty is now in the hands of states that will adopt the text, block the text, or send it on to the General Assembly or Secretary General to be disposed of in other ways.

While there remains much to fuss over and some outstanding issues remain unchanged, we were pleasantly surprised that the text took into account, at least rhetorically, several of the concerns of progressive states and many NGOs. We send our thanks to Ambassador Woolcott and his team for elevating the text rather than diminishing it further.

While resolving the remaining substantive problems is now out of grasp for this conference, there is a concern arising from Article 18, specifically the ability of the Secretariat to establish the conditions for the development of a viable culture that can build on Treaty text, accept its inherent invitations to response, and get about the business of ending diverted transfers.

There is sufficient ambiguity in terms of the Secretariat's 'starting point' and its list of approved functions prior to any intervention by the Conference of State Parties. Moreover, it is not clear whether 'adequately staffed' or 'within a minimized structure' will carry the day as an op-

erative organizing principle. However, the fact that there is an established structure that, over time, can assume more and more of the burdens of developing this viable culture on transfers is welcome news at several levels. As states develop their own focal points, this Treaty process has a clear (if interim) focal point of its own.

Throughout this long Treaty process, we have urged delegations to develop and engage in cooperative practices that can help inform Treaty text and help test the most effective ways for exporting and importing countries to address diversion. Somewhat wistfully, we now have a Treaty bereft of a culture. It is past time to turn our attention to the business which the Treaty was meant to codify but not create.

Given all of the work of missions and organizations that has been diverted for the sake of these negotiations, the sobering news is that we have a lot of diversion-related work to make up. It's past time to move beyond paper, pool available resources, and develop a culture worthy of the time, energy, and resources that this Treaty process has absorbed. Once we all catch our breath and catch up with email, many diversion-related responsibilities will beckon. •

CALENDAR OF EVENTS

Time	What	Where	Who
10:00	Plenary; distribution of new draft text	Conference Room 1 North Lawn Building	



Reaching Critical Will

