



ATT update

JUNE 2012 · ISSUE NO 2

With the fourth and final Preparatory Committee (PrepCom) meeting now over, the stage is set for the final negotiating conference for the United Nations Arms Trade Treaty (ATT) in July this year.

Held from 13–17 February 2012, the fourth PrepCom meeting had been billed as a three-day discussion on the Rules of Procedure for July's Diplomatic Conference (DipCon) – based on a draft circulated beforehand by the Chair of the process, Ambassador Roberto García Moritán – followed by two days to discuss the substance of the treaty. However, the week was dominated by debate and division amongst delegations over key procedural issues, including decision-making procedures; the status of the Chair's Paper as a basis for negotiations; and the level of civil society, particularly non-governmental organisation (NGO), access to discussions at the DipCon.

- **Consensus:** Decision-making procedures for the DipCon proved the main point of contention at the PrepCom, with a few delegations – including Egypt (on behalf of the Arab Group) and the US – opposing a reference in the draft Rules of Procedure text which would allow majority voting on issues of substance. This brought them into conflict with other states – including Mexico and CARICOM (Caribbean Community states) – who saw voting on substantive issues as the main way to ensure a robust treaty is agreed. Agreement was reached on the final day of the PrepCom on provisional Rules of Procedure which provide for decisions to be taken “by consensus”, but for the work of the DipCon to be conducted “on the basis of consensus”. There is a risk that this ambiguous outcome could unravel at the DipCon in July.
- **The Chair's Paper:** Drawing on the substantive debates from the previous PrepCom meetings, Ambassador



An ex-combatant holds up munitions in Attécoubé, Abidjan, Côte d'Ivoire. February 2012.
(UN PHOTO/PATRICIA ESTEVE)

Moritán's informal Chair's Paper – the key output of the July 2011 PrepCom – contained sections on inter alia scope, parameters and implementation. Although regarded by most states as a good basis for discussion, the Chair's Paper was relegated to being one of several background papers for the DipCon. It will now likely require tough negotiation for delegations to incorporate its contents, such as those on human rights and humanitarian law, into the treaty text.

- **Civil society access:** The Rules of Procedure agreed at the end of the week allow NGO access to “the plenary meetings of the Conference and its Main Committees”. While this should enable civil society to stay in touch with some of the discussions at the July Conference, NGOs are unlikely to be granted access to “meetings of other organs of the Conference”, such as sub-committees and working groups, where detailed negotiations will take place.

With a compromise agreement reached on the way decisions are to be made, UN member countries remain on course

to agree on a legally-binding treaty to regulate the global arms trade. February's PrepCom has, however, revealed the divisions that must still be addressed if July's DipCon is to produce a robust ATT.

As Dr Dai Ying points out in her article on human security and the ATT, there remain fundamental differences in opinion amongst member countries on what the very purpose of an ATT will or should be. An ATT will likely only be focused on regulating the international trade of conventional weapons. Yet, as Dr Zhao Pei's article on the proliferation of SALW in West Africa underscores, the illicit transfer and circulation of SALW have a wide range of pervasive humanitarian and socio-economic consequences. Indeed, weapons transferred without regulation continue to kill or maim civilians long after conflicts end – a key insight of a gender-sensitive approach to arms export control. With calls for a ‘gender-aware’ ATT gaining momentum, this issue of the *ATT Update* explores what such a Treaty might entail – and why such a human-centred approach to arms control remains critical.

A FUTURE ARMS TRADE TREATY: KEY ISSUES FROM A HUMAN SECURITY PERSPECTIVE

BY DR DAI YING



17 February 2012 marked the last day of the fourth and final PrepCom meeting for an ATT. Government representatives from more than 100 UN member countries will meet in New York again to negotiate the ATT in July 2012. Agreement reached amongst member countries at this meeting will see the first legally-binding instrument on the common international standards for the transfer of conventional arms.

In the PrepCom meetings held over the last two years, member countries and civil society representatives have vigorously discussed the criteria, scope, parameters, implementation, and rules of procedures of an ATT, and have successfully provided a text as a real basis of negotiation for the treaty. However, the four meetings have also shown that there are a number of different views of what the treaty should look like. The inclusion of SALW in the scope of the treaty and human rights and humanitarian law provisions amongst the treaty's criteria have been key sources of contention.

Why are there so many disagreements on a future treaty? The fundamental reason lies in the conflict of concerns between national security, industry profits, and human security. National security and industry profits are usually placed as the first priority in the trade of conventional arms. In contrast, the UN General Assembly Resolution that mandates negotiations of an ATT states, as its aim, "to diminish the human cost of the poorly regulated arms trade by rendering irresponsible arms transfers illegal".¹ Although not reducing or limiting the scope for legal trade, a robust ATT will prioritise human security above national security and industry profits in situations where civilians suffer as a result of the proliferation of conventional weapons.

Throughout the PrepCom meetings, the following four issues relating to human security have dominated discussions, and will likely be the focus of further debate at July's Diplomatic Conference:

1) The inclusion of SALW and ammunition in the scope of an ATT. According to observers, discussions appear to be moving toward a treaty which will address global transfers of the seven major categories of conventional arms (as in the UN Register of Conventional Arms), broadly interpreted. Additionally, the inclusion of SALW is being pursued.² However, the inclusion of ammunition remains contentious and many states have not attached the highest importance to this issue. Research indicates that the uncontrolled proliferation of ammunition has played a key role in perpetuating human suffering in the intrastate conflicts of Africa. In nine African countries where huge humanitarian disasters have occurred since the 1990s, ammunition imports have comprised the great majority of total arms transfers – exceeding 90 percent in countries like Somalia and Burundi.³

2) No exceptions for weapons for recreational purposes and antique weapons. Another contentious issue is whether sporting and hunting rifles and antique weapons should be included within the scope of the treaty. As experts have pointed out, small arms and their ammunition produced for civilian and state usage are quite similar. Most small arms and the rounds used for hunting and sports shooting are originally developed for military purposes.⁴ Moreover, a state will need strong governance, including effective legal and administrative systems, to regulate these weapons. This is impractical for countries trapped in conflict, or even close to anarchy.

3) No arms transfers to non-state actors (NSAs). The consequences of uncontrolled arms transfers are not just that non-state armed groups become better armed and more capable of challenging the state. They also facilitate criminal activity – from robbing and raping to killing. There is increasing evidence of the direct link between the weapons misuse of non-

state armed groups and the deaths of innocent civilians. Data collected by the Uppsala Conflict Data Program (UCDP) indicates that the conflicts that have occurred in Africa since the 1990s have seen many non-state armed actors in African countries attack civilians, causing large numbers of civilian deaths.⁵

4) Supporting victim assistance systems. It is becoming clear that a successful demobilization process in the countries where wars have ended is critical to preventing the reoccurrence of conflict and to improving human security.⁶ However, a lack of capacity to carry out post-conflict demobilization and reintegration programmes presents a major challenge for many countries. Therefore, it will be crucial for the international community to provide assistance to these countries for victims' care and rehabilitation, and the social and economic reintegration of actors of armed conflict. Without prompt and effective aid, armed conflict and related threats to human security, including disease, malnutrition and starvation, will threaten to break out again.

CONCLUSION

This article describes from a human security perspective some of the controversies and concerns that characterise the ATT negotiation process. The goal of the ATT is to push the international community to "do better" in preventing conflict and human suffering. Developing policy tools in this field is proving to be difficult, given the challenges to the interests of various actors that must participate in the solutions. However, the ATT provides a potential way forward, as a step towards further international efforts to protect human security.

THE ILLICIT PROLIFERATION AND CONTROL OF SALW IN WEST AFRICA: AN OVERVIEW

BY ZHAO PEI

Following the end of the Cold War, West African nations have been plagued, to varying degrees, by various forms of instability, insecurity and conflict. The causes of these conflicts are typically multifaceted, stemming from poor governance, crippling poverty, military adventurism and ethnic divisions. In Liberia, Nigeria, Sierra Leone, and Côte d'Ivoire, diamonds, gold, oil and other rich natural resources of and other countries have also been a major cause of armed conflicts. Low-intensity conflict is prevalent through the region.

Against this backdrop, the most direct impact of the illicit proliferation of SALW on areas of unrest in West Africa is to fuel smuggling, robbery, drug trafficking and other criminal activities. SALW themselves are smuggled. Because insecurity is both a symptom and cause of underdevelopment, this illicit proliferation of SALW is also thwarting the region's economic development. The uncontrolled proliferation of SALW threatens the security of West African nations not just economically and socially however, but also directly undermines the strength of state power. As a portable, easily concealed commodity, large volumes of these weapons flow across often porous state borders. Thus, the proliferation of SALW threatens the security and stability of countries neighbouring the areas of unrest, becoming a factor of instability for the entire West African region.

Some control mechanisms do exist at the formal level. From individual West African nations to the Economic Community of West African States (ECOWAS), there has been tighter enforcement of the seizure of illegally-owned SALW as well as stricter regulations on the transfer of SALW on multiple levels. In 2006, ECOWAS member states also agreed to take measures to promote transparency, co-operation and exchange of information among member states. The UN, the African Union, the European Union (EU) and other inter-

“A way forward depends not only on the active roles played by West African nations and ECOWAS, but also on the international community, especially on the countries which have an extensive influence in the region.”

national organisations are also involved in efforts to seize and control the transfer of SALW in the West African region. NGOs also play a positive role.

Despite these mechanisms, the illicit proliferation of SALW has remained an intractable problem. A unique combination of political and economic factors and historical and cultural traditions have made these problems difficult to resolve. A way forward depends not only on the active roles played by West African nations and ECOWAS, but also on the international community, especially on the policies adopted by the US, EU and other developed countries which have an extensive influence in the region.



AUTHOR BIOGRAPHIES

Zhao Pei is editor of the bi-monthly *International Review* at the School of International and Diplomatic Affairs (SIDA), Shanghai International Studies University. His undergraduate study of precision mechanisms sparked his interest in issues surrounding conventional arms and SALW. Zhao Pei went on to receive a Masters in International Relations from SIDA in 2008. His current research focuses on the relationship between SALW and failed states, especially in Africa – taking him to countries like the Democratic Republic of Congo for fieldwork.

Dr Dai Ying is an independent researcher. She attained her PhD at Tsinghua University in 2011, and is currently based at the University of Texas at Austin. Her research interests span a broad range of arms control issues, but focus in particular on conventional arms control. Anticipating the challenges and opportunities contained in this field of research, her work seeks a better understanding of how conventional arms control is negotiated by states, and the role civil society plays in the process of these real-world negotiations. She is currently revising her PhD thesis, entitled *SALW supply control and Human Security in Africa since the 1990s*, into shorter publications, and is conducting new research into the role of NGOs, especially African NGOs, in the ATT process.

GENDER AND THE ATT



A delegation of United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC) female staff visit a women's shelter in Goma for victims of sexual abuse. March 2009. (UN PHOTO/MARIE FRECHON)

Ahead of July, when final negotiations will be held at the UN on the ATT initiative, several civil society groups and state parties' have called for the inclusion of gender in an ATT: to refer explicitly to gender-based violence in the Treaty text; and to ensure women's participation in the field of arms control more broadly. Below, the ATT Update examines why gender matters in conventional arms export control, focusing on the links between small arms and gender-based violence.

A brief overview is provided of some of the proposals made by the International Action Network for Small Arms (IANSA) Women's Network to include language on women, peace, and security in an ATT.⁸

Evolving national and international norms and policies to prevent the proliferation of conventional weapons have brought to attention the enormous human suffering facilitated by the transfers of these arms, and particularly of small arms and light weapons (SALW) – during conflict, but also in their aftermath, and in formal peace settings. In and alongside this normative approach to arms export control, attention has been drawn to the gender-specific impacts of the end-use of conventional arms and ammunitions: women, men, girls and boys are uniquely affected as victims of uncontrolled SALW proliferation.

SMALL ARMS AND GENDER-BASED VIOLENCE

While the vast majority of victims of gun violence worldwide are men, women are often targets of certain types of violence as a result of their gender. Field-based research conducted over the past decade indicates that small arms and ammunition facilitate widespread domestic violence, rape, and other forms of sexual violence both during and outside of conflict.⁹ As feminist academic Cynthia Cockburn explains, the assignment of gender

identities often means women are seen as 'men's property': 'In war, militaries often engage in campaigns of rape to reduce enemy men by appropriating 'their' women.'¹⁰

Firearms and their ammunition can facilitate widespread sexual violence even in non-conflict settings, as a consequence of insecurity and impunity. In non-conflict or post-conflict situations, such as those documented in Haiti and the Balkans, small arms facilitate widespread sexual and domestic violence. Academics such as Cockburn argue that, in non-war settings, domestic battery and rape are often also 'intended to enforce a man's property rights over a particular woman'. The risk of death in intimate partner violence is much greater when there is a firearm in the home. Sexual violence perpetuates insecurity more broadly, too. 'It holds entire communities hostage, and has an economic, social, cultural and inter-generational impact: women cannot access water-points and markets; children cannot safely get to school; "war babies" are ostracized.'¹¹

WHAT A 'GENDER-AWARE' ATT COULD LOOK LIKE

■ **Principles:** It is widely agreed amongst supporters of a 'gender-aware' ATT that the Treaty should address gender-based violence in accordance with existing international commitments specific to women and conflict, and to addressing and addressing sexual and gender-based violence. The preamble on an ATT should refer to relevant existing international instruments on women's rights and gender-based violence, and explicitly affirm that the regulation and reduction of arms transfers should be designed to help prevent such acts of sexual violence as highlighted in UN Security Council Resolutions 1325, 1820, 1888, and 1960. These binding international instruments must be applied in arms transfer decisions.

■ **Scope:** That the proliferation of small arms has been linked with the facilitation of sexual and other forms of gender-based violence is compelling evidence that an ATT should apply to all conventional arms, and in particular, to SALW and ammunition.

■ **Parameters:** To be effective, an ATT must clearly prohibit the international transfer of weapons and ammunition where there is a substantial risk that they are likely to be used for serious violations of international human rights and humanitarian law. This can include sexual and gender-based violence. As recognised in UN Resolutions 1325, 1820 and 1888, the perpetuation of sexual and other forms of gender-based violence, where used as a weapon by parties to armed conflict, 'is not a private matter; it is a tactic of war that threatens international peace and security'.¹² Rape and sexual violence are specifically codified as a distinct and recognisable crime within the statutes of the International Criminal Tribunals for the Former Yugoslavia (ICTY) and for Rwanda (ICTR), and can therefore be prosecuted as crimes against humanity, as war crimes and as acts constitutive of genocide.¹³ Yet, the nature of gender-based violence also underscores the importance of adopting an approach in conventional arms control that will address armed violence outside of armed conflict settings.

■ **Victim assistance:** Many argue that it is important to recognise the need to provide gender-sensitive assistance to victims of arms transferred without regulation and to address the special rights and needs of vulnerable groups. It is proposed that this could be done by requiring all state parties to provide such assistance, with respect to victims of the arms regulated in this treaty and in areas under its jurisdiction or control, to, in accordance with applicable international humanitarian and human rights law.

continued



GENDER AND THE ATT *continued*

■ International co-operation and assistance:

Gender-differentiated research on the use and impact of SALW remains under-developed. A lack of political interest and will, scarce resources, and the sheer difficulty of keeping track of firearms-related injuries in places with poor infrastructure and recordkeeping capacities underpin this lack of quantitative gender-disaggregated data and qualitative information on the experiences, views and actions of women and men in gun-proliferating societies.¹⁴ Importantly, however, women in many parts of the world have made themselves heard as activists in the field of arms control and in broader peace processes: they are not simply or singularly victims of the atrocities facilitated by uncontrolled SALW proliferation. In view of the gender-specificity of the effects of uncontrolled SALW proliferation, women's participation is key. To enhance the implementation of an ATT's obligations and goals, civil society and women's groups should be consulted, and included in capacity-building and assistance programmes.

“Attention has been drawn to the gender-specific impacts of the end-use of conventional arms and ammunitions: women, men, girls and boys are uniquely affected as victims of uncontrolled SALW proliferation.”

ERRATUM Please note that Dr Dai Ying's name was mistranslated in the Chinese version of issue 1 of the *ATT Update* (December 2011). Her article, “非政府组织和《武器贸易条约》进程”, was incorrectly attributed to 戴颖. The author's name should be corrected to 戴颖博士. The editors would like to extend their unreserved apologies to Dr Dai.

NOTES

- 1 UN General Assembly Resolution 64/48, A/RES/64/48, January 12, 2010.
- 2 Wood A, 'How to Reach Consensus on an Arms Trade Treaty', *Arms Control Today* (Jan/Feb 2012), www.armscontrol.org/act/2012_01-02/How_to_Reach_Consensus_on_an_Arms_Trade_Treaty.
- 3 Dai Y, 'Small Arms and Light Weapons Supply Control and Human Security in Africa (1990–2009)', Dissertation, Tsinghua University, Beijing, 2011.
- 4 Wallacher H and Harang A, 'Small, but Lethal—Small Arms Ammunition and The Arms Trade Treaty', PRIO, 2011.
- 5 See the Uppsala Conflict Data Programme (UCDP) Data, www.pcr.uu.se/research/UCDP/.
- 6 Laurance E J, *Light Weapons and Intrastate Conflict: Early Warning Factors and Preventive Action* (Carnegie Commission on Preventing Deadly Conflict), July 1998, p 81.
- 7 During the 2nd and 3rd ATT PrepCom meetings, the issue of gender was raised by several states, including Trinidad & Tobago, Mali, Spain, Nigeria, Norway and Australia. These states argue for an ATT to address gender-based violence in accordance with existing international commitments on women, peace and security.
- 8 See the IANSA Women's Network Policy Paper, 'Including Gender in the Arms Trade Treaty', 13 July 2011, www.iansa-women.org/sites/default/files/ATT_Prepcom_3_iansa_wn_pp_130711.pdf (accessed 28 February 2012).
- 9 Cukier W, 'Global Effects of Small Arms: A Gendered Perspective', *In the Line of Fire: A Gender Perspective on Small Arms Proliferation, Peacebuilding and Conflict Resolution* (Women's International League for Peace and Freedom, 2001), www.reachingcriticalwill.org/social/genderdisarm/SMALLARMS.pdf (accessed 6 March 2012). Also see www.smallarmssurvey.org/armed-violence/gender-and-armed-violence.html
- 10 Cockburn C, 'Guns, war and the domestic battlefield', *OpenDemocracy*, 8 March 2011, www.opendemocracy.net/5050/cynthia-cockburn/guns-war-and-domestic-battlefield (accessed 20 March 2012).
- 11 www.unifem.org/gender_issues/women_war_peace/facts_figures.php
- 12 Dokmanovic M, 'Linking an ATT and Resolutions 1325, 1820, 1888 and 1889', speech made at the UN General Assembly First Committee on Disarmament, 22 October 2009, www.iansa-women.org/node/261 (accessed 28 February 2012).
- 13 UN Department of Peacekeeping Operations, *Review of the Sexual Violence Elements of the Judgments of the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone in the Light of Security Council Resolution 1820* (2010).
- 14 Schroeder E, Farr V and Schnabel A, 'Gender Awareness in Research on Small Arms and Light Weapons: A Preliminary Report', Working Paper (Swisspeace, January 2005), http://edoc.vifapol.de/opus/volltexte/2011/2432/pdf/WP_Schnabel_1_2005.pdf (accessed 28 February 2012).

ABOUT THE ATT UPDATE

The *ATT Update*, co-published biannually by Saferworld and the School of Political Science at Tongji University, examines issues surrounding conventional arms, and tracks international efforts to counter the proliferation of these weapons under the UN Arms Trade Treaty (ATT) process. As a platform for Chinese experts, academics and students to air and exchange their views and analyses of these topics, all comments and ideas for submission are welcome.



Saferworld
The Grayston Centre
28 Charles Square
London N1 6HT
UK

Phone: +44 (0)20 7324 4646
Fax: +44 (0)20 7324 4647
Email: general@saferworld.org.uk
Web: www.saferworld.org.uk

Registered charity no. 1043843
A company limited by guarantee
no. 3015948