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EDITORIAL: STRUGGLING FOR THE SOUL OF THE ATT

Ray Acheson | *Reaching Critical Will of WILPF*

When states and civil society and international organisations came together in 2006 to initiate a negotiation process for what would become the Arms Trade Treaty (ATT), the key motivation for many was to disrupt the relentless flows of weapons that perpetuate cycles of armed violence and armed conflict around the world. In part, this meant challenging those that facilitate war for economic gain, interrupting their seemingly unappeasable profiteering from the scourge of violent death and destruction. Ten years later, some of us find ourselves asking, did it make a difference? Will it ever? How do we use this tool to effect real change?

Asking this does not amount to lamenting wasted time or failed opportunities. It is also not meant to betray a sense of defeat—for no defeat is felt. Rather it is a signifier of continued determination and defiance—defiance of the belligerence with which the arms industry has continued to prosper at the expense of the misery of so many people in so many contexts. Defiance of those states that carry on as if nothing has changed, claiming commitment to an instrument that should have made some of their actions impossible while they treat the Treaty as something to provide a cloak of legitimacy for their illegal and morally reprehensible actions.

This week at the Second Conference of States Parties (CSP2), states failed to address the arms trade. They did adopt parameters for a Voluntary Trust Fund, as well as working groups on universality, reporting, and implementation. They endorsed and recommended the use of reporting templates (though did not resolve to make them public by obligation). They appointed a permanent head of the Secretariat, adopted the budget for 2017, decided on the dates for CSP3 (11–15 September 2017), and endorsed Finland as president for CSP3 and Australia, Bulgaria, Guatemala, and Sierra Leone as vice-presidents.

These are important decisions that will help facilitate the work of the ATT. But amidst these administrative matters, there was not a single statement from governments regarding current practice and policy in terms of implementing the Treaty. A few states hinted at their displeasure with the ongoing situation outside the conference room, but none cited particular examples or made suggestions to address this.

Two helpful suggestions did come from Peru: 1) that initial and annual ATT reports “incorporate information regarding the elements on which arms exporting countries have based their assessment of the possibility of an overriding risk of violations or abuses of the international humanitarian law and of human rights,” and 2) that the ATT Secretariat coordinate with the UN High Commissioner of Human Rights on its report on the impact of arms transfers on human rights. More such suggestions are needed to advance the ATT’s possibility of effectiveness. Unfortunately, these suggestions were cut from the final report on Friday because some states felt it hadn’t been sufficiently discussed. This process of cutting a paragraph just “taking note” of these suggestions was described by the President as “good housekeeping”.

Some have argued that CSP2 was not the place to address “substance,” but this is also what we heard at CSP1 and throughout the CSP2 preparatory process. The expectation now seems to be that the working groups will deal with issues of substance. But it is not yet clear where or how often such bodies will meet, making it potentially difficult particularly for small delegations and civil society to engage. Fortunately, the implementation working group at least will be open and public—the UK’s attempts to establish a closed group with invited arms dealers apparently didn’t fly in consultations. But

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concerns remain about how this body will relate to the CSPs or how it might respond to alleged violations of the Treaty.

Violations have certainly been alleged. At CSP2, civil society groups focused largely on the case of arms transfers from 17 states parties and two signatories to Saudi Arabia despite its repeated breaches of international humanitarian law and human rights law in Yemen. This is far from the only possible case of ATT violation. But it does provide what would appear to be a very good opportunity to hold states parties to account to their obligations and to shore up the Treaty's credibility. Yet, as the UN High Commissioner for Human Rights laments the lack of accountability and justice for civilians in Yemen, so do we lament the lack of accountability of those states and arms dealers profiting from the destruction of Yemen and many other countries.

"Civilians in Yemen ... continue to suffer, absent any form of accountability and justice, while those responsible for the violations and abuses against them enjoy impunity," said the High Commissioner yesterday.¹ "Such a manifestly, protractedly unjust situation must no longer be tolerated by the international community." It must not. And yet, it is not only tolerated by the international community, but is actively facilitated by those that sell arms to those engaged in the bombing and bombardment in populated areas in Yemen.

As the US and Saudi Arabia hold peace talks on the conflict in Yemen,² the US is preparing to ship billions of dollars of more weapons to Saudi Arabia, which would enable it to continue the war.³ The meeting between the US and Saudi Arabia on Thursday came on the heels of a meeting between the US and Russia on military cooperation in Syria in relation to bombing Daesh, even while Russia and the Syrian government are bombing Syrian cities and towns. Meanwhile, US arms dealers are actively positioning Russia "as a potent enemy that must be countered with a drastic increase in military spending by NATO countries," informing their investors that they are relying on tensions between NATO and Russia to fuel business.⁴

This snapshot of international relations and the arms trade presents a complex fabric of war profiteering at the extreme—brokering arms deals or peace deals or cooperative military arrangements with friends and foes in whichever configuration might bring the greatest value for money at any given point.

Amongst all the wheeling and dealing, of course, people die. Communities are destroyed. Countries

crumble, destabilising regions and the world. All of which, the militarily powerful and the arms-rich countries say, requires more weapons, more violence.

The ATT should have been an instrument of opposition to this *modus operandi*. It still could be, if the states parties that view the Treaty as a legal and moral counterweight to those states and arms dealers that profit from death and destruction begin to use the ATT as a tool to combat and prevent the actions that undermine it. For the supply chains of the arms trade to be broken, said Sierra Leone on Thursday, all of the links need to be reformed. A good start would be developing mechanisms in the ATT process to confront and end the arms transfers that the Treaty was created to stop in the first place. •

Notes

1. "Zeid urges accountability for violations in Yemen," UN Office for the High Commissioner of Human Rights, 25 August 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20411&LangID=E>.
2. "US and Saudi Arabia hold peace talks on Yemen conflict," *The Independent*, 25 August 2016, <http://www.independent.co.uk/news/world/middle-east/us-saudi-arabia-john-kerry-peace-talks-on-yemen-conflict-a7208481.html>.
3. Rebecca Kheel, "US arms sale to Saudi Arabia under fire from lawmakers," *The Hill*, 24 August 2016, <http://thehill.com/policy/defense/292492-lawmakers-seek-support-to-delay-saudi-arms-sale>.
4. Lee Fang, "U.S. Defense Contractors Tell Investors Russian Threat Is Great for Business," *The Intercept*, 19 August 2016, <https://theintercept.com/2016/08/19/nato-weapons-industry>.



© euronews. Saudi-led airstrikes hit a residential area in Yemen's capital Sana'a



NEWS IN BRIEF

Jessica Lawson and Josephine Roele | *Reaching Critical Will of WILPF*

The News in Brief is not a comprehensive summary of all statements. It highlights positions on a few critical issues covered in the plenary discussions.

CSP3

- CSP2 approved the budget of CSP3 based on the assumption that CSP3 will take place in Geneva, 11-15 September 2017 at CICG, one week before the UNGA.
- The CSP3 preparatory process will be held in Geneva.

Voluntary Trust Fund

- 13 countries have volunteered to serve on the selection committee of the VTF.
- The selection committee will be comprised of 4 states from Africa, 3 from Asia Pacific, 4 from Europe, and 2 Latin America and Caribbean

Reporting

- There were no objections to the establishment of a working group on reporting and the motion was therefore carried.

Universalisation

- The working group on Treaty universalization is expected to be driven by the president of the CSP.
- There was no objection to the establishment of a working group on Treaty universalisation and the motion was carried.

Implementation

- The co-facilitators of Treaty implementation presented some amendments based on discussions at CSP2, including a footnote about taking advantage of other meetings in terms of scheduling meetings; that it will be an ad-hoc OEWG held in public, enabling participation of experts as necessary; and that it has a mandate to exchange knowledge and perhaps provide recommendations and states for national implementation of the ATT.
- CSP3 will review the progress of this working group and decide whether its work will be carried forward
- President asked if it was possible move forward with the informal working group on treaty implementation as proposed by working paper of Finland and Costa Rica.
- Sweden sought clarification on the modifications regarding the subsidiary body and whether the meetings will be held in public or if its members can decide to hold some meetings in private. The Swedish representative said that while Sweden

doesn't like closed meetings, there could be occasions in which part of a meeting would be desirable to be held in a closed format

- The co-facilitators confirmed that the working group meetings will be open-ended and public.
- Belgium said the working group should be results-orientated and efficient. The working group should not repeat the debate of the CSP.
- The co-facilitators agreed that the working group should not repeat the debate that takes place in the CSP and hopes the inter-sessional working group can be focused.
- The motion to establish a working group on implementation was carried forward without objection

Final report

- CSP2 agreed on various oral amendments to the final conference document, including on paragraphs 6, 11, 16, 18, 21, 22, 33, 34 and 35.
- Para 23, New Zealand and Sweden agreed on language, provided by UNDP, on programme sponsorship for CSPs and inter-sessional meetings.
- Para 22: Guatemala and El Salvador were concerned at how membership for VTF selection committee seems fixed. President Imohe set the limit of selection committee members at 15 and invited 2 further states to join the group of 13 already decided upon.
- Australia stated that this closed approach might deter potential donor states, as they would have no say in how the funds were used. Mexico argued that they would have access to the selection process as observers under rules of procedure.
- Mauritius, Mexico, and Macedonia wanted clarification around the basis on which two new VTF selection committee members would be decided upon.
- Mexico, Sweden and New Zealand discussed case-by-case flexibility for state requests for private sessions of the working groups on reporting and transparency.
- Panama and Peru proposed an amendment to paragraph 34, keeping the language on close coordination with OHCHR and deleting the reference to regional support.
- Sweden and France argued that that language of paragraph 34 was not in keeping with the trans-regional approach of the ATT. The USA suggested

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EVENT: ARMS TRANSFER AND SALW CONTROLS IN LATIN AMERICA AND THE CARIBBEAN: RECENT DEVELOPMENTS AND LESSONS LEARNED

Josephine Roele | *Reaching Critical Will of WILPF*

Ambassador Joaquín Maza, Permanent Representative of El Salvador to UNOG, opened this Thursday side event with his country's context. Given the negative effect of armed violence and organised crime on social development in the region, El Salvador is aware of the priority of ATT implementation to prevent further suffering and has a strong political commitment to the issue. Mr. Maza specified various government actions, from legislation and the creation of inter-ministerial organisations to citizen participation groups, which demonstrated clear efforts at strengthening ATT implementation. While these interventions have had their successes, it is through partnership with civil society and other states that the most sustainable changes can be brought about. Mr. Maza cited standardised reporting templates and the exchange of information as invaluable assistance in treaty implementation, especially for those states without the technical and financial capacity for concrete ATT implementation. Mr. Maza thanked UNLIREC for their support in this regard.

Representing UNLIREC, Mélanie Régimbal outlined various projects to support states in the application of disarmament and security instruments. UNLIREC takes a three-pillar approach: 1) capacity building; 2) legal and technical assistance; and 3) collaboration and partnership. Of particular interest was the ATT Implementation Course, which includes advice on specific evaluation tools for the risk of gender-based violence. Ms. Régimbal also called attention to the priority of ATT implementation assistance for transit states in the GRULAC region. This includes provisions around diversion techniques, such as guidance on X-ray identification of component parts of SALW. These tools have been shared with colleagues in African and Asian Pacific centres, and corresponding materials for these regions are being developed.

Maria Pia Devoto, from APP-Argentina, highlighted the risk of diversion as a regional weakness, reiterating the need for contextualised implementation. There is no perfect model for implementation; instead, each state should have the means to identify those areas where national control systems need to be strengthened or modified. Ms. Devoto used the context of Argentina to illustrate APP's methodology, funded by UNSCAR, which included semi-structured interviews, questionnaires, and documentation reviews. The conclusion of her report pointed to information sharing and political will as key drivers for strengthening implementation.

Alfredo Malaret, from the Stockholm International Peace Research Institute (SIPRI), closed the event by reminding those present of the synergies between information and implementation. This UNSCAR funded project works in collaboration with UNLIREC to create an online database that maps cooperation and assistance relevant to ATT implementation in the Latin American region. Mr. Malaret looked at how coordinated efforts can detect recurring themes for the region, for example small arms controls, so that assistance tools can be modified accordingly to bolster state capacities. SIPRI's online database aims to function as an interactive index for states, donors, and civil society, where information on implementation activities is available under one system. This sustainable approach to information sharing aims, in the long term, to be a live database where organisations themselves can upload relevant projects and activities.

Paul Beijer, the chair for this event, welcomed the ATT as an opportunity for civil society and governments to work hand-in-hand on sensitive issues that otherwise might not have seen this kind of partnership. The innovations from civil society and UN agencies in this side-event certainly reinforce this observation. •

Statements, documents, and analysis of CSP2 are available on the Reaching Critical Will website.

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EVENT: THE AFRICAN PERSPECTIVE: CHALLENGES AND OPPORTUNITIES TO IMPLEMENTING THE ATT

Raluca Muresan | *Control Arms*

African states were some of the most active during the Arms Trade Treaty (ATT) negotiations, yet the pace of universalisation and implementation of the Treaty throughout the region has been slow. In a side event organized by the African Union Commission and the Small Arms Survey, panellists explored challenges to accession and implementation among African states and provided solutions to overcoming them.

Both Leonard Tetey, Program Officer at the Ghana National Commission on Small Arms and Light Weapons and James M. Fromayan, Chairman of the Liberia National Commission on Small Arms (LiNCSA) spoke extensively about bureaucratic and administrative challenges to the Treaty's ratification and implementation. Lengthy administrative procedures coupled with lack of expertise and resources as well as limited cooperation among different governmental stakeholders were some of the main reasons behind the slow ratification process in Ghana. Tetey also shared solutions that facilitated the process in Ghana, such as the importance of drafting a strong and comprehensive ATT memorandum to be submitted before Parliament or the involvement of parliamentarians and other key governmental officials. James Fromayan of Liberia illustrated how cooperation with civil society and the development of an assessment of needs not only facilitated the ratification process but ensured that Liberia met all its Treaty obligations in the first year (e.g reporting).

Robert Perkins, ATT Monitor Researcher, introduced a new case study which details how the ATT can help prevent the diversion of arms and ammunition to terrorist organizations (Boko Haram, Aqim, and other armed groups in Mali and Cote D'Ivoire) in West Africa. Perkins outlined how sources of arms and ammunition for terrorist groups—including theft of government-owned material, allied military groups, or illicit trafficking across the regions—can be eliminated by properly implementing and meeting the Treaty's provisions. Among them, he listed the importance of a comprehensive risk assessment carried out by exporting states (Art 11), the need for cooperation and exchanging information between all states involved across the transfer chain (Art 15), or the development of effective and comprehensive national control system by importing states (Art 8).

Anna Macdonald, Director of Control Arms, introduced a new think piece on achieving universalisation of the ATT in Africa, which investigates the experience of six African countries (Botswana, Burundi,

Democratic Republic of Congo, Cameroon, Kenya, and Uganda) that have yet to become states parties. Among the main obstacles to the Treaty's universalisation, Macdonald listed lack of political prioritisation, instability and political crisis, technical and procedural issues, lack of capacity and expertise, as well as reticence. She provided solutions and recommendations to overcoming these challenges and detailed how civil society could assist states in ratifying the Treaty and meeting its obligations.

An involved audience asked the panellists questions related to the African Union's (AU) plan on facilitating the Treaty's ratification among its members and the possibility of cooperation between the AU and civil society organisations such as Control Arms. Ambassador Imohe, President of the second CSP, raised the question of accountability for states who irresponsibly transfer arms to regions and countries affected by armed violence. •

News in brief, continued

deleting paragraph 34 completely as the reference to OHCHR, a non-universal body, was problematic.

- President Imohe suggested that this paragraph be moved from the final conference document to a working group mandate, since this issue was not discussed at sufficient length during CSP2 plenaries.
- Peru asked for more time to discuss the language of this paragraph to ensure its presence in the document. Finally, paragraph 34 was expunged from the record.
- USA queried the presence of documents submitted by Control Arms being referenced in the final conference document. President Imohe did not agree, and placed Control Arms documents under a subheading of the list of conference documents.
- The final report was adopted at 6pm. •



POSSIBILITIES TO ADDRESS THE IMPACT OF ARMS TRANSFERS ON HUMAN RIGHTS

Hector Guerra | SEHLAC Network

The attention of the international community to the linkage between arms trade and human rights, as reflected in the Arms Trade Treaty, is reaching other multi-lateral fora, as states have brought this issue to the attention of the Human Rights Council. The latest development in this sense is the adoption, last June, of resolution 32/12, on “The impact of arms transfers on human rights”.

This resolution opens the possibility of alternative ways to address the effects of irresponsible arms transfers. It does so by requesting the Office of the High Commissioner for Human Rights (OHCHR) to “prepare a report ... on the impact of arms transfers on the enjoyment of human rights.” This report is to be presented to the Human Rights Council during its 35th session, in 2017.

Resolution 32/12 also calls on different human rights institutions, including treaty bodies and special procedures, to consider this political document in their work.

It is worth noting that the resolution makes reference to the “principles and provisions related to international human rights law and international humanitarian law” as contained in the Arms Trade Treaty.

Any institutional approach to address the impact of illicit arms transfers on the enjoyment of human rights at the international level is a challenging endeavour that requires deep reflection and close attention to the diversity of views among governments and civil society. However, this is indispensable work that can only contribute

to responding to the aim of the Treaty, in contributing to peace, security, stability, and the reduction of human suffering, as established in its Article 1. Doing this entails clear alignment with the 2030 Agenda and its Sustainable Development Goal 16, on the promotion of peaceful and inclusive societies for sustainable development, providing access to justice for all, and building effective, accountable, and inclusive institutions for all.

As the Second Conference of States Parties of the ATT has come to a close, crimes against humanity, acts of genocide, and war crimes are being committed in Yemen—acts which are fuelled by irresponsible arms transfers. According to the report launched yesterday by the OHCHR, “[b]etween March 2015 and 23 August 2016, an estimated 3,799 civilians have been killed and 6,711 injured as result of the war.... At least 7.6 million people, including three million women and children are currently suffering from malnutrition and at least three million people have been forced to flee their homes.”

Can the same international community that adopted a legally-binding instrument to regulate arms trade in order to save lives and livelihoods through humanitarian and human rights parameters, not take the necessary steps to act—in real time—against transfers that are obliterating entire communities in Yemen, Syria, and in all those places where arms are transferred on commercial and political grounds in spite of the evidence of the suffering and despair they are causing? •

